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East Oahu land becomes legal battleground

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A proposal to build 180 recreational cabins on preservation land near the Ka Iwi coastline has so united Hawaii Kai residents in opposition that the developer's plans have stalled.

Now some are wondering if that was the plan all along.

According to people who attended a Jan. 8 **Hawaii Kai Neighborhood Board** meeting, the essence of what William McCorrison, attorney for Honolulu developer QRM, told the board was this: "You either buy my client out, or let him build the cabins, or we'll sue and keep this in court."

Hawaii Kai resident Elizabeth Riley, a member of the Livable Hawaii Kai Hui that opposes QRM, noted that McCorrison specializes in litigation.

"One has to assume that in this case there might be a separate agenda," she said.

Neither McCorrison nor the property owners would respond to PBN's requests for comment. Calls to both McCorrison and Robert Gerell of Gerell Management, listed as QRM's agent with the state, were not returned. Aaron Eberhardt, who has previously spoken on QRM's behalf as development director, referred inquiries to McCorrison.

Not giving up

State Rep. Gene Ward, R-Hawaii Kai-Kalama Valley, said it is clear to him that QRM does not intend to give up.

"Some have said that all this stuff is being done to jack up the price to sell the land off if they don't get permission to build," Ward said. "People hire McCorriston when they are in a tight spot, and he's pretty good at getting people out of tight spots -- at \$500 a hour."

Since the development was first proposed two years ago, the Hawaii Kai Neighborhood Board overwhelmingly rejected QRM's overtures, including a proposed compromise last month that would have reduced the project's size by 50 percent.

The revised plan called for either the City & County of Honolulu or a nonprofit to buy the remaining parcel.

But the land's value is disputed. McCorriston has said his clients want as much as \$20 million. City records put its value closer to \$2 million.

Exactly who owns QRM remains a mystery, but some opponents think ownership is local.

"I'll bet there are some prominent names connected with QRM who would like to remain unnamed," said area resident Ed McCauley, who has tracked the Ka Iwi dispute closely.

The land owner of the Ka Iwi parcels is **Maunalua Associates** of Hawaii Kai. A woman answering the company's phones told PBN she had "no idea" who the owners were.

But Riley says she has traced Maunalua Associates to a Walnut Creek, Calif., firm called **ZKS Real Estate Partners**.

The company's Web page identifies it as "a seasoned real estate investment and asset management company that partners with and provides expertise to major insurance companies and world-class investors like the **Zurich Life Companies**, The Carlyle Group, Met Life, **Kemper Insurance**, **Westbrook Partners**, **Pacific Coast Capital Partners**, and **Apollo Real Estate Advisors**.

"Since 1996, ZKS Real Estate has invested in 5.5 million square feet of property with a value of over \$1 billion," its Web page states.

It also lists as part of its portfolio the Ka Iwi parcels and a retail area in Kalama Valley.

A representative with ZKS did not return PBN's calls.

Honolulu Councilman Charles Djou, whose district includes Hawaii Kai, succeeded in passing legislation in 2006 that requires would-be developers of preservation land to hold public hearings when proposing major use variances.

"McCorriston is arguing under a section of the zoning code that cabins could in theory be built on preservation land," said Djou, who also is an attorney. "The idea is that they would be like a hunting shack or a fishing lodge. I don't agree, but it is an interesting, creative legal strategy. I think this will eventually go to court."

McCorriston's next move, if any, is unknown.

Henry Eng, director of the city's Department of Planning and Permitting, said that as of Tuesday McCorriston had not filed a third time for a conditional use permit that would allow for development.

The department rejected QRM's earlier requests, saying the proposals did not meet preservation land zoning requirements.

Help from high court

In the long run, however, McCorriston and QRM may have the law in their favor.

David Callies, a law professor at the University of Hawaii at Manoa who teaches classes on land use and property law, said the U.S. Supreme Court ruled 16 years ago that land owners cannot be deprived of appropriate economic benefit from their property. If they are, government could be liable for compensation.

"Mac's a pretty competent trial lawyer, probably the best in town," Callies said of McCorriston. "He knows land and property as well as anybody -- which is not to say that this is what this case is about."

State Sen. Sam Slom, R-Diamond Head-Hawaii Kai, opposes QRM because recreational use on preservation land could have serious repercussions

"This scheme has great implications far beyond Hawaii Kai and East Oahu, because there is preservation land on lots of ridges on Oahu," Slom said. "It would basically open the interest and desire for purchase and development of other preservation lands."

Ward notes that previous Hawaii Kai community action stopped development at nearby Sandy Beach and Queen's Beach. But he's also calling on colleagues at the Legislature for support.

House lawmakers have incorporated language into the budget bill that calls for buying the two parcels for as much as \$5 million.

But another House bill that would have reclassified the parcels as conservation land stalled in committee, as did a Senate bill that would have led to the purchase of the entire Ka Iwi coastline.

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