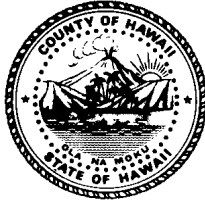


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August 2, 2006

Ms. Constance Kiriu
County Clerk
County of Hawai‘i
25 Aupuni Street
Hilo, Hawai‘i 96720

Dear Ms. Kiriu:

Re: Applicability of HCC Chapter 3, “Sign Code,” to Political Signs

I received your August 2, 2006 email inquiring whether the revised ‘Sign Code,’ Hawai‘i County Code Chapter 3, regulates political signs.

Issue

Whether a political sign is considered a ‘sign’ as defined in the current Chapter 3 of the Hawai‘i County Code? If yes, is a political sign considered a ‘temporary sign’ and exempt from permitting? If no, are there applicable state or federal laws that apply?

Short Answers

1. No, a political sign is not considered a sign as defined in Chapter 3, Section 3-3(a)(28)(C) of the Hawai‘i County Code.
2. Yes, the state law regulating outdoor advertising, Section 445-112(11) of the Hawai‘i Revised Statutes, allows signs urging voters to vote for or against any person or issue.

Discussion

The County Sign Code Does Not Apply to Political Signs

The revised Chapter 3 of the Hawai‘i County Code (“HCC”), Signs, was adopted on April 27, 2005 (“sign code”). The definition section of this chapter

states that if a sign is allowed by state law, then the county sign code does not cover it. Section 3-3(a)(28(C)) of the sign code provides:

“Signs” as used in this chapter is not meant to include or prohibit..... signage that is constitutionally protected or otherwise permitted by state or federal law.

The applicable state law which regulates outdoor advertising, Section 445-112 (11) of the Hawai`i Revised Statutes (“HRS”), allows “signs urging voters to vote for or against any person or issue.” Therefore, because state law allows political signs, the definition of “Signs” as set forth in the current sign code does not regulate nor prohibit political signs.

Violations

Although the sign code does not apply to political signs, any sign that endangers the health or safety of the public (i.e. blocking the sight distance of a driver), whether it be a political or other sign, may be a violation of other county code provisions, and can be reported to the Department of Public Works for investigation.

Prior Corporation Counsel Opinions

This current opinion supercedes Corporation Counsel Opinion No. 96-03 regarding the ‘Election Sign Ordinance’ (HCC Chapter 3, Signs), and the related opinion of Deputy Corporation Counsel Frederick Giannini dated July 21, 1988. Both of those former opinions, which concluded the political sign provision in the then-sign code are an infringement on the right of free expression and therefore unenforceable, no longer apply because the political sign provision does not exist in the current sign code.

Conclusion

The current sign code, HCC Chapter 3, does not apply nor regulate political signs.