

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 Committees on
WATER & LAND
and
OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS**

**Monday, January 27, 2014
9:30 A.M.
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 1679
RELATING TO THE DIAMOND HEAD SEAWALL**

House Bill 1679 proposes to appropriate \$3,000,000 for Fiscal Year 2014-2015 to the Department of Land and Natural Resources (Department) for planning, design, and construction costs for the repair and maintenance of the Diamond Head seawall. **The Department opposes the bill.**

As the bill notes, litigation in the First Circuit Court over the ownership of the Diamond Head seawall recently resulted in a court opinion finding that “the State owns the Seawall and the real property under Seawall by surrender and/or has an easement over and across the Seawall by implied dedication” No final judgment has yet been entered in the case. The Department of the Attorney General is evaluating the opinion, and will evaluate the judgment when it is issued, to determine whether an appeal of the Circuit Court’s ruling is appropriate. Until that time, any appropriation for repair and maintenance of the seawall would be premature.

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

ESTHER KIA'AINA
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

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From: mailinglist@capitol.hawaii.gov
Sent: Sunday, January 26, 2014 6:28 PM
To: waltestimony
Cc: rick@ranchretreats.com
Subject: Submitted testimony for HB1679 on Jan 27, 2014 09:30AM

HB1679

Submitted on: 1/26/2014

Testimony for WAL/OMH on Jan 27, 2014 09:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Rick Prill	Diamond Head Beach Hotel	Support	No

Comments: I am the President of the AOA for the Diamond Head Beach Hotel and Residences, a 60 unit complex along the seawall. On behalf of all of our residents, we wish to formally submit testimony as to our support of this measure. The state has neglected its responsibility for far too many years, and it is imperative that funds be appropriated immediately to begin repairs, after the recent ruling has cleared the way making it very clear with whom the responsibility lies in making these repairs. The continued public right of way has now been properly upheld in the courts, now lets get the work done to make it safe for all who use this wall on a daily basis.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Late

Committee on Water & Land

Committee on Ocean, Marine Resources, & Hawaiian Affairs

HB 1679, Diamond Head Sea Wall, Monday, January 27, 2014., 9:30AM

Recommendation: **SUPPORT**

**Testifier: Robert Gentry, President
Gold Coast Neighborhood Association**

- **Diamond Head sea wall is 100 years old and provides lateral and direct ocean access to residents and visitors alike.* Access has been uninterrupted for 100 years. The Diamond Head sea wall is a cultural, historic and recreational treasure for the State of Hawaii.**
- The Court recently ruled that the Diamond Head sea wall is owned by the State of Hawaii in Civil No. 07-1-1122.
- Diamond Head sea wall has not been well maintained for many years. It needs engineering evaluation and pedestrian improvements. Public safety is paramount.
- Diamond Head sea wall is a favorite fishing location for locals, when fishing is allowed.
- Diamond Head sea wall is part of the Waikiki ocean front experience for locals and visitors, and needs to be maintained for adequate ocean access and safety.
- Diamond Head sea wall often serves the popular surfing sites of Tonggs, Suicides, The Winch, Graveyards and Rice Bowls*.

* Hana Hou Magazine, volume 9, number 3, page 78, June/July 2006



LATE

HOUSE OF REPRESENTATIVES

STATE OF HAWAII
STATE CAPITOL
415 SOUTH BERETANIA STREET
HONOLULU, HAWAII 96813

January 27, 2014

To: House WAL& OMH Committees

From: Representative Bertrand Kobayashi

Bert K.

Re: House Bill 1679 relating to Diamond Head Seawall

Allow me to support HB 1679 relating to Diamond Head Seawall. On November 29, 2013, a Hawaii Circuit Court opinion stated that the Diamond Head seawall and the real property under the seawall is owned by the State of Hawaii.

Thus, the State has the responsibility to maintain the seawall and has on-going liability should there be a mishap on the seawall. Please note that the State of Hawaii has in the past, after Hurricane Iwa (1983-1984) repaired the seawall with State funds. Please note further that the seawall has been a public throughfare for at least half a century.

Given the above, the State of Hawaii should accept responsibility for the repair and maintenance of the seawall.