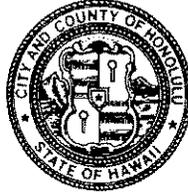


DEPARTMENT OF BUDGET AND FISCAL SERVICES
CITY AND COUNTY OF HONOLULU
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MUFI HANNEMANN
MAYOR



MARY PATRICIA WATERHOUSE
DIRECTOR

MARK K. OTO
DEPUTY DIRECTOR

June 16, 2008

The Honorable Barbara Marshall, Chair
and Members of the City Council
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawaii 96813

RECEIVED
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CITY CLERK
HONOLULU, HAWAII

Dear Chair Marshall and Councilmembers:

Subject: Abandonment of the City's Implied Easement Rights
Over the Mauka Portion of Pau Lane and the
Entire Area of Makaoe Lane
Tax Map Key No. 2-6-13

We request your approval to abandon the City's implied easement rights for roadway purposes over the mauka portion of Pau Lane and the entire area of Makaoe Lane, as shown on the attached map designated as Exhibit A.

FRC Waikiki, LLC is developing a residential condominium, known as the Allure Waikiki Condominium, on the lots that once comprised the Bruce Waring Subdivision, which consist of Tax Map Key Nos. 2-6-13:1, 3, 4, 7, 8, 9, 11, 12. FRC Waikiki, LLC has the fee title to all the lots that comprised the Bruce Waring Subdivision, including the fee title to Pau Lane and Makaoe Lane.

Although the City does not have fee title to Pau and Makaoe Lanes nor has it adopted the lanes as county roads by resolution, there has been an implied dedication of the roads. The implied dedication is the result of original subdivision platting that laid out the lanes over 100 years ago. Despite the platting, there was no formal acceptance by the City for the dedication of Pau and Makaoe Lanes.

In 1981, the City Council adopted Resolution 81-138 abandoning whatever right, title, and interest it had in the makai portion of Pau Lane. In 1989, an action to quiet title to Pau Lane resulted in a court stipulation that subjected the mauka portion of Pau Lane to an implied easement for roadway purposes. Although there is no court stipulation on Makaoe Lane, the Department of the Corporation Counsel has opined that, as with Pau

The Honorable Barbara Marshall, Chair
and Members

Page 2

Lane, the City has an implied easement for roadway purposes over this lane. FRC Waikiki, LLC owns all the properties abutting the mauka portion of Pau Lane and the entire area of Makaoe Lane.

The various City agencies have no objections to the abandonment of the implied easements for roadway purposes over the mauka portion of Pau Lane and the entire area of Makaoe Lane. The Department of Facility Maintenance has never provided any maintenance nor improved the lanes. The Department of Transportation Services and Department of Planning and Permitting have no objections to the abandonment of the implied easements for roadway purposes over the lanes.

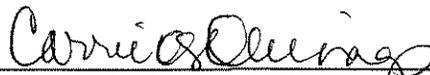
Your favorable consideration of the resolution is appreciated. The hard copies and diskette containing the proposed resolution are attached. If you need further information or have questions, please feel free to contact me at extension 3901. Thank you.

Sincerely,



Mary Patricia Waterhouse, Director
Department of Budget and Fiscal Services

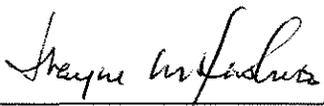
Approved as to Form and Legality:



Carrie K. S. Okinaga, Corporation Counsel
Department of the Corporation Counsel

MPW:dm
Attachments

Approved:



Wayne M. Hashiro, P. E.
Managing Director



RESOLUTION

APPROVING THE ABANDONMENT OF THE MAUKA PORTION OF PAU LANE AND THE ENTIRE AREA OF MAKAOE LANE, LOCATED AT KALIA, WAIKIKI, HONOLULU, OAHU, HAWAII, TAX MAP KEY NO. 2-6-13.

WHEREAS, FRC Waikiki, LLC has the fee title to the lots that once comprised the Bruce Waring Subdivision, which consist of Tax Map Key Nos. 2-6-13:1, 3, 4, 7, 8, 9, 11, 12, including the fee title to Pau Lane and Makaoe Lane; and

WHEREAS, the mauka portion of Pau Lane and entire area of Makaoe Lane were laid out as roadways in 1895; and

WHEREAS, the mauka portion of Pau Lane and the entire area of Makaoe Lane are shown on the map attached as Exhibit A, and which is attached hereto and by reference made a part hereof; and

WHEREAS, the mauka portion of Pau Lane and the entire area of Makaoe Lane were never conveyed or formally accepted by the City for roadway purposes; however, there are implied easements for roadway purposes over said lanes at the time of the subdivision; and

WHEREAS, Section 264-3, Hawaii Revised Statutes (HRS), as amended, provides that all County highways once established shall continue until vacated, closed, abandoned, or discontinued by a resolution of the legislative body of the County wherein the County highway lies; and

WHEREAS, the Department of the Corporation Counsel has previously opined that abandonment of the implied easements should be accomplished through the Council by resolution following the procedures established under HRS Chapter 264; and

WHEREAS, the various City agencies, including the Departments of Facility Maintenance, Transportation Services, and Planning and Permitting, have no objections to the abandonment of the implied easements for roadway purposes over the mauka portion of Pau Lane and the entire area of Makaoe Lane; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu, that it hereby abandons whatever right, title, and interest it may have in said lanes; and

BFS-PAU LANE AND MAKAOE LANE.R08

