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GOVERNOR OF HAWAII



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

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**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the Senate Committee on  
WAYS AND MEANS**

**Wednesday, April 4, 2018  
4:00 PM  
State Capitol, Conference Room 211**

**In consideration of  
SENATE CONCURRENT RESOLUTION 63, SENATE DRAFT 1  
AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT  
COVERING A PORTION OF STATE SUBMERGED LANDS SEAWARD OF TAX MAP  
KEY: (2) 4-3-010:009 AT KAHANA, LAHAINA, MAUI, FOR SEAWALL AND ROCK  
REVTMENT PURPOSES**

Senate Concurrent Resolution 63, Senate Draft 1 requests the authorization to issue a term, non-exclusive easement covering 6,128 square feet,<sup>1</sup> more or less, on a portion of state submerged lands seaward of the property identified as tax map key: (2) 4-3-010:009, at Kahana, Lahaina, Maui for the use, repair, and maintenance of a steel sheet pile seawall and rock revetment to be constructed thereon, pursuant to Section 171-53, Hawaii Revised Statutes (HRS). **The Department of Land and Natural Resources (Department) supports this concurrent resolution.**

The current owner of the abutting property, Association of Apartment Owners of Hololani (AOAO), has obtained a Conservation District Use Permit (CDUP) from the Board of Land and Natural Resources for the construction of a new shoreline protection structure (i.e., seawall and rock revetment), and as a condition of the permit, was required to obtain a disposition (i.e., nonexclusive easement) for the shoreline protection structure. Portions of the improvements will be constructed on State lands located makai of the shoreline and such area should be considered as submerged lands.

As required by Section 171-53, HRS, the Board of Land and Natural Resources (Board) may lease submerged lands "with the prior approval of the Governor and the prior authorization of the

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<sup>1</sup> We understand the final area of the improvement will be subject to review and approval by the Department of Accounting and General Services, Survey Division. At the moment, the figure mentioned above is the latest planned figure.

**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

Legislature by concurrent resolution". At its meeting on January 12, 2018, under agenda item D-8, the Board approved the issuance of a term, non-exclusive easement for purposes stated above.

The applicant will pay the fair market value of the easement, based on the final easement area, as determined by an independent appraisal.

Thank you for the opportunity to comment on this measure.

Testimony of Hololani Condominium AOA  
Stuart Allen, AOA President, Michelle Stafford, AOA Director

**SUPPORT for SCR 63 SD1**

Committee on Ways and Means

Date: Wednesday, April 4, 2018

Time: 4:00 P.M.

Room: 211

Chair Dela Cruz, Vice Chair Keith-Agaran and Members of the Committee:

The Association of Apartment Owners of the Hololani Condominium (“Hololani”) strongly supports Senate Concurrent Resolution 63 (SCR 63), Senate Draft 1, which would authorize the issuance of a term, non-exclusive easement for a hybrid shore protection structure, a portion of which will lie on State submerged lands.

In the Senate Draft 1, the Senate Committee on Water and Land inserted additional safeguards to ensure unrestricted lateral and vertical public access, removal of the revetment should the regional beach nourishment project proceed and liability protection for the State. Hololani concurs with these amendments.

The Hololani project has undergone an extensive decade-long design and permitting process at the federal, State and County levels which included at least seven opportunities for the public to provide comments or testimony to permitting agencies (see attached Hololani Permitting Chronology) as well as several *Maui News* articles covering the project dating back to February 2013. All of the issues raised in the testimony previously submitted on SCR 63 were brought up by the public and/or government agencies during the permitting process. The permitting agencies at the federal, State and County levels examined these issues, deliberated on the testimony received and approved the following permits: federal Army Corps permit, State Final Environmental Assessment Finding of No Significant Impact, State Conservation District Use Permit (CDUP), County Special Management Area (SMA) permit, County Shoreline Setback Variance, and County Building, Grading and Flood Development permits. On January 12, 2018, the Board of Land and Natural Resources approved a term easement which represented the final executive branch approval needed for this project.

The Hololani project is singular and does not set a precedent for all shorelines in Hawaii. As stated by the Administrator of the DLNR's Office of Conservation and Coastal Lands (OCCL): Kahana Bay is a very unique situation.

While OCCL does not support the construction of seawalls 95% of the time, in this case, they recommended approval of the Hololani CDUP due to the unique conditions of the area and "whether or not there's a seawall here will not determine or affect whether or not there is sand here." Building a revetment will not starve the beach of landward beach sand deposits suitable as beach sand because there are no such deposits.

While some testifiers advocate allowing the erosion to continue without any shoreline structures, if the erosion is allowed to continue, the resulting shoreline will consist of a cliff and very poor water quality -- high turbidity due to the landward red soils and darker material washing into the ocean -- which would be damaging to the marine life, such as the coral colonies that are presently flourishing offshore. The turbidity would also make the bay undesirable for human use.

Furthermore, the Hololani project has been designed to not adversely impact the neighboring properties including specific design measures taken to ensure that flanking (which would increase erosion to the adjacent properties) will not result.

Regarding the regional beach nourishment study, Hololani is required under its SMA permit to: 1) participate in and pay its pro-rata share for this study and 2) remove the seawall/revetment if and when a regional beach nourishment project is completed. Hololani is actively participating and paying its fair share for this regional study. Hololani desires to proceed with installation of the seawall revetment prior to the beach nourishment project as the present conditions at Kahana Bay are dire: the erosion has become increasingly damaging since the inception of the project. Over the last three years, the combination of an El Nino winter, a related anomalous sea level rise (i.e. "king tides"), three years of sustained north swell activity, and two summers of abnormally flat south swell conditions have led to beach degradation and severe property loss. The timeline for a regional project is lengthy, and there is no guarantee that it will be implemented.

Lastly, the Hololani project provides important public benefits. Both lateral and vertical access are required by the SMA and CDUP permits. The project includes, at Hololani's expense, long-planned but unfunded improvements to County drainage infrastructure in a County easement on its land. This infrastructure improvement will address dangerous flooding conditions on Lower Honoapiilani Road, and the proposed sloped rock revetment will protect that Road from the approaching shoreline erosion.

Thank you for the opportunity to testify.

**HOLOLANI REVETMENT PERMITTING CHRONOLOGY - as of 3/22/18**

<b>DATE</b>	<b>ACTION</b>	<b>PUBLIC NOTICE</b>
Feb 2007	DLNR Emergency Permit for installation of emergency boulders	
Feb 2007	Emergency Permit for installation of sand bag revetment approved and conditioned on a long term solution.	
2007	(November- December) Sand bag revetment installed pursuant to Emergency Permit Approval.	
2009	Hololani asked for extension of Emergency Permit. Hololani advised by County of Maui (COM) that no further extensions would be granted if permanent solution was not advanced and permitted.	
2010	Hololani began pursuing long term solution (Basis of Design) with Sea Engineering, Inc. (SEI)	
2011	Draft Environmental Assessment (DEA) preparation began. DLNR agreed to be the accepting agency.	
June 2012	DEA published in OEQC <i>Environmental Notice</i> Multiple rounds of comments vetted and addressed by Sea Engineering. <i>Note: COM Public Works was in support of project as public access and drainage/roadway resolutions were incorporated into revetment design options.</i>	30-day comment period
Sept 10, 2012	Informal Public Hearing at Hololani, all neighbors, legislators, Mayor, and interested parties invited	Public Hearing
Sept 11, 2012	Public Hearing on DEA, Maui Planning Commission	Public Hearing
Nov 2012	Public Notice for Dept. of the Army Federal Permits	30-day comment period
Oct 2013	Final Environmental Assessment (FEA) published in OEQC <i>Environmental Notice</i>	Public may contest for EIS
Oct 2013	FEA accepted by State DLNR. FONSI issued.	
Nov 2013	Conservation District Use Permit (CDUP) Application submitted to State DLNR.	
Feb 10, 2014	Public Hearing for CDUP at Hololani	Public Hearing
May 2014	CDUP Approval granted by State DLNR Land Board with conditions	Public Hearing
Aug 2014	Design alternatives submitted to DLNR	

Dec 2014	DLNR indicated preferred alignment with concurrence from Maui Planning	
Jan 2015	Special Management Area (SMA) Use Permit Application submitted.	
Dec 2015	Dept. of the Army Permits received	
April 2016	SMA Hearing by Maui Planning Commission. Applicant asked to meet again with COM Planning Department to discuss and negotiate conditions.	Public Hearing

June 2016	SMA Hearing resumed and SMA approved with	Public Hearing
Aug 2017	Final design completed and sent to DLNR and Maui Planning	
Sept 2017	Application for State ROE and Easement for use of State submerged lands	
Nov 2017	Building, Grading Permit and Flood Development Permits	
Jan 2018	Flood Development Permit Issued by County of Maui	
Jan. 12, 2018	BLNR approved ROE and Easement	Public Meeting
Feb 2018	Final SMA Preliminary Compliance Report Submitted to COM for review and approval.	
Mar 2018	Approvals received from County of Maui for Building Permit Application, Grading Permit Application, and SMA Preliminary Compliance Report.	

**SCR-63-SD-1**

Submitted on: 4/3/2018 2:38:10 PM

Testimony for WAM on 4/4/2018 4:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
kai nishiki	Individual	Oppose	No

Comments:

Aloha,

My name is Kai Nishiki, I am a resident of West Maui and my 'ohana and I frequently swim, surf, and fish in Kahana Bay. I have also submitted testimony from Na Papa'i and its members. There are also numerous form letters of support. While I understand you may not look at those with much weight, please take into consideration that many of our concerned residents are unable to fly over to testify. It would be much easier if you were able view video testimony from the neighbor islands.

I'd like to make some observations based on Hololani's testimony presented to you.

Hololani is currently protected with a sandbag revetment, and will remain so, until the regional beach nourishment project is in place. The four neighboring resorts, to the south, also maintain sandbag revetments with the same level of protection. Hololani is in no more danger than any of the other resorts. In fact, if Hololani builds a seawall to protect their property, the end effects will put the neighboring resorts in further danger.

Hololani also states that it has designed the seawall as far mauka of the certified shoreline as possible. The reality is that this seawall is **significantly makai**, of the certified shoreline and is being built primarily, **75 % or more**, on our public beach.

While the sandbag revetment is intended to be a short-term solution, Maui County has pursued a long-term solution in regional beach nourishment by paying for a sand study, which determined that there is offshore sand available for the project. With the condo owners now willing to fund the EIS, the beach nourishment project is ready to proceed. A seawall, with all its accompanying effects, would work against the efforts of a beach nourishment. Additionally, a seawall only protects one property, while beach nourishment will potentially protect the entire bay including all nine condos.

I'd also like to address the "significant public benefits" touted by Hololani in their testimony.

- Drainage culvert- The County of Maui is perfectly capable of maintaining this culvert, on their own, without assistance from Hololani.
- Honoapi'ilani Hwy does NOT run makai of the Hololani Resort, as verified in pictures and maps, it runs mauka of Hololani Resort, with a very small portion of County property bordering the highway, currently in use as a drainage culvert and shoreline access between Hololani and a neighboring property. The County is responsible and capable of protecting this small area of exposure.
- The public access that Hololani brags it will provide is bogus. This seawall is 400' long(longer than a football field) with over 20' of bouldering extending out into the ocean! If they build the seawall, lateral public access will be lost. Anticipating this, Hololani agrees to "allow" the public to walk on the top of the 12 ' seawall because our public access along the beach will be **gone**. Vertical public access is currently in place with the County drainage area, which is in use by the public. Hololani is not "providing" access, they are **mitigating the loss** of public access we already enjoy!
- Hololani is **required**, to participate in the regional beach nourishment, by condition of the Maui County SMA approval. I attended all the early meetings regarding beach nourishment and the majority of Hololani representatives were in strong opposition of having to pay for beach nourishment. They angrily stated that it's the State's beach, therefore the State should take care of it!

Hololani declares that their interests are to protect their transient vacation condominium, and the investments made by the owners. Let's be clear, it is **not** the State's responsibility to be the investment manager for the Hololani. Rather, DLNR's motto states that we are here to:

**"Enhance, protect, conserve and manage Hawaii's unique and limited natural, cultural and historic resources held in public trust for current and future generations of the people of Hawaii nei, and its visitors, in partnership with others from the public and private sectors."**

Let's not forget that.

In closing, I'd like to request that you all make a site visit to our wonderful community in Kahana Bay before a decision is made. I'd be happy to pick you up and spend a little time sticking your feet in the warm sand and clear blue ocean. This is a precedent setting decision, with the potential for irreparable cultural, community and environmental destruction. Please, take the time to at least visit us first!

Mahalo and malama pono,



Kai Nishiki

**SCR-63-SD-1**

Submitted on: 4/2/2018 6:27:00 PM

Testimony for WAM on 4/4/2018 4:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Benton Kealii Pang, Ph.D.	Individual	Oppose	No

Comments:

I oppose SCR63SD1. Shoreline planners from the Maui County Planning Department (MPD) and the Office of Conservation and Coastal Lands (OCCL) of the Department of Land and Natural Resources (DLNR) determined that the Hololani project would impact the coastal zone as a result of shoreline hardening, create a wave environment that will contribute to further narrowing of the public beach and sand loss fronting the Hololani and would likely accelerate episodic and long-term erosion on adjacent, unarmored portions of the Kahana Bay beach cell.

**SCR-63-SD-1**

Submitted on: 4/3/2018 3:58:17 PM

Testimony for WAM on 4/4/2018 4:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dane K. U. Maxwell	Individual	Oppose	No

Comments: