IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION

KOROR STATE LEGISLATURE,
Appellant,
v.
KOROR STATE PUBLIC LANDS AUTHORITY,
KOROR PLANNING COMMISSON, AND
PALAU SEA VENTURES, INC.
Appellees.

Cite as: 2017 Palau 28
Civil Appeal No. 15-028
Appeal from Civil Action No. 14-112

Decided: August 7, 2017

Counsel for Appellant .....S. Nakamura, C. Baird
Counsel for Appellees
Koror State Public Lands Authority .....K. McEntire
Koror Planning Commission .....M. Doran
Palau Sea Ventures, Inc.....R. Dimitruk, K. Berg

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice
JOHN K. RECHUCHER, Associate Justice
KATHERINE A. MARAMAN, Associate Justice

Appeal from the Trial Division, the Honorable Kathleen M. Salii, Associate Justice, presiding.

OPINION

PER CURIAM:

[¶ 1] The Koror State Legislature (KSL) sued the Koror Planning Commission (KPC), the Koror State Public Lands Authority (KSPLA), and Palau Sea Ventures (PSV) over the use of a parcel of public land. KSL claims that the permitting and leasing of this lot violates a 2014 land use statute. The Trial Division determined that KSL lacks standing to pursue these claims. For the reasons below, we reverse and remand.

BACKGROUND

[¶ 2] In February 2014 KSPLA was considering leasing out two public lots in Koror State. KSL informed KSPLA that it was considering a bill that would reserve these lots for public/government use (the "Public Benefit Law"). KSL passed the bill on April 15, 2014. While the bill was being considered by the governor, KSPLA leased one of the lots to PSV. The governor subsequently vetoed the bill, but KSL overrode the veto and the bill became law on May 2, 2014.

[¶ 3] Around this time, PSV applied to KPC for a permit to fence and pave the lot for parking. Despite the Public Benefit Law's prohibition on use of the land for any "private residential, industrial or commercial use," KPC issued a permit on June 30, 2014. The next month, KSL filed suit against KPC, KSPLA, and PSV. Among other things, KSL claimed that the building permit issued by KPC was invalid and that the KSPLA/PSV lease was invalid.

[¶ 4] After various proceedings in the trial court, PSV and KSPLA moved to dismiss the case. They argued that the court lacked subject matter jurisdiction over the claims because KSL lacked standing to purse them. In particular, they asserted that KSL could not point to a legal "injury"—a necessary element of standing. PSV and KSPLA characterized KSL as attempting to enforce the law, a role properly conducted only by the executive branch. KSL responded that it had been "injured" because its legislative powers had been effectively nullified through impermissible action by KPC, KSPLA, and PSV. Among other things, KSL argued that "its power to regulate land use has been nullified by [defendants'] actions."

[¶ 5] The Trial Division ultimately found that KSL lacked standing to pursue this suit because it could not demonstrate "injury in fact." The court, relying heavily on *Gibbons v. Seventh Koror State Legislature*, 11 ROP 97 (2004), and U.S. cases on standing, concluded that standing "is a fundamental element of a court's subject matter jurisdiction." The Trial Division continued by noting that "constitutional standing to sue requires that the plaintiff show three elements: (1) an injury in fact; (2) a causal connection between that injury and the conduct complained of; and (3) a likelihood that the injury is redressable by a favorable decision." After articulating this

constitutional standard, the court drew a distinction between constitutional standing and "prudential standing." The trial court appeared to find the latter applicable, noting that "Palauan standing doctrine is entirely prudential in nature." Notwithstanding this statement, the court focused its analysis on whether KSL had met the first element of constitutional standing—i.e., whether it had demonstrated "an injury in fact."

[¶ 6] The Trial Division explained that "KSL claim[ed] a right to a role in governing Koror State, a right it ha[d] utterly failed to substantiate." Such a right belonged to the governor and KSL was not empowered to govern or enforce the law. The court concluded that "[h]aving asserted harm to its right to have the laws enforced as it desires, a right it does not have, KSL has failed to demonstrate injury in fact." The Trial Division accordingly held that KSL did not have standing to pursue the claims and dismissed its complaint. KSL timely appealed.

STANDARD OF REVIEW

[¶ 7] "A lower court's conclusions of law are reviewed de novo." *PCSPP v. Udui*, 22 ROP 11, 14 (2014).

DISCUSSION

[¶ 8] "The judicial power shall extend to all matters in law and equity." Const., art. X, § 5. This statement defines the subject matter jurisdiction of the courts of the Republic. *See, e.g.*, *Gibbons v. ROP*, 1 ROP Intrm. 634, 637 (1989). In defining our jurisdiction, the Constitution uses "extremely broad language" and expresses the intent of the Framers that, at a minimum, the courts should exercise jurisdiction over all matters which traditionally require judicial resolution. *See id.* The parties here dispute the meaning and legal effect of a number of constitutional and statutory provisions and their interaction with contracts and administrative decisions—all of which are issues that commonly come before the courts for judicial resolution. It is, after all, "the Court's province and duty to 'say what the law is,'" and to decide, if necessary, "whether another branch of government has exceeded whatever authority has been committed to it." *Francisco v. Chin*, 10 ROP 44, 49-50 (2003) (quoting *Becheserrak v. Koror State*, 3 ROP Intrm. 53, 55 (1991)). The Trial Division determined, however, that it lacked subject

matter jurisdiction to proceed with a consideration of this dispute because KSL lacked "standing" to bring the dispute to court. The trial court held that "standing" "is a fundamental element of a court's subject matter jurisdiction."

[¶ 9] The jurisdictional language of the Constitution does not mention "standing," or indeed define our jurisdiction by reference to the identity or characteristic of a putative party. The Trial Division drew the standing requirement from a combination of our prior cases, particularly *Gibbons v. Seventh Koror State Legislature*, 11 ROP 97, 107 (2004) ("*Koror State*"), and United States cases articulating the jurisdiction of the U.S. federal courts. From these cases, the court determined that standing "requires that the plaintiff show three elements: (1) an injury in fact; (2) a causal connection between that injury and the conduct complained of; and (3) a likelihood that the injury is redressable by a favorable decision." As explained below, we conclude that these requirements are not consistent with the jurisdictional language of the Constitution.

I. History of "Standing" Doctrine

[¶ 10] Our earliest standing cases recognized the importance of the difference in language between our Constitution and the U.S. Constitution. In *Gibbons v. ROP*, 1 ROP Intrm. 634 (1989), this Court held that the starting point of our jurisdictional analysis "must be the Constitution of the Republic of Palau." *Id*. at 637. The Court explained:

> Article X, Section 5, of the Palau Constitution specifically states that "[t]he judicial power shall extend to *all matters* in law and equity." (emphasis added). Obviously, the use of the term "all matters" is much broader in scope than the terms "cases" or "controversies" used in Article III, Section 2, of the United States Constitution. The jurisdictional language of the Palau Constitution expresses the intent of the Framers that this Court exercise jurisdiction over any and all matters which traditionally require judicial resolution. The extremely broad language of the Palau Constitution thus compels us to adopt a very liberal approach in determining whether a plaintiff has standing to bring a particular action.

Id. at 637.

[¶ 11] Since our explanation in *Gibbons v. ROP*, however, our decisions have moved away from the "very liberal approach" compelled by the "extremely broad language of the Palau Constitution" towards something else. In *Gibbons v. ROP*, the Court held that the broad jurisdictional language alone was a sufficient basis to finding standing for the plaintiff. *Id*. at 637 ("For this reason alone, we must hold that plaintiffs possess standing in this case."). The Court then went on to explain that even under the more stringent standards of the U.S. courts, the plaintiff would still have standing. *Id*. ("Yet even an analysis based on United States case law corroborates our conclusion that standing must be granted plaintiffs in this case."). The Court noted that under U.S. precedents, "the key to standing then is an actual or threatened injury to plaintiffs." *Id*. at 637-38.

[¶ 12] Although the *Gibbons v. ROP* Court reviewed U.S. case law simply to corroborate the existence of standing in that case, some of our subsequent decisions appeared to treat the U.S. analysis as a jurisdictional requirement. For example, in *Becheserrak v. ROP*, 5 ROP Intrm. 63 (1995), the Court, quoting *Gibbons v. ROP*, stated: "we have adopted 'a very liberal approach in determining whether a plaintiff has standing to bring a particular action.' As explained in *Gibbons*, '[t]he key to standing is an actual or threatened injury.'" 5 ROP Intrm. at 66-67. In hindsight, the *Becheserrak* Court misread *Gibbons v. ROP*, merging the "very liberal approach" compelled by our Constitution with the "actual injury" requirement drawn from U.S. cases.

[¶ 13] Then, in *Senate v. Nakamura*, 7 ROP Intrm. 8 (1998), we again looked to *Gibbons v. ROP*: "In *Gibbons v. ROP*, 1 ROP Intrm. 634, 637 (1989), we held that this provision limited our jurisdiction to 'matters which traditionally require judicial resolution.' Thus, at a minimum, the allegations of the complaint must show that the defendant has caused the plaintiff to suffer an injury in fact and that the injury was to a legally protected right." 7 ROP Intrm. at 9. As in *Becheserrak*, we overlooked the analytical distinction between our Constitution's "very liberal approach" and the "actual injury" requirement of U.S. standing. Further, the *Senate* Court appeared to misquote *Gibbons v. ROP*. We did not hold there that the Constitution "limited" our jurisdiction to "matters which traditionally require judicial resolution." We instead stated that the language expressed a clear intent for

us to exercise jurisdiction in any and all such "traditional" cases. *Cf.* 1 ROP Intrm. at 637.

[¶ 14] Finally, by the time we decided *Koror State* in 2004, we had taken to summarizing the idea of "standing" as follows:

> The Palau Constitution imposes limitations on the rights of litigants to bring claims in courts of law. These limitations, commonly known as the "standing" doctrine, require a court to verify that a party has suffered an injury that the court is capable of redressing before allowing the party to proceed with a lawsuit.

11 ROP at 105 (quotations omitted). In short, between the 1989 decision in *Gibbons v. ROP* and the 2004 decision in *Koror State*, the "very liberal approach" to standing compelled by "the extremely broad language of the Palau Constitution" had been displaced by formal requirements of "injury" and "redressability" drawn from U.S. case law.

II. Problems with Current "Standing" Doctrine

[¶ 15] The problem with relying on cases from the United States to define the limits of our jurisdiction is that the jurisdictional language of our Constitution and the U.S. Constitution is markedly different. Our current standing jurisprudence does not honor the distinction between the broad language of our Constitution and the more limiting language of the U.S. Constitution. The U.S. Constitution limits the jurisdiction of its federal courts to "cases or controversies." U.S. Const., art. III, § 2. The principle of constitutional standing requiring "injury" comes directly from this limiting language. *See, e.g.*, *N.E. Florida Contractors v. Jacksonville*, 508 U.S. 656, 663 (1993) ("The doctrine of standing is an essential and unchanging part of the case-or-controversy requirement of Article III."); *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992). Our Constitution does not so limit our jurisdiction and it is not obvious why our courts should follow U.S. jurisdictional precedents.

[¶ 16] Indeed, in our original standing case, *Gibbons v. ROP*, the Court found it "obvious" that "the use of the term 'all matters'" in our Constitution "is much broader in scope than the terms 'cases' or 'controversies' used in Article III, Section 2, of the United States Constitution." 1 ROP Intrm. at

637. The subsequent *Becheserrak, Senate*, and *Koror State* line of cases has effectively narrowed the scope of our subject matter jurisdiction to that prescribed by the U.S. Constitution. If the jurisdictional language of Article X, Section 5, served only as a limit on judicial power, our prior cases narrowing that jurisdiction might be less problematic. But jurisdiction is not only a power. It is also a responsibility. If a court has jurisdiction over a dispute it should usually exercise it. *Cf., e.g.*, *Mata v. Lynch*, 135 S. Ct. 2150, 2156 (2015) ("When a federal court has jurisdiction, it also has a virtually unflagging obligation to exercise that authority.") (citations omitted). The Framers intended our courts generally to exercise our jurisdiction when properly invoked. *See Gibbons v. ROP*, 1 ROP Intrm. at 637. By construing our jurisdiction to be limited to that of the U.S. federal courts we abdicate our general obligation to exercise the broader jurisdiction envisioned by the Framers.

III. Stare Decisis

[¶ 17] Appellees urge us to retain the reasoning of these standing cases under the principle of stare decisis. This principle counsels that rules of law, when clearly announced and established by a court of last resort, should not be lightly disregarded and set aside. "In general, courts try not to overrule recent precedent. Adhering to precedent is usually the wise policy, because in most matters it is more important that the applicable rule of law be settled than it be settled right." *Markub v. KSPLA*, 14 ROP 45, 49 n.5 (2007) (citation omitted). But constitutional jurisdiction is foundational to the proper functioning of the judiciary; it is, in other words, one of those matters that it is important be settled right. *Cf., e.g.*, *Payne v. Tennessee*, 501 U.S. 808, 828 (1991) ("Stare decisis is not an inexorable command; rather, it is a principle of policy and not a mechanical formula of adherence to the latest decision. This is particularly true in constitutional cases, because in such cases correction through legislative action is practically impossible.") (citations omitted).

[¶ 18] We have addressed the considerations for overruling prior decisions on a number of occasions. For example, in *Markub* we overruled *Masang v. Ngirmang*, 9 ROP 125 (2002), a decision concerning the return of public lands provision of Article XIII, Section 10. *See Markub*, 14 ROP at

48. We explained that "the rule announced in *Masang* runs directly contrary to the intent of this [constitutional] provision." *Id*. at 49. We found that because our decision in *Masang* "serves to thwart the constitutional purpose" it should not stand solely on considerations of stare decisis. Likewise, in *Beouch v. Sasao*, 20 ROP 41 (2013), we overruled *Udui v. Dirrecheteet*, 1 ROP Intrm. 114 (1984), a decision regarding customary law. *See Beouch*, 20 ROP at 47-48. Because *Udui* and its progeny did not give effect to the Constitution's mandate that "Palauan custom exists as a source of law," adhering to those decisions solely on precedential grounds was not warranted. *Id.* at 48.

[¶ 19] For the same reasons, our decisions in *Becheserrak*, *Senate*, and *Koror State* cannot stand solely on considerations of stare decisis. Those decisions "serve to thwart" the broad jurisdiction the Constitution provides for our courts to exercise. Further, we perceive no "special unfairness" to litigants in overruling these prior cases. *Cf. Markub*, 14 ROP at 49 n.5. Stare decisis considerations are weakest when examining procedural and structural rules where reliance interests are minimized. *Cf., e.g.*, *Payne*, 501 U.S. at 828. Indeed most of our "standing" precedents found "standing" existed under the more stringent U.S. test meaning the ultimate result would have been the same under a broader conception of standing. Regardless, we find it difficult to conceive that individuals have ordered their daily lives and business in reliance on a particular interpretation of this Court's jurisdiction. We hereby overrule any portion of our prior cases that holds that our constitutional subject matter jurisdiction is limited to cases in which a plaintiff demonstrates injury, causality, and redressability.

IV. Disentangling "Standing" and Jurisdiction

[¶ 20] One recurring theme in cases discussing standing is the difficulty in defining exactly what "standing" *is* and where it comes from. For example, the Trial Division stated that standing "is a fundamental element of a court's subject matter jurisdiction." Because our subject matter jurisdiction is defined by Article X, Section 5, the trial court's statement implies that standing is a limit on the exercise of judicial power imposed by Section 5. But the Trial Division later went on to state that standing "is entirely prudential in nature." This implies that standing is not a Section 5 concept,

but rather an independent restraint on the exercise of judicial power imposed for other reasons. These two conceptions of standing are at odds with one another and we are compelled to consider the relationship—if any—that a concept of standing has to the scope of our constitutional jurisdiction.

[¶ 21] The United States courts have articulated two distinct concepts of "standing." Constitutional standing is a jurisdictional limit imposed by the "case or controversy" language of the U.S. Constitution. *Cf., e.g., N.E. Florida Contractors*, 508 U.S. at 663 ("The doctrine of standing is an essential and unchanging part of the case-or-controversy requirement of Article III."). Prudential standing "embodies judicially self-imposed limits" on the exercise of constitutional jurisdiction. *Cf., e.g., United States v. Windsor*, 133 S. Ct. 2675, 2685 (2013) (citations omitted). In other words, there may be instances in which a U.S. federal court has constitutional jurisdiction but, for reasons of prudence, it should nevertheless decline to hear a case. Such prudential rules are "designed to protect the courts from deciding abstract questions of wide public significance [when] other governmental institutions may be more competent to address the questions and even though judicial intervention may be unnecessary to protect individual rights." *Id*. at 2686 (citations omitted).

[¶ 22] With the distinction between constitutional jurisdiction and judicial prudence in mind, we turn to consider the proper source for a concept of standing in Palau. The Constitution's definition of our jurisdiction is broad and succinct: "The judicial power shall extend to all matters in law and equity." Art. X, § 5. This language does not explicitly limit our jurisdiction based on the identity of a plaintiff who initiates a lawsuit. To the extent that the concept of "standing" is concerned with the identity of a plaintiff or the plaintiff's relationship to the claims in the lawsuit, the plain text of Section 5 does not place a "standing" requirement on the exercise of our jurisdiction. Further, the Framer's choice not to include the "case or controversy" language of the U.S. Constitution in our own Constitution weighs against reading in any implied constitutional "standing" requirement. That omitted language is the source of the constitutional standing requirement in the United States. *Cf., e.g., N.E. Florida Contractors*, 508 U.S. at 663. Without that limiting language, Section 5 does not impose a "standing" limit on the scope of our subject matter jurisdiction.

[¶ 23] Crucially, however, "a court's jurisdiction to hear a case is a fundamentally different question than . . . whether the claim is justiciable—that is, whether or not the subject matter is appropriate for judicial consideration." *PCSPP v. Udui*, 22 ROP 11, 14 (2014) (citing *Baker v. Carr*, 369 U.S. 186, 198 (1962)). "While a lack of jurisdiction entirely forecloses judicial oversight or review, justiciability requires a case by case inquiry over subject matters that, while within the court's jurisdiction, may be inappropriate for consideration for other reasons." *Id*. at 14-15. As we explained recently in *Kiuluul v. Elilai Clan*, 2017 Palau 14: "Justiciability is a prudential doctrine." *Id.*, ¶8 n.2. It is in the prudential doctrine of justiciability that we can identify a sound source for a concept of "standing" in Palau. *See id.* (for a case to be justiciable, "there must be standing").

[¶ 24] The Trial Division was thus correct to state that "Palauan standing doctrine is entirely prudential in nature." It erred, however, in linking standing to constitutional jurisdiction rather than justiciability. We clarify today that the constitutional grant of jurisdiction in Article X, Section 5, is not limited by a "standing" requirement; however, the concept of "standing" is a prudential consideration in determining whether a case is justiciable.

V. A Standard for "Standing"

[¶ 25] We now turn to consider the proper standard by which a court should evaluate a challenge to a putative plaintiff's standing. Most of our prior "standing" cases—now overruled—treated "standing" as a question of constitutional subject matter jurisdiction and developed a standard originating in the "case or controversy" language of the U.S. Constitution. There is thus scant Palauan precedent to turn to.

[¶ 26] As discussed earlier, looking to U.S. case law to define our constitutional jurisdiction is problematic because that jurisdiction is tied to specific constitutional language, language that is markedly different between the Palau and U.S. Constitutions. But the concept of justiciability is not drawn solely from specific constitutional language. Justiciability is concerned with "whether or not the subject matter [of a case] is appropriate for judicial consideration." *PCSPP v. Udui*, 22 ROP at 14. An understanding of what makes a case "appropriate for judicial consideration" is developed through experience over time, *id.*, and is informed by background principles

of the role and competency of courts as institutions in constitutional democracies. These ideas transcend differences in constitutional text. Given the long period of time over which the U.S. judiciary has had to test the appropriate limits of judicial competency, it would be wise to consider the lessons learned from that experience.

[¶ 27] We have previously looked to United States case law in developing all the other main elements that make up the doctrine of justiciability—that is, whether a case is ripe, or moot, would lead to an advisory opinion, or presents a political question. *See, e.g.*, *Kiuluul*, 2017 Palau 14, ¶ 8 n.2 (listing elements of justiciability); *id.* ¶ 9 (ripeness); *Mesubed v. Ninth Kelulul a Kiuluul*, 10 ROP 104, 105 (2003) (mootness); *KSG v. ROP*, 3 ROP Intrm. 127, 128-29 (1992) (advisory opinions); *PCSPP v. Udui*, 22 ROP at 14-18 (political questions).

[¶ 28] As noted earlier, there are two distinct U.S. standing doctrines, one based in constitutional jurisdiction and one based in prudential considerations. The division of these concepts and the articulation of the constitutional standing requirements is a relatively recent development in the United States. *See generally* Fletcher, *The Structure of Standing*, 98 Yale Law Journal 221, 230 (1988). With the rise in prominence of the constitutional standing doctrine, the United States Supreme Court has also reclassified much of what it had historically referred to as prudential considerations into constitutional jurisdictional ones. *See, e.g.*, *Lexmark Int'l, Inc*. v. *Static Control Components, Inc.*, 134 S. Ct. 1377, 1387 (2014) ("Although we admittedly have placed [the zone-of-interests] test under the "prudential" rubric in the past, it does not belong there.") (citation omitted); *id.* at 1387 n.3 ("The zone-of-interests test is not the only concept that we have previously classified as an aspect of "prudential standing" but for which, upon closer inspection, we have found that label inapt. Take, for example, our reluctance to entertain generalized grievances . . . While we have at times grounded our reluctance to entertain such suits in the "counsels of prudence" . . . , we have since held that such suits do not present constitutional 'cases' or 'controversies.'") (citations omitted).

[¶ 29] However, before the doctrinal shift in focus to constitutional standing based on the "case or controversy" language, the United States

Supreme Court grappled with "standing" as a justiciability concept. In *Flast v. Cohen*, 392 U.S. 83 (1968), the Court acknowledged that constitutional and prudential considerations had become muddled and foreshadowed the eventual separation of those concepts: "uncertainty exists in the doctrine of justiciability because that doctrine has become a blend of constitutional requirements and policy considerations." *Id*. at 97. The *Flast* Court however, identified that "standing is an aspect of justiciability." *Id.* at 98. Although again sometimes blending jurisdiction and justiciability, the Court explained that standing "focuses on the party seeking to get his complaint before a . . . court and not on the issues he wishes to have adjudicated." *Id.* at 99. "The 'gist of the question of standing' is whether the party seeking relief has 'alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions.'" *Id*. (quoting *Baker v. Carr*, 369 U.S. 186, 204 (1962)). The Court continued:

> In other words, when standing is placed in issue in a case, the question is whether the person whose standing is challenged is a proper party to request an adjudication of a particular issue and not whether the issue itself is justiciable. Thus, a party may have standing in a particular case, but the federal court may nevertheless decline to pass on the merits of the case because, for example, it presents a political question. A proper party is demanded so that federal courts will not be asked to decide ill defined controversies over constitutional issues, or a case which is of a hypothetical or abstract character. So stated, the standing requirement is closely related to, although more general than, the rule that federal courts will not entertain friendly suits or those which are feigned or collusive in nature.

Flast, 392 U.S. at 99–100. Although some specific reasoning in *Flast* nods to limits on U.S. federal jurisdiction, the general articulation of "standing" strikes us as prudentially sound.

[¶ 30] We therefore conclude that a proper standing inquiry asks whether "the person whose standing is challenged is a proper party to request an

adjudication of a particular issue." The goal is to consider whether the plaintiff has an interest in the adjudication so as "to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends" and to ensure the court "will not be asked to decide ill defined" legal and equitable questions. In that sense, we agree that the standing requirement is a general expression of the principle that "courts will not entertain friendly suits or those which are feigned or collusive in nature." The standing inquiry, thus framed, is a natural product of the fact that "our court system is an adversarial one." *Estate of Tmetuchl v. Siksei*, 18 ROP 1, 8 (2010); *see also, e.g.*, *KSPLA v. Idid Clan*, 22 ROP 66, 67 (2015) (noting "the fundamental nature of our adversarial system"). Where a court assures itself that the plaintiff will bring concrete adversity to the presentation of the dispute and that it will not be asked to decide ill-defined questions, standing exists.

[¶ 31] We have not attempted to announce a comprehensive bright-line test for standing that will answer all future questions. Justiciability—of which standing is one element—is a prudential doctrine born of experience and developed over time. Future standing cases may require us to further refine the bounds of the doctrine. *Cf.*, *PCSPP v. Udui*, 22 ROP at 14-15 (explaining that "justiciability requires a case by case inquiry over subject matters"). But this is natural in jurisprudence. Our judiciary is still young and our jurisdiction and justiciability doctrines will be refined slowly on a case-by-case basis over time.

VI. Application

[¶ 32] We return to the decision on appeal. The trial court held it did not have subject matter jurisdiction over any claim brought by KSL. To the extent the court held that it lacked jurisdiction because KSL had not demonstrated "injury in fact," we now hold that was error.[1] The correct question is whether any of KSL's claims present a "matter in law or equity."

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[1] In appropriate cases, an "injury" analysis may provide a useful analytic backstop for a court. Because the U.S. test is stricter, a plaintiff who meets U.S.-style requirements almost certainly satisfies our broader standard.

[¶ 33] KSL's first claim in its amended complaint focuses on KPC's issuance of the building permit. Among other things, KSL alleges that "KPC's issuance of the building permit to Defendant PSV is in direct violation of the *Public Benefit Law*." KSL alleges that the permit "should therefore be declared unlawful" and KPC enjoined from taking action "contrary to the mandate stated in the *Public Benefit Law*." On its face, this claim presents an archetypal legal dispute. Resolution may require some fact-finding, such as when the permit was issued. It may require statutory construction, such as the scope of the Public Benefit Law and its interaction with other statutes in force. It may require application of facts to the law, such as whether the permitting process complied with applicable zoning statutes. And it may require remedial analysis, such as whether KSL has met the standard for declaratory or injunctive relief. Each of the foregoing represent traditional judicial tasks—commonplace in legal and equitable matters brought to court for resolution—and it is straightforward to conclude that the subject matter of the claim itself is a "matter in law and equity." We conclude, therefore, that the subject matter falls within the constitutional jurisdiction of the courts. *See* art. X, § 5.

[¶ 34] The remaining question is whether KSL is a proper party to request an adjudication of the issue raised in the first claim. Nothing in the record suggests to us that KSL's interest in determining whether the permit is valid is "feigned" or part of a "collusive" suit. The content of KSL's filings indicate to us a "concrete adversity" to KPC on the subject matter of the claim such that we can be assured of a sharp presentation of the issue and not be left to decide an ill-defined question. We see no reason why KSL's participation as the plaintiff will, in and of itself, render the claim non-justiciable—in other words, they have standing.

[¶ 35] Application of these standards to KSL's other claims leads to the same conclusion. The gist of these claims is that the KSPLA lease to PSV is no longer legally effective following the passage of the Public Benefit Law. As with the permit claim, whether or not this claim has any legal merit would appear to turn on issues such as, for example, the interpretation of the Public Benefit Law and constitutional protections against the impairment of contracts. *Cf.* Const., art. IV, § 6. The claims about the lease present "matters in law" that fall within the constitutional subject matter jurisdiction

of the courts. As to standing, nothing in the record indicates that KSL's relationship to the lease claims is meaningfully different from its relationship to the permit claim. Their interest in no way appears "feigned" and the record indicates that "concrete adversity" that assures us that any legal or equitable issues can be presented in the form of sharply defined questions. In other words, we conclude that KSL's participation as plaintiff does not render this dispute non-justiciable for want of standing.

[¶ 36] Our conclusions here are limited: We conclude that the subject matter of the claims falls within the constitutional subject matter jurisdiction of the courts and that KSL has standing to pursue them. Other questions about these claims are not before us in this appeal. For example, standing is only one aspect of justiciability. *See, e.g.*, *Kiuluul*, 2017 Palau 14, ¶ 8 n.2. A plaintiff can have standing but a court may find a claim non-justiciable where it presents a political question. *Cf., e.g.*, *Flast*, 392 U.S. at 100.[2] Equally important, the fact that a claim is justiciable and falls within the jurisdiction of the court says almost nothing about that claim's other procedural or substantive merits. We express no view on the procedural or substantive merits of KSL's claims or the availability of any remedies.

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[2] Portions of the trial court's standing analysis raised considerations more naturally addressed in political question analysis. For example, the court characterized KSL as "enforcing" the law and noted that "other governmental institutions may be more competent to address the questions" presented. We are skeptical; although certain "enforcement" *remedies* may not be available, a legislature can bring suit to prevent nullification of one of its constitutional powers without impermissibly "enforcing" the law. *Senate*, 7 ROP Intrm. at 11-13. Regardless, most of these issues are not related to standing.

CONCLUSION

[¶ 37] Under a proper application of the Constitution's grant of subject matter jurisdiction over "all matters in law and equity," the trial court has jurisdiction over KSL's claims. KSL also has standing to pursue the claims. The order of the Trial Division is **REVERSED** and this matter **REMANDED** for proceedings not inconsistent with this opinion.

SO ORDERED, this 7th day of August, 2017.