

From: Ken Church
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Re OA 20-01
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There has existed, for some time now, problems where the owners of shoreline properties that already have sea wall or erosion barriers are submitted to enforcement proceedings for repairs to existing structures. Often owners simply are trying to repair legal structures which existed but now were damaged.

It seems to me that in order to charge a property owner for an illegal act on Conservation Districted land it must first be determined where a Conservation zoned property boundary exists. It seems to me that this step is often missed. The normal boundary determination administrative process is that a property owner must first submit a request for a **'boundary interpretation'** to the Land Use Commission. With that a copy of a legal survey must be submitted which has a *'meets and bounds'* description of a property.

Until a **'boundary interpretation'** by the LUC occurs that defines a new shoreline the property owner ought to be able to do repairs to existing structures under HAR's various rules such as.....

HAR 13-5-2 Definitions Rule regarding the terms of *'minor repair'* etc.
HAR 13-5-7 Nonconforming Use Rule
HAR 13-5-22 to 25 Identified land uses Rules
HAR 13-5-35 Emergency Repairs Rule

Until a new boundary is determined by the LUC due to erosion the property, the owner ought to be allowed reasonable repairs within their legally defined property boundaries without suffering through the existing system of administration. In certain circumstances the Rules stipulate that *'no permit'* is required for *'minor repairs'*. In the case of more substantial repairs a permit must be obtained first according to HAR 13-5. Such a permit may require that the property owner get a survey and a *'boundary determination'* first.

There also exists uncertainty of interpretation regarding when an *'allowed use'*, ie. a repair this month and then again next month becomes a single repair under the Rules that is effectively greater than 10% which is stipulated in the Rules to be an *'allowed'* use without a permit from the DLNR.

Perhaps this has already been sorted out through the courts? I would appreciate a reply with references to official documents if such exists.

Sincerely,

Ken Church