

JAN 24 2013

**SENATE CONCURRENT
RESOLUTION**

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

1 WHEREAS, the existing pier, seawall, and landscaped area at
2 Kaneohe, Koolaupoko, Oahu, identified as Tax Map Key: (1) 4-4-
3 037: seaward of 033, were placed on state submerged lands
4 sometime around the late 1950s by Mr. Frank H. Barton after he
5 purchased the adjacent private property in 1953 and Mr. Barton
6 indicated in the past that he had obtained the necessary
7 approval for such improvement, but he could not locate the
8 copies for such approval; and
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10 WHEREAS, around 2001, the Department of Land and Natural
11 Resources (Department) informed the owner about the encroachment
12 on state submerged lands and requested Mr. Barton to resolve the
13 encroachments, but Mr. Barton died in 2007 while in the process
14 of working with the Department to try to resolve the
15 encroachment and the family of the late Mr. Barton subsequently
16 decided to pursue the resolution of the encroachment, which is
17 about 1,588 square feet; and
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19 WHEREAS, on June 4, 2012, the Department's Office of
20 Conservation and Coastal Lands determined the non-conforming
21 status of encroaching structures has been sufficiently
22 established by the information provided by the family of the
23 late Mr. Barton; and
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25 WHEREAS, on July 27, 2012, under agenda item D-6, the Board
26 of Land and Natural Resources approved the grant of a fifty-
27 five-year non-exclusive easement to resolve the encroachment;
28 and
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1 WHEREAS, section 171-53, Hawaii Revised Statutes, requires
2 the prior approval of the Governor and prior authorization of
3 the Legislature by concurrent resolution to lease state
4 submerged lands; now, therefore,
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6 BE IT RESOLVED by the Senate of the Twenty-seventh
7 Legislature of the State of Hawaii, Regular Session of 2013, the
8 House of Representatives concurring, that the Board of Land and
9 Natural Resources is hereby authorized to issue a term, non-
10 exclusive easement covering a portion of state submerged lands
11 fronting the property identified as Tax Map Key: (1) 4-4-
12 037:seaward of 033, Kaneohe, Kooalupoko, Oahu, for the
13 maintenance and repair of the existing pier, seawall, and
14 landscaping area, and for use, maintenance, and repair of the
15 existing improvements constructed thereon pursuant to section
16 171-53, Hawaii Revised Statutes; and
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18 BE IT FURTHER RESOLVED that a certified copy of this
19 Concurrent Resolution be transmitted to the Chairperson of the
20 Board of Land and Natural Resources.
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OFFERED BY: 
BY REQUEST

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: CONCURRENT RESOLUTION AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT COVERING PORTION OF STATE SUBMERGED LANDS AT KANEOHE, KOOLAUPOKO, OAHU, FOR THE MAINTENANCE AND REPAIR OF THE EXISTING PIER, SEAWALL, AND LANDSCAPING AREA, AND FOR USE, MAINTENANCE, AND REPAIR OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

PURPOSE: To seek the approval of the Legislature by concurrent resolution of a Board of Land and Natural Resources action for the maintenance and repair of the existing pier, seawall, and landscaping area, and for use, maintenance, and repair of the existing improvements constructed thereon.

MEANS: Concurrent resolution pursuant to section 171-53, Hawaii Revised Statutes (HRS).

JUSTIFICATION: The existing pier, seawall, and landscaped area at Kaneohe, Koolauapoko, Oahu, identified as Tax Map Key: (1) 4-4-037: seaward of 033, was believed to be placed on state submerged lands around the late 1950s by Mr. Frank H. Barton after he purchased the adjacent private property in 1953.

Mr. Barton indicated in the past that he had obtained the necessary approval for such improvement, but he could not locate the copies for such approval. Around 2001, the Department informed the owner about the encroachment on state submerged lands and requested Mr. Barton to resolve the encroachments. Mr. Barton died in 2007 while in the process of working with the Department to try to resolve the encroachment. Subsequently, the family of the late Mr. Barton decided to pursue the resolution of the encroachment, which is about 1,588 square feet.

On June 4, 2012, the Department's Office of Conservation and Coastal Lands determined the non-conforming status of encroaching structures has been sufficiently established by the information provided by the family of the late Mr. Barton.

At its meeting of July 27, 2012, under agenda item D-6, the Board of Land and Natural Resources approved the grant of a fifty-five-year non-exclusive easement to resolve the encroachment.

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.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	LNR 101.
OTHER AFFECTED AGENCIES:	None.
EFFECTIVE DATE:	Upon adoption.