

OIP Conducts Training for DLNR and DAGS

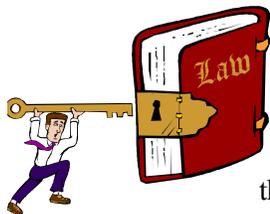
In June and July, the Office of Information Practices completed another round of government agency training on Hawaii's public records law and open meetings law.



As part of its continuing commitment to education and open government, and in response to the agencies' requests, the OIP conducted training for the Department of Land and Natural Resources ("DLNR") and the Department of Accounting and General Services ("DAGS").

► UIPA Training

On June 26, the OIP's Director, Moya T. Davenport Gray, conducted training in the basics of the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes ("UIPA"), for about 75 DLNR employees. The training also covered the OIP's administrative rules, chapter 2-71, Hawaii Administrative Rules ("Agency Procedures and Fees for Processing Government Record Requests").



On July 16 and 18, OIP staff attorneys trained about 100 DAGS employees in the UIPA and the rules.

Because the rules are newer than the UIPA, and cover important procedures for handling requests, DAGS employees indicated that they need further study of the rules. A quick guide to the rules is included in the training handout and is also online at www.state.hi.us/oip. As always, the OIP's staff attorneys are available by phone at 586-1400 to answer questions about the law and the rules.

► Sunshine Training

On June 25, an OIP staff attorney trained over 40 DLNR employees in Hawaii's open meetings law (often referred to as the Sunshine Law), chapter 92, Hawaii Revised Statutes. These DLNR employees provide support to boards and commissions. The training included advice on how to file a proper notice and agenda. While not legally required, agencies can also electronically post notice on Hawaii's government portal at www.ehawaii.gov.org/calendar.

► Handouts Available

The UIPA training handout includes a copy of the law, the 2001 supplement to the law, the administrative rules, the

OIP's two model forms ("Request to Access a Government Record" and "Notice of Requester"), copies of *Openline*, and copies of the training slides. If you would like a copy of the training handout, please contact the OIP. 



Next Month: Open Records in New Jersey

The August issue of *Openline* will include the story of New Jersey's newly revised open records law . . . New Jersey's **Open Public Records Act**, which went into effect on July 8, 2002, will significantly increase the number of government records subject to public disclosure by state and local government, and will require the state to set up and staff a Government Records Council . . . New Jersey joins a growing number of states with open records agencies. 



Minutes of Executive Meetings

The OIP has received a number of inquiries as to whether boards and commissions must keep minutes of executive meetings. The short answer is yes.

The minutes requirement is in section 92-9, Hawaii Revised Statutes. Section 92-9(a) states that "The board shall keep written minutes of all meetings."



There has been some uncertainty about whether boards have to keep minutes when they go into an executive meeting, sometimes called "executive session."

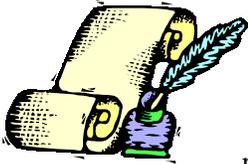
The law may allow minutes of executive meetings to be withheld and not disclosed, depending on the meeting's content. Minutes always have to be recorded, however, whether the meeting is public or not.

Section 92-9(b) states that "The minutes shall be public records and shall be available within thirty days after the meeting except where such disclosure would be inconsistent with section 92-5 [section 92-5 lists when meetings may be closed to the public]; provided that minutes of executive meetings may be withheld so long as their publication would defeat the lawful purpose of the executive meeting, but no longer."

Recent OIP Opinions

Records Protected from Disclosure by Court Order

A litigant asked the OIP to opine on the issue of whether a person can access a record maintained by a State or county agency when the record is sealed by a court order.



In the process of discovery in the lawsuit, the litigant had subpoenaed records from the Honolulu Police Department. The Corporation Counsel had filed a motion to quash (suppress) the subpoena, and a judge entered an order limiting the litigant's access to the records.

The OIP determined that under the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes ("UIPA"), the records are not subject to disclosure. Whether the records sought were government records (information maintained by an agency), or personal records (information about an individual maintained by an agency), there is an exception to the affirmative duty to disclose government records where there is a court order protecting those records, and an exception to the required access to a personal record where so authorized by a judicial decision.

The OIP noted that the UIPA and the discovery process are two distinct methods of obtaining access to documents, and that the UIPA does not require government records to be disclosed if a judge determines they are exempted. Therefore, in order to obtain access to the records, the litigant would have to follow procedures as required by court rules. [*OIP Op. Ltr. 02-03, May 28, 2002*]

Reports of Real Property Interests Held or Acquired by Foreign Persons

The City and County of Honolulu ("City") must make some information about real property interests held or acquired by foreign persons public. Section 8-14.2, Revised Ordinances of Honolulu ("Section 8-14.2") mandates that foreign property owners report certain information to the City. The City, in turn, reports this information in aggregate form to the City Council.

Some of the information required to be reported under Section 8-14.2 is also contained in other records that are required to be disclosed under section 92F-12(a)(5), Hawaii Revised Statutes, or that are otherwise public. The City should disclose otherwise public information

Staff Update

The OIP is pleased to announce that staff attorney **Jennifer Brooks** gave birth to her second child, and first daughter, on June 15. Congratulations, Jennifer!



upon request, as disclosure would not be a clearly unwarranted invasion of personal privacy. This includes names and addresses of real property owners, assessed value of real property, and consideration paid.

Disclosure of citizenship information concerning foreign individuals, or natural persons, would be a clearly unwarranted invasion of personal privacy, under section 92F-13(1), Hawaii Revised Statutes. Disclosure of citizenship information about non-natural persons would not be, however, as only individuals have privacy interests.

Names and addresses of officers and directors of foreign corporations, and of partners in foreign limited partnerships, that are publicly available in annual reports filed with the Department of Commerce and Consumer Affairs ("DCCA"), must be made public by the City, as disclosure would not be a clearly unwarranted invasion of personal privacy.

Disclosure of names of shareholders of foreign corporations, and trustees, and beneficiaries of foreign trusts that own real property would not be a clearly unwarranted invasion of personal privacy if that information is already in the public domain. Whether the information is in the public domain may need to be determined on a case by case inquiry.

Home addresses of shareholders of foreign corporations and of trustees of foreign trusts that own real property that are not in the public domain should not be disclosed. Business addresses may be disclosed. [*OIP Op. Ltr. 02-04, June 26, 2002*] 📄

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