

har3 - Megan

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 03, 2011 9:56 PM
To: WLOtestimony
Cc: RawcoHI@cs.com
Subject: Testimony for HB1312 on 2/4/2011 9:00:00 AM
Attachments: Regarding HB1312 Ala Wai n Keehi.doc

Testimony for WLO 2/4/2011 9:00:00 AM HB1312

Conference room: 325
Testifier position: oppose
Testifier will be present: Yes
Submitted by: Reg White
Organization: Individual
Address: 1540 S. King St. Honolulu, Hi 96826-1919
Phone: 808-222-9794
E-mail: RawcoHI@cs.com
Submitted on: 2/3/2011

Comments:

Regarding HB1312

In room 325 at 0900 on Friday, 4 February 2011 House Committee on Water, Land and Ocean Resources

Chair Chang and Respected Members of the Committee;

My name is Reg White. I have been a tenant and resident of Ala Wai Small Boat Harbor for the past thirteen years. This bill seems to have been crafted by someone who is out of touch with recent history concerning DOBOR's management of the Harbor. The last sentence in the second paragraph says that the proper management of Ala Wai will generate so much money that it will "not only benefit its continued improvement and maintenance but also benefit the rest of the facilities now operated by the division of boating and ocean recreation." This is then immediately contradicted by proposed 200-8 (1) that says "provided that any fees collected within each small boat harbor shall only be expended on costs related to the operation, upkeep, maintenance, and improvement of the small boat harbor from which the fee revenues were collected." This would mean that several of the smaller boat harbors in our state will have to be closed, thereby denying recreational boating to that portion of Hawaii's people because they simply cannot generate sufficient income to pay their full costs of operation and maintenance..

Frankly, I personally have never been against the present practice of using the overflow from one harbor to help to defray the deficit in some of the less able harbors. I have always, and still do now, object strenuously to the fact that the tenants of those losing harbors pay a lower fee towards their cost deficit than the fee I am charged at Ala Wai to create the surplus that bails them out each year. If they pay the same fee as I do then we're just brothers working towards the care and maintenance of all the harbors in Hawaii so that we achieve the original goal of having the state own and operate our harbors in the first place, namely to keep recreational boating affordable and available to all of Hawaii's residents.

There are also some 50 boat ramps in Hawaii. Only a few of these are located within the boundaries of a small boat harbor yet the boaters of the harbors are required to pay for most of the operation and maintenance costs for these ramps. This is a classic case of a misfit. These ramps, the ones that are not within the boundaries of a small boat harbor, should be

under the parks division. Their contribution of federal gas tax money should be moved along with them into parks.

Under proposed SECTION 2, 200 (a) through (e) were obviously written by someone who is very out of touch with the present operations of the department. They are well into negotiations to lease out for development both the boat repair facility and the fuel dock, presently waiting for the developer to get their permits approved by the City and County of Honolulu. This contract will put about \$1 Million into the boating special fund each year, adjusted for inflation going forward. Leasing out part of the harbor to a private operator will not markedly reduce the department's costs while it will reduce their income potential. The department has already contracted out the parking franchise and it is putting as much as \$90,000.00 into the boating special fund each month!

Under proposed SECTION 4, 200-9 (c) If we are going to allow commercial vessels into Ala Wai and Keehi small boat harbors then we must in trade add: (5) In any small boat harbor that allows the operation and berthing of commercial vessels, recreational vessels moored in that same harbor shall have the rights of renewal and transferability of their permits in the event of change of ownership of the vessel the same as the commercial vessel permits using that same harbor, namely the seller may elect to keep the berthing permit and put a new vessel into the slip or they may choose to pay a transfer fee of \$2,600.00 to the department and allow the berthing permit to go with the boat to the new owner. This is only fair to the recreational boaters in the harbor who will have to endure the additional traffic that this move will require them to deal with, both on the water and on the roadways and at the trash collection points.

Under proposed SECTION 5 section 200-10 (c) (1) The proposed new text misses the entire point of MTSA 2000 (Maritime Transportation Security Act) and as amended in MTSA 2010 which states that with regard to vessels, a "fee" is limited to the recovery of the cost to provide a facility or a service to the vessel. The real estate appraiser setting fees has no relevance to the costs involved to supply the facility or any of its services and is therefore patently illegal under federal law. This also completely misses the point of why we had the state own and administer our harbors in the first place, namely to keep boating affordable and available for all the people of Hawaii. We also already passed this new set of similar fees two years ago in hearings held by the department and enacted into service about 18 months ago under the HAR's of DOBOR. We are soon to have the second of the five automatic rate increases as we move the existing tenants towards the top level fees of list B. Once again, this list fails to make the fees collected the same statewide and so the use of the overflow income from the three successful harbors goes to bail out those harbors that pay far less in their fees towards their operating deficit than those who bail them out each year pay to create that surplus that bails them out. This is not proper! Either the money generated in one harbor stays in that harbor and the losers get their harbors closed due to lack of funds or we all work together and we all pay the same fee, statewide!! Fix this here and now please! Level the field by charging all tenants, statewide, the same fee as that used in Lahaina small boat harbor under the present A and B lists. If you will look at recent harbor history, about three years ago at hearings, we the harbor tenants of Hawaii, also approved a two step fee increase of 10% each time dependent on the state authorizing \$25 million in reimbursable bonds to effect pier and marina repairs at our state harbors. The first of these bonds was issued, the fees increased by 10% and the money has been pretty well spent in repairing docks around the state. The second 10% and its accompanying bond were never issued due to the department's management becoming distracted by trying to get the legislature to give her \$240 million without directions as to how and where it would be spent.

While considering the actual need for fee increases, please do look at the real need for the additional income. The department management doesn't seem very driven to make ends meet with the available opportunities at hand. Consider the attached list of inventory over the past several years of the empty and unassigned slips at Ala Wai Harbor and the resulting loss of

revenue, all in the face of hundreds of people who must wait 3 to 6 years on the waiting lists to get a slip, depending on the slip size applied for. There are also many live aboard permits that have not been issued to the waiting list there as well, each one bringing in almost a doubling of the A list fee for a given vessel. This is due only to poor management practices. Now, what you must ask yourselves is: Which comes first, responsible fiscal management or fee increases?? The new management of DLNR may well fix this problem without your intervention to raise the fees again. Let's give them some time to come to grips with what they have inherited and fix it. I am quite sure they can and will.

When we come to proposed Section 5 (c) (6) Once again we return to MTSA for reference. The fee collected pays for all costs to provide the service or the facility so there is no need nor justification for a "common area maintenance fee". There is no required responsibility nor accounting under this proposal from which to establish or set this fee. Under our present rules, in order to set new fees the department must show justification and cause and go to public hearings that ensure responsible use of our funds by the department. Please do always remember that Boating in Hawaii receives no taxpayer support but is entirely self supporting, paid for entirely by the users. It is not a profit center for the state nor the department but is made to operate on a recovery of costs basis with the ultimate goal of keeping boating available and affordable for the people of Hawaii.

With regard to the request to allow commercial vessels into Ala Wai and Keehi harbors, why not instead correct another grievous oversight and fix this problem at the same time. Move Kewalo Basin from HCDA where it is a complete and unwelcome misfit, and place it under DOBR along with the immediate surrounding real estate out to the first street ewa and mauka, to the ocean on the makai side and to the wall of Ala Moana Park on the diamond head side. Use the rates and rules from Lahaina Small Boat Harbor. This will give DOBOR the income from commercial passenger and fishing boats without changing the character of Ala Wai or Keehi harbors. This is an operating harbor that has a healthy positive cash flow at the present time and this will reduce the number of permitting organizations with which our boating operations must contend back to two as it had been for the thirty years preceding 2009 when HCDA was forced into the picture with its own set of fees, rules and permits - none of them compatible with service in either of the other agencies' harbors or facilities.

Please amend this bill to consider these few oversights and then you just might have a bill that is ready for publication, but frankly, I think my suggestion to just wait and see a bit for the new administration to get their feet on the ground is the very best course of action here at the present time.

Respectfully,

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AUADACIOUS II, berth 648 Ala Wai Small Boat Harbor

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AUADACIOUS II, berth 648 Ala Wai Small Boat Harbor

TO: Committee on Water, Land and Ocean resources
Chairs: Jerry Chang
Sharon Har

Feb 4th 2011

From: Dave Cooper

Testimony in Opposition to HB1312

Another bill that wishes to privatize & commercialize the Ala Wai boat harbor putting it out of the reach of the average Hawaiian boat owner. Wealthy cats only please.

The commercialization of the harbor, especially at the levels and density suggested, would mean an additional several thousand visitors to the facilities every day. Where are the facilities to park, for the tour busses and vans to drop off these crowds? Where do they bathe and find the rest rooms to clean up after a day or hour on the ocean?

Have the recreational boaters for which the Ala Wai Small boat Harbor was constructed in the late 50's and early 60's outlived their usefulness to the hungry developers? Is there no room for them in some other place to make concrete monuments?

How about the noise and attendant increase in boat wakes which slowly but surely erodes the aging moles, moles that were built 50 plus years ago. Who's going to foot the increased costs for those on-going repairs? I'll bet it isn't the developer or the lessees!

The lands referred to in this bill are all subject to height restrictions due to view planes of the surrounding landholders.

The bill provides for some suggested uses, such as

Vessel fueling facilities;

Vessel haul-out, repair, and storage facilities; and

Any and all uses described or referred to in the request for qualifications or request or proposal back 3 years ago

You have to be kidding, in these locations?

Some of the changes in HB1312 seem to be aimed at specific developments and developers. Is somebody in someone's pocket here?

Can we open up the window in the backrooms and get a bit of sunshine on all of these privatization/development/lease back bills?

Thanks You

Dave Cooper

864-8995