

COURT OPINIONS LIST (As of June 2020)

To assist in your own legal research and analysis, OIP prepared this list of important court cases relating to the UIPA and/or Sunshine Law, with citations and brief descriptions. As a neutral third party, OIP does not provide legal advice or representation to anyone.

UIPA Cases:

Honolulu Civil Beat Inc. v. Department of the Attorney General, ___ Haw. ___, ___ P.3d ____ (SCAP-17-000480, March 11, 2020) (holding that (1) the Circuit Court did not abuse its discretion in reviewing *in camera* an allegedly confidential investigative report sent by the Attorney General's Office to the Legislature, and (2) the report could not be withheld under the exception in the UIPA for confidential communications protected by the lawyer-client privilege, when no lawyer-client relationship was proven)

Peer News LLC v. City & County of Honolulu, 143 Haw. 472, 431 P.3d 1245 (2018) (rejecting the "deliberative process privilege" that had been recognized by OIP under the UIPA's frustration exception at HRS § 92F-13(3), and requiring agencies to provide an individualized and sufficiently detailed analysis demonstrating the legitimacy of a government function and the likelihood that the function will be frustrated in an identifiable way if the record is disclosed)

Peer News LLC v. City & County of Honolulu, 138 Haw. 53, 376 P.3d 1 (2016) (holding that under HRS § 92F-14(b)(4) police officers have a significant privacy interest in their suspension, but not discharge, records, which must be balanced against the public interest in disclosure in a case by case analysis to determine whether such records may fall within the exception to disclosure found in HRS § 92F-13(1))

Molfino v. Yuen, 134 Haw. 181, 339 P.3d 679 (2014) (holding that the Uniform Information Practices Act, HRS Chapter 92F, does not create a legal duty to maintain government records that would allow someone to sue in a tort action for negligence if the government records were not filed in an accurate, relevant, timely, and complete condition at all times)

Justice v. Fuddy, 125 Haw. 104, 253 P.3d 665 (Haw. Ct. App. 2011) (affirming motion to dismiss because plaintiff failed to prove that there were "compelling circumstances affecting the health or safety of any individual" under HRS 92F-12(b)(3) to obtain access to President Obama's birth certificate)

In re Honolulu Community-Media Council, 121 Haw. 179, 215 P.3d 411 (2009) (concluding that Judicial Financial Disclosure Statements are not subject to disclosure under the UIPA or to OIP review based on the separation of powers principle)

County of Kauai v. Office of Information Practices, 120 Haw. 34, 200 P.3d 403 (Haw. Ct. App. 2009) (affirmed by Hawaii Supreme Court in memorandum opinion on October 26, 2009) (allowing the county to withhold executive session minutes due to the attorney-client privilege)

Nuuanu Valley Association v. City and County of Honolulu, 119 Haw. 90, 194 P.3d 531 (2008) (holding that engineering reports submitted to but not accepted by the county planning department, and which had been returned to the applicant, were not “maintained” and thus did not constitute government records subject to disclosure by the department)

‘Olelo: The Corp. for Cmty. Television v. Office of Information Practices, 116 Haw. 337, 173 P.3d 484 (2007) (concluding that ‘Olelo was not an “agency” subject to the UIPA)

Hawai‘i Org. of Police Officers v. Society of Prof. Journalists Univ. of Hawai‘i, 83 Haw. 378, 927 P.2d 386 (1996) (holding that collective bargaining agreements under HRS Chapter 89 do not preempt the statutory rights and responsibilities under the UIPA, HRS Chapter 92F)

Mehau v. Reed, 76 Haw. 101, 869 P.2d 1320 (1994) (interpreting the UIPA’s predecessor’s civil remedies for personal records violations)

Kaapu v. Aloha Tower Dev. Corp., 74 Haw. 365, 846 P. 882 (1993) (holding that neither the Sunshine Law nor the UIPA required the agency to disclose development proposals before the execution of a long-term lease)

Painting Indus. of Hawaii Mkt. Recovery Fund v. Alm, 69 Haw. 449, 746 P.2d 79 (1987) (defining “personal record” under the statute preceding the UIPA)

Sunshine Law Cases:

In Re Office of Information Practices Opinion Letter No. F16-01, __ Haw. __, __ P.3d __ (SCWC 16-0000568, June 16, 2020) (overturning lower courts’ decisions to dismiss a complaint challenging an OIP Sunshine Law opinion, without addressing the merits of the complaint) (recognizing that only agencies, not individuals, could appeal from an OIP decision under [HRS § 92F-43](#), and liberally interpreting a pro se complainant’s pleading as an original action for declaratory relief under [HRS § 92-12\(c\)](#), rather than as an impermissible appeal under HRS § 92F-43) (rejecting the ICA’s interpretation of its own prior opinion in County of Kaua‘i v. OIP, 120 Haw. 34, 200 P.3d 403 (App. 2009), and instead allowing OIP to be sued under HRS § 92-12(c) by a member of the public dissatisfied with an OIP opinion, even though a separate board, not OIP, had performed the act allegedly prohibited by the Sunshine Law in the OIP opinion being challenged) (holding that court review of OIP opinions under any action brought under HRS § 92-12 would be subject to the palpably erroneous standard of review, whether the action was filed by a government board or an individual member of the public)

Civil Beat Law Center v. City and County of Honolulu, 144 Haw. 466, 445 P.3d 47 (2019) (concluding that personnel matters should presumptively be discussed in an open meeting, unless the board properly decides on a case by case basis to hold an executive meeting closed to the public because an individual’s legitimate privacy interest may be impacted, and also distinguishing between the attorney-client privilege under the Hawaii Rules of Evidence from the attorney-client exception under the Sunshine Law, and further recognizing that a board’s final action may be voided if its deliberations are conducted in violation of the executive meeting requirements in HRS § 92-5).

Kanahele v. Maui County Council, 130 Haw. 228, 307 P.3d 1174 (2013) (holding that multiple continuances of public meetings did not violate the Sunshine Law, but the distribution of

memoranda between councilmembers was a violation)

County of Kauai v. Office of Information Practices, 120 Haw. 34, 200 P.3d 403 (Haw. Ct. App. 2009) (affirmed by Hawaii Supreme Court in memorandum opinion on October 26, 2009) (allowing the county to withhold executive session minutes due to the attorney-client privilege)

Right to Know Comm. v. City Council, City & County of Honolulu, 117 Haw. 1, 175 P.3d 111 (Haw. Ct. App. 2007) (applying the palpably erroneous standard of review in upholding OIP Op. Ltr. No. 05-15 and concluding that council members' serial communications resulted in a discussion of council business that was not permitted by the Sunshine Law)

Kaapu v. Aloha Tower Dev. Corp., 74 Haw. 365, 846 P. 882 (1993) (holding that neither the Sunshine Law nor the UIPA required the agency to disclose development proposals before the execution of a long-term lease)

Chang v. Planning Commission, 64 Haw. 431, 643 P.2d 55 (1982) (holding that closed deliberations were permissible because the commission was exercising its adjudicatory functions and that another 30-day notice period to reschedule a meeting was not required)

Cases of Interest:

Food Marketing Institute v. Argus Leader Media, 588 U.S._____, 139 S. Ct. 2356 (2019) (rejecting the “substantial competitive harm” test established in National Parks & Conservation Assn. v. Morton, 498 F.2d 765 (D.C. Cir. 1974), and instead using the common dictionary definition to determine the meaning of “confidential” business information that is protected from public disclosure under FOIA Exemption 4).

McBurney v. Young, 569 U.S. 221, 133 S. Ct. 1709, 185 L.Ed.2d 758 (2013) (holding that Virginia’s Freedom of Information Act (FOIA) denying noncitizens access to documents did not violate the dormant Commerce Clause or the Privileges and Immunities Clause of the U.S. Constitution because states need not provide equal rights to noncitizens, noncitizens’ rights to access Virginia’s courts are not impermissibly burdened, the right to access public information is not a “fundamental” privilege or immunity of citizenship, and the Constitution does not guarantee the existence of FOIA laws).

E & J Lounge Operating Co. v. Liquor Commission, 118 Haw. 320, 189 P.3d 432 (Haw. Ct. App. 2008) (concluding that a hearing on a liquor license application was a contested case) (relevant to the issue of a Sunshine Law exemption for a board’s exercise of adjudicatory functions)