

NO. 28853

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

EM. RIMANDO  
CLERK, APPELLATE COURTS  
STATE OF HAWAII

2008 JUL -8 AM 9:36

FILED

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

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

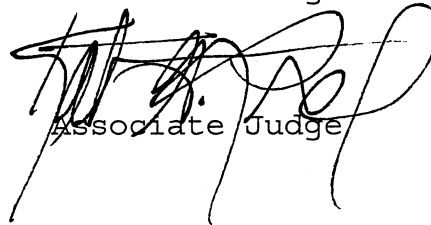
their own attorney's fees and costs related to the appeal of the City and County of Honolulu.

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.

  
Daniel R. Foley  
Presiding Judge

  
AUSA Ash Fujim  
Associate Judge

  
Associate Judge