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THIRD CIRCUIT COURT
STATE OF HAWAII

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IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

SEAN W. PAGETT,
Plaintiff,

vs.

DEPARTMENT OF LAND AND NATURAL
RESOURCES, STATE OF HAWAII,
Defendant.

) CIVIL NO. 17-1-127K
) Declaratory Judgment
)
) ORDER (1) GRANTING IN PART AND
) DENYING IN PART DEPARTMENT OF
) LAND AND NATURAL RESOURCES,
) STATE OF HAWAII'S MOTION TO
) DISMISS FOR LACK OF SUBJECT-
) MATTER JURISDICTION OR,
) ALTERNATIVELY, FOR SUMMARY
) JUDGMENT, FILED JUNE 14, 2017;
) AND (2) DENYING PLAINTIFF'S
) MOTION FOR SUMMARY JUDGMENT,
) FILED JUNE 14, 2017
)
) HEARING:
) Judge: Hon. Melvin H. Fujino
) Hearing Date: July 27, 2017
) Hearing Time: 8:30 a.m.
)
)
)

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Clerk, Third Circuit Court, State of Hawaii

ORDER (1) GRANTING IN PART AND DENYING IN PART DEPARTMENT OF LAND AND NATURAL RESOURCES, STATE OF HAWAII'S MOTION TO DISMISS FOR LACK OF SUBJECT-MATTER JURISDICTION OR, ALTERNATIVELY, FOR SUMMARY JUDGMENT, FILED JUNE 14, 2017; AND (2) DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, FILED JUNE 14, 2017

DEPARTMENT OF LAND AND NATURAL RESOURCES, STATE OF HAWAII'S MOTION TO DISMISS FOR LACK OF SUBJECT-MATTER JURISDICTION OR, ALTERNATIVELY, FOR SUMMARY JUDGMENT, filed June 14, 2017 ("DLNR's Motion"); and PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, filed June 14, 2017, came on for hearing in the above entitled court, the Honorable Melvin H. Fujino presiding, on July 27, 2017.

Jason R. Braswell appeared on behalf of Plaintiff. David D. Day, Deputy Attorney General, appeared on behalf of Department of Land and Natural Resources, State of Hawai'i ("DLNR").

The Court has considered the moving and opposition papers and the arguments of counsel. The Court is fully advised.

NOW THEREFORE, IT IS HEREBY ORDERED that DLNR's Motion is GRANTED IN PART and DENIED IN PART. "Although HRS § 91-7 does not give the circuit court jurisdiction to hear a challenge to the application of a rule, it clearly does provide for attacks on a rule's validity." *Puana v. Sunn*, 69 Haw. 187, 189, 737 P.2d 867, 869 (1987). The Court lacks subject-matter jurisdiction over the Complaint, filed on April 6, 2017, because Plaintiff challenges the application of Hawaii Administrative Rule § 13-244-19, not its validity. Therefore, the Court grants DLNR's Motion to the extent it moves for dismissal of the Complaint for lack of subject-matter jurisdiction. DLNR's Motion is denied in all other respects on the grounds of mootness.

