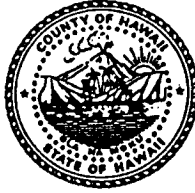


Harry Kim
Mayor



Lincoln S.T. Ashida
Corporation Counsel

Gerald Takase
Assistant Corporation Counsel

County of Hawaii

OFFICE OF THE CORPORATION COUNSEL

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August 20, 2003

Milton D. Pavao, Manager
Department of Water Supply
345 Kekūanaō‘a Street, Suite 20
Hilo, Hawai‘i 96720

Dear Milton:

RE: Your August 14, 2003, Inter-Departmental Work Request
regarding acceptance of water systems
Corporation Counsel Work Control No. 03-6136

On August 14, 2003, you requested an opinion from me regarding whether the Department of Water Supply ("DWS") is compelled to accept any and all water systems which are proposed for dedication to the Water Board, and if so, under what law.

The short answer to your question is that the Water Board need not accept all water systems which are proposed for dedication to the Water Board.

According to Rule 4-10 of DWS Rules and Regulations, as a condition precedent to connecting a development water system to the public system, the developer is supposed to dedicate or convey the water system to the Board. However, the Board may refuse to accept dedication or conveyance if the DWS is of the opinion that the operation and maintenance of the facilities are not in the best interest of the DWS and the County.

Additionally, I could not find any statutory authority that would compel the DWS to accept a water system if it did not want to do so. This is contrary to the situation involving roads, alleys, streets, bikeways, ways, lanes, trails, bridges or highways, which if constructed and completed in accordance with the applicable standards, the County Council is required to accept without the exercise of discretion. *H.R.S. § 264-1(c)*.

Milton D. Pavao, Manager
August 20, 2003
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If you have any further questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Katherine A. Garson', with a long, sweeping horizontal line extending to the right.

KATHERINE A. GARSON
Deputy Corporation Counsel

KAGfc

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