
HOUSE CONCURRENT RESOLUTION

AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT KANEOHE, KOOLAUPOKO, OAHU, FOR THE EXISTING BOAT RAMP AND CONCRETE WALL, AND FOR USE, REPAIR, AND MAINTENANCE OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

1 WHEREAS, portions of the existing boat ramp and concrete
2 wall seaward of the property identified as Tax Map Key: (1) 4-
3 5-047:051, Kaneohe, Koolaupoko, Oahu, were placed upon state
4 submerged lands; and

5
6 WHEREAS, in 2021, James Michael Elhoff, Trustee of the
7 Michael Elhoff Living Trust dated November 30, 2017, purchased
8 the residential real property located at Tax Map Key: (1) 4-5-
9 047:051, which abuts the portion of state submerged land that
10 contains the encroaching boat ramp and concrete wall; and

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12 WHEREAS, the boat ramp and concrete wall were constructed
13 seaward of the private property record boundary without prior
14 authorization, and a portion of the boat ramp and concrete wall
15 previously located on private property is now seaward of the
16 current shoreline on state submerged lands; and

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18 WHEREAS, around March 2022, the Department of Land and
19 Natural Resources' Office of Conservation and Coastal Lands
20 worked with the property owner, James Michael Elhoff, Trustee of
21 the Michael Elhoff Living Trust dated November 30, 2017, to
22 resolve the encroachments; and

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24 WHEREAS, the Office of Conservation and Coastal Lands found
25 that the boat ramp and concrete wall are part of an existing
26 seawall that has been in place since at least 1967, based on
27 analysis of historic aerial photographs of the area; and
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1 WHEREAS, the Office of Conservation and Coastal Lands
2 indicated that it supported a non-exclusive easement to resolve
3 the encroachments; and
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5 WHEREAS, on August 26, 2022, under agenda item D-4 of a
6 meeting of the Board of Land and Natural Resources, the Board of
7 Land and Natural Resources approved a grant of a 25-year non-
8 exclusive easement to resolve the boat ramp and concrete wall
9 encroachments, to run with the land and to inure to the benefit
10 of the abutting real property; and
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12 WHEREAS, the total encroachment area was determined to be
13 319 square feet, as reviewed and approved by the Department of
14 Accounting and General Services' Survey Division; and
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16 WHEREAS, on December 14, 2022, James Michael Elhoff
17 executed a removal bond agreement in which James Michael Elhoff
18 assigned to and deposited with the State of Hawaii the amount of
19 \$34,012 to insure the State of Hawaii against the cost of
20 removing the encroachments in the event that the Legislature and
21 the Governor do not approve the issuance of the non-exclusive
22 easement approved by the Board of Land and Natural Resources;
23 and
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25 WHEREAS, the Board of Land and Natural Resources executed
26 Revocable Permit No. S-7956 on March 10, 2023, granting James
27 Michael Elhoff the right to enter and occupy the subject parcel
28 of state submerged land, subject to terms including the payment
29 of \$65 monthly rental amount; and
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31 WHEREAS, the grantee shall pay the State the fair market
32 value of the non-exclusive easement as consideration of the use
33 of state submerged lands to be determined by an independent
34 appraisal; and
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36 WHEREAS, in 2022, the National Oceanic and Atmospheric
37 Administration issued a technical report that found that sea
38 level rise will create a profound shift in coastal flooding over
39 the next thirty years by causing tide and storm surge heights to
40 increase and reach further inland; and
41



1 WHEREAS, by 2050, moderate and typically damaging coastal
2 flooding is expected to occur on average more than ten times as
3 often as it does today and can be intensified by local factors;
4 and

5
6 WHEREAS, in Hawaii, sea-level rise and coastal erosion are
7 occurring at an accelerated rate, with moderate estimates
8 projecting the sea level to increase by six to eight inches by
9 mid-century; and

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

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17 WHEREAS, section 171-53, Hawaii Revised Statutes, requires
18 the prior approval of the Governor and prior authorization of
19 the Legislature by concurrent resolution to lease state
20 submerged lands; now, therefore,

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22 BE IT RESOLVED by the House of Representatives of the
23 Thirty-second Legislature of the State of Hawaii, Regular
24 Session of 2024, the Senate concurring, that the Board of Land
25 and Natural Resources is hereby authorized to issue a non-
26 exclusive easement, with a term not to exceed fifteen years,
27 covering a portion of state submerged lands seaward of the
28 property identified as Tax Map Key: (1) 4-5-047:051, Kaneohe,
29 Koolaupoko, Oahu, for the existing boat ramp and concrete wall,
30 and for use, repair, and maintenance of the existing
31 improvements constructed thereon pursuant to section 171-53,
32 Hawaii Revised Statutes; and

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34 BE IT FURTHER RESOLVED that certified copies of this
35 Concurrent Resolution be transmitted to the Chairperson of the
36 Board of Land and Natural Resources and Governor.

