

Resolution 18-10  
Early Testimony

MISC. COM. 12

EMLA

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**From:** CLK Council Info  
**Sent:** Saturday, January 20, 2018 6:34 AM  
**Subject:** Public Hearing Speaker Registration/Testimony

## Speaker Registration/Testimony

Name Ray  
Phone 7370243  
Email Rjlee10@outlook.com  
Meeting Date 01-23-2018  
Council/PH Committee PublicHearing  
Agenda Item Resolution bill 18-7 to 18-17 kaimuki  
Your position on the matter Oppose  
Representing Self  
Organization  
Do you wish to speak at the hearing? No

Written Testimony There are few open areas in our area and this area is historic. The homeless population has created a very unsafe and high theft oribkem in the areas they congregate I am opposed to all of these rsolutions from the dot

Testimony Attachment

Accept Terms and Agreement 1



ASHFORD + WRISTON  
A LIMITED LIABILITY LAW PARTNERSHIP LLP

ROSEMARY T. FAZIO

A Law Corporation  
Direct: (808) 539-0415  
rfazio@awlaw.com

January 22, 2018

City Council, City and County of Honolulu  
Committee on Executive  
Matters and Legal Affairs  
Attention: Ron Menor, Chair  
530 South King Street  
Honolulu, HI 96813-3077

Re: For Action Agenda Item 7, Regular Meeting on January 23, 2018  
(Testimony in Opposition)

Dear Mr. Menor:

I write on behalf of my client, the Jiroichi Otani Family Limited Partnership (the "Otani Family"), regarding the proposed condemnation of its property situated at 230 North Nimitz Highway, TMK No. 1-5-008-020.

Resolution No. 18-10 ("For Action Item" Number 7 on the Agenda for your regular meeting scheduled for January 23, 2018) deals with this property. The Otani Family opposes the passage of Resolution No. 18-10 because it is premature.

The Otani Family submitted the attached letter dated January 9, 2018 regarding HART's intention to condemn its property. In response, the Otani Family was advised that (1) HART has just begun its due diligence to determine whether to take all or a portion of the Otani Family property; and (2) HART has not yet obtained an appraisal for the proposed taking.

Because HART does not know what it plans to take, nor the value of the proposed taking, no meaningful negotiations can occur. Until those preliminary and necessary steps occur, proposed Resolution No. 18-10 is premature. We urge your Committee to reject this Resolution.

Thank you for the opportunity to express our views.

Very truly yours,  
ASHFORD & WRISTON  
A Limited Liability Law Partnership LLP

By   
ROSEMARY T. FAZIO

RTF:lms  
Enclosure

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2109582v1

# TSUGAWA BIEHL LAU & MUZZI

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Michael L. Biehl  
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Of Counsel:  
Frank T. Kanemitsu  
Attorney At Law  
A Law Corporation

January 9, 2018

Mr. Andrew S. Robbins  
Executive Director and CEO  
Honolulu Authority for Rapid Transportation  
City & County of Honolulu  
1099 Alakea Street, Suite 1700  
Honolulu, Hawaii 96813

**Re: CMS-APOOROW-01485  
Honolulu Rail Transit Project (HRTP)  
230 North Nimitz Highway  
Parcel 437: TMK 1-5-008-20 (Portion)  
Notice of Recommendation for Eminent Domain Action**

Dear Mr. Robbins:

This firm represents the Jiroichi Otani Family Limited Partnership. This will acknowledge receipt of your letter dated December 6, 2017 but received by my office by certified mail on December 14, 2017. In that letter, you informed us of a meeting of the Board of Directors of HART set for that very day, December 14, at a time to be determined (the letter indicated that we would be contacted with further details once an agenda was complete). The purpose of the meeting was HART's referral to the Board for eminent domain action regarding of my client's property located at 230 North Nimitz Highway (the "Property"). This was apparently in light of the Board's previous offer of compensation for a partial taking of the Property which was rejected by my client.

Your letter was disturbing and reflected HART's lack of good faith for several reasons:

First, the "notice" of the meeting was completely worthless since it was received on the date of the meeting. Further, the letter indicated that we would be provided with an agenda and the time of the meeting which time was never received.

Second and more importantly, the discussion of a partial taking was in direct contradiction to the most recent communications with Ms. Karen Lee of your office. By email dated April 18, 2017, Ms. Lee invited my client to communicate its desire to meet with HART to discuss and negotiate a full take of the Property. In response to that invitation, I sent Ms. Lee a letter dated April 20, 2017 indicating my client's desire to

Mr. Andrew S. Robbins  
Honolulu Authority for Rapid Transportation  
City & County of Honolulu  
January 9, 2018  
Page 2

negotiate a full take of the Property. Copies of Ms. Lee's email and my letter are enclosed for your reference.

Third, HART has communicated directly my client's tenants, Higa Meat & Pork Market, Ltd. ("Higa") and Garden & Valley Isle Seafood, Inc. ("GVIS"), informing them to relocate their business because the rail project would displace their business. A copy of a letter sent to Higa is enclosed herewith. We understand GVIS received a similar letter. In doing so, HART caused great anxiety and distress to these long term tenants. HART's directive to the tenants is an express admission that a full take is necessary.

Despite the encouraging tone set by Ms. Lee, we did not hear another word from either her or HART until we received your December 6, 2017 letter in which HART completely changed the direction of the discussions and threatened legal action by referring the matter to its Board of Directors for "eminent domain action". As such, HART has set the parties back to square one on the manner in which they will resolve HART's need for the Property.

My client remains willing to discuss a full take as previously agreed upon with HART. I encourage HART to keep its word and work with us in good faith to reach a mutually beneficial solution to this issue.

Thank you and please do not hesitate to call with any questions.

Very truly yours,



Alan K. Cay

AKL:st

cc: Client

Rosemary T. Fazio, Esq. (Via Email: rfazio@awlaw.com)  
Abbey Seth Mayer (Via Email: abbey.mayer@honolulu.gov)  
Paul S. Aoki, Esq. (Via Email: paoki@honolulu.gov)



IN REPLY REFER TO:  
CMS-AP00ROW-01485

HONOLULU AUTHORITY for RAPID TRANSPORTATION

Andrew S. Robbins  
EXECUTIVE DIRECTOR AND CEO

CERTIFIED MAIL/RETURN RECEIPT REQUESTED  
7014 3490 0001 5635 2758

Krishniah N. Murthy  
SENIOR ADVISOR

BOARD OF DIRECTORS

December 6, 2017

Damien T.K. Kim  
CHAIR

Terrence M. Lee  
VICE CHAIR

Jiroichi Otani Family Limited Partnership  
c/o Alan K. Lau, Esq.  
Tsugawa Biehl Lau & Muzzi  
Bishop Place, Suite 2400  
1132 Bishop Street  
Honolulu, Hawaii 96813

Jade Butay  
John Henry Felix  
Wes Frysztacki  
Terri Fujii  
Kamari Kualau  
Wesley K. Machida  
Tobias Martyn  
Glenn M. Nohara  
Ember Shinn  
Kathy Sokugawa  
Kalbert K. Young  
Hoyt H. Zia

Attention: Mr. Alan K. Lau, Esq.

Ladies and Gentlemen:

Subject: Honolulu Rail Transit Project (H RTP)  
230 North Nimitz Highway  
Parcel 437: Tax Map Key 1-5-008-020 (Portion)  
**Notice of Recommendation for Eminent Domain Action**

The Honolulu Authority for Rapid Transportation (HART) submitted its offer to purchase a portion of your property in connection with the construction of the H RTP. The offer dated February 10, 2016, in the amount of **\$530,000 (Five Hundred and Thirty Thousand Dollars)** was based on an appraisal of the property and constitutes just compensation for the interest being sought by HART.

HART remains open to resolving this acquisition through an amicable settlement and welcomes any discussion to that end. However, due to project timing and the need to maintain the project schedule, HART has determined that it is necessary to refer this case to its Board of Directors for eminent domain action.

The next Board of Directors meeting will be held on December 14, 2017, at HART's office at Alii Place, 1099 Alakea Street, Suite 150 (time to be determined). As soon as we have an agenda for the upcoming Board meeting, you will be contacted with further details. You are welcome to attend the meeting to voice any concerns you may have relating to the eminent domain process.

Jiroichi Otani Family Limited Partnership  
Page 2  
December 6, 2017

It is still the intention of HART to work with you toward resolving this acquisition through an amicable settlement. Please contact Ms. Karen Lee at [klee5@honolulu.gov](mailto:klee5@honolulu.gov) or by telephone at 768-6113 if you have any questions regarding this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "A. Robbins", with a long horizontal flourish extending to the right.

Andrew S. Robbins  
Executive Director and CEO

**From:** [Lee, Karen Y K](#)  
**To:** [Alan K. Lau](#)  
**Cc:** [Vicky Young](#)  
**Subject:** RE: OTANI Property  
**Date:** Tuesday, April 18, 2017 7:41:51 AM  
**Attachments:** [Otani\\_reject\\_offer\\_021816.pdf](#)

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Mr. Lau,

Good morning.

Attached is letter you wrote to HART rejecting HART's offer and requesting a meeting for a full take.

Also, we have in file that you would be acquiring an appraisal for a full take. Please let me know if you are ready to meet with us to discuss a full take and or if the appraisal is complete.

Another way to proceed with the process is for you to send us a formal letter requesting a full take of the property.

Please confirm receipt of this letter and let me know what action you prefer to take. It would be really appreciated.

Thank you,

*Karen YK Lee*

Right-of-Way Agent, RWA, R/W-RAC

808-768-6113 | [Klee5@honolulu.gov](mailto:Klee5@honolulu.gov)

Honolulu Authority for Rapid Transportation  
City & County of Honolulu  
1099 Alakea Street, Suite 1700 Honolulu, HI 96813

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**From:** Lee, Karen Y K  
**Sent:** Monday, February 27, 2017 10:21 AM  
**To:** 'Alan K. Lau'  
**Cc:** Vicky Young  
**Subject:** RE: OTANI Property

Mr. Lau,

I will be meeting with the GV Seafood soon to resume the relocation of the business. It would be really helpful to meet or talk to you regarding the acquisition of the property before I meet with them.

Thanks,

*Karen YK Lee*

Right-of-Way Agent, RWA, R/W-RAC

808-768-6113 | [Klee5@honolulu.gov](mailto:Klee5@honolulu.gov)

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**From:** Alan K. Lau [mailto:[alau@hilaw.us](mailto:alau@hilaw.us)]  
**Sent:** Friday, January 20, 2017 11:13 AM  
**To:** Lee, Karen Y K  
**Cc:** Vicky Young  
**Subject:** RE: OTANI Property

Karen – I apologize. I did receive your emails and have passed them on to the Trustees. I will get back to you early next week.

Alan

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**From:** Lee, Karen Y K [mailto:[klee5@honolulu.gov](mailto:klee5@honolulu.gov)]  
**Sent:** Friday, January 20, 2017 10:48 AM  
**To:** Alan K. Lau  
**Subject:** FW: OTANI Property

Mr. Lau,  
Please confirm that you have received my messages.

Thanks,

*Karen YK Lee*  
Right-of-Way Agent, RWA, RW-RAC

808-768-6113 | [Klee5@honolulu.gov](mailto:Klee5@honolulu.gov)

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**From:** Lee, Karen Y K  
**Sent:** Wednesday, January 18, 2017 1:02 PM  
**To:** 'alau@hilaw.us'  
**Subject:** FW: OTANI Property

Mr. Lau,  
In addition to the below inquiry, I would like to work together with your client to assess the options of a partial take with remediation verses full take as soon as possible.  
Can we meet to discuss the process?

Thanks,

*Karen YK Lee*  
Right-of-Way Agent, RWA, RW-RAC

808-768-6113 | [Klee5@honolulu.gov](mailto:Klee5@honolulu.gov)

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**From:** Lee, Karen Y K  
**Sent:** Wednesday, January 18, 2017 9:04 AM  
**To:** 'alau@hilaw.us'  
**Subject:** OTANI Property

Aloha Mr. Lau,

As you know, HART is proceeding with the acquisition activities for the city center and I am

the new acquisition and relocation agent for the property.  
The file shows a record of your client acquiring his own appraisal of the property.

Can you please let me know the status of the appraisal?

Thank you,

*Karen YK Lee*

Right-of-Way Agent, RWA, RW-RAC

808-768-6113 | [Klee5@honolulu.gov](mailto:Klee5@honolulu.gov)

**Honolulu Authority for Rapid Transportation**  
City & County of Honolulu  
1099 Alakea Street, Suite 1700 Honolulu, HI 96813

**TSUGAWA BIEHL LAU & MUZZI**  
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Of Counsel:  
Frank T. Kanemitsu  
Attorney At Law  
A Law Corporation

April 20, 2017

Karen Y.K. Lee  
Right-of-Way Agent, RWA, R/W, RAC  
Honolulu Authority for Rapid Transportation  
City & County of Honolulu  
1099 Alakea Street, Suite 1700  
Honolulu, HI 96813

VIA EMAIL [klee5@honolulu.gov](mailto:klee5@honolulu.gov)

Re: **CMS-APOOROW-01165**  
**Honolulu Rail Transit Project (H RTP)**  
**230 North Nimitz Highway**  
**Parcel 437: TMK 1-5-008-20 (Portion)**

Dear Ms. Lee:

As you are aware, I represent The Jiroichi Otani Family Trust, the fee owner of the above-captioned property. This letter responds to your email message dated April 18, 2017, regarding HART's intention to condemn all or a portion of the above-captioned property.

The Trust and I have discussed this matter extensively with Lizeth Sandoval of Paragon Partners. As we conveyed to Ms. Sandoval, if HART proceeds with a partial take of the area previously disclosed, that would render the property unusable to the Trust and its tenants. We understand that Paragon Partners is no longer working on this project but we trust that it has left a record of our prior discussions.

Because a partial take is not practically possible, we are prepared to begin negotiations for a full take. These discussions would include the proposed compensation for the Trust, as the fee owner, as well as the compensation to the existing tenants.

Very truly yours,



Alan K. Lau

AKL:st

40144/1/88884



IN REPLY REFER TO:  
CMS-APOOROW-01185

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HONOLULU AUTHORITY for RAPID TRANSPORTATION

CERTIFIED MAIL/RETURN RECEIPT REQUESTED  
7014 3490 0001 5634 9079

February 25, 2016

Mr. Sheldon Wright  
Higa Meat & Pork Market, Ltd.  
225 Nimitz Highway, #2  
Honolulu, Hawaii 96817

Dear Mr. Wright:

Subject: Honolulu Rail Transit Project (H RTP)  
230 Nimitz Highway  
Parcel 437: Tax Map Key 1-5-008-020  
**GENERAL INFORMATION NOTICE**

This notice is to inform you that the Honolulu Authority for Rapid Transportation (HART) is in negotiation to acquire part of the property where you currently conduct your business. The property will soon be required for the H RTP. This notice is being given to you so you will have ample time to locate a replacement property. If your business is displaced for the H RTP, you may be eligible for relocation assistance.

As a displaced business, you may have rights and benefits under the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) and the Federal Transit Administration guidance, Circular 5010.1D (FTA C 5010). You must certify to the fact that you and your business are legally present in the United States of America to be eligible.

If it is determined that you qualify for relocation assistance, you are eligible for the following services:

- Relocation advisory services including referrals to suitable replacement properties;
- Payment for eligible reasonable moving and related expenses;
- Payment for certain re-establishment expenses; and
- Assistance in filing claims to HART for relocation payments.

You have the right to appeal if you believe that HART has failed to properly determine your eligibility or the amount of payment authorized by the URA. If you still believe a proper determination has not been made, you may seek judicial review.

Mr. Sheldon Wright  
Page 2  
February 25, 2016

Please be advised that you will not have to move until you have received at least 90 days advanced written notice or if earlier relocation is necessary or prudent due to an urgent need determined by HART, such as without limitation, a determination that continued occupancy would constitute a significant threat to the health, safety, or welfare of you or the general public. You should continue to pay your monthly rent to the landlord. Failure to pay rent and meet any other obligations as a tenant may be cause for eviction and/or loss of some or all of your relocation benefits.

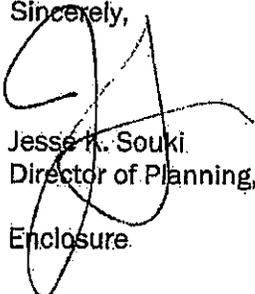
**This notice does not establish your eligibility for relocation payments or other relocation assistance at this time. A relocation agent will be contacting you soon to set up an informational interview to assess your relocation needs.**

Once a determination is made as to your eligibility, a Notice of Eligibility will be issued. If you choose to move prior to receiving such notice without notifying HART, you may not be eligible to receive relocation assistance. It is important that you contact HART prior to moving or incurring any moving costs.

All services and/or benefits to be derived from any right of way activity will be administered without regard to race, color, national origin, or sex in compliance with Title VI of the 1964 Civil Rights Act.

Enclosed for your information is the "RELOCATION" Brochure. If you have any questions about this notice or have any questions on relocation assistance, please contact Ms. Karen Lee at 768-6113.

Sincerely,



Jesse K. Souki  
Director of Planning, Permitting, and Right-of-Way

Enclosure.