

HOSODA LAW GROUP, AAL, ALC

LYLE S. HOSODA 3964-0  
KOURTNEY H. WONG 10827-0  
SPENCER J. LAU 11105-0  
500 Ala Moana Blvd., Ste. 3-499  
Honolulu, Hawai'i 96813  
Telephone: (808) 524-3700  
Facsimile: (808) 524-3838  
Email: [lsh@hosodalaw.com](mailto:lsh@hosodalaw.com); [khw@hosodalaw.com](mailto:khw@hosodalaw.com)  
[sjl@hosodalaw.com](mailto:sjl@hosodalaw.com)

**Electronically Filed**  
**FIRST CIRCUIT**  
**1CCV-22-0000087**  
**20-JAN-2022**  
**07:25 PM**  
**Dkt. 1 CMPS**

Attorneys for Plaintiff  
ROY AMEMIYA JR.

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

ROY AMEMIYA JR.,

Plaintiff,

vs.

CITY & COUNTY OF HONOLULU; JOHN  
DOES 1-20; JANE DOES 1-20; DOE  
CORPORATIONS 1-20; DOE  
GOVERNMENTAL AGENCIES 1-20; and  
DOE ENTITIES 1-20,

Defendants.

Civil No. \_\_\_\_\_  
(Other Civil Action)

**COMPLAINT; EXHIBITS "A"-“F”;  
SUMMONS**

Trial Date: None

**COMPLAINT**

Plaintiff Roy Amemiya Jr. (“Plaintiff”), by and through undersigned counsel, files this Complaint against Defendant City & County of Honolulu (“City”) for violations of the Hawaii Uniform Information Practices Act (“UIPA”), Hawaii Revised Statutes, Chapter 92F, and its implementing administrative rules, Hawaii Administrative Rules, Chapter 2-71.

## **INTRODUCTION**

On June 29, 2020, Plaintiff was notified by Special Attorney of the United States Michael G. Wheat (“Wheat”) that he was the subject of an FBI and federal Grand Jury investigation. Plaintiff asked Wheat multiple times for the factual bases and/or topic areas of the allegations against him. Wheat never explained to Plaintiff why he was being investigated until after June 11, 2021, when Plaintiff received knowledge that he was the target of the same investigation. Only then did Wheat finally confirm that the allegations against Plaintiff stem from the 2017 severance and separation agreement between the City and its former Chief of Police, Louis Kealoha. Shortly after this information was confirmed, Plaintiff requested government records from the City’s Honolulu Police Commission (“HPC”) and City’s Department of Corporation Counsel (“Corp. Counsel”) regarding the 2017 severance. HPC and Corp. Counsel have not produced the requested records.

Plaintiff was indicted on January 12, 2022.

## **PARTIES**

1. Plaintiff is and was at all relevant times hereto a resident of the City & County, State of Hawai’i.
2. Plaintiff is a “Person” within the meaning of Hawaii Revised Statute § 92F-3.
3. The City is and was at all times relevant hereto a governmental entity formed and responsible for the municipal governance of the City & County of Honolulu in the State of Hawai’i.
4. The City is an “Agency” within the meaning of Hawaii Revised Statute § 92F-3 and is the custodian of the records at issue in this action.

## JURISDICTION AND VENUE

5. This Court has jurisdiction over this action to compel disclosure of public records under the Uniform Information Practices Act pursuant to Hawaii Revised Statutes §§ 92F-15(a) and 603-21.5(3).

6. Venue is proper in this court pursuant to Hawaii Revised Statutes §§ 92F- 15(e) and 603-36(5) for any one of the following reasons: the requests for records were made in this circuit; upon information and belief, the records are maintained in this circuit; the City is headquartered in this circuit; the claim for relief arose in this circuit; and the City is domiciled in this circuit.

7. This Court has personal jurisdiction over the City because it is a municipal corporation established and operating under the laws of the State of Hawai'i and the United States of America.

8. Hawaii Revised Statute § 92F-2 provides that “it is the policy of this State that the formation and conduct of public policy – the discussions, deliberations, decisions, and action of government agencies – shall be conducted as openly as possible.”

9. Hawaii Revised Statute § 92F-2 states that one purpose of the Uniform Information Practices Act is to “[e]nhance governmental accountability through a general policy of access to government records.”

10. Hawaii Revised Statute § 92F-11(a) affirms that “[a]ll government records are open to public inspection unless access is restricted or closed by law.”

11. Given the purposes of the UIPA, together with the fact that the investigation is closed and personal information may be redacted, Plaintiff asserts that the City violated the

UIPA by not disclosing the requested records.

### **FACTUAL BACKGROUND**

12. Plaintiff was employed as the City and County of Honolulu's Managing Director from January 2015 to December 2020.

13. On June 29, 2020, Plaintiff received a letter from Special Attorney of the United States Michael G. Wheat ("Wheat") notifying him that he was the subject of an FBI and federal Grand Jury investigation.

14. On June 11, 2021, Plaintiff received a letter from the U.S. Department of Justice notifying him that was the target of an FBI and federal Grand Jury investigation.

15. Following the June 11, 2021 letter, Wheat verbally confirmed that Plaintiff received the letters based on Plaintiff's alleged involvement in the 2017 severance and separation agreement between the City and its former Chief of Police, Louis Kealoha. All of Plaintiff's alleged involvement occurred during the time that he was employed as the City's Managing Director.

16. On August 16, 2021, counsel representing Plaintiff submitted a government records request to HPC, pursuant to Hawaii's Uniform Information Practices Act, Hawaii Revised Statutes Chapter 92F ("HPC Records Request"). A true and correct copy of the HPC Records Request is attached hereto as **Exhibit A**. The request included the following:

1. All documents in the possession of the City and COR discussing or relating to any of the following:

a. The appropriate procedures for negotiation, approval and consummation of any severance or separation agreement between the City and/or COR and its former Chief of Police, Louis Kealoha.

b. The appropriate procedures for negotiation, approval and consummation of any severance or separation agreement between the City and/or its Honolulu Ethics Commission and its former Executive Director, Charles Totto.

c. The appropriate procedures for negotiation, approval and consummation of any severance agreement between the City and/or its Honolulu Authority for Rapid Transit and its former HART Director Daniel Grabouskas.

2. Copies of all documents in the possession or control of the City, filed on behalf of the City in the United States District Court for the District of Hawaii related to the warrant, a copy of which is attached hereto as Exhibit “A” and related to the applicability of any privilege to any records seized pursuant thereto.

3. Copies of all documents by, between or amongst the Honolulu Police Department (“HPD”) and the Federal Bureau of Investigation (“FBI”) and/or the United States Department of Justice (“USDOJ”) arising out of or relating to the disassociation, separation or severance of the former HPD Chief of Police Louis Kealoha.

4. Copies of any and all communications of the City’s Budget & Financial Services (“BFS”) Department and/or Department of Human Resources arising out of or relating to the disassociation and severance or separation of the former HPD Chief of Police Louis Kealoha.

17. The HPC Records Request was a “formal request” within the meaning of Hawaii Administrative Rules § 2-71-2.

18. The records requested in the HPC Records Request are “government records” within the meaning of Hawaii Revised Statute § 92F-3.

19. In response to the HPC Records Request, counsel for Plaintiff received a *Notice to Requester* letter dated August 30, 2021 from HPC along with the production of one document, a Louis Kealoha Retirement Letter dated January 18, 2017. A true and correct copy of HPC’s August 30, 2021 *Notice to Requester* letter is attached hereto as **Exhibit B**.

20. HPC’s August 30, 2021 *Notice to Requester* letter states the request is granted in

part and denied in part because of two reasons: (1) government records pertaining to Requests 1, 3, and 4 are not obtained by HPC and; (2) although the agency maintains the records pertaining to Request 2, it is not disclosing all or part of them, citing the following laws: Haw. Rev. Stat. § 92F-13 and/or § 92F-22.

21. Counsel for Plaintiff submitted a letter dated September 8, 2021, to HPC, stating the issues and concerns with HPC's failure to produce the requested documents and requested a list of documents being withheld and the basis therefore. A true and correct copy of the September 8, 2021 letter to HPC is attached hereto as **Exhibit C**.

22. In response to the September 8, 2021 letter to HPC, counsel for Plaintiff received a *Notice to Requester* letter dated September 21, 2021 from HPC along with the production of sixteen documents. A true and correct copy of HPC's September 21, 2021 *Notice to Requester* letter is attached hereto as **Exhibit D**. The following summarizes the sixteen documents produced:

1. 01/04/17 – Honolulu Police Commission Meeting Agenda
2. 01/04/17 – Honolulu Police Commission Regular Meeting Minutes
3. 01/04/17 – Public Comment of Aaron Hunger
4. 01/04/17 – Public Comment of Brian Black
5. 01/04/17 – Honolulu Police Commission Executive Session Minutes
6. 12/20/16 – Kealoha FBI Target Letter
7. 01/04/17 – Notice of Continuance of Meeting
8. 01/06/17 – Honolulu Police Commission Executive Session Minutes
9. 01/18/17 – Honolulu Police Commission Regular Meeting Agenda
10. 01/18/17 – Honolulu Police Commission Regular Meeting Minutes
11. 01/12/17 – Public Comment of Marjorie Morgan
12. 01/18/17 – Public Comment of Kevin Zane
13. 01/17/17 – Public Comment of Will Espero
14. 01/13/17 – Public Comment of Digger
15. 01/18/17 – Honolulu Police Commission Executive Session Minutes
16. 01/18/17 – Louis Kealoha Retirement Letter

23. HPC's September 21, 2021 *Notice to Requester* letter states that the request cannot be granted for three reasons: (1) HPC does not know what agency is believed to have the government records with respect to Requests 1, 3, and 4; (2) there is no set procedure for negotiation, approval and consummation of any severance or separation for the Chief of Police and; (3) the Honolulu Police Commission does not maintain records for the Ethics Commission or HART, citing the following law: Haw. Rev. Stat § 92F-3.

24. In addition to the HPC Records Request, on August 16, 2021, counsel representing Plaintiff submitted a government records request to Corp. Counsel, pursuant to Hawaii's Uniform Information Practices Act, Hawaii Revised Statutes Chapter 92F ("Corp. Counsel Records Request"). The documents requested in the Corp. Counsel Records Request are identical to the documents requested in the HPC Records Request and outlined above in paragraph 12. A true and correct copy of the Corp. Counsel Records Request is attached hereto as **Exhibit E**.

25. In response, counsel for Plaintiff received a *Notice to Requester* letter from Corp. Counsel dated August 31, 2021, stating that the government records request cannot be granted for two reasons: (1) government records pertaining to Request 3 are believed to be maintained by the Honolulu Police Department; and (2) requests 1, 2, and 4 will be denied in its entirety because, although the City maintains the requested records, it is not disclosing them, citing the following laws: Haw. Rev. Stat. § 92F-13(2) and (3), 92F-14(b)(2). Corp. Counsel's justification is the following: (1) requests include attorney-client privilege; (2) requests include work product privilege; (3) there is an ongoing investigation; and (4) requested records are not discoverable in civil litigation. A true and correct copy of the August 31, 2021 *Notice to*

*Requester* letter is attached hereto as **Exhibit F**.

26. The Corp. Counsel Records Request was a “formal request” within the meaning of Hawaii Administrative Rules § 2-71-2.

27. The records requested in the Corp. Counsel Records Request are “government records” within the meaning of Hawaii Revised Statute § 92F-3.

28. On January 12, 2022, Plaintiff was indicted by the United States on an alleged conspiracy charge arising out of and relating to former HPD Chief Kealoha’s severance from HPD.

### **COUNT I**

#### **FAILURE TO DISCLOSE RECORDS AS REQUIRED BY THE UIPA**

29. The foregoing paragraphs are incorporated by reference.

30. Hawaii Revised Statute § 92F-15(a) allows that “[a] person aggrieved by a denial of access to a government record may bring an action against the agency at any time within two years after the agency denial to compel disclosure.”

31. Pursuant to Hawaii Revised Statute § 92F-15(c), “[t]he agency has the burden of proof to establish justification for non-disclosure.”

32. Pursuant to Hawaii Revised Statute § 92F-13, an agency has the discretion to withhold government records pursuant to enumerated exceptions, but the statute does not prohibit agency disclosure. The Office of Information Practices (“OIP”) Opinion Letter No. 05-03 further confirms this.

33. OIP guidance supports that agencies may produce documents with redactions, which would eliminate any “clearly unwarranted invasion of personal privacy” under Hawaii

Revised Statutes §§ 92F-13(1) and 92F- 14(b)(2). *See* OIP Opinion Letter No. 99-9; OIP Opinion Letter No. 95-21.

34. Hawaii Revised Statute § 92F-14(a) states: “Disclosure of a government record shall not constitute a clearly unwarranted invasion of personal privacy if the public interest in disclosure outweighs the privacy interests of the individual.”

35. The public interest in enhancing governmental accountability, the fact that the fraud investigation is closed, and the ability of City to redact personal information all tip the balances to allowing the City to disclose at least a portion of the government records that HPC and Corp. Counsel possess.

//

//

//

**DEMAND FOR RELIEF**

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

- A. Enter an order directing the City to disclose all information sought in the HPC Records Request and the Corp. Counsel Records Request;
- B. Award Plaintiff reasonable attorneys' fees and all other expenses reasonably incurred in this litigation, pursuant to Hawaii Revised Statute §92F-15(d); and
- C. Grant such other and further relief as this Court deems reasonable and just under the circumstances.

DATED: Honolulu, Hawai'i, January 20, 2022.

/s/ Lyle S. Hosoda  
\_\_\_\_\_  
LYLE S. HOSODA  
KOURTNEY H. WONG  
SPENCER J. LAU

Attorneys for Plaintiff  
ROY AMEMIYA JR.

**STATE OF HAWAII  
CIRCUIT COURT OF THE  
FIRST CIRCUIT**

**SUMMONS  
TO ANSWER CIVIL COMPLAINT /**

CASE NUMBER

PLAINTIFF'S NAME & ADDRESS, TEL. NO.

Roy Amemiya, Jr.  
95-1120 Kualapa Street  
Mililani HI, 96789  
(808) - 626-8964

PLAINTIFF

Roy Amemiya, Jr.

VS.

DEFENDANT(S)

CITY & COUNTY OF HONOLULU; JOHN DOES 1-20; JANE DOES 1-20; DOE CORPORATIONS 1-20; DOE GOVERNMENTAL AGENCIES 1-20; and DOE ENTITIES 1-20

**TO THE ABOVE-NAMED DEFENDANT(S)**

You are hereby summoned and required to filed with the court and serve upon:

Hosoda Law Group, AAL, ALC  
500 Ala Moana Blvd.  
Honolulu, Hawaii 96813 Tel: 808-524-3700

\_\_\_\_\_,  
plaintiff, as indicated above/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.**

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

**Effective Date of 1-DEC-2021  
Signed by: /s/ Patsy Nakamoto  
Clerk, 1st Circuit, State of Hawai'i**



If you need an accommodation for a disability when participating in a court program, service, or activity, please contact the ADA Coordinator of the XX Circuit as soon as possible to allow the court time to provide an accommodation. Phone No. 808-539-4400, TTY 808-539-4853, FAX 808-539-4402 or Send an e-mail to: [adarequest@courts.hawaii.gov](mailto:adarequest@courts.hawaii.gov). The court will try to provide, but cannot guarantee, your requested auxiliary aid, service or accommodation.