

JAN 24 2024

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 BOAT RAMP AND CONCRETE WALL, AND FOR USE, REPAIR, AND MAINTENANCE OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

1 WHEREAS, portions of the existing boat ramp and concrete
2 wall seaward of the property identified as Tax Map Key: (1) 4-5-
3 047:051, Kaneohe, Koolaupoko, Oahu, were placed upon state
4 submerged lands; and

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6 WHEREAS, in 2021, James Michael Elhoff, Trustee of the
7 Michael Elhoff Living Trust dated November 30, 2017, purchased
8 the residential real property located at Tax Map Key: (1) 4-5-
9 047:051, which abuts the portion of state submerged land that
10 contains the encroaching boat ramp and concrete wall; and

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12 WHEREAS, the boat ramp and concrete wall were constructed
13 seaward of the private property record boundary without prior
14 authorization, and a portion of the boat ramp and concrete wall
15 previously located on private property but is now seaward of the
16 current shoreline on state submerged lands; and

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18 WHEREAS, around March 2022, the Department of Land and
19 Natural Resources' Office of Conservation and Coastal Lands
20 worked with the property owner, James Michael Elhoff, Trustee of
21 the Michael Elhoff Living Trust dated November 30, 2017, to
22 resolve the encroachments; and

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24 WHEREAS, the Office of Conservation and Coastal Lands found
25 that the boat ramp and concrete wall are part of an existing
26 seawall that has been in place since at least 1967, based on
27 analysis of historic aerial photographs of the area; and

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29 WHEREAS, the Office of Conservation and Coastal Lands
30 indicated that it supported a non-exclusive easement to resolve
31 the encroachments; and

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2 WHEREAS, on August 26, 2022, under agenda item D-4 of a
3 meeting of the Board of Land and Natural Resources, the Board of
4 Land and Natural Resources approved a grant of a 25-year non-
5 exclusive easement to resolve the boat ramp and concrete wall
6 encroachments, to run with the land and to inure to the benefit
7 of the abutting real property; and

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9 WHEREAS, the total encroachment area was determined to be
10 319 square feet, as reviewed and approved by the Department of
11 Accounting and General Services' Survey Division; and

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13 WHEREAS, on December 14, 2022, James Michael Elhoff
14 executed a removal bond agreement in which James Michael Elhoff
15 assigned to and deposited with the State of Hawaii the amount of
16 \$34,012 to insure the State of Hawaii against the cost of
17 removing the encroachments in the event that the Legislature and
18 the Governor do not approve the issuance of the easement
19 approved by the Board of Land and Natural Resources; and

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21 WHEREAS, the Board of Land and Natural Resources executed
22 Revocable Permit No. S-7956 on March 10, 2023, granting James
23 Michael Elhoff the right to enter and occupy the subject parcel
24 of state land, subject to terms including the payment of \$65
25 monthly rental amount; and

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27 WHEREAS, the grantee shall pay the State the fair market
28 value of the non-exclusive easement as consideration of the use
29 of state submerged lands to be determined by an independent
30 appraisal; and

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32 WHEREAS, section 171-53, Hawaii Revised Statutes, requires
33 the prior approval of the Governor and prior authorization of
34 the Legislature by concurrent resolution to lease state
35 submerged lands; now, therefore,

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37 BE IT RESOLVED by the Senate of the Thirty-second
38 Legislature of the State of Hawaii, Regular Session of 2024, the
39 House of Representatives concurring, that the Board of Land and
40 Natural Resources is hereby authorized to issue a term, non-
41 exclusive easement covering a portion of state submerged lands
42 seaward of the property identified as Tax Map Key: (1) 4-5-
43 047:051, Kaneohe, Koolaupoko, Oahu, for the existing boat ramp
44 and concrete wall, and for use, repair, and maintenance of the

1 existing improvements constructed thereon pursuant to section
2 171-53, Hawaii Revised Statutes; and

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4 BE IT FURTHER RESOLVED that certified copies of this
5 Concurrent Resolution be transmitted to the Chairperson of the
6 Board of Land and Natural Resources and the Governor.

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OFFERED BY: 

BY REQUEST

SCR 8

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 BOAT RAMP AND CONCRETE WALL, AND
FOR USE, REPAIR, AND MAINTENANCE OF THE
EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

PURPOSE: To seek the authorization of the Legislature
by concurrent resolution for the issuance of
a term, non-exclusive easement by the Board
of Land and Natural Resources (Board) for
the existing boat ramp and concrete wall 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: Portions of the existing boat ramp and
concrete wall seaward of the property
identified as Tax Map Key: (1) 4-5-047:051,
Kaneohe, Koolaupoko, Oahu, were placed on
state submerged lands.

In August 2022, the Board approved the grant
of a 25-year non-exclusive easement to the
property owner, James Michael Elhoff,
Trustee of the Michael Elhoff Living Trust
dated November 30, 2017, as grantee, for an
area of 319 square feet including the
encroaching boat ramp and concrete wall with
right, privilege, and authority to
construct, use, maintain, and repair the
existing boat ramp and concrete wall. Since
that time, the property owner has paid a
monthly rental amount of \$65 in exchange for
the right to occupy and use the premises
under a right-of-entry and revocable permit.

The property owner has agreed to pay for an
appraisal of the encroachment area by an
appraiser selected and contracted by the

State of Hawaii to determine the value of the encroachment area and to pay a lump sum in the amount of the appraised value in exchange for a 25-year non-exclusive easement to resolve the encroachments.

The Department's Office of Conservation and Coastal Lands had no objection to the non-exclusive easement to resolve the additional concrete wall 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.