BILL041(22)
Testimony

MISC. COMM. 58

PLANNING AND THE ECONOMY (P&E)

PLANNING AND THE ECONOMY (P&E) Meeting

Meeting Date: Feb 9, 2023 @ 09:00 AM

Support: 10

Oppose: 5

I wish to comment: 7

Name:	Email:	Zip:
Joseph Shuan	Joseph.Shuan@yahoo.com	96712
Representing:	Position:	Submitted:
Self	Oppose	Feb 6, 2023 @ 10:20 PM

Testimony:
Im a native Hawaiian. I live on the north shore of Oahu. In the home I grew up in. This oceanfront property has been in our family for 70+ years. My parents sacrificed so much so they could pass it on to me. Without their sacrifice this home and a life here in Hawaii would not be possible. We don't have any erosion problems at our location. This 60' minimum setback will steal our land away from us. Our oceanfront property is already less than 100' deep. Don't do this. Don't hurt us. The one-size-fits-all Bill is not right. It's not fair to all us Hawaiian families who live on the coast. There's gotta be other alternatives that don't hurt us. Especially where there are no erosion issues.

Name:	Email:	Zip:
Elizabeth Benyshek	chair@oahu.surfrider.org	96786
Representing:	Position:	Submitted:
Self	Support	Feb 7, 2023 @ 09:53 AM

Testimony:
Aloha,

I am writing to express my strong support for Bill 41, which would implement erosion-based shoreline setbacks that have been successful on other islands. After seeing a home fall on the beach last year, it is abundantly clear that stronger setbacks need to be enforced to protect homeowners and the environment. Utilizing data of the recent erosion, informed decision can be made for many key sites around the island. Please support this advancement. Thank you for your time and consideration.

Elizabeth Benyshek
Chair, Surfrider Foundation O‘ahu Chapter

Name:	Email:	Zip:
Ryan Dadds, PA-C	ryan_dadds@yahoo.com	96744
Representing:	Position:	Submitted:
Self	Support	Feb 7, 2023 @ 01:15 PM

Testimony:
I would like to support this bill and prevent building near Oahu's shorelines due to sea level rise. There gas been destruction of homes built along the shoreline and this will continue for any new construction in these areas. Its wasteful and causes ocean pollution.

Name:	Email:	Zip:
Lauren Kaiser	lkaiser15@gmail.com	96813
Representing:	Position:	Submitted:
Self	Support	Feb 7, 2023 @ 01:55 PM

Testimony:
Bill 41 uses historical erosion data to help us make smarter, place-based decisions grounded in science. This erosion-based shoreline setback policy has already been successfully implemented in Maui and Kauai for decades. Over the last century, Oahu has lost more than five miles of beach due to coastal erosion and sea level rise, and at least 60% of our beaches are chronically eroding. If we take no action, impacts from 3.2 ft. of sea level rise are estimated to result in $12.9 billion in economic losses of structures and land. The impacts of sea level rise will increase and accelerate this century and beyond. This bill ensures new development along the shoreline is better prepared for those impacts without putting our precious cultural and natural resources at risk.

Name:	Email:	Zip:
Marvin Heskett	mhesketts@me.com	96816
Representing:	Position:	Submitted:
Self	Support	Feb 7, 2023 @ 08:08 PM

Testimony:

Aloha,

Please support Bill 41 relating to modernizing our approach to shoreline setback policy. Let's use this opportunity to avoid repeating our past mistakes with near shore development and the negative consequences they have on our beaches, near shore homes and community at large.

Mahalo,
Marvin Heskett

Name:	Email:	Zip:
Camile Cleveland	policy@oahu.surfrider.org	96816
Representing:	Position:	Submitted:
Surfrider Foundation OÊ»ahu Chapter	Support	Feb 7, 2023 @ 09:44 PM

Name:	Email:	Zip:
Kittana Wagener	kwagener@hawaii.edu	96815
Representing:	Position:	Submitted:
Self	Support	Feb 8, 2023 @ 08:31 AM

Testimony:
Aloha Councilmember Kiaina and Planning and the Economy Committee,

My name is Kittana Wagener and I am a resident of Georgia and currently living in Honolulu, HI. I am a volunteer and member of the Surfrider Foundation O‘ahu Chapter and I am in strong support of Bill 41 to establish an erosion-rate-based shoreline setback policy in order to protect development from the effects of climate change.

I support this bill because we have seen in the past that the historical erosion data has helped make better decisions within the rising issue of climate change. We have seen this been successfully implemented in Maui and Kauai. Because of climate change, Oahu has lost more than 5 miles of beach and at least 60% of beaches shows signs of chronic erosion. If we don't implement this bill, this would put Oahu at higher risk of a $12.9 billion economic loss, in which that $12.9 billion loss could be put towards another issue in Oahu.

It is inevitable that the sea-level will continue to rise over time. It is also time to take action in order to prevent an issue from growing further. Please support the implementation of the erosion-rate-based shoreline setback policy.

Mahalo for the opportunity to testify.

Kittana Wagener

Name:	Email:	Zip:
Dr. Chip Fletcher	fletcher@soest.hawaii.edu	96734
Representing:	Position:	Submitted:
Climate Resilience Collaborative	Support	Feb 8, 2023 @ 10:54 AM

Name:	Email:	Zip:
Ivan Lui-Kwan	iluikwan@starnlaw.com	96813
Representing:	Position:	Submitted:
Self	Support	Feb 8, 2023 @ 12:03 PM

Name:	Email:	Zip:
Jim Nicolow	jnicolow@sbcglobal.net	96734
Representing:	Position:	Submitted:
Self	Support	Feb 8, 2023 @ 03:41 PM

Testimony:
As an architect and sustainable design expert, I am writing in support of the science-based shoreline protections codified in Bill 041(22). I attended a detailed presentation on the topic at AIA Honolulu's General Membership Meeting last month, by Dr. Chip

Fletcher of UH Manoa's SOEST, and am convinced of the soundness of the recommendations and the need for action to preserve our fragile beaches in the face of inevitable sea level rise.
Jim Nicolow, FAIA, LEED Fellow

Name:	Email:	Zip:
Tim Gutierrez	tim@pyramidhawaii.com	96816
Representing:	Position:	Submitted:
Self	Oppose	Feb 8, 2023 @ 04:55 PM

Name:	Email:	Zip:
MARTIN RABBETT	martinrabbett@gmail.com	96795
Representing:	Position:	Submitted:
Self	I wish to comment	Feb 8, 2023 @ 06:06 PM

Testimony:
I humbly request more time to fully understand the direct impact that these changes in Bills 41 and 42 would have on my property. Please table these bills so that I have the time to study this further. The impacts of these bills are significant and as an old Kamaaina I need to comprehend what this means for me as a private property owner going forward. Mahalo,

Martin Rabbett

Name:	Email:	Zip:
Kristan Eiserloh	kris@eiserloharchitects.com	96821
Representing:	Position:	Submitted:
Self	Oppose	Feb 8, 2023 @ 08:32 PM

Name:	Email:	Zip:
Denise Antolini	antolinid@gmail.com	96712
Representing:	Position:	Submitted:
Self	Support	Feb 8, 2023 @ 09:03 PM

Testimony:
Aloha Planning Committee Chair Kia'ina, Vice Chair Cordero, and Members of the Committee,

I write in strong support of BILL 41 (2022), CD1 – SHORELINE SETBACKS. Updating ROH Chapter 23, relating to shoreline setbacks, to incorporate amendments made by Act 16, Session Laws of Hawaii 2020, to HRS Chapter 205A, the State Coastal Zone Management law, and to implement an erosion-rate-based shoreline setback formula.

I am a North Shore resident and have lived in Ppkea since 1998. From 1992-1998, I lived "one house off the beach" on Ke Nui Road, the Sunset Beach area shoreline that has been experiencing acute erosion and suffering from a tangle of illegal seawalls and burritos, houses teetering or falling into the sand, and a tragically degraded public beach.

As law professor dedicated to environmental law and protection, I was honored to be a member of the North Shore Coastal Resilience Working Group, led by Surfrider Foundation, Sea Grant, and SSFM, which focused on the science, governance, and policy problems and solutions for this area. We met from 2021-2022 and released a report in Oct. 2022 (https://20811975.fs1.hubspotusercontent-na1.net/hubfs/20811975/web-North-Shore-Coastal-Erosion-Report_102122_Web.pdf). Part of the reports recommendations call for improved law and governance of our shorelines, such as the changes proposed in Bill 41.

In short, based on my personal and professional experience, the City and County of Honolulu must modernize ROH 23 to align with Act 16, and should adopt the modern approach to setbacks to ensure resilience - that is, an erosion-rate-based shoreline setback formula. These issues are not easy or simple but Oahu will not be the first to adopt this approach - the City and County of Honolulu can build on the similar ordinances adopted by Maui (2003) and Kauai (2008).

In some areas like the Ke Nui stretch of shoreline, the natural erosion processes are highly dynamic and demand an equally dynamic response from our legal system. Bill 41 is a significant step forward and I hope you will pass CD1.

Mahalo for the opportunity to testify.

Denise Antolini
Ppkea resident, Law Professor

Name:	Email:	Zip:
John Dean	john.dean@cpb.bank	96795
Representing:	Position:	Submitted:
Self	I wish to comment	Feb 9, 2023 @ 06:22 AM

Testimony:
Dear Council Chair Kia'ina and Members of the Planning and the Economy Committee,

Subject: Bill 41

I am writing to you regarding Bill 41. I am a resident of Waimanalo who owns property and lives along its shoreline. It appears that my neighbors and I would be directly and significantly impacted by Bill 41. I am disappointed that we were again not notified or made aware that this bill was again under consideration.

I respectfully request a hiatus on passing Bill 41 out of 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 process. I believe that postponing a Committee vote until more residents have had time to review Bill 41 would be a prudent measure.

Mahalo for considering my request for more time to lean about Bill 41. I would look for to discussing this bill with you and other Council Members.

Sincerely,

John C. Dean
41-467 Kalanianaole Hwy.
Waimnalo, HI 96795
808-291-6029
john.dean@cpb.bank

Name:	Email:	Zip:
Sandra Sarkissian	sandrasark@yahoo.com	96795
Representing:	Position:	Submitted:
Self	I wish to comment	Feb 9, 2023 @ 06:28 AM

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

Subject: Bills 41 and 42 Special Management Area

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

I am writing to you regarding Bills 41 and 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 Bills 41 and 42, which appear 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 these bills when they were introduced, or when they 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, Bills 41 and 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 Bills 41 and 42 out of your committee to the full Council. Please allow us the opportunity to understand how these bills 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 Bills 41 and 42 would be a prudent measure.

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

Sincerely,

Sandra Sarkissian
41-459 Kalanianaole Hwy. Waimanalo, HI 96795

Name:	Email:	Zip:
Mark Webb	mkwebb58@yahoo.com	96795
Representing:	Position:	Submitted:
Self	I wish to comment	Feb 9, 2023 @ 06:38 AM

Testimony:
I reside in Waimanalo. I want to learn much more about this bill before it is voted on. I feel this has not in anyway had a public airing. Feels like a 'back room deal'.

More comment and debate is needed. Why are we considering enacting this new law? What are the benefits? What are the drawbacks?

Please slow down. Thank you,
Mark K. Webb

Name:	Email:	Zip:
Robert Armstrong	bob@armstrongbuilders.com	96819
Representing:	Position:	Submitted:
Self	Oppose	Feb 9, 2023 @ 07:34 AM

Name:	Email:	Zip:
Stephen and Mari Ann Keithahn	skeithahn@aol.com	96795
Representing:	Position:	Submitted:
Self	I wish to comment	Feb 9, 2023 @ 07:52 AM

Testimony:
Dear Council Chair Kia'ina and Members of the Planning and the Economy Committee, Subject: Bill 41

We own shoreline property in Waimanalo, and it appears that my neighbors and I would be directly and significantly impacted by Bill 41. Sadly, we were not notified or made aware that this bill was again under consideration. I respectfully request a hiatus on passing Bill 41 out of Committee to the full Council to allow us the opportunity to understand how this bill would affect our properties and to provide direct input into this process. Postponing a Committee vote until more residents have had time to review Bill 41 would be a prudent and respectful measure. Thank you for your consideration and for your service to our community.
Mahalo, The Keithahns

Name:	Email:	Zip:
Calvert Chipchase	cchipchase@cades.com	96813-4202
Representing:	Position:	Submitted:
Cades Schutte, LLP	I wish to comment	Feb 9, 2023 @ 08:06 AM

Name:	Email:	Zip:
Randolph Moore	makikimoore@gmail.com	96722
Representing:	Position:	Submitted:
Self	Oppose	Feb 9, 2023 @ 08:18 AM

Testimony:
I just now was notified by a neighbor that this item is on today's committee agenda.

I own and have owned a beachfront lot at Sunset Beach since 1969. It has been subject to about 45 ft of erosion in the past 54

years, and I installed "burritos" with an emergency permit from the DLNR when the vegetation line moved inland to where it was only 15 ft from my house. It had been 60 ft away when I built the house.

Beach erosion is an unpredictable fact of life. A mile down the beach from me a sloping rock revetment was legally built 30 years ago along an area that was severely eroded and threatened several homes. Two or three years later the sand returned and since then there has been perhaps a minimum of 100 ft of sand makai of this revetment.

There is no question that the sea level will rise, I understand the current prediction is for nearly 4 ft. of rise by the year 2100. The minimum elevation of my lot is 20 ft., so it appears unlikely that sea level rise will significantly affect me. Erosion is a different matter, and because erosion is unpredictable, I am preparing to move my house as far mauka on my lot as I can without destroying my garage, which is set back 20 ft from the street. Even so, I will need to construct a septic system in the front setback area because there will not be sufficient room (nor is it best practice) to locate the septic system makai of the house. However, with the new setbacks proposed in Bill 41, I will still need a variance to relocate the house. It does not appear to make much sense to provide setbacks that, as a practical matter, will require nearly every new beachfront construction or relocated existing construction to obtain a variance, which will subject property owners to uncertainty, additional cost and delays.

This bill needs further study, and I encourage you to defer it (again).

Mahalo for your consideration.

Name:	Email:	Zip:
Alice Dean	sdean57@gmail.com	96795
Representing:	Position:	Submitted:
Self	I wish to comment	Feb 9, 2023 @ 08:58 AM

Testimony:

Dear Council Chair Kia'ina and Members of the Planning and the Economy Committee. I am writing to you regarding Bill 41 because I believe my property and my neighbors' properties along the shoreline would be directly and significantly impacted by its passage. This is troubling because we residents were again not notified or made aware that this bill was again under consideration. Delaying the passage of Bill 41 out of Committee to the full Council would allow us to understand how this bill would affect our properties and allow us to be part of the process and needed discussion. Mahalo for considering my request for more time to learn about Bill 41.

Alice S. Dean, 41-467 Kalanianaole Hwy. Waimanalo, HI 96795

2/9/2023

Committee on Planning and the Economy
City and County of Honolulu
Honolulu, Hawaiʻi 96813

Aloha Chair Kiaʻāina, Vice Chair Cordero, and Members of the Committee on Planning and the Economy,

Position: Support Bill 41 (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 41 (2022), CD1 (hereafter "Bill 41"), which would update the Shoreline Setbacks on Oʻahu, codified at Revised Ordinances of Honolulu Chapter 23. Oʻahu's coastal communities are already experiencing the hazards of sea level rise (SLR) and erosion, particularly in the North Shore community. In response to this, the Surfrider Foundation Oʻahu Chapter, the University of Hawaiʻi Sea Grant College, and consulting firm SSFM International launched the North Shore Coastal Resilience Working Group (NSCRWG) to investigate community-driven solutions for coastal management. In the findings of the NSCRWG report, one of the immediate-term adaptation pathways included "Policy Changes to Limit Shoreline Development and Plan for Climate Adaptation," which includes "[Adopting] updated SMA and shoreline setback requirements (Chapter 23 and 25, ROH)."[1] Shoreline erosion and SLR pose a complicated threat to the islands that require complex solutions to solve – appropriate shoreline setbacks are an important part of that solution, as they provide a buffer between the island's coastal communities and the hazards associated with SLR and erosion.

Further, I support Bill 41 in that it uses historical erosion data to help make smarter, place-based decisions grounded in science. This erosion-based shoreline setback policy has already been successfully implemented in Maui and Kauaʻi for decades. Bill 41 would also advance the implementation of Action 29 of the City's community-driven Oʻahu Resilience Strategy.

SLR and coastal erosion are issues of top concern to our volunteers, and we appreciate the consideration of critical tools such as those in Bill 41 to address them. Thank you for your consideration of this testimony in support of Bill 41 submitted on the behalf of the Surfrider Foundation Oʻahu 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, Oʻahu Chapter

---

[1] *Adaptive Coastal Management Recommendations, Actions and Strategies*, North Shore Coastal Resilience Working Group, October 2022
https://20811975.fs1.hubspotusercontent-na1.net/hubfs/20811975/web-North-Shore-Coastal-Erosion-Report_102122_Web.pdf

Dr. Charles "Chip" Fletcher
Director, Climate Resilience Collaborative
Interim Dean, School of Ocean and Earth Science and Technology
University of Hawai‘i at Mānoa

fletcher@soest.hawaii.edu

Thursday, February 9, 2023

Aloha, Chair Kia‘āina, Vice-Chair Cordero, and Members of the Committee,

I am writing to support Bill 41 (2022), CD1. I write 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).

CRC is a multi-investigator research project at the University of Hawai‘i at Mānoa focused on sea level rise adaptation and climate resilience. CRC is updating coastal models that project the impacts of sea level rise.

I support Bill 41 because sea level rise is an inevitable and permanent reality on our shorelines. Bill 41 achieves two critical objectives: 1) It increases the shoreline setback and this creates an improved safety buffer for developed assets; and 2) It establishes a scientific basis for defining that buffer.

Thank you, I am available for questions.

Respectfully,

C. Fletcher

Charles Fletcher

STARN • O'TOOLE • MARCUS & FISHER

A LAW CORPORATION

February 8, 2023

VIA INTERNET UPLOAD

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

**RE: Testimony for the February 9, 2023, 9:00 a.m.
Hearing of the Committee on Planning and the Economy
Bill 41 (2022), CD1, Proposed CD2 – Relating to Shoreline Setbacks**

Aloha Chair Kia'āina and Members of the
Committee on Planning and the Economy:

Thank you for the opportunity to submit testimony on Bill 41 (2022), CD1, Proposed CD2 ("Bill 41").

While I'm generally supportive of Bill 41's proposed revisions that bring Chapter 25, Revised Ordinances of Honolulu into conformity with Hawaii Revised Statutes Chapter 205A, I submit this testimony to address concerns that I have about certain provisions that seriously weaken the bill. Those sections—section 26-1.6(a) (nonconforming structures) and 21-1.9(b) (conditions on shoreline setback variances)—are inconsistent with Chapter 205A and do not balance the interests of various stakeholders. In its current form, Bill 41 could implement a *de facto* policy of managed retreat. 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 the public's way of life. 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. A variety of tools will need to be considered and employed as we respond to climate change and sea level rise. A singular focus on managed retreat is neither feasible nor beneficial.

Pacific Guardian Center, Makai Tower • 733 Bishop Street, Suite 1900 • Honolulu, Hawaii 96813
Telephone: (808) 537-6100 • Fax: (808) 537-5434 • Web: www.starnlaw.com

Managed retreat is an incredibly complex and difficult proposition that requires careful and thoughtful planning and robust community engagement. For the past several years the State has been attempting to understand how best to determine whether or not managed retreat is appropriate for our communities, and how it could be accomplished. In 2019 the State published its Final Report *Assessing the Feasibility and Implications of Managed Retreat Strategies for Vulnerable Coastal Areas in Hawai'i* (the "***Feasibility Report***"). Managed retreat is described by the Feasibility Report as "a 'wicked problem' that ought to be approached through a combination of planning, policy, regulatory and financing tools, with critical underpinnings of political will and community acceptance." *See* Feasibility Report at pp. ii, 5.

To explain why managed retreat as a policy is not used more often, the Feasibility Report points to research from Stanford University, including for example:

- Managed retreat is controversial because of the social and psychological difficulties in displacing people from their homes, the "central reference point of the human existence."
- Managed retreat is not a low-regrets option and it is not easily reversed.
- Intangible costs such as cultural-heritage loss can be high.
- Benefits accrue to others than those who are moved.

Id. at p. 8.

The Feasibility Report states in part that:

> "Regardless of whether retreat is necessitated by a catastrophic event, such as a storm, or chronic coastal hazards, such as sea level rise or erosion, Hawaii needs to:
>
> - Determine whether retreat is the solution versus accommodation and / or protection, ***because not all coastal areas can be retreated.***
> - Develop a criteria list to determine which areas (or facilities) will be retreated. ***It will not be possible to retreat the entire coastline for all the Hawaiian Islands. Thus, Hawaii will need to develop a balanced and just ranking system to determine which areas will be retreated.***
> - Review its State and county land use to determine where it may be possible, meaning where there is available land, given competing priorities such as agricultural production, conservation holdings, open space, military uses, etc. – to retreat inland.
> - Incorporate managed retreat into the State and counties' long-range planning frameworks. Comprehensive planning must be utilized for retreat to be successful. Comprehensive planning will help communities redevelop with the necessary infrastructure and entire business communities will not needlessly be fractured / fragmented when retreat occurs. It will be necessary to update planning frameworks at multiple levels to implement a successful managed retreat strategy.

- ***Obtain some level of community agreement and understanding for there to be successful retreat.***
- Ensure that open space and wetlands are preserved, when retreat occurs, as a buffer against future storms and coastal erosion and for public access.
- ***Secure federal, state and private funding to enable retreat.***"

Id. at p. 20 (emphasis added).

There needs to be a focus on and discuss of societal impacts, economic impacts, and legal issues. 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 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.

We are just beginning to have the candid discussions and put in the legwork that are both required before managed retreat can be considered. Indeed, the State Office of Planning and Sustainable Development is currently (*i.e.*, in 2023) "embarking on a next-step study that will assess the options for and implications of implementing managed retreat from the perspectives of (1) policy and regulation, and (2) funding and financing mechanisms[.]" *See Hawai'i Sea Level Rise Vulnerability and Adaptation Report: 2022 Update* at p. ii. The 2022 Update recommends "mak[ing] managed retreat a viable option[.]" *See id.* at p. iv. In other words, managed retreat is not a viable option right now. With these realities in mind, I offer the following comments.

Section 26-1.6(a) offers an improvement from the language in CD1. However, the 10-year time frame for accumulating the valuation of repairs and alterations does not make sense in the context of structures like hotels that need to be repaired and refreshed regularly in order to remain competitive. I respectfully offer that a 5-year period would be more appropriate.

Additionally, although Section 26-1.9(b) offers an improvement from the language of CD1, giving the director the discretion to condition a shoreline setback variance on an owner forfeiting the ability to seek a future variance for shoreline hardening is not necessary. Under HRS chapter 205A, new (and rebuilt) shoreline hardening structures are generally prohibited makai of private structures where sand beaches are present. The condition contemplated under § 26-1.9(b) would go beyond that and prohibit shoreline hardening structures where no sand beach is present. This is inconsistent with HRS chapter 205A.

Mahalo nui,

Ivan M. Lui-Kwan

BUILT TO LAST
JTG LLC
PYRAMID PREMIER PROPERTIES

Aloha Council Chair Waters and Council members,

My name is Tim Gutierrez and I am the principal of JTG LLC, and Pyramid Premier Properties that has built and designed many custom oceanfront residential projects in East Oahu the past 35 years. I strongly oppose Bill 41.

What professional Architectural, Civil, Geotechnical, Hydraulic, among many other engineering reports are you referring to with your mitigation measures? What professional and historical studies have led to these proposed regulations on this bill? Where are the sources that substantiate these mitigation measures?

I understand and acknowledge the research and realities of climate change and projected sea level rise and their impacts. However, a one-size-fits-all approach is NOT the solution that should be blanketed for all coastal parcels islandwide or nationwide. Many who have “supported” this bill fail to realize the unique situations of each individual ocean/beachfront home. Those communities that do live in these neighborhoods will have adverse economic and social impacts from Bill 41.

The Sea Level Rise Exposure Area model is also not accurately designed for Honolulu’s complex shorelines and coastlines. The model blatantly assumes the rise-and-all sand environments, which responds very differently to those areas that have elements like reef, walls or rocky headlands. The result of these assumptions is inaccurate, so the SLR-XA tool should not be enshrined as a law and regulation for all of Oahu’s oceanfront properties.

There are many factors to be considered to determine the setback for each individual property, including topography elevation, flood zones, existing conditions of legal seawalls, or natural vegetation. The DPP has not given any opportunities or room for discussions from architects and engineers to design any mitigations within the entitled setback lines that can withstand any occasional tidal flooding and future erosion.

Real solutions and viable alternatives that require creative and meaningful collaboration of the community, architects, engineers are what is truly necessary in this situation. I strongly stand behind the AIA Honolulu Board who recently submitted their letter of opposition to this Bill in the past meeting. We should be collaborating with our builders, engineers, and architects who are constantly coming up with solutions that address the relationship of their built structures with its environment. There are other viable solutions that can be implemented to prevent future homes from erosion such as adaptive foundation elements, sheet piling, or building on higher elevations, just to name a few.

4614 Kilauea Avenue Honolulu, Hawaii 96816 808.734.1683 www.PyramidHawaii.com

JTG LLC
PYRAMID PREMIER PROPERTIES

For those who use the north shore home that collapsed last year as a scare tactic example in their statements stating this bill's goal is to 'prevent all other homes from collapsing' do not understand the entirety of this Bill's consequences which will negatively impact much of Honolulu's urban and residential developments. You need to also take into consideration the house and lot situation that previously existed was non conforming to current oceanfront setbacks and civil engineering requirements among many other issues not reported.

Combined with increasing population and Hawaii's premium price tag on the square footage land, this bill will be detrimental to the families that have worked so hard to afford a home on this island and create immense hardship on those who wish to pass down their home to the next generation.

Following Sect. 23-44 (b)(8) - *"...proposing a minimum of three feet above the flood insurance rate map base flood elevation"*

- What is the data being followed to substantiate this 3' minimum? Who is determining this specific measure? Shouldn't the finished lowest floor elevation be consistent with the Sea Level Rise maps and potential new flood elevation? We already follow and abide by the FEMA guidelines; it is unnecessary to raise the elevation 3' more than what is needed for base flood elevation. This will create hardship on the property fill, grading and construction.FEMA has based their flood maps and sea level rise on the 100 year occurrence scale.This is FACT and Historical evidence not a prediction!

To reiterate please do not pass this Bill 41 as we must make careful considerations and reasonable alternatives. Though we cannot ignore any of the scientific based research done, we need to include research and design-led solutions also from a design and engineering perspective. Ultimately our goal in this profession is to create viable design solutions for each individual oceanfront project. Not all lots are the same. Increasing to a 60' minimum setback and raising the BFE 3 ft above the base flood elevation is going to make a lot of oceanfront properties unbuildable and unrepairable. This will force many owners to do drastic mitigation measures.

Thank you for the opportunity to testify on this bill.

Tim Gutierrez

4614 Kilauea Avenue Honolulu, Hawaii 96816 808.734.1683 www.PyramidHawaii.com

Feb 8, 2023

Dear Chair Members,

My name is Kristan V Eiserloh, an architect in Honolulu specializing in the design of coastal properties for the past 35 years. I am writing this letter with the intention to persuade you to vote no on Bill 41 for the following reasons:

1. Bill 41 will prevent property owners from having the full use of their land now in 2023 because **in 65 years,** if there is sea level rise, there might be water in that location. There isn't even the consideration whether you live on the beach or high up on a cliff. All properties are treated equal.

2. The Conclusions behind the Bill are only one dimensional: Retreat from the Coast no matter the circumstances. Its gloom & doom, we'll never make it mentality. What alternatives were considered? The State of Hawaii is currently planning to raise the grade of the site rather than to retreat. Entire Islands can be formed in the middle of the sea if the will is strong enough.

3. There needs to be a more thorough understanding of how structures can be designed today to eliminate the impact of future Sea Level Rise. Homes can be protected from flooding and falling apart from wave impact with proper Foundation Design. Invite architects, engineers and contractors to give a thorough presentation about this topic.

4. These Zoning changes are too drastic for properties not affected by erosion or sea level rise. All oceanfront properties will not be impacted the same. Provide exemptions to the 60' setback in the Bill. Provide alternatives to only retreating.

5. What if Scientists figure out ways to capture the carbon and reduce the impact of global warming & SLR? This idea is not a dream. It is actually happening across the globe and several companies are achieving early success.

6. This Bill will virtually eliminate the design and construction of new residences. Existing homes will be remolded & renovated legally up to 50% or illegally without permits. Many of these homes are not located above the current Flood Plane Elevation nor are built strong enough to resist hurricanes. Passing laws that prevent home owners from rebuilding safer homes doesn't seem to be in the community's best interest.

820 W. Hind Drive #240139 Honolulu, Hawaii 96824 Tel: (808) 777-9968
email: kris@eiserlohharchitects.com website: EiserlohArchitects.com

7. Property values for Oceanfront homes will be significantly impacted by these zoning changes. For the smaller properties the economic impact will be far more significant. The City will also loose tens of millions in tax revenue because of the zoning change.

8. This Bill will significantly impact the Construction industry and again tax revenue for the City. Hundreds of construction, architectural & engineering jobs along with hundreds of millions of dollars of revenue coming into the economy will be lost each year.

Please reconsider passing this Bill & without further study of the alternatives. Passing a Bill that

Sincerely,

Kristan V Eiserloh, Architect and concerned citizen.

820 W. Hind Drive #240139 Honolulu, Hawaii 96824 Tel: (808) 777-9968
email: kris@eiserloharchitects.com website: EiserlohArchitects.com

February 9, 2023

The Honorable Esther Kiaʻāina, Chair
The Honorable Radiant Cordeiro, Vice-Chair
and Members of the Committee on Planning
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawaii 96813

Subject: Bill 41 (2022), CD1 and Bill 42 (2022), CD1

Dear Chair Kiaʻāina, Vice-Chair Cordeiro, 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 both Bills 41 and Bill 42 (2022), CD1, unless certain key changes are made to them and to the SMA process.**

Bills 41 and 42, as currently drafted, would have unintended consequences that would unfairly and unnecessarily deprive individual owners of the use and value of their properties and would be unfair and devastating for many small landowners like me.

Bill 41 (2022), CD1

There are some shoreline properties facing imminent and grave danger from both storm surf and sea level rise.

However, many shoreline properties like mine do not face any imminent danger and have many decades of use and value remaining even in the face of the projected sea level rise. Bill 41, as written, would destroy the value of many such properties.

Given the many different situations around the island, what is clear is that an arbitrary "one size fits all" increase in shoreline setback, irrespective of lot size, location, topography, exposure, and shoreline conditions, is not fair, reasonable, or necessary. 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.

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 and worthless. Please see the attached drawing, which shows what Bill 41 would do to my property.

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."

The Department's "simple" answer of getting a variance if needed is not realistic. As shown in the attached drawing, for lots like mine on Kaneohe Bay (and around the island), doing almost any construction or renovation will involve work within the proposed 60-foot setback. **How can the City Council or any City and County body deal in a timely manner with the hundreds, if not thousands, of variance applications and hearings that will be triggered by this "one size fits all" approach to shoreline setbacks?**

The immediate focus should be on addressing the micro-environments that face imminent danger and need immediate action. Immediate, creative, and coordinated efforts are needed to address the problems faced by such threatened properties. Then more time and study is needed on appropriate setbacks for different micro-environments around the island, taking into account creative ways of maximizing the useful life and value of existing shoreline properties.

Bill 42 (2022), CD1

The threat of Bill 42 has created a panic on the part of shoreline property owners, who are scrambling to find a way to deal the proposed imposition of SMA requirements on all shoreline properties. I have been quoted $125,000 - $175,000 to prepare and submit the SMA application for just a normal single-family home. **Given 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.

Pushing back the proposed implementation date from January 1, 2024 to July 1, 2024 will do nothing to solve this problem.

The real problem is that the $500,000 cutoff for minor SMA permits has never been changed, while construction costs have increased by 4 to 5 times. The cutoff for minor SMA permits should be increased to $2,000,000.

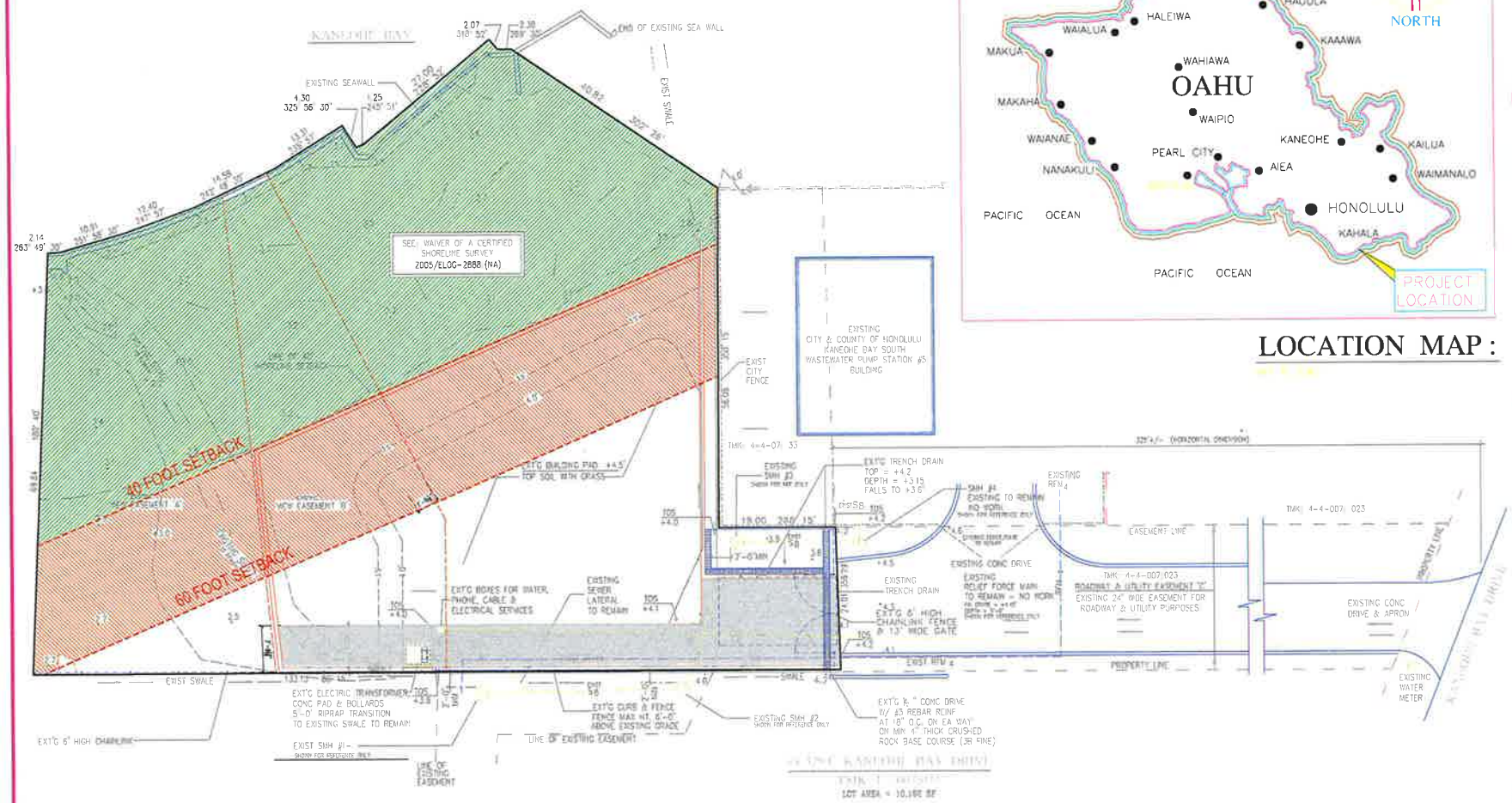
When the $500,000 cutoff was enacted in about 1987, normal single-family homes could be built for less than $500,000, and it was truly a large construction project or development that would trigger a requirement for a major SMA permit (together with all its environmental, public notice, and public hearing requirements). **Construction costs are now 4 to 5 times higher than they were in 1987. As a result, almost any construction on a shoreline parcel will require a major SMA permit. How many small property owners can afford that? How is the City and County going to handle all these SMA permits and hearings?**

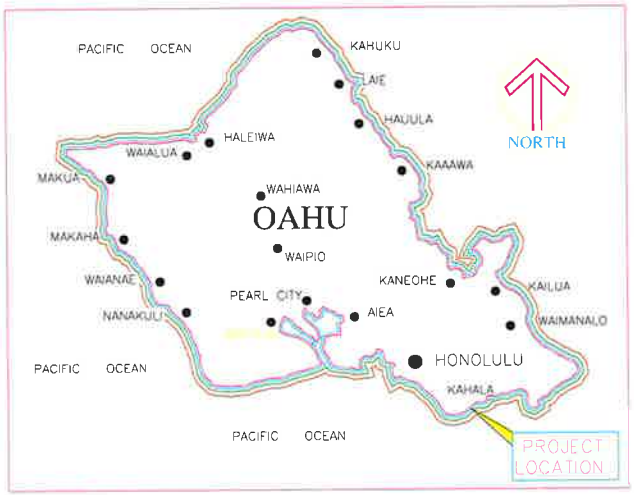
For these reasons, I strongly oppose both Bills 41 and 42, as presently written.

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

Sincerely,

Robert Armstrong





LOCATION MAP :

REVISIONS :

ARMSTRONG DESIGN GROUP
DAVID MIYASAKI ARCHITECT
60 SAND ISLAND ACCESS ROAD
HONOLULU, HI 96819
PHONE (808) 845-2484

KANEOHE BAY LOT

44-329 KANEOHE BAY DRIVE
TMK: 4-4-007:024

DATE 9-20-2022

SHEET A002

PROJECT LOCATION & SITE PLAN

cades · schutte

A LIMITED LIABILITY LAW PARTNERSHIP

Calvert G. Chipchase
1000 Bishop Street, Suite 1200
Honolulu, Hawai'i 96813-4212
Direct Line: (808) 521-9220
Direct Fax: (808) 540-5021
Email: cchipchase@cades.com

February 9, 2023

Councilmember Ester Kia`aina, Chair
Councilmember Radiant Cordero, Vice Chair
Planning and the Economy Committee, Honolulu City Council

Re: Comments on Bill 41 (2022) – Shoreline Setbacks; Bill 42 (2022) – Special Management Area ("SMA")

Aloha Chair Kia`aina, Vice Chair Cordero, and members of the Planning and the Economy Committee,

Thank you for considering comments on Bills 41 and 42. Changes that have already been incorporated in CD2, such as continuing to allow concurrent processing of environmental documents and SMA permits, will help facilitate the SMA permit process. I appreciate your concern for those issues.

I offer the following comments on the Proposed CD2 for your consideration.

I. Bill 41 (2022) – Shoreline Setbacks

1. Proposed ROH Section 26-1.6 Repairs to Nonconforming Structures

Bill 41 amends ROH Section 26-1.6 to limit repairs to nonconforming structures to a cumulative value of fifty or seventy-five percent of the replacement cost of the structure over a ten-year period, depending on the structure's distance from the certified shoreline. Previously, this provision only required that the repairs not increase the nonconformity.

Owners should be able to repair and maintain their structures as long as they do not increase the nonconformity. Forced dilapidation of existing structures is not in the best interest of our community.

2. Sea Level Rise Exposure Area

Bill 41 and Bill 42 incorporate the Sea Level Rise Exposure Area ("SLR-XA") in developing and implementing certain standards. SLR-XA uses the projected sea-level rise modeling that was adopted by the Hawai'i Climate Change Mitigation and Adaptation Commission as part of the 2017 Hawai'i Sea Level Rise Vulnerability and Adaptation Report. The modeling is depicted on the Hawai'i Sea Level Rise Viewer.

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

II. Bill 42 (2022) – Special Management Area

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 in Hawaii Revised Statutes ("HRS") chapter 205A.

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

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 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 object that could be fixed in place would expand the number of projects requiring an SMA permit. 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" also conforms to city and state CZM regulations.

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

Proposed section 25-3.1(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 subjection (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 25-6.1 Conditions for all development

Bill 42 would prohibit planting, watering or maintaining 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.

Please let us know if you would like to discuss any of our comments or proposed revisions further. Thank you again for your time.

Very truly yours,

Calvert G. Chipchase
for
CADES SCHUTTE
A Limited Liability Law Partnership