

JAN 24 2024

SENATE CONCURRENT RESOLUTION

AUTHORIZING THE ISSUANCE OF A PERPETUAL, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT HEEIA, KOOLAUPOKO, OAHU, FOR THE EXISTING DRAIN, AND FOR USE, REPAIR, AND MAINTENANCE OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

1 WHEREAS, portions of the existing drain seaward of the
2 property identified as Tax Map Key: (1) 4-6-003:077, Heeia,
3 Koolaupoko, Oahu (subject property), were placed on state
4 submerged lands; and

5

6 WHEREAS, in July 2009, the Board of Land and Natural
7 Resources authorized the issuance of an easement to the owners
8 of the private subject property for a dock that encroached on
9 state submerged land at the shoreline abutting the private
10 property; and

11

12 WHEREAS, during the process of approving the easement to
13 the private subject property owners, a structure that is part of
14 the City and County of Honolulu's municipal drainage system was
15 discovered within the state shoreline land area; and

16

17 WHEREAS, the City and County of Honolulu confirmed that the
18 drainage structure was constructed in the 1970s when the
19 abutting land was subdivided and developed and, although the
20 City and County of Honolulu obtained a drainage easement at that
21 time for the portion of the system that encroached on private
22 land, it did not hold an easement for the portion of the system
23 that came to be located on state submerged land; and

24

25 WHEREAS, the City and County of Honolulu agreed to obtain
26 an easement from the State for the portion of the drainage
27 system located on state submerged land; and

28

29 WHEREAS, at its meeting of July 8, 2010, under agenda item
30 D-15, the Board of Land and Natural Resources approved a grant

1 of a perpetual non-exclusive easement to resolve the drain
2 encroachment, at gratis consideration; and
3

4 WHEREAS, at the July 8, 2010 Board of Land and Natural
5 Resources meeting, the Office of Hawaiian Affairs, Department of
6 Health, and Department of Land and Natural Resources' Office of
7 Conservation and Coastal Lands, Division of Aquatic Resources,
8 and State Historic Preservation Division, along with the City
9 and County of Honolulu's Department of Planning and Permitting
10 and Board of Water Supply indicated they had no objection to the
11 request for a perpetual non-exclusive easement to resolve the
12 drain encroachment; and
13

14 WHEREAS, at the meeting of December 13, 2019, under agenda
15 item D-12, the Board of Land and Natural Resources approved
16 technical amendments to the 2010 Board of Land and Natural
17 Resources approval to insert accurate legal references and to
18 facilitate the easement documentation process; and
19

20 WHEREAS, the total encroachment area was determined to be
21 47 square feet as reviewed and approved by the Department of
22 Accounting and General Services' Survey Division; and
23

24 WHEREAS, section 171-53, Hawaii Revised Statutes, requires
25 the prior approval of the Governor and prior authorization of
26 the Legislature by concurrent resolution to lease state
27 submerged lands; now, therefore,
28

29 BE IT RESOLVED by the Senate of the Thirty-second
30 Legislature of the State of Hawaii, Regular Session of 2024, the
31 House of Representatives concurring, that the Board of Land and
32 Natural Resources is hereby authorized to issue a perpetual,
33 non-exclusive easement covering a portion of state submerged
34 lands seaward of the property identified as Tax Map Key: (1) 4-
35 6-003:077, Heeia, Koolaupoko, Oahu, for the existing drain, and
36 for use, repair, and maintenance of the existing improvements
37 constructed thereon pursuant to section 171-53, Hawaii Revised
38 Statutes; and
39

40 BE IT FURTHER RESOLVED that certified copies of this
41 Concurrent Resolution be transmitted to the Chairperson of the
42 Board of Land and Natural Resources, the Governor, and the
43

1 Director of the City and County of Honolulu's Department of
2 Planning and Permitting.

3
4
5
6
7
8

OFFERED BY: *[Handwritten Signature]*

BY REQUEST

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: CONCURRENT RESOLUTION AUTHORIZING THE ISSUANCE OF A PERPETUAL, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT HEEIA, KOOLAUPOKO, OAHU, FOR THE EXISTING DRAIN, AND FOR USE, REPAIR, AND MAINTENANCE OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

PURPOSE: To seek the authorization of the Legislature by concurrent resolution for the issuance of a perpetual, non-exclusive easement by the Board of Land and Natural Resources (Board) for the existing drain and for use, repair, and maintenance of the existing improvements constructed thereon.

MEANS: Concurrent resolution pursuant to section 171-53, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Portions of the existing drain seaward of the property identified as Tax Map Key: (1) 4-6-003:077, Heeia, Koolaupoko, Oahu, were placed on state submerged lands.

In July 2009, the Board authorized the issuance of an easement to the owners of the private property identified as Tax Map Key: (1) 4-6-003:077 for a dock that encroached on state submerged land at the shoreline abutting the private property.

During the process of approving the easement to the private property owners, a structure that is part of the City and County of Honolulu's municipal drainage system was discovered within the state shoreline land area.

The City and County of Honolulu confirmed that the drainage structure was constructed in the 1970s when the abutting land was subdivided and developed and, although the City and County of Honolulu obtained a

drainage easement at that time for the portion of the system that encroached on private land, it did not hold an easement for the portion of the system that came to be located on state submerged land. The City and County of Honolulu agreed to obtain an easement from the State for the portion of the drainage system located on state submerged land.

On July 8, 2010, under agenda item D-15, the Board approved a grant of a perpetual, non-exclusive easement to resolve the drain encroachment, at gratis consideration. At the July 8, 2010 Board meeting, the Office of Hawaiian Affairs, Department of Health, and Departments' Office of Conservation and Coastal Lands, Division of Aquatic Resources, and State Historic Preservation Division, along with the City and County of Honolulu's Department of Planning and Permitting and Board of Water Supply indicated they had no objection to the request for a perpetual non-exclusive easement to resolve the drain encroachment.

On December 13, 2019, under agenda item D-12, the Board approved technical amendments to the 2010 Board approval to insert accurate legal references and to facilitate the easement documentation process.

The total encroachment area was determined to be 47 square feet as reviewed and approved by the Department of Accounting and General Services' Survey Division.

Section 171-53, HRS, requires the prior approval of the Governor and prior authorization of the Legislature by concurrent resolution to lease state submerged lands. As such, this concurrent resolution has been prepared in compliance with the requirements of section 171-53, HRS.

Impact on the public: None.

Impact on the department and other agencies:
None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LNR 101.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon adoption.