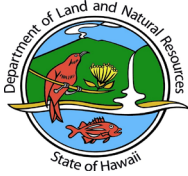


DAVID Y. IGE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
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**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
WAYS AND MEANS**

**Wednesday, March 23, 2022
10:45 PM**

State Capitol, Conference Room 211, Via Videoconference

**In consideration of
SENATE CONCURRENT RESOLUTION 4, SENATE DRAFT 1
AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT
COVERING A PORTION OF STATE SUBMERGED LANDS AT KAHALUU,
KOOLAUPOKO, OAHU, FOR THE EXISTING SEAWALL, STEPS, AND FILLED
LAND, AND FOR USE, REPAIR, AND MAINTENANCE OF THE EXISTING
IMPROVEMENTS CONSTRUCTED THEREON**

Senate Concurrent Resolution 4, Senate Draft 1, requests the authorization to issue a term, non-exclusive easement covering an 842 square-foot, more or less, portion of state submerged lands identified as tax map key: (1) 4-7-001:seaward of 006, at Kahaluu, Koolaupoko, Oahu for the use, repair, and maintenance of the existing seawall, steps, and filled land constructed thereon, pursuant to Section 171-53, Hawaii Revised Statutes (HRS). **The Department of Land and Natural Resources (Department) supports this Administration concurrent resolution.**

Portions of an existing seawall, steps, and filled land were built makai of the private property on state lands. Mr. and Mrs. John Akima, Jr., prior owners, purchased 1,426 square feet of reclaimed land seaward of the property that included an existing seawall and steps, and filled land, and paid a lump sum consideration amount of \$1,521 for the reclaimed land in 1964.

A subsequent shoreline survey done in July 2018 showed additional areas of the existing seawall and filled land are located Makai of shoreline and encroaching on state submerged lands. The survey also showed that portions of the steps that were included in the 1964 reclaimed land purchase are now located Makai of shoreline and are encroaching on state submerged lands.¹ Since the encroaching portions of the seawall, steps, and filled land were found on state lands located Makai of the shoreline, such area should be considered as submerged lands subject to the regulatory approval of the Department's Office of Conservation and Coastal Lands (OCCL).

¹ *Hawaii County v. Sotomura*, 55 Haw. 176, 517 P.2d 57 (1973), the State owns additional public land resulting when the shoreline has migrated landward or mauka due to erosion or sea level rise.

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

After reviewing submitted documentation, OCCL supported the disposition of the encroaching seawall, steps, and filled land through an easement, citing there are no walkable lateral accesses available to the public and no sandy beach resources fronting the subject property or adjacent properties. In addition, OCCL commented that removal of the encroachments would cause erosion of land fronting the shoreline that is being protected by the seawall. Further, OCCL stated that removing the encroachments would have a negative effect on the surrounding parcels due to the potential of end flanking, scouring and erosion of the dirt and fill behind the seawall, as the adjacent properties have erosion control seawalls.

The seawall is also being used as a retaining wall, 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 which could eventually lead to destabilizing the residence structure. The seawall is also part of a long-standing wall connecting to a neighbor's seawall on one side. Removal of the encroachments could cause the potential collapse of the seawall that could impact the neighboring property seawall, leading to a potential chain of seawall collapses with increasing land loss and runoff.

At its meeting on February 8, 2019, under agenda item D-8, the Board of Land and Natural Resources (Board) unanimously approved the issuance of a term, non-exclusive easement for purpose stated above and there was no public opposition.

The current owners (grantees) of the abutting property, Martin and Annette Cornett, are 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 previous owner, Lynnette Mau, paid the State the fair market value of the easement, in the amount of \$32,000 in 2021, as consideration for the use of public lands as determined by an independent appraisal.

Thank you for the opportunity to comment on this measure.