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GOVERNOR OF HAWAII



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

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**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
WATER AND LAND**

**Wednesday, April 7, 2021
1:00 PM**

State Capitol, Via Videoconference, Conference Room 229

**In consideration of
HOUSE CONCURRENT RESOLUTION 17, HOUSE DRAFT 1
AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT
COVERING A PORTION OF STATE SUBMERGED LANDS AT WAIMANALO,
KOOLAUPOKO, OAHU, FOR THE EXISTING PIER, SEAWALL, AND STEPS, AND
FOR USE, REPAIR, AND MAINTENANCE OF THE EXISTING IMPROVEMENTS
CONSTRUCTED THEREON**

House Concurrent Resolution 17, House Draft 1 requests the authorization to issue a term, non-exclusive easement covering 2,825 square feet, more or less, portion of state submerged lands identified as tax map key: (1) 4-1-001:seaward of 011 and 013, at Waimanalo, Koolau-poko, Oahu for the use, repair, and maintenance of the existing pier, seawall, and steps constructed thereon, pursuant to Section 171-53, Hawaii Revised Statutes (HRS). **The Department of Land and Natural Resources (Department) supports this Administration concurrent resolution.**

The entire pier and a large portion of the seawall was built makai of the private property on state lands, while the steps were built within the private property. The pier is currently permitted by the Department's Revocable Permit (RP) 5408. However, the consensus of the Statewide Revocable Permit Task Force, appointed by the Chairperson of the Department, was that RPs should be replaced with long-term dispositions (or easements). During the RP replacement process a shoreline survey showed that the seawall and steps were also encroaching on state lands. The steps (originally within the private property) became encroaching because erosion fronting the steps caused the shoreline to move mauka of the private property boundary. Since the encroaching portions of the seawall and steps were found on state lands located makai of the shoreline, such area should be considered as submerged lands subject to the approval of the Department's Office of Conservation and Coastal Lands (OCCL). OCCL verbally stated they had no objections to adding the seawall and steps to the pier easement. The shoreline fronting the property is sandy and is subject to seasonal variations. The seawall is also being used as a retaining wall, and removal of the encroaching portion could undermine the integrity of the entire seawall causing a catastrophic collapse and subsequent loss of backfilled soil and the

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

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DEPUTY DIRECTOR - WATER

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

resident structure. The seawall is also part of a long-standing wall with the neighbor on one side. Removal of the encroachment portion of the seawall and the potential collapse of the seawall could impact the neighboring property seawall exacerbating the problem by causing a chain of seawall collapse with increasing land loss and runoff. At its meeting on April 12, 2019, under agenda item D-8, the Board of Land and Natural Resources (Board) unanimously approved amending its prior action in January 2017 to increase the area to 2,818 square feet, subject to the review and approval by the Department of Accounting and General Services' Survey Division, and to add "seawall and steps" as part of the character of use.

The current owner (grantee) of the abutting property, C. Michael Muller, is working with the Department to replace the existing pier revocable permit to a long-term easement for the pier, seawall, and steps. 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". The Department notes that during the 2017 Legislative session House Concurrent Resolution 27, Senate Draft 1, was adopted for the pier purpose.

The grantee shall pay the State the fair market value of the easement, as consideration for the use of public lands as determined by an independent appraisal.

Thank you for the opportunity to comment on this measure.