

Electronically Filed
Supreme Court
SCPW-20-0000005
22-MAY-2020
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最高法院电子存档
(2020年5月22日)

SCPW-20-0000005

IN THE SUPREME COURT OF THE STATE OF HAWAI'I 夏威夷州最高法院

YANLI XU; NAOMI HASEGAWA; KAZUHIRO ISHIDA; ATSUSHI MORITA; JUBEE
AIZAWA; KASUMI ISHIDA; TATSUTO EHARA; MACOTO ISHIDA; HUN-DONG YU;
LILI WU; TAO JIANG; CHUANJIAO YU; TIANGE YANG; XIAOMIN HUANG;
PINMEI WANG; XIAOHUI WU; YUYANG JING; LI WANG; DONG ZHANG; KE
YUAN; WEI JIANG; XIUJUAN LI; SONGHUA ZHANG; YIHAO XU; WEI WANG;
RUIGANG TAN; and JING LIU,

许艳丽; 长谷川尚; 石田和寛; 森田敦士; 相澤十兵衛;

石田かすみ; 江原立人; 石田誠; HUN-DONG YU; 吴莉莉江

涛; 于传娇; 杨天歌; 黄晓敏; 王品梅; 吴小辉;

景宇旻; 王力; 张冬; 袁珂; 姜维; 李秀娟; 张松华; 许义浩;

王伟; 谭瑞岗; 刘静; 请愿人

vs.

THE HONORABLE DEAN E. OCHIAI, Judge of the Circuit Court of the
First Circuit, State of Hawai'i, Respondent Judge,
尊敬的Dean E. Ochiai法官, 夏威夷州第一巡回法院, 受诉法官

and 及

ZHONG FANG aka JOHNSON FANG; MEI HU aka MICHELLE HU; JIAJIAWANG;
ZHE FANG; LAMEI FANG; HAWAII CITY PLAZA LP; HAWAII OCEAN PLAZA
LP; CALIFORNIA REGIONAL CENTER LLC; CALIFORNIA INVESTMENT
REGIONAL CENTER LLC, Respondents.

方忠即Johnson; Michelle Hu; 王佳佳; 方哲; 方腊梅; 夏威夷城市广场LP; 夏威夷海洋广
场LP; 加州区域中心LLC; 加州投资区域中心LLC; 应诉人

ORIGINAL PROCEEDING 初审程序
(CIVIL NO. 1CCV-19-0002169)

ORDER DENYING PETITION FOR WRIT OF MANDAMUS
拒绝执行令状申请的命令

(By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson, JJ.)

Upon consideration of petitioner's petition for writ of mandamus, filed on May 22, 2020, the documents attached thereto and submitted in support thereof, and the record, it appears that petitioner fails to demonstrate that they have a clear and indisputable right to the requested relief and they lack alternative means to seek relief. See Kemav. Gaddis, 91 Hawai'i 200, 204-05, 982 P.2d 334, 338-39 (1999) (a writ of mandamus is an extraordinary remedy that will not issue unless the petitioner demonstrates a clear and indisputable right to relief and a lack of alternative means to redress adequately the alleged wrong or obtain the requested action; where a court has discretion to act, mandamus will not lie to interfere with or control the exercise of that discretion, even when the judge has acted erroneously, unless the judge has exceeded his or her jurisdiction, has committed a flagrant and manifest abuse of discretion, or has refused to act on a subject properly before the court under circumstances in which he or she has a legal duty to act); Wong v. Fong, 60 Haw. 601, 604, 593 P.2d 386, 389 (1979) (ordinarily, a writ of mandamus is invoked in exceptional circumstances amounting to judicial usurpation of power); Honolulu Adv., Inc. v. Takao, 59 Haw. 237, 241, 580 P.2d 58, 62 (1978) (a writ of mandamus is meant to restrain a judge of an inferior court from acting beyond or in excess of his or her jurisdiction). Accordingly,

经审议申请者于2020年5月22日提交的《令状申请书》，及其提交的证明文件和记录，看来，请愿者们未能证明他们有明确且无可争辩的权利来获得所要求的救济，而且他们缺乏寻求救济的其他手段。见 Kemav. Gaddis, 91 Hawai'i 200, 204-05, 982 P.2d 334, 338-39 (1999)（强制令是一种特殊的补救措施，除非请愿人证明其拥有明确且

无可争辩的权利，否则不会发布救济，并缺乏其他途径来获得所要求的行动；如果法院有酌处权采取行动，即使法官错误地采取行动，裁定书也不会撒谎来干扰或控制该酌处权的行使，除非法官超出了他或她的管辖权、公然明显滥用了酌处权，或在他或她有法律责任行事的情况下拒绝在法庭上对某人适当采取行动）； Wong v. Fong, 60 Haw. 601, 604, 593 P.2d 386, 389(1979)（通常，在相当于司法篡夺权力的特殊情况下援引强制令）； Honolulu Adv., Inc. v. Takao, 59 Haw. 237, 241, 580 P.2d 58,62 (1978)（强制令旨在限制下级法院法官的行为超出或超出其管辖范围）。因此，

IT IS HEREBY ORDERED that the petition for writ of mandamus is denied.

现命令驳回有关委任状的呈请。

DATED: Honolulu, Hawai'i, MAY22,2020.

日期：2020年5月22日，夏威夷

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S.McKenna

/s/ Richard W.Pollack

/s/ Michael D. Wilson



**Electronically Filed
Supreme Court
SCPW-20-0000358
22-MAY-2020
02:17 PM**

SCPW-20-0000358

IN THE SUPREME COURT OF THE STATE OF HAWAII

YANLI XU; NAOMI HASEGAWA; KAZUHIRO ISHIDA; ATSUSHI MORITA; JUBEE AIZAWA; KASUMI ISHIDA; TATSUTO EHARA; MACOTO ISHIDA; HUN-DONG YU; LILI WU; TAO JIANG; CHUANJIAO YU; TIANGE YANG; XIAOMIN HUANG; PINMEI WANG; XIAOHUI WU; YUYANG JING; LI WANG; DONG ZHANG; KE YUAN; WEI JIANG; XIUJUAN LI; SONGHUA ZHANG; YIHAO XU; WEI WANG; RUIGANG TAN; and JING LIU, Petitioners,

vs.

THE HONORABLE DEAN E. OCHIAI, Judge of the Circuit Court of the First Circuit, State of Hawai'i, Respondent Judge,

and

ZHONG FANG aka JOHNSON FANG; MIN HU aka MICHELLE HU; ZHE FANG aka JAY FANG; KIAYU WANG aka JIAJIA WANG; LAMEI FANG; USA REALTY CONSTRUCTION GROUP INC.; CALIFORNIA INVESTMENT REGIONAL CENTER LLC; CALIFORNIA REGIONAL CENTER LLC; WUHAN WESTERN U.S. INVESTMENT IMMIGRATION CONSULTANT INC.; AMERICAN INVESTMENT IMMIGRATION FUND; HAWAII CITY PLAZA LP; HAWAII OCEAN PLAZA LP; LOS ANGELES CITY PLAZA LP; LA VALLEY GARDEN PLAZA LP; and 9920 VALLEY BLVD LP, Respondents.

ORIGINAL PROCEEDING
(CIVIL NO. 1CCV-19-0002169)

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

(By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson, JJ.)

Upon consideration of petitioners' petition for writ of mandamus, filed on May 6, 2020, the documents attached thereto and submitted in support thereof, and the record, it appears that

petitioners fail to demonstrate that they have a clear and indisputable right to the requested relief and that they lack alternative means to seek relief. Petitioners, therefore, are not entitled to the requested extraordinary writ. See Kema v. Gaddis, 91 Hawai'i 200, 204-05, 982 P.2d 334, 338-39 (1999) (a writ of mandamus is an extraordinary remedy that will not issue unless the petitioner demonstrates a clear and indisputable right to relief and a lack of alternative means to redress adequately the alleged wrong or obtain the requested action); Wong v. Fong, 60 Haw. 601, 604, 593 P.2d 386, 389 (1979) (ordinarily, a writ of mandamus is invoked in exceptional circumstances amounting to judicial usurpation of power); Honolulu Adv., Inc. v. Takao, 59 Haw. 237, 241, 580 P.2d 58, 62 (1978) (a writ of mandamus is meant to restrain a judge of an inferior court from acting beyond or in excess of his or her jurisdiction). Accordingly,

IT IS HEREBY ORDERED that the petition for writ of mandamus is denied.

DATED: Honolulu, Hawai'i, May 22, 2020.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson

