

**Electronically Filed
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NO. CAAP-25-0000562

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAII

STATE OF HAWAII, by its Attorney General,
Plaintiff/Counterclaim Defendant-Appellant,

v.

DON WILLIAMS, Defendant/Counterclaimant/
Cross-Claim Defendant-Appellee;
CITY BANK, a Hawaii corporation, now known as Central
Pacific Bank, a Hawaii corporation, Defendant-Appellee; and
AMERUS LIFE INSURANCE, an Iowa corporation,
Defendant/Cross-Claimant-Appellee,
and
JOHN DOES 1-100; MARY ROES 1-100;
DOE PARTNERSHIPS 1-100; DOE TRUSTS 1-100;
DOE ENTITIES 1-100; DOE ESTATES 1-100; and
DOE CORPORATIONS 1-100, Defendants

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(CASE NO. 2CC131000724)

SUMMARY DISPOSITION ORDER

(By: Hiraoka, Presiding Judge, McCullen and Gluck, JJ.)

In this eminent domain case, Plaintiff-Appellant State of Hawaii (**State**) appeals from the Circuit Court of the Second Circuit's (**Circuit Court**) April 2, 2025 "Order Granting (1) Defendant Don Howard Williams, Jr., Trustee of the Williams Opportunity Trust's Motion for Summary Judgment (Dkt[.] 148

MSJ); (2) Denying Defendant Don Howard Williams, Jr., Trustee of the Williams Opportunity Trust's Motion to Strike Plaintiff State of Hawaii's Untimely Partial Motion for Summary Judgment (Dkt. 158); (3) Denying Plaintiff State of Hawaii's Partial Motion for Summary Judgment (Dkt. 156 MPSJ)" (**April 2025 Order**) and July 9, 2025 Final Judgment (**Judgment**).¹ The April 2025 Order granted the Motion for Summary Judgment filed by Defendant-Appellee Don Howard Williams, Jr. as Trustee of the Williams Opportunity Trust (**Williams**) and denied the Motion for Partial Summary Judgment filed by the State. The State timely appealed.

Background: This case involves the State's attempted condemnation of Williams' property adjacent to the Mā'alaea Small Boat Harbor (**Property**), and is before this court for the second time. In 1994, the Division of Boating and Ocean Recreation of the State Department of Land and Natural Resources entered into a 30-year lease with Williams (**1994 Lease**). On June 27, 2013, the State filed a Complaint in Circuit Court to condemn the Property. A summons, also dated June 27, 2013, was attached to the Complaint.

On March 17, 2017, the State filed a motion in limine (**State's 2017 MIL**) to exclude testimony or evidence of the 1994 Lease. The Circuit Court granted the State's 2017 MIL,

¹ The Honorable Kirstin M. Hamman presided.

excluding "evidence or testimony of valuation based on the value of the divided fee interests in the subject property" from the jury.²

On April 28, 2017, Williams filed a motion in limine to exclude the State's expert valuation evidence (**Williams' 2017 MIL**). The State's expert (James Hallstrom) valued the Property as of June 17, 2013 – ten days before the summons date – and Williams argued that the valuation should be excluded because, pursuant to Hawai'i Revised Statutes § 101-24 (2025), the summons date is the valuation date (such that valuations for a different date were irrelevant and inadmissible). The Circuit Court largely denied Williams' 2017 MIL, concluding that the State's evidence was admissible notwithstanding the ten-day difference in dates. Specifically, the Circuit Court ruled "that James Hallstrom may testify as a valuation witness for the State. Mr. Hallstrom's testimony, as proffered by the State in his deposition, is not irrelevant and its probative value is not outweighed by undue prejudice." (Emphasis added.)

On June 8, 2018, before trial, the Circuit Court approved a stipulation by the parties (**2018 Stipulation**). The parties agreed that just compensation for the Property was \$4,165,000.00, though Williams reserved the right to appeal the

² The Honorable Rhonda I.L. Loo presided over the proceedings at the time.

Circuit Court's orders and agreed to be bound by the rulings not reversed or vacated by the appellate court:

WHEREAS, Williams shall have the right to appeal the Judgment to seek reversal or vacatur of the Judgment and the court's orders and rulings, and in the event that such appeal results in a remand of these proceedings to this court, the parties, otherwise bound by the rulings of this court which are not reversed or vacated by an appellate court, shall not be bound by their stipulation herein that the total just compensation, and damages if any, for the condemnation of the undivided fee simple estate of the Property on June 27, 2013 was \$4,165,000.00[.]

(Emphasis added.) Williams appealed to this court.

On April 15, 2024, this court entered a summary disposition order. State v. Williams, No. CAAP-18-0000876, 2024 WL 1623547 (Haw. App. Apr. 15, 2024) (SDO) (**Williams I**). As to the State's 2017 MIL, this court concluded that the Circuit Court abused its discretion because "appraisal of the leased interest could have been presented to a jury." Id., 2024 WL 1623547, at *4. This court did not reverse or vacate the Circuit Court's ruling denying Williams' 2017 MIL. Id. at *6-7. Both the State and Williams filed applications for a writ of certiorari with the Hawai'i Supreme Court; both applications were rejected.

On remand to Circuit Court, both parties filed motions for summary judgment. Williams filed his motion on February 20, 2025 (**Williams' MSJ**), contending that "the just compensation which the State must provide for the property interest Williams owned on June 27, 2013 is \$7,000,000, because the only admissible evidence of the fair market value of the leased-fee

interest on the statutory date of valuation" was from Williams' expert, R.W. Spangler. The State, meanwhile, filed a motion for partial summary judgment on March 7, 2025 (**State's MPSJ**), in which it argued "that the comparable sales approach (fee simple) is the correct method of valuation[.]" The Circuit Court granted Williams' MSJ and denied the State's MPSJ.

In the current appeal, the State presents three points of error: (1) the Circuit Court erred in granting summary judgment and determining just compensation as a matter of law when material facts remained in dispute; (2) the Circuit Court erred in excluding the State's expert appraiser's report; and (3) the Circuit Court erred in determining that the income capitalization method was appropriate instead of the comparable sales method.

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised, we vacate the April 2025 Order and Judgment and remand for further proceedings.

Points of Error 1-2: In the 2018 Stipulation, the parties agreed (and the Circuit Court ordered) that the parties would be "bound by the rulings of [the Circuit Court] which are not reversed or vacated by an appellate court[.]" In ruling on Williams' 2017 MIL, the Circuit Court had ruled that Hallstrom (the State's expert) "may testify as a valuation witness for the

State. Mr. Hallstrom's testimony, as proffered by the State in his deposition, is not irrelevant and its probative value is not outweighed by undue prejudice." That ruling was neither reversed nor vacated by an appellate court. Based on the plain language of the parties' 2018 Stipulation, Williams remained bound by that ruling on remand. See Provident Funding Assocs., L.P. v. Gardner, 149 Hawai'i 288, 296, 488 P.3d 1267, 1275 (2021) ("Parties have leeway to bind themselves in a stipulation, and such agreements will be broadly enforced[.]"). Because the 2018 Stipulation bars Williams from arguing the Hallstrom report should be excluded, the Circuit Court erred by excluding it. Thus, when considering the 2018 Stipulation, Williams' MSJ failed to show that the State's evidence was inadmissible; given the competing valuations from Williams and the State, Williams' MSJ failed to show the absence of a genuine issue of material fact, and the burden never shifted to the State. The Circuit Court thus erred in granting Williams' MSJ.

Point of Error 3: The State argues that the Circuit Court erred in ruling that the income capitalization method was appropriate to determine just compensation, and that the comparable sales method should be used instead. Williams argues that because Williams I held that the Circuit Court abused its discretion by excluding evidence of possible future lease income, the law of the case is that the income capitalization method applies; Williams further contends that valuations based

on an unencumbered fee simple property are constitutionally inadmissible, because (i) the Property was encumbered (by the 1994 Lease) and (ii) the act of condemnation removed the encumbrance, but (iii) the act of condemnation cannot affect the fair market value paid to the landowner.

In Williams I we stated, "'Perhaps the most important consideration in the valuation of income-producing property is the anticipated income from that property.'" 2024 WL 1623547, at *4 (quoting City & Cnty. of Honolulu v. Mkt. Place, Ltd., 55 Haw. 226, 243, 517 P.2d 7, 20 (1973)). We held that "a future income stream from leasing the Property would not be speculative because Williams had received actual income from leasing the Property and appraisal of the leased interest could have been presented to a jury." Id. Therefore, the Circuit Court correctly denied the State's MPSJ: evidence of valuation based on the income-capitalization method was admissible pursuant to Williams I. This does not necessarily mean that evidence of comparable sales is per se inadmissible, however. Once again, the 2018 Stipulation controls: the ruling on Williams' 2017 MIL was neither reversed nor vacated on appeal, such that Hallstrom's testimony is admissible. Furthermore, as Williams' counsel stated to the Circuit Court in oral argument on his MSJ, "There is no one correct valuation method for every case." Neither Williams I nor today's summary disposition order holds that the comparable sales method was invalid, or that it could

not be used as evidence of the Property's value (particularly, the Property's reversionary value at the conclusion of the 1994 Lease). If an appraisal relied upon sales of similarly encumbered property, a jury could find the appraisal was reasonable. Differences in encumbrances would go to weight rather than admissibility.

Therefore, we vacate the Circuit Court's April 2, 2025 Order and July 9, 2025 Final Judgment and remand for further proceedings consistent with this summary disposition order.

Dated: Honolulu, Hawai'i, September 30, 2026.

On the briefs:

Miranda C. Steed,
Deputy Attorney General,
State of Hawai'i,
for Plaintiff-Appellant.

/s/ Keith K. Hiraoka
Presiding Judge

/s/ Sonja M.P. McCullen
Associate Judge

Robert H. Thomas and
Kathryn D. Valois,
Pro Hac Vice
(Pacific Legal Foundation)
and
Mark M. Murakami
(Damon Key Leong
Kupchak Hastert),
for Defendant-Appellee.

/s/ Daniel M. Gluck
Associate Judge