
SENATE CONCURRENT RESOLUTION

AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE SURFACE
EASEMENT AT KAHALUU, NORTH KONA, HAWAII.

1 WHEREAS, due to certain Hawaii Supreme Court rulings
2 regarding shoreline boundaries, it was held that foundation
3 pilings installed in the construction of the original Keauhou
4 Beach Hotel (Hotel) were encroaching onto state lands at
5 Kahaluu, North Kona, Hawaii, identified as Tax Map Key: (3)
6 7-8-013:43; and

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8 WHEREAS, the Board of Land and Natural Resources on
9 February 7, 1969, and by way of public auction, granted a term,
10 non-exclusive surface easement for the encroachment identified
11 as General Lease S-4227 to Island Holidays, Ltd.; and

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13 WHEREAS, in connection with a sale of the Hotel in 1983,
14 the easement was assigned to Ho'omahale, Ltd. and concurrently
15 assigned to Kona Joint Venture I, Ltd. on August 31, 1983; and

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17 WHEREAS, as a result of a bankruptcy case, the easement was
18 then assigned to Azabu USA (Kona) Co., Ltd. in 1987; and

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20 WHEREAS, in connection with another sale of the Hotel, the
21 easement was again assigned, from Azabu USA (Kona) Co., Ltd. to
22 SWVP Keauhou, LLC in 1998; and

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24 WHEREAS, at its March 24, 2006, meeting the Board of Land
25 and Natural Resources approved the further assignment of the
26 easement, from SWVP Keauhou, LLC to KBH, Inc.; and

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28 WHEREAS, KBH, Inc., seeks to enter into a new sixty-five
29 year ground lease with the Kamehameha Schools, the owner of the
30 fast land portion of the property that the Hotel sits on; and
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1 WHEREAS, KBH, Inc., is simultaneously seeking cancellation
2 of General Lease S-4227 and issuance of a new term, non-
3 exclusive surface easement for sixty-five years from the Board
4 of Land and Natural Resources to run concurrently with the
5 sixty-five year ground lease it hopes to attain from the
6 Kamehameha Schools; and
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8 WHEREAS, on January 12, 2007, under agenda item D-2, the
9 Board of Land and Natural Resources approved the simultaneous
10 cancellation of General Lease S-4227 and the direct issuance of
11 a term, non-exclusive surface easement to KBH, Inc. for the use
12 of public lands, subject to certain terms and conditions; and
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14 WHEREAS, section 171-53, Hawaii Revised Statutes, requires
15 the prior approval of the Governor and prior authorization of
16 the Legislature by concurrent resolution to lease submerged
17 public lands; now, therefore,
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19 BE IT RESOLVED by the Senate of the Twenty-fourth
20 Legislature of the State of Hawaii, Regular Session of 2007, the
21 House of Representatives concurring, that the Board of Land and
22 Natural Resources is hereby authorized to lease a term, non-
23 exclusive surface easement at Kahaluu, North Kona, Hawaii,
24 pursuant to section 171-53, Hawaii Revised Statutes; and
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26 BE IT FURTHER RESOLVED that the Department of Land and
27 Natural Resources is requested to submit a written report to the
28 Legislature on the appraised value of the portion of the State-
29 owned submerged lands the term the non-exclusive easement will
30 cover, and the compensation for the easement when both of these
31 values are determined; and
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33 BE IT FURTHER RESOLVED that a certified copy of this
34 Concurrent Resolution be transmitted to the Chairperson of the
35 Board of Land and Natural Resources.

