

R-514

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

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/s/CARL T. WATANABE
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LAND COURT SYSTEM REGULAR SYSTEM
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TITLE OF DOCUMENT:
DECLARATORY JUDGMENT

PARTIES TO DOCUMENT:

PLAINTIFF: HAWAIIAN RANCHOS ROAD MAINTENANCE CORP., et al

DEFENDANT: MICHAEL AUGUSTIN, et al

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Attorney for Plaintiffs

THIRD CIRCUIT COURT
STATE OF HAWAII
FILED

99 JUL -6 PM 3:10

BRENDA McRAE
CLERK

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

HAWAIIAN RANCHOS ROAD)
MAINTENANCE CORPORATION,)
ROBERT BARRY, ISRAEL DAVID)
GORALI, Trustee, LEONARD GEORGE)
HILL, DONALD GILBERT NITSCHKE,)
and JAMES WILLIAM OTTERSON,)
individually, and as representatives of all)
other persons similarly situated,)

Plaintiff,)

vs.)

MICHAEL AUGUSTIN, THOMAS)
DAVIS, GRACE DAVIS, PAMELA)
KITZLER, DAN KITZLER, GERALD)
LANGE, Trustee, SAUL LELAH,)
STANLEY TROELLER and)
TED GEORGE)

Defendants.)

CIVIL NO. 98-76


DECLARATORY JUDGMENT

DECLARATORY JUDGMENT

Pursuant to the Findings of Fact and Conclusions of Law, and Order Granting Summary Judgment, the court enters judgment as follows:

1. Plaintiffs individually, as well as Plaintiff Hawaiian Ranchos

I hereby certify that this is a full, true and correct copy of the original as filed in this office.



Clerk Third Circuit Court, State of Hawaii

Road Maintenance Corporation, shall be entitled to a declaratory judgment against Defendants, as a Rule 23 (b) (2), Hawaii Rules of Civil Procedure Action.

2. In accordance with the decision in *Paradise Hui Hanalike vs. Hawaiian Paradise Park Corp.* 66 Haw. 362 (1983), where a subdivision is created consisting of lots and private roadways servicing them, and the deeds to the lots are silent as to any duty to contribute to the maintenance of the roads, all owners of lots abutting the private roadways have a legal duty to contribute to the necessary maintenance of the said roadways.

3. Plaintiff Hawaiian Ranchos Road Maintenance Corporation, its successors and assigns, shall be entitled to assess and collect mandatory road maintenance fees from all property owners within the Hawaiian Ocean View Ranchos Subdivision in Kau, Hawaii. "Property owners" shall include owners holding legal title as well as those under land sale contracts commonly known as agreements of sale.

4. Said Plaintiff is further authorized to continue with its road maintenance program within the said subdivision.

5. The said Plaintiff shall be entitled to enforce the property owners' duty to contribute to road maintenance fees by filing a claim for equitable liens against property owners and their lots within the said subdivision with the Land Court of the State of Hawaii or the Bureau of Conveyances, as the case may be, for lot owners who become delinquent in paying their assessments.

6. Said Plaintiff shall be permitted such other remedies as may be

provided by law, including the right to file foreclosure actions under Chapter 667, Hawaii Revised Statutes.

7. Because this action has been maintained as a Class Action under Rule 23 (b) (2), Hawaii Rules of Civil Procedure, this Judgment shall be binding upon all property owners in Hawaiian Ocean View Ranchos Subdivision, Kau, County of Hawaii, State of Hawaii and may be enforced accordingly.

8. PURSUANT TO RULE 54, HAWAII RULES OF CIVIL PROCEDURE, THE COURT EXPRESSLY DETERMINES THAT THERE IS NO JUST REASON FOR DELAY AND DIRECTS THE ENTRY OF A FINAL JUDGMENT AS TO ALL CLAIMS BETWEEN THE PARTIES.

DATED: Hilo, Hawaii JUL 06 1999

RIKI MAY AMANO

JUDGE OF THE ABOVE-ENTITLED COURT

