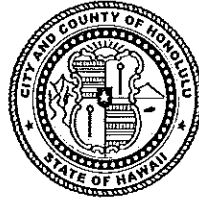


DEPARTMENT OF THE CORPORATION COUNSEL
CITY AND COUNTY OF HONOLULU

530 SOUTH KING STREET, ROOM 110 • HONOLULU, HAWAII 96813
TELEPHONE: (808) 768-5193 • FAX: (808) 768-5105 • INTERNET: www.honolulu.gov

MUFI HANNEMANN
MAYOR



CARRIE K.S. OKINAGA
CORPORATION COUNSEL

DONNA M. WOO
FIRST DEPUTY CORPORATION COUNSEL

October 16, 2009

Lois K. Perrin, Esq.
Executive Director
Laurie Temple, Esq.
Staff Attorney
American Civil Liberties Union of Hawaii
P. O. Box 3410
Honolulu, Hawaii 96801

Dear Lois and Laurie:

Re: Honolulu Police Department ("HPD") Enforcement of the Peddling Ordinance in Waikiki

Thank you for your September 30, 2009 letter concerning enforcement of the peddling ordinance and your willingness to speak with us concerning this issue over the past weeks.

To be very clear on one point: the HPD enforcement efforts in Waikiki are directed not at "street performers" per se, but at persons who engage in peddling in public places – that is selling or renting or offering to sell or rent goods, wares, merchandise, foodstuffs, or other kinds of property or services. All persons who engage in such activities, not only "street-performers", are subject to citation or arrest.

As a sale or rental transaction necessarily involves the setting of a price, it is correct to say that HPD officers enforcing the peddling ordinance will look for conduct involving both a sale, rental or offer of a good or service and verbal or physical discussion that sets a price.

Thus, as a matter of interpretation of the ordinance (and not HPD policy per se), conduct that does not involve setting the price for a transaction is not a violation. A person offering goods or services in public places in Waikiki who does no more than solicit or accept a donation, leaving the amount to be determined solely and freely by the donor, is not in violation of the ordinance.

Lois K. Perrin, Esq.
Laurie Temple, Esq.
Page 2
October 16, 2009

We agree that persons soliciting or accepting donations can better avoid violating the ordinance by: making clear to prospective donors that donations may be in any amount (or no amount at all); by not suggesting an appropriate, usual or minimum amount for a donation, nor referring to amounts given by others; and by not making change for a donor in a way that effectively sets the amount of the donation.

We believe that the foregoing reflects HPD's interpretation and guides its enforcement of the peddling ordinance in Waikiki. Further, we believe that officers on the beat understand this interpretation and have been trained in the enforcement of the peddling ordinance.

We understand that you will monitor the situation in Waikiki over the next few weeks and will be in further communication with us in the event you perceive there to be problems with the manner in which the peddling ordinance is being enforced.

We in turn would like to thank you for the courtesy and professionalism you have shown us in this matter.

Very truly yours,



for GORDON D. NELSON
Deputy Corporation Counsel

GDN:la

09-06581/93784