

HB17

HD1

SD1

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

ESTHER KIAAINA
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

Testimony of
WILLIAM J. AILA, JR.
Chairperson

Before the Senate Committee on
JUDICIARY AND LABOR

Thursday March 28, 2013
10:30 a.m.

State Capitol, Conference Room 016

In consideration of
HOUSE BILL 17, HOUSE DRAFT 1, SENATE DRAFT 1
RELATING TO COASTAL AREAS

House Bill 17, House Draft 1, Senate Draft 1 proposes to: (1) Delete the "one-gallon per person per day" exception to the prohibition against the removal of sand and other beach or marine deposits, except for materials inadvertently taken, and create an exemption for public emergencies and traditional cultural practices; and (2) Extend for two years, Act 160, Session Laws of Hawaii 2010 (Act 160), which requires landowners in shoreline areas to ensure that public transit beach corridors are passable and free from human-induced, enhanced, or unmaintained vegetation that blocks transit. **The Department of Land and Natural Resources (Department) supports the portions of this measure relating to the prohibition on removal of sand and other beach or marine deposits. However, the Department does not support the proposed extension of Act 160 for two years. The Department instead, prefers the original purpose of this measure, which proposes to make Act 160 permanent.**

Prohibition on removal of sand and other beach or marine deposits

Hawaii's beach sand sources are diminishing daily due to erosion, inappropriate shoreline armoring, and illegal sand mining. If residents want sand for household uses, they can purchase either inland sand deposits or manufactured sand from various commercial sources.

Act 160

Landowners that induce or allow their vegetation to grow below the shoreline would be asked to remove or trim the vegetation. If the landowner fails to comply, Act 160 allows the Department to issue a notice of violation to the landowner, assess penalties under Chapter 183C, Hawaii Revised Statutes, and to charge landowners for the cost of removal if the landowner fails to remove an obstruction. Act 160, however is scheduled to sunset on June 30, 2013.

The Department has been successfully utilizing Act 160 to compel offending landowners to cut back vegetation that inhibits lateral shoreline access. The Department also believes that Act 160 has served as a deterrent to inducing seaward growth of vegetation. Thus, Act 160 has been an effective tool to protect lateral shoreline access. The Department has provided a short report of actions taken to control the spread of vegetation emanating from private property onto public beaches for your information and use. Finally, the Department has recently completed a survey of 80 properties on the North Shore of Kauai and will be issuing notices to several landowners who the Department feels have induced vegetation onto the public beach.



**OFFICE OF PLANNING
STATE OF HAWAII**

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NEIL ABERCROMBIE
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Statement of
JESSE K. SOUKI
Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON JUDICIARY AND LABOR
Thursday, March 28, 2013
10:30 AM
State Capitol, Conference Room 016

in consideration of
HB 17 HD1 SD1
RELATING TO COASTAL AREAS.

Chair Hee, Vice Chair Shimabukuro, and Members of the Senate Committee on Judiciary and Labor.

We have the following comments.

Section 4 of HB 17 HD1 SD1, Relating to Coastal Areas proposes to extend Act 160, Session Laws of Hawaii (SLH) 2010, for two years, to June 30, 2015. OP prefers Administration bill SB 1162 SD1 which repeals the sunset date of June 30, 2013, and makes the provisions of Act 160, SLH 2010, permanent.

With respect to Section 2 of the bill, we note that Hawaii Revised Statutes (HRS) §205A-2 (4) (A) sets forth the following coastal zone management policy for coastal ecosystems: "Exercise an overall conservation ethic, and practice stewardship in the protection, use, and development of marine and coastal resources." Section 2 of the bill adds new exemptions to HRS §205A-44 (a) under the proposed item 5. Unregulated taking of natural resources from the shoreline area is of concern and should be examined in the context of policies pertaining to the stewardship of marine and coastal resources.

Thank you for the opportunity to provide testimony on this measure.

Margaret Wille
Council Member
District 9 - North and South Kohala



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74-5044 Ane Keohokalole Hwy.
Kailua-Kona, Hawai'i 96740*

March 26, 2013

Senate Judiciary Committee
3-28-13 Public Hearing
Conference Room 016

Re: HB17 HD1 SD1

OPPOSITION TO EXTENSION OF ACT 160

Dear Chairman Hee and members of the Judiciary and Labor Committee:

HB17 HD1 SD1 extends the sunset date of Act 160 SLH 2010 from 2013 to 2015 and makes several amendments thereto.

I do not oppose the current amendments per se but here address the shortsightedness of the original Act's intent to require shoreline landowners to remove vegetation along the shoreline. The objective of the original legislation was to prevent adjacent landowner from allowing for and or promoting shoreline vegetation -- in the name of preventing interference with shoreline lateral access.

That intent to provide for public access is well intended but very short-sighted. Were the impact of this legislation actually assessed during the past two years, it would be clear that the more important concern is the impact of sea rise and increased erosion -- such that efforts to curtail the diminishment of our shoreline through vegetation should be encouraged not discouraged. In many cases this vegetation -- largely native vegetation -- advances environmental issues by curbing the advancement of sea rise and storm related destruction of our shoreline. Somehow that important factor is being ignored.

In other words the issues involved here are not so simple and should be addressed with more

March 27, 2013

Page 2 of 2

environmental sensitivity – not simply viewed as a matter of inconsiderate property owners versus the public that wants to walk the shoreline

Sincerely,

/s/ Margaret Wille

Margaret Wille
County of Hawaii
Council Member District 9
North & South Kohala

Margaret Wille
Council Member
District 9 - North and South Kohala



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March 26, 2013

Senate Judiciary Committee
3-28-13 Public Hearing
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Re: HB17 HD1 SD1

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That intent to provide for public access is well intended but very short-sighted. Were the impact of this legislation actually assessed during the past two years, it would be clear that the more important concern is the impact of sea rise and increased erosion -- such that efforts to curtail the diminishment of our shoreline through vegetation should be encouraged not discouraged. In many cases this vegetation -- largely native vegetation -- advances environmental issues by curbing the advancement of sea rise and storm related destruction of our shoreline. Somehow that important factor is being ignored.

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March 26, 2013
Page 2 of 2

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Sincerely,

/s/ Margaret Wille

Margaret Wille
County of Hawaii
Council Member District 9
North & South Kohala



Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803
808.538.6616 hawaii.chapter@sierraclub.org

SENATE COMMITTEE ON JUDICIARY AND LABOR

March 28, 2013, 10:30 A.M.
(Testimony is 1 page long)

TESTIMONY IN SUPPORT OF HB 17 HD1 SD1 WITH A PROPOSED AMENDMENT

Aloha Chair Hee and Members of the Committee:

The Sierra Club of Hawai'i, with over 10,000 members and supporters, respectfully *supports* HB 17 HD1 SD1. This measure requires ongoing maintenance by adjoining properties in order to ensure continued access to our public beaches.

Overgrown plants, sometimes intentionally allowed to overgrow the shoreline and beach access, deter the reasonable use of our public beaches and trails. In order to maintain the safety of our residents and our guests, we need to ensure access and use of our beaches is maintained.

By ensuring the public continues to have access and use of our beaches, HB 17 helps protect Hawaii's proud public access tradition.

Proposed Amendment. This measure has been tested and is proven to work. The two-year sunset provision should be removed so as to avoid wasting legislative resources analyzing this matter again for a third time in six years.

Thank you for the opportunity to testify.

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

"Building Better Communities"

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Scotty Anderson

Pacific Rim Partners

W. Bruce Barrett

Castle & Cooke Homes Hawaii, Inc.

Testimony to the Senate Committee on Judiciary and Labor

Thursday, March 28, 2013

10:30 am

State Capitol - Conference Room 016

RE: H.B. 17 H.D. 1, S.D. 1, RELATING TO COASTAL AREA

Dear Chair Hee and Vice Chair Shimabukuro, and members of the Committee:

My name is Gladys Marrone, Government Relations Director for the Building Industry Association of Hawaii (BIA-Hawaii), the voice of the construction industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, affiliated with the National Association of Home Builders.

BIA-HAWAII **supports the intent** of H.B. No. 17, HD 1, SD 1. The bill proposes to extend Act 160, SLH 2010 for two years. It requires maintenance of public beach accesses by adjacent landowners and imposes penalties for noncompliance. It also establishes shoreline access as an objective of the coastal zone management program and requires the department of land and natural resources to provide written notice to property owners affected by Act 160, SLH 2010. We take no position on Sections 1 and 2 of the bill that were added in SD1.

The bill proposes to make permanent Act 160, SLH 2010 which amended Chapter 115 HRS to prohibit a private property owner from blocking or impeding public access along the public beach area by allowing vegetation from the private property to grown onto, over or along the public beach area. The bill also required the DLNR to require the private property owner to maintain the area and if not, allow the DLNR to do the maintenance at the owner's expense.

We understand that DLNR has been successfully utilizing Act 160 to compel offending landowners to cut back vegetation that inhibits lateral shoreline access. Thus, Act 160 has been an effective tool to protect lateral shoreline access.

We also support DLNR's request to use the original version of this measure as it will make permanent the requirement on landowners that abut the shoreline to control the spread of vegetation that emanates from their private property onto public beaches.

Thank you for this opportunity to express our views.

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KAILUA NEIGHBORHOOD BOARD NO. 31

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Testimony, HB 17, March 28, 2013.

Aloha Chair Hee and members:

Act 160, 2010, is essential as a valuable tool to protect the public's right to beach access. In the past, Kailua has had a number of instances where homeowners have decreased the size of the beach by introducing plantings in the sand. We have also found, in some cases, that the plantings cause beach erosion similar to seawalls.

Already one house has been built closer to the water because the owner created land by cultivating the sand. Future sea level rise will make this house more susceptible to shoreline flooding and tsunami. It is important that HB17 be adopted to make Act 160 permanent not only from a beach access perspective, but also for safety reasons.

Mahalo, Chuck Prentiss, Ph.D.
Chair

March 28, 2013

The Honorable Clayton Hee, Chair
Senate Committee on Judiciary and Labor
State Capitol, Room 016
Honolulu, Hawaii 96813

RE: H.B. 17, H.D.1, S.D.1, Relating to Coastal Areas

HEARING: Thursday, March 28, 2013, at 10:30 a.m.

Aloha Chair Hee, Vice Chair Shimabukuro, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,000 members. HAR **submits comments** on H.B. 17, H.D.1, S.D.1, which ensures public lateral access along the shoreline by extending for two years the requirement that landowners remove human-induced, enhanced, or unmaintained vegetation interfering with such access and also extending DLNR's enforcement duty to maintain such access.

H.B. 17, H.D.1 S.D.1, proposes to extend for two years Act 160, SLH 2010, which amended Chapter 115 of the Hawaii Revised Statutes, to prohibit a private property owner from blocking or impeding public access along the public beach area by allowing vegetation from the private property to grow onto, over, or along the public beach area. The bill also required the DLNR to require the private property owner to maintain the area and if not, allow the DLNR to do the maintenance at the owner's expense.

While HAR is not opposed to Act 160 nor prohibiting a property owners from human-inducing or enhancing vegetation, the issue of concern is that predominantly in the outlying areas, landowners have natural growth "unmaintained vegetation" abutting transit corridors that may stretch hundreds of feet to miles of frontage. It would be unreasonable and a huge financial burden if an owner were required to remove interfering or encroaching "unmaintained natural vegetation". See description:

§115-5 Beach transit corridor defined....

(b) Along beach transit corridors where the abutting landowner's human-induced, enhanced, or **unmaintained** vegetation interferes or encroaches with beach transit corridors, the department of land and natural resources may require the abutting landowner to remove the landowner's interfering or encroaching vegetation. [L 1974, c 244, §5; am L 2010, c 160, §3]

HAR respectfully requests an amendment to Act 160 that would not apply to "unmaintained" natural vegetation to ensure that landowners are not adversely impacted, while retaining the beach transit corridors for human-induced and enhanced vegetation.

For this reason, we respectfully request that the Committee pass this measure with amendments.

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Hawaii's Thousand Friends

25 Makani Ave., Suite 102 | PMB 282 • Kailua, HI 96734 • Phone/Fax: (808) 262-0182 | E-mail: htf@lava.net

March 28, 2013

COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

HB 17, HD1 SD1
RELATING TO COASTAL AREAS

Committee Chair and members;

Hawaii's Thousand Friends (HTF), a statewide land and water advocacy organization, supports requiring landowners to remove human-induced, enhanced, or unmaintained vegetation that interferes with lateral access along the shoreline.

To achieve that goal HTF recommends that the contents in SD1 be deleted and the contents in the original HB 17 be inserted to read as follows:

Section 1. The purpose of this Act is to make permanent Act 160, Session Laws of Hawaii 2010.

Section 2. Act 160, Session Laws of Hawaii 2010, is amended by amending

Section 7. This Act shall take effect upon its approval [~~provided that on June 30, 2013, this Act shall be repealed and sections 115-5, 115-9, and 205A-2(e), Hawaii Revised Statutes, shall be reenacted in the form in which they read one day prior to the effective date of this Act~~].

Section 3. Statutory material to be repealed is bracketed and stricken.

Section 4. This Act shall take effect on June 29, 2013.

A clean repeal of Act 160 makes it clear to the public that the intent of the legislature is to ensure the public's right to have unencumbered lateral access along Hawaii's shorelines.

Please pass HB 17 with the proposed changes.

Jeannine Johnson, Legislative Sub-Committee Chair

Kuli'ou'ou / Kalani Iki Neighborhood Board #2

5648 Pia Street, Honolulu, Hawai'i 96821

Phone: 373-2874 (h) / 691-7261 (w)

March 26, 2013

COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, Chair

Senator Maile S.L. Shimabukuro, Vice Chair

HB 17, HD1, SD1 RELATING TO COASTAL AREAS

Hearing: Thurs., March 28, 2013 at 10:30 pm in Conference Room 016

Aloha Chair Hee and Vice Chair Shimabukuro,

Under Section 2-14-125 of the Neighborhood Board Plan, I have been appointed as a Delegate with responsibilities to represent the **Kuli'ou'ou / Kalani Iki Neighborhood Board #2** on matters approved by the Board. As Committee Chair of the **Kuli'ou'ou / Kalani Iki Neighborhood Board #2** Legislative Sub-Committee, I am pleased to inform you **Neighborhood Board #2** strongly supports HB17, HD1, SD1, which ensures public lateral access along the shoreline by extending for two years the requirement that landowners remove human-induced, enhanced, or unmaintained vegetation interfering with such access and also extending DLNR's enforcement duty to maintain such access. **Neighborhood Board #2** represents 7,900 households, with a population of 22,281 people in East Honolulu (State House District 18, Hawaii: Profile of General Population and Housing Characteristics, 2010.)

The purpose of Hawai'i Revised Statutes (HRS) Chapter 115 is to guarantee 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. In 1968 the Hawai'i State Supreme Court established that the land below the high water mark is a natural resource that belongs to the State of Hawai'i and held in trust for the benefit of its people and whose ownership may not be relinquished. Hawai'i's coastal protection law, HRS Chapter 205A, requires the State to provide and manage adequate public access to and along shorelines with recreational value and establishes that seaward of the shoreline is part of the conservation district and regulating uses of the conservation district is the responsibility of the Department of Land and Natural Resources (DLNR).

For years beachfront homeowners intimidated the public with walls, gates, keep out signs, video cameras, and dogs. There was also evidence in many areas of induced vegetative overgrowth in the beach area by beachfront property owners by artificially cultivating aggressively growing, salt water tolerant vegetation, such as naupaka and hau, reducing beach width and squeezing or eliminating corridors of access. This deprived residents of the precious natural resource of its beaches and had the effect of turning many Hawai'i beaches into private, exclusive ones. Thus, without enforcement, the public's rights of access to and use of coastal and inland recreational areas mandated by the Hawai'i Supreme Court and the Hawai'i Revised Statutes are meaningless.

COMMITTEE ON JUDICIARY AND LABOR

March 26, 2013

Page 2

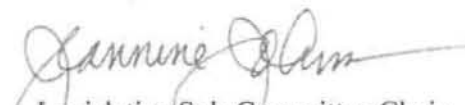
Therefore, at its November 6, 2008 meeting, **Neighborhood Board #2** voted in favor of the following:

- Appropriating funds for the Office of Planning, Coastal Zone Management Program, to survey and map all existing public access ways to shoreline areas and nearby public parking areas;
- Before permits are issued that may affect public access to the sea, the shoreline, or any coastal or inland public recreational area, the relevant agency shall ensure that a public right-of-way is available to access any and all public recreational areas, including beaches, shores, parks, and trails; and
- Requiring state and county agencies to enforce the public's rights of access to and use of coastal and inland recreational areas as mandated in HRS Chapter 115 and increase penalties for the offense of obstructing access to public property.

In addition, at its February 4, 2010, meeting, **Neighborhood Board #2** concluded that public beach corridors are similar to public sidewalks in the sense that they are for public use and should be maintained with provisions similar to those pertaining to the maintenance of sidewalks to guarantee public transit along the shoreline. Consequently, **Neighborhood Board #2** unanimously voted in favor of legislation consistent with Hawaii's coastal protection laws that would provide the mechanism for the DLNR to restore access to and along the shoreline where induced vegetative overgrowth is inhibiting access and use of the beach. (See signed Resolution attached.)

Neighborhood Board #2 strongly supports HB17, HD1, SD1, and respectfully requests that the 2013 Legislature ensures public lateral access along the shoreline by making permanent the statutory changes enacted into law by Act 160, Session Laws of Hawaii 2010 by the 2010 Legislature, requiring maintenance of public beach accesses by adjacent landowners and imposes penalties for noncompliance.

Mahalo,



Legislative Sub-Committee Chair

Kuli'ou'ou / Kalani Iki Neighborhood Board #2

cc via email: Chair Peter Kay
Sen. Sam Slom
Rep. Mark Hashem
Councilmember Stanley Chang

Lucinda Pyles
Honolulu Hawaii 96816
kahalalp@aol.com

March 26, 2013

Senator Clayton Hee, Chair
Committee on Judiciary and Labor

Dear Honorable Senator Hee and Judiciary Committee Members

Re: Testimony in SUPPORT of HB17, making Act160 permanent

My husband and I have been residents of Kahala for more than 40 years. We raised three sons who spent many hours enjoying Kahala Beach as they grew up. I have served multiple terms on the Waialae-Kahala Neighborhood Board and my husband is currently serving.

Almost a decade ago we, and others familiar with Kahala Beach, became increasingly concerned about the shrinking beach. We found we had to consult tide charts in order to walk the beach at even moderate high tides. We realized something had to be done to stop the invasion of salt water tolerant vegetation induced, enhanced and unmaintained by property owners abutting the shoreline. Dense vegetation that migrates seaward of the shoreline obstructs access along and use of the public trust beach as well as interferes with natural beach processes.

Act160 is a valuable mechanism to carry out the policies and objectives of the Coastal Zone Management Act, HRS 205a; to protect and preserve the natural shoreline, especially sandy beaches: to protect and preserve public pedestrian access laterally along the shoreline and to the sea; and to protect and preserve open space along the shoreline, generally prohibiting within the shoreline area any construction or activity which may adversely affect beach processes, public access along the shoreline or endanger public safety. DLNR/OCCL has reported that they have been successfully utilizing Act 160 as an effective tool to protect lateral shoreline access.

Act160 History

In October 2008 a report was made to the Legislature in response to House Resolution 258 requesting that the Office of State Planning coordinate the City and State agencies in addressing the overgrowth of vegetation on Kahala Beach. (HCR258 Report - Exhibit 1). The report stated that,

‘Human induced vegetation that blocks access to beaches is a statewide problem. At Kahala Beach, there have been numerous community complaints about the human induced vegetative growth and its adverse effects on access to and transit along the beach’.

In May 2008 OCCL and the City conducted a joint investigation of the encroaching vegetation in Kahala and identified the beach in the vicinity of twelve properties as candidates for vegetation removal where induced vegetation was growing seaward of the shoreline onto the public beach. ‘Although the Department of Land and Natural Resources issued letters to property owners on May 7, 2008 requesting voluntary removal of vegetation that encroached onto the beach seaward of the shoreline, there was only one affirmative response.’ (A sample of the OCCL Letter is included in HCR258 Report–EXHIBIT 1). ‘At that particular site, the result was increased beach width, public open space and improved lateral access. Removal of the encroaching vegetation clearly enhanced the quality of the beach and its public value in accordance with the state’s public trust doctrine.’ (HCR258).

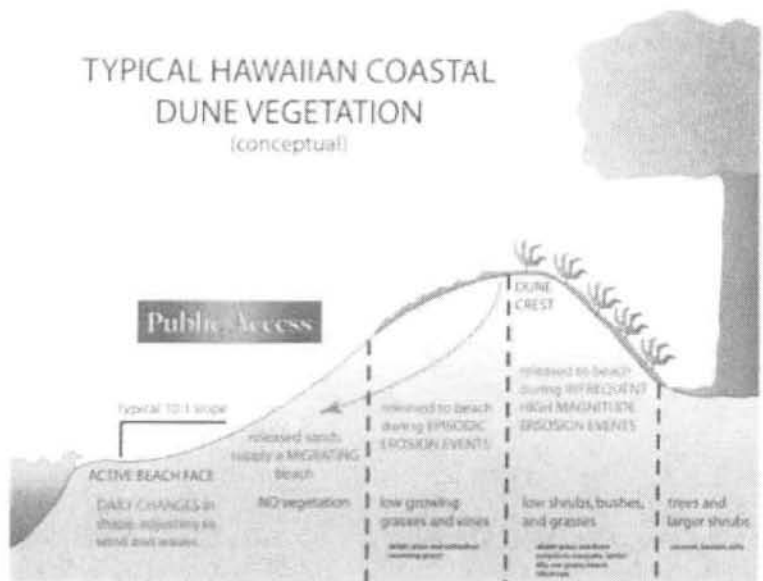
On May 15, 2008 representatives from DLNR/OCCL made a presentation to the Waiialae-Kahala Neighborhood Board on Shoreline Landscaping and Public Access. The presentation includes coastal law regarding beach access and the definition of shoreline. All Kahala Beach property owners were mailed an invitation to the presentation. None attended. (DLNR/OCCL presentation slideshow–EXHIBIT 2)

Healthy Beach dynamics:

DLNR’s graphics (Exhibit 2) show that a healthy beach profile has vegetation behind the dune or sand reserve not in front of it and not in the wash of the waves except in high wave events. ‘Sandy beaches rapidly respond to changes in the wave climate. An active beach and dune system that migrates with the shoreline is the most effective natural barrier for coastal hazards. Unnatural vegetation, which is induced *or* allowed to grow too far seaward, can lead to beach loss, unnatural steeping of beach faces, interruption of sediment transport, and reduced recovery capacity after episodic erosional events. Altered and narrowed beach and dune systems provide less effective hazard defenses because they do not have the range or sediment needed to rapidly respond to changes in nearshore wave energy. By moving the coastal vegetation to an appropriate landward

location, property owners will be improving coastal access and reducing risks from coastal hazards. This is also in keeping with Hawaii Revised Statute §115-5, which protects the public's right to access shorelines, as well as ensuring use of the beach as public trust lands' (OCCL 5/2008).

EXHIBIT 2:



The Dynamic Beach Profile (SOEST, UH)

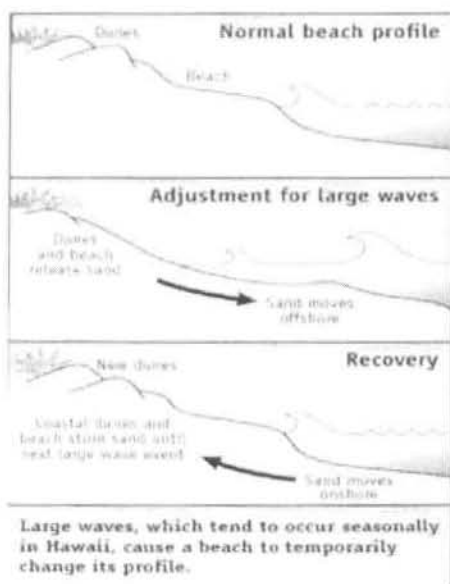


Figure 5-1 - The Dynamic Beach Profile - Wave action erodes up the skeletons of marine organisms to create the white sand of Hawaiian beaches. The dunes are made from sand that is washed or blown inland. During periods of high wave action sand from crevices of the dunes and from the beach is transported offshore. This times the seaflats and flattens the beach profile. Waves that erode and break farther offshore, minimizing their erosion effects. Beaches recover when smaller waves move the sand back onto the beach and winds blow it into the dunes to be captured by coastal vegetation. From Fletcher, SOEST, UH.

Public Trust Resource:

There are no homes on Kahala Beach threatened by erosion. There is no objection to vegetation landward of the shoreline. However, property owners should be aware that beaches are dynamic. Historic and seasonal cycles of accretion and erosion cause the shoreline to migrate. Coastal zone law policy is to protect the natural beach processes and prohibits the hardening or fixing of the shoreline. Lands seaward of the shoreline are public trust resources, and government has an inalienable responsibility to protect and preserve them for public use and enjoyment.

Improved conditions on Kahala Beach:

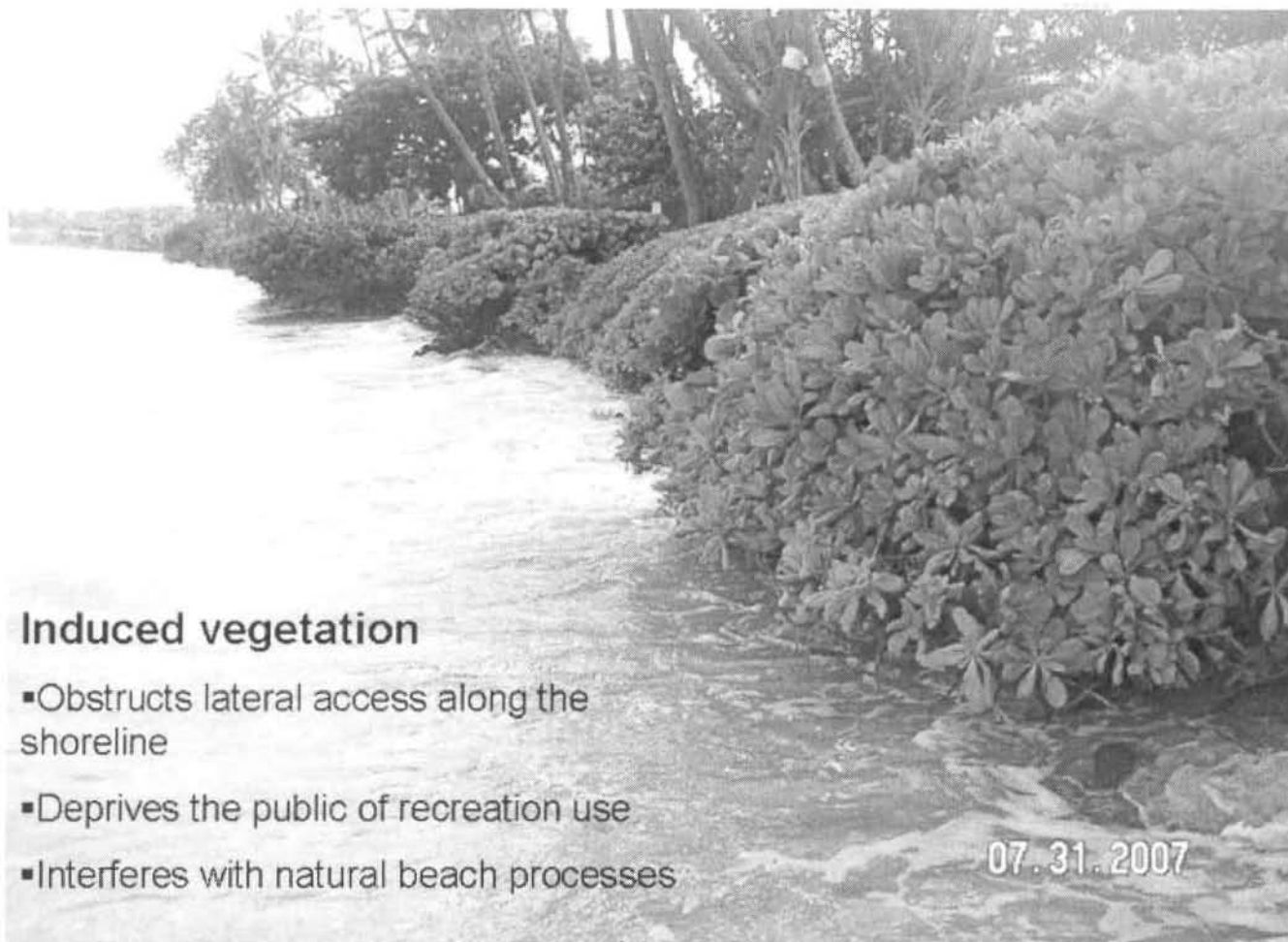
Since the enactment of ACT160, the public use and access along Kahala Beach is greatly improved. In addition, there are several properties which were cited for encroachment that have changed ownership in the past two years and the salt water plants are no longer irrigated. This has resulted in their receding significantly. Now during periods of high wind, sand is allowed to be deposited landward of the wash of the waves so dunes have accumulated in front of several of these properties, a healthy sign for the beach dynamics.

I strongly support this measure to make permanent the requirement on landowners that abut the shoreline to control the spread of vegetation that emanates from their private property onto public beaches.

Thank you for the opportunity to testify.

Yours truly,

Lucinda Pyles



Induced vegetation

- Obstructs lateral access along the shoreline
- Deprives the public of recreation use
- Interferes with natural beach processes

07.31.2007

3/27/2013

Committee on Judiciary and Labor

Chair Hee, Vice Chair Shimabukuro, committee members

Regarding HB17 HB1 SD1

I fully support this measure, although I wish it could be made permanent.

As a member of the Waialae-Kahala Neighborhood B board for six years, and a resident in the area for 30, and having grown up on a beach on Maui, I am fully aware of what Mother Nature, and of what "outside agencies" can do to a shoreline.

I believe the course that DLNR is following is the right direction. I have firsthand knowledge by just being able to now walk the beach of Kahala that a few years ago was almost impossible by the properties that were watering plants out to and past the high tide mark.

I cannot make this session, but thank you for your careful consideration.

F.M. Scotty Anderson

2435 Aha Aina Place

Honolulu, Hi 96821

306-5697

March 27, 2013

To: Senate Committee on Judiciary and Labor

Hearing Scheduled for March 28, 2013 at 10:30 AM

Testimony in Support of HB 17 HD 1 SD 1, "Relating to Coastal Areas"

From: Deborah Chang, Hawai'i Island Resident

Aloha Chair Hee, Vice-Chair Shimabukuro, and Members of the Senate Committee on Judiciary and Labor:

HB 17 HD 1 SD 1 extends the sunset date of Act 160 (SLH 2010) by two years. I ask for your support of this extension. As a resident of the island of Hawai'i, I can attest to problems on this island with human-induced, poorly maintained vegetation that interferes with the public's ability to safely walk along the shoreline. Act 160 (SLH 2010) gives the Department of Land and Natural Resources the authority to require the landowners responsible for the encroaching vegetation to remove it.

If this were a public road or sidewalk, a neighboring landowner would be required to keep his landscaping from encroaching upon the public road/sidewalk. Similarly, the public needs landowners to maintain their landscaping to keep the "beach transit corridor" safely passable. It is a reasonable requirement that should be enforceable.

Thank you for defending the public's interests in this important statewide concern.

hee2 - Kathleen

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 26, 2013 5:59 PM
To: JDLTestimony
Cc: chaseland@excite.com
Subject: Submitted testimony for HB17 on Mar 28, 2013 10:30AM

HB17

Submitted on: 3/26/2013

Testimony for JDL on Mar 28, 2013 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Chase Lander	Individual	Support	No

Comments: Senator: I am writing to you asking for you to support and approve this measure by making it a permanent law. We must stand together and protect the islands and the beaches for the tourist, for the kamaina, and for the keiki of tomorrow. Please support and approve!

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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hee2 - Kathleen

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 26, 2013 2:29 PM
To: JDLTestimony
Cc: moved2la@hotmail.com
Subject: Submitted testimony for HB17 on Mar 28, 2013 10:30AM

HB17

Submitted on: 3/26/2013

Testimony for JDL on Mar 28, 2013 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Charles Chun	Individual	Support	No

Comments: Dear Senator Clayton Hee: Please make this measure a permanent law to protect our shore lines. The induced vegetation makes the beach unusable in many areas, causes greater erosion to our precious beaches and interferes with the natural beauty that Hawaii is known for. I support this bill and hope you will do what is right and support it as well. Thank you. Charles Chun

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Caren Diamond
P.O.Box 536
Hanalei, Hawaii 96714
Kaimanacd22@yahoo.com

March 26, 2013

Testimony in Strong Support of HB 17
HOUSE BILL 17, RELATING TO COASTAL AREAS

COMMITTEE ON JUDICIARY AND LABOR
Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

Aloha Chair Senator Hee, Vice Chair Senator Shimabukuro, and Committee Members,

Please support HB 17. This measure can provide the tools needed to stop the premature loss of highly valued public trust lands, the beach.



Example Beach privatization at Kepuhi point: planted, manicured Invasive Indonesian Privet marches seaward and covers the white sandy beach interfering with public use and safe lateral access.

Pollutants: Fertilizer, irrigation and pesticides are used to establish the thick unnatural growth, impacting the health of our coral reef.



Heavy Application of Chicken Manure used along with irrigation to establish planted landscaping on the sandy beach impacts the health of the coral reef.



In many areas, safe lateral access is completely gone due to planted vegetation .



By manipulating the vegetation, landowners gain control, use and ownership of what rightfully are public trust resources. To protect our beaches, please remove the sunset date permanently. Mahalo for your support of HB 17 , Caren Diamond

hee2 - Kathleen

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 25, 2013 2:04 PM
To: JDL Testimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB17 on Mar 28, 2013 10:30AM*

HB17

Submitted on: 3/25/2013

Testimony for JDL on Mar 28, 2013 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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hee2 - Kathleen

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 25, 2013 12:02 PM
To: JDL Testimony
Cc: reidisaki@gmail.com
Subject: *Submitted testimony for HB17 on Mar 28, 2013 10:30AM*

HB17

Submitted on: 3/25/2013

Testimony for JDL on Mar 28, 2013 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Reid Isaki	Individual	Support	No

Comments:

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hee2 - Kathleen

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 26, 2013 7:55 AM
To: JDLTestimony
Cc: kgsyoung@hotmail.com
Subject: Submitted testimony for HB17 on Mar 28, 2013 10:30AM

HB17

Submitted on: 3/26/2013

Testimony for JDL on Mar 28, 2013 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Karen Young	Individual	Support	No

Comments: All beaches of Hawai'i, should be preserved in their native state and contours. Just as we have laws protecting our oceans, we now need laws protecting and preserving our beaches. And, these laws should be enforced. As a teen in the Maili area of Wai'anae, the sand dunes were so high you couldn't see ocean unless you climbed up to the top of the dunes and looked makai. The sand was coarse and clean and brushed off easily. On the oceanside of the dunes, the water swept up the sides of the dunes, and you could slide down in the white wash as it receded. It left behind a wide swath of shining multihued shells. The ocean itself was beautiful and pristine. It's possible that those sand dunes offered a natural protection against tsunamis. All of that is gone, and what remains continues to be further degraded. The fact is, our population has grown tremendously and housing developments have sprawled. Now what seemed unnecessary in the past, is no longer true. The beaches actually have to be protected ! This bill takes the step of recognizing that sand, the major ingredient of beaches, is part of that preservation. I did not know that sand mining was a problem until we moved to a home across the street from the beach where after you park your car the sand is 1-2 feet away. We started to witness trucks and cars pull up, usually with 2-4 people getting out with shovels and large 5 gallon buckets, and start to fill bucket after bucket to pile into the truck bed. This is done quite quickly. Then they pull out and leave. Sometimes it would be a smaller amount, but never just 1 gallon ! This purposeful and fast work would usually be done in a matter of alittle over ½ hr. or less. We have lived here 30 yrs, and sometimes as much as 6 times a day this would happen. They also come in the evening, near dark., sometimes with headlamps. These are just incidents we happen to witness, but we're not out in the yard all day and I'm sure there are many times when it goes on unwitnessed. We have never seen a policeman on her/his own, stop someone from doing this. When we started to call the policemen, they were unaware it was illegal. I had to inform them -- but by the time they'd arrive, it's would be too late, the truck has left or is down the road, getting away. Also, when we finally started calling the police, the question asked would be: "Is this an emergency ?." One time a policeman did come when we called while a man was literally filling up his truck bed with sand. The man was astounded that he was doing anything wrong. What were the police to do? Have him empty out his truck until only 1 gallon was left ? Furthermore, if the individuals are made aware that what they're doing is against the law, they simply move on to another area further down the street or another area that has easy sand access. And most folks are afraid to complain, fearing retaliation. Even when I personally go to confront the folks doing the sand theft, they simply drive off to somewhere else where no one is watching or complaining. This problem obviously doesn't happen at Waikiki, Ko'olina, Kailua, or any other popular beach where people are observing. It happens in less public, more rural areas where local people don't interfere. And we didn't either for years. But it's been too long and too often. It's like abuse -- you have to stop taking it. Also, everyone

has a good answer when confronted. "It's for a sandbox for my grandson", " I'm building something", "everybody does it in Hau'ula", " "we need it to fill sand bags to hold down the roof", "it's for the CHURCH". One person walked over to my yard to find some illegal thing I might be doing, so he could report me. I have heard that even construction companies take sand for projects. My lifeguard neighbor tells me even the state has taken away beach. When they widened Farrington Hwy. in Makaha, at the intersection of Makaha Valley Rd, they built the road over the beach, severely narrowing the beach. I understand this eliminated the life guard job there as well. Since then when it storms heavily, the sand goes back on the road and everyone gets upset because the road has to be swept clean. But the beach is only trying to go back to what it used to be. To summarize: Sand theft is real, and is a major problem. It goes back at least 30 yrs. To expect policemen to stand by and monitor that folks only take one gallon a day, is absurd and poor use of policemen time. Also imagine if every adult in Hawaii took 1 gallon of sand a day /every day, what would happen! Due to our ever increasing population and all the pressures it brings, it is long overdue that our beaches be protected, restored, and laws regarding beaches be enforced. The intent of this bill should not be quashed to satisfy the aquarium or any other industry for their own profit and enjoyment. We as the people of Hawaii, have come to a point where we cannot depend on "Aloha" to protect our beaches. – it is been demonstrated that is not enough. We need laws -- to protect our precious beaches, and those laws need to be enforced. Please support HB 17 !! Mahalo ! Karen GS Young 86-024 Glenmonger St. Wai'anae, HI 96792

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