

Council Chair  
Danny A. Mateo

Vice-Chair  
Joseph Pontanilla

Council Members  
Gladys C. Baisa  
Robert Carroll  
Elle Cochran  
Donald G. Couch, Jr.  
G. Riki Hokama  
Michael P. Victorino  
Mike White

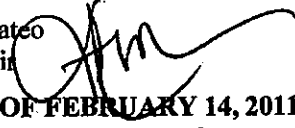


Director of Council Services  
Ken Fukuoka

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.maui-county.gov/council](http://www.maui-county.gov/council)

February 10, 2011

TO: The Honorable Joseph M. Souki, Chair  
House Committee on Transportation

FROM: Danny A. Mateo  
Council Chair 

SUBJECT: **HEARING OF FEBRUARY 14, 2011; TESTIMONY IN OPPOSITION TO HB 437,  
RELATING TO HIGHWAYS**

Thank you for the opportunity to testify in opposition to this important measure. The purpose of this measure is to specify that county highways include old government roads. In addition, the measure defines old government roads.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I oppose this measure for the following reasons:

1. Chapter 12.50, Maui County Code, addresses the subject of county maintenance of old government roads. Section 12.50.10, MCC, states "[t]his chapter shall not be construed as an admission of ownership nor as an acceptance by the council of any old government road." The Council has subsequently maintained that this matter should be addressed through negotiations between the counties and the State rather than by legislative fiat.
2. Title to such old government roads is frequently undetermined, particularly when the roads are abandoned or unused. To expose the county to both the responsibility of maintenance as well as potential liability for these unused roads with no remedy to dispose of them is patently unfair.
3. The term "old government road" is not adequately defined in the measure. Current definitions vary, and unnecessary disputes and litigation may result from this failure to adequately define the term.

For the foregoing reasons, I oppose this measure.

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February 10, 2011

TO: Honorable Joseph M. Souki, Chair  
House Committee on Transportation

FROM: Robert Carroll *Robert Carroll*  
Council Member, East Maui

DATE: Monday, February 14, 2011

SUBJECT: **OPPOSITION OF HB 437, RELATING TO HIGHWAYS**

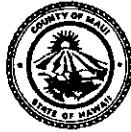
I oppose HB 437 for the reasons cited in testimony submitted by the Maui County Council Chair, and urge you to oppose this measure.

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February 10, 2011

TO: Honorable Joseph M. Souki, Chair  
House Committee on Transportation

FROM: Joseph Pontanilla, Council Vice- Chair

A handwritten signature in cursive script, appearing to read "Joseph Pontanilla".

DATE: Monday February 14, 2011

SUBJECT: **TESTIMONY IN OPPOSITION TO HB 437, RELATING TO HIGHWAYS**

Thank you for the opportunity to testify in opposition of this measure. I provide this testimony as an individual member of the Maui County Council.

I **oppose HB 437** for the reasons cited in testimony submitted by Maui County Council Chair Danny A. Mateo. I urge you not to support this measure.

Speaker Emeritus Joseph M. Souki , Chair  
Representative Linda Ichiyama, Vice Chair  
Committee on Transportation

House of Representatives of the State of Hawai'i

Lance D. Collins, PhD.  
Law Office of Lance D. Collins

Monday, February 14, 2011  
Support of HB No. 437, Relating to Highways

My name is Lance D. Collins. I am an attorney in private practice on the island of Maui and testify on my own behalf. I submit testimony **in support** of this bill.

One long-standing problem related to comprehensive transportation reform is the status of old government roads. Prior to 1947, the counties held jurisdiction over all public highways and were responsible for their maintenance. With the creation of the state highway system, this jurisdiction was fractured and created the problem of the "old government roads." The Legislative Reference Bureau conducted a comprehensive review of the problem in 1989, documented in their report entitled, "Roads in Limbo: an Analysis of the State-County Jurisdictional Dispute."

Ironically, it is the County of Maui that is the only hold-out among the four counties that has not accepted the findings of this report.

As the counties and State look for ways to maintain and better address the transportation needs of residents, it is incumbent upon us to look at reclaiming and re-using old government roads and the accept the reduced costs associated with such reclamation than to needlessly spend millions of dollars to buy new land.

It is appropriate to clarify this issue. This is not an unfunded mandate because County's can easily dispose of rights of way as provided for in Section 264-3, Haw. Rev. Stat. Second, the counties have historically had jurisdiction over ALL roads except those that were taken to the state highway system. It may not be politically popular at a time when people are desperate for more transportation solutions, but it certainly doesn't constitute an unfunded mandate since nothing new is being mandated. It is likely that you will receive testimony from Maui County opposing this bill with sister-county support from the other counties. Their testimony should be ignored for the above reasons.

Thank you for this opportunity to provide testimony on this measure.  
Mahalo.