

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  
WATER & LAND**

**Tuesday, April 6, 2021  
8:30 AM  
State Capitol, Via Videoconference, Room 430**

**In consideration of  
SENATE CONCURRENT RESOLUTION 141, SENATE DRAFT 1  
AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT  
COVERING A PORTION 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 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.

**SCR-141-SD-1**

Submitted on: 4/4/2021 11:02:19 AM

Testimony for WAL on 4/6/2021 8:30:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Seiko Machida       | DLNR                | Support                   | No                        |

Comments:

I am available for questions. Please allow me Zoom access. Thank you.

**SCR-141-SD-1**

Submitted on: 4/4/2021 11:19:31 AM

Testimony for WAL on 4/6/2021 8:30:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Edward Paa          | DLNR                | Support                   | No                        |

Comments:

I am available for questions. Please allow me Zoom access. Thank you.

**SCR-141-SD-1**

Submitted on: 4/4/2021 10:39:28 PM

Testimony for WAL on 4/6/2021 8:30:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Sam Lemmo           | DLNR                | Support                   | No                        |

Comments:

I am available for questions. Please allow me Zoom access. Thank you.

**SCR-141-SD-1**

Submitted on: 4/5/2021 9:45:07 PM

Testimony for WAL on 4/6/2021 8:30:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Rory Frampton       | Wailea Elua AOAO    | Support                   | No                        |

Comments:

Aloha Chair and Committee Members

I am a Land Use Planning Consultant and have been retained by Wailea Elua AOAO to assist in the processing of the request for a term easement for the public access stairway at Wailea Ulua Beach. A summary of the background information on the request is included in the body of the Concurrent Resolution. I will be available via zoom during the meeting if there are any questions.

Thank you,

Rory Frampton