

LATE TESTIMONY **WINDWARD
AHUPUA'A ALLIANCE**

From the Peaks of *Na Ko'olau* to the Outer Reefs

*Community-Based Planning
Sustainable Economic Development
Restoration, Preservation, Protection & Public Access
Educational & Cultural Programs*

Committee on Water & Land
*Sen. Clayton Hee, Chair
Sen. Russell Kokubun, Vice Chair*

Public Hearing
2:45 PM
Friday, February 15, 2008
Conference Room 414
SB 3189 - Relating To Public Access
COMMENTS

Aloha, my name is Shannon Wood, speaking on behalf of the *Windward Ahupua'a Alliance*, a 501c3 Hawai'i non-profit corporation, which was established in July, 2002, to create the Ko'olau Greenbelt & Heritage Trails System in order to restore, protect & provide public access to the *mauka* (mountain) lands on the Windward side of O'ahu along the base of *Na Ko'olau* up to the North Shore and Kawela Bay as well as to support locally-owned sustainable economic activities in the more developed areas. Over time, however, its mandate has expanded well beyond these vitally important regional issues.

WAA continues to educate & inform residents, visitors, businesses, policymakers & the media all across Hawai'i about expanding public access in appropriate ways to both *mauka* & *makai* lands & bodies of water under the jurisdiction of the *Department of Land & Natural Resources*. We may not be the first NGO to take on these critical issues nor will we be the last, but we will continue to advocate for them before any relevant body whenever the time comes to do so.

Although I support the intent of this bill, I believe that key portions of it should be integrated into the two previous bills rather than dealing with the issues separately.

Mahalo for the opportunity to testify on this bill.

THE UNIVERSITY OF HAWAII ENVIRONMENTAL CENTER IS PLEASED TO SUBMIT THIS TESTIMONY IN ACCORDANCE WITH ACT 132 OF 1970 WHICH CREATED THE CENTER. AUTHORS ARE MEMBERS OF THE UNIVERSITY COMMUNITY.

RL: 2165

LATE TESTIMONY

SB 3189
RELATING TO PUBLIC ACCESS

Senate Committee on Water and Land

Public Hearing – February 15, 2008
2:45 p.m., State Capitol, Conference Room 414

By
Peter Rappa, Environmental Center
Luciano Minerbi, Urban and Regional Planning

SB 3189 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. We emphasize that our testimony on this measure does not represent an official position of the University of Hawaii.

Among the policies guiding the state's coastal zone management program found in section 205A-2 (c) HRS is a section calling for the provision and management of adequate public access, consistent with conservation of natural resources, to and along shorelines with recreational value. Hawaii state law guarantees that the shoreline is a public resource which cannot be privatized. However, if lateral access to the shoreline is blocked by land owners living near the shoreline, it then becomes effectively privatized. Counties maintain public access to the shoreline through right-of-ways and coastal parks. In many areas, however, public access points are far apart. This bill would allow shoreline access through private property during the daylight hours and will allow private owners to fence off access points in the evening. This will help to improve access to the shoreline statewide while allowing for private land owners some measure of privacy in the evenings.

An important issue that is not addressed in this bill, however, is the question of liability to landowners and as such should be included in the discussion.

Thank you for the opportunity to comment on this bill.

LATE TESTIMONY

2/15/08

To: Senate Sargeant- At -Arms Office

From: Daryl Oswald

Re: **Testimony Related to Proposed Senate Bill 3189 at the Committee on Water and Land Hearing 2/15 Friday, 2:45 pm. in Conf. Room 414**

I am providing this written testimony to communicate to the Committee on Water and Land that I do not support Senate Bill 3189, which is to be considered by the Committee Friday afternoon, which seeks to require owners of privately owned shoreline access paths to keep access to the shoreline open to the public at a minimum, from 7:00am to 6:00 pm.

This bill if enacted would subject private property owners in such situations to unnecessary and UNFAIR liability.

I believe that there is adequate access to shoreline for all. I feel that the issue of access in Kailua is an issue of **adequate signage, adequate sidewalks, and bike paths.**

Private property rights must be protected and respected. This Bill should be stopped.

Respectfully,

Daryl Oswald



testimony

From: Kathy Erwin [kerwin@lejardinacademy.com]
Sent: Thursday, February 14, 2008 7:41 PM
To: testimony
Cc: 'Carleen Ornellas'
Subject: public access testimony SB 3189

LATE TESTIMONY

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

SB 2836
Testimony
Status

RELATING TO PUBLIC ACCESS. WTL
Modifies definitions of "public recreational area" and the offense of obstructing access to public property; defines "public right-of-way."

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.

Hello, I am a homeowner on Kainui Drive in Kailua which, after crossing Kalaheo, leads right into L'orange Place. Runners, Bikers, Walkers and lots of dogs go by my home each day. It is part of the healthy lifestyle this community offers. Yes, sometimes people park in my yard, and yes, sometimes people put their dog poop into my garbage can, but in general people are very respectful and friendly. In the past I enjoyed walking down my street, down l'orange and to the beach to watch the sunrise or sunset. Just being there in the morning gave inspiration to my day. Since the right of way has closed, I no longer go to the beach there. It is too far to go to the next access and much less safe. While I respect the privacy of the people who live on beach access roads, I don't think it is too much to ask to walk down their street to visit our beloved sanctuary of Kailua Beach. Sharing this beautiful place we live in is why we are called the Aloha State. Let's keep those pathways open during the daylight hours. Mahalo, Kathy Erwin, Kailua.

LATE TESTIMONY

2/14/08

To: Senate Sargeant- At -Arms Office

From: Craig Oswald, Hawaii resident and Concerned Citizen

Re: **Testimony Related to Committee on Water and Land Hearing
2/15 Friday, 2:45 pm. in Conf. Room 414**

I am providing this written testimony to communicate to the Committee on Water and Land that I **do not** support Senate Bill 3189, which is to be considered by the Committee Friday afternoon, which seeks to require owners of privately owned shoreline access paths to keep access to the shoreline open to the public at a minimum, from 7:00am to 6:00 pm.

This Bill, in my opinion, unfairly infringes on the legal not to mention hard earned rights of private property owners, forcing them to allow access to the shoreline by making available to others, privately owned property that they would **not** normally have access to.

This bill if enacted would subject private property owners in such situations to unnecessary liability and a host of intolerable and unwanted results including increased crime, noise, and trash to name a few. I have personal experience and have seen these situations firsthand as a beach resident for over 30 years in several different locations both here in Hawaii and in California where the situations this Bill proposes have existed. I do **not** want to see this become a reality in Hawaii.

I believe that there is adequate access to shoreline for all. I respect the rights of private property owners and do not support either the intent or application of this Bill.

Private property rights must be protected and respected. This Bill should be stopped by your Committee. Instead focus should be placed on productive effort such as ensuring that existing shoreline accesses are clearly marked with adequate signage, and that these accesses are easy and safe to access and use. Too often in Hawaii I have found that this is not the case. I believe that the lack of clearly marked and safe already existing legal public shoreline access cases creates the inaccurate perception that access is not available, when in fact it is.

Thank you for allowing me to express my views to you, and please scuttle what appears to me to be an ill conceived Bill not worthy of further attention.

Respectfully,

Craig Oswald

LATE TESTIMONY

testimony

From: Julia Devrell [tyandjul@mac.com]
Sent: Friday, February 15, 2008 7:50 AM
To: testimony
Subject: ~~SB 2835~~; SB 3189; ~~SB 2529~~

Committee on Water and Land
Hearing 2-15-08
2:45 pm

SB 2835: Please support SB 2835 requiring 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.

SB 2529: Please support conservation of park resources and values as the predominant concern of the state park system.

SB 3189: Please support ~~SB 3189~~ requiring owners of privately owned shoreline access paths to keep access open to the public, at minimum, from 7am to 6pm. Preferably we would like it to be 6am to 7pm.

Thank you, Julia Devrell