

DISSENT BY NAKAYAMA, J.

I respectfully dissent in the decision to reject the application for writ of certiorari. While I agree with the Intermediate Court of Appeals' decision to reverse the circuit court because the circuit court should have granted the motion to dismiss inasmuch as there was no actual controversy, I disagree that the absence of controversy denied the circuit court of subject matter jurisdiction. I would therefore grant the application for writ of certiorari in order to clarify the matter.