

Of Counsel:
LAWYERS FOR EQUAL JUSTICE

VICTOR GEMINIANI 4354
WILLIAM H. DURHAM 8145
GAVIN K. THORNTON 7922
P.O. Box 37952
Honolulu, HI 96837
Telephone: (808) 779-1744
Email: victor@lejehawaii.org
william@lejehawaii.org
gavin@lejehawaii.org

ALSTON HUNT FLOYD & ING

PAUL ALSTON 1126
JASON H. KIM 7128
American Savings Bank Tower
1001 Bishop St., 18th Floor
Honolulu, HI 96813
Telephone: (808) 524-1800
Fax: (808) 524-4591
Email: palston@ahfi.com
jkim@ahfi.com

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

BEVERLY BLAKE, STEPHANIE	)	CIVIL NO. CV08 00281 SPK LEK
CAMILLERI, ARLENE SUPAPO,)	
individually, and on	)	(Contract) (Declaratory
behalf of all persons	)	Judgment) (Other Civil
similarly situated,	)	Action)
	)	Class Action
Plaintiffs,)	
	)	PLAINTIFFS' MOTION TO COMPEL
vs.	)	DISCOVERY; MEMORANDUM IN
	)	SUPPORT OF MOTION;
CRAIG NISHIMURA, in his	)	DECLARATION OF JASON H. KIM;
official capacity as	)	EXHIBITS "A"- "F"; CERTIFICATE
Acting Director of the	)	OF SERVICE
Department of Facility)	
Maintenance, City and)	
County of Honolulu; CITY)	
AND COUNTY OF HONOLULU, a)	

municipal corporation,)
)
 Defendants.)
)

PLAINTIFFS' MOTION TO COMPEL DISCOVERY

Plaintiffs BEVERLY BLAKE, STEPHANIE CAMILLERI, ARLENE SUPAPO, individually, and on behalf of all persons similarly situated, ("Plaintiffs"), by and through their attorneys, Alston Hunt Floyd & Ing, moves this Court for an order:

1. Compelling Defendants Craig Nishimura, in his official capacity as Acting Director of the Department of Facility Maintenance and the City and County of Honolulu (hereinafter "Defendants") to immediately file their Initial Disclosures, which were due on August 14, 2008;

2. Compelling Defendants to designate one or more officials, agents, or other persons who consent to testify on Defendant City and County of Honolulu's behalf on each of the subject matters set forth in Exhibit "A" attached to Plaintiffs' Notice of Taking Deposition Upon Oral Examination Pursuant to Rule 30(b)(6), dated August 8, 2008;

3. Compelling Defendant City and County of Honolulu to produce documents requested in Plaintiffs' First Request for Production of Documents dated and served on Defendant City and County of Honolulu on August 8, 2008;

4. Awarding Plaintiffs their attorneys' fees and costs incurred in bringing this Motion; and

5. Imposing such other sanctions as the Court deems proper.

Plaintiffs make this Motion on the grounds that Defendants have completely failed to comply with any discovery deadlines in this case. The information sought by Plaintiffs is relevant to the claims and defenses asserted in this lawsuit. Plaintiffs have attempted to resolve this discovery dispute informally, without success.

This Motion is brought pursuant to Rules 7, 26, 34 and 37 of the Federal Rules of Civil Procedure and is based on the accompanying memorandum, declaration and exhibits, the records on file herein, and such additional evidence or argument that may be presented prior to or at the hearing on this Motion, all of which are incorporated herein by this reference.

DATED: Honolulu, Hawai'i, October 1, 2008.

/s/ Jason H. Kim

VICTOR GEMINIANI
WILLIAM H. DURHAM
GAVIN K. THORNTON
LAWYERS FOR EQUAL JUSTICE

PAUL ALSTON
JASON H. KIM
ALSTON HUNT FLOYD & ING

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAI'I

BEVERLY BLAKE, STEPHANIE	)	CIVIL NO. CV08 00281 SPK LEK
CAMILLERI, ARLENE SUPAPO,)	
individually, and on	)	(Contract) (Declaratory
behalf of all persons	)	Judgment) (Other Civil
similarly situated,	)	Action)
	)	Class Action
Plaintiffs,)	
	)	MEMORANDUM IN SUPPORT OF
vs.	)	MOTION
)	
CRAIG NISHIMURA, in his)	
official capacity as)	
Acting Director of the)	
Department of Facility)	
Maintenance, City and)	
County of Honolulu; CITY)	
AND COUNTY OF HONOLULU, a)	
municipal corporation,)	
)	
Defendants.)	
)	

MEMORANDUM IN SUPPORT OF MOTION

I. INTRODUCTION

Plaintiffs BEVERLY BLAKE, STEPHANIE CAMILLERI, ARLENE SUPAPO, individually, and on behalf of all persons similarly situated ("Plaintiffs"), request that this Court compel (1) Defendants CRAIG NISHIMURA, in his official capacity as Acting Director of the Department of Facility Maintenance, City and County of Honolulu and the CITY AND COUNTY OF HONOLULU, a municipal corporation ("Defendants") to file their Initial Disclosures pursuant to FRCP Rule 26(a) (hereinafter "Initial Disclosures"); (2) Defendant City & County of Honolulu ("CC

Honolulu") to designate one or more officials, agents, or other persons to testify on its behalf on each of the subject matters set forth in Exhibit "A" attached to Plaintiffs' Notice of Taking Deposition Upon Oral Examination Pursuant to Rule 30(b)(6), dated August 8, 2008 ("30(b)(6) Depo"); and (3) C&C Honolulu to respond to Plaintiffs' First Request for Production of Documents, dated August 8, 2008 (hereinafter "RFPDs"). Plaintiffs also request attorneys' fees and other sanctions.

Defendants have utterly failed to comply with their discovery obligations. Defendants have not responded to Plaintiffs' numerous requests to Defendants to file their Initial Disclosures, respond to the RFPDs, and designate a 30(b)6 representative.

Plaintiffs' counsel has tried to resolve this problem with Defendants' counsel on numerous occasions, but Defendants have refused to provide the requested discovery, to commit to a time to do so, or even to meet and confer.

II. BACKGROUND FACTS

A. Nature of the Lawsuit

This action seeks damages and declaratory and injunctive relief against defendant Craig Nishimura, in his official capacity as acting director of the Department of Facilities Management, and the City and County of Honolulu (collectively "Defendants") for overcharging tenants at Westlake

Apartment Complex ("Westlake") in violation of the U.S. Housing Act and its supporting regulations and contrary to the terms of their contracts with Westlake tenants by failing to update utility allowances. Plaintiffs further seek damages, including trebled damages, for the Defendants' unfair and deceptive practice of certifying each year that they had properly calculated Plaintiffs' utility allowances.

Westlake Apartments, owned and operated by the Defendants, is a 95-unit low-income housing project subsidized by the federal "Section 8 Loan Management program." The United States Housing Act requires that shelter costs for tenants residing in federally subsidized public housing projects not exceed 30% of tenant income. Utilities are included in the rent calculation for purposes of the 30% maximum. Where tenants are responsible for payment of utility service, as they are at Westlake, the project manager must provide tenants with a utility allowance in the form of a credit against their rent.

In establishing utility allowances, a project must approximate "reasonable consumption of utilities by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment." Federal regulations require regular revision of the utility allowances to ensure that the credit tenants receive for the utility allowance continues to be sufficient to cover

reasonable utility consumption as defined above, thereby ensuring that rents do not exceed 30% of tenant income.

Sometime prior to 1998, Defendants determined the reasonable consumption for Westlake Apartments, at then existing rates, allowed for \$40 each month in utilities. Electrical service is the only utility subject to the utility allowance that Westlake tenants are required to pay individually. Since that time, rates for electricity in Honolulu have drastically increased, yet Defendants continue to provide the low 1990s utility allowance to all tenants at Westlake Apartments. The result is that Defendants charge Westlake's tenants rent in excess of federal limits.

Further, Defendants wrongfully certified each year that rents were properly calculated. This deceptive certification constitutes an unfair and deceptive trade practice prohibited by Hawai'i Law. The Defendants' acts also breached their rental agreements with the tenants at Westlake.

B. Plaintiffs' Discovery Requests and Defendants' Non-Responses

The parties held their Rule 26(f) discovery conference on July 31, 2008. See attached Declaration of Jason H. Kim ("Kim Dec.") at ¶2. Defendants' initial disclosures pursuant to FRCP Rule 26(a) were therefore due on August 14, 2008. FRCP Rule 26(a)(1)(C). Despite the passage of over six weeks,

Defendants have not yet filed or served their initial disclosures. Kim Dec. at ¶3.

Plaintiffs served C&C Honolulu with RFPDs on August 8, 2008. Kim Dec. at ¶4 and Exhibits "A" - "B." C&C Honolulu's responses were due on or before September 8, 2008. See FRCP Rule 34 ("The party upon whom the request is serviced shall serve a written response within 30 days after the service of the request."). No responses were served. Kim Dec. at ¶4.

Plaintiffs served C&C Honolulu with a deposition notice pursuant to FRCP Rule 30(b)(6) on August 8, 2008, noticing the deposition for August 21, 2008. Kim Dec. at ¶5 and Exhibits "C" and "D." On the morning of the deposition, Defendants' counsel called to inform Plaintiffs' counsel that no one would appear to testify. *Id.* at ¶6. Plaintiffs' counsel requested an alternative date for the deposition. See Exhibit "E." Defendants' counsel never responded. See Kim Dec. at ¶7.

At the scheduling conference for this matter on September 8, 2008, Defendants' counsel requested a three week extension to respond to the RFPDs. See Kim Dec. at ¶8. In response, Plaintiffs' counsel offered such an extension, provided that Defendants: (1) served their initial disclosures by September 19 and (2) reschedule the 30(b)(6) deposition to September 29. See Exhibit "F." Defendants' counsel never responded to this proposal. Kim Dec. at ¶9.

Plaintiffs' counsel left phone messages for Defendants' counsel on September 19 and September 26, requesting a response to Plaintiffs' proposal or, in the alternative, a date to meet and confer. Kim Dec. at ¶10. Defendants' counsel never responded. *Id.*

III. ARGUMENT

A. Plaintiffs Are Entitled To Complete Responses To Their Discovery Requests

Pursuant to FRCP Rule 37(a)(3), a party may move for an order compelling disclosure if a party fails to make a disclosure required by Rule 26(a). Similarly, FRCP Rule 37(a)(4) provides for an order compelling disclosure if a corporation or other entity fails to make a designation under Rule 30(b)(6) or if a party fails to respond to a request for production of documents. As set forth above, Defendants have failed without justification to file or serve initial disclosures; to designate a 30(b)(6) representative; or to produce documents in response to Plaintiffs' RFPD. Furthermore, because Defendants have failed to serve timely written responses to the RFPDs, they have waived any objections they may otherwise have. *See Richmark Corp. v. Timber Falling Consultants*, 959 F.2d 1468, 1473 (9th Cir. 1992) ("It is well established that a failure to object to discovery requests within the time required constitutes the waiver of any objection.").

Defendants should be ordered to immediately: (1) serve their initial disclosures; (2) designate a representative pursuant to Rule 30(b)(6); and (3) produce all documents responsive to the RFPDs.

B. Plaintiffs Are Entitled To Their Attorneys' Fees And Costs Incurred In Bringing This Motion.

Defendants' failure to respond to the discovery requests warrants an award of sanctions. FRCP Rule 37(a)(5) mandates as a sanction "reasonable expenses incurred in making the motion, including attorney's fees," resulting from a party's failure to comply with discovery obligations.

Attorneys' fees are not awardable if: (1) the movant did not attempt in good faith to resolve the issue without the Court's involvement; or (2) the opposing party's failure to respond to discovery was "substantially justified." FRCP Rule 37(a)(5)(A)(i)-(ii). Neither of these conditions apply here. Plaintiffs have attempted in good faith to cooperate with Defendants in setting reasonable deadlines and granting extensions. Defendants have been completely non-responsive and have not even been willing to meet-and-confer. Defendants' failure to respond at all to discovery or even to meaningfully discuss the issue cannot be excused. Defendants have never offered any basis for objecting to the discovery Plaintiffs seek.

To date, Plaintiffs have incurred more than \$849.00 in fees in connection with this Motion. Kim Decl. at ¶12.

Plaintiffs anticipate incurring an additional \$600 for preparation of reply papers and preparation for and attendance at the hearing on this Motion. *Id.* Thus, Plaintiffs request that the Court award \$ 1449.00 as sanctions for Defendants' discovery abuse. Plaintiffs reserve the right to request any additional fees and costs incurred in connection with this Motion.

IV. CONCLUSION

This Court should order Defendants to (1) respond to all outstanding discovery requests immediately; (2) pay Plaintiffs \$1449 in attorney's fees and costs; and (3) suffer any other sanction the Court believes to be appropriate.

DATED: Honolulu, Hawai'i, October 1, 2008.

 /s/ Jason H. Kim

VICTOR GEMINIANI
WILLIAM H. DURHAM
GAVIN K. THORNTON
LAWYERS FOR EQUAL JUSTICE

PAUL ALSTON
JASON KIM
ALSTON HUNT FLOYD & ING

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAI'I

BEVERLY BLAKE, STEPHANIE	)	CIVIL NO. CV08 00281 SPK LEK
CAMILLERI, ARLENE SUPAPO,)	
individually, and on	)	(Contract) (Declaratory
behalf of all persons	)	Judgment) (Other Civil
similarly situated,	)	Action)
	)	Class Action
Plaintiffs,)	
	)	DECLARATION OF JASON H. KIM
vs.)	
)	
CRAIG NISHIMURA, in his)	
official capacity as)	
Acting Director of the)	
Department of Facility)	
Maintenance, City and)	
County of Honolulu; CITY)	
AND COUNTY OF HONOLULU, a)	
municipal corporation,)	
)	
Defendants.)	
)	

DECLARATION OF JASON H. KIM

I, JASON H. KIM, do declare that:

1. I am an attorney in the law firm of Alston Hunt Floyd & Ing, duly licensed to practice before all courts in the State of Hawai'i, and am one of the attorneys for Plaintiffs BEVERLY BLAKE, STEPHANIE CAMILLERI, ARLENE SUPAPO, individually, and on behalf of all persons similarly situated ("Plaintiffs"), in this action. I make this declaration on my personal knowledge and am competent to testify as to the matters contained in this Declaration.

2. The parties held their Rule 26(f) discovery conference on July 31, 2008.

3. Defendants have not yet filed or served their initial disclosures.

4. Attached as Exhibits "A" and "B" are true and correct copies of Plaintiffs' First Request for Production of Documents ("RFPD") to Defendant City and County of Honolulu, dated and served on August 8, 2008 and the Certificate of Service for the RFPD filed on August 8, 2008. Defendants have not yet filed a written response or produced any of the documents requested in the RFPD.

5. Attached as Exhibits "C" and "D" are true and correct copies of Plaintiffs' Notice of Taking Deposition Upon Oral Examination Pursuant to Rule 30(b)(6); Exhibit "A," served by hand delivery, on Defendants August 8, 2008 and the Certificate of Service for that notice, filed on August 8, 2008.

6. On the morning of the deposition, Defendants' counsel Marie Gavigan called to inform me that no one would appear to testify.

7. Attached as Exhibit "E" is a true and correct copy of an email from me to Ms. Gavigan sent on August 28, 2008. Ms. Gavigan never responded.

8. At the scheduling conference for this matter on September 8, 2008, Ms. Gavigan requested a three week extension to respond to the RFPDs.

9. Attached as Exhibit "F" is a true and correct copy of an email from me to Ms. Gavigan sent on September 10, 2008 regarding her request for an extension. Ms. Gavigan never responded.

10. I left phone messages for Ms. Gavigan on September 19 and September 26, requesting a response to my discovery proposal or, in the alternative, a date to meet and confer. Ms. Gavigan never responded.

11. As illustrated above, I have attempted to confer with Defendants' counsel in good faith concerning all disputed issues. Defendants' counsel did not respond to any of my three requests to schedule a meet-and-confer. Thus, I certify compliance with Local Rule 37.1.

12. I spent approximately 1 ½ hours preparing this motion and the related memorandum, declaration, and exhibits. A paralegal assisting me, Kelly Muller, spent approximately 3 ½ hours assisting me with these tasks. I anticipate that we will incur additional attorneys' fees of approximately \$600 to prepare the reply memorandum and prepare for and attend the hearing of this motion.

13. I have practiced law for ten years, mostly in the fields of commercial and class action litigation. My usual hourly rate is \$275 per hour. Based on my experience and observations, this rate is at or near the rate for attorneys of comparable experience and expertise in Honolulu. Ms. Muller's rate is \$125 per hour. This rate is at or near the rates for paralegals of comparable experience and expertise in Honolulu.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: Honolulu, Hawai'i, October 1, 2008.

/s/Jason H. Kim
JASON H. KIM

Of Counsel:
LAWYERS FOR EQUAL JUSTICE

VICTOR GEMINIANI 4354
WILLIAM H. DURHAM 8145
GAVIN K. THORNTON 7922
PO Box 37952
Honolulu, HI 96837
Telephone: (808) 779-1744
Email: victor@lejhhawaii.org
william@lejhhawaii.org
gavin@lejhhawaii.org

ALSTON HUNT FLOYD & ING

PAUL ALSTON 1126
JASON KIM 7128
American Savings Bank Tower
1001 Bishop St., 18th Floor
Honolulu, HI 96813
Telephone: (808) 524-1800
Fax: (808) 524-4591
Email: palston@ahfi.com
jkim@ahfi.com

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAI'I

BEVERLY BLAKE, STEPHANIE) CIVIL NO. CV08 00281 SPK
CAMILLERI, ARLENE SUPAPO,) LEK
individually, and on behalf of)
all persons similarly) (Contract) (Declaratory
situated,) Judgment) (Other Civil
) Action)

Plaintiffs,) Class Action
)

vs.) PLAINTIFFS' FIRST REQUEST

CRAIG NISHIMURA, in his) FOR PRODUCTION OF
official capacity as Acting) DOCUMENTS TO DEFENDANT
Director of the Department of) CITY AND COUNTY OF
Facility Maintenance, City and) HONOLULU
County of Honolulu; CITY AND)
COUNTY OF HONOLULU, a)
municipal corporation,)

EXHIBIT A

Defendants.)
)
)

**PLAINTIFFS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO
DEFENDANT CITY AND COUNTY OF HONOLULU**

Plaintiffs BEVERLY BLAKE, STEPHANIE CAMILLERI, ARLENE SUPAPO, individually, and on behalf of all persons similarly situated, (hereinafter "Plaintiffs") requests that Defendant CITY AND COUNTY OF HONOLULU (hereinafter "City", "you", or "your") hereby produce and permit Plaintiffs to inspect and copy the documents in your possession, custody, or control in the attached Schedule of Documents, pursuant to Rule 34 of the Federal Rules of Civil Procedure.

Plaintiffs requests that the documents be produced at the law offices of Alston Hunt Floyd & Ing, 18th Floor, American Savings Bank Tower, 1001 Bishop Street, Honolulu, Hawai'i 96813 or at some other convenient location mutually agreed upon by the parties within thirty (30) days from service hereof.

Plaintiffs further notify you that the inspection and copying will take place in the following manner:

1. You will produce the original of all documents when they are available. When the original is unavailable, the best available copy shall be produced.

2. The documents, or so many of them as Plaintiffs shall select after inspection, shall be copied and the originals

returned to you, unless the parties agree otherwise. Copies of these documents may be made for other parties to this action; each such party shall bear the expense of copying its set of documents.

If you assert that any of the documents requested above are protected from discovery by any evidentiary privilege or attorneys' work product, specify in your written response at least 1) the grounds asserted as the reason for non-production; 2) the date the document was prepared; 3) the identity of the attorneys who drafted or received the documents (if attorney-client privilege or attorneys' work product is claimed), or the identity of the parties who prepared and received the document; and 4) the nature of the document.

DEFINITIONS

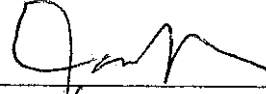
In the interests of brevity, the following abbreviations and definitions are used:

(1) The word "you" or "your" or "City" refers to Defendant City and County of Honolulu, its officers, directors, shareholders, employees, agents, consultants, attorneys or representatives of Defendant City and County of Honolulu;

(2) "Representative" includes any officer, director, owner, employee, agent, or attorney of the company or person referred to;

(3) "Person" includes individuals and firms, partnerships, corporations, joint ventures or other business entities;

DATED: Honolulu, Hawai`i, August 8, 2008.



VICTOR GEMINIANI
WILLIAM H. DURHAM
GAVIN K. THORNTON
LAWYERS FOR EQUAL JUSTICE

PAUL ALSTON
JASON KIM
ALSTON HUNT FLOYD & ING

Attorneys for Plaintiffs

SCHEDULE OF DOCUMENTS AND THINGS

For the purpose of this "Schedule of Documents," the term "documents" is defined in Rule 34 of the Federal Rules of Civil Procedure to include writings, documents, files, drawings, graphs, charts, photographs, phono-records, and other data compilations from which information can be obtained, translated, if necessary by the responding party through detection devices into reasonably usable form, and computer reports, databases, electronic mail, data, data compilations, schedules, tables, charts and graphs. "Documents," therefore, means the original and copies of any and all tangible materials, whether handwritten, typed, printed, printed from computer memory, copied, photographed, recorded or produced or reproduced in any manner upon which is recorded any form of communication or statement, including letters of the English alphabet, words, pictures, symbols, colors, sounds, or any combination of those.

The definition includes but is not limited to, books, records, letters, diaries, appointment books, calendars, itineraries, telegrams, wires, memoranda, interoffice communications, reports, notes, drawings, charts, photographs, movies, tape recordings, computer disks and/or hardware, microfiche, contracts, agreements, travel reports and vouchers, expense accounts and vouchers, ledgers, financial statements, reports or worksheets, schedules, progress reports, bills,

orders, receipts, journals, files, investigation reports, proposals, feasibility studies, estimates and/or projections. The definition of "Documents" encompasses all forms and manifestations of electronically stored and/or retrieved electronic information, in all electronic media (hard drive, diskette or tape), including but not limited to "e-mail" or electronic mail. Material of this type must be produced on a formatted 3-1/2 inch diskette, double-sided, high-density in a DOS compatible format, or in CD-ROM optically readable DOS compatible format, clearly labeled as to the software product used to organize and manipulate the underlying data.

REQUEST FOR PRODUCTION OF DOCUMENTS

1. All documents relating to Defendants' policies and procedures relating to the calculation of utility allowances pursuant to 24 C.F.R. § 5.603(b).
2. All documents relating to the data, information, and methods used by Defendants to calculate utility allowances pursuant to 24 C.F.R. § 5.603(b).
3. All documents relating to Defendants' submissions to the United States Department of Housing and Urban Development relating to the Housing Assistance Payment Contract relating to Westlake Apartments generally and utility allowances specifically.
4. All documents relating to the terms and conditions of Defendants' leases with Plaintiffs and the members of the class they seek to represent and other representations by Defendants regarding their compliance with federal law and regulations relating to affordable housing generally and utility allowances specifically, including but not limited to the "Form HUD 50059-Certification and Recertification of Tenant Eligibility."
5. All documents relating to Defendants' training and supervision of all employees, agents, contractors, or consultants in any way responsible for compliance with federal

laws and regulations relating to affordable housing generally and utility allowances specifically.

6. All documents relating to the changes in the utility rates paid by Plaintiffs and the members of the class they seek to represent from the past ten years or the last time Defendants properly calculated or verified utility allowances for Westlake Apartments, whichever is earlier.

7. All documents relating to Defendants' actual and/or imputed knowledge of such changes in the utility rates paid by Plaintiffs and the members of the class they seek to represent from the past ten years or the last time Defendants properly calculated or verified utility allowances for Westlake Apartments, whichever is earlier.

8. All documents relating to the actual and/or allowed (for purposes of the utility allowance) usage of electricity by tenants of Westlake Apartments for the past ten years or the last time Defendants properly calculated or verified utility allowances for Westlake Apartments, whichever is earlier.

9. Documents sufficient to show the number, identity, and ages of all individuals who are or have been tenants of Westlake Apartments for the past ten years or the last time Defendants properly calculated or verified utility allowances for Westlake Apartments, whichever is earlier.

10. Documents sufficient to show the rents paid by the above-referenced past and present tenants of Westlake Apartments.

11. Documents sufficient to identify the tenants of Westlake Apartments currently in arrears in payment of rent or other amounts due to Defendants, and the amount that they are in arrears.

Of Counsel:
LAWYERS FOR EQUAL JUSTICE

VICTOR GEMINIANI 4354
WILLIAM H. DURHAM 8145
GAVIN K. THORNTON 7922
PO Box 37952
Honolulu, HI 96837
Telephone: (808) 779-1744
Email: victor@lejehawaii.org
william@lejehawaii.org
gavin@lejehawaii.org

ALSTON HUNT FLOYD & ING

PAUL ALSTON 1126
JASON KIM 7128
American Savings Bank Tower
1001 Bishop St., 18th Floor
Honolulu, HI 96813
Telephone: (808) 524-1800
Fax: (808) 524-4591
Email: palston@ahfi.com
jkim@ahfi.com

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAI'I

BEVERLY BLAKE, STEPHANIE	)	CIVIL NO. CV08 00281 SPK
CAMILLERI, ARLENE SUPAPO,	)	LEK
individually, and on behalf of)	
all persons similarly	)	(Contract) (Declaratory
situated,	)	Judgment) (Other Civil
	)	Action)
Plaintiffs,	)	Class Action
)	
vs.	)	CERTIFICATE OF SERVICE
)	
CRAIG NISHIMURA, in his	)	[Re: Plaintiffs' First
official capacity as Acting	)	Request for Production of
Director of the Department of	)	Documents to Defendant
Facility Maintenance, City and	)	City and County of
County of Honolulu; CITY AND	)	Honolulu]
COUNTY OF HONOLULU, a)	
municipal corporation,)	

EXHIBIT B

Defendants.)
)
)

CERTIFICATE OF SERVICE

I hereby certify that on this date I caused the ORIGINAL plus ONE COPY of Plaintiffs' First Request for Production of Documents to Defendant City and County of Honolulu, dated August 8, 2008 to be duly served by HAND DELIVERY upon the following persons at the address shown below:

CARRIE OKINAGA, ESQ.
MARIE GAVIGNAN, ESQ.
Department of the Corporation Counsel
530 S. King Street, Room 110
Honolulu, Hawaii 96813
Attorney for Defendants

DATED: Honolulu, Hawai'i, August 8, 2008.

/s/ Jason H. Kim

VICTOR GEMINIANI
WILLIAM H. DURHAM
GAVIN K. THORNTON
LAWYERS FOR EQUAL JUSTICE

PAUL ALSTON
JASON KIM
ALSTON HUNT FLOYD & ING

Attorneys for Plaintiffs

Service of Process:

1:08-cv-00281-SPK-LEK Blake et al v. Nishimura et al

U.S. District Court

District of Hawaii

Notice of Electronic Filing

The following transaction was entered by Kim, Jason on 8/8/2008 at 3:43 PM HST and filed on 8/8/2008

Case Name: Blake et al v. Nishimura et al

Case Number: 1:08-cv-281

Filer: Beverly Blake
Stephanie Camilleri
Arlene Supapo

Document Number: 12

Docket Text:

CERTIFICATE OF SERVICE by Arlene Supapo, Beverly Blake, Stephanie Camilleri *[Re: Plaintiffs First Request for Production of Documents to Defendant City and County of Honolulu]* (Kim, Jason)

1:08-cv-281 Notice has been electronically mailed to:

Paul Alston palston@ahfi.com, gp@ahfi.com

William H. Durham william@lejehawaii.org, delia@lejehawaii.org, victor@lejehawaii.org

Marie Manuele Gavigan mgavigan@honolulu.gov, ndata@honolulu.gov

Jason H. Kim jkim@ahfi.com, dka@ahfi.com

Gavin K. Thornton gathorn@lashaw.org, gavinthornton@gmail.com

1:08-cv-281 Notice will not be electronically mailed to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

STAMP dcecfStamp_ID=1095854936 [Date=8/8/2008] [FileNumber=543726-0]
2ff1ce0edc730a5b9eca6e80c2f419e7e5525b795a70b79290fc0761115d4d743093d
999d643e87e5286a2da605362c83624a4ede650d86e705821313a158dc0]]

Of Counsel:
LAWYERS FOR EQUAL JUSTICE

VICTOR GEMINIANI 4354
WILLIAM H. DURHAM 8145
GAVIN K. THORNTON 7922
PO Box 37952
Honolulu, HI 96837
Telephone: (808) 779-1744
Email: victor@lejhhawaii.org
william@lejhhawaii.org
gavin@lejhhawaii.org

ALSTON HUNT FLOYD & ING

PAUL ALSTON 1126
JASON KIM 7128
American Savings Bank Tower
1001 Bishop St., 18th Floor
Honolulu, HI 96813
Telephone: (808) 524-1800
Fax: (808) 524-4591
Email: palston@ahfi.com
jkim@ahfi.com

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

BEVERLY BLAKE, STEPHANIE	)	CIVIL NO. CV08 00281 SPK LEK
CAMILLERI, ARLENE SUPAPO,)	
individually, and on behalf of	)	(Contract) (Declaratory
all persons similarly	)	Judgment) (Other Civil
situated,	)	Action)
	)	Class Action
Plaintiffs,)	
	)	PLAINTIFFS' NOTICE OF TAKING
vs.	)	DEPOSITION UPON ORAL
	)	EXAMINATION PURSUANT TO RULE
CRAIG NISHIMURA, in his	)	30(b)(6); EXHIBIT "A"
official capacity as Acting)	
Director of the Department of)	
Facility Maintenance, City and)	
County of Honolulu; CITY AND)	
COUNTY OF HONOLULU, a)	

municipal corporation,)
)
Defendants.)
)

PLAINTIFFS' NOTICE OF TAKING DEPOSITION UPON
ORAL EXAMINATION PURSUANT TO RULE 30(b)(6)

TO: CARRIE OKINAGA, ESQ.
MARIE GAVIGNAN, ESQ.
Department of the Corporation Counsel
530 S. King Street, Room 110
Honolulu, Hawaii 96813

Attorney for Defendants

PLEASE TAKE NOTICE THAT Plaintiffs BEVERLY BLAKE,
STEPHANIE CAMILLERI, ARLENE SUPAPO, individually, and on behalf
of all persons similarly situated, by and through their
attorneys, will take the following deposition at the offices of
Alston Hunt Floyd & Ing, Attorneys At Law, A Law Corporation,
18th Floor, Pacific Tower, 1001 Bishop Street, Honolulu, Hawaii,
96813, on the date and time indicated below or at such date,
time and place as counsel may agree upon:

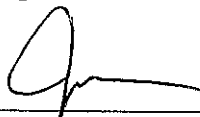
NAME AND ADDRESS	DATE AND TIME
Designated representative of City and County of Honolulu c/o Carrie Okinaga, Esq. Marie Gavignan, Esq. Department of the Corporation Counsel 530 S. King Street, Room 110 Honolulu, Hawaii 96813	August 21, 2008 at 9:30 am

Deponent is required, under Rule 30(b)(6), Federal Rules of Civil Procedure, to designate one or more officials, agents, or other persons who consent to testify on Deponent's behalf on each of the subject matters set forth in Exhibit "A" attached hereto.

Deponent may specify the matters on which each designated person will testify. The person(s) designated shall testify as to matters known or reasonably available to themselves, as well as to the Deponent.

You are invited to attend and cross-examine. The examination will continue from day to day until completed. This deposition shall be taken by Ralph Rosenberg Court Reporters, Inc., 2460 Pacific Tower, 1001 Bishop Street, Honolulu, Hawai'i 96813.

DATED: Honolulu, Hawai'i, August 8, 2008.



VICTOR GEMINIANI
WILLIAM H. DURHAM
GAVIN K. THORNTON
LAWYERS FOR EQUAL JUSTICE

PAUL ALSTON
JASON KIM
ALSTON HUNT FLOYD & ING

Attorneys for Plaintiffs

EXHIBIT "A"

Plaintiffs are directed, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, to designate one or more officers, directors, managing agents, or other persons with knowledge concerning the factual basis of the following:

1. Defendants' policies and procedures relating to the calculation of utility allowances pursuant to 24 C.F.R. § 5.603(b);

2. The data, information, and methods used by Defendants to calculate utility allowances pursuant to 24 C.F.R. § 5.603(b);

3. Defendants' submissions to the United States Department of Housing and Urban Development relating to the Housing Assistance Payment Contract relating to Westlake Apartments generally and utility allowances specifically;

4. The terms and conditions of Defendants' leases with Plaintiffs and the members of the class they seek to represent and other representations by Defendants regarding their compliance with federal law and regulations relating to affordable housing generally and utility allowances specifically, including but not limited to the "Form HUD 50059-Certification and Recertification of Tenant Eligibility";

5. Defendants' training and supervision of all employees, agents, contractors, or consultants in any way

responsible for compliance with federal laws and regulations relating to affordable housing generally and utility allowances specifically;

6. The changes in the utility rates paid by Plaintiffs and the members of the class they seek to represent from the past ten years or the last time Defendants properly calculated or verified utility allowances for Westlake Apartments, whichever is earlier;

7. Defendants' actual and/or imputed knowledge of such changes in the utility rates paid by Plaintiffs and the members of the class they seek to represent from the past ten years or the last time Defendants properly calculated or verified utility allowances for Westlake Apartments, whichever is earlier;

8. The actual and/or allowed (for purposes of the utility allowance) usage of electricity by tenants of Westlake Apartments for the past ten years or the last time Defendants properly calculated or verified utility allowances for Westlake Apartments, whichever is earlier;

9. The number, identity, and ages of all individuals who are or have been tenants of Westlake Apartments for the past ten years or the last time Defendants properly calculated or verified utility allowances for Westlake Apartments, whichever is earlier;

10. The rents paid by the above-referenced past and present tenants of Westlake Apartments; and

11. The identity of tenants of Westlake Apartments currently in arrears in payment of rent or other amounts due to Defendants, and the amount that they are in arrears.

Of Counsel:
LAWYERS FOR EQUAL JUSTICE

VICTOR GEMINIANI 4354
WILLIAM H. DURHAM 8145
GAVIN K. THORNTON 7922
PO Box 37952
Honolulu, HI 96837
Telephone: (808) 779-1744
Email: victor@lejehawaii.org
william@lejehawaii.org
gavin@lejehawaii.org

ALSTON HUNT FLOYD & ING

PAUL ALSTON 1126
JASON KIM 7128
American Savings Bank Tower
1001 Bishop St., 18th Floor
Honolulu, HI 96813
Telephone: (808) 524-1800
Fax: (808) 524-4591
Email: palston@ahfi.com
jkim@ahfi.com

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAI'I

BEVERLY BLAKE, STEPHANIE	)	CIVIL NO. CV08 00281 SPK LEK
CAMILLERI, ARLENE SUPAPO,)	
individually, and on behalf of	)	(Contract) (Declaratory
all persons similarly	)	Judgment) (Other Civil Action)
situated,	)	Class Action
)	
Plaintiffs,	)	CERTIFICATE OF SERVICE
)	
vs.	)	[Re: Plaintiffs' Notice Of
	)	Taking Deposition Upon Oral
CRAIG NISHIMURA, in his	)	Examination Pursuant To Rule
official capacity as Acting	)	30(b)(6)]
Director of the Department of)	
Facility Maintenance, City and)	
County of Honolulu; CITY AND)	
COUNTY OF HONOLULU, a)	

municipal corporation,)
)
 Defendants.)
)
_____)

CERTIFICATE OF SERVICE

I hereby certify that on this date I caused the Original of Plaintiffs' Notice of Taking Deposition Upon Oral Examination Pursuant to Rule 30(b)(6), dated August 8, 2008 to be duly served by HAND DELIVERY upon the following persons at the address shown below:

CARRIE OKINAGA, ESQ.
MARIE GAVIGNAN, ESQ.
Department of the Corporation Counsel
530 S. King Street, Room 110
Honolulu, Hawaii 96813
Attorney for Defendants

DATED: Honolulu, Hawai'i, August 8, 2008.

_____/s/ Jason H. Kim
VICTOR GEMINIANI
WILLIAM H. DURHAM
GAVIN K. THORNTON
LAWYERS FOR EQUAL JUSTICE

PAUL ALSTON
JASON KIM
ALSTON HUNT FLOYD & ING
Attorneys for Plaintiffs

Service of Process:

1:08-cv-00281-SPK-LEK Blake et al v. Nishimura et al

U.S. District Court

District of Hawaii

Notice of Electronic Filing

The following transaction was entered by Kim, Jason on 8/8/2008 at 3:38 PM HST and filed on 8/8/2008

Case Name: Blake et al v. Nishimura et al

Case Number: 1:08-cv-281

Filer: Beverly Blake
Stephanie Camilleri
Arlene Supapo

Document Number: 11

Docket Text:

CERTIFICATE OF SERVICE by Arlene Supapo, Beverly Blake, Stephanie Camilleri [Re: Plaintiffs Notice Of Taking Deposition Upon Oral Examination Pursuant To Rule 30(b)(6)] (Kim, Jason)

1:08-cv-281 Notice has been electronically mailed to:

Paul Alston palston@ahfi.com, gp@ahfi.com

William H. Durham william@lejehawaii.org, delia@lejehawaii.org, victor@lejehawaii.org

Marie Manuele Gavigan mgavigan@honolulu.gov, ndata@honolulu.gov

Jason H. Kim jkim@ahfi.com, dka@ahfi.com

Gavin K. Thornton gathorn@lashaw.org, gavinthornton@gmail.com

1:08-cv-281 Notice will not be electronically mailed to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

STAMP dcecfStamp_ID=1095854936 [Date=8/8/2008] [FileNumber=543701-0]
[03642c8d87a160e2b2639456843b284a72cd8fa3009c9d4d41811b844165b1ebb82f8
a04491ba9c912235a597856a2fd780e4bf6c5341f31b4ad3cf747550d71]]

From: Jason Kim
To: mgavigan@honolulu.gov
Date: 08/28/2008 1:51 PM
Subject: Blake v. Nishimura — discovery
CC: Gavin Thornton; PAUL Alston; victor geminiani; William Durham

Marie:

Last week we discussed the fact that Defendants Initial Disclosures were due and that we wanted to reschedule the 30b6 deposition of the City & County soon after we received them.

Has this case been reassigned yet? If so please send me the contact information for the new attorney handling this matter.

We want to get this case moving and need to get the disclosures and conduct the deposition. We do not want to involve the court now but will if we have to.

Jason H. Kim
ALSTON HUNT FLOYD & ING
1001 Bishop Street, 18th floor
Honolulu, HI 96813
(808) 524-1800

This email may contain confidential and attorney-client privileged information.

EXHIBIT E

From: Jason Kim
To: mgavigan@honolulu.gov
Date: 09/10/2008 3:53 PM
Subject: Blake v. Nishimura — outstanding discovery
CC: Delia L'Heureux; Gavin Thornton; PAUL Alston; victor geminiani; William Durham

Marie:

I am writing to follow up on our discussion Monday regarding an extension of the deadlines for discovery due that day.

We will extend the deadline for your response by close to 3 weeks — until September 26. We do, however, need Defendants to serve meaningful initial disclosures, including the specific documents requested in my previous email (most notably the HAP contract for Westlake and the City and County's last utility allowance filing) before then, by September 19. Initial disclosures were due on August 14 so this represents a substantial extension of time. Finally, we would like to reschedule the 30(b)(6) deposition -- originally set for August 21 -- for September 29.

If you cannot commit to these deadlines, please inform me as soon as possible and let me know when you are available tomorrow or Friday for a meet-and-confer prior to our seeking the court's assistance in moving this case forward.

Jason H. Kim
ALSTON HUNT FLOYD & ING
1001 Bishop Street, 18th floor
Honolulu, HI 96813
(808) 524-1800

This email may contain confidential and attorney-client privileged information.

EXHIBIT F

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAI'I

BEVERLY BLAKE, STEPHANIE	)	CIVIL NO. CV08 00281 SPK LEK
CAMILLERI, ARLENE SUPAPO,)	
individually, and on	)	(Contract) (Declaratory
behalf of all persons	)	Judgment) (Other Civil
similarly situated,	)	Action)
	)	Class Action
Plaintiffs,)	
	)	CERTIFICATE OF SERVICE
vs.)	
)	
CRAIG NISHIMURA, in his)	
official capacity as)	
Acting Director of the)	
Department of Facility)	
Maintenance, City and)	
County of Honolulu; CITY)	
AND COUNTY OF HONOLULU, a)	
municipal corporation,)	
)	
Defendants.)	
)	

CERTIFICATE OF SERVICE

IT HEREBY CERTIFY that on this date and method of service noted below, a true and correct copy of the foregoing was served on the following at their last known address:

Served electronically through CM/ECF:

Marie Manuele Gavigan, Esq. mgavigan@honolulu.gov
Attorney for Defendants

DATED: Honolulu, Hawai`i, October 1, 2008.

 /s/ Jason H. Kim

VICTOR GEMINIANI
WILLIAM H. DURHAM
GAVIN K. THORNTON
LAWYERS FOR EQUAL JUSTICE

PAUL ALSTON
JASON KIM
ALSTON HUNT FLOYD & ING

Attorneys for Plaintiffs