

JAN 26 2022

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# SENATE CONCURRENT RESOLUTION

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AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT  
COVERING A PORTION OF STATE SUBMERGED LANDS AT KANEOHE,  
KOOLAUPOKO, OAHU, FOR THE EXISTING PIER, HOUSE, ROCK WALL,  
AND LANDSCAPE AREA, AND FOR USE, REPAIR, AND MAINTENANCE OF  
THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

1 WHEREAS, the existing pier, and portions of the existing  
2 house, rock wall, and landscape area fronting the property  
3 identified as Tax Map Key: (1) 4-4-016:016, Kaneohe, Koolau-poko,  
4 Oahu, were placed on state lands (a portion of which is  
5 submerged); and  
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7 WHEREAS, around February 2019, 20 Baldwin Partners LLC, a  
8 Hawaii Limited Liability Company, and Phillip K. Binney, also  
9 known as Philip K. Binney, Trustee of the Phillip K. Binney 2018  
10 Irrevocable Gift Trust Agreement dated September 18, 2018,  
11 purchased the abutting property that included the encroaching  
12 existing pier and portions of the existing house; and  
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14 WHEREAS, around April 2019, the Department of Land and  
15 Natural Resources' Office of Conservation and Coastal Lands  
16 worked with the property owners to resolve the encroachments;  
17 and  
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19 WHEREAS, in July 2019, a shoreline survey showed a portion  
20 of an existing rock wall was also encroaching in addition to the  
21 portions of the existing house and pier; and  
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23 WHEREAS the shoreline survey also identified a portion of  
24 state land requested by the grantees for landscape purposes; and  
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26 WHEREAS, the Office of Conservation and Coastal Lands  
27 indicated it supported an easement to resolve the encroachments;  
28 and  
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1 WHEREAS, at its meeting of November 8, 2019, under agenda  
2 item D-14, the Board of Land and Natural Resources approved a  
3 grant of a 25-year non-exclusive easement to resolve the subject  
4 encroachments, and such non-exclusive easement shall run with  
5 the land and shall inure to the benefit of the abutting real  
6 property; and  
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8 WHEREAS, the total encroachment area was determined to be  
9 1,898 square feet as reviewed and approved by the Department of  
10 Accounting and General Services' Survey Division; and  
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12 WHEREAS, in September 2020, 20 Baldwin Partners LLC  
13 quitclaimed its interest in the abutting real property to  
14 Phillip K. Binney; and  
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16 WHEREAS, the grantee has paid the fair market value of the  
17 1,898 square feet non-exclusive easement area of \$77,000, as  
18 determined by an independent appraisal; and  
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20 WHEREAS, section 171-53, Hawaii Revised Statutes, requires  
21 the prior approval of the Governor and prior authorization of  
22 the Legislature by concurrent resolution to lease state  
23 submerged lands; now, therefore,  
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25 BE IT RESOLVED by the Senate of the Thirty-first  
26 Legislature of the State of Hawaii, Regular Session of 2022, the  
27 House of Representatives concurring, that the Board of Land and  
28 Natural Resources is hereby authorized to issue a term,  
29 non-exclusive easement covering a portion of state submerged  
30 lands fronting the property identified as Tax Map Key: (1)  
31 4-4-016:016, Kaneohe, Koolaupoko, Oahu, for the existing pier,  
32 house, rock wall, and landscape area, and for use, repair, and  
33 maintenance of the existing improvements constructed thereon  
34 pursuant to section 171-53, Hawaii Revised Statutes; and  
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36 BE IT FURTHER RESOLVED that a certified copy of this  
37 concurrent resolution be transmitted to the Chairperson of the  
38 Board of Land and Natural Resources.  
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S.C.R. NO. 5

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OFFERED BY: *M. N. M.*  
BY REQUEST

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 KANEOHE, KOOLAUPOKO, OAHU, FOR THE  
EXISTING PIER, HOUSE, ROCK WALL, AND  
LANDSCAPE AREA, 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 pier, house, rock wall, and  
landscape area, 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: The existing pier, and portions of the  
existing house, rock wall, and landscape  
area fronting the property identified as Tax  
Map Key: (1) 4-4-016:016, Kaneohe,  
Koolauapoko, Oahu, were placed upon state  
lands (a portion of which is submerged).

Around February 2019, 20 Baldwin Partners  
LLC, a Hawaii Limited Liability Company, and  
Phillip K. Binney, also known as Philip K.  
Binney, Trustee of the Phillip K. Binney  
2018 Irrevocable Gift Trust Agreement dated  
September 18, 2018, purchased the abutting  
property that included the encroaching pier  
and portions of the house.

Around April 2019, the Department's Office  
of Conservation and Coastal Lands worked  
with the property owners to resolve the  
encroachments.

In July 2019, a shoreline survey showed a portion of an existing rock wall was also encroaching in addition to portions of the existing house and pier. The shoreline survey also identified a portion of state land requested by the grantees for landscape purposes.

The Office of Conservation and Coastal Lands indicated it supported an easement to resolve the encroachments.

At its meeting of November 8, 2019, under agenda item D-14, the Board approved a grant of a 25-year non-exclusive easement to run with the land and to inure to the benefit of the abutting real property, to resolve the encroachment.

The subject area is 1,898 square feet, as reviewed and approved by the Department of Accounting and General Services' Survey Division.

In September 2020, 20 Baldwin Partners LLC quitclaimed its interest in the abutting real property to Phillip K. Binney.

The grantee has paid the fair market value, as determined by an independent appraisal, of the 1,898 square feet non-exclusive easement area in the amount of \$77,000.

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.

S.C.R. NO. 5

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: LNR 101.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon adoption.