

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

March 21, 2003

**Committee
Report No.**

03-25

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

Chair and Members:

Your Committee of the Whole, having met on March 5, 2003, makes reference to County Communication No. 01-156, from the Director of Finance, transmitting a proposed resolution entitled "AUTHORIZING THE SALE OF COUNTY REAL PROPERTY LOCATED IN MAKAWAO, MAUI, HAWAII, PURSUANT TO SECTIONS 3.44.030 AND 3.44.070, MAUI COUNTY CODE, AND SECTION 264-3, HAWAII REVISIED STATUTES".

The purpose of the proposed resolution is to authorize the County to sell a road remnant containing approximately 9,044 square feet in Olinda, Makawao, to John F. and Mary O. Driscoll (the Driscolls), owners of abutting property.

Your Committee notes that County Communication No. 01-156 was referred to the prior Council's Public Works and Transportation Committee at the Council meeting of May 18, 2001. Your Committee further notes that the Public Works and Transportation Committee met regarding this matter on August 1, 2001 and October 2, 2002.

By correspondence dated July 30, 2001, the Committee Chair transmitted various documents from the Driscolls regarding the history of their attempts to acquire the subject property.

At its meeting of August 1, 2001, the Committee met with the Deputy Director of Public Works and Waste Management, the Director of Finance, the First Deputy Corporation Counsel, and John Driscoll.

The Director of Finance provided an overview of the matter. He stated that the Driscolls had initially asked to purchase the subject property in 1992. However, because the title to the subject property was uncertain, the Department delayed processing the request. The Director indicated that it was still not clear whether title had been conveyed from the State to the County. He further noted

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that Mr. Driscoll had offered to purchase the subject property for \$7,000. The Director recommended that the County sell the parcel.

The Director of Finance provided the Committee with a copy of correspondence dated October 3, 2000, from Stephen A. Jiran, Hawaii Appraisal & Consulting, estimating the subject property's market value at \$6,783 as of October 2, 2000.

In response to the Committee's inquiry, Mr. Driscoll stated that his abutting property comprised approximately 2.4 acres. He appealed to the Committee to approve the proposed resolution, which would allow him to acquire the subject property for his family. He stated his willingness to abide by any conditions of approval as recommended by the Committee.

The First Deputy Corporation Counsel provided additional historical background on the matter. He reported that the road remnant originated from a realignment of Olinda Road during the 1940s.

The Committee considered whether it would be possible for the County to negotiate a land exchange with the Driscolls, in lieu of selling them the subject property, so that a portion of their existing property could be acquired for road-widening purposes along Olinda Road.

The Committee deferred the matter pending further discussion.

By correspondence dated November 7, 2001, the Committee Chair requested that the Department of Public Works and Waste Management consider a possible land exchange between the County and the Driscolls.

By correspondence dated July 3, 2002, the Director of Public Works and Waste Management stated that the County did not have immediate plans to expand Olinda Road and that the suggested exchange of real property for the subject property was not recommended.

At its meeting of October 2, 2002, the Committee met with the Director of Finance, the Director of Public Works and Waste Management, a Deputy Corporation Counsel, and John Driscoll.

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The Director of Finance provided the Committee with an overview of the matter. He stated that the Hawaii Revised Statutes mandated that the subject property be conveyed from the State to the County, but that the conveyance had not been effectuated. The Director suggested that the Committee consider recommending adoption of the proposed resolution so that the County could proceed with the sale of the subject property after receiving title.

The Director of Public Works and Waste Management indicated that the Department had no plans to widen Olinda Road or nearby Piihola Road. Therefore, the road remnant was not necessary for road-widening purposes.

In response to an inquiry by the Committee, the Director of Public Works and Waste Management stated that a telecommunication utility had indicated an interest in acquiring an easement through the subject property.

The Director of Finance stated that it was in the County's best interest to dispose of the subject property because neither the County nor the State had any use for the property, and its sale would relieve the County and State of potential liability.

Mr. Driscoll stated that there was no fence between the subject property and his abutting property, which appear to be one contiguous parcel of land. He indicated his willingness to increase the purchase price to \$8,000 and allow for utility easements through the subject property.

The Director of Finance indicated that the subject property's market value had not significantly changed since the assessment of October 2, 2000.

The Committee expressed concern about selling real property that has not been properly conveyed to the County, but noted the advisability of selling the subject property upon the completion of the conveyance from the State to the County. Your Committee noted that adoption of a resolution accepting the subject property from the State would need to precede adoption of the proposed resolution approving the sale to the Driscolls.

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The Committee voted to recommend adoption of the proposed resolution, subject to the following revisions:

1. Increase the purchase price to \$8,000;
2. Allow for the use of public utility easements through the subject property; and
3. Incorporate technical revisions.

The Committee also requested that the Department of the Corporation Counsel draft a proposed resolution for the acceptance of the subject property. This proposed resolution was to be adopted by the Council prior to adoption of the revised proposed resolution approving the sale.

By correspondence dated October 8, 2002, the Chair of your Committee requested that the Department of the Corporation Counsel transmit the proposed resolutions.

Your Committee notes that the Department of the Corporation Counsel did not transmit the requested proposed resolutions. Therefore, the Committee did not issue a committee report containing its recommendations.

At its meeting of December 4, 2002, the Public Works and Transportation Committee recommended that County Communication No. 01-156 be referred to the Council Chair for the term beginning January 2, 2003, for a recommendation as to referral or other disposition.

At its meeting of January 10, 2003, the Council referred County Communication No. 01-156 to your Committee of the Whole (County Communication No. 03-12).

By correspondence dated February 5, 2003, the Chair of your Committee informed the Department of the Corporation Counsel that the State Department of Land and Natural Resources had transmitted an unexecuted quitclaim deed conveying the subject property to the County. In the correspondence, the Chair of your Committee requested that the Department prepare an appropriate proposed resolution for the County's acceptance of the subject property.

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By correspondence dated February 12, 2003, the Department of the Corporation Counsel transmitted a proposed resolution entitled "ACCEPTING DEDICATION OF LAND PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE". The purpose of the proposed resolution is to accept the subject property from the State by quitclaim deed.

By correspondence dated February 25, 2003, the Chair of your Committee requested a revision to the proposed resolution accepting the subject property transmitted on February 12, 2003, for consistency with the quitclaim deed.

By correspondence dated February 26, 2003, the Department of the Corporation Counsel transmitted a revised proposed resolution entitled "ACCEPTING DEDICATION OF LAND PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE".

At its meeting, your Committee met with the Director of Finance and the First Deputy Corporation Counsel. The First Deputy Corporation Counsel confirmed that the prior Council's Public Works and Transportation Committee had recognized that the subject property was owned by the State and that conveyance to the County was necessary before the subject property could be sold.

Your Committee voted to recommend adoption of the proposed resolution accepting the subject property transmitted on February 26, 2003.

Your Committee of the Whole RECOMMENDS that Resolution No. _____, entitled "ACCEPTING DEDICATION OF LAND PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE", be ADOPTED.

Adoption of this report is respectfully requested.

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DAIN P. KANE Vice-Chair

WAYNE K. NISHIKI Member

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JOSEPH PONTANILLA Member

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