



TESTIMONY TO THE COMMITTEE ON TRANSPORTATION

Monday, February 9, 2015

State Capitol, Conference Room 309

TO: The Honorable Henry J.C. Aquino, Chair
The Honorable Matthew LoPresti, Vice Chair
Members of the Committee

TESTIMONY IN SUPPORT OF HOUSE BILL 1408 RELATING TO PRIVATE ROADS

I am Stafford Kiguchi with Bank of Hawaii testifying in support of HB1408 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.

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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.

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.

In Section 2, subsection (c)(2) that deals with the surrender of public highways or trails, it could be beneficial to include a means for confirming that an "owner" has not asserted ownership for more than five years. This could be addressed by including language that allows the owner to provide an affidavit showing that no ownership has been asserted for more than five years and the owner is surrendering its ownership.

In order to help ensure that ownership of roads intended for broad public use can be efficiently transferred to the city, we would recommend including language to the effect: "In every case where the highway, road, alley, street, ~~bikeway,~~ way, lane, [trail,] bikeway, bridge, or [highway] trail is used by the public without restriction and has a history of being maintained by the county or state, the legislative body of the county shall accept the dedication or surrender of the same without exercise of discretion."

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
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