

IN THE SUPREME COURT OF THE STATE OF HAWAII

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NORRIS A. TOVARA
CLERK APPELLATE COURTS
STATE OF HAWAII

2006 MAR 22 PM 1:56

FILED

CITY AND COUNTY OF HONOLULU, a municipal corporation of State
of Hawaii,
Plaintiff-Appellee/Cross-Appellant/Cross-Appellee

vs.

JAMES M. SHERMAN, also known as James Malcolm Sherman, and AKIKO S. SHERMAN, also known as Akiko Sakiyama Sherman, as Trustees under that certain unrecorded James M. Sherman and Akiko S. Sherman Revocable Trust dated May 2, 1989; JAN CAMILLE BELLINGER, Trustee under the Jan Camille Bellinger Revocable Living Trust, under that certain unrecorded Trust, Agreement dated November 23, 1993, CLARENCE K. LEE, as Trustee of and for the Clarence K. Lee Revocable Trust, under that certain unrecorded Trust Agreement dated January 28, 1992, as amended; and MYRNA P. CHUN-HOON, Successor Trustee under that certain unrecorded Revocable Trust of Albert C.K. Chun-Hoon dated October 11, 1984, as amended, and MYRNA P. CHUN-HOON, Trustee under that certain unrecorded Revocable Trust of Myrna P. Chun-Hoon, dated October 11, 1984, as amended, GEORGE B. GARIS, also known as George Benjamin Garis, as Trustee under that certain unrecorded George B. Garis Revocable Trust dated November 28, 1989, as amended; CHINH TRONG LE; KAREN WILSON ROSA; ELIZABETH W. TAKAHASHI, Trustee of the Elizabeth W. Takahashi Revocable Living Trust under that certain unrecorded Trust Agreement dated July 14, 1993, STUART EDWIN GROSS, as Trustee under that certain unrecorded Trust Agreement known as The Stuart E. Gross Trust dated February 19, 1985, and MARCIA KURZWEIL GROSS, as Trustee under that certain unrecorded Trust Agreement known as The Marcia K. Gross Trust dated February 19, 1985; JOHN PHILIP SPIERLING; MARK SPERRY and MOLLIE SPERRY, Co-Trustees of the Mark Sperry Revocable Trust dated May 29, 1989, and MOLLIE SPERRY AND MARK SPERRY, Co-Trustees of The Mollie Sperry Revocable Trust dated May 29, 1989; SAYURI TANIGUCHI and ERICA TANIGUCHI DORMAN; KENNETH GRAHAM PATTERSON and LILLIAN PAPACOLAS PATTERSON; MOSES MOSAI LO and SHEILA DICKENSON LO; FRANK K. MIN, also known as Frank Kui Pong Min, and ELAINE N. MIN, also known as Elaine Nam Min, Trustees under that certain Trust Agreement dated April 9, 1985, and ELAINE N. MIN, also known as Elaine Nam Min and FRANK K. MIN, also known as Frank Kui Pong Min, Trustees under that certain Trust Agreement dated April 9, 1985; ARTHUR R. KING, JR., and RUTH MILDRED KING, Co-Trustees of the unrecorded Arthur R. King, Jr. Trust Agreement dated May 18, 1990; and RUTH MILDRED KING and ARTHUR R. KING, Co-Trustees of the unrecorded Ruth Mildred King Trust Agreement dated May 18, 1990; DEANNA LOU LEVY, as Trustee under that certain unrecorded

Trust Agreement known as The Deanna Lou Levy Revocable Trust dated December 4, 1990; ROBERT G. LEES and YUKO LEES, Co-Trustees under that certain unrecorded Trust Agreement known as The Yuko Lees Trust dated June 14, 2000; ELISABETH KEHRER ANDERSON, as Trustee of the Elisabeth Kehrer Anderson Revocable Living Trust Agreement dated June 29, 1981, as amended and restated; RAMEZ BASSIR; PAUL JOHN CASEY, as Trustee under that certain unrecorded Self-Trusteed Trust dated August 31, 1987, and JANICE YOKO CASEY, as Trustee under that certain unrecorded Self-Trusteed Trust dated May 20, 1988; GEORGE HENRY LUMSDEN and JOANNE CHUN LUMSDEN; ANN TAKAKO YAMAMOTO, as Trustee of the Self-Trusteed Trust Agreement of Ann Takako Yamamoto, under unrecorded Trust Agreement of Ann Takako Yamamoto dated April 10, 2000; FRANCES M. WATANABE, Trustee under that certain unrecorded Frances M. Watanabe Revocable Trust dated April 2, 1993, MEREDITH KWOCK LEONG PANG; NEIL SIMMS BELLINGER, Trustee under that certain unrecorded Neil S. Bellinger Revocable Living Trust dated November 20, 2002; WALLACE LEE YOUNG and ERNESTINE CHING YOUNG; JOYCE A HAGIN and LAWRENCE REICH; DAVID PATRICK KELLY and KEIKO KELLY; PATRICIA CARLEEN BROWN, Trustee for the Patricia Carleen Brown Revocable Trust Agreement dated January 21, 1993; RANDY NEIL YEAGER and SUSAN KAYCIE YEAGER; and GAIL SUZANNE KOGLMAN, Defendants-Appellants/Cross-Appellees,

and

FIRST UNITED METHODIST CHURCH, a Hawaii non-profit corporation, Defendant-Appellee/Cross-Appellee/Cross-Appellant,

and

JOHN DOE 1-200; MARY DOE 1-200; DOE PARTNERSHIP 1-100; DOE CORPORATION 1-100; DOE NON-PROFIT CORPORATION 1-100; DOE ENTITY 1-100, Defendants.

NO. 26896

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 03-1-0963)

MARCH 22, 2006

ORDER OF CORRECTION
(By: Levinson, J.)

The opinion of the court, filed on February 28, 2006, is hereby corrected as to the following (text to be deleted is stricken and text to be added is bracketed):

Page 12, line 1:

Regarding the requisite ~~minium~~ [minimum] number [of] qualifying

Page 39, second paragraph, line 5:

~~for~~ [from] a zoning regulation or landmarking law.

Page 50, second paragraph, line 11:

expressly stated in ROH § 38-2.4(4)," see supra note ~~12~~ [11] at the

Page 51, third paragraph, line 2:

~~supra~~ note ~~12~~ [11], to mean that a lessee may not own fee simple

Page 53, first paragraph, line 1:

response [to] the lessees' argument that the filing date of a lessee's

Page 56, first paragraph, line 2:

DCS Rules § 2-3 ~~impermissible~~ [impermissibly] lowered the minimum number of

Page 76, second paragraph, line 3:

qualifications of the lessees. Pursuant to ROH §[§] 38-1.7 and

The Clerk of the Court is directed to incorporate the foregoing changes in the original opinion.

Steven H. Levinson
STEVEN H. LEVINSON
Associate Justice

