
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 CONCRETE BOAT RAMP, AND FOR USE, REPAIR, AND MAINTENANCE OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

1 WHEREAS, the existing concrete boat ramp seaward of the
2 land identified as Tax Map Key: (1) 4-5-047:013, Kaneohe,
3 Koolaupoko, Oahu, is situated upon state submerged lands; and
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5 WHEREAS, in 2021, the property owners, Kim Lu and Beiting
6 Gao, husband and wife, tenants by the entirety, purchased the
7 residential real property located at Tax Map Key: (1) 4-5-
8 047:013, which abuts the portion of state submerged land that
9 contains the encroaching concrete boat ramp; and
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11 WHEREAS, the boat ramp was originally built within the
12 private property boundary, but a portion of the boat ramp is now
13 located seaward of the shoreline on state submerged lands; and
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15 WHEREAS, around October 2022, the boat ramp encroachment
16 was discovered in an enforcement action related to County
17 Shoreline Management Area permits and the associated shoreline
18 certification process; and
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20 WHEREAS, the City and County of Honolulu's Department of
21 Planning and Permitting stated in a letter dated October 4,
22 2022, that the concrete boat ramp is a non-conforming structure,
23 based on historical shoreline photographs and Department of
24 Planning and Permitting records; and
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26 WHEREAS, in a letter dated February 27, 2023, the
27 Department of Land and Natural Resources' Office of Conservation
28 and Coastal Lands concurred with the City and County's



1 determination that the concrete boat ramp is a non-conforming
2 structure; and

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4 WHEREAS, the Office of Conservation and Coastal Lands found
5 that removing the concrete boat ramp would not improve beach
6 resources or public shoreline access and may have a negative
7 effect on neighboring properties; and

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9 WHEREAS, the Office of Conservation and Coastal Lands
10 indicated that it supported a non-exclusive easement to resolve
11 the encroachments; and

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13 WHEREAS, on May 12, 2023, under agenda item D-8 of a
14 meeting of the Board of Land and Natural Resources, the Board of
15 Land and Natural Resources approved a grant of a 25-year non-
16 exclusive easement to resolve the concrete boat ramp
17 encroachment, to run with the land and to inure to the benefit
18 of the abutting real property; and

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20 WHEREAS, the total encroachment area was determined to be
21 156 square feet, as reviewed and approved by the Department of
22 Accounting and General Services' Survey Division; and

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24 WHEREAS, the property owners and the Board of Land and
25 Natural Resources executed Right-of Entry Permit No. 4549 on
26 May 18, 2023, granting the property owners the right to enter
27 and occupy the subject parcel of state submerged land, subject
28 to terms including payment of a \$500 fine for past encroachment
29 of the concrete boat ramp onto state submerged land, payment of
30 a \$40 monthly rental amount, provision of liability insurance,
31 and posting of a removal bond in the amount of \$15,700; and

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33 WHEREAS, on May 18, 2023, the property owners submitted
34 payment for the \$500 fine, \$145.80 for rental payments for the
35 period from May 12, 2023, through August 31, 2023, and a
36 certificate of liability insurance for the encroachment area;
37 and

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39 WHEREAS, on May 18, 2023, the property owners executed a
40 removal bond agreement in which the property owners assigned to
41 and deposited with the State of Hawaii the amount of \$15,700 to
42 insure the State of Hawaii against the cost of removing the
43 encroachment in the event that the Legislature and the Governor



1 do not approve the issuance of the easement approved by the
2 Board of Land and Natural Resources; and

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4 WHEREAS, the property owners shall pay the State the fair
5 market value of the non-exclusive easement as consideration of
6 the use of state submerged lands to be determined by an
7 independent appraisal, which appraisal process is currently
8 ongoing through the Department of Land and Natural Resources'
9 Land Division; and

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

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

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

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

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

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38 BE IT RESOLVED by the House of Representatives of the
39 Thirty-second Legislature of the State of Hawaii, Regular
40 Session of 2024, the Senate concurring, that the Board of Land
41 and Natural Resources is hereby authorized to issue a non-
42 exclusive easement, with a term not to exceed twenty-five years,
43 covering a portion of state submerged lands seaward of the
44 property identified as Tax Map Key: (1) 4-5-047: 013, Kaneohe,

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1 Koolaupoko, Oahu, for the existing concrete boat ramp, and for
2 use, repair, and maintenance of the existing improvements
3 constructed thereon pursuant to section 171-53, Hawaii Revised
4 Statutes; and

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

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