



Ocean Tourism Coalition

The Voice for Hawaii's Ocean Tourism Industry
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LATE TESTIMONY

TESTIMONY HB 1766 HD1

February 12, 2009; 10:30 am Room #325

TESTIMONY TO: HOUSE COMMITTEE ON WATER, LAND, & OCEAN RESOURCES
Representative Ken Ito, Chair

Presented By: James E. Coon, President of the Ocean Tourism Coalition

Subject: H. B. 1766 HD1 RELATING TO ALAWAI BOAT HARBOR AND
COMMERCIAL

Conditional Support of HB 1766 HD1 with proposed amendments

Chair Ito and Members of the Committee:

I am Jim Coon, President of the Ocean Tourism Coalition (OTC) speaking with conditional support of this bill. We are offering two amendments:

200-9 HAR Delete bracketed text including commercial operation permits

d) Notwithstanding any limitations on commercial permits for Maui county small boat facilities, vessels engaging in inter-island ferry service within Maui county shall be afforded preferential consideration for ferry landings, **[including the issuance of a commercial operating permit and the waiver of any applicable fees, at Maui county small boat facilities]**; provided that:

Section 4, (c) (5) ADD “two times the moorage fee plus utility/common area maintenance fees assessed for a recreational vessel of the same size, whichever is greater.

Commercial boaters represent less than 3% of the total boats using these facilities yet produce close to 50% of all revenues derived from boater fees. Commercial boaters recently supported legislation to have their fees raised by 50% with the promise that this would provide enough extra revenue for DOBOR to upgrade our harbors. As an industry we just cannot afford any significant increase in what we are already paying. We are paying more than our fair share! We are not complaining, but do not want to see a draconian open ended fee system added on to our already strained resources to the point where it drives us out of business.

If you pass this bill please include the proposed amendments

Thank you,

James E. Coon, President
Ocean Tourism Coalition
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808-870-9115

HB 1766 Testimony

Noa Napoleon [freeoceanaxs@yahoo.com]

Sent: Thursday, February 12, 2009 8:48 PM**To:** WLOtestimony**LATE TESTIMONY**

**Noa Napoleon
1750 Kalakaua Ave #103
Hon HI 96815**

Testimony **opposing** HB 1766
(except with amendments)

Re: Permits BLNR to lease submerged lands to Ala Wai Harbor Commercial Vessels

Hearing Date: Feb 13, 2009
Time: 10:30
Rm 325

House Committee on Water, Land and Ocean Resources

First and foremost I wish to remind legislators that the Ala Wai Harbor is or at least can be self sufficient if only the Ala Wai harbor moneys were not used to support other state harbors as is now the case with the boating special fund (BSF). Second, I would point out that if DOCARE (Conservation enforcement) is relocated to the Department of Public Safety as SB 1850 would require, all of this might just be moot because this would free up millions of dollars to then meet harbor repair expenses. This committee might do better by drafting legislation requiring all Ala Wai harbor moneys stay in the harbor and not go out to other harbors via the BSF etc. This is far more preferred as well as practical.

If Privatization is inevitable in your minds here are some safeguards to consider...

Any measure permitting DLNR to lease submerged lands must first be weighed against the pending Supreme Court decision on ceded lands as submerged lands are technically ceded lands. The Land board moreover must allow for a full public vetting process to be conducted before any approvals are authorized, otherwise DLNR will not only feel they can now ignore the public but they are likely to fail to properly set rules in accordance with Chapter 91, as is currently the case, since there are now several commercial Catamarans that are currently allowed to moor at the Ala Wai harbor in contradiction of the rule that the Ala Wai harbor is a recreational harbor. If rules are published prior to a public vetting process and if all such commercial leases are short term only, than maybe, just maybe, this might work. But history has proven that Boating division (DOBOR) is seriously challenged in terms of management problems as several Marion Higa audits have suggested. So I propose legislators make several amendments **before passing this measure**. The Land Board must be required to;

- 1.) Create a Ala Wai harbor stakeholder (Ad Hoc) group to address any and all RFP's related to commercial lease (prior to issuing RFP).
- 2.) Draft and publish comprehensive rules that cover each area related to the Waikiki ORMA (prior to RFP).
- 3.) Require the Land Board to assign a permanent **ORMA Officer of Licensing and Permits** who can in official capacity address lease /permit obligations separate from normal Boating or harbor management duties (prior to RFP).
- 4.) Draft and publish a management plan for harbor leases that can be examined by the public (prior to issuance of RFP).
- 5.) Include OHA in the stakeholder process (prior to RFP).
- 6.) Order a Fiscal and Performance audit be done (prior to implementation of short term lease).
- 7.) Design lease criteria along the lines of competitive bid process using state procurement law (prior to RFP).
- 8.) Ensure that commercial operations do not diminish or detract from the use and enjoyment of these lands by the general public.

- 9.) Commercial vessels must be located along the 300 row fronting the hotels not along the 700 and 800 rows as this would interfere with recreational boaters and surfers. Commercial employees and patrons must not be allowed to impinge on the free parking assigned to recreational users. **Any commercial lease must not be allowed to consume parking except as necessary for employee parking.**

Finally, I would remind this committee that the current month to month parking contract issued to DIAMOND LLC is not working in terms of enforcement of the free public parking, which the contract places on DOCARE and DIAMOND LLC.

Hawaii's Thousand Friends **LATE TESTIMONY**

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1 copy and 1 original required to Room 438

COMMITTEE ON WATER, LAND, AND OCEAN RESOURCES

Hearing on Friday, February 13, 2009 at 10:30 a.m.

Conference Room 325, State Capitol

Testimony on HB1766 HD1

Hawaii's Thousand Friends

Fred Madlener, Board Member

Chairman Ito and Members of the Committee:

We at Hawaii's Thousand Friends have often come before you at the Legislature asking you to steer away from privatizing public trust and ceded lands. We have always said that these are the valuable assets of the State and its citizens. But in HB1766 HD1 we find the Department of Land and Natural Resources doing exactly that in a drastic maneuver that crushes the old and laudable intent of the State to give the Hawaiian public access to the sea. Now the Department wants to make our harbors into money making developments. This is a truly awful idea the like of which we have not seen since the firm establishment of the Democratic Party in Hawaii.

Why is giving Hawaiian citizens access to their own harbors and parks an outdated idea? Giving out 65 year leases, or any leases, that allow full blown development of shops, malls, and apartments in our harbors ensures that we will never get our harbors back, ever. Nor will our citizens be able to afford to keep their boats in these privatized harbors. This is a plan whose time has not come and should never come.

Testimony for HB1766 on 2/13/2009 10:30:00 AM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Friday, February 13, 2009 4:44 AM

To: WLOtestimony

Cc: [REDACTED]

LATE TESTIMONY

Testimony for WLO 2/13/2009 10:30:00 AM HB1766

Conference room: 325

Testifier position: oppose

Testifier will be present: No

Submitted by: Raymond A. Gruntz

Organization: Waukiki NHB #9

Address: [REDACTED]

Phone: [REDACTED]

E-mail: [REDACTED]

Submitted on: 2/13/2009

Comments:

Aloha, Six years ago my Waikiki Board, went on record against any Commercial Boats in the ala wai small boat harbor, we were also against any Commercial Activity's in the small boat harbor.

The reason it is called Small Boat Harbor is just that, No Big Vessels, they don't mix. It is a clear and present Danger, to surfers,paddlers, free divers, and Body surfers who use it's entrance to do all of the above. As it is now some cheating goes on now, when on Sunday and Monday some big boats enter our Harbor, dropping off as well as picking up Tourist party's.

This is the only money making Harbor in the State, yet the powers that be want to overload the Alawai small boat Harbor with even more ACTIVITY that will cost us residence in the area quality of life issues, NOISE is the number one issue in Waikiki, residence's can't sleep.

on a side note living at the Ilikai Marina Condo Building the engine noise under my bedroom windows in the wee wee hours of the morning, the loading of supply's prior to picking up tourist's is not a welcome addition to the ALA WAI SMALL BOAT HARBOR, LET'S KEEP IT THAT WAY. IN CLOSING, (I DO BELEIVE THE ALA WAI TRUST WOULD BE VIOLATED IF YOU DID MAKE THIS CHANGE.

ALOHA RAYMOND A. GRUNTZ
DIRECTOR ILIKAI MARINA CONDO BOARD
DIRECTOR WAIKIKI AREA RESIDENSE ASSOC.
MEMBER WAIKIKI NHB #9

Representative Ken Ito, Chair, Committee on Water, Land, and Ocean Resources

Friday, February 13, 2009, Conference Room 325

LATE TESTIMONY

Testimony in Opposition to HB 1766 HD1

Aloha Chair Ito and committee members!

I am an employee of DLNR but the testimony that follows is that of my own as an individual who has opposed the privatization of the State's Small Boat Harbors.

I am not opposed to private developers building new harbors. However, I believe that the middle class should always have the ability to have affordable access to the ocean.

To allow the leasing of submerged lands will insure that the State's Small Boat Harbors are privatized and therefore priced out of the range of the average boater.

This Bill would not only authorize the leasing of submerged lands at the Ala Wai Boat Harbor, it would apply state wide, including launch ramps and off shore moorings.

The legislature has properly opposed several attempts by the Cayetano and Lingle administrations in the last 14 years to privatize its harbors.

Please hold this bill in Committee.

Mahalo for the opportunity to testify in opposition to HB 1766 HD1

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TESTIMONY
of
J. SCOTT FRETZ
PO Box 88729
Honolulu, Hawaii 96830

LATE TESTIMONY

IN OPPOSITION TO
HB 1766

House Bill 1766 HD1 proposes to allow the Board of Land and Natural Resources to lease public recreational lands to a private developer for profit, contrary to the best interests of the public.

Public lands

The Ala Wai and Keehi recreational boat harbors are public lands maintained by the state to provide recreational opportunities to citizens in the form of sailing, boating, and fishing. HB 1766 would allow the DLNR to auction off those opportunities to the highest bidder who would profit off the public use of those lands.

Maintenance plan

I have sailed and fished the waters off Honolulu all of my 47 years and have seen both harbors in better and worse days. The present deplorable condition is the fault of mismanagement by the DLNR, as stated in three separate state audits. The department is charged with implementing a sound financial management plan in which fees are deposited into a special fund for boaters. I seek only for the department to do its job and am willing to pay the appropriate fees – that does not include paying profits to developers for use of public lands.

Recreational renaissance

The department has proposed a new and fresh approach to support our harbors and other public recreational areas. Singling out these two harbors to profit off our citizens is unethical and disrespectful.

Honorable members, the vast majority of harbor users are regular working people like me seeking only to pay for our own use of the lands. We are only asking the department to provide responsible management of our fees.

Please hold this bill to protect our opportunities to use these public lands for boating and fishing.

LATE TESTIMONY

Aloha, My name is Melva Aila. ^(testifying as a boater)
I am strongly opposed to HB 1766 HD1. This bill if passed will cause many hardships for the people of the middle class. The Small Boat Harbors were created over 40 years ago through public funds and this bill would give it to a private entity to manage.

The purpose of the Small Boat Harbors was the Access to the Oceans and for fisherman to land their fish. The Cayetano and Lingle Administrations has repeatedly wanted to pass out a bill like this but the legislature always understood its impacts to the middle class. We are now in an economic downturn and the middle class will be severely impacted. No Access to the ocean unless you pay an expensive fee.

No access to the harbor to fish on the break-walk, or just to sit and enjoy the view while you're eating your lunch, or no access just to use the restrooms. The middle class cannot endure the effects of a privatized harbor. The slip fee will be 3 times or more and truly not affordable as it is now. Fisherman would no longer have the access to the ocean to provide fish to their family and friends or just to put food on the table. The quality of life for the community, people and future generations will diminish. The people of Hawaii needs to have a choice just like the school system we have today, you can attend private or public schools. Please hold this bill.

Mahalo, Melva Aila

TESTIMONY REGARDING HB¹⁷⁶⁶~~139~~

HOUSE COMMITTEE ON WATER, LAND AND OCEAN RESOURCES

Friday, 13 February 2009 in room 325 at 10:30 AM

Chair Ito and respected members of the committee,

My name is Reg White. I work in the commercial boating industry of our state and I am a recreational boater and am a tenant and resident of Ala Wai Boat Harbor. This bill, HB 1766, in Section 5 (a) mandates the lease of the 700 and 800 row of Ala Wai Boat Harbor. This is a true waste of money and time as the department has already done the study to restore the piers on the 700 row and has the money to start the project in the near future. Just as soon as the restoration of docks B, C & D is completed this coming spring. Please don't disrupt this already well done plan that seeks to immediately restore our harbor to it's maximum revenue generating capacity. The department already has the ability to lease out both fast and submerged lands merely by applying to the Land Board, they don't have to wait for legislative approval. The department has agreed to work with the Ala Wai tenants through the Land Board via its normal hearing process when assigning the areas to be used for commercial berths in Ala Wai Boat Harbor.

Regarding Section 3 section 200-9 (c):

(1) We support the 65' limit on commercial vessels allowed to operate from Ala Wai Boat Harbor.

Section 4: 200-10 (c)

(1) Wherever the licensed real estate appraiser is used it must be noted that the values used for comparison must also be marinas that are owned and operated by municipalities, counties or states, and are not privately owned marinas operated for profit. These proposed fees must then go out to public hearings the same as always under the BLNR rules. The annual increase in fees must be justified by a like increase in the costs to provide the services or facilities being charged for.

Under subparagraph (2) drop the real estate appraiser and use the DOT fee structure. This will make the fees uniform statewide and make a level playing field for all commercial operators in the state of Hawaii.

Subparagraph (6) enacts an additional maintenance fee. This is already figured into the original fee structure and is already being paid by the boaters. If CAM is instituted than the original fee must be so reduced as not only Hawaii case law (CASI vs DLNR) but also Federal MTSA 2002 define the "fee" as an amount equal to the cost to provide a facility or a service to a vessel.

Section 5: section 200-2.5 requires the department to lease out portions of a perfectly good

harbor that is presently being restored to its complete revenue generation capacity. There is no need to direct the leasing out of any portions of the harbor. Should such a move become necessary, or become the best judgmental answer for a particular situation, the department already has the option at any time to apply to the BLNR for permission to lease out particular portions of both the fast and submerged lands of any harbor under their jurisdiction. This is much faster than waiting for the next legislative session for approval to make these moves when required.

(B) (2) is in error. There are no parking meters on the 600-700 row mole.

Regarding the remainder of this section, the department is already out with an RFP regarding a long term lease of the present fuel dock on the 600-700 mole end and the boat repair area at the diamond head, makai end of the Ala Moana Blvd. Bridge over the Ala Wai Canal channel..

This bill is sufficiently flawed as to make it a fine candidate to be "Held".

Respectfully.

Reg White
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