

THOMAS YAMACHIKA 3504

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Attorney for Respondent  
RAY KAMIKAWA

FIRST CIRCUIT COURT  
STATE OF HAWAII  
FILED

2019 JUL 26 PM 3:12

J. KUBO  
CLERK

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

In re

OFFICE OF INFORMATION  
PRACTICES OPINION LETTER NO.  
F19-05.

S.P. NO. 19-1-0191 DEO  
(Special Proceeding)

RAY KAMIKAWA'S ANSWER TO  
COMPLAINT; COUNTERCLAIM and  
CERTIFICATE OF SERVICE

**RAY KAMIKAWA'S ANSWER TO COMPLAINT**

Ray Kamikawa, pursuant to Rule 12(a), Hawaii Rules of Civil Procedure, and section 92F-43(b), Hawaii Revised Statutes, answers the Complaint to Initiate Special Proceeding filed June 19, 2019 ("Complaint") by the Department of Taxation, State of Hawaii, as follows:

**FIRST DEFENSE**

The Complaint fails to state a cause of action upon which relief can be granted.

**SECOND DEFENSE**

1. Kamikawa admits the allegations in paragraphs 1, 2, 4, 5, and 8 of the Complaint.

2. With respect to the allegations in paragraphs 3 and 11 of the Complaint, Kamikawa avers that the documents referred to speak for themselves.

3. With respect to the allegations in paragraphs 6 and 7 of the Complaint, Kamikawa is without information upon which to form a belief of their truth or falsity and on that basis denies the same.

4. Kamikawa denies the allegations in paragraph 9 of the Complaint.

5. With respect to paragraphs 10 through 11 of the Complaint, OIP Opinion Letter No. F19-05 speaks for itself and Kamikawa denies all other allegations therein.

6. Kamikawa denies any and all allegations in the Complaint not specifically responded to above.

### **THIRD DEFENSE**

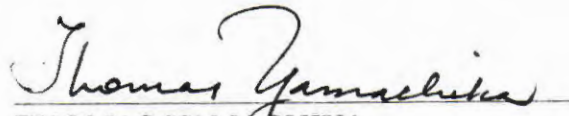
Kamikawa reserves all rights to assert any affirmative defense or to rely on any other matter constituting an avoidance under Rule 8(c) of the Hawaii Rules of Civil Procedure and to seek leave to amend its Answer to allege any such defense and to assert any other defenses, claims, and counterclaims as the evidence may merit.

WHEREFORE, Kamikawa respectfully prays that this Honorable Court award the following relief:

1. That the Complaint be dismissed;
2. That the Court affirm OIP Opinion Letter F19-05;
3. That the Court award Kamikawa reasonable attorneys' fees and costs of suit; and

4. Such other and further relief as is just and proper.

DATED: Honolulu, Hawaii, July 26, 2019.

  
THOMAS YAMACHIKA  
Attorney for Respondent  
RAY KAMIKAWA

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COUNTERCLAIM

**COUNTERCLAIM**

Ray Kamikawa, for his Counterclaim against Petitioner Department of Taxation, pursuant to Rule 13, Hawaii Rules of Civil Procedure, and section 92F-15(a), Hawaii Revised Statutes, alleges:

**JURISDICTION AND VENUE**

1. Kamikawa is a resident of the City and County of Honolulu, State of Hawaii.
2. Petitioner Department of Taxation ("Department") is an agency as defined in section 92F-3, Hawaii Revised Statutes.
3. Jurisdiction and venue are proper in this Court pursuant to section 92F-15(a), Hawaii Revised Statutes.

**FACTUAL ALLEGATIONS**

4. On or about April 15, 2016, Kamikawa made a written request to the Department for the following government records:

Assumptions, bases, computations, source data and documents, and analysis relied upon in connection with the Department of Taxation's revenue estimates contained in its testimonies (copies attached) for House Bill 2744, HD1, SD1 (Relating to Housing) and Senate Bill 2833, SD2, HD1 (Relating to the Low-Income Housing Tax Credit), both bills



currently pending in the Hawaii State Legislature, Twenty-Eighth Legislative (2016).

5. On or about May 13, 2016, the Department denied Mr. Kamikawa's request.

6. On or about May 26, 2016, Mr. Kamikawa appealed the Department's denial of the April 15, 2016 request to Respondent Office of Information Practices (OIP).

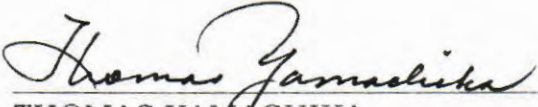
7. On or about May 20, 2019, OIP issued Opinion Letter F19-05, opining that the Department may not withhold the requested documents.

8. The Department has failed and refused, and continues to fail and refuse, to comply with OIP's opinion and order.

WHEREFORE, Kamikawa respectfully prays that this Honorable Court award the following relief:

1. That the Court affirm OIP Opinion Letter F19-05;
2. That the Court order disclosure forthwith of the agency records requested by Kamikawa;
3. That the Court award Kamikawa reasonable attorneys' fees and costs of suit; and
4. Such other and further relief as is just and proper.

DATED: Honolulu, Hawaii, July 26, 2019.

  
THOMAS YAMACHIKA  
Attorney for Respondent  
RAY KAMIKAWA

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CERTIFICATE OF SERVICE

**CERTIFICATE OF SERVICE**

I hereby certify that on this date a copy of the foregoing document was duly served upon the individuals listed below by hand-delivery or U.S. Mail (as indicated):

GARY S. SUGANUMA  
KRISTEN M.R. SAKAMOTO  
Department of the Attorney General  
425 Queen Street  
Honolulu, HI 96813

[Hand Delivery]

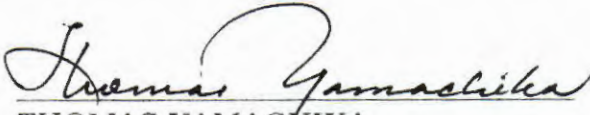
*Attorneys for Applicant Department of Taxation*

PATRICIA OHARA  
STELLA M.L. KAM  
Department of the Attorney General  
425 Queen Street  
Honolulu, HI 96813

[Hand Delivery]

*Attorneys for Respondent Office of Information Practices*

DATED: Honolulu, Hawaii, July 26, 2019.

  
THOMAS YAMACHIKA  
Attorney for Respondent  
RAY KAMIKAWA