

August 23, 2016

MEMO TO: IEM-72 File

F R O M: Elle K. Cochran, Chair *EC*
Infrastructure and Environmental Management Committee

SUBJECT: **TRANSMITTAL OF INFORMATIONAL DOCUMENTS RELATING
TO HUI ROADS ON MAILEPAI PARTITION SUBDIVISION (WEST
MAUI)**
(IEM-72)

The attached documents pertain to Item 72 on your Committee's agenda.

iem:ltr:072amc01:ske

Attachments

HONOKEANA, LAHAINA, MAUI, HAWAII (Formerly por. 4-3-02)

RECEIVED

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MAUI LAND AND PINEAPPLE COMPANY, INC.

MAUI LAND AND PINEAPPLE COMPANY, INC.
FILED

1979 AUG 29 AM 9 04

A. Kono
A. KONO
CLERK

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

MAUI LAND AND PINEAPPLE COMPANY, INC., a Hawaii corporation,)	CIVIL NO. 3828
)	
Plaintiff,)	FINDINGS OF FACT AND
)	CONCLUSIONS OF LAW
vs.)	
)	
ROBERT M. MONDEN, in his capacity as the Clerk of The Second Circuit Court of The State of Hawaii, et al.,)	
)	
Defendants.)	
)	
)	

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

The above-entitled action came on for trial July 27, 1979. The Court finds as follows with respect to the material disputed issues of fact properly raised by the parties.

FINDINGS OF FACT

1. Plaintiff Maui Land and Pineapple Company, Inc. brought this action to establish and quiet title to the following described parcel of land (the "Subject Property"):

That certain parcel of land (a portion of the land described by R. P. 1663, L. C. Aw. 5524 to L. Konia, and a portion of Hui Road "F" established by the Final Decree of Partition entered by the Second Circuit Court of the State of Hawaii in Equity No. 235, popularly

known as the "Mailepai Hui Partition"), situated approximately 1,900 feet east of Honoapiilani Highway at Honoheana, Lahaina, Maui, Hawaii, more particularly described as follows:

Beginning at a point at the northwest corner of this piece of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MALO" being 12,428.28 feet South and 8,439.67 feet West and running by azimuths measured clockwise from True South:

1. 294° 30' 433.78 feet along Allotment 51-B of "Mailepai Hui Lands";
2. 24° 30' 30.00 feet along the remainder of R. P. 1663, L. C. Aw. 5524 to L. Konia;
3. 114° 30' 433.78 feet along same;
4. 204° 30' 30.00 feet along the remainder of Hui Road "F" to the point of beginning and containing an Area of 0.299 Acre.

2. The subject property is a part of the land set aside as "Hui Road F" by the Final Decree of Partition entered by the Second Circuit Court of the State of Hawaii in Equity No. 235 (the "Mailepai Hui Partition"). The subject property is located at the mauka (east) end of Hui Road F.

3. Hui Road F was one of several hui roads created by the Mailepai Hui Partition Final Decree. The Mailepai Hui Partition Final Decree made the following provision for all of such hui roads:

"That the roads through the said lands, as laid out and shown upon the said map, as hereinafter more particularly described, be and the same are hereby set aside for the use of everyone having any interest in the said lands and that the title thereto shall for the time being be and it is hereby transferred to the person for the time being holding the office of Clerk of this Court as Trustee, his successors and assigns,

with full power and authority in said Trustee to convey said roadways to a public body corporate charged by law with the general control of roadways but without any duty whatsoever to construct, build, maintain, or repair such roadways or any of them,
* * *."

4. The Clerk of this Court still holds title to Hui Road F (and several of the other hui roads created by the Mailepai Hui Partition Decree), as "trustee", under the Mailepai Hui Partition Final Decree. The Clerk of this Court has not conveyed title to Hui Road F to the County of Maui or to any other public body.

5. The Clerk of this Court has attempted to convey title to Hui Road F (and the several other hui roads created by the Mailepai Hui Partition which the Clerk still holds title to as "trustee") to the County of Maui. The County of Maui has refused to accept title to these hui roads from the Clerk of this Court until these hui roads have been improved to certain standards required by the County of Maui for the dedication of a private road as a public highway.

6. The Mailepai Hui Partition Final Decree effected a partition in kind of several tracts of land. The Commissioners' Map for Partition of Mailepai Hui (Plaintiff's Exhibit 1) shows the allotments made under the Mailepai Hui Partition Final Decree. Several allotments of small parcels of land were located along Hui Road F.

7. Plaintiff is the successor in interest of Baldwin Packers, Limited ("Baldwin Packers"), a former Hawaii corporation.

8. Baldwin Packers was awarded Allotment 3 under the Mailepai Hui Partition Final Decree. Allotment

3 was a large parcel of land that included the land mauka of Hui Road F and the land on the Lahaina (south) side of the top part of Hui Road F.

9. Frank A. Alameda was awarded Allotment 51b under the Mailepai Hui Partition Final Decree. Allotment 51b is located on the Napili (north) side of the top part of Hui Road F.

10. Baldwin Packers purchased Allotment 51b from Frank A. Alameda on November 2, 1936, by a deed recorded with the Bureau of Conveyances of the State of Hawaii at Liber 1348, Page 388 (Plaintiff's Exhibit 4).

11. Hui Road F was created to give the owners of allotments located along Hui Road F access to the then existing public highway (now known as the old Honoapiilani Highway). Hui Road F was also created to give Baldwin Packers access from Allotment 3 to the then existing public highway (now known as the old Honoapiilani Highway). Since Baldwin Packers was awarded all of the land mauka of the mauka boundary of Allotment 51b, there was no need to extend Hui Road F beyond the mauka boundary of Allotment 51b.

12. After Baldwin Packers acquired Allotment 51b from Frank A. Alameda, Baldwin Packers owned the land that enclosed, on three sides, that part of Hui Road F which constitutes the subject property. Thereafter, there was no need for anyone, except Baldwin Packers, to go beyond the makai boundary of the subject property.

13. Baldwin Packers was engaged in the business of growing and packing pineapples. Plaintiff is engaged in the business of growing and packing pineapples. Plaintiff has continued the pineapple business of Baldwin Packers.

14. Baldwin Packers and Plaintiff have continuously used the subject property, together with Allotment 51b and parts of Allotment 3, as a single field for the cultivation of pineapple since a time beginning in the years between 1936 and 1940.

15. The State of Hawaii has plans for the construction of a new public highway (known as the "New Honoapiilani Highway" and the "Honoapiilani By-Pass Highway") which will be generally located on the mauka section of the tracts of land partitioned in the Mailepai Hui Partition. The new Honoapiilani Highway will be located mauka of the mauka end of the subject property (the mauka end of Hui Road F).

16. Approximately four years ago, Plaintiff stopped planting on all of its pineapple fields (including the subject property) located makai of the proposed location for the New Honoapiilani Highway. Plaintiff harvested its last pineapple crop from the subject property approximately a year ago. Plaintiff has not cultivated the subject property since that time.

17. There is in evidence the existing General Plan For The Lahaina District County of Maui, dated December 1968 (the "Existing Lahaina General Plan"), which has been adopted by the County of Maui. The Existing Lahaina General Plan shows a proposed use for Hui Road F (and land mauka of Hui Road F), including the subject property, as a public highway that would connect the New Honoapiilani Highway and the old Honoapiilani Highway.

18. The jurisdiction of this Court in this action to quiet and establish title to real property is limited to issues that relate to the title to the subject property. This Court does not have jurisdiction in this action to

change the Existing Lahaina General Plan as the same relates to the subject property. Nor does this Court have jurisdiction in this action to preclude any future change in the Existing Lahaina General Plan as the same relates to the subject property.

19. However, Plaintiff has alleged and this Court has accepted and considered the claim that should there ever be an attempt in the future to implement the Existing Lahaina General Plan to the extent of connecting the existing Hui Road F to the New Honoapiilani Highway, it would be more practical and convenient for Plaintiff to provide such access to the New Honoapiilani Highway if it were not restricted by the present configuration of the existing Hui Road F as it now adjoins Plaintiff's land.

CONCLUSIONS OF LAW

Upon the foregoing findings of fact, the Court concludes as follows:

1. The Mailepai Hui Partition Final Decree did not constitute Hui Road F as a public highway.
2. The Clerk of this Court holds title to the subject property as a trustee; but he has no active duties to perform as such trustee with respect to the subject property. The Clerk of this Court thus holds title to the subject property as trustee under a dry or passive trust.
3. The subject property was included as a part of Hui Road F for the benefit of the owners of Allotment 3 and Allotment 51b, the adjoining parcels of land. Plaintiff, as the owner of those adjoining parcels of land, is the sole beneficiary of the passive trust for the subject property.

4. The Clerk of the Court's passive trust for the subject property has been executed by the Statute of Uses. Plaintiff is the sole beneficiary of the passive trust of the subject property executed by the Statute of Uses.

5. Plaintiff has established title to the subject property by operation of the Statute of Uses.

6. Plaintiff (and its predecessor in interest) had for more than twenty years prior to the filing of the Complaint been in the actual, open, notorious, continuous and exclusive possession of the subject property against the world.

7. Plaintiff has established title to the subject property by adverse possession.

8. The entry of judgment in this action for Plaintiff, which establishes its title to the subject property does not imply that this Court is changing the Existing Lahaina General Plan as the same relates to the subject property. Nor should the entry in this action of such judgment for Plaintiff, or this conclusion of law, imply that this Court has thereby precluded any future change in the Existing Lahaina General Plan as the same relates to the subject property. However, this Court intends that should there ever be an attempt to modify or implement the Existing Lahaina General Plan in the future with reference to the connecting of Hui Road F to the New Honoapiilani Highway, the contents of Paragraph 19 of the Findings of Fact herein be given due consideration.

DATED: Wailuku, Maui, Hawaii, August 28, 1979.

SG Lukensko
Judge of the Above-Entitled Cause



CERTIFICATE OF SERVICE

I hereby certify that on August __, 1979,
a copy hereof was served upon the following:

✓ WILLIAM F. CROCKETT, ESQ.
Attorney at Law
38 S. Market Street
Wailuku, Hawaii 96793

LAWRENCE N.C. ING, ESQ.
Attorney at Law
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Hawaii State Capitol
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ROBERT G. HOGAN, ESQ.
Attorney at Law
Suite 320, Dillingham Transportation Bldg.
735 Bishop Street
Honolulu, Hawaii 96813

Letul M. Mizohira
Clerk

RECORDATION REQUESTED BY:

CROCKETT AND NAKAMURA

AFTER RECORDATION, RETURN TO:

Law Offices
CROCKETT AND NAKAMURA
P. O. Box NNN
Wailuku, Maui, HI 96793

RETURN BY: MAIL (X) PICK-UP ()

THE ORIGINAL OF THE DOCUMENT
RECORDED AS FOLLOWS:
STATE OF HAWAII
OFFICE OF
BUREAU OF CONVEYANCES
SEP 10 1979

Received for record this _____ A.D., 19____
day of _____ 2:58 o'clock P.M. and
at _____ 129.19
Recorded at Liber _____ 726
on Pages _____

WILLIAM F. CROCKETT 802
Attorney at Law
38 S. Market Street
Wailuku, Maui, Hawaii 96793
Tel. No. 244-3796

Attorney for Plaintiff.

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

MAUI LAND AND PINEAPPLE COMPANY,
INC., a Hawaii corporation,

Plaintiff,

vs.

ROBERT M. MONDEN, in his capacity
as the Clerk Of The Second Circuit
Court Of The State Of Hawaii, et al.,

Defendants.

CIVIL NO. 3828

JUDGMENT QUIETING,
ESTABLISHING AND
CONFIRMING TITLE
TO REAL PROPERTY

JUDGMENT QUIETING, ESTABLISHING AND
CONFIRMING TITLE TO REAL PROPERTY

Pursuant to the Findings Of Fact And Conclusions
Of Law filed in this action on AUG 29 1979,
it is;

ORDERED, ADJUDGED AND DECREED, that plaintiff
Maui Land And Pineapple Company, Inc. is the owner in fee
simple and entitled to the possession of all that certain

File Code

Date for Review _____
Released to File _____
(Records Mar.)

I hereby certify that this is a full, true and cor-
rect copy of the original.

L. Menden
Clerk, Circuit Court, Second Circuit

real property which is more particularly described as follows:

That certain parcel of land (a portion of the land described by R. P. 1663, L. C. Aw. 5524 to L. Konia, and a portion of Hui Road "F" established by the Final Decree Of Partition entered by the Second Circuit Court of the State of Hawaii in Equity No. 235, popularly known as the "Mailepai Hui Partition"), situated approximately 1,900 feet east of Honoapiilani Highway at Honokeana, Lahaina, Maui, Hawaii, more particularly described as follows:

Beginning at a point at the northwest corner of this piece of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MALO" being 12,428.28 feet South and 8,439.67 feet West and running by azimuths measured clockwise from True South:

1. 294° 30' 433.78 feet along Allotment 51-B of "Mailepai Hui Lands";
2. 24° 30' 30.00 feet along the remainder of R. P. 1663, L. C. Aw. 5524 to L. Konia;
3. 114° 30' 433.78 feet along same;
4. 204° 30' 30.00 feet along the remainder of Hui Road "F" to the point of beginning and containing an Area of 0.299 Acre.

and all adverse claims of all persons other than plaintiff, Maui Land And Pineapple Company, Inc., to the said real property or any part thereof are hereby adjudged to be invalid and groundless.

DATED: Wailuku, Maui, Hawaii, SEP 4 1979.

/S/ S. GEORGE FUKUOKA (SEAL)
JUDGE OF THE ABOVE-ENTITLED COURT

Benjamin J. Cayetano

~~XXXXXXXXXX~~
GOVERNOR



Margery S. Bronste

~~XXXXXXXXXX~~

ATTORNEY GENERAL

Steven S. Michaels

~~XXXXXXXXXX~~

FIRST DEPUTY ATTORNEY GENERAL

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
LAND/TRANSPORTATION DIVISION

ROOM 300, KEXUANAOA BUILDING
440 SOUTH KING STREET
HONOLULU, HAWAII 96813

January 20, 1995

Ernest A. Ito
Staff Attorney
Office of the Administrative Director
The Judiciary
State of Hawaii
417 South King Street, Room 209
Ali'iolani Hale
Honolulu, Hawaii 96813-1911

Dear Mr. Ito:

Re: Authority to Grant Easement to Hui Road F

This is in response to your October 19, 1994 memorandum to Russell Suzuki, Deputy Attorney General, regarding the above-referenced matter. Your request was subsequently referred to the Land/Transportation Division for review.

We understand the specific inquiry is whether the Circuit Court Administrator has authority to grant an easement to Hui Road F. Part IV of the Final Decree in Partition in Equity No. 235, dated November 21, 1931, provides the following:

That the roads through the said lands, as laid out and shown upon the said map, as hereinafter more particularly described, be and the same are hereby set aside for the use of everyone having any interest in the said lands and that the title thereto shall for the time being be and it is hereby transferred to the person for the time being holding the office of Clerk of this Court as Trustee, his successors and assigns, with full power and authority in said Trustee to convey said roadways to a public body corporate charged by law with the general control of roadways but without any duty whatsoever to construct, build, maintain, or repair such roadways or any of them, said roads being, to wit[.]

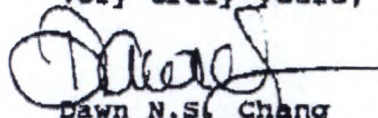
Ernest Ito, Esq.
January 20, 1995
Page 2

In brief, we opine that pursuant to the Findings of Fact and Conclusion of Law and Judgment in Maui Land and Pineapple Company, Inc. v. Robert M. Monden, et al., Civil No. 3828, dated August 29, 1979, a quiet title action, Hui Road F is owned by Maui Land and Pineapple Company ("Maui Land and Pine"), not the Circuit Court Administrator. We have enclosed a copy of the order for your reference. Maui Land and Pine is the successor in interest of Baldwin Packers, Limited, former owner of the lands surrounding Hui Road F. The court's order specifically provides that Hui Road F is not a public highway, and is owned in fee simple by Maui Land and Pineapple, Company as the successor in interest.

The court concluded that the Clerk of the Court holds title as trustee under a dry or passive trust, the sole beneficiary of the passive trust is Maui Land and Pine, and the Clerk of the Court's passive trust has been executed by the Statute of Uses. Therefore, title to the subject roadways was transferred to Maui Land and Pine from the Clerk by means of the Statute of Uses. Accordingly, the Circuit Court Administrator should direct all inquiries regarding Hui Road F to Maui Land and Pine for their appropriate action.

Should you have any questions, I may be contacted at 587-2988.

Very truly yours,



Dawn N.S. Chang
Deputy Attorney General

dnc

c: Russell Suzuki, Deputy Attorney General
✓ Melvin Arakawa, Circuit Court Administrator
13921