

DAVID Y. IGE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

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

Wednesday, March 10, 2021

1:00 PM

State Capitol, Via Videoconference, Room 229

**In consideration of
SENATE CONCURRENT RESOLUTION 19
AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT
COVERING A PORTION OF STATE SUBMERGED LANDS AT MAUNALUA,
HONOLULU, OAHU, FOR THE EXISTING SEAWALL, AND FOR USE, REPAIR, AND
MAINTENANCE OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON**

Senate Concurrent Resolution 19 requests the authorization to issue a term, non-exclusive easement covering 138 square feet, more or less, portion of state submerged lands identified as tax map key: (1) 3-9-016:seaward of 036, at Maunalua, 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, however, during a recent shoreline certification process it was determined that the lip overhang at the top of the seawall and the footing located at the seawall base (for the seawalls 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 (which included a 1955 survey map that identified the existence of the seawall) the OCCL supported the disposition through an easement for the lip overhang and footing, citing there are no walkable lateral access to the public and there is no sandy beach resources fronting the subject seawall or adjacent properties to the north and south. In addition, the OCCL commented that the land fronting the seawall is consistently submerged and that removal of the encroachment would unlikely improve the lateral shoreline access. Also, the OCCL notes that the encroachment is attached to the seawall and serves as primary erosion control for the subject property. And, that the encroachment is negligible, having a small footprint, and its removal may compromise the structural integrity of the seawall that fronts the shoreline sides of both adjacent properties. The seawall is also being used as a retaining wall,

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

and removal of the encroaching portion could not only undermine the integrity of the entire seawall but cause a catastrophic collapse and subsequent loss of backfilled soil. The seawall is also part of a long-standing wall with the neighbors on both sides. Removal of the encroachment portion of the seawall and the potential collapse of the seawall could impact the neighboring properties seawall exacerbating the problem by causing a chain of seawall collapse with increasing land loss and runoff. At its meeting on July 10, 2020, under agenda item D-5, 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, Daisho Company, Ltd. dba Daishohouse, 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 shall pay the State the fair market value of the non-exclusive 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-19

Submitted on: 3/7/2021 9:57:58 PM

Testimony for WTL on 3/10/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Calen Miyahara	Testifying for DLNR	Support	No

Comments:

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

SCR-19

Submitted on: 3/7/2021 10:04:15 PM

Testimony for WTL on 3/10/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ian Hirokawa	Testifying for DLNR	Support	No

Comments:

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

SCR-19

Submitted on: 3/7/2021 10:11:24 PM

Testimony for WTL on 3/10/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Barry Cheung	Testifying for DLNR	Support	No

Comments:

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

DAMON KEY LEONG KUPCHAK HASTERT
A LAW CORPORATION

Testimony of
Daisho Co., Ltd., a Japan corporation, dba DAISHOHOUSE,
Landowner of TMK (1) 3-9-016:036

Before the Senate Committee on
WATER AND LAND

Wednesday, March 10, 2021
1:00 PM

State Capitol, Room 229 & Videoconference

In consideration of
SENATE CONCURRENT RESOLUTION 19
AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE
EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT
MAUNALUA, HONOLULU, OAHU, FOR THE EXISTING SEAWALL, AND
FOR USE, REPAIR, AND MAINTENANCE OF THE EXISTING
IMPROVEMENTS CONSTRUCTED THEREON

This firm represents Daisho Co., Ltd., a Japan corporation, doing business as DAISHOHOUSE ("Owner"). As landowner of the property abutting the subject seawall, Owner **supports** Senate Concurrent Resolution 19, which resolution requests the authorization to issue a term, non-exclusive easement covering 138 square feet, more or less, portion of state submerged lands identified as tax map key: (1) 3-9-016:seaward of 036, at Maunaloa, Honolulu, Oahu for the use, repair, and maintenance of the existing seawall constructed thereon, pursuant to Section 171-53, Hawaii Revised Statutes (HRS).

Owner has worked in cooperation with the State's Office of Conservation and Coastal Lands (OCCL) and the Board of Land Natural Resources to resolve the subject encroachment through a disposition and Owner agrees to pay to the State the fair market value of the subject encroachment.

Thank you for the opportunity to comment on this measure.

Very truly yours,

DAMON KEY LEONG KUPCHAK HASTERT



Gregory W. Kugle

Attorneys at Law

1003 Bishop Street, Suite 1600
Honolulu, Hawaii 96813-6452

Telephone (808) 531-8031

Facsimile (808) 533-2242

E-Mail: info@hawaiilawyer.com

Website: www.hawaiilawyer.com

Nicholas K. Ernst

Matthew T. Evans

Tred R. Eyerly

Kayla M. Fajota

Diane D. Hastert

Christine A. Kubota

Gregory W. Kugle

Kenneth R. Kupchak

Na Lan

Denis C.H. Leong

Megan L.M. Lim¹

David P. McCauley

Casey T. Miyashiro

Mark M. Murakami

Veronica A. Nurdyke

Anna H. Oshiro

Laurel E. Pepe

Loren A. Seehase

Megumi Soga

Douglas C. Smith

Ross Uehara-Tilton

Cheyne I.Y. Yonemori

Michael A. Yoshida

Madeleine M.V. Young²

Joanna C. Zeigler

Director Emeritus

Robert H. Thomas

Of Counsel

Jed Kurzban³

R. Charles Bocken

(1921-2020)

C.F. Damon, Jr.

(1926-2017)

Charles W. Key

(1929-2008)

¹Admitted in Hawaii and Washington

²Admitted in Hawaii and California

³Admitted in Hawaii and Florida



Providing business clients
worldwide access to
sophisticated legal advice
and exceptional service.