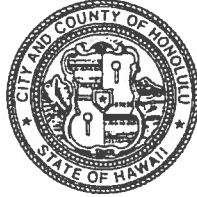


DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU
650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 768-8000 • FAX: (808) 768-6041
DEPT. WEB SITE: www.honolulu.dpp.org • CITY WEB SITE: www.honolulu.gov

KIRK CALDWELL
MAYOR



GEORGE I. ATTA
FAICP, LEED AP, CEI
DIRECTOR DESIGNATE

JIRO A. SUMADA
DEPUTY DIRECTOR

February 22, 2013

2013/ELOG-356
2013—Subd. Misc.

Mr. Wayson Chow, President
Aina Haina Community Association
5246 Kalanianaʻole Highway
Honolulu, Hawaii 96821

Dear Mr. Chow:

Subject: Building Permit Applications A2012-10-0162 & 0150
Location: 1055 & 1057 Hao Street, Aina Haina
Owner: Residences at Aina Haina, LLC
Tax Map Key: 3-6-024: 001

Thank you for your letter of February 12, 2013, concerning the requirements for public access to the mountains pertaining to the construction of two new dwellings at the above property.

According to Na Ala Hele, the trail to the mountains starting at the end of Hao Street is in their inventory as "used by the public", although not owned or managed by them. The Department of Planning and Permitting (DPP) has notified the developer that access to the trail cannot be blocked, and the gate and fence that had been planned should not be installed. Any alternative gate and fence design will be subject to review and approval by the City.

According to Section 22-6, Revised Ordinances of Honolulu (ROH), the requirement for dedication of public access applies to a subdivision into six or more lots, or a multiple-family development consisting of six or more dwelling or lodging units. The subdivider or developer is required to dedicate such public access as a condition precedent to final approval of a subdivision or **issuance of a building permit for a multiple-family development.**

The subject project consisting of only two dwellings for which building permits have been issued is not a subdivision nor a multiple-family development as defined in the ordinance. No building permits for any other additional dwellings have been filed with the City. Consequently, ROH Section 22-6 does not apply to this two-dwelling unit project, and cannot be enforced until the developer has submitted building permit applications proposing a total of six dwellings on this property.

Mr. Wayson Chow, President
February 22, 2013
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Although other documents or applications such as a soil report or sewer connection permit may imply a potential number of houses on the property in excess of six, the only legal trigger for compliance with the public access provisions of the City ordinance is the submission of building permit applications for at least six dwellings on the property.

Please be advised that building permits are ministerial in nature and cannot be lawfully denied once deemed compliant with applicable codes. The property owner has met permit requirements and appears to be addressing the more recently raised concerns. DPP cannot overstep its legal authority in enforcing ROH Section 22-6, and has no justification to suspend or revoke the approved permits.

Should you have any questions, please contact Mario Siu-Li of the Subdivision Branch at 768-8098.

Very truly yours,



Jiro A. Sumada, Deputy Director
Department of Planning and Permitting

JAS: ms
(1018513)

cc: Mayor Kirk Caldwell
Aaron Lowe, Na Ala Hele, DLNR
Pua Aiu, SHPD Administrator
Residences at Aina Haina, LLC
Customer Service Office, DPP
Building Division, DPP
Civil Engineering Branch, DPP
DPZCB, DPP