

Bond Case Briefs

Municipal Finance Law Since 1971

PUBLIC CONTRACTS - HAWAII

Asato v. Procurement Policy Bd.

Supreme Court of Hawai'i - February 14, 2014 - P.3d - 2014 WL 594080

Taxpayer brought action against Procurement Policy Board seeking declaratory and injunctive relief, alleging that regulation providing for waiver of number of bids requirement for public contracts. The Circuit Court declared regulation invalid and awarded taxpayer attorney's fees, but declined to invalidate contracts that had been made pursuant to regulation. Board appealed and taxpayer cross-appealed.

Following discretionary transfer, the Supreme Court of Hawaii held that:

- Taxpayer constituted an interested person with standing to challenge regulation, overruling *Richard v. Metcalf*, 921 P.2d 169;
- Regulation conflicted with procurement code;
- Regulation exceeded Board's scope of powers;
- Determination that regulation was invalid did not require declaration that contracts issued under regulation were void ab initio; and
- Taxpayer was not entitled to award of attorney's fees and costs pursuant to private attorney general doctrine.