



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

April 3, 2017
1:35 p.m.
State Capitol, Room 211

H.B. 115, H.D. 1, S.D. 1
RELATING TO HIGHWAYS

Senate Committee on Ways and Means

The Department of Transportation (DOT) **supports** with amendment this bill to resolve issues of ownership and maintenance of publicly owned roads, or roads whose ownership has been called into question by requiring the administrative head of each state department or agency to convey, by deed of conveyance, the title of all disputed public highways in counties with a population of five hundred thousand or greater, to the respective county in which the disputed public highway is situated and to require said county to take ownership and jurisdiction by January 1, 2018. DOT has the following concerns:

The January 1, 2018 date would be very difficult to meet as it is not possible to know all roads in dispute at this time. We recommend striking the date.

DOT assumes that conveyancing can be done through quit claim.

Also, DOT respectfully requests that Section 4 of Act 194, Session Laws of Hawaii 2016 be amended by changing the appropriation date from Fiscal Year 2016-2017 to Fiscal Year 2017-2018 to allow for positions and operating expenditures of the Roads Commission to complete its work as required by the act.

Thank you for the opportunity to provide testimony.

SECTION X. Act 194, Session Laws of Hawaii 2016, is amended by amending Section 4 to read as follows:

"Section 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,000,000 or so much thereof as may be necessary for fiscal year [~~2016-2017~~] 2017-2018 for positions and other operating expenditures of the roads commission established under section 2 of this Act and for repair work, including flood mitigation and installation of drainage infrastructure, and resurfacing of the following:

- (1) Kalani Street on Oahu, from Puuhale Road to Kalihi Street;
- (2) Eighteenth Avenue on Oahu, from Harding Avenue to Kilauea Avenue; and
- (3) Kalakaua Avenue on Oahu, between Poni Moi Road and Coconut Avenue;

provided that the city and county of Honolulu shall take ownership of a road or parcel listed in paragraphs (1) through (3) of this section upon acceptance of funds by the city and county of Honolulu; provided further that the city and county of Honolulu shall have the discretion to accept or decline funds appropriated for each of the roads or parcels listed in paragraphs (1) through (3) of this section; provided further that the city and county of Honolulu shall not be required to take ownership of any road or parcel listed in paragraphs (1) through (3) of this section if the city and county of Honolulu

declines funds for that particular road or parcel from the State.

The sum appropriated shall be expended by the department of transportation for the purposes of this Act."

DAVID Y. IGE
GOVERNOR OF HAWAII



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

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
WAYS AND MEANS**

**Monday, April 3, 2017
1:35 P.M.
State Capitol, Conference Room 211**

**In consideration of
HOUSE BILL 115, HOUSE DRAFT 1, SENATE DRAFT 1
RELATING TO HIGHWAYS**

House Bill 115, House Draft 1, Senate Draft 1 proposes to authorize the Director of the Department of Transportation to surrender disputed roads in counties with a population of 500,000 or more to the respective county, and also requires the county to accept without discretion all surrendered roads and record its ownership with the Bureau of Conveyances. **The Department of Land and Natural Resources (Department) supports this measure and offers the following comments and amendment.**

The Department believes that the proposed legislation has the potential to resolve longstanding disputes regarding roads in limbo on Oahu. Based on the 500,000 population requirement in the bill, it appears the City and County of Honolulu (City) is the focus of this legislation. The Department is aware of many private roads built by developers that were never dedicated to the Department of Transportation or the City. Today, many of those roads are in disrepair and do not meet City standards. The Department understands that subsection (b) of this bill allows the Director of Transportation to surrender such disputed public roads to the counties by an administrative order. The Department notes that in Kakaako there is a private landowner claiming to be the owner of roads. The Department therefore recommends one amendment (highlighted in yellow) to SECTION 2, subsection (a) of the measure on line 4 of page 3, to include disputes between the county and a private landowner:

(a) As used in this section:

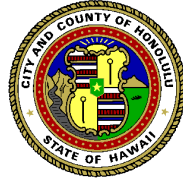
"Disputed road" means any highway, road, alley, street, way, lane, bikeway, bridge, or trail that is open to the public and is located in any county with a population of five hundred thousand or more, for which there is a dispute over ownership and jurisdiction, as determined by the department of transportation, between the State or any of its political subdivisions and a county or a private party, or between a county and a private party.

Finally, under Section 171-64.7, Hawaii Revised Statutes (HRS), a supermajority approval of both houses of the Legislature is required to approve the conveyance of state lands. If this measure is intended to exempt a surrender of roads to the counties from the effect of Section 171-64.7, HRS, the Department believes such intent should be clearly stated.

Thank you for the opportunity to comment on this measure.

OFFICE OF THE MAYOR
CITY AND COUNTY OF HONOLULU

530 SOUTH KING STREET, ROOM 300 • HONOLULU, HAWAII 96813
PHONE: (808) 768-4141 • FAX: (808) 768-4242 • INTERNET: www.honolulu.gov



KIRK CALDWELL
MAYOR

ROY K. AMEMIYA, JR.
MANAGING DIRECTOR

GEORGETTE T. DEEMER
DEPUTY MANAGING DIRECTOR

CITY AND COUNTY OF HONOLULU
BEFORE THE COMMITTEE ON WAYS AND MEANS

MONDAY, APRIL 3, 2017; 1:35 PM

TO: THE HONORABLE JILL N. TOKUDA, CHAIR
THE HONORABLE DONOVAN M. DELA CRUZ, VICE CHAIR
AND MEMBERS OF THE COMMITTEE ON WAYS AND MEANS

FROM: ROY K. AMEMIYA, JR., MANAGING DIRECTOR
CITY AND COUNTY OF HONOLULU

SUBJECT: COMMENTS ON HB115, SD1 RELATING TO HIGHWAYS

This measure requires the City and County of Honolulu (City) to take ownership and jurisdiction over all roads over which there is a dispute between the State or any of its political subdivisions and a private party. The City believes that the State cannot determine the ownership of privately-owned property without a court judgment in an eminent domain action or without the consent of all owners of real estate interests in the subject lands. (*See In the Matter of the Petition of the Hawaiian Trust Co., Ltd., for a Registered Title*, 17 Haw. 523, 1096 WL 1331 (Hawaii Terr. 1906))

The City acknowledges the various challenges raised by this measure and similar measures. This is a difficult issue with far-ranging consequences. The City is examining the impacts of this specific measure.

The City believes that these challenges are best addressed through the Roads Commission as was established by Act 194, Session Laws of Hawaii 2016. The Commission, to be administered by the Department of Transportation, is composed of members from the State, each county, and private citizens to make recommendations on the ownership of private roads.

The City looks forward to working cooperatively with the State to reach a workable solution to this issue. Thank you for your consideration of these comments.



TESTIMONY TO THE COMMITTEE ON WAYS AND MEANS

Monday, April 3, 2017, 1:35 p.m.

State Capitol, Conference Room 211

TO: The Honorable Jill N. Tokuda, Chair
The Honorable Donovan M. Dela Cruz, Vice Chair
Members of the Committee on Ways and Means

TESTIMONY IN SUPPORT OF HB115 HD1, SD1 RELATING TO HIGHWAYS

I am Stafford Kiguchi with Bank of Hawaii testifying in support of HB115 HD1, SD1 dealing with the ownership of disputed public highways and certain private roads. This is a perennial issue and we appreciate and support the committee's initiative and efforts in addressing this long-standing issue and public concern.

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. 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.

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.

-More-

Page 2

HB115 HD1, SD1 Bank of Hawaii Testimony in Support

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