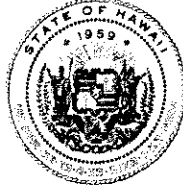


COPY



LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

LAWRENCE M. REIFURTH
DIRECTOR

RONALD BOYER
DEPUTY DIRECTOR

October 8, 2008

OCT'08 PM 2:52 SPO-

Mr. Eric Knutzen
County of Kauai
4444 Rice Street, Suite 427
Lihue, Hawai'i 96766

By Mail and Facsimile
(808) 241-6266

Re: HCR 358 Task Force Recommendation

Dear Mr. Knutzen:

I received yesterday the HCR 358 Task Force's letter dated September 30, 2008, which reads as follows:

The HCR 358 Task Force recommends that the cable television division of the DCCA and the State Procurement Office suspend decision making on its current draft rule making for the designation and selection of access organizations until after the HCR 358 Task Force has issued its Final Report to the legislature expected in late December.

I appreciate the work of the Task Force and am hopeful that it will develop reasonable alternatives to chapter 103D, HRS procurement for public access contracts for the Legislature to consider. I also appreciate the sentiment that underlies the request. Nevertheless, the recommendation ignores the factual context in which the referenced rulemaking occurs (and of which, I understand, the Task Force has been fully advised).

First, the rulemaking to which your recommendation refers is purely a Department of Commerce and Consumer Affairs' ("DCCA") function. The State Procurement Office ("SPO") can not suspend DCCA's decision making relating to that rulemaking.

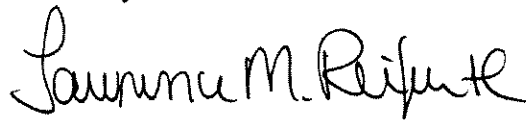
Second, the rulemaking is proceeding, in large part, because Maui Circuit Court Judge Joel August directed that it proceed. The Judge's ruling was made over the DCCA's objection and at the request of Akaku, one of the members of this Task Force.

Mr. Eric Knutzen
October 8, 2008
Page 2

Finally, and as the Task Force knows, DCCA already proposed to suspend the rulemaking process; but we were told that we could not. Specifically, on May 30, 2008, DCCA requested a continuation of the temporary exemption from chapter 103D for the department's existing PEG contracts from the SPO until such time as the HCR 358 Task Force has completed its work. SPO denied that request while it temporarily exempted the contracts through the end of the calendar year in order to allow DCCA to complete the rulemaking process. As a result, suspending decision making on the draft rules as the Task Force recommends would place DCCA in violation of the terms of the SPO extension, at which point we would no longer have even a temporary exemption from chapter 103D. This would put DCCA and our PEG contracts in rather clear violation of the law, and the RFP process would have to re-commence immediately.

While I share the Task Force's thought that it would make more sense of the Task Force's assignment if the rulemaking was deferred to permit the Task Force to first complete its work, SPO has already answered the underlying question for us by denying our request for temporary exemption on that basis. As a result, DCCA can not suspend the rulemaking process.

Sincerely,

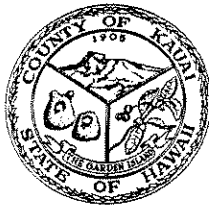


LAWRENCE M. REIRURTH
Director

c: Mr. Clyde Sonobe
Mr. Aaron Fujioka
✓ Ms. Pamela Torres

Bill "Kaipo" Asing
Acting Mayor

Gary Heu
Administrative Assistant



COUNTY OF KAUA'I

Wallace Rezentes, Jr.
Director of Finance

Belma Baris
Deputy Director of Finance

September 30, 2008

70CT'08 AM 8:22 SPO-

Larry Reifurth
Director
DCCA
1151 Punchbowl Street
Honolulu, Hawaii 96813

Re: Request from H.C.R. 358 H.D. 1 (2008) Task Force

Dear Sir,

On behalf of the H.C.R. 358 H.D. 1 (2008) Task Force as its chairman, the Task Force recommends that the cable television division of the DCCA and the state procurement office suspend decision making of its current draft rule making¹ for the designation and selection of access organizations until after the HCR 358 Task Force has issued its Final Report to the legislature expected in late December.

Please feel free to contact me with any questions you may have at (808) 241-4406 or via email eknutzen@kauai.gov.

Sincerely,

Eric Knutzen
Chairman
H.C.R. 358 H.D. 1 (2008) Task Force

Cc: Aaron Fujioka, Pamela Torres

¹ Subchapter 16-131-70