

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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KEAHOLE DEFENSE COALITION, INC., a Hawai'i
nonprofit corporation; PEGGY J. RATLIFF and
MAHI COOPER, Appellants-Appellees

vs.

BOARD OF LAND AND NATURAL RESOURCES, STATE OF
HAWAI'I; DEPARTMENT OF LAND AND NATURAL RESOURCES,
STATE OF HAWAI'I; HAWAII ELECTRIC LIGHT COMPANY, INC.,
a Hawai'i corporation, DEPARTMENT OF HAWAIIAN HOME
LANDS, STATE OF HAWAI'I, Appellees-Appellee

and

WAIMANA ENTERPRISES, INC., a Hawai'i
corporation, Appellee-Appellant
(CIV. NO. 02-1-0068K)

K. HAMAKAKO
CLERK, APPELLATE COURTS
STATE OF HAWAII

2006 MAY 25 PM 12: 28

FILED

DEPARTMENT OF HAWAIIAN HOME LANDS, STATE
OF HAWAI'I, Appellant-Appellee

vs.

DEPARTMENT OF LAND AND NATURAL RESOURCES, STATE OF
HAWAI'I; BOARD OF LAND AND NATURAL RESOURCES, STATE OF
HAWAI'I; HAWAII ELECTRIC LIGHT COMPANY, INC., a Hawai'i
corporation, PEGGY J. RATLIFF, MAHI COOPER, KEAHOLE
DEFENSE COALITION, INC., a Hawai'i nonprofit corporation,
Appellees-Appellees

and

WAIMANA ENTERPRISES, INC., a Hawai'i
corporation, Appellee-Appellant
(CIV. NO. 02-1-0079K)

NO. 26305

ORDER OF AMENDMENT
(CIV. NOS. 02-1-68K & 02-1-0079K)

MAY 25, 2006

MOON, C.J., LEVINSON, ACOBA, JJ., CIRCUIT
JUDGE DEL ROSARIO FOR NAKAYAMA, J., RECUSED, AND
CIRCUIT JUDGE CHAN FOR DUFFY, J., RECUSED; WITH CIRCUIT
JUDGE DEL ROSARIO CONCURRING SEPARATELY
AND WITH WHOM ACOBA, J., JOINS

The opinion of the court, filed on May 18, 2006, is amended as follows (deletions are bracketed/stricken and the additions are double underscored):

Line 11 from the top of page 2: We hold that

[~~(1)~~] Appellee-Appellant Waimana

Line 17 from the top of page 2: [~~(a)~~] was barred by collateral estoppel[~~(7)~~] and[~~(b)~~] does not have a

Line 21 from the top of page 2 to line 4 from the top of page 3: Constitution[~~(7)~~],² [~~(2)~~] notwithstanding the lack of a property interest, Waimana was given due process; (~~3~~) Waimana fails to establish an equal protection violation; and (~~4~~) Waimana has failed to establish a breach of the public trust,] and, thus, [~~(5)~~] the circuit court of the third circuit (the court),³ did not

The Clerk of the Court is directed to incorporate the foregoing changes in the original opinion and take all necessary

^{2/} Article I, section 5 of the Hawai'i Constitution, entitled "Due Process and Equal Protection," provides that:

^{3/} The Honorable Ronald Ibarra presided.

steps to notify the publishing agencies of these changes.

Myron

Stan Levinson

Lawrence

David DeKosar

Paul H. Chan