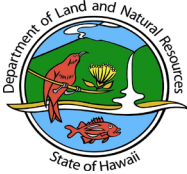


DAVID Y. IGE
GOVERNOR OF HAWAII



**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**

**Monday, March 14, 2022
1:00 PM**

State Capitol, Conference Room 229, Via Videoconference

**In consideration of
SENATE CONCURRENT RESOLUTION 3
AUTHORIZING THE AMENDMENT OF A TERM, NON-EXCLUSIVE EASEMENT
COVERING A PORTION OF STATE SUBMERGED LANDS AT WAILUPE,
HONOLULU, OAHU, FOR THE EXISTING SEAWALL, AND FOR USE, REPAIR, AND
MAINTENANCE OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON**

Senate Concurrent Resolution 3 requests the authorization to amend a term, non-exclusive easement¹ covering 146 square feet of reclaimed lands including a seawall to include an additional 16 square-foot, more or less, portion of state submerged lands identified as tax map key: (1) 3-6-003:seaward of 015, at Wailupe, 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 measure, but offers an amendment to the title and text of the concurrent resolution.**

The owners of the abutting property, Tsugio Ueyama, as Trustee of the unrecorded Tsugio Ueyama Revocable Living Trust dated July 10, 2001 and Jane N. Ueyama, as Trustee of the unrecorded Jane N. Ueyama Revocable Living Trust dated July 10, 2001, and Lynn Wong (now Lynn De Jesus), the grantees, were issued a 55-year term, non-exclusive easement in July 2002 for the encroaching seawall and a portion for state owned reclaimed lands, and paid a lump sum consideration of \$11,300 to resolve the encroachment. Thereafter, Bank of Hawaii became successor Trustee of the Tsugio Ueyama Trust and Jane N. Ueyama Trust.

A subsequent shoreline survey done in 2007 showed a 16 square-foot portion of the footing and overhang of the seawall was located makai of the seawall and encroaching on state submerged lands. Around June of 2020, the Department contacted the Ueyamas and informed them the State would proceed with amending their easement to include the additional 16 square-foot area.

¹ The current easement area comprises of 146 square feet reclaimed lands, disposed pursuant to Section 171-53(b), HRS. This easement did not require legislative approval.

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

The Department's Office of Conservation and Coastal Lands had no objection to a proposed amendment to increase the easement area. At its meeting of August 28, 2020, under agenda item D-10, the Board of Land and Natural Resources (Board) approved an amendment of the original easement to resolve the additional footing and overhang encroaching area. There was no public opposition. 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 reason for the delay in the amendment of the easement between the discovery of the additional 16 square foot encroachment in 2007 and the August 28, 2020, Board action is that the Department initially explored canceling the easement and selling the reclaimed land area to the easement holder in fee along with an easement for only the submerged land area. However, due to changes in law and Department policy, the sale of the reclaimed land was never completed and eventually abandoned. The original easement continues to remain in effect and unamended since its initial execution.²

The grantees paid the State the fair market value for the 16 square feet of additional area in the amount of \$1,240, which was calculated on the basis of the per square foot value of the consideration approved by the Board for the original grant of easement.

Finally, the Department requests amendments to the title, the first WHEREAS (line 1-3) and second WHEREAS (line 10) clauses, and the BE IT RESOLVED clause of the concurrent resolution in order to clarify the respective easements areas for submerged and reclaimed lands:

AUTHORIZING THE ~~[AMENDMENT OF]~~ ADDITION OF A PORTION OF STATE SUBMERGED LANDS TO A TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE [SUBMERGED] RECLAIMED LANDS AT WAILUPE, HONOLULU, OAHU, FOR THE EXISTING SEAWALL, AND FOR USE, REPAIR, AND MAINTENANCE OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

~~[WHEREAS, portions of the existing seawall fronting the property identified as Tax Map Key: (1) 3-6-003:015, Wailupe, Honolulu, Oahu, were placed on state submerged lands; and]~~

WHEREAS, in July 2002, Tsugio Ueyama, as Trustee of the unrecorded Tsugio Ueyama Revocable Living Trust dated July 10, 2001, Jane N. Ueyama, as Trustee of the unrecorded Jane N. Ueyama Revocable Living Trust dated July 10, 2001, and Lynn M. Wong (now Lynn De Jesus), as grantees, were issued a 55-year term, non-exclusive easement for a portion of state reclaimed lands fronting the property identified as Tax Map Key: (1) 3-6-003:015, Wailupe, Honolulu, Oahu, and comprising an area of 146 square feet including the encroaching seawall with right, privilege, and authority to construct, use, maintain, and repair the existing seawall, and paid a lump sum consideration of \$11,300 to resolve the encroachment; and

² All Board approvals in relation to the sale of reclaimed lands have since been rescinded.

BE IT RESOLVED by the Senate of the Thirty-first Legislature of the State of Hawaii, Regular Session of 2022, the House of Representative concurring, that the Board of Land and Natural Resources is hereby authorized to [~~issue an amendment to the~~] add a portion of state submerged lands to a term, non-exclusive easement covering a portion of state [submerged] reclaimed lands fronting the property identified as Tax Map Key: (1) 3-6-003:015, Wailupe, Honolulu, Oahu, for the existing seawall, and for use, repair, and maintenance of the existing improvements constructed thereon pursuant to section 171-53, Hawaii Revised Statutes; and

Thank you for the opportunity to comment on this measure.

SCR-3

Submitted on: 3/13/2022 12:47:19 PM

Testimony for WTL on 3/14/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Calen Miyahara	Testifying for DLNR	Support	Remotely Via Zoom

Comments:

I am available for questions to DLNR. Please allow me Zoom access.

SCR-3

Submitted on: 3/13/2022 12:50:06 PM

Testimony for WTL on 3/14/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Barry Cheung	Testifying for DLNR	Support	Remotely Via Zoom

Comments:

I am available for questions to DLNR. Please allow me Zoom access.

SCR-3

Submitted on: 3/13/2022 12:51:43 PM

Testimony for WTL on 3/14/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ian Hirokawa	Testifying for DLNR	Support	Remotely Via Zoom

Comments:

I am available for questions to DLNR. Please allow me Zoom access.