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SUZANNE D. CASE
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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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Testimony of
SUZANNE D. CASE
Chairperson

Before the House Committee on
WATER AND LAND

Friday, February 5, 2016
8:30 A.M.
State Capitol, Conference Room 325

In consideration of
HOUSE BILL No. 2604
RELATING TO THE ACQUISITION OF REAL PROPERTY

House Bill 2604 proposes to amend Section 171-30, Hawaii Revised Statutes (“HRS”), to provide that the acceptance by the Territorial Legislature or State Legislature of a dedication of land by a private owner is sufficient to convey title to the State. **The Department of Land and Natural Resources (Department) opposes this measure.**

Prior to approving any land acquisition, the Board of Land and Natural Resources (“Board”) has authorized the Department to conduct an extensive due diligence review of the land to be acquired to determine potential liability to the State. This process includes a review of title status including the impact of any encumbrances affecting the property, environmental hazards assessment via a Phase I and Phase II (if necessary) Environmental Site Assessments, boundary survey and descriptions reviewed by the State Surveyor, and an independent appraisal to determine the fair market value. In addition, all acquisitions of real property interests are subject to review and approval by the Attorney General. The Department does not believe the Legislature has the staff, time, or budgets to conduct these vital assessments on its own. Public comments alone would not rise to the level of a due diligence review.

In addition, the measure is unclear as whether the proposed authority of the Legislature is limited to dedications of land at gratis. If compensation is provided to the public landowner, Section 171-30 (2)(e), HRS, prohibits the State from purchasing land at greater than the fair market value as determined by independent appraisal. The measure is unclear on whether this provision would apply to dedications of land accepted by the Legislature. The Department opposes any exception that would allow for the purchase of private lands at greater than fair market value.

Date: February 3, 2016

Testifier's Name: Alan Hirayama

Committee: House Water and Land Committee

Date and Time of Hearing: February 5, 2016 at 8:15am

Measure Numbers: HB2092 and HB2604

Dear House Water and Land Committee,

I would like to submit testimony in support of HB 2092 and HB 2604. I am a resident in the Kakaako district living in the Pacifica Honolulu condominium. Along Waimanu Street there have recently been reserved stalls painted along the road with cars apparently renting the stalls and parking along the street. I would like to voice three concerns with this situation:

1. These parked cars present a danger to drivers entering and exiting the Pacifica Honolulu and 909 Kapiolani condominiums. In particular, when exiting the buildings, the parked cars block the view of oncoming cars driving on Waimanu Street. Drivers need to inch out on the street to be able to see if cars are approaching and this represents a safety hazard.
2. On Waimanu Street near Ward Avenue, there are reserved stalls that nearly reach Ward Avenue. When cars are parked at those stalls near Ward Avenue, they block drivers that want to enter Ward Avenue from Waimanu Street, especially drivers that want to make a right onto Ward Avenue.
3. Regarding maintenance of the roadways, if the roads are privately-owned I'm concerned that any potholes will take a long time to fix if ever. I have more trust in the State or City or provide timely maintenance on roads versus a private owner who may be reluctant to fix the roads or do not have the financial resources to do it.

Please consider my testimony in support of the proposed bills.

Sincerely,

Alan Hirayama

February 3, 2016

RELATING TO THE ACQUISITION OF REAL PROPERTY.

Clarifies that acceptance by the territorial legislature or the legislature of a dedication of land by a private owner is sufficient to convey title to the State.

I would like to express my support for HB 2604 in that it will overcome immaterial administrative technicalities constraining the State from serving the public's interest in regard to safety and economic development.

Lawrence F. Newman
1009 Kapiolani Blvd.
Unit 2402
Honolulu, HI 96814

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 04, 2016 11:41 AM
To: waltestimony
Cc: royamon77@gmail.com
Subject: Submitted testimony for HB2604 on Feb 5, 2016 08:30AM

HB2604

Submitted on: 2/4/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Roy Bumgarner	Individual	Support	No

Comments: I support the intent of this bill.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

February 4, 2016

Attn: House Water and Land Committee

RE: Public Hearing 2/5/2016, 8:30 am

HB 2092, HB 2604

Dear Committee Chair,

I am in favor of Scott Saiki's House Bills regarding the private roads in Kakaako. Without this legislation, Kakaako Land Company will continue to harass and inconvenience those working and/or living in the Kakaako area. I live in a condo that is affected by the actions of Kakaako Land Company.

Kakaako Land Company is blocking handicap access on the Ewa side of Pacifica Honolulu. This street has been used as a public thoroughfare for over 20 years so I feel Kakaako Land Company does not have the right to claim this street as their property.

Sincerely,



Donna Hashimoto

Resident at 1009 Kapiolani Blvd., Honolulu, HI 96814

City and County of Honolulu

Department of Planning & Permitting

650 So. King St., Honolulu, HI 96813

The residents and business owners in the central Kakaako area have been engaged in a roadway/parking dispute for several years with the Kakaako Land Company. The actions of the Kakaako Land Company have caused the condition of the roadways to deteriorate due to lack of maintenance and has negatively affected the parking and roadway safety environment for the surrounding community.

After researching the Revised Ordinances of Honolulu, we have discovered numerous ordinances that Kakaako Land Company is in active violation of. We would like to file a formal complaint and request that the Department of Planning and Permitting, conjunction with the appropriate city agencies take the necessary steps to enforce the ordinances against the Kakaako Land Company.

The RoH defines "street" to include the entire width between the property lines of every way publicly owned and maintained when part thereof is open to the use of the public for purposes of vehicular travel *or any private street, highway or thoroughfare which for more than five years has been continuously used by the general public.* RoH 29-1.1.

All of the disputed streets in the central Kakaako area fall under the RoH's definition as a street as they have been continuously used by the general public for much longer than 5 years.

RoH 29-14.3 prohibits any person from constructing or maintaining any signs, including portable signs on, above, below any street right-of-way including any sidewalk area or medial strip. Any sign in violation of this subsection shall be considered an unlawful sign and shall be subject to summary removal under this section.

The Kakaako Land Company has placed portable signs on the sidewalks, attached signs to HECO owned utility poles and has painted curbage installed by the city, to denote reserved parking areas. These signs have been placed throughout the Kakaako area including Queen St, Kawaihao St, Cummins St, Waimanu St, Ilaniwai St and Clayton St. As the placement of these signs is in clear violation, we request that the City enforce this RoH and immediately remove all signage placed by the Kakaako Land Company.

RoH 29-5.1 states that it is unlawful for any solicitor or canvasser to engage in business on any public street, sidewalk or mall where such person's operation tends to, or does impede or inconvenience the public or any person in the lawful use of such street, sidewalk or mall. The term solicitor or canvasser includes any person taking or attempting to take orders for services to be furnished or provided in the future.

The Kakaako Land Company has been engaging in business on public streets and sidewalks by, among other things, (1) Placing signs advertising parking for rent, (2) leasing portions of the street to various individuals; and (3) towing vehicles that are owned by people that refuse to recognize Kakaako Land Company's disputed claim to title. Their actions are impeding the public in the lawful use of the street.

RoH 22-3.3 deals with the subdivision code. Under the subdivision code, no person is allowed to subdivide or consolidate any land unless the plans conform to the provisions of the subdivision code,

regulations of the planning commission and the board of water supply, and the plans have been approved by the director. Subdivision is defined to include the "division of land into two or more lots, parcels, sites, or other divisions of land including designations of easements, for purpose, whether immediate or future, of sale, lease, rental, transfer of title to or interest in any or all of such lots, parcels, sites, easements or other divisions. RoH 22-3.2. Any person, firm or corporation that violates any provision of the subdivision code shall be fined no more than \$1,000 or imprisoned for not more than one year for each violation RoH 22-3.11

Kakaako Land Company is in clear violation of the subdivision code. The quitclaim deed that they are using to assert ownership lists a large single parcel. However, they have taken the position that the shoulder portion of the street is a separate parcel or division from the driving portion. This would delineate a subdivision or division of the disputed land. Kakaako Land Company is purportedly dividing the roads into these two segments for the purpose of entering into rental agreements and leases for the shoulder portions of the property. Kakaako Land Company has then divided the shoulder portion of the property even further. In particular, they have entered into separate leases with various third parties demarcating portions of the roads they claim to own. This practice is in clear violation of the subdivision code. As a result, the City should enforce the subdivision code against the Kakaako Land Company. Each lease and rental agreement should be considered as a separate violation.

This dispute has been going on for years and as the re-development of Kakaako progresses, the situation continues to get worse. Within the last month, the Kakaako Land Company has painted over 50 reserved parking spaces onto Waimanu Street between Ward and Kamakee. They painted over existing roadway lane markings which had been installed by the City and County. They also painted these reserved parking spaces in clearly marked no parking areas on the mauka side of the road. The City and County had erected these signs several years ago and had intended for Waimanu Street to be a travel-way with no parking on the mauka side of the road. The Kakaako Land Company has ignored these signs in order to profit from their claim of ownership. We have included pictures of Waimanu Street for your reference.

Without enforcement from the City or State, the Kakaako Land Company continues to push the envelope in the Central Kakaako area. Their actions have been extremely detrimental to the residents and businesses and has resulted in the discontinuation of surface maintenance and an overall deterioration of infrastructure. Enforcement of these ordinances would allow surface maintenance by the City to be restarted and would send a strong message to the Kakaako Land Company. This would be the first step in resolving the roadway issues faced by Kakaako residents and businesses.