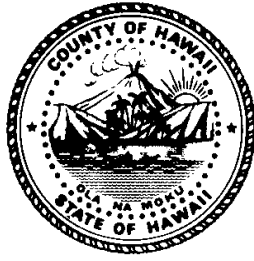


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**2009-2010
HAWAI'I COUNTY
CHARTER COMMISSION**

To: Edmund K. Haitsuka, Chair
Members of the Hawai'i County Charter Commission

From: Levi K. Hookano, Attorney

Date: April 16, 2009

Re: Article I, Section 1-2: Geographical Limits of the County

Chair Haitsuka and Members of the Charter Commission,

At the April 9, 2009 Charter Commission meeting, a question arose regarding the geographical limits of the County. This memo will address what constitutes the phrase "within the shores thereof and the waters adjacent thereto" in Article I, Section 1-2 means. From the research it appears that the County extends seaward three nautical miles from the shore.

Act 39 from the Session Laws of 1905 created the County of Hawai'i. It established that "[t]he Island of Hawaii and all other Islands lying *within three nautical miles* of the shores thereof, and the waters adjacent thereto, shall be the County of Hawaii[.]" This provision eventually became Hawai'i Revised Statutes ("HRS") § 61-1. In 1988, however, HRS Chapter 61 was repealed in its entirety by Act 263.

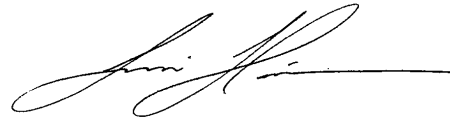
Chapter 4 of the HRS does provide additional guidance in this matter. Chapter 4 establishes boundaries, and in HRS § 4-1(1) it does state that the island and *county* of Hawai'i shall be divided into nine districts. [Emphasis added]. According to HRS § 4-3, the boundaries of the island and county of Hawaii and its districts include the "archipelagic waters and smaller islands adjacent thereto." This could be cross referenced with Article XV of the Hawai'i State Constitution, which states that the boundaries of the State shall include the "appurtenant reefs and territorial and archipelagic waters." The Ninth Circuit Court of Appeals found that the term "territorial waters" includes "the waters extending seaward three nautical miles from the coastline."¹

Basically, county laws could be enforced up to three nautical miles from the shoreline of the island. The enforcement of county laws in this area falls under the

¹ *Island Airlines, Inc. v. Civil Aeronautics Board*, 62 P.U.R.3d 290, 352 F.2d 735.

Department and Board of Land and Natural Resources pursuant to HRS § 26-15(b) and § 199-4.

If you have any further questions regarding this matter, please do not hesitate to contact me.

A handwritten signature in black ink, appearing to read 'Levi Hookano', with a long horizontal flourish extending to the right.

Levi Hookano
Commission Attorney

Cc: Karen Eoff, Commission Secretary