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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 House Committee on
CONSUMER PROTECTION & COMMERCE**

**Thursday, April 15, 2021
2:00 PM**

State Capitol, Via Videoconference, Conference Room 329

**In consideration of
SENATE CONCURRENT RESOLUTION 10
AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT
COVERING A PORTION OF STATE SUBMERGED LANDS AT KAALAWAI,
HONOLULU, OAHU, FOR THE EXISTING SEAWALL, AND FOR USE, REPAIR, AND
MAINTENANCE OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON**

Senate Concurrent Resolution 10 requests the authorization to issue a term, non-exclusive easement covering 214 square feet, more or less, portion of state submerged lands identified as tax map key: (1) 3-1-041:seaward of 025, at Kaalawai, Honolulu, Oahu for the use, repair, and maintenance of the existing seawall 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 seawall was built within the private property, with the exception of a small portion of the wall footing which was built makai of the private property on state lands. During a recent shoreline certification process it was determined that even though the seawall structure was originally built on the private property, about half of the width of the seawall (for its entire length) was located makai of shoreline and is now on state lands. Since the encroaching portion of the seawall was 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). After reviewing submitted documentation, OCCL determined that the seawall was authorized by the City and County of Honolulu Building Permit 018346 on October 12, 1973. OCCL supported the disposition through an easement, citing there are no sandy beach resources fronting the subject seawall and it is unlikely that removal of the encroachment would improve the lateral shoreline access. The shoreline fronting the seawall consists of lava rocks and boulders. The seawall is also being used as a retaining wall, and the 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 resident structure. The seawall is also part of a long-standing wall with the neighbor on one side and an adjacent public

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
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

access wall on the other side. Removal of the encroachment portion of the seawall and the potential collapse of the seawall could impact the public access and the public access wall, as well as the neighboring property seawall. At its meeting on April 13, 2018, under agenda item D-7, the Board of Land and Natural Resources (Board) unanimously approved the issuance of a term, non-exclusive easement for purpose stated above and there were no public opposition.

The current owner of the abutting property, Ashley Chen, is working with the Department to resolve the encroachment through a disposition. 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 grantee has paid the State the fair market value of the easement, in the amount of \$30,300, as consideration for the use of public lands as determined by an independent appraisal.

Thank you for the opportunity to comment on this measure.