

**LATE  
TESTIMONY  
SB 3189**

**testimony**

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**From:** Nancy Nagamine [alohanan@hawaii.rr.com]  
**Sent:** Thursday, February 14, 2008 4:15 PM  
**To:** testimony  
**Subject:** SB3189 WTL Committee

**LATE TESTIMONY**

To WTL committee:

I would like to go on record as being opposed to SB3189.  
The reason being that private property should be left out of beach access issues.

I agree that there should be beach access but not at the expense of private property rights.

Nancy Nagamine  
42 Namala Place  
Kailua, HI 96734  
808-263-7853

**LATE TESTIMONY**



**SB 3189, RELATING TO PUBLIC ACCESS**  
Senate Committee on Water and Land

February 15, 2008  
Room: 414

2:45 p.m.

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The Office of Hawaiian Affairs (OHA) wishes to comment on SB 3189, which seeks to impose conditions on restricting access to tidal and submerged lands, beaches, portions of rivers and streams within the special management areas and the mean high tide line, where there is no beach via privately owned shoreline access paths.

OHA stresses that our beneficiaries have particularized rights that this bill will negatively impact. Native Hawaiian gathering practices are recognized as protected traditional and customary rights under the Hawai'i Constitution, Article XII, section 7, as well as the state Water Code, which guarantees that those rights shall not be "abridged or denied." HRS § 174C-101(c). Further, 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. There is also a host of caselaw from the highest courts in our state that all re-affirm our beneficiaries' rights to access the very areas that this bill seeks to restrict access to.

OHA supports the spirit of this bill in principle, but we struggle to offer our full support to something that will negatively impact our beneficiaries. OHA is concerned that we cannot condition access to shoreline areas by time or the number of private owners living along an access path. A Native Hawaiian must be able to access the shoreline area to practice gathering rights when those subsistence sources are present. This has much more to do with the movement of seasons, tides and celestial bodies than the movement of the hands on a homeowner's watch.

Further, the areas that this bill will impact are set aside for all of us in the public trust and are protected as such at varying levels with federal, state and county regimes. To conditionally restrict the access to these areas violates these principles as well. Thank you for the opportunity to testify.

**testimony**

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**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 2005~~, SB3189 and ~~SB 2006~~). 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**

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**LATE TESTIMONY**

**From:** Hugh Duncan [hduncan@duncanassoc.com]  
**Sent:** Thursday, February 14, 2008 9:03 PM  
**To:** testimony  
**Subject:** Opposition to Bill SB3189

I am a homeowner in Kailua and am shocked that there would be a bill drafted to deprive me of my private property rights. I am  
In opposition to Bill SB3189 and feel it is an outrage.

Sincerely,  
Hugh Duncan

**LATE TESTIMONY**

February 14, 2008

To: Senate Sergeant Arms  
Re: Bill SB3189

Fax #: 808 586 6659

I am a homeowner in Kailua and am outraged by Bill SB3189 and its attempt to deprive me of my private property rights. LEAVE PRIVATE PROPERTY OUT OF THE ACCESS ISSUE1

Sincerely

A handwritten signature in black ink, appearing to be 'J. Hugh Duncan', with a long horizontal line extending to the right.

J. Hugh Duncan

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**



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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,

*see next page*

**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 3189  
(END)**