

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



MARK E. RECKTENWALD
DIRECTOR

LAWRENCE M. REIFURTH
DEPUTY DIRECTOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE & CONSUMER AFFAIRS
335 MERCHANT STREET
P. O. BOX 841
HONOLULU, HAWAII 96808

April 16, 2004

Ms. Lea Hong
Alston Hunt Floyd & Ing
18th Floor ASB Tower
1001 Bishop Street
Honolulu, Hawaii 96813

Re: 'Olelo's Compliance with the Sunshine Law and UIPA

Dear Ms. Hong:

Thank you for your letter dated March 18, 2004 regarding 'Olelo's compliance with the Sunshine Law and UIPA. I apologize that we did not inform you previously of the department's communication with Ms. Kealii Lopez of 'Olelo.

Attached for your information is a copy of email exchanges between Ms. Lopez and Clyde Sonobe, Cable Television Administrator, regarding this matter. The department has reached an interim understanding with 'Olelo and will be working with 'Olelo to finalize a new contract that will include provisions for compliance with HRS 92 the Sunshine Law.

Please call me if you have any questions regarding this matter.

Very truly yours,

A handwritten signature in cursive script that reads "Mark Recktenwald".

MARK E. RECKTENWALD
Director of Commerce and Consumer Affairs

Attachment

c: Ms. Kealii Lopez, 'Olelo



March 18, 2004

MAR 24 2004

VIA HAND DELIVERY

Mr. Mark Recktenwald
Director
Department of Commerce and Consumer Affairs
1010 Richards Street
Honolulu, Hawai'i 96813

Attorneys at Law
A Law Corporation

Re: 'Ölelo's Compliance with the Sunshine Law and UIPA

Dear Mr. Recktenwald:

We represent 'Ölelo Community Television ("Ölelo"). We are requesting that the Department of Commerce and Consumer Affairs ("DCCA") provide 'Ölelo additional time to consider the issue of compliance with the January 2004 DCCA Plan for Public, Education, and Government Access ("PEG Access Plan") that, among other things, requires 'Ölelo to comply with HRS Chapter 92 (the "Sunshine Law" or open meeting law) and HRS Chapter 92F (UIPA).

'Ölelo's Board of Directors ("Board") has not been able to consider the question of whether 'Ölelo will comply with the Sunshine Law or UIPA. Until the DCCA's recent appointment of additional directors on March 5, 2004, 'Ölelo's Board did not have a full quorum. Prior to that, directors who were intending to resign or whose terms were ending felt strongly that this was a major policy issue that should be decided by the next Board.

While 'Ölelo's existing By-Laws currently provide for a great deal of transparency in its meeting processes and access to records, 'Ölelo's Board has not had the opportunity to evaluate changes necessary to bring the By-Laws into strict compliance with the Sunshine Law and UIPA and the effect these changes would have on 'Ölelo's operations. Until the Board has an opportunity to consider these questions, 'Ölelo will voluntarily attempt to comply with the Sunshine Law and UIPA. 'Ölelo's voluntary compliance should not be construed as conceding any of 'Ölelo's legal rights and defenses. 'Ölelo expressly reserves all legal rights and defenses with respect to its alleged obligation to comply with the Sunshine Law and UIPA.

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Mr. Mark Recktenwald

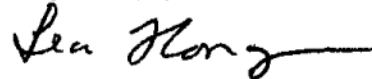
March 18, 2004

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'Ölelo acknowledges that voluntary compliance with the Sunshine Law will allow for greater transparency and public participation in its policies and operations. However, 'Ölelo may need some flexibility in complying with the Sunshine Law in order to conduct business in a timely and efficient manner, particularly in light of the recent resignation of its President/CEO and inability to conduct Board business due to a lack of a quorum. Reserving all of its legal rights and defenses, 'Ölelo requests that the DCCA grant it further time to consider the question of compliance until the next contract re-negotiation period.

Please feel free to contact us if you have any questions.

Very truly yours,



Paul Alston

Lea Hong

cc: Keali'i Lopez

Clyde Sonobe

04/08/2004 09:59 AM

To: "Kealii Lopez" <klopez@olelo.org>
cc: Glen.WY.Chock@dcca.hawaii.gov,
Mark.E.Recktenwald@dcca.hawaii.gov, "Miki Lee" <mlee@olelo.org>
Subject: Re: Olelo Compliance with the Sunshine Law ☐

Hi Kealii,

As we discussed at yesterday's meeting, compliance with HRS 92 Sunshine will be included in the next contract between the DCCA and all the PEG organizations. In the interim, we do acknowledge 'Olelo's commitment to voluntarily comply with HRS 92 and the fact that complaints may be made against 'Olelo for non-compliance. We will address these complaints, if they occur, as we do with all others while considering the interim situation. The DCCA appreciates the working relationship it has with 'Olelo and we look forward to completing the new contract.

Please call me if you have any questions. Thanks again for your active participation at yesterday's meeting.

Thanks,
Clyde

"Kealii Lopez" <klopez@olelo.org>



"Kealii Lopez"
<klopez@olelo.org>
04/02/2004 02:23 PM

To: <Clyde.Sonobe@dcca.hawaii.gov>
cc: <Glen.WY.Chock@dcca.hawaii.gov>,
<Mark.E.Recktenwald@dcca.hawaii.gov>, "Miki Lee"
<mlee@olelo.org>
Subject: Re: Olelo Compliance with the Sunshine Law

Hi Clyde,

Thank you for your prompt follow-up on this matter.

I want to confirm that Olelo will voluntarily comply with HRS 92 Sunshine Law where feasible and where it will not hinder our ability to respond to or act upon timely business functions of the organization. As stated in your e-mail, we acknowledge that the intent of compliance with the Sunshine Law is to allow for greater transparency and public participation in policies and operations. Olelo understands that compliance with the Sunshine Law is part of current contract negotiations.

I also want to make sure we share the same understanding about the effects Olelo's voluntary compliance during this interim period will have. In the event that Olelo is challenged during this interim period for non-compliance with HRS 92, DCCA will not deem the challenge as an issue that would negatively impact our relationship or our continuing to move forward.

Please let me know if you have any questions on this matter. And thank you again for your assistance.

Mahalo,

Kealii`i

>>> <Clyde.Sonobe@dcca.hawaii.gov> 4/1/2004 3:30:56 PM >>>

Hi Kealii,

Mark Recktenwald has asked me to respond on his behalf.

The DCCA acknowledges 'Olelo's request for further time to consider the question of compliance with HRS 92 and 92F. As we discussed yesterday, the DCCA is agreeable to and grants 'Olelo's request with the following understanding:

1) 'Olelo's request is for further time to comply with HRS 92 Sunshine only; regardless of what is stated in the letter dated March 18, 2004 from Alston Hunt Floyd & Ing. We both agree that 'Olelo must comply with HRS 92F UIPA as previously determined by OIP.

2) For the present, 'Olelo will voluntarily attempt to comply with HRS 92 the Sunshine Law which 'Olelo acknowledges will allow for greater transparency and public participation in its policies and operations.

3) Compliance with HRS 92 the Sunshine Law is already being discussed by 'Olelo and the DCCA as part of the current contract renewal. Compliance with HRS 92 will be included in the next contract between 'Olelo and the DCCA.

Please call me if you have any questions.

Thank you Kealii,
Clyde

"Kealii Lopez"

<klopez@olelo.org
<Mark.E.Recktenwald@dcca.hawaii.gov>

To:

>
<Clyde.Sonobe@dcca.hawaii.gov>, "Miki Lee" <mlee@olelo.org>

cc:

Subject: Olelo

Compliance with the Sunshine Law
03/30/2004 06:04

PM

Hi Mark,

I wanted to follow-up on our discussion on March 19th and the letter dated March 18th from Alston Hunt Floyd & Ing pertaining to temporary relief from compliance with the Sunshine Law. As we discussed, Olelo

recognizes that voluntary compliance with the Sunshine Law will allow for greater transparency and public participation. However, we do need

some flexibility at this time in complying with the Sunshine Law in order to conduct business in a timely and efficient manner. We are therefore seeking more time to consider the issue of compliance until this is addressed as part of upcoming contract negotiations.

With this in mind, and based on our need to have a response from your office on this as soon as possible, I faxed a copy of the Alston Hunt March 18th letter to Clyde this afternoon and asked him to follow-up with you. Please let me know if you have any questions regarding this matter.

Mahalo,
Keali'i