IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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MĀLAMA KAKANILUA, an unincorporated association,
CLARE H. APANA and KANILOA LANI KAMAUNU,
Petitioners/Plaintiffs-Appellants,

vs.

DIRECTOR OF THE DEPARTMENT OF PUBLIC WORKS, COUNTY OF MAUI;
and MAUI LANI PARTNERS, a domestic partnership,
Respondents/Defendants-Appellees.

SCWC-19-0000107

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS
(CAAP-19-0000107; CIVIL NO. 2CC181000122)

JUNE 23, 2026

DEVENS, C.J., McKENNA, EDDINS, AND GINOZA, JJ., AND
CIRCUIT JUDGE MORIKAWA, ASSIGNED BY REASON OF VACANCY

OPINION OF THE COURT BY GINOZA, J.

I. Introduction

This is the second appeal to our court by Petitioners Mālama Kakanilua, Clare H. Apana, and Kaniloa Lani Kamaunu (**Mālama**) in this case. In the first appeal, a majority of this court held the Intermediate Court of Appeals (**ICA**) erred by holding Mālama's appeal was untimely from a judgment of

dismissal entered by the Circuit Court of the Second Circuit (**Circuit Court**).[1] Instead, this court held that Mālama's appeal was timely because Mālama had filed a motion in Circuit Court under Hawai'i Rules of Civil Procedure (**HRCP**) Rule 60(b) (eff. 2006), which tolled the time for appeal. Mālama Kakanilua v. Dir. of Dep't of Pub. Works, 157 Hawai'i 280, 293-94, 576 P.3d 793, 806-07 (2025) (Mālama I).[2] The case was remanded to the ICA to address the merits of the Circuit Court's dismissal of Mālama's complaint. Id. at 294-95, 576 P.3d at 807-08.

Mālama's complaint challenges the Director of the Maui County Department of Public Works' (**DPW**) extension of a grading permit approved for Maui Lani Properties (**MLP**). As pertinent to the issues now before us, Mālama alleges the permit extension was an ultra vires act and sought quo warranto and declaratory relief against DPW. Both MLP and DPW filed motions to dismiss Mālama's Complaint under HRCP Rule 12(b)(6) (eff. 2000) for failure to state a claim. The Circuit Court granted the motions to dismiss (**Order Dismissing Complaint**).

On remand after Mālama I, the ICA addressed the merits of the Circuit Court's Order Dismissing Complaint and affirmed

[1] The Honorable Joseph E. Cardoza presiding.

[2] In Mālama I, this court also affirmed the ICA's ruling that the Circuit Court did not abuse its discretion in denying Mālama's HRCP Rule 60(b) motion. 157 Hawai'i at 294, 576 P.3d at 807. That issue was thus resolved and is not part of this second appeal.

the Circuit Court. Mālama Kakanilua v. Dir. of Dep't of Pub. Works, No. CAAP-19-0000107, 2025 WL 3242533 (Haw. App. Nov. 20, 2025) (mem. op.) (Mālama II).

Mālama now seeks certiorari review of the ICA's remand decision. We accepted certiorari limited to one question, which we summarize as whether the ICA erred by holding that Mālama's complaint had to allege a factual basis for the lack of "good cause" underlying the DPW's decision extending the grading permit.

Mālama's Complaint alleged that DPW's asserted good cause consisted of "the applicant's need to complete grading operations," and that the lack of good cause warranted quo warranto and declaratory relief. The determination of "good cause" is potentially a legal and factual issue. Under Maui County Code (**MCC**) § 20.08.110 (eff. 1998), a grading permit expires after one year, but "the director may grant a time extension in cases of hardship or for good cause." There is no definition of good cause in MCC § 20.08.020 (eff. 2011), which governs grading and grubbing permits.

The allegations in Mālama's Complaint put DPW and MLP on notice that Mālama alleged that DPW's asserted reason did not establish good cause to extend the grading permit. We thus hold that Mālama's claim for declaratory relief in Count III of its

Complaint, as to the issue of "good cause," should not have been dismissed.

We further hold, however, that Mālama's claim for quo warranto relief in Count II was properly dismissed. Even when viewed in the light most favorable to Mālama, the asserted lack of good cause to extend a grading permit does not set forth facts that would warrant quo warranto relief.

Thus, we affirm in part and vacate in part the ICA's Judgment on Appeal, entered January 2, 2026, and remand this case to the Circuit Court for further proceedings consistent with this opinion.

II. Standard of Review

"A circuit court's ruling on a motion to dismiss is reviewed de novo." Bank of America, N.A. v. Reyes-Toledo, 143 Hawai'i 249, 256, 428 P.3d 761, 768 (2018), overruled in part by Wilmington Sav. Fund Soc'y, FSB v. Domingo, 155 Hawai'i 1, 556 P.3d 347 (2024) (citation omitted) (Reyes-Toledo II).

It is further well established that:

> a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of [their] claim that would entitle [them] to relief. The appellate court must therefore view a plaintiff's complaint in a light most favorable to [them] in order to determine whether the allegations contained therein could warrant relief under any alternative theory. For this reason, in reviewing a circuit court's order dismissing a complaint . . . the appellate court's consideration is strictly limited to the allegations of the complaint, and the appellate court must deem those allegations to be true.

Id. at 257, 428 P.3d at 769 (citation omitted).

III. Background

A. Mālama's Complaint

On March 14, 2018, Mālama filed a Complaint against DPW and MLP. Viewing the allegations in the Complaint in the light most favorable to Mālama, we set forth the allegations therein as follows. Mālama described itself as an unincorporated association formed to protect 'iwi, burials, and other historic and archaeologically significant sites on Maui. Apana is a resident of the sandhills of Kalua in Wailuku, and a native Hawaiian cultural practitioner. Kamaunu is a member of Mālama, a resident of Wailuku, and a lineal descendant of Owa 'ili.

The Complaint alleged that MLP was excavating large quantities of sand from sensitive archaeological sites in central Maui as part of its Phase IX residential development project. The Complaint also alleged the sandhills of Kalua are part of the project site, and the battle of Kakanilua took place there around 1776. Mālama thus alleged that numerous human remains and burials are within the sandhills.

Mālama also alleged that a 2013 Final Archeological Monitoring Plan (**2013 AMP**) was prepared for the project. The 2013 AMP stated that archaeological monitoring was "highly warranted due to the numerous primary burial features and

secondarily deposited human skeletal remains within the Maui Lani landholdings." DPW submitted the 2013 AMP to the State Historic Preservation Division (**SHPD**), which accepted the plan. In 2014, MLP applied for a grading permit, which DPW approved.

Three years later, on July 27, 2017, Mālama filed a Complaint against MLP in Civil No. 17-1-0311(3) (**2017 Lawsuit**) alleging violations of Hawai'i Revised Statutes (**HRS**) Chapter 6E, governing historic preservation. Mālama filed a motion for a preliminary injunction in that case on the same day. In November 2017, the Circuit Court entered a preliminary injunction in the 2017 Lawsuit. The injunction recognized the grave threat of irreparable harm posed by mining human remains from the site and processing those remains into cement. The injunction enjoined further ground-disturbing activity unless MLP provided notice to Mālama and accommodated a supervisor from Mālama during ground-disturbing activity.

Four days later, DPW administrator Cathy Hasfurther granted a one-year extension for MLP's grading permit. Two months later, Mālama wrote to DPW Director David Goode requesting rescission of the extension. The following month, Goode wrote back denying the request based on "(1) good cause, consisting in the applicant's need to complete grading operations; and (2) the lack of response from SHPD regarding a

letter sent by DPW in July 2017 concerning non-compliance with the AMP." (Emphasis added.)

Mālama's Complaint in this action contains three counts. Count I is a claim for injunctive relief, requiring DPW to consult with SHPD prior to granting a grading permit extension. That count is not at issue here.

Count II is a claim for quo warranto relief alleging that the DPW Director was "without power to grant an extension" absent hardship or good cause; therefore, the permit extension usurped the power of the Maui County Council. Mālama's specific allegations were as follows:

> 50. A grading permit application requires review by SHPD before DPW or the Director can approve the same.
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> 51. A grading permit expires and becomes null and void one year after the date of issuance.
>
> 52. The Director has the power to grant a time extension of a grading permit in cases of hardship or for good cause.
>
> 53. Where hardship or good cause are lacking, the Director is without power to grant an extension.
>
> 54. Only the County Council has the power to permit grading, stockpiling or grubbing outside of the present framework, which it is empowered to do only by passing an ordinance.
>
> 55. The Director's granting of a permit extension in the absence of hardship or good cause is ultra vires and usurps the power of the County Council.

Count III is a claim for declaratory relief, asserting the DPW Director's permit extension was unauthorized by law and therefore should be invalidated. Count III's allegations in

paragraphs 63 to 68 are identical to Count II's allegations in paragraphs 50 to 55.

B. Motions to Dismiss Complaint

Both DPW and MLP filed motions to dismiss Mālama's Complaint for failure to state a claim under HRCP Rule 12(b)(6). As to Counts II and III, both DPW and MLP pointed out that MCC § 20.08.110 states the following: "Every grubbing or grading permit shall expire and become null and void one year after the date of issuance. However, the director may grant a time extension in cases of hardship or for good cause." As such, both argued, the MCC authorized the Director's extension, so his decision was not ultra vires, and Count III of Mālama's Complaint should be dismissed. Both parties also argued that the Count II quo warranto claim should be dismissed because Mālama challenged the Director's extension, not the authority by which the Director claimed his office.

The Circuit Court held a hearing on DPW's and MLP's motions to dismiss. There the Circuit Court stated that, "for purposes of the . . . motions to dismiss, [it] will not be considering facts outside of the complaint." The Circuit Court issued an order granting, without prejudice, both of the motions to dismiss. With respect to Counts II and III, the Circuit Court's reasoning was as follows:

> Count II alleged the Director exceeded his authority when he granted the grading permit time extension at issue. Given the facts as described in the Complaint, the Court finds the Director was exercising his express discretionary authority, as provided under the law, and did not exceed that authority. As above, the Court takes all well-pleaded allegations of fact as true, but is not required to accept conclusory allegations on the legal effect of the events alleged. As such, Count II does not present a viable quo warranto cause of action and is dismissed.
>
> Count III is similarly dismissed, as the conclusory allegations in Counts I and II do not entitle plaintiffs to declaratory relief requested.

The Circuit Court explained that it was not dismissing Mālama's Complaint with prejudice "due to the potential impact on the on-going litigation in Civil No. 17-1-0311(3) which is also before this Court, and which contains overlapping factual allegations as presented herein. . . ." It stated that its dismissal without prejudice was intended "not to impact any claims with that on-going action." The Circuit Court filed its Judgment and Notice of Entry of Judgment on October 2, 2018.

C. ICA's Decision on the Merits Regarding Dismissal

On remand after Mālama I, the ICA addressed whether the Circuit Court erred in dismissing the Complaint. Mālama II, 2025 WL 3242533. For purposes of our certiorari review, we focus on the ICA's ruling regarding Counts II and III. Id. at *5-6. The ICA stated "the Complaint did not allege that the Director lacked good cause to grant the extension. Rather, the Complaint alleges that when Appellants requested that the Director rescind the permit extension, the Director refused on

the basis of 'good cause, consisting of applicant's need to complete grading operations.'" Id. at *5. The ICA further stated that Mālama's "Complaint made no factual allegations to dispute that grading was incomplete when [DPW] granted the extension," which was the basis for the good cause determination. Id. at *6. Rather, Mālama alleged that DPW's "granting of a permit extension in the absence of hardship or good cause is ultra vires and usurps the power of the County Council." Id. The ICA quoted Civil Beat for the proposition that a court "'is not required to accept conclusory allegations on the legal effect of the events alleged'" in ruling on an HRCP Rule 12(b)(6) motion to dismiss. Id. (quoting Civ. Beat Law Ctr. for Pub. Int., Inc. v. City & Cnty. of Honolulu, 144 Hawai'i 466, 474, 445 P.3d 47, 55 (2019)).

Further, the ICA quoted MCC § 20.08.110, which states that the DPW Director "'may grant a time extension in cases of hardship or for good cause,'" and which places no time limit on the extension. Id. The ICA noted that "'[a] petition for a writ of quo warranto seeks a court order directing a person who claims or usurps a state office to show by what authority he or she claims the office.'" Id. (quoting Application of Ferguson, 74 Haw. 394, 399, 846 P.2d 894, 897 (1993)). The ICA also pointed out that Mālama's Complaint had alleged that the Maui County Code gave the DPW director discretion to extend a permit

on good cause and did not allege a factual basis as to how the director acted outside his authority. Id. Therefore, the ICA concluded that the Circuit Court did not err in dismissing Counts II and III of the Complaint. Id. at *7. The ICA affirmed the Circuit Court's order dismissing Mālama's Complaint. Id.

IV. Discussion

Mālama argues that its Complaint alleges that the need to finish grading, as relied on by the DPW, does not constitute "good cause" to extend the grading permit. Under MCC § 20.08.110, "the director may grant a time extension in cases of hardship or for good cause." In the general factual background section of its Complaint, Mālama asserted it wrote to DPW to request rescission of the grading permit extension, and that DPW denied Mālama's request in part because there was "good cause, consisting in the applicant's need to complete grading operations[.]"

A. Count III: Declaratory Relief

We address Mālama's claim for declaratory relief (Count III) first. In Count III of its Complaint, Mālama alleged the following:

> 63. A grading permit application requires review by SHPD before DPW or the Director can approve the same.
>
> 64. A grading permit expires and becomes null and void one year after the date of issuance.

> 65. The [D]irector has the power to grant a time extension of a grading permit in cases of hardship or for good cause.
>
> 66. Where hardship or good cause are lacking, the [D]irector is without power to grant an extension.
>
> 67. Only the County Council has the power to permit grading, stockpiling or grubbing outside of the present framework, which it is empowered to do only by passing an ordinance.
>
> 68. The Director's granting of a permit extension in the absence of hardship or good cause is ultra vires and usurps the power of the County Council.

(Emphases added.) We agree with Mālama that these allegations put MLP and DPW on notice that it was challenging the DPW Director's good cause determination. We disagree with Mālama's argument, however, that in affirming the dismissal of Count III, the ICA relied on "plausibility" pleading standards, which this court rejected in Reyes-Toledo II, 143 Hawai'i at 262, 428 P.3d at 774.

In Reyes-Toledo II, this court rejected the federal "plausibility" standard set forth in Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007), and Ashcroft v. Iqbal, 556 U.S. 662 (2009). Reyes-Toledo II, 143 Hawai'i at 252, 428 P.3d at 764. The federal plausibility standard is as follows:

> While a complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations, a plaintiff's obligation to provide the "grounds" of [their] "entitlement to relief" requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do. Factual allegations must be enough to raise a right to relief above the speculative level on the assumption that all the allegations in the complaint are true (even if doubtful in fact).

Twombly, 550 U.S. at 555 (citations, brackets, and footnote omitted).

Instead, in Reyes-Toledo II, this court stated, "[f]or approximately seventy years, we have upheld our liberal notice pleading standard." 143 Hawai'i at 262, 428 P.3d at 774 (citations omitted). In Reyes-Toledo II, we cited many cases expressing the "notice pleading" standard under HRCP Rule 8 (eff. 2000). Id. (citing Kawakami v. Kahala Hotel Invs., LLC, 142 Hawai'i 507, 518, 421 P.3d 1277, 1288 (2018); Laeroc Waikiki Parkside, LLC v. K.S.K. (Oahu) Ltd. P'ship, 115 Hawai'i 201, 166 P.3d 961 (2007); In re Genesys Data Techs., Inc., 95 Hawai'i 33, 41, 18 P.3d 895, 903 (2001); Au v. Au, 63 Haw. 210, 220-21, 626 P.2d 173, 181 (1981); Hall v. Kim, 53 Haw. 215, 221, 491 P.2d 541, 545 (1971); Midkiff v. Castle & Cooke, Inc., 45 Haw. 409, 413-16, 368 P.2d 887, 890-92 (1962); and Yap v. Wah Yen Ki Tuk Tsen Nin Hue of Honolulu, 43 Haw. 37, 39 (Haw. Terr. 1958)). We noted that "[HRCP] Rule 8(a)(1) does not require the pleading of facts; it requires a complaint to set forth 'a short and plain statement of the claim showing that the pleader is entitled to relief.'" Id. at 258, 428 P.3d at 770 (quoting Hall, 53 Haw. at 220, 491 P.2d at 545). We further noted that "'[t]his requirement under our pleading system provides defendant with fair notice of what the plaintiff's claim is and the grounds

upon which the claim rests.'" Id. at 259, 428 P.3d at 771 (quoting Au, 63 Haw. at 221, 626 P.2d at 181). We continued:

> Not once have we questioned, or found ambiguous, our standards for HRCP Rule 8(a) and a motion to dismiss. If a complaint meets the requirements of HRCP Rule 8(a), dismissal pursuant to HRCP Rule 12(b)(6) is appropriate where "the allegations of the complaint itself clearly demonstrate that plaintiff does not have a claim," and in weighing the allegations of the complaint as against a motion to dismiss, the court "will not accept conclusory allegations concerning the legal effect of the events the plaintiff has alleged."

Id. at 262, 428 P.3d at 774 (citations and brackets omitted).

The ICA correctly expressed the applicable notice pleading standard, stating:

> [T]o defeat an HRCP Rule 12(b)(6) motion to dismiss, a complaint need only contain a short and plain statement of the claim showing that the pleader is entitled to relief and giving the defendant fair notice of the claim and the ground upon which it rests. Civ. Beat Law Ctr. For Pub. Int., 144 Hawai'i at 474, 445 P.2d at 55. "However, 'the court is not required to accept conclusory allegations on the legal effect of the events alleged.'" Id. (citation omitted).

Mālama II, 2025 WL 3242533, at *6.

Similarly, the Circuit Court did not express it was applying the plausibility standard when it granted DPW's and MLP's motions to dismiss. The Circuit Court stated the following regarding Counts II and III:

> [T]he Court takes all well-pleaded allegations of fact as true, but is not required to accept conclusory allegations on the legal effect of the events alleged. As such, Count II does not present a viable quo warranto cause of action and is dismissed.
>
> Count III is similarly dismissed, as the conclusory allegations in Counts I and II do not entitle plaintiffs to declaratory relief requested.

The Circuit Court's language is consistent with the standard for addressing a motion to dismiss and in part comes from our liberal notice pleading standard.

Although the ICA and the Circuit Court articulated various parts of the notice pleading standard, we conclude both courts did not correctly *apply* dismissal standards for Count III related to whether the DPW had good cause to extend the grading permit. When reviewing whether to dismiss a complaint, a court must view the complaint in the light most favorable to the plaintiff and it must appear beyond doubt that the plaintiff can prove no set of facts in support of their claim that would entitle them to relief. Reyes-Toledo II, 143 Hawaiʻi at 257, 428 P.3d at 769. Rather than viewing the allegations in the Complaint in the light most favorable to plaintiff Mālama regarding Count III, the ICA read Mālama's Complaint narrowly as "not alleg[ing] that the [DPW] lacked good cause to grant the extension." Mālama II, 2025 WL 3242533, at *5. Similarly, it appears the Circuit Court narrowly read the Complaint as asserting conclusory allegations.

Instead, we conclude the allegations in Count III gave MLP and DPW fair notice that Mālama claimed that DPW's asserted reason for good cause to extend the grading permit did not, in fact, constitute good cause. That is, viewing the Complaint in the light most favorable to Mālama, the Complaint asserted that

DPW's letter — stating there was "good cause, consisting in the applicant's need to complete grading operations" — was wrong because the asserted reason did not constitute good cause. MCC § 20.08.020 does not define "good cause." The issue of good cause in this case is potentially a legal and factual issue. See Chen v. Mah, 146 Hawai'i 157, 178-80, 457 P.3d 796, 817-19 (2020) (collecting cases holding that good cause depends on the rule at issue and the circumstances of each case); see also Gutschmidt v. Maui Plan. Comm'n, No. SCOT-23-0000516, 2026 WL 1458880, at *8-10 (Haw. May 22, 2026) (same).

B. Count II: Quo Warranto

We next address Mālama's claim for quo warranto relief in Count II. The allegations in Count II are identical to the allegations in Count III:

> 50. A grading permit application requires review by SHPD before DPW or the Director can approve the same.
>
> 51. A grading permit expires and becomes null and void one year after the date of issuance.
>
> 52. The Director has the power to grant a time extension of a grading permit in cases of hardship or for good cause.
>
> 53. Where hardship or good cause are lacking, the Director is without power to grant an extension.
>
> 54. Only the County Council has the power to permit grading, stockpiling or grubbing outside of the present framework, which it is empowered to do only by passing an ordinance.
>
> 55. The Director's granting of a permit extension in the absence of hardship or good cause is ultra vires and usurps the power of the County Council.

In short, Mālama alleged that the Director usurped the office of the Maui County Council by granting a grading permit extension absent hardship or good cause. The Circuit Court dismissed Count II as having not alleged a viable quo warranto claim, and we agree.

"Quo warranto is 'a common-law writ used to inquire into the authority by which a public office is held or a franchise is claimed.'" Dejetley v. Kahoʻohalahala, 122 Hawaiʻi 251, 265, 226 P.3d 421, 435 (2010) (citation omitted). Relevant to this case, HRS § 659-1 (2016) defines "quo warranto" as "an order issuing in the name of the State by a circuit court and directed to a person who claims or usurps an office of the State or of any subdivision thereof . . . inquiring by what authority the person claims the office[.]"

Quo warranto proceedings are appropriate in challenging the authority by which a person holds an office. See, e.g., Dejetley, 122 Hawaiʻi at 253-54, 271, 226 P.3d at 423-24, 441 (allowing plaintiffs leave to amend their complaint to assert a quo warranto claim against a county council representative on the basis that he could not represent the geographic area within which he did not reside); Off. of Haw. Affs. v. Cayetano, 94 Hawaiʻi 1, 8-9, 6 P.3d 799, 806-07 (2000) (holding that the "State should seek relief through a quo warranto petition" to challenge whether the Office of Hawaiian

Affairs trustees could remain in their positions after the United States Supreme Court held OHA elections to be unconstitutional in Rice v. Cayetano, 528 U.S. 495 (2000)(footnote omitted)); Territory v. Morita, 41 Haw. *1, *2 (Haw. Terr. 1955) (affirming judgment in favor of Attorney General, who brought quo warranto proceedings challenging holdover city and county attorney, holdover superintendent of buildings, and holdover city and county physician).

In this case, Mālama's Complaint alleges, at bottom, that the Director granted a grading permit extension without good cause, which alleges an abuse of authority expressly conferred upon the Director by MCC § 20.08.110. This allegation does not state any set of facts that could prove a usurpation of the office of the Maui County Council. Therefore, Mālama's Count II quo warranto claim was properly dismissed because it stated no claim upon which relief could be granted.

In summary we hold that, to the extent the Complaint alleges Count III is based on DPW not having good cause to extend the grading permit, Count III should not have been dismissed for failure to state a claim.[3] Count II, on the other hand, was properly dismissed because Mālama's Complaint does not allege a viable quo warranto claim.

[3] We do not reach or address the applicable good cause standard or other grounds for dismissal.

V. Conclusion

For the foregoing reasons, the ICA's judgment is vacated in part to the extent that it affirmed the Circuit Court's dismissal of Count III related to the issue of good cause. In all other respects, the ICA's judgment is affirmed. This case is remanded to the Circuit Court for further proceedings consistent with this opinion.

Lance D. Collins and Bianca K. Isaki for petitioners	/s/ Vladimir P. Devens /s/ Sabrina S. McKenna
Victoria J. Takayesu, Kristin K. Tarnstrom, and Kenton S. Werk for respondent County of Maui Department of Public Works	/s/ Todd W. Eddins /s/ Lisa M. Ginoza /s/ Trish K. Morikawa
Gregory W. Kugle and David H. Abitbol for respondent Maui Lani Partners	