

LATE



LIFE OF THE LAND

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COMMITTEE ON WATER & LAND

Rep. Cindy Evans, Chair

Rep. Nicole E. Lowen, Vice Chair

COMMITTEE ON OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS

Rep. Faye P. Hanohano, Chair

Rep. Ty J.K. Cullen, Vice Chair

DATE: Friday, February 01, 2013

TIME: 8:00 am

PLACE: Conference Room 325

HB 931 RELATING TO SHORELINE VEGETATION

STRONG SUPPORT

Makes permanent Act 160, SLH 2010.

Aloha Chairs Evans and Hanohano, Vice Chairs Lowen and Cullen and Members of the Committees

Life of the Land is Hawai`i's own community action group advocating for the people and the land since 1970. Our mission is to preserve and protect the life of the land by promoting sustainable land use, promote open government through research, education, advocacy, and when necessary, litigation.

Act 150-2010 (HB 1808 HD3 SD1 CD1) dealt with protecting coastal public resource assets. In particular, some landowners intentionally promote the growth of shoreline vegetation and/or promote vegetation along makai-to-mauka beach transit corridors in an attempt to increase the area of their property while decreasing coastal public trust assets.

Act 160-2010 required that the Department of Land and Natural Resources (DLNR) protect these public trust resources. The Act established penalties for landowners who violated the law.

Act 160 concluded with: "This Act shall take effect upon its approval; provided that on June 30, 2013, this Act shall be repealed"

HB17 makes permanent the provisions of Act 160-2010.

The 2001 testimony to DLNR by Kat Brady, Assistant Executive Director is still relevant to this issue:

One of the things that makes Hawai`i such a unique and wonderful place is that the beach belongs to everyone. [] Allowing private property owners to quietly acquire state land is a very dangerous precedent to set.

Life of the Land strongly supports the values of aloha `aina and malama `aina and at first blush one could infer that property owners are taking care of the beach to prevent erosion. But [] some property owners are actually vegetating the beach and, as one resident put it 'vigorously watering' in front of their properties in order to make a claim on it. This should never be allowed in Hawai`i, where our way of life is deeply connected to the beach.

Consider why a beachfront property owner with an already large front yard would ask the state to enlarge his property. Would the granting of this application encourage more building on his property? Building in the Special Management Area has already proven to be a problem, and with the climactic changes taking place, Hawai`i's ocean levels are predicted to rise. This will only create more problems for the state without having to deal with claims from property owners whose land is threatened.

It is the responsibility of the state to protect the public trust. Article XII Section 4 of the Hawai`i State Constitution reads....

PUBLIC TRUST

Section 4. *The lands granted to the State of Hawai`i by Section 5(b) of the Admission Act [] shall be held by the State as a public trust for native Hawaiians and the general public.*

Public resources should not be used to enhance private landowners assets. Article XI Section 1 of the Hawai`i State Constitution reads....

CONSERVATION AND DEVELOPMENT OF RESOURCES

Section 1. For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawai`i's natural beauty and all natural resources, including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.

All public natural resources are held in trust by the State for the benefit of the people.

Public beaches are just that. PUBLIC. They belong to all the people of Hawai`i. Any accreted lands should be declared state land and held in trust for the public. Please uphold this wonderful principle that makes Hawai`i so special. Getting to the beach should not be an economic issue. The beaches are for all of us lucky enough to live in this sacred land.

Illegal land grabs claimed by Eloise Aguiar (Honolulu Advertiser, December 9, 2001)

Morning glories, beach grass and naupaka line the shore of Kailua Beach, adding touches of green to the buff and-blue landscape. But aggressive watering of these patches by some homeowners is causing plants to spread and reduce the amount of beach in public use.

The landscape has spread so much in one location that residents of the adjoining lot filed for an application of accretion, essentially seeking to add the land under the greenery to their property.

The state surveyor did not recommend the application to the land court, which makes the final decision, but the application and aggressive watering has residents and public officials concerned about losing public use of the beaches.

"The public is being robbed," said Karen Simmons, who became aware of the accretion application when surveyors appeared at the beach near her home to survey her neighbor's property.

Simmons complained to the state Department of Land and Natural Resources in September 2000 about people extending their beachfront property by putting morning glory vines in the sand and watering them. In two areas, naupaka shoots have been planted, and one neighbor added as much as 2,000 square feet of vegetation, she said.

It all adds up to illegal taking of public beach, which carries a maximum fine of \$2,000, said Sam Lemmo, DLNR coastal lands program manager. People can apply for a permit to plant in the state conservation shoreline, which is generally the highest wash of the wave, but Lemmo said most plantings are not in the public interest.

The public has "a right to access and use these areas, and we have to protect those rights to the best of our ability, so we try to discourage that type of practice," he said.

Please pass this bill.

Mahalo

Henry Curtis
Executive Director