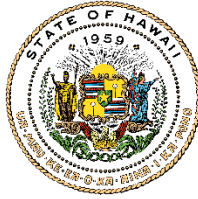


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

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

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

DEAN D. UYENO
ACTING 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
KAHOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

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

**Before the Senate Committee on
WATER AND LAND**

**Thursday, April 11, 2024
2:15 PM**

State Capitol, Conference Room 016, Via Videoconference

**In consideration of
HOUSE CONCURRENT RESOLUTION 14, HOUSE DRAFT 2
AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT
COVERING A PORTION OF STATE SUBMERGED LANDS AT
MAALAEA BEACH LOTS, WAIKAPU, WAILUKU, MAUI, FOR THE
EXISTING SEAWALL, AND FOR USE, REPAIR, AND MAINTENANCE OF
THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.**

House Concurrent Resolution 14, House Draft 2, is an Administration Package measure that requests authorization to issue a term, non-exclusive easement covering a portion of state submerged lands fronting the property identified as Tax Map Key: (2) 3-8-014: seaward of 022, at Ma'alaea Beach Lots, Waikapū, Wailuku, Maui for the existing seawall and rock revetment, and for the use, repair, and maintenance of the existing improvements constructed thereon. **The Department of Land and Natural Resources (Department) supports this resolution and offers comments.**

The encroachment at issue consists of a seawall and rock revetment that runs parallel along the shoreline for approximately 180 feet and ranges in height from 4 to 6 feet. It surrounds the makai side of the Milowai-Maalaea condominium property, owned by the Association of Apartment Owners of Milowai-Maalaea (Association). The seawall was originally constructed mauka of the shoreline and mauka of the private property boundary in the early 1950s by private owners of the subject property as well as neighboring properties to the East. Construction of the seawall was concurrent with construction by the Territory of Hawai'i of Ma'alaea Small Boat Harbor, which abuts the subject property on the West.

The subject property owners have pursued dispositions with the Board of Land and Natural Resources (Board) for this encroachment for purposes of repairing the seawall in 2015 and 2021. The Board approved disposition by easement for the subject encroachment at both meetings. The Board also approved a month-to-month revocable permit requiring rent to cover the interim period between the Board's authorization of the easement and the Legislature and Governor's approval.

The Department issued revocable permit No. S-7932 on February 16, 2021, pursuant to the Board's authorization. The Association has posted a removal bond in the amount of \$432,000 to insure the State against the cost of removing the encroachment in the case that the Legislature and the Governor deny authorization of the requested easement. The Association is paying monthly rent in the amount of \$255 under the present revocable permit. 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 Association shall be required to pay to the State as consideration for use of public lands.

As part of the Board's consideration of each disposition at respective meetings on October 9, 2015 (agenda item D-6) and January 8, 2021 (agenda item D-5), the Board required the property owners to submit an Environmental Assessment (EA), which each resulted in findings of no significant impact (FONSI). Through the EA process, it was determined that the seawall at issue was built in the early 1950s, around the same time that the territorial government built the nearby small boat harbor and harbor break walls. The EA stated that there is no significant sandy beach in the immediate area of the subject encroachment and the majority of the shoreline is hardened by a continuous series of seawalls and rock revetments. The EA also found that removal of the seawall would cause erosion that could ultimately threaten the Milowai-Maalaea Condominium building and underground parking garage, impact neighboring properties, cause instability and potential failure of neighboring seawalls, and threaten water quality due to erosion of clay sediment. The Department of Health Clean Water Branch had no objection to the 2020 permit amendment. The Department's Office of Conservation and Coastal Lands had no objections to the issuance of an easement in both 2015 and 2021.

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

HCR-14-HD-2

Submitted on: 4/10/2024 1:46:39 AM

Testimony for WTL on 4/11/2024 2:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Ian Hirokawa	Testifying for Department of Land and Natural Resources	Support	Remotely Via Zoom

Comments:

Written testimony from DLNR previously submitted on another Capitol account. Request for a Zoom link for additional DLNR staff testifying remotely for HCR14 HD2 as backup.

State of Hawaii
The Thirty-Second Legislature
Senate Committee on Water and Land
Senator Lorraine R. Inouye, Chair, and Senator Brandon J.C. Elefante, Vice Chair
Hearing, April 11, 2024, 2:15

Written Testimony submitted by Milowai Maalaea AOA, for HCR14 HD2 / HSCR1693-24, Companion SCR 12.

Measure Title: Authorizing the issuance of a term, non-exclusive easement covering a portion of State submerged lands at Maalaea beach lots, Waikapu, Wailuku, Maui, for the existing seawall and for use, repair and maintenance of the existing improvements constructed thereon.

Report Title: Maalaea, Non-Exclusive Easement; Lease State Submerged Lands

The following is respectfully submitted as additional information regarding the issuance of a term, non-exclusive easement for the Milowai Maalaea seawall repairs.

2013 – 2021: Milowai obtained permits from the County, State and Federal regulatory agencies for the complete repair of our 180' seawall.

- 07.01.14: Final environmental assessment (EA) accepted and a Finding of No Significant Impact (FONSI), issued.
- 11.05.20: State of Hawaii Department of Health, Clean Water Branch, provided approval of the soil stabilizer injection product.
- 11.09.20: County of Maui, had not objections to the injection product, stating “this is an enviro friendly and a good solution.”
- 11.23.20: US Army Corps of Engineers stated, “Based on information and plans you provided, the injection of grout and placement of riprap for additional support in uplands behind the seawall would occur landward of the limits of the Corps geographic jurisdiction; therefore, Corps authorization is not required for the installation of additional support”.

01.08.21: DLNR Board of Directors, amended the Right of Entry Permit to a Revocable Permit.

05. 2021: Seawall repairs 100% completed

01.06.22: DLNR certified the updated shoreline survey.

12.15.22: Milowai paid DLNR for the appraisal of the State submerged lands.

03.03.23: State’s appraiser determined the one-time payment for the FMV rental value of a 25-year, non-exclusive easement for seawall purposes in the amount of \$63,300.00 + fees.

07.28.23: Milowai Maalaea paid DLNR \$63,355.00 for the required one-time payment towards the 25-year term easement.

The seawall repairs totaled \$3 million dollars, financed solely by Milowai Maalaea owners. The area continues to be accessed routinely by snorkelers, surfer, fisherman and spear fishermen.

The Revocable Permit is referring to the land located between the red solid line (shoreline) and the blue dashed line (encroachment).



On behalf of Milowai AOA, thank you for the opportunity to submit our written testimony for the Committee’s review. In addition, I’ll be attending the hearing remotely to address any questions.

Tanci Mintz, Milowai Maalaea Board President



April 9, 2024

Senate Committee on Water and Land
Attn: Senator Lorraine R. Inouye, Chair
Senator Brandon J.C. Elefante, Vice Chair
State of Hawaii Senate
415 South Beretania Street
Honolulu, HI 96813

RE: HCR14-HD2 in Support for Milowai Ma'alea Concurrent Resolution for an Easement on Submerged State Lands

Dear Members, Senate Water and Land Committee,

This letter is in **support of HCR14-HD2** for Milowai Ma'alea Concurrent Resolution for an Easement on submerged State Lands at Ma'alea. Maui.

The seawall was constructed in the early 1950's contemporaneously with the construction of the Ma'alea small boat harbor. This seawall is contiguous with existing, long-standing, shoreline hardening to both the east and west, and its presence on the shoreline has no detrimental impacts to the area. The trigger for this resolution is a decade-long approval process for repairs to the seawall. Both state and county entities have provided numerous opportunities for the public to review and comment on government permitting on the now completed repairs.

To come to this point, the project was subject to a Final Environmental Assessment (FEA) which received its Finding of No Significant Impact (FONSI) in July of 2014. The County of Maui approved a Shoreline Setback Variance (SSV) and a Special Management Area (SMA) permit for the repairs on February 24, 2015. The Department of Land and Natural Resources (DLNR) Office of Conservation and Coastal Lands (OCCL) was consulted and provided a short-term permit in support of the repairs. In addition, the Board of Land and Natural Resources (BLNR) reviewed and approved an easement for the seawall at two of its meetings – October 15, 2015 and January 8, 2021 – both open to public comment.

Milowai Ma'alea has submitted all payments, agreements, and other requirements set forth by the Department of Land and Natural Resources to finalize the easement. **With the State of Hawaii Legislature approval of the resolution, the BLNR will close this final chapter in a very long and public process.**

The Ma'alea Village Association (MVA) serves as a vital link between the Ma'alea community and county and state government. MVA stays current on issues affecting the island in general and Ma'alea in particular. Please exert every effort to have this resolution approved and the easement finalized. Mahalo.

Respectfully submitted,

Lyndon C. Ibele
President

Lora Harbo
Treasurer

Cc: Senator Angus McKelvey-by email

HCR-14-HD-2

Submitted on: 4/9/2024 6:11:07 AM

Testimony for WTL on 4/11/2024 2:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Kevin Cookman	Individual	Support	Written Testimony Only

Comments:

As the new owner of Milowai Unit 302 I would like to register my support for this bill. My wife and I owned property on Maui in the 90s and 2000s as our US base while working in Asia. Our work has taken us to the US Midwest, but we have always planned to retire to Maui when our lives allow. We purchased this unit as part of this plan. Our decision was based on the attention to detail and quality work the AOA has exhibited with projects like this sea wall work. We ask that you please review the submission of Tanci Mintz on behalf of the AOA and pass this bill.

Regards,

Kevin and Noel Cookman

HCR-14-HD-2

Submitted on: 4/9/2024 6:23:25 AM

Testimony for WTL on 4/11/2024 2:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Freddy Ulises Trejo Hernández	Individual	Support	Written Testimony Only

Comments:

Amanda Trejo Carter & Freddy Ulises Trejo Hernandez

We own unit 101 on 50 Hauoli st

Wailuku,HI 96793

And the seawall it's helping a lot to protect our building especially with the high winds at the Maalaea harbor. We are very happy with it.

HCR-14-HD-2

Submitted on: 4/9/2024 6:59:04 AM

Testimony for WTL on 4/11/2024 2:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Larry Olson	Individual	Support	Written Testimony Only

Comments:

Aloha.

We fully support HCR14-HD2. We are owners of Milowai #301.

Mahalo for taking our testimony.

Larry and Sherry Olson

HCR-14-HD-2

Submitted on: 4/10/2024 6:12:42 AM

Testimony for WTL on 4/11/2024 2:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Steven Oren	Individual	Support	Written Testimony Only

Comments:

Ladies & Gentlemen,

I respectfully request passage of this resolution. As you are aware, our property Association has taken the difficult and expensive step to protect our land "aina" from being eroded away. While the natural occurring ocean erosion process takes place over time, our property has been adversely affected by the construction and operation of the State owned Ma 'alaea Boat Harbor. The nearby Harbor causes the ocean waves to be concentrated on our shoreline thus speeding up the erosion process. We made the difficult decision sometime ago to stop this existential threat to the property by building an approved, well-engineered & sturdy new seawall. Our efforts have largely mitigated that issue.

Our family has owned and managed our individual Milowai apartment since it was new, some fifty years ago. Together with our Homeowner's Association, we have managed to maintain and improve our land and improvements so as to make it a quality resource for us, our guests and the public at large. Many of our owners are permanent residents and take pride in the appearance and function of the property. Let us continue to care for our property. We ask for no public money and have done all of this work with our own funds.

Respectfully yours,

Steven A. Oren

50 Hauoli Street, Apt. 204

Wailuku, Hi

HCR-14-HD-2

Submitted on: 4/10/2024 8:30:45 AM

Testimony for WTL on 4/11/2024 2:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Jason Aines	Individual	Support	Written Testimony Only

Comments:

Good afternoon. I am writing in support of measure HCR14. After a decade of meticulous efforts to fund, build, and complete this project, I humbly request your support in helping us cross the finish line. Tanci has spent hundreds of hours to make this project was done correctly, and to ensure the land is accessible to fisherman, snorkelers, spear fisherman, surfers, and others wishing to access this part of Maui's coast. Thank you for your consideration.

My best,

Jason Aines