

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committees on
WATER & LAND
and
OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS**

**Friday, April 13, 2018
11:00 AM
State Capitol, Conference Room 325**

**In consideration of
SENATE CONCURRENT RESOLUTION 39, SENATE DRAFT 1
AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT
COVERING A PORTION OF STATE SUBMERGED LANDS AT HEEIA,
KOOLAUPOKO, OAHU, FOR THE EXISTING SEAWALL AND LANDSCAPED AREA
AND FOR USE, REPAIR, AND MAINTENANCE OF THE EXISTING
IMPROVEMENTS CONSTRUCTED THEREON**

Senate Concurrent Resolution 39, Senate Draft 1 requests authorization to issue a term, non-exclusive easement covering about a 1379 square foot, more or less, portion of state submerged lands identified as tax map key: (1) 4-6-001:seaward of 019, at Heeia, Koolaupoko, Oahu for the use, repair, and maintenance of an existing seawall and landscaped area constructed thereon, pursuant to Section 171-53, Hawaii Revised Statutes (HRS). **The Department of Land and Natural Resources (Department) supports this concurrent resolution.**

The unauthorized seawall was constructed on State land in 1978 by the previous owner, Richard Gessler. In 1981, Mr. Gessler worked with the Department to resolve the encroachment. However, in 1982 the Board of Land and Natural Resources (Board) denied the after-the-fact Conservation District Use Application (CDUA) without prejudice for further investigation of other possible land use violations. In 2007, Mr. Gessler sold the abutting property to Dr. Clayton Honbo, who in 2014 transferred the property to his company, Nanaina 'O Pali Ku, LLC. Subsequently, Dr. Honbo worked with the Department to resolve the encroachments. In 2017, the Board approved the after-the-fact CDUA. As required by Section 171-53, HRS, the Board may lease submerged lands "with the prior approval of the Governor and the prior authorization of the Legislature by concurrent resolution". At its meeting on December 8, 2017, under agenda item D-11, the Board approved the issuance of a term, non-exclusive easement for purposes stated above.

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

JEFFREY. T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Finally, the Department notes that Senate Draft 1 describes the land area as “accreted”. However, the Department has researched the matter and discovered that the State Surveyor, in a letter dated April 8, 1982, has previously determined this area to be filled land, not privately owned accreted land. Hence, the Department recommends that the word “accreted” be deleted from line 6. The grantee shall pay the State the fair market value of the easement as consideration for the use of public lands. The amount of consideration shall be determined by an independent appraisal.

Thank you for the opportunity to comment on this measure.

SCR-39-SD-1

Submitted on: 4/11/2018 3:52:46 PM

Testimony for WAL on 4/13/2018 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
jennifer littenberg	Individual	Support	Yes

Comments:

Dear Chair Yamane and Ing, Vice Chair Todd and DeCoite, and Members of the Committee,

I stand in support of the resolution. I am currently assisting and representing the land owner Dr. Clayton Honbo in his request to acquire a term, non-exclusive easement for a portion of state submerged lands that are located Makai of his property.

Dr. Honbo is working diligently with the Department of Land and Natural Resources Office of Coastal Lands (OCCL) and the Land Division to legally resolve the encroachment that was in existence prior to him acquiring the abutting property.

Thank you for your consideration and time.

Very Respectfully,

Jennifer Littenberg

Environmental Engineer

SCR-39-SD-1

Submitted on: 4/12/2018 8:51:18 AM

Testimony for WAL on 4/13/2018 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Clayton Honbo	Individual	Support	No

Comments:

I am in support of this resolution.

Clayton Honbo