

NO. 29217

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

VP&PK (ML) LLC; NEW SAND HILLS, LLC;  
MAUI LANI GOLF INVESTORS, LLC; MAUI LANI 100, LLC;  
MAUI LANI PHASE 6, LLC; MAUI LANI PARTNERS;  
THE TRADITIONS, INC.; CHRISTINE S. WONG and  
FREDERICK K. WONG, Petitioners,

vs.

THE HONORABLE JOEL E. AUGUST, JUDGE OF THE  
CIRCUIT COURT OF THE SECOND CIRCUIT,  
STATE OF HAWAI'I; MAYOR CHARMAINE TAVARES,  
SUCCESSOR-IN-INTEREST TO MAYOR ALAN ARAKAWA,  
JEFF HUNT, DIRECTOR OF PLANNING, COUNTY OF MAUI,  
SUCCESSOR-IN-INTEREST TO DIRECTOR MICHAEL FOLEY,  
COUNTY OF MAUI; JOHN G.; KCOM CORP.; KILA KILA  
CONSTRUCTION; and DOE DEFENDANTS 1-100, Respondents.

NORMA T. YARA  
CLERK, APPELLATE COURTS  
STATE OF HAWAI'I

2008 JUL -8 PM 2:48

FILED

ORIGINAL PROCEEDING  
(CIVIL NO. 07-1-0258)

ORDER

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon consideration of the petition for a writ of mandamus filed by petitioners VP&PK (ML) LLC, New Sand Hills LLC, Maui Lani Golf Investors LLC, Maui Lani 100 LLC, Maui Lani Phase 6 LLC, Maui Lani Partners, The Traditions, Inc., Christine Wong, and Frederick Wong and the papers in support, it appears that the June 4, 2008 order denying dismissal of Counts I and II for failure to join indispensable parties is the subject of a pending motion for reconsideration. If reconsideration of the June 4, 2008 order is denied and if declaratory and injunctive relief is granted on Counts I and II, the June 4, 2008 order will be reviewable on a appeal from a final judgment on Counts I and II.

It further appears that petitioners Christine Wong and Frederick Wong have actual knowledge of the pending litigation on Counts I and II, they are property owners whom the respondent judge considers to be interveners of right on Counts I and II, they can timely intervene on Counts I and II, and they can appeal from any adverse final judgment on Counts I and II and seek a stay of such judgment pending appeal pursuant to HRAP 8. Likewise, all other petitioners, as parties to Civil No. 07-1-0258, can appeal from any adverse final judgment on Counts I and II and can seek a stay of such judgment pending appeal. Therefore, petitioners Christine Wong, Frederick Wong, and all other petitioners are not entitled to mandamus relief. See Kema v. Gaddis, 91 Hawai'i 200, 204-05, 982 P.2d 334, 338-39 (1999) (A writ of mandamus is an extraordinary remedy that will not issue unless the petitioner demonstrates a clear and indisputable right to relief and a lack of alternative means to redress adequately the alleged wrong or obtain the requested action. Such writs are not intended to supersede the legal discretionary authority of the lower courts, nor are they intended to serve as legal remedies in lieu of normal appellate procedures.). Our standard for a writ of mandamus cited in Hawaii Nat. Bank, Honolulu v. Okino, 51 Haw. 367, 368, 461 P.2d 136, 137 (1969) was based on HRS § 659-2 (1968) that was repealed in 1972.

It finally appears that petitioners Christine Wong, Frederick Wong, and all other petitioners do not have standing to seek further mandamus relief on behalf of other unnamed petitioners. Accordingly,

IT IS HEREBY ORDERED that the petition for a writ of mandamus is denied.

DATED: Honolulu, Hawai'i, July 8, 2008.



Steven L. Levinson

Anna C. Takayama



James E. Duggan, Jr.