



HAWAII COMMUNITY  
DEVELOPMENT AUTHORITY



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STATEMENT OF  
AEDWARD LOS BANOS, INTERIM EXECUTIVE DIRECTOR  
HAWAII COMMUNITY DEVELOPMENT AUTHORITY  
BEFORE THE  
HOUSE COMMITTEE ON TRANSPORTATION

ON

Wednesday, February 9, 2016

10:00 A.M.

State Capitol, Conference Room 309

in consideration of

**HB 2048 HD 1– RELATING TO THE HAWAII COMMUNITY  
DEVELOPMENT AUTHORITY**

**Purpose:** Requires the HCDA to enter into an MOU with developers or landowners acknowledging the ownership of adjacent streets and highways prior to approving community development plans or permit applications for parcels within the Kakaako district. Requires the HCDA to accept ownership of a public street or highway in the case of a dispute.

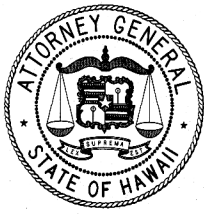
**Position:** This testimony reflects my view only as the Authority has not had an opportunity to review and act on this measure. I note that our deputy attorney generals have submitted testimony relating to the legal and financial implications this bill may cause if the HCDA takes ownership of disputed roads.

Speaking from an operational standpoint, any additional permitting requirements could have unintended consequences, such as the delay of numerous housing projects throughout the district. For projects serving the low and moderate income communities, such a delay would lengthen what is already a multi-year process and could be cause for cancellation.

Testimony reflects the view and position of the Executive Director and not that of the Authority.

The HCDA recognizes the importance of cohesive development in the Kakaako Community Development District and ensuring adequate infrastructure for future developments. We are committed to doing what we can to alleviate existing concerns regarding private road ownership and are willing to offer our assistance where legally viable.

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



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

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### ON THE FOLLOWING MEASURE:

H.B. NO. 2048, H.D. 1, RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

### BEFORE THE:

HOUSE COMMITTEE ON TRANSPORTATION

**LATE**

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

**LOCATION:** State Capitol, Room 309

**TESTIFIER(S):** Douglas S. Chin, Attorney General, or  
Lori K. K. Sunakoda, Deputy Attorney General

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Chair Aquino and Members of the Committee:

The Department of the Attorney General offers comments on this bill.

The wording at the end of proposed new paragraph (10) on page 4, line 19, through page 5, line 13, highlighted below, is contradictory in its terms:

(10) The authority shall not approve a landowner's or developer's:

(A) Community development plan;

(B) Updated, amended, modified, or revised community  
development plan; or

(C) Permit application,

unless the authority executes a memorandum of understanding with

the landowner or developer of the land that is the subject of the

community development plan or permit, in which all parties to the

memorandum acknowledge the ownership of each public street or

highway that is adjacent to the land that is the subject of the

community development plan or permit; **provided that the authority**

**shall accept ownership of any public street or highway for which**

**ownership is disputed.** [Emphasis added.]

The Hawai‘i Community Development Authority is not legally able to “accept” ownership of any road when ownership is “disputed.” With disputed ownership, there is no one who can legally convey good title. Thus, the present wording does not work.

If the intent of the legislation is for the State to take the property through a condemnation, we can assist with drafting such wording. We note, however, that where the Kakaako District is concerned, the areas in dispute are not necessarily part of the road. Further, condemnation will require court action and result in expenditures difficult to estimate at this point in time.

We recommend the Committee consider defining or clarifying the provisions identified above. Our department is available to assist with any amendments to the bill, if any, that this Committee may require.