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12 September 2024

Randall Y. Kaya, Esq.
Law Offices of Leslie R. Kop
Suite 500
1100 Ward Avenue
Honolulu, HI 96814

Re: *Walsh v MMI Realty Services*
Our File No. 20240171

Dear Mr. Kaya:

In accordance with your request, this report is being prepared to supplement my 05 August 2024 report.

Analysis/Discussion

In the Statement of Majorie Walsh, she cites numerous codes and standards in regard to the storm drain. This report is to address the cited codes and standards.

Paragraph 35 – Ms. Walsh and her husband were "informed storm drains are not covered by the building code" according to the Department of Planning and Permitting at the City and County of Honolulu. I would agree that since the subject storm drain was not covered by the building code, no building code was violated.

Paragraph 37 – Ms. Walsh discussed "Rules Relating to Storm Drainage Standards", but cited inlets at a *gutter* (i.e., part of a curb), which the subject storm drain is not.

Paragraphs 38-40 – Ms. Walsh discusses that the subject storm drain has openings that are in violation of the 2010 ADA Standards for Accessible Design. A representative of the State of Hawaii Disability and Communication Access Board stated the following:

"For ADA, the opening requirement (ADAAG 302.3) would apply to grates that are located within (or part of) and accessible route. The grate shown in the picture is at the flared

EXHIBIT "B"

portion of the raised crosswalk and the flared portions of raised crosswalks are typically not part of the accessible route. The striped area of crosswalks are typically the extents of the accessible portion."

Ms. Walsh then states "For the reasons above, I believe that *all* the parking lot at near [sic] Whole Foods at Kahala Mall should be considered "an accessible route."

The storm drain is 63 inches from the closest portion of the marked crosswalk and is not part of the flare (i.e., ramp for the elevated crosswalk). I agree with the State of Hawaii Disability and Communication Access Board that the storm drain is not part of the accessible route required withing the parking lot and therefore not subjected to ADA regulations. There is no requirement that the entire parking lot needs to conform with ADA regulations.

Paragraph 42 – The National Floor Safety Institute standard, NFSI B101.9-2020 is a voluntary standard with no evidence it has been adopted or recommended by any authoritative body in the State of Hawaii regarding building maintenance or inspection compliance. I have not reviewed any materials or evidence indicating this voluntary standard was used or should have been used by Kahala Mall.

Paragraph 43 – The International Property Maintenance Code (IPMC) 2021 is not a code that has been adopted by the State of Hawaii.

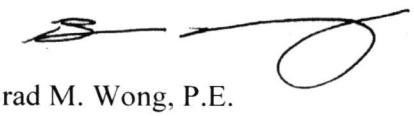
Conclusions

As stated in my 05 August 2024 report, the subject area where Ms. Walsh fell was not required to conform with ADA standards/guidelines. The area was outside the designed and marked area of the accessible route from the parking lot to the mall entrance. The other codes or standards cited by Ms. Walsh are either not applicable or voluntary standards. Additionally, these codes or standards and not adopted by the State of Hawaii or Kahala Mall.

These findings and opinions are based on information provided to date. If additional information or material is reviewed, supplemental opinions may be formed.

If you have any questions, or if I can be of further assistance, please do not hesitate to call.

Sincerely,



Brad M. Wong, P.E.