
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 the
10 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
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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
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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
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1 WHEREAS, on August 9, 2013, the Board of Land and Natural
2 Resources authorized the amendment of LOD No. 27836 to include
3 the additional nine hundred forty-three square foot area, more
4 or less, as described in a survey and legal description prepared
5 by Valencia Land Surveying dated September 18, 2012, and
6 approved by the Board of Land and Natural Resources at its
7 August 9, 2013, meeting, within the coverage of easement,
8 subject to the following conditions:

- 9
- 10 (1) A one-time payment of \$12,070.40 for the additional
11 area;
- 12
- 13 (2) The standard terms and conditions of the most current
14 amendment of shoreline encroachment document form; and
15
- 16 (3) The easement shall be amended to run with the land and
17 shall inure to the benefit of the real property
18 described as Tax Map Key: (2) 4-4-001: 055; provided,
19 however:
- 20
- 21 (A) It is specifically understood and agreed that the
22 easement shall immediately cease to run with the
23 land upon the expiration or other termination or
24 abandonment of the easement; and
25
- 26 (B) If and when the easement is sold, assigned,
27 conveyed, or otherwise transferred, the grantee
28 shall notify the grantor of such transaction in
29 writing, and shall notify the grantee's
30 successors and assigns of the insurance
31 requirement in writing, separate and apart from
32 the easement document; and
33

34 WHEREAS, the Papakea AOA has satisfied the Board's
35 condition requiring a one-time payment; and
36

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



1 conditions, and restrictions provided in chapter 171, Hawaii
2 Revised Statutes; now, therefore,

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

13

14 (1) The standard terms and conditions of the most current
15 amendment of shoreline encroachment easement document
16 form; and

17

18 (2) The easement shall be amended to run with the land and
19 shall inure to the benefit of the real property
20 described as Tax Map Key: (2) 4-4-001: 055; provided,
21 however:

22

23 (A) It is specifically understood and agreed that the
24 easement shall immediately cease to run with the
25 land upon the expiration or other termination or
26 abandonment of the easement; and

27

28 (B) If and when the easement is sold, assigned,
29 conveyed, or otherwise transferred, the grantee
30 shall notify the grantor of such transaction in
31 writing, and shall notify the grantee's
32 successors and assigns of the insurance
33 requirement in writing, separate and apart from
34 the easement document; and

35

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

