

# ACKNOWLEDGMENT TO REQUESTER

**TO:** E. Kalani Flores  
**FROM:** Sam Lemno, OCCL Administrator, Department of Land & Natural Resources  
c/o Harvey E. Henderson, Jr., 586-1219, harvey.e.hendersonjr@hawaii.gov  
(Agency and name & telephone number of contact person at agency)

**DATE REQUEST RECEIVED:** Clarification received on June 17, 2016  
Request received on May 19, 2016

**DATE OF ACKNOWLEDGEMENT:** July 1, 2016

**GOVERNMENT RECORDS YOU REQUESTED:** (attach copy of request or provide brief description below)

1. See clarification to request submitted by E. Kalani Flores, dated June 16, 2016 (copy attached)
2. See Request to Access A Government Record submitted by E. Kalani Flores, dated May 16, 2016 (copy attached)

This acknowledgment is provided in accordance with section 2-71-13, Hawaii Administrative Rules ("HAR"), because the following extenuating circumstance(s) exist:

- ☒ Agency must consult with another person to determine whether the record is exempt from disclosure under chapter 92F, HRS.
- ☒ Request requires extensive agency efforts to search, review, or segregate the records, or otherwise prepare the records for inspection or copying.
- ☒ Agency requires additional time to respond to the request in order to avoid an unreasonable interference with its other statutory duties and functions.
- ☐ A natural disaster or other situation beyond the agency's control prevents the agency from sending a notice or responding to the request within ten business days.

Due to these extenuating circumstances, the agency will send you the written notice required by section 2-71-14, HAR, within a reasonable time not to exceed twenty business days following the date when the agency received your request. Among other things, this notice will inform you whether the agency intends (1) to disclose the record; (2) to deny access to all or part of the information in the requested record, identifying the portions that will not be disclosed and justifying the nondisclosure; or (3) that the agency is unable to disclose the record for the reasons given. The notice will also include the agency's good faith estimate of all fees that will be charged to the requester under section 2-71-19, HAR and the amount of prepayment required by the agency, if any.

If the agency is providing access to records, the agency will then:

- (1) Disclose the requested records within five business days after providing notice or, when applicable, after receiving a prepayment as provided for under section 2-71-19, HAR;
- or
- (2) Disclose the requested records in increments because the requested records are voluminous. See HAR § 2-71-15. Each increment will be disclosed within twenty business days after either (A) the prior incremental disclosure (if one prepayment of fees is required and received) or (B) receipt of each incremental prepayment required.

For questions about this acknowledgment, please contact the person named above. Questions regarding compliance with the UIPA may be directed to the Office of Information Practices at 808-586-1400 or oip@hawaii.gov.

DATE: June 16, 2016

TO: Sam Lemno, OCCL Administrator  
Department of Land and Natural Resources  
1151 Punchbowl Street, Rm 131  
Honolulu HI 96813  
Email: [dlnr.occl@hawaii.gov](mailto:dlnr.occl@hawaii.gov)

2016 JUN 17 A 7:05

C/O: Harvey Henderson Jr.  
Email: [havey.e.hendersonjr.@hawaii.gov](mailto:havey.e.hendersonjr.@hawaii.gov)

*E. Kalani Flores*

FR: E. Kalani Flores  
P.O. Box 6918, Kamuela HI 96743  
Email: [ekflores@hawaiiantel.net](mailto:ekflores@hawaiiantel.net)

Aloha no e Mr. Lemno,

This letter is written to provide you with further clarification and description that you requested in response to my request for records submitted May 19, 2016. Please respond within the time provided for in HAR 2-71-13. *Mahalo nui loa* for your assistance with this matter! The following is my reply to your response:

**1. Please advise if you are requesting a single report or multiple report**

I am requesting any and all reports, communications, or other documents prepared in the relevant time frame (see below) which are responsive to my request.

**2. By independent analysis, do you mean an analysis prepared only by persons not employed by the state?**

No. I am requesting any independent analysis prepared by the DLNR, BLNR, and their staff, employees, officers, agents, or contractors. Independent analysis, as defined in *Ka Pa'akai O Ka'Aina v. Land Use Comm'n*, 94 Haw. 31, 7 P.3d 1068, 2000 Haw. LEXIS 302 (Haw. 2000) means an analysis, prepared by the reviewing agency, of the impacts of a proposed undertaking on Native Hawaiian traditional and customary practices. This analysis also includes a "balancing [of] the developer's interests with the needs of native Hawaiians[.]"

**3. Please advise impacts by who or what you are requesting analysis of.**

I am requesting analyses of the impacts of (1) the BLNR's Consent to the Sublease and Nonexclusive Easement Agreement Between TMT International Observatory LLC and The University of Hawai'i, presented as item D-19 at the June 27, 2014 meeting of the BLNR, (2) the Conservation District Use Permit HA-3568 for the Thirty Meter Telescope at the Mauna Kea Science Reserve, and (3) the proposed Mutual Cancellation of General Lease No. S-4191 and Issuance of New Direct Lease to UH for Mauna Kea Science Reserve Purposes, on Native Hawaiian traditional and customary practices in the relevant areas

**4. Please provide a time frame**

From 2009 till the present.

## REQUEST TO ACCESS A GOVERNMENT RECORD

**DATE:** May 16, 2016

**TO:** Sam Lemno, OCCL Administrator  
Department of Land & Natural Resources  
1151 Punchbowl Street, Rm. 131  
Honolulu, HI 96813  
Ph: (808) 587-0377  
Email: [dlr.occl@hawaii.gov](mailto:dlr.occl@hawaii.gov)

**FR:** E. Kalani Flores  
P.O. Box 6918, Kamuela HI 96743  
[ekflores@hawaiiantel.net](mailto:ekflores@hawaiiantel.net)

DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

2016 MAY 19 A 9:56

RECEIVED  
OFFICE OF CONSERVATION  
AND COASTAL LANDS

### **AS THE REQUESTER, I WOULD LIKE THE FOLLOWING GOVERNMENT RECORD:**

I am hereby requesting pursuant to the Freedom of Information Act, the Hawaii Uniform Information Practices Act, and under other relevant authority, including due process, the following information:

(1) A copy of an independent analysis<sup>1</sup> that might have been completed by or for the State of Hawai'i Department of Land and Natural Resources (DLNR) and/or the Board of Land and Natural Resources (BLNR) to assess the impacts upon Native Hawaiian traditional and customary practices associated with those Mauna Kea lands<sup>2</sup> under the jurisdiction of the DLNR.

Please provide the requested material as soon as possible and not to exceed thirty (30) days.

**I WOULD LIKE:** (Please check one or more of the options below, as applicable)

- ☒ **To inspect the government record**
- ☒ **A copy of the government record:** (Please check only one of the options below.)
  - ☐ Pick up at agency (date and time):
  - ☐ Mail (address):
  - ☒ E-mail (address): [ekflores@hawaiiantel.net](mailto:ekflores@hawaiiantel.net)
  - ☐ Other, if available (please specify):
- ☒ If the agency maintains the records in a form other than paper, please advise in which **format you would prefer to have the record.**
  - ☒ Electronic    ☐ Audio    ☐ Other (please specify):
- ☒ **Check this box if you are attaching a request for waiver of fees in the public interest** (See waiver information on next page).

<sup>1</sup> As stipulated in the State Supreme Court decision rendered in *Ka Pa'akai O Ka 'Aina v. Land Use Commission*, (2000).

<sup>2</sup> Mauna Kea lands inclusive of Mauna Kea Science Reserve, Hale Pohaku mid-level facilities, Mauna Kea Game Management Area and Forest Reserve, Mauna Kea Ice Age Natural Area Reserve, and any other such lands within Ka'ohē, Hamakua District, Island of Hawai'i, TMK (3) 4-4-015.

## **WAIVER OF FEES IN THE PUBLIC INTEREST**

I, E. Kalani Flores, submit this waiver of fees in the public interest and I have the primary intention and ability to disseminate information to the public-at-large through various websites and social media. Likewise, this waiver is submitted based upon, Hawaii Administrative Rules, Section 2-71-32 as such:

- (1) The requested record pertains to the operations or activities of an agency;
- (2) The record is not readily available in the public domain; and
- (3) The requester has the primary intention and the actual ability to widely disseminate information from the government record to the public at large.