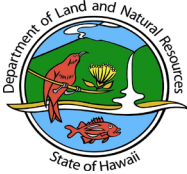


DAVID Y. IGE  
GOVERNOR OF HAWAII



**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  
WAYS AND MEANS**

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

**State Capitol, Conference Room 211, Via Videoconference**

**In consideration of  
SENATE CONCURRENT RESOLUTION 5, SENATE DRAFT 1  
AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT  
COVERING A PORTION OF STATE SUBMERGED LANDS AT KANEOHE,  
KOOLAUPOKO, OAHU, FOR THE EXISTING PIER, HOUSE, ROCK WALL, AND  
LANDSCAPE AREA, AND FOR USE, REPAIR, AND MAINTENANCE OF THE  
EXISTING IMPROVEMENTS CONSTRUCTED THEREON**

Senate Concurrent Resolution 5, Senate Draft 1, requests the authorization to issue a term, non-exclusive easement covering a 1,898 square-foot, more or less, portion of state submerged lands identified as tax map key: (1) 4-4-016:seaward of 016, at Kaneohe, Koolaupoko, Oahu for the use, repair, and maintenance of the existing pier, house, rock wall, and landscape area 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 existing pier, and portions of the existing house, rock wall, and landscape area were built makai of the private property on state lands (a portion of which is submerged). The entire pier was built on State submerged lands, while portions of the house, rock wall, and landscape are located on State "fast" lands. State "fast" lands are land area located between the shoreline and the private property and are not subject to legislative and Governor's approval for disposition. Only state submerged lands (the pier area) are subject to legislative and governor approval. However, since a single easement will cover both the submerged and fast land encroachments, all the encroachments are listed herein.

In February 2019, 20 Baldwin Partners LLC, a Hawaii limited liability company, and Phillip K. Binney, also known as Philip K. Binney, Trustee of the Phillip K. Binney 2018 Irrevocable Gift Trust Agreement dated September 18, 2018, previous owners, purchased the abutting property with the encroaching house and pier. Around April 2019, the Department of Land and Natural Resources' Office of Conservation and Coastal Lands (OCCL) worked with the property owners

**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

to resolve the encroachments. In July 2019, a subsequent shoreline survey showed that, in addition to the house and pier, a portion of a rock wall was also encroaching on State lands; and the survey also identified a portion of State land area requested by the owners for landscape purposes. OCCL has jurisdiction over the pier encroachment because it is located on submerged lands within the conservation district.

After reviewing submitted documentation, OCCL supported resolving the encroachments through an easement, citing that the pier may have been reconstructed without authorization. In addition, OCCL noted that the grantees did not construct the house, based on the submission of a 1950 Building Permit No. 84510 from the City and County. The rock wall is also being used as a retaining wall, and removal of the encroaching portion could not only undermine the integrity of the entire rock wall but cause a catastrophic collapse and subsequent loss of backfilled soil which could eventually lead to the destabilization and collapse of the residence structure. At its meeting on November 8, 2019, under agenda item D-14, 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 owner (grantee) of the abutting property, Phillip K. Binney (20 Baldwin Partners LLC quitclaimed their interest to Mr. Binney), is working with the Department to resolve the encroachments through an easement. 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 has paid the State the fair market value of the easement, in the amount of \$77,000, as consideration for the use of public lands as determined by an independent appraisal.

Thank you for the opportunity to comment on this measure.