



DAVID Y. IGE
GOVERNOR

STATE OF HAWAII
OFFICE OF INFORMATION PRACTICES

NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
Telephone: (808) 586-1400 FAX: (808) 586-1412
E-MAIL: oiip@hawaii.gov
www.oiip.hawaii.gov

CHERYL KAKAZU PARK
DIRECTOR

November 29, 2019

VIA EMAIL

Ms. Cheryl Kaster

Re: Notice of Dismissal of Appeal (U APPEAL 20-21)

Dear Ms. Kaster:

The Office of Information Practices (OIP) opened the above-referenced file based on your requests dated September 19, 2019 and September 20, 2019, which indicated that the Department of the Attorney General (AG) partially 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 the AG, dated July 23, 2019, sought access to “[f]or calendar year 2018, from the Notary Database maintained by ehawaii.gov: A digital file containing the following data for all Notaries Commissioned in 2018: Name Email Address and Employer, New or Renewal Commission.” On October 7, 2019, the AG provided you with copies of the requested records with the email addresses redacted, at no cost, via email. In a telephone conversation with OIP on November 7, 2019 and in an email to OIP dated November 24, 2019, you indicated your acceptance of OIP’s informal guidance as stated in OIP’s letter to you and the AG dated October 29, 2019, and your receipt of the redacted records, as resolving this appeal.

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)).

_____ 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).

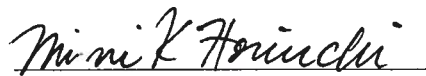
For any lawsuit for access filed under the UIPA, the person filing the action must notify OIP in writing at the time the action is filed. HRS § 92F-15.3 (2012).

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.

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: Mr. Dean A. Soma, Deputy Attorney General