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The Office of Information Practices (OIP) is authorized to resolve complaints concerning compliance with or applicability of the Sunshine Law, Part I of chapter 92, Hawaii Revised Statutes (HRS), pursuant to sections 92-1.5 and 92F-42(18), HRS, and chapter 2-73, Hawaii Administrative Rules (HAR). This is a memorandum opinion and will not be relied upon as precedent by OIP in the issuance of its opinions or decisions but is binding upon the parties involved.

**MEMORANDUM OPINION**

**Requester:** Tina Lia, Founder and President  
Hawaii Unites  
**Board:** Board of Land and Natural Resources  
**Date:** December 16, 2025  
**Subject:** Request for Contested Case Hearing During Meeting  
(S APPEAL 23-9)

**Request for Investigation**

Requester asked for an investigation into whether the Board of Land and Natural Resources (BLNR) violated the Sunshine Law by adding her oral request for a contested case hearing to the agenda during its meeting held March 24, 2023, and voting to deny her request for a hearing.

Unless otherwise indicated, this opinion is based solely upon the facts presented in an email from Requester to BLNR dated March 22, 2023, with an attachment; an email from Requester to OIP dated March 27, 2023; an email from OIP to BLNR dated April 3, 2023, with attachments; an email from OIP to Requester dated April 3, 2023, with attachments; an email from Requester to OIP dated April 18, 2023, with an email thread and attachments; an email from OIP to Requester dated April 18, 2023, with an email thread and attachments; an email from Requester to OIP dated April 24, 2023, with an email thread and attachments; an email from OIP to Requester dated April 26, 2023, with an email thread and attachments; an email

from the Department of Land and Natural Resource (DLNR), on behalf of BLNR, to OIP dated May 1, 2023, with an email thread and attachments; an email from OIP to Requester dated May 5, 2023, with an email thread and attachments; an email from Requester to OIP dated May 5, 2023, with an email thread and attachments; an email from OIP to Requester dated February 26, 2025; an email from OIP to Requester dated February 26, 2025, with an email thread; two emails from Requester to OIP dated February 26, 2025, with an email thread; an email from OIP to DLNR dated February 27, 2025, with an email thread and attachments; an email from DLNR to OIP dated March 12, 2025, with an email thread and an attachment; an email from Requester to OIP dated March 15, 2025, with an email thread and an attachment; an email from OIP to DLNR dated March 20, 2025, with an attachment; an email from OIP to Requester dated March 20, 2025, with an attachment; an email from Requester to OIP dated April 2, 2025, with an email thread and an attachment; an email from OIP to DLNR dated June 23, 2025; an email from DLNR to OIP dated July 7, 2025, with an email thread; an email from OIP to DLNR dated July 7, 2025, with an email thread; and an email from DLNR to OIP dated July 23, 2025, with an email thread and attachments.

## **Opinion**

BLNR's actions during its remote meeting on March 24, 2023, were part of an adjudicatory function exempted from the Sunshine Law by section 92-6, HRS. BLNR did not violate the Sunshine Law by considering Requester's oral request for a contested case hearing and denying her request during the meeting.

## **Statement of Reasons for Opinion**

### **I. Factual Background**

BLNR held a remote meeting<sup>1</sup> on March 24, 2023 (Meeting). The Meeting notice included as agenda item C.2. (C-2), "Request Approval of Final Environmental Assessment and Authorization for the Chairperson to Issue a Finding of No Significant Impact for the 'Suppression of Invasive Mosquito populations to Reduce Transmission of Avian Malaria to Threatened and Endangered Forest Birds on East Maui.'"

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<sup>1</sup> A remote meeting is one held by a board using interactive conference technology (ICT) in accordance with section 92-3.7, HRS. Section 92-3.7(a), HRS, requires that remote meetings held using ICT have "at least one meeting location that is open to the public and has an audiovisual connection[.]" and that the notice for an ICT meeting "[l]ist at least one meeting location that is open to the public that shall have an audiovisual connection[.]"

Requester is the Founder and President of Hawaii Unites (HU).<sup>2</sup> On March 22, 2023, prior to the Meeting, Requester submitted written testimony to BLNR, on behalf of HU, in opposition to agenda item C-2.<sup>3</sup> Requester also provided remote oral testimony, again on behalf of HU, in opposition to item C-2. At the end of her oral testimony, Requester asked for a contested case hearing on item C-2.<sup>4</sup> Thereafter, BLNR's Chair asked Requester if she had any objection to BLNR taking further public testimony on item C-2 before deciding her request. Requester asked BLNR not to vote on the request for a contested case hearing at the Meeting. Requester also clarified that she was asking for the contested case before BLNR voted on item C-2 and indicated that she did not believe that the "procedural matter" was up to her, but did not object to BLNR taking further public testimony. BLNR then took a recess. After it returned from the recess, BLNR heard further testimony on item C-2.

After the Chair closed public testimony on item C-2, she asked Requester to state the basis for requesting a contested case hearing on item C-2. Requester explained the reasons she believed the contested case hearing request should be granted. Thereafter, member Kaiwi Yoon moved to deny Requester's request for a contested case hearing, stating she "has no basis." Before voting on the motion, the Chair noted that as to the question of the adequacy of the Environmental Assessment (EA), the remedy is to sue under chapter 343, HRS (Chapter 343),<sup>5</sup> and that Requester is not entitled to a contested case hearing on the board's action. The Chair also stated that Requester has no right under the statute<sup>6</sup> for a contested case hearing in approval of an EA because there is a legal remedy under Chapter 343, which is that she can file a declaratory action to appeal from the board's decision. After the Chair finished her comments, member Yoon reiterated his motion to deny Requester's request for a contested case hearing on the board's action to either

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<sup>2</sup> HU is a nonprofit organization under section 501(c)(3) of the Internal Revenue Code, 26 United States Code § 501(c)(3), and is dedicated to the conservation and protection of the environment and natural resources. About, Hawaii Unites, <https://hawaiiunites.org/about/> (last visited Nov. 12, 2025).

<sup>3</sup> The testimony stated in part, "We're opposed to the request for approval of the Final Environmental Assessment for the planned biopesticide mosquito releases on Maui." (Emphasis removed.) It also stated, "We're opposed to the authorization for the Chairperson to issue a Finding of No Significant Impact (FONSI)." (Emphasis removed.)

<sup>4</sup> Requester made other assertions to BLNR in her testimony that did not implicate the Sunshine Law and are not discussed herein.

<sup>5</sup> Chapter 343 sets forth a system of environmental review in the State, including the process, procedures and requirements for preparing environmental assessments and environmental impact statements.

<sup>6</sup> The Chair did not specify what "statute" she was referring to, but OIP's understanding is that she meant Chapter 343, HRS.

accept or deny the EA and member Doreen Canto seconded the motion. BLNR then voted unanimously to approve the motion, and denied her request. BLNR also voted unanimously to approve item C-2 as submitted.

Requester appealed BLNR's actions to OIP and alleged that BLNR had violated section 92-7(d),<sup>7</sup> HRS, at the Meeting, and "has caused an egregious infringement of the public's right to open governmental processes." Specifically, Requester asserted that:

[w]ithout having received or viewed my petition for a contested case hearing, which is to be submitted to the BLNR within 10 days of my 3/24/23 request for a hearing, the BLNR added my request for a contested case hearing to the agenda that same day during the 3/24/23 meeting. The BLNR then voted unanimously to deny my request for a hearing.

Requester argued that "BLNR's action of adding my request for a contested case hearing to the agenda at the 3/24/23 meeting is a violation of the Sunshine Law." She further argued that her request "was of a reasonably major importance and action thereon by the board will affect a significant number of persons[,] thus implying a violation of section 92-7(d), HRS.

Requester also asserted that:

[t]he public, including the 2,600-plus signatories our organization represents, was denied the right to testify on this agenda item of major importance to our environment, native birds, wildlife, and public health. Our organization was denied the right to testify on the agenda item and the right to submit documentation supporting the request prior to its addition as an agenda item, including our petition for a contested case hearing.

Requester further asserted that, "[a]t no point during the 3/24/23 BLNR meeting did I ask for the Board to vote on my verbal request for a contested case hearing

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<sup>7</sup> Section 92-7(d), HRS, reads as follows:

(d) No board shall change the agenda, less than six calendar days prior to the meeting, by adding items thereto without a two-thirds recorded vote of all members to which the board is entitled; provided that no item shall be added to the agenda if it is of reasonably major importance and action thereon by the board will affect a significant number of persons. Items of reasonably major importance not decided at a scheduled meeting shall be considered only at a meeting continued to a reasonable day and time.

HRS § 92-7(d) (Supp. 2024).

prior to voting on agenda item C-2. In fact, I specifically asked that the board not vote on agenda item C-2 at all.”

Requester argued that:

[t]he Board had not yet received our petition for a contested case hearing (due within 10 days of the 3/24/23 verbal request), and therefore had no basis of their own for denying the request. When asked by the Board to state the basis of my request, I was given grossly insufficient time to summarize the detailed subject matter in our petition. At no point during this dialogue with the Board was it made clear that they had improperly added my verbal request for a contested case hearing to the 3/24/23 agenda and were in the process of a vote on the improperly added agenda item. The Board appeared to be uninterested in hearing further details of the request or petition, as it was clear that their intention was to deny the request and petition regardless of the basis.

Requester also argued:

It is my belief that the BLNR improperly added my request for a contested case hearing to the agenda on 3/24/23 in order to vote to deny the request and avoid discussion of the very serious information provided in my written testimony on agenda item C-2 (testimony which was never acknowledged or addressed by the BLNR at the meeting). At issue is the improper addition of my request for a contested case hearing to the agenda on 3/24/23, as specifically stated in the appeal. The subsequent BLNR vote on agenda item C-2 following the improper addition of the request for a contested case hearing did infringe on the public’s right to open discussion and governmental processes.

Requester asserted, “Nowhere in the administrative rules is there justification for their actions. In fact, they have misstated the procedures documented in HAR § 3-1-29.”<sup>8</sup> Requester also asserted:

There is no procedural justification in HAR §13-1-29 for the BLNR’s improper addition of my request for a contested case hearing to the agenda on 3/24/23. There is no procedure documented in HAR §13-1-29 for the addition of a new agenda item during a meeting. There is no reference in HAR §13-1-29 to the addition of agenda items during a meeting.

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<sup>8</sup> Section 3-1-29, HRS, is discussed in more detail starting on page 11.

Requester asserted that HU's petition for a contested case hearing<sup>9</sup> was on the agenda for the BLNR May 12, 2023, meeting (item C-4), and argued, "This serves as confirmation that denial of my verbal request for a contested case hearing at the 3/24/23 meeting was invalid due to improper procedure." Requester also argued, "BLNR's procedures as described (...the Board sets the petition to be heard at a later Board meeting.) further highlight the fact that the BLNR is required to add agenda items prior to a meeting, not arbitrarily during a meeting already in progress."

## II. Legal Analysis

BLNR does not dispute that it is a "board" as defined in the Sunshine Law, and thus generally subject to the Sunshine Law. *See* HRS § 92-2 (2012) (definition of "board.") The Sunshine Law requires generally that a board must give at least six calendar days' advance notice of any regular, special, or rescheduled meeting or any anticipated executive meeting. HRS § 92-7 (Supp. 2024). In addition to the date, time, and place of the meeting, the meeting notice must include an agenda, which lists all of the items to be considered at the forthcoming meeting. HRS § 92-7(a) (Supp. 2024).

BLNR's primary argument is that section 13-1-5.1, HAR,<sup>10</sup> applied to its actions at issue in this appeal. BLNR contended that the "Board's decision on whether to grant or deny a contested case hearing request constitutes an exercise of adjudicatory functions," and:

[w]hen the Board considers a contested case hearing request, it must evaluate legal standards, assess whether the requestor has standing, determine if they will be aggrieved by the proposed action, and decide whether their interests require the procedural protections of a contested case hearing. This quasi-judicial determination involves applying legal criteria to factual circumstances--the hallmark of adjudicatory decision-making.

The Board's contested case hearing determination is distinguishable from its regular administrative business. Unlike routine agenda items involving policy decisions or administrative approvals, the contested

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<sup>9</sup> Requester filed HU's written petition with DLNR on April 3, 2023. BLNR's Summary Minutes indicate that the petition was on BLNR's agenda for a meeting held on May 12, 2023, where after considering the petition and public testimony, BLNR voted to deny Requester's Petition for a Contested Case. It was established at that same meeting that Requester had also filed a complaint in the Environmental Court.

<sup>10</sup> Section 13-1-5.1, HAR, reads, "Adjudicatory functions. Pursuant to section 92-6, HRS, the exercise by the board of its adjudicatory functions is not a meeting within the meaning of section 92-2, HRS, and these rules."

case hearing decision requires the Board to act in a judicial capacity, weighing legal entitlements and procedural rights. This adjudicatory function is precisely what HAR § 13-1-5.1 was designed to address. Additionally, the Board may deny a request without a hearing when it is clear as a matter of law that the petitioner does not have a legal right, duty, or privilege entitling one to a contested case proceeding. HAR § 13-1-29.1. Here, the Board determined that Ms. Lia was clearly not entitled to a contested case hearing as a matter of law.

Therefore, when the Board exercised its adjudicatory function to decide Ms. Lia's contested case hearing request, that determination was "not a meeting within the meaning of section 92-2, HRS" under HAR § 13-1-5.1. The Board's adjudicatory decision-making was properly exempt from Chapter 92's meeting requirements, and no sunshine law violation occurred when the Board addressed Ms. Lia's request before substantive decision-making over the contested item.

BLNR explained, "When a person makes an oral request for contested case hearing during a Chapter 92 meeting prior to decisionmaking [sic], the Board stops the meeting to determine whether or not the person is entitled to the contested case hearing."<sup>11</sup> In this case, according to BLNR:

the Board paused its consideration of agenda item C-2 to address Ms. Lia's oral request for a contested case hearing before proceeding to vote on the agenda item. This was not a suspension of the Chapter 92 meeting itself, but rather a procedural pause within the meeting to address the contested case request as required by *Mauna Kea Anaina Hou v. Bd. of Land & Nat. Res.*, 136 Hawai'i 376, 381, 363 P.3d 224, 229 (2015) [*Mauna Kea*].

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<sup>11</sup> To support its assertion, BLNR cited to section 13-1-29(a), HAR, which reads:

Request for hearing. (a) On its own motion, the board may hold a contested case hearing. Others must both request a contested case and petition the board to hold a contested case hearing. An oral or written request for a contested case hearing must be made to the board no later than the close of the board meeting at which the subject matter of the request is scheduled for board disposition. An agency or person so requesting a contested case must also file (or mail a postmarked) written petition with the board for a contested case no later than ten calendar days after the close of the board meeting at which the matter was scheduled for disposition. For good cause, the time for making the oral or written request or submitting a written petition or both may be waived.

HAR §13-1-29(a).

The Board heard Ms. Lia's request, asked for clarification of the basis for her request, deliberated, and voted to deny the oral request. The phrase "stopped the meeting" was intended to convey that the Board interrupted its consideration of the substantive agenda item to address the procedural matter of the contested case request, as legally required.

BLNR explained, "The Board is not required to hold a hearing prior to deciding if the request should be granted."<sup>12</sup> According to BLNR:

Once a person makes a contested case request, the Board must decide whether to grant or deny the request before deciding the contested item. [Citation omitted.] Here, the Board confirmed Ms. Lia consented to public testimony continuing then decided her oral request before voting on agenda item C-2 as required by due process. . . . Had Ms. Lia demonstrated an entitlement to a contested case hearing, the Board would have granted her request and not voted on the agenda item. But because she was not entitled to a contested case hearing, the Board denied her request and proceeded to vote on the agenda item.<sup>[13]</sup>

BLNR also asserted that Requester "could have submitted a written petition in advance if she wanted to provide more information prior to the meeting, and noted that "[s]he later did submit a written petition more fully explaining her basis, which the Board considered at a later meeting." According to BLNR:

[i]f the Board denies the contested hearing request, the person may follow-up in writing within 10-calendar days to request a contested case hearing. HAR § 13-1-29(a). That written petition is generally placed on a future agenda and the Board generally decides whether to

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<sup>12</sup> BLNR cited to section 13-1-29.1, HAR, which reads:

Determination of entitlement to a contested case hearing. The board without a hearing may deny a request or petition or both for a contested case when it is clear as a matter of law that the request concerns a subject that is not within the adjudicatory jurisdiction of the board or when it is clear as a matter of law that the petitioner does not have a legal right, duty, or privilege entitling one to a contested case proceeding.

HAR § 13-1-29.1.

<sup>13</sup> It is beyond OIP's authority to determine whether BLNR correctly denied the request for a contested case hearing. The key question for Sunshine Law purposes is whether applicable laws and administrative rules allowed BLNR to treat Requester's request for a contested case as part of its adjudicatory function, as OIP finds to be the case for the reasons explained below.

grant the request based on the written petition and any testimony submitted (written or oral) for that meeting. But the Board is not required to hold a hearing. HAR § 13-1-29.1.

BLNR also argued that even if its decision on the request for a contested case hearing was subject to the Sunshine Law, it was adequately noticed by agenda item C-2 as filed and did not represent an addition to the agenda. Because OIP concludes, for the reasons explained below, that BLNR's decision was exempt from the Sunshine Law as an exercise of its adjudicatory function, OIP does not need to make a determination on this argument.

Section 92-6, HRS, among other things, exempts from the Sunshine Law the "adjudicatory functions exercised by a board and governed by sections 91-8 and 91-9, or authorized by other sections of the [HRS]." HRS § 92-6(a).<sup>14</sup>

OIP understands BLNR's argument to be that its consideration during the Meeting of Requester's oral request for a contested case hearing, including its decision to deny that request, was a quasi-judicial determination and as such an exercise of its adjudicatory function. Based on the materials presented, OIP understands BLNR's position to be that it was exempt from the Sunshine Law's requirements pursuant to section 92-6(a)(2), HRS.

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<sup>14</sup> Section 92-6, HRS, reads in part as follows:

**§92-6 Judicial branch, quasi-judicial boards and investigatory functions; applicability.** (a) This part shall not apply:

- (1) To the judicial branch.
- (2) To adjudicatory functions exercised by a board and governed by sections 91-8 and 91-9, or authorized by other sections of the Hawaii Revised Statutes. In the application of this subsection, boards exercising adjudicatory functions include, but are not limited to, the following:
  - (A) Hawaii labor relations board, chapters 89 and 377;
  - (B) Labor and industrial relations appeals board, chapter 371;
  - (C) Hawaii paroling authority, chapter 353;
  - (D) Civil service commission, chapter 26;
  - (E) Board of trustees, employees' retirement system of the State of Hawaii, chapter 88;
  - (F) Crime victim compensation commission, chapter 351;
  - and
  - (G) State ethics commission, chapter 84.

HRS § 92-6 (2012).

Section 92-6, HRS, applies specifically to boards' adjudicatory functions, rather than applying generally to all functions for which the board follows a statutory process. OIP Op. Ltr. No. 18-01 at 5. It covers those limited situations where a board generally subject to the Sunshine Law is also responsible for decisions that determine individual rights (and may give rise to individual due process rights) and must therefore follow the contested case process for those decisions, or a similar statutory process. This exemption is primarily intended to cover contested cases subject to sections 91-8 and 91-9, HRS, but its language allows for the possibility of a similar adjudicatory function for which the process is set out elsewhere in the HRS. Id.

Consistent with the plain language of the exemption, the legislative history gives no indication of a legislative intent to extend it beyond the quasi-judicial proceedings described in the statute. The Senate Judiciary Committee explained the reasoning behind this exemption at the time it was created:

Quasi-judicial boards in exercise of adjudicatory functions are also specifically exempted because closed deliberation is traditional in quasi-judicial proceedings. Your Committee sees no objection to maintaining the practice, as availability of procedural safeguards, transcripts, written declarations, and the appellate process, all permit adequate public scrutiny as well as insure fairness and the required observance of constitutional rights.

S. Stand. Comm. Rep. No. 878, in 1975 Senate Journal at 1177-78; OIP Op. Ltr. No. 18-01 at 6.

According to the report, the Senate Judiciary Committee added "a non-exclusive list of State quasi-judicial agencies" that it expected would use the exemption for a board's exercise of its adjudicatory functions, and asked the Attorney General to report whether any other agencies should be included. The non-exclusive list of quasi-judicial boards in section 92-6(a)(2), HRS, does not include BLNR. However, as the list is expressly non-exclusive, that exclusion shows only that the Legislature did not have BLNR in mind as one of the quasi-judicial boards it was concerned about at the time this section was enacted, and is not determinative of whether BLNR in fact has an adjudicatory function. The legislative history thus indicates that the exemption in section 92-6, HRS, was directed toward quasi-judicial proceedings with such features as procedural safeguards, transcripts of proceedings, declarations by witnesses, and an appellate process, as exemplified by the proceedings held by the boards specifically listed in the statute. The Legislature recognized that such proceedings must balance public scrutiny with the constitutional due process rights that arise in proceedings determining individual rights and obligations. OIP Op. Ltr. No. 18-01 at 6.

Chapter 171, HRS, governs DLNR and BLNR. Section 171-6(4), HRS, provides that the BLNR may “[a]dopt rules, which, upon compliance with chapter 91, shall have the force and effect of law[.]”<sup>15</sup> BLNR exercises the powers provided to it by chapter 171, HRS, in both meetings<sup>16</sup> pursuant to the Sunshine Law and in contested case<sup>17</sup> proceedings<sup>18</sup> pursuant to its administrative rules in Title 13, chapter 1, HAR. Section 13-1-29, HAR, provides in part, “An oral or written request for a contested case hearing must be made to the board no later than the close of the board meeting at which the subject matter of the request is scheduled for board disposition.” HAR § 13-1-29(a) (emphases added). Consistent with section 13-1-29, HAR, page 2 of the Meeting notice stated:

In some of the matters before the Board, a person may wish to request a contested case hearing. If such a request is made before the Board’s decision, then the Board will consider the request first - before considering the merits of the item before it. A person who wants a contested case may also wait until the Board decides the issue, then request the contested case after the decision. It is up to you. Any request must be made in writing within ten days. If no request for

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<sup>15</sup> BLNR promulgated administrative rules in Title 13, chapter 1, HAR. Section 13-1-1, HAR, provides in part, “This chapter governs practice and procedure before the board of land and natural resources of the State of Hawaii under chapter 91, Hawaii Revised Statutes (HRS), the public land laws of the State and such other acts as many now of hereafter be administered by the board.”

<sup>16</sup> Section 13-1-5, HAR, governs BLNR’s regular and special meetings.

<sup>17</sup> Section 13-1-2, HAR, defines “Contested case” as “a proceeding in which the legal rights, duties, or privileges of specific parties are required by law to be determined after an opportunity for any agency hearing.”

<sup>18</sup> Section 13-1-2, HAR, defines “Proceeding” as:

the board’s consideration of the relevant facts and applicable law and action thereon with respect to a particular subject within the board’s jurisdiction, initiated by a filing or submittal or request or a board’s notice or order, and shall include but not be limited to:

...

- (3) Petitions or applications for the granting or declaring of any right, privilege, authority, or relief under or from any provision of law or any rule or requirement made pursuant to authority granted by law[.]

HAR § 13-1-2.

contested case is made, the Board will make a decision. The Department will treat the decision as final and proceed accordingly.

BLNR's Summary Minutes of the Meeting stated that "[t]he contested case standard statement was read, and Row [sic] Call of the Members conducted."<sup>19</sup>

Section 13-1-29.1, HAR, provides in part that:

[t]he board **without a hearing may deny a request** or petition or both **for a contested case** when it is clear as a matter of law that the request concerns a subject that is not within the adjudicatory jurisdiction of the board or when it is clear as a matter of law that the petitioner does not have a legal right, duty or privilege entitling one to a contested case proceeding.

(Emphases added.)

Based on an examination of the relevant statutory and regulatory scheme, OIP finds that the question of whether to grant or deny a request for a contested case hearing made during a meeting involved a determination of HU's individual rights and obligations, rather than a policy decision. OIP further finds that BLNR was exercising an adjudicatory function, and understood itself to be doing so, when it voted on Requester's oral request for a contested case hearing during the Meeting, consistent with its procedures under section 13-1-29, HAR, and section 13-1-29.1, HAR.

Because BLNR's decision on the request for a contested case hearing during the Meeting was part of its exercise of an adjudicatory function, OIP concludes that this action was exempt from the Sunshine Law under section 92-6(a)(2), HRS, and thus BLNR did not violate the Sunshine Law by considering and denying Requester's oral request during the Meeting.

### **Right to Bring Suit to Enforce Sunshine Law and to Void Board Action**

Any person may file a lawsuit to require compliance with or to prevent a violation of the Sunshine Law or to determine the applicability of the Sunshine Law to discussions or decisions of a government board. HRS § 92-12 (2012). The court may order payment of reasonable attorney fees and costs to the prevailing party in such a lawsuit. Id.

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<sup>19</sup> OIP notes that the Chair's reading of the "contested case standard statement" was completely inaudible in the audio and video recordings of the Meeting, but the same statement appears to be given at the start of every BLNR meeting.

Where a final action of a board was taken in violation of the open meeting and notice requirements of the Sunshine Law, that action may be voided by the court. HRS § 92-11 (2012). A suit to void any final action must be commenced within ninety days of the action. Id.

This opinion constitutes an appealable decision under section 92F-43, HRS. A board may appeal an OIP decision by filing a complaint within thirty days of the date of an OIP decision in accordance with section 92F-43. HRS §§ 92-1.5, 92F-43 (2012). The board shall give notice of the complaint to OIP and the person who requested the decision. HRS § 92F-43(b). OIP and the person who requested the decision are not required to participate, but may intervene in the proceeding. Id. The court's review is limited to the record that was before OIP unless the court finds that extraordinary circumstances justify discovery and admission of additional evidence. HRS § 92F-43(c). The court shall uphold an OIP decision unless it concludes the decision was palpably erroneous. Id.

A party to this appeal may request reconsideration of this decision within ten business days in accordance with section 2-73-19, HAR. This rule does not allow for extensions of time to file a reconsideration with OIP.

This decision also serves as a notice that OIP is not representing anyone in this appeal. OIP's role herein is as a neutral third party.

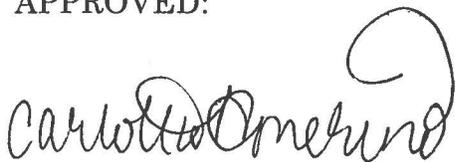
## OFFICE OF INFORMATION PRACTICES



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