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Y. ISHIHARA, CLERK
SECOND CIRCUIT COURT
STATE OF HAWAII

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

MĀLAMA CHUN,)	Civil No. 17-1-0312 (3)
)	(Environmental Court)
Appellant/ Plaintiff)	
vs.)	SUMMARY DISPOSITION ORDER
)	
BOARD OF LAND AND NATURAL)	
RESOURCES, STATE OF HAWAII,)	
)	
Appellee/ Defendant.)	
)	

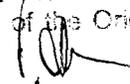
SUMMARY DISPOSITION ORDER

Plaintiff/Appellant MĀLAMA CHUN (Chun) appeals from an Order Denying Petition for Declaratory Order entered on July 14, 2017, before the Board of Land and Natural Resources, State of Hawai'i,¹ (BLNR). BLNR denied Chun's Petition for Declaratory Order concluding that Chun was not an interested person entitled to a declaratory order pursuant to HRS § 91-8 and denied the petition without addressing its merits.

On appeal, Chun contends that (1) the DLNR lacked authority to issue commercial fishing licenses to non-citizens, (2) the BLNR's actions were in violation of constitutional provisions, (3) BLNR's decision was issued in violation of Chun's constitutional rights to procedural due process, (4) BLNR's decision was clearly erroneous, arbitrary, capricious and constituted a clearly unwarranted exercise of discretion, (5) BLNR employed unlawful procedures in denying Chun's petition, (6) BLNR's decision was clearly erroneous and affected by other errors of law and (7) BLNR's decision not to hold a hearing on Chun's petition was unreasonable. The Hawai'i Longline Association sought leave to intervene. The Court denied that request but did grant leave to file an

¹ The members of the BLNR were Suzanne D. Case, Chairperson, Keith "Keone" Downing, James A. Gomes, Samuel "Ohu" Gon III, Thomas Oi, Stanley H. Roehrig, and Christopher Yuen.

I hereby certify that this is a full, true and correct copy of the Original.



Clerk, Second Circuit Court

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amicus brief and the Hawai'i Longline Association filed an amicus brief.

Oral argument was held on December 13, 2017. Lance D. Collins argued the cause for Chun. William J. Wynhoff, deputy attorney general, argued the cause for BLNR.

Upon careful review of the record and the briefs submitted by the parties and the amicus curiae and having given due consideration to the arguments advanced and the issues raised by the parties and amicus curiae, as well as the relevant statutory and case law, the Court resolves Chun's points of error as follows, reverses the Order, and remands for further proceedings.

Interested Party. BLNR's administrative rules require that a person petitioning for a declaratory order contain a "statement of the nature of petitioner's interest, including reasons for submission of the petition" and a "clear and concise statement of the position or contention of the petition." HAR § 13-1-27(b). Chun made a prima facie showing that he is an interested person under HRS § 91-8 pursuant to the requirements of HAR § 13-1-27(b).

Right to Hearing. Chun is entitled to a hearing if the BLNR seeks to further adjudicate or contest Chun's prima facie showing that he is an interested person under HRS § 91-8. *Korean Buddhist Dae Won Sa Temple of Hawaii v. Sullivan*, 87 Hawai'i 217, 243, 953 P.2d 1315, 1341 (1998)

Therefore,

IT IS HEREBY ORDERED that the Order entered on July 14, 2017, before the Board of Land and Natural Resources, is reversed and this matter is remanded for further proceedings.

DATED : Wailuku, Maui, Hawai'i

JAN 18 2018

/S/ JOSEPH E. CARDOZA (SEAL)

JUDGE OF THE ABOVE-ENTITLED COURT

Approved as to form:



William J. Wynhoff
Deputy Attorney General
Attorney for Defendant-Appellee