

JAN 27 2016

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# SENATE CONCURRENT RESOLUTION

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

1           WHEREAS, the existing seawall fronting the property  
2 identified as Tax Map Key: (1) 8-4-005: seaward of 002, Makaha,  
3 Waianae, Oahu, was placed upon state submerged lands; and  
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5           WHEREAS, around July 2012, the Department of Land and  
6 Natural Resources worked with the owner, West Coast Roofing,  
7 Inc., to resolve the encroachment; and  
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9           WHEREAS, on January 11, 2013, under agenda item D-14, the  
10 Board of Land and Natural Resources approved a grant of a 55-  
11 year non-exclusive easement to resolve the encroachment; and  
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13           WHEREAS, Senate Concurrent Resolution 105 pursuant to  
14 section 171-53, Hawaii Revised Statutes, was adopted by the  
15 Twenty-seventh Legislature in May 2013; and  
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17           WHEREAS, the subject area was about 131 square feet, as  
18 reviewed and approved by the Department of Accounting and  
19 General Services' Survey Division; and  
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21           WHEREAS, fair market value of the 131 square feet was  
22 appraised at \$3,000; and  
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24           WHEREAS, other portions of the same seawall were exposed  
25 pursuant to a subsequent shoreline certification application  
26 process; and  
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28           WHEREAS, the total encroaching area was then determined to  
29 be 321 square feet as reviewed and approved by the Department of  
30 Accounting and General Services' Survey Division; and  
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1 WHEREAS, the Department of the Attorney General advised  
2 that another concurrent resolution pursuant to section 171-53,  
3 Hawaii Revised Statutes, is required for the additional  
4 encroaching area; and  
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6 WHEREAS, the grantee shall pay the State the fair market  
7 value of the additional encroaching area of 190 square feet as  
8 consideration of the use of public lands to be determined by an  
9 independent appraisal; and  
10

11 WHEREAS, section 171-53, Hawaii Revised Statutes, requires  
12 the prior approval of the Governor and prior authorization of  
13 the Legislature by concurrent resolution to lease state  
14 submerged lands; now, therefore,  
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16 BE IT RESOLVED by the Senate of the Twenty-eighth  
17 Legislature of the State of Hawaii, Regular Session of 2016, the  
18 House of Representatives concurring, that the Board of Land and  
19 Natural Resources is hereby authorized to issue a term, non-  
20 exclusive easement covering a portion of state submerged lands  
21 fronting the property identified as Tax Map Key: (1) 8-4-005:  
22 seaward of 002, Makaha, Waianae, Oahu, for the maintenance and  
23 repair of the existing seawall, and for use, repair, and  
24 maintenance of the existing improvements constructed thereon  
25 pursuant to section 171-53, Hawaii Revised Statutes; and  
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27 BE IT FURTHER RESOLVED that a certified copy of this  
28 Concurrent Resolution be transmitted to the Chairperson of the  
29 Board of Land and Natural Resources.  
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31  
32 OFFERED BY:   
33 BY REQUEST  
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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 MAKAHA, WAIANAE, OAHU, FOR THE MAINTENANCE AND REPAIR OF THE EXISTING SEAWALL, 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 maintenance and repair of the existing seawall, 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 seawall fronting the property identified as Tax Map Key: (1) 8-4-005: seaward of 002, Makaha, Waianae, Oahu, was placed upon state submerged lands. In 2012, the Department worked with the owners, West Coast Roofing, to resolve the encroachment.

As a result, at its meeting of July 11, 2013, under agenda item D-14, the Board approved a grant of a 55-year non-exclusive easement to resolve the encroachment.

Senate Concurrent Resolution 105, pursuant to section 171-53, HRS, was adopted by the Twenty-seventh Legislature in May 2013, authorizing the issuance of the 55-year non-exclusive easement to resolve the encroachment.

Subsequently, the encroachment area was found out to be larger, with an additional 190 square feet. As such, the Department of

the Attorney General advised that another concurrent resolution pursuant to section 171-53, HRS, is required for the additional encroaching area.

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.