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ZONING - HAWAII

Kauai Springs, Inc. v. Planning Com'n of County of Kaua"i

Supreme Court of Hawai'i - February 28, 2014 - P.3d - 2014 WL 812683

Water bottling company sought review of county planning commission's denial of combined application for a use permit, zoning permit, and special permit to continue operating a spring water bottling facility. The Circuit Court reversed in part and vacated in part. Planning commission appealed. The Intermediate Court of Appeals vacated and remanded. Bottling company petitioned for writ of certiorari, which was granted.

The Supreme Court of Hawaii held that:

- Ordinances permitting assent to delay in ruling on application did not conflict with statute;
- Bottling company assented to delay in ruling on application; and
- Planning commission properly denied application pursuant to public trust doctrine.

County planning commission properly denied, pursuant to the public trust doctrine of the state constitution, water bottling company's combined application for a user permit, zoning permit, and special permit related to operation of spring water bottling facility, where there was no evidence that bottling company or its commercial water supplier had legal standing to extract or sell the water on a commercial basis, thus, bottling company's operation of bottling facility would not have been in compliance with Water Commission and Public Utilities Commission requirements.

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