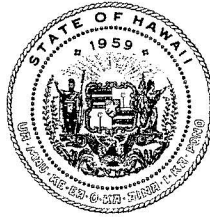
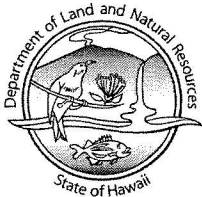


LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
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 THE CHAIRPERSON
OF THE BOARD OF LAND AND NATURAL RESOURCES

ON

House Bill 839 – RELATING TO PUBLIC ACCESS TO BEACHES

BEFORE THE HOUSE COMMITTEE ON
FINANCE

February 27, 2008

House Bill 839 proposes to appropriate funds for the Department of Land and Natural Resources ("Department") to survey and map all existing public access ways to shoreline areas throughout the State. The Department opposes this bill because it would create a duplicative process. At present, the Counties have been delegated the primary responsibility for establishing and maintaining public access to shoreline areas by statute. Additionally, the Department opposes this measure as the proposed appropriation may adversely affect the priorities of Executive Supplemental Budget request.

The Department notes that shoreline access is typically under the purview of the respective counties. §46-6.5, Hawaii Revised Statutes (HRS), provides that:

“[§46-6.5] **Public access.** (a) Each county shall adopt ordinances which shall require a subdivider or developer, as a condition precedent to final approval of a subdivision, in cases where public access is not already provided, to dedicate land for public access by right-of-way or easement for pedestrian travel from a public highway or public streets to the land below the high-water mark on any coastal shoreline, and to dedicate land for public access by right of way from a public highway to areas in the mountains where there are existing facilities for hiking, hunting, fruit-picking, ti-leaf sliding, and other recreational purposes, and where there are existing mountain trails.

(b) These ordinances shall be adopted within one year of May 22, 1973.

(c) Upon the dedication of land for a right-of-way, as required by this section and acceptance by the county, the county concerned shall thereafter assume the cost of improvements for and the maintenance of the right-of-way, and the subdivider shall accordingly be relieved from such costs.

(d) For the purposes of this section, "subdivision" means any land which is divided or is proposed to be divided for the purpose of disposition into six or more lots, parcels, units, or interests and also includes any land whether contiguous or not, if six or more lots are offered as part of a common promotional plan of advertising and sale.

(e) The right-of-way shall be clearly designated on the final map of the subdivision or development.

(f) This section shall apply to the plan of any subdivision or development which has not been approved by the respective counties prior to July 1, 1973."

Additionally, §115-2, HRS, provides that:

"§115-2 Acquisition of lands for public rights-of-way and public transit corridors. When the provisions of section 46-6.5 are not applicable, the various counties shall purchase land for public rights-of-way to the shorelines, the sea, and inland recreational areas, and for public transit corridors where topography is such that safe transit does not exist."

As is evident above, this is clearly a county function. The lands along the coastlines are predominately private, and land uses generally are for residential, industrial, urban, or agricultural purposes, that are planned and regulated by the counties. The counties have existing planning and regulatory mechanisms to manage growth and development of these lands and the ability to incorporate requirements into the planning and permitting process and the statutory responsibility to do so.

It is the Department's understanding that each county maintains inventories of beach accesses although they differ in types of information and formats. The City and County of Honolulu ("City") has a listing of City-owned beach rights-of-way and has been placing those rights-of-way in its Geographic Information System. Both Counties of Maui and Hawaii have been relying on a tax map report of beach rights-of-way. Those reports were completed years ago using Coastal Zone Management funds. The County of Kauai conducted a study in 1991 and has individual files on beach rights-of-way that include ownership documentation, pictures and survey maps.

For the reasons stated above, the Department respectfully request that this measure be held.



HB 839, RELATING TO PUBLIC ACCESS TO BEACHES

House Committee on Finance

February 27, 2008

11:00 a.m.

Room: 308

The Office of Hawaiian Affairs **SUPPORTS** HB 839, which would appropriate funds for the Department of Land and Natural Resources to survey and map all existing public access ways to shoreline areas.

OHA recognizes that the shoreline of this State is held in a public trust for the use and enjoyment of all. We have become increasingly concerned over what amounts to the privatization of our shoreline areas by private development projects in those areas that cut off public access without providing for new points of entry. We see that there are a host of regulatory regimes set up to avoid this sort of unfortunate situation, running from Federal to State to County, and re-enforced by the highest courts of our land. Yet, the situation persists and even continues to worsen as evidenced by the number of new bills introduced this legislative session on this topic.

Additionally, our beneficiaries have particularized rights that this bill would address. Native Hawaiian access and gathering practices are recognized as protected traditional and customary rights under the Hawai'i Constitution, Article XII, Section 7. This bill will enhance the Legislature's past efforts, court holdings and existing law by letting all of us know, for the first time, the exact, current situation. Knowledge is power, and this bill gives us access to both.

Therefore, OHA urges the Committees to PASS HB 839. Thank you for the opportunity to testify.

FINtestimony

From: Windward Ahupua`a Alliance [info@waa-hawaii.org]
Sent: Tuesday, February 26, 2008 11:43 AM
To: FINtestimony
Subject: 2/27/2008 HB839 Agenda

Shannon Wood, *Interim President*

Windward Ahupua`a Alliance

P.O. Box 6366

Kane`ohe, HI 96744

Phone: 808/247-6366; Cellular: 808/223-4481 or 224-4496

E-Mail: info@waa-hawaii.org

Website: <http://www.waa-hawaii.org>

COMMITTEE ON FINANCE
Rep. Marcus Oshiro, Chair
Rep. Marilyn B. Lee, Vice Chair

PUBLIC HEARING
11 am
Wednesday, February 27, 2008
Conference Room 308

HB 839
SUPPORT WITH PROPOSED HD1

Aloha:

My name is Shannon Wood, *Interim President* of the *Windward Ahupua`a Alliance*, a 501c3 non-profit organization, which has been working on public access policies since 2002, initially in Windward O`ahu but now all across the state.

The purpose of **HB 839** is to create an inventory of beach accesses open to the public all across the state and to provide this information to the public. However, as someone who has had numerous interchanges with both the *City and County of Honolulu* as well as the *Department of Land & Natural Resources* on a wide range of issues, each one will say that it's a great idea which they agree with in principle, but it's either outside their *kuleana* and/or they don't have the necessary human & financial resources to take on these added responsibilities.

As someone who has refused over time to accept that excuse because *WAA* has been able to locate numerous funding resources from outside of local and state government, what we need now is to identify where we are so that we can move ahead in creating these public/private partnerships.

However, this is not enough because with only 89 such accesses here on O`ahu and who knows how many or how few there are in the other three counties, we also need to identify additional locations which might provide additional public access points. You will hear from others about the expanding proliferation of gated communities like the one of O`ahu's North Shore as well as the number of public streets in which homeowners have shut out the public's access to the beach by installing locked gates.

2/26/2008

We urge that you amend this bill by establishing a second survey of locked gates and closed beach accesses including unmarked lanes. We also ask that you amend the bill to add the various county departments which normally oversee the maintenance and repair of county-owned lands and to provide the necessary funding to carry out these tasks.

The beaches belong to all of us, but if we cannot get access to them in a reasonable fashion, then they might as well be sold off to the highest bidder. You must take the lead in establishing state-wide policies.

Mahalo for the opportunity to provide input on these critically important issues.

*The **Windward Ahupua`a Alliance** works to educate & inform residents, visitors, businesses, policymakers, and the media about using Smart Growth planning principles which promote sustainability. These include: Designing long-term waste management systems; improving illegal dumping/derelict vehicle legislation & enforcement; developing & implementing comprehensive curbside recycling programs; providing research & support on public access issues; establishing both state & county-level "legacy lands" funds to support affordable workforce housing initiatives and critical land purchases to protect against inappropriate development; creating alternative energy systems to reduce Hawai`i's dependency on fossil fuels & to mitigate the impacts of global warming; and, setting long-term watershed protection policies based upon ahupua`a concepts & principles.*

FINtestimony

From: Jeannine Johnson [jeannine@hawaii.rr.com]
Sent: Sunday, February 24, 2008 1:32 PM
To: FINtestimony
Cc: Chairman Robert T. Chuck P.E.A.S.C.E FELLOW ; 'Ho, K Russell'
Subject: 2/27/2008 HB839 Agenda

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) / 523-5030 (w)

February 24, 2008

COMMITTEE ON FINANCE

Rep. Marcus R. Oshiro, Chair

Rep. Marilyn B. Lee, Vice Chair

HB 839 RELATING TO PUBLIC ACCESS TO BEACHES

Hearing: Wed, Feb. 27, 2008, at 11 am in House conference room 308

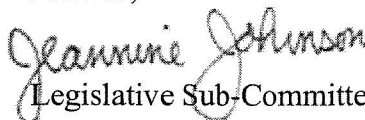
Dear Chair Oshiro, Vice Chair Lee and Honorable Committee Members,

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 HB839 which appropriates funds for the DLNR to survey and map all existing public access ways to shoreline areas. **Neighborhood Board #2** represents over 6,000 households, with a population of almost 20,000 people (State of Hawai'i Data Book 2002) in East Honolulu.

At its October 5, 2006 meeting, residents from the East Honolulu communities of 'Āina Haina, Niu Valley and Portlock expressed their concerns of beachfront landowners along the shoreline from Portlock Road to Kāhala denying the public access to the beach with a planned gated subdivision, locked gates and/or walls. Therefore, **Neighborhood Board #2** voted unanimously to **strongly** oppose any development which would gate off the access to our beaches that has been traditionally used by our residents, fisherman and/or surfers and recommended the City place blue public right of way signs at public rights of way along our shoreline from Portlock Road and continuing west along Kalaniana'ole Highway to Kāhala.

Locating all existing public access ways to the shorelines throughout the State would help ensure the rights of the public to access the shoreline for recreational and cultural purposes. Therefore, your support of HB839 is respectfully requested.

Mahalo,


 Jeannine Johnson
 Legislative Sub-Committee Chair

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

cc via email: Chair Robert Chuck
Sen. Sam Slom
Sen. Fred Hemmings
Rep. Lyla Berg
Rep. Barbara Marumoto
Rep. Gene Ward

FINtestimony

From: Janice Palma-Glennie [palmtree7@earthlink.net]
Sent: Sunday, February 24, 2008 12:09 PM
To: josh green; cindy evans; FINtestimony
Subject: Support HB 2076 -- protect public from the effects of DU contamination
Importance: High

House Finance Committee
HB 2076: Air Testing for Depleted Uranium

Aloha Chairman Oshiro, Vice- Chair Lee, and Finance Committee Members,

Please support and strengthen HB 2076 so that it provides meaningful protection for public health and safety. As military use of our island expands, so do the health risks (known and unknown) from these "games" on those who live here. The military has shown that its word cannot be trusted when it comes to DU (saying there was none. Backpeddaling and saying "well, okay, but it's not harmful.").

Without proper testing, how can the public feel safe, protect themselves and their ohana, be provided for protection from government agencies? They cannot.

There should be multiple testing sites both on this island and throughout the island chain (i.e., Kaho`olawe). Military radiation contamination has been confirmed at Schofield Barracks and Pohakuloa Training Area. All present and former live-fire ranges could be contaminated and should be tested for contamination.

Monitoring must be constant.

Until exhaustive testing of this "forever" contamination is completed, there should be an immediate halt to all live-fire and any activity that creates dust at all ranges where radiation has been confirmed, since such activities could result in the spread of airborne particles which are particularly hazardous if inhaled.

Mahalo for your consideration of the serious threat to my — and your — health. I look forward to your reply on this matter.

Best regards,
Janice Palma-Glennie
PO Box 4849
Kailua-Kona, HI 96745

Park Name	Link No.	Size of Park in Acres	Address	City	State	Zip Code	Primary Tax Map Key
Beach Rights-of-Way							
Kaalawai (Kulamanu Place)	405	0.00	Kulamanu Place	Honolulu	HI	96821	Public (C&C) street provides access to beach across State-owned land
Kahala Avenue at Elepaio Street	245	0.07	Kahala Avenue & Elepaio Street	Honolulu	HI	96821	3-5-003:039
Kahala Avenue at Hunakai Street	246	0.08	Kahala Avenue & Hunakai Street	Honolulu	HI	96821	3-5-004:053
Kahala Avenue at Kala Place	247	0.07	Kahala Avenue & Kala Place	Honolulu	HI	96821	3-5-003:041
Kahala Avenue at Koloa Street A	248	0.15	Kahala Avenue & Koloa Street	Honolulu	HI	96821	3-5-005:076
Kahala Avenue at Koloa Street B	249	0.14	Kahala Avenue & Koloa Street	Honolulu	HI	96821	3-5-005:073
Kahala Avenue at Koloa Street C	250	0.15	Kahala Avenue & Koloa Street	Honolulu	HI	96821	3-5-006:032
Kaikoo Place	313	0.03	Kaikoo Place	Honolulu	HI	96821	3-1-041:026
Kalia Road	79	0.10	Kalia Road	Honolulu	HI	96815	2-6-004:
Paoa Place	138	0.38	Paoa Place	Honolulu	HI	96815	2-6-008:
Camp Malakole	406	0.25	Malakole	Kapolei	HI	96707	9-1-074:39 and 036(por.)
Ewa Beach Road A	340	0.03	next to TMK 9-1-006:012	Ewa Beach	HI	96706	9-1-006:
Ewa Beach Road B	341	0.03	next to TMK 9-1-006:033 & 034	Ewa Beach	HI	96706	9-1-006:
Ewa Beach Road C	342	0.03	next to TMK 9-1-006:001	Ewa Beach	HI	96706	9-1-006:
Ewa Beach Road D	343	0.03	next to TMK 9-1-024:052 & 053	Ewa Beach	HI	96706	9-1-024:
Ewa Beach Road E	344	0.03	next to TMK 9-1-024:018	Ewa Beach	HI	96706	9-1-024:
Ewa Beach Road F	345	0.03	next to TMK 9-1-024:063 & 087	Ewa Beach	HI	97606	9-1-024:
Ewa Beach Road G	346	0.03	next to TMK 9-1-024:008	Ewa Beach	HI	96706	9-1-024:
Ewa Beach Road H	347	0.03	next to TMK 9-1-023:035 & 079	Ewa Beach	HI	96706	9-1-023:
Ewa Beach Road I	348	0.03	next to TMK 9-1-023:030	Ewa Beach	HI	96706	9-1-023:
Ewa Beach Road J	349	0.03	next to TMK 9-1-023:056 & 076	Ewa Beach	HI	96706	9-1-023:
Ewa Beach Road K	350	0.03	next to TMK 9-1-023:011	Ewa Beach	HI	96706	9-1-023:
Ewa Beach Road L	351	0.03	next to TMK 9-1-023:001	Ewa Beach	HI	96706	9-1-023:
Ko Olina Lagoon & Roadway Easement	290	42.00	Kamoana Place	Kapolei	HI	96707	9-1-057:001(por.) & 015(por.)
Oneula Place	146	0.03	Oneula Place	Ewa Beach	HI	96706	9-1-025:061
Paradise Cove	292	0.03	Aliinui Drive	Kapolei	HI	96707	9-1-057:027(por.)
Parish Drive	320	0.02	next to lot at 91-049 Parish Drive	Ewa	HI	97606	9-1-007:039
Pupu Place	205	0.00	Makai end of Pupu Place	Ewa Beach	HI	96706	9-1-030:017
Hanapepe Loop	261	0.03	Hanapepe Loop	Honolulu	HI	96825	3-9-028:025
Kalaniana'ole Highway	223	0.09	Kalaniana'ole Highway	Honolulu	HI	96821	3-7-001:0350(por.)
Kokee Beach Right-Of-Way	281	0.46	158 Kokee Place	Honolulu	HI	96825	3-9-026:002
Koko Kai Beach Right-Of-Way	282	0.60	10 Hanapepe Place	Honolulu	HI	96825	3-9-028:019
Lumaha'i Street	283	0.07	Lumaha'i Street	Honolulu	HI	96825	3-9-013:034
Paiko Drive	357	0.01	Between 216 & 218 Paiko Drive	Honolulu	HI	96821	3-8-001:022
Alii Landing Shoreline Access	384	0.03	Ipuka Street	Kaneohe	HI	96744	4-6-007:113
Kaimalino Street	327	0.05	Kaimalino Street	Kaneohe	HI	96734	4-4-039:060
Kaneohe Bay Beach Remnant	389	0.06	Kaneohe Bay Drive	Kaneohe	HI	96744	4-4-021:054
Kaneohe Bay Drive A	137	0.02	Kaneohe Bay Drive	Kaneohe	HI	96744	4-4-016:020
Kaneohe Bay Drive B	355	0.13	Kaneohe Bay Drive	Kaneohe	HI	96744	4-4-021:020
Milokai Place	326	0.03	Milokai Place	Kaneohe	HI	96734	4-4-039:059
Mokulua Drive A	224	0.08	Mokulua Drive	Kailua	HI	96734	4-3-003:089
Mokulua Drive B	225	0.08	Mokulua Drive	Kailua	HI	96734	4-3-005:087
Mokulua Drive C	226	0.07	Mokulua Drive	Kailua	HI	96734	4-3-007:062
North Kalaheo Ave at Kawainui Canal	176	0.29	Kalaheo Avenue & Kawainui Canal	Kailua	HI	96734	4-3-083:069
North Kalaheo Avenue at Ainoni St.	147	0.21	Kalaheo Avenue & Ainoni Street	Kailua	HI	96734	4-3-018:008
North Kalaheo Avenue at Dune Street	175	0.12	Kalaheo Avenue & Dune Street	Kailua	HI	96734	4-3-017:001
North Kalaheo Avenue at Pueohala Pl	177	0.18	Kalaheo Avenue & Pueohala Place	Kailua	HI	96734	4-3-017:025
South Kalaheo at Kuuniu Street	390	0.18	South Kalaheo Avenue at Kuuniu St.	Kailua	HI	96734	4-3-012:034(por.); 4-3-013:001(por.)

Park Name	Link No.	Size of Park in		Address	City	State	Zip Code	Primary Tax Map Key
		No.	Acres					
Laumilo Street A	391	0.03		Laumilo Street	Waimanalo	HI	96795	No TMK - treated as part of beach
Laumilo Street B	392	0.03		Laumilo Street	Waimanalo	HI	96795	No TMK - treated as part of beach
Laumilo Street C	393	0.03		Laumilo Street	Waimanalo	HI	96795	No TMK - treated as part of beach
Laumilo Street D	394	0.03		Laumilo Street	Waimanalo	HI	96795	No TMK - treated as part of beach
Laumilo Street E	395	0.03		Laumilo Street	Waimanalo	HI	96795	No TMK - treated as part of beach
Laumilo Street F	396	0.03		Laumilo Street	Waimanalo	HI	96795	No TMK - treated as part of beach
Laumilo Street G	397	0.03		Laumilo Street	Waimanalo	HI	96795	No TMK - treated as part of beach
Laumilo Street H	398	0.03		Laumilo Street	Waimanalo	HI	96795	No TMK - treated as part of beach
Laumilo Street I	399	0.03		Laumilo Street	Waimanalo	HI	96795	No TMK - treated as part of beach
Hauula Beach Remnant	65	0.01		Kamehameha Highway	Laie	HI	96762	5-4-010:005
Kaluani Road	356	0.05		Kaluani Road	Laie	HI	96762	5-3-010:030
Kaluani on Kamehameha Hwy. A	408	0.21		Kamehameha Highway	Laie	HI	96763	5-3-009:044
Kaluani on Kamehameha Hwy. B	410	0.40		Kamehameha Highway	Laie	HI	96764	5-3-009:020
Kamehameha Highway	153	0.04		Kamehameha Highway	Laie	HI	96762	5-5-002:073
Au Street A	158	0.04		Au Street	Waialua	HI	96791	6-8-011:042 (por.)
Au Street B	159	0.03		Au Street	Waialua	HI	96791	6-8-012:041
Banzai Rock	402	0.33		59-446 Ke Waena Road	Haleiwa	HI	96712	5-9-003:031 & 083
Crozier Drive	353	0.09		Crozier Drive	Waialua	HI	96791	6-8-004:003(por.)
Crozier Drive Brow Parking	403	0.26		68-620 Crozier Drive (temp. addr.)	Waialua	HI	96791	6-8-013:066(por.)
Hoomana Place	404	0.03		middle of Hoomana Place	Waialua	HI	96791	6-8-010:012
Huelo Street	209	0.03		Huelo Street	Haleiwa	HI	96712	5-9-001:
Kahauola Street	208	0.01		Kahauola Street	Haleiwa	HI	96712	5-9-001:
Ke Iki Road A	213	0.10		Ke Iki Road	Haleiwa	HI	96712	5-9-003:
Ke Iki Road B	214	0.16		Ke Iki Road	Haleiwa	HI	96712	5-9-003:
Ke Iki Road C	215	0.08		Ke Iki Road	Haleiwa	HI	96712	5-9-003:
Ke Nui Road A	210	0.12		Ke Nui Road	Haleiwa	HI	96712	5-9-002:
Ke Nui Road B	211	0.14		Ke Nui Road	Haleiwa	HI	96712	5-9-002:
Ke Nui Road C	216	0.11		Ke Nui Road	Haleiwa	HI	96712	5-9-019:
Ke Nui Road D	217	0.04		Ke Nui Road	Haleiwa	HI	96712	5-9-019:
Ke Nui Road E	218	0.05		Ke Nui Road	Haleiwa	HI	96712	5-9-020:
Ke Nui Road F	219	0.06		Ke Nui Road	Haleiwa	HI	96712	5-9-020:
Ke Nui Road G	220	0.03		Ke Nui Road	Haleiwa	HI	96712	5-9-020:
Ke Waena Road	212	0.06		Ke Waena Road	Haleiwa	HI	96712	5-9-003:
Makaleha	401	0.27		Farrington Highway	Waialua	HI	96791	6-8-003:042 (por.)
Oopuola Street	207	0.09		Oopuola Street	Haleiwa	HI	96712	5-9-001:
Papailoa Road	275	0.05		Papailoa Road	Haleiwa	HI	96712	6-1-004:091
Waialua Beach Road	318	0.08		Waialua Beach Road	Waialua	HI	96791	6-7-014:042
Makau Street A	178	0.02		Makau Street	Waianae	HI	96792	8-4-009:017
Makau Street B	206	0.02		Makau Street	Waianae	HI	96792	8-4-010:017
Moua Street	148	0.02		Moua Street	Waianae	HI	96792	8-4-005:012
Upena Street	149	0.01		Upena Street	Waianae	HI	96792	8-4-007:012

FINtestimony

From: Craig Oswald [oswaldc001@hawaii.rr.com]
Sent: Tuesday, February 26, 2008 4:27 PM
To: FINtestimony
Subject: HB 839

2/26/08

ToHouse Sargeant- At -Arms Office

From: Daryl Oswald

Re: **Testimony AGAINST Proposed House Bill 839**

I am providing this written testimony to communicate that I **do not** support Senate Bill 839 which is to be considered by the Committee Wednesday, March 27.

This bill if enacted possibly might subject private property owners in such situations to unnecessary and UNFAIR liability.

I believe that there is adequate access to shoreline for all. I feel that the issue of access in many communities like Kailua is an issue of **adequate signage, adequate sidewalks, and bike paths, and crosswalks.**

Private property rights must be protected and respected. This Bill should be stopped.

Respectfully,

Daryl Oswald

2/26/2008

FINtestimony

From: Surfrider Maui [maui.surfrider@hawaiiantel.net]
Sent: Monday, February 25, 2008 12:33 PM
To: FINtestimony
Subject: In Support of HN839 (2/27/08 Agenda)

COMMITTEE ON FINANCE
Rep. Marcus R. Yoshiro, Chair
Rep. Marilyn B. Lee, Vice Chair

HB 839 - RELATING TO PUBLIC ACCESS TO BEACHES
Hearing: Wed, Feb. 27, 2008, @ at 11 am in House conference room 308

Aloha Chair Yoshiro, Vice Chair Lee and Honorable Committee Members:

I am writing as Chair of the Surfrider Foundation Maui Chapter's 165 members in **Strong Support HB839** which appropriates funds for the DLNR to survey and map all existing public access ways to shoreline areas. Surfrider Maui recommends amending the bill to identify additional public access ways where needed and recommend effective methods for the State and counties to work together to acquire rights of way in areas that lack access.

Any survey of public access ways should include the actual distances between them and note the number of closed off, and public street and streets with private rights of way that gate off public access. In West Maui, traditional access points have eroded and adjoining private property owners have planted hedges and fenced off adjacent access points. In Paia, beach front property owners have planted the shoreline with thorny bushes to scratch Paia Youth center kids as they laterally access Baldwin Beach Park from the youth center. In South Maui resort properties are placing beach chairs on the lawn makai of the concrete walkway to block residents' access to the ocean. Mean security officers confront residents to "protect" visitors' enjoyment of the seashore. HB839 constitutes an important first step in addressing what has become a statewide problem: diminishing shoreline access.

Please pass HB839 with an amendment to improve public shoreline access for future generations.

Mahalo for your dedication to this important issue.

Jan Roberson
Maui Chapter Chair
The Surfrider Foundation
808 298-8254
maui@surfrifer.org

FINtestimony

From: Rich Figel [figeli001@hawaii.rr.com]
Sent: Monday, February 25, 2008 10:48 AM
To: FINtestimony
Cc: magaoay2-Tracy; Scott Werny; Jeannine Johnson
Subject: Testimony in Support of HB839 (2/27/08 hearing)

COMMITTEE ON FINANCE

Rep. Marcus R. Oshiro, Chair

Rep. Marilyn B. Lee, Vice Chair

HB 839 - RELATING TO PUBLIC ACCESS TO BEACHES

Hearing: Wed, Feb. 27, 2008, @ at 11 am in House conference room 308

Aloha Chair Oshiro, Vice Chair Lee and Honorable Committee Members:

As cofounder of Beach Access Hawaii, a group that represents over 300 members, I **strongly** support HB839 which appropriates funds for the DLNR to survey and map all existing public access ways to shoreline areas. We would like the bill to be amended so that it will also identify where additional public access ways are needed most, and recommend the best way for the State and counties to acquire rights of way in areas that are lacking access.

O'ahu has only 89 beach rights of ways (BROW) for over a hundred miles of coastline according to the Department of Planning and Permitting (DPP). Beach Access Hawaii members went out and measured the distances between the existing public accesses in Kailua, and found that some of them were over a half mile apart -- even though the county "standard" says there should be public access every quarter mile of beach in "urbanized" areas. We believe the State needs to issue stronger guidelines for the counties to follow, and would like to see the counties work together with the State to acquire more public rights of way, using matching funds since we view this as both a State and county responsibility to protect public beach access.

Any survey of public access ways should include the actual distances between them and note the number of closed off "private" or public streets with private rights of way in between that have gates. In Kailua, first responders have publicly stated at Neighborhood Board meetings that locked gates pose a serious threat to public safety. Along Kalahaero Avenue, where there are many streets with locked gates, delays reaching emergency victims on those stretches of beach could be the difference between life and death. And who will be liable then? The homeowners on those gated roads -- or the City and State for allowing this to happen?

HB839 represents an important first step in addressing what has become a statewide problem: diminishing shoreline access, while semi-private beachfront areas are being created by the unchecked proliferation of gated roads that deny access to the public. It's time we do something about it.

Please pass HB839 and amend it so that it will also serve as a tool to help the counties work with the State to protect and improve public shoreline access for future generations.

Mahalo for your consideration.

Rich Figel
Cofounder, Beach Access Hawaii
801 Kainui Drive
Kailua, HI 96734

Phone: 808-262-5073

FINtestimony

From: Wendy [wne@hawaii.rr.com]
Sent: Monday, February 25, 2008 6:56 PM
To: FINtestimony
Subject: In Support of HN839 (2/27/08 Agenda)

COMMITTEE ON FINANCE
Rep. Marcus R. Oshiro, Chair
Rep. Marilyn B. Lee, Vice Chair

HB 839 - RELATING TO PUBLIC ACCESS TO BEACHES
Hearing: Wed, Feb. 27, 2008, @ at 11 am in House conference room 308

Aloha Chair Oshiro, Vice Chair Lee and Honorable Committee Members:

As another cofounder of Beach Access Hawaii, a group that represents over 300 members, I **strongly** support HB839 which appropriates funds for the DLNR to survey and map all existing public access ways to shoreline areas. We would like the bill to be amended so that it will also identify where additional public access ways are needed most, and recommend the best way for the State and counties to acquire rights of way in areas that are lacking access.

O'ahu has only 89 beach rights of ways for over a hundred miles of coastline, according to the Department of Planning and Permitting (DPP). Beach Access Hawaii members went out and measured the distances between the existing public accesses in Kailua, and found that some of them were over a half mile apart -- even though the county "standard" says there should be public access every quarter mile of beach in "urbanized" areas. We believe the State needs to issue stronger guidelines for the counties to follow, and would like to see the counties work together with the State to acquire more public rights of way, using matching funds since we view this as both a State and county responsibility to protect public beach access.

Any survey of public access ways should include the actual distances between them and note the number of closed off "private" or public streets with private rights of way in between that have gates. In Kailua, first responders have publicly stated at Neighborhood Board meetings that locked gates pose a serious threat to public safety. Along Kalaheo Avenue, where there are many streets with locked gates, delays reaching emergency victims on those stretches of beach could be the difference between life and death. And who will be liable then? The homeowners on those gated roads -- or the City and State for allowing this to happen?

HB839 represents an important first step in addressing what has become a statewide problem: diminishing shoreline access. Meanwhile, semi-private beachfront areas are being created by the unchecked proliferation of gated roads that deny access to the public. This also promotes a parking problem up and down the side streets in the few areas where there are public rights of way. There is also congestion at the four public beach access spots along Kailua Bay which makes it unsafe for swimmers and no life guards stationed at any of them. The only places where there are lifeguards are the beach parks. This is a lawsuit waiting to happen and something the state should be concerned about.

Please pass HB839 and amend it so that it will also serve as a tool to help the counties work with the State to protect and improve public shoreline access for future generations.

2/25/2008

Mahalo for your consideration.

Wendy (Erickson) Watson
Cofounder, Beach Access Hawaii
805 Kainui Pl.
Kailua, HI 96734

FINtestimony

From: graym012@hawaii.rr.com
Sent: Monday, February 25, 2008 1:31 PM
To: FINtestimony
Subject: Beach Access

Aloha, I grew up on Kailua Beach. Most streets had open access. The beach was and still is a large part of my life. I remember my classmate in grade school 40 years ago. Jimmy Eulitte drowned in the shore break in front of Wilikoki St. He was body surfing and got into trouble somehow. I remember how he looked on the shore, limp and blue with foam coming out of his mouth. We were waiting for the ambulance, We were just kids, we didn't know what to do. He was only 11 or 12. A good looking athletic Portuguese boy from a large family in Coconut Grove. I will never forget that afternoon and the broken hearts of his brothers and sisters when I saw them later. Tourism and vacation rentals and have put Kailua on the map. More and more people from the mainland are buying beachfront and beach side properties. Now they are restricting our access. No good will come of this. There are so many reasons we should have easy access to our beaches night and day, emergency situations are just one of them. Please take action and do the right thing. It's your responsibility . Thank you, Merry Gray

FINtestimony

From: Ralph Mench [romench05@hotmail.com]
Sent: Tuesday, February 26, 2008 10:31 AM
To: FINtestimony
Subject: In Support of HB839 (2/27/08 Agenda)

COMMITTEE ON FINANCE
Rep. Marcus R. Oshiro, Chair
Rep. Marilyn B. Lee, Vice Chair

HB 839 - RELATING TO PUBLIC ACCESS TO BEACHES
Hearing: Wed, Feb. 27, 2008, @ at 11 am in House conference room 308

Aloha Chair Oshiro, Vice Chair Lee and Honorable Committee Members:

I too strongly support HB839!
I was born and raised in the islands and over the years have seen legitimate beach accesses "vanish"!!
Therefore, I wish to see HB839 be amended to add "and identify where additional public rights of way are needed or blocked."

Mahalo!

Ralph Mench
852 Oneawa Street
Kailua, Hawaii 96734
Phone: 263-6224
Email: romench05@hotmail.com

Climb to the top of the charts! Play the word scramble challenge with star power. [Play now!](#)

FINtestimony

From: les potts [lespotts@msn.com]
Sent: Tuesday, February 26, 2008 9:44 AM
To: FINtestimony
Cc: moffett@hawaii.rr.com; doomasphotos@mac.com; glorybe@hawaiiantel.net; bjohn@maui.net; willard@maui.net; tsmoon@aol.com; till@dreamteammedia.com; psybri@hotmail.com; oceanlifevideos@hawaii.rr.com; dpitzer@pitzerbuilt.com
Subject: hb839

Committee on Finance
Marcus Yoshiro
Marilyn Lee

Hearing wed Feb. 27th
11:00 am
conference room 308

In support of hb 839 relating to beach access.
We would like to join the voice of surfrider foundation in support of hb 839, as there are still problems with existing beach access in many locations, and there is a need for more! The shoreline belongs to all of us! Mahalo les potts
honolua advisory council

FINtestimony

From: Joanne Amberg [joanne.amberg@gmail.com]
Sent: Tuesday, February 26, 2008 10:56 AM
To: FINtestimony
Subject: In Support of HN839 (2/27/08 Agenda)

COMMITTEE ON FINANCE
Rep. Marcus R. Oshiro, Chair
Rep. Marilyn B. Lee, Vice Chair

HB 839 - RELATING TO PUBLIC ACCESS TO BEACHES
Hearing: Wed, Feb. 27, 2008, @ at 11 am in House conference room 308

Aloha Chair Oshiro, Vice Chair Lee and Honorable Committee Members,

I strongly support HB839 which appropriates funds for the DLNR to survey and map all existing public access ways to shoreline areas.

As a community, we can decide how we want to live and what kind of legacy we leave. Diminishing shoreline and limited beach access is becoming a state wide problem. Reasons given by those supporting gates include protection from crime, yet there is no data showing that locked gates increase safety. In fact, First Responders say that these locked gates prevent them from reaching someone on the beach who needs help.

Removing the gates benefits the entire community and state. Foot traffic will be distributed more evenly with additional beach access points. More access points encourages walking instead of driving to the main beach parks, reducing greenhouse gases and parking congestion.

People often talk about the "good old days" in Hawai'i. Removing the gates is a step toward reclaiming what we have lost.

HB 329 is a step in the right direction, please support this bill with amendments to "identify where additional public rights of way are needed or blocked".

Thank you for your consideration of this issue,

Joanne Amberg
548 Kaimake Loop
Kailua, Hawaii 96734
#262-3845

FINtestimony

From: Isabel Figel [figelis2@hawaii.rr.com]
Sent: Tuesday, February 26, 2008 11:39 AM
To: FINtestimony
Subject: In Support of HN830 (2/27/08 Agenda)

COMMITTEE ON FINANCE
Rep. Marcus R. Oshiro, Chair
Rep. Marilyn B. Lee, Vice Chair

HB 839 - RELATING TO PUBLIC ACCESS TO BEACHES
Hearing: Wed, Feb. 27, 2008, @ at 11 am in House conference room 308

Aloha Chair Oshiro, Vice Chair Lee and Honorable Committee Members:

As a member of Beach Access Hawaii, I **strongly** support HB839 which appropriates funds for the DLNR to survey and map all existing public access ways to shoreline areas. We would like the bill to be amended so that it will also identify where additional public access ways are needed most, and recommend the best way for the State and counties to acquire rights of way in areas that are lacking access.

As a long time resident and homeowner in Kailua, I have seen firsthand the problems when gates are erected on public lanes and beach access is restricted. Locked gates present a threat to public safety by hampering immediate access by emergency first responders and can mean the difference between life and death.

By denying easy access for residents, it forces those of us who would walk to the beach to have to drive to limited beach park areas and thus contribute to additional parking and pollution problems. Not the best way to encourage a healthy lifestyle for our families and future generations either.

O'ahu has only 89 beach rights of ways for over a hundred miles of coastline, according to the Department of Planning and Permitting (DPP). We believe the State needs to issue stronger guidelines for the counties to follow, and would like to see the counties work together with the State to acquire more public rights of way, using matching funds since we view this as both a State and county responsibility to protect public beach access.

Any survey of public access ways should include the actual distances between them and note the number of closed off "private" or public streets with private rights of way in between that have gates. In Kailua, first responders have publicly stated at Neighborhood Board meetings that locked gates pose a serious threat to public safety.

HB839 represents an important first step in addressing what has become a statewide problem: diminishing shoreline access. Meanwhile, semi-private beachfront areas are being created by the unchecked proliferation of gated roads that deny access to the public. It's time we do something about it.

Please pass HB839 and amend it so that it will also serve as a tool to help the counties work with the State to protect and improve public shoreline access for future generations.

Mahalo for your consideration.

Isabel Figel
801 Kainui Drive
Kailua, HI 96734

Phone: 808-262-5073

2/26/2008

FINtestimony

From: maunalua@gmail.com on behalf of annmarie@hawaii.rr.com
Sent: Tuesday, February 26, 2008 12:16 PM
To: FINtestimony
Subject: In Support of HB839 (2/27/08 11am Conference Room 308)

COMMITTEE ON FINANCE
Rep. Marcus R. Oshiro, Chair
Rep. Marilyn B. Lee, Vice Chair

HB 839: RELATING TO PUBLIC ACCESS TO BEACHES
Hearing: Wed, Feb. 27, 2008, at 11 am in House Conference Room 308

Aloha Chair Oshiro, Vice Chair Lee and Honorable Committee Members,

We are an island community. It is the ocean which unites our islands, not separates them. As island people it is the right of all citizens of Hawai'i throughout our State to have safe and reasonable access to the shoreline on every island. However, this right is being continually denied and the problem is ever increasing due to urban development and imported cultural values into our state which are not reflective of our island culture and kama'aina communities.

Our open island ocean communities are turning into isolated and closed communities where all citizens rights to access the shoreline are being denied by just a few. Every beach in Hawai'i is public but they essentially become private beaches when there are no Public Rights of Way to access them. Across the islands this has led to ever escalating hostility between community members. All people want is to reach the shoreline in a reasonable manner. Where are the blue Public Right of Way signs?

I strongly support HB839 to survey and map all existing Public Rights of Way to the shoreline statewide. And I humbly ask the bill be amended to add "identify where additional rights of way are needed statewide in Hawai'i."

For example, the Honolulu City Council in 1998 identified and passed a resolution to acquire 4 Public Rights of Way on Portlock Road to Maunalua Bay in East O'ahu. The City Council recognized they were not following their own 1/4 mile standard. Unfortunately the City has not completed the acquisition. State legislation would enhance and solidify the needed action to make those Public Rights of Way a reality.

It should be noted some of this very important work to identify existing Public Rights of Way is already taking place. On Maui, Ocean IT completed an island wide survey identifying all Public Rights of Way and additional point of access to the shoreline. This survey was completed in March of 2005. Maui County was one of the main supporters of the survey.

NOAA Fisheries is in the process of identifying every Public Right of Way on O'ahu and is also identifying additional access points to the shoreline. NOAA's survey should be completed by the end of 2008.

The survey on O'ahu was prompted by the concern of fishermen who were increasingly dealing with being denied access to shoreline areas to fish and also the lack of information

about access locations.

To quote NOAA "shoreline access information for O'ahu is not as easily accessible or as comprehensive as Maui Counties'. Using the Maui report as a model, the goal of this project is to make shoreline access information for O'ahu more comprehensive and available to the fishing community, and the ocean using community as a whole."

There is a great opportunity here for DLNR to use the work already completed on Maui and the work now being done on O'ahu, which has already kick- started the process, to move forward and complete a statewide survey which HB 839 has identified as necessary.

I ask for your support of House Bill 839.

Mahalo for your consideration.

Aloha,
Ann Marie Kirk
PO Box 25342
Hawai'i Kai, Hawai'i
371-3072

Liveable Hawai'i Kai Hui

FINtestimony

From: Miriam Rappolt [mimhawaii@gmail.com]
Sent: Tuesday, February 26, 2008 2:49 PM
To: FINtestimony
Subject: In support of HB839

To: COMMITTEE ON FINANCE
Rep. Marcus Oshiro, Chair
Rep. Marilyn Lee, Vice-Chair

HB 839 -- RELATING TO PUBLIC ACCESS TO BEACHES HEARING : Wed. Feb. 27, 2008 @ 11 a.m. in House Conference Room 308

Aloha Chair Oshiro, Vice Chair Lee and Honorable Committee Members:

As a longtime Kailua resident and current member of Beach Access Hawaii, I strongly support HB839 which appropriates funds for the DLNR to survey and map all existing public access ways to shoreline areas.

As a matter of public health and safety, we need to identify where additional public access ways are needed most, and set in motion the process by which the State can acquire additional property dedicated as rights of way.

Privately erected and locked gates pose a threat to public safety.

Such denied access could delay emergency vehicles from reaching accident victims and leave the State and counties liable for lawsuits.

In my view, the DLNR should mandate that all such gates remain open from dawn to dusk at the very least in order to ensure that EMS vehicles have optimal access to the shorelines. Such a mandate as well as additional rights of way could go a long way to preventing loss of life.

Miriam Rappolt
783 N. Kalaheo Ave.
Kailua, HI 96734

FINtestimony

From: Carolyn Clark [cwc@thedigiadvantage.com]

Sent: Tuesday, February 26, 2008 4:09 PM

To: FINtestimony

Subject: In Support of HN839 (2/27/08 Agenda)

COMMITTEE ON FINANCE

Rep. Marcus R. Oshiro, Chair

Rep. Marilyn B. Lee, Vice Chair

HB 839 - RELATING TO PUBLIC ACCESS TO BEACHES

Hearing: Wed, Feb. 27, 2008, @ at 11 am in House conference room 308

Aloha Chair Oshiro, Vice Chair Lee and Honorable Committee Members:

I **strongly** support HB839 which appropriates funds for the DLNR to survey and map all existing public access ways to shoreline areas. We would like the bill to be amended so that it will also identify where additional public access ways are needed most, and recommend the best way for the State and counties to acquire rights of way in areas that are lacking access.

O'ahu has only 89 beach rights of ways for over a hundred miles of coastline, according to the Department of Planning and Permitting (DPP). Beach Access Hawaii members went out and measured the distances between the existing public accesses in Kailua, and found that some of them were over a half mile apart -- even though the county "standard" says there should be public access every quarter mile of beach in "urbanized" areas. We believe the State needs to issue stronger guidelines for the counties to follow, and would like to see the counties work together with the State to acquire more public rights of way, using matching funds since we view this as both a State and county responsibility to protect public beach access.

Any survey of public access ways should include the actual distances between them and note the number of closed off "private" or public streets with private rights of way in between that have gates. In Kailua, first responders have publicly stated at Neighborhood Board meetings that locked gates pose a serious threat to public safety. Along Kalaheo Avenue, where there are many streets with locked gates, delays reaching emergency victims on those stretches of beach could be the difference between life and death. And who will be liable then? The homeowners on those gated roads -- or the City and State for allowing this to happen?

HB839 represents an important first step in addressing what has become a statewide problem: diminishing shoreline access. Meanwhile, semi-private beachfront areas are being created by the unchecked proliferation of gated roads that deny access to the public. It's time we do something about it.

Please pass HB839 and amend it so that it will also serve as a tool to help the counties work with the State to protect and improve public shoreline access for future generations.

Mahalo for your consideration.

Carolyn W. Clark

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2/26/2008

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Carleen Ornellas
41-739 Mooiki Street
Waimanalo, Hawaii 96795
Telephone: (808) 259-9127

Testimony to HB 839 – Relating to Public Access to Beaches

Hearing Date: Wednesday, February 27, 2008 at 11 a.m.
Conference Room 308

Aloha Chairperson Oshiro, Vice Chair Lee and Honorable Committee Members:

I am a resident of Waimanalo for the past 35 years, but raised in Kailua my whole life before that. My family have been going to the beach for as long as I can remember because my uncle, aunt and cousins were one of the families who were evicted from Kailua Beach for park space.

It seems that if the State or County can evict families from their homes so that the public can go to the beach, you would hope the same entities would certainly want to preserve public access to the beach whenever you can. Why is it so difficult to do so?

I go to the beach at least 5 times a week for as long as I can remember. I have been a canoe paddling since I was 12 years old. While growing up in Kailua and hanging out with friends who lived near Kalaheo, we have been going through these then public access to get to Shorebreak, which is where all the young Kailua residents learned to surf, to fish, to swim, or go to the beach.

We actually stopped going because of this very reason – locked gates. For as long as I can remember, we were going to Castle Beach on Kailuana Loop and Kaimalino Road, our favorite beaches to learn to surf. We started climbing over the fence to get to that beach, but then the rest of the homes were built, lugging children and surfboards over the fence.

I have recently become active with Beach Access Hawaii because I feel so strongly that beach access must be kept open. These accesses were open when I was a child, then a teenager, then a young adult, then an old adult. That's a long time. The next generation is growing, that's my grandchildren and they will definitely be water people because their parents, aunts, uncles and cousins are all water people.

They started gating these accesses as the old time residents left and new ones came in. What does that tell you? That they try to reshape our community. Why did these new residents move to this community in the first place? Because it is so beautiful and they wanted to be a part of it. So why change it? Go figure?

I write to support HB 839 and amend it so that it will also serve as a tool to help the counties work with the State to protect and improve public shoreline access for future generations.

Mahalo for your time.

FINtestimony

From: daniel hickman [kailua6@hawaiiantel.net]
sent: Tuesday, February 26, 2008 4:34 PM
To: FINtestimony
Subject: In Support of HB839 (Agenda of 2/27/08)

COMMITTEE ON FINANCE
2/26/2008

Rep. Marcus R. Oshiro, Chair
Rep. Marilyn B. Lee, Vice Chair

Aloha Chair Oshiro, Vice Chair Lee, and Honorable Committee Members

As we support HB839, we would respectfully ask you to pass this very important bill on beach access, and to ask that you amend it to identify where additional rights of way are needed. Here in Kailua there are a total of seven Public rights of way (including Kalama beach park, and Kailua beach park) and eighteen of the so called "Private Beach Lanes which have locked gates. A n example is L'orange Place which has been open to the public for over sixty years and was gated august of 2007 These PRIVATE STREETS are taxed at a value of one hundred dollars and are exempt to paying any tax. Also Namala Pl. in kailua is a completely public street with a small parcel of land (1600 square feet, TMK # 4-3-020-061) again valued at one hundred dollars and exenpt from tax. This small parcel of land has no real value, as nothing can be built on a parcel so small. This parcel of lands only value is to gate it and have private beach for the residents of Namala Place, or to open this gate and have Public access to the Public beach. and public parking on this street.

Mahalo,
Daniel Hickman
Blanch Hickman
775 N. Kalaheo Ave.
Kailua Hi., 96734
(808) 230-8525

FINtestimony

From: andybcon@aol.com
Sent: Tuesday, February 26, 2008 4:11 PM
To: FINtestimony
Subject: In Support of HN839 (2/27/08 Agenda)

I'm in support of any legislation protecting access to Kailua's beaches. There needs to be a way to protect owners of private lanes so that they do not feel like they have to put up gates in order to avoid litigation from beach users. We need to return to the old days when every one got along. Kailua has the most beautiful beaches in the world and everybody should be able to enjoy them.

Aloha,

Andrew B. Conboy
3rd Generation Kailuan

1423 Mokolea Drive
Kailua, HI 96734
Ph. 262-2014

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FINtestimony

From: Noa Napoleon [freeoceanaxs@yahoo.com]
Sent: Tuesday, February 26, 2008 12:57 PM
To: FINtestimony
Cc: Rep. Marcus Oshiro
Subject: HB 839

House Committee on FINANCE

Aloha,

Thank you for the opportunity to testify in support of HB 839. In my view, public access rights must include the right to enjoy a public beach or trail, without having to compete with hoards of commercial operators for space. The problem of bulky commercial equipment, particularly the large umbrellas and lounge chairs that take up the entire beach in certain situations, should also be addressed in this survey effort. Increasing reports of hostilities occurring between the public and commercial companies who feel they are being harmed by people reporting their activities to authorities, must be mitigated by a comprehensive plan. I had personally attempted to photograph what was proven to be blatant illegal activity by a surf school and got issued a three year TRO. This sort of retaliation is a symptom of DLNR's dysfunction and neglect. DLNR, for example, is subject to HAR's that currently restrict commercial parking in certain areas like recreational harbors, state parks, and beaches. Too often however DLNR will not enforce those prohibitions, and this has resulted in a situation where multiple commercial companies are now using state harbor's and or park stalls, without being subject commercial permitting as the law requires. The problem is DLNR has and still does refer to "other areas" that are not in compliance to indicate what they call grey areas in the law, and to excuse the illegal activity. The term "land use" is being exploited by both DLNR and by the commercial interest in order to confuse the issue. Apparently the roving commercial phenomenon has exposed a loop hole in the law. Land use according to DLNR deputy Russell Tsuji, means erecting or placing a "permanent" structure on state lands. Parcing over the difference between conservation lands and unencumbered lands however only detracts from the fact that these lands are generally "public lands." They are typically referred to as Kuleana parcels, as easments, covenants, and or as trails, all of which are considered public lands, this is the same classifications used by the Courts in most cases. The problem therefore is with DLNR, who very often fails to apply the correct terms to the problems they encounter at a public beach or park. The point is even when they are clearly within their right to issue citations DLNR agents will still refuse to process a

complaint. DLNR is against this bill for the same reasons they are against similar bills moving through the legislature this year: To protect the status quo!!! Mahalo!

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FINtestimony

From: randy ching [oahurandy@yahoo.com]
Sent: Tuesday, February 26, 2008 7:17 PM
To: FINtestimony
Subject: In support of HB 839 - relating to public access to beaches

COMMITTEE ON FINANCE
 Rep. Marcus R. Oshiro, Chair
 Rep. Marilyn B. Lee, Vice Chair

In support of HB 839 - RELATING TO PUBLIC ACCESS TO BEACHES
 Wednesday, Feb. 27, 2008
 11 a.m. in conference room 308

Aloha Chair Oshiro, Vice Chair Lee and Committee Members:

The Sierra Club, Oahu Group strongly support HB839 which appropriates funds for the to survey and map all existing public access ways to shoreline areas. We would like the bill to be amended so that it will also identify where additional public access ways are needed most, and recommend the best way for the State and counties to acquire rights of way in areas that are lacking access.

O'ahu has only 89 beach rights of ways for over a hundred miles of coastline, according to the Department of Planning and Permitting (DPP). Beach Access Hawaii members went out and measured the distances between the existing public accesses in Kailua, and found that some of them were over a half mile apart -- even though the county "standard" says there should be public access every quarter mile of beach in "urbanized" areas. We believe the State needs to issue stronger guidelines for the counties to follow, and would like to see the counties work together with the State to acquire more public rights of way, using matching funds since we view this as both a State and county responsibility to protect public beach access.

Any survey of

public access ways should include the actual distances between them and note the number of closed off "private" or public streets with private rights of way in between that have gates. In Kailua, first responders have publicly stated at Neighborhood Board meetings that locked gates pose a serious threat to public safety. Along Kalaeo Avenue, where there are many streets with locked gates, delays reaching emergency victims on those stretches of beach could be the difference between life and death. And who will be liable then? The homeowners on those gated roads -- or the City and State for allowing this to happen?

HB839 represents an important first step in addressing what has become a statewide problem: diminishing shoreline access. Meanwhile, semi-private beachfront areas are being created by the

unchecked proliferation of gated roads that deny access to the public. It's time we do something about it.

Please pass HB839 and amend it so that it will also serve as a tool to help the counties work with the State to protect and improve public shoreline access for future generations. Mahalo.

Randy Ching
 Sierra Club, Oahu Group chair
 oahurandy@yahoo.com

2/26/2008

942-0145

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FINtestimony

From: Roxanne Darling [roxanne@barefeetstudios.com]
Sent: Wednesday, February 27, 2008 9:04 AM
To: FINtestimony
Cc: Roxanne Darling
Subject: In Support of HB839 (2/27/08 Agenda)

LATE

I am sorry I am so late on this!

I support this bill and would like it amended to "identify where additional rights of way are needed in Hawaii."

Here in Kailua, there is increasingly limited beach access. Drive along Kalaheo (the closest street parallel to the water) and you see "Private Street" and "No Beach Access" block after block. As more and more people who don't have a connection to the community buy beach front homes, the more they are closing off the historical access the surrounding neighbors have had for decades. This speaks poorly for our community at large, and I believe the government is responsible for preserving beach access and keeping us from having neighbor against neighbor battles, due to inconsistencies in the law. Please lead us into more aloha and open beach access so we can all enjoy each other and share the responsibility for keeping the access ways clean and safe!

It is also a serious threat to health and safety, as police and fire don't have access either.

You can read more comments online here:
thepetitionsite.com/1/hawaii-beach-access

Aloha and mahalo,

Roxanne

--
Roxanne Darling

319B Kihapai St
Kailua, HI 96734
808-384-5554

Replacement

Carleen Ornellas
41-739 Mooiki Street
Waimanalo, Hawaii 96795
Telephone: (808) 259-9127

LATE

Testimony on HB 839 – Relating to Public Access to Beaches

House Committee on Finance

Hearing Date: Wednesday, February 27, 2008 at 11 a.m.

Conference Room 308

Aloha Chairperson Oshiro, Vice Chair Lee and Honorable Committee Members:

Although I was raised in Kailua, I have been a resident of Waimanalo for the past 35 years. My family and I have been going to the beaches of O`ahu's east shoreline for as long as I can remember. My uncle, aunt and cousins were one of the families evicted from their home at Kailua Beach to accommodate public access and for park space.

If the State or County can evict families from their homes so that the public can go to the beach, these same entities should preserve public access to the beach whenever possible. Otherwise, it appears this policy is being applied selectively.

I have accessed the beach on a nearly daily basis for as long as I can remember. I have been a canoe paddler since I was 12 years old. While growing up in Kailua my friends who lived near Kalaheo Avenue and I relied on public access to get to Shorebreak, a spot where most young Kailua residents learned to surf, fish, swim, or simply go to the beach.

Locked gates have stopped us in our tracks. For as long as I can remember, we would go to Castle Beach on Kailuana Loop and Kaimalino Road, our favorite beaches where we learned to surf. The fences erected did not stop us until to get to that beach until most of the homes in the area were built and we could no longer lug our children and surfboards over the fence.

I have recently become active with Beach Access Hawaii because I feel so strongly that beach access must be kept open. These accesses were open during my childhood, my teenage years, my young adult years, and for a small part of my present adulthood. That's a long time. My children and grandchildren and perhaps yours are or are destined to be water people. It's hard not to be, we live on islands surrounded by water. The original inhabitants of these islands, my Hawaiian ancestors, would never have prevented access to the ocean because they knew what a significant role it played in the livelihood of the people.

Preventing public access to beaches in Hawaii is a disrespectful, selfish, and ignorant powerplay and a blatant attempt to reshape our community. Why do people want to live near the shore? Simple, it is exactly the same reason the public seeks access to the beach.

I write to support HB 839 with amendments so that it will also serve as a tool to help the counties work with the State to protect and improve public shoreline access for future generations.

Mahalo for your time.

FINtestimony

From: unclmilty.1@juno.com
Jent: Tuesday, February 26, 2008 8:28 PM
To: FINtestimony
Subject: I am in support of HB839 Agenda

LATE

Committee on Finance
Rep. Marcus R. OShiro, Chair
Rep. Marilyn B. Lee, Vice Chair

I definitely support subject bill and would like it amended further to identify where additional rights of way are needed in Hawaii.

Remember, the beaches belong to all of us and private access equates to "private beaches". Further locked gates pose a threat to public safety because they could delay first responders from reaching accident victims in a timely fashion that would save their lives.

Mahalo for your consideration

Tim Miltsos
A Kailuan for over 35 years
185 Makua St
Kailua, HI 96734
Phone: 261-0424

FINtestimony

From: myoustal@netscape.net
Sent: Tuesday, February 26, 2008 9:53 PM
To: FINtestimony
Subject: In Support of HN839 (2/27/08 Agenda)

LATE

Aloha Chair Oshiro, Vice Chair Lee and Honorable Committee Members,

I *strongly* support HB839 which appropriates funds for the DLNR to survey and map all existing public access ways to shoreline areas. O`ahu has only 89 beach rights of ways for over a hundred miles of coastline according to the Department of Planning and Permitting.

Many shoreline paths were created with the intent to provide beach access, yet they remain closed to the public. I would suggest that HB839 be amended to add "and identify where additional public rights of way are needed or blocked."

Aloha.

Jacques & Jane Bargiel
1054 Kaimali Dr.
Kailua, HI 96734
261-0497

FINtestimony

LATE

From: Feldchase@aol.com
Sent: Wednesday, February 27, 2008 6:21 AM
To: FINtestimony
Subject: In support of HN839

I would like to write in support of ^{HB}HN839. It is important to keep free beach access for all people and not allow "private beaches" via locked gates. Knowing where existing access is located as well as future potential sites is a necessary step to assure access to our shores.

Marjorie Chase
PO Box 967
Pahoa, HI 96778
808-990-8680

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FINtestimony

From: Katherine Finch [finch.katherine@gmail.com]
Sent: Wednesday, February 27, 2008 7:56 AM
To: FINtestimony *HB*
Subject: In Support of ~~HN~~839 (2/27/08 Agenda)

LATE

As stewards of the people of Hawaii, our State representatives must see clear to guarantee our people access to our beaches. Losing public access points is as important of an issue as our representatives will face. Restricting public access to our beaches by erecting gates and fences goes beyond the rights of wealthy owners of oceanfront property. The beaches belong to all of the citizens of the United States, not just Hawaii. Locked gates also pose a threat to public safety because they could delay first responders from reaching accident victims. The State should be diligent in inventorying, maintaining and expanding its public access points with as many parking spaces as physically possible at each site. Support the aloha spirit in Hawaii and protect the rights of its people. Do not allow the trampling of the common man's right to access his beaches. It is simply the right thing to do

Bob and Katherine Finch
426-A Olomana Street
Kailua, HI 96734
910.231.6667

FINtestimony

From: ronnie hudson [ronniehudson@yahoo.com]
Sent: Tuesday, February 26, 2008 11:15 PM
To: FINtestimony
Subject: 2/27/2008 HB839 Agenda

LATE

Aloha Chair Oshiro, Vice Chair Lee and Honorable Committee Members,

I strongly support HB839 which appropriates funds for the DLNR to survey and map all existing public access ways to shoreline areas.

Due to the recent construction and securing of a gate on L'Orange Place, I must now walk my son (age 5) along a dangerous stretch of Kalaheo to now reach an open access point. Beach access should be safe, open and easily accessible!

Beach Access Hawaii members went out and measured the distances between the existing public accesses in Kailua, and found that some of them were over a half mile apart -- even though the county "standard" says there should be public access every quarter mile of beach in "urbanized" areas.

In Kailua, first responders have publicly stated at Neighborhood Board meetings that locked gates pose a serious threat to public safety. Along Kalaheo Avenue, where there are many streets with locked gates, delays reaching emergency victims on those stretches of beach could be the difference between life and death. And who will be liable then? The homeowners on those gated roads -- or the City and State for allowing this to happen?

I also request that HB839 be amended to add "and identify where additional public rights of way are needed or blocked."

Sincerely,

Veronica Willkie
1339 Kainui Drive
Kailua, HI 96734
262-2215

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FINtestimony

From: ben willkie [willkieb@yahoo.com]
Sent: Tuesday, February 26, 2008 11:01 PM
To: FINtestimony
Subject: In Support of HN839 (Agenda 2/27/08)

LATE

Aloha Chair Oshiro, Vice Chair Lee and Honorable Committee Members,

I strongly support HB839 which appropriates funds for the DLNR to survey and map all existing public access ways to shoreline areas.

Due to the recent construction and securing of a gate on L'Orange Place, I must now walk my son (age 5) along a dangerous stretch of Kalaheo to now reach an open access point.

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In Kailua, first responders have publicly stated at Neighborhood Board meetings that locked gates pose a serious threat to public safety. Along Kalaheo Avenue, where there are many streets with locked gates, delays reaching emergency victims on those stretches of beach could be the difference between life and death. And who will be liable then? The homeowners on those gated roads -- or the City and State for allowing this to happen?

I also request that HB839 be amended to add "and identify where additional public rights of way are needed or blocked."

Sincerely,

Benjamin Willkie
1339 Kainui Drive
Kailua, HI 96734
262-2215

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Protecting Native Hawaiian Traditional and Customary Rights
and Our Fragile Environment

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ph. 808-524-8220, fx. 808-524-8221 P.O. BOX 270112 HONOLULU, HAWAII 96827

HB 839 – In Strong Support
February 27, 2008 11:00 a.m.
House Finance Committee, room 308

Aloha Chairman Oshiro, and Members of the Finance Committee,

KAHEA **strongly supports the intent of HB 839** to assess the availability of public access to the beach. The epidemic loss of public access to areas of traditional and customary activities poses a serious threat to the continued vitality of Native Hawaiian cultural practice. The State must take action to protect public rights-of-way before adequate public access routes are permanently lost. An assessment of the current public access routes is a meaningful first step to ensuring adequate public access to our beaches.

Our one suggestion for improvement is to amend HB 839 to include identifying where additional public access routes are needed to adequately access the shoreline.

Although, Hawai'i's laws clearly identify the beach as a public trust resource, mechanisms are not in place to provide equally important protection to the paths, walkways, and trails that lead people to the beach. From high parking fees to no parking at all, private gates to shoreline shrubbery, poor signage to vacation rentals, beach-front resorts to military installations, access to Hawai'i's beaches is in serious danger. And while current laws, regulations, and ordinances express support for having public access rights-of-way, the state and counties have failed to take action that ensures it exists. See, HRS §115-3, ROH §22-6. More must be done to protect the public's right to access the beach and all public trust resources mauka to makai.

Access to public trust resources is crucial to cultural practice. Many Native Hawaiian cultural practitioners actively visit the beach as part of traditional and customary practices, including surfing, gathering, and religious observances. Cultural access is a fundamental right protected by law. But, this right is quietly violated with every new development that does not ensure sufficient public rights-of-way prior to construction along the shoreline. Without proactive action now to protect what is left of the public access routes, it will eventually become impossible to adequately protect and perpetuate Hawai'i's unique culture. Thus, KAHEA supports the passage of HB 839.

KAHEA: The Hawaiian-Environmental Alliance is an islands-wide network of over 2,000 people, including Native Hawaiian cultural practitioners, conservationists, and concerned community members, dedicated to protecting Hawai'i's unique natural & cultural heritage.

Mahalo,


Marti Townsend
Program Director


Miwa Tamanaha
Executive Director

MARY RAJKOWSKI
879 Maluniu Avenue
Kailua, Hawaii 96734
808/262-6269

LATE

Testimony to HB 839 – Relating to Public Access to Beaches

Hearing Date: Wednesday, February 27, 2008 at 11 a.m.
Conference Room 308

Aloha Chairperson Oshiro, Vice Chair Lee and Honorable Committee Members:

I support HB 839, and I would like it amended to identify where additional rights of way are needed in Hawaii.

I was born and raised in Hawaii and have lived in Kailua for over 50 years. I am living in the house I grew up in two blocks from Kailua Beach. As a child and teenager I spent many wonderful days at the beach with family and friends. All I had to do was walk straight from my house to any roadway makai of Kalaheo and I was on the beach. Everyone shared the roadways to the beach.

Over the years we have been losing more and more direct access to our beach. Where we were once free to come and go, we now find ourselves gated and locked out of our precious Kailua Beach. The newcomers don't want to share their roads.

Please pass HB839 and amend it so that it will serve as a tool to help the counties work with the State of Hawaii to protect and improve public shoreline access for future generations.

Mahalo for your consideration.

Mary Rajkowski

