

**From:** [Evelyn Brito](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Save Our Beach at Mana Kai  
**Date:** Thursday, October 7, 2021 9:32:06 AM

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State of Hawaii  
Board of Land and Natural Resources

October 7, 2021

Regarding Item D-8, Lease of Public Lands to Ruby & Sons

Please DENY THE LEASE to this foreign corporation and instead, ENTER INTO AGREEMENT WITH MAUI COUNTY, to manage our public beach reserve parking lot.

Access to the beach at Keawakapu, also known as “Mana Kai” is an important part of our lifestyle and culture as residents of Maui. It is our right as residents of Maui County to have access to our beach and shoreline on PUBLIC LANDS. Taking away the parking area by awarding a lease to a foreign entity (Ruby & Sons) would essentially completely cut-off all public access to the beach there, since there is no other designated parking available for that beach in that highly developed area of South Maui.

Please help to preserve the public’s right to access our beach at “Mana Kai” by denying the lease.

Respectfully,  
Evelyn Brito

**From:** [Kai Nishiki](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] D-8 Ruby & Sons  
**Date:** Thursday, October 7, 2021 12:11:14 PM  
**Attachments:** [D-8.pdf](#)

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Good morning Chair and Boardmembers,

Testifying on D-8

Please deny approval of lease of Keawakapu Beach Reserve parking lot to Ruby & Sons.

Let's start with the motto of DLNR:

"Enhance, protect, conserve, and manage Hawaii's unique and limited natural, cultural and historic resources held in public trust for current and future generations of the people of Hawaii nei, and its visitors, in partnership with others from the public and private sectors."

The best partner to fulfill this motto is the County of Maui and our community, not a foreign Chinese hotel developer whose only interest is financial gains with zero regard for our public beach access laws and community use of the beach reserve.

Please use your authority stated in page two of the RFP/RFQ documents:

"DLNR reserves the right to cancel this RFP/RFQ and reject any and all submissions when it is in the best interest of DLNR and the State of Hawaii."

I submitted a written request in June 2021 to Chair Case and Luke Sarvis which is attached and lays out many reasons why the RFP/RFQ should be cancelled as it is based on erroneous information and not in the best interest of the people of the State of Hawaii.

Besides all of that, the applicant, Ruby & Sons has a documented track record of hostile, illegal, and threatening actions toward the general public and our community use of the public beach reserve. This is not someone we want to have a long term lease on a parking lot that makes public use of the beach reserve even possible. As you know, no parking equals no beach access. There has been increased development in this area and the parking options have been severely diminished in recent years.

Here are just some of the many actions taken by the applicant:

Ruby and Sons conspired to steal more than half of our public beach parking and mark it for hotel use only and because of huge public outcry with literally three thousand

testimonies were any concessions made.

They have tried to illegally close the public beach parking lot on numerous occasions without permits and put up cones to illegally block public beach access parking on S. Kihei Rd.(photo documentation)

During the pandemic while the resort was closed they blocked off “their” stalls with orange fencing in the beach parking lot to prevent public use and this has been documented by many members of the public in our Save Mana Kai Beach Parking facebook group.(photo and video documentation)

Hotel Management has called the police multiple times on local fishermen and our keiki using the public beach reserve to try get rid of them so tourists at their hotel could watch the sunset this has been documented by police reports, DOCARE officers, DLNR Land division.

(Video documentation, police reports, DOCARE reports)

They have been caught on facebook live ripping down the “Public Beach Reserve” signage and telling our keiki and local fishermen they are revoking the public use of the beach reserve which the hotel has no right to do so. Signage has still not been replaced.(photo and video documentation, emails)

In addition, they have outstanding defaults noted in attached 2015 board submittal for a lease extension on the hotel parcel. While they have made numerous “improvements” pertaining to the hotel they have done nothing about an illegal revetment on our public beach in front of the hotel and the managed(watered) vegetation encroaching onto the public beach. They should not have been granted any lease extension and should not be granted any new leases, including this one, while defaults are outstanding.Sam Lemmo, Daniel Ornelles from the State and Tara Owens and Jim Buika from the County have done site inspections and are aware of these things.(board submittal, letters from DLNR)

The County of Maui, Mayor Victorino’s office is willing to negotiate with the State to acquire this valuable public asset in the best interest of our community. In fact, they met with Chair Case on the matter. Please encourage further discussion on the matter.

Ultimately, the Community would like to see Parcel 149 transferred to the County of Maui and improved to facilitate public access (including parking) to the shoreline for Maui residents. These improvements would include any requirements necessary to comply with the original Settlement Agreement, County of Maui current parking requirements for Ruby & Sons, as well as paid parking for non-residents and reserved free parking for residents. The issue of providing shoreline access through Parcel 149 has previously come before the State Legislature in SENATE BILL 1327 (2019) (“SB 1327”). SB 1327 called for the DLNR

to collaborate “with the county councilmember representing the south Maui residency area, Kihei Community Association, and ‘Aha Moku O Kula Makai, to develop a master plan to expand public access to the shoreline in South Maui.”

In her February 11, 2019, testimony relating to SB 1327, Chair Case of the Board of Land and Natural Resources (“Board”), noted:

“If the intent of the measure is to increase the public recreational use of the land, the department suggests that an alternative maybe for the County of Maui to request parcels 87, 149 and 1 be set aside to it by Governor’s executive order for county beach park purposes the department does not have the staff or funding necessary to manage shoreline access or shoreline recreational lands that are not designated as a state managed area.”

Based on the above statements by Chair Case and the present RFQ/RFP, I have reached out and begun initial discussions with the County of Maui regarding Parcel 149.

The County, thus far, appears to be ready, willing, and able to take control of Parcel 1, 87, and 149 and have submitted a letter of interest. Given this, I and the Community urge DLNR to cancel the present RFQ/RFP and seek further input regarding the Amended Settlement Agreement and the possible transfer of Parcel 149 via executive order.

We must keep public lands in public hands. No foreign developer should be given a long term lease to our beach reserve parking lot especially when they have demonstrated clear disdain for our community and public beach access laws.

The Community looks forward to working with the Governor, DLNR, Chair Case, and the rest of the Board to successfully transfer Parcel 149, 1 and 87 to the County via executive order. Together we can make this a “win-win” situation for the State, County, and Community while abiding by any requirements laid out in the Settlement Agreement (if applicable). Again, thank you for your time, and please let me know what the next steps will be.

~Kai Nishiki

Aloha Mr. Sarvis,

Thank you for taking the time to talk with me regarding the Department of Land and Natural Resources (“DLNR”) ongoing Request for Qualification/Request for Proposals for the Maintenance and Operation of a Public/Private Parking Lot in Kamaole, Wailuku on the island of Maui, dated May 24, 2021 (“RFQ/RFP”). The property that is the subject of the RFQ/RFP consists of .694 acres and is designated as Tax Map Key: (2) 3-9-004:149

("Parcel 149").

Link: <https://dlnr.hawaii.gov/ld/rfq-rfp-public-private-parking-lot-kamaole-wailuku-maui/>

As a community advocate, I have worked to ensure community concerns relating to development in Maui County are appropriately accounted for in the development process. As a result, other community members and I (the "Community") have been monitoring Parcel 149 for several years. Given this, the Community has serious reservations about DLNR's ongoing RFQ/RFP.

First, the RFQ/RFP appears narrowly written to only apply to one qualified bidder, Ruby & Sons LLC, the current leaseholder for Parcel 29, the parcel adjacent to Parcel 149. This assumption is evidenced by DLNR's requirements which include mandating the selected lessee:

- Prepare an "Environmental Assessment pursuant to [Hawaii Revised Statutes] Chapter 343 for the projects as a whole on Parcels 29 and 149...."
- Prepare and file "an application for a Conditional Use Permit allowing commercial parking on Parcel 149 for the required off-site parking for Ruby & Sons'... and any other commercial uses on Parcels 29 and/or 149...."

RFQ/RFP at 3. Further evidence supporting that DLNR explicitly wrote RFQ/RFP for Ruby & Sons, LLC can be seen in the January 8, 2021, DLNR board submittal that approved the issuance of the RFQ/RFP. Specifically, the header on pages 2-9 of Board Submittal D-6 contains the following reference "BLNR-RFQ/RFP for Ruby & Sons LLC Lease." RFQ/RFP, Attachment 1, Board Submittal D-6 ("Board Submittal D-6"), at pgs. 2-9.

Second, and more concerning, is DLNR's reference and use of the "Amended Settlement Agreement." For example, in the RFQ/RFP, DLNR states:

The selected applicant shall comply with the terms and conditions of November 25, 2005 Settlement Agreement ... as subsequently amended by a 2018 Amendment to Settlement Agreement [...]. The following terms and conditions of the Amended Settlement Agreement are binding on the selected lessee[.]

RFQ/RFP at 2-3. Board Submittal D-6, attached to the RFQ/RFP, also notes:

In 2018, Ruby & Sons and the County agreed to amend the settlement agreement. The conditions described below are required of Ruby and Sons or any potential lessee of the subject parcel for parking lot purposes. Items 8, 10, and 11 reflect the amendments agreed

to by Ruby & Sons and the County.”

Board Submittal D-6 at 3. The Community firmly believes that the Amended Settlement Agreement was not fully executed. As evidence of this, the Community points to the unsigned Amended Settlement Agreement posted on DLNR’s RFQ/RFP website. Corporation Counsel for the County of Maui also stated during a hearing on the Conditional permit(since expired) at the Maui County Council that the County would not be party to a settlement agreement such as this. See Amended Settlement Agreement at 5. Given that Maui County did not sign the Amended Settlement Agreement, it is not binding on Maui County. Furthermore, the RFQ/RFP’s heavy reliance on the Amended Settlement Agreement likely voids the RFQ/RFP in its entirety.

Finally, the Community notes that the RFQ/RFP has other errors that raise further questions that need clarifying and/or correction before proceeding. These errors include DLNR’s statement that “Ruby & Sons applied for and obtained a Conditional Use Permit from the Maui County Council with the support of the Maui County Planning Department satisfying items 2 and 3.” RFQ/RFP at 4. However, the “Conditional Use Permit” for the property that Ruby and Sons obtained in 2019 expired in January of 2021 and is no longer valid. The RFQ/RFP also requires that “Hall and Kuloloio shall approve of all parking signage prior to installation,” even though Mr. Kuloloio is deceased, making this requirement impossible. RFQ/RFP at 4.

Ultimately, the Community would like to see Parcel 149 transferred to the County of Maui and improved to facilitate public access (including parking) to the shoreline for south Maui residents. These improvements would include any requirements necessary to comply with the original Settlement Agreement, County of Maui current parking requirements for Ruby & Sons, as well as paid parking for non-residents and reserved free parking for residents. The issue of providing shoreline access through Parcel 149 has previously come before the State Legislature in SENATE BILL 1327 (2019) (“SB 1327”). SB 1327 called for the DLNR to collaborate “with the county councilmember representing the south Maui residency area, Kihei Community Association, and ‘Aha Moku O Kula Makai, to develop a master plan to expand public access to the shoreline in South Maui.”

In her February 11, 2019, testimony relating to SB 1327, Chair Case of the Board of Land and Natural Resources (“Board”), noted:

If the intent of the measure is to increase the public recreational use of the land, the department suggests that an alternative maybe for the County of Maui to request parcels 87, 149 and 1 be set aside to it by Governor’s executive order for county beach park purposes the department does not have the staff or funding necessary to manage shoreline access or shoreline recreational lands that are not designated as a state managed area.

DLNR Testimony at 2. Based on the above statements by Chair Case and the present RFQ/RFP, I have reached out and begun initial discussions with the County of Maui regarding Parcel 149. The County, thus far, appears to be ready, willing, and able to take control of Parcel 1, 87, and 149 and has submitted a letter of interest.

Given this, I and the Community urge DLNR to cancel the present RFQ/RFP and seek further input regarding the Amended Settlement Agreement and the possible transfer of Parcel 149 via executive order. Therefore, please consider this letter a FORMAL REQUEST for DLNR to cancel the "Request for Qualification/ Request for Proposals for the Maintenance and Operation of a Public/Private Parking Lot in Kamaole, Wailuku, on the island of Maui that was issued on May 24, 2021.

Link to testimony:

[https://www.capitol.hawaii.gov/Session2019/Testimony/SB1327\\_TESTIMONY\\_WTL-PSM\\_02-11-19\\_.PDF](https://www.capitol.hawaii.gov/Session2019/Testimony/SB1327_TESTIMONY_WTL-PSM_02-11-19_.PDF)

The Community looks forward to working with the Governor, DLNR, Chair Case, and the rest of the Board to successfully transfer Parcel 149, 1 and 87 to the County via executive order.

Together, we can make this a "win-win" situation for the State, County, and Community while abiding by any requirements laid out in the Settlement Agreement (if applicable).

Again, thank you for your time, and please let me know what the next steps will be.

Mahalo,

Kai Nishiki

Sent from my iPad

Sent from my iPad

**From:** [Marcy Martin](#)  
**To:** [DLNR.BLNR.Testimony](#); [DLNR.Testimony](#)  
**Subject:** [EXTERNAL] agenda item D-8  
**Date:** Thursday, October 7, 2021 7:52:36 PM

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BLNR,

Please deny the lease to Ruby & Sons and instead enter into agreement with the County of Maui to manage our public beach reserve parking lot. There is a serious lack of beach parking on Maui. A private person or enterprise should never have a lease to our scarce and valuable oceanfront land.

Businesses should never be allowed to profit off of government land. The land is best used for 100% beach access parking.

Thank you.

Marcy Martin,  
Paia



Council Chair  
Alice L. Lee

Vice-Chair  
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore  
Tasha Kama

Councilmembers  
Gabe Johnson  
Kelly Takaya King  
Michael J. Molina  
Tamara Paltin  
Shane M. Sinenci  
Yuki Lei K. Sugimura



Director of Council Services  
Traci N. T. Fujita, Esq.

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

October 7, 2021

Board of Land and Natural Resources  
1151 Punchbowl St.  
Honolulu, HI 96813

**SUBJECT: OPPOSITION TO AGENDA ITEM D.8. PROPOSAL  
SUBMITTED BY RUBY & SONS HOSPITALITY, LLC IN  
RESPONSE TO REQUEST FOR QUALIFICATIONS /  
REQUEST FOR PROPOSALS FOR LEASE OF PUBLIC  
LANDS; KAMAOLE, WAILUKU, MAUI**

Aloha e Chairperson Case and esteemed board members,

Mahalo for this opportunity to submit testimony in STRONG OPPOSITION of agenda item D.8., to "Approve Evaluation Committee's Recommendation for Selection of Proposal Submitted by Ruby & Sons Hospitality, LLC in Response to Request for Qualifications/ Request for Proposals for Lease of Public Lands; Kama'ole, Wailuku, Maui, Tax Map Keys: (2) 3-9-004:149," better known as Keawakapu beach parking lot.

This issue has been a point of contention and community upheaval for quite some time now, and we have the ability to resolve this amicably, by supporting County management of this parcel. Today, you have an opportunity to assure the community, that their representatives and decision-makers are not only listening to them, but are also responding to protect the best interests of the public and public spaces.

As you know, preservation of our now limited public beach access is very valuable to our constituency, and rightfully so, as more and more of our public spaces are overrun with tourist accommodations and the industry's auxiliary needs. The South Maui community is one of two communities within our small county that feels that impact the most.

Keawakapu, literally translated, means “sacred or forbidden harbor.” For generations, this beach has been frequented by fishermen, Hawaiian cultural practitioners, and local families alike. It is a place enjoyed by many residents across the island, something becoming more rare to find, and in my humble opinion, is something that should be safeguarded for the future.

Before serving on the council, a decision was made to uphold amended terms of a settlement agreement, which included additional reserved parking for the Maui Ocean Front Inn, one that was not signed by the County Department or Corporation Counsel, as was noted by Corporation Counsel during deliberations. This decision resulted in the loss of over two dozen public parking stalls, which have since been marked reserved for hotel occupants. For most of the day, these stalls sit vacant, and represent the growing resentment and inequity residents feel toward the industry.

I have been following the public’s consorted effort to collect data of the use of the reserved stalls, or lack thereof, and due to this fact, I support the public’s desire to place the lease under County, where a better shared space agreement can be made, one that more equitably suits the passive needs for the hotel and the public alike. I understand that the Mayor’s administration is willing to accept this lease, and I wholeheartedly support their willingness to do so.

As the Maui County Council Budget Committee Chair, I am committed to assisting in whatever way that may present itself, if the county is offered that opportunity, in the public’s interest. Including, the expedition of legislative or budgetary proposals required for the maintenance and upkeep of the parking lot parcel.

Please vote to deny the applicant’s proposal for a 35-year lease, and allow the County of Maui to manage this public space in the interest of our community. Mahalo again for this opportunity to share my mana’o and for your service on this board.

Mahalo,

A handwritten signature in black ink, reading "Keani Rawlins-Fernandez". The signature is fluid and cursive, with the first name "Keani" being more prominent.

KEANI RAWLINS-FERNANDEZ,  
Vice-Chair, Maui County Council

**From:** [billsnipes808](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Keawakapu, Item D-8, Friday, October 8, 2021  
**Date:** Thursday, October 7, 2021 1:14:19 PM

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I ask the BLNR to DENY the lease to Ruby & Sons and instead enter into an agreement with the County of Maui to manage our public beach reserve parking lot.

This pristine beach, access thereto, and the associated parking lot should remain in PUBLIC hands.

Bill Snipes  
Wailea resident

Sent from my Verizon, Samsung Galaxy smartphone

**From:** [Chris Stankis](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Item D-8  
**Date:** Thursday, October 7, 2021 5:15:50 PM

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Dear Sirs

Item D-8: please deny lease to Ruby & Sons and instead enter into agreement with the County of Maui to manage our public beach reserve parking lot. R & S have proven to be hostile to public use of the beach and have tried repeatedly to limit beach parking and beach access. It is time to change the situation and enter into an agreement with the County of Maui to ensure long term public access and public parking at this site.

Mahalo

Chris Stankis  
Kihei resident and regular user of the beach in question

**From:** [LiLi Townsend](#)  
**To:** [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Agenda Item D-8; deny lease to Ruby & Sons  
**Date:** Thursday, October 7, 2021 3:02:24 PM

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Aloha,

I am a 33 year Maui resident who walks/swims Keawekapu beach almost daily. I depend on the parking at Mana Kai, since I am a kupuna and am not able to walk very long distances.

I am writing to urge you to please deny lease to Ruby & Sons and instead enter into agreement with the County of Maui to manage our public beach reserve parking lot.

Maui County has let us down in the past by not securing halauea beach access. We are reduced to a tiny portion of the beach. This could have been avoided with better planning. Let's make this right!

A handwritten signature in blue ink. The signature consists of a stylized 'L' with a heart shape inside the upper loop, followed by 'iLi'. There are small dots above the 'L' and 'i'.

Love Each Soul, Love the Whole