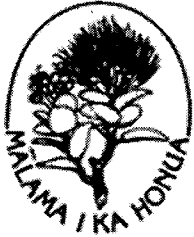


**TESTIMONY**

**HB 839 HD1**

**LATE**



# Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803  
808.537.9019 hawaii.chapter@sierraclub.org

**LATE TESTIMONY**

## SENATE COMMITTEE ON WATER AND LAND

March 18<sup>th</sup>, 2008, 3:15 P.M.

**(Testimony is 1 page long)**

### TESTIMONY IN SUPPORT OF HB 839 HD1

Chair Hee and members of the Committee:

The Sierra Club, Hawai'i Chapter, with 5500 dues paying members statewide, supports HB 839 HD1, appropriating funds for the Department of Land and Natural Resources (DLNR) to survey and map all existing public access ways to shoreline areas.

HB 839 would help the public and private landowners by identifying public access ways statewide. Far too often today intimidating gates and ominous signs deter access to public beaches and shoreline areas. Access to Hawaii's coast for recreational, cultural, or subsistence uses is a core value that residents have respected for generations. HB 839 would strengthen that the access tradition and help to ensure safe access along the coastline – and help deter inappropriate access through private property.

Thank you for the opportunity to testify.

**testimony**

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**From:** Ralph Mench [romench05@hotmail.com]  
**Sent:** Monday, March 17, 2008 4:44 PM  
**To:** testimony  
**Subject:** WTL TEST IN SUPPORT OF HB839

**LATE TESTIMONY**

**COMMITTEE ON WATER AND LAND**  
SENATOR CLAYTON HEE, CHAIR  
SENATOR RUSSEL S. KOKUBUN, VICE CHAIR

Notice on Hearing of HB 839  
Date: Tuesday March 18, 2008-3:15 pm  
Place: Conference room 224, State Capitol

Aloha Chair Hee, Vice Chair Kokubun and Honorable Committee Members;

I urge the Senate to support HB 839 by working with the Counties and other government bodies to protect our current beach accesses throughout the state.

Mahalo,  
Ralph Mench  
852 Oneawa street  
Kailua, Hawaii, 96734

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## testimony

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**From:** Joclyn A Graessle [joclyn@hawaii.edu]  
**Sent:** Monday, March 17, 2008 8:30 PM  
**To:** testimony  
**Cc:** figeli001@hawaii.rr.com  
**Subject:** Testimony in support of HB839

COMMITTEE ON WATER AND LAND  
Senator Clayton Hee, Chair  
Senator Russell S. Kokubun, Vice Chair

NOTICE OF HEARING ON HB 839  
DATE: Tuesday, March 18, 2008 - 3:15 p.m.  
PLACE: Conference Room 224, State Capitol

**LATE TESTIMONY**

Aloha Chair Hee, Vice Chair Kokubun and Honorable Committee Members:

I belong to an organization called Beach Access Hawai'i, a group of over 300 citizens concerned about the dwindling access to our public beaches and the threat to our island lifestyle by the few who can afford to live on the waterfront and who would close off access.

In the process of organizing for this initiative, we have discovered public rights of way that are no longer in use because they have been planted over or the signs removed. HB839 appropriates funds for the DLNR to survey and identify all existing public rights of way so that the public can begin utilizing these again.

We are respectfully asking for the bill to be amended so that it will also identify where additional public rights of way may be needed.

Traditionally, beach access has been the kuleana of the City and County. However, we believe this problem needs the support (or the authority) of the State. Our council members and neighborhood boards have failed us. We now look to you.

I humbly ask that you support HB 839.

Respectfully,

Jackie Graessle  
47-149 'Iu'iu Street  
Kane'ohe, Hawai'i 96744  
(808) 690-4708

**testimony**

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**From:** bfinch@ec.rr.com  
**Sent:** Monday, March 17, 2008 10:18 PM  
**To:** testimony  
**Subject:** HB839 Testimony to the COMMITTEE ON WATER AND LAND COMMITTEE ON WATER AND LAND

COMMITTEE ON WATER AND LAND  
Senator Clayton Hee, Chair  
Senator Russell S. Kokubun, Vice Chair

**LATE TESTIMONY**

NOTICE OF HEARING  
DATE: Tuesday, March 18, 2008  
TIME: 3:15 p.m.  
PLACE: Conference Room 224  
State Capitol  
415 South Beretania Street

Dear Senators, I believe HB839 is an extremely important piece of legislation that represents a golden opportunity for our political leaders to guarantee public access to our beaches for future generations. At the present rate of losing public access, no such guarantee can be assumed. This piece of legislation is an important first step in addressing diminishing shoreline access for the general public, not just those fortunate enough to have the wealth to buy their own private piece of heaven and buy up the rights, at the same time, prevent others from accessing what should be public beaches.

The State must take action to preserve public access with parking and not just sit back and wait for the county and town governments to handle the problem.

Please do everything in your power to pass HB839 and get the State and county governments working together on this important cause of protecting shoreline access for future generations.

Mahalo.

Robert A. and Katherine H. Finch  
426-A Olomana Street  
Kailua, Hawaii 96734

808-428-1664



Protecting Native Hawaiian Traditional and Customary Rights  
and Our Fragile Environment

www.KAHEA.org, kahea-alliance@hawaii.rr.com  
ph/fx 1-888-528-6288 P.O. BOX 270112 HONOLULU, HAWAII 96827

HB 839 – In Strong Support  
March 18, 2008 3:15 pm  
Senate Water & Land Committee, room 224

**LATE TESTIMONY**

Aloha Chairman Hee, and Members of the Water and Land 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

# LATE TESTIMONY

Senate Committee on Water and Land  
Chair Hee  
Vice Chair Kokubun

Hearing: Tuesday March 18, 2008 3:15 pm Rm 224

Testimony in support of HB 839

Submitted by: Noa Napoleon

I would like to point out to this committee that HB 839, HB 2332, and SB 2196, are among several good bills being opposed by DLNR this year. HB 2332, which would have required commercial operators apply for Conservation District Use Permits to use a public beach, was opposed by DLNR on a technicality. The fact that the commercial lobby had showed up insisting they be exempt from any sort of permitting scheme, was revealing to me as well. SB 2196 requiring 'commercial permits' from operators who's business originates from a private property (or marina), is still alive, though Boating officials opposed it in the House. Boating Administrator Ed Underwood, has consistently said that the *division* cannot enforce the law until, or unless they are properly staffed. I would contend that these are the same sort of excuses we are likely to hear the division make even when they are fully staffed (the Ala Wai harbor is a good example of this). Enforcing commercial parking prohibitions at a state harbor or beach park as a means of 'enhancing public access' will require that DLNR first close the parking loop holes that are being exploited by the commercial blue cards! Commercial Blue Cards for example should never be exempt from permit requirements nor should DLNR issue such blue cards unless Chapter 91 planning has been fully complied with. The blue card holders are issued ORMA or equipment decals from DLNR. These are typically the worst violators, and yet DLNR has not seen fit to revoke or challenge the blue cards even when these companies consistently break the law. Blue cards according to DLNR staff, "cannot be revoked." In Waikiki this is a constant problem because of the volume of commercail operators that forced to use a given area. I've included some history of the parking problems we have faced at the Ala Wai Small Boat Harbor to show that DLNR is simply ignoring the blue card problem. I've pointed out in other testimony on this subject that all these bills are somewhat redundant because the problem is not that there are no laws but that the laws which are clearly enforceable are not being honored by DLNR. I would strongly urge this committee to read Peter Youngs opinion on the matter of hotels on the Waikiki shoreline needing permits to do business on public beaches. Peter Youngs statements on this matter indicate the sort of Administrative ignorance (abuse) that in my view is directly responsible for the loop holes; if you recall, we used to call this the "grandfather clause." This committee must repudiate Mr. Yongs

position and order DLNR to comply with state procurement law in requiring permits, nothing short of this will reverse the effects of what are essentially false policy statements. The new DLNR chairs comments on this must also be annalised for accuracy. If the Land Board could require compliance, or if the Land Board would require rule making before the division issued blue cards, this would force DLNR to abandon its grandfather policies (which is a term they desperately avoid). Solving the commercial parking issue must be included with this effort to servey beach access routs, and DLNR must be willing to conform to this otherwise they will do what they have always done, which is, ignore the law. An obstruction for example must be considered "perminant" to constitute a violation of state land use law according to DLNR deputy Russell Tsuji. Gates for example are perminat structures so why are they not subject to permitting? Part of the complaint about beach access is the parking or lack of free parking, while the other complaints center on preventing private communities from erecting gates or setting up obstructions on our "public" beaches. All of thses issues must be considered together in my view. Once the servey is completed DLNR could indicate that free beach parking is a right where parking is made available by the state or county. Mahalo!



**TESTIMONY**

**HB 839 HD1**

**LATE**

**(END)**