



State of Hawai‘i

OFFICE OF INFORMATION PRACTICES

Appellate Court Opinions List

November 2025

OIP has prepared this list of appellate court opinions relating to the Sunshine Law, part I of chapter 92, Hawai‘i Revised Statutes (HRS), and the Uniform Information Practices Act (Modified), chapter 92F, HRS (UIPA), with citations and brief descriptions. As a neutral third party, OIP does not provide legal advice or representation to anyone.

UIPA Court Opinions

Published Opinions

Haw. Gov’t Emp. Ass’n v. Dep’t of Pub. Safety, No. CAAP-22-0000506, __ P.3d __, 2025 Haw. App. LEXIS 413 (Haw. App. Aug. 18, 2025) (forthcoming publication) (holding that (1) HGEA had associational standing; and (2) the UIPA does not provide a private right of action to bring suit for disclosure of private information, but that the plaintiffs’ complaint, viewed in the light most favorable to them, did state a tort claim for invasion of privacy).

Haw. Police Dept., Cnty. of Haw., v. Kubota, 155 Hawai‘i 136, 557 P.3d 865 (2024) (opining that the UIPA does not apply to “the nonadministrative functions” of Hawai‘i’s courts; instead, discovery in civil cases is governed by the Hawai‘i Rules of Civil Procedure (HRCPP), which controls access to all matters including government records, and “the UIPA exceptions to disclosure do not double as exceptions to discovery.”).

Honolulu Civil Beat Inc. v. Dep’t of the Att’y Gen., 151 Hawai‘i 74, 508 P.3d 1160 (2022) (Civil Beat II) (ruling that: (1) the Attorney General (AG) failed to provide an explanation of how disclosure of a report documenting “incompetence, deceptive practices, and workplace bullying in the Office of the Auditor” (Report), “could possibly frustrate the State AG’s ability to provide legal services given that, per Civil Beat I, the Attorney General wasn’t providing the State ‘legal services’ when it investigated the Office of the Auditor or prepared the Report[;]” (2) the Report, as a whole, cannot be withheld under the privacy exception because the public’s interest in disclosure outweighed the Subject’s significant privacy interest after considering relevant factors: (a) “the government employee’s rank;” (b) the “[d]egree of wrongdoing and strength of evidence against the employee;” (c) “whether there are other ways to obtain the information;” (d) “[w]hether the information sought sheds light on a government activity;” and (e) “[w]hether the information is related to job function, or is of a personal nature”; (3) the Report’s detailed summaries of formal personnel records, findings and discussions concerning minor misconduct by Non-Subjects, the names of Non-Subject Interviewee, and discussions of individuals’ medical conditions, disabilities and bodies are exempt from disclosure under HRS § 92F-13(1) because their significant privacy interest is outweighed by the low public interest; (4) the Report should be redacted, not withheld as a whole, because the exempt information “can be ‘readily detected and redacted from the [Report] without rendering the remaining [Report] information meaningless.’”).

State of Haw. Org. of Police Officers v. City & Cnty. of Honolulu, 149 Hawai‘i 492, 494 P.3d 1225 (2021) (holding: (1) there is no private cause of action to prevent, as opposed to compel, the release of public records under UIPA; and (2) the UIPA required the release of police misconduct records and closing report because, after applying the Peer News test, the public interest in disclosure outweighs the officer’s privacy interest at stake; (3) the circuit court did not err by concluding that HRS § 92F-12(a)(2) requires disclosure of an arbitration award; (4) a redacted copy of an arbitration award must be disclosed under the “scintilla” test because police officers do not have a significant privacy interest in the findings of facts and conclusions of law related to police misconduct resulting in suspension or discharges and therefore “the public’s interest in understanding ‘the proper performance of public duty’ and ‘how the police department supervises its employees and responds to allegations of misconduct’ far surpasses the required scintilla;” and (4) “an agency may not collectively bargain away its duties under UIPA – compliance with the statute is ‘non-negotiable’” therefore, the State of Hawai‘i Organization of Police Officer’s (SHOPO) collective bargaining agreement and confidentiality provision therein are irrelevant.).

In re Off. of Info. Practices Op. Letter No. F19-04, 150 Hawai‘i 335, 501 P.3d 304 (App. 2021) (holding that, although OIP relied on inapposite persuasive authority, it correctly concluded that the City’s easement appraisal report must be disclosed to a prospective buyer/requester, and that the “frustration of a legitimate government function” exception of HRS § 92F-13(3) did not apply under the facts of this case, where the City made the first offer to sell an easement to a prospective buyer).

Mott v. City & Cnty. of Honolulu, 146 Hawai‘i 210, 458 P.3d 921 (App. 2020) (holding “that arrestees have a significant privacy interest in their home addresses, and the public interest in disclosure asserted by Mott does not outweigh that privacy interest. Disclosure of the addresses would therefore constitute a clearly unwarranted invasion of personal privacy, thus exempting the addresses from the disclosure requirements of HRS § 92F-11.”).

Honolulu Civil Beat Inc. v. Dep't of the Att'y Gen., 146 Hawai'i 285, 463 P.3d 942 (2020) (Civil Beat I) (holding that (1) the circuit court did not abuse its discretion in reviewing *in camera* an allegedly confidential investigative report sent by the AG to the Legislature, and (2) the report could not be withheld under HRS § 92F-13(4) as confidential communications protected by the lawyer-client privilege, when no lawyer-client relationship was proven) (remanding for circuit court to determine whether the frustration and privacy exemptions applied.) See Civil Beat II.

Peer News LLC v. City & Cnty. of Honolulu, 143 Hawai'i 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 & Cnty. of Honolulu, 138 Hawai'i 53, 376 P.3d 1 (2016) (holding that under HRS § 92F-14(b)(4) police officers have a significant privacy interest in their suspension records, 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) (Peer News test)), *superseded by statute*, 2020 Haw. Sess. Laws Act 47, § 1 at 364 (rescinding a police officer’s significant privacy interest in misconduct information resulting in suspension and discharge)

Molfino v. Yuen, 134 Hawai'i 181, 339 P.3d 679 (2014) (holding that the UIPA 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).

Oahu Publ'n., Inc. v. Abercrombie, 134 Hawai'i 16, 332 P.3d 159 (2014) (holding that the Intermediate Court of Appeals abused its discretion in refusing to consider Oahu Publications’ request for attorney fees and costs sought under HRS § 92F-15(d) as the prevailing party)

Justice v. Fuddy, 125 Hawai'i 104, 253 P.3d 665 (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).

Cnty. of Kaua'i v. Off. of Info. Practices, 120 Hawai'i 34, 200 P.3d 403 (App. 2009) *affirmed by Cnty. of Kaua'i v. Off. of Info. Practices*, No. 29059, 2009 Haw. LEXIS 264 (Haw. Oct. 26, 2009) (mem. op.) (allowing the county to withhold executive session minutes due to the attorney-client privilege).

In re Honolulu Cmty. Media Council, 121 Hawai'i 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).

Nu‘uanu Valley Ass’n v. City and Cnty. of Honolulu, 119 Hawai‘i 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. Off. of Info. Practices, 116 Hawai‘i 337, 173 P.3d 484 (2007) (concluding that ‘Olelo was not an “agency” subject to the UIPA).

Singleton v. Liquor Comm’n, 111 Hawai‘i 234, 249, 140 P.3d 1014 (2006) (noting that appellant argued that the Liquor Commission violated HRS § 92-7 by burying efforts to address night clubs’ noise complaints in its meeting agenda. However, the court found that the record was consistent with the Commission’s position that the agenda clearly listed the items to be discussed, rather than listing a broad category. As result, the court found “it does not appear there was a ‘burying’ of the ‘event’ in the agenda, and therefore, no violation of HRS § 92-7 occurred.”).

State of Haw. Org. of Police Officers, v. Soc’y of Pro. Journalists-Univ. Of Haw. Chapter, 83 Hawai‘i 378, 395-96; 927 P.2d 386, 403-04 (1996) *superseded by statute*, 1995 Haw. Sess. Laws Act 242 § 1 at 641-42, as recognized in Peer News LLC v. City & Cnty. of Honolulu, 138 Hawai‘i 53, 63-65, 376 P.3d 1, 11-13 (2016) (holding (1) the identities and disciplinary records of police officers who have engaged in such misconduct in the course of public duties as to warrant suspension or dismissal is not within the protections of Hawai‘i’s constitutional right to privacy; (2) a scintilla of public interest warrants disclosure when there is no significant privacy interest (“Scintilla” test); (3) collective bargaining agreements under HRS chapter 89 do not preempt the statutory rights and responsibilities under the UIPA; (4) “The UIPA contains no exception from the disclosure requirements for requests deemed by the agency to be too burdensome.”).

Mehau v. Reed, 76 Hawai‘i 101, 869 P.2d 1320 (1994) (interpreting civil remedies for personal records violations under HRS chapter 92E (repealed), the UIPA’s predecessor).

Ka‘apu 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 Haw. Mkt. Recovery Fund v. Alm, 69 Haw. 449, 746 P.2d 79 (1987) (defining “personal record” under HRS chapter 92E, the statute preceding the UIPA) (holding a contractor’s settlement agreement could not be withheld under HRS § 92E-1 because it did not “contain information that is ‘highly personal and intimate,’ such as medical, financial, educational, or employment records. Instead, the agreement concerns a corporation’s violation of wage and hour laws” and “if the DCCA had decided to hold a formal disciplinary hearing before the Contractor’s Licensing Board, this information would have been public under HRS § 444-18.”)

Unpublished Opinions

State of Haw. Org. of Police Officers v. City & Cty. of Honolulu, No. CAAP-21-0000603, 2024 Haw. App. LEXIS 58 (Haw. App. Feb. 8. 2024) (SDO) (affirming circuit court judgement denying SHOPO’s motion for preliminary injunction and ruling (1) Act 47 (2020)’s amendments did not

violate a county police officer's right to privacy by mandating disclosure of disciplinary records before the highest nonjudicial grievance adjustment procedure timely invoked by the employee or the employee's representative has concluded; (2) Act 47's amendments did not violate its members' right to: organize for the purpose of collective bargaining; procedural due process; substantive due process; and prohibition against impairment of contract; because police departments cannot bargain away their duties under HRS § 52D-3.5; (3) Act 47's amendments did not violate the equal protection rights of SHOPO and its members that are enjoyed by other public employees, because the legislature provided a rational basis for disclosing the identity of a police officer upon suspension or discharge).

State of Haw. v. Earthjustice, No. 29289. 2009 Haw. App. LEXIS 510 (Haw. App. Aug. 03, 2009) (memo. op.) (reversing the circuit court judgment awarding attorney fees and costs in favor of Earthjustice because the Clean Water Branch of the State of Hawai'i Department of Health (DOH) granted their UIPA request in its entirety, therefore Earthjustice was not a "person aggrieved" by a denial of access to government records under HRS § 92F-15) (responding to a UIPA request, DOH produced six boxes of records to Earthjustice, but later sought declaratory and injunctive relief demanding the return of all records because it mistakenly allowed Earthjustice to review and copy the documents when the records should have been withheld under HRS § 92F-13 and state and federal laws).

Sunahara v. Dep't of Health, No. CAAP-12-0000501, 2014 Haw. App. LEXIS 271 (Haw. App. May 29, 2014) (SDO) (ruling that the circuit court did not err in granting summary judgment because access to vital records is restricted under chapter 338, HRS, therefore Appellant was not entitled access to a certified copy of his sister's birth certificate HRS § 92F-11).

Lodi v. State Bd. of Med. Exam'rs, No. CAAP-12-0000852, 2015 Haw. App. LEXIS 443 (Haw. App. Aug. 31, 2015) (SDO) (ruling that Appellant "has not shown that any failure to record the votes of the individual members [in the minutes] resulted in any prejudice to him or warrants invalidating the BME's decision.").

Sunshine Law Court Opinions

Published Opinions

Off. of Hawaiian Aff. v. Kondo, 153 Hawai'i 170, 528 P.3d 243 (2023) (holding "that unless an audit's subject waives the attorney-client privilege, or a court orders disclosure, the Office of the Auditor may not access an auditee's privileged attorney-client communications" in executive session minutes).

In re Off. of Info. Practices Op. Letter No. F16-01, 147 Hawai'i 286 465 P.3d 733 (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 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 Cnty. of Kaua'i v. Off. of Info. Practices, 120 Hawai'i 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 a court's 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 L. Ctr. for the Pub. Int. v. City & Cnty. of Honolulu, 144 Hawai'i 466, 445 P.3d 47 (2019) (concluding that personnel-privacy matters under HRS § 92-5(a)(2) 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 after deciding the person at issue has a "legitimate expectation of privacy" to the information, which is not reduced or defeated under the circumstances; and recognizing the attorney-client privilege under the Sunshine Law is narrower than under the Hawai'i Rules of Evidence; 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 Cnty. Council, 130 Hawai'i 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).

Cnty of Kaua'i v. Off. of Info. Practices, 120 Hawai'i 34, 200 P.3d 403 (App. 2009) *affirmed by* Cnty of Kaua'i v. Off. of Info. Practices, No. 29059, 2009 Haw. LEXIS 264 (Haw. Oct. 26, 2009) (mem. op.) (allowing the county to withhold executive session minutes due to the attorney-client privilege).

Right to Know Comm. v. City Council, City & Cnty. of Honolulu, 117 Hawai'i 1, 175 P.3d 111 (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).

Kahana Sunset Owners Ass'n v. Maui Cnty. Council, 86 Hawai'i 132, 948 P.2d 122 (1997) (affirming denial of a rezoning applicant's motion for attorney fees under HRS § 92-12(c) because the rezoning application was not connected to a sunshine law violation claim).

Ka'apu v. Aloha Tower Dev. Corp., 74 Haw. 365, 846 P.2d 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).

Unpublished Opinions

Comm. for Responsible Liquor Control v. Liquor Control Comm'n, No. CAAP-17-0000805, 2024 Haw. App. LEXIS 201 (App. Apr. 22, 2024) (SDO) (holding that (1) Plaintiff-Appellant's challenge to "all the improperly adopted rule changes" at the Commission's February 8, 2017, meeting was not moot; (2) the Commission's meeting notice published on January 6, 2017, did not

satisfy the notice requirements under HRS § 92-7 because “it neither included an agenda nor was it filed with the county clerk[;]” and (3) the Commission’s agenda published on February 1, 2017, did not satisfy the notice requirements under HRS § 92-7 because it failed to provide a “statement of when and where the proposed rules may be reviewed in person and on the Internet as provided in” HRS § 91-2.6).

Other Opinions of Interest

Civil Beat L. Ctr. for the Public Interest v. Maile, 117 F.4th 1200 (9th Cir. Aug. 28, 2024) (holding that Rules 9.1(a) and 2.19 of the Hawai‘i Court Records Rules (HCRR), which required the categorical sealing of medical and health records filed in state court proceedings, was unconstitutionally overbroad; and absent a sufficient compelling government interest to rebut presumption of openness, these rules encroached on the press and public’s First Amendment right to access court proceedings and documents) (“[P]rotecting an individual’s constitutional and statutory right to privacy is a compelling interest that may justify sealing a particular medical or health record,” however, “[n]ot everything that might qualify as a medical or health record necessarily contains information that is private, and not everyone may care to keep every medical or health record private” therefore even when there is a compelling privacy interest, “selective redaction could sufficiently protect that interest in many instances.”) (mandatory sealing of medical and health records is not the least restrictive means to protect a privacy interest; instead, a case-by-case determination of whether sealing a court record is necessary to protect the asserted privacy interest is the least restrictive means of protecting that interest).

Oahu Publications v. Takase, 139 Hawai‘i 236, 386 P.3d 873 (2016) (holding that “[when personal information has been improperly included in a publicly accessible document in violation of the Hawai‘i Court Records Rules, remedial measures must be taken to rectify the rule violation. A party who learns of improperly included personal information in its filing must take steps to effectuate the immediate sealing of the document or of its offending content and file a properly redacted version of the document. Upon receiving such a motion, the court should promptly seal the document or the content contended to be in violation of the Hawai‘i Court Records Rules by entering an order stating the reason for the sealing, informing the public and the parties of the right to file a motion objecting to the sealing of the document, and requiring the filing of a redacted version of the document if it has not been submitted. When the court itself discovers the improper inclusion of protected personal information, it may follow similar procedures.”).

Pacific Radiation Oncology, v. Queen’s Med. Ctr., 138 Hawai‘i 14, 375 P.3d 1252 (2016) (holding “pursuant to article I, section 6 of the Hawai‘i Constitution, and under the facts of this case, the parties cannot use, or be compelled to produce, confidential patient medical records in litigation where the patient is not a party, where no compelling state interest has been shown;” and “to allow an individual’s medical information, even if de-identified, to be used in litigation to which that individual is not a party, would reach beyond what the Hawai‘i Constitution permits in the absence of a showing of a compelling state interest.”).

Anastasi v. Fid. Nat. Title Ins. Co., 137 Hawai‘i 104, 137, 366 P. 3d 160, 170 (2016) (Anastasi II) (holding that when an in-house attorney serves in dual capacities and a document involving the attorney may have dual purposes, the scope of the work product privilege provided in Rule

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Hawai‘i Rules of Civil Procedure, aligns with the “because of” test in United States v. Richey, 632 F.3d 559, 567–68 (9th Cir. 2011), which requires courts to “to consider whether given the totality of the circumstances it can be fairly said that a document was prepared or obtained because of the prospect of litigation.”).

Anastasi v. Fid. Nat’l Title Ins. Co., 134 Hawai‘i 400, 341 P.3d 1200 (Haw. App. 2014) (Anastasi I) (explaining that “the burden of establishing work product protection lies with the proponent, and it must be specifically raised and demonstrated rather than asserted in a blank fashion”).

E & J Lounge Operating Co. v. Liquor Comm’n, 118 Hawai‘i 320, 189 P.3d 432 (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).

Pray v. Judicial Selection Comm’n, 75 Haw. 333, 851 P.2d 723 (1993) (holding that confidentiality requirements of rule 7 of the Judicial Selection Commission Rules, do not apply to the governor or chief justice after the Judicial Selection Commission (JSC) has submitted its list of judicial nominees for consideration; rather it is within the sole discretion of the appointing authorities whether to make public disclosure of the JSC's lists of judicial nominees).

Nakano v. Matayoshi, 68 Haw. 140, 706 P.2d 814 (1985) (holding that, although people have a legitimate expectation of privacy “in [their] personal financial affairs,” that privacy right is qualified for public officials with “significant discretionary or fiscal powers” because the ethics code in Article XIV of the State of Hawai‘i Constitution, compels those public officials to make confidential financial disclosures, which “include, but not be limited to, sources and amounts of income, business ownership, officer and director positions, ownership of real property, debts, creditor interests in insolvent businesses and the names of persons represented before government agencies.”)

Hui Malama Aina O Ko‘olau v. Pacarro, 4 Haw. App. 304, 666 P.2d 177 (App. 1983) (recognizing that a councilmember’s undisclosed conflict of interest in a matter before him disqualifies him from voting, but does not invalidate the council’s action when sufficient votes existed excluding the councilmember’s vote.)