

December 12, 2010

Acting Director, Cathy I. Takase.
Office of Information Practices, State of Hawaii
No. 1 Capitol District Building
250 S. Hotel St., Suite 107
Honolulu, Hawaii 96813
E-mail: ois@hawaii.gov

Dear Acting Director Takase,

SUBJECT: Formal Complaint and Request for Investigation Against the
City and County of Honolulu, Department of Environmental Services
for Failure to Comply with OIP Rules and for the
Destruction of Public Records Requested by a Citizen of Hawaii

This is our formal complaint against the City Department of Environmental Services ("DES"), its Director Timothy Steinberger, and Mr. Timothy Houghton, DES Executive Assistant, for knowingly and blatantly violating the OIP Rules and open records laws by failing to disclose requested public documents to a citizen of the State of Hawaii who requested them, and then destroying the requested public records and informing us that they do not exist.

On October 27, 2010, Pamela Davis of Animal Advocate Inc. spoke on the telephone with Mr. David Shirashi (Refuse Collection Administrator) and Mr. Robert Primiano (Chief of Automotive and Equipment Services at the Pearl City Refuse Yard), regarding reports we received about a City employee, Mr. Richard Crabbe, who was ordered to trap and then take 10 cats from the yard to the Humane Society for euthanization. Mr. Crabbe takes care of one of the feral cats who lives at the refuse yard and considers him his own cat -- according to Mr. Shirashi, that particular cat's life was spared.

These telephone conversations were taped by Pamela Davis, and we have these recordings available for your office.

We questioned Mr. Primiano about this action of trapping and killing feral cats, and at about 8 minutes into our conversation, he stated, *"it's from the information that I have from **the correspondence** going back and forth between the yards, That was my understanding."*

As you can see, Mr. Primiano was stating that there was in fact some correspondence that was generated about this subject.

In addition, I our recorded conversation with Mr. David Shirashi, he stated, *"When I saw that request, my first concern was Richard Crabbe's cat (...)"*

Again, Mr. Shirashi alludes to a written request involving this matter.

Thus, two City employees have stated that there is information and documentation in regard to this matter.

On November 7, 2010, we wrote to Mr. Timothy Steinberger, Director of Environmental Services and requested the following:

November 7, 2010

Mr. Tim Steinberger, Acting Director
Director of Environmental Services
City and County of Honolulu

Dear Mr. Steinberger:

Please accept this as a formal request to your agency, to provide public documents.

We request any and all documents relating to the trapping, releasing, delivery, and/or euthanization of feral cats removed from the Pearl City Refuse Yard.

Requested records include, but are not limited to, the following:

E-mails, logs, receipts, delivery/release documents, forms, and any other documentation used by the City's Pearl City Refuse Yard employees, including but not limited to Mr. Richard Crabbe, Mr. Robert Primiano, and Mr. David Shiraishi, from the period of October 1, 2010 to the present.

Thank you for your cooperation in this matter. I can be contacted at the e-mail address listed below.

Sincerely,

Pamela Davis
President, Animal Advocate Inc.
Honolulu, Hawaii

liberate@hawaii.rr.com

[NOTE: A copy of our request is included an Attachment to this e-mail.]

Of course, the government agency has 10 days in which to respond to our request, by law. The DES did not meet that deadline. Instead, on November 30, 2010, I received the following e-mail:

Pam – I apologize for the delayed response. We have completed our records search and have not identified any records of the City related to your request. I will be sending a written response shortly.

Tim

Timothy A. Houghton
Executive Assistant
Office of Administrative Support
Department of Environmental Services
City and County of Honolulu
1000 Uluohia St., Ste 308
Kapolei, HI 96707

Phone: 808-768-3475
Fax: 808-768-3487
Direct Fax: 808-768-1536
Mobile: 808-349-3166
Email: thoughton@honolulu.gov

[NOTE: I have included this response from DES as another Attachment to this e-mail.]

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I have brought this to the attention of the Mayor and to the City's public Relations person, Louise Kim McCoy. However, I have not received a response to my letters. On December 1, 2010, I wrote the following to Louise Kim McCoy:

December 1, 2010

Dear Ms. Kim McCoy,

Please take a look at the e-mails below. I requested public records on November 7, 2010, from the Department of Environmental Services, relating to the Pearl City Yard feral cats who were trapped by a City employee and then taken to the HHS for euthanization.

As I am sure you know, under the UIPA laws, the government has 10 days in which to respond to requests for documents.

After a long delay, your Department of Environmental Services has "found no documents."

However, I have tape recordings of both Mr. Robert Primiano and Mr. David Shirashi, stating that there were e-mails and other documents generated in regard to this matter.

Therefore, it is clear that this City agency is covering up, and refusing to provide me with the documents I requested, as required under the law. This is very troubling, and I wonder if Mayor Carlisle knows about this. If so, he should see to it that Mr. Houghton is reprimanded and I am provided with the records I requested, because Mr. Carlisle is a former prosecutor and knows that our laws must be obeyed.

I will wait for one week before taking any further action, because I am hopeful you will intervene, and ensure that I am provided with the documents I have requested. I know that you did not respond to my last e-mail regarding those involved in this matter. However, I believe you must realize that it is wrong to ignore the public when they request things from their government, to which they have a legal right.

I hope that the Carlisle administration will not prove to be a carbon copy of former administrations in terms of transparency and cooperation with members of the public who request documents they are legally entitled to. I have these City employees on tape, so there is no question that the documents exist.

I sincerely hope that this situation can be resolved quickly and amicably among all parties. I only want the public information to which I am legally entitled.

Sincerely,

Pamela Davis
President, Animal Advocate Inc.
liberate@hawaii.rr.com

Ms. Kim McCoy's response is below. She says someone will be getting back to me, but that was written on December 1, 2010. To date, I have heard nothing about the status of my complaint. Here is her response:

Dear Ms. Davis,

Thank you for your assistance in providing me with information and suggestions on managing the feral cats on City property. In response to your inquiry concerning the trapping of feral cats at the Pearl City Refuse Yard, it was determined that the removal of the feral cats was necessitated by a potential safety concern to the drivers of the refuse vehicles who were trying to avoid running over the feral cats. Unfortunately, at that time, the City workers were not aware of service providers other than the Hawaiian Humane Society who could assist with the removal/relocation of the feral cats.

Given your recent concerns and your expressions of assistance, should another incident occur in the future necessitating the removal of feral cats for safety reasons, the

City would like to request your assistance in coordinating referral of the feral cats to providers or no-kill organizations other than the Hawaiian Humane Society to assist with relocation and/or removal of the feral cats. If you or whomever you designate is unable to provide alternate accommodations for those feral cats creating a public safety concern to City employees, the Hawaiian Humane Society will be contacted to assist with the removal/relocation. If you can assist, please provide us with the appropriate contact information which will be forwarded to affected City agencies.

Thank you for bringing this matter to our attention.

As for your request for documents, someone is reviewing your recent emails and will be getting back to you.

Aloha,
Louise Kim McCoy

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On November 23, 2010, we also requested help directly from Mayor Carlisle. Here is the only response we have ever received:

Thank you very much for your e-mail to Mayor Peter Carlisle.

Your thoughts and concerns are very important to us. However, we hope you understand that the many letters, e-mails, and phone calls we receive each day preclude us from responding to as many, and as promptly, as we would like. Please know that your message will be shared with the mayor and your views given every consideration.

If your message was regarding a problem or concern with City services, we will direct it to the appropriate agency for action and direct reply.

Mahalo for your understanding.

Aloha,
Office of the Mayor
Honolulu Hale

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Therefore, since the Mayor and others within the City government will not comply with the law, I am initiating this complaint. Not only did they not provide us with the documents we requested and to which we are entitled, they did not respond

within the prescribed time limit and now it looks like they may have actually purposefully destroyed the records in order to hide actual events and save the City from embarrassment. DES says there are no documents, yet we have the City workers ON TAPE saying there are indeed documents.

This is a blatant case of cover-up on the part of the City and we want your office to take the necessary action. The City is obviously embarrassed by the actions of certain individuals at the Pearl City Refuse Yard. As I said, one of the employee who has cared for feral cats for many years (Richard Crabbe), was told he had to trap the cats and take them to the Humane Society to be killed.

This action is very inhumane for a number of reasons, and is in direct contradiction to policies established under previous administrations for Trap-Neuter-Release of feral animals. At least 10 cats, who had been fed at the yard and cared for by City employees for many years, who trusted humans, were suddenly trapped and killed. We understand that this is embarrassing to the City. However, what is even more embarrassing is the cover-up and destruction of public records.

We want the records which WE KNOW exist, and we want them immediately, in accordance with the provisions of the law.

If we can provide you with additional information, please let us know. We have the employees on tape, and we will provide you a copy of the conversations on DVD, if you would like. Please just let us know.

Sincerely,

Pamela Davis
President, Animal Advocate Inc.
Honolulu, Hawaii
liberate@hawaii.rr.com