

Rail lawsuit gets muted response from federal government

By Gene Park

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The Federal Transit Administration has filed its response to a high-profile lawsuit to stop the city's plan to construct a \$5.3 billion rail system.

The lawsuit, filed by rapid-transit critic Cliff Slater, former Gov. Ben Cayetano, former judge and legislator Walter Heen and University of Hawaii law professor Randy Roth, alleges that the proper environmental processes were not completed, and that alternative methods of technology and routes were not considered.

The response shed little light on the federal government's strategy in defending the case. Much of the 30-page document, filed Friday in federal court, contains pro forma denials of the allegations.

The federal government also says to some of the charges that it lacks "knowledge or information sufficient" to answer to the allegations, and that certain allegations "constitute conclusions of law to which no response is required." The response is similar to the city's response filed in July.

"There's almost no argument there, compared to our complaint, which is much more specific," Cayetano said Saturday. "I guess the thing speaks for itself. I'm not sure what to make of it, actually. ... I'm not sure they even have answers for what we allege."

Roth said the federal government's reliance on "We don't know" denials leaves it vulnerable.

"We've been expecting to win this case, but the weakness of this answer reinforces our belief," Roth said. "In fact, we are thinking about asking the judge to tell the defendants to hold off on all work on the rail system until the case has been finally resolved."

The lawsuit seeks to invalidate the environmental impact statement and federal government approval,

naming the city, city Transportation Director Wayne Yoshioka, the U.S. Department of Transportation, Transportation Secretary Ray LaHood, the Federal Transit Administration, FTA Administrator Peter Rogoff and FTA Regional Administrator Leslie Rogers.

The city is accused of violating environmental, historic preservation and transportation laws in preparing the EIS. It argues that at least 32 historic sites will be adversely affected by the planned rail system, which will run 20 miles from East Kapolei to Ala Moana. Plans are for 21 stops, including in Waipahu, Aiea, Kalihi, Chinatown and Kakaako.

The Chinatown Historic District, the Pearl Harbor National Historic Landmark and Aloha Tower are among the 32 historic sites the lawsuit said would be negatively affected. Rail opponents also argue views of historic downtown buildings will be affected.

The lawsuit also claims the city requirements of the project were so narrowly defined that reasonable alternatives were not considered.

The lawsuit is one of several outstanding issues that threaten to derail the project.

There has been a delay in the final awarding of the contract to build the rail cars, with two of the losing bidders protesting the city's decision to choose Ansaldo Honolulu. A senior hearings officer for the state Department of Commerce and Consumer Affairs is hearing an appeal of the decision from Sumitomo Corp. of America, one of the two companies that lost their bids.

A ruling is expected tomorrow, and if Sumitomo loses

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