

MAR 03 2016

SENATE CONCURRENT RESOLUTION

AUTHORIZING AMENDMENT OF PERPETUAL NON-EXCLUSIVE EASEMENT FOR
MAINTENANCE AND REPAIR OF EXISTING SEAWALL AND LANDSCAPING
OF EASEMENT AREA AT LAHAINA ON THE ISLAND OF MAUI.

1 WHEREAS, on February 23, 1990, the Board of Land and
2 Natural Resources authorized the direct sale of a non-exclusive,
3 perpetual easement to the Trustees of the Papakea Seawall
4 Easement Trust, for and on behalf of the Papakea Association of
5 Apartment Owners (Papakea AOA), for maintenance and repair of
6 an existing seawall and for landscaping purposes; and
7

8 WHEREAS, subsequent to the Board's action, Land Office Deed
9 (LOD) No. 27836, was recorded in the Bureau of Conveyances of
10 the State of Hawaii as Document No. 91-002182 and was issued on
11 December 27, 1990, for Tax Map Key: (2) 4-4-001: Seaward of 55,
12 granting the easement; and
13

14 WHEREAS, in connection with a shoreline certification
15 survey conducted on the abutting private property owned by the
16 Papakea AOA, a previously unexposed section of the seawall's
17 footing, consisting of approximately nine hundred forty-three
18 square feet, was discovered on the makai side of the subject
19 private property; and
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21 WHEREAS, this previously unexposed section of the seawall
22 was not visible at the time the original survey of the seawall
23 was done by the State in 1990 and, therefore, was not included
24 in the legal description of the easement in LOD No. 27836; and
25

26 WHEREAS, the Papakea AOA desires to include this nine
27 hundred forty-three square foot section, more or less, as
28 described as part of the easement granted pursuant to LOD No.
29 27836; and
30

31 WHEREAS, on August 9, 2013, the Board of Land and Natural
32 Resources authorized the amendment of LOD No. 27836 to include



1 the additional nine hundred forty-three square foot area, more
2 or less, as described in a survey and legal description prepared
3 by Valencia Land Surveying dated September 18, 2012, and
4 approved by the Board of Land and Natural Resources at its
5 August 9, 2013, meeting, within the coverage of easement,
6 subject to the following conditions:

- 7
- 8 (1) A one-time payment of \$12,070.40 for the additional
9 area;
- 10
- 11 (2) The standard terms and conditions of the most current
12 amendment of shoreline encroachment document form; and
- 13
- 14 (3) The easement shall be amended to run with the land and
15 shall insure to the benefit of the real property
16 described as Tax Map Key: (2) 4-4-001: 055; provided,
17 however:
- 18
- 19 (A) It is specifically understood and agreed that the
20 easement shall immediately cease to run with the
21 land upon the expiration or other termination or
22 abandonment of the easement; and
- 23
- 24 (B) If and when the easement is sold, assigned,
25 conveyed, or otherwise transferred, the grantee
26 shall notify the grantor of such transaction in
27 writing, and shall notify the grantee's
28 successors and assigns of the insurance
29 requirement in writing, separate and apart from
30 the easement document; and
- 31

32 WHEREAS, the Papakea AOA has satisfied the Board's
33 condition requiring a one-time payment; and

34

35 WHEREAS, pursuant to section 171-53(c), Hawaii Revised
36 Statutes, the Board of Land and Natural Resources, with the
37 prior approval of the Governor and the prior authorization of
38 the Legislature by concurrent resolution, may lease state
39 submerged lands and lands beneath tidal waters under the terms,
40 conditions, and restrictions provided in chapter 171, Hawaii
41 Revised Statutes; now, therefore,

42



S.C.R. NO. 45

1 BE IT RESOLVED by the Senate of the Twenty-eighth
 2 Legislature of the State of Hawaii, Regular Session of 2016, the
 3 House of Representatives concurring, that the Board of Land and
 4 Natural Resources is authorized to amend Land Office Deed No.
 5 27836, granting a non-exclusive perpetual easement for seawall
 6 maintenance and repair purposes, and for landscaping purposes,
 7 to include an additional area of nine hundred forty-three square
 8 feet, more or less, within the scope of coverage under the
 9 easement, subject to the following conditions:

- 10 (1) The standard terms and conditions of the most current
 11 amendment of shoreline encroachment easement document
 12 form; and
 13
 14
- 15 (2) The easement shall be amended to run with the land and
 16 shall insure to the benefit of the real property
 17 described as Tax Map Key: (2) 4-4-001: 055; provided,
 18 however:
 19
 - 20 (A) It is specifically understood and agreed that the
 21 easement shall immediately cease to run with the
 22 land upon the expiration or other termination or
 23 abandonment of the easement; and
 24
 - 25 (B) If and when the easement is sold, assigned,
 26 conveyed, or otherwise transferred, the grantee
 27 shall notify the grantor of such transaction in
 28 writing, and shall notify the grantee's
 29 successors and assigns of the insurance
 30 requirement in writing, separate and apart from
 31 the easement document; and
 32

33 BE IT FURTHER RESOLVED that certified copies of this
 34 Concurrent Resolution be transmitted to the Chairperson of the
 35 Board of Land and Natural Resources and the President of the
 36 Papakea Association of Apartment Owners.
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 39

OFFERED BY:

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S.C.R. NO. 45

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