
HOUSE CONCURRENT RESOLUTION

AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT WAIALAE-IKI, HONOLULU, OAHU, FOR THE EXISTING REVETMENT, AND FOR USE, REPAIR, AND MAINTENANCE OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

1 WHEREAS, the existing revetment fronting the property
2 identified as Tax Map Key: (1) 3-5-058:011, Waialae-Iki,
3 Honolulu, Oahu (subject property), was placed upon state
4 submerged lands; and
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6 WHEREAS, on April 10, 1964, Bishop Estate, the original
7 developer of the Kai-Nani subdivision containing the subject
8 property, applied to the Board of Land and Natural Resources to
9 request approval for construction of the revetment to run along
10 the shoreline of multiple house lots of the same subdivision for
11 erosion protection purposes; and
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13 WHEREAS, on October 1, 1964, the Department of Land and
14 Natural Resources' Division of Land Management informed the
15 developer by letter that the Board of Land and Natural Resources
16 approved a construction right-of-entry permit and authorized the
17 developer to proceed with construction of the revetment; and
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19 WHEREAS, the same letter stated that the Division of Land
20 Management was processing the sale of an easement for the
21 revetment; and
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23 WHEREAS, although the Board of Land and Natural Resources
24 approved construction of the revetment and the Division of Land
25 Management indicated that it was processing an easement for the
26 portion of state submerged land occupied by the revetment, for
27 reasons that are currently unknown to the Department of Land and
28 Natural Resources, the easement was never consummated and the



1 encroachment upon state submerged lands by the revetment was
2 never resolved; and

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4 WHEREAS, in 2011, David Kim, the current owner (property
5 owner), purchased the subject property, which abuts the portion
6 of state submerged lands that contains the encroaching
7 revetment; and

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9 WHEREAS, around December 2022, the Department of Land and
10 Natural Resources' Office of Conservation and Coastal Lands
11 worked with the property owner to resolve the encroachment; and

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13 WHEREAS, the Office of Conservation and Coastal Lands has
14 found, based on a review of historical maps and documents
15 submitted by Bishop Estate to the Department of Land and Natural
16 Resources in conjunction with its 1964 permit applications, that
17 the revetment fronting the residential real property is part of
18 the subdivision revetment constructed by Bishop Estate pursuant
19 to the 1964 authorization and right-of-entry permit issued by
20 the Board of Land and Natural Resources; and

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22 WHEREAS, the Office of Conservation and Coastal Lands has
23 indicated its support for a non-exclusive easement to resolve
24 the existing seawall encroachment; and

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26 WHEREAS, on April 14, 2023, under agenda item D-5, the
27 Board of Land and Natural Resources approved a grant of a 25-
28 year non-exclusive easement to resolve the revetment
29 encroachment, to run with the land and to inure to the benefit
30 of the abutting real property; and

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32 WHEREAS, the total encroachment area was determined to be
33 2,894 square feet, subject to review and approval by the
34 Department of Accounting and General Services' Survey Division;
35 and

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37 WHEREAS, the property owner has been working diligently
38 with the Department of Land and Natural Resources' Land Division
39 to execute a right-of-entry permit and revocable permit, as
40 approved by the Board of Land and Natural Resources, as interim
41 steps to resolve the encroachment until the Board of Land and
42 Natural Resources-approved non-exclusive easement can be
43 consummated, subject to terms including payment of \$831 monthly



1 rent and provision of liability insurance to protect the
2 interests of the State; and

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4 WHEREAS, prior to execution of the non-exclusive easement,
5 the grantee shall pay the State the fair market value of the
6 non-exclusive easement as consideration for the use of state
7 submerged lands to be determined by an independent appraisal;
8 and

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10 WHEREAS, in 2022, the National Oceanic and Atmospheric
11 Administration issued a technical report that found that sea
12 level rise will create a profound shift in coastal flooding over
13 the next thirty years by causing tide and storm surge heights to
14 increase and reach further inland; and

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16 WHEREAS, by 2050, moderate and typically damaging coastal
17 flooding is expected to occur on average more than ten times as
18 often as it does today and can be intensified by local factors;
19 and

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21 WHEREAS, in Hawaii, sea-level rise and coastal erosion are
22 occurring at an accelerated rate, with moderate estimates
23 projecting the sea level to increase by six to eight inches by
24 mid-century; and

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26 WHEREAS, the practice of issuing easements to private
27 landowners for state submerged lands on a case-by-case basis is
28 not prudent as a long-term strategy when considered in relation
29 to the public trust doctrine and in the context of planning for
30 landscape-scale adaptation and retreat; and

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32 WHEREAS, section 171-53, Hawaii Revised Statutes, requires
33 the prior approval of the Governor and prior authorization of
34 the Legislature by concurrent resolution to lease state
35 submerged lands; now, therefore,

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37 BE IT RESOLVED by the House of Representatives of the
38 Thirty-second Legislature of the State of Hawaii, Regular
39 Session of 2024, the Senate concurring, that the Board of Land
40 and Natural Resources is hereby authorized to issue a non-
41 exclusive easement, with a term not to exceed twenty-five years,
42 covering a portion of state submerged lands fronting the
43 property identified as Tax Map Key: (1) 3-5-058:011, Waiialae-
44 Iki, Honolulu, Oahu, for the existing seawall revetment, and for



1 use, repair, and maintenance of the existing improvements
2 constructed thereon pursuant to section 171-53, Hawaii Revised
3 Statutes; and

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5 BE IT FURTHER RESOLVED that certified copies of this
6 Concurrent Resolution be transmitted to the Chairperson of the
7 Board of Land and Natural Resources and Governor.

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