

## Expanding the coastal access study

### **Rights of the public and responsibilities of the County**

- The public has a right of access to and along all beaches and shorelines in the State situated below the "upper reaches of the wash of the waves." HRS Secs. 115-4 & 115-5.
- Generally, the Counties have the primary authority and duty to develop and maintain public access to and along the shorelines. HRS Secs. 46-6.5, 115-5 & 115-7.
- The State's primary role in the shoreline area is to preserve and protect coastal resources within the conservation district and support public access along and below the shoreline. HRS Chap. 205A.
- Members of the public seeking the establishment or enforcement of public beach access should seek the assistance of the appropriate County agencies tasked with that responsibility.
- The State, and DLNR in particular, has been eagerly supportive of County efforts to establish and maintain public access.
- **§115-2 Acquisition of lands for public rights-of-way and public transit corridors.** When the provisions of section 46-6.5 are not applicable, the various counties shall purchase land for public rights- of-way to the shorelines, the sea, and inland recreational areas, and for public transit corridors where topography is such that safe transit does not exist. [L 1974, c 244, §2; am L 1977, c 164, §4]
- **[§115-3] Criteria for public rights-of-way.** A distance at reasonable intervals taking into consideration the topography and physical characteristics of the land the public is desirous of reaching is established as the maximum between public rights-of-way for the purposes of this chapter. [L 1974, c 244, §3]
- **§115-4 Right of transit along shorelines.** The right of access to Hawaii's shorelines includes the right of transit along the shorelines. [L 1974, c 244, §4; am L 1991, c 37, §2]
- **§115-5 Beach transit corridor defined.** (a) The right of transit shall exist seaward of the shoreline and this area shall be defined as a beach transit corridor. For purposes of this section, "shoreline" shall have the same meaning as in section 205A-1

However, in areas of cliffs or areas where the nature of the topography is such that there is no reasonably safe transit for the public along the shoreline below the private property lines, the counties by condemnation may establish along the makai boundaries of the property lines public transit corridors which shall be not less than six feet wide.

(b) Along beach transit corridors where the abutting landowner's human-induced, enhanced, or unmaintained vegetation interferes or encroaches with beach transit corridors, the department of land and natural resources may require the abutting landowner to remove the landowner's interfering or encroaching vegetation. [L 1974, c 244, §5; am L 2010, c 160, §3]

- **[§115-7] State and county co-sponsorship of programs.** The department of land and natural resources shall enter into agreements with the council of any county providing for the acquisition of public rights- of-way and public transit corridors pursuant to this

chapter; provided that the county shall match the funds which have been appropriated by the legislature. The development and maintenance of the rights-of-way and public transit corridors shall be the responsibility of the county. [L 1974, c 244, §7]

- **[§46-6.5] Public access.**

- (a) Each county shall adopt ordinances which shall require a subdivider or developer, as a condition precedent to final approval of a subdivision, in cases where public access is not already provided, to dedicate land for public access by right-of-way or easement for pedestrian travel from a public highway or public streets to the land below the high-water mark on any coastal shoreline, and to dedicate land for public access by right of way from a public highway to areas in the mountains where there are existing facilities for hiking, hunting, fruit-picking, ti-leaf sliding, and other recreational purposes, and where there are existing mountain trails.
- (b) These ordinances shall be adopted within one year of May 22, 1973.
- (c) Upon the dedication of land for a right-of-way, as required by this section and acceptance by the county, the county concerned shall thereafter assume the cost of improvements for and the maintenance of the right-of-way, and the subdivider shall accordingly be relieved from such costs.
- (d) For the purposes of this section, "subdivision" means any land which is divided or is proposed to be divided for the purpose of disposition into six or more lots, parcels, units, or interests and also includes any land whether contiguous or not, if six or more lots are offered as part of a common promotional plan of advertising and sale.
- (e) The right-of-way shall be clearly designated on the final map of the subdivision or development.
- (f) This section shall apply to the plan of any subdivision or development which has not been approved by the respective counties prior to July 1, 1973. [L 1973, c 143, §2]

The law is pretty clear. The County is responsible for enforcement of lateral access along the shoreline, and should use eminent domain to acquire a minimum 6' public transit corridor. The DLNR will match County funds for acquisition. The County is responsible for maintenance.

### **Including medial shoreline access points in the study**

Yes, that can easily be included. I have included the County's shoreline access layers into this map so you can see both lateral and other shoreline access:

<https://mauigis.org/maps/?m=f0967a00b83542af928aa7b6241af420>

Evaluating the medial shoreline access points is a negligible cost beyond evaluating the lateral access.

## **Making the study County-wide**

Probably the most straight-forward would be to add the same amount for each stretch of shoreline to be evaluated. There will be differences in work required based on the total distance of each, the density of residences and the terrain, but hard to predict without having done at least some study (as I have done for South Maui). Here are some of the potential segments to study:

- South Maui (Sugar Beach to Kanahena): 13 miles
- Honolua to Kaanapali: 8 miles
- Kaanapali to Olowalu: 11 miles
- Sprecklesville: 1 mile
- Paia Beach to Mama's Fishhouse: 2 miles
- Ho'okipa to Pilale Bay: 5 miles
- Pilale Bay to Keanae: 13 miles
- Keanae to Hana Airport/Wai'anapanapa: 10 miles
- Wai'anapanapa to Kipahulu Point Park: 13 miles
- Kipahulu Point Park to Nu'u Landing: 11 miles
- Nu'u Landing to Kanaio Beach: 16 miles

*The problem you seek to address with this funding*

Public access to Maui shorelines as provided by State law, currently obstructed in a number of places

*The solution this funding would pay for*

Identify the steps required to restore public access to the shoreline where currently obstructed. This may include instructions to property owners to provide signage for shoreline access, instructions to property owners to provide shoreline access, acquiring public transit corridors through eminent domain, or other steps to be define.

*Scope of work which would be undertaken*

- Survey coastal access ability by the public in the segment or segments of the coastline covered by the project
- Identify sections of private ownership where the public has physical access in accordance with State law but where there is no signage indicating that is the case, or signage indicates the public does not have access
- Identify sections of private ownership where the public does not have physical access in accordance with State law
- Propose actions to rectify access for each of the sections identified as either not providing access in accordance with State law or not indicating the public has access
- Are the medial access paths in the County's shoreline access viewer accessible?
- Do those access paths provide the minimal interval specified by the County ("Maui's subdivision ordinance requires public access intervals of not greater than 1500 ft and a minimum width of 15 ft.")?

*Estimated funding need*

\$25k-\$50k per coastal segment (e.g South Maui, West Maui, North Shore), depending on length, building density and terrain of each