

TESTIMONY

SB 2836

testimony

From: matt esecson [matt@ateamcollaborative.com]

Sent: Wednesday, February 13, 2008 7:59 AM

To: testimony

Subject: COMMITTEE ON WATER AND LAND- sb ~~286~~ ²⁸³⁶

NOTICE OF HEARING

DATE: Friday, February 15, 2008

TIME: 2:45 p.m.

PLACE: Conference Room 414

As a Hawaiian , I believe strongly that all legislature efforts should take the side of protecting access for all citizens. Please open new public rights of way and public recreation areas to allow all citizens unrestricted access.

Mahalo

Matt Esecson
590 kawaiiloa rd
kailua, hi

testimony

From: Scott Werny [clearwater@hawaii.rr.com]
Sent: Wednesday, February 13, 2008 6:35 AM
To: testimony
Subject: ~~WTL: Testimony in strong support of SB2835, support of SB2836, and opposing SB3189~~
(public access)

COMMITTEE ON WATER AND LAND

Hearing: Friday, February 15, 2008, at 2:45 pm in Conference Room 414

Senator Clayton Hee, Chair
Senator Russell S. Kokubun, Vice Chair

Re: ~~Support SB 2835 - RELATING TO PUBLIC ACCESS~~
Support SB 2836 - RELATING TO PUBLIC ACCESS
~~Oppose SB 3189 - RELATING TO PUBLIC ACCESS~~

Aloha Chair Hee, Vice Chair Kokubun, and Committee members,

I 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." If possible, I would even suggest that adding language that would assure "adequate access" would be beneficial, in hoping to avoid areas we have allowed like Ko Olina or a large part of Waikiki, where parking areas can only allow access for a few.

Hawai'i Revised Statutes (HRS) Chapter 46-6.5 mandates "developers to dedicate land for public access to the shoreline, where such access is not already provided, as a condition precedent to subdivision approval." HRS Chapter 115 also guarantees shoreline access and states, "...the absence of public access to Hawaii's shorelines and inland recreational areas constitutes an infringement upon the fundamental right of free movement in public space and access to and use of coastal and inland recreational areas." We need to uphold this promise, protect this right, and allow our citizens adequate means to reach the shoreline for their recreational and cultural needs.

On Saturday, February 2, 2008, 250 to 300 people stood in the rain and wind with signs and banners in a state-wide protest for more beach access. The message was clear. We've been losing our shoreline access all around our islands and we need to take action to improve access in areas where it is hard to reach the beach. All over Hawaii, gates, fences, and walls have been put up, tiny parking lots are built, No Parking signs are posted, parking fees are imposed, and no one seems to be working to acquire right of ways.

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

However, I strongly oppose SB3189's requirement that owners of privately owned shoreline access paths keep access to the shoreline open to the public only, at minimum, from 7:00 am to 6:00 pm. Surfers may want to ride waves early in the morning or late at night; fishermen may want to fish late at night; we cannot rely on a locked gate that someone will need to unlock for access. Public shoreline access is a right that is infringed with locked gates. Access should be open regardless of time. HRS provides "for the acquisition of land for the purchase and maintenance of public rights-of-way and public transit" and city and state government should actively seek acquisition, especially in areas where access is extremely limited.

Thank you for your leadership in this area.

Mahalo,

Scott Werny
Co-chair, Surfrider Foundation Oahu Chapter

testimony

From: travish321@aol.com

Sent: Wednesday, February 13, 2008 6:48 AM

To: testimony

Subject: ~~WTL: Testimony in strong support of SB2835, support of SB2836, and opposing SB3189 (public access)~~

COMMITTEE ON WATER AND LAND

Senator Clayton Hee, Chair

Senator Russell S. Kokubun, Vice Chair

Re: ~~Support SB 2835 - RELATING TO PUBLIC ACCESS~~

Support SB 2836 - RELATING TO PUBLIC ACCESS

~~Oppose SB 3189 - RELATING TO PUBLIC ACCESS~~

Hearing: Friday, February 15, 2008, at 2:45 pm in Conference Room 414

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Mahalo,
Travis Hylton
PO Box 218
Kaaawa, HI 96730

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2/13/2008

testimony

From: Jeannine Johnson [jeannine@hawaii.rr.com]
Sent: Tuesday, February 12, 2008 10:20 PM
To: testimony
Subject: Testimony in strong support of ~~SB2835~~, support of SB2836 and opposing SB3189 (public access)
Attachments: image001.jpg

COMMITTEE ON WATER AND LAND

Senator Clayton Hee, Chair

Senator Russell S. Kokubun, Vice Chair

Re: ~~Support SB2835 - RELATING TO PUBLIC ACCESS~~
 Support SB 2836 - RELATING TO PUBLIC ACCESS
~~Oppose SB 3189 - RELATING TO PUBLIC ACCESS~~

Hearing: Friday, February 15, 2008, at 2:45 pm in Conference Room 414

Aloha Chair Hee and Vice Chair Kokubun,

I 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."

As you may know, Hawai'i Revised Statutes Chapter 46-6.5 mandates "developers to dedicate land for public access to the shoreline, where such access is not already provided, as a condition precedent to subdivision approval." The subdivision code of the City and County of Honolulu contains the comparable ordinance. The recreational objective of the O'ahu General Plan is to "provide convenient access to all beaches and inland recreation areas." One of the visions of the East Honolulu Sustainable Community Plan (EHSCP) is to promote access to shoreline and mountain areas. Section 2.2.4 of the EHSCP specifically states "Existing beach access and rights-of-way should remain and new shoreline access ways should be acquired as the opportunities arise."

In 1980, the Hawai'i Third Circuit Court in Barba v. Okuna, (Civil No. 4590, Haw. 3rd Circuit Oct. 14, 1980) found that the right to access is a necessary adjunct to the right to use and enjoy public trust areas and alienation of shoreline access was a breach of public trust. In 1982, the Hawai'i Supreme Court stated, "[T]he ability to get to a recreational area is as vital for enjoying it as having it in its natural condition." Akau v. Olohana, 65 Haw. 383, 390, 652 P.2d 1130, 1135 (1982).



On Saturday, February 2, 2008, 250 to 300 people participated on every island in a state-wide protest for more beach access. My sons and I (here is a picture of my son Matt) braved the wind and rain for two hours to call attention to our lack of public access in Niu Valley and East Honolulu. Although the County is entrusted with enforcement of public access to beaches when development comes before it and it is its "duty" to be a watchdog for the public, the physical and visual access

to the shoreline along Kalaniana'ole Highway has been severely limited over the years due to gated residential development being allowed to block both visual and physical access to the ocean. This has the effect of turning our public beaches into private beaches.

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

However, I strongly oppose SB3189's requirement that owners of privately owned shoreline access paths keep access to the shoreline open to the public only, at minimum, from 7:00 am to 6:00 pm. The community in East O'ahu and Neighborhood Board in 2001 absolutely rejected a similar locked gate scenario as setting a bad precedent for the islands and for future acquisitions of Public Rights of Way. Will future Public Rights of Way come with locked gates? Who locks and unlocks the gate every day? Who pays for that? What about fishermen who exclusively do night fishing? What about beachgoers/surfers who go out early in the morning before sunrise? What about the summer time when the sun sets late and people are still in the ocean or on the beach? **There should be no gates denying Public Access to the shoreline PERIOD.**

Mahalo.

Jeannine

Jeannine Johnson

5648 Pia Street

Honolulu, Hawai'i 96821

Ph: 373-2874 / 523-5030 (w)

Email: jeannine@hawaii.rr.com

"PUPUKAHI I HOLOMUA"

(Unite in Order to Progress)

testimony

From: mmckay@hula.net
Sent: Tuesday, February 12, 2008 10:43 PM
To: testimony
Subject: ~~WTL Testimony in strong support of SB2835, support of SB2836, and opposing SB3189 (public access)~~

COMMITTEE ON WATER AND LAND

Senator Clayton Hee, Chair
Senator Russell S. Kokubun, Vice Chair

Re: ~~Support SB 2835 - RELATING TO PUBLIC ACCESS~~
Support SB 2836 - RELATING TO PUBLIC ACCESS
~~Oppose SB 3189 - RELATING TO PUBLIC ACCESS~~

Hearing: Friday, February 15, 2008, at 2:45 pm in Conference Room 414

Aloha Chair Hee, Vice Chair Kokubun, and Committee members,

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fish late at night; we cannot rely on a locked gate that someone will need to unlock for access. Public shoreline access is a right that is infringed with locked gates. Access should be open regardless of time. HRS provides "for the acquisition of land for the purchase and maintenance of public rights-of-way and public transit" and city and state government should actively seek acquisition, especially in areas where access is extremely limited.

Mahalo,

Michele McKay

Honolulu, HI

testimony

From: val loh [vallohfoto@yahoo.com]
Sent: Wednesday, February 13, 2008 7:36 PM
To: testimony
Subject: On Bills RELATING TO PUBLIC ACCESS

COMMITTEE ON WATER AND LAND

Senator Clayton Hee, Chair
Senator Russell S. Kokubun, Vice Chair

Re: ~~Support SB 2835 - RELATING TO PUBLIC ACCESS~~
Support SB 2836 - RELATING TO PUBLIC ACCESS
~~Oppose SB 3169 - RELATING TO PUBLIC ACCESS~~

Aloha Chair Hee, Vice Chair Kokubun, and Committee members,

I 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." If possible, I would even suggest that adding language that would assure "adequate access" would be beneficial, in hoping to avoid areas we have allowed like Ko Olina or a large part of Waikiki, where parking areas can only allow access for a few.

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Mahalo and best wishes,
~ Valerie Loh
2552 Peter St.
Honolulu, HI 96816

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[_ylt=Ahu06i62sR8HDTDypao8Wcj9tAcJ](http://mobile.yahoo.com/;_ylt=Ahu06i62sR8HDTDypao8Wcj9tAcJ)



Hawaii Rifle Association

State Affiliate of the National Rifle Association
Founded in 1857

February 14, 2008

TESTIMONY ON **SB2836, IN SUPPORT**
Before WTL, Feb 15, 2008, Rm 414, 2:45 pm
Please provide 5 copies

Hon. Chair, Vice-Chair, and Members,

HRA supports this bill. Access is *the* major problem for Hawaii's hunters.

We respectfully suggest adding **“public hunting areas”** specifically to the definition of **“public recreational area”**.

Thank you,

Dr. Maxwell Cooper,
Leg Co-Chair, HRA

testimony

From: Rich Figel [figeli001@hawaii.rr.com]
Sent: Wednesday, February 13, 2008 10:46 PM
To: testimony
Subject: Testimony in support of SB2835, SB2836 and SB3189

COMMITTEE ON WATER AND LAND

Senator Clayton Hee, Chair

Senator Russell S. Kokubun, Vice Chair

Re: ~~Support SB 2835 - RELATING TO PUBLIC ACCESS~~
Support SB 2836 - RELATING TO PUBLIC ACCESS
~~Support SB 3189 - RELATING TO PUBLIC ACCESS~~

Hearing: Friday, February 15, 2008, at 2:45 pm in Conference Room 414

Aloha Chair Hee and Vice Chair Kokubun,

As cofounder of Beach Access Hawaii, a group that has over 300 members, I 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."

On Saturday, February 2, 2008, hundreds of residents on Oahu, Maui, Kauai and the Big Island took part in our Groundhog Day Beach Access Rally to urge the state and counties to take action on the problem of diminishing access to our shoreline. Over 20 different groups came together for this event. We believe it's time our state and county government officials did the same, and work together to protect public access for future generations.

We also support SB2836 which modifies definitions of "public recreational area" and the offense of obstructing access to public property. As I read this bill, it would require public streets near our beaches to be free of barriers that would prevent the public from reaching the beach. In Kailua, there are at least two public streets (Kailuana Loop and Namala Place) that are deeded to the city, and yet residents have erected locked gates on the rights of way. These gates should be removed, and the beach paths should be reopened to the public.

I support SB3189 with reservations. Many of us in Kailua would be happy if privately owned shoreline access paths that have locked gates were required to keep them open, at minimum, from 7:00 am to 6:00 pm. There are over a dozen such gates currently. However, in reading the bill it is not clear to us that this would apply to existing gates on private lanes. If this bill only applies to new developments, we would oppose this bill as it would set a bad precedent for the future. Ideally, there should be no gates on public or private beachside lanes.

Beach Access Hawaii believes locked gates pose a serious threat to public safety. First responders have told the Kailua Neighborhood Board that delays caused by these gates could endanger lives.

Also, where there are private lane gates, there are in effect, private beach areas -- and in Hawaii, the law states that our beaches belong to all the people, not just those who can afford to live next to the beach.

Mahalo,

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

Phone: 808-262-5073

testimony

From: Rich Figel [figel001@hawaii.rr.com]
Sent: Thursday, February 14, 2008 10:20 AM
To: testimony
Subject: In support of ~~SB 2835~~ and SB2836; opposing ~~SB 3189~~

THE SENATE COMMITTEE ON WATER AND LAND

TWENTY-FOURTH LEGISLATURE
REGULAR SESSION, 2008

Senator Clayton Hee, Chair
Senator Russell S. Kokubun

~~SB 2835~~ and SB 2836 – Support

~~SB 3189~~ – Oppose

Hearing: Friday, February 15, 2008, at 2:45 pm in Conference Room 414

Aloha Chairman Hee and Vice Chairman Kokubun,

Mahalo for the opportunity to provide testimony in support of SB 2835 requiring that state and county agencies ensure that a public right-of-way to the beach is available prior to the approval of any development project, subdivision, or zoning change, and modifies the definition of "public recreational area."

As more development along Hawaii's shorelines takes place, our citizens are finding less access to beaches, in essence, fostering an island lifestyle in which beaches are only for tourists and the wealthy. On February 2, 2008, many of Hawaii's citizens participated in a statewide protest calling for the abolition of private beaches, a reinstatement of previously open beach accesses, calling attention to the proliferation of gated, private beaches, and calling attention to the vandalism and/or the obscuring of "Public Right of Way to Beach" signs, effectively privatizing the access. Many roads that used to provide access to beaches have, over the years, seen locked gates installed and no trespassing signs posted, creating hostility and bad blood among neighbors.

This issue reminds of the seawalls quietly built in Lanikai over many years. Many of the seawalls were not legal. Eventually, the beach eroded and there was simply no beach left in those areas. When it was finally brought to the attention of those able to do something about it, the seawalls were left standing. Now, deep water pushes up against privately owned seawalls. The beach I frequented as youth no longer exists. I hope beach access in Hawaii does not go the way of the beach in Lanikai.

I also support SB2836 having to do with similar beach access issues.

I oppose SB 3189 requiring that owners of privately owned access paths keep them open to the public from 7:00 am to 6:00 pm. While this appears to be a reasonable compromise, there are practical problems associated with implementation, enforcement, and the lifestyles of citizens who may wish to use the beach before 7:00 am and after 6:00 pm. I believe beach access should be an unconditional right of all of Hawaii's citizens.

If I may answer any questions, please do not hesitate to contact me at 690-4708.

Sincerely,
Jackie Graessle
47-149 Iuiu Street
Kailua, HI 96734

(Forwarded via email by Rich Figel at figel001@hawaii.rr.com)

TESTIMONY

SB 2836

(END)