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February 7, 2022

Testimony by  
**ZENDO KERN**

**Director, County of Hawai'i Planning Department**

before the

**Committee on Government Operations**

**Committee on Transportation**

**Tuesday, February 8, 2022, 3:15 P.M.**

**State Capitol – Via Videoconference**

In consideration of  
**SB 3324**

**Relating to Infrastructure Maintenance in Housing Subdivisions**

Based on our similar position on a previous bill, the County of Hawai'i Planning Department would like to express OPPOSITION of SB 3324 that places requirements on counties to assess and collect fees for the repair and maintenance of subdivisions. Substandard subdivisions in Puna and Ocean View have hundreds of miles of substandard and deteriorating roads, and many subdivisions have disputed or inactive Homeowners Association. Bill SB 3324 would place an unfair burden on the County of Hawai'i to implement the legislation. Determining viable solutions to the multitude of deteriorating roads in these subdivisions demands collaborative discussions and decision making between departments and across jurisdictions which is a time intensive process

To move this issue forward in the County of Hawai'i, a feasibility and financial impact study is needed that would include financing and implementation options. No doubt that lack of staff capacity, funding and competing priorities have prevented the county from conducting a feasibility study to date. Therefore, I suggest the State provide \$300,000 to the County of Hawai'i to fund a feasibility study on roads and repairs in substandard subdivisions conducted by a consultant and contract management by a county department.

**LATE**

# HCCA

Hawaii Council of Community  
Associations

**LATE**

February 7, 2022

[www.hawaiicouncil.com](http://www.hawaiicouncil.com)

Senator Sharon Moriwaki, Chair  
Senator Donovan Dela Cruz, Vice-Chair  
Senate Committee on Government Operations

Senator Chris Lee, Chair  
Senator Lorraine R. Inouye, Vice-Chair  
Senate Committee on Transportation

Re: SB3324 Relating to Infrastructure Maintenance in Housing Subdivisions  
Testimony in Support  
Tuesday, February 8, 2022 at 3:15 p.m.

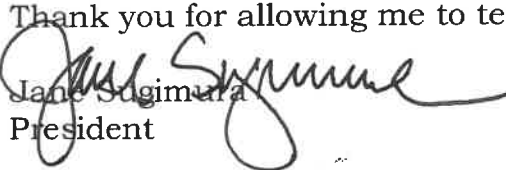
Chair Moriwaki, Chair Lee, Vice-Chair Dela Cruz and Vice-Chair Inouye and Members of the Joint Committee:

I am Jane Sugimura, President of the Hawaii Council of Associations of Apartment Owners (HCCA).

HCCA supports this bill as a temporary measure to address the lawsuits that have been required to be filed in the absence of a statutory framework or oversight agency to oversee the creation, monitoring, training and auditing of various volunteer associations responsible for the infrastructure, e.g., roads, that serve particular housing subdivisions. HCCA is familiar with the disputes and lawsuits that have occurred on the Island of Hawaii in the absence of such a statutory framework or oversight agency, and suggests that the Legislature establish a task group to work with stake holders to amend Chapter 421J (i) to include these housing subdivisions in its statutory framework and (ii) to add a mechanism whereby a designated number of homeowners can be allowed to organize an association to collect the fees required to repair and maintain the infrastructure that abuts their property.

The litigation described in the preamble to the bill reflects the Hawaii Supreme Court's recognition of homeowners' legal obligation to maintain roads that serve their subdivisions whether or not there is express language in their conveyance documents requiring them to do so. Safe roads is a health and safety issue and the Legislature needs to step up to the plate and provide these homeowners with a resolution consistent with the Hawaii Supreme Court's opinion so that they are not required to spend time and expense (unnecessarily in my opinion) to keep litigating this issue.

Thank you for allowing me to testify on this measure.

  
Jane Sugimura  
President

1050 Bishop Street #366, Honolulu, Hawaii 96813

**LATE**

**SB-3324**

Submitted on: 2/7/2022 4:35:02 PM

Testimony for GVO on 2/8/2022 3:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
M. Eileen O'Hara	Testifying for Hawaiian Shores Community Association	Support	No

Comments:

Aloha,

As a 40+ year resident of the substandard subdivisions of the Puna District, I wish to provide support for SB 3324, especially Part 2 of the bill. I will provide more in depth testimony once this bill passes first committee so please approve this bill.

M. Eileen O'Hara, PhD

Hawaiian Shores Community Assn, President Board of Directors

**LATE**

**SB-3324**

Submitted on: 2/7/2022 7:02:17 PM

Testimony for GVO on 2/8/2022 3:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Richard Emery	Testifying for Associa	Support	No

Comments:

I served as an expert witness on litigation on issues for pre-statehood homeowner associations that currently have no regulations. The lack of any legal process exposes the members to misuse of funds and the current laws offer no method by owners to address the alleged problems. I strongly support SB3324.

**SB-3324**

Submitted on: 2/6/2022 12:46:29 PM

Testimony for GVO on 2/8/2022 3:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Joshua Jacobs	Individual	Support	No

Comments:

I am writing in full support of SB3324. This legislation is vital. The current associations cannot maintain the mileage of roads they are entrusted to repair without mandating dues. Furthermore the associations would benefit tremendously from training given by the county. Again, these associations are run on a miniscule budget for the size of their responsibility. As noted in the bill, homes have been lost due to the time spent navigating poor roads. But also, public school buses are not able to navigate many roadways leaving school aged children left to walk for multiple miles in order to catch the bus.

Thank you for your consideration,

Joshua

**SB-3324**

Submitted on: 2/7/2022 10:03:32 AM

Testimony for GVO on 2/8/2022 3:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
linnette quade	Individual	Support	No

Comments:

I am a resident of Hawaiian Acres essentially now a suburb of hilo. Our road dues are voluntary and although they are only 5 dollars a month only about 10% of folks will pay. we are at the point that police, fire, ambulance, school buses are all joining the residents in hardly making it through our subdivision. although we pay road taxes, gas taxes, property taxes etc, we find no help from anyone. We are basically asking the state to legally let us help ourselves by requiring those who own these roads to maintain them. this has gone on since the inception of this subdivision, please please pass this measure.. thank you.

**SB-3324**

Submitted on: 2/7/2022 11:51:38 AM

Testimony for GVO on 2/8/2022 3:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Peter Epperson	Individual	Support	No

Comments:

Please help us and support this bill. A number of our roads in Hawaiian Acres are impassable during heavy rains. Private ambulance services require injured parties to be brought to the highway as they won't attempt to drive on our roads. For more that 60 years the community has relied on voluntary contributions to repair the roads. It doesn't work. Every other subdivision has mandatory road fees. Family and friends no longer are willing to visit us because they fear damaging their vehicles. Let's make it fair and require every lot to owner maintain their roads.

**SB-3324**

Submitted on: 2/7/2022 12:22:11 PM

Testimony for GVO on 2/8/2022 3:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
mike bartelt	Individual	Support	No

Comments:

We need help in building and maintaining our substandard subdivision roads. Thank you, Mike Bartelt



**SB-3324**

Submitted on: 2/7/2022 12:24:41 PM

Testimony for GVO on 2/8/2022 3:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Tiffany Edwards Hunt	Individual	Support	No

Comments:

Aloha, legislators: I cannot tell you how relieved I am to see the state Legislature trying to address our elephant in the room, namely the private subdivisions, particularly here in Puna, where all of us residents predominantly live in one and have to deal with the complete and total dysfunction their boards plague us with. I went from living in Hawaiian Acres with the volunteer road maintenance fees and absolutely abhorred living in that subdivision. I had to drive a truck (I got rid of my Honda Element due the rear end axle being totally damaged by the road). The roads were so incredibly bad. Sometimes the roads would just turn into full-on rivers and the low spots would be lakes, and so it was just an adventure to get to and from home. Needless to say, as someone who was very involved in community and who has children involved in activities and sports, I would leave house in the morning and not return until late in the evening because I didn't want to drive back and forth through those nightmare roads. Trying to go to the board meetings to affect positive change was moot. The people who gravitated to serve on those boards were really predominantly dysfunctional and did not adhere to Robert's Rules of Order TO SAY THE LEAST. I would try to endure the meetings and their chaos, in hopes of potentially helping to get road fees made mandatory and a plan for the road improvement to be implemented. But it became too difficult to attend these meetings that were chaotic and non-productive. Ultimately, my family relocated to Hawaiian Paradise Park and with that we started having to pay \$360 per year, a \$1 per day. I remember from years back as a newspaper reporter that HPP sought a bond to try and get the roads paved. But then years later those roads aren't paved and there is this widespread rumor that someone was nefarious with the bond proceeds. But no one really knows what is the update with bond not the roads because the current board is totally secretive, not transparent at all. In fact, I have tried to endure the HPP meetings and I have to tell you, as a former newspaper reporter, I have never witnessed a community more hostile, more confrontational to its members, more chaotic, more suspicious, than an HPP owners association meeting. I am so outraged by these people, and I don't even know any of them personally. Recently, I just received a bill for \$396, an increase of \$36 from last year, and yet the last membership meeting that was called was on Oct. 31, and there were board members present who deliberately didn't sign up for the meeting in order to ensure that they didn't meet the minimum membership count for a quorum to occur. These are the type of shenanigans that they pull on the membership. It's just so awful. I feel so held hostage by these people, because I definitely feel like I want to support my subdivision, pay my bills, and be a community player. But I don't trust where the money is going. I also don't feel like these people are managing the funds properly. I have no confidence whatsoever in these people. And yet predominantly displayed on the bill is the threat that they can put a lien on our properties if

they don't pay our bill. I don't understand how such a body of dysfunctional humans with no accountability whatsoever can wield so much power.

I tried reaching out to the Attorney General's Office, seeking a remedy. I never received a response to my email. I reached out to my senator. Thank you, Joy San Buenaventura, for helping to get your colleagues to understand that this issue is a critical one to address. We really need the Legislature's help. I work about 60 hours a week, so I'm not sure if I can get on a Zoom call to testify, but I'm willing to do so if it will help to convince legislators how important this legislation is for you to pass. Please help those of us who live in private subdivisions. Mahalo.

**SB-3324**

Submitted on: 2/7/2022 1:46:14 PM

Testimony for GVO on 2/8/2022 3:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Ronald Quade	Individual	Support	No

Comments:

I support SB3324 completely. Road 1 hawaiian acres is very dangerous and has giant potholes and deep water that often comes up to the bottom of the car doors. Gravel is brought in now and then but as soon as it rains again it is just as bad or worse. I have lost a tire once because the hole was so big and deep it destroyed the tire. Also it tore loose the right front ball joint of my Dodge truck and cost me over 1000\$. I see others stuck beside the road often with similar problems. I suspect that before long the school busses and emergency vehicles will refuse to come in on road 1. Everyone that lives in the top half of Hawaiian Acres uses road 1 to get into Hawaiian Acres since it is so far to road 8, and all the letter roads (C, D,E, F) are so horrible no one would go from road 8 up to roads 1,2,3,or 4, or even 5.This has been a terrible problem for so many years. In the distant past, a higher percentage of the property owners paid the road dues, and paving and rolling was able to be done on the bad areas. But then SOMEONE got all the owners addresses and sent out letters telling everyone to NOT PAY. Since then the roads have gone to extremely dangerous and there is no money to maintain them even to primitive standards. . The solution is this bill that makes road dues mandatory.

**SB-3324**

Submitted on: 2/7/2022 1:30:44 PM

Testimony for GVO on 2/8/2022 3:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Judith Epperson	Individual	Support	No

Comments:

Asking for your support of this bill. Some of our roads, particularly Road 1, are impassable during heavy rains. Some ambulance services require injured people to be brought to the highway because they won't attempt to drive on our roads. Road repair has been up to the community for more than 60 years and has relied on voluntary contributions. It doesn't work and there are more people living in our subdivision and the numbers are growing. We are the only subdivision that doesn't have mandatory road fees. Our family and friends are not willing to visit us because of potential damage to their vehicles. Help us make it fair by requiring every lot owner to contribute to the maintenance of their roads.

A further point is that when this subdivision was formed, the County was supposed to take care of drainage and never did. Without good drainage, the roads are very difficult to maintain.

**SB-3324**

Submitted on: 2/7/2022 3:39:12 PM

Testimony for GVO on 2/8/2022 3:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
chandra potter	Individual	Support	No

Comments:

We need services such as police and fire to access our community. We also need more detour routes from highway 11 when the highway is shut down for accidents/ trees in the road

**SB-3324**

Submitted on: 2/7/2022 7:38:29 PM

Testimony for GVO on 2/8/2022 3:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Jordan Epperson	Individual	Support	No

Comments:

Hi, my name is Jordan Epperson and I support SB3324.

I have been a resident in Hawaiian acres for most of my life. For many of my adult years I've regularly volunteered to assist both Hawaiian Acres Road Corporation and previously Hawaiian Acres Community Association with road maintenance on Uhini Ana Rd and some of our other roads as well. This has been a difficult task considering Hawaiian Acres had been approved by our state or county many years ago with no viable road maintenance plan in order and no means to collect maintenance fees from the lot owners of HA. In past years our volunteer efforts along with the very little voluntarily paid road dues barely got us by. Fortunately, we didn't get a lot of traffic as most lots were uninhabited for many years and that helped keep the wear and tear of our roads down. In recent years we've had one major influx of residents after another. I welcome my new neighbors, but we still have no viable road maintenance plan to address the growing demand on the roads here. The little pavement we do have, that the Army Corp of Engineers assisted us with in the 70's and 80's, has become more of a hazard than anything now that its over 40 years old. We can't keep up with patching the giant potholes with the very little funds we have even when we do try.

A bigger worry of mine is that with a quickly growing population we continue to have less emergency services than we previously had. Private ambulance companies no longer will service our neighborhood due to the condition of our roads, that means when someone truly has a medical emergency in Hawaiian Acres, they either have to drive themselves to the highway and meet the ambulance or wait for the county ambulance to become available and hope it doesn't break or get stuck on the way. I regularly wonder why the county is even allowed to continue issuing building permits here in a neighborhood with dwindling emergency services and no viable infrastructure plan?

This Bill seems like a very good way to overcome these issues without causing major disagreements between residents here. Please help us and other neighborhoods with similar issues by supporting SB3324. Thank you.

Aloha,

Jordan Epperson



**LATE**

**SB-3324**

Submitted on: 2/7/2022 7:41:24 PM

Testimony for GVO on 2/8/2022 3:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Erica Avery Macri	Individual	Support	No

Comments:

I support this bill because HOA's have too much power to cause hardship to owners already overburdened by increases in fees as in Leilani Estates, wherein board members have abused their powers without voting of members and taken advantage of COVID restrictions to keep real discourse from occurring, to the detriment of many owners. The original rules has gone out the window, and this bill would help to begin holding them to account for actions taken by the few not the majority. Mahalo for your consideration.



**LATE**

**SB-3324**

Submitted on: 2/8/2022 9:15:15 AM

Testimony for GVO on 2/8/2022 3:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Selene Wayne	Individual	Support	No

Comments:

I support Joy SanBuenventura's hard work to make this bill come forward. I have lived in Hawaiian Acres since 2004 and the roads have not improved since moving in. There isn't enough money brought in from the voluntary \$60/year road dues to do much with the amount of miles in this subdivision. And when unhappy landowners can sue the volunteers for any work they deem unnecessary, no one wants to volunteer for road crew. Mind you, these unhappy landowners don't volunteer nor do they know anything about engineering, they just want to be unhappy and make everyone else also. I am in 100% support of this bill. Mandatory road fees, training for those responsible of taking fees and maintaining the roads, and the backing of the state to protect those who do the work. Thank you, Selene Wayne

**LATE**

**SB-3324**

Submitted on: 2/8/2022 10:20:29 AM

Testimony for GVO on 2/8/2022 3:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
James Kiley	Individual	Support	No

Comments:

I am testifying in support of SB3324, "Relating to infrastructure Maintenance in Housing Subdivisions."

There are compelling reasons for passing SB3324, but a straightforward justification is that it would be tragic to lose a life if an emergency vehicle is unable or unwilling to reach a person in distress because of impassable road conditions. Without shared contributions by all the community members, it is difficult, if not impossible, to maintain roads equitably for all modes of transport.

Thank you.

**LATE**

**SB-3324**

Submitted on: 2/8/2022 11:42:46 AM

Testimony for GVO on 2/8/2022 3:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Tom Clarke	Individual	Oppose	No

Comments:

Aloha,

My wife and I have lived in Hawaiian Acres since 1985. We bought land here, in part, because of the bad roads. They offered privacy, security, and low density. With improved roads comes a huge increase in theft, as well as traffic that wears the roads. I believe there is a need for places like Hawaiian Acres, where road fees and community association fees are voluntary. Our country was settled by those folks that were not in need of anything "Mandatory". We all signed up for the voluntary aspect when we bought land here. Involving the county will not help those of us that are on a limited income. Hawaiian Acres is a sub-standard sub division, as anyone who owns property here should appreciate.

Funds have been approved in the past for emergency access, and those funds were diverted. The County should keep emergency access roads open and well cared for. That is all. As a community, Hawaiian Acres has had the roads cared for voluntarily for about 60 years. We are able to drive to our property, and we all take care of the roads, even if it is only to move a rock or trim a bush. It's easy to complain about the roads, and people will always complain about the roads, The real complaint will come when the County fails to do more that collect what money they can, but fail to improve the situation, which is fine the way it is.

Please do not take away our freedom to choose. We have always been a voluntarily active community, and just because a politician sees another avenue to pursue does not mean their efforts will come to any actual good. Save us from do gooders that do no good!

Please do not spoil yet another of our voluntary communities.

Mahalo,

Tom Clarke

**LATE**

**SB-3324**

Submitted on: 2/8/2022 9:54:42 AM

Testimony for GVO on 2/8/2022 3:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Joshua Mehalick	Individual	Oppose	No

Comments:

I am an owner in Hawaiian Acres and feel very strongly against passing SB3324.

I believe that this will put an unnecessary monetary strain on people who, many times, are already barely making it by. This would force people, many of which are Kapuna, to eventually lose their homes for an unneeded additional fee to the county.

The county already has the responsibility of maintaining Moho road in this community and fails to keep up on even the most basic work.

Again, I feel this is a bad idea and am against SB3324.

Mahalo for accepting my testimony.