
HOUSE CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES AND THE CITY AND COUNTY OF HONOLULU TO AGREE TO A FINAL DETERMINATION REGARDING THE OWNERSHIP AND JURISDICTION OF AN UNIMPROVED SECTION OF KAIMAKANI STREET.

1 WHEREAS, in a memorandum dated March 24, 2005, an
2 abstractor employed by the Department of Land and Natural
3 Resources, Land Division, stated that ownership and jurisdiction
4 over a certain section of Kaimakani Street (TMK: 1-9-9-68, 05,
5 28, and 29) were transferred to and accepted by the City and
6 County of Honolulu in compliance with Council Resolution No. 93-
7 287 of the City and County of Honolulu, which was adopted on
8 September 29, 1993; and

9
10 WHEREAS, the abstractor's findings are as follows:

11
12 "Said portion of Kaimakani Street formerly designated as
13 the "Aiea-Halawa Boundary Road" situate lying along the
14 Aiea-Halawa boundary between Ulune Street and Halawa
15 Heights Road, is colored Green on the maps attached as
16 Exhibit A.

17
18 Pursuant to the 1892 Highway Act, said Aiea-Halawa Boundary
19 Road was declared a "public highway" owned by the Hawaiian
20 Government in fee simple.

21
22 Under the "Organic Act" of April 30, 1900, the ownership to
23 the Aiea-Halawa boundary road, and all public property of
24 the Hawaiian Government, is ceded and transferred to the
25 United States, providing that **"unless otherwise provided
26 for by Congress, or taken for the uses and purposes of the
27 United States"**, it remain in the possession, use and
28 control of the government of the Territory of Hawaii.
29



1 By Presidential Executive Order No. 2566, dated March 28,
 2 1917 portions of the Aiea-Halawa Boundary Road as shown on
 3 TMK: (1) 9-9-68, are set-aside for the Aiea Military
 4 Reservation. The lands under PEO 2566, including portions
 5 of the Aiea-Halawa Boundary Road as shown on TMK: (1)
 6 9-9-05 are later transferred to the Navy Department by
 7 letter dated December 1924.

8
 9 **Excluded from PEO 2566 as a "right of way granted to the**
 10 **Territory of Hawaii by right of continued occupancy",** the
 11 ownership to portions of the Aiea-Halawa Boundary Road as
 12 shown on TMK: (1) 9-9-28 and 29, are transferred under
 13 Section 5(b) of the Admission Act of March 18, 1959 from
 14 the United States to the State of Hawaii.

15
 16 In accordance with Section 5(e) of said Admission Act, the
 17 United States conveyed all of its right, title and interest
 18 in and to the Aiea-Halawa Boundary Road as shown on TMK:
 19 (1) 9-9-05 and 68 to the State of Hawaii by the following
 20 Quitclaim Deeds.

21
 22 By Quitclaim Deed dated September 27, 1962 (LOD S-19998)
 23 portions of the Aiea-Halawa Boundary Road as shown on TMK:
 24 (1) 9-9-05 and described as "a portion of Tract 1 of former
 25 Aiea Military Reservation as described in Presidential
 26 Executive Order 2566", are conveyed to the State of Hawaii,
 27 subject to the following:

28
 29 "RESERVING there from, to the United States of
 30 America, its successors and assigns an easement
 31 for construction, operation, maintenance and
 32 repair of utilities, storm drains, ditches, and a
 33 roadway, with rights of access thereto, on, over,
 34 under and across a right-of-way running along the
 35 Southeast boundary of the aforesaid land"

36
 37 By Executive Order No. 2121 dated November 21, 1963, the
 38 land as conveyed to the State in LOD S-19998, was set aside
 39 for school purposes and placed under the control and
 40 management of the Department of Education, subject to the
 41 easement reserved in favor of the United States. Said
 42 easement affecting that portion of Kaimakani Street as
 43 shown on TMK: (1) 9-9-05.



1 By Quitclaim Deed dated March 5, 1963 (LOD No. S-19999),
2 portions of the Aiea-Halawa Boundary Road as shown on TMK:
3 (1) 9-9-68 and described as a "connecting" right-of-way
4 between Tracts 1 and 2 in Presidential Executive Order No.
5 2566", are conveyed to the State of Hawaii, subject to the
6 following:

7
8 "RESERVING, HOWEVER, to the party of the first
9 part and its assigns, an easement together with
10 necessary rights of access for the operation,
11 repair and maintenance of an underground hut;
12 storm drains; water, sewer, electrical and
13 telephone lines and appurtenances; over, under
14 and across the lands hereinabove described." Said
15 easement affecting that portion of Kaimakani
16 Street as shown on TMK: (1) 9-9-68.["

17
18 The ownership to said portion of Kaimakani Street formerly
19 designated "Aiea-Halawa Boundary Road", as shown on Exhibit
20 A, is transferred to the City and County of Honolulu
21 through operation of laws, pursuant to Chapter 264 of the
22 Hawaii Revised Statutes.

23
24 **As to Portion of Land Patent Grant No. 8945**

25 Said portion of Kaimakani Street being a portion of Land
26 Patent Grant No. 8945 to B.P. Bishop, is colored Red on
27 TMK: (1) 9-9-68.

28
29 By Exchange Deed dated April 5, 1937 (LOD 5595) by and
30 between the Trustees under the Will and of the Estate of
31 Bernice Pauahi Bishop, deceased and the Territory of
32 Hawaii, said portion of Land Patent Grant 8945 and other
33 lands, were conveyed to the Territory of Hawaii.

34
35 The ownership of the Territory of Hawaii in and to said
36 portion of Kaimakani Street as shown on TMK: (1) 9-9-68,
37 in accordance with Section 5(a) of the Admission Act of
38 March 18, 1959, succeeded to the State of Hawaii.

39
40 Pursuant to Chapter 264 of the Hawaii Revised Statutes and
41 in accordance with City Council Resolution No. 93-287
42 adopted September 29, 1993, the title and ownership to said
43 Kaimakani Street is transferred to and accepted by the City
44 and County of Honolulu.



1
 2 We find that the City and County of Honolulu owns the
 3 subject Kaimakani Street as shown on Fax Maps (1) 9-9-05,
 4 68, 28 and 29 attached as Exhibit A, subject to the
 5 reservation of an easement in favor of the United States of
 6 America, affecting portions of said Kaimakani Street shown
 7 colored in green on TMK: (1) 9-9-68 and 05, ONLY."; and
 8

9 WHEREAS, in a letter dated May 13, 2005, the Chairperson of
 10 the Board of Land and Natural Resources at the time stated that
 11 the City and County of Honolulu has jurisdiction of that section
 12 of Kaimakani Street; and
 13

14 WHEREAS, in a letter dated September 11, 2008, the current
 15 Chairperson of the Board of Land and Natural Resources stated
 16 that the section of Kaimakani Street in question is owned by the
 17 City and County of Honolulu; and
 18

19 WHEREAS, in a letter dated March 16, 2006, the Chief of the
 20 Land Division in the City and County of Honolulu's Department of
 21 Design and Construction, stated that Act 288, Session Laws of
 22 Hawaii 1993, does not apply to Kaimakani Street, and thus does
 23 not confer ownership or maintenance responsibilities to the City
 24 and County of Honolulu; and
 25

26 WHEREAS, in a letter dated June 27, 2006, the chief of
 27 staff to the Governor attributed ownership of Kaimakani Street
 28 to the City and County of Honolulu; and
 29

30 WHEREAS, the dispute over the ownership of and jurisdiction
 31 over Kaimakani Street must be resolved; now, therefore,
 32

33 BE IT RESOLVED by the House of Representatives of the
 34 Twenty-fifth Legislature of the State of Hawaii, Regular Session
 35 of 2009, the Senate concurring, that the Department of Land and
 36 Natural Resources and the City and County of Honolulu are urged
 37 to agree to a final determination regarding the ownership and
 38 jurisdiction of an unimproved section of Kaimakani Street; and
 39

40 BE IT FURTHER RESOLVED that Department of Land and Natural
 41 Resources and the City and County of Honolulu are urged to take
 42 into consideration the impact of:
 43

44 (1) Act 288, Session Laws of Hawaii 1993; and




1 (2) Resolution No. 93-287 of the City and County of
2 Honolulu; and
3

4 BE IT FURTHER RESOLVED that the Department of Land and
5 Natural Resources and the City and County of Honolulu are urged
6 to come to an understanding or agreement, regardless of any
7 final determination of ownership and jurisdiction, regarding
8 ongoing and continuing maintenance of Kaimakani Street; and
9

10 BE IT FURTHER RESOLVED that the Department of Land and
11 Natural Resources is requested to report findings and
12 recommendations regarding ownership of, jurisdiction over, and
13 ongoing and continuing maintenance of Kaimakani Street to the
14 Legislature no later than thirty days prior to the convening of
15 the Regular Session of 2010; and
16

17 BE IT FURTHER RESOLVED that certified copies of this
18 Concurrent Resolution be transmitted to the Chairperson of the
19 Board of Land and Natural Resources and the Mayor and
20 Chairperson of the Council of the City and County of Honolulu.
21
22
23

OFFERED BY:  _____

MAR 17 2009

