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GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
WAYS AND MEANS**

**Wednesday, March 23, 2022
10:45 AM**

State Capitol, Conference Room 211, Via Videoconference

**In consideration of
SENATE CONCURRENT RESOLUTION 3, SENATE DRAFT 1
AUTHORIZING THE ADDITION OF A PORTION OF STATE SUBMERGED LANDS
TO A TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE
RECLAIMED LANDS AT WAILUPE, HONOLULU, OAHU, FOR THE EXISTING
SEAWALL, AND FOR USE, REPAIR, AND MAINTENANCE OF THE EXISTING
IMPROVEMENTS CONSTRUCTED THEREON**

Senate Concurrent Resolution 3, Senate Draft 1 requests the authorization to add a portion of state submerge lands (16 square feet, more or less) to a term, non-exclusive easement¹ constituting 146 square feet of reclaimed lands (which includes a seawall) at tax map key: (1) 3-6-003:seaward of 015, at Wailupe, Honolulu, Oahu for the use, repair, and maintenance of the existing seawall constructed thereon, pursuant to Section 171-53, Hawaii Revised Statutes (HRS). **The Department of Land and Natural Resources (Department) appreciates the clarifying amendments made by Senate Draft 1 and supports this Administration concurrent resolution.**

The owners of the abutting property, Tsugio Ueyama, as Trustee of the unrecorded Tsugio Ueyama Revocable Living Trust dated July 10, 2001 and Jane N. Ueyama, as Trustee of the unrecorded Jane N. Ueyama Revocable Living Trust dated July 10, 2001, and Lynn Wong (now Lynn De Jesus), the grantees, were issued a 55-year term, non-exclusive easement in July 2002 for a portion for state owned reclaimed lands (which includes a seawall) of 146 square feet, and paid a lump sum consideration of \$11,300 to resolve the encroachment. Thereafter, Bank of Hawaii became successor Trustee of the Tsugio Ueyama Trust and Jane N. Ueyama Trust.

A subsequent shoreline survey done in 2007 showed a 16 square-foot portion of the footing and overhang of the seawall was located makai of the seawall and encroaching on state submerged lands. The footing and overhang encroachment were not discovered during the surveying

¹ The current easement area comprises of 146 square feet reclaimed lands, disposed pursuant to Section 171-53(b), HRS. This easement did not require legislative approval.

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

process for the 2002 easement. Around June of 2020, the Department contacted the Ueyamas and informed them the State would proceed with amending their easement to include the additional 16 square-foot area. The Department's Office of Conservation and Coastal Lands had no objection to a proposed amendment to increase the easement area. At its meeting of August 28, 2020, under agenda item D-10, the Board of Land and Natural Resources (Board) approved an amendment of the original easement to resolve the additional footing and overhang encroaching on and over the submerged land area. There was no public opposition. As required by Section 171-53, HRS, the Board may lease submerged lands "with the prior approval of the Governor and the prior authorization of the Legislature by concurrent resolution".

The reason for the delay in the amendment of the easement between the discovery of the additional 16 square foot encroachment in 2007 and the August 28, 2020, Board action is that the Department initially explored canceling the easement and selling the reclaimed land area to the easement holder in fee along with an easement for only the submerged land area. However, due to changes in law and Department policy, the sale of the reclaimed land was never completed and eventually abandoned. The original easement continues to remain in effect and unamended since its initial execution.²

The grantees paid the State the fair market value for the 16 square feet of additional area in the amount of \$1,240, which was calculated on the basis of the per square foot value of the consideration approved by the Board for the original grant of easement.

Thank you for the opportunity to comment on this measure.

² All Board approvals in relation to the fee sale of reclaimed lands have since been rescinded.