

**From:** [Joyclynn Costa](#)  
**To:** [DBEDT LUC](#)  
**Cc:** [jkalai.kauihou@gmail.com](mailto:jkalai.kauihou@gmail.com)  
**Subject:** [EXTERNAL] A15-798 Waikapu Properties /October 6, 2022 9:00 am  
**Date:** Tuesday, October 4, 2022 5:03:20 PM  
**Attachments:** [Protect Waiehu Ahupuaa.rtf](#)

---



My name is Joyclynn Costa. I am opposed to this change in zoning and fast track to build in Waiehu. In 2005 I was involved in a conflict with Sterling Kim project Hale Mua and it's claim to ownership. Title was a large part of my stand but that was not all. Water was and is still being diverted by way of old plantation ditch system and also pipes. Land marks of boundaries and cultural sites also stand emanant harm. Human remains also know as iwi kupuna have been verified in the area and strong possibility to expose more if the project is given zoning. I have provided some documentation as my involvement since 2005. I have more to share upon request. Mahalo for your time. I also want to note I showed up on the last hearing that this area came up for consideration with Sterling Kim along with one more person and the LUC denied it then. I would request you do the same and deny this request to rezone the area. Much is being lost to big business and we should shift our purpose to take care of our island and plant food, which is what this placed thrived in the past. My apologies that my attachments are not in good order. Sent from [Mail](#) for Windows

TO W4HOM IT MAY CONCERN

DATE: September 12. 2022

Subject Matter: Waiehu Kuleana (Protect Waiehu Ahupua`a)

Welina mai, my name is Joyclynn Costa. I reside in Haiku and my ohana comes from Moku o Koolau, Makapipi Nahiku ma. I was called to Waiehu in 2005. We had learned of a proposed subdivision project, similar to the one currently proposed. The concept was well intended but the effects on both kuleana and home buyers could be devastating. To fully understand the reality of the status of this place brings, as I have learned by documentation would take years. I hope I can shed some light of understanding to all to prevent any further irreparable harm. Please feel free to look at the attachments provided. Lands being discussed already have owners and boundaries. Please look at the source document found in our law library located on the second floor of our County Courthouse. Lines are being drawn over boundaries already established. Land markings used for boundary pins such as trees, pohaku and ahu have already been displaced damaged or in potential future harm. Claims of what area is also not clear. Although specific names of awardees for LCA and RP (Land Commission Award and Royal Patent) are listed that is not the complete inventory of such holdings that will be affected. The remaining awardees are hidden under the disguise of a TMK. Note: a TMK is not title.

As stated in the beginning I got involved in Waiehu armed with this and other pertinent information. We stood on the land and did kuleana. We cleaned the auwai to provide water to the kuelana below. We cleaned and planted mea ai. We were harassed by the project manager of Hale Mua for well of 7-8 months. Several attempts to remove us with MPD, Swat team and who appeared to be Secret Service were made. It came down to an arrest for Criminal Trespass on the claim that Sterling Kim owned the property. After several court appearances, on April 13, 2007 the courts decided to deny the charges and dismissed the case with prejudice.

I have also provided a snapshot of the land of Lunalilo. He as an Ali`i and the Mo`i for the Hawaiian Kingdom. Many claims have been made in paper form by land speculators and developers however, HRM Lunalilo left his estate for the people of his Country to use so as not to leave them destitute.

Finally there already has been studies done in the area where iwi kupuna have been discovered. There is no doubt there will be more unearthed if this project move forward. There are many appearances of unlawful and not good faith efforts being and has already been done to this aina. A stop work order was requested and received by Corp Council signed by Brian Moto at the time.

My prayer is to call on the families to come home and claim their kuleana to the aina awarded to their kupuna in the 1800's. These lands awarded in this manner makes it a Political Matter and all else should be considered null and void.

Jacob 33: 32-33 32 "Then if you have anything to say, answer me. 33. Speak for I desire to justify you if not listen to me keep silent and I will teach you wisdom."





# Hawaii Boundary Law & Landowner Disputes

Walter G. Robillard  
Patrick M. Cummins  
Laurel Loo

PROFESSIONAL EDUCATION SYSTEMS INSTITUTE, LLC



Will of H. H. Wm C. Lemaitre  
Deposited for safekeeping, June 7/71.  
To be opened after his decease by C. R. Bishop

This was returned to me by His Excy A. J. Fidd. with the  
Codicil at 10 $\frac{1}{2}$  o'clock A.M. Jan'y 31. 1874. 58



LUANA HOOPAI, KENNETH K. HOOPAI, JR., JOHN BELLES, JR., FLEMING JAMES BASCAR, SR., BILL DOMEN, JR., LEATRICE LEHUA HOY, and JUNE NOHEALANI HOEWAA. A copy of the AFFIDAVIT filed by MAHEALANI VENTURA-OLIVER is attached as Exhibit A and the other Defendants named herein filed AFFIDAVITS in the identical form.

These Defendants claim in their AFFIDAVITS that they are heirs and assigns to William Charles Lunalilo of properties lawfully described as Royal Patent, Grant or L.C. Award No. 8559-B. These Defendants claim that this "Property", L.C. Award No. 8559-B, is the subject matter contained in this case.

However, L.C. Award No. 8559-B to William Charles Lunalilo is not one of the LCAs in this case. The lands in this case are specifically and precisely identified in paragraph 6 of the Plaintiff's Complaint filed herein on May 9, 2005. The LCAs which are the subject matter of this case are: 3432 to Kula; 2426 to Kaiwi; 2447 to Kaawa; 2572 to Naheana; 3275-T to Kahookano; 3275-U to Kaiolani; 3327 to Naialaolao; 3374 to Paele; 3436 to Kapahi; 3437 to Kaliiula; 3441 to Kapaula and 3444 to Kalopa.



Final Order of Probate.

In the Supreme Court.

of the April Term 1874

In the matter of the Will and  
Codicil of the late Majesty Amahle

And from the order of M<sup>r</sup> Justice Harris, of  
the 12<sup>th</sup> day of March A.D. 1874, approving the  
said Will and the said Codicil, appeal was  
taken by Charles Kamama, contesting, to the  
Supreme Court. And whereas, upon an issue of  
fact, the jury by their verdict found that  
the said Codicil was good, and properly ex-  
ecuted, except as to the fourth clause, which  
the said jury found was not good. And upon  
argument before the Supreme Court in Banco on  
exceptions taken to the finding of said jury  
as to the validity of the will, the said Su-  
preme Court overruled such exceptions.

In consideration of the premises aforesaid and  
of the Statute in such case made and provided,  
It is ordered that the judgment of the said  
Justice admitting the said Will and Codicil  
to probate, be and hereby is confirmed as  
to the will, and as to the first three clauses



## 2.7 ORIGINAL LINES REMAIN FIXED

*Principle 5. No surveyor or court has the authority to alter or modify a boundary line once it is created. It can be interpreted only from the evidence of where that boundary is located.*

Retracing surveyors will encounter a minority of surveyors who when finding an "error" in the original survey, believe it is their responsibility to "correct" the error and make the original bearings and distances as they should be had they been surveyed correctly. These surveyors have no concept that once the lines have been created, no subsequent surveyor has authority to recreate the original lines. When a creating surveyor indicates a distance or an angle, these are the original measurements, according to the creating surveyor's methodology and errors. By law they are free of error, even though, in fact, we do realize that the creating surveyor made mistakes. This concept also extends to the presumption that the survey is correct.<sup>4</sup> It is not the job or responsibility of subsequent surveyors to correct the originals. It is their job to report any discrepancies found. Differences do occur because of the different methods and equipment used in obtaining the original measurements and the subsequent measurements, as well as differences among the people who did the work and changes in the circumstances or conditions under which it was done.

## 2.8. DISTINCTION BETWEEN ORIGINAL BOUNDARY SURVEY AND RETRACEMENT SURVEY

People, including many surveyors and attorneys, use words freely. Such words as *love* and *friend* often have different meanings as used in everyday speech from their true meanings. Surveyors use the term *property boundary* very freely on maps, in reports, and in everyday conversation. Yet no surveyor has the authority to identify and locate property boundaries. Few states define one of the attributes of surveying as "locating property boundaries."

Without judicial authority, no surveyor has authority to locate property boundaries.<sup>5</sup>

Interestingly though, several states have now added as a distinct category of surveying giving testimony in court as to boundaries.

<sup>4</sup>*Camp v. Winegar*, 210 P. 64 (Colo. 1922).

<sup>5</sup>The authors question the authority of a state to enact a law that prohibits a qualified nonregistered surveyor from testifying in a state boundary dispute in which he or she does not hold registration. It is possible that an administrative agency is setting the legal standards for judicial proceedings.



FILED

CARLSMITH BALL LLP

TOM C. LEUTENEKER  
One Main Plaza, Suite 400  
2200 Main Street, P.O. Box 1086  
Wailuku, Maui, HI 96793-1086  
Tel No. 808.242.4535  
Fax No. 808.244.4974

0721-0

2005 OCT 11 PM 2:09

D. KEYES, CLERK  
SECOND JUDICIAL CIRCUIT  
STATE OF HAWAII

Attorneys for Plaintiff  
HALE MUA PROPERTIES LLC

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

HALE MUA PROPERTIES, LLC, a Hawaii  
limited liability company,

Plaintiff,

vs.

HEIRS OR ASSIGNS OF KULA (k), Et al.

Defendants.

CIVIL NO. 05-1-0178(2)  
(OTHER CIVIL ACTION)

PLAINTIFF'S MOTION TO STRIKE AND  
DISMISS THE CLAIMS OF THE  
LUNALILO CLAIMANTS; EXHIBIT "A";  
NOTICE OF MOTION; CERTIFICATE OF  
SERVICE

DATE: November 23, 2005  
TIME: 8:30 a.m.  
JUDGE: Shackley F. Raffetto

**PLAINTIFF'S MOTION TO STRIKE AND DISMISS THE CLAIMS OF THE  
LUNALILO CLAIMANTS**

Comes now the Plaintiff, Hale Mua Properties LLC, by and through its attorneys  
Carlsmith Ball LLP, and hereby files its Motion to Strike and Dismiss the Claims of the Lunali-  
lo Claimants, pursuant to HRCF Rules 7 and 12, the arguments below and the record herein.

On September 14, 2005, certain Defendants filed documents entitled AFFIDAVIT OF  
TRUTH BY THE HEIRS AND ASSIGNS. These Defendants are MAHEALANI VENTURA-  
OLIVER, ARTHUR KANE WONG DOCK, DIANA-ANDROMIDA N. HOOPAI, VIOLET



FOR FILE HALE MUA SUBDIVISION

To: Maui Corp Counsel

From: Aha o Na Wai Eha

Attention: Danny Mateo

Date: July 11, 2006

Re: Colored Title

06 JUL 11 P 3:15  
DEPT OF PLANNING  
COUNTY OF MAUI  
RECEIVED

*After viewing the Corp. Counsel meeting on Akaku pertaining to the Hale Mua Subdivision, clarification of title needs to be addressed.*

*The statement of Title Guaranty certified a (Broken Title). Claims are made that Lunalilo estate R.P. 8559B was awarded to Hale Mua. According to Lunalilo Probate it has not yet closed.*

*Also attached is the case # to show the case is still in appeals in Oahu.*

*Mahalo for your attention to this matter*

*cc: Maui County Planning Department*

*Received:*

*Frederic J. Alo  
Corporation Counsel*

*7-11-06*



STRICT COURT OF THE SECOND CIRCUIT  
DIVISION: WAIALUKU

STATE OF HAWAII  
CRIMINAL COURT

Case No. 2100-02050

NOTICE OF ENTRY OF JUDGMENT AND/OR ORDER

Also Case No.

Date 4-13-2007

Citation/Report No. 06-100940

OSTA, JOYCELYN A

Violation Section HRS 70B-0815/1

Amended to

NE

Suspended ☐ Days ☐ Months ☐ Year ☐ Suspended Sentence ☐ Days ☐ Months ☐ Year ☐ GUILTY ☐ NO CONTEST ☐ NOT GUILTY  
TRIAL HAD: ☐ FOUND GUILTY ☐ FOUND NOT GUILTY

stitution CCF Prob. Fee CTC/BWF SGP CSW  
\$ \$ \$ \$ \$  
IL Days Hours Months Year Suspended Days Hours Months Year ☐ Concurrent ☐ Consecutive ☐ Credit

AGP (Deferred Acceptance of Guilty Plea)  
ANCP (Deferred Acceptance of Nolo Contendere)  
Abatement  
Additional Discharge  
☐ Subject to Mandatory Terms & Conditions  
☐ See Special Conditions Attached

☐ Waived Presentence Report ☐ Written Complaint Served  
☐ Waived Jury Trial ☐ Complaint Served via Citation  
☐ Waived Presence of Defendant ☐ Amended Complaint Served  
☐ Waived Reading of the Charge ☐ Extended Restraint Filed  
☐ Waived Right to Counsel ☐ Probable Cause Found  
☐ Waived Speedy Trial & Rule 48 ☐ Demand Jury Trial  
☐ Waived Court's Disqualification ☐ Orally Arraigned  
☐ Requested Interpreter, Language:

referred to:  
☐ Maui Intake Service Center ☐ CSW ☐ Bail Study  
☐ Adult Client Service ☐ Special Services  
☐ Dir. Of DOH / Hawai'i State Hospital / MCCC  
☐ Public Defender ☐ Program Services  
☐ Maui Police Department (Processing)

☐ Judgment of Acquittal ☐ Commit ☐ Conditional Release  
☐ Discharged  
☒ Dismissed ☐ With Prejudice ☐ Without Prejudice  
☐ No Further Action Taken  
☐ Stricken  
☐ Penal Summons

all Forfeiture \$ & No Further Action  
all Forfeiture \$ & Bench Warrant \$  
and Forfeiture \$ & Bench Warrant \$  
all Forfeiture \$ of Set Aside  
AIL ☐ Custody ☐ Null & Void  
IT ☐ Bail Continued ☐ Bail to Fine  
r \$ ☐ Release ☒ Refund Bail

ALL BOND POSTED, RECEIPT NO. / BONDSMAN  
STEP BY: 100.00 CR018433

PROSECUTOR: Munkadk DEFENSE COUNSEL: Joseph Se

Def's Signature: I hereby certify that this is a full, true and correct copy of the original.

Home No.: Clerk, Second Judicial Circuit

CONDITIONS:  
Trial @ 10:00A

EX-PARTE MOTION TO DISM W/OUT PREJUDICE  
FILED & SIGNED BY JUDGE LOU

COURT ENTEREDS COURT CONSIDERS:  
ORAL MOTION FOR RECONSIDERATION FOR  
DISMISSAL W/OUT PREJ  
COURT DISM CASE WITH PREJUDICE

DEPT REQUEST TO OBTAIN PROPERTY FROM UPD

APR 13 2007  
FILED  
AT 1120 O'CLOCK M.  
TEEL  
Clerk, Second Circuit Court

RETURN COURT DATE FOR:  
PAYMENT  
SENTENCE  
PROOF OF COMPLIANCE  
BAGP / DANCP  
ARRAIGNMENT & PLEA / PRETRIAL / TRIAL  
PRELIMINARY HEARING  
HEARING:  
COMMITTED TO CIRCUIT COURT  
TRANSFERRED TO: ☐ Lihalehale ☐ Wailuku  
☐ Mahukouli ☐ Lihalehale ☐ Hana

Japo Kakuhi  
COUNT COPY



ORIGINAL

FILED

DEPARTMENT OF THE PROSECUTING ATTORNEY 207

2007 APR 30 AM 9:11

IWALANI MOUNTCASTLE 8538  
Deputy Prosecuting Attorney  
County of Maui  
Wailuku, Maui, Hawaii 96793  
Tel. No. (808) 270-7787

*[Signature]*  
D. MORIYAMA, CLERK  
SECOND CIRCUIT COURT  
STATE OF HAWAII

Attorney for the State of Hawaii

IN THE DISTRICT COURT OF THE SECOND CIRCUIT  
WAILUKU DIVISION  
STATE OF HAWAII

STATE OF HAWAII	)	CASE NO.: 2P106-2858
	)	
v.	)	SIMPLE TRESPASS (06-100940)
	)	
JOCLYNN M. COSTA,	)	EX PARTE MOTION TO DISMISS
	)	WITH PREJUDICE; CERTIFICATE
Defendant.	)	OF SERVICE
	)	

EX PARTE MOTION TO DISMISS WITH PREJUDICE

The STATE OF HAWAII, by IWALANI MOUNTCASTLE, Deputy  
Prosecuting Attorney for the County of Maui, hereby moves this

*[Large diagonal line across the page]*

I hereby certify that this is a full, true and  
correct copy of the original.  
*[Signature]*  
Clerk, Second Judicial Circuit

RECEIVED APR 26 2007 *[Signature]*

DEPARTMENT OF THE PROSECUTING ATTORNEY 207

IWALANI MOUNTCASTLE 8538  
Deputy Prosecuting Attorney  
County of Maui  
Wailuku, Maui, Hawaii 96793  
Tel. No. (808) 270-7787

Attorney for the State of Hawaii

IN THE DISTRICT COURT OF THE SECOND CIRCUIT  
WAILUKU DIVISION  
STATE OF HAWAII

STATE OF HAWAII	)	CASE NO.: 2P106-2652
	)	
v.	)	SIMPLE TRESPASS (06-100940)
	)	
JAMES SAGAWININT,	)	EX PARTE MOTION TO DISMISS
	)	WITH PREJUDICE; CERTIFICATE
Defendant.	)	OF SERVICE
	)	

EX PARTE MOTION TO DISMISS WITH PREJUDICE

The STATE OF HAWAII, by IWALANI MOUNTCASTLE, Deputy  
Prosecuting Attorney for the County of Maui, hereby moves this

*[Large diagonal line across the page]*