

CONCURRING AND DISSENTING OPINION BY NAKAMURA, C.J.

I concur in the analysis and result reached by the majority on the issues of whether Act 73, 2003 Haw. Sess. Laws at 128-30 (Act 73), effected an uncompensated taking with respect to future accretions and existing accretions to private oceanfront property. However, the circuit court's Class Certification Order was not appealed, and the appropriate remedy for any uncompensated taking effected by Act 73 was not an issue before this court. I would not address and do not express any view on matters that were not before us. To that extent, I respectfully dissent from the majority's opinion.