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Supreme Court
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SCPW-20-0000550

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

KŌKUA COUNCIL FOR SENIOR CITIZENS,
an unincorporated association, Petitioner,

vs.

DIRECTOR OF THE DEPARTMENT OF HEALTH,
STATE OF HAWAI‘I, Respondent.

ORIGINAL PROCEEDING

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

(By: Recktenwald, C.J., Nakayama, J., and Circuit Judge Loo,
assigned by reason of vacancy, with McKenna, J., concurring in
part and dissenting in part, with whom Wilson, J., joins)

Upon consideration of petitioner Kōkua Council for Senior Citizens’s petition for writ of mandamus, filed on September 8, 2020, the documents attached thereto and submitted in support thereof, and the record, it appears that petitioner fails to demonstrate that it is entitled to the requested extraordinary relief from this court. See Kema v. Gaddis, 91 Hawai‘i 200, 204, 982 P.2d 334, 338 (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); Barnett v. Broderick, 84 Hawai'i 109, 111, 929 P.2d 1359, 1361 (1996) (with respect to a public official, mandamus relief is available to compel an official to perform a duty allegedly owed to an individual only if the individual's claim is clear and certain, the official's duty is ministerial and so plainly prescribed as to be free from doubt, and no other remedy is available); Salling v. Moon, 76 Hawai'i 273, 274 n.3, 874 P.2d 1098, 1099 n.3 (1994) ("A duty is ministerial where the law prescribes and defines the duty to be performed with such precision and certainty as to leave nothing to the exercise of discretion and judgment."). Accordingly,

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

DATED: Honolulu, Hawai'i, September 14, 2020.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Rhonda I.L. Loo



CONCURRENCE AND DISSENT

I dissent in that I would require an answer pursuant to Hawaii Rules of Appellate Procedure Rule 21(c) with respect to the limited English proficient issue. I otherwise concur.

/s/ Sabrina S. McKenna

/s/ Michael D. Wilson