

Honolulu Authority for Rapid Transportation

RESOLUTION NO. 2015-75

APPROVING NOTIFICATION TO THE CITY COUNCIL OF INTENTION TO ACQUIRE A FEE SIMPLE INTEREST IN THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY 2-3-007-056 (PORTION) BY EMINENT DOMAIN AND PUBLICATION OF A RESOLUTION AUTHORIZING ACQUISITION OF SAID PROPERTY BY EMINENT DOMAIN

WHEREAS, the Honolulu Authority for Rapid Transportation (HART) has been established pursuant to Article XVII of the Revised Charter of the City and County of Honolulu 1973, as amended (Charter); and

WHEREAS, Section 17-103.2(b) of the Charter empowers HART "to acquire by eminent domain ... all real property or any interest therein necessary for the construction, maintenance, repair, extension or operation of the fixed guideway system;" and

WHEREAS, prior to such acquisition the Charter directs HART to submit a list of real property to be acquired by eminent domain to the City Council; and

WHEREAS, the City Council may approve the acquisition by eminent domain or may object by adoption of a resolution within 45 days of the notification to acquire the real property; and

WHEREAS, the acquisition by eminent domain in fee simple of the real property identified as Tax Map Key (TMK) 2-3-007-056 (Portion) and more particularly described in the attached legal description marked as Exhibit A, is necessary for the Honolulu Rail Transit Project fixed guideway system, a valid public use and purpose;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of HART as follows:

1. That written notification to the City Council is approved, for the acquisition by eminent domain in fee simple of the real property identified as TMK 2-3-007-056 (Portion); and
2. That in the event the City Council approves or does not object to the acquisition within 45 days of notification, then HART is authorized to publish in a daily newspaper at least three days prior to Board action, the attached resolution marked as Exhibit B, authorizing acquisition by eminent domain in fee simple of the above-identified real property.

ADOPTED by the Board of the Honolulu Authority for Rapid
Transportation on AUG 27 2015.

Exhibit A – Legal description of TMK 2-3-007-056 (Portion)

Exhibit B – Resolution No. 2015-____, Authorizing the Acquisition of the In Fee Simple
Real Property Identified as Tax Map Key 2-3-007-056 (Portion) by Eminent
Domain


Board Chair

ATTEST:


Board Administrator

SCHEDULE C

All of those certain parcels of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOTS: 666, area 4,000 square feet,
682, area 4,000 square feet,
683, area 4,000 square feet, more or less,
of SECTION 2, as shown on Map [4](#), filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 880 of Bishop Trust Company, Limited;

Being the land(s) described in Transfer Certificate of Title No. 680,075 issued to RSD CORP., a Colorado corporation.

BEING THE PREMISES ACQUIRED BY DEED (BY WAY OF EXCHANGE) (DIRECT DEEDING PURSUANT TO EXCHANGE AGREEMENT)

GRANTOR : 510 PIIKOI LLC, a Hawaii limited liability company
GRANTEE : RSD CORP., a Colorado corporation
DATED : January 6, 2004, but effective as of January 8, 2004
FILED : Land Court Document No. [3052205](#)
RECORDED : Document No. [2004-004028](#)

END OF SCHEDULE C

Honolulu Authority for Rapid Transportation

RESOLUTION NO. 2015-___

AUTHORIZING THE ACQUISITION OF THE IN FEE SIMPLE REAL PROPERTY IDENTIFIED AS TAX MAP KEY 2-3-007-056 (PORTION) BY EMINENT DOMAIN

WHEREAS, the Honolulu Authority for Rapid Transportation (HART) has been established pursuant to Article XVII of the Revised Charter of the City and County of Honolulu 1973, as amended (Charter); and

WHEREAS, Section 17-103.2(b) of the Charter empowers HART “to acquire by eminent domain. . . all real property or any interest therein necessary for the construction, maintenance, repair, extension or operation of the fixed guideway system;” and

WHEREAS, the City Council approved or did not object to the acquisition of the in fee simple real property identified as Tax Map Key (TMK) 2-3-007-056 (Portion) by eminent domain in fee simple after written notification by HART; and

WHEREAS, the acquisition by eminent domain in fee simple of the above-identified real property, which is more particularly described in the attached legal description marked as Exhibit A, is necessary for the Honolulu Rail Transit Project fixed guideway system, a valid public use and purpose;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of HART as follows:

1. That acquisition by eminent domain in fee simple of the real property identified as TMK 2-3-007-056 (Portion) is hereby authorized and the Corporation Counsel of the City and County of Honolulu is empowered to institute eminent domain proceedings as provided by law for the acquisition thereof; and
2. That the acquisition of the above-identified property by eminent domain is determined and declared to be for a valid public use and purpose as aforesaid; and
3. That the acquisition of the above-identified property by eminent domain is determined and declared to be necessary for the aforesaid public use and purpose; and
4. That in the process of said proceedings in eminent domain, the Corporation Counsel is authorized and empowered to negotiate terms of settlement, subject to the approval of HART and/or the Court before which such proceedings are commenced; and

- 5. That the Board Administrator be directed to transmit copies of this resolution to HART and the Department of the Corporation Counsel.

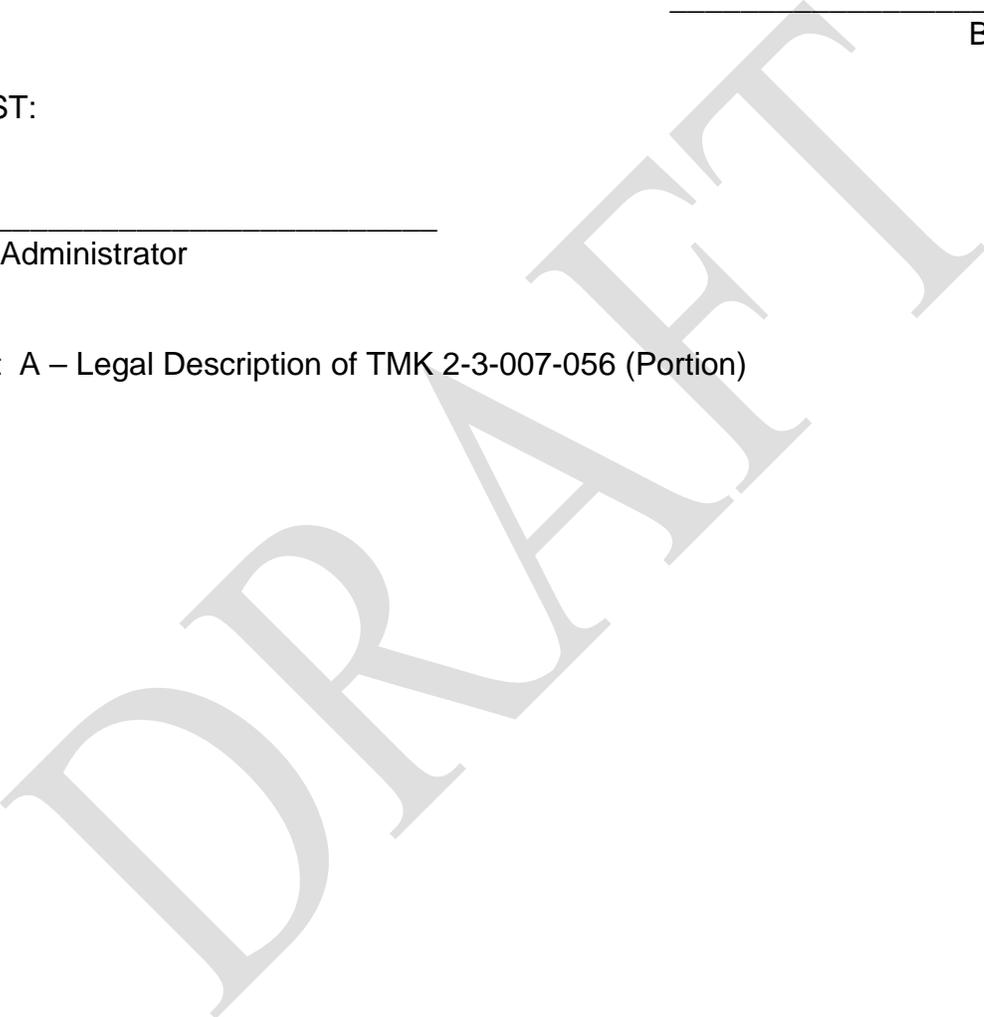
ADOPTED by the Board of the Honolulu Authority for Rapid Transportation on _____.

Board Chair

ATTEST:

Board Administrator

Exhibit A – Legal Description of TMK 2-3-007-056 (Portion)



SCHEDULE C

All of those certain parcels of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOTS: 666, area 4,000 square feet,
682, area 4,000 square feet,
683, area 4,000 square feet, more or less,
of SECTION 2, as shown on Map 4, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 880 of Bishop Trust Company, Limited;

Being the land(s) described in Transfer Certificate of Title No. 680,075 issued to RSD CORP., a Colorado corporation.

BEING THE PREMISES ACQUIRED BY DEED (BY WAY OF EXCHANGE) (DIRECT DEEDING PURSUANT TO EXCHANGE AGREEMENT)

GRANTOR : 510 PIIKOI LLC, a Hawaii limited liability company
GRANTEE : RSD CORP., a Colorado corporation
DATED : January 6, 2004, but effective as of January 8, 2004
FILED : Land Court Document No. [3052205](#)
RECORDED : Document No. [2004-004028](#)

END OF SCHEDULE C

Honolulu Authority for Rapid Transportation

STAFF SUMMARY

TITLE: RESOLUTION NO. 2015-75 APPROVING NOTIFICATION TO THE CITY COUNCIL OF INTENTION TO ACQUIRE A FEE SIMPLE INTEREST IN THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY 2-3-007-056 (PORTION) BY EMINENT DOMAIN AND PUBLICATION OF A RESOLUTION AUTHORIZING ACQUISITION OF SAID PROPERTY BY EMINENT DOMAIN	STAFF CONTACT: Elizabeth Scanlon Morris Atta	DATE: 08/27/2015
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Type:	Goal	Focus Area	Reference Notes
<input checked="" type="checkbox"/> Action/Approval	<input checked="" type="checkbox"/> Project Delivery	<input checked="" type="checkbox"/> Livability/Land Use	
<input type="checkbox"/> Information	<input type="checkbox"/> Service Delivery	<input type="checkbox"/> Partnerships	
<input type="checkbox"/> Follow-up	<input checked="" type="checkbox"/> Resource Stewardship	<input type="checkbox"/> Agency Admin.	

1. Purpose:

Review of Notification to City Council for condemnation of land for public use, identified as Tax Map Key 2-3-007-056 (Portion), and situated at 1237 Hopaka Street, Honolulu, Hawaii 96814, which is required for guideway purposes for the Honolulu Rail Transit Project (H RTP). This property, for which a 860 square-foot partial acquisition is required, is on the critical path for successful completion of the City Center Section of the H RTP. The property is owned by RSD Corp.

HART recommends use of eminent domain to acquire the property.

2. Background/Justification

This property (Tax Map Key 2-3-007-056) was designated as needed for the H RTP and identified in the Final Environmental Impact Statement (FEIS). As required under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) and FTA C5010.1D, the Owners were notified of HART's intent to acquire the property. An appraisal was conducted following URA guidelines, which took into consideration all site conditions and potential impacts.

- An appraisal report with an effective date of May 11, 2015 was conducted.
- An Letter of Offer dated July 6, 2015 was delivered.
- Owner has not provided any formal correspondence or counteroffer.

This parcel is being referred to eminent domain in order to adhere to the project construction timeline. Access to this parcel is needed as soon as possible in order to avoid costly delays to the project schedule and timing. Negotiations with the Owner will continue during the eminent domain process.

3. Procurement Background

N/A

4. Financial/Budget Impact

The project budget includes an estimated cost for legal action associated with the eminent domain of the property.

5. Policy Impact

There is no policy impact since this action conforms to the requirement of the URA, FTA 5010.1D and Article XVII of the Charter of the City and County of Honolulu.

6. Public Involvement

N/A

7. Alternatives

There is no feasible alternative to avoid the above described impacts to the property.

8. Exhibits

Exhibit 1 – Letter of Offer dated July 6, 2015.

Exhibit 2 – Appraisal Summary prepared by Yamaguchi & Yamaguchi, Inc. with an effective appraisal date of May 11, 2015.

Certified and Recommended by:



Executive Director and CEO

8/20/15

Date

fm



IN REPLY REFER TO:
CMS-AP00ROW-00963

HONOLULU AUTHORITY for RAPID TRANSPORTATION

Daniel A. Grabauskas
EXECUTIVE DIRECTOR AND CEO

HAND-DELIVERED

BOARD OF DIRECTORS

July 6, 2015

Ivan M. Lui-Kwan, Esq.
CHAIR

Donald G. Horner
VICE CHAIR

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Colleen Hanabusa
William "Buzz" Hong
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Terrence M. Lee

Mr. Raymond Suppa
RSD Corp.
4950 Kahala Avenue
Honolulu, Hawaii 96816

Dear Mr. Suppa:

Subject: Honolulu Rail Transit Project (H RTP)
1237 Hopaka Street
Parcel 490: Tax Map Key (TMK) 2-3-007-056 (Portion)
Letter of Offer

The Honolulu Authority for Rapid Transportation (HART) is constructing the H RTP. As part of the H RTP, HART will need to acquire a portion of your property. An appraisal of the property identified as TMK 2-3-007-056 has been completed to determine just compensation.

A review of public records indicates that you are the Owner of Record of the property HART is seeking to acquire for this Project. Based on our findings as contained in the enclosed Statement of Just Compensation, HART offers to purchase a portion of your property, a total of 860 square feet, in fee simple, free and clear of all liens and encumbrances for guideway purposes, for the total consideration of \$205,000 (Two Hundred Five Thousand Dollars), as shown colored in red on the enclosed map.

In addition, HART offers severance damages for 7 parking stalls for a consideration of \$168,000 (One Hundred Sixty-Eight Thousand Dollars).

The total offer for acquiring the interest in your property is \$373,000 (Three Hundred Seventy-Three Thousand Dollars). Costs incidental to closing escrow for this transaction will be paid by HART except prorated costs such as taxes and insurance.

The amount of offer is predicated on the assumption that there exists no hazardous substance, product, or waste on the subject property. Please be advised that the amount offered is subject to completion of an environmental site assessment by HART, and the cost to remediate any identified findings may affect the valuation of the subject property.

Mr. Raymond Suppa
Page 2
July 6, 2015

If this offer is acceptable, please sign the duplicate of this letter and return it in the enclosed envelope by **August 6, 2015**. The remaining copy is for your file. Enclosed for your information are the Appraisal Summary Statement and General Acquisition and Relocation Information Brochure. Also enclosed is a draft Possession and Use Agreement for your review, consideration, and for further discussion with your acquisition agent. The Possession and Use Agreement is intended to provide you early access to most of the purchase price of this acquisition subject to HART being provided access to the portion of your property required for construction of the HRTP with minimal risk to the Project. Under this agreement, your rights to the full just compensation amount are fully reserved and enforceable.

It is the desire of HART to acquire private property through voluntary purchase if possible. While HART has the power of eminent domain, HART has not sought the authority nor made any decision to exercise the power of eminent domain to acquire your property at this time.

In accordance with federal regulations affecting real property transactions, we request your cooperation in providing us with your Taxpayer Identification Number. Please execute and return the enclosed IRS Form W-9 at the same time. The W-9 is required by our Department of Budget and Fiscal Services to release the check.

HART has retained the services of Paragon Partners Ltd to assist you with the acquisition process. Please contact Mrs. Brooke Sipe at 536-5900 if you have any questions or to discuss this matter further.

Sincerely,

A handwritten signature in black ink, appearing to read 'Daniel A. Grabauskas', with a stylized flourish at the end.

Daniel A. Grabauskas
Executive Director and CEO

Enclosures

Mr. Raymond Suppa
Page 3
July 6, 2015

ACCEPTED:

RSD CORP.

By _____
Its

Print Name: _____

Dated: _____



**Yamaguchi &
Yamaguchi, Inc.**
Real Estate Appraisal &
Consulting Services

PROJECT

Honolulu Rail Transit Project

Parcel Designation: (1) 2-3-007-056
HART RW Parcel: 490
Owner: RSD Corp.
1237 Hopaka Street
Honolulu, Hawaii 96814

AN APPRAISAL REPORT OF

HCDA Central Kakaako District
Partial Land Acquisition

CLIENT

Paragon Partners Ltd. for the Honolulu Authority for Rapid Transportation

PREPARER

Jon F. Yamaguchi, CRE, FRICS, SRPA, SRA

EFFECTIVE DATE OF APPRAISAL

May 11, 2015



**Yamaguchi &
Yamaguchi, Inc.**
Real Estate Appraisal &
Consulting Services

May 27, 2015

Ms. Georgia Marquis
Paragon Partners Ltd. for the Honolulu Authority for Rapid Transportation
5762 Bolsa Ave., Suite 201
Huntington Beach, CA 92649

Re: Honolulu Rail Transit Project
HART RW Parcel 490
Parcel Designation: TMK (1) 2-3-007-056
1237 Hopaka Street, Honolulu, Hawaii 96814

Dear Ms. Marquis,

At your request, we have appraised a real property interest for the above real estate. Our objective was to form one or more opinions about the market value for a 100% ownership interest in the subject property's fee simple estate assuming no liens or encumbrances other than normal covenants and restrictions of record.

The purpose of this appraisal report is to assist the Honolulu Authority for Rapid Transportation in the *Partial Acquisition and Easement Evaluation* for Eminent Domain acquisition proceedings of the subject property as part of the Honolulu Rail Transit Project.

As a preview, subject parcel 56 consists of 12,000 square feet and zoned Central Kakaako District. The owner of parcel 56 also owns adjacent parcels 91 (4,000 s.f.) and 93 (6,056 s.f.) and for this appraisal the total square footage of 22,056 square feet as explained in the Larger Parcel Description in this appraisal report. Per our exterior observation and tax office records, Parcel 56 is currently improved with a 4,051 square foot warehouse structure originally built in 1939 and altered in 2006, 2007 and 2013. Parcel 91 is a vacant asphalt paved parking lot used in conjunction with the larger parcel. Parcel 93 is improved with a 10,770 square foot retail-office building consisting of 5,385 square feet on the 1st level and 5,385 on the 2nd level. These improvements are in relatively average to good physical condition. Except where otherwise noted, these improvements are not included in our valuation.

The partial acquisition area identified as parcel 490 along the property boundary frontage on Kona Street consists of 860 square feet. A Temporary Construction Easement (TCE) identified as DD is situated adjacent and inside of the acquisition area with a total square footage of 471 square feet.

This valuation contains analyses, opinions, and conclusions along with market data and reasoning appropriate for the scope of work detailed later herein. It was prepared solely for the intended use and intended user(s) explicitly identified in the attached report. Unauthorized users do so at their own risk. The appraisal is communicated in the attached Appraisal report, and conforms to the version of the Uniform Standards of Professional Appraisal Practice (USPAP) in effect on this report's preparation date of May 27, 2015.

For purposes of this appraisal report the definition of market value from the fifth edition of the *Uniform Appraisal Standards for Federal Land Acquisitions* was utilized and is defined in the Market Value Criterion section of this report.

This letter is not an appraisal report hence it must not be removed from the attached 123-page report. If this letter is disjoined from the attached appraisal report, then the value opinions set forth in this letter are invalid because the analyses, opinions, and conclusions cannot be properly understood.

In general, valuation of the subject property involves no atypical issues. All value opinions are affected by all the information, extraordinary assumptions, hypotheses, general limiting conditions, facts, descriptions, and disclosures stated in the attached appraisal report. After careful consideration of all factors pertaining to and influencing value, the data and analysis thereof firmly supports the following final value opinion(s) for the subject property partial acquisition and temporary construction easement as of May 11, 2015:

\$ 5,267,000	<i>“As Is” Indicated Market Value of the Larger Parcel</i>
\$ 5,061,000	<i>“As Is” Indicated Market Value of the Remainder Parcel</i>
\$ 205,000	<i>“As Is” Indicated Market Value of the Partial Acquisition</i>
\$ 205,000	<i>“As Is” Indicated Market Value of the Partial Acquisition (Rounded)</i>
\$ 168,000	<i>Add: Total Severance Damages to the Remainder Property</i>
\$ 0	<i>Less: Special Benefits to the Remainder Property</i>
\$ 0	<i>Add: Contributory Value</i>
\$ 373,000	<i>Total Fair Market Value of the Partial Acquisition (Rounded)</i>
\$ 8,960	<i>Estimated Annual Rent Per annum @ 8% for the TCE</i>
\$ 747	<i>Estimated Monthly Rent Per annum @ 8% for the TCE</i>

Thank you for your business. Let us know how we may further serve you.



Jon F. Yamaguchi, CRE, FRICS, SRPA, SRA
 President / CEO
 Certified General Appraiser
 Hawaii License CGA 31
 License Expiration Date: 12/31/2015