

JAN 23 2020

---

---

# SENATE CONCURRENT RESOLUTION

AUTHORIZING THE ISSUANCE OF TERM, NON-EXCLUSIVE EASEMENTS  
COVERING PORTIONS OF STATE SUBMERGED LANDS AT  
WAIOHULI-KEOKEA, WAILUKU, MAUI, FOR THE EXISTING SEAWALL,  
AND FOR THE USE, MAINTENANCE, AND REPAIR OF THE EXISTING  
IMPROVEMENTS CONSTRUCTED THEREON.

1           WHEREAS, portions of an existing seawall fronting the  
2 property identified as Tax Map Key: (2) 3-9-011:seaward of 008,  
3 Waiohuli-Keokea, Wailuku, Maui, were placed on state submerged  
4 lands; and

5  
6           WHEREAS, the property is a condominium consisting of CPR  
7 0001 owned by Rand 2013 Living Trust, Dated November 25, 2013  
8 and CPR 0002 owned by Reconstruct Holdings USA, Inc.

9  
10          WHEREAS, at its meeting of May 8, 2015, under agenda item  
11 D-8, the Board of Land and Natural Resources approved a grant of  
12 a 65-year non-exclusive easement to resolve the encroachment, to  
13 run with the land and to inure to the benefit of the abutting  
14 real property; and

15  
16          WHEREAS, Senate Concurrent Resolution No. 2, adopted in the  
17 Twenty-eighth Legislature of the State of Hawaii, Regular Session  
18 of 2016, cited the purpose of the requested non-exclusive  
19 easement for seawall purposes; and

20  
21          WHEREAS, it was later discovered that there were additional  
22 portions of the seawall which were not covered by the non-  
23 exclusive easement which were encroaching on state submerged  
24 lands; and

25  
26          WHEREAS, the additional total encroachment area was  
27 determined to be approximately 928 square feet, more or less,  
28 subject to review and approval by the Department of Accounting  
29 and General Services' Survey Division; and

S.C.R. NO. 33

1 WHEREAS, Reconstruct Holdings USA, Inc., the owner of CPR  
2 0002, requested that the non-exclusive easement that was granted  
3 by the Board of Land and Natural Resources on May 8, 2015 be  
4 divided into two separate easements; and  
5

6 WHEREAS, at its meeting of August 25, 2017, under agenda  
7 item D-9 as amended, and October 12, 2018 under agenda item D-5,  
8 the Board of Land and Natural Resources approved the grant of  
9 sixty-five (65) year, non-exclusive easements for the additional  
10 portions of the seawall on state submerged lands, to run with  
11 the land and inure to the benefit of CPR 0001 and CPR 0002,  
12 Waiohuli-Keokea, Wailuku, Maui of the abutting real property, to  
13 resolve the encroachments; and  
14

15 WHEREAS the grantees shall pay the fair market value of the  
16 easements as determined by independent appraisal; and  
17

18 WHEREAS, section 171-53, Hawaii Revised Statutes, requires  
19 the prior approval of the Governor and prior authorization of  
20 the Legislature by concurrent resolution to lease state  
21 submerged lands; now, therefore,  
22

23 BE IT RESOLVED by the Senate of the Thirtieth Legislature  
24 of the State of Hawaii, Regular Session of 2020, the House of  
25 Representatives concurring, that, pursuant to section 171-53,  
26 Hawaii Revised Statutes, the Board of Land and Natural Resources  
27 is hereby authorized to grant term, non-exclusive easements  
28 covering portions of state submerged lands fronting the property  
29 identified as Tax Map Keys (2) 3-9-011:seaward of 008 CPR 0001  
30 and CPR 0002, Waiohuli-Keokea, Wailuku, Maui for the existing  
31 seawall, and the use, maintenance, and repair of the existing  
32 improvements constructed thereon; and  
33

34 BE IT FURTHER RESOLVED that a certified copy of this  
35 concurrent resolution be transmitted to the Chairperson of the  
36 Board of Land and Natural Resources.  
37  
38  
39  
40

41 OFFERED BY:   
42 BY REQUEST  
43  
44  
45

# SCR No. 33

## JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: CONCURRENT RESOLUTION AUTHORIZING THE ISSUANCE OF TERM, NON-EXCLUSIVE EASEMENTS COVERING A PORTION OF STATE SUBMERGED LANDS AT WAIOHULI-KEOKEA, WAILUKU, MAUI, FOR THE EXISTING SEAWALL, AND FOR THE USE, MAINTENANCE, AND REPAIR OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

PURPOSE: To seek the authorization of the Legislature by concurrent resolution of the issuance of term, non-exclusive easements by the Board of Land and Natural Resources (Board) for an 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: Portions of the existing seawall fronting the property identified as Tax Map Key: (2) 3-9-011:seaward of 008 CPR 0001 & CPR 0002, Waiohuli-Keokea, Wailuku, Maui, was placed upon state submerged lands.

The property is a condominium consisting of CPR 0001 owned by Rand 2013 Living Trust, Dated November 5, 2013 and CPR 0002 owned by Reconstruct Holdings USA, Inc.

At its meeting of May 8, 2015, under agenda item D-8, the Board approved a grant of a 65-year non-exclusive easement to resolve the encroachment, to run with the land and to inure to the benefit of the abutting real property.

Senate Concurrent Resolution No. 2, adopted in the Twenty-eighth Legislature of the State of Hawaii, Regular Session of 2016, cited the purpose of the requested non-exclusive easement for seawall purposes.

It was later discovered that there were additional portions of the seawall which were not covered by the non-exclusive easement which were encroaching on state submerged lands. The additional total encroachment area was determined to be approximately 928 square feet, more or less, subject to review and approval by the Department of Accounting and General Services' Survey Division.

Reconstruct Holdings USA, Inc., the owner of CPR 0002, requested that the non-exclusive easement that was granted by the Board of Land and Natural Resources on May 8, 2015 be divided into two separate easements.

At its meetings of August 25, 2017, under agenda item D-9 as amended, and October 12, 2018 under agenda item D-5, the Board approved the grant of sixty-five (65) year, non-exclusive easements for the additional portions of the seawall on state submerged lands, to run with the land and inure to the benefit of CPR 0001 and CPR 0002, Waiohuli-Keokea, Wailuku, Maui of the abutting real property, to resolve the encroachments.

Both grantees are required to pay the fair market value of the easements, as determined by an independent appraisal.

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.