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Attorneys for Plaintiff Public First Law Center

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAII

PUBLIC FIRST LAW CENTER,

Plaintiff,

vs.

DEFENDER COUNCIL; JON N.
IKENAGA; and AGRIBUSINESS
DEVELOPMENT CORPORATION
BOARD OF DIRECTORS,

Defendants.

CIVIL NO. 1CCV-24-0000050 (JJK)
(Other Civil Action)

STIPULATION AND ORDER
REGARDING COUNTS X - XIII AND
REMEDIES

JUDGE: Honorable Jordon J. Kimura

TRIAL DATE: September 22, 2025

STIPULATION AND ORDER REGARDING COUNTS X - XIII AND REMEDIES

Pursuant to Rule 19 of the Rules of the Circuit Courts of Hawai'i and agreement of the parties, this stipulation and order resolves Counts X – XIII and all claims for relief demanded in Counts I – XIII of the Complaint filed by Plaintiff Public First Law Center (Public First), Dkt. 1, as follows:

- A. Defendant Agribusiness Development Corporation Board of Directors (ADC Board), based on the facts of this case, admits that it violated the Sunshine Law, with regard to Counts X, XI, XII, and XIII, as follows:

- (1) The ADC Board violated the Sunshine Law when it used committees that were not established pursuant to HRS 92-2.5 to evaluate the ADC Executive Director's annual performance;
 - (2) The ADC Board violated the Sunshine Law by conducting the entirety of its performance review and evaluation of Executive Director Nakatani for fiscal years 2020-2021 and 2021-2022 in executive session;
 - (3) The ADC Board violated the Sunshine Law by doing the following in executive session on July 20 and August 8: (a) discussing the recommendations of the "Executive Director Search Committee" permitted interaction group (also referred to as the "Hiring PIG"); (b) interviewing candidates; (c) evaluating the candidate's qualification and fitness; and (d) selecting the ADC Executive Director; and
 - (4) The ADC Board violated the Sunshine Law at the July 20 meeting by allowing the Hiring PIG to continue to meet after its June 15 report to the ADC Board and by deliberating and engaging in decision-making on the Hiring PIG's findings and recommendations at the same meeting at which the findings and recommendations were presented to the ADC Board;
- B. Defendant Defender Council (Council) waives its right to appeal the orders entered December 5, 2024 [Dkt. 96] and May 20, 2025 [Dkt. 207], and any other matter arising in this litigation;
- C. The ADC Board will provide Public First a copy of the Hiring PIG report and its July 20 and August 8, 2023 executive session meeting minutes under the following conditions:
- (1) Within twenty (20) days of the date this stipulation and order is entered, the ADC Board shall produce to Public First the Hiring PIG report; provided that the ADC Board may narrowly redact "highly personal and intimate information" that is of no legitimate public concern; and
 - (2) Within five (5) working days of the date this stipulation and order is entered, the ADC Board shall submit to the above-entitled Court for *in camera* review the unredacted executive session minutes for its July 20 and August 8, 2023

meetings for an order as to the appropriate scope of public disclosure;
provided that the order shall be stayed automatically for (10) days to allow
for challenges to the scope of disclosure;

D. Disputes regarding the scope of disclosures made under paragraph “C”, above,
shall be governed by Hawai`i law and subject to final order by the above-entitled
Court as follows:

- (1) Any dispute shall be submitted to the Court for review within ten (10) days of
the disclosure or order to disclose, as the case may be;
- (2) Any party that objects to the scope of disclosure shall file a letter brief, not to
exceed five (5) pages in length, single-spaced, providing relevant points and
authorities; and
- (3) Any party that wishes to respond to the objection shall file a responsive letter
brief within ten (10) days of the objection;

E. Within sixty (60) days of the date this stipulation and order is entered, the
Council and ADC Board shall pay Public First’s attorneys’ fees and costs in the
agreed amount of \$20,000.00, in full satisfaction of any amounts incurred in the
circuit court as a result of this action before an appeal, if any; provided that
Public First may seek additional attorneys’ fees and costs for an appeal, if any, to
the extent allowed by law;

F. Within one-hundred and eighty (180) days of the date this stipulation and order
is entered, all then-current members of the Council and ADC Board shall
participate in Sunshine Law training; provided that the training curriculum shall:

- (1) No later than twenty (20) days before the training, be provided to Public First
to review for compliance with this stipulation and order; and
- (2) At minimum include training on proper subjects and scope of executive
session, the presumption of openness that applies to all personnel
discussions, meeting minutes requirements, public testimony requirements,
permitted interaction requirements, and the proper use of board committees;

G. Count XIV – which seeks a declaration that State of Hawai`i Office of
Information Practices’ Opinion F24-03 is “palpably erroneous” – shall be decided

by the above-entitled Court by way of cross-motions for summary judgment, which shall be heard July 29, 2025 at 10 a.m. Each party shall file its moving papers in accordance with court rules.

H. Public First's requested relief to void the Council's November 2, 2023 final action selecting Defendant Jon. N. Ikenaga as State Public Defender and all other remaining relief requested by the Complaint, Dkt. 1, is withdrawn *with prejudice*.

The Court granted summary judgment in favor of Public First and against the Council on Count IX by order entered December 5, 2024. Dkt. 96. The Court dismissed Count II with prejudice on May 13, 2025 by agreement of the parties. Dkt. 187. The Court granted summary judgment in favor of Public First and against the Council on Counts I and III - VIII by order entered May 20, 2025. Dkt. 207.

Accordingly, only Count XIV remains pending.

DATED: Honolulu, Hawai'i, July 3, 2025

/s/ Benjamin M. Creps
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Attorneys for Plaintiff

/s/ David N. Matsumiya
AMANDA WESTON
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Attorneys for Defendants

APPROVED AND SO ORDERED:

/s/ Jordon J. Kimura
Judge of the Above-Entitled Court



DATED: July 03, 2025