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Supreme Court
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SCPW-12-0000834

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

ALAKU POINTE, LP, Petitioner/Defendant,

vs.

THE HONORABLE RHONDA I.L. LOO, Judge of the Circuit Court of the
Second Circuit, State of Hawai'i, Respondent Judge,

and

COUNTY OF MAUI, KE ALII VILLAS LLC, and KAK II LLC,
Respondents/Plaintiffs.

ORIGINAL PROCEEDING
(CIV. NO. 06-1-0302(1))

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

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

Upon consideration of petitioner Alaku Pointe, LP's October 2, 2012, petition for a writ of mandamus, the documents submitted in support thereof, and the record, it appears that petitioner is not entitled to mandamus relief inasmuch as petitioner can seek appellate review, as appropriate, once an appealable judgment is entered in the case. See State ex rel. Marsland v. Ames, 71 Haw. 304, 306, 788 P.2d 1281, 1283 (1990) (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 writs, however, are not intended to supersede the legal discretionary authority of the trial courts, nor are they intended to serve as legal remedies in lieu of normal appellate procedure. Moreover, where a trial judge has discretion to act, mandamus will not lie to interfere with or control the exercise of that discretion, even when the judge has acted erroneously, unless the judge has exceeded his or her jurisdiction, has committed a flagrant and manifest abuse of discretion, or has refused to act on a subject properly before the court under circumstances in which he or she has a legal duty to act). Accordingly,

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

DATED: Honolulu, Hawai'i, November 28, 2012.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

