

**LATE
TESTIMONY
SB 2835**

LATE TESTIMONY



OFFICE OF HAWAIIAN AFFAIRS

Legislative Testimony

SB 2835, RELATING TO PUBLIC ACCESS

Senate Committee on Water and Land

February 15, 2008

2:45 p.m.

Room: 414

The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB 2835, which would provide for greater protection of the public's right to access coastal and inland recreational areas, and requires state and county agencies to ensure that a public right-of-way is available before the approval of any development project, subdivision, or zoning change.

OHA stands in full support of this bill, which would require agencies to ensure that a public right-of-way is available to access any and all public recreational areas, including beaches, shores, parks, and trails before any development project, subdivision, or zoning change, that may affect public access to the sea, the shoreline, or any coastal or inland public recreational area is approved.

This is a bill that is timely and much needed. It is not radical or a departure from regulatory norms, rather, it embodies them. Our coastal areas and resources were meant to be preserved for the enjoyment of the public, as can be verified by the Constitution; federal, state, and county laws; and court cases. Yet, much of these coastal areas have been essentially privatized or lost to the public due to the lack of practical access.

Additionally, our beneficiaries have particularized rights guaranteed to them by the Constitution and the law that this bill will compliment. Native Hawaiian gathering and access practices are recognized as protected traditional and customary rights under the Hawai'i Constitution article XII, section 7. The 2000 Hawai'i State Legislature found, through Act 50, Session Laws of Hawaii, 2000, that a cultural impact assessment should be made as part of any environmental review for projects in this state as a way to properly analyze and protect effects to Native Hawaiian rights. Past legislative efforts and all of our Constitutional mandates will be enhanced by this very

bill. What is good for Hawaiians is good for Hawai'i, and this bill exemplifies that.

Therefore, OHA urges the Committees to PASS SB 2835. Thank you for the opportunity to testify.

testimony

LATE TESTIMONY

From: Gabriela Taylor [gabriela@keapana.net]
Sent: Thursday, February 14, 2008 3:30 PM
To: testimony
Subject: pass SB 2835 Friday

To: WTL committee
re. SB 2835
hearing 2/15 , 2:45, room 414

Dear WTL committee,

Protecting our public access to beaches and public recreation areas is paramount. We have lost so many in the 35 years that I have lived on Kauai.

Passage of SB 2835 requiring sufficient access before issuing building permits is the right way to go. Please pass this bill to ensure that residents of the islands will have unencumbered access to the shoreline and other recreational areas.

We are counting on you to do the right thing.

Sincerely, Gabriela Taylor
5620 Keapana Rd Kapaa, Hi 96746
808 823-9013

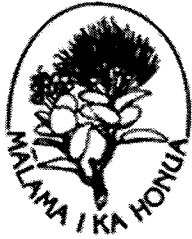
Read Gabriela's Book -

"Geckos & Other Guests: Tales of a Kaua'i Bed & Breakfast"

web site: <http://www.napalipress.com/>

buy at Amazon: http://www.amazon.com/Geckos-Other-GuestsTalesBreakfast/dp/1885129149/ref=sr_1_1/104-36695969207135ie=UTF8&s=books&qid=1182560125&sr=8-1

Gabriela Taylor
gabriela@keapana.net



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

February 15th, 2008, 2:45 P.M.

(Testimony is 1 page long)

TESTIMONY IN SUPPORT OF SB 2835

Chair Hee and members of the Committee:

The Sierra Club, Hawai'i Chapter, with 5500 dues paying members statewide, supports SB 2835, ensuring public access to beaches and public mauka areas is protected whenever new development or activities may impinge on that access.

Intimidating gates and ominous signs deter access to public beaches and trails. We need reforms that ensure that new development does not block access.

We all know Hawai'i offers some of the most stunning hiking trails and beaches in the world, attracting residents and visitors alike for their beauty and challenge. Access to Hawaii's coast and mountain areas for recreational, cultural, or subsistence uses is a core value that residents have respected for generations. While we often take for granted our ability to enjoy and hike on our public land, certain developers and gated communities restrict access to these trails. Gated communities are growing in popularity as wealthy homebuyers seek "exclusive" communities. Gated communities and obstructions shut the public out of public lands. Locking the public out of publicly owned lands threaten our essential rights as citizens.

For example, for over 15 years, the City and County of Honolulu has allowed the Hawaii Loa Owners Association to control access to the popular Hawai'i Loa Ridge Trail and to exclude altogether out-of-state residents. For years, the City and County of Honolulu has refused to open up the Hawaii Loa access. The U.S. Constitution guarantees that the citizens of one state shall not be denied the privileges and immunities of the citizens of other states.

Senate Bill 2835 would strengthen our existing access tradition by ensuring access as a condition prior to the approval of a permit for a development project, subdivision, or zoning change. This would help to ensure safe access along the coastline and to public inland areas and prevent abuses of Hawaii's access laws. Projects that aren't likely to threaten public access—like building a new lanai on a house—don't trigger the new access provision.

By ensuring that public access is a condition of approval, SB 2835 helps to protect Hawaii's proud public access tradition. Please move this measure forward.

Thank you for the opportunity to testify.

testimony

From: kory@voterownedhawaii.org [kory.payne@gmail.com]
Sent: Thursday, February 14, 2008 3:26 PM
To: testimony
Subject: Strong support of SB 2835

LATE TESTIMONY

Chair Hee, Vice Chair Kokubun

I'm writing in strong support of SB 2835.

It has been said enough, but can't really be overstated how important it is for Hawaii to ensure the public has access to all the state's beaches.

Please pass this important measure.

Kory Payne
945 Lunahai Pl
Kailua, HI 96734

testimony

LATE TESTIMONY

From: Judy Dalton [dalton@aloha.net]
Sent: Thursday, February 14, 2008 3:19 PM
To: testimony
Subject: Support for SB2835 , Feb 15, 2:45pm WTL relating to beach access

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

Friday, February 15, 2008
TIME:2:45 p.m.
PLACE:Conference Room 414
State Capitol

Aloha Chair Senator Clayton Hee and Vice Chair Senator Russell Kokubun and Committee members,

Please SUPPORT SB 2835 RELATING TO PUBLIC ACCESS.

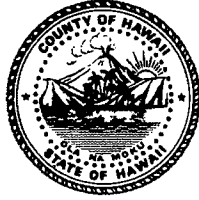
This welcomed measure has the potential of restoring access to many of our public recreational areas that have been blocked by property owners as well as preserving public right-of-ways in the event of future development.

Thank you for giving this bill your full support.

Judy Dalton
4330 Kauai Beach Drive
Lihue, HI 96766
808-246-9067

BOB JACOBSON
Councilmember

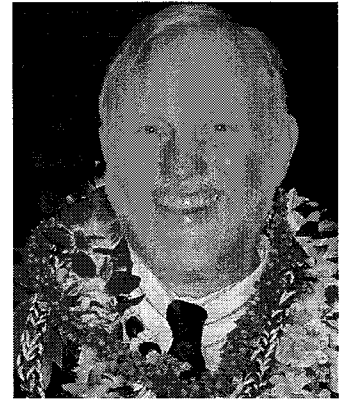
*Chair, Environmental Management Committee
Vice-Chair, Finance Committee*



HAWAI'I COUNTY COUNCIL

County of Hawai'i

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February 14, 2008

Senator Clayton Hee, Chair
Senator Russell S. Kokubun, Vice-Chair
And Members
Water and Land Committee

LATE TESTIMONY

Support Testimony regarding Senate Bill 2835, Hearing on Friday, February 15, 2008, 2:45 p.m.

Conference Room 414
State Capitol
415 South Beretania Street

Aloha Chairpersons and Committee Members,

I urge you to pass Senate Bill 2835. Recently we have seen many developments along our beautiful coastline. With development many public rights away been restricted and even denied. This is not fair to our residents of our State. I believe we need to protect "public recreation areas" and we need to ensure that public right of ways are available and will remain available prior to the approval of any development project, subdivision, or zoning change.

Please pass Senate Bill 2835.

Mahalo nui loa,

testimony

From: Jonathan Boxold [jtboxold@yahoo.com]
Sent: Thursday, February 14, 2008 4:57 PM
To: testimony
Cc: roxanne@barefeetstudios.com
Subject: Public Beach Access

LATE TESTIMONY

2-14-08

To: Committee on Water and Land

My name is Jonathan Toby Boxold and I am addressing issues covered in the three bills (SB 2835, ~~SB 2836~~ and ~~SB 2836~~). I was born and raised in Kailua and have written this testimony as a member of Beach Access Hawaii(BAH) and am hereby declaring my stand in support of its main objectives that include establishing public beach rights of way within a minimum distance of a quarter mile along shoreline statewide.

There are many important issues relating to open public beach access paths which affect quality of life, safety, as well as cultural practices (which have been elaborated on through BAH as well as Surfrider and Kahea Organizations). It is vital that we do our best to see that public beach access is restored in areas where it has been restricted and to ensure it is maintained for future generations.

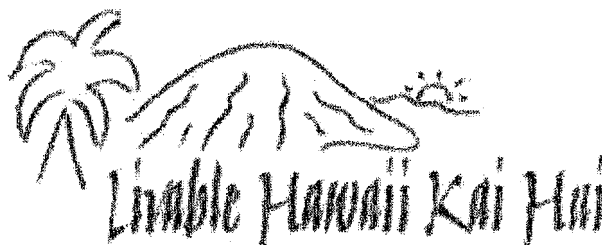
Sincerely,
Jonathan Toby Boxold

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testimony

From: Jeannine Johnson [jeannine@hawaii.rr.com] on behalf of Elizabeth Reilly [hawaiikaihui@aol.com]
Sent: Thursday, February 14, 2008 8:56 PM
To: testimony
Subject: Testimony in Strong Support of SB2835 & SB2836 and in Strong Opposition to SB 3189 - Public Access (WHAT DO YOU THINK?)

LATE TESTIMONY



6600 Kalaniana'ole Highway ~ Suite # 116 ~ (P.O. Box 25493) ~ Honolulu, HI ~ 96825-0493

BOARD OF DIRECTORS 2007

Phone: 808.864-8081 Fax: 808.395.8556
Email: hawaiikaihui@aol.com ~ Website: www.hawaiikaihui.org

February 14, 2008

**Elizabeth Reilly
President**

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

**Marian Grey
Vice President**

Testimony in Strong Support of SB 2835 & ~~SB 2836~~ Public Access
~~Testimony in Strong Opposition to ~~SB 3189~~ Public Access~~
Hearing: Friday, February 15, 2008, at 2:45 pm in Conf. Room 414

**Gayle Carr
Secretary**

Dear Chair Hee and Vice Chair Kokubun,

**Tai Hong
Treasurer**

Livable Hawai'i Kai Hui (LHKH) is a non-profit, bipartisan community action group. We strive to promote sensible growth and respect for the land as well as upholding the integrity of the East Honolulu Sustainable Communities Plan (EHSCP).

**Jeannine Johnson
Director**

LHKH strongly support SB2835 which requires state and county agencies to ensure that a public right-of-way is available prior to the approval of any development project, subdivision, or zoning change, and modifies definitions of "public recreational area."

**Jacquelin Miller
Director**

**Allen Tateishi
Director**

One of the visions of the EHSCP is to promote access to shoreline and mountain areas. Section 2.2.4 of the EHSCP states "Existing beach access and rights-of-way should remain and new shoreline access ways should be acquired as the opportunities arise." Section 3.1.3.6 of the EHSCP affirms that: "the shoreline provides residents and visitors with significant active and passive

Gary Weller

recreational value. Thus public access both mauka-makai and lateral should be obtained, maintained and improved to the maximum extent possible." Section 3.3.3.6 further states: "acquisition of additional pedestrian easements to the shoreline may still be possible as properties are redeveloped or subdivided."

LHKH also support SB2836 which modifies definitions of "public recreational area" and the offense of obstructing access to public property and defines "public right-of-way."

LHKH strongly opposes SB3189. Hawai'i Revised Statutes Chapter 115 **guarantees the right of public access** to the sea, shorelines, and inland recreational areas, and transit along the shorelines, and to provide for the acquisition of land for the purchase and maintenance of public rights-of-way and public transit corridors. SB3189 would set a very bad precedent for the residents of O'ahu and the State.

Sincerely,

Elizabeth Reilly, President

**LATE
TESTIMONY
SB 2835
(END)**