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PROthonAL CLERK  
THIRD CIRCUIT COURT  
STATE OF HAWAII

Attorneys for Defendant  
HOUSING AND COMMUNITY DEVELOPMENT  
CORPORATION OF HAWAII

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT  
STATE OF HAWAII

RODELLE SMITH, SHEILA TOBIAS,	)	CIVIL NO. 04-1-0069K
BARBARA BARAWIS, and LEWIS	)	(Other Civil Action)
GLASER individually, and on	)	
behalf of all persons	)	DEFENDANT'S ANSWER TO
similarly situated,	)	AMENDED COMPLAINT, FILED ON
	)	AUGUST 10, 2004; CERTIFICATE
Plaintiffs	)	OF SERVICE
	)	
vs.	)	
	)	
HOUSING AND COMMUNITY	)	
DEVELOPMENT CORPORATION OF	)	
HAWAII, a duly organized and	)	
recognized agency of the State	)	
of Hawaii.	)	
	)	
Defendant.	)	
	)	
	)	

DEFENDANT'S ANSWER TO AMENDED COMPLAINT  
FILED ON AUGUST 10, 2004

Defendant HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII, a duly organized and recognized agency of the State of Hawaii, files this Answer to the Amended Complaint filed on August 10, 2004.

FIRST DEFENSE

1. The Amended Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

2. The Amended Complaint is barred by sovereign immunity and the Eleventh Amendment to the United States Constitution.

THIRD DEFENSE

3. The Amended Complaint is barred for lack of jurisdiction.

FOURTH DEFENSE

4. Defendant admits the allegations contained in paragraph 13.

5. As to the following paragraphs, Defendant admits only to the cited statutory or regulatory references and only to the extent that they are quoted accurately: 1 (Part I), 2 (Part I), 3 (Part I), 4 (Part I), 29, and 30.

6. As to the following paragraphs, Defendant has not completed discovery sufficient to obtain information to form a belief as to the truth or accuracy of allegations contained therein, and therefore deny the same at this time: 4 (Part III), 5 (Part III), 6 (Part III), 7 (Part III), 8 (Part III), 9 (Part III), 10 (Part III), 11 (Part III), 12 (Part III), 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 31, and 32.

7. Defendant denies the allegations contained in paragraphs 8 (Part I), 1 (Part II), 2 (Part II), 3 (Part II), 26, 27, 33 and the Prayer for Relief.

FIFTH DEFENSE

8. The Amended Complaint is barred by official and qualified immunity of the Defendant.

SIXTH DEFENSE

9. The Amended Complaint is barred by the applicable statute of limitations and the equitable doctrines of laches and waiver.

SEVENTH DEFENSE

10. Defendant cannot be held liable on any claim based upon acts or omissions in the performance of, or failure to perform, a discretionary function.

EIGHTH DEFENSE

11. The Amended Complaint is barred because Plaintiffs failed to exhaust their administrative remedies.

NINTH DEFENSE

12. All or portions of the Amended Complaint may be barred by res judicata or collateral and equitable estoppel.

TENTH DEFENSE

13. All or portions of the Amended Complaint may be barred by mootness or accord and satisfaction.

ELEVENTH DEFENSE

14. Defendant may assert other defenses or matters constituting an avoidance or affirmative defense to the Amended Complaint, and reserves the right to seek to amend this Answer to allege such other defenses during the course of further investigation, discovery or trial in this matter.


WHEREFORE, Defendant prays that this Court:

1. Dismiss the Amended Complaint in its entirety;
2. Order the Plaintiffs to refrain from or otherwise interfere with Defendant's lawful exercise of its statutory, administrative or regulatory functions;
3. Award Defendant its reasonable attorneys

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DATED: Honolulu, Hawaii, November 29, 2004



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OF HAWAII