

DEPARTMENT OF THE
CORPORATION COUNSEL 205

VICTORIA J. TAKAYESU 5481

Corporation Counsel

BRIAN A. BILBERRY 7260

Deputy Corporation Counsel

County of Maui

200 S. High Street

Wailuku, Hawaii 96793

Telephone No.: (808) 270-7741

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Attorneys for Defendants
COUNTY OF MAUI and
MAUI PLANNING DEPARTMENT

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. 2CCV-24-0000019

DEFENDANTS COUNTY OF MAUI
AND MAUI PLANNING
DEPARTMENT'S ANSWER TO
COMPLAINT FILED ON
JANUARY 19, 2024 [JEFS Dkt. 1];
CERTIFICATE OF SERVICE

**DEFENDANTS COUNTY OF MAUI AND MAUI
PLANNING DEPARTMENT'S ANSWER TO COMPLAINT
FILED ON JANUARY 19, 2024 [JEFS Dkt. 1]**

Defendants COUNTY OF MAUI and MAUI PLANNING DEPARTMENT
(collectively "Maui County") by and through their attorneys, VICTORIA J.



TAKAYESU, Corporation Counsel, and BRIAN A. BILBERRY Deputy Corporation Counsel, hereby submit their answer to Plaintiff JOHANN PETER LALL's, ("Plaintiff") Complaint, filed on January 19, 2024 as follows:

FIRST DEFENSE

1. Maui County is presently without knowledge or information sufficient to form a belief as to the truth or veracity of the allegations contained in paragraphs 1, 7, 8, 9, 10, 11, 12, 13, 14, and 15 of the Complaint, and thus is not prepared to admit or deny these paragraphs pending a factual investigation into allegations.

2. Maui County denies the allegations in paragraphs 18, 19, and 20 of the Complaint.

3. Maui County admits that the County of Maui is a municipal corporation and a governmental subdivision of the State of Hawai'i, and denies the allegations in paragraph 2 to the extent they make a conclusory factual statement and/or call for a legal conclusion.

4. Maui County admits that the Maui Planning Department is a division of the executive branch of Maui County's municipal government, and denies the allegations contained in paragraph 3 of the Complaint to the extent they make conclusory factual statements, and/or call for a legal conclusion.

5. Maui County denies the allegations contained in paragraph 4 and 5 of the Complaint to the extent they make conclusory factual statements, and/or call for a legal conclusion.

6. Maui County states that the text of Haw. Rev. Stat. § 92F-11(a) speaks for itself in response to paragraph 6 of the Complaint.

7. In response to paragraph 16 of the Complaint, Maui County admits that Haw. Rev. Stat. Chapter 92F is intended to enhance governmental accountability through a general policy of access to government records, as well as balance the individual privacy interest and the public access interest, and allow access unless it

would constitute a clearly unwarranted invasion of personal privacy. Maui County denies the remaining allegations to the extent they make conclusory factual statements, and/or call for a legal conclusion.

8. Paragraphs 1 through 7 above are re-alleged and averred in response to paragraph 17 of the Complaint.

9. The County denies any and all allegations contained in the Complaint which are not specifically admitted herein.

SECOND DEFENSE

10. The Complaint fails to state a claim upon which relief can be granted.

THIRD DEFENSE

11. The County intends to rely upon any matter constituting an avoidance or affirmative defense as set forth in Rule 8(c) of the Hawaii Rules of Civil Procedure and intends to seek leave to amend its answer to allege any such matters of which the County may become aware during the course of discovery or trial of this action.

FOURTH DEFENSE

12. The County reserves the right to assert any affirmative defense which may be disclosed in discovery.

FIFTH DEFENSE

13. Plaintiff's claims are barred by the fact that the County acted with reasonable grounds with regard to any and all of the allegations contained in the Complaint.

SIXTH DEFENSE

14. Plaintiff's claims are barred by the equitable doctrine of laches.

SEVENTH DEFENSE

15. Plaintiff's claims are barred by the equitable doctrine of estoppel.

EIGHTH DEFENSE

16. Plaintiff's claims are barred by the equitable doctrine of waiver.

NINTH DEFENSE

17. The County gives notice that the County intends to rely upon the defense that Plaintiff is barred by lack of personal and/or subject matter jurisdiction and/or improper venue.

TENTH DEFENSE

18. Plaintiff's claims are barred by Plaintiffs' failure to exhaust administrative remedies.

ELEVENTH DEFENSE

19. The County gives notice that they may rely upon the defense of lawful authority and execution of public duty.

TWELTFH DEFENSE

20. The County intends to rely upon the affirmative defense of no breach of duty.

WHEREFORE, Maui County prays that this Court:

- A. Dismiss Plaintiff's Complaint with prejudice;
- B. Enter judgment in favor of Maui County, and adjudge Maui County to be the prevailing party herein;
- C. Award Maui County reasonable attorney's fees and costs incurred; and
- D. Grant Maui County such other and further relief as the court may deem just and proper.

DATED: Wailuku, Maui, Hawai'i, February 14, 2024.

VICTORIA J. TAKAYESU
Corporation Counsel
Attorneys for Defendants
COUNTY OF MAUI and
MAUI PLANNING DEPARTMENT

By /s/ Brian A. Bilberry
BRIAN A. BILBERRY
Deputy Corporation Counsel