

JAN 24 2019

SENATE CONCURRENT RESOLUTION

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

1 WHEREAS, the existing pier, identified as Tax Map Key: (1)
2 4-5-058:121, Kaneohe, Koolaupoko, Oahu, was placed upon state
3 submerged lands; and

4
5 WHEREAS, since 1987, the abutting property owner, Conrad
6 Bryson Bush, possessed a month-to-month revocable permit issued
7 by the Board of Land and Natural Resources to resolve the pier
8 encroachment of about 284 square feet; and

9
10 WHEREAS, in 2016, Mr. Bush passed away and Mrs. Martha K.
11 Bush became the sole property owner and, subsequently, was
12 interested in converting the revocable permit to a long-term
13 easement; and

14
15 WHEREAS, the Department of Land and Natural Resources'
16 Office of Conservation and Coastal Lands did not indicate any
17 objections to the conversion into a long-term easement regarding
18 the existing pier; and

19
20 WHEREAS, on December 9, 2016, under agenda item D-20, the
21 Board of Land and Natural Resources approved a grant of a 55-
22 year non-exclusive easement to resolve the encroachment, to run
23 with the land and to inure to the benefit of the abutting real
24 property; and

25
26 WHEREAS, an easement survey conducted subsequent to the
27 December 9, 2016, Board of Land and Natural Resources meeting
28 showed additional areas of encroachment, including a portion of
29 the existing seawall and eave fronting the property identified
30 as Tax Map Key: (1) 4-5-058: seaward of 033, Kaneohe,
31 Koolaupoko, Oahu, whereby the total encroachment area was
32 determined to be 538 square feet as reviewed and approved by the

1 Department of Accounting and General Services' Survey Division;
2 and
3

4 WHEREAS, House Concurrent Resolution No. 78, House Draft 1,
5 Senate Draft 1, adopted in the Twenty-Ninth Legislature 2017,
6 cited the purpose of the requested easement only for pier
7 purposes; and
8

9 WHEREAS, on June 8, 2018, under agenda item D-8, the Board
10 of Land and Natural Resources approved to amend the total
11 encroachment area to 538 square feet and to add seawall and eave
12 purposes to the easement; and
13

14 WHEREAS, the grantee shall pay the State the fair market
15 value of the easement as consideration of the use of state
16 submerged lands to be determined by independent appraisal; and
17

18 WHEREAS, section 171-53, Hawaii Revised Statutes, requires
19 the prior approval of the Governor and prior authorization of
20 the Legislature by concurrent resolution to lease state
21 submerged lands; now, therefore,
22

23 BE IT RESOLVED by the Senate of the Thirtieth Legislature
24 of the State of Hawaii, Regular Session of 2019, the House of
25 Representatives concurring, that the Board of Land and Natural
26 Resources is hereby authorized to issue a term, non-exclusive
27 easement covering portions of state submerged lands identified
28 as Tax Map Key: (1) 4-5-058:121, Kaneohe, Koolaupoko, Oahu, and
29 Tax Map Key: (1) 4-5-058: seaward of 033, Kaneohe, Koolaupoko,
30 Oahu, for the existing pier, seawall, and eave, and for use,
31 repair, and maintenance of the existing improvements constructed
32 thereon pursuant to section 171-53, Hawaii Revised Statutes; and
33

34 BE IT FURTHER RESOLVED that a certified copy of this
35 Concurrent Resolution be transmitted to the Chairperson of the
36 Board of Land and Natural Resources.
37
38
39
40

41 OFFERED BY: 
42 BY REQUEST
43
44

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 KANEOHE, KOOLAUPOKO, OAHU, FOR THE EXISTING PIER, SEAWALL, AND EAVE, AND FOR USE, REPAIR, AND MAINTENANCE 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 pier, seawall, and eave, and for use, repair, and maintenance of the existing improvements constructed thereon.

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

JUSTIFICATION: The existing pier identified as Tax Map Key: (1) 4-5-058:121, Kaneohe, Koolauloa, Oahu, was placed upon state submerged lands. Since 1987, the abutting property owner, Conrad Bryson Bush, possessed a month-to-month revocable permit issued by the Board to cover the pier encroachment area of 284 square feet.

In 2016, Mr. Bush passed away and Mrs. Martha K. Bush became the sole property owner and, subsequently, was interested in converting the revocable permit to a long-term easement. The Department's Office of Conservation and Coastal Lands did not indicate any objections to the conversion of a long term easement regarding the existing pier.

At its meeting of December 9, 2016, under agenda item D-20, the Board approved a grant of a 55-year non-exclusive easement to resolve the encroachment, to run with the

land and to inure to the benefit of the abutting real property.

An easement survey conducted subsequent to the December 9, 2016, Board meeting showed additional areas of encroachment, including a portion of the existing seawall and eave fronting the property identified as Tax Map Key: (1) 4-5-058: seaward of 033, Kaneohe, Koolaupoko, Oahu, whereby the total encroachment area was determined to be 538 square feet as reviewed and approved by the Department of Accounting and General Services' Survey Division.

At its meeting on June 8, 2018, under item D-8, the Board approved to amend the total encroachment area to 538 square feet and to add seawall and eave purposes to the easement.

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.