

REQUEST TO ACCESS A GOVERNMENT RECORD

DATE: November 7, 2012

TO: William J. Aila, Jr., Director, Department of Land and Natural Resources, and Chair, Board of Land and Natural Resources. Via e-mail: dlnr@hawaii.gov and william.j.aila@hawaii.gov and fax: 587-0390

FROM: Daniel M. Gluck
Name or Alias
ACLU of Hawaii, P.O. Box 3410, Honolulu, HI 96801
Phone: (808) 522-5900
Contact Information

Although you are not required to provide any personal information, you should provide enough information to allow the agency to contact you about this request. The processing of this request may be stopped if the agency is unable to contact you. Therefore, please provide any information that will allow the agency to contact you (name or alias, telephone or fax number, mailing address, e-mail address, etc.).

I WOULD LIKE THE FOLLOWING GOVERNMENT RECORDS:

Describe the government record as specifically as possible so that it can be located. Try to provide a record name, subject matter, date, location, purpose, or names of persons to whom the record refers, or other information that could help the agency identify the record. A complete and accurate description of the government record you request will prevent delays in locating the record. Attach a second page if needed.

- From January 1, 2012 to the present, all records relating to the Constitutional Amendment that appeared on the 2012 Hawaii ballot relating to Dam and Reservoir Safety (listed on the Department of Land and Natural Resources' website as "Constitutional Amendment No. 1 To Help Improve Dam and Reservoir Safety") (hereinafter, "Constitutional Amendment No. 1"). This includes, but is not limited to:
 - o Records of expenditures on advertisements, educational materials, or other notices of any kind relating to Constitutional Amendment No. 1 placed in the Honolulu Star-Advertiser, on public transportation (including but not limited to TheBus), and/or in any other newspaper, radio station, television station, internet site, and/or any other media outlet of any kind, as well as copies of said advertisements, educational materials, or other notices and the source(s) of funding for such expenditures;
 - o Records of expenditures on any brochures, flyers, or other materials discussing Constitutional Amendment No. 1, as well as copies of said brochures, flyers, or other materials and the source(s) of funding for such expenditures;
 - o Records of staff time spent creating, editing, advising on, or otherwise relating to the aforementioned advertisements, educational materials, brochures, flyers, notices, or other materials, including time spent updating/modifying DLNR's website to include information on Constitutional Amendment No. 1;
 - o All records, including but not limited to internal e-mail communications and memoranda, discussing Constitutional Amendment No. 1; and
 - o All policies, procedures, and practices (including but not limited to administrative rules or other sources of legal authority) relating to expenditures to support or oppose constitutional amendments.

I WOULD LIKE: (please check one or more of the options below)

To inspect the government record.

A copy of the government record: (Please check one of the options below.) See the back of this page for information about fees that you may be required to pay for agency services to process your record request. Note: Copying and transmission charges may also apply to certain options.

Pick up at agency (**date and time**): _____

Mail

Fax (toll free and only if available)

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): However the records are maintained

Check this box if you are attaching a request for waiver of fees in the public interest (see waiver information on back).

SEE BACK FOR IMPORTANT INFORMATION

FEES FOR PROCESSING RECORD REQUESTS

You may be charged fees for the services that the agency must perform when processing your record request, including fees for making photocopies and other lawful fees. **The first \$30 of fees charged for searching for a record, reviewing, and segregating will not be charged to you. Any amount over \$30 will be charged to you.** Fees are as follows:

| | |
|------------------------------------|-----------------------|
| Search for a Record | \$2.50 for 15 minutes |
| Review and Segregation of a Record | \$5.00 for 15 minutes |

WAIVER OF FEES IN THE PUBLIC INTEREST

Up to \$60 of fees for searching for, segregating and reviewing records may be waived when the waiver would serve the public interest as described in section 2-71-32, Hawaii Administrative Rules. If you wish to apply for a waiver of fees in the public interest, you must attach to this request a statement of facts, including your identity as the requester, to show how the waiver of fees would serve the public interest. The criteria for this waiver, found at section 2-71-32, Hawaii Administrative Rules, are:

- (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.

AGENCY RESPONSE TO YOUR REQUEST FOR ACCESS

The agency to which you addressed your request must respond within a set time period. The agency will normally respond to you within 10 business days from the date it receives your request; however, in *extenuating circumstances* the agency must respond within 20 business days from the date of your request. If you have questions about the response time, you may contact the agency's UIPA contact person. If you are not satisfied with the agency's response, you may call the Office of Information Practices at 808-586-1400.

REQUESTER'S RESPONSIBILITIES

You have certain responsibilities under §2-71-16, Hawaii Administrative Rules. You may obtain a copy of these rules from the Lieutenant Governor's Office or from the Office of Information Practices. These responsibilities include making arrangements to inspect and copy records, providing further clarification or description of the requested record as instructed by the agency's notice, and making a prepayment of fees, if assessed.

ACLU of Hawaii Foundation Request to Access Government Records

Request for Waiver of Fees in the Public Interest

November 7, 2012

Pursuant to section 2-71-32 of the Hawaii Administrative Rules, the American Civil Liberties Union of Hawaii Foundation (“ACLU”) hereby requests a waiver of \$60 of the fees that may be assessed under section 2-71-31. The ACLU is a nonprofit, public-interest law firm; our mission is to protect individual freedoms guaranteed under the federal and state constitutions. The ACLU has been engaged in legal action and public education in Hawaii since 1965 on issues affecting constitutional rights.

Public dissemination of the information contained in these documents will contribute significantly to public knowledge and understanding of the Department of Land and Natural Resources’ policies and practices relating to expenditures to promote a ballot measure. These documents are not readily available in the public domain. The ACLU has frequently been at the forefront of monitoring and litigating concerns regarding ballot measures. The ACLU has no commercial interest in the documents requested, and intends to publicize this information (as it has done with previous open records requests; *see, e.g.*, Michael Levine, *Honolulu Police Load Up on Taser Ammo, Pepper Spray, Bean Bags for APEC*, Civil Beat, Sept. 26, 2011, available at <http://www.civilbeat.com/posts/2011/09/26/12961-honolulu-police-load-up-on-taser-ammo-pepper-spray-bean-bags-for-apec/>). As a public-interest organization, the ACLU has both the primary intention and the actual ability to disseminate this information in an appropriate manner: the ACLU has approximately 2,000 members state-wide, and is able to disseminate this information to our members via our newsletter, our Facebook page (which has nearly 3,000 “friends”), our website (which received over 3,000 hits in October 2011 alone), and our Twitter feed (which has over 900 followers). Our website contains a page dedicated to informing the public about documents produced through the ACLU’s UIPA requests: <http://acluhi.org/open-records-requests/>.

Requester respectfully asks that, if the total fees for this request (including copying charges) are anticipated to exceed \$50.00, Respondent notify Requester and obtain express written permission to proceed with the request.