

COUNCIL OF THE COUNTY OF MAUI
**PUBLIC WORKS AND
TRAFFIC COMMITTEE**

March 19, 2004

Committee
Report No.

04-62

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Public Works and Traffic Committee, having met on March 4, 2004 and March 5, 2004, makes reference to County Communication No. 04-69, from the Director of Public Works and Environmental Management, transmitting a proposed resolution entitled "AUTHORIZING A GRANT OF A LICENSE TO USE COUNTY REAL PROPERTY TO HALE MAHAOLU EONO, INC.".

The purpose of the proposed resolution is to authorize a grant of a license to the Hale Mahaolu Eono Subdivision for the encroachment of a wall on approximately 100 square feet of County real property along Lahainaluna Road in Lahaina, Maui.

By correspondence dated March 2, 2004, the Director of Public Works and Environmental Management provided information relative to specific details of the encroachment.

By correspondence dated March 3, 2004, Robyne T. Nishida Nakao, Development Coordinator, Hale Mahaolu, transmitted correspondence dated March 2, 2004, from Roy K. Katsuda, Executive Director, Hale Mahaolu, providing information relative to specific details of the encroachment.

At its meeting of March 4, 2004, your Committee met with the Director of Public Works and Environmental Management; a Deputy Corporation Counsel; Dan Bowers, Project Manager, Metcalf Construction; and Roy K. Katsuda, Executive Director, Hale Mahaolu.

There was no public testimony.

Your Committee received photographs of the subject wall along Lahainaluna Road, as submitted by Dan Bowers, Project Manager, Metcalf Construction.

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The Director read from the correspondence dated March 2, 2004, from Mr. Katsuda, which provided information relative to the history of the encroachment.

Mr. Bowers advised your Committee that the encroachment may have been the result of human error. He indicated that the surveyor installed wooden stakes in the ground to mark the line of the wall. He noted that the stakes were offset to allow for the excavation and pouring of concrete footings. He suggested that, as a result of the offset, the wooden stakes were relocated improperly. He noted that wooden stakes are typically utilized in the construction industry for this purpose.

Mr. Katsuda stated that he was made aware of the encroachment during an American Land Title Association (ALTA) survey, which is performed to ensure that construction is completed in accordance with design plans. He also noted that the estimated value of the proposed licensed premises was established based on a recent land purchase by Hale Mahaolu. He noted the value was a very rough estimate.

In response to an inquiry by your Committee, the Director stated that he is not aware of any discussion with the Department of Finance for the sale of the proposed licensed premises.

Mr. Bowers indicated that the wall in question is a retaining wall, which consists of hollow, two-inch thick, concrete blocks that are filled with gravel to assist with drainage. He noted that compacted gravel is placed behind the wall, which supports the wall and assists with drainage.

Your Committee noted that even though the encroachment is only approximately 100 square feet, and may not appear to be a significant amount of property, it is one of numerous encroachments that your Committee has reviewed. Your Committee also noted that the County should receive compensation for any public property that is encroached upon.

Mr. Katsuda advised your Committee that Hale Mahaolu cannot receive Department of Housing and Urban Development (HUD) approval until the matter relating to the encroachment is resolved. He also noted that HUD will not authorize Hale Mahaolu to proceed with improvements to its community facility until the matter is settled. He stated that senior citizens are currently utilizing an

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old facility that is not adequate for their needs. As a result, Mr. Katsuda requested your Committee to consider recommending adoption of the proposed resolution.

Your Committee noted its desire to discuss various options for disposition of the subject property.

Your Committee discussed revising the proposed resolution and license agreement to: (1) encourage the Administration to commence negotiations for the disposition of the subject property; and (2) require that the license agreement terminate upon the approval of the disposition of property by the Council, or one year from the date of execution, whichever is sooner.

Your Committee requested that appropriate language be drafted and resubmitted for further consideration.

Your Committee recessed its meeting to March 5, 2004.

At its reconvened meeting of March 5, 2004, your Committee met with a Deputy Corporation Counsel and Roy K. Katsuda, Executive Director, Hale Mahaolu.

Your Committee received correspondence, dated March 5, 2004, from your Committee Chair, suggesting revisions to the proposed resolution and license agreement.

Your Committee noted that the revisions to the proposed resolution should specify, "disposition of the subject property", in lieu of utilizing the term "sale". Your Committee also noted that the County and Hale Mahaolu should have the flexibility to negotiate an agreement that is appropriate for both parties in relation to this matter.

Your Committee voted to recommend adoption of the revised proposed resolution.

Your Committee is in receipt of a revised proposed resolution, approved as to form and legality, from the Department of the Corporation Counsel, incorporating your Committee's recommended changes.

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Your Public Works and Traffic Committee RECOMMENDS that Resolution No. _____, as revised herein and attached hereto, entitled "AUTHORIZING A GRANT OF A LICENSE TO USE COUNTY REAL PROPERTY TO HALE MAHAOLU EONO, INC.", be ADOPTED.

Adoption of this report is respectfully requested.

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