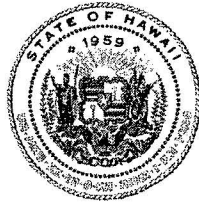
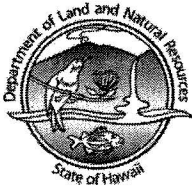


NEIL ABERCROMBIE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

**Before the House Committee on
WATER, LAND & OCEAN RESOURCES**

**Friday, March 18, 2011
8:30 AM
State Capitol, Conference Room 325**

**In Consideration Of
SENATE BILL 1555, SENATE DRAFT 2
RELATING TO THE DEPARTMENT OF LAND AND NATURAL RESOURCES**

Senate Bill 1555, Senate Draft 2 proposes to: 1) Establish a public corporation to administer an appropriate and culturally-sensitive public land development program; 2) Allow the limited issuance of commercial use permits for vessels with assigned moorings in Ala Wai and Keehi harbors; 3) Provide for future mooring fees to be established by appraisal by a state-licensed appraiser; and 4); Direct the Department of Land and Natural Resources (Department) to use the request for proposals process to enter into a public-private partnership for the development of portions of Ala Wai Small Boat Harbor facilities that are presently under-used to maximize the revenue potential from its facilities.

The Department supports PARTs II, III, and IV of this bill, but is concerned that PART I, which establishes a public corporation, may not significantly improve the Department's efforts to optimize public use and develop the revenue potential of public lands, and may instead jeopardize the Department's ability to fund its own programs and operations as well as take advantage of public-private partnerships it is already pursuing.

The Department appreciates the intent of the bill to create a development arm of the Department to assist in making optimal use of public lands by creating recreation and leisure areas and revenue-generating opportunities for the new corporation and the Department. Unfortunately, as drafted, the bill will likely only serve to create an additional organizational layer, and that the transfer of all of the public lands suitable for development from the Department to the new corporation will hamper the Department's attempts to expand its revenue generation because any revenue generated from those lands would first go to the new

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING

FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

corporation and only the excess, if any, would be transferred to the Department to cover operational expenses and programs.

Aside from the fiscal shortfalls and restrictions, the most serious impediments to development that have hampered the Department's efforts to make optimal use of public lands in a timely fashion are the various environmental review laws, the restrictions imposed by Chapter 171, Hawaii Revised Statutes (HRS), and the costly and time-consuming zoning and building requirements set by the Counties. Special development corporations and agencies, such as the Agribusiness Development Corporation, the Hawaii Community Development Corporation, and the Department of Hawaiian Homes Lands, are able to carry out their missions of developing state lands for their respective purposes because they have been provided statutory exemptions from those restrictions and requirements. Even with those special powers though, even those agencies have faced their own set of difficulties in achieving the expectations for which they were established in an expedited time frame. As written, the new corporation provides certain exemptions for newly acquired properties but fails to provide any relief from those restrictions and requirements for lands currently held by and transferred from the Department. Without such relief, the new corporation will not have the development advantages of even the other special development corporations and agencies and will face the same development impediments that the Department currently faces.

The Department recommends amending the bill by changing the organizational structure of the corporation and having the Board of Land and Natural Resources (Board) also serve as the board for the public land development corporation and having the Department's First Deputy Director also serve as the corporation's executive director. This new organizational structure would only require additional funding for two staff positions for a planner and project development specialist. Consequently, an appropriation in an amount sufficient to fund those positions would be required. The Department also recommends enhancing the special powers of the corporation by expressly exempting it from county zoning, subdivision and permitting requirements except in cases where the improvements are intended to be dedicated to the counties. The Department also believes that under the new organizational paradigm, the provisions pertaining to subsidiaries, option to convert to a nonprofit entity, leasing from other governmental agencies, and land acquisition procedures are not compatible and should be deleted. Instead, the land acquisition requirements of Section 171-30, HRS, should be incorporated within the powers of the board section of the bill. The Department's recommended changes are incorporated in the attached proposed House Draft 1 for your convenience and we strongly urge the Legislature's adoption of this version of the bill over the corporate concept of the original bill.

With regards to PART II, Rehabilitation of the Ala Wai Small Boat Harbor, The Department offers the following comments:

- The Department supports the issuance of a limited amount of commercial use permits for vessels operating from the Ala Wai and Keehi small boat harbors. The Department notes that these are the only two harbors that currently do not allow for commercial vessel activity. Commercial vessel mooring within the Ala Wai Small Boat Harbor should not be limited to specific areas. Defining the commercial mooring areas, limits the

Departments ability to effectively manage the facility. Should an area become unusable for any reason, we need the ability to relocate vessels whether they are commercial or not.

- 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 revenues were collected. Do fees include the land lease rents not associated with the mooring program? If so, that would effectively eliminate revenue used to support the public areas, such as, the launch ramps, offshore mooring areas, coastal areas program, and smaller harbors that will never be self-sufficient. If the fees in question are associated with the mooring program only, then the department could support this section of the measure.
- Commercial catamarans are currently paying \$8.50 per year for the exclusive privilege of operating from Waikiki Beach. The recommendation from the Department is to amend the language to clarify that commercial catamaran operations are required to be issued a commercial use permit from the Department and pay the same commercial use fees as all other commercial vessel operators.
- Because of the current fiscal condition of the State and the fact that capital improvement money is limited, the Department supports establishing use fees by appraised value. This way, the Department can be assured that it is receiving fair market return on the exclusive use of the public facilities. Revenues exceeding the actual operating cost of the facility can be used for repairs, maintenance, and replacement of facilities that have exceeded their useful life.
- The Department has currently entered into a development agreement for the development of the haul-out and fuel dock areas within the Ala Wai Small Boat Harbor. The Developer paid an initial development fee of \$150,000 and is currently paying \$15,000 per month while working to obtain the necessary permits. The Department supports offering the remaining site located at the harbor office on a request for proposals (RFP) basis. The Department also supports the leasing of submerged lands similar to the Hawaii and Waikiki yacht clubs. The Department notes that the submerged lands surrounding the haul-out site need to be authorization to be leased. During the preparation of the RFP for the site, the Department found that no authority had been granted to lease the submerged land located at the haul-out area. At a minimum, this area of submerged land needs to be authorized to lease to support the operation.

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON WATER, LAND, AND OCEAN RESOURCES
ON
SENATE BILL NO. 1555, S.D. 2

March 18, 2011

RELATING TO THE DEPARTMENT OF LAND AND NATURAL RESOURCES

Senate Bill No. 1555, S.D. 2, establishes a public corporation to administer an appropriate and culturally-sensitive public land development program and establishes the Hawaii Public Land Development revolving fund into which any State appropriations or other moneys made available to the fund shall be deposited and expended as directed by the corporation.

The department recognizes the benefit of user fees to offset operational expenses and costs. However, as a matter of general policy, the Department of Budget and Finance expects the creation of any revolving fund would meet the requirements of Section 37-52.4 of the Hawaii Revised Statutes. Special or revolving funds should: 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. In regards to Senate Bill No. 1555, S.D. 2, it is difficult to determine whether the fund will be self-sustaining.



Ocean Tourism Coalition

The Voice for Hawaii's Ocean Tourism Industry
Century Square-1188 Bishop St., Ste. 1003
Honolulu, HI 96813-3304
(808) 537-4308 Phone (808) 533-2739 Fax
timlyons@hawaiiantel.net

March 18, 2011

Testimony To: House Committee on Water, Land, & Ocean Resources
Representative Jerry L. Chang, Chair

Presented By: Tim Lyons, CAE
Executive Director

Subject: S.B. 1549, SD 2 – RELATING TO SMALL BOAT HARBORS.
S.B. 1555, SD 2 – RELATING TO THE DEPARTMENT OF LAND AND
NATURAL RESOURCES

Chair Chang and Members of the Committee:

I am Tim Lyons, Executive Director of the Ocean Tourism Coalition and we would like to request a small amendment on these bills.

In Section 6 it allows the Department to establish and pass on common area and maintenance fees including water and electrical charges.

We need to point out to this Committee that the commercial tourism operators took a fifty percent (50%) increase in their fees quite recently while recreational boaters have not seen

such an increase therefore, it is our opinion that the utility fees ought to be considered as inclusive when we pay our fees.

For the Committee's information, commercial boaters pay three percent (3%) fee on their gross sales so combined with the general excise tax, they are paying a seven (or 7 ½% Oahu) tax on their gross sales. An unheard of amount. Particularly with the recent tsunami disaster in Japan, our members are experiencing a number of cancellations from tours that are coming up and we expect that to continue beyond the effective date of this bill. Therefore, we do not think at this time, commercial operators should be burdened with these extra charges since they already pay far more than their fair share. As a footnote we would like you to know that while our commercial boats only comprise about three percent (3%) of the entire boating fleet, we pay about fifty percent (50%) of the fees and, therefore, we think that we are already paying more than our fair share.

Thank you.

H.B. 1566, HD 1 - Relating to Small Boat Harbors, Proposed HD 2

S.B. 1555, SD 2 (Friday 3/18/11)

Section 6. Section 200-10 (c)(6)

- (6) In addition, the department is authorized to assess and collect utility fees, including electrical and water charges and common area maintenance fees in small harbors; provided that the fees referenced in Section 200-10(c)(5) shall be considered inclusive of all utility and common area maintenance fees.

Notes:

Commercial boaters now pay 3% of their gross sales as a moorage fee (so, the equivalent of a 7% GET). This was raised 50% (from 2% to 3% of gross sales) several years in advance of any increase for the recreational boaters.

Commercial boaters account for something less than 3% of the total number of boats but pay around 50% of the total fees.

STATEMENT OF

ROBERT R. HUMPHREYS

on behalf of

ILIKAI ASSOCIATION OF APARTMENT OWNERS

before the

HOUSE COMMITTEE ON WATER, LAND AND OCEAN RESOURCES

on

SB 1549 and SB 1555

March 18, 2011

Room 325, State Capitol

Jerry L. Chang, Chair
House Committee on Water, Land and Ocean Resources

Robert R. Humphreys
Ilikai Association of Apartment Owners
1777 Ala Moana Blvd., #1204
Honolulu, HI 96815

Hearing on SB 1549 and SB 1555
March 18, 2011

Introduction. Mr. Chairman and Members of the Committee, I am Robert R. Humphreys, a resident of the State of Hawaii and owner of an apartment at the Ilikai Hotel and Condominium. I appear before you at the request of, and on behalf of, the Association of Apartment Owners of the Ilikai in opposition to certain provisions in SB 1549 and SB 1555, passed by the Senate and referred to your Committee. This Committee favorably reported two bills originating in this body, HB 1566 and HB 1312, which are somewhat similar to the Senate bills. Those bills passed the House and have been referred to the counterpart Senate committees. All four bills address leases and improvements at the Ala Wai and Keehi boat harbors. The focus of our testimony in opposition is on section 7 of both Senate bills.

Statement. Section 7(b)(5) of SB 1549 authorizes the Department of Land and Natural Resources to award leases for “hotel, residential, and timeshare uses.” Section 7(b)(5) of SB 1555 provides that DLNR shall award leases for “Residential, hotel, and timeshare uses; provided that the use is consistent with neighboring parcels with a developable height limit of three hundred fifty feet and a maximum floor area ratio of four;”. Such uses, if these provisions become law, pose an exceptionally serious threat to the viability of the Ilikai Hotel and to the quiet enjoyment of the property by its resident apartment owners and guests. There is only one location in the Ala Wai boat harbor that could support a hotel or other residence towering 350 feet—the current parking area at the harbor. The forty-five year old Waikiki landmark would be permanently despoiled, the view of the ocean obliterated by such construction.

The offending provisions, if enacted, would conflict with existing State law. Under HRS §200-2.5 permissible uses under any lease of state boating facility properties are limited to those which “will complement or support the maritime activities of state boating facilities.” Moreover, such purposes must be consistent with the purpose for which the land was set aside by the governor pursuant to section 171-11, HRS. Clearly, hotel, residential condominium, and timeshare uses are not designed to enhance or support maritime activities, but have the opposite potential of despoiling the Ala Wai harbor.

Other provisions of the Senate bills relating to permissible lease uses are also concerning to the Ilikai Association of Apartment Owners. Specifically, neither the size nor the potential location for the proposed seawater air conditioning cooling facility (SB 1555, Section 7(b)(6); SB 1549, Section 7(b)(8)), is described in the bills. What impact would the construction of the facility have on the ecology and the beauty and ambiance of the boat harbor and surroundings? The Ilikai Association is also concerned about provisions to provide substantial, possibly overwhelming, commercial boat mooring at the pier located on the mauka side of the harbor nearest the Ilikai, Edition Hotel, and Ilikai Marina in both House bills (HR 1312 and HR 1566) and the two Senate bills under consideration by this Committee today. The ecological impact of such mooring activity, and the traffic it would generate, are unknown.

Conclusion. The Ilikai AOA agrees with the Governor and the legislature on the need for additional revenue to properly maintain and improve the Ala Wai boat harbor. For that reason we are not prepared to object to many of the lease purposes identified in Section 7(b) of both Senate bills. Upon enactment and approval of the Ala Wai and Keehi improvement legislation, the Ilikai AOA pledges to work with the Department of Land and Natural Resources in the development of the Ala Wai boat harbor and its environs. We appreciate the opportunity to testify, and we urge the Committee to recommend the deletion from SB 1549 and SB 1555 those provisions of section 7(b) which could irreparably damage our aina.

* * * * *

har3 - Megan

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 16, 2011 3:06 PM
To: WLOtestimony
Cc: lanthony@shellvacationsllc.com
Subject: Testimony for SB1555 on 3/18/2011 8:30:00 AM

Testimony for WLO 3/18/2011 8:30:00 AM SB1555

Conference room: 325
Testifier position: oppose
Testifier will be present: No
Submitted by: Linda Lee Anthony
Organization: Shell Management Hawaii
Address:
Phone:
E-mail: lanthony@shellvacationsllc.com
Submitted on: 3/16/2011

Comments:

I represent the Shell Owners Association, Hawaii, which owns 10% of the Ilikai Resort. As a timeshare entity it is known and accepted that our owners not only pay real property tax to the state but also generate consistent revenues for the community. If a building exceeding 350' was constructed in the Waikiki Marina over half of our condominiums would lose their views. Shell Owners Association Hawaii strongly opposes such construction due to the diminishment of the quality of Hawaii vacation experience that would ensue to our 10,000 plus members who consistently support the local economy with their tax and discretionary vacation dollars.

har3 - Megan

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 16, 2011 12:32 PM
To: WLOtestimony
Cc: RawcoHI@cs.com
Subject: Testimony for SB1555 on 3/18/2011 8:30:00 AM
Attachments: Regarding SB1555 SD2 Comments and suggested amendments for House hearing.doc

Testimony for WLO 3/18/2011 8:30:00 AM SB1555

Conference room: 325
Testifier position: oppose
Testifier will be present: No
Submitted by: Reg White
Organization: Individual
Address:
Phone:
E-mail: RawcoHI@cs.com
Submitted on: 3/16/2011

Comments:

This bill needs a lot of work, but it can be saved to be of some value to the department and the public. Please consider the amendments I have suggested.

I apologize for my absence, I am on a business trip to America and will not be home until about mid April.

Aloha,

Reg White

Regarding SB1555 SD1 Comments and suggested amendments are in blue.

House Committee on Water, Land & Ocean Resources in room 325 on Friday, 18 March 2011 at 0830

Chair Chang and respected members of the Committee;

My name is Reg White. I am a resident and tenant of Ala Wai Small Boat Harbor. I have added the following comments and suggested amendments to SB1555 SD1. *Comments are in blue and suggested amendments are in blue and underlined.*

PART II

REHABILITATION OF THE ALA WAI SMALL BOAT HARBOR

SECTION 2. The department of land and natural resources, through its division of boating and ocean recreation, operates and manages 21 harbors, 50 boat ramps, 2,122 moorings and berths, and 19 piers spread throughout the various counties of the State. The legislature finds that these ocean recreation facilities, in light of the present demand, are in short supply and, in most cases where they exist, are in dire need of long overdue repair and maintenance. Some facilities are in such need of repair and replacement that they cannot be used and pose public safety hazards.

One of these facilities, the Ala Wai small boat harbor, has been the recipient of some recent badly needed repair and replacement of floating docks; however, the need for further maintenance remains unfulfilled. In spite of its needs, the Ala Wai small boat harbor includes certain assets within its facilities that are under-used and, if properly developed, can potentially generate revenues that can benefit not only its continued improvement and maintenance but also benefit the rest of the facilities now operated by the division of boating and ocean recreation.

The legislature finds that the State cannot afford to let the value of our small boat harbors continue to decline.

The purpose of this part is to:

(1) Allow the limited issuance of commercial use permits for vessels with assigned moorings in Ala Wai and Keehi harbors; *Better to transfer Kewalo Basin, a commercial harbor, from HCDA to DOBOR. HCDA doesn't want it as a commercial harbor is a complete misfit into an agency that has expertise in community development. This will not displace recreational boaters who have been on the waiting list for years while accomplishing the goal to give DOBOR the Oahu commercial boating income stream. There is no waiting list on Oahu for commercial slip space, and commercial boats moving to Ala Wai would only be a very few small boats relocating from Kewalo Basin just four blocks down the street to Ala Wai, if they*

perceive the position four blocks closer to Waikiki to be an advantage for them. This is only relocation of existing businesses, it is not creation of any new revenue!

(2) Provide for future mooring fees to be established by appraisal by a state-licensed appraiser; and Be careful what you wish for here. *Our present B list fees are right near the top of the list when you look at the west coast marinas that are owned and operated by a city, county or state from San Diego to Bellingham. If you push beyond the magic and invisible point in fees you will end up with a lot of empty slips generating no revenue at all and a severely damaged recreational boating industry that pays taxes and provides jobs for local people.*

(3) Direct the department of land and natural resources to use the request for proposals process to enter into a public-private partnership for the development of portions of Ala Wai small boat harbor facilities that are presently under-used to maximize the revenue potential from its facilities. *In all agreements there must be the caveat that there shall be no reduction in the number of slips nor in the lineal feet of slips available to the general public of Hawaii.*

SECTION 3. Section 200-2.5, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(b) The permissible uses under any lease disposed of under this section shall be consistent with the purpose for which the land was set aside by the governor pursuant to section 171-11. Permissible uses may include any use that will complement or support the ocean recreation or maritime activities of state boating facilities. *There shall be no reduction in the number of slips nor in the lineal feet of slips available to the general public of Hawaii.*

SECTION 4. Section 200-8, Hawaii Revised Statutes, is amended to read as follows:

"[[§200-8]] Boating program; payment of costs. The cost of administering a comprehensive statewide boating program, including[,] but not limited to[,] the cost of:

(4) Other boating program activities, shall be paid from the boating special fund[.]; provided that any fees collected from state small boat harbors shall only be expended on costs related to the operation, upkeep, maintenance, and improvement of state small boat harbors. *(This means there is no funding for the 40 some ramps that are not within a marina, so move those ramps that are not within the boundaries of a marina from DOBOR to Parks and move with them the gas tax funds for those ramps)*

SECTION 5. Section 200-9, Hawaii Revised Statutes, is amended to read as follows:

"§200-9 Purpose and use of state small boat harbors. (a) State small boat harbors are constructed, maintained, and operated for the purposes of:

(c) The total number of valid commercial use permits that may be issued for vessels assigned mooring in Ala Wai boat harbor shall not exceed fifteen per cent of the total berths and shall not

exceed thirty-five per cent of the total berths at the Keehi boat harbor; provided that at the Ala Wai boat harbor, vessels issued commercial use permits shall:

(4) Include commercial catamarans, for which valid commercial use permits or existing registration certificates have been issued by the department [which] that allow the catamarans to operate upon Waikiki shore waters for hire[, may be permitted to moor in Ala Wai boat harbor at facilities leased for commercial purposes]. *Vessels holding commercial catamaran permits for operations from Waikiki beaches shall, as of the effective date of this document, register and receive commercial berthing permits and shall pay the fees as charged to a commercial vessel of their size, capacity and gross revenue generation.*

The department shall allow a sole proprietor of a catamaran operating with a valid commercial use permit or existing registration certificate, issued by the department, for a commercial catamaran to land its commercial catamaran on Waikiki beach and to operate upon Waikiki shore waters for hire, to transfer the ownership of the vessel from personal ownership to corporate or other business ownership without terminating the right to operate under the commercial use permit or existing registration certificate. The existing commercial use permit or existing registration certificate shall be reissued in a timely manner in the name of the transferee corporation or other business entity. No valid commercial use permit or existing registration certificate issued to an owner of a commercial catamaran operating in the Waikiki area shall be denied or revoked without a prior hearing held in accordance with chapter 91. *NOTE: These catamarans pay \$8.00 per year for this permit and no their fees. They must be permitted and charged as any other commercial boat operating from DOBOR facilities, namely, double the slip fee and 3% of gross revenue.*

SECTION 6. Section 200-10, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The permittee shall pay moorage fees to the department for the use permit that shall be based on[,] but not limited to[,] the use of the vessel, its effect on the harbor, use of facilities, and the cost of administering this mooring program; and, furthermore: *Note, there is here no mention of real estate value in deciding the fee level to be charged!*

(1) [Moorage] Except for commercial maritime activities where there is a tariff established by the department of transportation, moorage fees shall be established by appraisal by a state-licensed appraiser approved by the department and shall be higher for nonresidents[;]. The mooring fees shall be set by appraisal categories schedule A and schedule B, to be determined by the department, and may be increased annually by the department, to reflect a cost-of-living index increase; *Be careful what you wish for here. Our present B list fees are right near the top of the list when you look at the west coast marinas that are owned and operated by a city, county or state from San Diego to Bellingham. If you push beyond the magic and invisible point in fees you will end up with a lot of empty slips generating no revenue at all and a severely damaged recreational boating industry.*

(2) For commercial maritime activities where there is a tariff established by the department of transportation, harbors division, the department may adopt the published tariff of the department of transportation, harbors division, or establish the fee by appraisal by a state licensed appraiser approved by the department; and ***Be careful what you wish for here. Our present B list fees are right near the top of the list when you look at the west coast marinas that are owned and operated by a city, county or state from San Diego to Bellingham. If you push beyond the magic and invisible point in fees you will end up with a lot of empty slips generating no revenue at all and a severely damaged recreational boating industry.***

[(2)] (3) An application fee shall be collected when applying for moorage in state small boat harbors and shall thereafter be collected annually when the application is renewed. The application fee shall be:

- (A) Set by the department; and
- (B) Not less than \$100 for nonresidents;

[(3)] (4) If a recreational vessel is used as a place of principal habitation, the permittee shall pay, in addition to the moorage fee, a liveaboard fee that shall be calculated at a rate of:

- (A) \$5.20 a foot of vessel length a month if the permittee is a state resident; and
- (B) \$7.80 a foot of vessel length a month if the permittee is a nonresident;

These are by a factor of three to five times the highest fees charged anywhere on the west coast from San Diego to Bellingham by any marina, public or private. The norm is \$50.00 per month per vessel or \$25.00 per month per person registered to live aboard.

(6) In addition, the department is authorized to assess and collect utility fees, including electrical and water charges, and common area maintenance fees in small boat harbors." ***No other marina, public or private charges Common Area Maintenance fees. This is a given as part of the structure of a fee which has been defined in federal law as the reimbursement of the cost to provide a facility or a service to a vessel. We do not owe a Common Area Maintenance fee on top of our already high slip fees. There is no process for hearings to justify such a fee and therefore no accountability as to just how the fee is calculated nor how the monies collected are spent.***

SECTION 7. (a) Pursuant to section 200-2.5, Hawaii Revised Statutes, the department of land and natural resources is directed to lease certain fast lands at the Ala Wai harbor using the request for proposals process for the public-private development, management, and operation of areas of Ala Wai harbor.

- (b) The permissible uses under this lease shall include:
 - (1) A minimum of not less than one hundred twenty berths for vessels; provided that:

(C) All berths provided under this paragraph shall be made available to the public pursuant to department of land and natural resources rules, with moorage fees to be determined by the developer;

(D) There shall be no reduction in the number of slips nor in the lineal feet of slips available to the general public of Hawaii.

Respectfully,

Reg White
1540 S. King St.
Honolulu, Hi 96826-1919
808-222-9794, RawcoHI@cs.com

har3 - Megan

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 15, 2011 5:10 PM
To: WLOtestimony
Cc: concernedboater@hawaii.rr.com
Subject: Testimony for SB1555 on 3/18/2011 8:30:00 AM

Testimony for WLO 3/18/2011 8:30:00 AM SB1555

Conference room: 325
Testifier position: oppose
Testifier will be present: No
Submitted by: Robert Winter
Organization: Individual
Address:
Phone:
E-mail: concernedboater@hawaii.rr.com
Submitted on: 3/15/2011

Comments:

Testimony opposing commercial mooring at Ala Wai Small Boat Harbor.

I am opposed to the traffic congestion, parking problems, and disruption that would be caused by allowing commercial operators to moor boats at the Ala Wai Harbor.

The State already has a facility for commercial operators at nearby Kewalo Basin, a location much better able to handle traffic, parking and general disruption.

It's interesting to note that Kewalo Basin does not have enough demand from commercial operators to fill its slips and has begun allowing recreational boaters to use the facilities.

Considering the 5 year or longer waiting list for recreational slips at the Ala Wai, and the lack of demand for commercial slips at Kewalo Basin, it seems that your constituents would be much better served by leaving the Ala Wai Harbor dedicated solely to recreational use.

har3 - Megan

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 16, 2011 10:28 PM
To: WLOtestimony
Cc: hawaiiishomes@aol.com
Subject: Testimony for SB1555 on 3/18/2011 8:30:00 AM

Testimony for WLO 3/18/2011 8:30:00 AM SB1555

Conference room: 325
Testifier position: oppose
Testifier will be present: No
Submitted by: SUZANNE A SHUTO, R
Organization: Shuto Sales & Mgmt., LLC
Address:
Phone:
E-mail: hawaiiishomes@aol.com
Submitted on: 3/16/2011

Comments:

I am opposed to these bills as it will take away from the views and add to the congestion. My clients bought their units many years ago and because of the location and views and it seems unfair that this could possibly be altered. Thank you for your consideration!

har3 - Megan

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 16, 2011 4:42 PM
To: WLOtestimony
Cc: spiritofaloha2@msn.com
Subject: Testimony for SB1555 on 3/18/2011 8:30:00 AM

Testimony for WLO 3/18/2011 8:30:00 AM SB1555

Conference room: 325
Testifier position: oppose
Testifier will be present: No
Submitted by: Lea Sasak
Organization: Individual
Address:
Phone:
E-mail: spiritofaloha2@msn.com
Submitted on: 3/16/2011

Comments:

har3 - Megan

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 16, 2011 4:29 PM
To: WLOtestimony
Cc: vicbaldrige@comcast.net
Subject: Testimony for SB1555 on 3/18/2011 8:30:00 AM

Testimony for WLO 3/18/2011 8:30:00 AM SB1555

Conference room: 325
Testifier position: oppose
Testifier will be present: No
Submitted by: Victor Baldrige
Organization: Individual
Address:
Phone:
E-mail: vicbaldrige@comcast.net
Submitted on: 3/16/2011

Comments:

The impact of this bill is likely to be overdevelopment on the waterfront, and the spoiling of precious views for thousands of people just to make a little short-term money off selling public lands -- held in trust for the public for generations.

What a short-sighted policy! Fund the state from regular budgets and regular taxes, not from some ill-conceived, short-term fire sale of precious public land.

har3 - Megan

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 16, 2011 4:26 PM
To: WLOtestimony
Cc: Patspalaces@aol.com
Subject: Testimony for SB1555 on 3/18/2011 8:30:00 AM

Testimony for WLO 3/18/2011 8:30:00 AM SB1555

Conference room: 325
Testifier position: oppose
Testifier will be present: No
Submitted by: Patricia Willison
Organization: Individual
Address:
Phone:
E-mail: Patspalaces@aol.com
Submitted on: 3/16/2011

Comments:

har3 - Megan

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 16, 2011 2:46 PM
To: WLOtestimony
Cc: rromo@hawaii.rr.com
Subject: Testimony for SB1555 on 3/18/2011 8:30:00 AM

Testimony for WLO 3/18/2011 8:30:00 AM SB1555

Conference room: 325
Testifier position: oppose
Testifier will be present: No
Submitted by: Robert Romo
Organization: Individual
Address:
Phone:
E-mail: rromo@hawaii.rr.com
Submitted on: 3/16/2011

Comments:

har3 - Megan

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 16, 2011 1:49 PM
To: WLOtestimony
Cc: fosteralandbarb@yahoo.com
Subject: Testimony for SB1555 on 3/18/2011 8:30:00 AM

Testimony for WLO 3/18/2011 8:30:00 AM SB1555

Conference room: 325
Testifier position: oppose
Testifier will be present: No
Submitted by: Albert and Barbara Foster
Organization: Individual
Address:
Phone:
E-mail: fosteralandbarb@yahoo.com
Submitted on: 3/16/2011

Comments:

har3 - Megan

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 15, 2011 4:57 PM
To: WLOtestimony
Cc: captdave@boats4u.com
Subject: Testimony for SB1555 on 3/18/2011 8:30:00 AM

Testimony for WLO 3/18/2011 8:30:00 AM SB1555

Conference room: 325
Testifier position: oppose
Testifier will be present: No
Submitted by: Dave Cooper
Organization: Individual
Address:
Phone:
E-mail: captdave@boats4u.com
Submitted on: 3/15/2011

Comments:

Jerry L. Chang, Chair
House Committee on Water, Land and Ocean Resources

Robert R. Humphreys
Ilikai Association of Apartment Owners
1777 Ala Moana Blvd., #1204
Honolulu, HI 96815

Hearing on SB 1549 and SB 1555
March 18, 2011

Introduction. Mr. Chairman and Members of the Committee, I am Robert R. Humphreys, a resident of the State of Hawaii and owner of an apartment at the Ilikai Hotel and Condominium. I appear before you at the request of, and on behalf of, the Association of Apartment Owners of the Ilikai in opposition to certain provisions in SB 1549 and SB 1555, passed by the Senate and referred to your Committee. This Committee favorably reported two bills originating in this body, HB 1566 and HB 1312, which are somewhat similar to the Senate bills. Those bills passed the House and have been referred to the counterpart Senate committees. All four bills address leases and improvements at the Ala Wai and Keehi boat harbors. The focus of our testimony in opposition is on section 7 of both Senate bills.

Statement. Section 7(b)(5) of SB 1549 authorizes the Department of Land and Natural Resources to award leases for “hotel, residential, and timeshare uses.” Section 7(b)(5) of SB 1555 provides that DLNR shall award leases for “Residential, hotel, and timeshare uses; provided that the use is consistent with neighboring parcels with a developable height limit of three hundred fifty feet and a maximum floor area ratio of four;”. Such uses, if these provisions become law, pose an exceptionally serious threat to the viability of the Ilikai Hotel and to the quiet enjoyment of the property by its resident apartment owners and guests. There is only one location in the Ala Wai boat harbor that could support a hotel or other residence towering 350 feet—the current parking area at the harbor. The forty-five year old Waikiki landmark would be permanently despoiled, the view of the ocean obliterated by such construction.

The offending provisions, if enacted, would conflict with existing State law. Under HRS §200-2.5 permissible uses under any lease of state boating facility properties are limited to those which “will complement or support the maritime activities of state boating facilities.” Moreover, such purposes must be consistent with the purpose for which the land was set aside by the governor pursuant to section 171-11, HRS. Clearly, hotel, residential condominium, and timeshare uses are not designed to enhance or support maritime activities, but have the opposite potential of despoiling the Ala Wai harbor.

Other provisions of the Senate bills relating to permissible lease uses are also concerning to the Ilikai Association of Apartment Owners. Specifically, neither the size nor the potential location for the proposed seawater air conditioning cooling facility (SB 1555, Section 7(b)(6); SB 1549, Section 7(b)(8)), is described in the bills. What impact would the construction of the facility have on the ecology and the beauty and ambiance of the boat harbor and surroundings? The Ilikai Association is also concerned about provisions to provide substantial, possibly overwhelming, commercial boat mooring at the pier located on the mauka side of the harbor nearest the Ilikai, Edition Hotel, and Ilikai Marina in both House bills (HR 1312 and HR 1566) and the two Senate bills under consideration by this Committee today. The ecological impact of such mooring activity, and the traffic it would generate, are unknown.

Conclusion. The Ilikai AOA agrees with the Governor and the legislature on the need for additional revenue to properly maintain and improve the Ala Wai boat harbor. For that reason we are not prepared to object to many of the lease purposes identified in Section 7(b) of both Senate bills. Upon enactment and approval of the Ala Wai and Keehi improvement legislation, the Ilikai AOA pledges to work with the Department of Land and Natural Resources in the development of the Ala Wai boat harbor and its environs. We appreciate the opportunity to testify, and we urge the Committee to recommend the deletion from SB 1549 and SB 1555 those provisions of section 7(b) which could irreparably damage our aina.

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