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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
DAWN N. S. CHANG
Chairperson

Before the Senate Committee on
WATER AND LAND

Wednesday, March 29, 2023
1:00 PM

State Capitol, Conference Room 229 & Videoconference

In consideration of
SENATE CONCURRENT RESOLUTION 228/SENATE RESOLUTION 166
AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT
COVERING A PORTION OF STATE SUBMERGED LANDS AT MAALAEA BEACH
LOTS, WAIKAPU, WAILUKU, MAUI, FOR THE EXISTING SEAWALL AND ROCK
REVTMENT, AND FOR USE, MAINTENANCE, REPAIR, REPLACEMENT,
AND REMOVAL OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

Senate Concurrent Resolution (SCR) 228/Senate Resolution (SR) 116 request authorization to issue a term, non-exclusive easement covering a portion of state submerged lands fronting the property identified as Tax Map Key: (2) 3-8-014: seaward of 022, at Maalaea Beach Lots, Waikapu, Wailuku, Maui for the existing seawall and rock revetment, and for the use, repair, and maintenance of the existing improvements constructed thereon. **The Department of Land and Natural Resources (Department) supports these resolutions.**¹

The encroachment at issue consists of a seawall and rock revetment that runs parallel along the shoreline for approximately 180 feet and ranges in height from 4 to 6 feet. It surrounds the makai side of the Milowai-Maalaea condominium property, owned by the Association of Apartment Owners of Milowai-Maalaea. The subject property owners have pursued a disposition with the Board of Land and Natural Resources (Board) for this encroachment for purposes of repairing the seawall in 2015 and 2021. The Board approved disposition of an easement for the subject encroachment at both meetings. Aside from legislative approval, additional requirements would be to complete the survey of the easement area and appraise the current fair market value of the term, non-exclusive easement, which the current owners shall be required to pay to the State as consideration for use of public lands. In the interim, the Board also approved a month-to-month revocable permit requiring rent.

¹ The Department notes that SCR228/SR166 are not administration measures.

As part of the Board's consideration of each disposition at respective meetings on October 9, 2015 (agenda item D-6) and January 8, 2021 (agenda item D-5), the Board required the property owners to submit an Environmental Assessment (EA), which each resulted in findings of no significant impact (FONSI). Through the EA process, it was determined that the seawall at issue was built in the early 1950s, around the same time that the territorial government built the nearby small boat harbor and harbor break walls. The EA stated that there is no significant sandy beach in the immediate area of the subject encroachment and the majority of the shoreline is hardened by a continuous series of seawalls and rock revetments. The EA also found that removal of the seawall would cause erosion that could ultimately threaten the Milowai-Maalaea Condominium building and underground parking garage, impact neighboring properties, cause instability and potential failure of neighboring seawalls, and threaten water quality due to erosion of clay sediment. The Department of Health Clean Water Branch had no objection to the 2020 permit amendment. The Department's Office of Conservation and Coastal Lands had no objections to the issuance of an easement in both 2015 and 2021.

Mahalo for the opportunity to testify in support of these measures.

State of Hawaii
The Senate, Regular Session of 2023
Committee on Water and Land
Senator Lorraine R. Inouye, Chair
Senator Brandon J.C. Elefante, Vice Chair

Hearing, March 29, 2023, 1:00 pm

Written Testimony by the Milowai Maalaea AOA – for SCR 228, Companion HCR 149, SR166
Report Title - Maalaea Beach Lots; Easement; State Submerged Lands; Seawall; Rock Revetment

The following is respectfully submitted as additional information regarding the issuance of a term, non-exclusive easement for the Milowai Maalaea Seawall Repairs.

Seawall Repairs –

- 2016 - Permits obtained and phase one repair work completed for a 30' section of seawall with limited funds.
- 2018 - A geoanalytical investigation completed to confirm soil composition and performance conditions of 2016 repair.
- 2020-2021 – All required permits from the County of Maui and State of Hawaii received for the complete repair of entire 180' seawall as part of phase two.
- 1.8.21 – DLNR Board of Directors, amended the Right of Entry Permit to a Revocable Permit, with a requirement for Milowai to post a revocable removal permit performance bond.
- 1.6.22 – DLNR certified the updated Shoreline Survey submitted by Milowai Maalaea.

Facts –

- The AOA has maintained the revocable bond for years, 2021, 2022 and 2023 at a cost of \$30,000 to date.
- May 2021 – Seawall repairs 100% completed.
- The seawall repairs totaled \$3 million dollars financed solely by Milowai Maalaea owners.
- The Revocable Permit is referring to the land located between the red solid line (shoreline) and the encroachment (blue dashed line).



*SHORELINE FOLLOWS SOLID RED LINE
**ENCROACHMENT FOLLOWS DASHED BLUE LINE



- Milowai Maalaea completed Seawall.



On behalf of the AOA we are extremely grateful for the opportunity to submit written testimony for the Committee's review. I'll be attending the Hearing remotely via Zoom to address any questions as well.

Mahalo,

Tanci Mintz Milowai Maalaea Board President

SCR-228

Submitted on: 3/29/2023 9:57:25 AM

Testimony for WTL on 3/29/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kai Nishiki	Individual	Oppose	In Person

Comments:

Public access is definitely affected by this seawall. I have pictures to illustrate.

Please condition approval with a requirement to provide public access either on the grass next to the seawall or require they put a railing along the top of the seawall and allow public to laterally access shoreline the length of their property.

Seawall is probably 10 feet tall and most definitely affects public access along the shoreline in this area.

I am trying to testify in person via zoom, but it appears that it won't allow me to.

I have relayed this testimony to both Rep Elle Cochran and Sen Angus McKelvey.