

**LATE
TESTIMONY
SB 2836**



OFFICE OF HAWAIIAN AFFAIRS

Legislative Testimony

SB 2836, RELATING TO PUBLIC ACCESS

Senate Committee on Water and Land

February 15, 2008

2:45 p.m.

Room: 414

LATE TESTIMONY

The Office of Hawaiian Affairs **SUPPORTS** SB 2836, which modifies the definition of "public recreational area" and the offense of obstructing access to public property.

This bill seeks to prevent anyone from obstructing any public right-of-way, transit area, or public transit corridor itself, access to the sea, access to or along the shoreline, access to any inland public recreational area, or access to any government road or road that is not privately owned. It expands the areas that cannot be obstructed to prevent access to public shoreline areas, including beaches, parks, trails and inland recreation 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 projects in those areas that cut off 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 in 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 will address. Native Hawaiian gathering 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. These findings and laws have been further strengthened via caselaw, and this bill would enhance your past legislative efforts, these court holdings and existing law.

Therefore, OHA urges the Committees to PASS SB 2836. Thank you for the opportunity to testify.

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 SB2836). 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 [hawaii_kai_hui@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



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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 of 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

see next page

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 2836
(END)**