



DEPARTMENT OF THE CORPORATION COUNSEL

COUNTY OF MAUI
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March 19, 2003

MEMO TO: Dave DeLeon
Mayor's Office

F R O M: Ed Kushi, Jr.
Deputy Corporation Counsel

A handwritten signature in black ink, appearing to be "Ed Kushi, Jr.", is written over the name in the "FROM" field.

SUBJECT: **BONDING OF MAUI REDEVELOPMENT AGENCY ("MRA") MEMBERS**

Answering your March 11, 2003 inquiry whether it is required that MRA members be bonded, we respond "yes".

Section 2.44.030, Maui County Code ("MCC"), entitled "Bond coverages required" lists four categories of county officers and employees required to be bonded for not less than \$50,000 per position. Although not specifically listed, MRA members, as county "officers" as defined in Section 13-1.4(b), Maui County Charter, and Section 1.04.010(D)(2), MCC, may fall into the fourth category of county officers, which includes:

"D. All employees of the department of finance and all other officers and employees concerned with the receipt, collection, custody, or disbursement of public funds."

Although the MRA was created by county ordinance in 1989 (reference Section 2.40.050, MCC), its enabling legislation was previously codified in Chapter 53, Hawaii Revised Statutes ("HRS"), the Hawaii "Urban Renewal Law." The state law authorized each county council to create a county agency such as the MRA (see Section 53-2, HRS), and, in general, authorized such agency vast and plenary powers, including but not limited to the authority to acquire, hold, develop and sell land, as well as issue revenue bonds (see Sections 53-5, 53-8, 53-12, and 53-16, HRS, generally).

Based on such authority, we submit that MRA members could most certainly fall into the fourth category listed in Section 2.44.030(D), cited above, thereby activating a \$50,000 per member bonding requirement.

Lastly and more on point, the State enabling legislation, at Section 53-2(b), HRS, specifically requires that:

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"(b) Each member shall be required to give bond in the sum of \$15,000 for the faithful performance of the member's duties, and the agency may also require any of its subordinates to give bond, the premiums upon the bonds to be paid by the agency."

Based on the above, we submit that pursuant to State law, MRA members must be bonded in the amount of \$15,000 per position; however, pursuant to County Code (*i.e.*, Section 2.44.030(D), MCC), said bond amount should be \$50,000 per position.

Lastly, please be informed that our office has advised the Planning Department that staffs the MRA, and the Finance Department of this bonding requirement, and Finance has taken steps to include the MRA members under the County's blanket coverage.

Call if further discussion/clarification is needed.

APPROVED FOR TRANSMITTAL:



GREGORY S. GARNEAU
First Deputy Corporation Counsel
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