

TESTIMONY
SB 3189

testimony

From: matt esecson [matt@ateamcollaborative.com]
Sent: Wednesday, February 13, 2008 8:04 AM
To: testimony
Subject: COMMITTEE ON WATER AND LAND- SB 3189

SB-3189
COMMITTEE ON WATER AND LAND
Senator Clayton Hee, Chair
Senator Russell S. Kokubun, Vice Chair

NOTICE OF HEARING
DATE: Friday, February 15, 2008
TIME: 2:45 p.m.
PLACE: Conference Room 414

Dear Committee,

This is a critical piece of legislation and one that will at some point save a life. The locking of gates and closing of beaches is not the Hawaiian' way and in addition, with locked gates restricting access, I fear a day when medical crews can not get to someone in time because a lane is locked by undeserving land owners of wealth.

Please make , at a minimum, open access the law and force gates to be opened for all hawaii beaches.

Mahalo

Matt Esecson
590 Kawaioloa Rd
kailua, HI

testimony

From: Scott Werny [clearwater@hawaii.rr.com]
Sent: Wednesday, February 13, 2008 6:35 AM
To: testimony
Subject: WNL 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: ~~WTJ: 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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Mahalo,
Travis Hylton
PO Box 218
Kaaawa, HI 96730

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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 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 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 3189 - RELATING TO PUBLIC ACCESS

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

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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)

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,

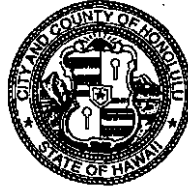
Rich Figel
Cofounder, Beach Access Hawaii
801 Kainui Drive
Kailua, HI 96734

Phone: 808-262-5073

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
TELEPHONE: (808) 768-8000 • FAX: (808) 527-6743
INTERNET: www.honolulu.gov • DEPT. WEB SITE: www.honoluludpp.org

MUFI HANNEMANN
MAYOR



HENRY ENG, FAICP
DIRECTOR

DAVID K. TANOUE
DEPUTY DIRECTOR

February 15, 2008

The Honorable Clayton Hee, Chair
and Members of the Committee on Water and Land
Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Hee and Members:

**Subject: Senate Bill 3189
Relating to Public Access**

The Department of Planning and Permitting **opposes** Senate Bill 3189. While we strongly support the provision of public access to coastal and inland recreational areas, we cannot support a bill which would mandate that private property be made accessible for public use without the provision of adequate compensation.

Senate Bill 3189 requires that owners of privately owned shoreline access keep access to the shoreline open to the public from 7:00 a.m. to 6:00 p.m. and require the access to be available to those with disabilities. Therefore, it imposes public use on private property. We believe that this cannot occur without compensation to the private landowner(s) being made. If this bill is to be enacted, it is incumbent on the State to insure that adequate funds are explicitly provided to the counties to ensure that we are able to fairly compensate all landowners of private shoreline access ways. In the absence of dedicated funding sufficient to compensate private landowners, cover potential litigation, address liability and/or necessary improvements, and otherwise administer, operate and maintain the public use of these access ways, we will be unable to enforce this bill should it become law.

We further oppose the proposal to amend Section 205A-22, HRS, to make the creation or termination of easements, covenants or other rights in structures or land "development" for purposes of the Special Management Area (SMA) regulations. These types of actions are essentially administrative in nature, and typically involve no possibility of adverse environmental or ecological impacts. Therefore, they are and should remain appropriately exempt from SMA requirements.

The Honorable Clayton Hee, Chair
and Members of the Committee on Water and Land
Senate
Re: Senate Bill 3189
February 15, 2008
Page 2

Finally, several laws already exist at the state and county levels to adequately ensure that public access to coastal and inland recreational areas is provided whenever appropriate. This provision includes the legal ability of the state and counties to exercise their rights of eminent domain.

Please file Senate Bill 3189.

Very truly yours,

A handwritten signature in black ink, appearing to read "Henry Eng", with a stylized flourish extending from the end.

Henry Eng, FAICP, Director
Department of Planning and Permitting

HE: jmf
sb3189-jh.doc

testimony

From: Karen.A.Goo@hawaii.gov
Sent: Thursday, February 14, 2008 10:11 AM
To: testimony
Cc: Deirdre.Marie-Iha@hawaii.gov
Subject: Attorney General's Testimony re SB 3189 - Senate Committee on Water and Land Hearing: Friday, February 15, 2008 at 2:45 p.m.
Attachments: SB 3189.pdf

Dear Sir/Madam:

Attached please find a pdf copy of the Attorney General's testimony re SB 3189. The bill will be heard by the **SENATE COMMITTEE ON WATER AND LAND** on Friday, February 15, 2008 at 2:45 p.m.

If you have any questions or problems with this e-mail or the attachment, please contact us at 586-1360.

Thank you.

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**TESTIMONY OF THE STATE ATTORNEY GENERAL
TWENTY-FOURTH LEGISLATURE, 2008**

ON THE FOLLOWING MEASURE:

S.B. NO. 3189, RELATING TO PUBLIC ACCESS.

BEFORE THE:

SENATE COMMITTEE ON WATER AND LAND

DATE: Friday, February 15, 2008 **TIME:** 2:45 PM

LOCATION: State Capitol, Room 414
Deliver to: Committee Clerk, Room 228, 1 copies

TESTIFIER(S): Mark J. Bennett, Attorney General
or Deirdre Marie-Iha, Deputy Attorney General

Chair Hee and Members of the Committee:

The Attorney General believes that this bill presents significant constitutional concerns under the "takings" provisions of the Fifth and Fourteenth Amendments. If the bill is amended as explained below, these concerns may be lessened. Given the complexity of takings law and its application in the context of land use conditions, however, any attempt to require compliance with certain conditions before development of privately owned shoreline access paths will be permitted raises the possibility of a court challenge.

In general, the government may not "take" private land for public use without just compensation. The United States Supreme Court has consistently held that placing conditions on the issuance of land use permits can trigger a takings problem. See Nollan v. Calif. Coastal Comm'n, 483 U.S. 825 (1987). In order to avoid an unconstitutional taking, there must first be an "essential nexus" between the government interests the measure seeks to address and the conditions that would be imposed. Id. See also Dolan v. City of Tigard, 512 U.S. 374 (1994). In addition, the Supreme Court has held that land use conditions on development will not pass constitutional muster unless there is a "rough proportionality" between the conditions imposed and the development being sought.

It is an open question whether conditions, such as the ones proposed by the bill, can be constitutionally required before a development permit will issue. The constitutional concerns may be lessened by:

1. Clearly articulating, in a purpose section, the government interests that this proposal seeks to address. These interests should be concrete, and closely related to the harms the bill seeks to address.
2. Amending the conditions to ensure that only those conditions "roughly proportionate" with the development proposed (meaning the one particular access path for which a permit is being sought) are included.
3. Clarifying that the conditions would apply only to permits sought for the construction of privately owned shoreline access paths (and not to other development that is covered under chapter 205A, Hawaii Revised Statutes). As currently drafted, the first paragraph of the bill appears to limit the conditions to the paths only, because it states that "development shall not be approved for a privately owned shoreline access path . . . unless the following conditions are met." The clearer this restriction is, the better the proposal. An attempt to condition any development in a special management area on shoreline access conditions would face serious constitutional problems under Nollan.
4. Specifying how "development" is defined, to include only privately owned shoreline access paths. As currently drafted, the bill is overbroad. Its overbreadth may complicate the State's argument that the bill is constitutional if enacted. The current proposal eliminates the exclusion from the definition of development for "creation and termination of easements, covenants, or other rights in structures or lands" and instead proposes to bring those things, and privately owned shoreline access paths, within the definition of "development." This imprecision creates the possibility of unintended (and unrelated) consequences, such as bringing an agreement on driveway access between

neighbors, or a life estate in a house, within the definition of "development" under chapter 205A. It does not appear that this is the intent of the bill. Therefore we strongly suggest that the changes to the definition of "development" be altered to list privately owned shoreline access paths only as "development." The current exclusion for easements and covenants could be altered to read "(10) Creation or termination of easements, covenants, or other rights in structure or land, but not including privately owned shoreline access paths;".

Please note that, in the past, the United States Supreme Court has not had a favorable view of preserving beach access as a government interest. Nollan. With that in mind, and given the complexity of this area of law, even with the changes suggested above, a constitutional challenge to this measure remains possible.

testimony

From: ~~Rich Figel~~ [figeli001@hawaii.rr.com]
Sent: Thursday, February 14, 2008 10:20 AM
To: testimony
Subject: In support of ~~SB2835 and SB2836~~, opposing SB3189

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 figeli001@hawaii.rr.com)

testimony

From: Judy Dalton [dalton@aloha.net]
Sent: Thursday, February 14, 2008 1:51 PM
To: testimony
Subject: SB 3189, 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,

This is a much-needed bill so residents of Hawaii can claim our birth right - our treasured beaches.

The public access hours stated in this bill however, don't go quite far enough as they would deprive fishermen of the ability to fish during pre-dawn hours. Please extend the time for this measure to be at least 1 hour before dawn.

Also, for those who want to sit on the beach to enjoy the last rays of sun light without having to rush to get off the beach, please extend the ending time to at least 1 hour after sunset.

Thank you very much for passing this bill with extended hours of public access.

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

WTL
SB 3189

Testimony
Status

RELATING TO PUBLIC ACCESS.

Requires owners of privately owned shoreline access paths to keep access to the shoreline open to the public, at minimum, from 7:00 am to 6:00 pm.

WTL

2/14/2008



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February 14, 2008

The Honorable Clayton Hee, Chair
Senate Committee on Water and Land
State Capitol, Room 414
Honolulu, Hawaii 96813

RE: S.B. 3189 Relating to Public Access
Hearing Date: February 15, 2008 @ 2:45 p.m., Room 414

On behalf of our 10,000 members in Hawaii, the Hawaii Association of REALTORS® (HAR) opposes S.B. 2835.

S.B. 2835 would make it illegal to build a gate or impediment across privately owned paths to the shoreline, which clearly impacts private property rights. It is unclear if the bill would extend to homeowner associations and planned communities along coastal areas but HAR believes privacy and controlled access is critical.

The bill would also place liability on private landowners by providing public access over land without protection from accidents. Requiring owners to allow access along cliff tops, irregular terrain, or around natural barriers implies that property owners will also be responsible for creating a safe access in order to allow the lateral access. This places a huge burden on both shoreline owners and owners of properties that control access.

Mahalo for the opportunity to testify.

testimony

From: Joan Conrow [joanconrow@hawaiiantel.net]
Sent: Thursday, February 14, 2008 2:30 PM
To: testimony
Subject: SB3189 testimony

Dear Sen. Hee and Committee Members:

Thank you for conducting a hearing on SB 3189.

I am writing to urge the committee's support for the bill, with some amendments.

While the 7 a.m. to 6 p.m. time frame specified may work alright in winter, it falls short in the summertime when the days are so much longer.

I don't think there should be any restrictions on the times that the public should be able to use that path. However, if you wish to limit nighttime access, I would urge you to change the wording to a minimum of one hour before sunrise and one hour after sunset.

Thank you for considering my testimony.

Sincerely,
Joan Conrow
PO Box 525
Anahola, HI 96703

testimony

From: Bruce Pleas [hisurf3@hawaii.rr.com]
Sent: Thursday, February 14, 2008 2:07 PM
To: testimony
Cc: Bruce Pleas
Subject: Public testimony on S. B. NO. 3189

Aloha,

Following is testimony on S. B. NO. 3189 submitted by Bruce Pleas on February 14, 2008;

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

NOTICE OF HEARING

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

State Capitol

415 South Beretania Street

Subject of Testimony;

Page 2

(2) The privately owned shoreline access path is kept open and accessible to the public, at the minimum, from 7:00 a.m. to 6:00 p.m.;

My testimony on the above section of S. B. NO. 3189 is as follows;

Access to the public from 7:00 a.m. to 6:00 p.m. will not work out for me in the least bit. I surf every morning in the early morning before work and occasionally enjoy the sunset. These same regulations were tried for a while at Pacific Missile Range Facility (PMRF) when it was reopened after September 11th. Those hours did not work out for the recreational pass holders and the security force that had to hold back the early surfers and fishermen in the summer mornings and then have to tell the many recreational users that they had to leave the summer beach over an hour before the sun sets. Some workers were pau hana at 5:00-5:30 p.m. and then were told that could not access the beach area because it was closed at 6:00 p.m. which resulted in raised tensions between the public and enforcement officers.

What has worked is access for 1 hour after the sunset and at PMRF we are allowed in at 6:00 a.m. which still leaves at least an hour in the earliest of the morning that we can not access the beach in the summer mornings.

I would ask that this committee consider amending this bill so it allows morning access from 1 hour before the sunrise to 1 hour after the sunset.

Mahalo,

Bruce Pleas

PO Box 721, Waimea, Hawaii 96796

(808 337-9509/639-2850

hisurf3@hawaii.rr.com

TESTIMONY

SB 3189

(END)