

DAVID Y. IGE  
GOVERNOR



**Testimony by:**  
JADE T. BUTAY  
INTERIM DIRECTOR

Deputy Directors  
ROY CATALANI  
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, 2018  
2 p.m.  
State Capitol, Room 325

**H.B. 2275, H.D. 1**

**RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY**

**HOUSE COMMITTEE ON JUDICIARY**

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The Department of Transportation (DOT) **supports** this bill to resolve maintenance issues for privately owned roads in development districts under Chapter 206E, HRS. We would also like to point out for clarification purposes that the DOT does own State Roads that pass through or are within HCDA development districts such as Ala Moana Boulevard in Kakaako and a few roads in Kalaeloa. All State roads in the area are on a maintenance cycle and are managed to State standards.

Thank you for the opportunity to provide testimony.

Members of the Judiciary Committee  
and  
Members of the Public Safety, Intergovernmental, and Military Affairs

Date: Tuesday, February 13, 2018

Subject: Opposition to HB 2275

Honorable Legislators:

My family owns various roadways in Kakaako. We **oppose** HB 2275 because the legislation is legally questionable and unproductive.

We look forward to working with the various government agencies to find an appropriate solution.

Thank you for allowing us to comment.

Calvert Chun  
1054-A Alewa Drive  
Honolulu, HI 96817

The Honorable Scott Nishimoto, Chair  
And Members of the Judiciary Committee

The Honorable Clarence Nishihara, Chair  
And Members of the Public Safety, Intergovernmental, and Military Affairs

Tuesday, February 13, 2018

Opposition to HB 2275 (Kakaako Roads)

Gentlemen,

My family owns a condo unit in Kakaako and I frequent the area often. We oppose HB 2275 because it looks illegal and is fraught with (negative) unintended consequences.

Normally, the government and abutting property owners pay for these improvements.

Private road owners have no control over the public accessing their roads so they are not responsible for bringing them up to City standards. This bill is certain to face stiff legal challenge and, in the end, will accomplish nothing.

Further, abutting property owners could lose parking and some of their frontages.

Government needs to demonstrate effective leadership and sound public policy by passing common sense laws which are fair and thus can be effective. If the government is serious about taking ownership of these roads, then condemn them, with the government itself taking the responsibility of bringing them up to City standards via either public funds or public/private funds.

Thank you.

Glenn Shiroma  
825 Coolidge Street  
Honolulu, HI 96826



February 14, 2018

Representative Scott Y. Nishimoto, Chair  
Representative Joy A. San Buenaventura, Vice Chair  
House Committee on Judiciary

**Comments, Concerns, and Support for Proposed Amendment to HB 2275, HD1, Relating to the Hawaii Community Development Authority (Requires certain private streets, highways, or thoroughfares in a commercial development district of the HCDA to conform to county construction and maintenance standards. Makes owners who exercise ownership rights for financial gain or profit responsible for the costs of conforming and maintaining the private roads. Authorizes private right of action to enforce compliance. Repeal on 6/30/2023.)**

**Thursday, February 15, 2018, 2:00 p.m., in Conference Room 325**

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF appreciates the opportunity to provide comments, concerns and **support for proposed amendments** to HB 2275, HD1.

**HB 2275, HD1.** This bill requires certain private streets, highways, or thoroughfares in a commercial development district of the Hawaii community Development Authority (HCDA) to conform to county construction and maintenance standards; makes owners who exercise ownership rights for financial gain or profit responsible for the costs of conforming and maintaining the private roads; and authorizes private right of action to enforce compliance. The measure also provides for repeal on 6/30/2023.

**LURF's Position.** While LURF **supports** the general intent of HB 2275, HD1, LURF members include a number of land owners and homebuilders in the HCDA district which could be negatively affected by the unintended consequences of this measure, and respectfully requests that this Committee favorably consider **an amendment to the bill**, based on the following comments and concerns.

Within HCDA's Kaka'ako development district there are a number of small streets, roads, lanes and driveways that are either located within a development block under HCDA master plan permits, or between and connect development blocks under HCDA master plan permits. These small streets, roads, lanes and driveways, which are integral parts of existing HCDA master plan permits, do not meet the county's current standards for streets and roads, and may arguably fall under the Bill's current requirements, because the landowners have not historically restricted members of the general public from using these streets, lanes and driveways.

LURF understands that it would be virtually impossible to widen these small streets, roads, lanes and driveways to County standards without demolishing portions of existing buildings on neighboring parcels that are leased out to numerous businesses; interrupting or forcing the closure of many businesses along and near these small streets, roads, lanes and driveways; and resulting in landowners incurring additional substantial business interruption and costs, when future planned redevelopment is implemented in these areas pursuant to HCDA master plan permits.

Since these small roads, lanes and driveways are located within large development blocks that are slated for redevelopment under HCDA master plans, it seems unfair and wasteful to require a landowner to demolish buildings, displace tenants, and install significant infrastructure in these small streets, roads, lanes and driveways just before the development block is redeveloped under the HCDA master plans.

**Proposed Amendments:** In light of the above, a prudent solution would be to exempt such areas that are within, or between development blocks under approved HCDA master plan permits, and LURF respectfully proposes the following amendments for the consideration by your Committee:

This section shall not apply to:

- Private streets, highways, or thoroughfares located within a development block under a HCDA master plan permit, and
- Private streets, highways, or thoroughfares located between development blocks under a HCDA master plan permit.

Understanding the importance of these issues, **LURF respectfully requests that HB 2275, HD1, be amended as provided above.**

Thank you for the opportunity to provide comments, concerns and support for proposed amendments relating to this proposed measure.



**TESTIMONY TO THE COMMITTEE ON JUDICIARY**

**Thursday, February 15, 2018 2:00 p.m.**

**State Capitol, Conference Room 325**

**TO:** The Honorable Scott Y. Nishimoto, Chair  
The Honorable Joy A. San Buenaventura, Vice Chair  
Members of the Judiciary Committee

**TESTIMONY IN SUPPORT WITH AMENDMENTS TO HB2275 HD1 RELATING TO HCDA**

I am Stafford Kiguchi with Bank of Hawaii testifying in support with a proposed amendment of HB2275 HD1 relating to the Hawaii Community Development Authority. This bill would require certain private streets, highways, or thoroughfares in a commercial development district of the HCDA to conform to county construction and maintenance standards. Additionally, it would require owners who exercise ownership rights for financial gain or profit responsible for the costs of conforming and maintaining the private roads as well as authorize a private right of action to enforce compliance.

Bank of Hawaii is on title to a number of roads, although none in Kakaako, which were acquired when it purchased Hawaiian Trust and Bishop Trust companies in the 1980s. 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 bank has never attempted to exercise any rights of ownership and these roads have remained open to the public with unrestricted access for cars, buses, refuse trucks, and emergency vehicles, etc. We recognize the fact that ongoing maintenance along certain privately owned roads or roads where there is a dispute of ownership is a longstanding issue.

The amendment incorporated into HD1 addresses situations whereby the owner(s) is passive and where the roads are open for public benefit with no restrictions regarding public use. We would like to propose one further amendment as outlined on the second and third page of this testimony to help avoid redundancy and add clarity.

Thank you for your consideration of these recommendations and the opportunity to testify.

Stafford Kiguchi  
Executive Vice President, Bank of Hawaii  
808-694-8580

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# A BILL FOR AN ACT

RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1           SECTION 1. Chapter 206E, Hawaii Revised Statutes, is  
2 amended by adding a new section to part I to be appropriately  
3 designated and to read as follows:  
4           "§206E- Roads; county standards. (a) Every portion of  
5 a private street, highway, or thoroughfare that has been used  
6 continuously by the general public for a period of not less than  
7 six months and is located within a commercial development  
8 district shall conform to construction and maintenance standards  
9 established for county highways, pursuant to section 46-  
10 1.5(19)(A) and section 265A 1, by the county in which the  
11 development district is located. Any owner or owners who  
12 exercise the ownership rights for financial gain or profit, of a  
13 portion of a private street, highway, or thoroughfare that is  
14 located within a commercial development district and used  
15 continuously by the general public for a period of not less than  
16 six months, shall be responsible for the costs of conforming and



1 maintaining <sup>such</sup> ~~the~~ private street, highway, or thoroughfare to meet  
2 the construction and maintenance standards <sup>insert #1</sup> ~~by that county.~~

3 (b) Any person may bring a civil action in circuit court  
4 for injunctive relief against <sup>an</sup> ~~the~~ owner in order to require the  
5 owner to comply with the requirements of subsection (a). If the  
6 decree is for the person who brings the action, the person shall  
7 be awarded reasonable attorney's fees together with the costs of  
8 suit."

9 SECTION 2. New statutory material is underscored.

10 SECTION 3. This Act shall take effect on July 1, 2050 and  
11 shall be repealed on June 30, 2023.

INSERT #1:

established for county highways, pursuant to section 46-1.5 (19)(A) and section 265A-1 by the county in which the development district is located.







## Testimony to the House Committee On Judiciary

Thursday, February 15, 2018 2:00 p.m.  
Conference Room 325, State Capitol  
RE: House Bill 2275 HD1

Chair Nishimoto, Vice Chair San Buenaventura and Members of the Committee on Judiciary

Hawaii Gas provides the following **comments** for HB2275 HD1.

HB 2275 requires certain private streets, highways, or thoroughfares in a commercial development district of the HCDA to conform to county construction and maintenance standards. The applies to owners who exercise ownership rights for financial gain or profit and makes them responsible for the costs of conforming and maintaining the private roads.

Hawaii Gas appreciates the spirit and intent of this measure but has concerns that the bill may have unintended applicability to its business.

Hawaii Gas has 135 energy professionals who work at its Kamakee Operations Center at 515 Kamakee Street (corner of Kamakee and Kona Street). Hawaii Gas owns Kona Street (a private street within the Kakaako HCDA development district) and provides its employees with assigned parking stalls.

In its current form, the bill appears to apply to ALL owners of private streets, highways, or thoroughfares and appears ambiguous to owners who may not utilize the street for financial gain or profit. It further states that owners who exercise ownership rights for financial gain or profit shall be responsible for the costs of conforming and maintaining the private street, highway, or thoroughfare to meet the construction and maintenance standards by that county.

What is also unclear is the definition of financial gain or profit. As an example, the measure may also apply to businesses that use a private street exclusively for employee parking. A reasonable interpretation of "exercise ownership rights for financial gain or profit" might mean that businesses that provide employee parking on a private street within an HCDA development district may be using the private street for financial gain or profit because employees are necessary to operate the business and earn a profit.

If the measure did apply to Hawaii Gas, it would result in prohibitively costly upgrades to conform to City and County standards for public roadways, and these costs may impact ratepayers in the state.



We offer this amendment as part of Section 1:

The requirements of this section shall not apply to any owner or owners who use the private street, highway, or thoroughfare exclusively for their own business purposes, including, but not limited to employee parking.

Hawaii Gas therefore would **oppose** HB2275 HD1 in its current form unless amendments address our concerns.

Thank you for the opportunity to testify on HB 2275 HD1.

**HB-2275-HD-1**

Submitted on: 2/14/2018 1:56:23 PM

Testimony for JUD on 2/15/2018 2:00:00 PM

| <b>Submitted By</b> | <b>Organization</b>   | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---|---------------------------|---------------------------|
| Melodie Aduja       | OCC Legislative<br>Priorities Committee,<br>Democratic Party of<br>Hawaii | Support                   | No                        |

Comments:

**HB-2275-HD-1**

Submitted on: 2/15/2018 12:21:54 AM

Testimony for JUD on 2/15/2018 2:00:00 PM

**LATE**

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Don Aweau           | Individual          | Support                   | Yes                       |

Comments:



HAWAII COMMUNITY  
DEVELOPMENT AUTHORITY



KAKAOKO  
KALAELOA

David Y. Ige  
Governor

John Whalen  
Chairperson

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Interim Executive Director

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**LATE**

STATEMENT OF

GARETT KAMEMOTO, INTERIM EXECUTIVE DIRECTOR  
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

BEFORE THE  
HOUSE COMMITTEE ON JUDICIARY

Thursday, February 15, 2018  
2:00 p.m.

State Capitol, Conference Room 325

in consideration, of

**HB 2275, HD1**  
**RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY**

Chair Nishimoto, Vice Chair Buenaventura, and members of the  
committee.

The Hawaii Community Development Authority (HCDA) would like to  
provide comments to HB 2275, HD1.

This bill requires owners of private streets, highways, or thoroughfares in  
an HCDA development district to conform and maintain private roads to county  
standards and it also makes owners who exercise ownership rights for financial  
gain or profit responsible for the costs of conforming and maintaining the private  
roads.

We note that there are a number of private land owners in the Kakaako  
district and have attached a map of street owners.

Thank you for the opportunity to provide comments on this bill.

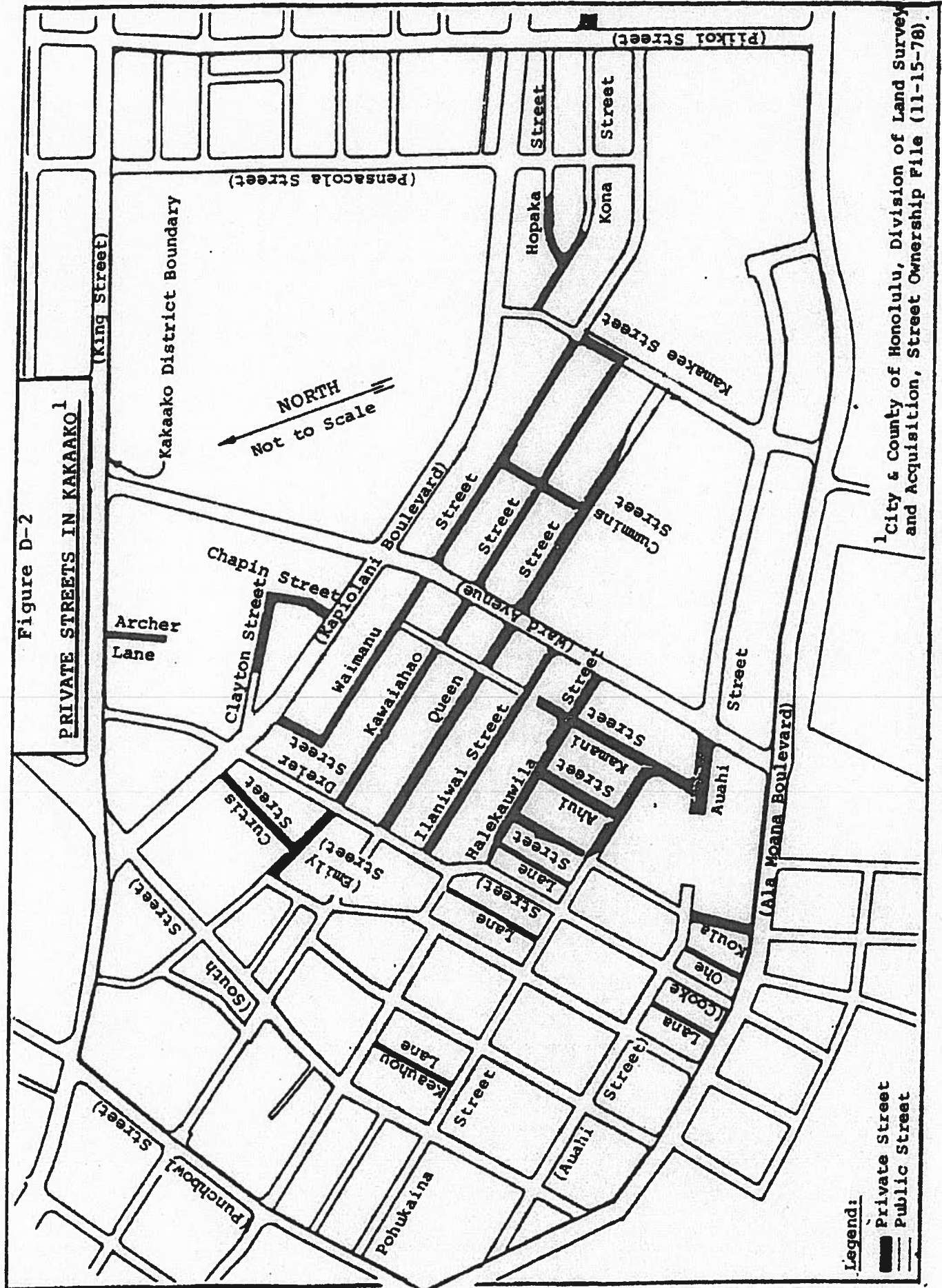


Table D-3

PRIVATE STREETS IN KAKAOKO

| <u>Street</u> | <u>Limits</u>                    | <u>Owner</u>                             |
|---------------|----------------------------------|--|
| Ahui          | Pohukaina to Halekauwila         | Victoria Ward, Ltd.                      |
| Archer Lane   | King (makai)                     | Various <sup>1</sup>                     |
| Auahi         | Ewa of Kamani to Ward Avenue     | Victoria Ward, Ltd.                      |
| Chapin        | Kapiolani Boulevard to Clayton   | Various <sup>2</sup>                     |
| Clayton       | Kapiolani Boulevard to Chapin    | Various <sup>2</sup>                     |
| Cummins       | Queen to Waimanu                 | Desky <sup>3</sup>                       |
| Curtis        | Kawaiahao to Kapiolani Boulevard | Unknown                                  |
| Dreier        | Waimanu to Kapiolani Boulevard   | Unknown                                  |
| Halekauwila   | Cooke to Ward Avenue             | Victoria Ward, Ltd.                      |
| Hopaka        | Kona to Ewa of Pensacola         | Hawaiian Dredging Company, Ltd.          |
| Ilaniwai      | Cooke to Ward Avenue             | Unknown                                  |
| Kamakee       | Queen to Waimanu                 | Desky <sup>3</sup> and E. E. Black, Ltd. |
| Kamani        | Auahi to Ilaniwai                | Victoria Ward, Ltd.                      |
| Kawaiahao     | Emily to Kamakee                 | Desky <sup>3</sup>                       |
| Keauhou       | Pohukaina to Halekauwila         | B. P. Bishop Estate                      |
| Kona          | Kamakee to Waikiki of Hopaka     | Hawaiian Dredging Company, Ltd.          |
| Koula         | Ala Moana Boulevard to Auahi     | Unknown                                  |
| Koula         | Pohukaina to Halekauwila         | Victoria Ward, Ltd.                      |
| Lana Lane     | Ala Moana Boulevard to Auahi     | Unknown                                  |
| Lana Lane     | Pohukaina to Halekauwila         | B. P. Bishop Estate                      |
| Ohe Lane      | Ala Moana Boulevard to Auahi     | Unknown                                  |
| Ohe Lane      | Pohukaina to Halekauwila         | Unknown                                  |
| Pohukaina     | Koula to Kamani                  | Victoria Ward, Ltd.                      |
| Queen         | Cooke to Waikiki of Kamakee      | Unknown                                  |
| Waimanu       | Dreier to Kamakee                | Unknown                                  |

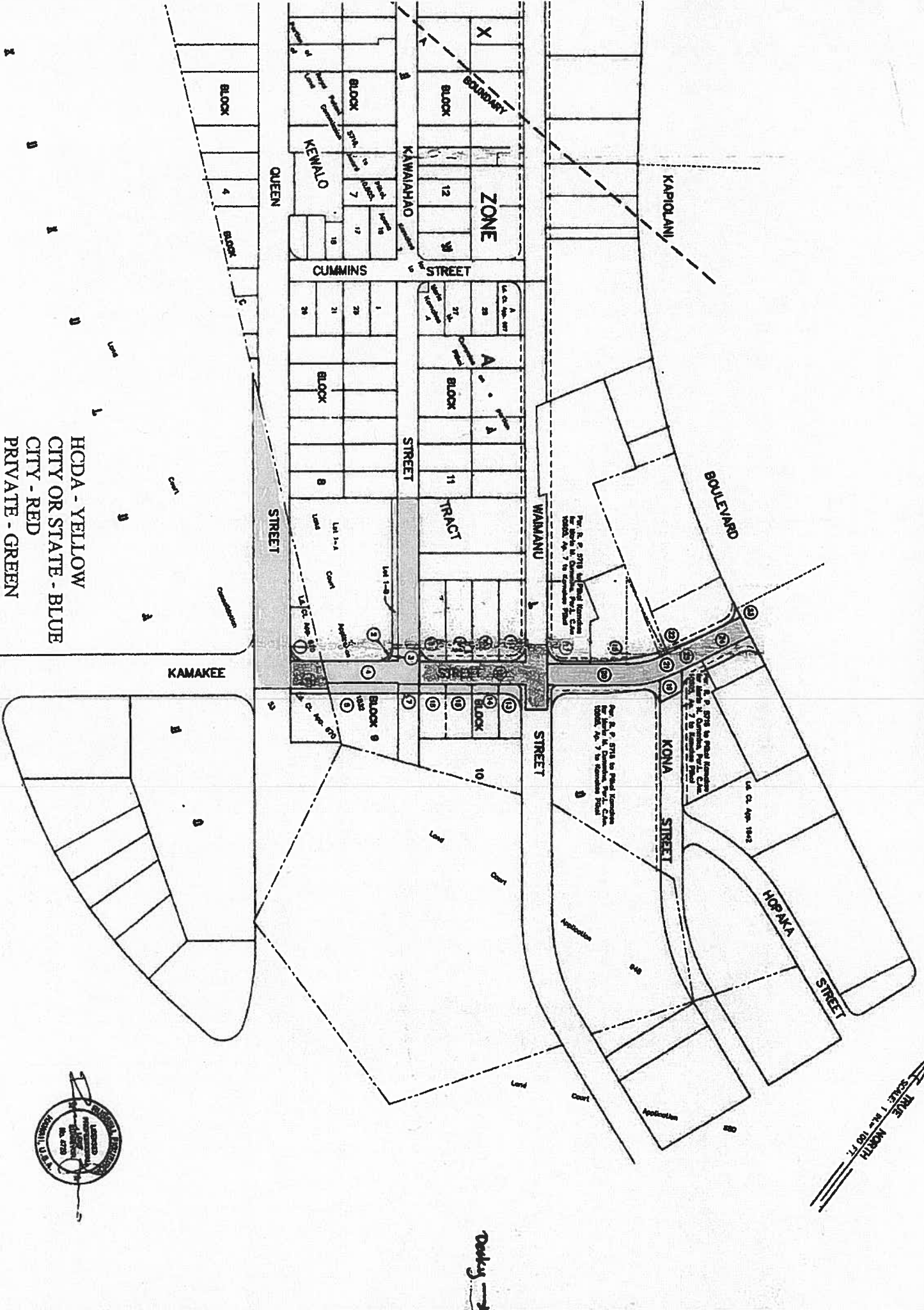
<sup>1</sup> Owners of record: Bernice Jaeger Wolters, Paloma Jaeger Kuhn, Samuel Clesson A. Jaeger, James Emile Jaeger, and Joanne Z. Wolters.

<sup>2</sup> Owners of record include Honolulu Construction and Draying Company, Ltd. and owners of TMK 2-1-44, Parcels 6, 7, 10, 21, 22, 23, 24, 25, 27, 29, 30.

<sup>3</sup> Heirs of Charles S. Desky, Trustee, Deceased.



HCDA - YELLOW  
 CITY OR STATE - BLUE  
 CITY - RED  
 PRIVATE - GREEN



TRUE NORTH  
 SCALE: 1" = 100 FT.



0 100 200 300

0 100 200 300