

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

July 12, 2024

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 24OD-020

OAHU

Quitclaim of State's Interests, if Any, in Portions of Anemoku Street to the City and County of Honolulu, Laie, Koolauloa, Oahu, Tax Map Key: (1) 5-5-011: Road.

APPLICANT:

City and County of Honolulu (the "City").

LEGAL REFERENCE:

Sections 171-6, -13, -52, -95(a), and Section 264-1, Hawaii Revised Statutes ("HRS"), as amended, and Act 288 Session Laws of Hawaii (SLH) 1993.

LOCATION:

Portion of Anemoku Street situated at Laie, Koolauloa, Oahu, identified by Tax Map Key: (1) 5-5-011: road, as shown on **Exhibit A1** and **A2**.

AREA:

Lot 51-A-2	3,010 square feet	Land Court Application 772 Map 13
Lot A-2	837 square feet	Land Court Application 772 Map 13
Lot 52	42,116 square feet	Land Court Application 776 Map 2
Total: 45,953 square feet		

To be reviewed and approved by Department of Accounting and General Services, Survey Division. See **Exhibit A3**.

ZONING:

State Land Use District: Urban
City and County of Honolulu LUO: R5 and R7.5

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Existing county highway.

CONSIDERATION:

Not applicable.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules ("HAR") § 11-200.1-15 and -16 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type 1 that states, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing," and Part 1, Item 37 which states, "Transfer of title to land." The subject request is a de minimis action that will probably have minimal or no significant effect on the environmental and should be declared exempt from the preparation of an environmental assessment and the requirements of § 11-200.1-17, HAR, as a de minimis action.

APPLICANT REQUIREMENTS:

None. Parcels involved are registered under Land Court system.

REMARKS:

In 1945, the developer of a residential community in Laie subdivided its land into multiple residential lots.¹ In addition, roadway lots were designed and built connecting the residential lots to the nearby Kamehameha Highway, which is a county highway. On May 10, 1948, the private developer conveyed the parcels that are the subject of this request (as well as other roadway lots in the subdivision) to the Territory of Hawaii. The conveyance was recorded under Land Court document no. 102140 on July 6, 1948. Today, the subject parcels are portions of Anemoku Street, which is accessible by the general public, and recognized as a county highway under the jurisdiction of the City.²

¹ Lots were created pursuant to Land Court Application 772, Map 13 and Land Court Application 776, Map 2.

² See page 24 of the Street Index dated January 1996 published by the City and County of Honolulu.

Laie Water Company, Inc., (“LWC”), which is certified by the State Public Utilities Commission to operate as a public water system, has provided water service to Laie area since 1898, including the residential neighborhood described above and nearby commercial establishments. LWC plans to install a new waterline over the Anemoku Street to connect to Naupaka Street to increase system reliability and for protection. Staff understands that LWC is also working with the City to secure an easement for existing waterlines in other streets in the community.

Pursuant to the City Council Resolution No. 08-170, the City would grant an easement for waterline purposes over 4,453 square feet at an appraised value of \$9,000 to LWC. See **Exhibit B** for the Resolution and the proposed easement map. The petition filed by the City to designate the proposed easement to LWC was rejected by the Land Court because Land Court records show the ownership of the subject parcels in fee with the State. To facilitate the issuance of the proposed easement, the City is now requesting the Board to quitclaim its interest over the subject parcels to the City.

Pursuant to Section 264-1, HRS, all "public highways" (roads, alleys, streets, ways, lanes, bikeways, and bridges in the State, opened, laid out, or built by the government) are owned either by the State for state highways under the jurisdiction of the Department of Transportation or the county for all other public highways. While ownership was transferred by operation of law pursuant to this statutory section, the counties have continued to dispute that they own the roads in some cases because they do not have paper title.

Act 288, SLH 1993 (Act 288), stated in its preamble "In consideration of the State waiving its right to have the proceeds from the sale of county public highways remitted to the State, the counties shall acknowledge ownership and jurisdiction of all disputed public highways within their respective counties, as defined in section 264-1, HRS, without the necessity of conveyancing documents transferring title from the State to the respective counties, except when required for the purpose of disposal." (Emphasis added.) Staff notes that by Resolution 93-287, the City agreed to implement the intent of Act 288 and accept all county highways as defined in Section 264-1, HRS, which included Anemoku Street.

As a result, it is staff's practice that formal documentation (i.e., quitclaim deeds) be issued on roads owned by the counties under Section 264-1, HRS, only when the county is going to subsequently dispose of any real property interests (fee conveyance or any interests less than fee) in at least a portion of the road to a third party. In all other cases, the State's position is that the fee simple interest in the road was passed to the counties by operation of law and documentation is unnecessary. This policy provides for the chain of title and enables subsequent real estate transactions to occur. This policy should not be misconstrued to mean or imply that the State does not assert that the roads being quitclaimed are already owned by the applicable county.

Pursuant to Section 171-52, the term "remnant" means a parcel of land economically or physically unsuitable or undesirable for development or utilization as a separate unit by

reason of location, size, shape, or other characteristics.

The subject areas meet the criteria for remnants due to the size and shape as shown on Exhibit A1 to A3. Apart from the fact that the areas are currently part of a county road, they are economically and physically unsuitable for development or utilization as anything other than a road.

Additionally, pursuant to Section 171-95(a)(5), HRS, the Board may:

Execute quitclaim deeds to the governments and agencies, with or without consideration, releasing any claim to the property involved made upon disputed legal or equitable grounds, whenever the board in its discretion deems it beneficial to the State

A quitclaim conveyance of the road remnants is appropriate in this case because, as noted above, pursuant to Sections 171-2 and 264-2, HRS, land being used and roads and streets are excluded from the definition of public lands under Chapter 171, HRS, and are deemed to be county or State highways instead. Here, it is not disputed that the road at issue is a City road. It is beneficial to the State to clear title to rights-of-way maintained by the City by quitclaiming interests, if any, in such rights-of-way to the City.

To enable the City to grant the above-mentioned easement to LWC for waterline purposes, staff is recommending the issuance of a quitclaim deed. The form of the deed has been approved by the Department of the Attorney General and contains specific wording that the State is releasing and disclaiming any interest since it is our assertion that the City already owns the road.

Staff did not solicit comments from other agencies on the subject request. There are no other pertinent issues or concerns, and staff recommends the Board authorize the transfer of the land by the requested quitclaim deed as described above.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1-15, and -16, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment as a de minimis action.
2. Authorize the quitclaim of interests, if any, the State may have in the subject roadway parcel to the City and County of Honolulu covering the subject area, and further subject terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current quitclaim deed (roads) form, as may be amended from time to time;

- B. Review and approval by the Department of the Attorney General; and
- C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

Barry Cheung

Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



Dawn N. S. Chang, Chairperson

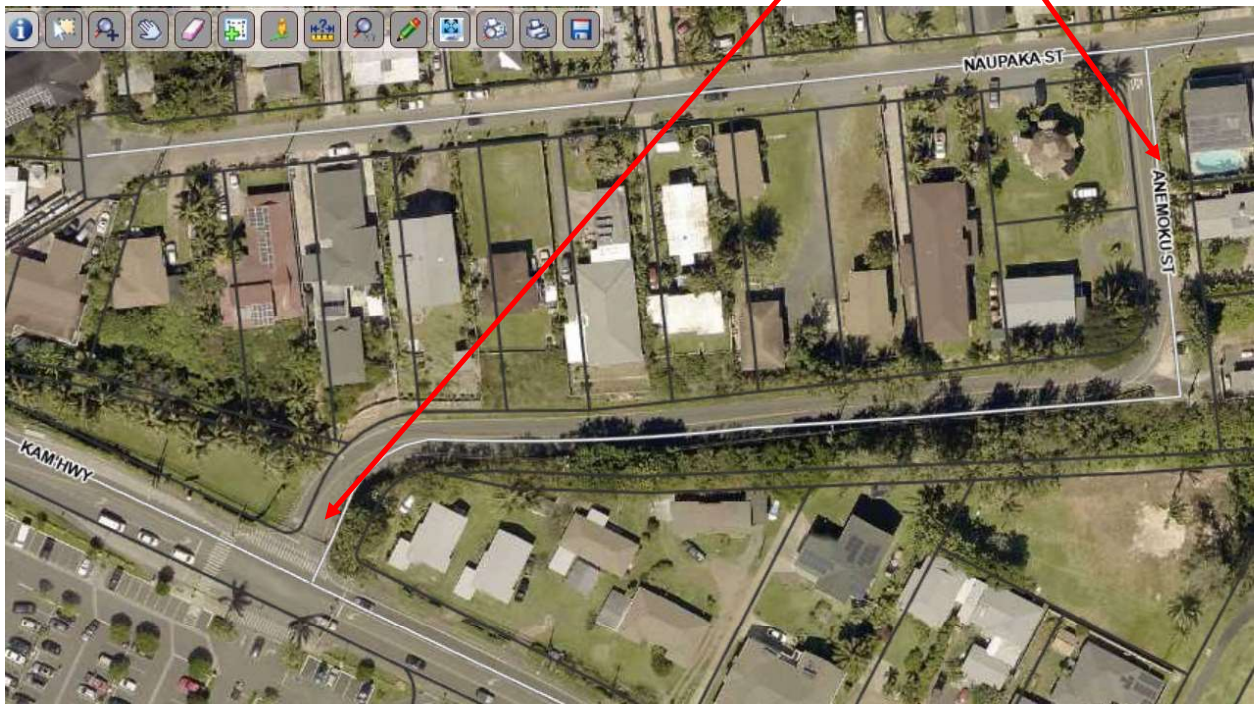
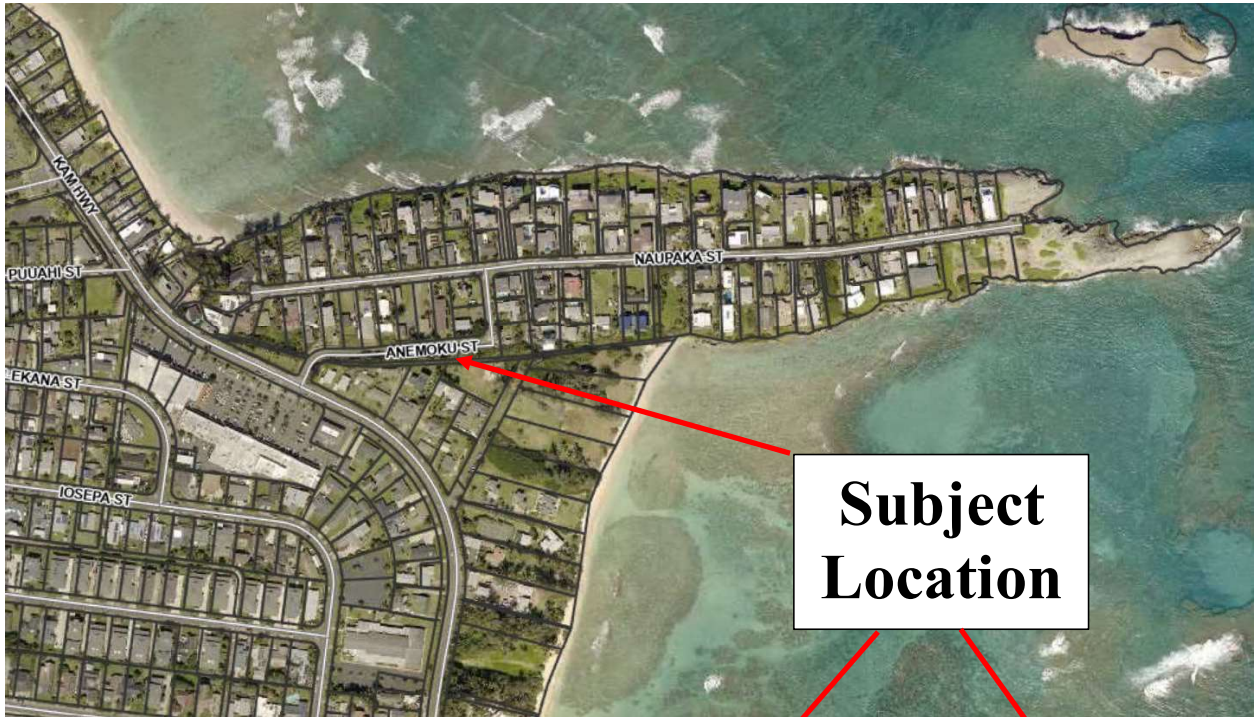
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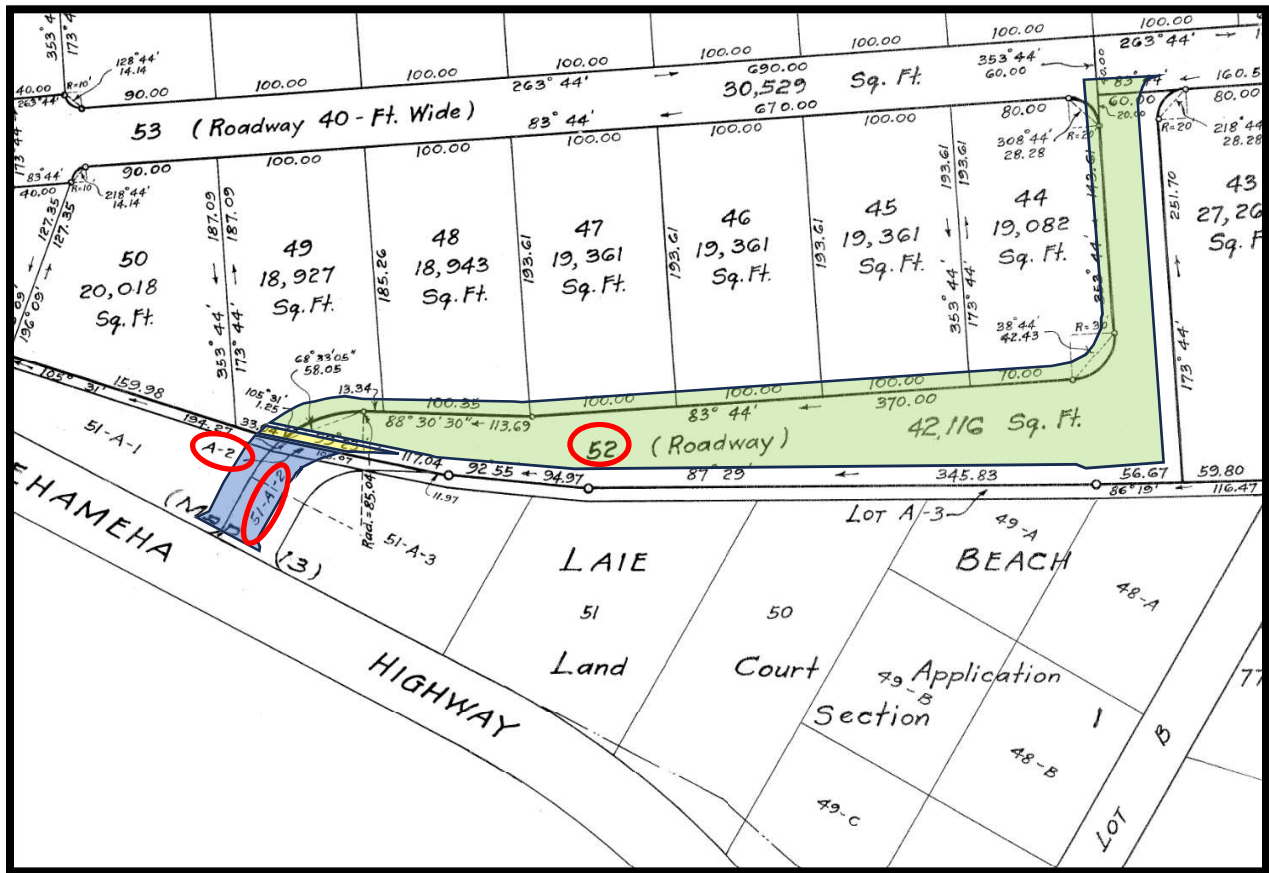
TMK (1) 5-5-011: Road

EXHIBIT A1



TMK (1) 5-5-011: Road

EXHIBIT A2



TMK (1) 5-5-011: Road

EXHIBIT A3



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

No. 08-170

RESOLUTION

APPROVING THE GRANT OF A SUBSURFACE EASEMENT FOR WATER LINE PURPOSES WITHIN A PORTION OF ANEMOKU STREET TO LAIE WATER COMPANY, TAX MAP KEY NO. 5-5-11

WHEREAS, Section 46-66, Hawaii Revised Statutes, as amended, authorizes each county, subject to council approval, to grant any easement at public auction; provided that any easement for governmental or public utility purposes may be granted without public auction; and

WHEREAS, Laie Water Company (LWC) is certified by the State Public Utilities Commission to operate as a public utility; and

WHEREAS, the Director, Department of Budget and Fiscal Services has recommended the grant of a subsurface easement for water line purposes, within a portion of Anemoku Street to LWC as a public utility, without a public auction; and

WHEREAS, the easement is designated as Easement A, area 4,453 square feet, as shown on Exhibit A and which is attached hereto and by reference made a part hereof; and

WHEREAS, the Director, Department of Budget and Fiscal Services has recommended that the above-described Easement A be granted for the easement fee of \$9,000, based on an appraisal; and

WHEREAS, the various City agencies have no objections to the granting of the above-described easement; and

WHEREAS, the granting of the above-described easement will be in accordance with Section 46-66, Hawaii Revised Statutes; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu, that it approves the grant of the above-described easement to LWC; and

BE IT FURTHER RESOLVED that the granting of the easement be in accordance with the recommendations of the Director, Department of Budget and Fiscal Services, and/or designee, and with all applicable laws and City policies; and

BE IT FURTHER RESOLVED that the Director, Department of Budget and Fiscal Services and/or designee shall be authorized to sign the easement and other necessary documents; and

BFS-LAIE WATER COMPANY-ESMT.R09



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

No. 08-170

RESOLUTION

BE IT FINALLY RESOLVED that the Clerk be directed to transmit a certified copy of this resolution to the Director, Department of Budget and Fiscal Services.

INTRODUCED BY:

John Marshall (br)

DATE OF INTRODUCTION:

JUL 22 2008
Honolulu, Hawaii

Councilmembers

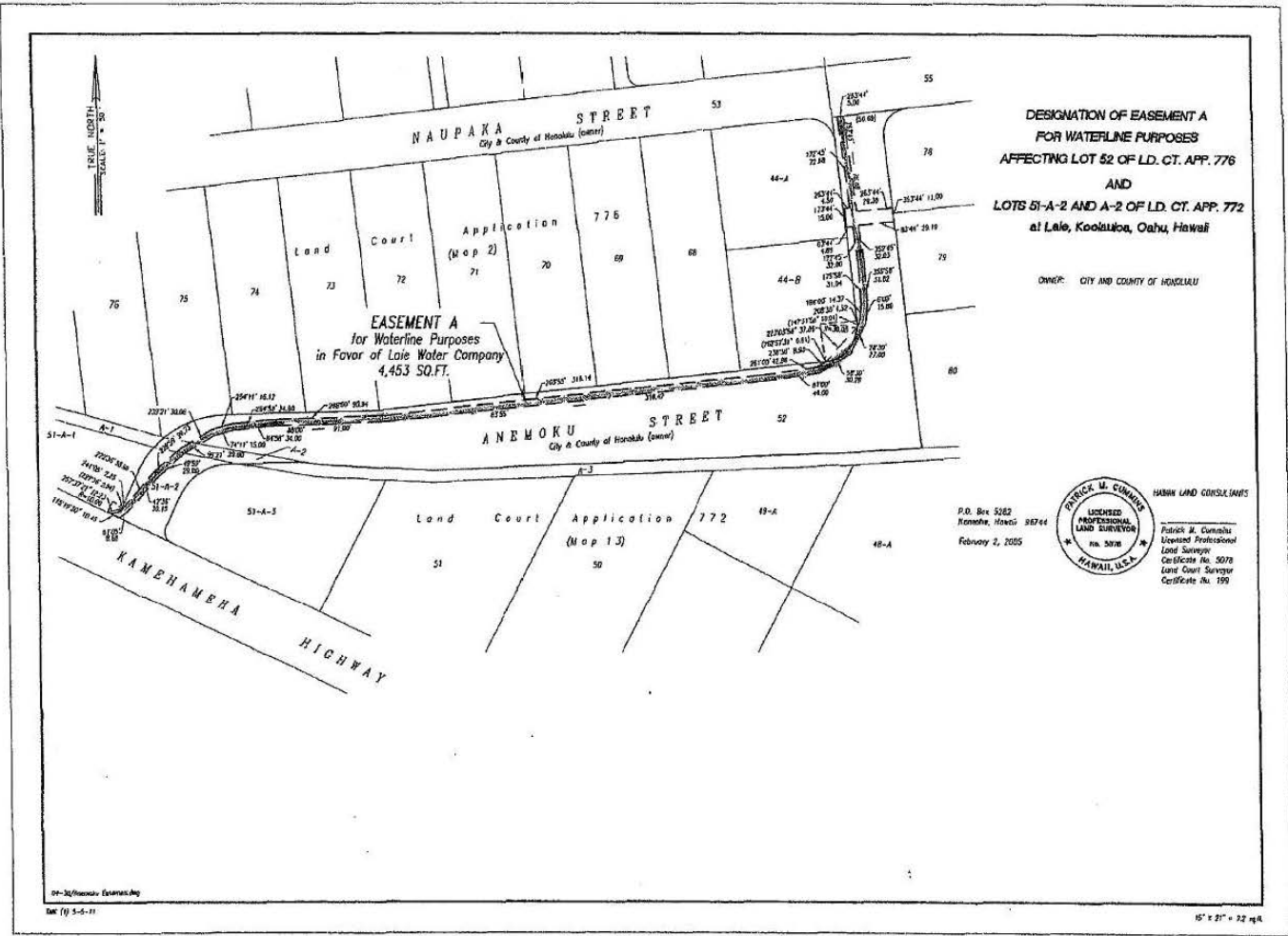


EXHIBIT A

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

RESOLUTION 08-170

Introduced: 07/22/08 By: BARBARA MARSHALL(BR)

Committee: TRANSPORTATION
AND PUBLIC WORKS

Title: RESOLUTION APPROVING THE GRANT OF A SUBSURFACE EASEMENT FOR WATER LINE PURPOSES
WITHIN A PORTION OF ANEMOKU STREET TO LAIE WATER COMPANY, TAX MAP KEY NO. 5-5-11.

Links: [RES08-170](#)

TRANSPORTATION AND PUBLIC WORKS	7/31/08	CR-244 – RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION.			
COUNCIL	8/20/08	CR-244 AND RESOLUTION 08-170 WERE ADOPTED.			
	APO Y	CACHOLA Y	DELA CRUZ Y	DJOU Y	GARCIA Y
	KOBAYASHI Y	MARSHALL E	OKINO Y	TAM Y	

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.


DENISE C. DE COSTA, CITY CLERK


BARBARA MARSHALL, CHAIR AND PRESIDING OFFICER