

The Legal Battle Over Honolulu's Train to Nowhere

by Marc Scribner, Competitive Enterprise Institute on September 30, 2011 · in Mobility

Rail transit advocates in Honolulu, Hawaii, have seen better days. Significant opposition is threatening the future of the proposed 20-mile, \$5.5 billion elevated rail transit corridor. The project, championed by Hawaii Democrats, is the dream of long-time Senator Dan Inouye. Most view it as little more than an expensive monument to the 87-year-old Inouye, who has represented Hawaii in the U.S. Senate for nearly 50 years and is something of a state institution.

Critics of the multi-billion dollar elevated rail project have noted that it would destroy the views of Honolulu's famous waterfront, ruin some of Oahu's best farmland, cost far more than service that could be delivered by bus rapid transit, fail to provide access to major population centers, and fail to address congestion issues. According to the recent "2011 Urban Mobility Report" [\[PDF\]](#) from the Texas Transportation Institute, traffic congestion costs the Honolulu area \$287 million per year — putting it at number six among medium-sized metro areas with the most costly congestion problems. The city has also misled the public on supposed environmental benefits of the project, knowing full well that energy intensity (Btu per passenger-mile) is generally greater for heavy rail transit than for personal automobiles (see Table 2.13 and Figure 2.3 of the *Transportation Energy Data Book* [\[PDF\]](#)). [This recent editorial](#) provides some more background details.

However, the Inouye Legacy Train to Nowhere has continued to move forward, despite the valid criticisms. But the city may have moved too fast. So fast that it may have broken the law. Honolulu residents concerned with a proposed rail transit line filed a lawsuit against the Federal Transit Administration (FTA) and the city in May [\[PDF\]](#). The plaintiffs allege that the city, in an effort to ram through the project, had failed to comply with the National Environmental Policy Act (NEPA) and other laws and regulations.

It appears likely that Honolulu and FTA failed to consider reasonable alternatives and accurately assess the alternatives' environmental consequences in the Final Environmental Impact Statement, as required under NEPA. Now the FTA and city are arguing that a section of the lawsuit and claims made by some plaintiffs should be dismissed because the issue wasn't raised and some of the plaintiffs didn't participate in the initial administrative process [\[PDF\]](#).

Earlier this week, the plaintiffs countered these allegations [\[PDF\]](#). They argued that the FTA/Honolulu motion failed to address any of their arguments contained in the initial complaint, and instead relied upon outside evidence beyond the scope of the proceeding. As they noted, this was clearly an attempt by the defendants to slow down the proceeding because the city and FTA know that their defense is quite weak.

It will be interesting to see how the court rules, as the case before it focuses on several controversial aspects common to rail transit projects around the country. But most of the time, the opposition isn't organized enough to challenge the planners. Hopefully, sanity will prevail. We at OpenMarket wish the plaintiffs the best of luck!