



DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

ANNE LOPEZ
ATTORNEY GENERAL
LOIO KUHINA

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**STATE ONCE AGAIN PREVAILS IN MULTIMILLION DOLLAR LAWSUIT
CONCERNING THE VILLAGES AT AINA LE'A**

FOR IMMEDIATE RELEASE

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HONOLULU – The State has again prevailed in a multimillion-dollar federal regulatory taking lawsuit brought by developer DW Aina Le'a Development, LLC, relating to the Villages at Aina Le'a project in Waikōloa.

DW Aina Le'a, a Nevada company, sought hundreds of millions of dollars from the state for alleged damages stemming from an April 25, 2011 decision of the Land Use Commission (LUC) to revert the project land from the urban district to the agricultural district. In May 2022, Judge Susan Oki Mollway of the U.S. District Court for the District of Hawai'i granted summary judgment in favor of the LUC, but the Ninth Circuit Court of Appeals remanded the case for further proceedings.

On February 12, 2024, Judge Mollway again granted summary judgment in favor of the LUC, holding that DW could not establish its regulatory taking claim as a matter of law, and final judgment was entered in favor of the LUC.

"The Department of the Attorney General will vigorously defend lawsuits brought by those who assert speculative claims seeking a financial windfall for themselves at the expense of Hawai'i taxpayers," said Special Assistant to the Attorney General Dave Day, who first began litigating regulatory taking cases concerning the Villages at Aina Le'a in 2015. "Since the case was remanded from the Ninth Circuit last year, our litigation team led by Deputy Attorney General Ciara Kahahane and Special Deputy Attorney General Sharon Lovejoy presented an overwhelmingly strong defense, and Judge Mollway correctly ruled that the LUC was entitled to judgment as a matter of law."

"The court's ruling is based in part on the finding that the plaintiff's speculative investment in the planned development was not backed by reasonable expectations given its failure to comply with the affordable housing conditions imposed by the Land Use Commission," continued Day. "This decision supports the ability of government entities to impose and enforce reasonable affordable housing requirements on developers and property owners."

“We are pleased by the federal court’s ruling. It is a decisive win that reaffirms the state’s authority to pursue enforcement of our land-use regulations without overstepping constitutional boundaries,” said Special Deputy Attorney General Sharon Lovejoy. “This victory underscores the State’s commitment to defending the legal principles that sustain the balance between private property rights and the public interest.”

The April 25, 2011 LUC decision to revert the project land has been the subject of substantial litigation, including a previous federal case brought by another company, Bridge Aina Le‘a, LLC, in which the State prevailed before the Ninth Circuit Court of Appeals. The Ninth Circuit’s decision in *Bridge Aina Le‘a* is considered to be a significant regulatory taking case that has been cited as authority in courts across the nation.

The case is *DW Aina Le‘a Dev., LLC v. State of Hawaii, Land Use Comm’n*, Civil No. 17-00113 SOM-WRP. The Order Granting Defendants’ Motions for Summary Judgment can be found [here](#). The Judgment can be found [here](#).

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Media Contacts:

Dave Day
Special Assistant to the Attorney General
Office: 808-586-1284
Email: david.d.day@hawaii.gov
Web: <http://aq.hawaii.gov>

Toni Schwartz
Public Information Officer
Hawai‘i Department of the Attorney General
Office: 808-586-1252
Cell: 808-379-9249
Email: Toni.E.Schwartz@hawaii.gov
Web: <http://aq.hawaii.gov>