

To: Board of Land and Natural Resources
1151 Punchbowl St. Room 132
Honolulu, Hawaii 96809

Testimony on Item [K-5: In Support of OCCL Submittal - Enforcement Action](#)

Dear Chair Chang and Members of the Board of Land and Natural Resources,

On behalf of the Surfrider Foundation and the Surfrider Foundation O'ahu Chapter, we support the Office of Conservation and Coastal Lands' (OCCL) recommendation to levy \$77,000 in fines and administrative costs on homeowners Joshua K. VanEmmerik of 59-147 Ke Nui Road. In addition, we support the OCCL's requirements that Mr. VanEmmerik remove unauthorized erosion control measures and encroachment, remove or relocate the portions of the dwelling makai of the shoreline, and return the shoreline area to a more natural state by September 1, 2024.

As an organization dedicated to the protection of ocean, waves, and beaches, Surfrider Foundation strongly believes in the need to enforce fines for actions that are illegally conducted in the conservation district of the coastal zone. Lack of enforcement or minimizing fines serves to endorse actions that threaten public resources and public safety.

According to the OCCL submittal, on October 20, 2023 OCCL issued a letter to Mr. VanEmmerik stating that they had recently been notified by the City and County Department of Planning and Permitting that the residences located on Mr. VanEmmerik's two properties were at risk of failure. On November 2, 2023, I walked the beach from Sunset to Rocky Point and observed at least four individuals in Mr. VanEmmerik's property. Two of the women used a small rope to scale down tarp and (at least) a 10 foot drop from the structure to the beach. There was also a recently installed wooden deck rail on one of the structures. And despite the fact that Mr. VanEmmerik was supposed to have removed all of the violating shoreline structures, tarps were visible on the shoreline adjacent to his property. Photos from November 2, 2023 are included below.

It should be noted that Mr. VanEmmerik is infamous in the community for pouring concrete directly on the public beach - one of the most egregious actions taken by a private property owner on the public beach across the state. Though Mr. VanEmmerik was reprimanded for these actions, his continued choice to ignore state rules and regulations exemplifies the need for the proposed fines and penalties. The actions of Mr. VanEmmerik further highlight the ability of coastal property owners to manipulate, modify, and even commodify the public beach to suit their needs as property owners.

The beach, however, is a public trust resource, one that exists for the enjoyment and use of the community. Sandy beaches also provide important wildlife habitat, improve water quality, and offer other benefits of great economic value. Yet, they are a fragile resource; one that exists in a delicate balance between ocean and landward forces. Mr. VanEmmerik's actions have repeatedly threatened this resource.

DLNR/OCCL has made it clear that their responsibility as a state agency is to maintain and protect the public shoreline. HRS Chapter 205 (A) additionally directs state agencies to *(A) Protect valuable coastal ecosystems, including reefs, from disruption and minimize adverse impacts on all coastal ecosystems.*

Surfrider Foundation thus implores you to levy meaningful fines and further send a clear message to the Freemans and other coastal homeowners who flagrantly violate the law and impact the coastal resources of Hawai'i. As is abundantly clear, coastal erosion is only going to worsen in the coming years. Without clear consequences, we can expect to see the Freemans and others continue to take actions that threaten our beaches and sandy coastlines.

Sincerely,

A handwritten signature in cursive script that reads "Lauren Blickley".

Lauren Blickley
Hawai'i Regional Manager
Surfrider Foundation

November 2023 Photos





