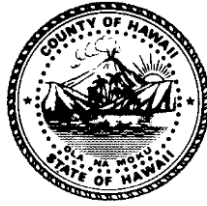


Harry Kim
Mayor



Joseph K. Kamelamela
Corporation Counsel

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COUNTY OF HAWAII
OFFICE OF THE CORPORATION COUNSEL

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February 7, 2020

Joelle Hew Len Lee
Private Secretary to the Managing Director
Office of the Mayor
County of Hawaii'i
25 Aupuni Street
Hilo, Hawaii'i 96720

Dear Ms. Hew Len Lee:

Re: Use of County of Hawaii'i Seal on One Side of Souvenir Coins

You asked whether the Mayor's Office is allowed to use the County Seal on one side of the souvenir coins to give to visitors as omiyage (gift). You stated that the Mayor's Office receives countless visitors, especially school groups from Japan, and the omiyage coins would be a small memento from the County. The Mayor has already requested written permission from Governor David Ige to use a replica of the State Seal on one side of the coin. See Section 5-6, Hawaii'i Revised Statutes, as amended ("HRS") (Section 5-6, HRS, prohibits the use of the State Seal for a commercial or advertising purpose). For the other side of the coin, you inquired as to whether a facsimile of the County of Hawaii'i Seal can be used.

Short answer: The use of the County Seal on one side of the omiyage coin would be permitted.

Section 2-155, Hawaii'i County Code ("HCC"), prohibits specific unauthorized uses of the County Seal. Section 2-155(a), Code, prohibits the use of the County by someone conveying a false impression of sponsorship or approval by the County. Section 2-155 (a), HCC, states:

Whoever knowingly displays any facsimile of the seal of the County in, or in connection with, any advertisement, poster, or circular, for the purpose of conveying, or in a manner reasonably calculated to convey a false impression of sponsorship or approval by the County or by any department, agency, or instrumentality thereof, shall be guilty of a misdemeanor.

Joelle Hew Len Lee
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Section 2-155(b), HCC, mandates County Council approval where items containing the seal are being offered for sale to the public at large. Section 2-155(b), provides:

Whoever, except when authorized in writing by the County council for official use of the County, knowingly manufactures, reproduces, sells, or purchases for resale, either separately or appended to any article manufactured or sold, any facsimile of the seal of the County, or any substantial part thereof, shall be guilty of a misdemeanor.

A reasonable interpretation of Section 2-155 is to (1) prevent misrepresentation and (2) ensure the Council has authorized use of the seal when items are being sold to the public for a County-related purpose.

In the instant matter, the omiyage coins would fairly represent, promote and celebrate the County's lifestyle and values with visitors, including those from the County's sister cities. See Section 46-1.5(18)(A), HRS (each county shall have the power to make appropriations in amounts deemed appropriate from any moneys in the treasure, for the purpose of community promotion and public celebration); Chapter 2, Article 31 (Sister City Relationships), HCC. Also, Council approval for the production of omiyage coins is unnecessary because the coins will not be used for a commercial purpose, and will not be sold.

In summary, a facsimile of the County Seal can be used on one side of the omiyage coin. The purchase and distribution of the coins would be for a County-related purpose. In addition, Council approval is not needed because the coins will not be sold.

Should you have any further questions or concerns, please contact me.

Sincerely,

Joseph K. Kamelamela
Corporation Counsel

JKK:clf