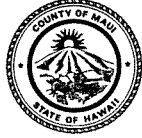


Council Chair
Mike White

Vice-Chair
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Councilmembers
Gladys C. Baisa
Robert Carroll
Elle Cochran
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Stacy Crivello
Riki Hokama



Director of Council Services
David M. Raatz, Jr., Esq.

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

February 17, 2015

TO: Honorable Karl Rhoads, Chair
House Committee on Judiciary

FROM: Robert Carroll *Robert Carroll*
Councilmember, East Maui

DATE: Thursday, February 19, 2015

SUBJECT: **OPPOSITION TO HB 1408 H.D. 1, RELATING TO PRIVATE ROADS**

Thank you for the opportunity to testify in opposition to this important measure. The purpose of this measure requires the counties to repair and maintain private roads that have been previously maintained by the county. Requires the county to accept the dedication or surrender of a private road that is used by the public without restriction and is maintained by county or State.

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 There are many substandard roads within the County of Maui, many of which are referred to as "old government" or private roads". These "old government and private roads" are often neglected because neither the county, state or federal government will assume responsibility for the maintenance of these roads. Because the County is the initial contact and closest governing entity to residents that reside along "old government and private roads", the County is often times forced to address issues raised by the constituency relating to repairs and maintenance of these roads and bridges.
- 2 It is necessary that ownership and responsibility must be addressed once and for all. Many roads within the East Maui district are classified as "old government or private roads"; with heavy weather patterns often times impacting this region, the roads and bridges are the hardest hit and must be properly maintained to insure the safety of residents, pedestrians and vehicular traffic. Accordingly, there exist certain roads that counties prefer be within local jurisdiction to insure the health and safety of its residents. It is therefore these roads, on a case by case basis, the legislature should transferred for purposes of maintenance and access to counties. Furthermore, I encourage the state to focus its efforts to work with local governments to determine which roads, can be mutually agreed upon, and transfer ownership to the counties.

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- 3 To initiate a blanket transfer of all old government or private road, would create a financial hardship. The counties do not have the funds to accept and maintain all the old government and private roads. To force the counties to accept these roads would be a great financial burden on local government. If the state insists on forcing the counties to take all these roads they must provide funding to assist with maintaining the roads.

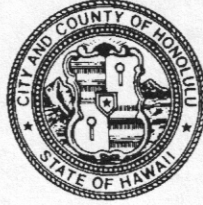
For the foregoing reasons, I oppose this measure.

CM:EM:private_roads_15session_hb1408hd1:grs

DEPARTMENT OF FACILITY MAINTENANCE
CITY AND COUNTY OF HONOLULU

1000 Ulu`ohia Street, Suite 215, Kapolei, Hawaii 96707
Phone: (808) 768-3343 o Fax: (808) 768-3381
Website: www.honolulu.gov

KIRK CALDWELL
MAYOR



ROSS S. SASAMURA, P.E.
DIRECTOR AND CHIEF ENGINEER

EDUARDO P. MANGLALLAN
DEPUTY DIRECTOR

IN REPLY REFER TO:
15-047

February 18, 2015

The Honorable Karl Rhoads, Chair
and Members of the Committee on Judiciary
House of Representatives
Hawaii State Capitol
415 S. Beretania Street, Room 302
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members of the Committee:

SUBJECT: Opposition to House Bill No. 1408 HD1, Relating to Private Roads

Thank you very much for the opportunity to present testimony in opposition to House Bill No. 1408, HD1, Relating to Private Roads ("House Bill 1408"), which requires the legislative body of a county to accept the dedication or surrender of a highway, road, alley, street, way, lane, bikeway, bridge, or trail where such highway, road, alley, street, way, lane, bikeway, bridge, or trail is used by the public without restriction and has a history of being maintained by the county or State. The measure also provides that, if a private highway, road, alley, street, way, lane, bikeway, bridge, or trail has been surrendered to the county, the county shall be responsible for performing construction, reconstruction, preservation, resurfacing, restoration, and rehabilitation upon such highway, road, alley, street, way, lane, bikeway, bridge, or trail pursuant to all State laws and rules applicable to the public highway.

The City and County of Honolulu (the "City") strongly opposes House Bill 1408.

Section 264-1(d) of the Hawaii Revised Statutes, as amended already requires the legislative body of a county to accept dedication or surrender of a road, alley, street, bikeway, way, lane, trail, bridge, or highway that is constructed and completed as required by any ordinance of the county or any rule, regulation, or resolution thereof having the effect of law. If a road, alley, street, bikeway, way, lane, trail, bridge, or highway complies with the current code, the City must accept it.

The Honorable Karl Rhoads, Chair
February 18, 2015
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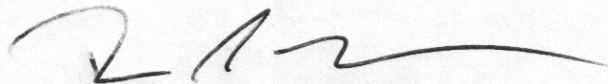
House Bill 1408 would effectively require the City to accept any non-compliant road, alley, street, bikeway, way, lane, trail, bridge, or highway if used by the public and maintained by the City or the State. Such a requirement would strongly encourage developers to reject their obligation to complete their roads as required by law or to maintain their roads and would strongly discourage the City from initiating maintenance of any private road, alley, street, bikeway, way, lane, trail, bridge, or highway in the public's interest.

House Bill 1408 forces the City to accept potentially thousands of non-compliant highways, roads, alleys, streets, ways, lanes, bikeways, bridges, and trails, imposing unreasonable responsibility and liability on the City.

House Bill 1408, if enacted, will require the City to take on additional responsibility it is not now required to perform, will increase the level of service the City currently provides and will result in an unfunded mandate to the City in violation of Article VIII, Section 5 of the Hawaii State Constitution.

For the reasons stated above, the City strongly opposes House Bill 1408, and strongly urges that the measure be filed.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Sasamura', with a long horizontal flourish extending to the right.

Ross S. Sasamura, P.E.
Director and Chief Engineer



TESTIMONY TO THE COMMITTEE ON JUDICIARY

Thursday, February 19, 2015, 2 p.m.

State Capitol, Conference Room 325

TO: The Honorable Karl Rhoads, Chair
The Honorable Joy A. San Buenaventura, Vice Chair
Members of the Committee

TESTIMONY IN SUPPORT OF HOUSE BILL 1408 HD1 RELATING TO PRIVATE ROADS

I am Stafford Kiguchi with Bank of Hawaii testifying in support of HB1408 HD1 dealing with private roads. I will also offer comments and observations related to the particular issue of road ownership by third parties.

We appreciate and support the committee's initiative and efforts in addressing this long-standing issue and public concern. In addition to the "roads in limbo," where there is a dispute of ownership between the city and state, this measure also aptly notes that there are many roads owned by third parties which are used regularly by the public.

Bank of Hawaii owns a number of roads that were acquired when it purchased Hawaiian Trust and Bishop Trust companies dating back to the 1980s. It is believed that decades ago when the homes adjacent to these roads were developed and deeded to the homeowners by the trust companies as agent for the developers, these roads, by right, should have been dedicated to the city. However, for unknown reasons, that transfer never occurred and legal title appears to have remained in the trust companies and subsequently with Bank of Hawaii as successor in interest.

Over the decades, the roads have remained open to the public with unrestricted access for cars, buses, refuse trucks, etc. Many of these roads are what is termed as "remnants" and abut or are sandwiched between sections of city-owned roads or streets. As a result, we know that in many cases the city currently provides maintenance services for these roads.

Despite its ownership, the bank does not enjoy the normal rights and privileges associated with ownership. We would not build on the roads nor would we deny homeowners access to their homes that front these roads. At the same time, there is no acceptable mechanism to assess any fees that could be applied toward road maintenance. As a result, the situation exists where Bank of Hawaii may have obligations but no rights.

-- more --

We also recognize that there is the issue of some older roads or streets not conforming to current codes. There are no remedies available to a non-government owner to address this dilemma. If there is a desire to bring such roads up to modern standards, there would potentially need to be an exercise of eminent domain of which only a government entity could do.

As noted in the bill, people seeking help when a road or street is in need of repair may face frustration and confusion when attempting to identify the proper authority to have repairs or maintenance issues addressed.

We believe that maintenance and ownership of such roads best belongs within the jurisdiction of the city and county. The city is best equipped with the knowledge and equipment to conduct any necessary planning, road repair and maintenance work.

For these reasons, we believe it makes most practical sense for the city to own and maintain these types of roads. It would provide the public a single point of contact to address its needs, and would also provide both clarity and consistency for the residents and homeowners.

We appreciate the Committee's interest and willingness to continue to examine solutions for this important issue.

Thank you for the opportunity to testify.

Stafford Kiguchi
Executive Vice President, Bank of Hawaii
694-8580

Submitted By	Organization	Testifier Position	Present at Hearing
Morris Haole Jr.	Individual	Support	No

Comments: This issue has caused so much problems for private home and land owners, it is time to settle this concern and do what is right for those who pay real property taxes.