

JAN 27 2021

SENATE CONCURRENT RESOLUTION

AUTHORIZING THE ISSUANCE OF TERM, NON-EXCLUSIVE EASEMENTS
COVERING A PORTION OF STATE SUBMERGED LANDS AT
WAIHOLI-KEOKEA (KIHEI), WAILUKU, MAUI, FOR THE EXISTING
SEAWALL, AND FOR USE, MAINTENANCE, AND REPAIR OF THE
EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

1 WHEREAS, portions of an existing seawall fronting the
2 property identified as Tax Map Key: (2) 3-9-011:008,
3 Waiohuli-Keokea (Kihei), Wailuku, Maui, were placed on state
4 submerged lands; and

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6 WHEREAS, the property is a condominium consisting of CPR
7 0001 owned by Rand 2013 Living Trust, Dated November 25, 2013
8 and CPR 0002 formerly owned by Reconstruct Holdings USA, Inc.;
9 and

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11 WHEREAS, at its meeting of May 8, 2015, under agenda item
12 D-8, the Board of Land and Natural Resources approved a grant of
13 a 65-year non-exclusive easement to resolve the encroachment, to
14 run with the land and to inure to the benefit of the abutting
15 real property; and

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17 WHEREAS, Senate Concurrent Resolution No. 7, adopted in the
18 Twenty-eighth Legislature of the State of Hawaii, Regular
19 Session of 2016, cited the purpose of the requested non-
20 exclusive easement for seawall purposes; and

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22 WHEREAS, it was later discovered that there were additional
23 portions of the seawall which were not covered by the non-
24 exclusive easement which were encroaching on state submerged
25 lands; and

1 WHEREAS, the additional total encroachment area was
2 determined to be approximately 928 square feet, more or less,
3 subject to review and approval by the Department of Accounting
4 and General Services' Survey Division; and
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6 WHEREAS, Reconstruct Holdings USA, Inc., the former owner
7 of CPR 0002, requested that the non-exclusive easement that was
8 granted by the Board of Land and Natural Resources on May 8,
9 2015 be divided into two separate easements; and
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11 WHEREAS, at its meeting of August 25, 2017, under agenda
12 item D-9 as amended, and October 12, 2018, under agenda item D-
13 5, the Board of Land and Natural Resources approved the grant of
14 sixty-five (65) year, non-exclusive easements for the additional
15 portions of the seawall on state submerged lands, to run with
16 the land and inure to the benefit of CPR 0001 and CPR 0002,
17 Waiohuli-Keokea (Kihei), Wailuku, Maui, of the abutting real
18 property, to resolve the encroachments; and
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20 WHEREAS, Reconstruct Holdings USA, Inc. conveyed its
21 interest in CPR 0002 to Timothy Vaugon Isted by Apartment Deed
22 A72910038 dated December 3, 2019; and
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24 WHEREAS, the grantees shall pay the fair market value of
25 the easements as determined by independent appraisal; and
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27 WHEREAS, section 171-53, Hawaii Revised Statutes, requires
28 the prior approval of the Governor and prior authorization of
29 the Legislature by concurrent resolution to lease state
30 submerged lands; now, therefore,
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32 BE IT RESOLVED by the Senate of the Thirty-first
33 Legislature of the State of Hawaii, Regular Session of 2021, the
34 House of Representatives concurring, that, pursuant to section
35 171-53, Hawaii Revised Statutes, the Board of Land and Natural
36 Resources is hereby authorized to grant term, non-exclusive
37 easements covering portions of state submerged lands fronting
38 the property identified as Tax Map Keys (2) 3-9-011:008 CPR 0001
39 and CPR 0002, Waiohuli-Keokea (Kihei), Wailuku, Maui, for the
40 existing seawall, and for use, maintenance, and repair of the
41 existing improvements constructed thereon; and
42

S.C.R. NO. 16

1 BE IT FURTHER RESOLVED that a certified copy of this
2 concurrent resolution be transmitted to the Chairperson of the
3 Board of Land and Natural Resources.
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8 OFFERED BY: 
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BY REQUEST

S.C.R. NO. 16

JUSTIFICATION SHEET

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DEPARTMENT: Land and Natural Resources

TITLE: CONCURRENT RESOLUTION AUTHORIZING THE
ISSUANCE OF TERM, NON-EXCLUSIVE EASEMENTS
COVERING A PORTION OF STATE SUBMERGED LANDS
AT WAIHOLI-KEOKEA (KIHEI), WAILUKU, MAUI,
FOR THE EXISTING SEAWALL, AND FOR USE,
MAINTENANCE, AND REPAIR OF THE EXISTING
IMPROVEMENTS CONSTRUCTED THEREON.

PURPOSE: To seek the authorization of the Legislature
by concurrent resolution of the issuance of
term, non-exclusive easements by the Board
of Land and Natural Resources (Board) for an
existing seawall, 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 fronting
the property identified as Tax Map Key: (2)
3-9-011:008 CPR 0001 & CPR 0002, Waiohuli-
Keokea (Kihei), Wailuku, Maui, was placed
upon state submerged lands.

The property is a condominium consisting of
CPR 0001 owned by Rand 2013 Living Trust,
Dated November 5, 2013 and CPR 0002 formerly
owned by Reconstruct Holdings USA, Inc.

At its meeting of May 8, 2015, under agenda
item D-8, the Board approved a grant of a
65-year non-exclusive easement to resolve
the encroachment, to run with the land and
to inure to the benefit of the abutting real
property.

Senate Concurrent Resolution No. 2, adopted
in the Twenty-eighth Legislature of the State
of Hawaii, Regular Session of 2016, cited
the purpose of the requested non-exclusive
easement for seawall purposes.

It was later discovered that there were additional portions of the seawall which were not covered by the non-exclusive easement which were encroaching on state submerged lands. The additional total encroachment area was determined to be approximately 928 square feet, more or less, subject to review and approval by the Department of Accounting and General Services' Survey Division.

Reconstruct Holdings USA, Inc., the former owner of CPR 0002, requested that the non-exclusive easement that was granted by the Board of Land and Natural Resources on May 8, 2015 be divided into two separate easements.

At its meetings of August 25, 2017, under agenda item D-9 as amended, and October 12, 2018 under agenda item D-5, the Board approved the grant of sixty-five (65) year, non-exclusive easements for the additional portions of the seawall on state submerged lands, to run with the land and inure to the benefit of CPR 0001 and CPR 0002, Waiohuli-Keokea (Kihei), Wailuku, Maui of the abutting real property, to resolve the encroachments.

Reconstruct Holdings USA, Inc. subsequently conveyed its interest in CPR 0002 to Timothy Vaugon Isted by Apartment Deed A72910038 dated December 3, 2019.

Both grantees are required to pay the fair market value of the easements, as determined by an independent appraisal.

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.