



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2018**

ON THE FOLLOWING MEASURE:

H.B. NO. 2050, RELATING TO PRIVATE ROADS.

BEFORE THE:

HOUSE COMMITTEE ON WATER AND LAND

DATE: Wednesday, January 31, 2018 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Russell A. Suzuki, First Deputy Attorney General, or
Bill Wynhoff, Deputy Attorney General

Chair Yamane and Members of the Committee:

The Department of the Attorney General (department) provides the following comments regarding this bill.

The bill directs the Attorney General to condemn four roads presently owned by private persons or entities.

First, condemnation of private property will require payment of just compensation. The department does not have funds to pay such amounts. We do not have any basis to estimate the necessary amounts but an appropriation would be necessary.

Second, the bill leaves open the question of what will happen to the roads after condemnation. This is a particular problem because once the property is condemned, it is a government road. Lands being used for roads and streets are not public lands, section 171-2, Hawaii Revised Statutes (HRS). Therefore the newly acquired roads would not be within the jurisdiction of the Department of Land and Natural Resources.

The roads are not listed or claimed by the Department of Transportation. Therefore the roads would also not be within the jurisdiction of that department. It appears that, pursuant to 264-1, HRS, the roads would be or become county roads.

We respectfully ask the Committee to hold this bill.

DAVID Y. IGE
GOVERNOR OF
HAWAII



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

ROBERT K. MASUDA
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
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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 & LAND

Wednesday, January 31, 2018
10:00am
State Capitol, Conference Room 325

In consideration of
HOUSE BILL 2050
RELATING TO PRIVATE ROADS

House Bill 2050 proposes that the Attorney General be directed to condemn the following four Oahu roads, under the authority of Act 194, Session Laws of Hawaii (SLH) 2016: 1) Auld Lane from Olomea Street to North King Street; 2) Rawlins Lane from Auld Lane to its terminus; 3) 'Iao Lane from Olomea Street to Auld Lane; and 4) Akau Lane from Hikina Lane to its terminus. **The Department of Land and Natural Resources (Department) offers the following concerns and comments on the measure.**

While the Department appreciates the intent of this bill, and is generally supportive of efforts to resolve issue of roads in limbo, Act 208, SLH 2017, codified as Section 264-2.1, Hawaii Revised Statutes (HRS), amended the Highways Act to add language specifically providing that if ownership over a disputed road has not been exercised five years prior to July 1, 2017, such disputed road shall be deemed to have been surrendered to the county upon issuance of an administrative order by the State Director of Transportation. The Department therefore maintains that condemnation is an unnecessary step to take when the Director of Transportation could resolve the matter unilaterally by administrative order.

Furthermore, even if the State were to condemn the listed roads, they are not the type of primary arteries that the Department of Transportation normally maintains. As a result, after condemnation the State would need to find a way to transfer the roads to the City and County of Honolulu. The likely vehicle for achieving that end is once again Section 264-2.1, HRS. Condemnation would only insert a time-consuming and costly extra step in ultimately placing responsibility for these roads with the City.

Thank you for the opportunity to comment on this measure.

HB-2050

Submitted on: 1/28/2018 10:15:00 PM

Testimony for WAL on 1/31/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Ho'omanapono Political Action Committee (HPAC)	Oppose	Yes

Comments:

WE STRONGLY OPPOSE this bill!!! There is no indication that a thorough search for the owners of the property of which these lanes sits upon were even investigated. This is purely GOVERNMENT ABUSE OF POWER. The Attorney General has NO AUTHORITY to unilaterally condemn property. This law seeks to subvert the Eminent Domain laws. We are instead suggesting that the author of this bill review the Hawaii Constitution & the laws of this State in relation to the oath of office that was taken!

TO: The Honorable Ryan Yamane, Chair, the Honorable Chris Todd, Vice Chair and other Members of the House Committee on Water & Land

DATE: Wednesday, January 31, 2018 - 10:00 a.m., Room 325

RE: HB 2050 – RELATING TO PRIVATE ROADS

STRONG SUPPORT

Thank you for this opportunity to testify in strong support of HB 2050, which would condemn Rawlins Lane, and would hopefully lead to its future repair.

My name is Hwa Ja Park, and my family and I have been living at 1009 Rawlins Lane for over 80 years, and throughout that time, the road condition has deteriorated greatly. Over the years, our family has tried to be good neighbors and we have filled in the more damaged areas with blacktop patch. More recently, with my husband and son no longer with me, I hired someone to fill in some of the bigger holes near the entrance of Rawlins Lane with concrete, but due to the enormous cost, I could not fill the entire lane. We have tried to get abutting land owners to chip in to repave Rawlins Lane, but they are uninterested or do not have the monetary resources to do so. Rawlins Lane floods after heavy rainfall making it dangerous and sometimes impossible for the elderly like me and the young children to pass safely. We have also asked the City for assistance, but they refused to maintain this roadway because it is considered a private road.

Please help us to improve this serious condition where we live by supporting and passing HB 2050.

Sincerely,

Hwa Ja Park