



**Testimony by:**  
FORD N. FUCHIGAMI  
DIRECTOR

Deputy Directors  
JADE T. BUTAY  
ROSS M. HIGASHI  
EDWIN H. SNIFFEN  
DARRELL T. YOUNG

IN REPLY REFER TO:

**STATE OF HAWAII**  
**DEPARTMENT OF TRANSPORTATION**  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

March 2, 2016  
11:00 a.m.  
State Capitol, Room 308

**H.B. 2049, H.D. 2**  
**RELATING TO TRANSPORTATION**

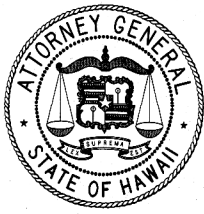
House Committee on Finance

---

The Department of Transportation respectfully wishes to express concerns regarding the condemnation of private roads by the state or counties. Condemnation is a complicated, time consuming and expensive process and more so when ownership is unclear. Although condemnation would provide clear title at the end of the process, it may require a fair market value be deposited in advance with the filing. The agency may then gain legal possession far in advance of legal title which may also create a quandary of liability for having possession long before any work is contemplated for the repair of the long unmaintained road. This version does not provide any indemnification from liability from the time the road is acquired until the agency can repair, rehabilitate or reconstruct the road to a good condition. Usually, condemnation is a tool used when repair, rehabilitation or reconstruction is contemplated in the near future.

Respectfully, the state and the counties already have the authority to condemn property for a public purpose so this may seem redundant.

Thank you for the opportunity to provide **comments**.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-EIGHTH LEGISLATURE, 2016**

---

**ON THE FOLLOWING MEASURE:**

H.B. NO. 2049, H.D. 2, RELATING TO TRANSPORTATION.

**BEFORE THE:**

HOUSE COMMITTEE ON FINANCE

**DATE:** Wednesday, March 2, 2016 **TIME:** 11:00 a.m.

**LOCATION:** State Capitol, Room 308

**TESTIFIER(S):** Douglas S. Chin, Attorney General, or  
William J. Wynhoff, Deputy Attorney General

---

Chair Luke and Members of the Committee:

The Department of Attorney General supports this bill. The Department submits these comments to address one potential issue with the bill as currently written.

The bill addresses the problem of privately owned roads. Often it is unclear who owns a privately owned road. Frequently, even if the owner is identified, the owner is not repairing the road. The road is not owned by either the County or the State, so no government entity will repair the road. This bill facilitates the dedication or condemnation of a privately owned road to the State or a county.

This bill resolves an issue under section 264-1(c), Hawaii Revised Statutes (HRS), as to whether surrender of a road requires the State's consent in order to be effective. It is the Legislature's prerogative to say what the law should be going forward. We strongly support the Legislature's resolution of the issue in this bill.

As to dedication, section 264-1(c), HRS, now provides that dedication will not be effective unless and until the appropriate state or county body accepts the dedication. This bill removes that proviso as to the county and instead provides that a county shall accept the dedication or surrender "without exercise of discretion."

The potential problem we identify is that the bill as written may constitute an unfunded mandate to the counties. Article VIII, section 5, of the Hawai'i State Constitution provides:

If any new program or increase in the level of service under an existing program shall be mandated to any of the political

subdivisions by the legislature, it shall provide that the State share in the cost.

The bill provides that counties – previously entitled to reject ownership of unwanted roads – would now be required to own these otherwise private roads.

The bill provides that roads condemned by a county or the State are exempt from laws requiring the government to improve or maintain the road. That limitation does not apply to roads dedicated to a county.

Requiring the counties to repair and maintain dedicated roads may be subject to challenge as constituting a “new program or increase in the level of service under an existing program.”

We note that the problem can be cured if the change requiring a county to accept a dedicated road is deleted.

We respectfully request that the Committee approve the bill with revisions.

DAVID Y. IGE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the House Committee on  
FINANCE**

**Wednesday, March 2, 2016  
11:00 AM  
State Capitol, Conference Room 308**

**In consideration of  
HOUSE BILL 2049, HOUSE DRAFT 2  
RELATING TO TRANSPORTATION**

House Bill 2049, House Draft 2 proposes to authorize the State or a county to obtain ownership over a road by condemnation pursuant to the State's powers of eminent domain. The measure also proposes to exempt the State and Counties from maintaining or improving condemned roads. **The Department of Land and Natural Resources ("Department") supports this version of the measure.**

The current draft of this measure provides the State and Counties the authority to assume ownership over a privately constructed highway, road, alley, street, way, lane bikeway, bridge or trail through condemnation proceedings pursuant to Chapter 101, Hawaii Revised Statutes. Providing the State or Counties this discretion will mitigate the Department's concern where a private developer can avoid building roads to the appropriate county or government standards and subsequently abandon such substandard roads to the Counties. Furthermore, exempting the State or County from regulatory requirements to perform construction, reconstruction, preservation, resurfacing, restoration and rehabilitation upon such condemned roads would alleviate a significant financial burden on the State and Counties.

Thank you for your consideration of this testimony.

**SUZANNE D. CASE**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**KEKOA KALUHIWA**  
FIRST DEPUTY

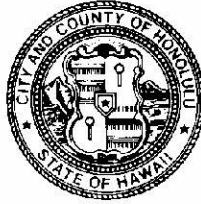
**JEFFREY T. PEARSON, P.E.**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

DEPARTMENT OF FACILITY MAINTENANCE  
**CITY AND COUNTY OF HONOLULU**

1000 Ulu'ohia Street, Suite 215, Kapolei, Hawaii 96707  
Phone: (808) 768-3343 • 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:

March 1, 2016

The Honorable Sylvia Luke, Chair  
and Members of the Committee on Finance  
Hawaii State Capitol  
415 South Beretania Street, Room 306  
Honolulu, Hawaii 96813

Dear Chair Luke and Members of the Committee:

Subject: HB 2049, HD2, Relating to Transportation

On behalf of the City and County of Honolulu (City), the Department of Facility Maintenance (DFM) supports the intent of HB 2049, HD 2, Relating to Transportation (the "Bill"), but requests that the Bill be further clarified regarding the condemnation of private roads.

Condemnation of any real property is not deemed to have taken place until a final order of condemnation is made by the court. As such, we recommend the following be used in place of the proposed amendment to HRS Section 264-1(c)(2):

"(2) [~~Surrender~~] ~~Condemnation~~ of public highways, roads, alleys, streets, ways, lanes, bikeways, bridges, or trails [~~shall be deemed to have taken place if no act of ownership by the owner of the road, alley, street, bikeway, way, lane, trail, or bridge has been exercised for five years and when, in the case of a county highway, in addition thereto, the legislative body of the county has, thereafter, by a resolution, adopted the same as a county highway or trail.~~], initiated by the state or county pursuant to chapter 101, shall be by final order of condemnation by a court."

We note that condemnation of a private road is not necessary to perform repair and maintenance of private roads when the county is unable to determine or locate the actual owner of the road.

The Honorable Sylvia Luke, Chair  
and Members of the Committee on Finance  
March 1, 2016  
Page 2

Section 265A-1 of the Hawaii Revised Statutes, as amended, which allows counties to repair any private street, does not require determination or identification of the owner of the street. Chapter 14, Article 32, "Maintenance of Private Streets and Roads" of the Revised Ordinances of Honolulu, as amended, which affords the City the authority to perform remedial patching, resurfacing, or paving of private, non-dedicated and non-surrendered roads which meet specific criteria, does not require the determination or identification of the owner of the road (ordinance attached for reference).

An upcoming City road rehabilitation project that is anticipated to begin later this calendar year includes privately owned segments of Colburn Street, Kalani Street, Auld Lane, and others. The attached map includes red colored highlights designating the streets that are included in this particular project.

The City acknowledges the various challenges that this Bill and other similar bills attempt to address. It remains a difficult issue with far-ranging consequences.

The City continues to embrace a State and counties commission that is staffed by the State and tasked with developing a recommendation to the 2018 State legislature that addresses how to accomplish the transfer of ownership of private roadways to the State and/or applicable county in order for the applicable roadway to be improved and maintained.

This Commission may also serve over a long term to implement the findings and decisions of the State Legislature, the Governor and the City. Subtasks might include the following:

1. Allocation of the roadways between the State and the City.
2. Phasing of the transfer over a period of time, such as 20 years.
3. The mechanism to effect such transfer, especially when the ownership of the private roadway is unclear.
4. The funding for not only the transfer of ownership, but also for the improvements and ongoing maintenance.

We look forward to working cooperatively with the State to reach a workable solution to this issue.

Sincerely,

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

Attachments (2)

After the enactment of the assessment resolution, the director of finance shall promptly mail out notices of assessment to the owners of the assessed properties. All assessments so made shall be due and payable within 30 days after the date of the notice; provided, that any assessment may, at the election of the owner of the land assessed, be paid in semi annual installments with interest, as hereinafter provided. Failure to pay the amount assessed when due shall thereafter bear penalty at the rate of two percent per month or fraction of a month from the date of delinquency until such time when the assessment, together with penalty, has been paid in full. (Added by Ord. 88-97)

**Sec. 14-31.7 Payment of installment.**

In case of an election to pay an assessment in installments made pursuant to Section 14-31.6, payment shall be made within 30 days of the date of notice of payment. Interest shall be paid on the unpaid principal at a rate not exceeding 10 percent per annum. The rate of interest shall be determined by the council. (Added by Ord. 88-97)

**Sec. 14-31.8 Financing.**

- (a) Upon receipt of moneys representing assessments collected for the maintenance district, the director of finance shall deposit the moneys in a special fund for the maintenance district for which they were collected, and the moneys shall be expended only for the maintenance authorized for such district.
- (b) If there is a surplus or a deficit in the special fund of a maintenance district at the end of any assessment year, the surplus or deficit shall be carried forward to the next annual assessment to be levied within such district and applied as a credit or a debit, as the case may be, against such assessment.
- (c) If there is a deficit in the special fund of a maintenance district during any assessment year, the council, by resolution requiring not more than one reading for its adoption, from any available and unencumbered funds, may provide for:
  - (1) A contribution to the special fund;
  - (2) A temporary advance to the special fund and direct that the advance be repaid from the next annual assessment levied and collected within the maintenance district.

(Added by Ord. 88-97)

**Sec. 14-31.9 Levy of annual assessments.**

- (a) At least 90 days prior to the end of the preceding assessment year, the chief engineer shall prepare and submit a report to the council for the next assessment year. The report shall include the anticipated surplus or deficit from the preceding assessment year as well as the proposed new rate of assessment.
- (b) If the proposed assessment does not exceed 10 percent of the preceding year's total amount of assessment against all properties in the district, the new assessment shall take effect upon the new assessment year.
- (c) If the proposed assessment exceeds 10 percent of the preceding year's total amount of assessment against all properties in the district, the council shall review comments and recommendations of the advisory committee and conduct a public hearing as provided for in Section 14-31.4 on the issue of the assessment only. Thereafter, the council shall adopt by resolution the new rate of assessment as determined from the outcome of the public hearing.

(Added by Ord. 88-97)

**Sec. 14-31.10 Exemption.**

Exemption from improvement assessments as provided in HRS Section 46-74.1 shall apply to maintenance assessment. (Added by Ord. 88-97)

**Sec. 14-31.11 Termination of maintenance district.**

- (a) Owners representing 55 percent of the total assessment value may petition the council for termination of a maintenance district at the end of the term of a maintenance contract for the maintenance of such district.
- (b) When such a petition is before the council, the continuation of the maintenance district shall require two-thirds vote of all members of the council to reject the petition.

(Added by Ord. 88 97)

**Sec. 14-31.12 Limitation on time to sue.**

No action or proceeding to review any acts or proceedings or to question the validity or enjoin the performance of any act or the levy or collection of any assessments authorized by this article, or for any other relief against any acts or proceedings done or had under this article, whether based upon irregularities or jurisdictional defects or otherwise, shall be maintained unless begun within 30 days after performance of the act or the passage of the resolution or ordinance complained of. (Added by Ord. 88-97)

**Sec. 14-31.13 Severability.**

If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of the article are declared to be severable. (Added by Ord. 88-97)

**Article 32. Maintenance of Private Streets and Roads**

**Sections:**

- 14-32.1 Definitions.**
- 14-32.2 Surface maintenance.**
- 14-32.3 Street lighting.**
- 14-32.4 Rule-making authority.**

**Sec. 14-32.1 Definitions. As used in this article:**

"Director and chief engineer" means the director and chief engineer of the department of public works.

"Persons having the right to control the use" means the person or persons having the legal right to make decisions as to the use, improvement, and repair and maintenance of a street, road or other property, sign agreements with respect thereto, and bind all other persons having rights in or to such street, road or other property, whether such other persons are owners of the fee title to the street, road or other property, are holders of roadway easements, or have some other interest in the street, road, or other property.

"Private, nondedicated and nonsurrendered streets and roads" means streets, roads, highways, ways or lanes used for purposes of vehicular traffic which are owned, in whole or in part, by persons other than governmental entities and which have not been dedicated or surrendered to the city in accordance with HRS Section 264-1(c)(1) and (2). The term "private, nondedicated and nonsurrendered streets and roads" includes any associated bridges and bicycle lanes as the latter term is defined in HRS Section 291C-1, but does not include any trail or other nonvehicular right-of-way or any alley or bicycle path as those terms are defined in HRS Section 291C-1. (Added by Ord. 96-73)

**Sec. 14-32.2 Surface maintenance.**

- (a) Subject to the availability of appropriations, the department of facility maintenance may maintain by either remedial patching, resurfacing, or paving those portions of private, nondedicated and nonsurrendered streets and roads which have been determined by the chief engineer of the department of facility maintenance, with the approval of the director of the department of transportation services and the director of the department of planning and permitting to meet the following criteria:
- (1) The street or road has not been dedicated or surrendered to the city or any other governmental entity, and is not otherwise owned by the city or any other governmental entity;
  - (2) The street or road is not maintained by any governmental entity other than the city pursuant to this article;
  - (3) The street or road is open to, serves, and benefits the general public;
  - (4) The street or road is not signed, marked, delineated, fenced, barricaded, or otherwise designed, constructed or operated to exclude access by the general public, in whole or in part, which may be through such means as signs indicating that the street or road is a "private" street or road, or any restrictions on parking which are not applicable to all persons except as otherwise provided by law;
  - (5) The street or road directly serves: (A) six or more parcels and at least six of the parcels served are owned by separate individuals or entities; (B) six or more residential structures where at least six of the structures served are owned by separate individuals or entities; or (C) a parcel of land which has one or more condominium buildings or apartment buildings which contain six or more condominium or apartment units;
  - (6) The street or road is not part of a cluster housing development, planned development, or similar type of development;
  - (7) Maintenance of the street or road by the city will be practicable and safe;
  - (8) The street or road is not a private street or road within the meaning of Chapter 22 or the rules and regulations adopted pursuant thereto;
  - (9) The developer or subdivider of such street or road has not agreed to maintain such street or road in perpetuity;
  - (10) An association of apartment owners or homeowners association does not maintain such street or road;
  - (11) Maintenance of the street or road surface is necessary to protect the safety of motorists, bicyclists, and pedestrians or is otherwise in the public interest; and
  - (12) The street or road does not suffer such design defects as to make use of the street or road hazardous to the general public.

If they wish a private street or road to be maintained by the city, the persons collectively owning a 60 percent or more interest in the fee title or an appropriate roadway easement in the street or road shall initiate and submit a written request to the chief engineer of the department of facility maintenance for the maintenance of the street or road. If the chief engineer of the department of facility maintenance determines that the private street or road satisfies the criteria set forth in this subsection, the chief engineer of the department of facility maintenance may, subject to the availability of appropriations, proceed to maintain the street or road, provided that the persons having the right to control the use of the street or road shall submit their written approval of the maintenance work. The persons having the right to control the use of the street or road shall agree to such terms, conditions and covenants as may be determined by the chief engineer of the department of facility maintenance to be for the convenience and protection of the city and the public, including the granting of necessary easements; provided that one of the conditions the persons having the right to control the use of the street or road shall agree to is the condition that they keep the street or road open to the general public for as long as the city maintains the street or road surface or for the period of time specified in the agreement, whichever is longer. The requirement for a written request, approval and agreement shall not apply, however, to a (i) street or road over which the department of facility maintenance exercises surface maintenance responsibilities on the day prior to the effective date of this article, or (ii) a street or road which the chief engineer of the department of facility maintenance with the approval of the director of the department of transportation services and the director of the department of planning and permitting determines has been dedicated by implication to public use for roadway purposes; provided that nothing contained herein shall be construed as prohibiting the chief engineer of the department of facility maintenance from requiring a written approval and agreement for new maintenance work on streets or roads over which the department of facility maintenance exercises surface maintenance responsibilities on the day prior to the effective date of this article if the chief engineer of the department of facility maintenance determines that such an agreement is in the best interests of the city.

- (b) Paved roads shall be maintained by remedial patching. Remedial patching shall be with like materials, for example: (i) asphalt concrete shall be used for asphalt concrete paved roads, and (ii) Portland cement concrete or asphalt concrete, as determined by the director and chief engineer, shall be used for Portland cement concrete paved roads. If the director and chief engineer determines that the pavement is in such poor condition that remedial patching is impractical and not cost effective, resurfacing may be provided.



Unpaved roads shall be maintained by remedial patching. Remedial patching shall be with like materials, for example: (i) coral for coral, and (ii) crushed rock for crushed rock. If the director and chief engineer determines that the street or road surface is in such poor condition that remedial patching is not cost effective and does not serve the best interests of motorists, bicyclists, and pedestrians, paving with asphalt concrete material may be provided.

The decks of bridges associated with private, nondedicated and nonsurrendered streets and roads may be maintained by remedial repairs. Remedial repairs shall be with like materials, for example, deteriorated wood planks shall be replaced with wood planks. If the director and chief engineer determines that the deck is in such poor condition that remedial repairs are impractical and not cost effective, the deck may be replaced with like material. The director and chief engineer may also provide for the maintenance, repair or replacement of railings.

Maintenance work to be performed by the city pursuant to this section shall not include installation or maintenance of curbs, shoulders, gutters, drainage facilities, or similar infrastructure.

- (c) The director and chief engineer, with the approval of the director of the department of transportation services, shall discontinue maintenance of specific private, nondedicated and nonsurrendered streets and roads, when the director and chief engineer determines that such streets and roads no longer meet the criteria set forth in subdivisions (1) through (11) of subsection (a), or when requested in writing by the persons having the right to control the use of the street or road. Prior to discontinuing maintenance of any private, nondedicated and nonsurrendered street or road, the director and chief engineer shall provide each owner and roadway easement holder of record of the street or road with thirty days' written notice of such proposed action. Where maintenance is discontinued because the street or road is signed, marked, delineated, fenced, barricaded, or otherwise designed, constructed or operated to exclude the general public, in whole or in part, the director and chief engineer is authorized, in the director and chief engineer's discretion and to the extent legally and economically feasible, to recover any removable fixtures or materials, if any, installed by the city, and to recover from the owners or roadway easement holders of the street or road, as may be appropriate, the value of the fixtures or materials left in place.
- (d) Nothing contained in this section and no action undertaken pursuant to this section shall be construed as adoption, acceptance or approval of a private, nondedicated and nonsurrendered street or road as a public highway.

(Added by Ord. 96-73; Am. Ord. 14-37)

#### **Sec. 14-32.3 Street lighting.**

- (a) Subject to the availability of appropriations, the department of transportation services may install and maintain new street lights or maintain existing street lights on those portions of private, nondedicated and nonsurrendered streets and roads which have been determined by the director of the department of transportation services, with the approval of the director and chief engineer and the director of the department of land utilization, to meet the criteria set forth in subdivisions (1) through (11) of Section 14 32.2(a) and, with respect to existing street lighting systems, to meet the city's then current standards for design, construction, installation, equipment and materials.  
Prior to the city undertaking any street lighting work or assuming any energy costs, all of the persons having the right to control the use of the portion of the street or road and any other property on which the street lights are or will be located, shall initiate and submit a written request to the director of the department of transportation services for the installation and/or maintenance of street lights, agreeing to such terms, conditions and covenants as may be determined by the director of the department of transportation services to be for the convenience and protection of the city and the public, including the granting of necessary easements; provided that one of the conditions the persons having the right to control the use of the portion of the street or road and any other property shall agree to is the condition that they keep the street or road open to the general public for as long as the city maintains the street lights on the street or road or for the period of time specified in the agreement, whichever is longer. The requirement for a written request and agreement shall not apply, however, to a (i) street or road over which the department of transportation services exercises street lighting maintenance responsibilities on the day prior to the effective date of this article, or (ii) a street or road which the director of transportation services, with the approval of the director and chief engineer and the director of the department of land utilization, determines has been dedicated by implication to public use for roadway purposes; provided that nothing contained herein shall be construed as prohibiting the director of transportation services from requiring a written agreement for new maintenance work on streets or roads over which the department of transportation services exercises street lighting maintenance responsibilities on the day prior to the effective date of this article if the director of transportation services determines that such an agreement is in the best interests of the city.
- (b) Maintenance work to be performed by the city pursuant to this section shall include, but not be limited to, replacing and upgrading street light fixtures, photoelectric cells, and bulbs as necessary and paying energy costs applicable to such street lights.
- (c) The director of the department of transportation services, with the approval of the director and chief engineer, shall discontinue maintenance of street lighting systems for specific private, nondedicated and nonsurrendered streets and roads, including the payment of energy costs, when the director of the department of transportation services determines that such streets and roads no longer meet the criteria referred to in subsection (a), or when requested in writing by the persons having the right to control the use of the portion of the street or road or of the other property on which the street lights are located. Prior to discontinuing maintenance of street lighting systems or payment of energy costs for any private, nondedicated and nonsurrendered street or road, the director of the department of transportation services shall provide each owner and roadway easement holder of record of the street, road, or property with thirty days' written notice of such proposed action. Where maintenance is discontinued because the street or road is signed, marked, delineated, fenced, barricaded, or otherwise designed, constructed or operated to exclude the general public, in whole or in part, the director of transportation services is authorized, in the director's discretion and to the extent legally and economically feasible, to recover any removable standards, fixtures, photoelectric cells, or bulbs installed by the city, or to recover from the owners or roadway easement holders of the street, road, or other property, as may be appropriate, the value of the standards, fixtures, photoelectric cells, or bulbs left in place.
- (d) Nothing contained in this section and no action undertaken pursuant to this section shall be construed as adoption, acceptance or approval of a private, nondedicated and nonsurrendered street or road as a public highway.

(Added by Ord. 96-73)

**Sec. 14-32.4 Rule-making authority.**

In accordance with HRS Chapter 91, the director and chief engineer and director of transportation services may adopt rules having the force and effect of law for the implementation, administration and enforcement of Sections 14-32.2 and 14-32.3, respectively. (Added by Ord. 96-73)

**Article 33. Complete Streets**

**Sections:**

- 14-33.1 Definitions.**
- 14-33.2 Complete streets policy; principles.**
- 14-33.3 Administration; implementation.**
- 14-33.4 Exceptions.**
- 14-33.5 Annual report; performance standards.**
- 14-33.6 Training.**

**Sec. 14-33.1 Definitions.**

As used in this article:

"Accessibility" means the ability to reach desired destinations for all transportation system users.

"Complete streets features" include, but are not limited to, sidewalks, crosswalks, accessible curb ramps, curb extensions, raised medians, refuge islands, roundabouts or mini-circles, traffic signals and accessible pedestrian signals such as audible and vibrotactile indications and pedestrian countdown signals, shared-use paths, bicycle lanes, paved shoulders, street trees, planting strips, signs, pavement markings including multi-modal pavement striping, street furniture, bicycle parking facilities, public transportation stops, and facilities including streetscapes, dedicated transit lanes, and transit priority signalization.

"Context sensitive solution" means a process in which a full range of stakeholders are involved in developing complete streets transportation solutions that identify and incorporate appropriate complete streets features designed to fit into, enhance, and support the surrounding environment and context, including land use.

"Directors" means the directors of the departments of transportation services, design and construction, planning and permitting, and facilities maintenance.

"Multi-modal" means the movement of people and goods by more than one method of transportation. A street that accommodates walking, bicycling, mobility devices, transit and driving is multi-modal.

"National industry best practices" means guidelines established by national industry groups on complete streets best policy and implementation practices, including, but not limited to reports by the American Planning Association and the National Complete Streets Coalition.

"Transportation facility or project" means the planning, design, construction, reconstruction, maintenance or improvement of public highways, roadways, streets, sidewalks, traffic control devices and signage, and all facilities or improvements related to public transit.

"Users" mean motorists, bicyclists, individuals dependent on mobility devices, transit riders, pedestrians, and others who depend on the transportation system to move people and goods.

(Added by Ord. 12-15)

**Sec. 14-33.2 Complete streets policy; principles.**

(a) There is hereby established a complete streets policy and principles for the City and County of Honolulu to guide and direct more comprehensive and balanced planning, design, and construction of city transportation systems. Under this policy, the city hereby expresses its commitment to encourage the development of transportation facilities or projects that are planned, designed, operated, and maintained to provide safe mobility for all users. Every transportation facility or project, whether new construction, reconstruction, or maintenance, provides the opportunity to implement complete streets policy and principles. This policy provides that a context sensitive solution process and multi-modal approach be considered in all planning documents and for the development of all city transportation facilities and projects.

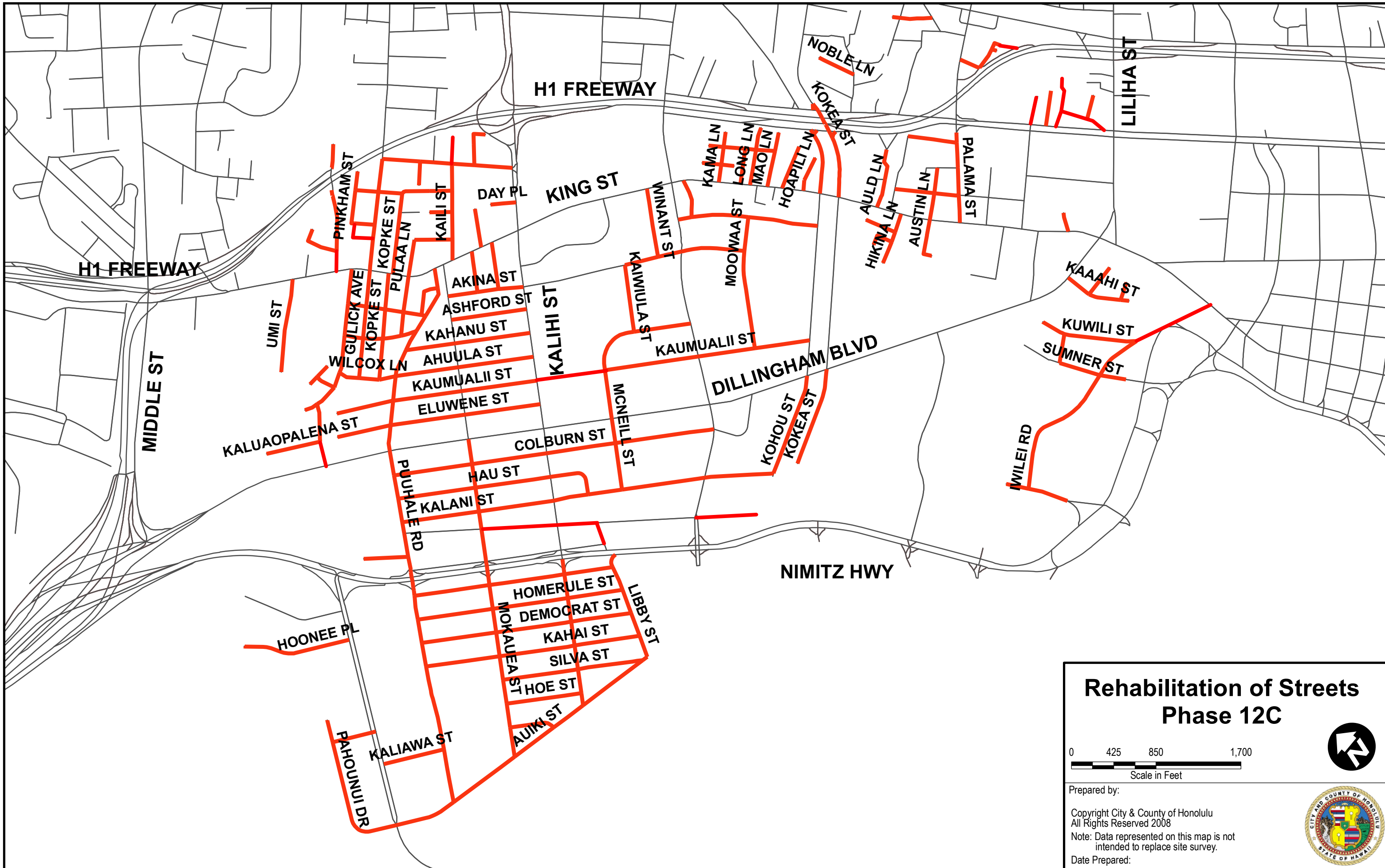
(b) Complete streets principles consist of the following objectives:

- (1) Improve safety;
- (2) Apply a context sensitive solution process that integrates community context and the surrounding environment, including land use;
- (3) Protect and promote accessibility and mobility for all;
- (4) Balance the needs and comfort of all modes and users;
- (5) Encourage consistent use of national industry best practice guidelines to select complete streets design elements;
- (6) Improve energy efficiency in travel and mitigate vehicle emissions by providing non-motorized transportation options;
- (7) Encourage opportunities for physical activity and recognize the health benefits of an active lifestyle;
- (8) Recognize complete streets as a long-term investment that can save money over time;
- (9) Build partnerships with stakeholders and organizations statewide; and
- (10) Incorporate trees and landscaping as integral components of complete streets.

(Added by Ord. 12-15)

**Sec. 14-33.3 Administration; implementation.**


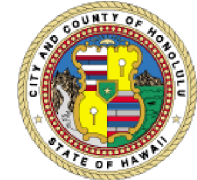
(a) The directors shall, based on a context sensitive solution process, employ a multi-modal approach and incorporate complete streets features in the planning, design, construction, reconstruction, maintenance and operation of transportation facilities and projects, including, but not limited to, the reconstruction, rehabilitation or resurfacing of any transportation facility under the jurisdiction of the directors.



**Rehabilitation of Streets  
Phase 12C**

0 425 850 1,700  
Scale in Feet

Prepared by:  
Copyright City & County of Honolulu  
All Rights Reserved 2008  
Note: Data represented on this map is not  
intended to replace site survey.  
Date Prepared:

March 2, 2016

**The Honorable Sylvia Luke, Chair**

House Committee on Finance  
State Capitol, Room 308  
Honolulu, Hawaii 96813

**RE: H.B. 2049, H.D.2, Relating to Transportation**

**HEARING: AGENDA #1, Wednesday, March 2, 2016 at 11:00 a.m.**

Aloha Chair Luke, Vice Chair Nishimoto and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® (“HAR”), the voice of real estate in Hawai'i, and its 8,800 members. HAR **supports** H.B. 2049, H.D.2 which authorizes the State or a county to obtain ownership over a road by condemnation pursuant to the State's powers of eminent domain and exempts the State and counties from maintaining or improving condemned roads.

It is believed that decades ago when the homes adjacent to these roads were developed and deeded to the homeowners, 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.

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

While HAR believes that maintenance and ownership of such roads best belongs within the jurisdiction of the city and county, we recommend continued passage and discussion on this measure.

Mahalo for the opportunity to testify.



**TESTIMONY TO THE COMMITTEE ON FINANCE**

**Wednesday, March 2, 2016, 11 a.m.**

**State Capitol, Conference Room 308**

**TO:** The Honorable Sylvia Luke, Chair  
The Honorable Scott Y. Nishimoto, Vice Chair  
Members of the Committee on Finance

**TESTIMONY IN SUPPORT OF HB2049 HD2 RELATING TO TRANSPORTATION**

I am Stafford Kiguchi with Bank of Hawaii testifying in support of HB2049 HD2 dealing with private roads. We appreciate and support the committee's initiative and efforts in addressing this long-standing issue and public concern.

This bill would authorize the State or county to obtain ownership over a road by condemnation pursuant to the State's power of eminent domain. It exempts the State and counties from maintaining or improving condemned roads.

Bank of Hawaii is on title to a number of roads that were acquired when it purchased Hawaiian Trust and Bishop Trust companies back in the 1980s and early 1990s. 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, and emergency vehicles, etc. Many of these roads are termed "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 who are paying property taxes to have the roads maintained.

However, we also recognize that this is a complex issue and are willing to work in cooperation with the appropriate city and state government entities to develop a "pilot process" to gradually transfer ownership of certain pre-designated roads or streets that would accommodate a mutually agreed upon schedule and conditions. This may help facilitate the transfer of ownership of streets and roads in question since, as currently drafted, such action would be left at the city's discretion to initiate condemnation.

We appreciate the Committee's interest and willingness to continue to examine solutions for this important issue and respectfully encourage the committee to pass this bill.

Thank you for the opportunity to testify.

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



**LATE**



Chamber of Commerce HAWAII  
*The Voice of Business*

**Testimony to the House Committee on Finance  
Wednesday, March 2, 2016 at 11:00 A.M.  
Conference Room 308, State Capitol**

**RE: HOUSE BILL 2049 HD 2 RELATING TO TRANSPORTATION**

Chair Luke, Vice Chair Nishimoto, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **strongly supports** HB 2049 HD 2, which authorizes the State or a county to obtain ownership over a road by condemnation pursuant to the State's powers of eminent domain. Exempts the State and counties from maintaining or improving condemned roads.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber strongly supports HB 2049 HD 2 as a solution to an ongoing problem. There are many private roads or public roads with private parcels that are both in use by the public that are in disrepair and require maintenance. However, in many of these cases, the private owners cannot be found or are sometimes unknown. In these situations, the roads have remained in disrepair for many years, often stuck in a limbo wherein the public contacts the counties with requests to repair but the counties are unable to act on these requests as they are privately owned. HB 2049 HD 2 provides a solution to these roads in limbo – by surrendering ownership to the counties and allowing them to proceed with necessary repairs and reconstruction to maintain these roads for public use.

Similar to HB 2250 HD1, which we do support, we do believe that some funding may be necessary for this legislation to address some of concerns of the various state and county agencies. We are trying to formulate a pilot project with the stakeholders to take some positive steps in addressing this issue.

Thank you for the opportunity to testify.