

DAVID Y. IGE
GOVERNOR OF
HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
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

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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committee on
WATER AND LAND
AND
OCEAN, MARINE RESOURCES AND HAWAIIAN AFFAIRS**

**Tuesday, February 6, 2018
9:15 AM
State Capitol, Conference Room 312**

**In consideration of
HOUSE BILL 1988
RELATING TO SMALL BOAT HARBORS**

House Bill 1988 proposes to direct the Department of Land and Natural Resources (Department) to lease fast lands and submerged lands at the Ala Wai boat harbor for office space, parking, commercial use, hotel use, training facilities, vessel use, and deep seawater air-conditioning plants. **The Department supports this measure with the following amendments.**

The Departments Division of Boating and Ocean Recreation (Division) is currently in the process of implementing a Request for Proposals for the development of the Ala Wai small boat harbor. During the community outreach phase for this project, concerns were raised that the Division was planning to authorize the building of a high rise hotel/apartment building on the property. At no time was a high rise building contemplated for the property. In fact, the Division stated that the successful Developer would be required to comply with all zoning requirements, including height restrictions.

The amendment to Section 200-2.5, Hawaii Revised Statutes, limits the height of any structure or building to fifteen feet. The Department notes that prior to the enactment of Act 197, session laws of 2011, the zoning for the facility was twenty-five feet.

Vehicle parking in the facility is at a premium and any new development is expected to need additional parking. In order to create additional parking, the Developer will most likely need to go vertical. Limiting the height of any structure or building to fifteen feet will either result in the loss of parking or restrict potential development within the facility.

Also, the Ala Wai small boat harbor lies within the exposure area, as stated in the *Hawaii Sea Level Rise Vulnerability and Adaptation Report*. The Report, mandated by statute, advises that “(t)he State should consider developing design standards as best management practices for building in the SLR-XA with 3.2 feet of sea level rise.” SRL-XA is the exposure area, the footprints of three hazards—passive flooding, annual high wave flooding and coastal erosion. A height limit of fifteen feet will not accommodate such flooding since the Report models a possible scenario of 5 feet and mentions the potential for a rise of 6 feet, as well as associated flood risk, and even submersion of lands. Any development that occurs in the Ala Wai small boat harbor must address potential chronic flooding in the “inevitable near and medium-term rise of sea level” which is expected to occur within the next 30-70 years. This is essentially the lease period for any development at the harbor. A Developer may need to mitigate and adapt to this change in sea levels, through buttressing and raising of structures. A fifteen foot height restriction will severely limit the potential of this harbor.

For these reasons, the Department recommends that the height limit for any structure be set at forty-five feet to accommodate potential sea level rise as well as any development issues that may need to be addressed.

Finally, the Department would like to clarify that the leasing of submerged lands includes all submerged lands within the confines of the Ala Wai small boat harbor.

SECTION 1. (a) Pursuant to section 200-2.5, Hawaii Revised Statutes, the department of land and natural resources is directed to lease all fast lands and all submerged lands at the Ala Wai boat harbor using the request for proposals process for the public-private development, management, and operation of areas of Ala Wai boat harbor.

(b) The permissible uses under the lease shall include:

(1) Office space for use by the division of boating and ocean recreation of the department of land and natural resources; provided that any structure or building containing an office space shall not exceed [~~fifteen~~] forty-five feet in height;

(2) Vehicular parking, including parking stalls for use by the division of boating and ocean recreation of the department of land and natural resources and for public metered parking;

(3) Commercial uses, including restaurants, retail stores, marine-supplies stores, and sundry stores, to be made available to the public; provided that any structure or building containing a commercial use shall not exceed [~~fifteen~~] forty-five feet in height;

(4) Hotel, residential, and timeshare uses; provided that any structure or building containing a hotel, residential, or timeshare use shall not exceed [~~fifteen~~] forty-five feet in height;

(5) Training facilities for ocean recreation and support facilities for ocean recreation;

(6) Vessel haul-out, storage, and repair facilities; provided that any structure or building containing a vessel haul-out, storage, or repair facility shall not exceed [~~fifteen~~] forty-five feet in height; and

(7) Deep seawater air-conditioning plants; provided that any structure or building containing a deep seawater air-conditioning plant shall not exceed [~~fifteen~~] forty-five feet in height.

Thank you for the opportunity to comment on this measure.

HB-1988

Submitted on: 2/3/2018 12:15:41 AM

Testimony for WAL on 2/6/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
makani	Hunting, Farming and Fishing Association	Oppose	No

Comments:

I oppose HB1988.

In general this is privatizing a harbor. We have a non-profit that will now be able to call the shots etc. Stat owned properties need to be runned and managed by the state.

HB-1988

Submitted on: 2/3/2018 1:04:31 PM

Testimony for WAL on 2/6/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Frank Farm Jr		Support	No

Comments:

Representative Ryan I. Yamane, Chair
Representative Chris Todd, Vice Chair

Committee on Water and Land

Christopher Duffy, Resident Owner, Ilikai Marina #1782

Tuesday, February 6, 2018

Opposition to HB 1988, section 1.b.4 Relating to Small Boat Harbors

As a resident owner adjacent to the Ala Wai small boat harbor, I access and use the facilities several times a week.

Overall, I support nearly all the provisions as long as they do not exceed 15 feet. However, I am testifying against HB 1988 section 1.b.4 which allows for "Hotel, residential, and timeshare uses...". Even though the bill calls for a 15 foot height limit, it is a still poor precedent to introduce such unnecessary usage onto these lands. The bill does not specify which parcel such usage could be built upon. I could understand such usage adjacent to the Ala Moana Blvd bridge across the canal. But not at the other parcels under consideration for the Ala Wai harbor lands.

This harbor has for decades been set aside for public small boat usage and public beach access. The parking areas are heavily used for boat launch, harbor access, beach access, surfing access, and access to the Duke Paoa Kahanamoku lagoon and beach park. To introduce private residence onto these lands effectively takes it away from public peoples and is a shocking slap to the trust we have given to our representative government.

In closing, I would re-iterate that the portion I object to is section 1.b.4. The remainder of the bill seems to be in line with the public sentiments expressed in the 2 Public Vision Workshops for the Ala Wai Harbor. Thank you for the opportunity to testify on this matter.

Testimony of Nancy Mueting

Against HB1988

Ilikai Hotel, Waikiki

Chairs, Vice Chairs and committee members of WAL & OMH

Hawaii State Capital

February 4, 2018

Subject: AGREEMENT WITH WATERFRONT PROPERTIES FOR ALA WAI HARBOR

The State is straying from its Territorial agreement for a “yacht harbor” seaward of waterfront properties. HB1988 proposes urban buildings and industrial uses that by nature shadow and substantially obscure harbor character. I am concerned the land use changes may be in violation of the Contracts Clause of the U.S. Constitution.

The agreement for a harbor lies in “Indenture and Deed” #196552, dated December 20th, 1956. Parties to the agreement are Territory of Hawaii and Ala Moana Properties Ltd. The terms inure to property assigns being State of Hawaii, properties Ilikai Hotel, Modern Honolulu and Ilikai Marina.

Of course, I ask the committees to review the above for their opinion. ASAP I hope to provide you supporting evidence; Deed agreement, certificate of title encumbrance, succession of property ownership maps.

Thank you,

Nancy Mueting

nancymueting@hotmail.com

Representatives:

Ryan I. Yamane, Chair, WAL; Chris Todd, Vice Chair, WAL

Kaniela Ing, Chair, OHM; Lynn DeCoite, Vice Chair, OMH

Committee members

Nancy Mueting, beneficiary of Ilikai Hotel family owned unit, Waikiki
<nancymueting@hotmail.com>

Hearing February 6th, 9:15 A.M.

February 4, 2018

Against HB1988 Relating to Ala Wai Harbor land use

REASON: PROPOSED HARBOR USES IMPAIR AGREEMENT WITH WATERFRONT PROPERTIES

The State is straying from its Territorial agreement for a "yacht harbor" seaward of waterfront properties. HB1988 proposes urban buildings and industrial uses that substantially obscure harbor character. I am concerned land use changes may be in violation of the Contracts Clause of the U.S. Constitution. "No State shall...pass any...law against obligations of contracts."

The agreement for a harbor lies in "Indenture and Deed" #196552, dated December 20th, 1956. Parties to the agreement are Territory of Hawaii and Ala Moana Properties Ltd. The terms inure to property assigns being State of Hawaii, properties Ilikai Hotel, Modern Honolulu and Ilikai Marina. To my knowledge the deed is still effective.

Of course, I ask the committees to review the above for their opinion. Provided with my testimony is supporting evidence; Deed agreement, certificate of title encumbrance, succession of property ownership maps. Key words are highlighted.

I urge the committees to vote against HB1988 appearing to be constitutionally infirm.

Thank you for the opportunity to testify.

Land Court Consolidation 64 of Ala Moana Properties, Limited

TOGETHER WITH an easement appurtenant to Lots 1-A-1 and 1-A-2 across Lot 25
Land Court Consolidation 32 for storm drain; and across Lot 23 for pedestrian
and vehicular traffic

*L gifted Lot to Harbor for road in front of
ILUKAI MARINA + PRINCE*

Condominium Map 3, Iiikai Apartment Building

ENCUMBRANCES

Lot/Int.(%) Document # Class In Favor Of / Terms

GRANT State of Hawaii, a public right of way
across Lots 2, 3, 4 & 5 *Deeded lane road*

GRANT City and County of Honolulu, Lot 3 for
concrete box culvert *LAND COURT SYSTEM*

Reservations in Deed 196551,
Lots 1-A-1 & 1-A-2

4-30-1956

146785 LCC Louise

*same deed
in same
deed is
196551
96552
46559*

196552 DEED State of Hawaii, littoral rights
appurtenant to Lots 1-A-1, 1-A-2, 2 & 5

Lots along like Kamaoaka Lane

*gifted land for street Halomoana; state acquires LITTORAL RIGHTS
though state cannot
build above sidewalks on makai side in relation to street.*

Blank Copy

1 + 3

196551

196552
196553
196554

QUANTITY NO

DEC 21 1950

11 05
A
12527
12528
12529

NO. 127
109

John A. Carls

269 61
648-6
68817

CARLSMITH & CARLSMITH
P. O. Box 686
HILO, HAWAII

1105

INDENTURE AND DEED

THIS INDENTURE AND DEED made, executed and delivered this 20th day of March, 1956, by and between the TERRITORY OF HAWAII, whose place of business and post office address is Iolani Palace, Honolulu, City and County of Honolulu, Territory of Hawaii, hereinafter called "Territory", and ALA MOANA PROPERTIES, LIMITED, a Hawaii corporation, whose principal place of business is 1350 Ala Moana, said Honolulu, and whose post office address is Post Office Box 3468, said Honolulu, hereinafter called "Ala Moana",



W I T N E S S E T H:

WHEREAS, the parties hereto did enter into an "Agreement" dated April 30, 1956, whereby the parties hereto, under the provisions of Section 4535, Revised Laws of Hawaii, 1945, and other pertinent provisions of law thereunto enabling, did agree to an exchange of land, extinguishment of certain easements, establishment of new easements, and restriction of use of lands and yacht harbor; and

WHEREAS, the Board of Harbor Commissioners, at a meeting held April 26, 1956, has concurred in, and the Commissioner of Public Lands of the Territory of Hawaii, and the Attorney General of the Territory of Hawaii, and the Governor of the Territory of Hawaii, have approved the above-mentioned Agreement;

NOW, THEREFORE, for and in consideration of the covenants of Territory contained in said Agreement, and for

IN WITNESS WHEREOF, the TERRITORY OF HAWAII has caused these presents to be duly executed by those Territorial officials in whom the authority so to do is in them vested by law, and ALA MOANA PROPERTIES, LIMITED has caused these presents to be executed and its corporate seal to be hereunto affixed by its proper officers in that behalf duly authorized, on the day and year first above written.

TERRITORY OF HAWAII

By Samuel Hilder King
Governor, Territory of Hawaii

ALA MOANA PROPERTIES, LIMITED

By William A. Hummel
ITS VICE-PRES.

By C. W. Hummel C. W. HUMMEL
ITS VICE-PRES. and SECRETARY

COUNTERSIGNED:

James H. King
Commissioner of Public Lands

Ben E. Neeth
Chairman, Board of Harbor
Commissioners

APPROVED AS TO FORM:

Richard K. Aoyama
Attorney General, Territory of
Hawaii

LAND COURT

TERRITORY OF HAWAII

MAP WITH LAND COURT CONSOLIDATION 64
ALA MOANA PROPERTIES, LIMITED - OWNER

BEING LAND SITUATED ON THE
SOUTHWESTERLY SIDE OF ALA MOANA
AT KALIA, WAIKIKI, HONOLULU, OAHU, T.H.

BEING A CONSOLIDATION OF THE FOLLOWING :

LD. CT. APP.	LOT NO.	MAP NO.	AREA - SQ. FT.	CERT. OF TITLE
652	50/1-8/1	45	72.4	668/17
LD. CT. CONS.	4	1	1,840	63399
	14	1	293	63399
	32	1	120	63399
	32	1/9	2,202	63399
	24	2	66,362	63399
	64	2	120,898	63399
	32	3	59,163	63399
	24	4	35,811	668/5
	26	4	467	668/5
TOTAL AREA			287,865	

AND SUBDIVISION OF SAID CONSOLIDATION INTO LOTS 1, 2, 3, 4, AND 5



March 28, 1957
338 Dillingham Building
Honolulu, T.H.

James P. McNamee
Registered Professional Surveyor
Certificate Number 75
Land Court Surveyor
Certificate Number 1

ALA MOANA PROPERTIES, LIMITED - OWNER
BY CHRISTOPHER CARLSMITH

BY James M. O'Sullivan

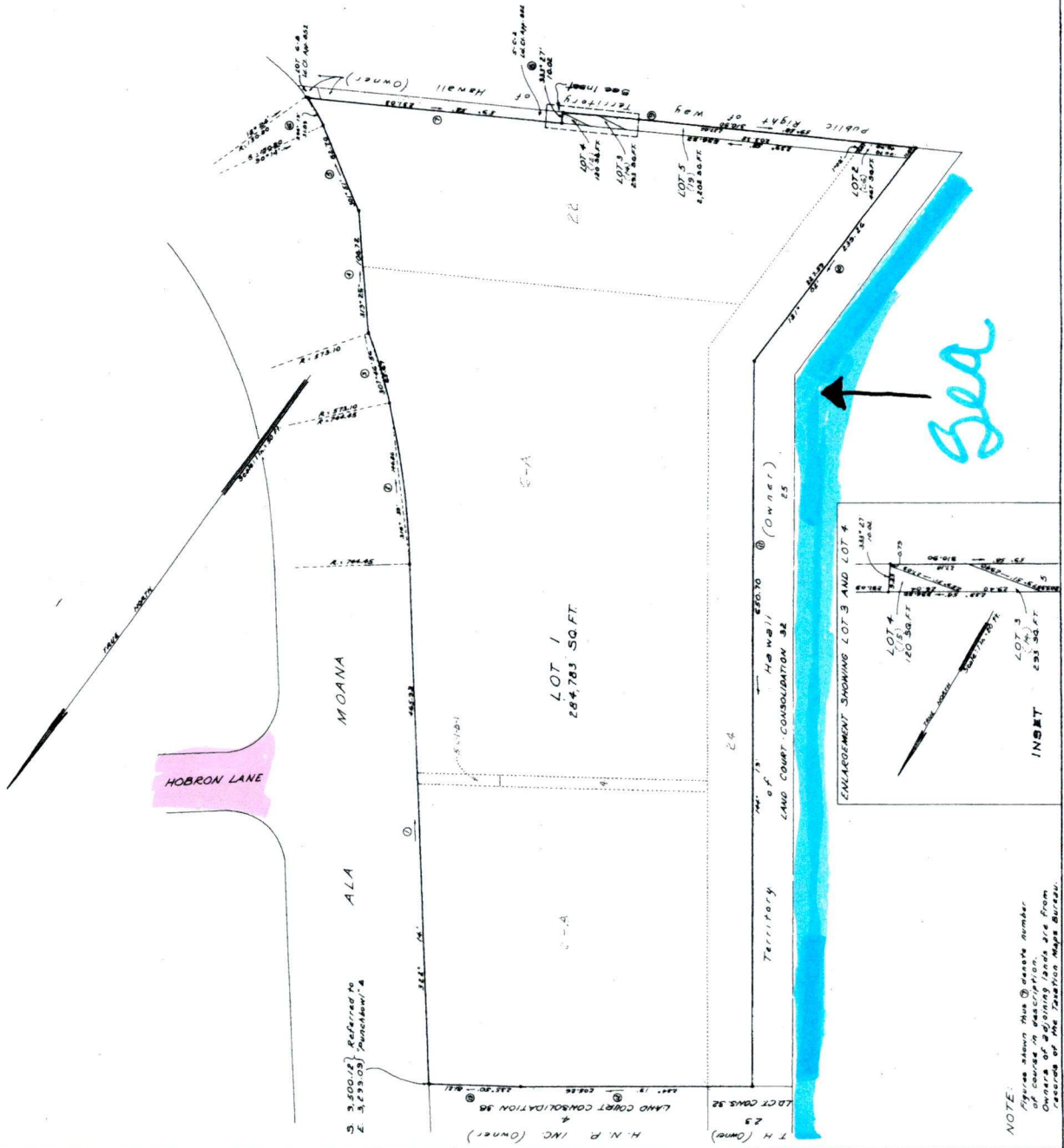
I hereby certify that the description of survey and map herein being a consolidation of certain lots of Land Court Consolidation 64 and Lot 5-C-19-1 of Land Court Application 868, as herein set forth, have been in accordance with the original and true mathematical correctness and found to be in accord.

Honolulu, T.H.
April 12, 1957.
James M. O'Sullivan
Surveyor, Territory of Hawaii.

I hereby certify that Decree of Registration dated April 15, 1957 has issued to Ala Moana Properties, Limited covering the lands described herein, and that Owners Transfer Certificate of Title No. 6888 has been transcribed therefrom.

Honolulu, T.H.
April 15, 1957.
James M. O'Sullivan
Registrar of the Land Court.

Filed Apr. 10, 1957
Christoph Carlsmith
Owner



NOTE:
Figures shown this 0 means number
of course in description. 0.00 from
records of the Hawaiian Maps Bureau.

LAND COURT
STATE OF HAWAII
LAND COURT CONSOLIDATION 64
SUBDIVISION OF LOT 1
AS SHOWN ON MAP 1
INTO LOTS 1-A TO 1-D INCLUSIVE.

AT KALIA, WAIKIKI, HONOLULU, OAHU, HAWAII.

R.M. TOMMILL CORPORATION



By: *Richard G. Tommill*
Registered Professional Surveyor
Certificate Number 501

222 Merchant St.
Honolulu, Hawaii
May 11, 1961

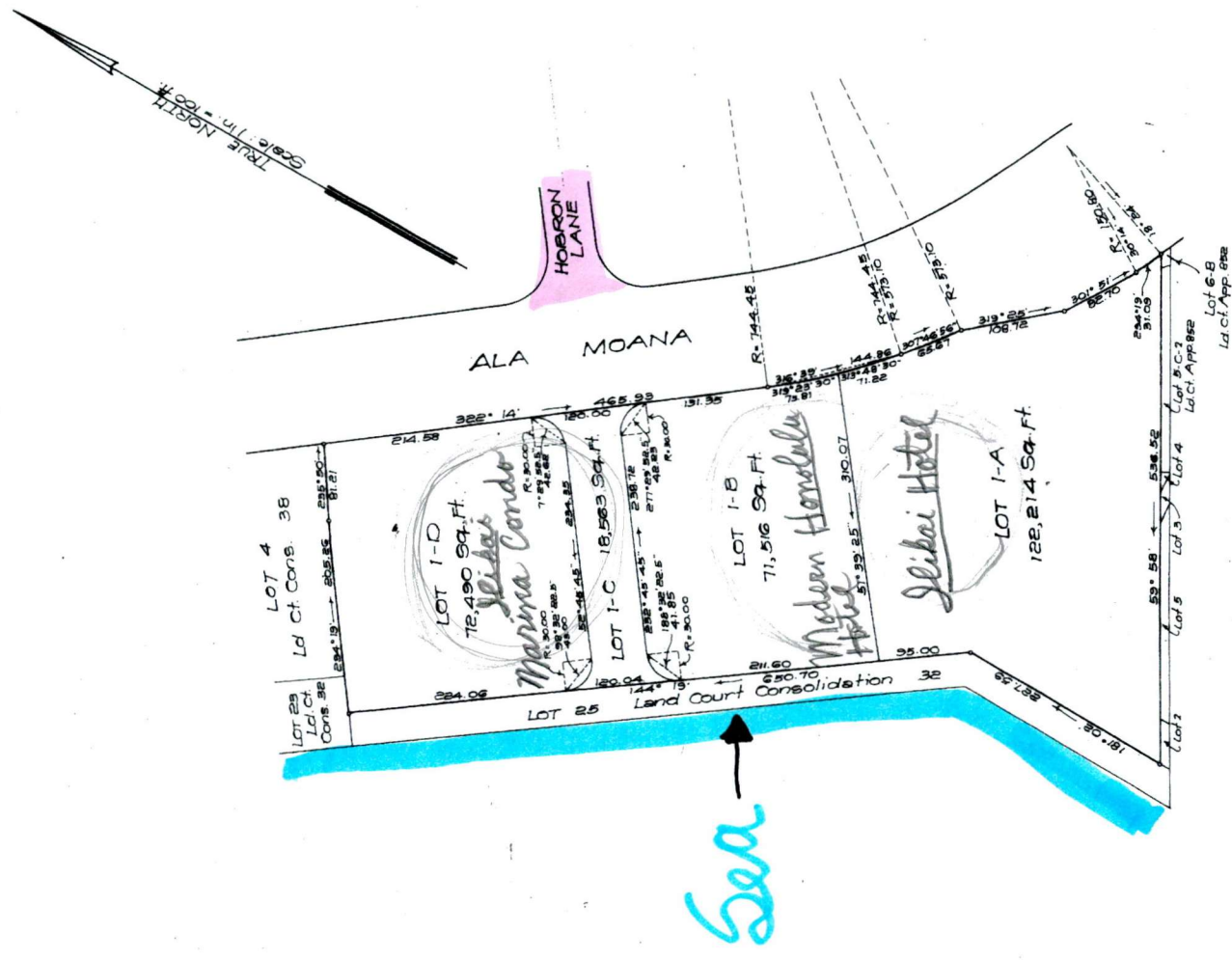
OWNER: ILIKAI, INCORPORATED
Owner's Certificate of Title: 81,553

AUTHORIZED AND APPROVED BY ORDER OF THE JUDGE
OF THE LAND COURT DATED: AUGUST 24, 1961
BY ORDER OF THE COURT

Richard G. Tommill
REGISTRAR OF THE LAND COURT

Filed August 23, 1961
Richard G. Tommill
Registrar of the Court

15 x 21" = 22.5 sq. ft.



HB-1988

Submitted on: 2/5/2018 8:22:42 AM

Testimony for WAL on 2/6/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeffry L. Hossellman		Support	No

Comments:

Retired attorney, senior member both yacht clubs, writing here.

Boats and boaters in need of haul out and repair facility for the 1000 boats in the harbor. Just like old one but new and well designed. Height limit two stories.

Boats and boaters need fuel. Height limit two stories.

Boaters and beach goers need parking. Build a large three deck parking structure in the area of the harbor office. Ilikai has very little parking so they benefit. So does Hilton and the general public.

No information on space for Hilton's water well for cooling water, but seems like gift of harbor land to private business.

jeff hossellman



1599 ALAMOANA BLVD • HONOLULU, HI 96814 • 808-955-4405

February 5, 2018

TESTIFIER: Stan Thornton
Past Commodore and current Director
Chair of Committee authorized to prepare and submit a Position Statement on the
Waikiki Yacht Club's vision for the future of the Ala Wai Small Boat Harbor

COMMITTEES: Hawaii House of Representatives
Committee on Water & Land
Committee on Ocean, Marine Resources, & Hawaiian Affairs

DATE & TIME OF HEARING: February 6, 2018 at 9:15 AM

MEASURE NUMBER: HB 1988 Relating to Small Boat Harbors

We submit herewith written testimony on HB 1988 in the form of a Position Statement prepared at the request of DTL Hawaii, a consultant to the DLNR Division of Boating and Ocean Resources, setting forth the Waikiki Yacht Club's vision for the future of the Ala Wai Small Boat Harbor, where the Club has been a long-term tenant. This Position Statement sets forth key positions and site specific recommendations that directly relate to the proposals in HB 1988.

We respectfully request the Committees' consideration of this Position Statement in your deliberations on HB 1988.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Stan Thornton", written in a cursive style.

Stan Thornton

Encl.: Position Statement of the Waikiki Yacht Club on the Future of the Ala Wai Small Boat Harbor



1599 ALAMOANA BLVD • HONOLULU, HI 96814 • 808-955-4405

DATE: December 14, 2017

TO: State of Hawaii, Department of Land and Natural Resources, Division of Boating and Ocean Resources (DOBOR), operator of the Ala Wai Small Boat Harbor (Ala Wai), and

TO: DTL Hawaii, Consultant to DOBOR

**POSITION STATEMENT OF THE WAIKIKI YACHT CLUB ("WYC") ON THE
FUTURE OF THE ALA WAI SMALL BOAT HARBOR ("ALA WAI")**

The Ala Wai is a priceless asset of the people of Hawaii. It has been and must again become the center of world class ocean recreation in one of the most ocean oriented places on Earth. Ocean activities are deeply imbedded in the culture of Hawaii where public ocean access is required to be protected. The Public Trust obligation in the Hawaii State Constitution demands and requires that the waters and lands of this special place be held and managed for "...the benefit of the people". That means the thousands of people in Hawaii who need and use this harbor to enjoy and benefit from the sea. It clearly does not mean residential, resort and unrelated commercial development, all of which would contribute to the destruction of this special place. This is a public small boat harbor and all its property is designated for harbor purposes as a public coastal resource.

The Ala Wai is home to sailors, fishermen, surfers, kayakers, divers, paddlers, ocean-oriented youth programs, and all those who love the sea. All of the Ala Wai's ocean recreation activities must be supported by essential marine services, many of which were mandated to be restored to serve the State's largest and primary small boat harbor in the now defunct Honey Bee Waikiki Landing venture documents. Any new Request for Proposal must provide for the return of these vital marine and ocean recreation-related services.

Following are the Key Positions and Site-Specific Recommendations of WYC that describe the present condition of the Ala Wai and what the Club feels needs to be done in the future.

KEY POSITIONS

1. The cultural and recreational importance of the Ala Wai is undeniable.

The Ala Wai is the largest small boat harbor in the State with up to one-third of the recreational boat slips in the State. The Ala Wai is a priceless asset of the people of Hawaii. It is where young people learn sailing, paddling and other forms of ocean recreation in greater numbers than anywhere else in Hawaii. It is one of the internationally known centers of world class ocean recreation in one of the most ocean-oriented places on Earth. These ocean activities are deeply imbedded in the culture of Hawaii. The biennial Transpacific Yacht Race from Long Beach to Honolulu ("Transpac") is one of the world's four great open ocean races and was founded at the inspiration of King Kalakaua. The Men's and Women's Molokai Hoe races are two of the world's greatest outrigger canoe races that are supported by the numerous escort and support vessels moored in the Ala Wai. Additionally, these yacht and outrigger canoe races provide substantial revenue to the state, hotels and visitor services, and local businesses.

Fishing tournaments are based in the harbor. The Ala Wai is home to yacht clubs including WYC, boats that support the safety at sea activities of the U.S. Coast Guard Auxiliary and U.S. Power Squadron, sailors, fishermen, surfers, paddlers, kayakers, stand-up paddle boarders, divers, ocean-oriented youth programs, and all who love the sea. All of these activities are supported by boats and the essential marine services provided by a fuel dock, pump-out stations, a haul-out and repair facility, chandlery, convenience retail, laundry and related services.

2. The condition of the Ala Wai must be improved and maintained to support boating and ocean recreation.

Since the demolition of the haul-out area and closing of the fuel dock and related support services, the Ala Wai has suffered from the lack of such marine services and foreseeable environmental problems. Prior to being taken out of service, sites B and C were not under-utilized. They had and were designated to be used for boating support facilities. The closest haul-out facility is now located in the boatyard at Keehi Marine Center ("Keehi") with long wait lists and no ability to provide emergency repair services for Ala Wai vessels. The closest fuel docks are also currently located at Keehi, although two small tanks are planned for Kewalo Basin Harbor ("Kewalo"). This fuel dock plan was scrapped by the Hawaii Community Development Authority, and then proposed again. At present, it is not clear boats from the Ala Wai may use the future facility as this is to be left to the harbormaster to determine. A large commercial vessel can take a long time to fuel, thus limiting use by smaller recreational vessels. Strong surge and lack of temporary docking space in Kewalo also makes small boat use problematic and dangerous if this facility is ever built.

3. The Ala Wai needs environmental protection afforded by marine service facilities.

There are compelling environmental reasons for each of these facilities – a fuel dock prevents dockside spills from boats otherwise forced to fill tanks with jerry jugs; pump-out stations avoid having boat pump sewage in the harbor; a haul-out facility prevents boats sinking

dockside or in the harbor; a boat repair facility discourages improper dockside repair and painting activities by 752 boats (if all slips were restored to usable status); and a laundry facility avoids gray water (mostly wash water) from boats moored in the harbor DOBOR wisely required that Honey Bee Waikiki Landing provide most of these services in connection with that developer's proposal. Provision in any RFP for these sites needs to require that these services be restored for the environmental health of the Ala Wai and the basic operation of the State's primary small boat harbor. To do otherwise would be to betray an obligation to those who use the harbor for its intended purposes.

4. The law requires that uses in the Ala Wai support ocean activities.

Executive orders and other documents of record refer to the uses permitted for the land as limited to activities serving the harbor. State law provides in part that land in state boating facilities must complement or support ocean activities: "*§200-2.5 Disposition of state boating facility properties. ... (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. (e) The department shall adopt rules in accordance with chapter 91 to implement this section. [L 2001, c 299, §2; am L 2011, c 197, §4]*".

5. The WYC is part of the Ala Wai and has a unique historic and cultural perspective on the future of the Ala Wai.

WYC is a Hawaii non-profit corporation with over one thousand members. WYC is a long-term lessee and stakeholder in the Ala Wai. The Club is a Hawaii host and race management official of Transpac and numerous other ocean-activities. Duke Kahanamoku was a co-founder of the Club in 1944. His last boat, "Nadu K 2", is moored at and maintained by WYC in his honor.

6. WYC supports development of marine and ocean recreation facilities in compliance with law.

WYC supports compliance with uses prescribed by public use documents, Shoreline Management Area regulations, and the Honolulu Lei of Green policy. This includes the zoning for recreational shoreline areas that provides for maximum 25-foot and two-story height limits.

WYC does not support residential and resort development or commercial uses unrelated to a small boat harbor. We further believe that providing slips for commercial use should remain capped at the 15% level. This is important to mitigate traffic and safety concerns and protect usage of the harbor by young people training to sail and paddle, surfers, kayakers and outrigger canoe paddlers.

WYC understands that DOBOR is under pressure to balance the needs of recreational boaters and other Ala Wai stakeholders with revenue-generating opportunities. WYC visualizes the greatest potential for future revenue is the restoration of slips currently unusable in the

harbor. We care that the overall appearance and utility of the Ala Wai be enhanced for intended purposes with the additional benefit of providing desired revenue to the State.

7. WYC supports dredging and water pollution control measures.

WYC supports the construction of an improved catchment system, including additional traps at strategic points of entry along the Ala Wai Canal. We also understand the Ala Wai canal is scheduled for the first dredging in 15 years to commence in late 2018. We applaud this action, but suggest the dredging be extended into the Ala Wai through the channel entrance. Since this area was last dredged many years ago, constant silting has made it impossible for vessels with deeper drafts to enter the Ala Wai. This, for example, has prohibited many Transpac boats from traditional use of the harbor after race finish at Diamond Head.

WYC PROPOSES THAT THE FOLLOWING SITE-SPECIFIC USES, WHICH ARE CONSISTENT WITH THE PUBLIC TRUST DOCTRINE, BE INCLUDED IN THE REQUIREMENTS FOR ANY REQUEST FOR PROPOSAL:

SITE A – CURRENT HARBORMASTER’S OFFICE AND ADJACENT PARKING LOT

WYC’s vision for this site includes:

- A parking garage with a restaurant.
- Dry-stack storage for smaller boats.
- Improved and larger boat ramp.
- Trailer parking and storage.
- Landscaping including trees for shade.

Such vision does not include a high-rise structure that would inhibit view planes of the ocean, and create unsafe traffic congestion in the Ala Wai.

SITE B – FORMER HAUL-OUT AND BOAT REPAIR AREA

WYC’s vision for this site includes

- Provide “Welcome to Waikiki” signage in a nicely landscaped setting.
- Preserve the site for a haul-out and boat repair facility, including a travel lift and crane.
- A building for boat repair, a chandlery facility and a restaurant.
- Mooring space for the haul-out.
- Improved catchment system.
- Historic and cultural markers

SITE C – OLD FUEL DOCK

WYC’s vision for this area includes:

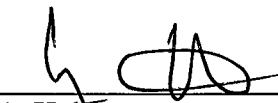
- Replacement of fuel dock facility to include new gas and diesel tanks with pump-out stations

- Two-story building with Harbormaster's office on the top level with a view of the harbor entrance, and services for a snack shop, laundry, mail and courier services etc. on the lower level.
- Harbormaster signage welcoming and providing directions for visiting yachtsmen (the entrance to the harbor should also have the harbor name and VHF contact information).
- Emergency mooring space.

SITE D – TRIANGLE PARKING LOT

WYC's vision for this site is to keep it for parking, but add trees for shade and landscaping.

WYC appreciates the opportunity to submit this Position Statement.



Lyle A. Holden
Commodore



Stanley L. Thornton
Staff Commodore and Committee Chair

HB-1988

Submitted on: 2/5/2018 9:14:02 AM

Testimony for WAL on 2/6/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rob Johnson	Ilikai AOA	Support	No

Comments:

As the General Manager of the Ilikai we are in support proper development of the Ala Wai Harbor that supports the locals that use the area. Proper development will support and balance the use for surfers, canoe users, boater, marine activities, beach users and tourists. This area is one the last spots for local families to use in town. Lets protect our most valuable assets for our keiki. We support the limit of development to keep traffic and infrastructure in control. We support the limit of height to 15' as the use of stores in relation to height is ambiguous per Supreme Court decisions.

From: Hans D Puehse <hdpuehse@gmail.com>
Date: November 28, 2017 at 4:52:20 AM HST
To: SenGaluteria@capitol.hawaii.gov
Subject: Waikiki Development under consideration

I have just returned from O'ahu, where I had planned to spend four weeks. However, after a two week stay, my wife and I returned to California. The traffic and noise was just too much and prevented us from having a restful vacation.

More than 15 years ago, we purchased a condominium in the Ilikai and have spent most winter months in Waikiki, although we were not able to in the past three years. We were shocked to see the developments in Kakaako during those three years. Highrise buildings everywhere made us wonder when will such developments taper off before visitors to O'ahu will quit coming.

Are the State and C & C governments even considering the long term impact on visitors and revenues from visitors before authorizing additional developments? We have now just learned that the State and C & C is considering yet another highrise building in the Ala Wai Small Boat Harbor area. How will such development impact traffic and other infrastructure facilities? Is an environmental impact study planned and if so, will the result even be considered before proceeding? When will the local governments come to their senses and stop this destructive madness of untamed developments?

We believe that developers will never stop with such projects unless forced by local governments that are elected to protect the environment and beauty of the islands. Sadly, it is almost too late already. While we enjoyed spending 4 to 5 months each year on O'ahu, we could not even last 4 weeks this last time.

Only governments can stop this madness as long as developers can make millions in profits. Eventually, this will negatively impact visitors and revenues to the State and C & C.

We count on you to apply reason, common sense and logic and stop developers from destroying what was once a favorite spot to come to for visitors from across the world.

Thank you for reading our comments and for giving consideration to the issues raised.

Sincerely,

Hans & Gina Puehse
Folsom, CA

HB-1988

Submitted on: 2/5/2018 3:02:37 PM

Testimony for WAL on 2/6/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
J Singleton		Oppose	No

Comments:

Issues of: noise pollution, unatraffic of vehicles and pedestrians a problem.

Waikik becoming sardine can of wandering unhappy gawping strangers.

More people, more emergency services needed.Already not enough.

Solution to homelessness and needing a safe place to watch fireworks is not more construction.

Solution to cleaning the Harbor is not more development, it is paying the insurance for volunteers or insisting boat owners pay for monthly cleaning.

Water levels already increasing. Isn't this already in the flood zone? Has the beach erosion on Waikiki gone unnoticed.

The Harbor is part of the park system. Development removes a piece of the park.

The State government does not own the park; the people in the whole state own it. A referendum should be held on the development of any state property especially parks.

People come to see the Harbor, not to see more high rises and commercial buildings.

The value of the properties along the Harbor will lose value and income. The transient and excise taxes will go down due to reduced rental income. No ocean views, no premium rates. Reduced taxes.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2018**

ON THE FOLLOWING MEASURE:

H.B. NO. 1988, RELATING TO SMALL BOAT HARBORS.

LATE

BEFORE THE:

HOUSE COMMITTEES ON WATER AND LAND AND ON OCEAN, MARINE
RESOURCES, & HAWAIIAN AFFAIRS

DATE: Tuesday, February 6, 2018

TIME: 9:15 a.m.

LOCATION: State Capitol, Room 312

TESTIFIER(S): Russell A. Suzuki, Acting Attorney General, or
Colin J. Lau, Deputy Attorney General

Chairs Yamane and Ing and Members of the Committees:

The Department of the Attorney General appreciates the intent of this bill while noting the following legal concerns. Specifically, this bill may be subject to challenge as a special law concerning lands owned or under the control of the State and its political subdivisions in violation of article XI, section 5, of the Hawai'i Constitution.

This bill directs the Department of Land and Natural Resources (DLNR) to lease fast lands and submerged lands at the Ala Wai boat harbor using a request for proposals process for public-private development, management, and operation, pursuant to section 200-2.5, Hawaii Revised Statutes. The bill further directs that such leases have only certain enumerated permissible uses with structures having a height limitation of fifteen feet.

There is a potential that the bill could be subject to challenge as an exercise of legislative power over government lands by special law because it designates a specific, identifiable property to be disposed of by lease to a private entity other than a political subdivision of the State. Article XI, section 5, of the Hawai'i Constitution provides: "The legislative power over the lands owned by or under the control of the State and its political subdivisions shall be exercised only by general laws, except in respect to transfers to or for the use of the State, or a political subdivision, or any department or agency thereof." A general law must apply uniformly. *Sierra Club v.*

Dep't of Transp., 120 Hawai'i 181, 214, 202 P.3d 1226, 1259 (2009). We recommend that subsection (a), found on page 1, line 3 to line 5, be amended to provide for disposition by lease for all state small boat harbors, or such other general criteria that do not identify a named small boat harbor property (e.g., all small boat harbors located on the south shore of a given island).

We also make the following comment that the bill should reference subsection (c) contained in section 8 of Act 197, Session Laws of Hawaii 2011, such that the bill proposes to amend the permissible uses indicated in that provision.

We respectfully ask the Committee to revise this bill accordingly.

Thank you for the opportunity to testify.

House Committee on Water and Land
House Committee on Ocean, Marine Resources and Hawaiian Affairs

Joint Hearing
Tuesday, February 6, 2018
9:15 AM, Conference Room 312

LATE

House Bill 1988 – Relating to Small Boat Harbors

Testimony Submitted by Michelle S. Matson

Aloha Co-Chair Yamane, Co-Chair Ing and Committee Members:

Hawaii Revised Statutes, §200-2.5, stipulates that any uses of Ala Wai Small Boat Harbor fast lands and submerged lands must “complement or support the ocean-recreation or maritime activities” of this public recreational small boat harbor.

In addition, Ala Wai Harbor is zoned as a public precinct and is protected by a 25-foot height limit within the Waikiki Special District under the Honolulu Land Use Ordinance.

House Bill 1988 seeks to amend the height limit requirement by restricting the height limit of Ala Wai harbor buildings and structures to 15 feet.

While this more restrictive height limit would not likely alter ocean-recreation or maritime activities, HB 1988 neglects to amend the present statute that allows certain uses that fail to complement and support the intended uses of Ala Wai Small Boat Harbor.

In 2011 – the infamous PLDC year - Act 197 added allowable uses of the Harbor that conflict with and are unrelated to ocean-recreation and maritime activities.

The transgressions of Act 197, 2011 must be cured.

HB 1988, by specifying a 15-foot height limit for the subject uses within the Ala Wai Harbor public precinct, must also consider and remedy the unrelated and conflicting uses presently listed as allowable: specifically, “**hotel, residential, and timeshare uses,**” as well as “deep seawater air-conditioning plants” that would conceivably consume the major portion of available land intended in the statute to “complement or support the ocean-recreation or maritime activities” within this public recreational small boat harbor.

Again, such privatized redevelopment uses are alien to the intended public uses of the Ala Wai Small Boat Harbor ocean recreation area, and clearly do not complement or support this public Harbor’s ocean-recreation and maritime activities. Further, the objective of HB 1988, the height limit of 15 feet, would likely preclude such uses in any event, but these conflicting uses must of course be removed from the statute to avoid public governmental, community stakeholder and private-development-interest confusion.

Therefore, the following amendments to HB 1988 are strongly recommended in the public interest for the Ala Wai recreational small boat harbor, pursuant to Hawaii Revised Statutes §200-2.5:

SECTION 1. (a) Pursuant to section 200-2.5, Hawaii Revised Statutes, the department of land and natural resources is directed to lease fast lands and submerged lands at the Ala Wai boat harbor using the request for proposals process for the public-private development, management, and operation of areas of Ala Wai boat harbor.

(b) The permissible uses under the lease shall include:

(1) Office space for use by the division of boating and ocean recreation of the department of land and natural resources; provided that any structure or building containing an office space shall not exceed fifteen feet in height;

(2) Vehicular parking, including parking stalls for use by the division of boating and ocean recreation of the department of land and natural resources and for public recreational harbor metered parking;

(3) Commercial uses, including restaurants, small retail stores, marine-supplies stores, and sundry stores, to be made available to the public; provided that any structure or building containing a commercial use shall not exceed fifteen feet in height;

~~(4) Hotel, residential, and timeshare uses; provided that any structure or building containing a hotel, residential, or timeshare use shall not exceed fifteen feet in height;~~

(5) Training facilities for ocean recreation and support facilities for ocean recreation;

(6) Vessel haul-out, storage, and repair facilities; provided that any structure or building containing a vessel haul-out, storage, or repair facility shall not exceed fifteen feet in height; and

~~(7) Deep seawater air-conditioning plants; provided that any structure or building containing a deep seawater air-conditioning plant shall not exceed fifteen feet in height.~~

SECTION 2. This Act shall take effect upon its approval.