

Waikiki, Kalakaua Avenue sidewalk - Public forum may move to business doorsteps

Waikiki is about to have a sidewalk makeover and new landscaping done on the mauka side of Kalakaua Avenue. The project will modify the existing public forum and warnings are being sounded that this could be a costly mistake for taxpayers and tourist businesses.

The \$20 million joint sidewalk venture between the City and County of Honolulu and private business interests adjoining the effected sidewalk is touted to showcase the district as a world-class visitor destination.

Presently the public forum area is busy with street artists and free speech users who gather on the street-side of the pavement in the evenings. But if Bill 39 and the Kalakaua Sidewalk Streetscape Project go ahead this public activity may have no choice but to crossover to the shop-side of the pavement; a place traditionally occupied by the private property owners. They are party to the streetscape project and could be liable.

It is planned to break dirt in March 2011 and is designed to displace artists and free voices who have been assembling for multiple decades along this section of Kalakaua between Lewers Street and Uluniu Avenue.

Bill 39 will create an uninterrupted public through-zone, 6 feet wide along the center of the pavement.

The bill, expected to pass this week at Council, will prohibit obstruction of this passageway thus affecting the existing public forum.

Further, the construction of continuous planters 6 to 12 feet wide on the street-side of the pavement will completely render the current public forum area as being shut down.

A similar case in Las Vegas heard in the 9th Circuit Court of Appeals in 2001 upheld the U.S. First Amendment and the judgement forced the plaintiff, Venetian Casino Resort, to provide “replacement” public forum for the sidewalk zone it had impacted.

In Waikiki the city and businesses impacting public forum must provide replacement area of value with the eventuality of street vendors taking immediate remedy by setting up on the available shop-side.

Free speech users provide a fundamental benefit to the community recognised by Constitutional laws of the First Amendment. They are also an attraction for Waikiki and aligned with a world-class visitor destination.

Here, the affront on Kalakaua’s public forum is a discriminatory attack on local street practitioners and the public.

<http://caselaw.findlaw.com/us-9th-circuit/1015032.html>

(or Google: Venetian Casino Resort v. Local Joint Executive Board of Las Vegas)

Filed July 12, 2001

VENETIAN CASINO RESORT, L.L.C., a Delaware Limited Liability Company, Plaintiff-Appellant,

v.

LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS; Culinary Workers Union, Local No. 226, an Unincorporated Association; Bartenders Union, Local No. 165, an Unincorporated Association; Clark County, a Political Subdivision of the State of Nevada; Stewart L. Bell, in his capacity as District Attorney of Clark County, Nevada; Las Vegas Metropolitan Police Department, Defendants-Appellees, American Civil Liberties Union, Intervenor-Appellee