
HOUSE CONCURRENT RESOLUTION

AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT KAHALA, HONOLULU, OAHU, FOR THE EXISTING SEAWALL AND STEPS, AND FOR USE, REPAIR, AND MAINTENANCE OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

1 WHEREAS, portions of the existing seawall and steps
2 fronting the property identified as Tax Map Key: (1) 3-5-001:
3 seaward of 004, Kahala, Honolulu, Oahu, were placed on state
4 submerged lands; and

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6 WHEREAS, around May 2009, the Department of Land and
7 Natural Resources worked with the previous property owner, Kevin
8 Fialko, to resolve the encroachments; and

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10 WHEREAS, on July 22, 2009, under agenda item D-10, the
11 Board of Land and Natural Resources approved to grant a 55-year
12 non-exclusive easement to run with the land and to inure to the
13 benefit of the abutting real property, to resolve the
14 encroachments; and

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16 WHEREAS, the term, non-exclusive easement covering 773
17 square feet, appraised at a fair market value of \$83,020, was
18 issued in 2010; and

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20 WHEREAS, in April 2013, the previous owner transferred the
21 abutting property to R&I Hawaii Inc.; and

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23 WHEREAS, a subsequent survey showed the shoreline to be
24 further mauka, which resulted in an additional encroachment area
25 of 191 square feet and which has been reviewed and approved by
26 the Department of Accounting and General Services, Survey
27 Division; and

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29 WHEREAS, on July 28, 2017, under agenda item D-5, the Board
30 of Land and Natural Resources approved to amend the easement by
31 incorporating the additional encroachment area subject to

H.C.R. NO. 12

1 payment of additional consideration of \$20,513, which is based
2 on the pro-rated value of the easement; and
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4 WHEREAS, section 171-53, Hawaii Revised Statutes, requires
5 the prior approval of the Governor and prior authorization of
6 the Legislature by concurrent resolution to lease state
7 submerged lands; now, therefore,
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9 BE IT RESOLVED by the House of the Representatives of the
10 Twenty-ninth Legislature of the State of Hawaii, Regular Session
11 of 2018, the Senate concurring, that the Board of Land and
12 Natural Resources is hereby authorized to amend a term, non-
13 exclusive easement covering a portion of state submerged lands
14 fronting the property identified as Tax Map Key: (1) 3-5-001:
15 seaward of 004, Kahala, Honolulu, Oahu, for the seawall and
16 steps, and for use, repair, and maintenance of the existing
17 improvements constructed thereon pursuant to section 171-53,
18 Hawaii Revised Statutes; and
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20 BE IT FURTHER RESOLVED that a certified copy of this
21 Concurrent Resolution be transmitted to the Chairperson of the
22 Board of Land and Natural Resources.
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27 OFFERED BY: 
28 BY REQUEST

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30 JAN 22 2018
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JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: CONCURRENT RESOLUTION AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT KAHALA, HONOLULU, OAHU, FOR THE EXISTING SEAWALL AND STEPS, AND FOR USE, REPAIR, AND MAINTENANCE OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

PURPOSE: To seek the authorization of the Legislature by concurrent resolution of the issuance of a term, non-exclusive easement by the Board of Land and Natural Resources (Board) for the existing seawall and steps, 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 seawall and steps fronting the property identified as Tax Map Key: (1) 3-5-001: seaward of 004, Kahala, Honolulu, Oahu, were placed on state submerged lands. Around May 2009, the Department worked with the previous property owner, Kevin Fialko, to resolve the encroachments.

On July 22, 2009, under agenda item D-10, the Board approved to grant a 55-year non-exclusive easement to run with the land and to inure to the benefit of the abutting real property, to resolve the encroachments. The term, non-exclusive easement covering 773 square feet, appraised at a fair market value of \$83,020, was issued in 2010.

In April 2013, the previous owner transferred the abutting property to R&I Hawaii Inc.

A subsequent survey showed the shoreline to be further mauka, which resulted in an additional encroachment area of 191 square feet. That subsequent survey has been reviewed and approved by the Department of Accounting and General Services, Survey Division.

On July 28, 2017, under agenda item D-5, the Board approved to amend the easement by incorporating the additional encroachment area subject to payment of additional consideration of \$20,513, which is based on the pro-rated value of the easement.

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.