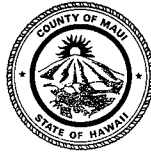


JEFFREY T. KUWADA
County Clerk



LANCE TAGUCHI
Deputy County Clerk

OFFICE OF THE COUNTY CLERK

COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.maui-county.gov/county/clerk

August 21, 2012

OFFICE OF THE
COUNTY CLERK

12 AUG 21 P2:50

RECEIVED

Honorable G. Riki Hokama, Chair
Policy Committee
Council of the County of Maui
Wailuku, Hawaii 96793

Dear Chair Hokama:

Respectfully transmitted are copies of the following communications that were referred to your Committee by the Council of the County of Maui at its meeting of August 21, 2012:

COUNTY COMMUNICATIONS:

- No. 12-172 - Danilo F. Agsalog, Director of Finance
- No. 12-181 - David C. Goode, Director of Public Works

Respectfully,

A handwritten signature in black ink, appearing to read "Jeffrey T. Kuwada".

JEFFREY T. KUWADA
County Clerk

/jym

Enclosures

cc: Director of Council Services

ALAN M. ARAKAWA
Mayor

DAVID C. GOODE
Director

ROWENA M. DAGDAG-ANDAYA
Deputy Director

Telephone: (808) 270-7845
Fax: (808) 270-7955



RECEIVED

2012 AUG -8 AM 10: 11

COUNTY OF MAUI
OFFICE OF THE MAYOR
DEPARTMENT OF PUBLIC WORKS
200 SOUTH HIGH STREET, ROOM NO. 434
WAILUKU, MAUI, HAWAII 96793

RALPH NAGAMINE, L.S., P.E.
Development Services Administration

CARY YAMASHITA, P.E.
Engineering Division

BRIAN HASHIRO, P.E.
Highways Division

August 7, 2012

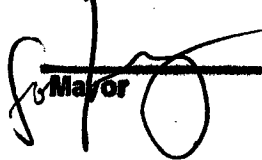
RECEIVED
2012 AUG 10 AM 9: 48
OFFICE OF THE
COUNTY CLERK

Honorable Alan M. Arakawa
Mayor, County of Maui
200 South High Street
Wailuku, Maui, Hawaii 96793

For Transmittal to:

Honorable Danny Mateo, Council Chair
and Members of the Maui County Council
200 South High Street
Wailuku, Maui, Hawaii 96793

APPROVED FOR TRANSMITTAL



Mayor Date 8/9/12

Dear Council Chair Mateo and Members:

SUBJECT: ROADS IN LIMBO

Attached herewith please find a copy of Senate Resolution No. 17 S.D. 1 entitled, "REQUESTING THE DEPARTMENT OF TRANSPORTATION TO FORM A WORKING GROUP TO EXPEDITIOUSLY RESOLVE THE ISSUE OF ROADS IN LIMBO IN MAUI COUNTY" and Senate Concurrent Resolution No. 49 S.D.1, H.D. 1 entitled, "REQUESTING THE DEPARTMENT OF TRANSPORTATION TO FORM A WORKING GROUP TO EXPEDITIOUSLY RESOLVE THE ISSUE OF ROADS IN LIMBO STATEWIDE."

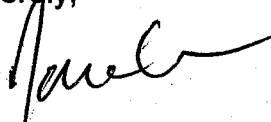
We respectfully request that the resolutions be referred to the appropriate Council committee for review, discussion and guidance on the Council's willingness to participate in the acceptance of these roads.

COUNTY COMMUNICATION NO. 12-181

Honorable Alan M. Arakawa
For Transmittal to:
Honorable Danny Mateo, Council Chair
and Members of the Maui County Council
August 7, 2012
Page 2

Thank you for your attention to this matter. If you have any questions, please feel free to call me at Ext. 7845.

Sincerely,



DAVID C. GOODE
Director of Public Works

DCG:jso

Attachments

xc: Elle Cochran, Chair, Infrastructure Management Committee
Engineering Division
Highways Division

s:\david2\transmittals\dmateo_roads in limbo_senate resolutions

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

S.R. NO. 17
S.D. 1

SENATE RESOLUTION

REQUESTING THE DEPARTMENT OF TRANSPORTATION TO FORM A WORKING GROUP TO EXPEDITIOUSLY RESOLVE THE ISSUE OF ROADS IN LIMBO IN MAUI COUNTY.

WHEREAS, the safety of the public is of paramount concern to the Legislature, and the quality of roadway maintenance has a direct impact on the safety of individuals operating motor vehicles and on ensuring continuous access between remote locations; and

WHEREAS, there has been a long-standing dispute over the ownership of "roads in limbo" or "government roads" located in Maui County and the other counties; and

WHEREAS, the Legislative Reference Bureau (LRB) produced Report No. 11, 1989, entitled "Roads in Limbo: An Analysis of the State-County Jurisdictional Dispute" which found, among other things, "There is a considerable and uncatalogued number of public highways in the State whose ownership, as between the State and the counties, is in dispute, as the State holds paper title to these roads but contends that ownership of these roads has passed to the counties by operation of law"; and

WHEREAS, according to the LRB report, the standoff on maintenance of roads in limbo has "the practical effect of leaving a significant number of roads in all four counties in substandard conditions and without routine maintenance because no government body will accept responsibility for them"; and

WHEREAS, the LRB report stated in pertinent part the position of Maui County: "The Maui County Department of the Corporation Counsel takes issue with the way in which the division of public highways into state and county highways occurs" and "Maui's position is that the source of the DOT's authority is to place certain roads on or off its list is unclear" (sic); and

WHEREAS, the LRB report further stated that "No comprehensive lists of these disputed roads exist because neither the State nor the individual counties will take the responsibility of cataloguing them"; and

WHEREAS, regardless of whether the State or the County has the superior legal authority to determine which roads are legally owned by either, the subject roads continue to deteriorate as the years go by, which has been the case for decades; and

WHEREAS, a recent news article, "East Maui community cut off after heavy rains wash out bridge" describes the situation as, "The recent heavy rains amaged a bridge that serves as a lifeline for dozens of residents. Now a rural community in East Maui has been cut off from the outside world. The Hanawana and Bridge was built about 100 years ago off Hana Highway. Part of it collapsed into a river during the severe weather more than a week ago. Roughly 0 residents are now stranded"; and

WHEREAS, the collapse of the Hanawana Land Bridge, one of the roads in limbo, meant that people could not get to work; and

WHEREAS, due to the exemplary efforts of the County of Maui on March 27, 2012, the rebuilding of Hanawana Land Bridge commenced; and

WHEREAS, the state and county governments have a responsibility to protect the public health, safety, and welfare, which includes the adequate maintenance of roads and bridges, particularly those located in rural communities; and

WHEREAS, the formation of a working group to bring together state and county departments is a practical and expedient way to resolve the issue of ownership of roads in limbo, including separation of ownership and maintenance issues; now, therefore,

BE IT RESOLVED by the Senate of the Twenty-sixth Legislature of the State of Hawaii, Regular Session of 2012, that the Department of Transportation is requested to form a working group to expeditiously resolve the issue of roads in limbo in Maui County for the greater good of the residents of Maui; and

BE IT FURTHER RESOLVED that the working group be composed of the following members:

- (1) The Director of Transportation, or designee;
- (2) The Chairperson of the Board of Land and Natural Resources, or designee;
- (3) The Mayor of Maui County, or designee; and
- (4) The Director of the Maui County Department of Public Works, or designee; and

BE IT FURTHER RESOLVED that the Department of Transportation submit to the legislature, no later than twenty days prior to the convening of the Regular Session of 2013, a report of the findings and recommendations of the working group, including any proposed legislation; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Director of Transportation, Chairperson of the Board of Land and Natural Resources, Mayor of Maui County, and Director of the Maui County

Department of Public Works.

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

S.C.R. NO. 49
S.D. 1
H.D. 1

SENATE CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF TRANSPORTATION TO FORM A WORKING GROUP TO EXPEDITIOUSLY RESOLVE THE ISSUE OF ROADS IN LIMBO STATEWIDE.

WHEREAS, the safety of the public is of paramount concern to the Legislature, and the quality of roadway maintenance has a direct impact on the safety of individuals operating motor vehicles and on ensuring continuous access between remote locations; and

WHEREAS, there has been a long-standing dispute over the ownership of "roads in limbo" or "government roads" located in Maui County and other counties statewide; and

WHEREAS, the Legislative Reference Bureau (LRB) produced Report No. 11, 1989, entitled "Roads in Limbo: An Analysis of the State-County Jurisdictional Dispute" which found, among other things, "There is a considerable and uncatalogued number of public highways in the State whose ownership, as between the State and the counties, is in dispute, as the State holds paper title to these roads but contends that ownership of these roads has passed to the counties by operation of law"; and

WHEREAS, according to the LRB report, the standoff on maintenance of roads in limbo has "the practical effect of leaving a significant number of roads in all four counties in substandard conditions and without routine maintenance because no government body will accept responsibility for them"; and

WHEREAS, the LRB report stated in pertinent part the position of Maui County: "The Maui County Department of the Corporation Counsel takes issue with the way in which the division of public highways into state and county highways occurs" and "Maui's position is that the source of the DOT's authority is to place certain roads on or off its list is unclear" (sic); and

WHEREAS, the LRB report further stated that "No comprehensive lists of these disputed roads exist because neither the State nor the individual counties will take the responsibility of cataloguing them"; and

WHEREAS, regardless of whether the State or the county has the superior

legal authority to determine which roads are legally owned by either, the subject roads continue to deteriorate as the years go by, which has been the case for decades; and

WHEREAS, a recent news article, "East Maui community cut off after heavy rains wash out bridge" describes the situation as, "The recent heavy rains damaged a bridge that serves as a lifeline for dozens of residents. Now a rural community in East Maui has been cut off from the outside world. The Hanawana Land Bridge was built about 100 years ago off Hana Highway. Part of it collapsed into a river during the severe weather more than a week ago. Roughly 10 residents are now stranded"; and

WHEREAS, the collapse of the Hanawana Land Bridge, one of the roads in limbo, meant that people could not get to work; and

WHEREAS, due to the exemplary efforts of the County of Maui on March 27, 2012, the rebuilding of Hanawana Land Bridge commenced; and

WHEREAS, the state and county governments have a responsibility to protect the public health, safety, and welfare, which includes the adequate maintenance of roads and bridges, particularly those located in rural communities; and

WHEREAS, the formation of a working group to bring together state and county departments is a practical and expedient way to resolve the issue of ownership of roads in limbo, including separation of ownership and maintenance issues; now, therefore,

BE IT RESOLVED by the Senate of the Twenty-sixth Legislature of the State of Hawaii, Regular Session of 2012, the House of Representatives concurring, that the Department of Transportation is requested to form a working group to expeditiously resolve the issue of roads in limbo statewide for the greater good of the residents statewide; and

BE IT FURTHER RESOLVED that the working group be composed of the following members:

- (1) The Director of Transportation, or designee;
- (2) The Chairperson of the Board of Land and Natural Resources, or designee;
- (3) The Mayor of each county, or their designees; and
- (4) The Director of each county department or division of public works or facility maintenance, or their designees; and

BE IT FURTHER RESOLVED that the Department of Transportation submit to the legislature, no later than twenty days prior to the convening of the Regular Session of 2013, a report of the findings and recommendations of the working group, including any proposed legislation; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Director of Transportation, Chairperson of the Board of Land and Natural Resources, Mayor of Maui County, Mayor of the City and County of Honolulu, Mayor of Hawaii County, Mayor of Kauai County, Director of the Maui County Department of Public Works, Director of the City and County of Honolulu Facility Maintenance Department, Director of the County of Hawaii Department of Public Works, and Director of the County of Kauai Department of Public Works.