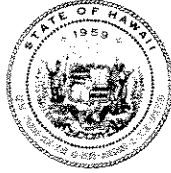


LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LIEUTENANT GOVERNOR



LESLIE H. KONDO
DIRECTOR

STATE OF HAWAII
OFFICE OF THE LIEUTENANT GOVERNOR
OFFICE OF INFORMATION PRACTICES

NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
TELEPHONE: 808-586-1400 FAX: 808-586-1412
E-MAIL: oiip@hawaii.gov
WEBSITE: www.hawaii.gov/oiip

July 21, 2004

VIA EMAIL ONLY TO: diary@ilind.net

Mr. Ian Lind

Re: Mutual Benefit Societies (RFO 95-095)

Dear Mr. Lind:

On November 2, 1995, you wrote to the Office of Information Practices ("OIP") regarding your July 2, 1995 request to the Insurance Division of the Department of Commerce and Consumer Affairs ("DCCA") for documents of mutual benefit societies and then-Insurance Commissioner Wayne Metcalf's opinion request arising from your request.

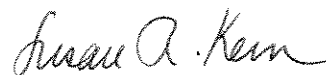
In the course of reviewing our files, we discovered that no closing letter had been sent to you regarding this matter. For your information, by a letter dated February 12, 1996, from Deputy Attorney General Shari J. Wong to the OIP, the Department of the Attorney General opined that records maintained by the DCCA, including those concerning mutual benefit societies, are subject to the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes ("HRS") ("UIPA"). A copy of Ms. Wong's letter is enclosed for your information.

From our file, we cannot tell whether or not you were provided access to the records responsive to your July 2, 1995 record request. If you still wish to receive access to those records, please let us know. If we do not hear from you within ten business days of the date of this letter, we will close our file.

Mr. Ian Lind
July 21, 2004
Page 2

We apologize for the delay in our response to you. Unfortunately, because of numerous reductions to our budget and staffing, we are not able to respond to correspondence in as timely a manner as we would like to respond. We appreciate your understanding and patience.

Sincerely,

A handwritten signature in cursive script, reading "Susan R. Kern".

Susan R. Kern
Staff Attorney

SRK:ankd

Attachment

BENJAMIN J. CAYETANO
GOVERNOR



MARGERY S. BRONSTER
ATTORNEY GENERAL

JOHN W. ANDERSON
FIRST DEPUTY ATTORNEY GENERAL

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
425 QUEEN STREET
HONOLULU, HAWAII 96813
(808) 586-1500

February 12, 1996

RECEIVED
OFC INFORM PRACTICES

'96 MAR 20 P2:48

Ms. Moya T. Davenport Gray
Director, Office of Information Practices
426 Queen Street, Room 201
Honolulu, Hawaii 96813

Attention: Ms. Stella Lee
Staff Attorney

Dear Ms. Gray:

Re: Applicability of Chapter 92F, Hawaii Revised
Statutes, to Mutual Benefit Societies' Records

This is in response to your letter dated January 11, 1996 regarding an opinion request you received from Insurance Commissioner Wayne Metcalf. Mr. Metcalf indicated that he consulted with your office inquiring whether the provisions of chapter 92F, Haw. Rev. Stat.,¹ applied to mutual benefit societies. In particular, Mr. Metcalf referred to § 432:1-101 which states:

The provisions of this article shall apply to mutual benefit societies as defined herein. Except as expressly provided in this article, mutual benefit societies shall be exempt from the provisions of the insurance code. No law enacted after [July 1, 1988,] shall apply to mutual benefit societies unless such societies are expressly designated therein.

In general, chapter 432 applies to the regulation of mutual benefit societies, and authorizes the insurance

¹ Unless otherwise noted, all statutory references are to the Hawaii Revised Statutes.

Ms. Moya T. Davenport Gray
February 12, 1996
Page 2

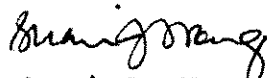
commissioner to examine records held by mutual benefit societies. See §§ 432:1-201, -301, -307, -404, and -501. On the other hand, chapter 92F applies to the disclosure of records held by government agencies. Thus, we concur with your position that chapter 92F applies to records pertaining to mutual benefit societies, to the extent that such records are maintained by the Department of Commerce and Consumer Affairs ("DCCA").

While the legislative history of chapter 432 is not particularly enlightening as to the meaning of § 432:1-101, the legislative history of chapter 92F clearly indicates that chapter 92F applies only to government records. See H. Stand. Comm. Rep. No. 342-88, Haw. H.J. 1093-95 (1988); H. Stand. Comm. Rep. No. 726-88, Haw. H.J. 1101 (1988); S. Stand. Comm. Rep. No. 2580, Haw. S.J. 1093-95 (1988); and Conf. Comm. Rep. No. 235, Haw. S.J. 689-91 (1988). Thus, because chapter 92F applies to government records only, we conclude that chapter 92F does not apply to mutual benefit societies themselves or any records kept by those mutual benefit societies.

Accordingly, we do not interpret § 432:1-101's language stating that "[n]o law enacted after [July 1, 1988] shall apply to mutual benefit societies" to be in conflict in any way with the application of chapter 92F to government records whose subject matter may involve mutual benefit societies. Therefore, records maintained by DCCA, including those concerning mutual benefit societies, are subject to chapter 92F.

We hope the foregoing responds to your questions. If you have any further concerns, please let us know.

Very truly yours,



Shari J. Wong
Deputy Attorney General

APPROVED:



Margery S. Bronster
Attorney General

SJW:mo
6637/CED01