

NO. 27407

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

THE SIERRA CLUB, a California non-profit corporation registered to do business in the State of Hawai'i; MAUI TOMORROW, INC., a Hawai'i non-profit corporation; and the KAHULUI HARBOR COALITION, an unincorporated association, Plaintiffs-Appellants

vs.

THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF HAWAI'I; BARRY FUKUNAGA, in his capacity as Director of the DEPARTMENT OF TRANSPORTATION OF THE STATE OF HAWAI'I; MICHAEL FORMBY, in his capacity as Deputy Director for Harbors of the DEPARTMENT OF TRANSPORTATION OF THE STATE OF HAWAI'I and HAWAI'I SUPERFERRY, INC., Defendants-Appellees

APPEAL FROM THE SECOND CIRCUIT COURT (CIV. NO. 05-1-0114)

ORDER OF CORRECTION

(By: Duffy, J. for the court¹)

EM RIMANDO
CLERK APPELLATE COURTS
STATE OF HAWAII

2007/OCT - 1 PM 1:57

FILED

IT IS HEREBY ORDERED that the opinion of the court filed on August 31, 2007 is hereby corrected as follows (deletions are italicized in brackets and additions are double underscored):

Page 2, line 13: the Hawai'i Environmental [*Protection*] Policy Act (HEPA),⁴ before

Page 2, footnote 4, last line: [*Protection*] Policy Act.

Page 4, footnote 5, line 12: The PUC further "condition[ed [*it's*] its] authorization in this docket upon

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

Page 6, line 8: A. The Hawai'i Environmental
[Procedure] Policy Act

Page 8, line 8: exemption rules provide for [10] ten
classes of exempt actions,

Page 8, line 9 (delete extra space): specified in []
HAR § 11-200-8(A) (1)-(10) (1996), available at

Page 8, footnote 7, line 4: Rules of Practice &
Procedure," available at <http://www.state.hi.us/health/>

Page 8, footnote 8, line 1: HAR § [12] 11-200-8(A)
provides:

Page 11, lines 20 and 21: the process: (1) when no EA
is prepared, (2) when [a FONSI is prepared, (3) and] an agency
determines that an EIS will or will not be required, and (3) when
an EIS is accepted. HRS § 343-7(a)-(c).

Page 18, line 6: [Haleakalā] Haleakalā National Park,
National Park Service; the Maui Invasive

Page 19, line 13 (after block quote): (Emphases added.)
Garibaldi also discussed his company's work with "the State

Page 25, line 9 (add underscore): [de novo] de novo
review of the circuit court's judgment.

Page 27, line 11: purpose,'" 77 [Haw.] Hawai'i 446,
457, 887 P.2d 656, 667 (App. 1993)

Page 27, footnote 20, line 15: [EISes] EISs are or aren't required, the availability of [EISes] EISs for review and

Page 41, line 10: Prot. of North Kohala Coastline v. County of Hawai'i, 91 [Haw.] Hawai'i 94,

Page 42, line 13 (after block quote): plaintiffs, and the court will recognize harms to [a plaintiff's] plaintiffs

Page 43, footnote 28, line 2 (delete underscore from space): approach to standing in environmental cases, see, e.g. [Life of the Land, 63

Page 43, footnote 28, line 3: Haw. at 177 n.15, 623 P.2d at 443 n.15, [this court has] we have not directly

Page 43, footnote 28, line 21: enforce laws intended to protect the environment" ([Alteration] alteration in original[.])

Page 43, footnote 28, last line: ([Emphasis] emphasis added[.])))."

Page 55, line 21 (after block quote): subsection: (1) [the] "[t]he council or office, any agency responsible

Page 65, line 11: show that: (1) [they have] the plaintiff has been accorded a procedural right, which

Page 65, line 15: right protects [a] the plaintiff's concrete interests; and (3) the

Page 65, line 16: procedural violation threatens the plaintiff's concrete interests,

Page 74, line 5: increased traffic and use of recreational areas was due to the

Page 77, line 13 (delete underscore): membership in general membership in general and the remedy provided to the organization

Page 80, line 3: (1985); [Cf.] cf. Playboy Enter., Inc. v. Pub. Serv. Comm'n, 906 F.2d

Page 82, line 9: because DOT's determination was supported by the record.

Page 85, line 13: Appellants [argues] argue that DOT committed legal error in its

Page 101, line 5: [flipside] flip side of this caution, however, is that this court "must

Page 103, line 8: Environmental [Protection] Policy Act.

Page 103, line 9: Based on the foregoing, we [reverse] vacate the circuit court's

The Clerk of the Court is directed to incorporate the foregoing changes in the original opinion and take all necessary steps to notify the publishing agencies of these changes.

DATED: Honolulu, Hawai'i, October 1, 2007.

FOR THE COURT:

Kamae E. Duffy, Jr.

Associate Justice

