
HOUSE CONCURRENT
RESOLUTION

AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT KAMAOLE, KULA, MAUI, FOR THE EXISTING RUBBLE ROCK REVETMENT, ROCK WALL, AND TWO CONCRETE STAIRWAYS, AND FOR USE, MAINTENANCE, REPAIR, REPLACEMENT, AND REMOVAL OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

1 WHEREAS, portions of the existing rubble rock revetment,
2 rock wall, and two concrete stairways identified as Tax Map
3 Key: (2) 3-9-005:001, Kamaole Beach lots, Kamaole, Kula, Maui,
4 were placed on state submerged lands; and
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6 WHEREAS, the subject encroachments were discovered during a
7 routine site inspection of two revocable permits between the
8 State and the Association of Apartment Owners of Hale Pau Hana
9 (AOAO); and
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11 WHEREAS, one of the revocable permits authorized a rubble
12 rock revetment on state submerged land (state lands makai of the
13 certified shoreline) and the other revocable permit authorized
14 landscaping on state fast land (state lands mauka of the
15 certified shoreline); and
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17 WHEREAS, upon reviewing the existing revocable permits, the
18 Department of Land and Natural Resources (Department) determined
19 that the most appropriate disposition for the subject
20 encroachments and fast lands (landscaped area) would be a fifty-
21 five-year term non-exclusive easement; and
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23 WHEREAS, the Office of Conservation and Coastal Lands of
24 the Department indicated they had no objection to the retention
25 of the existing rubble rock revetment, rock wall, and two
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1 concrete stairways, and that no Conservation District violations
2 existed with regard to the previously authorized structure; and
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4 WHEREAS, after discussion between the Department and the
5 AOA it was agreed by both parties to resolve the subject
6 encroachments through the issuance of a term non-exclusive
7 easement covering the use of state submerged lands by replacing
8 two existing revocable permits; and
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10 WHEREAS, the subject rubble rock revetment, rock wall, two
11 concrete stairways, and landscaped area encumber an area of
12 18,668 square feet, with roughly half that area being submerged
13 lands and the other half of that area being fast lands, as
14 reviewed and approved by the Department of Accounting and
15 General Services' Survey Division; and
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17 WHEREAS, the Legislature's approval is only being requested
18 for the submerged portion of the easement; and
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20 WHEREAS, on March 10, 2011, under agenda item D-4, the
21 Board of Land and Natural Resources approved the issuance of a
22 fifty-five-year term, non-exclusive easement to the AOA; and
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24 WHEREAS, the grantee has paid the fair market value of the
25 18,668 square feet non-exclusive easement area of \$291,000, as
26 determined by independent appraisal; and
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28 WHEREAS, section 171-53, Hawaii Revised Statutes, requires
29 the prior approval of the Governor and prior authorization of
30 the Legislature by concurrent resolution to lease state
31 submerged lands; now, therefore,
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33 BE IT RESOLVED by the House of Representatives of the
34 Thirty-first Legislature of the State of Hawaii, Regular Session
35 of 2021, the Senate concurring, that the Board of Land and
36 Natural Resources is hereby authorized to issue a term,
37 non-exclusive easement covering a portion of state submerged
38 lands fronting the property identified as Tax Map Key: (2)
39 3-9-005:001, for the existing rubble rock revetment, rock wall,
40 and two concrete stairways, and for use, maintenance, repair,
41 replacement, and removal of the existing improvements
42 constructed thereon pursuant to section 171-53, Hawaii Revised
43 Statutes; and
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H.C.R. NO. 18

1 BE IT FURTHER RESOLVED that a certified copy of this
2 concurrent resolution be transmitted to the Chairperson of the
3 Board of Land and Natural Resources.

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OFFERED BY: 

BY REQUEST

JAN 25 2021

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 KAMAOLE, KULA, MAUI, FOR THE EXISTING RUBBLE ROCK REVETMENT, ROCK WALL, AND TWO CONCRETE STAIRWAYS, AND FOR USE, MAINTENANCE, REPAIR, REPLACEMENT, AND REMOVAL 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 rubble rock revetment, rock wall, and two concrete stairways, and for use, maintenance, repair, replacement, and removal of the existing improvements constructed thereon.

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

JUSTIFICATION: Portions of the existing rubble rock revetment, rock wall, and two concrete stairways identified as Tax Map Key: (2) 3-9-005:001, Kamaole Beach lots, Kamaole, Kula, Maui, were placed on state submerged lands. The subject encroachments were discovered during a routine site inspection of two revocable permits between the State and the Association of Apartment Owners of Hale Pau Hana (AOAO).

The Office of Conservation and Coastal Lands of the Department indicated they had no objection to the retention of the existing rubble rock revetment, rock wall, and concrete stairways, and that no Conservation District violations existed with regard to the previously authorized structure.

After discussion between the Department and the AOA, it was agreed by both parties to resolve these encroachments through the issuance of a term non-exclusive easement covering the use of state submerged lands by replacing two existing revocable permits.

The subject rubble rock revetment, rock wall, two concrete stairways, and landscaped area encumber an area of 18,668 square feet, with roughly half that area being submerged lands and the other half of that area being fast lands, as reviewed and approved by the Department of Accounting and General Services' Survey Division.

At its meeting of March 10, 2011, under item D-4, the Board approved the issuance of a fifty-five-year term, non-exclusive easement to the AOA.

The grantee has paid the fair market value of the 18,668 square feet non-exclusive easement area of \$291,000, as determined by independent appraisal.

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, to only address the submerged lands portion of the easement.

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.