

Honolulu, Hawaii

MAR 28 2018

RE: S.C.R. No. 49  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Ninth State Legislature  
Regular Session of 2018  
State of Hawaii

Sir:

Your Committee on Water and Land, to which was referred  
S.C.R. No. 49 entitled:

"SENATE CONCURRENT RESOLUTION AUTHORIZING THE ISSUANCE OF A  
TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE  
SUBMERGED LANDS AT HONOKAWAI, LAHAINA, MAUI, FOR SEAWALL  
PURPOSES, "

begs leave to report as follows:

The purpose and intent of this measure is to provide  
legislative authorization for the issuance of a term, non-  
exclusive easement covering a portion of state submerged lands at  
Honokawai, Lahaina, Maui, by the Board of Land and Natural  
Resources for the existing seawall.

Your Committee received testimony in support of this measure  
from the Department of Land and Natural Resources. Your Committee  
received testimony in opposition to this measure from the Sierra  
Club of Hawai'i and approximately one hundred thirty individuals.

Your Committee finds that an existing seawall fronting the  
property identified as Tax Map Key: (2) 4-4-001:042, Honokawai,  
Lahaina, Maui, is placed on state submerged lands. The owners of  
the abutting property, the Association of Unit Owners of the Hale  
Kai Condominium, worked with the Department of Land and Natural  
Resources to resolve the encroachment problem, and the Department  
subsequently approved a grant of a fifty-five-year term, non-



exclusive easement on August 12, 2011. However, this easement has not been fully executed due to subsequent amendments to account for additional encroachments due to the migration of the shoreline.

Your Committee further finds that the subject area is about 2,920 square feet, which is subject to review and approval by the Department of Accounting and General Services' Survey Division. The abutting property owner is required to pay the State the fair market value of the easement as consideration for the use of public lands, and the amount of the consideration shall be determined by an independent appraiser. Since the Board of Land and Natural Resources has met all statutory prerequisites, this measure authorizes the issuance of a term, non-exclusive easement in accordance with section 171-53, Hawaii Revised Statutes.

Your Committee has amended this measure by:

- (1) Inserting language regarding a \$5,000 fine imposed by the Board of Land and Natural Resources in 2008 against the Association of Unit Owners of the Hale Kai Condominium for the failure to obtain appropriate approvals for the unauthorized improvements made to the existing seawall;
- (2) Clarifying that the Board of Land and Natural Resources held subsequent meetings to approve amendments to the term, non-exclusive easement to account for additional encroachments due to the migration of the shoreline;
- (3) Clarifying that although approved and amended by the Board of Land and Natural Resources, the term, non-exclusive easement has yet to be fully executed;
- (4) Inserting language that the subject area of the term, non-exclusive easement is subject to review and approval by the Department of Accounting and General Services' Survey Division;
- (5) Inserting language that the grantee shall pay the State the fair market value of the term, non-exclusive easement as consideration of the use of public lands to be determined by an independent appraiser; and



- (6) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Water and Land that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 49, as amended herein, and recommends that it be referred to your Committee on Ways and Means, in the form attached hereto as S.C.R. No. 49, S.D. 1.

Respectfully submitted on  
behalf of the members of the  
Committee on Water and Land,



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KARL RHOADS, Chair



