

# Developer ordered<sup>9/24/91</sup> to honor Luau deal

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West Beach Estates, developer of the Ko Olina resort, must honor an agreement to buy the Paradise Cove Luau for \$30 million, Circuit Court Judge Robert Klein ruled this week.

The decision came in a lawsuit filed by Roy Tokujo, chairman and chief executive officer of Cove Enterprises, against West Beach Estates earlier this year.

"I always believed we had a binding agreement with West Beach Estates," Tokujo said in a statement. "I hope that West Beach Estates' lender, the Industrial Bank of Japan, realizes that the community is counting on them to honor their commitment to fund this project."

Attorney Jerry Hiatt, representing Tokujo, argued that West Beach had aggressively pursued a deal with Tokujo last summer, agreeing in late July to pay Tokujo \$20 million for the luau's assets and \$10 million for him to consult on the operation.

He said in doing so, Tokujo agreed to forgo a deal with Toyo Realty, which wanted to pay \$7.5 million for a joint venture interest and arrange \$15 million in financing from the Sanwa Bank for improvements.

Hiatt said West Beach's representatives believed their main lender, the Industrial Bank of Japan, felt it important to obtain the property because it sits near the entrance of the Ko Olina resort.

Hiatt said the deal was spelled out in two letters and further noticed by announcements to Paradise Cove's 225 employees, government officials and the media.

He said West Beach apparently was unable to complete the deal when it could not get the necessary financing from the Industrial Bank of Japan. Tokujo filed the lawsuit after an Oct. 1 deadline for closing the deal passed.

West Beach, through attorney Craig Kugisaki, had argued there was never a binding contract between the two parties. He said the two letters never detailed what property was to be transferred and were only statements of West Beach's intention to buy.

West Beach yesterday declined comment until it saw Klein's written order. It did not say whether it will appeal the decision.