

NO. 28602

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

CIVIL NO. 06-1-0265

UNITE HERE! LOCAL 5; ERIC W. GILL; TODD A.K. MARTIN
Plaintiffs-Appellees,

v.

CITY AND COUNTY OF HONOLULU, a municipal corporation; KUILIMA
RESORT COMPANY, a Hawaii corporation,
Defendants-Appellants,

and

DOE DEFENDANTS 1-10, Defendants.

KUILIMA RESORT COMPANY, a Hawaii general partnership,
Counterclaim Plaintiff-Appellee,

v.

UNITE HERE! LOCAL 5 HAWAII, a Hawaii labor partnership;
ERIC W. GILL, an individual,
Counterclaim Defendants-Appellees.

KUILIMA RESORT COMPANY, a Hawaii General Partnership,
Counterclaim Plaintiff-Appellee,

v.

UNITE HERE!, a New York labor organization,
Additional Counterclaim Defendant-Appellee,
and

DOE DEFENDANTS 1-10, Additional Counterclaim Defendants.

AND

CIVIL NO. 06-1-0867

KEEP THE NORTH SHORE COUNTRY; and SIERRA CLUB,
HAWAII CHAPTER, a foreign non-profit corporation,
Plaintiffs-Appellants,

v.

CITY AND COUNTY OF HONOLULU; HENRY ENG, Director of
Department of Planning and Permitting, in his official
capacity; KUILIMA RESORT COMPANY, a Hawaii general
partnership;

Defendants-Appellees,

and

JOHN DOES 1-10; JANE DOES 1-10; DOE PARTNERSHIPS 1-10;
DOE CORPORATIONS 1-10; DOE ENTITIES 1-10; and DOE
GOVERNMENTAL UNITS 1-10, Defendants.

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT

2008 DEC 17 AM 8:14
Joan Kikumoto
Clerk of the Court
STATE OF HAWAII
COURT OF APPEALS

FILED

ORDER DENYING PLAINTIFF-APPELLANT
KEEP THE NORTH SHORE COUNTRY'S MOTION
FOR AN INJUNCTION DURING THE PENDENCY OF THE APPEAL
(By: Watanabe, Presiding Judge, and Foley, J.;
Nakamura, J., concurring separately)

Upon consideration of Plaintiff-Appellant Keep the North Shore Country's Motion for an Injunction During the Pendency of the Appeal, filed on December 9, 2008, and the records and files in this case,

IT IS HEREBY ORDERED that the motion is denied.

DATED: Honolulu, Hawai'i, December 17, 2008.

On the motion:
William S. Hunt
Laura P. Couch
(Alston Hunt Floyd & Ing)
and
Rory R. Wicks, pro hac vice
Marco A. Gonzalez, pro hac vice
(Coast Law Group LLP)
for Plaintiff-Appellant
Keep the North Shore Country.


Presiding Judge


Associate Judge

I concur. In my view, even if Plaintiff-Appellant Keep the North Shore Country (KNSC) prevails on its claim that the circuit court's grant of summary judgment was wrong, it is not clear that KNSC will prevail on its ultimate claim that a supplemental environmental impact statement is required. After balancing the appropriate factors, I do not believe that KNSC has established that it is entitled to the requested injunction under the applicable test.


Associate Judge