

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  
TRANSPORTATION**

**Wednesday, February 15, 2017  
9:00 A.M.  
State Capitol, Conference Room 423**

**In consideration of  
HOUSE BILL 115  
RELATING TO HIGHWAYS**

House Bill 115 proposes require each state agency to convey title to disputed highways in counties with a population of 500,000 or more to the respective county, and also requires the county to accept ownership and jurisdiction over all disputed highways. **The Department of Land and Natural Resources (Department) offers the following comments on this measure.**

The Department believes that a deed is not necessary to transfer disputed highways to the counties as title should already be vested with the counties pursuant to Chapter 264, Hawaii Revised Statutes (HRS). In addition, it would be time-consuming and costly to survey all disputed highways to the standards required by the Survey Surveyor, and process subdivisions that may be required in some cases. Furthermore, this measure provides no funding for this work. If the bill is intended to facilitate the conveyance of highways without a legal description, then such intent should be clarified in the measure.

Based on the 500,000 population requirement in House Bill 115, it appears the City and County of Honolulu (City) is the target 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. If the intent is to include those private roads into the definition of "disputed roads" of this legislation, then the Department suggests that this intent be made clearer<sup>1</sup> in the legislation and perhaps consider an appropriate level of funding to support the intent of this legislation. The Department notes,

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<sup>1</sup> Currently, the definition of disputed roads is limited to a dispute between the State and the County, and not a private landowner.

**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

however, it is unclear how the State could legally convey title to privately owned roads, and additionally notes that in Kakaako, there is a private landowner claiming to be the owner of roads. If the State were to deed those roads away, it would interject itself into an ongoing lawsuit involving those roads.<sup>2</sup>

Finally, under Section 171-64.7, 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 conveyances 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.

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<sup>2</sup> Currently, that lawsuit involves HCDA, the City and the private landowner.



**TESTIMONY TO THE COMMITTEE ON TRANSPORTATION**

**Wednesday, February 15, 2017, 9 a.m.**

**State Capitol, Conference Room 423**

**TO:** The Honorable Henry J.C. Aquino, Chair  
The Honorable Sean Quinlan, Vice Chair  
Members of the Transportation Committee

**TESTIMONY IN SUPPORT OF HB115 RELATING TO HIGHWAYS**

I am Stafford Kiguchi with Bank of Hawaii testifying in support of HB115 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 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, 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-

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**HB115 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  
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 | 1259 A'ala Street, Suite 300  
Honolulu, HI 96817

February 15, 2017

**The Honorable Henry Aquino, Chair**  
House Committee on Transportation  
State Capitol, Room 423  
Honolulu, Hawaii 96813

**RE: H.B. 115, Relating to Highways**

**HEARING: Wednesday, February 15, 2017, at 9:00 a.m.**

Aloha Chair Aquino, Vice-Chair Quinlan and Members of the Committee,

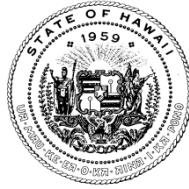
I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 9,000 members. HAR **supports the intent** of H.B. 115, which directs the head of each State department or agency to convey title of all disputed highways on O'ahu to the respective county. Additionally, it requires the City and County of Honolulu to take ownership and jurisdiction over all roads which there is a dispute over ownership between the State or any of its political subdivisions and a private party.

HAR believes 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, HAR believes 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.

Mahalo for the opportunity to testify.





**LATE**

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

February 15, 2017  
9:00 a.m.  
State Capitol, Room #423

**HB115  
RELATING TO HIGHWAYS**

**HOUSE COMMITTEE ON TRANSPORTATION**

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The Department of Transportation (DOT) **supports** the intent of 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 Director of Transportation has no statutory authority to convey property in fee simple to any entity outside of the State government. That leaves conveyancing with the DLNR in most instances.

The scope of this work is not exactly known and probably would be a large undertaking. If conveyancing follows the standard government process, then all applicable roads, or portions thereof, need to be surveyed, mapped, legally described, and conveyed by a deed showing the exact property that is being conveyed. Funding for this work is not presently available.

If funding and other resources become available for some of this work, performance of the standard conveyancing process by the specified January 1, 2018 deadline would be difficult to achieve.

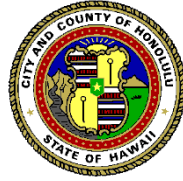
This bill also requires that the county accept such roads "without exercise of discretion." A conveyance deed with conditions usually requires the agreement of both the Grantor and the Grantee to be enforceable.

Thank you for the opportunity to provide testimony.

**LATE**

**OFFICE OF THE MAYOR  
CITY AND COUNTY OF HONOLULU**

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KIRK CALDWELL  
MAYOR

ROY K. AMEMIYA, JR.  
MANAGING DIRECTOR

GEORGETTE T. DEEMER  
DEPUTY MANAGING DIRECTOR

**CITY AND COUNTY OF HONOLULU  
BEFORE THE HOUSE COMMITTEE ON TRANSPORTATION**

**FEBRUARY 15, 2017; 9:00 AM**

**TO: THE HONORABLE HENRY J.C. AQUINO, CHAIR  
THE HONORABLE SEAN QUINLAN, VICE CHAIR  
AND MEMBERS OF THE HOUSE COMMITTEE ON TRANSPORTATION**

**FROM: KIRK CALDWELL, MAYOR  
CITY AND COUNTY OF HONOLULU**

**SUBJECT: COMMENTS ON HB115 RELATING TO HIGHWAYS**

This measure directs the head of each state department or agency to convey title of all disputed highways situated within the City and County of Honolulu (City) and requires the 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.

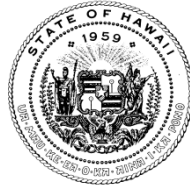
The City believes that these challenges are best addressed through a roads commission or task force composed of members of the City and the State to make recommendations on allocation of the roadways between the State and the City; phasing the transfer over a specified period of time; the mechanism to effect such a transfer, especially when the ownership of a private roadway is unclear; and the funding for improvements and ongoing maintenance of the transferred 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 this testimony.

DAY  
GC

**LATE**

**LATE**



**REVISED**

**Testimony by:**

FORD N. FUCHIGAMI  
DIRECTOR

Deputy Directors  
JADE T. BUTAY  
ROSS M. HIGASHI  
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IN REPLY REFER TO:

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

February 15, 2017  
9:00 a.m.  
State Capitol, Room 423

**H.B. 115**  
**RELATING TO HIGHWAYS**

House Committee on Transportation

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The Department of Transportation (DOT), **supports** 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 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.

Thank you for the opportunity to provide testimony.