

NO. 26813

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

WALTER JOHN KELLY, et al.,
Plaintiffs-Appellees/Cross-Appellants/Cross-Appellees

vs.

1250 OCEANSIDE PARTNERS, a Hawai'i Limited Partnership,
Defendant-Appellant/Cross-Appellant/Cross-Appellee

and

STATE OF HAWAI'I, DEPARTMENT OF HEALTH,
a Department of the State of Hawai'i, et al.,
Defendants-Appellees/Cross-Appellants

and

DEPARTMENT OF LAND AND NATURAL RESOURCES,
et al., Defendants-Appellees

and

LAND USE COMMISSION, Defendant-Appellee

and

COUNTY OF HAWAI'I, et al.,
Defendants-Appellants/Cross-Appellees

and

JOHN DOES 1-10, et al., Defendants

E.M. RIMANDO
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

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FILED

APPEAL FROM THE THIRD CIRCUIT COURT
(CIV. NO. 00-1-0192K)

ORDER

(By: Acoba, J., for the court¹)

Upon consideration of Defendant-Appellant/Cross-Appellee 1250 Oceanside Partners' motion for remand and stay of

¹ Considered by Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.

proceedings, the papers in support, and the records and files herein, it appears that: (1) the parties reached a tentative settlement resolving issues in this appeal except for issues concerning the existence or extent of any public trust obligations relating to coastal water quality, whether such duties as may exist in these areas were violated in this case, and related matters; (2) the parties submitted a joint HRCF Rule 60(b) motion to the Circuit Court of the Third Circuit to partially vacate the third amended judgment; and (3) on March 3, 2006, the circuit court issued an order indicating its inclination to grant the HRCF Rule 60(b) motion upon remand of the case from the supreme court in accordance with Life of the Land v. Ariyoshi, 57 Haw. 249, 553 P.2d 464 (1976). Therefore,

IT IS HEREBY ORDERED that:

1. The motion for remand is granted, and this matter is remanded to the Circuit Court of the Third Circuit for consideration of the joint HRCF Rule 60(b) motion.

2. Within thirty days from the date of this order, the parties shall file the joint HRCF Rule 60(b) motion, and the circuit court shall hear and decide the joint HRCF Rule 60(b) motion.

3. Within thirty days thereafter, the circuit court shall issue its order on the HRCF Rule 60(b) motion and/or amended judgment.

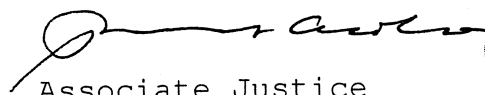
4. Within ten days after the circuit court issues its order and/or amended judgment, the clerk of the Circuit Court of the Third Circuit shall supplement the record on appeal with all documents filed in the record on remand.

5. Within ten days after the circuit court issues its order and/or amended judgment, the parties shall inform the court of the status of the appeal and which issues, if any, remain pending for decision.

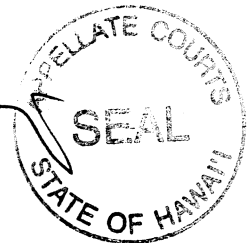
6. The appeal is stayed pending the notification required in this order.

DATED: Honolulu, Hawai'i, March 7, 2006.

FOR THE COURT:



Associate Justice



Lawrence S. Okinaga and
David W.K. Wong (Carlsmith
Ball LLP), on the motion
for defendant-appellant/
cross-appellant/cross-appellee
1250 Oceanside Partners.