NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

2008 JUL -8 AM 9:36
FILED
E.M. RIMANDO
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

NO. 28853

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

In the Matter of the PUBLIC UTILITIES COMMISSION
Instituting a Proceeding to Investigate Whether Act 59, Session Laws of Hawaii 1974, Invalidates, Voids, or Renders Unenforceable the 1961 Agreement Between the Trustees Under the Will and of the Estate of Bernice P. Bishop, Deceased; Kaiser Hawaii Kai Development Co.; and the City and County of Honolulu.

APPEAL FROM THE PUBLIC UTILITIES COMMISSION
(DOCKET NO. 2006-0021)

ORDER GRANTING STIPULATION FOR DISMISSAL
OF CITY AND COUNTY OF HONOLULU'S APPEAL WITH PREJUDICE
(By: Foley, Presiding Judge, Fujise and Leonard, JJ.)

Upon consideration of the Stipulation for Dismissal of City and County of Honolulu's Appeal With Prejudice, the papers in support, and the records and files herein, it appears that: (1) on November 15, 2007, the City and County of Honolulu filed a notice of appeal; (2) on November 27, 2007, the State filed a notice of cross-appeal; (3) the State's cross-appeal is fully briefed and ready for assignment; (4) the City and County of Honolulu and Hawaii-American Water Company are stipulating to dismiss the appeal filed by the City and County of Honolulu with each party to bear its own attorney's fees and costs; and (5) dismissal of the appeal filed by the City and County of Honolulu does not affect the State's appeal. See HRAP Rule 4-1(d) (if the appellate court dismisses the initial appeal, the cross-appeal may nevertheless be prosecuted to its conclusion). Therefore,

IT IS HEREBY ORDERED that the appeal filed by the City and County of Honolulu is dismissed. The parties shall bear

their own attorney's fees and costs related to the appeal of the City and County of Honolulu.

IT IS FURTHER ORDERED that the appellate clerk shall make the State's appeal ready for assignment to a merit panel.

DATED: Honolulu, Hawai'i, July 8, 2008.

Presiding Judge

Associate Judge

Associate Judge