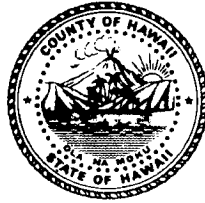


Harry Kim  
Mayor



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October 23, 2003

MEMORANDUM

2003-5

TO: OFFICE OF THE MAYOR  
HAWAII COUNTY COUNCIL  
ALL DEPARTMENT HEADS  
ALL BOARDS AND COMMISSIONS

FROM: LINCOLN S. T. ASHIDA *LSA*  
Corporation Counsel

RE: **Further Clarification on the Attorney-Client Privilege**

A concerned individual questioned our advisory 2003-3 (August 11, 2003), concerning the attorney-client privilege (attached).

In our August 2003 advisory, we stated:

Only "confidential communications made for the purpose of facilitating the rendition of professional legal services to the client" are covered by the privilege.

\* \* \* \* \*

Note that "professional legal services to the client" means just that. The communication must be related to our work for the County in order for the privilege to apply.

Later in the August 2003 advisory, in discussing e-mail communications, we stated:

The advent and prevalent use of e-mail presents other issues of concern. Our clients often communicate with us via e-mail, and our attorneys often dispense advice or recommendations using this means. **All e-mail communication should be regarded as privileged and confidential.**

The concerned individual questioned the use of the word **all** with respect to e-mail communications in the above passage.

So there is no confusion as to what e-mail communications are covered by the privilege, we wish to reaffirm that any e-mail related to our performance of professional legal work for our County clients is considered confidential.

Although we believe our August 2003 advisory, when read comprehensively, provided clarity with respect to covered e-mail communications, we regret if it caused any confusion on the part of our clients.

Again, if you have any questions or concerns regarding this matter, we invite you to contact our office.

Encl.

Departments/Corp Counsel/Advisory 2003-5 10-23-03/LSAmr