

NO. 28175

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

MAUNALUA BAY BEACH OHANA 28, a Hawai'i non-profit corporation;  
MAUNALUA BAY BEACH OHANA 29, a Hawai'i non-profit corporation;  
MAUNALUA BAY BEACH OHANA 38, a Hawai'i non-profit corporation,  
individually and on behalf of all others similarly situated,  
Plaintiffs-Appellees,

v.

STATE OF HAWAI'I, Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT  
(Civil No. 05-1-0904)

AMENDED ORDER DENYING PLAINTIFFS-APPELLEES'  
MOTION FOR RECONSIDERATION OF OPINION

(By: Foley and Fujise, JJ.; Nakamura, C.J., concurring  
separately and dissenting)<sup>1</sup>

Upon consideration of Plaintiffs-Appellees' January 11,  
2010 Motion for Reconsideration of the Intermediate Court of  
Appeals' Opinion filed on December 30, 2009, the papers in  
support of the motion, and the records and files in this case,

IT IS HEREBY ORDERED that the motion is denied.

DATED: Honolulu, Hawaii, January 20, 2010.

On the motion:

Paul Alston and  
Laura Couch  
for Plaintiffs-Appellees.

Associate Judge

Associate Judge

I concur in the denial of Plaintiffs-Appellees' Motion  
for Reconsideration, except that, consistent with my concurring  
and dissenting opinion, I would grant Plaintiffs-Appellees'  
motion to the extent it seeks reconsideration of matters  
addressed in the majority opinion that were not before this court  
on appeal.

Chief Judge

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<sup>1</sup> Former Associate Judge Corinne K.A. Watanabe was a member of the panel  
on this appeal but retired from her judgeship effective December 31, 2009.  
Associate Judge Alexa D.M. Fujise was assigned to the panel to fill the  
vacancy created by the retirement of Judge Watanabe.