

NOS. CAAP-13-0003606 and CAAP-13-0006255

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

CAAP-13-0003606

WAIKIKI MARKETPLACE INVESTMENT COMPANY, LLC, a Hawai'i limited liability company, Plaintiff-Appellee,

v.

KUHIO BANYAN OWNERS ASSOCIATION,
a Hawai'i nonprofit corporation, et al., Defendants-Appellants,
and

JOHN DOES 1-50, JANE DOES 1-50,
DOE PARTNERSHIPS 1-50, DOE CORPORATIONS 1-50,
DOE ENTITIES 1-50, and DOE GOVERNMENTAL ENTITIES 1-50,
Defendants

AND

CAAP-13-0006255

WAIKIKI MARKETPLACE INVESTMENT COMPANY, LLC, a Hawai'i limited liability company, Plaintiff-Appellee,

v.

KUHIO BANYAN OWNERS ASSOCIATION,
a Hawai'i nonprofit corporation, et al., Defendants-Appellants,
and

JOHN DOES 1-50, JANE DOES 1-50,
DOE PARTNERSHIPS 1-50, DOE CORPORATIONS 1-50,
DOE ENTITIES 1-50, and DOE GOVERNMENTAL ENTITIES 1-50,
Defendants

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 13-1-0832-03)

ORDER

(1) APPROVING THE AUGUST 13, 2014
MOTIONS STIPULATIONS TO DISMISS APPEAL WITH PREJUDICE;
AND

(2) DISMISS AS MOOT ALL PENDING MOTIONS
(By: Nakamura, C.J., Foley and Ginoza, JJ.)

Upon consideration of the following, each filed in both Nos. CAAP-13-0003606 and CAAP-13-0006255: August 13, 2014 "Stipulation to Dismiss Appeal with Prejudice" (**Stipulations**), filed by Plaintiff-Appellee Waikiki Marketplace Investment Company, LLC, a Hawaii limited liability company; and September 2, 2014 "Notice of Lifting of Bankruptcy Stay" and December 18, 2014 "Motion to Approve [Stipulations]" (**Motions to Approve Stipulations**), filed by Defendants-Appellants Kuhio Banyan Owners Association, a Hawaii nonprofit corporation (**KBOA**), Kuhio Banyan Lease Extension Accommodator, Inc., a Hawaii corporation (**KBLEA**), and Bank of Hawaii, a Hawaii corporation as Trustee Under Land Trust No. 90-01825, as Lessee (collectively, **Appellants**); and the record; it appears that:

(1) Appellants have demonstrated that the automatic bankruptcy stays resulting from KBLEA and KBOA's respective bankruptcy proceedings were lifted.

(2) The parties stipulate to dismiss Nos. CAAP-13-0003606 and CAAP-13-0006255.

(3) The parties' attorneys have signed the Stipulations.

(4) The Stipulations provide that "[e]ach party shall bear its own attorneys' fees and costs."

(5) No fees are due in either appeal.

(6) Hawai'i Rules of Appellate Procedure Rule 42(b) provides, "[i]f the parties to a docketed appeal or other proceeding sign and file a stipulation for dismissal, specifying the terms as to payment of costs, and pay whatever fees are due, the case shall be dismissed upon approval by the appellate court[.]" Therefore,

IT IS HEREBY ORDERED that:

(1) The Motions to Approve Stipulations are granted, and the Stipulations are approved. Nos. CAAP-13-0003606 and CAAP-13-0006255 are dismissed. The parties shall bear their own appellate costs and fees.

(2) All pending motions are dismissed as moot.

(3) The appellate clerk shall file a copy of this order in Nos. CAAP-13-0003606 and CAAP-13-0006255.

DATED: Honolulu, Hawai'i, January 13, 2015.

Chief Judge

Associate Judge

Associate Judge