

MAR 10 2023

SENATE CONCURRENT RESOLUTION

AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT MAALAEA BEACH LOTS, WAIKAPU, WAILUKU, MAUI, FOR THE EXISTING SEAWALL AND ROCK REVETMENT, AND FOR USE, MAINTENANCE, REPAIR, REPLACEMENT, AND REMOVAL OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

1 WHEREAS, a portion of the existing seawall and rock
2 revetment fronting the property identified as Tax Map Key: (2)
3 3-8-014:seaward of 022, Maalaea Beach Lots, Waikapu, Wailuku,
4 Maui, is on state submerged lands; and
5

6 WHEREAS, around August 2015, the Department of Land and
7 Natural Resources' Office of Conservation and Coastal Lands
8 worked with the property owners, the Association of Apartment
9 Owners of Milowai-Maalaea, to resolve the encroachment; and
10

11 WHEREAS, the Office of Conservation and Coastal Lands
12 indicated they would support a long-term easement to resolve the
13 encroachment because the seawall has no discernable effect on
14 beach and recreational resources, and does not act as a
15 detriment to public access; and
16

17 WHEREAS, the Office of Conservation and Coastal Lands has
18 determined that no improvement would be gained by removing the
19 encroaching seawall because there are similar seawalls
20 neighboring the property and to the east stretching along the
21 shoreline of Maalaea Bay; and
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23 WHEREAS, the Office of Conservation and Coastal Lands has
24 determined the encroachment serves as primary erosion control
25 for potentially threatened structures, but that impacts to the
26 adjacent and upland developments must also be considered; and
27



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1 WHEREAS, at its meeting of October 9, 2015, under agenda
2 item D-6, the Board of Land and Natural Resources approved a
3 grant of a fifty-five year term, non-exclusive easement to
4 resolve the seawall and rock revetment encroachment, and
5 authorized the easement to run with the land and inure to the
6 benefit of the abutting real property; and
7

8 WHEREAS, at its meeting of January 8, 2021, under agenda
9 item D-5, the Board of Land and Natural Resources approved an
10 amendment to the Board action of October 9, 2015, item D-6, to
11 shorten the term of the easement from fifty-five to twenty-five
12 years, or in the event the applicant is not successful in
13 acquiring the fee or obtaining an extension of the ground lease
14 of the abutting apartment property, to end on December 31, 2038,
15 concurrent with the expiration of the ground lease for the
16 abutting apartment property; and
17

18 WHEREAS, the total encroachment area was determined to be
19 1,737 square feet as reviewed and approved by the Department of
20 Accounting and General Services' Survey Division; and
21

22 WHEREAS, section 171-53, Hawaii Revised Statutes, requires
23 the prior approval of the Governor and prior authorization of
24 the Legislature by concurrent resolution to lease state
25 submerged lands; now, therefore,
26

27 BE IT RESOLVED by the Senate of the Thirty-second
28 Legislature of the State of Hawaii, Regular Session of 2023, the
29 House of Representatives concurring, that the Board of Land and
30 Natural Resources is hereby authorized to issue a term, non-
31 exclusive easement covering a portion of state submerged lands
32 fronting the property identified as Tax Map Key: (2) 3-8-
33 014:seaward of 022, Maalaea Beach Lots, Waikapu, Wailuku, Maui,
34 for the existing seawall and rock revetment, and for use,
35 maintenance, repair, replacement, and removal of the existing
36 improvements constructed thereon pursuant to section 171-53,
37 Hawaii Revised Statutes; and
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39 BE IT FURTHER RESOLVED that a certified copy of this
40 Concurrent Resolution be transmitted to the Chairperson of the
41 Board of Land and Natural Resources.
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OFFERED BY:  B/R

