
SENATE CONCURRENT RESOLUTION

AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT
COVERING A PORTION OF STATE SUBMERGED LANDS AT NAPILI 2 AND
3, LAHAINA, MAUI, FOR THE EXISTING WALKWAY, AND FOR USE,
REPAIR, AND MAINTENANCE OF THE EXISTING IMPROVEMENTS
CONSTRUCTED THEREON.

1 WHEREAS, the Board of Land and Natural Resources approved
2 the issuance of a 65-year term, non-exclusive easement to Napili
3 Kai, Ltd. under Grant of Non-Exclusive Easement No. S-5998
4 (GL5998) dated October 25, 2010, for the existing walkway
5 stairs, shower station, concrete pier block remnants, and
6 landscaping purposes on state lands fronting the property
7 identified as Tax Map Keys: (2) 4-3-002:026, 027, & 028, Napili
8 2 and 3, Lahaina, Maui; and
9

10 WHEREAS, at the time GL5998 was issued, the state lands
11 affected by the non-exclusive easement had not been identified
12 as state submerged lands; and
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14 WHEREAS, around September 2016, Napili Kai, Ltd. submitted
15 an application for a shoreline certification in relation to the
16 consolidation/re-subdivision of its lots; and
17

18 WHEREAS, a site inspection conducted on November 2, 2016 by
19 the Department of Accounting and General Services' Survey
20 Division and staff of the Department of Land and Natural
21 Resources revealed that a portion of the existing walkway was on
22 state submerged lands outside of the encroachment area covered
23 by GL5998, with the walkway encroachment then estimated to total
24 approximately 140 square feet; and
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26 WHEREAS, Napili Kai, Ltd. stated that the existing walkway
27 had not been altered since its construction, and the reason for
28 the discrepancy in the non-exclusive easement description under
29 GL5998 was unclear; and



1
 2 WHEREAS, it therefore became necessary to increase the
 3 encroachment area under the non-exclusive easement by
 4 approximately 140 square feet; and
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6 WHEREAS, at its meeting of May 26, 2017, under agenda item
 7 D-3, the Board of Land and Natural Resources approved staff's
 8 recommendation to amend GL5998 by increasing the non-exclusive
 9 easement encroachment area by approximately 140 square feet,
 10 subject to confirmation by the Department of Accounting and
 11 General Services' Survey Division, and additionally required
 12 Napili Kai, Ltd. to pay for a new appraisal to determine the
 13 fair market value of the additional encroachment area, and to
 14 pay the value so determined; and
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16 WHEREAS, the Department of Land and Natural Resources'
 17 Office of Conservation and Coastal Lands had no objections to
 18 the proposed amendment of GL5998 to increase the non-exclusive
 19 easement encroachment area; and
 20

21 WHEREAS, the Department of Accounting and General Services'
 22 Survey Division confirmed the total encroachment area to be 142
 23 square feet and an appraisal determined the fair market value of
 24 an non-exclusive easement for the additional encroachment area
 25 to be \$4,200, which Napili Kai, Ltd. paid in full to the
 26 Department of Land and Natural Resources in February 2019; and
 27

28 WHEREAS, amending GL5998 to include the additional
 29 encroachment area was subsequently determined to be problematic
 30 because GL5998 was not issued as a submerged lands easement; and
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32 WHEREAS, section 171-53, Hawaii Revised Statutes, requires
 33 the prior approval of the Governor and prior authorization of
 34 the Legislature by concurrent resolution to lease state
 35 submerged lands; and
 36

37 WHEREAS, at its meeting of June 28, 2019, under agenda item
 38 D-7, the Board of Land and Natural Resources rescinded its prior
 39 action of May 26, 2017, item D-3, and instead approved the
 40 issuance of a separate term, non-exclusive easement to run with
 41 the land and inure to the benefit of the abutting real property



1 and to be coterminous with GL5998, to which the Office of
2 Conservation and Coastal Lands had no objection; now, therefore,
3

4 BE IT RESOLVED by the Senate of the Thirty-first
5 Legislature of the State of Hawaii, Regular Session of 2021, the
6 House of Representatives concurring, that the Board of Land and
7 Natural Resources is hereby authorized to issue a term,
8 non-exclusive easement covering a portion of state submerged
9 lands fronting the property identified as Tax Map Keys: (2)
10 4-3-002:026, 027, & 028, Napili 2 and 3, Lahaina, Maui, for
11 portions of the existing walkway, and for use, repair, and
12 maintenance of the existing improvements constructed thereon
13 pursuant to section 171-53, Hawaii Revised Statutes; and
14

15 BE IT FURTHER RESOLVED that a certified copy of this
16 Concurrent Resolution be transmitted to the Chairperson of the
17 Board of Land and Natural Resources.

