

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



**STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA**

P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

LAURA H.E. KAAKUA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
DAWN N. S. CHANG
Chairperson**

**Before the House Committee on
WATER & LAND**

**Tuesday, March 28, 2023
9:30 AM**

State Capitol, Conference Room 430 and Videoconference

**In consideration of
HOUSE CONCURRENT RESOLUTION 115
AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT
COVERING A PORTION OF STATE SUBMERGED LANDS AT KĀNE'OHE,
KO'OLAUPOKO, O'AHU, FOR THE EXISTING BOAT RAMP, CONCRETE WALL,
AND PORTION OF A WALL AND FOR USE, REPAIR, AND MAINTENANCE
OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.**

House Concurrent Resolution 115 requests authorization to issue a term, non-exclusive easement covering a 319 square foot, more or less, portion of state submerged lands fronting the property identified as Tax Map Key: (1) 4-5-:047: seaward of 051, at Kāne'ohē, Ko'olaupoko, O'ahu for the existing boat ramp and concrete wall, and for the use, repair, and maintenance of the existing improvements constructed thereon. **The Department of Land and Natural Resources (Department) supports this concurrent resolution.**¹

The encroachment at issue consists of three elements: a concrete boat ramp of approximately 147 square feet, a submerged concrete wall of approximately 169 square feet, and a portion of another wall of approximately 3 square feet. The final easement area is subject to review and approval by the Department of Accounting and General Services, Survey Division. According to aerial images provided to the Department, all three elements are a part of a larger seawall that has been in place since at least 1967. The residential properties surrounding the property at issue are also bordered on the makai side with similar seawalls and boat ramps.

The current owner, James Michael Elhoff/ Michael Elhoff Living Trust, purchased the private property that abuts the subject shoreline encroachments in 2021. The encroachments were noted in the course of a

¹ Please note: HCR 115 is not an Administration measure.

shoreline certification process and the owner requested to pursue a land disposition to resolve the encroachments. The Board of Land and Natural Resources approved the grant of a term, non-exclusive easement, right-of-entry permit, and revocable permit for the encroachment at its meeting on August 26, 2022, under agenda item D-4. If the Legislature approves the easement, the next steps would be to survey the final easement area and appraise the fair market value of the term, non-exclusive easement, which the current owners shall be required to pay to the State as consideration for use of public lands.²

The Department's Office of Conservation and Coastal Lands (OCCL) has supported and continues to support the disposition of the subject land by easement in order to resolve the encroachment. In the context of the easement application process, OCCL stated, by letter dated March 3, 2022, that removal of the encroachments may compromise the abutting property as well as neighboring properties because the seawall serves as primary erosion control for these properties. Erosion may cause landscaping and sediment material to fall or leach into marine waters, posing a potential harm to the health of marine life. Additionally, OCCL noted that the encroachments do not negatively affect beach or shoreline access in the area because there is no sandy beach present and the land is constantly submerged.

Mahalo for the opportunity to testify in support of this measure.

² Please note: The shoreline certification for the subject property is currently in progress and the processing period will expire September 18, 2023. A completed shoreline certification is necessary for determining the area of encroachment onto state land. The Department will be able to appraise fair market value of the encroachment upon completion of certification.

HCR-115

Submitted on: 3/24/2023 9:50:34 AM

Testimony for WAL on 3/28/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Michael Elhoff	Individual	Support	Written Testimony Only

Comments:

Aloha,

I am the homeowner at 45-221 Ka Hanahou Circle and have unresolved encroachments on my shoreline that were built when the property and neighborhood were developed in the early 1950s. None of the previous owners had resolved these easements and I have taken on the task of finally making them right by the State. They include a concrete boat ramp and some portions of the seawall that slightly protrude into State water (Kaneohe Bay).

I have submitted for review and received confirmation from Dept. of Conservation and Coastal Lands that removing the structures would likely casue more damage than leaving them and that they pose no negative issues to neighbors or the environment. Over the past 70 years they have become integral to the surrounding marine life, with fish, turtles and eels residing around them. I am committed to maintaining them in a safe condition and respecting all marine life in the vicinity.

Mahalo nui for your support.

HCR-115

Submitted on: 3/25/2023 7:04:09 AM

Testimony for WAL on 3/28/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Bill Riddle	Individual	Support	Written Testimony Only

Comments:

Aloha, as a 55 year resident of windward Oahu and an avid sailor and concerned citizen I would like to commend the actions at the property in question. It is apparent that significant improvements have been made to preclude potential problems related to the shoreline in question. The repair and restoration of the existing shoreline has been completed with the utmost of care and responsibility. We should only hope that all similar situations were addressed with like-minded attention to detail, preservation, and protection of the bay, wildlife, and environs. The home owner should be praised for his thoughtful diligence to do it right. Please consider this testimony as strongly in favor of granting the easement in question.
Aloha, Bill Riddle

March 26, 2023

To Whom it May Concern,

I am writing this letter to support my neighbor Mike Elhoff in hopes that a resolution can be made in regards to the easement encroachment on his property.

Mike is a respectful and kind person who always looks after the best interest of others in the neighborhood. He loves the ocean and has built his career and home around the water. Mike is a big environmentalist and I believe he will do an excellent job maintaining his property (and easement in question) on the bay. I hope that he will be able to retain the easement and resolve this legality.

I have no doubt that Mike will do his part to preserve the marine life around his home, help to improve water quality around his area and protect Kaneohe Bay.

I appreciate you time in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kyle Kodama', written in a cursive style.

Kyle Kodama
45-210 Ka Hanahou Circle
(808) 551-5953

HCR-115

Submitted on: 3/27/2023 3:59:40 PM

Testimony for WAL on 3/28/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Kres Kodama	Individual	Support	Written Testimony Only

Comments:

Aloha Everyone,

My name is Kres Kodama and I would like to kindly submit a personal testimony on behalf of my neighbor Mike Elhoff.

Mike moved to Ka Hanahou Circle around the same time as our family and was described as "the perfect person for this house" according to his home's previous owner, due to his love of Kaneohe and the respect for the ocean and nature. "Uncle Mike" as my kids call him, allows them to swim with the fishes, watch the Kaneohe Bay Air Show and lets us enjoy HIS waterfront home. He is just a really good, easy going kind of guy and I would like to do as much as I can as a neighbor- to support kind hearted people.

Mike has been tirelessly working on building his forever home along Kaneohe Bay and with any new construcion, it hasn't been easy. I hope the State of Hawaii can resolve this long standing issue with the sea wall- which does not pose a problem to anyone as it has always been there and blends so nicely with his back yard and new home.

Have a great day and THANK YOU very much,

Kres Kodama