

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

MAUNALUA BAY BEACH OHANA 28, a Hawaii non-profit corporation;
MAUNALUA BAY BEACH OHANA 29, a Hawaii non-profit corporation;
MAUNALUA BAY BEACH OHANA 38, a Hawaii non-profit corporation,
individually and on behalf of all others similarly situated,
Plaintiffs-Appellees,

v.

STATE OF HAWAII, Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(Civil No. 05-1-0904)

ORDER DENYING PLAINTIFFS-APPELLEES' MOTION
FOR RECONSIDERATION OF SUMMARY DISPOSITION ORDER
(By: Foley and Fujise, JJ.; Nakamura, C.J., concurring
separately and dissenting)¹

Upon consideration of Plaintiffs-Appellees' January 11,
2010 Motion for Reconsideration of the Intermediate Court of
Appeals' Opinion filed on December 30, 2009, the papers in
support of the motion, and the records and files in this case,

IT IS HEREBY ORDERED that the motion is denied.

DATED: Honolulu, Hawaii, January 20, 2010.

On the motion:

Paul Alston and
Laura Couch
for Plaintiffs-Appellees.

Clare R. Foley
Associate Judge

Alexa D.M. Fujise
Associate Judge

I concur in the denial of Plaintiffs-Appellees' Motion
for Reconsideration, except that, consistent with my concurring
and dissenting opinion, I would grant Plaintiffs-Appellees'
motion to the extent it seeks reconsideration of matters
addressed in the majority opinion that were not before this court
on appeal.

Craig H. Nakamura
Chief Judge

¹ Former Associate Judge Corinne K.A. Watanabe was a member of the panel
on this appeal but retired from her judgeship effective December 31, 2009.
Associate Judge Alexa D.M. Fujise was assigned to the panel to fill the
vacancy created by the retirement of Judge Watanabe.

ENRIQUANDO
CLERK, APPELLATE COURTS
STATE OF HAWAII

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FILED