

NO. 28602

IN THE SUPREME COURT OF THE STATE OF HAWAII

CIVIL NO. 06-1-0265
UNITE HERE! LOCAL 5; ERIC W.
GILL; TODD A.K. MARTIN,

Plaintiffs,

vs.

CITY AND COUNTY OF HONOLULU; a
municipal corporation; KUILIMA
RESORT COMPANY, a Hawaii
corporation; DOE DEFENDANTS 1-
10,

Defendants.

CIVIL NO. 06-1-0265
CIVIL NO. 06-1-0867

APPEAL FROM THE AMENDED FINAL
JUDGMENT, filed on June 4,
2007

FIRST CIRCUIT COURT

HONORABLE GARY W.B. CHANG
HONORABLE SABRINA S. McKENNA
Judges

KUILIMA RESORT COMPANY, a Hawaii
general partnership,

Counterclaim

Plaintiff,

vs.

UNITE HERE! LOCAL 5 HAWAII, a
Hawaii labor organization; ERIC
W. GILL; an individual,

Counterclaim Defendants.

KUILIMA RESORT COMPANY, a Hawaii
general partnership,

Counterclaim

Plaintiff,

vs.

UNITE HERE! a New York labor
organization; DOE DEFENDANTS 1-
10,

Additional Counterclaim
Defendants.

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FILED

CIVIL NO. 06-1-0867

KEEP THE NORTSHORE COUNTRY, a
Hawaii non-profit corporation,
and SIERRA CLUB, HAWAI'I
CHAPTER, a foreign non-profit
corporation,

Plaintiffs,

vs.

CITY AND COUNTY OF HONOLULU;
HENRY ENG, Director of
Department of Planning and
Permitting in his official
capacity; KUILIMA RESORT
COMPANY, a Hawai'i general
partnership; JOHN DOES 1-10;
JANE DOES 1-10; DOE PARTNERSHIPS
1-10; DOE CORPORATIONS 1-10; and
DOE GOVERNMENTAL UNITS 1-10,

Defendants.

**AMICI CURIAE BRIEF OF THE
NORTH SHORE CAREER TRAINING CORPORATION, THE LAIE COMMUNITY
ASSOCIATION, AND THE KAHUKU COMMUNITY ASSOCIATION**

CERTIFICATE OF SERVICE

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NORTH SHORE CAREER TRAINING
CORPORATION, THE LAIE COMMUNITY
ASSOCIATION, AND THE KAHUKU
COMMUNITY ASSOCIATION

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ASSOCIATION, AND THE KAHUKU COMMUNITY ASSOCIATION**

I. INTRODUCTION

This controversy centers on whether the Hawaii Environmental Protection Act ("HEPA") requires an EIS-approving agency (such as the Department of Planning and Permitting ("DPP") of the City and County of Honolulu ("City")) to further require a Supplemental Environmental Impact Statement ("SEIS") when the project itself has not changed. The North Shore Career Training Corporation supports the Majority Decision of the Intermediate Court of Appeals ("ICA").

The North Shore Career Training Corporation ("NSCTC") is a private non-profit organization formed in 1978 to address long-standing employment problems in the Koolauloa/North Shore districts of Oahu ("Community"). NSCTC was created with the cooperation and support of landowner Campbell Estate and the Prudential Insurance Company when it assumed control of the then Kuilima Resort at Turtle Bay to address the Community's concern for its long-term economic welfare following the traumatic closure of the Kahuku Sugar Plantation in 1972.

The Laie and the Kahuku Community Associations are located in the Koolauloa/North Shore districts of Oahu, and represent over fifteen thousand (15,000) residents of the Community.

II. DISCUSSION

While establishing the entities charged with monitoring and informing the Hawaii community about ecological and environmental problems (such as the Office of Environmental Quality Control ("OEQC") and the Environmental Council ("EC")), the Hawaii State Legislature sought to achieve **an optimum balance between economic development and environmental quality** (Hawaii Revised Statutes 341-1).

It is submitted that **community sustainability** is an equally compelling consideration in determining an optimum balance between economic development and environmental quality. Since

its founding in 1978, NSCTC has been charged with developing a comprehensive program aimed at improving the Community's residents' ability to secure and retain jobs to allow them to continue to reside in the Community. The expansion and development of Turtle Bay has been an integral, if not the singular most important, part of NSCTC's comprehensive program.

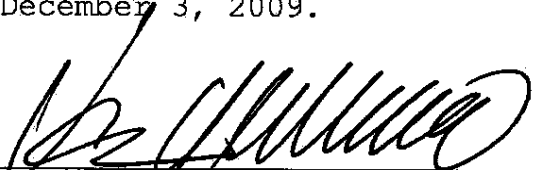
NSCTC and the Community have waited for the expansion and development of Turtle Bay as the basis of sustaining the Community by providing for employment opportunities to the Community's residents and thereby allowing them to continue to live and to raise their children in the Community.

Directly affected by this Court's decision are the residents of the Laie and the Kahuku communities, which by resolution through their respective boards, support NSCTC's position herein that the balance between economic development and environmental quality of Turtle Bay must necessarily include the communities of which it is a part, and their sustainability.

II. CONCLUSION

The Legislature drafted HEPA with a balance between economic development and environmental quality, as a matter of public policy. That mandate necessarily must include consideration of a **community's sustainability** as well. NSCTC, and the Laie and Kahuku Community Associations urge this Honorable Court to affirm the decision of the ICA Majority and hold that there is no authority to require Kuilima to undergo yet another time-consuming and unnecessary environmental review, as both the DPP, and the Circuit Court has found, as a matter of law, before them.

DATED: Honolulu, Hawaii, December 3, 2009.



VERNON Y.T. WOO
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NORTH SHORE CAREER TRAINING
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ASSOCIATION AND THE KAHUKU
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Defendants.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date indicated below, a copy of the foregoing document was duly served as indicated upon the following parties at their last known address:

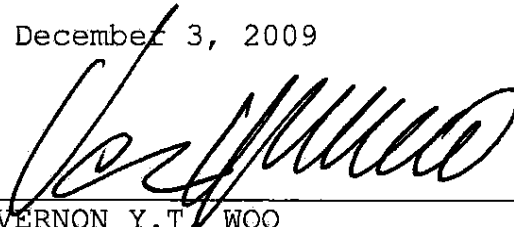
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DATED: Honolulu, Hawaii, December 3, 2009



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