

HB 2049, HD2

LATE TESTIMONY

LATE

OFFICE OF THE MAYOR
CITY AND COUNTY OF HONOLULU

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March 17, 2016

The Honorable Lorraine R. Inouye, Chair
and Members of the Committee on
Transportation and Energy

The Honorable Clarence K. Nishihara, Chair
and Members of the Committee on
Public Safety, Intergovernmental, and Military Affairs
Hawaii State Capitol
415 South Beretania Street, Room 229
Honolulu, Hawaii 96813

Dear Chair Inouye, Chair Nishihara, and Members of the Committees::

Subject: HB 2049, HD2, Relating to Transportation

The City and County of Honolulu (City) 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.

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.