NO. SCWC-29696

IN THE SUPREME COURT OF THE STATE OF HAWAI`I

Electronically Filed
Supreme Court
SCWC-29696
13-NOV-2012
02:06 PM

DOUGLAS LEONE AND PATRICIA A. PERKINS-LEONE, as Trustees under that certain unrecorded Leone-Perkins Family Trust dated August 26, 1999, as amended, Respondents-Plaintiffs-Appellants, vs. COUNTY OF MAUI, a political subdivision of the State of Hawaii; WILLIAM SPENCE, in his capacity as Director of the Department of Planning of the County of Maui, Petitioners-Defendants-Appellees.	Civil No. 07-1-0496(3) ICA No. 29696 APPEAL FROM: (1) ORDER GRANTING DEFENDANTS' MOTION TO DISMISS COMPLAINT FILED NOVEMBER 19, 2007 OR IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT OR PARTIAL SUMMARY JUDGMENT ENTERED ON MARCH 2, 2009; (2) FINAL JUDGMENT ENTERED MARCH 2, 2009; (3) ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS' MOTION FOR AN AWARD OF FEES, COSTS AND EXPENSES ENTERED HEREIN ON MAY 18, 2009; AND (4) AMENDED JUDGMENT ENTERED HEREIN ON JUNE 5, 2009 CIRCUIT COURT OF THE SECOND CIRCUIT, STATE OF HAWAII Honorable Joseph E. Cardoza, Judge
WILLIAM L. LARSON and NANCY H. LARSON, as Trustees under that certain unrecorded Larson Family Trust dated October 30, 1992, as amended, Respondents-Plaintiffs-Appellants, vs.	Civil No. 09-1-0413 (2) ICA No. 30159 (consolidated into ICA No. 29696) APPEAL FROM: (1) ORDER GRANTING DEFENDANTS' MOTION TO DISMISS COMPLAINT OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT ENTERED SEPTEMBER 29, 2009; and (2) FINAL JUDGMENT ENTERED OCTOBER 15, 2009 *(continued on next page)*

COUNTY OF MAUI, a political subdivision of the State of Hawaii; WILLIAM SPENCE, in his capacity as Director of the Department of Planning of the County of Maui, Petitioners-Defendants-Appellees.	) CIRCUIT COURT OF THE SECOND) CIRCUIT, STATE OF HAWAII) Honorable Shackley R. Rafetto,) Judge) *[CONSOLIDATED CASES]*

RESPONDENTS-PLAINTIFFS-APPELLANTS DOUGLAS LEONE AND PATRICIA A. PERKINS-LEONE AND RESPONDENTS-PLAINTIFFS-APPELLANTS WILLIAM L. LARSON AND NANCY H. LARSON'S OPPOSITION TO PETITIONERS-DEFENDANTS-APPELLEES COUNTY OF MAUI AND WILLIAM SPENCE'S APPLICATION FOR WRIT OF CERTIORARI, FILED OCTOBER 29, 2012

CERTIFICATE OF SERVICE

Andrew V. Beaman #2914-0
Leroy E. Colombe #3662-0
CHUN, KERR, DODD, BEAMAN & WONG,
A Limited Liability Law Partnership
745 Fort Street, 9th Floor
Honolulu, HI 96813
Telephone: 528-8220
E-mail: abeaman@chunkerr.com
lcolombe@chunkerr.com

Attorneys for Respondents-Plaintiffs-Appellants DOUGLAS LEONE AND PATRICIA A. PERKINS-LEONE, as Trustees, and Respondents-Plaintiffs-Appellants WILLIAM L. LARSON AND NANCY H. LARSON, as Trustees

RESPONDENTS-PLAINTIFFS-APPELLANTS DOUGLAS LEONE AND PATRICIA A. PERKINS-LEONE AND RESPONDENTS-PLAINTIFFS-APPELLANTS WILLIAM L. LARSON AND NANCY H. LARSON'S OPPOSITION TO PETITIONERS-DEFENDANTS-APPELLEES COUNTY OF MAUI AND WILLIAM SPENCE'S APPLICATION FOR WRIT OF CERTIORARI, FILED OCTOBER 29, 2012

Come now Respondents-Plaintiffs-Appellants DOUGLAS LEONE and PATRICIA A. PERKINS-LEONE, as Trustees under that certain unrecorded Leone-Perkins Family Trust dated August 26, 1999, as amended, and Respondents-Plaintiffs-Appellants WILLIAM L. LARSON and NANCY H. LARSON, as Trustees under that certain unrecorded Larson Family Trust dated October 30, 1992, as amended (respectively "the Leones" and "the Larsons" and collectively "Respondents"), by and through their attorneys, Chun, Kerr, Dodd, Beaman & Wong, and pursuant to Rule 40.1(e), Hawaii Rules of Appellate Procedure, file this Opposition to the County of Maui and William Spence's (collectively, the "County") Application for Writ of Certiorari, filed herein on October 29, 2012 ("the Application").

The Application fails even to acknowledge, much less to carry, the County's statutory burden to show either "grave errors" or "obvious inconsistencies" in the opinion of the Intermediate Court of Appeals. The Application misquotes the opinion, misrepresents the record, and mis-cites the law. While the County is correct that Williamson County, *infra*, is controlling, the U.S. Supreme Court said in that case that "there is **no requirement that a plaintiff exhaust administrative remedies** before bringing a §1983 action." 473 U.S. at 193. Rather, the aggrieved landowner need only show that **"the initial**

decision-maker has arrived at a definitive position . . . ." *Id.* Here, the "initial decision maker" -- the Planning Director -- did that when he refused to process the Respondents' SMA assessment applications, issuing letters nearly identical to the one this Court held to be final in GATRI v. Blane, *infra*.

FACTS PERTINENT TO THE APPLICATION

Respondents' properties are three lots abutting Palauea Beach. **Leone ROA Doc. 0072 at PDF 1724, Larson ROA Doc. 0005 at PDF 217.**[1] The lots are zoned "Hotel - Multifamily" (H-M) but designated as "Park" on the Community Plan. *See* **Leone ROA Doc. 0072 at PDF 1731, Larson ROA Doc. 0005 at PDF 224; Leone ROA Doc. 0004 at PDF 80, Larson ROA Doc. 0004 at PDF 88**; ICA Opinion at p.7 (284 P.3d 960).

On December 13, 1999, the Maui County Council adopted Resolution No. 99-183 (**Leone ROA Doc. 0072 at PDF 1739-47, Larson ROA Doc. 0005 at PDF 239-47**) providing that "the official policy of the County of Maui is to preserve Palauea Beach," and "the Council . . . supported this specific policy by changing the community-plan designation of the beachfront property at Palauea to 'Park' in 1998." **Leone ROA Doc. 0072 at PDF 1739-40, Larson ROA Doc. 0005 at PDF 239-40.** In January 2000, the County purchased two nearby Palauea Beach lots. The County has admitted

---

[1] Hereinafter, citations to the records on appeal will be given as "**Leone ROA Doc.**" for the Leone Record on Appeal: CV07-1-0496 Documents and "**Larson ROA Doc.**" for the Larson Record on Appeal: CV09-1-0413 Documents.

it did not purchase any other Palauea Beach lots because it did not have the funds to do so. **Leone ROA Doc. 0006 at PDF 49, Larson ROA Doc. 0004 at PDF 32.**

The Palauea Beach lots are in a "special management area" ("SMA") as defined in the Hawaii Coastal Zone Management Act (H.R.S. Chap. 205A) at H.R.S. §205A-22. Under that Act, no "development" may take place in the SMA unless it complies with the Act, but "development" does not include "construction of a single-family residence that is not part of a larger development," unless it "may have a cumulative impact, or a significant environmental or ecological effect . . . ." H.R.S. §205A-22. Any "development" must be consistent with the County general plan. H.R.S. §205A-26(2)(c).[2] So, the Respondents here cannot build a "development" if it conflicts with the "Park" designation in the Community Plan. GATRI, 88 Haw. at 115, 962 P.2d at 374.

Under Chapter 202 of the Rules of the Maui Department of Planning (the "SMA Rules"), Respondents had the burden to show the Planning Director that their proposed houses would **not** have a significant environmental or ecological effect.[3] In order to

---

[2] In the County of Maui, the Community Plan is part of the general plan. *See* ICA Opinion at p.14 (284 P.3d at 967), citing GATRI v. Blane, 88 Haw. 108, 962 P.2d 367 (1998).

[3] The Application suggests that Respondents' SMA assessment applications were somehow optional. Respondents were **obligated** to file the applications in order to build because, if their proposed houses were deemed "developments," they could not receive permits. The SMA assessment application is the first step in the process of obtaining a building permit.

carry this burden, they were required to submit a "Special Management Area assessment application" to the Planning Director.

The Leones submitted their SMA assessment application to build a single-family residence in September 2007. *See* **Leone ROA Doc. 0007 at PDF 154-55 ¶10.** By letter dated October 25, 2007, Defendant/ Appellee Jeffrey Hunt ("the Director") refused to process the Leones' application "for the following reason":

> The subject property is designated "Park" on the Kihei-Makena Community Plan (Community Plan). The proposed Single-Family dwelling is inconsistent with the Community Plan . . . .
>
> Section 12-202-12(f)(5) states that an application "cannot be processed because the proposed action is not consistent with the County General Plan, Community Plan, or Zoning, unless a General Plan, Community Plan, or Zoning Application for an appropriate amendment is processed concurrently with the SMA Permit Application."

Leone ROA Doc. 0006 at PDF 77-78.[4] The Larson application was rejected on similar grounds. **Larson ROA Doc. 0004 at PDF 132-39.**

The County admitted that the "Park" designation "will not permit [the Leones] to build a single family dwelling." **Leone ROA Doc. 0069 at PDF 1467.** The County argued in the court below that the "administrative requirements Plaintiffs **must follow in order to build a residence on their property** include the following":

> To achieve consistency between the Plaintiffs' desired use of their property . . . and the [Community Plan]

---

[4] The text of SMA Rules §12-202-12(f) may be found at **Leone ROA Doc. 0007 at PDF 217-18, Larson ROA Doc. 0004 at PDF 101-2.**

> designation of their property for 'Park', **an amendment to the Community Plan must be obtained** as provided for in the Maui County Charter §8-8.6.

Leone ROA Doc. 0006 at PDF 49 (emphasis added); *see also* **Larson ROA Doc. 0004 at 32-33.**

The undisputed evidence in the record shows that under the current regulatory scheme, Respondents are left with **no economically viable use** for their land. *See* **Leone ROA Doc. 0072 at PDF 1713-14, Larson ROA Doc. 0005 at 289-90.**

The County misrepresents the record when it suggests the Respondents could have built homes had they only appealed to the Planning Commission "the same way the Lamberts and Sweeneys did." During the Apana administration, the former planning director **granted** the Lamberts and Sweeneys' SMA assessment applications, in violation of the rules. **Leone ROA Doc. 0072 at PDF 1787-96, Larson ROA Doc. 0005 at PDF 291-300; Leone ROA Doc. 0069 at PDF 1513-14, 1524, 1532-33, Larson ROA Doc. 0004 at PDF 143-44, 154, 162-63.** After the present mayor was first elected in 2002, the political winds shifted and the new administration followed the rules and refused to process such applications. **Leone ROA Doc. 0069 at PDF 1529, 1534-35, Larson ROA Doc. 0004 at PDF 159, 164-65.**

In 2006, the Planning Director acknowledged that the Leones would probably sue the County for inverse condemnation. *See* **Leone ROA Doc. 0007 at PDF 158-59 ¶3, Larson ROA Doc. 0005 at 302-3.** Accordingly, he initiated an application to amend the

Community Plan designation for the Palauea Beach lots from "Park" to "Residential." *Id.*

Three years later (when this appeal was filed), that amendment application remained bogged down at the Planning Commission -- so the County's citizens have the use of Respondents' lands for a beach park, without paying for the land or its maintenance. Commissioner William Iaconetti noted that "the County does not have the funds in order to purchase more of this property" and proposed that taking no action "would prevent [the lot owners] from developing the property for residential purposes" while allowing "the people of Maui to utilize this beach area." **Leone ROA Doc. 0072 at PDF 1799, Larson ROA Doc. 0005 at 307.** He endorsed this unconstitutional approach stating:

> So if we decide on no action on this thing then the whole beach would remain as it is now and they would not be able to build on the land that they own. Granted, we can't buy it but if we say no you can't develop it then we then have access to it, at least the beach.

Leone ROA Doc. 0072 at PDF 1799, Larson ROA Doc. 0005 at 307;[5] *see also* ICA Opinion at p.8 (284 P.3d at 961).

The Commission repeatedly deferred action on the

---

[5] Commissioner Jonathan Starr rationalized this illegal gambit by stating that "the property owners who, you know, I don't think they're members of the community from here . . . they have not proven over time to be the best stewards of that land." **Leone ROA Doc. 0072 at PDF 1801, Larson ROA Doc. 0005 at 310.** Commissioner Jon Guard observed that people may currently be using the property for beach parking, and bemoaned the potential loss of the "defacto parking that people are enjoying now." **Leone ROA Doc. 0072 at PDF 1800, Larson ROA Doc. 0005 at 309;** *see also* ICA Opinion at p.8 (284 P.3d at 961).

amendment despite the Planning Department recommending its acceptance.[6] Dissenting Commissioner Wayne Hedani referred to the treatment of the Palauea Beach lot owners as a "charade," and accused the Commission of:

> [T]rying to stretch these [landowners] out to the point where they have to sell their property because we're throwing more and more stumbling blocks in front of them. I don't think it's fair to the people.
>
> * * *
>
> Although I would really like to see a beach park at this location, I don't think we can afford it. I think we need to be very, very careful in terms of doing things that abridge private property rights along the beach and to try to acquire a property in an unfair manner.

Leone ROA Doc. 0072 at PDF 1808, Larson ROA Doc. 0005 at PDF 317.

REASONS WHY APPLICATION SHOULD BE DENIED

I. THE APPLICATION FAILS TO PROPERLY IDENTIFY AND MEET THE STANDARD FOR THIS COURT TO GRANT THE APPLICATION

Under H.R.S. §602-59(b), an application for writ of certiorari must show either "grave errors of law or of fact" or "obvious inconsistencies in the decision of the ICA with that of the Supreme Court, federal decisions, or its own decision." The County must also show the "magnitude of those errors or inconsistencies dictating the need for further appeal." The Application fails to meet this standard.

II. THE COUNTY MISSTATES THE LEGAL STANDARD FOR RIPENESS

The County says that the ICA "announced a novel rule

---

[6] *See* **Leone ROA Doc. 0072 at PDF 1806, Larson ROA Doc. 0005 at 315; Leone ROA Doc. 0072 at PDF 1804, Larson ROA Doc. 0005 at 313; Leone ROA Doc. 0072 at PDF 1809, Larson ROA Doc. 0005 at 318; Leone ROA Doc. 0072 at PDF 1781-82, Larson ROA Doc. 0005 at 262-63.**

[that] the exhaustion doctrine applies when a party seeks judicial review of the substance of an adverse administrative decision . . . but not where a landowner's claim is based on the effect of that decision." Application, p.1. The ICA did no such thing, and the Application misquotes its opinion.

The ICA carefully followed the seminal case on ripeness, Williamson County Regional Planning Commission v. Hamilton Bank of Johnson City, 473 U.S. 172, 105 S.Ct. 3108, 87 L.Ed.2d 126 (1985). While the County repeatedly equates ripeness with "exhaustion of administrative remedies" (*see*, *e.g.*, Application at pp.1,3,4,5), the Supreme Court held that they are two very different standards. Williamson County expressly states that exhaustion of administrative remedies and finality are "**conceptually distinct**" and that:

> . . . the finality requirement is concerned with whether the **initial** decision maker has arrived at a definitive position on the issue that inflicts an actual, concrete injury; the exhaustion requirement generally refers to administrative and judicial procedures by which an injured party may seek review of an adverse decision and obtain a remedy if the decision is found to be unlawful or otherwise inappropriate.[7]

473 U.S. at 192-94, 105 S.Ct. 3108 (emphasis added).[8]

In the present case, the County's "initial decision maker" has clearly determined what Respondents can do with their

---

[7] Quoted at p.11 of the ICA decision (284 P.3d at 964).

[8] "Significantly the [Williamson County] Court held that no appeals had to be 'exhausted,' but that only administrative mechanisms for obtaining the last word, or a 'final' decision had to be utilized." Martinez, Government Takings §2:25, pp.2-43 (2008).

property: absolutely nothing. The County could not be clearer that there is no recourse for Respondents to build their homes and/or make any other economically viable use of the property.

As the ICA recognized, this is not a case where Respondents seek to "review an adverse decision and obtain a remedy if the decision is found to be unlawful or otherwise inappropriate" under H.R.S. §91-14. Respondents do not challenge either the procedure by which the Director reached his decision or how he applied the law.

Nor is this a case where a variance procedure is available. While the County argued in its briefing to the ICA that the process for amendment of the Community Plan was an administrative act in the nature of a variance, the ICA correctly rejected this contention, finding that such an amendment was a legislative, not an administrative, process. ICA Opinion at pp.13-17 (284 P.3d at 966-69).

III. EVEN IF THE DOCTRINE OF RIPENESS REQUIRED RESPONDENTS TO SEEK APPEAL OF THE DENIAL OF THEIR APPLICATIONS, NO MEANINGFUL APPEAL WAS AVAILABLE TO THEM

As explained above, the ICA correctly determined that "[w]e need not resolve [the] issue" of whether an appeal was available to Respondents under the SMA rules. ICA Opinion at p.13 (284 P.3d at 966). Even if the ICA had reached the issue, a trier of fact could reasonably conclude that no meaningful appeal was available to Respondents.

A. The SMA Rules Do Not Provide For An Appeal From The Director's Rejection of Respondents' Assessment Applications

The County argues that §12-202-26 of the SMA Rules authorizes an appeal of the Director's decision not to process the assessment applications. In fact, that section authorizes appeals only from enforcement actions described in Rule 25. Section 12-202-14(b), the section governing SMA minor permits, states that "[a]ny final decision [denying an SMA minor permit] . . . **shall be appealable pursuant to section 12-202-26**" (emphasis added). No such language appears in §12-202-12, the section governing SMA assessments at issue here.

Accordingly, the Director alone reviews SMA assessment applications, under §12-202-12, and the Director's decision on the application is not appealable to the Commission. The Director's refusal to process Respondents' applications "is a final decision equivalent to a denial of the application" as it effectively terminates the assessment, and therefore Respondents' claims are ripe. GATRI, 88 Haw. at 111, 962 P.2d at 370.

B. It Would Be Futile For The Respondents To Pursue Administrative Remedies, Even If they Were Available

A plaintiff is excused from exhausting administrative remedies where resort to such remedies would be futile. "The futility exception to the exhaustion doctrine is premised upon the rationale that courts will not require vain and useless acts." Orion Corp. v. State of Washington, 103 Wash. 2d 441, 458, 693 P.2d 1369, 1379 (Wash. 1985). The futility exception

addresses both legal and factual futility (*i.e.*, where the remedies available would be inadequate due to applicable laws or the factual circumstances). *Id.*

Appeal of the Director's action would be legally futile. Section 12-202-32 of the SMA Rules provides that the Commission may reverse a Director's decision if the decision was (1) based on clearly erroneous findings of facts or application of law, (2) arbitrary or capricious in its application, or (3) a clearly unwarranted abuse of discretion. The Director's decision not to process the Leones' application was mandated by §12-202-12(f)(5), as the County has admitted. **Leone ROA Doc. No. 0006 at PDF 50, Larson ROA Doc. 0004 at 330; Leone ROA Doc. No. 0069 at PDF 1460.** And the Maui County Charter requires the Planning Commission to conform to the County Community Plans. Maui County Charter, §8-8.

Furthermore, any appeal would have also been futile in fact. "[A] property owner need not pursue such applications when a zoning agency . . . has dug in its heels and made clear that all such applications will be denied." Murphy v. New Milford Zoning Comm'n, 402 F.3d 342, 349 (2nd Cir. 2005). The comments of the Commissioners themselves, and the failure of the Planning Department's own efforts to amend the plan, show that any attempt to amend the Community Plan would simply prolong the "charade."

IV. THE ICA CORRECTLY HELD THAT RESPONDENTS WERE NOT REQUIRED TO SEEK A COMMUNITY PLAN AMENDMENT

The Application argues that the ICA erred by addressing a "novel legal question not addressed by the Circuit Court" that the Respondents need not seek a Community Plan amendment before they could sue the County for inverse condemnation. However, the County itself raised this issue, and the ICA properly addressed the issue both to provide appropriate guidance to the County and because of the "right decision, wrong reason" rule. *See, e.g.*, Isobe v. Sakatani, 127 Haw. 368, 279 P.3d 33 (2012).

CONCLUSION

There is no reason to fear that "the courts will be clogged with land use cases" if the ICA's opinion is not reviewed. The ICA's unanimous and carefully written opinion is narrowly tailored to address the particularly egregious facts of these two cases. There is no "grave error" in the opinion, and it is entirely consistent with the controlling law. Respondents request that the Application be rejected.

DATED: Honolulu, Hawaii, November 13, 2012.

CHUN, KERR, DODD, BEAMAN & WONG,
A Limited Liability Law Partnership
ANDREW V. BEAMAN
LEROY E. COLOMBE

Attorneys for Respondents-Plaintiffs- Appellants DOUGLAS LEONE AND PATRICIA A. PERKINS-LEONE, as Trustees, and Respondents- Plaintiffs-Appellants WILLIAM L. LARSON AND NANCY H. LARSON, as Trustees

NO. SCWC-29696

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

Electronically Filed
Supreme Court
SCWC-29696
13-NOV-2012
02:06 PM

DOUGLAS LEONE AND PATRICIA A. PERKINS-LEONE, as Trustees under that certain unrecorded Leone-Perkins Family Trust dated August 26, 1999, as amended, Respondents-Plaintiffs-Appellants, vs. COUNTY OF MAUI, a political subdivision of the State of Hawaii; WILLIAM SPENCE, in his capacity as Director of the Department of Planning of the County of Maui, Petitioners-Defendants-Appellees.	) Civil No. 07-1-0496(3)) ICA No. 29696) APPEAL FROM: (1) ORDER GRANTING DEFENDANTS' MOTION TO DISMISS COMPLAINT FILED NOVEMBER 19, 2007 OR IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT OR PARTIAL SUMMARY JUDGMENT ENTERED ON MARCH 2, 2009; (2) FINAL JUDGMENT ENTERED MARCH 2, 2009; (3) ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS' MOTION FOR AN AWARD OF FEES, COSTS AND EXPENSES ENTERED HEREIN ON MAY 18, 2009; AND (4) AMENDED JUDGMENT ENTERED HEREIN ON JUNE 5, 2009) CIRCUIT COURT OF THE SECOND CIRCUIT, STATE OF HAWAII) Honorable Joseph E. Cardoza, Judge
WILLIAM L. LARSON and NANCY H. LARSON, as Trustees under that certain unrecorded Larson Family Trust dated October 30, 1992, as amended, Respondents-Plaintiffs-Appellants, vs.	) Civil No. 09-1-0413 (2)) ICA No. 30159 (consolidated into ICA No. 29696)) APPEAL FROM: (1) ORDER GRANTING DEFENDANTS' MOTION TO DISMISS COMPLAINT OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT ENTERED SEPTEMBER 29, 2009; and (2) FINAL JUDGMENT ENTERED OCTOBER 15, 2009) *(continued on next page)*

COUNTY OF MAUI, a political subdivision of the State of Hawaii; WILLIAM SPENCE, in his capacity as Director of the Department of Planning of the County of Maui, Petitioners- Defendants-Appellees.	) CIRCUIT COURT OF THE SECOND) CIRCUIT, STATE OF HAWAII)) Honorable Shackley R. Rafetto,) Judge))) *[CONSOLIDATED CASES]*)))

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of Respondents-Plaintiffs-Appellants Douglas Leone and Patricia A. Perkins-Leone and Respondents-Plaintiffs-Appellants William L. Larson and Nancy H. Larson's Opposition to Petitioners-Defendants-Appellees County of Maui and William Spence's Application for Writ of Certiorari, Filed October 29, 2012 was or will be duly served upon the following parties electronically through JEFS on this date, addressed as follows:

BRIAN T. MOTO, ESQ.
MARY BLAINE JOHNSTON, ESQ. - ***mary.johnston@co.maui.hi.us***
Corporation Counsel for the County of Maui
200 S. High Street
Wailuku, HI 96793

Attorneys for Petitioners-Defendants-Appellees
COUNTY OF MAUI and WILLIAM SPENCE

DATED: Honolulu, Hawaii, November 13, 2012.

CHUN, KERR, DODD, BEAMAN & WONG,
A Limited Liability Law Partnership
ANDREW V. BEAMAN
LEROY E. COLOMBE

Attorneys for Respondents-
Plaintiffs-Appellants DOUGLAS LEONE
AND PATRICIA A. PERKINS-LEONE, as
Trustees, and Respondents-
Plaintiffs-Appellants WILLIAM L.
LARSON AND NANCY H. LARSON, as
Trustees