

Exhibit #15.1

Declaration of Facts:

Δ hereinafter
known as
("CHPD")

hereinafter
known as
("Tax office")

Regarding The Defendants:
County of Hawaii, County of Hawaii
Planning Dept. and Zendo Kern
AND the County of Hawaii Dept. of
Finance and its Real Property Tax
Office* and Deanna Sako* colluded
and conspired to unlawfully
alter the Anialoa subdivision from
non-agricultural use AND
Zendo Kern lies about the process
at a public meeting on 8/24/23.

Note:
Exhibit
#3
shows
FECA
using
Anialoa
subdivision
as a
model
without
land
owner
consent
just like
what
happened
to them
in Exhibit
#1 is
what they
are
planning
with
County, etc.

See Exhibits #3, 15, 4 and Part I and II of
my Complaint, as it all are fully set forth herein:

1. Beginning with Exhibit #4, a copy of the
Tax Office's letter to an Anialoa subdivision that
reflects the Tax Office changed the zone to residential
based on land values (which reflects and supports
my claims of unlawful land speculation activities);

a. the problems with this are many:

1. The CHPD changes zoning and not the Tax
Office; otherwise it makes the CHPD absolute and
most; AND zoning changes are not part of the
purpose of the Tax Office and is the arena of the
CHPD. Therefore the Tax Office acted ultra vires,
fraudulently and in violation of Constitutional
and civil rights of every land owner in that
Anialoa subdivision. Any reasonable person would
conclude could happen to my subdivision;

2. Also, zoning is based on land usage

I would know due to I
had a real estate license in Hawaii

not the value of the land; which is also fraud;

3. The Tax office did the zone change without any input from the landowners; which violates their control of their properties when they purchased their properties, therefore, this violates implied warranties and also creates

(*) I was a Hawaii licensed real estate agent making me an expert on real estate and related issues.

a. Antitrust violations; AND is done in conspiracy with other government agencies and officials and corporations as stepping stones to charge my subdivision unlawfully as well; this is attempted conspiracy and a violation of U.S.C. § 1349; AND

1. Since it involves years of crimes and wrongdoings, any reasonable person would conclude is racketeering also violating the RICO ACT; As declared in ALL my documents submitted to both courts in this case; As it fully

4. Combine all of this and ADD set forth inserted herein that on 8/24/23 there was a town hall meeting at Volcano Cooper Center where Defendants County of Hawaii, County of Hawaii office of the Mayor,

Mitch Roth, CHPD, Zendo Kern, ~~the County of Hawaii Mass Transit Agency~~ And other County of Hawaii officials hosted a public meeting where Zendo Kern stated there is a process to change the zone of a subdivision that the "community gets involved" and "county council gets involved" after a "change of zone application". I have the whole thing recorded in a 28 (minute) video that I can provide to the Court. I did not have time

or a flashdrive to make copies right now,
I can definitely play it at a hearing too;

b. The August 24, 2023 public meeting
also contains footage of Mitch Roth denying
he knew anything about "Smart cities"
when he attended "The United States Conference
of Mayors" (see Exhibit #42), a copy of a page
from that summit agenda, a copy of an article
about the 8/24/23 town hall meeting in Volcano to
verify there was a meeting and Mitch Roth denied
knowledge of "Smart cities". This is in direct

opposition to a "Climate Resilient Housing..." article
(see Exhibit #43), where Mitch Roth admits he
attended the Mayors Conference (see Exhibit #2) which
has smart cities on the agenda] on June 20, 2023;

1. The article is dated about two months
prior to the town hall meeting. So, unless Mitch
Roth did not read the Mayors Conference agenda, or
he slept through the conference or ~~no one at the~~
no one at the Conference spoke to him about
Smart cities, he knew about them and lied
to the public at the 8/24/23 town hall meeting; AND

2. "Resilient Housing" is another term for
"smart cities" along with "forward cities" and many
other "catch phrases" for the same kind of
development that leads to unlawful conversion of
agricultural lands to non-agricultural use which
is irresponsible, reckless, self-sustainability suicide
in Hawaii where 85%-90% of our food is imported;

a. It also supports ALL my claims that
public services like public transportation is a step
to unlawfully change the use of my subdivision
against my will AND to unlawfully convert it
to non-agricultural use like the Aiea
subdivision to fulfill ~~the~~ a government and
corporate agenda to oppress me and turn Hawaii
Exhibit #15.1

Note!
This supports my claims that two gov. officials have lied, colluded and conspired to fraud & deprive me of my rights and break laws! AND Lying shifts the

burden of proof to Defendant

herein after
"Mayors
Conference"

herein after
known
as
"the
article"

Smart
cities
is an issue
for a
separate
petition

into a
smart
city
against
my will
and
without
a vote.

Exhibit #16.1
Changes to our website — to find out why access to some data now requires a login, [click here](#)

opencorporates

The Open Database Of The Corporate World

☒ Companies ☐ Officers

• [Log in/Sign up](#)

CLEARSTAR, INC. branch

Business name
search
Results it is
a main company
with many
branches

Company Number

4824678

Previous Company Numbers

- C4824678

Status

[Please log in to see this data](#)

Incorporation Date

[Please log in to see this data](#)

Company Type

Stock Corporation - Out of State - Stock

Jurisdiction

[California \(US\)](#)

Branch

Branch of [CLEARSTAR, INC.](#) (Delaware (US))

Registered Address

- 6250 SHILOH RD SUITE 300 ALPHARETTA GA 30005
- United States

Agent Name

CSC - LAWYERS INCORPORATING SERVICE

Agent Address

251 LITTLE FALLS DRIVE WILMINGTON DE 19808

Directors / Officers

[4 officers available, please log in to see this data](#)

Inactive Directors / Officers

[3 officers available, please log in to see this data](#)

Registry Page

Exhibit #16.1
don't need page 1 of 1
other pages
page 1 of 1
Page 1 of 1

Company Description: Clearstar, Inc. is located

in Alpharetta, GA, United States and is part of the Investigation and Security Services Industry.

Clearstar, Inc. has 80 total employees across all of its locations and generates \$22.95 million in sales (USD). There are 2 companies in the Clearstar, Inc. corporate family.

Key Principal: Robert J Vale Junior

Industry: Investigation and Security Services , Administrative and Support Services , Administrative and Support and Waste Management and Remediation Services , Private investigator

See other industries within the Administrative and Support and Waste Management and Remediation Services sector:

Business Support Services , Employment Services , Facilities Support Services , Office Administrative Services , Other Support Services , Remediation and Other Waste Management Services , Services to Buildings and Dwellings , Travel Arrangement and Reservation Services

Popular Search:

Investigation and Security Services

Administrative and Support Services

Administrative and Support and Waste Management and Remediation Services

Address: 6250 Shiloh Rd Ste 300 Alpharetta, GA, 30005-8401 United States

Phone: (770) 416-1900

Website: www.clearstar.net

Employees (this site): 66

① Actual

Employees (all sites): 80

① Actual

Revenue: \$22.95 million

① Actual

Fiscal Year End: DEC

Year Started: 1995

Incorporated: 2010

ESG Ranking: 2.0

ESG Industry Average: 2.31

What is D&B's ESG Ranking?

Note: Clearstar had a revenue of \$22.95 million in 2022

Note: page 1 of 1 because don't need any other info than revenue for Clearstar

Exhibit #16.2

page 1 of 1

About Clearstar

S&P 500
4,755.80
+16.39 (+0.35%)



Dow 30
37,290.20
+23.53 (+0.06%)



Nasdaq
14,969.57
+113.94 (+0.77%)



Russell 2000
1,906.23
-6.99 (-0.36%)



Crude Oil
74.15
+1.59 (+2.15%)



Gold
2,022.00
+15.50 (+0.77%)



24 125.11 in 1 hour 2 hours 5 minutes



ClearStar acquires Employment Screening Resources to secure its presence as a leading national CRA

ClearStar

December 1, 2021 · 4 min read

ALPHARETTA, GA., Dec. 01, 2021 (GLOBE NEWSWIRE) -- ClearStar, Inc. ("ClearStar"), a leading provider of Human Capital IntegritySM technology-based services, specializing in background and medical screening, is pleased to announce it has acquired Employment Screening Resources (ESR), a highly respected background screening firm. This transaction is ClearStar's second acquisition in the past 120 days and is part of an ongoing growth strategy geared towards acquiring and integrating best-in-class capabilities to deliver high-quality, cutting-edge services for new and existing customers.

"Orchestrating acquisitions which carefully align with our strategy, exceptionally high service standards, and core values is an integral part of our growth plan. ESR, like ClearStar, has demonstrated a dedication to industry innovation, service excellence, and strict compliance. Both companies are founding members of the NAPBS (now the PBSA) and have partnered to strengthen our industry. This partnership comes full-circle today," said Chad Parodi, Chief Executive Officer of ClearStar.

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TRENDING

1. EXPLAINER-Iran and its proxies and widening violence in the Middle East
2. UPDATE 1-Judge in Trump case to hear versions of misconduct by Giuliani
3. Big tech may mean up, growing
4. Overcrowding Fears

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yahoo/finance

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states and beyond. Both companies have a very loyal customer base that will benefit from combining ESR's strengths in areas such as real-time

f
X
■ compliance with ClearStar's strengths in areas like candidate-friendly mobile solutions. The opportunities to integrate and cross-sell seamless, easy-to-use, next-generation solutions, reflecting the best of both companies, will be a catalyst for growth and a driver of future synergies.

Les Rosen, ESR's founder and CEO, and an industry pioneer commented, "I am absolutely delighted that ESR is joining the ClearStar family. I have collaborated with ClearStar for the past two decades and I am confident that this merger will create immense value for our customers. ESR's service excellence and ClearStar's innovative and scalable technology platform will enable the combined company to deliver unique service offerings to customers."

ClearStar's leadership team, and the company's owners, Hanover Investors, view this acquisition as one more step on the journey to scale the business and establish ClearStar as the undisputed solution and service leader, raising the performance bar for the industry.

John Woodard, ClearStar's Chairman and Senior Partner of Hanover Investors commented, "This acquisition of ESR represents another piece of the ClearStar strategy falling into place as we look to catalyze growth and enhance the company's value."

Mintz served as legal advisor to ClearStar for the transaction and ESR was represented in the sale process by Cherie Smith Homa and received legal advice from Miles & Stockbridge.

About ClearStar

ClearStar, Inc., a Hanover Investors portfolio company, is a leading provider of Human Capital Integrity™ technology-based services specializing in background and medical screening. It provides employment intelligence directly to employers and via channel partners/consumer reporting agencies ("CRAs") to support better recruitment and other employee-related decisions by increasing information quality, reliability, and visibility.

A seven-time Inc. 5000 honoree and founding member of the Professional Background Screening Association, ClearStar has provided innovative technology solutions to businesses in the human capital management industry from its corporate offices in Alpharetta, Georgia, since 1995. For more information about ClearStar, please visit www.clearstar.net.

For press inquiries, please contact:

Angela Kimbell, Vice President Marketing at angelak@clearstar.net or

5. BofA upgrades Apple stock to Buy citing Vision Pro and generative AI as growth catalysts

(678) 597-9371

Nicolas Dufour, General Counsel at nicolasd@clearstar.net or (678) 999-8048

About Hanover

Hanover Investors, a specialist investor headquartered in the UK, operates companies with activities across the globe. Hanover combines analytical rigor and flexibility in execution to create a repeatable model of successful investment selection. A deep understanding of a company's operational and strategic context is at the center of the firm's investment process, refined over decades of hands-on management of small to mid-size organizations.

Hanover focuses on an investment's main levers of value creation, providing its portfolio with access to proven "playbooks" and a Hanover bench of specialists. This approach has delivered a market-leading record of returns for over 20 years. For more information visit www.hanoverinvestors.com

For press inquiries, please contact:

Rishi Bhattacharya at rishi@impactandinfluence.global or +44 (0) 7767654070

CONTACT: Angela ClearStar 678.575.5674 angelak@clearstar.net

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Comments

Commenting on this article has ended



No one seems to have shared their thoughts on this topic yet

Leave a comment so your voice will be heard first

<https://finance.yahoo.com/news/clearstar-acquires-employment-screening-resources-194800371.html>

Exhibit #16.3

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supports my claims
of unlawful
agricultural
land conversion
conspiracies;
especially when all
the facts in this
Bill 82 Injunction

Exhibit #17

LinkedIn

People

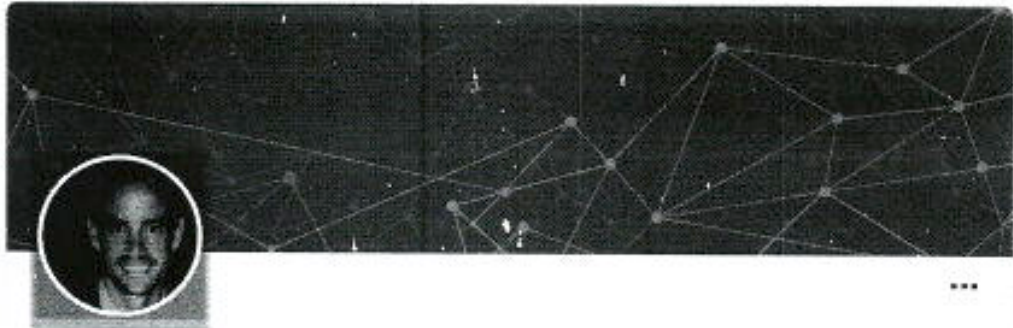
Zendo

Kern

Q

Join now

Sign in

**Zendo Kern**

Planning Consultant at Zendo Kern Planning Consultant
Hilo, Hawaii, United States

Join to connect

Zendo Kern Planning Consultant

About

- ➔ Over 16 years of Planning and Land Use experience
- ➔ Over 20 years of Real Estate and Development experience
- ➔ Former Chairman of the Windward Planning Commission
- ➔ Former Chairman of the Hawaii County Council Planning Committee
- ➔ Former Hawaii County Council Member
- ➔ Licensed General Contractor

Experience**Planning Consultant**

Zendo Kern Planning Consultant
2002 - Present · 20 years

View Zendo's full profile

See who you know in common

Get introduced

Contact Zendo directly

Join to view full profile

See Exhibit #16
Note:
upon request
I can provide more
business ownership
for
Zendo Kern Planning Consultant
Kern & Associates
And
Others

Green
Island
Builders

Superior Development
Group, LLC
and SDB Contracting
and more

Exhibit #17

Exhibit #18

Safari File Edit View History Bookmarks Window Help

hitax.hawaii.gov

Green Island Builders

View as Analogue

View as Digital

Open Date & Time Preferences...

Customer ID

DBA Name

Taxpayer Name

zendo kern

Note: Example of Business Search Results for Zendo Kern

Search Tax Licenses

Unit ID	Taxpayer Name	Address	Old Account ID	Account Type	Business Start	Business End	Account Status
05-5360-01	ZENDO KERN ENTERPRISES LLC	19A AINA ST HILO HI 96720-1840	W-17326996-01	General Excise / Use	Jul-23-2004	Sep-28-2019	Closed
	DBA: Z K ENTERPRISES						
98-2400-01	ZENDO KERN PLANNING CONSULTANT LLC	194 WIIWOOLE ST HILO HI 96720-5157		General Excise / Use	Sep-28-2018		Open
98-8416-01	ZENDO KERN		W-02257458-01	General Excise / Use	Jan-01-2002		Open
138-2400-01	ZENDO KERN PLANNING CONSULTANT LLC	194 WIIWOOLE ST HILO HI 96720-5157		Employer's Withholding	Jan-01-2019		Open

Exhibit #18

page 1 of 1

Exhibit #18

page 1 of 1

Exhibit #19



Want to start a business?

No businesses found matching the name...

clearstarr

Would you like to start a new business with this name?

No, not now

Yes, I'll start a business

Exhibit #19

Got an idea for a business in Hawaii but unsure what else you need? Visit our Business Action Center.

Exhibit #19
Page 1 of 1

State
converting private
roads to public use
w/o due process of
law or
compensation!

Exhibit #20

SB2372

2016 to
Dead
4/29/22
attempted
conspiracy is
a crime under
USC § 1349

conflicts
w/ HRS § 41

RELATING TO PRIVATE ROADS

* conspiracy to
steal my Roads!

Unconstitutional
land grabbing w/o
due process of law

Bank of Hawaii
Hawaii Association
Of Realtors
Exhibit #20

All
Corporate
testimony
even the State
makes a testimony
for itself from the
Chamber of Commerce
Hawaii
page 1 of 28

THE SENATE
TWENTY-EIGHTH LEGISLATURE, 2016
STATE OF HAWAII

S.B. NO. 2372
S.D. 3
H.D. 1

A BILL FOR AN ACT

RELATING TO PRIVATE ROADS.

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

PART I

SECTION 1. The legislature finds that while federal, state, and county agencies maintain jurisdiction over, and are responsible for, the repair and maintenance of the majority of highways, streets, and roads throughout Hawaii, there are numerous roads throughout the State that are privately owned or whose ownership has been called into question. In many cases, these private roads are remnants of a road, or a small portion of a larger public road, whose ownership is disputed for various reasons. This has resulted in questions regarding who is responsible for the repair and maintenance of these roads, many of which are regularly used for vehicular traffic.

The legislature further finds that since these private roads are not owned by a governmental entity, or their ownership is being disputed, they often do not receive proper repair and maintenance. Although these roads are often used by, and are of benefit to the public, the public does not realize that the road is not owned by a governmental agency. This creates difficulties for members of the public and government agencies when individuals report repair or maintenance issues.

The legislature also finds that while counties have policies and procedures to assist owners with the repair and maintenance of private roads, these policies and procedures are only applicable when the county can determine or locate the actual owner of the road. Additionally, the owners of private roads may seek government assistance because they may not have the expertise, equipment, or ability to coordinate services necessary to address road ownership and maintenance issues.

Finally, the legislature finds that the cost to bring many of these private roads up to code is very high and should not be borne solely by the counties.

The purpose of this Act is to provide a means to resolve the situation by, among other things:

- (1) Establishing a temporary roads commission within the department of transportation to, among other things, determine ownership of each private road and road in limbo, advise the appropriate legislative body of the determination of ownership of the private road or road in limbo, and recommend action to the appropriate legislative body, including the initiation of condemnation proceedings as appropriate;
- (2) Expanding the State and counties' authority to condemn public roads;
- (3) Allowing private owners of roadways to petition the mayor of the county in which the roadway is located to begin condemnation proceedings if certain conditions are met;
- (4) Exempting roads meeting county construction standards at the time of construction and completion from having to meet county

construction standards in place at the time of transfer to the county;

- (5) Exempting the State or county from requirements to maintain or improve roads taken by condemnation; and
- (6) Appropriating funds for road repair work, including resurfacing, flood mitigation, and installation of drainage infrastructure to certain roads.

PART II

SECTION 2. (a) There is established a roads commission within the department of transportation for administrative purposes, which shall consist of the following members, or their designees:

- (1) The mayor of each county;
- (2) The director of transportation;
- (3) The director of a county transportation department, appointed by the Hawaii council of mayors and confirmed by the Hawaii state association of counties;
- (4) The director of planning from a county, appointed by the Hawaii council of mayors and confirmed by the Hawaii state association of counties;
- (5) Two members of the public, with expertise in civil engineering, city planning, construction, easements and acquisitions, condemnation, real property title research, compliance with the Americans with Disabilities Act, or environmental regulations, appointed by the governor;
- (6) Two members of the public, with expertise in civil engineering, city planning, construction, easements and acquisitions,

condemnation, real property title research, compliance with the Americans with Disabilities Act, or environmental regulations, appointed by the speaker of the house of representatives; and

- (7) Two members of the public with expertise in civil engineering, city planning, construction, easements and acquisitions, condemnation, real property title research, compliance with the Americans with Disabilities Act, or environmental regulations, appointed by the president of the senate.

(b) Any vacancy occurring in the membership of the commission shall be filled in the same manner as the original appointments.

(c) The chair and vice chair of the commission shall be selected by a majority of the members of the commission.

(d) A simple majority shall constitute a quorum whose affirmative vote shall be necessary for all actions of the commission.

(e) Members of the commission shall serve without compensation but shall be reimbursed for necessary expenses, including travel expenses, incurred in the performance of their duties under this section.

(f) All members of the commission shall be immune from civil liability for any act done in connection with the performance of their duties as provided in section 26-35.5, Hawaii Revised Statutes.

(g) The commission shall:

- (1) Review all previous studies on disputes regarding private roads and roads in limbo;

Really! (2) Conduct an inventory and analysis of all private roads and all roads in limbo in the State; They are not in limbo!

- (3) Determine the ownership of each private road and each road in

Exhibit #20 page 5 of 29

limbo;

- (4) Develop rules to determine the protocol of resolution for those roads where ownership continues to be in question;
- (5) Implement developed protocols of resolution and settle ownership of roads in limbo and private roads; and
- (6) Advise the appropriate legislative body of its determination of ownership of the private road or road in limbo, and recommend action to the appropriate legislative body, including the initiation of condemnation proceedings as appropriate.

In fulfilling its responsibilities, the commission shall consult and seek advice from any department, agency, or organization the commission deems appropriate.

(h) The commission may:

- (1) Sue and be sued;
- (2) Have a seal and alter the same at its pleasure;
- (3) Adopt rules under chapter 91 necessary to effectuate this section;
- (4) Obtain federal or private funding for the upgrading, repair, and maintenance of private roads or roads in limbo and distribute the funding to the appropriate legislative body;
- (5) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers under this section;
- (6) Carry out surveys, research, and investigations with respect to the ownership of private roads and roads in limbo in the State; and

public funds misappropriation

(7) Direct, subpoena, or examine under oath all persons whose testimony may be required to determine ownership of a private road or road in limbo.

(i) The commission shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2018.

(j) No member shall be made subject to chapter 84, Hawaii Revised Statutes, solely because of that member's participation as a member of the commission.

(k) Whenever used in this section, unless a different meaning appears from the context:

"Road in limbo" means a road whose ownership is in dispute between the State and the county in which the road is located.

(l) The commission shall cease to exist on June 30, 2018.

PART III

SECTION 3. Section 264-1, Hawaii Revised Statutes, is amended to read as follows:

"§264-1 Public highways and trails. (a) All highways, roads, alleys, streets, ways, lanes, bikeways, bridges, and all other real property highway related interests in the State, opened, laid out, subdivided, consolidated, and acquired and built by the government are declared to be public highways. Public highways are of two types:

(1) State highways, which are those lands, interests, or other real property rights, as defined above, having an alignment or possession of a real property highway related interest as established by law, subdivided and acquired in accordance with policies and procedures of the department of transportation, separate and exempt

from any county subdivision ordinances, and all those under the jurisdiction of the department of transportation; and

(2) County highways, which are all other public highways.

(b) All trails, and other nonvehicular rights-of-way in the State declared to be public rights-of-ways by the Highways Act of 1892, or opened, laid out, or built by the government or otherwise created or vested as nonvehicular public rights-of-way at any time thereafter, or in the future, are declared to be public trails. A public trail is under the jurisdiction of the state board of land and natural resources unless it was created by or dedicated to a particular county, in which case it shall be under the jurisdiction of that county.

(c) All highways, roads, alleys, streets, ways, lanes, ~~[trails,~~ bikeways, ~~[and] bridges, and trails~~ in the State, opened, laid out, or built by private parties and dedicated or ~~[surrendered]~~ condemned to the public use, are declared to be public highways or public trails as follows:

(1) Dedication of public highways, roads, alleys, streets, ways, lanes, bikeways, bridges, or trails shall be by deed of conveyance naming the State as grantee in the case of a state highway, road, alley, street, way, lane, bikeway, bridge, or trail and naming the county as grantee in the case of a county highway, road, alley, street, way, lane, bikeway, bridge, or trail. The deed of conveyance shall be delivered to and accepted by the director of transportation in the case of a state highway, road, alley, street, way, lane, bikeway, bridge, or the board of land and natural resources in the case of a state trail. In the case of a county highway, road, alley, street, way, lane, bikeway, bridge, or county trail, the deed shall be delivered to and accepted by the legislative body of a county~~[-];~~ provided that in every case where the highway, road, alley, street, way, lane, bikeway, bridge, or county trail is constructed and completed as required by any ordinance of the county or any rule, regulation, or resolution thereof having the effect of law, the legislative body of the county shall accept the dedication of the same without exercise of discretion.

(2) ~~[Surrender]~~ Condemnation of public highways, roads, alleys, streets, ways, lanes, bikeways, bridges, or trails shall be

~~deemed to have taken place [if no act of ownership by the owner of the road, alley, street, bikeway, way, lane, trail, or bridge has been exercised for five years] if the State or county initiates condemnation proceedings pursuant to chapter 101 to acquire the public highway, road, alley, street, way, lane, bikeway, bridge, or trail [and when, in the case of a county highway, in addition thereto, the legislative body of the county has, thereafter, by a resolution, adopted the same as a county highway or trail.]; provided that any private owner of a highway, road, alley, street, way, lane, bikeway, bridge, or trail may petition the mayor of the county in which the highway, road, alley, street, way, lane, bikeway, bridge, or county trail is located to initiate condemnation proceedings if the highway, road, alley, street, way, lane, bikeway, bridge, or trail is part of a public road, ownership has not been exercised by limiting use or access, or the county has provided some form of maintenance to the highway, road, alley, street, way, lane, bikeway, bridge, or trail in the interest of the public.~~

In every case where the road, alley, street, bikeway, way, lane, trail, bridge, or highway is constructed and completed as required by any ordinance of the county or any rule, regulation, or resolution thereof having the effect of law[~~, the legislative body of the county shall accept the dedication or surrender of the same without exercise of discretion.~~] at the time of construction and completion, the road, alley, street, bikeway, way, lane, trail, bridge, or highway shall be exempt

from meeting the construction standards in place at the time of transfer to the county.

(d) If a privately owned highway, road, alley, street, way, lane, bikeway, bridge, or trail is deemed to have been condemned to the State or county pursuant to subsection (c)(2), the State or county shall be exempt from any state laws or rules adopted pursuant thereto that would require the State or county to perform construction, reconstruction, preservation, resurfacing, restoration, or rehabilitation upon it.

[~~(d)~~] (e) All county public highways and trails once established shall continue until vacated, closed, abandoned, or discontinued by a resolution of the legislative body of the county wherein the county highway or trail lies. All state trails once established shall continue until lawfully disposed of pursuant to the requirements of chapter 171."

PART IV

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 2016-2017 for repair work, including flood mitigation and installation of drainage infrastructure, and resurfacing as follows:

- (1) \$ for Kalani Street on Oahu, from Puuhale Road to Kalihi Street;
- (2) \$ for Auld Lane on Oahu;
- (3) \$ for Rawlins Lane on Oahu;
- (4) \$ for Eighteenth Avenue on Oahu, from Harding Avenue to Kilauea Avenue; and
- (5) \$ for Kalakaua Avenue on Oahu, between Poni Moi Road

and Coconut Avenue.

The sum appropriated shall be expended by the city and county of Honolulu for the purposes of this Act.

PART V

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 7. This Act shall take effect on July 1, 2050; provided that section 2 shall be repealed on June 30, 2018.

Report Title:

Private Roads; Repair and Maintenance; Appropriation

Description:

Establishes a temporary roads commission to make recommendations on the disposition of private roads and roads in limbo. Authorizes the State or a county to obtain ownership over a road by condemnation pursuant to the power of eminent domain. Exempts a county from having to modify a road to meet current construction standards if the road was built according to standards in place at the time of construction and completion. Allows for private road owners to petition the mayor to begin condemnation proceedings if certain requirements are met. Exempts the State and counties from maintaining or improving condemned roads. Appropriates funds for the repair and improvement of certain roads. (SB2372 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

There are multiple current
State of Hawaii Bills
that are currently active that
are along the same as S.B. 2372
that are included as part of
my Complaint and shall be
addressed in a separate Petition(s)



**Testimony to the Senate Committee on Transportation and Energy and
Committee on Public Safety, Intergovernmental, and Military Affairs
Thursday, February 11, 2016 at 3:00 P.M.
Conference Room 229, State Capitol**

RE: SENATE BILL 2372 RELATING TO PRIVATE ROADS

Chairs Inouye and Nishihara, Vice Chairs Gabbard and Espero, and Members of the Committees:

The Chamber of Commerce Hawaii ("The Chamber") **strongly supports** SB 2372, which requires the counties to accept the surrender of a private road in cases where there has been an absence of any act of private ownership over the road for five years. Also exempts the State and counties from performing any maintenance on a surrendered road and from liability arising from use of the road until the State or county performs maintenance work on the road.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber strongly supports SB 2372 as a solution to an ongoing problem. There are many private roads or public roads with private parcels that are both in use by the public that are in disrepair and require maintenance. However, in many of these cases, the private owners cannot be found or are sometimes unknown. In these situations, the roads have remained in disrepair for many years, often stuck in a limbo wherein the public contacts the counties with requests to repair but the counties are unable to act on these requests as they are privately owned. SB 2372 provides a solution to these roads in limbo – by surrendering ownership to the counties and allowing them to proceed with necessary repairs and reconstruction to maintain these roads for public use.

We would like to suggest the following amendments:

1. Amend SB 2372 section 2 of the bill by adding [HRS 264-1 (c) 2] with the following amendments:
 - a. Allows the state and counties the ability to use condemnation as the process for the surrendering of private parcels.

We understand that this is a work in progress and look forward to working with the various stakeholders. Thank you for the opportunity to testify.



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We understand that this is a work in progress and look forward to working with the various stakeholders. Thank you for the opportunity to testify.

DAVID Y. IGE
GOVERNOR



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

Testimony by:
FORD N. FUCHIGAMI
DIRECTOR

Deputy Directors
JADE T. BUTAY
ROSS M. HIGASHI
EDWIN H. SNIFFEN
GARRELL T. YOUNG

IN REPLY REFER TO:

February 11, 2016
Time: 3:00 PM
State Capitol, Room 229

S.B. 2372
RELATING TO PRIVATE ROADS

Senate Committee(s) on Transportation and Energy &
Public Safety, Intergovernmental and Military Affairs

The Department of Transportation ("DOT") would like to submit the following **comments**. Under this proposed amendment to Section 264-1(c)(2), HRS the County has no discretionary authority to accept roads. Counties should be given this discretionary authority if the County proves that the road to be surrendered was not accepted for a reasonable cause. Additionally, the DOT is concerned whether the six month time frame to research the ownership of these roads in Section 264-1(c)(2), HRS is sufficient.

Thank you for the opportunity to provide testimony.

Exhibit #20 page 14 of 29

DAVID V. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
CHAIRMANSHIP PLANNING MANAGEMENT
KEEOA KALUHIWA
FIRST DEPUTY
JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER
WATER RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONSERVATION
COMMISSIONER OF WATER RESOURCE MANAGEMENT
COASTAL ZONE AND CLIMATE LAND
CONSERVATION AND RESOURCE ENFORCEMENT
HAWAIIAN
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAPOLAHU LAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
SUZANNE D. CASE
Chairperson

Before the Senate Committees on
TRANSPORTATION AND ENERGY
and
PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS

Thursday, February 11, 2016
3:00 PM
State Capitol, Conference Room 229

In consideration of
SENATE BILL 2372
RELATING TO PRIVATE ROADS

Senate Bill 2372 proposes to require the counties to accept the surrender of a private road in cases where there has been an absence of any private ownership over the road for five years. The measure also proposes to exempt the State and counties from performing any maintenance on a surrendered road and from liability arising from the use of the road until the State or county performs maintenance work on the road. Finally the measure would deem a highway, road, alley, street, way, lane, bikeway, bridge or trail that has been commonly used by residents or a particular area for emergency access purposes or for health and safety reasons to be publicly accessible for those reasons, without regard to actual ownership or responsibility for maintenance. **With respect, the Department of Land and Natural Resources ("Department") opposes the measure.**

This measure serves to alleviate the liability of a private party and transfer that liability to the public. The bill is particularly odious as it prohibits the Counties from exercising any discretion whether to accept a substandard road. Combined with the provision stating that the actual use of the road does not constitute an act of ownership, in effect, the bill will result in relieving a private developer of the requirement to build roads to the appropriate county or government standards, and subsequently abandon such substandard roads to the Counties. In addition, according to the proposed subsection (d), such areas as alleys, ways and lanes that have no reasonable expectation of public access could be deemed publicly accessible simply because nearby residents access the area for "health and safety reasons". Such ambiguity and overly broad scope may subject the State and counties to takings claims and maintenance obligations.

Exhibit #20 page 15 of 29

Furthermore, the limited immunity provided by this measure amounts to nothing more than a mere placebo. The immunity terminates once a government entity performs practically any type of remedial or maintenance work on the damaged once private road. That doesn't make any sense at all, as it would serve as a disincentive for the Counties (or State if it so elects) to perform emergency or necessary repairs on a poorly maintained and substandard road. The Counties (and State if it so elects) are placed in a precarious position where responsibility for a surrendered road, built by a private developer which may not conform to County or other government standards, is imposed upon them and any action taken to repair or maintain the road (furthering the purpose of the measure), would trigger the loss of immunity and impose unlimited liability upon the government entity performing the remedial work. Ultimately the Counties (and State if it so elects) will be held liable for flaws in the surrendered substandard roads which were caused by the original private developer. ↵

what ridiculous mumbo
Jumbo is this? The gov. officials owned
my subdivision and the County of Hawaii
approved the FF roads as private before
it was sold to individuals beginning around
1959 (Statehood year). Prior to that the
Land Appl. 1053 occurred in 1901 ~~and I~~
believe it happened prior to 1959; the
point being the FF was created prior
to Statehood of Hawaii; prior to the
official County of Hawaii and State of
Hawaii government agencies/branches
birth. Therefore, one cannot overlook
something that happened before they were
born. This is FRAUD! See Exhibit #38
which reflects Land Appl. 1053 ("1053") existed
prior to 1930 since this time period involves
surveys of my area and contains excerpts from
and shows how the government bullied him out
of ownership of his private road pages 6 and 7
of the Exhibit #38. Also, see pg. 4 where a public
official was afraid to speak publicly due to
fear of retaliation by "powerful" owners of sugar
which were gov. officials that owned the sugar and
other corporations. Note sugar companies overthrew
the monarchy for profit; see P.L. 103-150, et al.

Exhibit #20

Exhibit #20 page 16 of 29

AND
know
100%
that

Δ in 1959

See

Exhibits #39, 40
for supporting

FF was
born prior
to 1959

Ⓢ AND
Exhibit #
38



February 11, 2016

The Honorable Lorraine R. Inouye, Chair
Senate Committee on Transportation and Energy
The Honorable Clarence K. Nishihara, Chair
Senate Committee on Public Safety, Intergovernmental, and Military Affairs
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 2372, Relating to Private Roads

HEARING: Thursday, February 11, 2016 at 3:00 p.m.

Aloha Chair Inouye, Chair Nishihara, and Members of the Committees:

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 8,800 members. HAR supports S.B. 2372 which:

1. Requires the counties to accept the surrender of a private road in cases where there has been an absence of any act of private ownership over the road for five years;
2. Exempts the State and counties from performing any maintenance on a surrendered road and from liability arising from use of the road until the State or county performs maintenance work on the road; and
3. Deems a highway, road, alley, street, way, lane, bikeway, bridge, or trail that has been commonly used by residents of a particular area for emergency access purposes or for health and safety reasons to be publicly accessible for those reasons, without regard to actual ownership or responsibility for maintenance.

There are many private roads or even parts of roads that have been inadvertently evolved. S.B. 2372 would require counties to accept the surrender of a private road in cases where there has been an absence of any act of private ownership over the road for five years. It exempts the State and counties from maintaining surrendered roads and from liability for lack of maintenance or for maintenance performed prior to assuming ownership.

It is believed that decades ago when the homes adjacent to these roads were developed and deeded to the homeowners, 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.

← related to the late Senator Daniel Inouye and Daniel Inouye Jr (whom owns property in the FF)

related to Eric Inouye at Hirano store in Part III of my Complaint,

Further Donna Herbst was a realtor in 1990 when FF easements were stolen with her signature in 1992

see Exhibit #35; And ALL realtor are bias for development!

No





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, in many cases, the city currently provides maintenance services for these roads.

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.

Mahalo for the opportunity to testify.





**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2016**

ON THE FOLLOWING MEASURE:

S.B. NO. 2372, S.D. 1, RELATING TO PRIVATE ROADS.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND LABOR and
SENATE COMMITTEE ON WAYS AND MEANS

DATE: Wednesday, February 24, 2016 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): WRITTEN COMMENTS ONLY. For more information, call
William J. Wynhoff, Deputy Attorney General (587-2992)

Chairs Keith-Agaran and Tokuda and Members of the Committees:

The Department of Attorney General appreciates the intent of this bill, but opposes it as written.

The bill addresses the problem of privately owned roads. Often it is unclear who owns a privately owned road. Frequently, even if the owner is identified, the owner is not repairing the road. The road is not owned by either the county or the State, so no government entity will repair the road. This bill facilitates the surrender of a privately owned road to the counties.

Section 264-1(c), Hawaii Revised Statutes (HRS), already provides that privately owned roads may be dedicated or surrendered to a county. But the law provides that dedication or surrender will not be effective unless and until the legislative body of the county accepts the road.

This bill removes that proviso as to surrender and instead provides that a county shall accept the surrender "without exercise of discretion."

The bill as written, however, may be challenged as constituting an unfunded mandate to the counties. Article VIII, section 5, of the Hawai'i State Constitution provides:

If any new program or increase in the level of service under an existing program shall be mandated to any of the political subdivisions by the legislature, it shall provide that the State share in the cost.

The bill seeks to mitigate the impact of road ownership by providing that the county is not required to repair or maintain surrendered roads and is not liable for injuries on surrendered

roads. The extent of the immunity or exemption from liability provided by the bill is unclear. For example, the bill provides on page 7, lines 7-13 that the State or county is immune from liability for two years after fixing the road. We are unclear if this means that the State or county is not liable at all, unless and until it performs some repairs. As provided by the bill on page 7, lines 13-17, the county or state are also not liable for negligent acts of others "that the county did not already benefit from." We are not clear what this means and cannot predict how it might be interpreted by a court.

To the extent that a county is required to repair and maintain – or be liable for injuries on – newly surrendered roads, that arguably constitutes a "new program or increase in the level of service under an existing program." To the extent that a county need not repair or maintain a newly "surrendered" road, the unfunded mandate issue is alleviated. But by so doing, the bill may not accomplish its intent.

We respectfully request that the Committee defer the bill.

DEPARTMENT OF FACILITY MAINTENANCE
CITY AND COUNTY OF HONOLULU

1000 Ulu'ohia Street, Suite 215, Kapolei, Hawaii 96707
Phone: (808) 768-3343 • Fax: (808) 768-3381
Website: www.honolulu.gov

KIRK CALDWELL
MAYOR



ROSS S. SASAMURA, P.E.
DIRECTOR AND CHIEF ENGINEER

EDUARDO P. MANGLALLAN
DEPUTY DIRECTOR

IN REPLY REFER TO:

February 23, 2016

The Honorable Gilbert S.C. Keith-Agaran, Chair
and Members of the Committee on Judiciary and Labor
Hawaii State Capitol
415 South Beretania Street, Room 221
Honolulu, Hawaii 96813

The Honorable Jill N. Tokuda, Chair
and Members of the Committee on Ways and Means
Hawaii State Capitol
415 South Beretania Street, Room 207
Honolulu, Hawaii 96813

Dear Chairs Keith-Agaran and Tokuda and Members of the Committees:

Subject: Relating to Private Roads

On behalf of the City and County of Honolulu, the Department of Facility Maintenance submits this testimony in opposition to SB 2372, SD 1, Relating to Private Roads (the "Bill").

The Bill proposes that the applicable county shall be deemed the owner of a private roadway within the county on certain conditions.

The City believes that the State legislature 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.

The Territory of Hawaii, in *In The Matter of the Petition of The Hawaiian Trust Co., Ltd., for a Registered Title*, 17 Haw. 523, 1906 WL 1331 (Hawai'i Terr. 1906), sought to uphold a decree of the court of land registration that the fee in a roadway, which had been used over the petitioner's land since 1893 as a public highway, although not expressly dedicated or condemned for the purpose, remained in the owner subject to an easement for a public highway. The court held:

Exhibit #20 page 21 of 29

The Honorable Gilbert S.C. Keith-Agaran, Chair
and Members of the Committee on Judiciary and Labor
The Honorable Jill N. Tokuda, Chair
and Members of the Committee on Ways and Means

February 23, 2016
Page 2

The Territory cannot acquire the fee in a public highway by a mere legislative enactment. The fee is acquired either by compulsory process of condemnation or by the owner's consent, express or implied. The consent is implied, by force of the statute, when the owner exercises no ownership within five years, but no inference can be made in the absence of evidence that an owner does not exercise ownership over his land. This is a fact which must be shown in order to sustain the claim of the Territory that it has acquired the fee on the strength of it. The only presumption of fact which would be proper would be that the owner did exercise his legal rights as owner of the fee, a thing which in this case he could have done in full recognition of the public easement to use his land for a highway.

Furthermore, should the State decide to condemn certain private roadways in order to improve them, and if the State wishes to turn the ownership of those roadways over to the City, the City will not accept such ownership unless the applicable roadway has been brought up to current standards or provides the City with sufficient funds in order to bring the roadways up to those standards.

The City acknowledges the various challenges raised by this Bill and similar bills. It is a difficult issue with far-ranging consequences. The City would embrace a State and counties commission that is staffed by the State and that is tasked with developing a recommendation to the 2018 State legislature that addresses how to accomplish the transfer of ownership of private roadways to the State and/or applicable county in order for the applicable roadway to be improved and maintained. This Commission may also serve over a long term to implement the findings and decisions of the State Legislature, the Governor and the City. Subtasks might include the following:

1. Allocation of the roadways between the State and the City.
2. Phasing of the transfer over a period of time, such as 20 years.
3. The mechanism to effect such transfer, especially when the ownership of the private roadway is unclear.
4. The funding for not only the transfer of ownership, but also for the improvements and ongoing maintenance.

While the City opposes the Bill, we look forward to working cooperatively with the State to reach a workable solution to this issue.

Sincerely,

Exhibit #20
page 22 of 29
/s/ Ross S. Sasamura, P.E.
Director and Chief Engineer

William P. Kenoi
Mayor



Warren H. W. Lee
Director

Brandon A. K. Gonzalez
Deputy Director

County of Hawai'i
DEPARTMENT OF PUBLIC WORKS
Aupuni Center
101 Puuahi Street, Suite 7 - Hilo, Hawai'i 96720-4224
(808) 961-8321 - Fax (808) 961-8630
www.co.hawaii.hi.us

Date: February 24, 2016
Time: 10:00 am
Place: Conference Room 211 State Capitol
415 South Beretania Street

S.B. 2372
Relating to Private Roads

Senate Committee on Judiciary and Labor
and
Committee on Ways and Means

The Department of Public Works for the County of Hawaii ("DPW") respectfully submits testimony opposing S.B. 2372. This amendment to HRS § 264-1 would inequitably require the counties to accept all "surrendered" private roads, in any condition, without any discretion. The present version of HRS § 264-1 does not put the counties in such a disadvantageous position that would unfairly require them to bear substantial costs.

Some roads were never properly developed. Requiring the counties to accept such roads that were not properly developed exposes the counties to substantial costs for improving such substandard roads and potential liability for a road that was never developed or approved by a county. The County of Hawaii presently requires that any roads being dedicated to it meet the standards for dedicable roads laid out in the Hawaii County Code, but the proposed amendment would eviscerate those standards, deprive the County of any discretion in deciding whether to accept such roads, decrease a developer's incentive to construct new roads to dedicable standards, and require the counties to repair, improve and/or reconstruct roads that were not properly planned or developed to avoid potential liability for these substandard roads.

Furthermore, the proposal also unfairly shifts the burden of, and liability for, maintaining roads from private owners who have not been performing their duties to maintain such roads to the counties. The preamble to this measure admits that some of these private roads are in disrepair. Such conditions may be due to disputes in land ownership between

Exhibit #20

page 23 of 29

private property owners, lack of maintenance due to insufficient funding, and/or the inability of private property owners to agree via subdivision covenants, road maintenance associations, or other agreements to effectuate repair work. The roads at issue are to be deemed surrendered if the owner has not exercised "ownership" for five years.

Subsection (c)(2) of the proposed amendment states that driving on a road does not constitute "ownership", so the amendment logically means that surrendered roads are those on which owners may be driving, but have not maintained for five or more years. This measure would allow the owners of such roads that they have failed to maintain to shift the burden of, and liability for, repairing and/or maintaining their neglected roads to the counties.

DPW also opposes the counties having to establish proof of ownership and the short length of time (six months from notice) provided in the proposal for counties to establish proof of ownership for a road that an occupant or owner of abutting land believes qualifies for surrender. Having to establish proof of ownership will create an unfair burden of time and expense for the counties, as they may need to devote resources away from other necessities to research ownership or to commission title reports, which can add up in expense. Furthermore, it is reasonable to anticipate that this amendment would result in the counties being deluged with such notices and six months may not be sufficient time to research ownership.

For the foregoing reasons DPW respectfully opposes S.B. No. 2372.

Exhibit #20 page 24 of 29

**TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) IN OPPOSITION TO S.B. NO. 2372, S.D. 1**

DATE: Wednesday, February 24, 2016

TIME: 10:00 am

To: Chairs Gilbert Keith-Agaran and Jill Tokuda, and Members of the Senate
Committees on Judiciary and Labor, and Ways and Means:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the
Hawaii Association for Justice (HAJ) in OPPOSITION to the immunity provisions of
S.B. No. 2372, S.D. 1, relating to Private Roads.

The single biggest issue and over-riding factor, by far, is funding. Many of the
roads affected by this measure have not been adequately maintained for decades.
Because these roads have been allowed to deteriorate for so long, there certainly are
liability concerns related to them. However, because they are in such bad shape the cost
to rebuild them to meet current standards is enormous and any type of comprehensive
resolution will have to address funding. Immunity is not the issue and will not solve the
problem.

If government does not have sufficient funds to repair or maintain these roads,
then a reasonable grace period, such as four years, should be extended for planning,
budgeting and construction. Immunity should sunset in four years. Government can ask
for extensions of the sunset date if justified. This procedure at least assures that there is
an incentive for government to repair the most dangerous roads as quickly as feasible and
provides legislative oversight to re-evaluate the situation in light of the progress made. If
adequate progress is being made, then the sunset date can be extended, if not, then a
shorter extension, repeal, or some other solution can be explored. Some oversight is

Exhibit #20 page 25 of 29

required to make sure needed repairs are done otherwise this problem will be here indefinitely because government is exempted from requirements to timely maintain these roads. This encourages government to do nothing.

Design professionals, contractors and suppliers for capital improvement projects are all required to provide insurance against design and construction defects. The immunity for improvements performed on surrendered private roads should exclude liability covered by such insurance. The following language is suggested, on page 7, at the end of the sentence on lines 7-13:

"The State or county shall be immune from liability for personal injury, death, or property damage in any accident arising out of the use of a surrendered highway, road, alley, street, way, lane, bikeway, bridge, or trail for a period of two years following performance of construction, reconstruction, preservation, resurfacing, restoration, or rehabilitation[-]; provided that there shall be no immunity up to the limits of applicable insurance; and provided further that such immunity shall not extend to design professionals, contractors, consultants, suppliers and non-governmental employees.

The governmental immunity from the acts of others that happened before surrender of the property can be more clearly stated. The following language is suggested:

"The state or county shall not acquire any liability for the negligent acts or omissions of others that it did not already ~~[benefit from]~~ have before the

Exhibit #20 page 26 of 29

surrender of the highway, road, alley, street, way, lane, bikeway, bridge,
or trail, solely by reason of the surrender." Page 7, lines 13-17.

For these reasons, HAJ opposes the immunity provisions of this measure and asks
that this bill be amended as suggested and a sunset for subsection (e) be added or the
measure be held.

Thank you for the opportunity to testify on this measure. Please feel free to
contact me should there be any questions.

Exhibit #20 page 27 of 29



TESTIMONY TO THE JOINT COMMITTEES ON TRANSPORTATION AND ENERGY AND PUBLIC SAFETY

Wednesday, February 24, 2016, 10 a.m.

State Capitol, Conference Room 211

TO: The Honorable Gilbert S.C. Keith-Agaran, Chair
The Honorable Maile S.L. Shimabukuro, Vice Chair
Members of the Committee on Judiciary and Labor

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 SB2372 SD1 RELATING TO PRIVATE ROADS

I am Stafford Kiguchi with Bank of Hawaii testifying in support of SB2372 SD1 dealing with private roads. We appreciate and support the committee's initiative and efforts in addressing this long-standing issue and public concern.

This bill would require counties to accept the surrender of a private road in cases where there has been an absence of any act of private ownership over the road for five years. It also exempts the state and counties from performing any maintenance on a surrendered road and from liability arising from use of the road until the state or county performs maintenance work on the road. It deems a highway, road, alley, street, way, lane, bikeway, bridge or trail that has been commonly used by residents of a particular area for emergency access purposes or for health and safety reasons to be publicly accessible for those reasons, without regard to actual ownership or responsibility for maintenance.

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.

1 Exhibit #20
page 28 of 29

SB2372 SD 1 Bank of Hawaii Testimony in Support

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.

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.

However, we also recognize that this is a complex issue and are willing to work in cooperation with the appropriate city and state government entities to develop a "pilot process" to gradually transfer ownership of certain pre-designated roads or streets that would accommodate a mutually agreed upon schedule and conditions.

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

Exhibit #20
page 29 of 29