

BILL041(22)
Testimony

MISC. COMM. 375

COUNCIL

COUNCIL Meeting

Meeting Date: Sep 7, 2022 @ 10:00 AM

Support: 2

Oppose: 6

I wish to comment: 2

Name: Johnnie-Mae Perry	Email: waianaenb569@gmail.com	Zip: 96792-2519
Representing: Self	Position: Oppose	Submitted: Sep 5, 2022 @ 12:39 PM

Name: Klaus Radtke	Email: info@cmislr.org	Zip: 96795
Representing: Coalition to Mitigate the Impacts of Sea Level Rise (CMISLR)	Position: Support	Submitted: Sep 5, 2022 @ 03:57 PM

Testimony:

We support this bill as it is long overdue in acknowledging unstoppable sea level rise that may readily exceed 3-4 feet before the end of this century. However, we strongly recommend that it be implemented upon approval as we believe that you are also aware of the present rush for development within the present very limited setback zones.

Additional focused bills pertaining to truly mitigating the dangers of beach erosion and related sea level rise at least within the NOAA 4-foot sea level rise zone should follow immediately. These must acknowledge the cumulative effects of groundwater inundation, storm drain backflow and "nuisance" flooding caused by occasional storm surges, the twice-a-month new and full moon tides as well as the summer and winter King tides that can turn into destructive, regular flooding events much ahead of even three-foot sea level rise.

Such bills must also address how present and future developments inclusive of required infrastructures can or will be protected, how such plans will be implemented and who will pay for them. If not, "Sea Level Rise Resiliency" will continue to be largely a buzzword, being kicked down the road like a can.

So, let us all work together for the common goal of true "Sea Level Rise Resiliency" for future generations and restrict construction in such danger zones as they will greatly exceed the still minimum setback zones outlined in Bill 041 (22).

Name: Naʻalehu Anthony	Email: whereslehu@gmail.com	Zip: 96730
Representing: Self	Position: Oppose	Submitted: Sep 6, 2022 @ 11:36 AM

Name: Kristan Eiserloh	Email: kris@eiserloharchitects.com	Zip: 96821
Representing: Self	Position: I wish to comment	Submitted: Sep 6, 2022 @ 01:47 PM

Testimony:

I would like to comment on the Proposed Bill 41 to recommend against the 60' shoreline setback as the minimum for all properties. Instead there are many factors that should be considered to determine the setback including topography elevation, geology of the site, flood zone, and existing conditions; legal sea wall, impact zone of waves, ... Also, provide an option for property owners to build a foundation that can withstand occasional tidal flooding

Name: Dr. Chip Fletcher	Email: fletcher@soest.hawaii.edu	Zip: 96734
Representing: University of Hawaiʻi Climate Resilience Collaborative	Position: Support	Submitted: Sep 6, 2022 @ 01:57 PM

Name: Naalehu Anthony	Email: whereslehu@gmail.com	Zip: 96744
Representing: Self	Position: Oppose	Submitted: Sep 6, 2022 @ 03:53 PM

Testimony:

Honolulu City Council

Wednesday, Sept. 7, 2022, 10:00 a.m.

Testimony for CR-227 - Bill 41, CD1: Relating to shoreline setbacks

Aloha City Councilmembers,

Mahalo for the opportunity to submit testimony in opposition to Bill 41, CD1: Relating to shoreline setbacks.

I understand and acknowledge the urgent need to deal with the realities of climate change and the near-inevitability of coastal impacts. My opposition to Bill 41 in its current form is because of the clear adverse impacts we as community members in these shoreline neighborhoods will experience as a result of this bill passing into law. The formulation of setbacks and mitigation measures is incomplete if our plans cannot also include opportunities for the families that are impacted to have a viable path forward. We must find solutions that do not continue the longstanding pattern for disenfranchisement of local families in the process.

I live in Kaaawa in the family home I grew up in. We have held onto this property through decades of challenges that we have faced living out in the country, including flood insurance premiums that were nearly as high as my mortgage payments. But being in this home was my only chance to own a house in Hawaii, a chance made possible because my father made a gift of equity to me that allowed me to take on the property. Without that, home ownership would be completely out of reach for my generation. Even more so for my son, whose peers continue to lose hope that a home - and a life - in Hawaii can be a part of their future.

These shoreline communities in the country are made up of families like mine who have held onto these properties through all kinds of sacrifice and hardship. They hold on because it is critical, one of the only tools to secure a future for our children. If these setbacks prevent us from building on our land in the future, without providing meaningful relief or viable alternatives, the families that suffer are the ones who are already on the very edge of surviving here. These local families have been squeezed and squeezed by any number of economic and social pressures. This could be a factor that severs the deep roots these families have in Hawaii and sends their future generations away.

We know that climate change is here, and the conditions it causes will continue to worsen. We see it every day, on the drive home and on walks through our neighborhoods. Solutions are urgently needed, but a bill that lays the burden on the backs of the people of these places - that cannot be called a solution. These issues are complex and challenging, which is why they require creativity, compassion and a community-led set of concepts and plans.

Mahalo for the opportunity to submit testimony and for your consideration of my concerns.

With aloha,

Nlehu Anthony

Kaaawa, HI

Name:

R. Kealoha Domingo

Email:

nuikealohahawaii@gmail.com

Zip:

96730

Representing:

Self

Position:

Oppose

Submitted:

Sep 6, 2022 @ 04:03 PM

Testimony:

Aloha City Councilmembers,

Mahalo for the opportunity to submit testimony in opposition to Bill 41, CD1: Relating to shoreline setbacks.

I understand and acknowledge the urgent need to deal with the realities of climate change and the near-inevitability of coastal impacts. My opposition to Bill 41 in its current form is because of the clear adverse impacts we as community members in these shoreline neighborhoods will experience as a result of this bill. I was raised to understand that family properties are meant to be cared for and passed down; this bill erodes that basic set of values without offering a viable alternative to local families.

My family property is in Koolauloa on the North Shore. It has been our home for generations, and is not a commodity to us. For our family, none of this is about elevating its sales potential for profit. I want it to be there for my family and for my kids for generations to come. Our family is one of the longest-standing in the area, with deep connections that bind us to our land. The kuleana to our ancestors whose iwi are there with us on property is a responsibility that goes beyond any law or external valuation.

These shoreline communities in the country are made up of families like mine who have held onto these properties through all kinds of sacrifice and hardship. They hold on because it is critical, one of the only tools to secure a future for our children. I pay a mortgage every month on a parcel within our family property that hasn't yet been built on, a place I hope to hold for my sons to have a house next to their grandparents and to us.

If these setbacks prevent us from building on our land in the future, without providing meaningful relief or viable alternatives, the families that suffer are the ones who are already on the very edge of surviving here. These local families have been squeezed and squeezed by any number of economic and social pressures. This could be a factor that severs the deep roots these families have in Hawaii and sends their future generations away.

We know that climate change is here, and solutions are urgently needed. But a bill that lays the burden on local families cannot be called a solution. These issues are complex and challenging, which is why they require creativity, compassion and a community-led set of concepts and plans.

Mahalo for the opportunity to submit testimony and for your consideration of my concerns.

With aloha,

R. Kealoha Domingo
President, Ka'a'awa Comm. Association

Name: Choon James	Email: ChoonJamesHawaii@gmail.com	Zip: 96762
Representing: CountryTalkStory.com	Position: Oppose	Submitted: Sep 7, 2022 @ 01:09 AM

Testimony:

Aloha Chair Waters and City Council members:

This is a conversation that needs to be had sooner than later. Having lived by and around the coastal areas of windward and North Shore of Oahu, I've seen the changes through the decades. I've also witnessed DPP's inconsistencies in applying regulations or lack of enforcement with Oahu's oceanfront properties and projects.

I'm writing in OPPOSITION based on the inevitable need for more data on the SHORELINES characteristics of the entire island of Oahu first. The city and the state should be collaborating on this decision-making. I believe the DLNR should have ample data. There needs to be good data on how many shoreline abatement projects have been approved. There should be a list on record somewhere. I'm aware that DLNR has also collected from some owners of beachfront significant amounts of fee for shoreline abatement projects.

Not all the shorelines are made of sandy beaches. Oahu has significant amounts of properties that are on rocky cliffs and so on. We make a difference between a "sandy beach" vs "oceanfront" versus "waterfront" and so on. All these characteristics should be considered in the deliberations. (Projected sea-level rise inundation zones could come into play too.)

I believe that we should not make a blanket decision yet until these data are available for all decision-makers, including the general public, to study and opine. Otherwise, it will be another piece-meal legislation that is confusing, difficult to regulate or fall prey to subjective interpretation for a bureaucrat to decide.

Mahalo,
Choon James
808 293 9111
ChoonJamesHawaii@gmail.com

Name: Kaleo Nakoa	Email: nakoaforcouncil@gmail.com	Zip: 96825
Representing: Self	Position: I wish to comment	Submitted: Sep 7, 2022 @ 07:17 AM

Testimony:

Is bill 41 for dwellings or businesses? If we are talking about set backs of 40-60 feet from the shoreline, how will that affect hotels in Waikiki and the businesses that operate on private hotel properties?

Name: Julia Fink	Email: julia@aiahonolulu.org	Zip: 96813
Representing: AIA Honolulu	Position: Oppose	Submitted: Sep 7, 2022 @ 07:54 AM

SEPTEMBER 7, 2022, 10 A.M. PUBLIC PARTICIPATION AND TESTIMONY

BILL 41 (2022), CD1 A BILL FOR AN ORDINANCE OCS2022-0692/8/24/2022 4:41 PM 1 RELATING TO SHORELINE SETBACKS. (CR-227)

I, Johnnie-Mae L. Perry **OPPOSE, Bill 41 (2022)** for the following reasons:

Coastal erosions, climate changes, and sea-level rises is not a temporary event, **BUT** a life-long coastal zone hazard! The trillionaires, billionaires, millionaires WILL NOT COMPLY with climate changes and lower their privilege lifestyle for the common good.

All the fundings from the Federal, State and Local government WILL NOT CHANGE, coastal erosion, sea-level rise, and climate change! In addition, the Federal Debt/Inflation is OUT OF CONTROL!

Property owners are PRIVATE LANDOWNERS, and it would be UNFAIR to taxpayers to bail them out! As less and less people return to work OR refuse to work will mean less funding into federal, state, and local coffers!

THE SMART approach in addressing coastal erosion, sea-level rise, climate change, and coastal zone hazard in 2022, is NOT BUILD ON ALL VACANT REAL ESTATE/PROPERTY!

NEXT, real estate/property with structure on them currently, government should “condemn” property and negotiate with owners to vacant the DANGER ZONE for the reasons of coastal erosion, sea-level rise, and climate change, WHICH ONLY GOING TO GET WORST!

Create more dog parks, public parks, pickle ball court, etc. in its place or simply leave it green.

Thank you for the opportunity to testify on Bill 41 (2022) in **OPPOSITION for the above reasons.**

Honolulu City Council

Wednesday, Sept. 7, 2022, 10:00 a.m.

Testimony for CR-227 - Bill 41, CD1: Relating to shoreline setbacks

Aloha City Councilmembers,

Mahalo for the opportunity to submit testimony in **opposition** to Bill 41, CD1: Relating to shoreline setbacks.

I understand and acknowledge the urgent need to deal with the realities of climate change and the near-inevitability of coastal impacts. My opposition to Bill 41 in its current form is because of the clear adverse impacts we as community members in these shoreline neighborhoods will experience as a result of this bill passing into law. The formulation of setbacks and mitigation measures is incomplete if our plans cannot also include opportunities for the families that are impacted to have a viable path forward. We must find solutions that do not continue the longstanding pattern for disenfranchisement of local families in the process.

I live in Ka'a'awa in the family home I grew up in. We have held onto this property through decades of challenges that we have faced living out in the country, including flood insurance premiums that were nearly as high as my mortgage payments. But being in this home was my only chance to own a house in Hawai'i, a chance made possible because my father made a gift of equity to me that allowed me to take on the property. Without that, home ownership would be completely out of reach for my generation. Even more so for my son, whose peers continue to lose hope that a home - and a life - in Hawai'i can be a part of their future.

These shoreline communities in the country are made up of families like mine who have held onto these properties through all kinds of sacrifice and hardship. They hold on because it is critical, one of the only tools to secure a future for our children. If these setbacks prevent us from building on our land in the future, without providing meaningful relief or viable alternatives, the families that suffer are the ones who are already on the very edge of surviving here. These local families have been squeezed and squeezed by any number of economic and social pressures. This could be a factor that severs the deep roots these families have in Hawai'i and sends their future generations away.

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Mahalo for the opportunity to submit testimony and for your consideration of my concerns.

With aloha,

Nā'ālehu Anthony
Ka'a'awa, HI



Dr. Charles “Chip” Fletcher

Director of the Climate Resilience Collaborative

Interim Dean of the School of Ocean and Earth Science and Technology at the
University of Hawai‘i at Mānoa

fletcher@soest.hawaii.edu

September 7, 2022

Aloha, Councilmembers,

I am writing to voice my **strong support of Bill 41 (2022)** which is being heard by the Honolulu City Council on September 7, 2022. Bill 41 (2022) would update the Shoreline Setbacks on O‘ahu, codified at Revised Ordinances of Honolulu Chapter 23.

I write as former Chair of the Honolulu Climate Change Commission, as interim Dean of the School of Ocean and Earth Science and Technology at the University of Hawai‘i at Mānoa, and as the Director of the Climate Resilience Collaborative (CRC), a research program at the University of Hawai‘i at Mānoa, formerly called the Coastal Geology Group.¹ CRC is an affiliation of scientists, architects, attorneys, economists, planners, and undergraduate and graduate students spread across campus working on challenges related to climate change. Our work is focused on building community resiliency to climate change impacts by maximizing the effectiveness of predictive climate science and advancing our ability to dynamically respond to climate change.

Every year human communities on our coastline grow increasingly vulnerable to the dangers of wave impacts, coastal erosion, high tide flooding, and storm surge, all of which are exacerbated by sea level rise. Sea level rise is an unstoppable reality and without major adjustments to coastal laws and policies, these dangers will increase - slowly at first, as at present, but by the 2030’s sea level rise impacts will increase exponentially. The 6th Assessment Report of the Intergovernmental Panel on Climate Change states with high confidence that “[i]n the longer term, sea level is committed to rise for centuries to millennia due to continuing deep-ocean warming and ice-sheet melt and will remain elevated for thousands of years.”²

Over the next 2000 years, global mean sea level will rise by about 6.5 to 10 feet if warming is limited to 1.5°C, 6.5 to 20 ft if limited to 2°C and 62 to 72 ft with 5°C of warming, and it will continue to rise over subsequent millennia. There is nothing we can do to stop sea level rise. Communities need to understand the problem and governments must develop adaptation policies to adjust to and prepare for the new reality.

¹ I have been a research scientist specializing in coastal processes and beach response to sea level rise for over four decades. In that time, I have published over one hundred peer-reviewed articles and three textbooks on these topics. Further, I have been a key advisor in over 30 master and PhD studies of shoreline processes in Hawai‘i.

² AR6 WGI SPM p.21 B.5.4.

I support Bill 41 (2022) because it is an important improvement to the City and County of Honolulu's Shoreline Setbacks ordinance because it will generally increase the buffer zone between the rising ocean and Honolulu's coastal communities. As the Honolulu City Council is aware, as of Act 16 (2020), the statewide minimum for shoreline setbacks was increased to forty feet. I commend the City and County of Honolulu for increasing the minimum by at least another twenty feet because this will have the overall effect of increasing the resilience of Honolulu's coastal communities to the impacts and hazards caused by sea level rise.

Further, I commend the City Council for incorporating historical beach erosion rates coupled with a multiplier based on the average lifetime of a structure and will establish a setback that is more responsive to the individual needs of a particular coastal community. Using an erosion rate-based setback formula is forward looking and will increase the resilience of O'ahu's coastal communities. Furthermore, I would like to note that historical erosion rates will necessarily be an underestimation of the actual amount of sea level rise that will be observed over the course of the next 70 years. That is due in part to the fact that it is a certainty that the rate of sea level rise will continue to increase exponentially into the future (that is to say the rate of change in sea level rise year over year will increase). Thus, using historical rates will inherently underpredict how much sea level rise a shoreline will observe in the future. Due to this underestimation of the actual sea level rise our shorelines will experience, increasing the baseline from forty to sixty feet is reasonable and a rational way to incorporate this uncertainty.

I also support Bill 41 (2022) because it would update the hardship standard required by a coastal property owner in order to attain a variance from the shoreline setback to artificially fix the shoreline. This update will conform to the amendments made to the Hawai'i Coastal Zone Management Act made by the State Legislature in 2020 which set out a policy of no new hardening on Hawai'i's sandy shorelines. Hardship variances on O'ahu have been used to build seawalls, which have been the most significant contributor to beach loss. Artificial shoreline hardening prevents a beach and natural dune system from accessing its sand reserves in the backshore "that would otherwise be available to resupply the depleted beach."³ Science has conclusively and repeatedly observed that shoreline hardening causes beach loss because it "disrupts natural processes, accelerates erosion on adjacent lands (known as "flanking"), and limits the natural dynamic behavior of the environment."⁴ Further, shoreline hardening on natural Hawaiian beaches "experiencing chronic erosion, ultimately the result of long-term sea level rise, causes beach narrowing and loss [], and flanking triggers more hardening leading to additional beach degradation."⁵ As of 2012, "70% of beaches on O'ahu, Maui, and Kaua'i experience an erosional trend" and "shoreline hardening has caused a total of 21.5 km of beach loss statewide."⁶ Studies published in 1997⁷ documented that historical seawall and revetment construction (coastal armoring) to protect eroding lands had caused the narrowing of 17.3 ± 1.5 km and loss of 10.4 ± 0.9 km of sandy beach over the period 1928 or 1949 to 1995. This is ~24% of the 115.6 ± 9.8 km of originally sandy shoreline of Oahu.

³ HAWAII DUNE MANUAL, UNIVERSITY OF HAWAII SEA GRANT COLLEGE PROGRAM 11 (2022).

⁴ Alisha Summers, Charles H. Fletcher, Daniele Spirandelli et al., *Failure to Protect Beaches Under Slowly Rising Sea Level*, 151 Climatic Change 427, 428 (2018).

⁵ *Id.*

⁶ *Id.*

⁷ Fletcher, C.H., et al. (1997) Beach loss along armored shorelines of Oahu, Hawaiian Islands, Journal of Coastal Research, 13, 1, 209-215. <https://www.soest.hawaii.edu/coasts/publications/JCRBeachLoss.pdf>

Lastly, I would like to note two things in Bill 41 (2022) that I believe should be changed to align the regulations with the science:

First, Sec. 23-1.4(a)(2) would create a “Sixty feet [shoreline setback] on zoning lots within the Primary Urban Center Development Plan area,” which extends from Pearl Harbor all the way around Diamond Head and into Kahala.⁸ However, I believe it would be prudent for the Honolulu City Council to amend that provision to apply the sixty feet plus 70 times the annual coastal erosion rate formula from Sec. 23-1.4(a)(1) to the Kahala and Diamond Head areas because those areas have a similar development pattern to neighboring portions of East Honolulu and much of the rest of the island (rather than the dense urban development of the PUC). Further, these narrow and low-lying beaches are also very susceptible to sea level rise and coastal erosion, and have experienced strong historical erosion trends. Thus, the science shows that those sandy coastlines should be subject to the historical erosion rate-based setback and the improved safety buffer they provide.

Second, I believe that it would be prudent for the City Council to consider changing the effective date of Bill 41 (2022) from January 1, 2024 to “*upon approval*”. For one thing, Act 16 (2020) was effective upon approval, thus those changes in this measure made to conform with state law should be effected as soon as practicable. Second, time is of the essence, and any delay in updating Honolulu’s shoreline setback will only hurt our coastal communities in the long term. Finally, having an effective date so far out may unintentionally lead to an increase in development as coastal property owners will rush to exploit the current shoreline setback before Bill 41 (2022) becomes effective.

I sincerely appreciate the Honolulu City Council’s time and effort to consider and hear this measure. Please feel free to contact me if you have any questions about the substance of my testimony.

Respectfully,

C. Fletcher

Charles Fletcher

⁸ https://www.honolulu.gov/rep/site/ocs/roh/SCP_DP_PrimaryUrbanCenter.pdf.



Sept 6, 2022

Dear Chair Elefante, Vice Chair Kia'aina, and members of the zoning and planning committee,

AIA Honolulu
A Chapter of the
American Institute of
Architects

The American Institute of Architects (AIA) Honolulu chapter would like to submit comments and opposition to Bill 41.

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AIA Honolulu
Center for Architecture
828 Fort St. Mall, Suite 100
Honolulu, HI 96813-4452

AIA National Policy has a strong focus on resilient design for climate change. However, AIA Honolulu has had very little opportunity for discussion on Bill 41. AIA Hawaii sent a letter to DPP inquiring after the passage of Act 16 in 2020, but no response was received. Bill 41 and its companion Bill 42 will also require further adaptation and interpretation of regulations by DPP, and we are concerned about additional delays to the permitting process. While design for climate change is a must, Bill 41 and 42 will add to costs and time for building owners, especially single-family homes, in shoreline management areas. We see no testimony from lenders and property insurers stating that they will finance and insure buildings designed to Bill 41 requirements.

AIA is **OPPOSED TO THE CURRENT LANGUAGE** of sections in Bill 41 CD1 (*bill language in red italics*) as discussed below:

23-1.23 Definitions. "Buildable area" means that portion of a zoning lot excluding the shoreline setback, required yards, street setbacks, stream or wetland setbacks, easements and flag lot stems.

What is the wetland setback requirement? Bill 42 removes definition of wetlands and a survey of these by applicant for SMA permit.

23.1.4 (a) establishes base setback at 40 feet [the current City setback and state law minimum setback] until January 1, 2024, after which the base setback will be 60 feet.

AIA **OPPOSES** testimony asking for Bill 41 to take effect upon approval. Historically, no bills so seriously affecting building design have gone into effect without adequate advance notice. In its opening testimony to the Council, DPP says it has gone out to discuss the bill with listed affected groups, however, AIA feels that numerous issues within Bill 41 have not been addressed. Architects agree that resilient design for climate change is essential. Act 16 general prohibition on new shoreline hardening means that buildings must resist the forces of nature on their own.

23.1.4 (a) (1) says 60 feet plus 70 [estimated service life of wood- frame structure] times the annual coastal erosion rate up to maximum of 130 feet.



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Assuming the coastal erosion rate uses “scientific basis” for shoreline setback, AIA questions why the base setback of minimum 40 feet in state law HRS 205A is increased to minimum 60 feet in proposed Bill 41?

State law HRS 205A set minimum 20-foot shoreline setback until SLH Act 16 (2020) when it was **doubled to 40 feet** in specific testimony by the State Office of Planning (Senate Bill 2060 SD2 SSCR 3198). Act 16 did not mandate erosion-rate based setback, so it may be assumed that 40 feet was “buffer zone” pending implementation of more detailed erosion-rate basis by counties.

From an architect design perspective, Bill 41 setbacks are not onerous based on historical scientifically measured erosion-rates, but onerous because of the 20-foot “buffer zone” added by Bill 41 to minimum base setback in state law HRS 205A. This “buffer zone” seems arbitrary, a one-size-fits-all mandate that will cause considerable hardship on some properties. For example, adding 20-feet to the base setback of 1 foot erosion per decade is equivalent to 200 years, or about 3x the expected life of a wood-framed house that is cited as the standard in the bill.

If we want to be cautious because coastal erosion rates need to be periodically re-assessed, we might use 100x, a longer service life. 40-foot base setback with 1-foot erosion per decade, the setback would be 50 feet.

Or we could double the erosion rate. 40-foot base setback with 1-foot erosion per decade, the setback would be 60 feet; same as base setback in the bill.

AIA understands that for some lots such as high sand dunes, there is no formula that will work over long term of coastal erosion.

Bill 41 assumes that increasing shoreline setbacks has the same climate change design resiliency on every lot. **Not true.** Architects know that Sea Level Rise (SLR) can only be solved by raising building “finish floor elevation” above anticipated rising sea levels. Setback distance and raised finish floor elevations should both be considered.

AIA also proposes consideration of Repetitive Loss, imposing the more stringent setbacks and even “no build zones” when a specific shoreline location suffers property loss after 2 or more events within a particular time frame.

23.1.4 (a) (2) says 60 feet on zoning lots within the Primary Urban Center Development Plan Area PUCD.

For PUCD, AIA is **OPPOSED** to an increase beyond the current 40-foot shoreline setback due to intensity of existing build out, presence of critical public infrastructure, and extensively modified shoreline within urban Honolulu. As the state’s historic political, financial, educational/cultural



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and transportation capital, Honolulu's PUCD contains much of the state's most useful and valuable well-located real estate. We will be de-valuing this resource and forced to build elsewhere or taller. As architects, we are very concerned over the degree of non-conformity being created by Bill 41. Public improvements like harbor facilities will likely receive pro-forma approvals, but why waste architect-engineer and public agency staff time?

There is no reason why Honolulu's PUCD shoreline setback cannot differ from less-intensely developed areas depending on the likelihood that existing use will be maintained by modified shoreline hardening.

AIA does understand testifier comments related to "softer" shorelines in PUCD and Bill 41 needs amending for these potentially erosive situations.

Conversely within PUCD and other localities, there are rocky shorelines above current SLR projections. For these lots AIA **OPPOSES** current language of Bill 41 saying areas without historic erosion will be subject to a shoreline setback of 60 feet. It is understood why accretion is not factored in to shoreline setback because naturally deposited earth material is subject to future erosion by flood or tidal action.

Following 23-1.2 (b) is for lots where buildable area is less than 1,500 square feet after imposing shoreline setback.

Oahu likely has the smallest-sized oceanfront lots of any county. Oahu has the greatest population pressure. Oahu must be more conscious about imposing deep base setback. The deeper the base setback, the more lots will fall into this category. AIA recommends that DPP provide an assessment as to the number and location of these lots so Council can make an informed decision.

23-1.2 (b) (1) Where the buildable area of a zoning lot is reduced to less than 1,500 square feet, the shoreline setback line may be adjusted to allow a minimum buildable area of 1,500 square feet, subject to review and approval by the director; provided that:

AIA questions why 1,500 square feet is the minimum allowable buildable area? **With lot reduced by shoreline setback to less than 1,500 sf, it is supposed to be the maximum buildable area.** Or simply say buildable area of 1,500 square feet.

23-1.2 (b) (5) On lots that exceed 60 feet in width, the side yards may be increased so the buildable area depth is 30 feet.

It is unclear who decides if side yards are increased and what is meant by "buildable area depth is 30 feet." AIA is also concerned about Bill 41's overly prescriptive dimensions and plan angles for these buildings on "tight" lots. Bill 41 is intended to be erosion-rate based shoreline setback legislation and not community aesthetic design guidelines.



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23-1.2 (b) (7) If a proposed structure is within a special flood hazard area, as defined in ROH Chapter 21A, structural design and construction must be resilient to existing and increasing flood hazards with a finished lowest floor elevation a minimum of three feet above the flood insurance map base flood elevation.

Shouldn't finished lowest floor elevation be consistent with SLR maps and potential new flood elevation? AIA recommends following FEMA guidelines and asks the Council to legislate a Design Flood Elevation (DFE), specific to locales. The DFE is the minimum floor elevation that the DPP can determine in relation to the FEMA Flood Insurance Maps (FIRM) which name a SFA's base flood elevation. DFE can be used in lieu of a blanket horizontal setback.

23-1.2 (b) (8) If a proposed structure is outside of the special flood hazard area but within the sea level rise exposure area, the lowest floor of the structure must be a minimum of three feet above the highest adjacent grade.

"Three feet above the highest adjacent grade" is not correlated with SLR. Shouldn't the finish floor elevation be tied to the SLR elevation? Bill 41 is silent on any finish floor elevation for structures on other shoreline lot sizes. Architects can design buildings to stand above SLR levels, but our Hawaii situation is unique in that high water line is the seaward boundary of private property ownership. It is possible that entire lots will be submerged.

23-1.5 (b) Structures and activities are prohibited within the shoreline setback area, with the following exceptions:

While the bill allows for future DPP rules, there is no discussion pro/con of swimming pools in shoreline setback area. Seems like a desired use of such large open land area by landowners, but would likely act as shoreline hardening at some time.

23-1.8 Criteria for granting a shoreline setback variance. (a) (3) Landscaping, provided that the proposed structure or activity will not adversely affect beach processes and will not artificially fix the shoreline.

AIA is **OPPOSED** to any landscaping in shoreline setback area requiring SMA variance. This will be nearly impossible to regulate unless landscaping plan is required during SMA Major permit. And even then, regulation will be strongly resisted by homeowners. AIA says it is better to rely on Bill 41 prohibition on landscaping attempts to set an artificial high water line.

Thank you for this opportunity to provide testimony and feedback.

- The AIA Honolulu Board