

1 BOARD OF WATER SUPPLY

2 COUNTY OF MAUI

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10 REGULAR MEETING

11 THURSDAY, JULY 23, 2009

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16 Held at the Department of Liquor Control Conference
17 Room, David Trask Building, Room 105, Wailuku,
18 Maui, Hawaii, commencing at 9:06 a.m.

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28 Transcribed from the audio recording by Gaye
29 Hayashida, Commission Support Clerk, Department of
30 Water Supply, County of Maui.

1 A P P E A R A N C E S

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3 BOARD MEMBERS:

4 Michael Howden, Chair

5 Patricia Eason

6 John Hoxie, Jr.

7 Kui Lester

8 Kelli Myers

9 Phyllis Robinson

10 Ted Yamamura

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12 STAFF PRESENT:

13 Jeffrey K. Eng, Director of Water Supply

14 Eric Yamashige, Deputy Director of Water Supply

15 Edward Kushi, Jr., Deputy Corporation Counsel

16 Herb Chang, Engineering Program Manager

17 Gaye Hayashida, Commission Support Clerk

18

19 OTHERS:

20 Vincent Mina

21 Joseph Medeiros

22 Cheryl Medeiros

23 David Goode, president, KSD Hawaii

24 Mark Walker, vice-president, KSD Hawaii

25 Mark Matsuda, engineer, KSD Hawaii

26 Paul Mancini, attorney

27 Mimi Johnston, Deputy Corporation Counsel

28 Jane Lovell, Deputy Corporation Counsel

1 Kim Willenbrink, Legislative Analyst, County of
2 Maui
3 Lynann Nicely, Iwado Court Reporter
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1 CHAIR HOWDEN: Ok, I'd like to call our July 23rd
2 meeting to order. And acknowledging attendance,
3 Patricia Eason from Hana, Ted Yamamura, Phyllis
4 Robinson, John Hoxie, Kelli Myers and soon to
5 arrive, I hope will be Scott Luck and Kui Lester,
6 Ed Kushi our Deputy Corp Counsel, and from Pulehu
7 Farms, Paul Mancini is their attorney, David Goode,
8 Mark Walker. From the Department, head of
9 engineering, Ed Chang...

10 MS. HAYASHIDA: Herb Chang.

11 CHAIR HOWDEN: Herb Chang. What did I say? Ok.

12 MEMBER ROBINSON: You said Ed.

13 CHAIR HOWDEN: Oh, doesn't matter. Ok, sorry Herb.
14 Ok. Is that right?

15 MS. HAYASHIDA: Yep, Herb Chang.

16 CHAIR HOWDEN: Ok, good. Ok, Medeiros Family, Joe
17 and Cheryl Medeiros, Vincent Mina from Maui Aloha
18 Aina, Kim Willenbink...

19 MS. HAYASHIDA: Brink.

20 CHAIR HOWDEN: From Council Services and the, what?

21 MS. HAYASHIDA: Kim Willenbrink.

22 CHAIR HOWDEN: Brink! Brink. I sorry, yeah. Ok,
23 and another attorney?

24 MS. JOHNSTON: Yeah, Mary Blaine Johnston from
25 Corporation Counsel.

26 CHAIR HOWDEN: Ok, great, from Corp Counsel office.
27 So, ok, any announcements? Ok. Any discussion of

1 the minutes? Might we have a motion to approve the
2 minutes of our last meeting?

3 MEMBER HOXIE: I so move.

4 MEMBER MYERS: Second.

5 CHAIR HOWDEN: Second, ok.

6 MS. HAYASHIDA: I'm sorry, who made the second?

7 CHAIR HOWDEN: Yes, Kelly made the second.

8 MS. HAYASHIDA: Ok.

9 CHAIR HOWDEN: Those in favor please indicate aye.
10 (a chorus of ayes)

11 CHAIR HOWDEN: Ok, any against? None. Ok, we'll
12 begin with Testimony from the Public and then move
13 to the Medeiros issue. We have one testifier on
14 Definition of Agriculture, Vincent Mina from Maui
15 Aloha Aina. Thank you for coming, Vincent.

16 MR. MINA: Aloha, everybody. I'm a farmer so I
17 like to feed people before I talk.

18 (laughter)

19 (at this time Mr. Mina handed out bags of sprouts)

20 MR. MINA: These were just cut this morning so
21 they're still screaming.

22 MEMBER ROBINSON: These are bribes, right?

23 (laughter)

24 MR. MINA: These are bribes. Make no mistake about
25 it.

26 MEMBER ROBINSON: Bless your heart.

27 MR. MINA: No, this is feeding people, that's what
28 it's all about.

1 MEMBER HOXIE: Thank you.

2 MEMBER EASON: Thank you very much.

3 MR. MINA: You're welcome. These are...

4 MS. HAYASHIDA: Oh, thank you.

5 MR. MINA: How did I know the exact right number?

6 Unreal.

7 COURT REPORTER: Thank you.

8 MR. MINA: Sorry guys, this is all I got.

9 (laughter)

10 MR. MINA: Ok, as Michael said, my name is Vincent
11 Mina. I am the founder and president of Maui Aloha
12 Aina Association. We're a non-profit organization
13 whose mission is to promote life-nurturing
14 practices for the body and the soil through
15 education and outreach. And when I heard about
16 this meeting that you folks were going to be
17 discussing the definition of agriculture really
18 intrigued me and interested me because I am a
19 farmer and the soil to me is, well, let me put it
20 this way, I'm in direct relationship to the realm
21 we're all going back to one day. And as a farmer I
22 feel like I wanna be more in relationship with that
23 realm and understand it better as opposed to going
24 to war with it. Being with the Water Board and as
25 far as putting your arms around the definition of
26 agriculture, hopefully I can give you a few
27 insights this morning all what that means to me and
28 to other agronomists. Water resources and the

1 proper use of our water is so critical in
2 agriculture as you well know. The way to support
3 the use of that water in a very perdicious way,
4 judicious way is to build your soil carbon, ok.
5 The soil carbon is what holds the water. Now I'll
6 give you an example how, what soil carbon, well
7 soil carbon is in the form humus, ok. And how you
8 build soil carbon is through organic matter turning
9 into organic material in the soil. Now, there's a
10 study, Dr. Paul Hepperly from the Rodale Institute,
11 he's a, he was a speaker at our conference last
12 year, he put on annual events in body and soil
13 health each year. And he spoke about the soil
14 carbon in the soil and he shared with us that for
15 every, in a 100 pounds of soil, envision a 100
16 pounds of soil right here in the middle of the room
17 and if you had 1% of organic matter in that soil it
18 would hold 35 gallons of water. Well, you take
19 that same soil and you put 5%, you just raise it to
20 5%, it holds 185 gallons of water. So it's really
21 critical and whatever the definition of agriculture
22 is, that people come up with is that soil carbon
23 and the, and the abundance of soil carbon through
24 agronomic practices is emphasized. Ok? That's the
25 key point here. And I have some publications if
26 you, if you ever want to read about this stuff.
27 This is a great book. This, amazing amount of
28 references this man made for this book; the Lost

1 Language of Plants by Stephen Buhner. And there
2 was a study done, University of Hawaii, they found
3 back in 1996. You see this green here? Well, it's
4 dyed green. It's a substance called glomalin.
5 It's found in the soils; like it's called the pvc
6 in the soil; it's, it's what basically binds carbon
7 in the soil; holds carbon in the soil and this
8 grows on the roots of mycorrhizal bacteria. So
9 this is really critical stuff and they just found
10 this out 10 years ago. We only know 5% of what
11 goes on in the soil right now. So, it's in our
12 best interest to find out about the other 95%,
13 yeah. So that's, and then National Geographic did
14 this treatise on where food begins. I mean this is
15 not Mother Earth News, you know. This is a, quite
16 a mainstream publication here, and in the soil. So
17 we really need to take a clear look about what's
18 going on in our soils and our agronomic practices
19 before we make any kind of definition and come to
20 any kind of end result of what agriculture is
21 about. And so that's my mana'o this morning. I
22 appreciate the opportunity to talk about it and any
23 questions you guys may have please feel free.

24 CHAIR HOWDEN: Well, Vincent, thank you for coming
25 and I hope that you will participate in whatever
26 discussion we have later on as we move toward
27 understanding this issue.

28 MR. MINA: Thank you, appreciate it.

1 CHAIR HOWDEN: Thank you.

2 MR. MINA: Aloha to everybody. Enjoy your greens,
3 yeah? They're sunflowers by the way. It won't
4 grow hair but other than that give 'em a try.

5 (laughter)

6 MR. MINA: Aloha.

7 CHAIR HOWDEN: So with the Board's permission, I'd
8 like to take one item out of order. It's an item
9 that we've been dealing with for quite awhile,
10 Number 9, the Medeiros Family seeking a refund for
11 monies that they paid for a second water meter.
12 Joe, would you like to come forward?

13 MR. MEDEIROS: Yeah. Good morning and I'm sorry I
14 don't have any gifts to bear but...

15 (laughter)

16 MR. MEDEIROS: I'm not, the Board, the faces change
17 since the last time we've been here. But I, I, if
18 I could just real briefly kinda share the
19 experience I've been having with the Water Board, I
20 mean Water Department over the last several years.
21 So you guys can get a feel what I've been going
22 through. I've actually become a circus animal
23 being able to jump through the hoops that they've
24 made me jump through and I hopefully you guys can
25 lessen the hoops for me. Anyhow, Cheryl and I
26 inherited this land from her grandparents awhile
27 back and we've been very blessed. But it came with
28 a lot of pain. And a lot of that pain is coming

1 from the Water Department. We, it was a
2 subdivision. The other parts of the family have
3 sold off their pieces; we're the only one that
4 decided to keep our piece of land. And basically,
5 the land isn't worth nothing without water. So
6 we've been fighting for the water meter. Years ago
7 they sent a letter to us saying that if we wanted
8 water to reserve a meter we would have to give up
9 \$6,700 to hold 2 water meters. So Cheryl and I
10 thought this is, this is good, this is a good sign
11 and so we sent our \$6,700 to them and then the
12 requirements came which were, I don't even know if
13 Oprah could actually pay for the requirements that
14 they put upon us. So we've been appealing and
15 trying to talk to the engineering department and
16 work through so that we could actually get water up
17 there that we could afford. However, in the
18 meantime, we got to meet with the Board. I think
19 it was in 2008..

20 MRS. MEDEIROS: November.

21 MR. MEDEIROS: It was in November? 2008?

22 MRS. MEDEIROS: 2007.

23 MR. MEDEIROS: 2007. I'm sorry. And all we asked
24 for was water for our lot. We didn't ask for
25 anybody else. We aren't looking to supply Kula or
26 anybody else, Hawaiian Homes. All we wanted was
27 for our little 6 acre lot that we could eventually
28 give to our kids. That's all we want. They, we

1 appealed to the Board, we got the decision which
2 after we got the decision we were trying to get
3 explanations so we could understand what's going
4 on. From the decision it seems like if anybody
5 else on the other 2 lots wants to get involved they
6 can and hook up to our tank if, when we do put up
7 our tank and such. But we can't get a clear answer
8 and we've been advised we can't speak to anybody
9 except for the engineer and our civil engineer and
10 he doesn't know what we can do and in the meantime
11 we're paying our civil engineer money for every
12 time we visit him and any time he draws up
13 something new. Also on that appeal, we asked for a
14 reimbursement because we understand the second
15 meter is for the other lot. When we asked for our
16 money back we've been just left in the clear blue
17 sky, where is it gonna ever happen, when are we
18 ever gonna get our money? We had to appeal to the
19 Board. You guys' decision was we shall be
20 reimbursed. We met with them, they asked us to
21 submit a letter, that was a year ago, still
22 nothing. We have written letter after letter.
23 Now, it comes out to \$3,350 and maybe to some of
24 you that's not big money. To us it is. In the
25 meantime we're paying our civil engineer and we're
26 not getting nowhere, and I, I, I, somebody gotta
27 help me. I know we pay taxes to get these services
28 and it seems like because it's not a business they

1 don't care. Nobody cares. Hey, just, after they
2 talk to you they just shuffle the papers over and
3 so be it, and we just continually pay out of our
4 pocket. And eventually they'll get their way.
5 I'll end up selling the land and somebody rich
6 maybe can afford it and sue the County or whatever
7 they gotta do to get what they need to get done.
8 It's an embarrassment, it really is an
9 embarrassment. And I gotta tell you, I, I thank
10 God that there's at least an avenue of, of the
11 Water Board that we can appeal to. If it was only
12 the Water Department, suicides would be on a rise.
13 I swear to God, I mean, anytime you ask for water
14 it's, it's, it's unbelievable what they put you
15 through. And it's, all I ask for, help me. That's
16 all I've been asking for help. Tell me what I
17 gotta do. And I can't even get a simple
18 reimbursement. I can't even get that. So, if, if
19 you can see to get, you guys already said give me
20 my reimbursement back, you're not gonna get the
21 second meter, and that was a year ago. Can you
22 imagine what it's like to even work with them to
23 even get our water? Just imagine what it's like.
24 I can't even fathom how much people go through this
25 and just give up. I, I, what's only driving me is
26 my family. My kids. I wanna give the land to my
27 kids. This started back in 2004. We're here at
28 2009. I guess you, it'll come to the point where

1 I'll roll up in my wheelchair to the Board and say,
2 "We still haven't got it." You know, I don't know,
3 I don't know. And I, I appeal to you guys, please
4 help me. I only, I only want water for my place.
5 I'm, I already spent enough money. I got a civil
6 engineer, Stacy Otomo, that's been working, trying
7 to work with the engineer department from the Water
8 Department. And it's just, it's been a battle. I
9 just want some relief, ok? If, if you, if they
10 don't want to give me my money back then give me
11 the second meter. If you wanna hold my money then
12 at least pay interest on it. You've had it for 5
13 years, pay interest. I'll take 3%. Give me
14 something for it. In the meantime, I gotta just
15 keep dishing out money and we're just a regular
16 family. We're not rich. I work for the telephone
17 company. You guys are well aware of, is file for
18 bankruptcy. My wife works for the State; they're
19 going through their issues right now. So, money's
20 gonna even be tighter for me. So, before I pass
21 away, could you guys please help me so I can give
22 this, this piece of land to my kids? That's all I
23 ask, please. I, I don't know what else to, to ask
24 and, and if not, tell me I can't do it, at least I
25 know I gotta sell the land and so be it, so be it.
26 It's not gonna be worth much 'cause there's no
27 water and of course prices are down but whatever.
28 I just, I can't see myself doing this constantly

1 and again, you know in the Findings, can somebody
2 whether it be from this, from this Board help
3 explain, 'cause it seems like Herb didn't
4 understand it as well, Herb Chang, and you know
5 there's just so much confuse, I just need somebody
6 to help clear it up and, and walk us through this,
7 ok? That's all I'm asking.

8 MRS. MEDEIROS: Can I speak?

9 MR. MEDEIROS: What, Hon?

10 CHAIR HOWDEN: Ok, thanks Joe.

11 MRS. MEDEIROS: I'd like to speak. Can I speak?

12 CHAIR HOWDEN: Ed, do you have comments on this?

13 MR. MEDEIROS: Yeah.

14 CHAIR HOWDEN: I mean, I, I, thought that we were
15 supposed to, the Department was supposed to
16 reimburse them for the second meter about a year,
17 year and a half ago that was.

18 MRS. MEDEIROS: If you don't mind, I can add a
19 little bit...

20 CHAIR HOWDEN: Please go ahead, Cheryl.

21 MRS. MEDEIROS: I be, I pretty much have the
22 timeline. It's been from the appeal to present,
23 'til today it's been 20 months. It's been 4 month
24 shy of 2 years that the appeal went through that we
25 could get a reimbursement, so it's almost 2 years.
26 And just to add, you know my husband said is
27 really, really frustrating because we're taking
28 days off to come in here. I'm losing vacation days

1 and as my husband said with the State, it's really
2 hard to get off from work. And being here is very
3 frustrating and I, it's just to me it's, we
4 shouldn't be here, it shouldn't have taken this
5 long. So, if Mr. Chang could, you know give us a
6 clarification of why it's taking so long that would
7 be really appreciative.

8 CHAIR HOWDEN: Ed, can...

9 MR. KUSHI: Ah, Mr. Chair, I'm just reviewing again
10 the Findings of Fact, Conclusions of Law, Decision
11 and Order that this body issued January 24th, 2008
12 and it says what it says. But you know, I, not
13 being involved in this case since that appeal, I
14 leave it up to the Department to explain what the
15 hell is going on. Excuse my language but...

16 CHAIR HOWDEN: Yeah, no, no problem. It's been
17 awhile. Herb, do you want to respond to this?

18 MR. CHANG: During the presentation it kinda shows
19 you what the, what's happening with the engineering
20 division. We're just, put it in same simple words,
21 we're just totally smashed with work. Still 20
22 months is hard to digest for anybody even if I were
23 to be in his position. But you gotta realize that
24 our division is working very hard. We're trying to
25 develop source for Wailuku, Upcountry; capital
26 improvement projects, we got millions of dollars to
27 spend, if we don't spend it we lose it.
28 Subdivision applications, commercial development,

1 water service requests, tons of paper work with a
2 staff of only 2 for Upcountry, we're pretty
3 smashed. But I do apologize to the Medeiros' and I
4 will make a special effort this week to try to get
5 it resolved. But please understand that the
6 engineering division is working very hard, that's
7 dedicated staff who are trying to push as much work
8 as possible. Unfortunately, the work just
9 overloads and things get pushed back, priorities,
10 develop source, capital improvement projects; it's
11 my duty as the engineering program manager to get
12 this capital improvement projects going and that's
13 the number one priority. We've been lax in letting
14 funds lapse. The monies we had that could've been
15 spent to improve the infrastructure that's poorly
16 and desperately needed. That is my goal as
17 engineering program manager, to get the capital
18 improvement projects back on track.

19 CHAIR HOWDEN: Well, it was...

20 MR. CHANG: That's number one priority.

21 CHAIR HOWDEN: Yeah, was the agreement of the Board
22 and I believe the Department that they would be
23 refunded for that second meter, so what's the
24 problem with just writing them a check for 3,000
25 and plus? I mean...

26 MR. CHANG: I just explained. We got priorities.
27 But again, we will try to make an effort this week
28 to get his refund processed.

1 CHAIR HOWDEN: Jeff, anything?

2 DIRECTOR ENG: Herb will take care of it this week
3 as he said.

4 MEMBER ROBINSON: So, the will and, there's a
5 difference between will and try and I'd like to...

6 DIRECTOR ENG: He will.

7 MEMBER ROBINSON: Hear will.

8 DIRECTOR ENG: He will.

9 MEMBER ROBINSON: Thank you.

10 DIRECTOR ENG: Or I will.

11 CHAIR HOWDEN: Ok. Medeiros' is that ok with you?

12 MR. MEDEIROS: Yeah.

13 CHAIR HOWDEN: I mean that at least money...

14 MRS. MEDEIROS: Also in that, in our appeal, it
15 mentioned 18 months. For one thing, we can't even
16 move forward. We got no money from the Department
17 to even pay whoever wants to install the water
18 meter, so they need to look at all that 18-month
19 thing that they put in, you know that we have in
20 there. Just to let you know the timeline...

21 MR. MEDEIROS: Our deadline.

22 MRS. MEDEIROS: Our deadline has totally exceeded
23 because it's taken forever to get our reimbursement
24 so to move forward to have the contractor to
25 install the water meter takes thousands of dollars,
26 so. Basically, I appreciate him saying we will get
27 paid but also to get clarification on this would be
28 a tremendous help. It is, everybody seems, well I

1 shouldn't say but like when we talked to Mr. Chang
2 he seemed a little clueless too about what it
3 really all means. And us, we have no idea. So, I
4 don't know if this is something we have to come
5 back to the Board to get clarification but we
6 really need to understand what's our rights. Can
7 we build? Can, are we gonna be solely by
8 ourselves? Do we, are we still connected to our
9 partners? All that we have questions and we have
10 no answers.

11 MR. MEDEIROS: Well, and, and, and, and that's what
12 part of our problem is, we're constantly stalled
13 because part of it is we have to surrender, if, if
14 you read further ordered, we have to surrender a
15 water meter that we don't even have. And then
16 we'll get our money. How do you surrender
17 something you don't have? They've had it all this
18 time and we still can't get our money and then the
19 other part is we have to wait for Chevalier. They
20 were supposed, that's the other people that bought
21 one of our relative's property that we don't have
22 no connection with, no family. They're no, none of
23 the other owners are any way related to us and we
24 have to wait for them to see if they want to go in
25 on, on this. Are we supposed to contact them? Is
26 the County supposed to contact? What are we, and
27 in the meantime we just try to move forward but we
28 constantly get stalled. All I ask, again I, I

1 plead to the Board, all I ask is this is just for
2 me. I don't want, I don't, everybody else can
3 handle their own issues and problems. I just want
4 for my lot. Here I gotta wait for Chevalier within
5 60 calendar days and such and da da da da da. Why?
6 Why am I being tied up with that? I just want it
7 so I can have it for my family. Is that asking too
8 much? Really, is it asking too much? You guys
9 heard for yourself, what, what we go through. I
10 been, it's been a year...

11 MRS. MEDEIROS: Two.

12 MR. MEDEIROS: Since we, almost 2 years since we've
13 appealed just for our reimbursement. Just imagine,
14 again I, you guys just think, put yourself in my
15 shoe, what it's like to get water if you can't even
16 get a reimbursement in 2 years. Imagine what it's
17 like. That's all I have to say.

18 CHAIR HOWDEN: Ed, you have anything...

19 MEMBER ROBINSON: Can you, can you clarify some of
20 this for them?

21 MR. KUSHI: Well, again, Board members, this is the
22 first time I've looked at this Decision and Order
23 since it was entered but I don't recall and the
24 Order does not say that the Medeiros' need to wait
25 on the Chevaliers to proceed with their own
26 improvements. Basically, what the Order says is
27 that if the appellants want to surrender the second
28 meter, and it's a reservation...

1 MEMBER ROBINSON: Can you give us a page number for
2 them, so that...

3 MR. KUSHI: It's page 64. If they want to
4 surrender the reservation for a second meter, fine
5 and well. They'll get reimbursed for it. Upon the
6 surrender, the Department shall offer the
7 Chevaliers an opportunity to get that meter and
8 then they have a 60-day calendar period. The Order
9 further goes on and says on page 65, "the
10 Department shall grant an extension of 18 months to
11 the Medeiros' to construct all of their
12 improvements." And that's what the Order says.
13 The Order does not say that the 18-month extension
14 is subject to the appellants getting a
15 reimbursement of three thousand some odd dollars to
16 fund their improvements. That was not the case.
17 So, again from my, my perspective in looking at
18 this order which I prepared for this Board, granted
19 the Department has not expeditiously or even in the
20 ordinary course of business done the reimbursement.
21 But that's not the issue about extension of 18
22 months, that's a separate issue. And if you wanna
23 appeal that period you may come back to this Board
24 again.

25 MR. MEDEIROS: Whatever I need to do. I, I'm good
26 at jumping through hoops. You just tell what hoop
27 I gotta jump through.

- 1 MR. KUSHI: Mr. Chair, if there are no further
2 questions I suggest this Board keep this matter on
3 the calendar.
- 4 CHAIR HOWDEN: Ok.
- 5 MR. KUSHI: Review again and at the next board
6 meeting have the Department come and give you a
7 status report.
- 8 CHAIR HOWDEN: Ok. Director Eng, would that be ok?
- 9 DIRECTOR ENG: That's fine with me.
- 10 CHAIR HOWDEN: Ok, thank you. Thanks, Joe.
- 11 MR. MEDEIROS: Can I just ask a question real
12 quick?
- 13 CHAIR HOWDEN: Yeah.
- 14 MR. MEDEIROS: I don't have 64 pages so I don't
15 know what you're referring to. I only have...
- 16 CHAIR HOWDEN: No, it, it's, it, at the back of, of
17 this...
- 18 MEMBER ROBINSON: It's the last. It says if
19 further ordered...
- 20 MR. KUSHI: It's on the staff report.
- 21 MR. MEDEIROS: Ok. And then is that like where it
22 says, "Upon appellant's surrender of the second
23 water meter...
- 24 MEMBER ROBINSON: Yeah, yep, that's 64...
- 25 MR. MEDEIROS: To the Department." So, for
26 clarification, Mr. Kushi, so it says here when I
27 surrender the second meter, right? So, what am I
28 surrendering?

1 MR. KUSHI: You're surrendering your reservation to
2 the second meter.

3 MR. MEDEIROS: And that was clear, but I don't have
4 it, right?

5 CHAIR HOWDEN: But that was already agreed upon.
6 Yeah.

7 MR. MEDEIROS: Ok. And then from that point within
8 60 days, 60 days you were gonna notify Chevaliers.

9 MR. KUSHI: The Department will.

10 CHAIR HOWDEN: Yeah.

11 MR. MEDEIROS: So when was that time supposed to
12 be? 'Cause I didn't have the meter. You guys have
13 the money, when was that time supposed to be?
14 Because I, I'm not clear on that.

15 MR. KUSHI: Herb? You can help me now. My
16 understanding was that once you give up that meter
17 through your reservation then you've abandoned that
18 meter, however, the Board felt that the owners of
19 the second lot, 35A, which at that time was the
20 Chevaliers, should have an opportunity to get that
21 reservation, so the Department will then notify the
22 owners, "Hey, do you want to take Medeiros'
23 reservation?" And if they don't respond within 60
24 days, that meter comes back to the Department.

25 MR. MEDEIROS: So, I, wait, wait, wait, I'm just
26 trying to get an understanding. So, when I paid
27 the 6700 to reserve the 2, so I held it for this
28 other lot basically and then I say, ok, I, you guys

1 tell me I can't have the second meter, it's not
2 mine, right? That, that was the ruling, right?
3 And so now you guys are taking back the meter
4 'cause I, I have no use for a meter I can't use.
5 You guys taking it back, when does the 60, 'cause
6 we agreed I can't have it, so when does the 60 days
7 start that you notified Chevalier? And when does
8 he get involved? I'm, I'm confused. Only on this
9 I'm confused.

10 MR. KUSHI: Well, it, it was my understanding that,
11 that there was an issue whether you wanted that
12 second meter or not.

13 MR. MEDEIROS: I want it. You give it to me?

14 MR. KUSHI: Well, if you want it then you have a
15 reservation.

16 MR. MEDEIROS: They're telling me I can't have it.
17 It goes to the other lot. I'll keep it. Done
18 deal.

19 MR. CHANG: Think I can, if I can interject.
20 You're right when you were describing that when the
21 reservation was made for 2, 2 meters, one lot was
22 for your lot and the other one was for, now that's
23 owned by Cheve...

24 MR. MEDEIROS: Uh huh. Chevalier.

25 MR. CHANG: Chevalier. And then so that 60 days
26 like you're saying that goes to the right
27 opportunity for the other lot owner to accept the

1 meters, meter. If he doesn't accept it within that
2 time period then it was...

3 MRS. MEDEIROS: But it also...

4 MR. CHANG: Then he loses it.

5 MRS. MEDEIROS: Says about him helping us...

6 MR. CHANG: Nobody gets it.

7 MRS. MEDEIROS: Or agree to help us before he can
8 have his meter.

9 MEMBER ROBINSON: No, nobody gets it.

10 MR. KUSHI: It comes back. There's no reservation
11 for Lot 35A.

12 MR. CHANG: Yeah, it's...

13 MR. KUSHI: Now, if you still want that meter I
14 guess you'll have to deal with the owners of Lot
15 35A.

16 MR. MEDEIROS: I want the meter for my lot. I
17 don't want it for 35A. I don't own it.

18 MRS. MEDEIROS: I need to...

19 MR. KUSHI: Well, the meter goes with the lot not
20 to you.

21 MR. MEDEIROS: I, I understand it but see what,
22 what has happened when I, when I put that 6700
23 down, they told me I had to, I had to put down to
24 reserve for these 2 meters otherwise I'm not going
25 to get another shot at this. I put it down and now
26 you tell me I don't have the second meter but in
27 the meantime I don't get any money back and I can't
28 have the second meter. I'm confused.

1 CHAIR HOWDEN: Yeah, Joe, Joe...

2 MR. MEDEIROS: Yes.

3 CHAIR HOWDEN: See, I mean asking for patience is
4 like an act of God, but...

5 MR. KUSHI: I wish, I wish you guys wouldn't
6 mention God. This is a government...

7 CHAIR HOWDEN: Oh, we're government. That's right.
8 Anyway, a miraculous thing to happen. So, you
9 know, see, try to see what this Department does.
10 I, I, I've found that, that Director Eng when he
11 says that he will act on something it gets acted
12 on. And I'm sure that Deputy Director Yamashige
13 will be part of this as well, so give 'em another
14 week, we'll keep it on the agenda, we'll keep
15 trying to, hopefully the Department will use their
16 good offices to try to clarify a very, very muddy
17 situation. Director Eng?

18 DIRECTOR ENG: Clarification. You wanted the
19 refund check cut this week? Or do want us to hold
20 off on that?

21 MR. CHANG: We can do the work and if you, checks
22 are normally cut on Thursdays so probably next
23 week.

24 DIRECTOR ENG: Well, we'll process it with Fiscal
25 so as soon as it can be cut it will be cut. I can
26 guarantee you today, but that is what you want us
27 to proceed with?

1 CHAIR HOWDEN: Yeah, that, originally that's what
2 they were asking for is that return of their money,
3 ok? So that seems like a good starting place...

4 DIRECTOR ENG: Ok.

5 CHAIR HOWDEN: And then clarification in terms of
6 the order.

7 MEMBER YAMAMURA: Unless it will jeopardize their
8 standing on whatever issues there maybe. If it's
9 not gonna jeopardize anything then I, I'd say
10 reimburse the money right away but, we're gonna
11 keep this on the agenda with a potential solution
12 and reimbursement may jeopardize that solution then
13 I don't think you should, I don't think you'd want
14 your money back right now, right?

15 MR. MEDEIROS: We haven't had it since 2004.

16 MEMBER YAMAMURA: Yeah, I understand that. I just
17 don't want you to be put in a position where
18 reimbursement then nullifies whatever you've done
19 to date.

20 MR. MEDEIROS: I hear you and I don't wanna be put
21 in another position that I'm battling again.

22 MEMBER YAMAMURA: So, Herb, would that
23 reimbursement wouldn't nullify or jeopardize..

24 MR. CHANG: If the intent is to get the second
25 meter which I don't think he's entitled to because
26 he doesn't own the property, if that question is
27 unclear then maybe we shouldn't give 'em the
28 reimbursement back. In my mind it's clear that he,

1 he has not as being the lot owner of the other
2 property, he's not entitled to it.

3 MRS. MEDEIROS: Could I say something? Just for
4 you folks to understand, back in 2003, there's Lot
5 A, Lot B, Lot C. Lot A where David Chevalier owns
6 that was my aunty's parcel. She got a letter from
7 the Department, so did my brother. I never got. I
8 worked it out with the County. They sent me one.
9 But when I talked to, for Lot A, they were offered,
10 the Diegos were offered to reserve a water meter on
11 Lot A, which now David Chevalier owns. They
12 declined. They did not. So I come in on Lot C. I
13 pay my fee. We all have 3 tax key numbers, we're
14 all separate lots. I pay mine, I'm the only one.
15 My brother, which is Lot B, which is Allison
16 Feldman now; she has her meter. The Diegos who own
17 Lot 35A did not want. We wanted. Now, we're
18 saying we're all individual but now when I buy my
19 meter the second one they have to offer to David
20 Chevalier. He sits back, does nothing and he gets
21 offered a water meter while I went through hoops
22 trying to get on the list and everything. The
23 Deigos declined a water meter for 35A. They did
24 not want to reserve one. We all were individual,
25 we all got separate letters, we all got different
26 tax key numbers. So, Diegos, 35A, David buys 35A,
27 he has no meter, he goes like I do and he goes
28 through everything I go through. How can he get

1 offered, have 60 days and say, "You want a water
2 meter? Oh yeah, sure I want a water meter for
3 sitting back and not doing anything." That's not
4 fair to me that went through so much and 35A just
5 gets a water meter. We all individually, we all
6 got letters and we were able to reserve or decline.
7 They choose to decline and not purchase a water or
8 reserve a water meter. Now, he just comes in and
9 he has 60 days and go, good luck to, and it's
10 something he has to help us? He has to help us and
11 if he declines to help us then he doesn't get the
12 meter. Being honest, we really don't wanna, his
13 help. We wanna do this individually for my family.
14 If he comes in and he says I wanna help and then
15 the, the tank or something breaks and we have to
16 get him to help us to repair the tank, it's just
17 gonna be problems after problems, we'd like to be
18 treated individually. I don't understand.

19 MR. MEDEIROS: I know we've taken up enough of your
20 time.

21 MRS. MEDEIROS: We're done. I'm sorry. I just had
22 to clarify that.

23 CHAIR HOWDEN: Well, we've, we've taken up a
24 considerable amount of your time and..

25 MR. MEDEIROS: I just ask you guys, you know,
26 again, my, my final appeal to you guys. I just
27 want water for our lot. I don't, I don't want to
28 supply anybody else. I just, we went through all

1 the stuff, we've talked to the State, we've talked
2 to other landowners to put the tank, we've done
3 everything, we got a civil engineer, we're paying
4 out of our butts for this, and our biggest hang-up
5 is here, right here at the Water Department, and I,
6 we just asking for some help. We wanna get our
7 water, if we can't get the second meter, can we get
8 reimbursed and, and hopefully we'll just see you
9 guys on the road and wave. We don't have to come
10 and see you guys again, even though it's kinda
11 getting enjoyable. I'm kinda, but the faces keep
12 changing, but that's ok. So, it, it's good. But
13 anyhow, I thank you guys, if you could just
14 consider what we've asked for, ok? Thank you.

15 CHAIR HOWDEN: Thank you, Joe. Thank you.

16 MRS. MEDEIROS: Thank you.

17 CHAIR HOWDEN: Gaye? Gaye, is Jane here to make a
18 presentation?

19 MS. HAYASHIDA: Jane is here to, for Appeal #08-04,
20 Pulehu Farms.

21 CHAIR HOWDEN: Oh, she is here for...Ok.

22 MS. HAYASHIDA: Yeah, she's our, she's the
23 Department's. If you're ready to start the appeals
24 I will reset the...

25 CHAIR HOWDEN: Do, we wanna deal with the Davis
26 appeal first?

27 MS. HAYASHIDA: Ok.

28 CHAIR HOWDEN: Ok.

1 MS. HAYASHIDA: Yeah.

2 CHAIR HOWDEN: So, hi guys. Phyllis, John, Kelly,
3 we really need to keep, I'm sorry but you know we
4 have stop. I'd like to move into a quick look at
5 the Davis appeal. Was everyone here, was everyone
6 here present at the Davis appeal?

7 MEMBER ROBINSON: I was not.

8 CHAIR HOWDEN: But you've read the materials?

9 MEMBER ROBINSON: I have.

10 CHAIR HOWDEN: Ok, ok. We need to move into
11 executive session pursuant to HRS 92-5a(4) to
12 consult with the Board's attorney on questions and
13 issues pertaining to the Board's powers, duties,
14 privileges, immunities and liabilities. And we
15 will make this brief and then we'll get to Pulehu
16 Farms, ok?

17 MS. HAYASHIDA: So everybody needs to clear out.

18 (At this time Member Lester arrived and then the
19 Board went into executive session to deliberate on
20 Appeal #08-03.)

21 CHAIR HOWDEN: Back into order and announce our,
22 the findings in the Davis appeal. The finding of
23 the Board was to deny the appeal. And we would ask
24 our corporation counsel's office, Ed Kushi to
25 prepare a Findings of Fact, Conclusions of Law,
26 Decision and Order in this matter.

27 MR. KUSHI: Yes, Mr. Chair, since the Board in, in,
28 in its deliberations denied the appeal and in

1 essence adopted the proposed Findings of Fact,
2 Conclusions of Law, and Decision and Order
3 submitted by the Department dated January, July
4 20th, 2009. I would ask the Department's counsel to
5 prepare the D&O and Findings of Fact, Conclusions
6 of Law in final for the Board chair's signature.

7 MS. JOHNSTON (Department's counsel): Thank you
8 very much.

9 DIRECTOR ENG: Thank you.

10 CHAIR HOWDEN: Thank you.

11 (At this time the Board heard testimony on Pulehu
12 Farms appeal. When the testimony of the appellant
13 and the Department concluded the Chair adjourned
14 the meeting.)

15 CHAIR HOWDEN: So, with the Board's consent, unless
16 there's a problem, I think we will close today's
17 meeting.

18 MR. KUSHI: Close this hearing.

19 CHAIR HOWDEN: You know, and close the hearing,
20 defer the other items that we have on today 'til
21 the August meeting unless...

22 MS. HAYASHIDA: The Water Rules, the Board, the
23 Water Resources Committee chair wants some
24 recommendations by the Board by July 31st.

25 MR. KUSHI: He won't get it.

26 CHAIR HOWDEN: No, no, we can't do it next meeting.
27 Are there any recommendations on the Water Rules
28 that we received?

1 MS. HAYASHIDA: Unless you want to ask the Water
2 Resources Committee chair for additional time. I,
3 I can't guarantee you but...

4 MR. KUSHI: Yep.

5 MS. HAYASHIDA: Ok.

6 CHAIR HOWDEN: Yeah. No but, just get him on his
7 cell phone on vacation...

8 MS. HAYASHIDA: Ok. I'll draft a letter...

9 CHAIR HOWDEN: And we need another month.

10 MS. HAYASHIDA: Requesting additional time.

11 CHAIR HOWDEN: Yeah, yeah.

12 MS. HAYASHIDA: I don't know if he's gonna...Ok.

13 MR. KUSHI: Defer the other items.

14 CHAIR HOWDEN: Yeah, ok, so we'll defer the other
15 items. That's fine. Ok. Thanks, Ed.

16 (several people speaking at the same time)

17 MEMBER ROBINSON: So are we adjourning the meeting?

18 CHAIR HOWDEN: Yeah, we're adjourned.

19

20

21 (The meeting adjourned at 1:00 p.m.)

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Prepared and submitted by:

Gaye Hayashida
Commission Support Clerk

Approved on: _____