

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

MAUI VACATION RENTAL ) CIVIL NO. 07-00495 JMS/KSC  
ASSOCIATION, INC., a Hawaii )  
corporation, )  
Plaintiff, )  
vs. )  
COUNTY OF MAUI; JEFF HUNT, )  
Director of MAUI COUNTY )  
PLANNING COUNTY PLANNING )  
DEPARTMENT, as an individual, and )  
DOES 1-10, inclusive; )  
Defendants. )  
\_\_\_\_\_ )

**SUMMARY ORDER DENYING DEFENDANTS’ MOTION TO DISMISS  
COMPLAINT BASED ON LACK OF STANDING AND GRANTING  
DEFENDANTS’ MOTION TO DISMISS COMPLAINT FOR FAILURE TO  
STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED, WITH  
WRITTEN ORDER TO FOLLOW**

On September 28, 2007, Plaintiff Maui Vacation Rental Association, Inc. (“Plaintiff”) filed a Complaint against Defendant County of Maui and Jeff Hunt, Director of the County Planning Department, (collectively “Defendants”), alleging five causes of action: (1) 42 U.S.C. § 1983 violation of Plaintiff’s substantive due process rights, procedural due process rights, and equal protection rights; (2) breach of express and implied contract; (3) breach of implied covenant

of good faith and fair dealing; (4) equitable estoppel; and (5) maintenance of illegal customs and policies. On October 23, 2007, Defendants filed a Motion to Dismiss the Complaint, asserting that Plaintiff lacks standing, and that the Complaint fails to state a claim upon which relief can be granted.

Upon consideration of the parties' briefs, supplemental briefs, and argument at the December 3, 2007 hearing, the court DENIES Defendants' Motion to Dismiss on the basis of standing, but GRANTS Defendants' Motion to Dismiss for failure to state a claim as follows:

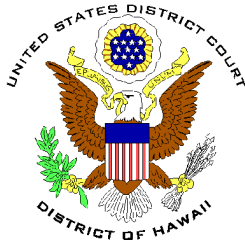
- Count I of the Complaint is dismissed without leave for Plaintiff to amend the Complaint based on substantive or procedural due process grounds. Plaintiff may amend the Complaint to state an equal protection claim.
- Count II is dismissed without leave for Plaintiff to amend the Complaint.
- Count III is dismissed without leave for Plaintiff to amend the Complaint.
- Count IV is dismissed without leave for Plaintiff to amend the Complaint.

- Count V is dismissed with leave for Plaintiff to amend the Complaint to allege the facts supporting municipal liability for an equal protection or First Amendment violation as part of Count I, and/or allege a separate First Amendment violation.

A written order setting forth the court's analysis will follow.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, December 17, 2007.



/s/ J. Michael Seabright  
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J. Michael Seabright  
United States District Judge

*Maui Vacation Rental Association, Inc. v. County of Maui, et al.*, Civ. No. 07-00495 JMS/KSC;  
Summary Order Denying Defendants' Motion to Dismiss Complaint Based on Lack of Standing  
and Granting Defendants' Motion to Dismiss Complaint for Failure to State a Claim upon Which  
Relief Can Be Granted, with Written Order to Follow