

DAVID Y. IGE  
GOVERNOR OF HAWAII



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

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**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the House Committee on  
CONSUMER PROTECTION & COMMERCE**

**Thursday, April 15, 2021  
2:00 PM**

**State Capitol, Via Videoconference, Conference Room 329**

**In consideration of  
SENATE CONCURRENT RESOLUTION 87  
AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT  
COVERING A PORTION OF STATE SUBMERGED LANDS AT  
KUAU, HAMAKUAPOKO, MAUI, FOR THE EXISTING SEAWALL AND CONCRETE  
STEPS, AND FOR USE, REPAIR, AND MAINTENANCE OF THE EXISTING  
IMPROVEMENTS CONSTRUCTED THEREON**

Senate Concurrent Resolution 87 requests the authorization to issue a term, non-exclusive easement covering 1,613 square feet, more or less, on a portion of state submerged lands identified as tax map key: (2) 2-6-010:seaward of 017, at Kuau, Hamakuapoko, Maui for the use, repair, and maintenance of the existing seawall and concrete steps constructed thereon, pursuant to Section 171-53, Hawaii Revised Statutes (HRS). **The Department of Land and Natural Resources (Department) supports this concurrent resolution.**

In 2017 the seawall and concrete steps encroachment was brought to the landowner's attention during the due diligence process in preparation for selling the landward property. The landowner then contacted the Department's Office of Conservation and Coastal Land (OCCL) to seek resolution of the encroachment.

The curved seawall was built in the 1940s during World War II by the United States Army Corps of Engineers. The east and west corners of the seawall appear to have been built beyond the seaward metes and bounds on each end of the property. There are aerial images of the subject property dated January 28, 1964 which appear to show the existing seawall. The applicant provided affidavits from three separate individuals that claim the seawall existed prior to October 1964. Therefore, the seawall appears to be a nonconforming land use pursuant to Chapter 183C, HRS.

OCCL analyzed the encroachment and concluded that a Conservation District Use permit was not required because of the age of the seawall and stated that beach resources and public access

**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

were not negatively affected by the seawall. OCCL supported a disposition through an easement. Removal of the seawall may destabilize seawalls and revetments at adjacent properties, potentially threatening upland structures. The majority of the seawall is located on private property and there does not appear to be any benefit to removing the smaller encroaching seawall segments. Furthermore, the structure has been in place for over fifty years.

Subsequently, at its meetings on August 25, 2017, under agenda item D-10, July 13, 2018, under agenda item D-6, and September 11, 2020, under agenda item D-4, the Board of Land and Natural Resources (Board) at all three meetings unanimously approved a term, non-exclusive easement, for the purpose stated above, and there was no public opposition.

The applicant, Sea & Believe LLC, is working with the Department to resolve the encroachments through a disposition. 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 grantee shall pay the State the fair market value of the easement, as consideration for the use of public lands as determined by an independent appraisal.

Thank you for the opportunity to comment on this measure.

**Sandra-Ann Y.H. Wong**

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*Honolulu, Hawaii 96813*

**TESTIMONY IN SUPPORT OF SCR 87  
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE  
APRIL 15, 2021 at 2 P.M.**

Aloha Chair Johanson, Vice Chair Kitagawa, and Members of the Committee:

On behalf of Sea & Believe LLC, thank you for the opportunity to provide testimony in support of SCR 87.

Sea & Believe is the Applicant before the Department of Land and Natural Resources (“DLNR”) for the issuance of a term, non-exclusive easement covering a portion of State submerged lands at Kuau, Hamkuapoko, Maui, for the existing seawall and concrete steps, and for use, repair, and maintenance of the existing improvements.

Sea and Believe is a family-owned LLC and the purpose of the LLC is to build two family homes on the property.

This issue was before DLNR prior to Sea & Believe purchase of the property identified as Tax Map Key: 92) 2-6-010:017. However, since purchasing the property in 2017, Sea & Believe has been working with the DLNR to resolve this issue and is agreeable to pay the fair market value of the 1,613 square feet of non-exclusive easement areas, with such value to be determined by an independent appraisal.

Therefore, Sea & Believe respectfully requests that this Committee passed out SCR87 so that DLNR is authorized to issue the non-exclusive easement.

Thank you for the opportunity to testify in support of this measure.

## *Sea & Believe LLC*

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Mahalo,  
Leilani Pulmano