

S.C. No. 27351

IN THE SUPREME COURT OF THE STATE OF HAWAII

COUNTY OF KAUA'I BY ITS COUNTY  
ATTORNEY LANI D. H. NAKAZAWA,

Plaintiff-Appellee,

vs.

BRYAN J. BAPTISTE, MAYOR, COUNTY  
OF KAUA'I; MICHAEL H. TRESLER,  
DIRECTOR OF FINANCE, COUNTY  
OF KAUA'I; AND KAUA'I COUNTY  
COUNCIL,

Defendants-Appellees,

and

GORDON G. SMITH, INDIVIDUALLY;  
WALTER S. LEWIS, IN HIS CAPACITY  
AS TRUSTEE OF THE WALTER S.  
LEWIS REVOCABLE LIVING TRUST;  
MONROE F. RICHMAN, TRUSTEE,  
RICHMAN FAMILY TRUST; and MING  
FANG, TRUSTEE, MING FANG TRUST,

Intervenors-Appellants.

CIVIL NO. 04-1-0124  
(Declaratory Judgment)

APPEAL FROM FINAL JUDGMENT  
(filed May 20, 2005)

FIFTH CIRCUIT COURT

Honorable George Masuoka, Judge

2005 NOV 23 PM 3:41  
J. M. DIMANNO  
COURT CLERK  
FIFTH CIRCUIT COURT

2005 NOV 23 PM 3:41

FILED

**DEFENDANTS-APPELLEES BRYAN J. BAPTISTE, MAYOR,  
COUNTY OF KAUA'I, MICHAEL H. TRESLER, DIRECTOR OF FINANCE,  
COUNTY OF KAUA'I AND KAUA'I COUNTY COUNCIL'S ANSWERING BRIEF**

**CERTIFICATE OF SERVICE**

CHRISTIANE L. NAKEA-TRESLER      7409  
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Attorney for Defendants-Appellees

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COUNTY OF KAUA'I AND KAUA'I COUNTY COUNCIL'S ANSWERING BRIEF**

Defendants-Appellees Bryan J. Baptiste, Mayor, Michael H. Tresler, Director of Finance, and the members of the Kaua'i County Council, in their official capacities, are responsible to implement and administer the real property taxes for the County of Kaua'i (hereinafter "County"). They therefore have interests in the validity or invalidity of the

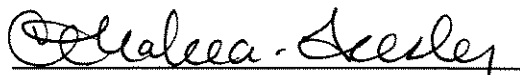
Charter Amendment, Article XXXI, regarding resident real property taxes (hereinafter "Charter Amendment").

The Kaua'i County Council is tasked with enacting ordinances, to include that which is pertaining to real property taxes. Bryan J. Baptiste, as Mayor, is the chief executive officer of the County, and as such, has the power to enforce the ordinances of the County and all applicable laws. Michael H. Tresler, as Director of Finance, is the chief accounting, fiscal and budget officer of the County and is responsible for operating and managing the real property tax functions as or assigned by the Mayor. The real property tax function serves as an integral part of the County's ability to maintain a balanced budget.

The Charter Amendment is not consistent with existing ordinances of the County pertaining to real property taxes and may not be implemented simultaneously. The Order and Judgment of the Fifth Circuit Court resolves the uncertainty created by the inconsistency between the Charter Amendment and existing ordinances.

Pursuant to the ruling of the Circuit Court, the Defendant-Appellees are administering the real property taxes in the County as if the Charter Amendment is invalid. If this Court reverses the Court below, they will follow the ruling of the Court.

DATED: Līhu'e, Kaua'i, Hawai'i, November 21, 2005.

  
CHRISTIANE L. NAKEA-TRESLER  
Deputy County Attorney  
Office of the County Attorney

Attorney for Defendants-Appellees

**S.C. No. 27351**

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Honorable George Masuoka, Judge

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on November 21, 2005, a true and correct copy of the foregoing document was duly served upon the following parties by mailing the same, postage prepaid to their last known addresses:

LANI D. H. NAKAZAWA, ESQ.  
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and

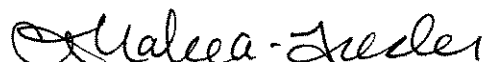
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Attorney for Intervenor-Appellants

DATED: Līhu'e, Kaua'i, Hawai'i, November 21, 2005.

  
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Office of the County Attorney

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