

JAN 21 2011

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# SENATE CONCURRENT RESOLUTION

AUTHORIZING THE ISSUANCE OF A NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS PURSUANT TO SECTION 171-53, HAWAII REVISED STATUTES, RELATING TO RECLAMATION AND DISPOSITION OF SUBMERGED OR RECLAIMED PUBLIC LAND.

1           WHEREAS, Christine K. Ho, as Trustee of that certain  
2 unrecorded Trust established under the Living Trust Declaration  
3 of Christine K. Ho, dated January 15, 1988 (and amendments  
4 thereto) ("Ho"), is successor in interest to Thomas R. Brayton  
5 and Christine D. Brayton (collectively, the "Braytons"), to the  
6 ownership of a parcel of land located in Lahaina, Maui,  
7 identified as tax map key number (2) 4-6-3:5 (the "Ho  
8 property"), pursuant to that certain Warranty Deed (Document  
9 No. 2007-124951) recorded with the Bureau of Conveyances on  
10 July 13, 2007; and  
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12           WHEREAS, prior to the conveyance of the Ho property to Ho,  
13 the Braytons applied to the Department of Land and Natural  
14 Resources on February 9, 2007, for a non-exclusive easement over  
15 a portion of state-owned land located seaward of the Ho  
16 property; and  
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18           WHEREAS, the seaward boundary of the Ho property fronts the  
19 ocean, and a seawall straddles the seaward boundary of the Ho  
20 property and submerged public land, which is state-owned and  
21 identified by tax map key number (2)4-6-3, seaward of :5. A  
22 portion of the seawall encroaches into the state-owned submerged  
23 land; and  
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25           WHEREAS, the area of the seawall comprises approximately  
26 sixty-nine square feet and comprises a portion of the state-  
27 owned submerged land; and  
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29           WHEREAS, under county requirements, Ho requires an easement  
30 over that portion of the submerged land that includes the  
31 existing seawall in order for Ho to obtain a county building



1 permit to remodel the Ho residence and to renovate the seawall,  
2 which is in need of repair; and

3  
4 WHEREAS, the Ho property is classified as  
5 conservation/urban and zoned by the County of Maui as R-3; and  
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7 WHEREAS, the character of use of the easement is to approve  
8 the right, privilege, and authority to use, maintain, repair,  
9 replace, and remove the existing seawall over, under, and across  
10 state-owned land; and  
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12 WHEREAS, the easement term is for fifty-five years in  
13 consideration for a one-time payment to be determined by  
14 independent or staff appraisal establishing a fair market rent,  
15 subject to review and approval by the Chairperson of the Board  
16 of Land and Natural Resources; and  
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18 WHEREAS, the easement abuts the Ho property; now,  
19 therefore,  
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21 BE IT RESOLVED by the Senate of the Twenty-sixth  
22 Legislature of the State of Hawaii, Regular Session of 2011, the  
23 House of Representatives concurring, that the Board of Land and  
24 Natural Resources is hereby authorized to issue a non-exclusive  
25 easement for a fifty-five year term, covering that portion of  
26 state submerged lands described above, located in Lahaina, Maui,  
27 for purposes of renovation and construction of a seawall,  
28 pursuant to section 171-53, Hawaii Revised Statutes, subject to  
29 limitations and conditions to be determined by the Board of Land  
30 and Natural Resources; and  
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32 BE IT FURTHER RESOLVED that a certified copy of this  
33 Concurrent Resolution be transmitted to the Chairperson of the  
34 Board of Land and Natural Resources.  
35  
36

4 Feb 8 2011  
S.S.T.

OFFERED BY: Renee de Bora

[Signature]