

**Electronically Filed
Supreme Court
SCAP-18-0000578
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SCAP-18-0000578

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

OCEAN RESORT VILLAS VACATION OWNERS ASSOCIATION,
OCEAN RESORT VILLAS NORTH VACATION OWNERS ASSOCIATION,
VIC H. HENRY, and PETER A. BAGATELOS,
Respondents/Plaintiffs-Appellees,

vs.

COUNTY OF MAUI and MAUI COUNTY COUNCIL,
Petitioners/Defendants-Appellants.

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(CAAP-18-0000578; CIVIL NO. 13-1-0848(2))

ORDER (1) DENYING MOTION TO STRIKE PETITION FOR WRIT OF MANDAMUS,
AND (2) DENYING PETITION FOR WRIT OF MANDAMUS

(By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson, JJ.)

Upon consideration of (1) petitioners' petition for writ of mandamus, filed on August 10, 2018, (2) respondents' motion to strike petition for writ of mandamus, filed on August 20, 2018, (3) petitioners' memorandum in opposition to motion to strike petition for writ of mandamus, filed on August 27, 2018, the respective supporting documents, and the record, it appears that petitioners are currently seeking appellate relief in CAAP-18-0000578 and, based on the posture of the underlying case, petitioners fail to demonstrate that they are entitled to the requested extraordinary writ. See Kema v. Gaddis, 91 Hawai'i

200, 204-05, 982 P.2d 334, 338-39 (1999) (a writ of mandamus is an extraordinary remedy that will not issue unless the petitioner demonstrates a clear and indisputable right to relief and a lack of alternative means to redress adequately the alleged wrong or obtain the requested action; such a writ is not intended to supersede the legal discretionary authority of the lower court, nor is it intended to serve as a legal remedy in lieu of normal appellate procedures). Accordingly,

IT IS HEREBY ORDERED that the motion to strike is denied.

IT IS HEREBY FURTHER ORDERED that the petition for writ of mandamus is denied.

DATED: Honolulu, Hawai'i, September 18, 2018.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson

