

BEACH ACCESS HAWAII

www.beachaccesshawaii.org

Contact: Rich Figel
801 Kainui Drive, Kailua, HI 96734

Phone: (808) 262-5073
Email: richfigel@gmail.com

Date: Feb. 4, 2009

To: House Water, Land & Ocean Resources Committee

Re: TESTIMONY IN SUPPORT OF HB1808

Aloha Chair Ken Ito and Vice-Chair Sharon Har,

While I support the intent of this bill, I believe it shows why we need a joint state/counties task force to deal with shoreline management and beach access issues. Who is going to enforce these new rules? The state or the counties? The bill says either -- which probably means neither will, unless pressed by the public.

That's the case currently with the sidewalk maintenance law which is cited in the bill. Along Kalaheo Avenue there are "unimproved" sidewalk areas, which are actually part of the road that have become dangerous because neither the city or the state is maintaining those curbside paths. Our City Council representative says notices were sent to the homeowners to remove the dirt, weeds and debris along the side of the road that forces pedestrians to walk in the road itself. Yet the homeowners have ignored the notices, apparently, because nothing has been done!

My concern is the same will happen with this proposed legislation, which puts the onus of vegetation maintenance on homeowners without any clear-cut indication of who is responsible for enforcement.

It also points out how vague our state law is about what is or isn't considered a public corridor for shoreline access. High wash mark of the highest wave during high surf season? Is someone going to go out and measure this spot along all our beaches?

Again and again we run into the same split jurisdiction problems that hinders effective shoreline management and access policies. Until we have an actual State Coastal Commission to oversee and implement laws such as this proposed bill, we will only succeed in creating more confusing and overlapping rules that will not be enforced by either the state or the counties.

Sincerely skeptical,

Rich Figel

**Hui Ho'omalua i ka 'Aina
PO Box 1045
Hanalei, Hawaii 96714**

February 4, 2009

Testimony in Strong Support

HB 1808

WLO

Room: 325

Hearing Date: 2/6/2009 9:15:00 AM

Aloha Committee members

Our organization strives to support the traditional and cultural practices of the people of Halele'a on Kaua'i.

Access is a critical issue for our practices and survival.

We support this legislation as it seeks to enforce the access we require.

Mahalo for your consideration of our testimony and passage of this bill.

Me ka pono,

Jeffery Chandler, Chair

February 4, 2009

RE: HB1808,

Aloha Committee Members:

As a longtime Kailua resident and avid beachgoer, I support this bill which seeks to require homeowners to properly maintain vegetation and prevent the proliferation of plants such as naupaka from impeding beach access.

In some cases homeowners have encouraged the growth of these plants to extend their property lines and reduce available beach space. In some cases it's a blatant land-grab by these homeowners, but it also interferes with the natural sand dunes that keep our beaches healthy and protect against erosion problems.

Continued beach erosion is a serious threat and much needed studies are currently being done to assess what methods are needed to avoid losing pristine shoreline areas.

Millions of residents and visitors enjoy visiting beaches and parks but have been hindered with escalating access problems such as illegal gates blocking public access points, as well as the restriction in actual beach areas with vegetation proliferation.

These are open public beach areas and this illegal practice needs to be stopped. Without proper guidelines, there is a continual lack of enforcement.

I support this bill to address the escalating problem of illegal vegetation growth on Hawaii's beaches.

Please support HB1808.

Sincerely,
Isabel Figel
Kailua, HI

A solid black rectangular redaction box covering the signature area.

Testimony for HB1808 on 2/6/2009 9:15:00 AM

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

Sent: Tuesday, February 03, 2009 6:44 PM

To: WLOtestimony

Cc: [REDACTED]

Testimony for WLO 2/6/2009 9:15:00 AM HB1808

Conference room: 325

Testifier position: support

Testifier will be present: No

Submitted by: wendy Erickson

Organization: Individual

Address:

Phone:

E-mail: wne@hawaii.rr.com

Submitted on: 2/3/2009

Comments:

I support the bill HB1808 which deals with lateral access, meaning vegetation. It would require beachfront homeowners to make sure stuff like naupaka in front of their property is not impeding access. In some cases, it's a blatant land-grab by these homeowners -- but it also interferes with the natural sand dunes that keep our beaches "healthy."

Testimony for HB1808 on 2/6/2009 9:15:00 AM

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

Sent: Tuesday, February 03, 2009 7:01 PM

To: WLOtestimony

Cc: [REDACTED]

Testimony for WLO 2/6/2009 9:15:00 AM HB1808

Conference room: 325

Testifier position: support

Testifier will be present: No

Submitted by: Judith A. Mick

Organization: Individual

Address:

Phone:

E-mail: [REDACTED]

Submitted on: 2/3/2009

Comments:

Aloha- Access to the beach should not be impeded by private vegetation . Everyone has the right to walk the beach and go down the right-of-ways. Lucky the people who can afford to live right on the beach, but it is important for them to protect beach access for all.

Mahalo, Judy Mick

064

Testimony for HB1808 on 2/6/2009 9:15:00 AM

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

Sent: Tuesday, February 03, 2009 7:14 PM

To: WLOtestimony

Cc: [REDACTED]

Testimony for WLO 2/6/2009 9:15:00 AM HB1808

Conference room: 325

Testifier position: support

Testifier will be present: No

Submitted by: Mary Jo Morrow

Organization: Individual

Address:

Phone:

E-mail: [REDACTED]

Submitted on: 2/3/2009

Comments:

I have experienced first hand the watering of what is public property by private property owners, who in fact do not live on the property, but have property managers who aggressively plant and water napaka plants on public property. This is to deter the public from utilizing that beach. Public access has been blocked by planting of napaka plants so the mauka public can not utilized the public access. This is just another grab by greedy people like we are witnessing on Wall Street.

When will it end?

065

Testimony for HB1808 on 2/6/2009 9:15:00 AM

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

Sent: Tuesday, February 03, 2009 9:15 PM

To: WLOtestimony

Cc: [REDACTED]

Testimony for WLO 2/6/2009 9:15:00 AM HB1808

Conference room: 325

Testifier position: support

Testifier will be present: No

Submitted by: Michele McKay

Organization: Individual

Address:

Phone:

E-mail: [REDACTED]

Submitted on: 2/3/2009

Comments:

I cannot attend the hearing, but please help protect our beaches by supporting this bill.

Thank you,

Michele McKay

066

Testimony for HB1808 on 2/6/2009 9:15:00 AM

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

Sent: Wednesday, February 04, 2009 6:53 AM

To: WLOtestimony

Cc: [REDACTED]

Testimony for WLO 2/6/2009 9:15:00 AM HB1808

Conference room: 325

Testifier position: support

Testifier will be present: No

Submitted by: Courtney Doyle

Organization: Individual

Address:

Phone: [REDACTED]

E-mail: [REDACTED]

Submitted on: 2/4/2009

Comments:

Keep our beaches healthy

067

TO: Rep. Ken Ito, Rep. Sharon Har and members of Committee on Water, Land and Ocean Resources

RE: HB 1808

Meeting: Friday, Feb 6 at 9:15, Room 325

My name is Scotty Anderson and I am writing in support of HB 1808. As a member of the Waialae-Kahala Neighborhood Board #3 shoreline access is an on-going concern for our neighbors and visitors. Far too often we find landowners watering plants outside of their property line in order to keep beachgoers further from their property.

I have read the contents of HB 1808 and believe that it gives a fair assessment of the problem and correctly points out how to monitor and solve the problem.

Thank you for this opportunity to comment.

F. M. Scotty Anderson

[REDACTED]

February 3, 2009

FAX TESTIMONY TO: 586-8504

Hearing Date: Friday, February 6, 9:15 a.m., Conference Room 325 (Committee on Water, Land & Ocean Resources)

Honorable Representatives Ken Ito, Chair, Sharon E. Har, Vice Chair, and Members of the House Committee on Water, Land and Ocean Resources

Subject: HB 1808, Relating to Coastal Areas

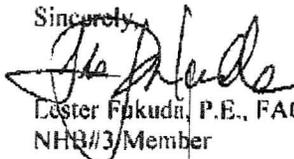
Honorable Chair Ito, Vice Chair Har, and WLO Committee Members,

As a concerned Neighborhood Board Member of the Waiialae, Kahala & Diamond Head area, **I urge you to Support HB 1808 Relating to Coastal Areas.** There are many instances of man-induced restrictions along our Kahala coast line that impedes public access to our beautiful beaches. Overgrown vegetation with sprinkler systems that keep the vegetation growth along the beach front is a clear impediment to beach access. There are numerous seawalls that erode away most of the former sandy beaches.

Clearly it a concern with the Neighborhood Board and the topic of our Kahala Beaches access and vegetation issues has been discussed and resolutions passed to encourage our State and Counties to take action. This Bill has the necessary means to allow the State and Counties to take formal action to clear our beaches and maintain the public's right to use our Kahala Beach.

Please Support HB 1808 Relating to Coastal Areas!

Sincerely,



Lester Fukuda, P.E., FACEC
NHB#3/Member

069

Caren Diamond
[REDACTED]
[REDACTED]

February 4, 2009

Testimony in Strong Support HB 1808

WLO

Room: 325
Hearing Date 2/6/2009
9:15:00 AM

Aloha Committee Members,

We urge you to support this excellent bill that will enable the public to access and use our beaches free of planted vegetative encroachments that serve to privatize our public beaches.

Our beaches have been disappearing at alarming rates due to the proliferation of planted vegetation. Landscaping on the public beach has become rampant here on Kauai's North Shore. Our pristine sandy beaches are now oasis of lush green vegetation. Salt tolerant plants continue to grow seaward onto the public beach . More plants continue to be planted , further and further seaward in what appears to be a never ending movement seaward .

Beach front landowners and their landscapers have planted the beach very aggressively, creating colonies of salt tolerant vegetation on the beach.

Naupaka, spiderlilies, ironwood trees, wedlia, and beach heliotrope trees, are most commonly used. The heliotropes are repeatedly trimmed low to encourage their low lateral growth, covering large expanses of what was public beach. Naupaka is regularly planted and replanted after the seasonal high surf .

The vegetating of our beaches has become a problem of epic proportions. Low growing salt tolerant grasses such as aki aki grass have been planted even more seaward of the planted naupaka. The vegetation has the effect of privatizing the beach for the adjacent landowners .

Irrigation of the planted vegetation is commonplace as is the fertilizer used to encourage its growth. The fertilizer has an additional negative impact on our coral reefs. The vegetation also changes the slope and profile of the sandy beach. When the waves wash, the sand gets trapped in the vegetation. After a period of time, the beach is much steeper, leading to scarping. It also impacts the Hawaiian Monk Seals ability to haul out of the ocean and rest on the beach .

HB 1808 is necessary as greed has replaced respect on our shared resource, and our greatest asset, the beach. Please support this timely legislation.

Mahalo, Nui, Caren Diamond

Jeannine Johnson, Legislative Sub-Committee Chair

Kuli'ou'ou / Kalani Iki Neighborhood Board #2

5648 Pia Street, Honolulu, Hawai'i 96821

Phone: 373-2874 (h) / 537-7261 (w)

February 4, 2009

COMMITTEE ON WATER, LAND, & OCEAN RESOURCES

Rep. Ken Ito, Chair

Rep. Sharon E. Har, Vice Chair

HB 1808 RELATING TO COASTAL AREAS

Hearing: Friday, February 06, 2009 at 9:15 am in Conference Room 325

Aloha Chair Ito, Vice Chair Har and Honorable Committee Members,

As Committee Chair of the **Kuli'ou'ou / Kalani Iki Neighborhood Board #2** Legislative Sub-Committee, I am pleased to inform you **Neighborhood Board #2** strongly supports HB1808 which requires maintenance of public beach accesses by adjacent landowners and imposes penalties for noncompliance; establishes shoreline access as an objective of the coastal zone management program; and requires the department of land and natural resources to provide written notice to property owners affected by this Act. **Neighborhood Board #2** represents over 6,000 households, with a population of almost 20,000 people (State of Hawaii Data Book 2002) in East Honolulu.

Hawai'i Revised Statutes (HRS) Chapter 115 states: "The legislature finds that miles of shorelines, waters, and inland recreational areas under the jurisdiction of the State are inaccessible to the public due to the absence of public rights-of-way; that the absence of public rights-of-way is a contributing factor to mounting acts of hostility against private shoreline properties and properties bordering inland recreational areas; that the population of the islands is increasing while the presently accessible beach, shoreline, and inland recreational areas remain fixed; and that the absence of public access to Hawaii's shorelines and inland recreational areas constitutes an infringement upon the fundamental right of free movement in public space and access to and use of coastal and inland recreational areas." The purpose of this chapter is to guarantee the right of public access to the sea, shorelines, and inland recreational areas, and transit along the shorelines, and to provide for the acquisition of land for the purchase and maintenance of public rights-of-way and public transit corridors. Many shoreline paths were created with the intent to provide beach access and are tax assessed at only \$100, yet they remain closed to the public. Beachfront homeowners intimidate the public with walls, gates, keep out signs, video cameras, dogs and an overall unwelcoming attitude to the shoreline has the effect of turning many Hawai'i beaches into private, exclusive ones. Thus, without enforcement, the public's rights of access to and use of coastal and inland recreational areas mandated in HRS Chapter 115 are meaningless.

COMMITTEE ON WATER, LAND, & OCEAN RESOURCES

February 4, 2009

Page 2

Therefore, at its November 6, 2008 meeting, **Neighborhood Board #2** voted in favor of the following:

- Appropriating funds for the Office of Planning, Coastal Zone Management Program, to survey and map all existing public access ways to shoreline areas and nearby public parking areas;
- Before permits are issued that may affect public access to the sea, the shoreline, or any coastal or inland public recreational area, the relevant agency shall ensure that a public right-of-way is available to access any and all public recreational areas, including beaches, shores, parks, and trails; and
- Requiring state and county agencies to enforce the public's rights of access to and use of coastal and inland recreational areas as mandated in HRS Chapter 115 and increase penalties for the offense of obstructing access to public property.

Your support of HB1808 is respectfully requested.

Mahalo,


Legislative Sub-Committee Chair
Kuli'ou'ou / Kalani Iki Neighborhood Board #2

cc via email: Chair Robert Chuck
Sen. Sam Slom
Rep. Lyla Berg
Rep. Barbara Marumoto
Beach Access Hawaii



February 6, 2009

Representative Ken Ito, Chair
HOUSE COMMITTEE ON WATER, LAND & OCEAN RESOURCES
State Capitol, Room 325
415 South King Street
Honolulu, Hawaii 96813

Dear Chair Ito:

Subject: House Bill No. 1808 Relating to Coastal Areas

My name is Dean Uchida, Vice President of the Hawaii Developers' Council (HDC). We represent over 200 members and associates in development-related industries. The mission of Hawaii Developers' Council (HDC) is to educate developers and the public regarding land, construction and development issues through public forums, seminars and publications.

It is also the goal of HDC to promote high ethics and community responsibility in real estate development and related trades and professions.

The HDC has the following concerns regarding H.B. No. 1808.

The bill attempts to prohibit a private property owner from blocking or impeding public access along the public beach area by allowing vegetation from the private property to grow onto, over or along the public beach area. The bill also attempts to require the DLNR to require the private property owner to maintain the area and if not, allow the DLNR to do the maintenance at the owner's expense.

While we understand the intent of the bill, we believe that some thought should be provided in how to implement the intended actions.

For example, most public shoreline accesses (mauka-makai) are secured by the Counties through Chapter 46 HRS which allows the Counties to acquire public access to the shoreline when considering private developments along the shoreline. It is unclear, depending on the county, which agency is responsible for maintenance of these public access ways. More over, it is unclear which agency at the county would be responsible to enforce actions on the adjoining private property owner to clear vegetation growing from the private property on to the public access.

Chapter 183C HRS involves the management of the conservation district and is effectively a zoning authority. Placing the requirement for maintenance of private property where vegetation

is growing onto the adjacent beach may not be appropriate for Chapter 183C HRS especially if some of the public beach areas may not be in the conservation district.

One suggestion is to improve the Administrative Rules for the DLNR dealing with unencumbered lands. These would be all of the vacant publicly owned lands in the state including beach access ways and all state owned beaches. The underlying question is why the existing statutes and rules do not address the problem identified in this bill? Reviewing and improving the existing statutes for public lands, Chapter 171 HRS and its associated Administrative Rules maybe more appropriate than creating more statutes.

We hope that the questions or concerns raised in our testimony will be address if this bill moves out of committee.

Thank you for the opportunity to provide comments.

Testimony for HB1808 on 2/6/2009 9:15:00 AM

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

Sent: Thursday, February 05, 2009 9:50 AM

To: WLOtestimony

Cc: millers043@hawaii.rr.com

Testimony for WLO 2/6/2009 9:15:00 AM HB1808

Conference room: 325

Testifier position: support

Testifier will be present: No

Submitted by: Richard Miller

Organization: Individual

Address: [REDACTED]

Phone: [REDACTED]

E-mail: [REDACTED]

Submitted on: 2/5/2009

Comments:

Please pass HB1808, it is essential to access public lands.

076

Testimony for HB1808 on 2/6/2009 9:15:00 AM

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

Sent: Thursday, February 05, 2009 10:45 AM

To: WLOtestimony

Cc: [REDACTED]

Testimony for WLO 2/6/2009 9:15:00 AM HB1808

Conference room: 325

Testifier position: support

Testifier will be present: No

Submitted by: James D. Miltier

Organization: Beach Access Hawaii

Address: [REDACTED]

Phone: [REDACTED]

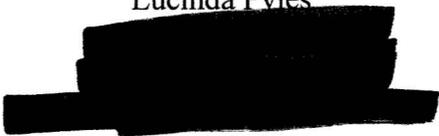
E-mail: [REDACTED]

Submitted on: 2/5/2009

Comments:

077

Lucinda Pyles



February 5, 2009

Representative Ken Ito
Chair of Water, Land & Ocean Resources
House of Representatives, State Capitol
Honolulu, Hawaii 96813

Dear Chairman Ito and Wind, Land and Ocean Resources Committee members,

RE: Testimony in support of HB 1808 relating to shoreline access, use and preservation.

As a long time resident of Kahala (raising three sons who regularly enjoyed Kahala Beach) and as a member of the Waialae-Kahala Neighborhood Board my husband and I, as well as others, have become increasingly concerned over our shrinking beach. Had I not spent many hours along this shoreline over the past 35 years I might think the beach was eroding or maybe it had always been accessible at only the lowest of low tides. But, I know induced vegetation, planted and irrigated by property owners, has migrated seaward taking thousands of square feet of beach away from the public and in a number of areas forcing the public into the water, except at the lowest tides, in order to have lateral access along the shoreline. I am told by OCCL staff and others this has become a state wide problem.

After receiving numerous complaints from the community, DBEDT's, Office of Planning has facilitated several meetings that included representatives from CZM, OCCL, C&C's Dept. of Planning and Permitting, elected officials, the Waialae-Kahala Neighborhood Board and Kahala Community Association members. An initial site visit was conducted in the fall of 2007.

When certain species of coastal vegetation, such as naupaka and hau, are encouraged to grow unfettered in an urban beach environment, it can create community wide problems. Coastal vegetation that extends seaward of its natural range can artificially fix the shoreline, interfere with natural beach processes, endanger public safety and impede public access by creating a barrier.

OCCL has evaluated options to improve shoreline and beach access by addressing vegetation that has spread makai of the *shoreline*. In May of 2008 OCCL and the City conducted a joint investigation of the encroaching vegetation in Kahala and identified the beach in the vicinity of 12 properties as candidates for vegetation removal where induced coastal vegetation is growing seaward of the *shoreline* (as defined in HAR §13-222-2) onto the public beach. OCCL unsuccessfully sought cooperation from Kahala shoreline property owners in addressing vegetation that is growing seaward across the beach. (One property owner complied.)

HB1808's requirement that property owners maintain vegetation above (mauka) the shoreline, similar to the C&C's requirements for public sidewalks, would provide a mechanism to carry out the policies and objectives of the Coastal Zone Management Act, HRS 205a; to protect and preserve the natural shoreline, especially sandy beaches; to protect and preserve public pedestrian access laterally along the shoreline and to the sea; and to protect and preserve open space along the shoreline, generally prohibiting within the shoreline area any construction or activity which may adversely affect beach processes, public access along the shoreline or endanger public safety.

I believe the public, now and in the future, will benefit from this bill and that shoreline property owners will not suffer any great hardship. I believe we have an obligation to protect and preserve this precious public trust resource. Thank you for your consideration.

Yours truly,

Lucinda Pyles

Cc Rep. Hermina Morita, Rep. Barbara Marumoto, Rep. Lyla Berg

Enclosure: Photograph album: *Vegetation Encroachment Kahala Shoreline*

Kahala Beach Vegetation Encroachment

