

David Kimo Frankel

From: David Kimo Frankel
Sent: Friday, August 24, 2012 11:19 AM
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Subject: Implications of the Supreme Court's decision in Kaleikini v. Yoshioka et al

I am writing to ask that the City immediately refrain from any more construction and/or ground altering activity (other than any work directly connected to the AIS work) related to the rail project until the AIS is completed and the City has obtained all the proper permits and approvals.

The Court ruled today that the City “failed to comply with HRS chapter 6E and its implementing rules by granting a special management area permit for the rail project and by commencing construction prior to completion of the historic review process.” Continuing any construction work (other than any work directly connected to the AIS work) is illegal.

You may recall that when the Supreme Court announced its decision in the Superferry case, the Court did not specifically rule that the Superferry had to stop running. The Court vacated the circuit court’s judgment. Nevertheless, after much legal wrangling, the circuit court enjoined the Superferry’s operation. It would be foolish (and illegal) for the City to continue any construction work. If the City does not stop work, the City will waste even more money on attorneys fees and unnecessary and illegal construction.

If I do not receive a response to this email by this coming Monday at 8 a.m., I will assume that it is the City’s intent to continue construction and that we should file appropriate motions for restraining orders and injunctive relief.

David Kimo Frankel
Staff Attorney