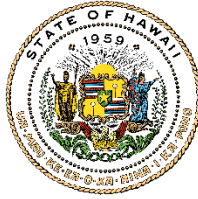


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
RYAN K.P. KANAKA'OLE
FIRST DEPUTY
DEAN D. UYENO
ACTING 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
DAWN N.S. CHANG
Chairperson

Before the House Committee on
WATER & LAND

Tuesday, March 19, 2024
9:30 AM

State Capitol, Conference Room 415, Via Videoconference

In consideration of
HOUSE CONCURRENT RESOLUTION 14
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 FOR USE, REPAIR, AND MAINTENANCE OF
THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

House Concurrent Resolution 14 is an Administration Package measure that requests 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 Ma'alaea Beach Lots, Waikapū, 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 this resolution and offers comments.**

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 (Association). The seawall was originally constructed mauka of the shoreline and mauka of the private property boundary in the early 1950s by private owners of the subject property as well as neighboring properties to the East. Construction of the seawall was concurrent with construction by the Territory of Hawai'i of Ma'alaea Small Boat Harbor, which abuts the subject property on the West.

The subject property owners have pursued dispositions 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 by easement for the subject encroachment at both meetings. The Board also approved a month-to-month revocable permit requiring rent to cover the interim period between the Board's authorization of the easement and the Legislature and Governor's approval.

The Department issued revocable permit No. S-7932 on February 16, 2021, pursuant to the Board's authorization. The Association has posted a removal bond in the amount of \$432,000 to insure the State against the cost of removing the encroachment in the case that the Legislature and the Governor deny authorization of the requested easement. The Association is paying monthly rent in the amount of \$255 under the present revocable permit. If the Legislature approves the easement, the next steps would be to survey the final easement area and appraise the fair market value of the term, non-exclusive easement, which the Association shall be required to pay to the State as consideration for use of public lands.

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 this measure.

House of Representatives, The Thirty-Second Legislature
Committee on Water & Land
Representative Linda Ichiyama, Chair, Representative Mahina Poepoe, Vice Chair
Hearing, March 19, 2024

Written Testimony submitted by the Milowai Maalaea AOA, for HCR 14, Companion SCR 12.

Measure Title: 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 for use, repair and maintenance of the existing improvements constructed thereon.

Report Title: Maalaea, Non-Exclusive Easement; Lease State Submerged Lands

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

2013 – 2021: Milowai obtained permits from the County, State and Federal regulatory agencies for the complete repair of our 180' seawall.

07.01.14: Final environmental assessment (EA) accepted and a Finding of No Significant Impact (FONSI), issued.

11.05.20: State of Hawaii Department of Health, Clean Water Branch, provided approval of the soil stabilizer injection product.

11.09.20: County of Maui, had not objections to the injection product, stating "this is an enviro friendly and a good solution."

11.23.20: US Army Corps of Engineers stated, "Based on information and plans you provided, the injection of grout and placement of riprap for additional support in uplands behind the seawall would occur landward of the limits of the Corps geographic jurisdiction; therefore, Corps authorization is not required for the installation of additional support".

01.08.21: DLNR Board of Directors, amended the Right of Entry Permit to a Revocable Permit.

05. 2021: Seawall repairs 100% completed

01.06.22: DLNR certified the updated shoreline survey.

12.15.22: Milowai paid DLNR for the appraisal of the State submerged lands.

03.03.23: State's appraiser determined the one-time payment for the FMV rental value of a 25-year, non-exclusive easement for seawall purposes in the amount of \$63,300.00 + fees.

07.28.23: Milowai Maalaea paid DLNR \$63,355.00 for the required one-time payment towards the 25-year term easement.

The seawall repairs totaled \$3 million dollars, financed solely by Milowai Maalaea owners. The area continues to be accessed routinely by snorkelers, surfer, fisherman and spear fisherman.



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



The Revocable Permit is referring to the land located between the **red** solid line (shoreline) and the **blue** dashed line (encroachment).

On behalf of Milowai AOA, thank you for the opportunity to submit our written testimony for the Committee's review. In addition, I'll be attending the hearing remotely to address any questions.



Milowai's completed seawall; respectfully, Tanci Mintz, Milowai Maalaea Board President

HCR-14

Submitted on: 3/18/2024 10:18:40 AM

Testimony for WAL on 3/19/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Satwinder Brown	Homeowner of #310 in the Milowai Condo Complex	Support	Written Testimony Only

Comments:

Regarding HCR14, I strongly support the approval of the concurrent!

-Satwinder "Satti" Brown



March 18, 2024

House Water and Land Committee
State of Hawaii House of Representatives
415 South Beretania Street, Room 315
Honolulu, HI 96813

RE: (HCR14) - Support for Milowai Ma'alaewa Concurrent Resolution for an Easement on Submerged State Lands

Dear House Water and Land Committee,

This letter is in **support** of Milowai Ma'alaewa's request to your office for the submission of a House Concurrent Resolution for the authorization of the issuance of a term, non-exclusive easement covering a portion of state submerged lands at Ma'alaewa Maui.

The seawall was constructed in the early 1950's contemporaneously with the construction of the Ma'alaewa small boat harbor. This seawall is contiguous with existing, long-standing, shoreline hardening to both the east and west, and its presence on the shoreline has no detrimental impacts to the area. The trigger for this resolution is a decade-long approval process for repairs to the seawall. Both state and county entities have provided numerous opportunities for the public to review and comment on government permitting on the now completed repairs.

To come to this point, the project was subject to a Final Environmental Assessment (FEA) which received its Finding of No Significant Impact (FONSI) in July of 2014. The County of Maui approved a Shoreline Setback Variance (SSV) and a Special Management Area (SMA) permit for the repairs on February 24, 2015. The Department of Land and Natural Resources (DLNR) Office of Conservation and Coastal Lands (OCCL) was consulted and provided a short-term permit in support of the repairs. And The Board of Land and Natural Resources (BLNR) has reviewed and approved an easement for the seawall at two of its meetings – October 15, 2015 and January 8, 2021 – both open to public comment.

Milowai Ma'alaewa has submitted all payments, agreements, and other requirements set forth by the Department of Land and Natural Resources to finalize the easement. **With the State of Hawaii Legislature approval of the resolution, the BLNR will close this final chapter in a very long and public process.**

The Ma'alaewa Village Association (MVA) serves as a vital link between the Ma'alaewa community and county and state government. MVA stays current on issues affecting the island in general and Ma'alaewa in particular. Please exert every effort to have this resolution approved and the easement finalized.

Respectfully Submitted,

Handwritten signature of Lyndon C. Ibele in black ink.

Lyndon C. Ibele
President

Handwritten signature of Lora Harbo in blue ink.

Lora Harbo
Treasurer

Cc: Senator Angus McKelvey-by email
Representative Elle Cochran-by email

HCR-14

Submitted on: 3/17/2024 2:50:20 PM

Testimony for WAL on 3/19/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Jason Aines	Individual	Support	Written Testimony Only

Comments:

As an owner at the Milowai, and a long time former resident of the island, I strongly support the passage of this resolution. Thank you for your time and consideration.

Best,

Jason

HCR-14

Submitted on: 3/17/2024 3:15:48 PM

Testimony for WAL on 3/19/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
James Zarley	Individual	Support	Written Testimony Only

Comments:

I am an owner of #311 at the Milowai condominium in Ma'alaea. I am strongly in support of the HCR14. Please approve the Milowai's seawall easement concurrent resolution. Mahalo! James Zarley

HCR-14

Submitted on: 3/18/2024 7:23:13 AM

Testimony for WAL on 3/19/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Larry Olson	Individual	Support	Written Testimony Only

Comments:

Aloha.

Thank you for taking my comment on HCR14. My wife and I are owners of Milowai #301. We strongly support the approval of HCR14.

Larry and Sherry Olson

HCR-14

Submitted on: 3/18/2024 8:52:35 AM

Testimony for WAL on 3/19/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Sheryl Ball	Individual	Support	Written Testimony Only

Comments:

Please pass HCR14. From my condo I view the many Hawaiian citizens who utilize the seawall in front of the Milowai condos everyday to view the sunsets, turtles, whales and various sealife along with others who climb down it to access the ocean.

HCR-14

Submitted on: 3/18/2024 9:18:10 AM

Testimony for WAL on 3/19/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Kei Nishida	Individual	Support	Written Testimony Only

Comments:

I am one of the owners of the Milowai condo.

Please take action on what we can be proud to mention to our kids, grandkids, and beyond.

HCR-14

Submitted on: 3/18/2024 12:18:40 PM

Testimony for WAL on 3/19/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
DEREK RAE	Individual	Support	Written Testimony Only

Comments:

As a resident of the Milowai I strongly support this resolution. The seawall repairs are a huge success, providing much needed protection for our building and grounds, and safe access to the ocean for the public, residents and vistors. From what I've seen, the turtle and crab population is thriving now that the repairs are complete.

HCR-14

Submitted on: 3/18/2024 12:51:51 PM

Testimony for WAL on 3/19/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Kevin Cookman	Individual	Support	Written Testimony Only

Comments:

I strongly support the approval of HCR14 in accordance with all the previous work done. Please send the submission from Tanci Mintz on behalf of the AOA.

HCR-14

Submitted on: 3/18/2024 1:26:36 PM

Testimony for WAL on 3/19/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Richard Mitzel	Individual	Support	Written Testimony Only

Comments:

I strongly support the approval of the concurrent bill. HCR14

HCR-14

Submitted on: 3/18/2024 1:54:23 PM

Testimony for WAL on 3/19/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Scott Boroczi and Lisa O'Connell	Individual	Support	Written Testimony Only

Comments:

We strongly support the HCR14 Milowai sea wall easement concurrent resolution. Additionally, we support Tanci Mintz's testimony submitted to the House of Representatives.

Thank you for your consideration,

Scott Boroczi and Lisa O'Connell

HCR-14

Submitted on: 3/18/2024 2:14:57 PM

Testimony for WAL on 3/19/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Shaunna Sjomeling	Individual	Support	Written Testimony Only

Comments:

As a owner of a condominium in Milowai we strongly support the concurrent resolution stated HCR 14 Milowai sea wall easement resolution, and Tanci Mintz's testimony submitted to the House of Representatives.

HCR-14

Submitted on: 3/18/2024 3:04:29 PM

Testimony for WAL on 3/19/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Russell Baker	Individual	Support	Written Testimony Only

Comments:

I strongly support the concurrent resolution regarding the written testimony submitted by the Milowai Maalaea AOA for HRC 14, companion SCR 12.

Russell Baker

HCR-14

Submitted on: 3/19/2024 6:12:54 AM

Testimony for WAL on 3/19/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Amanda Trejo Carter	Individual	Support	Written Testimony Only

Comments:

My name is Amanda Trejo Carter and I, my husband Freddy Trejo, are owners of 50 Hauoli St #101 Wailuku, Hawaii 96793. We are in agreement for the sea wall. Thank you for your time.

HCR-14

Submitted on: 3/19/2024 7:51:14 AM

Testimony for WAL on 3/19/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Carey Clenchy	Individual	Support	Written Testimony Only

Comments:

I am an owner at Milowai and the completion of the seawall repairs at Milowai was critical both from an Environmental as well as a local perspective. The seawall and area around it is utilized by snorkelers, fisherman, spear fisherman, kayakers, canoers, locals and the public and is a vibrant part of the Maalaea and Milowai community!