

Denise Antolini
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To: blnr.testimony@hawaii.gov

For BLNR Meeting on Jan. 12, 2024

Testimony on K-2: Request for Administrative Fines and Other Penalties against Sunset Oasis LLC, including members **William and Melinda Kernot**, for the Conservation District Enforcement Case OA 21-18 regarding the alleged permit noncompliance, construction of shoreline erosion control device, and encroachment upon State Land located makai of 59-151 A Ke Nui Road, Hale‘iwa, Island of O‘ahu, Hawai‘i, Tax Map Key: (1) 5-9-002:005.

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

1. I strongly support the OCCL enforcement action, submittal, proposed order, and the imposition of fines/costs of **\$948,000**, against the Kernots.

The Kernots do not appear to live on the property or be residents of Hawai‘i or the North Shore. They appear to use the front home as an illegal vacation rental. Why does that matter? Because it indicates that they have only an “investment” model for this beachfront property – they are not part of the community and not taking responsibility for their negative impact on the beach and the community.

The Kernot property is immediately adjacent to the Zhungo/Youman property (to the Hale‘iwa side) and as the OCCL submittal indicates, **the two properties appear to have taken joint illegal action to install unauthorized erosion control measures in front of their two homes.** The photo makes that joint action abundantly clear. Please note the large excavator on the beach – this is not a small undertaking but a **massive joint installation.**



12/10/2020 OCCL Photo of Shoreline Area Fronting the Subject Parcel

The Board should be asking: Who authorized this work? Where is the contract? Who was the licensed contractor? Where is the permit? What did it cost? Do you live in the house? Who lives there? Do you operate a vacation rental – it is legal? Without these answers, homeowners seem to continue to deny all responsibility – “I was not around - it wasn’t me”!! -- no accountability exists for these rogue actions that impair the public shoreline. This is one of the many reasons why the OCCL enforcement actions are so vitally important and must be supported by the Board.

How large is the installation? Massive and deeply embedded and now highly eroded.

In the photo below (from the OCCL submittal, p. 30), you can see:

- far left two homes owned by VanEmmerik (brown roofs)
- third house owned by Zhungo/Youman (blue paint, gray roof) – this house has been moved back (with prior approval by DPP) and elevated, you can see the massive amount of geotextible “blimp bags” falling into the shoreline
- **fourth house(s) are owned by the Kernots** (*massive* overlay black tarp, gray roof) (note that since the Zhungo/Youman house was, as of this photo, relocated mauka, the Kernots house is now the *most* “proud” – i.e. more exposed to shoreline erosion) along this stretch.



9/7/2022 OCCL Photo of Shoreline Area Fronting the Subject Parcel

As the OCCL submittal indicates, the massive, continuous, and destructive accumulation of unauthorized materials in the shoreline by Kernots constitute egregious shoreline violations along Kammies/Sunset beach.

This is a photo I also included in my testimony on the Zhungo/Youman submittal. Here we are – one year later . . . on September 16, 2023 I took a photo of a young man with a baby in his arms walking along the public shoreline and looking at the impassable area in front of the Zhungo/Youman – **and Kernots** -- the Kernots house is on the far side and **part of** this massive mountain of materials.



These jerry-rigged “erosion control devices” are a *mountain of junk and materials* – *rocks, tarps, wood, rope, metal pins and concrete* - completely impeding public access for this man, his baby, and so many others invisible to us at this moment.

See also the fisher on the other side of the “materials”? He also could not use the area in front of the Zhungo/Youman – and **Kernots** -- house to fish. The damage to the beach, recreational use, and the public trust could not be more clear.

Six weeks later . . . here are two photos that I took on November 2, 2023 in front of the **Kernots** house showing how absolutely massive and mind-boggling – and ineffective -- this “*deteriorating mountain*” of material placed on the public beach really is. Note the fresh “roll” of tarp material just laying on the sand, indicating ongoing illegal activity:





These materials pose a direct risk to the marine environment – and to the integrity of the beach structure. Compare to the OCCL photos above from 2020 and 2022 – How many of these tarps and underlying burritos or bags were installed? How many are left? What happened to all of them? The only logical conclusion is that they washed into the nearshore – posing hazards for marine life, beachgoers, and surfers.

And to add to the tragedy, the materials pose a danger to anyone on the beach. While adults may simply avoid the area, these materials constitute an attractive nuisance for children who might be tempted to play around these heavy and risky materials. Children should be able to enjoy this beach without risk of being entangled by tarps, sandbags, and ropes; impaled by metal or sharp materials; or flattened by rolling or dislocated massive sandbags.

In short, the situation created by Zhungo/Youman – and the **Kernots** -- and the damage they caused to the beach -- in a futile attempt to maintain what also appears to be an illegal vacation rental property -- is

outrageous and intolerable to the community.

The Kernots have what appear to be two houses on the lot. Unfortunately, it appears that the makai house will not be habitable in the near future due to the highly eroded beach conditions and their – and their neighbors’ -- continuing unauthorized activities.

2. When the Board adopts an order in this case, I request that the Board continue to include the same **community notification** provisions (to neighbors, signs, Sunset Beach Community Association) that the Board added in the Freeman and McNamara enforcement actions. Keeping the community informed is critical to helping DLNR restore the beach!

Please support the OCCL submittal and strong enforcement action.

Mahalo,

Sincerely,

A handwritten signature in cursive script that reads "Denise Antolini".

Denise Antolini

From: [Karen Gallagher](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on K-2 January 12th
Date: Thursday, January 11, 2024 9:02:15 AM

Testimony on K-2: Request for Administrative Fines and Other Penalties against Sunset Oasis LLC, including members **William and Melinda Kernot**, for the Conservation District Enforcement Case OA 21-18 regarding the alleged permit noncompliance, construction of shoreline erosion control device, and encroachment upon State Land located makai of 59-151 A Ke Nui Road, Hale'iwa, Island of O'ahu, Hawai'i, Tax Map Key: (1) 5-9-002:005.

Aloha Chair Chang and Members of BLNR,

I have been a resident, surfer and beach-goer of the North Shore of O'ahu for almost 45 years. I request that all fines be imposed and that the beach be restored to its former glory. Please help to ensure that all laws protecting our precious beaches are enforced.

Mahalo,

Karen Gallagher

59-790 Kamehameha Hwy. A

Haleiwa, HI 96712

From: [Chip Hartman](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Enforcement cases: OA 19-08, OA 21-07 and OA 21-18
Date: Tuesday, January 9, 2024 10:40:59 AM

Aloha Board Members,

The enforcement cases before you (Zhungo LLC OA 19-08 and OA 21-07) and (Sunset Oasis OA 21-18) are fronting a beach we live near and use regularly. We have watched burritos and sand bags installed as well as concrete poured onto the dune over the past few years. What we have never seen are the property owners removing their debris from the beaches when they fail and wash onto the beach or into the ocean. The exception was a few months ago when the state threatened fines unless concrete was removed by a deadline. That was a form of motivation that brought about the removal of materials before they washed onto the beach by the large swell that hit that week. For this reason we support the Board's enforcement of fines and other measures to keep property owners from using public beaches in such a way as to adversely affect the public's use and enjoyment.

Mahalo,
Chip and Mari Hartman email: Seachip@yahoo.com
59-208 B Kamehameha Hwy

From: [Randall Myers](#)
To: [DLNR.BLNR.Testimony](#)
Cc: [Denise Antolini](#)
Subject: [EXTERNAL] 1/12/2024 BLNR Meeting, Agenda Item K-2
Date: Wednesday, January 10, 2024 7:42:56 PM

Aloha Chair Chang and Board Members,

In recent hearings pertaining to beachfront owners ignoring OCCL requirements for compliance to remove felt tarps and burritos from the public beach, I've described a "culture of rogue beachfront owners" who encourage each other to ignore deadlines and continue employing workers to continue unpermitted work.

I support the fines recommended by OCCL to stem unpermitted work and act as a deterrent to others who consider rogue actions which negatively impact the public beach.

Mahalo,

Randall J. Myers
(808)295-8674

From: [Amy Perruso](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony on K-2
Date: Thursday, January 11, 2024 8:45:03 AM

For BLNR Meeting on Jan. 12, 2024

Aloha e Chair Chang and BLNR Directors,

I strongly support the Request for Administrative Fines and Other Penalties against Sunset Oasis LLC, including members William and Melinda Kernot, for the Conservation District Enforcement Case OA 21-18 regarding the alleged permit noncompliance, construction of shoreline erosion control device, and encroachment upon State Land located makai of 59-151 A Ke Nui Road, Hale'iwa, Island of O'ahu, Hawai'i, Tax Map Key: (1) 5-9-002:005. The OCCL enforcement action, submittal, proposed order, and the imposition of fines/costs of \$948,000, against the Kernots are not only appropriate but very necessary to provide clear messaging to the public that executive power is being used to enforce existing law, especially as this property is very clearly being used to provide at least one illegal vacation rental.

To this end, I support Prof. Antolini's request for robust community notification provisions (to neighbors, signs, Sunset Beach Community Association) that the Board added in the Freeman and McNamara enforcement actions.

Please support the OCCL submittal and strong and very publicly visible enforcement action.

Mahalo,

Amy