



May 1, 2009

Negligent property owners targeted

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Private property owners in Hawai'i who neglect trees, rocks or waterways that pose a safety hazard to others could see the state step in to correct the conditions at the property owner's expense.

A bill that would give state Civil Defense the power to eliminate such dangers for unwilling or unresponsive landowners was passed by a state Legislative conference committee earlier this week.

House Bill 1713 was prompted by a group of residents in Kahalu'u who have complained about dangers they say they face from a neighboring 130-acre hillside property owned by Japanese billionaire Genshiro Kawamoto.

The bill received support mostly from several Kawamoto neighbors, but also from other property owners and state Civil Defense.

Makaha resident Mark Suiso testified that poor maintenance of stream banks where he lives results in unnecessary flooding. "Every time we get a heavy rain we experience problems, because streams and berms have not been maintained," he said in written testimony. "Some property owners are good at this (maintenance); many are not."

Bob Lee, state Civil Defense director, testified in support of the measure, though acting director Ed Teixeira earlier had expressed some concern that going to check out trees or branches considered dangerous by some people could stress agency resources.

State Rep. Jessica Wooley, D-47th (Ha'iku, Kahalu'u, La'ie), said she's hopeful that the bill will become law.

"The bottom line is landowners should not allow their land to deteriorate so badly that it puts the lives of their neighbors at risk," Wooley said. "The measure essentially acts as a hammer to encourage property owners to mitigate a hazardous situation before the state intervenes."

Under the bill, safety concerns would have to be sent in writing by certified mail to a landowner's address. If the landowner doesn't respond, Civil Defense officials could enter the property to assess whether a hazard exists, and if necessary, take mitigation action. The state would bill the landowner for any work, and could place a lien on the property if the bill isn't paid.

In cases where a landowner refuses to address a safety problem, the governor could seek a court order for Civil Defense to enter the property for mitigation work.

The bill addresses hazards limited to trees or branches, rocks or soil, and streams or waterways that pose a danger to other property owners or the public. Nonsafety issues, such as eyesores, aren't subject to the law.

Spearheading the drive for such a law were several Kahalu'u residents who live next to a property owned, but not lived on, by Kawamoto, who resides in Japan and is a frequent visitor to O'ahu, where he owns about 20 homes that are mostly vacant and in Kahala.

In Kahalu'u, Kawamoto's property has at least 20 neighbors, one of whom, Richard Pang, attended a Kahalu'u Neighborhood Board meeting in January after a 50-foot branch from one of Kawamoto's trees dangled over Pang's property.

At the meeting, Pang learned that other people had problems with trees and a blocked storm drainage swale on Kawamoto's property, and they persuaded Wooley to introduce a bill.

Pang's son Gregory said at the January meeting that the branch from Kawamoto's tree snapped but is suspended by vines and hangs over his father's yard with the potential to fall on his house.

Gregory Pang added that his father, who is 85, can't afford the estimated \$8,000 to \$10,000 it would cost to cut the tree down. He also said a neighbor who cut down a Kawamoto tree sought reimbursement without success.

Dale and Susan Hebel testified that rain runoff on Kawamoto's property over several years has exposed roots of trees on the edge of a precipice overlooking the back of their property. They called it a serious safety issue.

The Hebels said they have tried to contact Kawamoto since 2004 without success. "He is a nonresponsive property owner," they said.

In Kahala, some Kawamoto neighbors have raised concerns about safety issues including stagnant swimming pools, rats, trees and broken walls. But HB1713 would not apply in most of these situations.

Honolulu personal injury attorney Richard Turbin sued the real estate tycoon in September on behalf of a Ma'ili woman who said she was injured after tripping and falling over pieces of a broken wall and palm fronds on the sidewalk area fronting one of Kawamoto's homes.

Turbin, who also lives next to a Kawamoto home in Kahala and has criticized the billionaire for poor upkeep of his homes, said Kawamoto didn't show up for a court hearing last week in the case, resulting in a default judgment subject to a judge determining what, if any, damages should be awarded.
