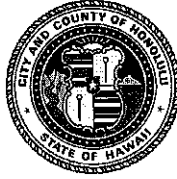


OFFICE OF THE MAYOR  
CITY AND COUNTY OF HONOLULU

530 SOUTH KING STREET, ROOM 300 \* HONOLULU, HAWAII 96813  
PHONE: (808) 768-4141 \* FAX: (808) 768-4242 \* INTERNET: [www.honolulu.gov](http://www.honolulu.gov)



PETER B. CARLISLE  
MAYOR

DOUGLAS S. CHIN  
MANAGING DIRECTOR  
  
CHRYSTN K. A. EADS  
DEPUTY MANAGING DIRECTOR

April 26, 2011

Mr. Michael Daly  
575 Cooke Street, A-2910  
Honolulu, Hawaii 96815

Dear Mr. Daly:

Re: Sidewalk Streetscape in Waikiki

Thank you for your letter and your telephone call expressing your concerns regarding the Waikiki Improvements known as Kalakaua Avenue Project ("Project") and your belief that the Project violates the court's decision in Venetian Casino Resort, L.L.C. v. Local Joint Executive Board of Las Vegas, 257 F.3d 937 (9<sup>th</sup> Cir. 2001). Your letter further requests that the City call for a public hearing or stop the Project.

We understand the concerns that you have raised. However, the Project is in furtherance of the City's duty to ensure that its sidewalks are maintained, safe and hazard-free for the public's use. The sidewalks along Kalakaua Avenue were last upgraded in the mid-1980's. They are an aging public facility requiring ongoing upkeep, maintenance and repair. For example, areas at the sidewalks have missing or loose tiles creating a potential pedestrian safety hazard. In other areas, existing trees have outgrown their tree wells so that the tree roots have lifted abutting sidewalks creating potential slipping hazards, compromising the root integrity of the affected trees, and adversely impacting the existing irrigation and electrical systems. The City also needs to ensure that its sidewalks comply with the Americans with Disabilities Act of 1990, as well as remedy deteriorating sidewalk drainage problems.

The purpose of the Project is to address the foregoing concerns. Project improvements include replacing sidewalk surface materials to match existing pavement surfaces for uniformity of sidewalk maintenance. The Project also includes enlargement and consolidation of landscape and planter areas to provide adequate root growth to ensure the health of the City trees and to minimize sidewalk uplifting. Enlarged tree planters are critical to the life of the trees because inadequate planter space can affect the health of the trees and can result in trees and branches toppling if

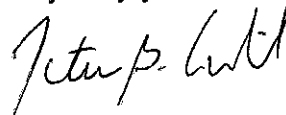
Mr. Michael Daly  
April 26, 2011  
Page 2

there is not sufficient growing space. These improvements will increase the effectiveness of the irrigation systems and the drainage area for sidewalk surface runoff. Existing City electrical power conduits and irrigation lines will be replaced within the improved sidewalk areas.

The Project is also needed to meet the Department of Justice 2010 ADA Standards for Accessible Designs. The State Department of Health, Disability and Communications Access Board recently adopted the 2004 Architectural Barriers Act Accessibility Guidelines effective January 1, 2011. The Project improvements were designed to meet these compliance requirements.

Thank you again for bringing your concerns to my attention.

Very truly yours,



Peter B. Carlisle  
Mayor



Keep corporate hands off our public officials and our public property | Protect *Public Forum* under universal rights of free speech.

## COMMENT RESPONSE

To Mayor Peter Carlisle

September 10, 2011

We appreciate the Mayor's carefully written response. We appreciate sidewalk beautification, improvement and public safety. It is of equal concern to the artists and voices of Save Waikiki Sidewalk as it seems apparent to the Mayor.

We understand that the renovation is complex and expensive. We understand that Kalakaua Avenue, home to a few large profitable multinational corporations, are getting special safety and aesthetic improvements to enhance their property – it is of great benefit to them. The willingness of the council here is highlighted by the sad fact that many longterm sidewalk issues repeatedly raised by residents in other Waikiki and Oahu streets are left unattended by the city.

We understand that the recent Kalakaua Av. renovation is complex. Integrating utility needs, tree space, irrigation, ADA compliance is a great challenge. The fact that the city and private corporations can apparently arrive at a coordinated design solution in all these demands is praise worthy ....

HOWEVER, it begs the question:

**Why are the fundamental rights of free speech not been included in the brief, but dismissed? Why are the benefits and prejudices serving corporate interest in this design while dislocating artists and the public forum?**

We understand that the corporate and city design is in furtherance of material things listed by the Mayor, yet he dismisses the "Public Forum" which protects free speech. He fails to identify the replacement of the Public Forum since the substantial parts of the renovation project have taken the Public Forum away.

The decision of the Venetian Casino Resort case at the U.S. Ninth Circuit Court forced the casino to replace the sidewalk "Public Forum" as a matter of public intellectual property that cannot be taken away. This is the issue and left unaddressed will make the project parties liable.

It is insulting that the Mayor brings up our question of the Venetian Casino Resort case in the first paragraph but then ignores it and spends the entire letter on matters which we all agree on.

Michael Daly