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SECOND CIRCUIT
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Attorneys for Plaintiff
Johann Peter Lall

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT
STATE OF HAWAII

JOHANN PETER LALL,

Plaintiff,

vs.

COUNTY OF MAUI and MAUI
PLANNING DEPARTMENT,

Defendants.

CIVIL NO. _____
(Other Civil Action)

COMPLAINT; SUMMONS

JUDGE: NONE

TRIAL DATE: NONE

COMPLAINT

Plaintiff Johann Peter Lall alleges as follows:

PARTIES

1. Plaintiff Lall is a citizen of Hawai'i and a resident of Maui County.



2. Defendant County of Maui is a “county”, within the definition of “Agency” under Hawai`i Revised Statutes (HRS) § 92F-3, that is headquartered at 200 South High Street, Wailuku, Hawai`i.

3. Defendant Maui Planning Department is a “department”, within the definition of “Agency” under HRS § 92F-3, that is headquartered at 200 South High Street, Wailuku, Hawai`i.

JURISDICTION AND VENUE

4. The court has jurisdiction over this action to compel disclosure of public records under the Uniform Information Practices Act (Modified), HRS ch. 92F (UIPA), pursuant to HRS §§ 92F-15(a) and 603-21.5(3).

5. Venue is proper in this court pursuant to HRS §§ 92F-15(e) and 603-36(5) for any one of the following: the request for records was made in this circuit; upon information and belief, the requested records are maintained in this circuit; the Defendants are headquartered in this circuit; the claim for relief arose in this circuit; and the Defendants are domiciled in this circuit.

FACTUAL BACKGROUND

6. HRS § 92F-11(a) provides: “All government records are open to public inspection unless access is restricted or closed by law.”

7. On information and belief, in 2019, Defendant Department issued Special Management Area (SMA) permit SM 2019/0005 to Iwa `Ike for the construction of a four-lot residential subdivision in Kihei, Maui.

8. On September 8, 2021 the Department issued NOV 2021/0058, fining Iwa 'Ike \$65,000 for violating the SMA permit.

9. On December 21, counsel for Iwa 'Ike contacted Jordan Hart, then Deputy Director of Defendant Department, to propose an unspecified "resolution" to the NOV.

10. At some point after August 17, 2022, the Department reissued the NOV fine – reduced to \$18,333.34.

11. On June 30, 2023, Plaintiff requested from Defendant Department:

- "All e-mails from 2020-2023 between Jordan Hart and Alpha Construction or their lawyers regarding Iwaike [sic] Subdivision";
- "All e-mails from 2022-2023 between Jordan Hart and Alpha Construction or their lawyers and agents regarding Kilohana Makai development";
- "All e-mails from 2023 between Kathleen Aoki and Alpha Construction or their lawyers and agents regarding Kilohana Makai development";
- "All e-mails from 2022 between Michele McLean or Jordan Hart and original land owners (Garcia family), lawyers, or agents, regarding potential SMA violations involving the preservation plan for Kalani Heiau at the Garcia Subdivision";
- "Rough estimate of count and total value of SMA and Shoreline fines issued for 2023 so far, or a list if readily available";

- “Rough estimate of State of Hawai`i funding received yearly by the County of Maui Planning Department for Coastal Zone Management (CZM) enforcement and permitting”; and
- “Any document that states the purpose of CZM funding given to the county.”

12. On July 9, Plaintiff clarified his request to the Defendant Department and requested:

- E-mails “between the land owners, developers, and their agents” related to the previous request; and
- “All SMA and Shoreline NOVs for 2020, 2021, 2022 and 2023 where fines were changed or eliminated without Maui Planning Commission approval.”

13. On August 29, in response to Plaintiff’s request, the Defendant Department released 58 pages of almost entirely redacted e-mails between Defendant Department, counsel for Iwa ‘Ike, and Makai Properties, citing invasion of personal privacy and frustration of a legitimate government function under HRS §§ 92F-13 and 92F-14 as justification for the redactions.

14. On December 5, Plaintiff’s counsel requested that Defendants reconsider the scope of all disclosures.

15. Defendants have not provided any further disclosures in response to the Law Center’s requests.

16. The public interest in how NOVs are negotiated and reduced behind closed doors outweighs any privacy interests the Defendants may have in documents and e-mails related to the NOV reduction.

**COUNT I
FAILURE TO DISCLOSE LESS REDACTED
E-MAILS**

17. The foregoing paragraphs 1-16 are realleged and incorporated by reference.

18. Defendants' stated reasons for nondisclosure of portions of the NOV reduction e-mails and documents do not justify all of their nondisclosures.

19. Defendants have denied Plaintiff his right to access government records pursuant to the UIPA.

20. Plaintiff is entitled to an order directing Defendants to disclose more of the NOV negotiation e-mails and documents.

DEMAND FOR RELIEF

Based on the foregoing, the Plaintiff respectfully requests that this court:

A. Give precedence, in accordance with HRS § 92F-15(f), to this case on the docket over all other cases, assign it for hearing and trial or for argument at the earliest practicable date, and expedite it in every way;

B. Enter an order directing the Defendants to disclose the unredacted records sought in the June 23 and July 9, 2023 requests for records;

C. Award the Law Center reasonable attorneys' fees and all other expenses reasonably incurred in the litigation, pursuant to HRS § 92F-15(d); and

D. Grant such other and further relief as it deems reasonable and just.

DATED: Honolulu, Hawai`i, January 19, 2024.

/s/ Gillian Schefer Kim
ROBERT BRIAN BLACK
BENJAMIN M. CREPS
GILLIAN SCHEFER KIM
Attorneys for Plaintiff

**STATE OF HAWAI'I
CIRCUIT COURT OF THE
SECOND 2nd CIRCUIT**

**SUMMONS
TO ANSWER CIVIL COMPLAINT**

CASE NUMBER

PLAINTIFF'S NAME & ADDRESS, TEL. NO.

PLAINTIFF
JOHANN PETER LALL

Johann Peter Lall
c/o Robert Brian Black
Benjamin M. Creps
Gillian Schefer Kim
Public First Law Center 700 Bishop
Street, Suite 1701
Honolulu, HI 96813
(808) 531-4000

DEFENDANT(S)
COUNTY OF MAUI and MAUI PLANNING
DEPARTMENT

TO THE ABOVE-NAMED DEFENDANT(S)

You are hereby summoned and required to file with the court and serve upon
Robert Brian Black; Benjamin M. Creps; Gillian Schefer Kim

_____,
plaintiff's attorney, whose address is stated above, an answer to the complaint which is herewith served upon you, within
20 days after service of this summons upon you, exclusive of the date of service. If you fail to do so, judgment by default
will be taken against you for the relief demanded in the complaint.

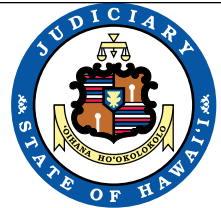
**THIS SUMMONS SHALL NOT BE PERSONALLY DELIVERED BETWEEN 10:00 P.M. AND 6:00 A.M. ON
PREMISES NOT OPEN TO THE GENERAL PUBLIC, UNLESS A JUDGE OF THE ABOVE-ENTITLED
COURT PERMITS, IN WRITING ON THIS SUMMONS, PERSONAL DELIVERY DURING THOSE HOURS.**

**A FAILURE TO OBEY THIS SUMMONS MAY RESULT IN AN ENTRY OF DEFAULT AND DEFAULT
JUDGMENT AGAINST THE DISOBEYING PERSON OR PARTY.**

DATE ISSUED January 19, 2024

Effective Date of 03-Jul-2023
signed by: /s/M. Ferreira
Clerk, 2nd Circuit, State of Hawai'i

The original document is filed in the
Judiciary's electronic case management
system which is accessible via eCourt Koku
a at: <http://www.courts.state.hi.us>



If you need an accommodation for a disability when participating in a court program, service, or activity, please contact the ADA Coordinator as soon as possible to allow the court time to provide an accommodation:

Call (808) 244-2855 FAX (808) 244-2932 OR Send an e-mail to: adarequest@courts.hawaii.gov. The court will try to provide, but cannot guarantee, your requested auxiliary aid, service or accommodation.

(Rev. 7/3/2023)

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