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GOVERNOR

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OFFICE OF INFORMATION PRACTICES**

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CHERYL KAKAZU PARK
DIRECTOR

October 9, 2019

VIA E-MAIL

Ms. Karen Martinez

Re: Dismissal of Appeal (U APPEAL 20-17)

Dear Ms. Martinez:

The Office of Information Practices (OIP) opened an appeal based on your request to OIP received September 10, 2019, which indicated that the County of Hawaii Department of Parks and Recreation (PARKS-H) partially denied access to records you requested under Part II of the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes (HRS) (the UIPA). Specifically, your record request to PARKS-H, dated July 11, 2019, sought access to PARKS-H's budget and its End of Year Allocation budget for the years 1999 through 2018.

OIP was copied on PARKS-H's letter to you dated October 6, 2019, and its Amended Notice to Requester, in which it indicated that it would provide the requested records in full with a refund of the portion of the fees you previously paid attributable to PARKS-H's review and segregation of the requested records for its original response. The Amended Notice to Requester indicated that the records were being mailed to you.

Because PARKS-H has now provided you with all the requested records, there is no further dispute under the UIPA for OIP to resolve. Therefore, 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)).

_____ The appeal has been abandoned by the appellant's failure to respond to OIP within twenty 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 June 6, 2014.

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

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

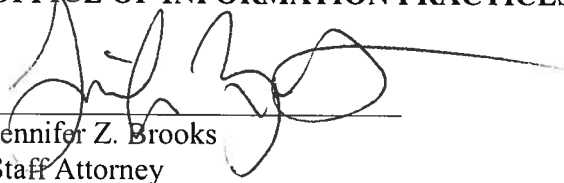
A person is entitled to seek assistance from the courts when that person has been improperly denied access to a government record. HRS §§ 92F-15, 92F-42(1) (2012). An action for access to records is heard on an expedited basis and, if the complainant is the prevailing party, the complainant is entitled 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. If you have further questions, please do not hesitate to contact OIP.

OFFICE OF INFORMATION PRACTICES



Jennifer Z. Brooks
Staff Attorney

APPROVED:



Cheryl Kakazu Park
Director

cc: Ms. Roxcie L. Waltjen, Director, Parks and Recreation