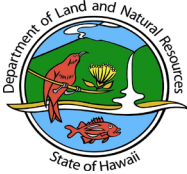


DAVID Y. IGE
GOVERNOR OF HAWAII



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

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**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committee on
CONSUMER PROTECTION & COMMERCE**

**Thursday, April 15, 2021
2:00 PM
State Capitol, Via Videoconference, Room 329**

**In consideration of
SENATE CONCURRENT RESOLUTION 141, SENATE DRAFT 1, HOUSE DRAFT 1
AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT
COVERING PORTIONS OF STATE SUBMERGED LANDS AT WAILEA, MAUI, FOR
THE EXISTING STAIRWAY, AND FOR USE, REPAIR, AND MAINTENANCE OF
THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON**

Senate Concurrent Resolution 141, Senate Draft 1, House Draft 1 requests the authorization to issue a term, non-exclusive easement covering a 22 square foot, more or less, portion of state submerged lands identified as Tax Map Key: (2) 2-1-008: Seaward of 069 at Wailea, Maui, for the use, repair, and maintenance of the existing stairway constructed thereon, pursuant to Section 171-53, Hawaii Revised Statutes (HRS). Senate Draft 1 of the measure inserts a clause stating that the grantee shall pay the State the fair market value of the easement as consideration for the use of state submerged lands, to be determined by independent appraisal; makes technical, non-substantive amendments for the purposes of clarity and consistency. **The Department of Land and Natural Resources (Department) supports this concurrent resolution.**

The easement covers improvements that were constructed partially on private land and partially on state owned land seaward of the record boundary. The subject encroachment consists of a wooden stairway connecting the Wailea Coastal Walk to the middle part of Ulua Beach. The stairway has a footprint of roughly 120 square feet and is one of four access points to Ulua Beach from the resort areas and the Coastal Walk. The stairway was rebuilt in 2009 with only approval from the County of Maui, as it was believed that it was located mauka of the certified shoreline based on surveys done in 1983 (certified) and 2006 (not certified). The shoreline has since migrated landward, placing the improvements partially seaward of the shoreline.

The Department's Office of Conservation and Coastal Lands (OCCL) determined that removal of the encroaching stairway would have minimal effects on the shoreline and beach environment. OCCL further found that there are no apparent negative impacts on the beach environment from the stairway and removal of the encroachment would not improve lateral access or negatively

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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
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

affect access to the beach, but would result in one less access point to the beach from the coastal walk inland of the stairway. Additionally, OCCL determined that removal of the stairway would not interfere with natural coastal processes and would have no direct impact on adjacent or nearby properties. OCCL supports a disposition (easement) for the encroaching portion of the staircase.

As required by Section 171-53, HRS, the Board of Land and Natural Resources (Board) may lease submerged lands "with the prior approval of the Governor and the prior authorization of the Legislature by concurrent resolution". Staff obtained Board approval, at its meeting on January 22, 2021, Item D-5, as amended, for the issuance of a term, non-exclusive easement of approximately 22 square feet for a portion of the stairway which covers the encroachment.

The easement area is currently being reviewed by the Department of Accounting and General Services' Survey Division. The applicant (Association of Apartment Owners of Wailea Elua) 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.