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SCPW-16-0000856

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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SPD II MAKAIWA RESORT DEVELOPMENT, LLC, a New York  
limited liability company, Petitioner,

vs.

SUZANNE CASE, Chairperson of the Department of Land  
and Natural Resources, State of Hawai'i, Respondent.

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ORIGINAL PROCEEDING  
(DLNR FILE NO. KA-407)

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

(By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson, JJ.)

Upon consideration of petitioner SPD II Makaiwa Resort Development, LLC's petition for writ of mandamus, filed on December 9, 2016, the documents attached thereto and submitted in support thereof, and the record, it appears that petitioner fails to demonstrate that it has a clear and indisputable right to the requested relief and may raise its concerns in the pending matter before the Department of Land and Natural Resources or in any subsequent appeal, as appropriate. Petitioner, therefore, is not entitled to the requested writ of mandamus. See Kema v. Gaddis, 91 Hawai'i 200, 204, 982 P.2d 334, 338 (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); Barnett v. Broderick, 84 Hawai'i 109, 111, 929 P.2d 1359, 1361 (1996) (a writ of mandamus is available to compel an official to perform a duty allegedly owed to an individual only if the individual's claim is clear and certain, the official's duty is ministerial and so plainly prescribed as to be free from doubt, and no other remedy is available). Accordingly,

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

DATED: Honolulu, Hawai'i, January 5, 2017.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson

