

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

‘ŌLELO: THE CORPORATION FOR COMMUNITY TELEVISION,)	CIVIL NO. 04-1-1520-08 VSM
)	(Declaratory Judgment)
)	
Plaintiff,)	DECLARATION OF KEALI‘I LOPEZ;
)	EXHIBITS 1-9
vs.)	
)	
OFFICE OF INFORMATION PRACTICES and LES KONDO, Director of the Office of Information Practices, in his official capacity,)	
)	
Defendants.)	
)	

DECLARATION OF KEALI‘I LOPEZ

I, KEALI‘I LOPEZ, hereby declare as follows:

1. I am the Chief Executive Officer (“CEO”) of Plaintiff ‘Ōlelo: The Corporation for Community Television (“‘Ōlelo”). I make this declaration based on my personal knowledge unless otherwise stated.

2. My maiden name was Keali‘i Segool. At or around 1989, I was employed as the Director of Community Programming by Oceanic Cablevision, and was asked by the then Director of the Department of Commerce and Consumer Affairs (“DCCA”), Robert Alm, to sit on the PEG Access Planning Committee (“Access Committee”). None of the members of the Access Committee were DCCA employees. The Access Committee decided that an independent non-profit corporation should be formed to manage the PEG access channels. I was one of the original seven incorporators. Only one of the incorporators was a State employee.

3. I later became the Chief Operating Officer of ‘Ōlelo from 2000-2004, and the CEO in 2004. To my knowledge, ‘Ōlelo’s Board of Directors has first approved all appointments made by the DCCA Director.

4. The staff and I run ‘Ōlelo’s day-to-day operations. DCCA does not interfere in, direct, or control ‘Ōlelo’s day-to-day operations. The staff and I are paid by ‘Ōlelo. We are not State employees, are not eligible for State employee retirement or other benefits, and do not

belong to the State government employee union. I answer only to 'Ōlelo's Board. DCCA was not involved in hiring me and has no power to fire me.

5. As 'Ōlelo's CEO, I am familiar with the leases and ownership documents regarding 'Ōlelo's property. The State does not have title to 'Ōlelo's personal or real property. 'Ōlelo is the sole title owner of its equipment and the lessee of its leases for its main office in Māpunapuna and its satellite facilities.

6. As 'Ōlelo's CEO, I am familiar with the contract documents between 'Ōlelo and DCCA, and 'Ōlelo's by-laws. Attached hereto as Exhibit 1 is a true and correct copy of the agreement between DCCA and 'Ōlelo dated 1990.

7. Attached hereto as Exhibit 2 is a true and correct copy of the agreement between DCCA and 'Ōlelo dated 1991.

8. Attached hereto as Exhibit 3 is a true and correct copy of the agreement between DCCA and 'Ōlelo dated 1998. This agreement has been extended to the present via several supplemental agreements.

9. Attached hereto as Exhibit 4 is a true and correct copy of 'Ōlelo's initial By-Laws dated September 29, 1989.

10. Attached hereto as Exhibit 5 is a true and correct copy of 'Ōlelo's current By-Laws dated June 22, 2004.

11. Attached hereto as Exhibit 6 is a true and correct copy of Defendant Office of Information Practices ("OIP's") 2002 Opinion, OIP Op. Ltr. No. 02-08. OIP mailed this opinion to 'Ōlelo.

12. Attached hereto as Exhibit 7 is a true and correct copy of OIP's opinion relating to Akakū, the Maui PEG access provider, OIP Op. Ltr. No. 93-18. This copy was obtained from OIP's official website.

13. Attached hereto as Exhibit 8 is a true and correct copy of OIP's opinion relating to Ho'ike, the Kaua'i PEG access provider, OIP Op. Ltr. 94-23. This copy was obtained from OIP's official website.

14. Attached hereto as Exhibit 9 is a true and correct copy of OIP's opinion relating to Nā Leo, the Hawai'i island PEG access provider, OIP Op. Ltr. 94-24. This copy was obtained from OIP's official website.

13. Attached hereto as Exhibit 8 is a true and correct copy of OIP's opinion relating to Ho'ike, the Kaua'i PEG access provider, OIP Op. Ltr. 94-23. This copy was obtained from OIP's official website.

14. Attached hereto as Exhibit 9 is a true and correct copy of OIP's opinion relating to Nā Leo, the Hawai'i island PEG access provider, OIP Op. Ltr. 94-24. This copy was obtained from OIP's official website.

15. Prior to the formation of 'Ōlelo, Oceanic was responsible for managing the PEG access channels. I know this because I was Oceanic's Director of Community Programming.

16. In my position at Oceanic's Director of Community Programming, and my positions as COO and CEO of 'Ōlelo, I have been aware of developments in PEG access channel management across the nation. I regularly read publications regarding PEG access and have attended national conferences regarding PEG access channel management. I have personally met numerous heads of PEG access organizations. Non-profit organizations like 'Ōlelo are often selected to manage PEG access channels. For-profit cable companies, sometimes retain management of the PEG access channels themselves.

Pursuant to Rule 7(g) of the Rules of the Circuit Courts of the State of Hawai'i, I, Keali'i Lopez, do declare under penalty of perjury that the foregoing is true and correct.

DATED: Honolulu, Hawai'i, April 1, 2005


KEALI'I LOPEZ