



RESOLUTION

ACCEPTING OWNERSHIP OF THE PORTION OF WAIMANU STREET BETWEEN WARD AVENUE AND DREIER STREET DEEMED TO HAVE BEEN SURRENDERED TO THE CITY AND COUNTY OF HONOLULU FROM THE STATE PURSUANT TO ADMINISTRATIVE ORDER ISSUED BY THE STATE DIRECTOR OF TRANSPORTATION IN ACCORDANCE WITH ACT 208 (2017), CODIFIED AS HAWAII REVISED STATUTES SECTION 264-2.1.

WHEREAS, by Act 208 (2017), codified as Hawaii Revised Statutes ("HRS") Section 264-2.1, the Legislature of the State of Hawaii ("State") addressed problems stemming from unresolved disputes over the ownership of roads in any county with a population of five hundred thousand or more; and

WHEREAS, at current population levels of the counties in the State, the provisions of Act 208 apply to the City and County of Honolulu ("City"); and

WHEREAS, Act 208 provides that, with respect to disputed roads within the defined county, if no party has exercised ownership over a disputed road in the five years prior to July 1, 2017, the disputed road shall be deemed to have been surrendered to the county in which the road is situated, pursuant to an administrative order issued by the State Director of Transportation ("Director"), and that the county shall accept without exercise of discretion all surrendered roads and shall record its ownership immediately with the State Bureau of Conveyances; and

WHEREAS, on December 7, 2020, the Director issued *Administrative Order Pursuant to Act 208 (2017)* ("Administrative Order"), in response to a request submitted by Hawaii State legislators representing the district to "issue an administrative order to deem the portion of Waimanu Street between Ward Avenue and Dreier Street surrendered to the City and County of Honolulu pursuant to H.R.S. §264-2.1"; and

WHEREAS, the Administrative Order acknowledged that the portion of Waimanu Street between Ward Avenue and Dreier Street ("Ewa Portion of Waimanu Street" or the "Road") was the subject of a lawsuit entitled *Shelton Investments, LLC et al. v. Kakaako Land Company, LLC, Cedric Chun, Calvert J.T. Chun, and New Direction IRA, Inc.* ("Chun Defendants"), Civil No. 16-1-2027-10 ("Road Lawsuit"), to settle the Chun Defendants' claim of ownership of the Road, and that there have been prior disputes and competing claims over the roads in the Kakaako from the City, State, and the Hawaii Community Development Authority with at least two lawsuits regarding the title to the Kakaako roads, including the Road Lawsuit; and



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WHEREAS, the Administrative Order describes the Road that is the subject of the Road Lawsuit, as follows:

All of that certain parcel of land (being portion of the land described in and covered by Royal Patent Number 5716, Land Commission Award Number 10605, Apana 7 to Kamakee no Piikoi) situate, lying and being at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, being PORTION OF WAIMANU STREET, bearing Tax Key designation (1) 2-1-049-_____ containing an area of _____ square feet, more or less, as shown on the "Map and Affidavit of Cyclomere Tract in Kewalo Tract" recorded in Liber 205 at Page 117, and hatched on map attached hereto and marked as EXHIBIT "A";

and

WHEREAS, a copy of the same map in the Road Lawsuit, which was attached to the Administrative Order also marked as Exhibit "A," is attached hereto also marked as Exhibit "A" and incorporated herein; and

WHEREAS, based on the various lawsuits, the Director determined that the Ewa Portion of Waimanu Street is a disputed road within the meaning of HRS Section 264-2.1; and

WHEREAS, the Director further determined that based on the court's final order in the Road Lawsuit, entered on October 18, 2018, which stated that the Chun Defendants have no ownership interest in or legal right to exert control over vehicular access to or parking on the Ewa Portion of Waimanu Street, the Chun Defendants' claimed acts of ownership of the Road were not by definition an "exercise of ownership"; and

WHEREAS, the Administrative Order concludes that the Ewa Portion of Waimanu Street is a disputed road as the term is used in HRS Section 264-2.1, and that no person, entity, or party had exercised ownership over the Ewa Portion of Waimanu Street in the five years prior to July 1, 2017, and orders that the Ewa Portion of Waimanu Street shall be deemed to have been surrendered to the City, and that pursuant to HRS Section 264-2.1, the City shall record its ownership immediately with the Bureau of Conveyances; and

WHEREAS, the City Council ("Council") finds that in accordance with Act 208, the Ewa Portion of Waimanu Street is deemed to have been surrendered to the City pursuant to the Administrative Order issued by the Director, and that the City is required



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to accept without the exercise of discretion the surrendered Road and shall record its ownership immediately with the State Bureau of Conveyances; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it accepts ownership of the portion of Waimanu Street between Ward Avenue and Dreier Street that is deemed to have been surrendered to the City by the State pursuant to the Administrative Order of the State Director of Transportation in accordance with Act 208 (2017), codified as Hawaii Revised Statutes Section 264-2.1, and which is described herein above and depicted as hatched on the map attached hereto marked as Exhibit "A" and incorporated herein; and

BE IT FURTHER RESOLVED that the City Administration shall promptly record the City's ownership of the portion of Waimanu Street between Ward Avenue and Dreier Street with the State Bureau of Conveyances; and



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BE IT FINALLY RESOLVED that copies of this resolution be transmitted to the Attorney General of the State of Hawaii, Director of the State Department of Transportation, President of the Hawaii State Senate, Speaker of the State House of Representatives, the Mayor, the Managing Director, the Chief Engineer of the Department of Facility Maintenance, and the Corporation Counsel.

INTRODUCED BY:

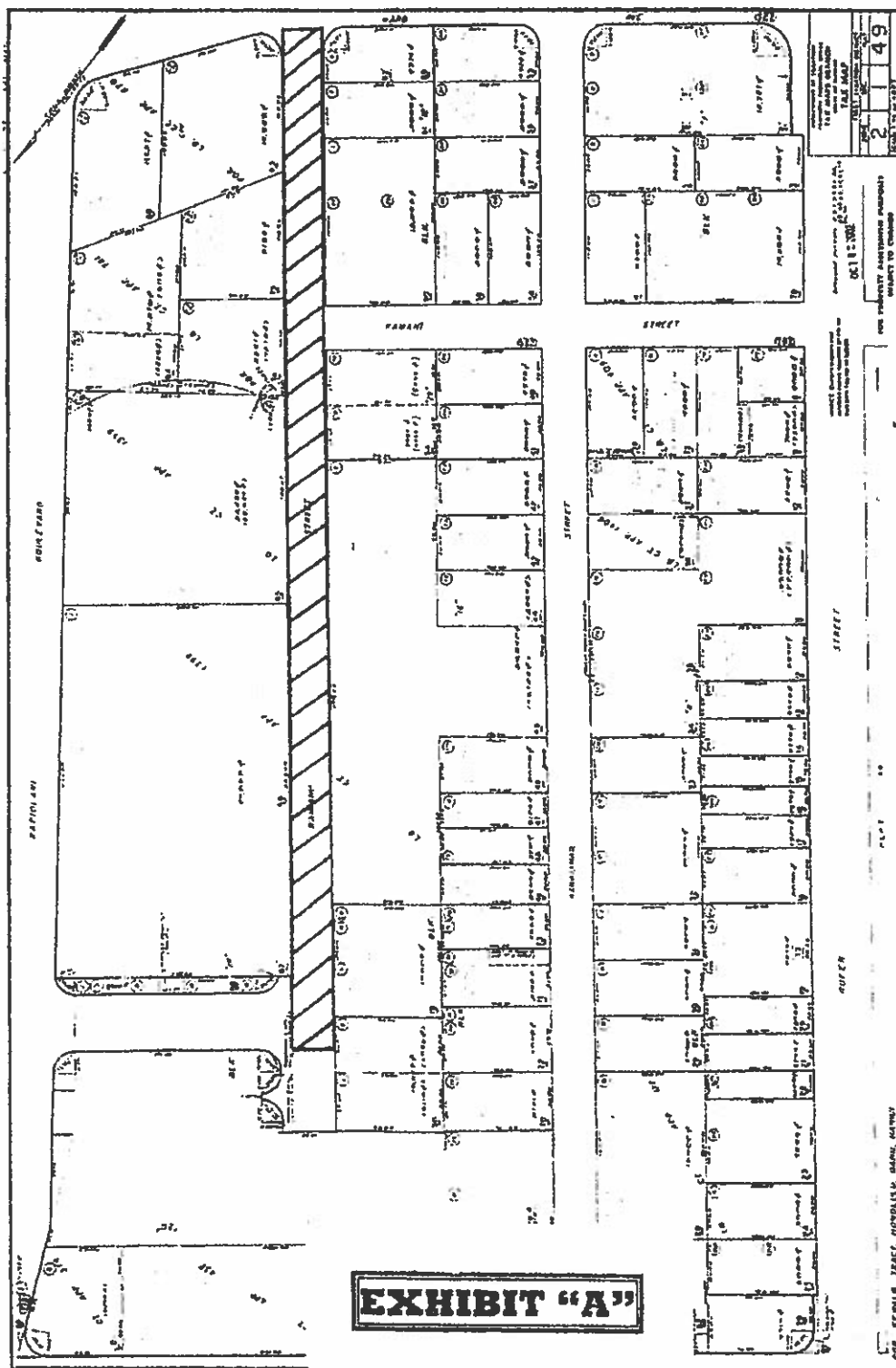
David Fukuoka

DATE OF INTRODUCTION:

DEC 17 2020

Honolulu, Hawaii

Councilmembers



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

RESOLUTION 20-334

Introduced: 12/17/20 By: CAROL FUKUNAGA

Committee: PUBLIC INFRASTRUCTURE AND
TECHNOLOGY (PIT)

Title: ACCEPTING OWNERSHIP OF THE PORTION OF WAIMANU STREET BETWEEN WARD AVENUE AND DREIER STREET DEEMED TO HAVE BEEN SURRENDERED TO THE CITY AND COUNTY OF HONOLULU FROM THE STATE PURSUANT TO ADMINISTRATIVE ORDER ISSUED BY THE STATE DIRECTOR OF TRANSPORTATION IN ACCORDANCE WITH ACT 208 (2017), CODIFIED AS HAWAII REVISED STATUTES SECTION 264-2.1.

Voting Legend: * = Aye w/Reservations

12/17/20	INTRO	Introduced.
01/02/21		NOTE: Councilmembers Cordero, Kia'aina, Say, Tulba and Tupola took office on Saturday, January 2, 2021. CC-3(21) Waters – Standing Committee assignments. CC-4(21) Waters - Re-referral of Bills, Resolutions and communications.
01/13/21	PIT	Postponed. 4 AYES: ELEFANTE, FUKUNAGA, TSUNEYOSHI, TUPOLA
02/03/21	PIT	Postponed to a date and time to be determined by the Committee Chair. 3 AYES: ELEFANTE, FUKUNAGA, TSUNEYOSHI 1 ABSENT: TUPOLA
02/10/21	PIT	Reported out for adoption. CR-56(21) 3 AYES: ELEFANTE, FUKUNAGA, TSUNEYOSHI 1 EXCUSED: TUPOLA
02/17/21	CCL	Committee report and Resolution were adopted. 8 AYES: CORDERO, ELEFANTE, FUKUNAGA, KIA'AINA, SAY, TULBA, TUPOLA, WATERS 1 ABSENT: TSUNEYOSHI

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.



GLEN I. TAKAHASHI, CITY CLERK



TOMMY WATERS, CHAIR AND PRESIDING OFFICER