

County of Maui Water
Supply

BOARD OF WATER SUPPLY
COUNTY OF MAUI
RULES COMMITTEE MEETING
SEPTEMBER 25, 2000

Chair Cravalho: Shall we then proceed to the agenda that's before us? Before we get into any substantive matters, is there any member of the audience who wishes to make any statement or any comments at this time. Hearing none, shall we proceed then to the agenda.

Chair Cravalho: It is the understanding of the Chair that there is a request that's coming in on the next agenda, we'll file the next meeting this week, that's withdrawing this particular request and submitting another request, so if there's no objection, we'll defer any action on this particular matter pending our decision on our further meeting later this week. No objections? So ordered. Shall we then proceed to the next item?

Mr. Craddick: Let me use this chalkboard here. This is on Kimo Drive. There's two pieces of property. This one was purchased in 1948. This one was purchased in 1972. And this property had a meter installed since 1962. This meter installed in 1962 transferred to Hupps in '72. Now as we understand it, in 1974 the Hupps made an agreement to lease some of this property here - this is Nagamatsu - to lease some of this property. What they did is they paid for and installed another meter down here in 1974 and proceeded to, from 1974 on, had this meter transferred to their name and paid the bill on it to, I guess, do farming on this piece of property. Now beyond there, as far as I can tell, those are the facts in the case. And beyond there, I guess, when this transaction took place, the Hupps felt that this meter became theirs, that somehow they had bought the meter even though we weren't necessarily informed about it. There would be nothing wrong with somebody, a tenant, transferring the meter to their name because they're using a piece of property. By our rules, the meter goes with the premise that it serves, and that's mentioned in numerous places in the rules, and I think Mike has the 1971 rules that would apply in this case. And that's kind of our position that it always did serve that property. We know at sometime a line was run from here - or at least this is the word of Hupps - they ran a line from here to here to serve a house in the back. They did a building permit for it that we signed the papers that they said the meter was theirs, and I don't think any one checked on it at

that time. And I guess recently here then the Nagamatsus or their successor, Toms, wanting to sell this piece of property and get the meter transferred in their name, cancelled this lease on the property.

Mr. Quinn: Based on - the meter was transferred from the Hupps to the Toms on July 17th, 2000, and Mr. Vernon Tom signed his water service contract and attached to it is a letter dated July 7th, 2000 from the director to Mr. and Mrs. Jack Hupp stating that the termination --- INAUDIBLE ? the Toms.

Mr. Quinn: Mr. Chair, our records indicate that the meter was installed in 1962. I believe it was installed under, at that time, an existing elevated water tank back on the Nagamatus's property, and somewhere around 1974, it was relocated up to the road, again on Nagamatsu's property. And our records then indicate in '74 that the Hupps did assume responsibility for the payment of those bills and did, in fact, pay the bills.

Mr. Starr: Mr. Chair. There many cases, many situations where there's a meter residing on one parcel that is servicing actually a house on another parcel usually through easements for the water line because, you know, we've passed a number of them. We've seen many cases, and I know of quite a few others where there'll be a meter by the road here and then the parcel that it feeds is up there. Usually there's an easement through the one parcel to the other. Now since there's a house involved that it's been feeding for 26 years...

Mr. Craddick: No, no. The house was built in '95.

Mr. Starr: Okay. Well it's been feeding the second property, this other property across the first property for 25 years, and it's been feeding a house for 5 years. That house was legally built based on that meter, and it seems it would really do irreparable harm to these people to take that away since they were using it in good faith for this time. I don't think that they agreed to it being switched out of their name back to the Toms name. So it seems that there should be some way found to have these people continue to be able to use that water.

Mr. Quinn: Mr. Chairman, if I make this ?INAUDIBLE? . Prior to '97, it wasn't as clear cut. Since the new rule came in, all owners have to take

responsibility,
owners of these properties, for a particular meter on that property. If, in fact,
they
lease that property, we require the tenant to sign another agreement as the tenant,
and the
owner to also sign that tenant agreement acknowledging that this is the tenant, and
in the
event that the tenant is not paying their bill, they will be responsible.
Essentially,
there's a very distinct methodology now as opposed to back in the '70's and the
'60's.

Mr. Starr: I'm confused here. I had thought they not only wanted to
keep the
meter, but it was essential for them to maintain the agricultural operation there,
that
they be able to keep the meter. I didn't realize that there was some question of
their
immediate desire for the meter.

Mr. Cravalho: The concern of the chair is well justified whenever you come
up
with a recommendation. You indicate that the cause of the connection with other
meters,
you have exceeded the number of fixtures that's supposed to be covered by a meter.
But
who allowed that? Who permitted it - the Department. Do we hold a tenant, do we
hold
the person responsible for a violation when that violation has been participated in
and
encouraged by the Department. I think this is a very basic, fundamental kind of an
opinion - an outlook - that muddies the water. The record has indicated, and I
think
with justification, that sometime in the future, sooner rather than later, that the
qualifier for a meter who applied for a meter will get it. To me that indicates
that
there is a moral, a moral responsibility and a moral obligation for this County and
this Department and this Board to meet. Part of that moral responsibility comes as
a
direct result of what the Department did or did not do in the past. So under those
circumstances, if there is this moral responsibility and moral obligation to meet
this
request. And this person would be, or this applicant would be placed at a very high
priority
for a meter, what then would be the tremendous damage constituted if we recognize
this moral
responsibility for which we are party to, to continue the meter as it is now with
the
understanding, and I think the director and I will differ on this, I said this to
the
director in the past - it's nothing new - it is the opinion of the Chair that the
restriction

on meters as it relates to Upcountry should be all lifted come January 2nd because the supply may have indicated from East Maui area is supposed to be there. But be that as it may, I think there might be an exception to the rule for the next couple of months. What do you think, Mr. Nakamura?

Mr. Cravalho: I understand that if we go by precedent, action of our regular Board and the Department, and it's going to surface at our next meeting. We know of a clear-cut violation of the law as to the continuation of a particular meter. We know this, and we know the Director hasn't moved a single fraction of an inch on it. Now the Department comes in with this position, and says, hey, this one is potentially illegal, whatever. I think the better part of valor is discretion right now - a couple of months more and see what we do on the overall thing. Continue the Hupps. Is there any problem with that? Mr. Hupp? Mrs. Hupp? Okay? And I don't want to hear some other position from you after today.

Mr. Helm: Mr. Chair? Just for clarification. I guess everything remains status quo or as is until sometime in January. We'll work it out so that they won't be asking to be disconnected...

Mr. Craddick: What's happened here to the property, our pipeline comes across here. It's got a no recorded easement - there's a surveyed easement but no recorded easement. It cuts this portion of the property off from over here making that portion of it somewhat useless because you can't build over it and Howard made a suggestion whether we wanted to purchase it all or maybe go out to the center line so he could still use some portion of it for his setback, and we really haven't gotten into those discussions yet or even seen what the other piece of property was worth. ? INAUDIBLE ? the appraisal of the easement itself was around six thousand five.

Mr. Yonahara: I met with the Finance Committee, and at that time I showed them a drawing of the property explaining the list of items that I requested. And how I based a certain amount on that request was instead of using just the 5,300 square foot ...

Mr. Cravalho: Remnant.

Mr. Yonahara: They has an appraisal done on a 5,300 square foot portion. The other portion, I estimate to add another approximately 8,000 square feet so the total affected area would be 13,000 square feet. So I based my estimate on 13,000 and not the 5,300 that the appraisal was based on.

"By Water All Things Find Life"

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[\[Back\]](#)