



DAVID Y. IGE
GOVERNOR

**STATE OF HAWAII
OFFICE OF INFORMATION PRACTICES**

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CHERYL KAKAZU PARK
DIRECTOR

January 14, 2020

VIA EMAIL

Mr. Andrew Ghali

Re: Notice of Dismissal of Appeal (U APPEAL 20-26)

Dear Mr. Ghali:

The Office of Information Practices (OIP) opened the above-referenced appeal based on your request to OIP dated October 1, 2019, which indicated that the City and County of Honolulu, Department of Budget and Fiscal Services Real Property Assessment Division (BFS-HON) denied access to records you requested under Part II of the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes (UIPA). Specifically, your record request to BFS-HON, dated August 20, 2019, sought access to "any records you possess of the disposition of every real property assessment appeal heard by the Board of Review for the fiscal years 2018 and 2019. I do not need copies of the exact correspondence to each appellant. A summary of each appeal, TMK, date heard, disposition, and date of disposition in tableau form is sufficient if easier to prepare."

In OIP's letter to you and BFS-HON dated November 26, 2019, OIP was inclined to recommend that BFS-HON provide you with a revised Notice to Requester (NTR) that indicated whether the requested records were available in electronic form. BFS-HON copied OIP on an email addressed to you dated December 9, 2019, to which the revised NTR was attached. OIP was further inclined to recommend that you could submit a clarified record request to BFS-HON in response to the revised NTR and provide OIP with a copy of the request. OIP did not receive a copy of a clarified request. Also, OIP notified you that if you were not satisfied with BFS-HON's response, you were to notify OIP in writing within 30 business days of November 26, 2019, or OIP would close the file. OIP did not receive a written notification from you within that time frame.

As required by section 2-73-13(a)(1), Hawaii Administrative Rules (HAR), you, the Appellant, are hereby provided with notice that this appeal will not be heard. As checked below, OIP is dismissing this appeal because:

- A prerequisite for filing an appeal under this chapter has not been met (HAR § 2-73-18(1)).
- The appeal is determined to be frivolous (HAR § 2-73-18(2)).
- The issues are beyond OIP's jurisdiction (HAR § 2-73-18(3)).

_____ No violation of the law can be found when viewing the issues in the light most favorable to the Appellant (HAR § 2-73-18(4)).

_____ The Appellant requests that the appeal be dismissed (HAR § 2-73-18(5)).

X The appeal has been abandoned by the Appellant's failure to respond to OIP within thirty days after the date OIP sent the Appellant a request for a response, or other circumstances indicate the appeal has been abandoned (HAR § 2-73-18(6)). Specifically, you did not respond to OIP's letter dated November 26, 2019.

_____ The same issues on appeal have been previously addressed in a published OIP decision (HAR § 2-73-18(7)).

_____ An OIP decision on the appeal would be advisory or moot (HAR § 2-73-18(8)).

A person is entitled to seek assistance from the courts when that person has been improperly denied access to a government record. HRS §§ 92F-15, 92F-42(1) (2012). An action for access to records is heard on an expedited basis and, if the complainant is the prevailing party, the complainant is entitled to recover reasonable attorney's fees and costs. HRS § 92F-15(d), (f) (2012).

For any lawsuit for access filed under the UIPA, the person filing the action must notify OIP in writing at the time the action is filed. HRS § 92F-15.3 (2012).

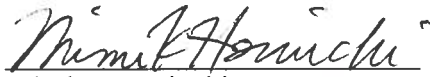
This dismissal constitutes an appealable decision under section 92F-43, HRS. An agency may appeal an OIP decision by filing a complaint within thirty days of the date of an OIP decision, in accordance with section 92F-43, HRS. The agency shall give notice of the complaint to OIP and the person who requested the decision. HRS § 92F-43(b) (2012). OIP and the person who requested the decision are not required to participate, but may intervene in the proceeding. Id. The court's review is limited to the record that was before OIP unless the court finds that extraordinary circumstances justify discovery and admission of additional evidence. HRS § 92F-43(c). The court shall uphold an OIP decision unless it concludes the decision was palpably erroneous. Id.

A party to this appeal may request reconsideration of this decision within ten business days, in accordance with section 2-73-19, HAR. This letter also serves as notice that OIP is not representing anyone in this appeal. OIP's role herein is as a neutral third party.

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If you have further questions, please do not hesitate to contact OIP.

OFFICE OF INFORMATION PRACTICES



Mimi K. Horiuchi
Staff Attorney

APPROVED:



Cheryl Kakazu Park
Director

cc: Ms. Rosalynn Bee, Acting Property Technical Officer
C & C of Honolulu, Dep't of Budget and Fiscal Services, Real Property Assessment Div.