

BUYING AND OWNING PROPERTY IN HAWAII

SHORELINE PROPERTY BOUNDARIES



Shoreline property in Hawaii can decrease or increase in size based on the location of the shoreline and the natural process of erosion and accretion. Erosion and accretion are gradual processes in which land is either reduced or increased in size based upon how the ocean deposits beach sand over time. Because Hawaii's beaches are a valuable resource, there are Hawaii statutes and case law which have discussed and defined the term "shoreline" which divides public and private land. Land below the high water mark is a natural resource, and is owned by the state.

"Shoreline" means "the **upper** reaches of the wash of the waves, other than storm and seismic waves, at high tide during the season of the year in which the **highest** wash of the waves occurs, usually evidenced by the edge of vegetation growth, or the upper limit of debris left by the wash of the waves." Hawaii Revised Statutes §205A-1. In *Diamond v. State, Bd. Of Land and Natural Resources*, 112 Hawaii 161, 145 P.3d 704 (2006), the Hawaii Supreme Court discusses extensively how a shoreline is determined. Because a shoreline is the highest reach of the highest wash of the waves, vegetative growth and the debris line are evidence of this highest reach. As a result, a property owner may discover that the size of their ocean-front property has changed in size because of the change in the shoreline.

Can you move the shoreline by planting vegetation?

No. Planting vegetation in an attempt to extend or maintain the private property will not move the shoreline. The natural highest wash of the waves determines where the shoreline lies.

How do you determine where the shoreline is?

You need to obtain a certified shoreline boundary. To get a certified shoreline boundary, you must obtain a shoreline survey of the property and submit it to the Department of Land and Natural Resources of the State of Hawaii for review. Once the DLNR certifies the shoreline, you can determine where your property boundaries are located. However, this certification is valid for a limited time as the certification is valid for only one year. Once the certification expires, a new shoreline survey must be submitted to obtain a new certification.

The shoreline certification is important to determine the area and the development potential of the property. The location of structures and other improvements may need to be adjusted depending upon setback and other requirements.

Why is a shoreline determination necessary?

The location of a shoreline helps to determine the setback area and where you can construct improvements. All ocean-front property in Hawaii is subject to setback requirements which prevent building within the setback area in order to protect life and property from coastal hazards.

What happens with land that is added by accretion?

Accretion is a process by which land is increased. Beach-front property can be increased due to accretion by the slow deposit of beach sand over time or through lava flowing into the sea. An owner that has beach-front property that has been eroded and restored by natural and permanent accretion may file a claim with the State to regain title to the restored portion. All other accreted land, including land added by lava, is owned by the state and is considered land within the conservation district.



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