

BILL042(22)
Testimony

MISC. COMM. 393

ZONING AND PLANNING

ZONING AND PLANNING Meeting

Meeting Date: Sep 22, 2022 @ 09:00 AM

Support: 7

Oppose: 27

I wish to comment: 15

Name: Rajan Watumull	Email: wanda@watumull.com	Zip: 96816
Representing: Self	Position: Oppose	Submitted: Sep 17, 2022 @ 07:37 AM

Name: John Dean	Email: john.dean@cpb.bank	Zip: 96795
Representing: Self	Position: I wish to comment	Submitted: Sep 17, 2022 @ 11:15 AM

Testimony:

Councilmember Brandon Elefante
Chair, Zoning and Planning Committee
Honolulu City Council

Dear Councilmember Elefante and Members of the Zoning and Planning Committee,

Subject: Bill 42 Special Management Area

I am writing to you regarding Bill 42 - Special Management Area. I am a resident who owns property along the shoreline in Waimanalo and it appears that my neighbors and I would be directly and significantly impacted by Bill 42. I am surprised and deeply concerned that we were not notified or even made aware of this bill when it was introduced, or when it went to the full Council.

My neighbors and I have not had time to fully understand the direct impacts that these changes would have on our properties; but, it appears that these revisions would make it much more difficult to repair existing homes and maintain properties. If passed, Bill 42 would add more red tape to already existing shoreline protection measures and could curtail future efforts to protect our properties from severe coastal erosion.

I respectfully request a hiatus on passing Bill 42 out of your committee to the full Council. Please allow us the opportunity to understand how this bill would affect our properties so that we can provide direct input into this now rushed process. I believe that postponing a full Council vote until more residents have time to review Bill 42 would be a prudent measure.

Mahalo for considering my request for more time to learn about Bill 42. I would look forward to discussing this matter this matter with you and other Council Members.

Sincerely,

John C. Dean

41-467 Kalaniana'ole Hwy.

Waimanalo, HI 96795

808-259-8408

john.dean@cpb.bank

Name: Paul Bernstein	Email: paulbernstein2004@yahoo.com	Zip: 96821
Representing: Self	Position: Support	Submitted: Sep 18, 2022 @ 07:02 AM

Testimony:

Aloha Councilmembers,

I'm writing in strong support of Bill 42 (2022). The scientific research continues predict ever worsening sea level rise. A month ago a report about the melting of the Greenland ice sheet. This melting could add one to two feet to global sea level rise. The science is clear that we need to prepare for these inevitable changes. We need bills like Bill 42 so building and development decisions are made that account for these future changes in our islands.

Respectfully,
Paul Bernstein

Name: Bonnie Fong	Email: bonnie.w.fong@gmail.com	Zip: 96816
Representing: Self	Position: Oppose	Submitted: Sep 18, 2022 @ 11:04 AM

Name: Dyson Chee	Email: cheedyson@gmail.com	Zip: 96814
Representing: Self	Position: Support	Submitted: Sep 18, 2022 @ 11:09 AM

Testimony:

Aloha Chair Elefante, Vice-chair Kiaina, and Council Members Cordero and Say,

My name is Dyson Chee, I am a student at the University of Hawaii at Mnoa and a resident of Ala Moana. I am testifying in strong support of Bill 42, as we need this bill in order to have data-driven adaptation and resilience against the threat that climate change poses to our shoreline communities. As someone who frequents the beach, especially in Ala Moana and Waikk, it has become abundantly clear to me that Bill 42, and its companion, Bill 41, are necessary first steps for protecting the place that we love.

Because of this, I also urge the committee to hear and pass Bill 41, as these two bills are linked together in our effort to better prepare new developments for coastal hazards and sea level rise induced by climate change. Bill 41 and Bill 42 together advance implementation of Action 29 of the community-driven O'ahu Resilience Strategy.

Thank you for the opportunity to testify,
Dyson Chee

Name: Patricia Lee	Email: consulfrhi@gmail.com	Zip: 96795
Representing: Self	Position: I wish to comment	Submitted: Sep 19, 2022 @ 02:07 AM

Testimony:

Chair Elefante and Members of the Zoning and Planning Committee:

As a lifelong Hawaii resident and an owner of property along the Waimanalo shoreline,
I respectfully request that Bill 42 not be passed out of your committee to the full Council at this time.

Shoreline residents in Hawaii have had insufficient notice and time to fully understand or weigh in on the ramifications and grave impact this Bill may have on their homes and ability to maintain them. Additionally, postponing any action on proposed Bill 42 will allow your committee to gain more insight into coastal erosion, sea level rise and advisable means of mitigating erosion and restoring Hawaii's shoreline. This Bill may have the negative consequence of actually hampering current efforts of homeowners such as my neighbors and I who are in the process of working with ocean engineers to obtain permits to restore the beach at our own significant expense.

We are all concerned about the impact of climate change and coastal erosion but must be careful to avoid premature, hasty decisions which rather than having a beneficial effect, may actually result in unintended negative consequences such as additional layers of approval and permitting and delays in mitigating erosion and safeguarding residents' homes.

Proper consultation and discussion with homeowners, experts and the community are essential to the legislative process. For

these reasons, I urge you to prudently postpone passing Bill 42 out of committee.

Mahalo for your kind consideration.

Patricia Y. Lee, Ph.D., J.D.

Name: Mark Webb	Email: mkwebb58@yahoo.com	Zip: 96795
Representing: Self	Position: I wish to comment	Submitted: Sep 19, 2022 @ 09:48 AM

Testimony:

Dear Brandon Elephante, Chair, and Members of the Zoning and Planning Committee:

I wish to provide comment on Bill 42.

I reside at 41-473 Kalanianaʻole Highway in Waimanalo. This is a beach front property.

I read in the local paper that a bill is under consideration that would increase the setback requirement for myself and my neighbors and therefore further restrict our ability to alter, repair or otherwise 'touch' our properties, even in the event of storm damage.

I am very surprised that I learned of this possible legislation in the local press. My neighbors along the beach in Waimanalo and I would possibly be severely harmed by this bill. I believe it's only prudent for all of us to have a chance to engage with you, learn about the bill, have public hearings on the matter. This is the only way to ensure that everyone has his or her say, and that the best possible legislation is ultimately voted on.

Please allow this process to take place before putting the draft bill before the full Council for a vote.

Thank you for your consideration. I remain at your disposal to provide verbal comment if that is desired. My phone number is 6467705573. Sincerely, Mark K Webb

Name: Camile Cleveland	Email: policy@oahu.surfrider.org	Zip: 96816
Representing: Surfrider Foundation Oʻahu Chapter	Position: Support	Submitted: Sep 19, 2022 @ 09:54 AM

Name: MARTIN RABBETT	Email: martinrabbett@gmail.com	Zip: 96753
Representing: Self	Position: I wish to comment	Submitted: Sep 19, 2022 @ 10:48 AM

Testimony:

Councilmember Brandon Elefante Chair, Zoning and Planning Committee Honolulu City Council

Councilmember Elefante and Members of the Zoning and Planning Committee, Subject: Bill 42 Special Management Area

I am writing to you regarding Bill 42 - Special Management Area. I am a resident who owns property along the shoreline in Waimanalo and it appears that my neighbors and I would be directly and significantly impacted by Bill 42.

I respectfully request a hiatus on passing Bill 42 out of your committee to the full Council.

I was not notified or even made aware of this bill when it was introduced, or when it went to the full Council. My neighbors and I have not had time to fully understand the direct impacts that these changes would have on our properties; but, it appears that these revisions would make it much more difficult to repair existing homes and maintain properties. If passed, Bill 42 would add more red tape to already existing shoreline protection measures and could curtail future efforts to protect our properties from severe coastal erosion.

Please allow us the opportunity to understand how this bill would affect our properties so that we can provide direct input into this now rushed process. I believe that postponing a full Council vote until more residents have time to review Bill 42 would be a prudent measure. Mahalo for considering my request for more time to learn about Bill 42. I would look forward to discussing this matter this matter with you and other Council Members.

Sincerely,

Martin Rabbett, Trustee of Kokua Trust #19, resident owner of 41-471 Kalaniana'ole Highway, Waimanalo

Name: Jan Sullivan	Email: jsullivan@oceanit.com	Zip: 96813
Representing: Self	Position: I wish to comment	Submitted: Sep 19, 2022 @ 12:34 PM

Name: Leah Laramee	Email: leah.j.laramee@hawaii.gov	Zip: 96813
Representing: Hawaii Climate Change Mitigation and Adaptation Commission	Position: Support	Submitted: Sep 19, 2022 @ 01:23 PM

Name: Kristl Wong	Email: kristlize@gmail.com	Zip: 94025
Representing: Self	Position: I wish to comment	Submitted: Sep 19, 2022 @ 04:18 PM

Testimony:
TESTIMONY TO ZONING AND PLANNING COMMITTEE
ON
BILL 42 RELATING TO SPECIAL MANAGEMENT AREA

Aloha Chair Elefante and members of the Zoning and Planning Committee,

My name is Kristl Wong and I am writing to you about Bill 42 relating to Special Management Area. I am testifying because I have a home along the shoreline in Waimanalo and it seems like my ohana will be directly and significantly impacted by this bill. I was surprised and am concerned that we were not notified of this bill when it was introduced.

We have not had time to fully understand the direct impacts that these changes will have on our homes, but it looks like this bill will make it much more difficult to repair our houses and maintain existing properties. If passed, Bill 42 would add more red tape if I want to repair my house and existing shoreline protection measures. Plus, the bill would curtail future efforts to protect our properties from severe coastal erosion. I would have to hire experts to help me apply for a very complicated Special Management Area permit. That means big money and lots of time for a permit I may not even get.

Our home was passed down to us by our Kpuna and today we continue to honor the traditions of a multi-generational legacy. I can see how that these restrictions will threaten the future of our home and negatively impact our property values. This would affect not just me, but my keiki, my moopuna and their keiki.

I respectfully ask that you keep Bill 42 in your committee until we can learn more about how this bill might affect us. Please allow us the proper opportunity to understand how this bill affects our properties so that we can provide informed input into this process. I believe that giving us more time to understand would be prudent and pono.

Mahalo for considering my request for more time to learn about Bill 42.

Kristl Wong
41-457 Kalaniana'ole Highway, Waimanalo 96795

Name: Jadelyn Chang	Email: jadelynchang@gmail.com	Zip: 96795
Representing: Self	Position: Oppose	Submitted: Sep 19, 2022 @ 04:43 PM

Testimony:
TESTIMONY TO THE

ZONING AND PLANNING COMMITTEE REGARDING
BILL 42 RELATING TO SPECIAL MANAGEMENT AREA

Aloha Chair Elefante and members of the Zoning and Planning Committee.

My name is Jadelyn Chang and my family and I own property in Waimanalo on the Kalanianaʻole Highway. I am submitting testimony on Action Item 11, Bill 42 relating to Special Management Area. I respectfully request that your committee postpone a vote until more residents have had time to review this bill and that you engage in public discussion so residents can provide meaningful input.

It appears that Bill 42 has major ramifications to property owners and it passed a second reading and public opinion just two weeks ago on September 7, 2022 yet I am not aware of it being discussed or presented to the communities, residents, and property owners like me who will be directly and significantly impacted.

I need more time to be able to understand Bill 42.

Postponing a full Council vote until more residents have time to review and understand this bill will be prudent and responsible. Thank you for considering my request to postpone a vote on Bill 42.

Sincerely,

Jadelyn Chang

Name: Michael Mayon	Email: mhmayon@yahoo.com	Zip: 96791
Representing: Self	Position: I wish to comment	Submitted: Sep 20, 2022 @ 10:02 AM
Name: Rajan Watumull	Email: jim@watumull.com	Zip: 96808
Representing: Self	Position: I wish to comment	Submitted: Sep 20, 2022 @ 10:07 AM
Name: Michael A Pietsch	Email: mpietsch@tghawaii.com	Zip: 96821
Representing: Self	Position: I wish to comment	Submitted: Sep 20, 2022 @ 10:20 AM

Testimony:

Dear Councilmember Elefante and Members of the Zoning and Planning Committee,

I am writing to you regarding Bill 42 – Special Management Area. I am a resident who owns property along the shoreline in Aina Haina and it appears that my neighbors and I would be directly and significantly impacted by Bill 42.

I am surprised and deeply concerned that we were not notified or even made aware of this bill when it was introduced, or when it went to the full Council. My neighbors and I have not had time to fully understand the direct impacts that these changes would have on our properties, but it appears that these revisions would make it much more difficult to repair existing homes and maintain properties. If passed, Bill 42 would add more red tape to already existing shoreline protection measures and could curtail future efforts to protect our properties from severe coastal erosions.

I respectfully request a hiatus on passing Bill 42 out of your committee to the full Council. Please allow us the opportunity to understand how this bill would affect our properties so that we can provide direct input into this now rushed process. I believe that postponing a full Council vote until more residents have time to review Bill 42 would be a prudent measure.

Mahalo for considering my request for more time to learn about Bill 42. I look forward to discussing this matter with you and other Council Members.

Sincerely,

Michael A. Pietsch
292 Wailupe Circle
Honolulu, HI 96821
(808) 282-0111

Name: Melissa May	Email: issamay78@hotmail.com	Zip: 96744
Representing: Self	Position: Support	Submitted: Sep 20, 2022 @ 12:13 PM

Testimony:

Aloha Chair Elefante and members of the Zoning and Planning Committee,

I am a professional planner and a member of the Honolulu Planning Commission, however my comments submitted here are my own individual views.

I am in strong support of Bill 42, which updates City Special Management Area (SMA) regulations related to development in shoreline areas vulnerable to sea level rise, coastal erosion, and other impacts of climate change. These regulatory changes are a critical part of what will need to be a multi-pronged approach to advancing coastal resilience across Oahu.

In my professional capacity I have done extensive research to identify best practices and case studies for coastal resilience, and have applied that research to inform the development of state and county-level tools and frameworks for climate adaptation in Hawaii. These efforts have contributed to a statewide study of the feasibility of managed retreat, development of climate adaptation design principles for Honolulu, and the design of a new coastal resilience zoning overlay for the County of Kauai.

Throughout this work, the incorporation of climate change impacts into regulations such as the Special Management Area, flood hazard zones, and shoreline setbacks have been identified as critical prerequisites to protecting life and property by ensuring that development is appropriately sited, scaled, and adapted to adapt to and mitigate hazards.

I have also participated in and led extensive community engagement around climate change issues island wide, including a coastal resilience working group for the North Shore, Farrington Highway corridor planning on the West Side, watershed planning in East Honolulu, and an update to the North Shore Sustainable Communities Plan. All of these efforts have indicated widespread community awareness of the urgency of addressing climate change, agreement around the paramount importance of preserving and maintaining the shoreline as a public trust resource, and support for adapting development and infrastructure and ultimately moving it out of harm's way. Many of these sentiments are echoed in the adopted community plans island wide.

The proposed updates to the SMA regulations represent one tool in the suite of approaches that are needed to advance coastal resilience, and they are a critical step in that direction. The SMA rule updates will incorporate the best available data and align the SMA with other City and State policy, particularly the Honolulu Climate Commission Sea Level Rise Guidance and State Coastal Zone Management law.

The SMA updates included in Bill 42 should be seen as integrally linked with updates to the shoreline setback ordinance as proposed in Bill 41 (2022), CD1. While not a focus of the current hearing, I express my strong support for that bill as well.

Finally, to be leveraged most effectively, regulatory updates as proposed in Bills 42 and 41 should be viewed as part of an overall climate adaptation strategy and aligned with the policy direction expressed therein. Policy at the planning district level can flow from such a strategy and also guide the development and implementation of regional adaptation plans.

Thank you very much for your consideration and the opportunity to comment.

Sincerely,
Melissa May, AICP

Name: Stephen Keithahn	Email: skeithahn@aol.com	Zip: 96795
Representing: Self	Position: Oppose	Submitted: Sep 20, 2022 @ 02:27 PM

Testimony:

Chair Elefante and Members of the Zoning and Planning Committee:

We join with our neighbors who own property along the Waimanalo shoreline to respectfully request that Bill 42 not be passed out of your committee to the full Council at this time. Shoreline residents in Hawaii have had insufficient notice and time to fully understand and weigh in on the ramifications and potential negative impacts of this bill including but not limited to their ability to maintain their homes and to potentially restore their shorelines. Climate change causing sea levels to rise is a reality but not an

immediate threat. There is time to pause and allow proper consultation and discussion with homeowners, experts and the community. We urge you to not pass Bill 42 out of committee at this time. Mahalo for allowing us to provide this input, and thank you for your service. Drs. Mari Ann and Stephen Keithahn, 41-447 Kalanianaʻole Hwy

Name: Jo-Ann Leong	Email: joann.leong@gmail.com	Zip: 96744
Representing: Self	Position: I wish to comment	Submitted: Sep 20, 2022 @ 02:28 PM
Name: Robert Armstrong	Email: bob@armstrongbuilders.com	Zip: 96819
Representing: Self	Position: Oppose	Submitted: Sep 20, 2022 @ 03:43 PM
Name: Victor Nichols	Email: nicholsvk@mac.com	Zip: 96791
Representing: Self	Position: Oppose	Submitted: Sep 20, 2022 @ 03:59 PM
Name: Ann Bendon	Email: misskalea@hotmail.com	Zip: 96791
Representing: Self	Position: Oppose	Submitted: Sep 20, 2022 @ 06:06 PM

Testimony:

I strongly oppose changing the setback from 40 to 60 (and potentially 130) to existing structures. I understand the motive for undeveloped properties, however, imposing this restriction on existing dwellings and structures is very unfair to property owners who own permitted homes or buildings that would ultimately put them within the setback and make them become none conforming. There are a whole litany of problems that will arise out of this, the main being that the government is imposing an illegal regulatory taking of small lots that will no longer be able to build in the event of a catastrophe or remodel. Mortgage and insurance will also become a nightmare for those homeowners. Why not allow existing permitted structures stay grandfathered in to the current laws? You can impose this bill on vacant land all you want. Furthermore, I think innovative construction techniques could be done in order to deal w sea level rise. Why not entertain some of that rather than just retreat retreat retreat. We are an island state and are smart enough to learn how to live with and around the ocean. Stop thinking so inside the box!!! This state could become very unique and innovative when dealing w water.

Name: Lori Hiratani Rough	Email: lorirough1@gmail.com	Zip: 96791
Representing: Self	Position: I wish to comment	Submitted: Sep 21, 2022 @ 04:01 AM

Testimony:

Dear Councilmember Elefante and members of the Zoning and Planning Committee,

Subject: Bill 42 Special Management Area

I am writing you regarding Bill 42 relating to Special Management Area. My family owns property along the shoreline in Waialua. It was purchased by my parents circa 1960s and passed on to me with the understanding that I would maintain it for my children and theirs. This small parcel of land is the heart and home of my family and I am emotionally tied to it.

It appears that we and our neighbors will be directly and significantly impacted by Bill 42. I am surprised and deeply concerned that we were not notified or even made aware of this bill when it was introduced or when it went to the full Council.

We have not had time to fully understand the direct impacts that these changes will have on our homes, but it appears that these revisions will make it much more difficult to repair existing homes and maintain our properties. If passed, Bill 42 would add more red tape if I want to repair already-existing shoreline protection measures and the bill would curtail future efforts to protect our properties from severe coastal erosion. For my family, more red tape means more money and more time for a permit – which we

may not even get.

These restrictions threaten the future of our family home and could negatively impact our property values. Bill 42 is being proposed without most of the affected residents even understanding or being aware of the impacts that will result from these changes.

We respectfully request a hiatus on passing Bill 42 out of your committee to the full Council. Please allow us the proper opportunity to understand how this bill would affect our properties so that we can provide direct input into this rushed process. I believe that postponing a full Council vote until more residents have time to review Bill 42 will be a prudent measure to ensure public participation.

Mahalo for considering my request for more time to learn about Bill 42.

Sincerely,
Lori Hiratani Rough

Name: Rodney Youman	Email: ryouman007@yahoo.com	Zip: 96712
Representing: ZHUNGO LLC	Position: Oppose	Submitted: Sep 21, 2022 @ 07:25 AM
Name: Kenneth Martyn	Email: kmhawhome-HonCityCouncilTestimony@yahoo.com	Zip: 96791
Representing: Self	Position: Oppose	Submitted: Sep 21, 2022 @ 09:35 AM
Name: Kendra Martyn	Email: kendramartyn@yahoo.com	Zip: 96791
Representing: Self	Position: Oppose	Submitted: Sep 21, 2022 @ 10:10 AM
Name: William Kernot	Email: william@kernotgroup.com	Zip: 96712
Representing: Self	Position: Oppose	Submitted: Sep 21, 2022 @ 10:44 AM
Name: Charley Chartoff	Email: cchartoff@me.com	Zip: 90265
Representing: Self	Position: Oppose	Submitted: Sep 21, 2022 @ 11:05 AM
Name: Glenn Wachtel	Email: gwachtel@hotmail.com	Zip: 96712
Representing: Self	Position: I wish to comment	Submitted: Sep 21, 2022 @ 11:10 AM
Name: Michael Berman	Email: mberman@firstrangemc.com	Zip: 96712
Representing: Self	Position: Oppose	Submitted: Sep 21, 2022 @ 11:24 AM

Testimony:

I am writing you regarding Bill 41 relating to shoreline setbacks and Bill 42 relating to Special Management Area. I reside along the shoreline in Haleiwa and it appears that I and my neighbors will be directly and significantly impacted by these bills. I am surprised and deeply concerned that we were not directly notified or even made aware of these bills.

It appears that these revisions will have significant impacts that would restrict our ability to repair existing homes and retain existing property. If passed, these bills appear to limit efforts to repair already existing shoreline protection measures and curtail future efforts to protect our properties from severe coastal erosion.

With the limitation to repair and retain our existing properties it will force dilapidation of existing structures which is not in the best interest of our community. In addition has the council considered the litigation that may ensue under the laws of eminent domain? It appears the regulations being considered are so substantial that it will lead to persons losing the natural rights to their property.

Property is said to be acquired when government encroaches on the land of a person for public purposes. When a government denies natural use of a person's property, this amounts to an informal taking of the property. However, the taking should be for a public use and the land owner should be paid a just compensation. Property can be regulated by governments. But if the regulations imposed are so substantial that the person loses his/her natural rights in the property, it is considered a taking and the government is bound to pay compensation. Mich. S. Cent. Power Agency v. Constellation Energy Commodities Group, Inc., 466 F. Supp. 2d 912 (W.D. Mich. 2006).

We ask that the Zoning and Planning Committee postpone a full Council vote to allow more residents time to review the bills.

Thank you for considering our request

Name: William Price	Email: bprice@pfve.com	Zip: 96816
Representing: Self	Position: Oppose	Submitted: Sep 21, 2022 @ 11:47 AM

Testimony:

Dear Chair Elefante and members of the Zoning and Planning Committee

I am writing to you concerning Bills 41 and 42. I live on Diamond Head with my family at 206 Kulamanu Place which is a small shoreline lot. The majority of the lot is within 130 feet of the water line. I had heard conflicting reports about whether the bills will prevent me from doing required maintenance and repair on my home. As you know a home on the beach requires near constant repairs due to the salt air and humidity. These bills are being rushed through without adequate time for comments and review. No one in my neighborhood understands the effect these bills will have on our property. Please do not pass these bills out of your committee until the public has had time to read and understand the recent changes to the bills. Thank you for considering my request to postpone bringing the bills to the Council until there has been time for residents to review, discuss and comment.

Sincerely

Bill Price

Name: Alicia Hill	Email: thehillshouse4@icloud.com	Zip: 96791
Representing: Self	Position: Oppose	Submitted: Sep 21, 2022 @ 12:56 PM

Testimony:

To whom it concern:

Listen these setbacks are for new construction. No one is building on the ocean. These obviously don't work for older homes. When reading this bill I see that you don't want to help homeowners on the water! Your okay with people losing their land. You want no responsibility. Help us to come up with a solution to help save the homes and the beaches. If we go this other route of losing property then We also need to adjust taxes for the land. No reason to pay taxes on land that is no longer there... why can we not help the people on the oceanfronts? You've taken away people pushing sand to save their homes? Just looking for solutions to slow it down... not completely stop nature. You want solutions yet you have none but to allow the ocean to take property. I realize you don't know how so can we not work together instead of condemning.

Name: Dr. Chip Fletcher	Email: fletcher@soest.hawaii.edu	Zip: 96734
Representing: Climate Resilience Collaborative	Position: Support	Submitted: Sep 21, 2022 @ 01:25 PM

Name: Linda Wong	Email: worldofaloha@hawaii.rr.com	Zip: 96744
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Representing: Self	Position: Oppose	Submitted: Sep 21, 2022 @ 01:56 PM
Testimony: I am opposed to this bill as written as it is full of bureaucratic red tape. Linda Wong		
Name: Sandra Sarkissian	Email: sandrasark@yahoo.com	Zip: 96795
Representing: Self	Position: I wish to comment	Submitted: Sep 21, 2022 @ 02:02 PM
Testimony: Councilmember Brandon Elefante Chair, Zoning and Planning Committee Honolulu City Council Subject: Bill 42 Special Management Area Dear Councilmember Elefante and Members of the Zoning and Planning Committee, I am writing to you regarding Bill 42 - Special Management Area. I am reaching out today as the owner of a property along the shoreline in Waimanalo and am deeply concerned regarding Bill 42, which appears would have a direct and significant impact on property owners like myself and my neighbors. I am surprised that we were not notified or even made aware of this bill when it was introduced, or when it went to the full Council. My neighbors and I have not had time to fully understand the direct impacts that these changes would have on our properties; but, it appears that these revisions would make it much more difficult to repair existing homes and maintain properties. If passed, Bill 42 would add more red tape to already existing shoreline protection measures and could curtail future efforts to protect our properties from severe coastal erosion. I respectfully request a hiatus on passing Bill 42 out of your committee to the full Council. Please allow us the opportunity to understand how this bill would affect our properties so that we can provide direct input into this now rushed process. I believe that postponing a full Council vote until more residents have time to review Bill 42 would be a prudent measure. Mahalo for considering my request for more time to learn about Bill 42. Sincerely, Sandra Sarkissian 41-459 Kalanianaʻole Hwy. Waimanalo, HI 96795		
Name: Robert Armstrong	Email: bob@armstrongbuilders.com	Zip: 96819
Representing: Self	Position: Oppose	Submitted: Sep 21, 2022 @ 02:35 PM
Name: Randolph Moore	Email: makikimoore@gmail.com	Zip: 96712
Representing: Self	Position: Oppose	Submitted: Sep 21, 2022 @ 04:59 PM
Testimony: I am writing as the homeowner of beachfront property at Sunset Beach. The special management area is indeed special and worthy of public and private efforts to preserve it. I am concerned about some of the ramifications of Bill 42. While I have a deep lot that extends from the beach to the road that enables me to move my house mauka as the beach erodes, many of my neighbors do not have this luxury. Their lots are not deep and do not extend to the road. What is to become of them if bill 42 is enacted as written? The state and city plans for sea level rise (and unrelated beach erosion) appear to be “managed retreat.” But how “managed		

retreat" is to be implemented in practice has yet to be spelled out.

Additionally, beach erosion (some of which may in the future be related to sea level rise) is quite variable as to location and as to timing. Looking only at the two-plus mile stretch of sand at Sunset Beach, the locus of serious erosion has changed over the decades. Places that had seriously eroded twenty-plus years ago have recovered, and places that were stable are now eroding.

A one-size-fits-all for Sunset Beach, much less for the entire island, does not seem justified by experience.

I encourage you to hold this bill pending clarification of how "managed retreat" will indeed be managed, and why a one-size-fits-all shoreline management is scientifically reasonable.

Mahalo for your consideration.

Name: Jerry Gibson	Email: jgibson@brehotels.com	Zip: 96815
Representing: Hawaii Hot	Position: Oppose	Submitted: Sep 21, 2022 @ 05:32 PM
Name: Ivan Lui-Kwan	Email: iluiquan@starnlaw.com	Zip: 96813
Representing: Hawaii Hotel Alliance	Position: Oppose	Submitted: Sep 21, 2022 @ 06:10 PM
Name: Cal Chipchase	Email: cchipchase@cades.com	Zip: 96813
Representing: Cades Schutte LLP	Position: I wish to comment	Submitted: Sep 21, 2022 @ 06:10 PM
Name: Bernard Bays	Email: abb@starnlaw.com	Zip: 96813
Representing: Individual Shoreline Property Owner	Position: Oppose	Submitted: Sep 21, 2022 @ 06:32 PM
Name: justin prouty	Email: jprouty4@gmail.com	Zip: 96712
Representing: Self	Position: Oppose	Submitted: Sep 21, 2022 @ 07:49 PM
Name: Amanda prouty	Email: aprouty4@gmail.com	Zip: 96712
Representing: Self	Position: Oppose	Submitted: Sep 21, 2022 @ 07:56 PM
Name: Michael Plowman	Email: pappysurfs@aol.com	Zip: 96706
Representing: Self	Position: Oppose	Submitted: Sep 21, 2022 @ 11:28 PM

Testimony:

I strongly oppose the current version of Bill 42 moving forward due to the language in 25-6.1.b Landscaping. I live in 'Ewa Beach, and the healthiest part of the Pu'u'loa Littoral cell is the portion that is the most heavily vegetated. The Pu'u'loa littoral cell spans 2 miles, between the westernmost T-groin at Keahi Point and terminating on the 'Ewa end at 91-701J Pohakupuna Rd.

Seawalls have decimated much of the 'Ewa half of the Pu'u'loa littoral cell shoreline, but prolific vegetation is helping to keep the Diamondhead half of the dune on this cell healthy.

The vegetation on the Diamondhead half is promoting sand retention, which results in accretion, which naturally moves the vegetation line further seaward. Additionally, the native flora comprised of naupaka, 'aki'aki, pohuehue, akulikuli, etc. provides a natural habitat for native fauna. Most notably is an active and growing nesting area for native uau kani, or wedge-tailed shearwater located in a long patch of low-lying naupaka.

The current language in Bill 42 would result in preposterous fines of \$100,000 for dozens of the homeowners and subsequent mandatory removal of native vegetation that is performing the task of preserving the coastal dune and providing habitat for native sea bird reproduction.

Many of these homes with vegetation extending seaward of their property lines have seawalls that were buried in sand in the early years following construction of the Reef Runway. The vegetation seaward of these buried walls is performing another valuable task of helping to prevent exposure of these walls to wave interaction. When those walls are re-exposed to the wave wash, the last half mile of healthy beach accessible to the public will disappear. It is a bad idea to have this vegetation removed.

The healthy, vegetated portion of the Pu'uloa littoral cell is easily navigated on foot and nearly every property with vegetation is passable at the highest spring tides a.k.a. "King Tides". Not so for the "Ewa half the the cell where chronic erosion as a result of seawall armoring makes many properties unpassable at high tide. Yet we look to punish those providing the natural approach to shoreline conservation. This language is wrong-headed and will harm the shoreline and ruin many families who will be subject to ludicrous penalties.

To the extent that nurtured vegetation on the coastal dunes does not negatively impact beach access, it should be encouraged as it meets a stated objective of this bill by "safeguarding beaches and coastal dunes for public use and recreation, the benefit of ecosystems, and use as natural buffers against coastal hazards".

Vegetation such as the native naupaka does not act as a shoreline hardening barrier as stated in paragraph 25-6.1.b.1. Shoreline hardening exacerbates erosion and flanking. Vegetation promotes accretion and coastal dune protection. This is Oceano 101.

If the City Council desires to curb vegetation that prevents shoreline access, then the language needs adjustment and perhaps vegetation that extends seaward of property lines could be limited in height such that safe access remains. But please don't outlaw that which is scientifically known to help preserve coastal dunes.

Finally, the desire to avoid interfering with the natural shoreline process is admirable to the extent that we prevent known destroyers of coastal dunes such as seawalls. But when we know vegetation promotes a healthy coastal dune, it makes about as much sense to eradicate it as it would to refuse medicine your doctor prescribes because medicine is not part of the natural process.

Please amend the language in Bill 42 so that healthy shoreline practices aren't outlawed.

Thank you,

Mike Plowman
Ewa Beach

Name: Orion Barels	Email: orion@coastaloahu.com	Zip: 96712
Representing: Self	Position: I wish to comment	Submitted: Sep 21, 2022 @ 11:41 PM

Testimony:

I oppose this bill for a couple major reasons: 1) Property owners who are located within the 3.2' sea level rise areas identified in the PacIOOS sea level rise viewer have not been notified of this bill which dramatically affects their properties utility and value. That equates to condemnation without compensation and without notification. Given how much this bill would negatively impact these properties' value, it would seem un-American to not notify these owners in writing prior in order to get feedback from the stakeholders most affected by this bill. 2) The 3.2 feet of sea level rise estimates on the aforementioned sea level rise viewer affect more than just shoreline properties. In many areas of the North Shore, Windward Oahu, Ala Moana & Waikiki this 3.2' of sea level rise area can be eight or more lots back from the shoreline. Have the City Council members supporting this bill studied

these maps in depth to realize the implications of this and how far inland the sea level rise viewer shows 3.2' reaching? Many proposed new condo buildings in Kaka'ako are in this 3.2' area. Why are they allowed to be built if this is the City's stance? This PacIOOS model is being used as a 'gold standard' when it is actually a hypothetical forecasting tool. We all know how hard it is to forecast the weather even next week. By not allowing "...Development that would result in the placement of habitable structures within the sea level rise exposure area..." this bill would create a whole class of non-conforming structures that would not be able to be rebuilt in the event of severe damage by fire or wind. This creates a domino effect of insurance companies refusing to insure structures that are non-conforming because they are not able to be rebuilt, and then mortgage companies and banks who will not loan money on non-conforming homes that cannot be rebuilt in the event of fire or damage of more than 50%

3) The \$500k threshold is arbitrary and not indexed for inflation in the highest inflationary environment we've seen in 40 years. This \$500k amount should be indexed for inflation by a standard measure such as the CPI

4) The provision about the naupaka needs to be rewritten. I am against people artificially extending their shoreline property with the use of propagation and irrigation, however Naupaka is a native plant that grows naturally on the shoreline. To legislate property owners to rip out something growing naturally on their shoreline that is not being planted or propagated in this sea rising environment seems counter productive to erosion control

In closing I'd like to give an example: A 1650 square-foot house in Hawaii can easily cost over \$500,000 to build in today's inflationary environment ... If that proposed house is in the SMA, and located on a property six lots inland from the ocean but shown on a computer model to be affected by 3.2 feet of sea level rise (100's of these such parcels exist on our island), under this bill that parcel owner would not be allowed to rebuild their home if it was burned down. It seems un-American to legislate that without compensating that owner for their loss. A bill such as this one must have provisions for fire rebuilding or wind damage rebuilding of an existing structures if they are not threatened by current erosion (which could be defined by being some reasonable distance like 40' or more back from the shoreline).

Thank You, Orion Barels

Name: Richard Sterman	Email: Richard@Sterman.com	Zip: 96712
Representing: Self	Position: Oppose	Submitted: Sep 21, 2022 @ 11:42 PM

Testimony:

September 21, 2022

Councilmember Elefante, Chair

Zoning and Planning Committee, Honolulu City Council

RE: Bill 41 and Bill 42

Aloha Chair Elefante and members of the Zoning and Planning Committee,

I have been a resident of the North Shore for almost 50 years, I own my own Real Estate company (Sterman Realty in Historic Haleiwa Town), I have many friends and clients that now own oceanfront properties out here and I personally own and live in my Ke Nui Road family home where I raised all four of my children (and now, I have a grand-daughter coming back for visits).

I have been calling and emailing my friends, neighbors and clients that own along our shoreline. None of them (not even one) knew about these new Bills that would most certainly, directly and negatively impact their properties. Many thought it was Bill 41 (2021) relating to increasing the minimum rental period to 90 days.

I ask that you defer these Bills till the local residents get a chance to have special meetings, input and public discussions. The devastation this would have on owners without allowing careful consideration and input by all sides - would almost certainly open the City up to Lawsuits. I personally think the way it is now written is akin to "Condemning" many of our old and beloved beachfront homes.

Like the sand in front of our houses - our small "Bundle of Rights" seem to have been slowly eroding away by years of more and more regulations. These Bills would not only be an additional "erosion" to those rights - it would seem to be a full tsunami of devastation.

Please hold off on this till we can understand these confusing Bills and have more public meetings on the North Shore and with input from all sides.

Thank You,

Richard D. Sterman
STERMAN REALTY
Haleiwa, Hawaii 96712
"Over 44 years of Serving the North Shore Community"

PS: My neighbors and I ask you to defer both Bill 41 and Bill 42 as there has been little or no communication with affected property owners out here about these Bills.

Name: Rose-Marie Rafael	Email: rosierafael377@gmail.com	Zip: 96816
Representing: Kahala Corporation	Position: Oppose	Submitted: Sep 22, 2022 @ 12:21 AM

Name: Eric Freeman	Email: eric.freeman24@gmail.com	Zip: 96712
Representing: Self	Position: Oppose	Submitted: Sep 22, 2022 @ 05:43 AM

Testimony:

I am writing as the homeowner of beachfront property in front of monster mush.

The special management area is indeed special and worthy of public and private efforts to preserve it.

I am concerned about some of the ramifications of Bill 42. While I have a lot that can accommodate moving back, I have been stopped by the state from any sort of permit to do the work. This bill will make it even more difficult for me to comply with the "managed retreat" strategy that is often talked about but never fully defined.

Also, while our area is currently suffering from erosion, looking at videos and movies going back to the late 80's early 90's, our area was in really good shape while the area closer to pipeline had the issues. That means our area could see recovery as well at some point and are we supposed to just let our properties collapse into the ocean for something that could be short term?

A one-size-fits-all for Sunset Beach, much less for the entire island, does not seem justified by experience.

I encourage you to hold this bill pending clarification of how "managed retreat" will indeed be managed, and why a one-size-fits-all shoreline management is scientifically reasonable.

Mahalo for your consideration.

Eric Freeman

Name: Zhizi Xiong	Email: alohadivinedesign@gmail.com	Zip: 96817
Representing: CARES	Position: Support	Submitted: Sep 22, 2022 @ 08:23 AM

Testimony:

Dear chair, vice chair, councilmembers,

I'm testifying on behalf of CARES, my grassroots which advocates for education & environmental impact.
I very much so do want to praise the city council and their mitigation efforts to account for erosion.

Bill 42 updates the Special Management Area ordinance to provide additional protections against the impacts of coastal hazards,

including sea level rise and coastal erosion and ensures consistency with State Coastal Zone Management regulations.

Coastal erosion is the process by which sea level rise, strong wave action and coastal flooding erodes or carries away rocks, soils & sands from along the coast. All coastlines are affected by storms and natural events that cause erosion. The combination of storm surges at high tide with additional affects of strong waves creates the most damaging conditions. The severity of the coastal erosion problem is worsening with global sea level rise.

In the US, coastal erosion is responsible for roughly \$500 million per year in coastal property loss including damage to structures and loss of land. To mitigate coastal erosion, the federal government spends an average of \$150 million every year on nourishing the beaches and other shoreline erosion measures. The equivalent of seven football fields of coastal land disappears every hour every day according to the US climate resilience kit. The kit is made public via NOAA, the National Oceanic Atmospheric Administration and other federal agencies and integrates information from various agencies of the US federal government. The kit assists communities in planning resilience strategies. We point to the federal example because it is good to replicate their efforts and to access their resources.

Mr. and Mrs. Rajan Watumull
222 Kaalawai Place
Honolulu,
Hawaii, 96816

September 16th 2022

Councilmember Brandon Elefante
Chair, Zoning and Planning Committee
Honolulu City Council.

Aloha Councilmember Elefante and members of the Zoning and Planning Committee,

My wife and I recently learned about Bill 41 relating to shoreline setbacks and Bill 42 relating to Special Management Area. I am testifying because we live along the shoreline in Diamond Head and it looks like our 'ohana' will be directly and significantly impacted by these bills. We are surprised and deeply concerned that we were not notified or even made aware of these bills.

We have not had time to fully understand the direct impacts that these changes will have on our homes, but it looks like these changes will have significant impacts that would restrict our ability to repair existing homes and retain existing property. If passed, these bills appear to limit efforts to repair already existing shoreline protection measures and curtail future efforts to protect our properties from severe coastal erosion.

We can see how that these restrictions will threaten the future of our home and negatively impact our property values. This would affect not just us, but our keiki, my moopuna and their keiki.

We respectfully ask that you pause these bills so that we can learn more about how they might affect us. Please do not pass this out of your committee until we have time to talk with you and others who can explain what these bills mean. Allow us the proper opportunity to understand how these bills affect our properties, and to let us to provide direct input into this rushed process. I believe that giving us more time to understand would be prudent and pono.

Mahalo for considering our request for more time to learn about Bills 41 and 42.

Sincerely,

Rajan Watumull

TESTIMONY ON

- **BILL 41 RELATING TO SHORELINE SETBACKS**
- **BILL 42 RELATING TO SPECIAL MANAGEMENT AREA**

Aloha Chair Elefante and members of the Zoning and Planning Committee

My name is Bonnie Fong and I am testifying on Bills 41 and 42 to ask you for more time so that I can understand how these bills would affect me, my 'ohana and my neighbors.

I own a residence along the shoreline in Waialua and will be directly and significantly impacted by these bills.

In talking with my Architect and Sr. Coastal Engineer it appears that Bills 41 and 42 will have significant impact to our existing structure and conforming sea wall. If passed, these bills appear to limit our efforts to repair already existing legal structures, taking shoreline protection measures, and curtail future efforts to protect our properties from severe coastal erosion.

As we can all agree, the current process in place is broken and proposing a bill that adds additional layers of bureaucracy and places more burden on an agency that is not able to handle the current process doesn't make any sense. It only makes it worse.

Our goal should be to enhance the current laws that are in place to help our agencies, the homeowners, and to address the problems that arise due to coastal erosion. Ideas such as restricting new requests for sea walls and having designated State accredited companies/professionals with Coastal Engineers available to work with homeowners on all emergency repair requests is one way to improve the process. This would lead the homeowner to work with individuals that are experienced in the area of Coastal Erosion so that repairs would be done properly and in a safe manner.

The proposed changes severely restrict improvements and leads to sea walls crumbling and falling into the ocean which negatively impacts our fragile coastal environment and exposes significant risk, liability and loss to the property owner.

You've heard reports directly from the Climate Resilience Collaborative group; however, I don't think your committee solicited input from coastal homeowners those who are directly impacted. There are solutions if both sides can work together.

I humbly ask that you not pass these bills out of your committee until the public has the proper opportunity to understand how these bills affect their properties. Let us provide direct input into this process and work together with the Climate Resilience Collaborative group. Right now, we do not have enough information to understand the effects of these bills so that we can provide input.

I believe that postponing a full Council vote until more residents have time to review the bills is a prudent and responsible measure to ensure public participation.

Thank you for considering my request for more time to learn about Bills 41 and 42.



9/22/2022

Committee on Zoning and Planning
City and County of Honolulu
Honolulu, Hawai'i 96813

Aloha Chair Elefante, Vice Chair Kia'aina, and Members of the Committee on Zoning and Planning,

Position: Support Bill 42 (2022), CD1.

The Surfrider Foundation is a national nonprofit organization dedicated to the protection and enjoyment of our ocean, waves, and beaches. Surfrider maintains a network of over 150 chapters and academic clubs nationwide, including 4 chapters in the Hawaiian Islands. The Surfrider Foundation focuses on many aspects of the environment such as coastal protection, plastic pollution, and water quality.

I am testifying in strong support of Bill 42 (2022), CD1 (hereafter "Bill 42"), as relates to the city's Special Management Area codified at Revised Ordinances of Honolulu Chapter 25. I support Bill 42 which would update the Special Management Rules to adhere to the State's Coastal Zone Management Law, updated by Act 16 (2020), which incorporated more safeguards for new development against coastal hazards like storm surge, high tide, waves, and shoreline erosion.

The coastlines of Hawai'i are facing severe chronic erosion that is being exacerbated by climate change and sea level rise (SLR). 60 percent of the beaches on O'ahu face chronic erosion, and over five miles of O'ahu beaches have already been lost to erosion.¹ Further, O'ahu faces unique challenges as Honolulu has the highest potential in the state for SLR-induced economic losses,² and the homes and infrastructure on the island are already starting to collapse due to shoreline erosion and SLR.³ Shoreline erosion and SLR pose a complicated threat to the islands that require complex solutions to solve – Bill 42 is an important part of that solution, as it will increase the resilience of O'ahu's shoreline and coastal communities to the impacts and hazards of SLR.

Thank you for your consideration of this testimony in support of Bill 42 submitted on the behalf of the Surfrider Foundation O'ahu Chapter and all of our members who live on the island and visit to enjoy the many coastal recreational opportunities offered by all of the island's coastlines.

Sincerely,

Camile Cleveland
Volunteer Policy Coordinator
Surfrider Foundation, O'ahu Chapter

¹ Fletcher, C.H., Romine, B.M., Genz, A.S., Barbee, M.M., Dyer, Matthew, Anderson, T.R., Lim, S.C., Vitousek, Sean, Boicchio, Christopher, and Richmond, B.M., 2012, National assessment of shoreline change: Historical shoreline change in the Hawaiian Islands: U.S. Geological Survey Open-File Report 2011–1051, 55 p. (Also available at <https://pubs.usgs.gov/of/2011/1051/>.)

² Hawai'i Climate Change Mitigation and Adaptation Commission. Hawai'i Sea Level Rise Vulnerability and Adaptation Report. Prepared by Tetra Tech, Inc. and the State of Hawai'i Department of Land and Natural Resources, Office of Conservation and Coastal Lands, under the State of Hawai'i Department of Land and Natural (2017).

³ <https://www.hawaiinewsnow.com/2022/02/28/no-injuries-after-house-collapses-oahus-north-shore/>

Jan N. Sullivan

*828 Fort Street Mall
Honolulu, Hawaii 96813
Tel (808)526-2416*

September 13, 2022

Honorable Tommy Waters
Chair, City Council
City and County of Honolulu

Subject: Bill 41 and Bill 42

Dear Chair Waters and Members of the City Council,

As the first Director of the Department of Planning and Permitting (1997-2000) that was responsible for organizing and standing up the department, it greatly saddens me to hear of the current challenges at the department. I could not ignore these two bills that are moving through Council - as I believe they will only serve to increase the level of public frustration with the department. DPP has reached an all-time high of permit backlogs and unfortunately, the changes that are being proposed in this bill will result in further, significant delays and costs associated with the permit review process.

Over the years, I learned the hard lesson that in the absence of clear policy and direction, there is a tendency to rely on regulatory bureaucracy to address difficult problems. When it comes to the regulation of shoreline issues, we have yet to address some of the obvious issues:

- Uniting the split jurisdiction between the State and the County to develop a policy for dealing with coastal issues in a coherent manner;
- The perceived economic and social discrimination that is occurring in deciding to treat hotels in Waikiki (and in this bill Kahala and Diamond head) differently than the rest of the island;
- The fact that without a coherent policy and viable alternative, the City is moving towards inevitable inverse condemnation litigation.

While the intent of these bills may be well intentioned, the following outlines some of the problematic areas in these bills that will have impacts and consequences that will be far reaching.

Bill 42: Relating to the Special Management Area

The SMA area affects large portions of Oahu and this bill will have wide-spread impacts throughout the island.

The cost, processing time and bureaucracy that is associated with SMA permits is significant. The revisions that are being proposed in this bill will affect the determination of whether something requires a minor SMA permit or is exempt, whether it is classified as a minor vs. a major permit. (Note that the major permit requires compliance with Chapter 343 Environmental Impact Statements, neighborhood board and community association meetings, notification of property owners in the area, all prior to being referred to City Council for review and action).

There are many additions here that will impact these determinations. Some of note include:

- the new, very broad and all-encompassing definition of “cumulative impacts” and “significant effect”- since the SMA minor permit requires DPP to find that there will be no significant “adverse environmental or ecological effect, taking into account potential cumulative impacts and significant effects” – the extremely broad and vague definitions may easily result in the interpretation that many activities that were historically handled as minor permits will now be classified as major permits.
- revisions to the guidelines for review and approval of SMA’s - i.e. criteria such as “Development within the SMA should consist of facilities and improvements important to the State’s economy...” – that appear to potentially preclude residential uses in the SMA;
- changing the definition of “Structure” to include pavement, utility lines, fences, walls “or anything constructed or erected with a fixed location at or under the ground” – which will capture many improvements that could have been considered exempt from SMA permits;
- changing the definition of “Development” to include any construction or reconstruction that exceeds 300 square feet and is located on a shoreline lot. This size limit is arbitrary and there is no justifiable reason to apply the standard to only dwelling units.

Bill 41 – Relating to Shoreline Setbacks

These revisions would create a policy that would arbitrarily treat the Primary Urban Center differently than the rest of the island. Waikiki is included in this area, along with other areas that are experiencing severe coastal erosion including Kahala and Diamond Head. There is no justifiable zoning reason for this disparity in the regulatory regime that is being proposed.

In addition to establishing a formula and generally enlarging the setback area, the revisions also tighten the criteria for a shoreline setback variance, and what work can occur on newly non-conforming structures located in the enlarged zone.

This bill will make existing structures throughout island partially or wholly non-conforming. This is the equivalent of downzoning property.

Honorable Tommy Waters
Chair, City Council
September 13, 2022
Page 3

When the State of Hawaii implemented our original land use laws and created Conservation and Preservation zoned districts, there was much discussion, debate and thought given to the areas that already were developed, and that would subsequently become non-conforming. It was clearly understood that this was a significant action that would have severe economic impacts for residents, as well an action that would result in legal challenges if not handled thoughtfully.

I have yet to see a map or estimate of how many structures will become non-conforming with the adoption of this single bill and my guess is that Council has not been presented with this information.

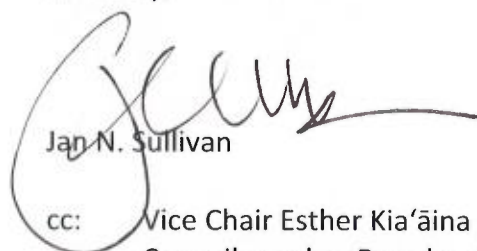
Finally, the property owners that will be directly impacted by this downzoning action were not notified of this action. Many remain unaware of this legislation and do not understand the impact that it will have on the future use of their properties.

In summary, these bills task DPP with more regulatory morass that will work towards more houses and structures ultimately falling into the ocean. Instead of focusing on building more permit bureaucracy, we need to be discussing solutions and establishing clear policies on how we will be protecting and enhancing our important coastal resources for current and future residents of our island in a fair and thoughtful manner.

I highly recommend that the Council establish a third-party advisory committee to review how other jurisdictions around the world are addressing these issues, and broaden the discussion and scope of solutions that should be considered.

Thank you for your time and consideration of this important matter.

Sincerely,



Jan N. Sullivan

cc: Vice Chair Esther Kia'āina
Councilmember Brandon J.C. Elefante
Councilmember Andria Tupola, Ph.D.
Councilmember Heidi Tsuneyoshi
Councilmember Calvin Say
Councilmember Carol Fukunaga
Councilmember Radiant Cordero
Councilmember Augie Tulba
Mayor Rick Blangiardi
Managing Director Michael Formby

Testimony of
Leah Laramée, Climate Change Mitigation and Adaptation Coordinator

for
Honolulu City and County Council Meeting
Comments in support of
Bill 42
RELATING TO THE SPECIAL MANAGEMENT AREA

Dear Chair Elefante, Vice Chair Kiaʻaina, and Councilmembers,

Bill 42 updates Chapter 25, Revised Ordinances of Honolulu 1990, relating to the special management area, and to incorporate amendments made by Act 16, Session Laws of Hawaii 2020, to HRS Chapter 205A, the State Coastal Zone Management law. **The Hawaii Climate Change Mitigation and Adaptation Commission (Commission) supports this measure.**

The Hawaii Climate Change Mitigation and Adaptation Commission “recognizes the urgency of climate threats and the need to act quickly. It promotes ambitious, climate-neutral, culturally responsible strategies for climate change adaptation and mitigation in a manner that is clean, equitable and resilient.” The Commission, established by Act 32 SLH 2017 to uphold the United States’ pledges under the Paris Agreement, is the coordinating body for policies on climate change mitigation and adaptation for the state. It is a high-level multi-jurisdictional body that guides the priorities of the state’s climate response. Co-chaired by DLNR and Office of Planning, it consists of 20 members—chairs of four legislative committees, and executive department heads at the county and state levels.

The State Commission’s priority for adaptation of climate change is to work on sea level rise action. Bill 40 will bring City law into conformance with the State Coastal Zone Management Act, is well-founded in the latest science, and will help to protect our communities from coastal and climate hazards while protecting coastal ecosystems. We all, federal, state, and county government agencies and the public need to be collaborative to support resource management, planning, and decision-making based on the latest and best-available coastal and climate science and this Bill will help us do so.

Thank you for the opportunity to comment.

Michael H Mayon
Mayon Family Trust
68-495 Crozier Drive
Waialua, HI
96791

September 20, 2022

Councilmember Brandon Elefante
Chair, Zoning and Planning Committee
Honolulu City Council

Subject: Bill 41 & Bill 42

Dear Councilmember Elefante and members of the Zoning and Planning Committee:

I am writing you regarding Bill 41 relating to shoreline setbacks and Bill 42 relating to Special Management Area.

I reside along the shoreline in Waialua and it appears that I and my neighbors will be directly and significantly impacted by these bills. I am surprised and deeply concerned that we were not notified or even made aware of these bills.

We have not had time to fully understand the direct impacts that these changes will have on our homes, but it appears that these revisions will have significant impacts that would restrict our ability to repair existing homes, meet future Septic System requirements and retain existing property. If passed, these bills appear to limit efforts to repair already existing shoreline protection measures and curtail future efforts to protect our properties from severe coastal erosion.

These restrictions threaten the future of our family homes, will negatively impact our property values, and are being proposed without most of the affected residents even understanding or being aware of the impacts that will result from these changes.

It appears that these bills were introduced without being discussed or presented to the communities and residents that will be directly impacted.

We respectfully request a hiatus on passing these bills out of your committee to the full Council. Please allow us the proper opportunity to understand how these bills affect our properties so that we can provide direct input into this rushed process. I believe that postponing a full Council vote until more residents have time to review the bills will be a prudent measure to ensure public participation.

Mahalo for considering my request for more time to learn about Bills 41 and 42. I am happy to talk about this with you.

Sincerely,

Michael H. Mayon
Trustee

Rajan Watumull
222 Kaalawai Place
Honolulu, Hawaii 96816

September 19, 2022

Councilmember Brandon Elefante
Chair, Zoning and Planning Committee
Honolulu City Council

Dear Councilmember Elefante and members of the Zoning and Planning Committee,

Subject: Bill 41 & Bill 42

I am writing you regarding Bill 41 relating to shoreline setbacks and Bill 42 relating to Special Management Area.

I reside along the shoreline in the Diamond Head area (222 Kaalawai Place – TMK: (1) 3-1-039:008) and it appears that I and my neighbors will be directly and significantly impacted by these bills. I am surprised and deeply concerned that we were not notified or even made aware of these bills.

We have not had time to fully understand the direct impacts that these changes will have on our homes, but it appears that these revisions will have significant impacts that would restrict our ability to repair existing homes and retain existing property. If passed, these bills appear to limit efforts to repair already existing shoreline protection measures and curtail future efforts to protect our properties from severe coastal erosion.

These restrictions threaten the future of our family homes, will negatively impact our property values, and are being proposed without most of the affected residents even understanding or being aware of the impacts that will result from these changes.

It appears that these bills were introduced without being discussed or presented to the communities and residents that will be directly impacted.

We respectfully request a hiatus on passing these bills out of your committee to the full Council. Please allow us the proper opportunity to understand how these bills affect our properties so that we can provide direct input into this rushed process. I believe that postponing a full Council vote until more residents have time to review the bills will be a prudent measure to ensure public participation.

Mahalo for considering my request for more time to learn about Bills 41 and 42. I am happy to talk about this with you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rajan Watumull', written in a cursive style.

Rajan Watumull

**TESTIMONY ON
BILL 42 RELATING TO SPECIAL MANAGEMENT AREA**

To: Chair Elefante and Members of the Zoning and Planning Committee

My name is Jo-Ann Leong and I am testifying on Bill 42 relating to the Special Management Area rules. I request that you allow more time to discuss this bill so that I and other coastal property owners can understand how it will affect me and my neighbors.

I live along the shoreline in Kaneohe on Ka Hanahou Place and it appears that we will be directly and significantly impacted by this bill. Since I only learned about this bill from other concerned neighbors in Waimanalo and my neighbors in Kaneohe did not know about this, I ask that your committee retain this bill for further discussion. I ask that the committee provide further opportunity for us to understand how this bill will affect our ability to protect our home and property. Please hold hearings for these bills in the six districts on Oahu that will be affected by passage of the bill. At these hearings, please have experts provide the information that the public needs to understand what will happen to their property should this bill be enacted.

I believe that postponing a full Council vote until more residents have time to review Bill 42 will be prudent to ensure public participation.

Thank you for considering my request for more time to learn about Bill 42.

Jo-Ann Leong
45-007 Ka Hanahou Place
Kaneohe, HI 96744

September 20, 2022

The Honorable Brandon J.C. Elefante, Chair
The Honorable Esther Kiaʻāina, Vice Chair
and Members of the Committee
on Zoning and Planning
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawaii 96813

Subject: Bill 42 (2022), CD1

Dear Chair Elefante, Vice Chair Kiaʻāina, and Committee Members,

I am Robert Armstrong, and I own a small parcel on Kaneohe Bay. While I support reasonable and responsible efforts to manage and protect Oahu's shoreline, **I strongly oppose the rushed and "one size fits all" approach or Bill 42 (2022), CD1**, which would, as currently drafted, have unfair and devastating effects for many small landowners like me.

While I appreciate the underlying intent of the legislation, Bill 42 (2022), CD1, as presently drafted, will have unintended consequences that would unfairly and unnecessarily deprive individual owners of the use and value of their properties.

The proposed arbitrary increase in shoreline setback, irrespective of lot size, location, topography, exposure, and shoreline conditions, is simply not fair or reasonable. Such a drastic restriction is unnecessary in many cases, where there many ways to plan and develop and build responsibly, taking into account and creatively designing for the projected rise in sea level in the coming decades.

Existing oceanfront and shoreline properties have been assessed and taxed by the City and County of Honolulu at the highest possible values, and this sudden, arbitrary, and overbroad restriction on use of such properties would have a devastating effect on the values of such properties and be tantamount to a "taking."

I understand there is urgency in certain limited areas, where homes are now being threatened by rising sea levels, high surf, and "King Tides." But this is not the norm. And it certainly does not justify this rushed, knee-jerk, County-wide imposition of an overbroad restriction that would destroy the value of many properties like mine.

My lot is on a sheltered side of Kaneohe Bay and is protected from high surf and from most storm conditions. I have a permitted grading plan and have been working on the placement and design of a home taking into account the projected rise in sea level. **The proposed increased setback, however, would prevent my house design from being permitted and constructed, and my lot (currently assessed at \$1,500,000) would be rendered virtually unusable.**

Finally, the overbroad approach and rushed proposed implementation of Bill 42 has created a panic on the part of shoreline and oceanfront property owners, who are scrambling to find a way to deal with what may be coming on January 1, 2024. It is easy to see how the City and County processes will soon be overwhelmed by the suddenly surge of SMA and building permit applications. I have been quoted \$125,000 - \$150,000 just to prepare and submit the SMA application on an expedited basis. Given the unreasonably short time, the exorbitant expense, and an overwhelmed City and County system, many shoreline and oceanfront property owners will never have a chance to complete the process before their property values are unfairly and unnecessarily destroyed.

Bill 42, as currently drafted, is not the answer. What is needed is a more thoughtful and carefully crafted approach that takes into account the different types of oceanfront and shoreline lots (size, location, topography, exposure, and shoreline conditions) and the many possible ways that the projected rise in sea level can be addressed through creative design and construction.

Thank you for your consideration and for the opportunity to testify on this matter.

Sincerely,

Robert Armstrong

Victor K. Nichols
68-999 Farrington Hwy.
Wailua, HI 96791
September 20, 2022

Councilmember Brandon Elefante
Chair, Zoning and Planning Committee
Honolulu City Council

Subject: Bill 41 (relating to shoreline setbacks) & Bill 42 (relating to Special Management Area)

Dear Councilmember Elefante and members of the Zoning and Planning Committee,

I thank you for this opportunity to testify. I reside on a shoreline property in Mokuleia. My neighbors and I will be directly impacted by Bills 41 and 42, but were not even aware of them until a few days ago. I have serious concerns about the impact of these bills, particularly Bill 41, based on my admittedly rushed review.

I agree that ROH Chapters 23 and 25 should be updated to reflect the realities of climate change and the need for additional resiliency. Unfortunately, Bill 41, in particular, will impose what appear to be gratuitous hardships on many shoreline homeowners, without adequate opportunity for the affected communities to give input.

I understand and support the logic behind setback lines based on historical erosion rates (provided there is reliable historical erosion data), which would take into account the particular circumstances of specific lots. For example shoreline homes on rocky cliffs would be expected to have different setbacks than those on sand dunes based on different historical rates of erosion. By contrast, the increase of the “base” setback line from 40’ to 60’ is a one-size-fits-all measure that appears arbitrary and will inevitably impact many residents needlessly. I have reviewed as much material regarding Bill 41 as time would allow, and have found no persuasive rationale for this across the board approach. A more targeted approach, such as updating the historical erosion rates periodically, would not only address more effectively the goals of Bill 41, it would also reduce the number of shoreline residents unnecessarily impacted.

As is, most shoreline homes on Oahu will become “non-conforming structures” once Bill 41 goes into effect. (Has there been any analysis of the percentage of shoreline homes that will be affected?) As I understand the bill, having a non-conforming structure will severely impact a shoreline homeowner’s ability to rebuild if the cost of doing so exceeds fifty percent of the replacement cost of the structure “over a ten-year period.” What does that mean? For example, if an owner had done an extensive remodel of a shoreline structure in 2020, and five years later the then-nonconforming structure is damaged by fire, the owner could not rebuild the fire-damaged portion if the cost of doing so, **plus** the cost of the remodel, exceed fifty percent of the

replacement value of the structure? If so, would that be the case even if there was no increase in the nonconformity? If so, why?

I would like to know, and believe it is imperative for the Council to know before considering Bill 41, how this measure will affect shoreline homeowners' ability to insure, finance or refinance their homes once those homes become non-conforming structures, and what the bill will do to property values. Also of concern is whether DPP, which already seems severely overburdened, is equipped to handle the additional burdens Bill 41 would impose. Not only will DPP have to promulgate rules, but also, given Bill 41's "broad brush" approach to the base setback line (which will create more nonconforming structures), DPP will foreseeably be faced with innumerable variance requests.

I note there has not been much testimony submitted on Bills 41 and 42, which suggests that I am not the only shoreline homeowner caught by surprise. It appears that these bills were introduced without being discussed or presented to the communities and residents that will be directly impacted.

Without further information, and without confidence that the impact on shoreline homeowners has been fully considered and mitigated to the extent possible, I am OPPOSED to Bills 41 and 42. My opinion could change with a better understanding. Therefore, I respectfully request these bills not be passed until the public, and specifically the affected shoreline homeowners, have had an adequate opportunity to consider and understand the potential impacts.

Thank you for this opportunity to testify, and for considering my request that the bills be delayed for further consideration and discussion of the impacts on shoreline homeowners and ways those impacts could be mitigated.

Sincerely,

Victor K. Nichols

**TESTIMONY ON
BILL 41 RELATING TO SHORELINE SETBACKS
AND BILL 42 RELATING TO SPECIAL MANAGEMENT AREA**

Aloha Chair Elefante and member of the Zoning and Planning Committee

I am testifying on Bills 41 and 42 to ask you for more time so that we can understand how these bills would affect me, my ohana and my neighbors, and ensure that our Due Process rights are protected.

I am the President and sole Owner of a corporation that owns a home along the shoreline in the Sunset Beach area on the North Shore, at 59-149 Ke Nui Road, and it appears that I and my neighbors will be directly and significantly impacted by these bills. I am surprised and deeply concerned that we were not notified or even made aware of these bills.

It looks like Bills 41 and 42 will have significant impacts that would restrict our ability to repair existing homes and retain existing property. If passed, these bills appear to limit our efforts to repair already existing shoreline protection measures and curtail future efforts to protect our properties from severe coastal erosion.

These restrictions would threaten the future of our family homes, will negatively impact our property values, and are being proposed without most of the affected residents even understanding or being aware of the impacts that will result from these changes.

It appears that these bills were introduced without being discussed or presented to the communities and residents that will be directly impacted.

I ask you to not pass these bills out of your committee until the public has the proper opportunity to understand how these bills affect our properties. Let us provide direct input into this process if we so choose. Right now, we do not have enough information to understand the effects of these bills so that we can provide input.

I believe that postponing a full Council vote until more residents have time to review the bills will be a prudent and responsible measure to ensure public participation, and will ensure that our Due Process rights under State laws and the United States Constitution are protected.

Thank you for considering my request for more time to learn about Bills 41 and 42.

Very truly yours,

Rodney R. Youman

President and Owner

ZHUNGO, LLC

In their current form, both Bill 42, and the related Bill 41, would unfairly impede and restrict the owners of any waterfront properties from protecting, repairing and using their property and homes, and also negatively affect all property owners' ability to obtain a building permit for any construction anywhere on Oahu. This is because each of these two Bills (42 and 41) will add a massive, new, additional workload to the DPP (Department of Planning & Permitting), at a time when the DPP is clearly already unable to review and approve building permits in a reasonable amount of time.

There is already a backlog of 6 months to two years for even relatively simple building permits anywhere on the Island of Oahu. This negatively affects our residents and businesses, and has many people (and politicians) justifiably angry and upset. This is not a good time to rush these two complex Bills (41 and 42), without taking the time to truly understand what may need to be amended or changed in them.

Bill 42 would not only make many more building permit applications be subject to the SMA review process, it would also dramatically increase the scope and complexity of that review process.

Here is an example from Bill 41 that would not only be extremely unfair to many oceanfront property owners, but also substantially increase the current workload (and therefore the current backlog) at DPP:

If passed without changes, it would amend ROH Section 23-1.6 so that the 50% limit on repair and alteration costs for all legal, nonconforming structures (compared to the engineer-estimated replacement cost of the structure) that can be expended by an owner, would now be computed cumulatively over a ten-year period of time, rather than the current one-year waiting period between building permits for repairs and/or alterations. Among other problems, this would make it virtually impossible for many oceanfront property owners with a legal, nonconforming (grandfathered) seawall to be able to keep up with needed repairs to keep their seawall from falling apart, which can soon be followed by their yards and homes falling into the ocean.

That alone should be sufficient reason to delete the section of Bill 41 that would amend ROH Section 23-1.6. However, there would also be additional problems created by those proposed changes to ROH Section 23-1.6. Because of the new much bigger shoreline setbacks contained in other parts of Bill 41 (increasing the setbacks from the 40 feet they have been set at for over 52 years, up to between 60 to 130 feet back from the shoreline), all of the portions of any waterfront home that became "nonconforming" as a result, would then also be subject to those very restrictive new rules concerning repair or alteration of nonconforming structures! That would mean that in order to get any building permits (whether repair or remodel, or anything), then DPP would require engineers reports estimating the total replacement value of the house, and proof that the total of (1) the engineer estimated cost of the current permit application work, plus (2) the cost of all work done in the prior 10 years, is less than 50% of the replacement cost of the portion of the house that was now in the new much larger shoreline

setback area. That would not only produce many cases of very unfair restrictions on all of those thousands of homeowners, it would also require lots of additional paperwork and engineering reports, that would be expensive for the homeowners to prepare, and take substantial additional time and additional staff at DPP to review all that new additional paperwork.

There are also other sections of Bills 42 and 41 that should receive more consideration before being passed.

I am writing to express my concerns over Bill 42 and Bill 41 that will adversely affect all ocean front property holders as well as other property owners wishing to attain building permits to develop or maintain their homes/property.

Section 23-1.6 of the Revised Ordinances of Honolulu should be left alone. The portion of Bill 41 that would change section 23-1.6 should be deleted.

The proposed amendments to Section 23-1.6 make many changes that would make it difficult, to nearly impossible, for homeowners who have legal, non-conforming seawalls to maintain the seawalls that protect their property and homes.

It appears that the purpose of the proposed changes is to make it likely that seawalls will be destroyed and wash into the ocean, along with the homes. Some believe this would meet the stated goal of using "planned retreat" from the coast to protect the beaches and shoreline. However, is this "planned retreat" or "chaotic retreat?"

Personally, I have owned a beach front property on Crozier Drive since 1988 where my husband and I raised our two sons. We all still live on that property. I have a legal non-conforming seawall made of railroad ties. The amendment will change my ability to maintain this seawall. Currently, with a building permit, I am allowed to replace or repair 50% of my seawall within any give year's time. The proposed amendments would only allow me to repair or replace 50% of my seawall every 10 years. This effectively would mean that any half of my seawall would have to remain solid for 20 years. This is not possible. This seawall is made of wooden railroad ties. These will NOT last 20 years, not even 10. So as part of the "planned retreat" I am being asked to watch my seawall fall down and the ocean retake it and my yard, and in time my home. Is this really how we wish to treat the people of Hawaii? Is this really the best idea we can come up with for a planned retreat to help protect our shorelines?

I am in favor of protecting our shores and beaches, and planning for a retreat may be reasonable, but I think we can make better plans than this.

Again, this section of Bill 41 should be deleted and there are other sections of Bill 41 and Bill 42 that should receive more consideration before being passed.

William & Melinda Kernot
59 151A Ke Nui Rd
Haleiwa HI 96712

Council Member Brandon Elefante
Chair, Zoning and Planning Committee
Honolulu City Council

Dear Council Member Elefante and members of the Zoning and Planning Committee,

Subject: Bill 41 & Bill 42

I am writing you regarding Bill 41 relating to shoreline setbacks and Bill 42 relating to Special Management Area. We own and live at our home which is along the shoreline at Sunset Beach and it appears that both my neighbors and us will be directly and significantly impacted by these bills. I am surprised and deeply concerned that we were not notified or even made aware of these bills.

We have not had time to fully understand the direct impacts that these changes will have on our homes, but it appears that these revisions will have significant impacts that would restrict our ability to repair existing homes and retain existing property. If passed, these bills appear to limit efforts to repair already existing shoreline protection measures and curtail future efforts to protect our properties from severe coastal erosion which could in turn create a huge health and safety hazard as experienced this past February when a home fell onto the shoreline at Rocky Point.

These restrictions threaten the future of our family homes, will negatively impact our property values, and are being proposed without most of the affected residents even understanding or being aware of the impacts that will result from these changes.

It appears that these bills were introduced without being discussed or presented to the communities and residents that will be directly impacted.

We respectfully request a hiatus on passing these bills out of your committee to the full Council. Please allow us the proper opportunity to understand how these bills affect our properties so that we can provide direct input into this rushed process. I believe that postponing a full Council vote until more residents have time to review the bills will be a prudent measure to ensure public participation.

Mahalo for considering my request for more time to learn about Bills 41 and 42. I am happy to talk about this with you.

Sincerely,

William & Melinda Kernot

Charley J. Chartoff
59-157 Ke Nui Road
Haleiwa, HI. 96712

TESTIMONY ON
BILL 41 RELATING TO SHORELINE SETBACKS
AND BILL 42 RELATING TO SPECIAL MANAGEMENT AREA

Aloha Chair Elefante and members of the Zoning and Planning Committee

I am testifying on Bills 41 and 42 to ask you for more time so that I can understand how these bills would affect owners of property along the shoreline.

I own property in *Haleiwa* on (Ke-Nui Road). It appears that Bills 41 and 42 bills were introduced without being discussed or presented to the communities, residents, and property owners like me who will be directly impacted.

I have heard that Bills 41 and 42 would restrict my ability to build on my property. If passed, these bills appear to limit my efforts to repair already existing shoreline protection measures and curtail future efforts to protect my property from severe coastal erosion. The likely negative impacts on my property value are serious.

These bills are being proposed without most of us even understanding or being aware of the impacts that will result from these changes.

Please do not pass these bills out of your committee until the public has the proper opportunity to understand how these bills affect our properties. Let us provide direct input into this process if we so choose. Right now, we do not have sufficient information to understand the effects of these bills and provide input.

I believe that postponing a full Council vote until more residents have time to review the bills will be a prudent and responsible measure to ensure public participation.

Thank you for considering my request for a hiatus on moving Bills 41 and 42 out of your committee.

Best regards,



9.21.2022

Charley J Chartoff

310.463.5497

TESTIMONY ON BILL 41 RELATING TO SHORELINE SETBACKS AND BILL 42 RELATING TO SPECIAL MANAGEMENT AREA

Aloha Chair Elefante and members of the Zoning and Planning Committee

I am testifying on Bills 41 and 42 to ask you for more time so that I can understand how these bills would affect owners of property along the shoreline.

I own property on the North Shore and have done so for the past 22 years. It appears that Bills 41 and 42 bills were introduced without being discussed or presented to the communities, residents and property owners on the North Shore like me who will be directly and severely impacted by these two bills.

I have read that Bills 41 and 42 would restrict my ability to repair my rental and retain my property. If passed, these bills appear to limit my efforts to repair already existing shoreline protection measures and curtail future efforts to protect my property from severe coastal erosion. The likely negative impacts or total loss on my property would cause my family to be homeless. Meanwhile there has been ongoing City approval for annual sand pushing at Sunset Beach to restore and maintain Sunset Beach against sea level rise and climate change but has failed to maintain and restore any other beach adjacent to that beach even though those beaches are considered a public resource and are undergoing severe erosion.

Please do not pass these bills out of your committee until the public has the proper opportunity to understand how these bills affect our properties. Let us provide direct input into this process if we so choose. Right now, we do not have sufficient information to understand the effects of these bills and provide input.

I believe that postponing a full Council vote until more residents have time to review the bills and submit testimony will be a prudent and responsible measure to ensure public participation.

Thank you for considering my request to put a hold on moving Bills 41 and 42 out of your committee.

Sincerely,

Glenn Wachtel

30 Year Resident at Sunset Beach



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 22, 2022

Aloha, Chair Elefante and Vice Chair Kia‘āina,

I am writing to voice my **strong support of Bill 42 (2022)** which is being heard by your Committee on Zoning and Planning of the Honolulu City Council on September 22, 2022. Bill 42 (2022) would update the Special Management Area on O‘ahu, codified at Revised Ordinances of Honolulu Chapter 25.

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 42 (2022) because rising sea levels will shift the ocean and estuarine shoreline landward. It will inundate coastal areas, displacing wetlands and altering tidal ranges on the shoreline and in streams and bays. Predictably, coastal erosion, hurricane storm surge, king tide flooding, and compound flooding caused by combinations of rain and high tides will all increase in frequency and severity. This will be accompanied by increases in stormwater runoff, erosion and sedimentation in waterways and nearshore reef and recreational environments.

While I think it is worthwhile to preserve these ecosystems for their own sake, they also provide a suite of services including providing a natural buffer from flooding because the effects of sea level rise will not be limited solely to the shoreline. CRC's research has documented that groundwater tables are hydrologically connected to the ocean.³ Thus, the rising sea level will also have the effect of raising inland groundwater tables, leading to inland flooding - essentially creating new wetlands in urban areas. Connecting the Special Management Area regulation to the Sea Level Rise Exposure Area gives insight into how particular proposed projects will be affected by the impacts of sea level rise, and thus how new types of community design and development can reduce such risk. This bill reinforces the tenets of building in a way that is resilient to the rapidly growing threats posed by climate change.

I support Bill 42 (2022) because it will update Revised Ordinances of Honolulu Chapter 25 to conform to the amendments made to the Hawai'i Coastal Zone Management Act made by the State Legislature in 2020. Overall, Bill 42 (2022) will have the effect of increasing the resilience of Honolulu's coastal communities to the impacts and hazards caused and exacerbated by sea level rise.

Lastly, I would like to respectfully ask your Committee to continue the process and hold a public hearing on Bill 41 (2022). Bill 41 would update Chapter 23, Honolulu's Shoreline Setbacks ordinance, which is a significant regulatory tool for the City and County of Honolulu to properly conserve and protect the natural resources in the coastal zone.

I sincerely appreciate your Committee on Zoning and Planning'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

³ Habel, S., Fletcher, C., Anderson, T., & Thompson, P. 2020. Sea-Level Rise Induced Multi-Mechanism Flooding and Contribution to Urban Infrastructure Failure. Nature Scientific Reports, 10: 3796 DOI:10.1038/s41598-020-60762-4

September 20, 2022

The Honorable Brandon J.C. Elefante, Chair
The Honorable Esther Kiaʻāina, Vice Chair
and Members of the Committee
on Zoning and Planning
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawaii 96813

Subject: Bill 42 (2022), CD1

Dear Chair Elefante, Vice Chair Kiaʻāina, and Committee Members,

I am Robert Armstrong, and I own a small parcel on Kaneohe Bay. While I support reasonable and responsible efforts to manage and protect Oahu's shoreline, **I strongly oppose the rushed and "one size fits all" approach or Bill 42 (2022), CD1**, which would, as currently drafted, have unfair and devastating effects for many small landowners like me.

While I appreciate the underlying intent of the legislation, Bill 42 (2022), CD1, as presently drafted, will have unintended consequences that would unfairly and unnecessarily deprive individual owners of the use and value of their properties.

The proposed arbitrary increase in shoreline setback, irrespective of lot size, location, topography, exposure, and shoreline conditions, is simply not fair or reasonable. Such a drastic restriction is unnecessary in many cases, where there many ways to plan and develop and build responsibly, taking into account and creatively designing for the projected rise in sea level in the coming decades.

Existing oceanfront and shoreline properties have been assessed and taxed by the City and County of Honolulu at the highest possible values, and this sudden, arbitrary, and overbroad restriction on use of such properties would have a devastating effect on the values of such properties and be tantamount to a "taking."

I understand there is urgency in certain limited areas, where homes are now being threatened by rising sea levels, high surf, and "King Tides." But this is not the norm. And it certainly does not justify this rushed, knee-jerk, County-wide imposition of an overbroad restriction that would destroy the value of many properties like mine.

My lot is on a sheltered side of Kaneohe Bay and is protected from high surf and from most storm conditions. I have a permitted grading plan and have been working on the placement and design of a home taking into account the projected rise in sea level. **The proposed increased setback, however, would prevent my house design from being permitted and constructed, and my lot (currently assessed at \$1,500,000) would be rendered virtually unusable.**

Finally, the overbroad approach and rushed proposed implementation of Bill 42 has created a panic on the part of shoreline and oceanfront property owners, who are scrambling to find a way to deal with what may be coming on January 1, 2024. It is easy to see how the City and County processes will soon be overwhelmed by the suddenly surge of SMA and building permit applications. I have been quoted \$125,000 - \$150,000 just to prepare and submit the SMA application on an expedited basis. Given the unreasonably short time, the exorbitant expense, and an overwhelmed City and County system, many shoreline and oceanfront property owners will never have a chance to complete the process before their property values are unfairly and unnecessarily destroyed.

Bill 42, as currently drafted, is not the answer. What is needed is a more thoughtful and carefully crafted approach that takes into account the different types of oceanfront and shoreline lots (size, location, topography, exposure, and shoreline conditions) and the many possible ways that the projected rise in sea level can be addressed through creative design and construction.

Thank you for your consideration and for the opportunity to testify on this matter.

Sincerely,

Robert Armstrong



September 21, 2022

VIA INTERNET UPLOAD

Committee on Zoning and Planning
City Council
City and County of Honolulu
530 S King St.
Honolulu Hale, Room 202
Honolulu, Hawai'i 96813

**Testimony of Jerry Gibson Re Bill 42 (2022), CD1 – Relating to
the Special Management Area**

Aloha Chair Elefante, Vice Chair Kia'aina, and Committee Members:

Thank you for this opportunity to provide testimony.

The Hawaii Hotel Alliance (“**HHA**”) strongly opposes Bill 42 (2022), CD1 (“**Bill 42**”). While Bill 42 proposes many necessary changes to bring Chapter 25, Revised Ordinances of Honolulu into conformity with Hawaii Revised Statutes Chapter 205A, sections 25-1.3 (definition of “development”), 25-4.1(b)(6), and 25-6.1 are inconsistent with Chapter 205A and do not balance the interests of various stakeholders.

HHH strongly opposes Bill 42 for the following reasons:

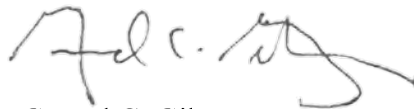
- **Inconsistency with Chapter 205A.** Bill 42’s definition of “development” is inconsistent with Chapter 205A. Chapter 205A already defines what “development” is and is not. Expanding the definition of what constitutes “development” appears to be done for one reason—to limit and discourage development in the special management area. This is a *de facto* policy of managed retreat. Moreover, expanding the definition of “development” unnecessarily adds to the Department of Planning and Permitting’s administrative burden and backlog. The proposed additions of what “development” includes should be deleted.
- **Balancing the Interests of Stakeholders.** Further discussion is needed among stakeholders regarding how to balance their interests and the impacts of Bill 42—the conversation thus far lacks input from major stakeholders. As noted above, Bill 42 would adopt a *de facto* policy of managed retreat. Implementing a policy of managed retreat without first discussing how retreat is to be implemented, or obtaining public consensus on whether and where retreat should be implemented, or whether other responses, like

adaptation and protection, are more appropriate. Obtaining public consensus requires frank and open discussions with stakeholders and the community, not just those in the academic community. If the true intent of Bill 42 is to adopt a policy of managed retreat, the City and County needs to tell the public that it is adopting a policy of retreat, instead of the other potential responses to sea level rise, and needs to ensure that the public agrees with this policy and is prepared to pay the enormous financial and societal costs required to implement managed retreat. Unless there is broad public consensus, forcing retreat will lead to division among and within our communities, litigation, and, ultimately, the failure of the policy.

- **Implementing a Policy of Managed Retreat is Premature.** Bill 42 will implement a policy of managed retreat by fiat. Climate change and resulting sea level rise pose a threat to coastal development. However, to address this threat, a balanced response that respects all interests and is consistent with federal and state law should be adopted. In this regard, Bill 42 appears to ignore the impact to homeowners and businesses in favor of a policy of managed retreat. Implementing a policy of retreat by fiat is neither managed nor manageable. As the State Office of Planning and Sustainable Development's February 2019 Final Report: *Assessing the Feasibility and Implications of Managed Retreat Strategies for Vulnerable Coastal Areas in Hawaii* concluded, substantially more work needs to be done before managed retreat can be implemented. This work includes identifying where retreat is and is not feasible, engaging with all parts of the community, conducting studies to understand the implications of managed retreat on the economy, financing, insurance, and the transfer of development rights. In brief, important work needs to be done before managed retreat can be intelligently considered, much less implemented. Implementing such a policy puts the cart before the horse, which will result in unmanaged retreat to the detriment of all.

For these reasons, HHA urges that action on Bill 42 be deferred.

Mahalo nui loa,

A handwritten signature in dark ink, appearing to read "Gerard C. Gibson", with a stylized flourish at the end.

Gerard C. Gibson

President

Hawaii Hotel Alliance

STARN • O'TOOLE • MARCUS & FISHER

A LAW CORPORATION

September 21, 2022

VIA INTERNET UPLOAD

Committee on Zoning and Planning
City Council
City and County of Honolulu
530 S King St.
Honolulu Hale, Room 202
Honolulu, Hawai'i 96813

**RE: Testimony for the September 22, 2022, 9:00 a.m.
Hearing of the Committee on Zoning and Planning
Bill 42 (2022), CD1 – Relating to the Special Management Area**

Aloha Chair Elefante, Vice Chair Kia'aina and Members of the
Committee on Zoning and Planning:

I am legal counsel for the Hawaii Hotel Alliance (“HHA”) and members of HHA. I support the position of HHA, as stated in President Gerard C. Gibson’s written testimony dated September 21, 2022 in opposition to Bill 42 (2022), CD1 (“Bill 42”).

While Bill 42’s proposed revisions seek to bring Chapter 25, Revised Ordinances of Honolulu into conformity with Hawaii Revised Statutes Chapter 205A, I believe certain provisions are fatal to the bill. Those sections—section 25-1.3 (definition of “development”), 25-4.1(b)(6), and 25-6.1—are inconsistent with Chapter 205A and do not balance the interests of various stakeholders. In its current form, Bill 42 would implement a policy of managed retreat, particularly within the sea level rise exposure area. As discussed further below, adopting a policy of managed retreat is premature at this time.

Climate change and sea level rise pose a threat to Hawaii’s economy, sustainability, and security, and our way of life in Hawaii. This threat impacts the entire State and is not unique to O’ahu. Strategies to counter this threat need to be developed in conjunction with the State, to ensure that consistent policies are adopted statewide that balance the interests of all parties, both public and private.

We have not yet had the candid discussions and put in the legwork that are required before managed retreat can be considered. So far, the input has been made principally by the academic community. Even though the conversation looks to the year 2100 (and beyond) the discussion requires more focus. There also needs to be a focus on and discussion of societal impacts, economic impacts, and real property interests. Discussions need to explore whether and where retreat should be implemented, or whether other responses, like adaptation and protection, are more appropriate. Obtaining public consensus is a must because the public is ultimately who will pay the enormous

Pacific Guardian Center, Makai Tower • 733 Bishop Street, Suite 1900 • Honolulu, Hawaii 96813

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financial and societal costs required to implement managed retreat. Without broad buy-in from the public, forcing retreat will lead to division among and within our communities, litigation, and, ultimately, the failure of the policy.

Section 25-4.1(b)(6) of Bill 42 embraces the concept of managed retreat. This section requires that the Department of Planning and Permitting or the City Council “shall seek to minimize, whenever reasonable . . . [d]evelopment that would result in the placement of habitable structures within the sea level rise exposure area.” The sea level rise exposure area is based on a projection through year 2100 (78 years into the future). This projection is based on modeling which shows a wide range of potential results. Further, the projection should treat parcels based on their differing characteristics. Accordingly, the sea level rise exposure area is not appropriate for parcel-level regulation.

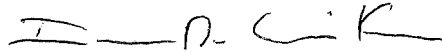
Minimizing development solely based on the reason of being located in the sea level rise exposure area will often be unreasonable because it does not adequately balance the risk of exposure to coastal hazards with the level of risk acceptable for the development. The level of risk acceptable to a homeowner is not the same as the level of risk acceptable for critical public infrastructure, yet the sea level rise exposure area uses the same worst-case scenario projections for sea level rise for both (*i.e.*, the upper limit of the highest sea level rise scenario). Simply put, there need to be projections that are commensurate with the acceptable level of risk for development, which the Sea Level Rise Viewer and sea level rise exposure area do not offer. Only the upper limit of one sea level rise scenario is included, and, to my knowledge, there has not been public discourse on whether the upper limit (and not the median or lower limit) should be used, or whether the highest sea level rise scenario was (or continues to be) the best scenario for modeling.

More concerning, the modeling in the Hawaii Sea Level Rise Viewer which was created in 2017 is based on a climate change and sea level rise scenario that was considered by the international science community as “business as usual” when the Viewer was debuted. However, based on advances in science and newly-acquired data, the Viewer created in 2017 may be dated and no longer applicable. This highlights a key issue of using projections of what the world might look like in 2100 (78 years from now) to regulate development today, in 2022. Although the science and understanding of climate change and sea level rise continue to evolve and improve, it does not make sense, nor does it seem equitable, to require that decisions that impact so many lives so severely be made today based on projections 78 years in the future. Things change.

HHA respectfully requests deferral of Bill 42.

Mahalo nui loa for considering our request.

Mahalo nui,

A handwritten signature in black ink, appearing to read "Ivan M. Lui-Kwan". The signature is fluid and cursive, with the first name "Ivan" being more prominent.

Ivan M. Lui-Kwan

September 21, 2022

Councilmember Brandon Elefante, Chair
Councilmember Esther Kia'aina, Vice Chair
Zoning and Planning Committee, Honolulu City Council

Re: Deferral of Bill 42 (2022), CD1 – Special Management Area

Aloha Chair Elefante, Vice Chair Kia'aina and members of the Zoning and Planning Committee:

We write to request deferral of Bill 42 to allow more time to gather input from interested and affected stakeholders to ensure that the proposed amendments to the Special Management Area (“SMA”) Ordinance, Chapter 25, Revised Ordinances (“ROH”), will not result in unworkable and unintended consequences, many of which are only now starting to be identified and addressed by the Council.

This process should have started long before this bill was submitted to the Council. Bill 42 should be properly vetted with careful consideration, including the thorough and thoughtful input from those that will be most affected by new coastline regulations. A lack of notice and meaningful engagement on the proposed terms in this bill is being reported by larger and smaller landowners along our shores, the various neighborhood boards, and affected parties in the visitor industry, including owners and operators in Waikiki. Engagement with these stakeholders should have been done before Bill 42 was brought to Council.

It is not too late to set the process on the right path. We respectfully ask the Council to defer action on Bill 42 so that a proper outreach and community input process can commence to ensure that the voices of those most affected can be heard.

In the spirit of furthering much needed discussion on Bill 42, we have initially identified a handful of significant substantive concerns with the bill that warrant further discussion and careful consideration. In addition to process issues and substantive concerns, we have also identified a number of obvious technical issues as a starting point for further analysis, including certain conflicting provisions and terms, that need to be clarified and/or corrected prior to enactment.

1. Proposed ROH Section 25-1.3 “Development”

Bill 42 limits additions of minor accessory structures and floor area to 300 square feet for shoreline lots and certain other dwelling units. This is significantly more restrictive than the limitations already codified by Hawaii Revised Statutes (“HRS”) chapter 205A. These proposed size limitations are arbitrary and do not conform with the definition of “development” in chapter 205A. Honolulu is in the midst of a housing shortage crisis, and the development of these types of additional housing

units should be encouraged, rather than made more difficult. Moreover, the proposed requirements would significantly add to the permitting burden of an already overwhelmed Department of Planning and Permitting (“DPP”), all without providing any material public benefit.

Proposed subsection (2)(B) should be modified to restore the exemption for structural and nonstructural improvements to existing dwellings units (formerly, subsection (2)(O)), including minor accessory structures and floor area additions, without regard to the size of the addition or the type of dwelling unit.

The mirroring definitions for when the construction and reconstruction of certain dwelling units are included and excluded from the definition of “development” are confusing. Deletion of subsections (1)(F), (G), and (H), while retaining the mirroring definition in (2)(A), should help clarify when construction and reconstruction is exempted.

Subsections (3) and (4) should also be revised to clarify that a cumulative impact or significant effect will be considered “development” only when they may have a “significant adverse environmental or ecological effect” on the SMA. The definitions for “cumulative impact” and “significant effect” do not currently specify that such impacts or effects must be adverse to the environment or ecology. This change would clarify the intent of such provisions.

2. Proposed ROH Section 25-1.3 “Significant Effect”

“Significant effect” is defined as including the “sum of effects,” which closely resembles “cumulative impact.” The definition should be revised to pertain only to singular effects that substantially and adversely affect the quality of the environment.

3. Proposed ROH Section 25-1.3 “Structure”

The definition of “structure” should be restored to conform with HRS § 205A-22. The expansion of the definition to include any conceivable object that could be fixed in place would vastly expand the number of projects requiring an SMA permit. Again, this change would add to the strain on DPP and divert attention from the significant projects that truly require the focus of DPP staff. Restoring the definition of “structure” is also in line with Bill 42’s purpose of conforming city and state CZM regulations.

4. Proposed ROH Section 25-3.1 Objectives, policies, and guidelines

Proposed section 25-3.1 should reflect the objectives and policies of the SMA Ordinance rather than “development within the SMA.” As drafted, Bill 42 would require development within the SMA to provide coastal recreational opportunities to the public, protect historical resources and facilitate beach management, among other things. These are objectives of the SMA Ordinance—not development within the SMA. At a minimum, the guidelines should be revised to reflect that development within the SMA should not interfere with the stated policies and objectives rather than affirmatively provide for them.

Subsection (e) states that development within the SMA “should consist of facilities and improvements important to [Hawaii’s] economy[.]” This guideline seems to prohibit residential uses within the SMA, which is not a policy contained in HRS section 205A-2(c). In the absence of a state legislative mandate, there is no basis to implement a policy to remove local residents from their coastal homes for the benefit of commercial interests that have been deemed more important to the State.

Subsection (j) precludes development in the SMA that will have a cumulative impact or significant effect unless minimized to the extent practicable and clearly outweighed by a public interest. This is at odds with the use of the terms “cumulative impact” and “significant effect” elsewhere in the SMA Ordinance. Under the definition of “development,” “cumulative impact” and “significant effect” are used to determine whether a use may constitute “development” even though it is not enumerated. The inclusion of subsection (j) would mean that a use not expressly included within the definition of “development” would not only require an SMA permit but would be entirely prohibited within the SMA unless minimized and outweighed by a public interest. This subsection should be removed to avoid confusion as to the treatment of development creating a “cumulative impact” or “significant effect.”

5. Proposed ROH Section 25-4.1 Permit review guidelines

Proposed section 25-4.1(b)(6) requires the Honolulu City Council and DPP to minimize, when reasonable, “[d]evelopment that would result in the placement of habitable structures within the sea level rise exposure area.”

This addition does not align with the bill’s intended purpose of creating regulatory consistency at the state and city level. The SMA guidelines set forth in HRS section 205A-26 contain no provision relating to the sea level rise exposure area (“SLR-XA”). This guideline is a backdoor attempt to impose the SLR-XA line as the de facto shore and would force the dilapidation of structures throughout large swaths of Honolulu—in some cases, beyond the borders of the SMA.

With respect, SLR-XA should be used as a policy tool as it was originally intended and not enshrined as regulation.

Because the terms “Sea Level Rise Exposure Area,” “Hawaii Sea Level Rise Vulnerability and Adaptation Report” and “Hawaii Sea Level Rise Viewer” are used only with reference to proposed ROH section 25-4.1(b)(6), they should be deleted.

6. Proposed ROH Section 25-5.3 Special management area major permit

Bill 42 discontinues the practice of allowing concurrent processing of environmental disclosure documents with SMA major permits as provided in ROH Section 25-3.3(c)(1). Concurrent processing helps to streamline the development process. Eliminating concurrent processing will only make approvals take longer and cost more to complete. We do not need changes that slow down the process, and ROH section 25-5.3 should be revised accordingly.

7. Proposed ROH Section 25-6.1 Conditions for all development

Bill 42 would prohibit the planting, watering or maintaining of landscaping, such as naupaka, on a shoreline lot so that the landscaping acts as a shoreline hardening barrier, “particularly if [the landscaping] alter[s] or interfere[s] with the natural beach processes.”

This standard is vague and, as drafted, would require a showing that a shoreline lot owner was maintaining the landscaping with the intent that it be used as a shoreline hardening barrier. Other reasons for maintaining the landscaping would conceivably be allowed under Bill 42. Moreover, this prohibition will only serve to accelerate coastal erosion.

The current requirement that landscaping be confined to the shoreline lot and not extend seaward of the shoreline or onto beach access is a clear and enforceable standard that does not need to be expanded.

The concerns above are illustrative of the kinds of issues that need to be surfaced and addressed by affected stakeholders and landowners. We hope you will consider allowing additional time to discuss and reflect on the changes proposed by Bill 42. Please let us know if you would like to discuss any of our comments or proposed revisions further. Thank you again for your time.

September 21, 2022

Page 5

Respectfully submitted,

/s/ Calvert G. Chipchase

Calvert G. Chipchase
Partner
Cades Schutte LLP

/s/ R. Eric Beaver

R. Eric Beaver
President & CEO
Hawaii Reserves, Inc.

/s/ Kalani A. Morse

Kalani A. Morse
Partner
Durrett Lang Morse LLLP

/s/ Duane R. Fisher

Duane R. Fisher
Director
Starn O'Toole Marcus & Fisher

/s/ John Morgan

John Morgan
President
Kualoa Ranch

/s/ Alexander L. Fergus

Alexander L. Fergus
Principal
Fergus & Company

/s/ Sheree Stewart

Sheree Stewart
General Counsel
MacNaughton Inc.

September 21, 2022

VIA INTERNET UPLOAD

Committee on Zoning and Planning
City Council
City and County of Honolulu
530 S King St.
Honolulu Hale, Room 202
Honolulu, Hawai'i 96813

Testimony Re Bill 42 (2022), CD1 – Relating to the Special Management Area

Aloha Chair Elefante, Vice Chair Kia'aina, and Committee Members:

Thank you for this opportunity to provide testimony. I am writing in opposition to Bill 42 (2022), CD1 ("**Bill 42**") on behalf of a shoreline property owner.

The current proposed definition of "development" is inconsistent with Hawai'i Revised Statutes, Chapter 205A. Chapter 205A already defines "development," and any expansion would limit and discourage development in the special management area, creating a *de facto* policy of managed retreat. Moreover, any expansion would unnecessarily add to the Department of Planning and Permitting's administrative burden and backlog. Accordingly, the proposed additions of what "development" includes should be deleted.

Affected homeowners and landowners should be included in future discussions around suggested approaches to sea level rise. A balanced response that respects all interests and is consistent with federal and state law should be adopted. The impact of Bill 42 on homeowners and businesses along the shoreline should be further discussed and considered. I would urge this committee not to implement a *de facto* policy of managed retreat without first discussing how retreat is to be implemented, obtaining public consensus on whether and where retreat should be implemented or whether other responses such as adaptation and protection are more appropriate. Obtaining public consensus requires candid discussions with stakeholders and the community, not just those in academia.

The State Office of Planning and Sustainable Development found that substantially more work needs to be done before managed retreat can be implemented. State Office of Planning and Sustainable Development, *Assessing the Feasibility and Implications of Managed Retreat Strategies for Vulnerable Coastal Areas in Hawaii* (February 2019). This work includes identifying where retreat is and is not feasible, engaging with all parts of the community, conducting studies to understand the implications of managed retreat on the economy, financing, insurance, and the transfer of development rights. In brief, important work needs to be done before

managed retreat can be intelligently considered, much less implemented. Implementing such a policy puts the cart before the horse, which will result in unmanaged retreat to the detriment of all.

I urge you to consider the following revisions:

1. Delete the following subparagraphs of section 25-1.3's definition of "Development":

(1)

(F) Construction or reconstruction of a dwelling unit situated on a shoreline lot or a lot that is impacted by waves, storm surges, high tide, or shoreline erosion, including additions that exceed 300 square feet;

(G) Construction or reconstruction of a dwelling unit when the dwelling unit and related garages, carports, covered lanais, and accessory structures have an aggregate floor area of 7,500 square feet or more; or

(H) Construction or reconstruction of a dwelling unit that is part of a larger development of three or more dwelling units.

2. Delete subsection 25-1.4(b)(6) in its entirety.

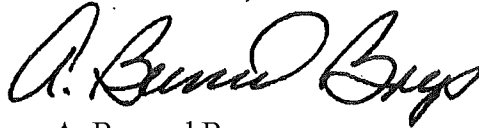
(b)

(6) Development that would result in the placement of habitable structures within the sea level rise exposure area.

3. Delete the proposed revisions in the first paragraph of section 25-6.1 and revert to the existing language of Section 25-6.1, Revised Ordinances of Honolulu so that it reads:

"The following requirements shall apply to all uses, structures, and improvements on any shoreline lot:"

Mahalo nui loa,

A handwritten signature in black ink, appearing to read "A. Bernard Bays".

A. Bernard Bays

Statement of Acknowledgement of Special Inspections

Project: Prouty Residence

BPA: A2021-06-0252

Per 2012 International Building Code (IBC) Section 1702.2.2 and 2012 International Residential Code (IRC) Section R109.6 Access for Special Inspection.

The construction or work for which special inspection is required shall remain accessible and exposed for special inspection purposes until completion of the required special inspection.

ACKNOWLEDGMENT / AWARENESS OF SPECIAL INSPECTION – THE CONSTRUCTION TO BE MADE ACCESSIBLE TO THE SPECIAL INSPECTION INSPECTORS.

Justin Prouty

Print (Owner's Name)



Signature (Owner's Name)

Print (Contractor's Name)

Signature (Contractor's Name)

Amanda Prouty
59-297 Ke Nui Road
Haleiwa, HI 96712

Councilmember Brandon Elefante
Chair, Zoning and Planning Committee
Honolulu City Council

Dear Councilmember Elefante and members of the Zoning and Planning Committee,

Subject: Bill 41 & Bill 42

I am writing you regarding Bill 41 relating to shoreline setbacks and Bill 42 relating to Special Management Area.

I reside along the shoreline in Haleiwa and it appears that I and my neighbors will be directly and significantly impacted by these bills. I am surprised and deeply concerned that we were not notified or even made aware of these bills.

We have not had time to fully understand the direct impacts that these changes will have on our homes, but it appears that these revisions will have significant impacts that would restrict our ability to repair existing homes and retain existing property. If passed, these bills appear to limit efforts to repair already existing shoreline protection measures and curtail future efforts to protect our properties from severe coastal erosion.

These restrictions threaten the future of our family homes, will negatively impact our property values, and are being proposed without most of the affected residents even understanding or being aware of the impacts that will result from these changes.

It appears that these bills were introduced without being discussed or presented to the communities and residents that will be directly impacted.

We respectfully request a hiatus on passing these bills out of your committee to the full Council. Please allow us the proper opportunity to understand how these bills affect our properties so that we can provide direct input into this rushed process. I believe that postponing a full Council vote until more residents have time to review the bills will be a prudent measure to ensure public participation.

Mahalo for considering my request for more time to learn about Bills 41 and 42. I am happy to talk about this with you.

Sincerely,

Amanda Prouty

**TESTIMONY ON
BILL 42 RELATING TO SPECIAL MANAGEMENT AREA**

Aloha Chair Elefante and Members of the Zoning and Planning Committee

I am testifying on Bill 42 to ask you for more time so that we can understand how these bills would affect me, my 'ohana and my neighbors.

I live along the shoreline in Waialae-Kahala on Kahala Avenue and it appears that I and my neighbors will be directly and significantly impacted by these bills. I am surprised and deeply concerned that we were not notified or even made aware of these bills.

It looks like Bill 42 will have significant impacts that would restrict our ability to repair existing homes and retain existing property. If passed, these bills appear to limit our efforts to repair already existing shoreline protection measures and curtail future efforts to protect our properties from severe coastal erosion.

These restrictions would threaten the future of our family homes, will negatively impact our property values, and are being proposed without most of the affected residents even understanding or being aware of the impacts that will result from these changes.

It appears that these bills were introduced without being discussed or presented to the communities and residents that will be directly impacted.

I ask you to not pass these bills out of your committee until the public has the proper opportunity to understand how these bills affect our properties. Let us provide direct input into this process if we so choose. Right now, we do not have enough information to understand the effects of these bills so that we can provide input.

I believe that postponing a full Council vote until more residents have time to review the bills will be a prudent and responsible measure to ensure public participation.

Thank you for considering my request for more time to learn about Bill 42.



Rose-Marie Rafael
(Kahala Corporation)