

G. Thornton

1ST CIRCUIT COURT
STATE OF HAWAII
FILED

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B. TERAKA
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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

JACK WATERS, individually, and on behalf
of all persons similarly situated,

Plaintiffs,

vs.

HOUSING AND COMMUNITY
DEVELOPMENT CORPORATION OF
HAWAII, a duly organized and recognized
agency of the State of Hawai'i; HHA
WILIKINA APARTMENTS PROJECT,
INC.; DOES 1-25,

Defendants.

) CIVIL NO. 05-1-0815-05 (EEH)
) (Contract)
)
) DEFENDANTS' ANSWER TO
) COMPLAINT FILED MAY 6, 2005
)
) CERTIFICATE OF SERVICE

DEFENDANTS' ANSWER TO COMPLAINT FILED MAY 6, 2005

FIRST DEFENSE:

The complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE:

1. For answer to paragraph 1 of the complaint, defendants state HHA WILIKINA APARTMENTS, INC. is improperly identified in the complaint. Its true name is HHA

WILIKINA APARTMENTS PROJECT, INC. Defendants otherwise admit the allegations in the paragraph.

2. Defendants are without knowledge or information sufficient to form a belief as to the truth and accuracy of the allegations in paragraph 2 of the complaint.

3. For answer to paragraphs 3-5 of the complaint defendants state that the provisions and effect of the cited statute and regulation are as set out therein. Defendants deny any allegations inconsistent therewith.

4. Defendants are without knowledge or information sufficient to form a belief as to the truth and accuracy of the allegations in paragraph 6 of the complaint.

5. Defendants deny the allegations in paragraphs 7 and 8 of the complaint.

6. Defendants are without knowledge or information sufficient to form a belief as to the truth and accuracy of the allegations in paragraphs 9 and 10 of the complaint as to what plaintiff seeks and defendants deny that plaintiff is entitled to such relief or any relief in this action.

7. For answer to paragraph 11 of the complaint, defendants deny the court has subject matter jurisdiction and deny the allegations in the last sentence of the paragraph. The provisions and effect of the cited statute are as set out therein.

8. For answer to paragraph 12 of the complaint, defendants deny the court has subject matter jurisdiction. The provisions and effect of the cited statute are as set out therein.

9. Defendants are is without knowledge or information sufficient to form a belief as to the truth and accuracy of the allegations in paragraphs 13 and 14 of the complaint.

10. Defendants deny the allegations in paragraphs 15-22 of the complaint.

11. Defendants admit the allegations in paragraph 23 of the complaint.

12. Defendants admit the allegations in paragraphs 24 and 25 of the complaint except that HAA's name is stated incorrectly. Defendants affirmatively state that HHA is an arm, agency, or instrumentality of the State of Hawai'i.

13. Defendants are without knowledge or information sufficient to form a belief as to the truth and accuracy of the allegations in paragraph 26 of the complaint.

14. For answer to paragraph 27 of the complaint, defendants reallege and incorporate their responses to the referenced paragraphs.

15. Defendants are without knowledge or information sufficient to form a belief as to the truth and accuracy of the allegations in paragraphs 28 and 29 of the complaint.

16. Defendants admit the allegations in paragraphs 30 and 31 of the complaint.

17. Defendants are without knowledge or information sufficient to form a belief as to the truth and accuracy of the allegations in paragraphs 32 and 33 of the complaint.

18. Defendants deny the allegations in paragraph 34 of the complaint.

19. For answer to paragraph 35 of the complaint, defendants reallege and incorporate their responses to the referenced paragraphs.

20. Defendants deny the allegations in paragraphs 36-38 of the complaint.

21. For answer to paragraph 39 of the complaint, defendants reallege and incorporate their responses to the referenced paragraphs.

22. Defendants are without knowledge or information sufficient to form a belief as to the truth and accuracy of the allegations in paragraphs 40 and 41 of the complaint.

23. Defendants deny the allegations in paragraph 42 of the complaint.

24. Defendants deny all allegations not specifically admitted, denied, or controverted in this answer.

THIRD DEFENSE:

Plaintiff's claims are barred by the State's sovereign immunity.

FOURTH DEFENSE:

This court lacks subject matter jurisdiction over plaintiff's claims against the State.

FIFTH DEFENSE:

Plaintiff's claims are barred by waiver, estoppel, and laches.

SIXTH DEFENSE:

Plaintiff's claims are barred by the applicable statute of limitations.

SEVENTH DEFENSE:

Plaintiff's claims are barred by the Eleventh Amendment and applicable doctrines of federalism.

EIGHTH DEFENSE:

Plaintiff lacks standing to bring the claims alleged.

NINTH DEFENSE:

Plaintiff's claims are moot or otherwise not justiciable.

TENTH DEFENSE:

Plaintiff's claims are barred by payment, release, or accord and satisfaction.

ELEVENTH DEFENSE:

Plaintiff has failed to exhaust his administrative remedies.

TWELFTH DEFENSE:


Plaintiff has failed to name indispensable parties.

WHEREFORE, defendants pray that:

1. The complaint be dismissed;

2. They be awarded its attorneys' fees and costs; and
3. The court grant such further relief as may be just, proper, and equitable.

DATED: Honolulu, Hawai'i, August 31, 2005.



William J. Wynhoff
Deputy Attorney General
Attorney for Defendants