

**Orchidland Community Association, Inc.**  
**Approved Minutes of the Special Board of Directors Meeting**  
**February 28, 2012**

**Call to Order:** The meeting was called to order at 5:53 p.m. by Jerry Gardner.

**Members Present:** Jerry Gardner, President; Wayne Carey, Vice President; Ralph Boyea, Secretary; Derek Shimizu, Treasurer; Dennis McCartin, Road Chair; and David Aasve, interim Director. Adrian Dalton, Road Manager, was also present.

**Guests:** Roger Hawney and Dan Widdows.

**Legal Foundation for Collections Policy:** Kazuhise Abe was President of Hilo Development Corporation when Orchidland Estates became a subdivision. He was also our Territorial Senator, and when Hawaii became a state, he was appointed Hawaii Supreme Court Justice. In 1985 he resigned his position as Chairman of the Judiciary Disciplinary Committee because he was indicted for fraud, for stealing over \$3 million from the people of Hawaii and \$37 million worldwide. When Hawaiian Paradise Park's lawsuit went into the Supreme Court in 1984, "his fingers were still in the pie." On June 4, 1987 OLCA filed case 87-326 in the Third Circuit Court, *OLCA vs. Hilo Development Corporation et al*, against all Orchidland lot owners to obtain the right to collect mandatory road fees and place liens, with Stuart Oda as representing attorney. The named defendants were required to assume the expense of representing the entire defending class. Richard and Sharon Miner, Les Brown and Dale and Carol French filed oppository documents, claiming non-notification of the suit, secret meetings, misappropriation of funds, as well as the legal points of the case.

On December 8, 1987, Stuart Oda filed an affidavit of mailing stating that Robert Coates "is Corresponding Secretary for OLCA, Plaintiff for the above action. That on December 2, 3, and 4 of 1987, he mailed 2068 notices of the class action suit as part of the Orchidland Estates newsletter"—six months after the lawsuit was filed.

On March 14, 1988 Oda stated in a court affidavit that OLCA President Steve Eagle informed him that in a meeting on March 5, the membership voted to terminate civil case #87-326. According to OLCA minutes, the vote was 80 "to cease and desist" the lawsuit and 15 to continue, with no abstentions.

The Frenches continued in court for a "determination of prejudice", which would mean the case could never be reopened. Oda counterfiled to dismiss without prejudice. The judge decided to dismiss the case without prejudice.

A special membership meeting was held on November 19, 1988, with 9 directors, 5 members and 2 guests present. At this meeting a motion was passed to refer reopening the lawsuit to committee.

On June 7, 1991, Oda refiled the class action lawsuit. It was identical to the 1987 suit, except for the named defendants. In both, Hilo Development Corporation was the primary named defendant, although already defunct before either suit was filed.

In February, 1992, the judge signed an order setting a trial date for June 1, with a discovery deadline of May 1. However, on March 17, 1992, a hearing was held in which Oda filed for summary judgment. The court granted the summary judgment and instructed Oda to prepare a “finding of facts”.

Wayne suggested that the State and County should be held responsible for maintaining our roads, since they require us to keep them open to the public.

Roger said that Friends of Puna’s Future’s purpose is to unify the private subdivisions and provide them with a unified voice.

In both the December, 2011 and January, 2012 Board meetings, Ralph moved that *OLCA Road Maintenance Lawsuits, revised 11/18/11*, cover letter and document, be placed in the Directors’ manuals. Both times the motion was tabled for further discussion. Ralph said that, based on evidence presented, the Orchidland records appear to be incomplete. He withdrew his motion.

Derek said that he at least wants to determine whether paving fees are mandatory or not mandatory. [*The Board went into a brief recess at this point.*]

The Directors agreed that the Board needs to come up with a Collections Policy.

**Adjournment:** The meeting was adjourned at 8:31 p.m.

Submitted by:

Kirstie Goin, Recording Secretary

Ralph Boyea, Corporate Secretary