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Supreme Court
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SCPW-16-0000636

IN THE SUPREME COURT OF THE STATE OF HAWAII

COMMERCIAL PROPERTIES, LIMITED, a Hawai'i corporation, Petitioner,

vs.

THE HONORABLE KATHLEEN N.A. WATANABE, JUDGE OF THE CIRCUIT
COURT OF THE FIFTH CIRCUIT, STATE OF HAWAII, Respondent Judge,

and

SANDY POEHNELT; PUA'A 'ILI 'OI 'OI OHANA LLC, a Hawai'i limited
liability company; and THE RIGHT SLICE LLC, a Hawai'i limited
liability company; STACY MONIZ, TRUSTEE OF THE UNRECORDED TRUST
DATED JANUARY 22, 2013; JO ANNE N. MONIZ, TRUSTEE OF THE
UNRECORDED JO ANNE N. MONIZ TRUST DATED FEBRUARY 12, 1999; ANTONIA
L. MONIZ; JOHN MONIZ; MARY C. WALSH, AS TRUSTEE OF TRUST A, A SUB-
TRUST OF THE BEATRICE DUARTE LIVING TRUST CREATED UNDER AN
UNRECORDED TRUST AGREEMENT DATED SEPTEMBER 24, 1991, AS AMENDED
AND RESTATED IN AN UNRECORDED DOCUMENT DATED JULY 14, 2008, AND AS
TRUSTEE DATED JANUARY 16, 2002, AS AMENDED AND RESTATED THE 28TH
DAY OF JULY, 2008, AS IT MAY BE FURTHER AMENDED, Respondents.

ORIGINAL PROCEEDING
(CIV. NO. 15-1-0087)

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

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

Upon consideration of petitioner Commercial Properties,
Limited's petition for writ of mandamus, filed on September 23,
2016, the documents attached thereto and submitted in support
thereof, and the record, it appears that, based on the facts and
circumstances of the underlying matter, petitioner fails to
demonstrate that it has a clear and indisputable right to the
requested relief and that it lacks alternative means to seek

relief. Petitioner, therefore, is not entitled to the requested writ of mandamus. 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; where a court 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 writ of mandamus is denied.

DATED: Honolulu, Hawai'i, October 21, 2016.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson

