

# HONOLULU POLICE ANNOUNCE ILLEGAL CITY SWEEP ON FREE SPEECH

TARGET: ARTISTS AND PUBLIC VOICES ON KALAKAUA AVENUE SIDEWALK, WAIKIKI

## **OPERATION SIDEWALK SWEEPER (OSS)**

VIDEO Waikiki Neighborhood Board Aug 9, 2011

[www.SaveWaikikiSidewalk.com](http://www.SaveWaikikiSidewalk.com)

by Michael Daly, September 11, 2011

*Without government transparency and meaningful free speech, truth can be permanently hidden with guaranteed mass destruction. Give the public free speech and the means to truth and she cares not for the antiquated wish of Mayer Amschel Rothschild and others who think they can control nations undemocratically.*

The Honolulu Police Department gave a detailed presentation on August 09, 2011 to Waikiki Neighbourhood Board of Operation Sidewalk Sweeper. The action plan will disrupt and criminalizing many or all people who participate in free speech on the sidewalk in Waikiki. It is feared that corporate-initiated sweeps of Waikiki's homeless and street artists represent a belligerent attack on the poor and independent as an expression of economic prejudice.

According to **Stg. David Barnett** who announced **OSS** the plan had been recently developed by city and "community agencies", as stakeholders in devising "new and improved" rules for public safety. Wide-net arrests will rely on these new rule ideas. The sweeper will dislocate street artist, performers and free voices on Kalakaua Avenue. Recently **unannounced** development meetings with corporate representative have created an impression whereby police now believe they are obliged and authorized to disrupt and harass free speech users of the sidewalk.

**Save Waikiki Sidewalk** is a group of artists campaigning vigorously to uphold the public rights for artists, church members, media workers, union members (including local police union), nonprofits, politicians (including those mistakenly hurting us) and cause-advocates. These individuals and entities all rely on the public sidewalk for free speech.

OSS comes prior to APEC summit this November and parallels another APEC city/corporate sidewalk "preparation". This is the "streetscape" project (it broke ground in March). The renovation has landscaped most of the free speech corridor with plantings. This has pushed the artists into uncomfortable or impossible sidewalk conditions in the centre of the pavement or to sections not done. Yet, by U.S. Constitutional law all public sidewalk areas are PUBLIC FORUMS and cannot be eliminated or diminished without REPLACEMENT of equal value (ref: Venetian Casino case, 2001). Essentially the city/corporate preparations for APEC, Asia Pacific Economic Conference, amount to multimillion-dollar attacks on the homeless, poor and independent. Not altogether ironically, this world *economic* summit maybe used by local private transnational resorts and developers to permanently control Waikiki and beyond.

The police PowerPoint presentation included photos and information (presumably gathered by police) on specific individual artists who have practiced here for many years. They especially show performers. These buskers can expect to be arrested and charged under the new city/corporate "say-so" or "provisions". For over a decade arrests have been a constant issue on the street as a matter of discrimination. Usually after personal humiliation, property confiscation, jail, bail and sometimes strip searches, the Honolulu court dismisses the cases. But the real purpose and damage is done before cases go to court. Notably, routine harassment has stopped since the Save Waikiki Sidewalk began a campaign to stand up for users of free speech in September 2010. The campaign began when artists learned of the sidewalk renovation design.

However last month two independent and longterm performing artists, who sing and play keyboard and violin respectively, were arrested, charged, convicted and fine approx. \$107 each. The crime; they were playing "reproduced" rhythm and sound in their live performances. The city and police had given no instructions about new "hear-say" codes or warnings.

With regard to OSS most of the *rules* or, in any case, *outcomes*, of these county/corporate "safety" meetings may not even come close to a narrative of legal island law. They certainly conflict with higher provisional authorities: UN Human Rights, Federal U.S. Ninth Circuit Court Rulings, and U.S. First Amendment rights - all of which protect free speech and trump lower local orders. If OSS continues many PUBLIC FORUM users will get caught up in police confusion and the disturbing implications associated with the mis-training of officers who are expected to carry it out. Stg. Barnett said he was responsible for training the Waikiki force on the new and improved rules.

Other notions that OSS rely on are:

- Naming a price or asking for, or indicating, donations for product/services. Undercover police set up artists, make a financial transaction with them as clients, then closedown the stall and arrest the artist. But, these cases conflict with Ninth Circuit Court rulings: Gospel Missions of America II case 2002, and “Jingle” Harry Nmi Perry case 1997 where it is firmly established that selling and/or receiving donations for services/products on the public sidewalk is legal.

**Note:** Newspaper businesses are allowed to *sell* their product for commercial gain at a fix and clearly advertised price from vending machines on the public sidewalk. Incidentally, a newspaper is not an original artwork; it is a reproduction, often reproducing agency articles. It offers free speech and commercial advertising all for private profit.

- Artists trespassing onto assumed private property by crossing an installed brass line running along the centre of the sidewalk. But “Sidewalk trespassing” cannot be proved in Waikiki because: **A)** The property lines have not been surveyed by the City which relies on developer say-so, and in any case it doesn’t matter because **B)** users of the public sidewalk regardless of easement lines cannot be discriminated against. Since people now use of the full width of the path between the gutter and building line, pedestrian use and expressive interchange cannot be segregated on any part of the public conduit.

## THE CORPORATE FACTOR - GRADUATION

**Waikiki Improvement Association** with Director **Rick Egged** represents the private corporate interests in these attacks on free speech and matters of private encroachment onto the public sidewalk. This includes both physical and intellectual property aspects of Waikiki’s sidewalk. It has been going on for decades through a quite process I call **graduation**.

It happens slowly but purposefully beneath the very feet of people. It is not helpful that public officials are no longer representing the public, but rather corporate interest. Nevertheless Egged and WIA members are mistaken to think that the issues will go unaddressed. They are accountable for the replacement and repair of sidewalk problem throughout Waikiki.

The members of the mis-named **Waikiki Improvement Association**, made up of international developers, hotel resorts and businesses need to know that Waikiki is not a corporate trans-national -privately owned and controlled- consortium overseeing it’s own shopping mall and resort theme park. **This is public domain owned and controlled by the public.** **Waikiki Neighborhood Board**, a *public* entity under the City and County of Honolulu, must gather the body strength to uphold democratic principal and guard *public* property. Looking at the history and since nobody spoke up to Stg. Barnett at the most recent August 9 meeting board members are accommodating and condoning corporate takeover and allowing a prejudicial attack on artists and free voices.

The public needs to have OSS struck down immediately, and in the meantime artists and individuals under attack need to protect themselves by carefully documenting all police approaches and securing the names and contact info of witnesses. **American Civil Liberties Union** (ACLU) has been monitoring Waikiki sidewalk issues since last year when city engineer, Greg Hee, was forced to address WNB. He disclosed the joint **corporate/city sidewalk** “streetscape” project which was implemented through a CIP line item. The \$26 million plus design placed trees and plantings along an 8–15’ strip along the road side of Kalakaua Ave. pavement: the essential and most valuable zone of the PUBLIC FORUM; a direct attack.

The corporate assault on free speech is an attack on individuality and the basic right to produce expression and income that is not controlled by corporations. This is not a matter of street artists taking consumer money from business tenants because street artists manufacture visitor interest and increase overall spending in Waikiki. Similar colour and carnival street promotions such as block parties and Aloha Festival events can run the taxpayer \$500k and up. Presently the artists and entertainers are free every nite, except carnival nites – yet still abused, ignored, criminalized and made unwelcome.

The corporate agenda to shut down and discriminate against free speech voices on the makua (mountain) side of Kalakaua Av. is clear and it follows a pattern used on the other side of the avenue: **Royal Hawaiian Center**. The same is true of **Beach Walk** (Lewers Street) and **Luxury Row** and **Nike Town** by Kalaimoku Street.

The two part corporate game plan of graduation is now clear.

**ONE:** Remove the sidewalk ‘Public Forum’ by installing plants and landscaping along its path. Pave a new path in and out of shops and private property with corporate approved tiles that blend into the private buildings and designs.

**TWO:** Instigate a police sting (OSS) on artists and back it up with intimidation by privately trained corporate security guards with the longterm plan to produce a SHOPPER ONLY ENVIRONMENT.

DONATIONS toward Save Waikiki Sidewalk campaign costs, documentation and web maintenance is critical.

Mahalo to **Sun News Hawai`i** for printing.

A 15-minute Youtube video of the police presentation can be viewed at [www.SaveWaikikiSidewalk.com](http://www.SaveWaikikiSidewalk.com)

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