

JAN 27 2021

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SENATE CONCURRENT  
RESOLUTION

AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT WAIOHULI-KEOKEA HOMESTEADS, KIHEI, MAUI, FOR THE EXISTING SEAWALL, ROCK REVETMENT, AND CONCRETE STEPS, AND FOR USE, REPAIR, AND MAINTENANCE OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

1           WHEREAS, a portion of the existing seawall and rock  
2 revetment fronting the property identified as Tax Map Key: (2)  
3 3-9-012:003, Waiohuli-Keokea Homesteads, Kihei, Maui, was placed  
4 upon state submerged lands; and

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6           WHEREAS, around June 2017, the previous owners, Robin M.  
7 Kean and Jennifer Downs Kean, Trustees of the Robin M. Kean  
8 Revocable Living Trust dated October 1, 2015, and Jennifer Downs  
9 Kean and Robin M. Kean, Trustees of the Jennifer Downs Kean  
10 Revocable Living Trust dated October 1, 2015, worked with the  
11 Department of Land and Natural Resources to resolve the existing  
12 seawall and rock revetment encroachment; and

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14           WHEREAS, the Department of Land and Natural Resources'  
15 Office of Conservation and Coastal Lands recommended disposition  
16 of the proposed shoreline easement in order to resolve the  
17 existing encroachment; and

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19           WHEREAS, on June 9, 2017, under agenda item D-9, the Board  
20 of Land and Natural Resources approved a grant of a 55-year  
21 non-exclusive easement to resolve the seawall and rock revetment  
22 encroachment for an area of approximately 611 to 650 square  
23 feet, pending review and approval by the Department of  
24 Accounting and General Services' Survey Division, and such  
25 easement shall run with the land and inure to the benefit of the  
26 abutting real property; and

1           WHEREAS, an easement survey conducted on December 12, 2018,  
2 subsequent to the June 9, 2017, Board of Land and Natural  
3 Resources meeting, identified a total encroaching area of 668  
4 square feet, more or less, which now included portions of an  
5 existing concrete steps; and

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7           WHEREAS, on April 26, 2019, under agenda item D-6, the  
8 Board of Land and Natural Resources approved amending the June  
9 9, 2017 authorization to grant a 55-year non-exclusive easement  
10 to resolve the seawall and rock revetment encroachment, by  
11 adding a portion of the concrete steps as an additional  
12 encroachment to be resolved by way of the easement, and  
13 increasing the easement area from 650 square feet, more or less,  
14 to 668 square feet, more or less; and

15  
16           WHEREAS, the total encroachment area was subsequently  
17 determined to be 668 square feet as reviewed and approved by the  
18 Department of Accounting and General Services' Survey Division;  
19 and

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21           WHEREAS, the previous owners have paid the fair market  
22 value of the 668 square feet non-exclusive easement area of  
23 \$27,700, as determined by an independent appraisal; and

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25           WHEREAS, the previous owners have since sold the abutting  
26 real property to Andrew J. Guzzo and Paisly Hannah Bender; and

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28           WHEREAS, section 171-53, Hawaii Revised Statutes, requires  
29 prior authorization of the Legislature by concurrent resolution  
30 to lease state 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 the Board of Land and  
35 Natural Resources is hereby authorized to issue a term,  
36 non-exclusive easement covering a portion of state submerged  
37 lands fronting the property identified as Tax Map Key: (2)  
38 3-9-012:003, Waiohuli-Keokea Homesteads, Kihei, Maui, for the  
39 existing seawall, rock revetment, and concrete steps, and for  
40 use, repair, and maintenance of the existing improvements  
41 constructed thereon pursuant to section 171-53, Hawaii Revised  
42 Statutes; and

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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6  
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8 OFFERED BY:   
9 BY REQUEST  
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# S.C.R. NO. 17

## 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 WAIOHULI-KEOKEA HOMESTEADS, KIHEI, MAUI, FOR THE EXISTING SEAWALL, ROCK REVETMENT, AND CONCRETE 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, rock revetment, and concrete 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: A portion of the existing seawall and rock revetment fronting the property identified as Tax Map Key: (2) 3-9-012:003, Waiohuli-Keokea Homesteads, Kihei, Maui, was placed upon state submerged lands. In June 2017, the previous owners, Robin M. Kean and Jennifer Downs Kean, Trustees of the Robin M. Kean Revocable Living Trust dated October 1, 2015, and Jennifer Downs Kean and Robin M. Kean, Trustees of the Jennifer Downs Kean Revocable Living Trust dated October 1, 2015, worked with the Department to resolve the seawall and rock revetment encroachment.

The Department's Office of Conservation and Coastal Lands recommended disposition of the proposed shoreline easement in order to resolve the existing encroachment.

At its meeting of June 9, 2017, under agenda item D-9, the Board approved a grant of a

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55-year non-exclusive easement to resolve the seawall and rock revetment encroachment, to run with the land and to inure to the benefit of the abutting real property.

An easement survey conducted on December 12, 2018, subsequent to the June 9, 2017, Board meeting, identified a total encroaching area of 668 square feet, more or less, which now included portions of an existing concrete steps.

At its meeting of April 26, 2019, under agenda item D-6, the Board approved amending the June 9, 2017 authorization to grant a 55-year non-exclusive easement to resolve the seawall and rock revetment encroachment, by adding a portion of the concrete steps as an additional encroachment to be resolved by way of the easement and increasing the easement area from 650 square feet, more or less, to 668 square feet, more or less.

The total encroachment area was subsequently determined to be 668 square feet as reviewed and approved by the Department of Accounting and General Services' Survey Division.

The previous owners have paid the fair market value of the 668 square feet non-exclusive easement area of \$27,700, as determined by an independent appraisal. The previous owners have since sold the abutting real property to Andrew J. Guzzo and Paisly Hannah Bender.

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.

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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.