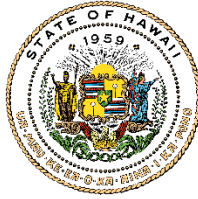


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

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ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
DAWN N.S. CHANG
Chairperson

Before the Senate Committee on
WATER AND LAND

Thursday, April 11, 2024
2:15 PM

State Capitol, Conference Room 016, Via Videoconference

In consideration of
HOUSE CONCURRENT RESOLUTION 10, HOUSE DRAFT 2
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.

House Concurrent Resolution 10, House Draft 2, is an Administration Package measure that requests Legislative approval for a term, non-exclusive easement covering approximately 319 square feet of State submerged lands located seaward of the property identified as Tax Map Key: (1) 4-5-047:051, at Kāne'ōhe, Ko'olaupoko, O'ahu, for the existing boat ramp and seawall present on the site. **The Department of Land and Natural Resources (Department) supports this Concurrent Resolution.**

The encroachment at issue consists of three elements: a concrete boat ramp of approximately 147 square feet, a submerged concrete wall of approximately 169 square feet, and a portion of another wall of approximately 3 square feet. The final easement area is subject to review and approval by the Department of Accounting and General Services' Land Survey Division (DAGS Survey). According to historical aerial images provided to the Department, all three elements are part of a larger seawall that has been in place since at least 1967. The residential properties surrounding the property at issue are also bordered on the makai side with similar seawalls and ramps.

The current owner, James Michael Elhoff/ Michael Elhoff Living Trust, purchased the private property that abuts the subject shoreline encroachment in 2021. Previous owners of the private

properties did not pursue normalization of the encroachment with the Department. The encroachments were noted in the course of a shoreline certification process and the private property owner requested a land disposition to resolve the encroachment.

The Board of Land and Natural Resources approved the grant of a term, non-exclusive easement, right-of-entry permit, and revocable permit for the encroachment at its meeting on August 26, 2022, under Agenda Item D-4. The shoreline for the property was certified by the Department as of May 15, 2023, and the private property owner has obtained a survey map of the easement area and has submitted the map to the Department. If the Legislature approves the easement, the next steps would be review and approval of the survey map by DAGS Survey and appraisal of the fair market value of the term, non-exclusive easement, which the private property owner shall be required to pay to the State as consideration for use of public lands. The appraisal will be procured by the Department and paid for by the private property owner.

Pursuant to the Board's approval, the property owners are paying monthly rent in the amount of \$207.58 for the proposed easement area and are providing liability insurance. The property owners have also posted a removal bond in the amount of \$34,012.00 to insure the State against the cost of removing the encroachment in the event that the Legislature and the Governor do not approve issuance of the requested easement. If the Legislature and the Governor do approve the requested easement, the property owners will pay for an appraisal of the fair market value of the easement and then purchase the easement for the appraised fair market price.

The Office of Conservation and Coastal Lands (OCCL) has supported and continues to support the disposition of the subject land by easement to resolve the encroachment. In the context of the easement application process, the OCCL stated in a letter dated March 3, 2022, that the impact of the encroachment is negligible and removal of the encroachment is not recommended because removal is likely to compromise the integrity of the total seawall, which serves as primary erosion control for the subject private property as well as the properties that neighbor it on each side. OCCL noted that the encroachments do not negatively affect beach or shoreline access in the area because there is no sandy beach present and the land is constantly submerged. According to OCCL, removal of the encroachment would not improve public access in the area.

Mahalo for the opportunity to testify in support of this measure.

HCR-10-HD-2

Submitted on: 4/10/2024 1:38:53 AM

Testimony for WTL on 4/11/2024 2:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Ian Hirokawa	Testifying for Department of Land and Natural Resources	Support	Remotely Via Zoom

Comments:

Written testimony from DLNR previously submitted on another Capitol account. Request for a Zoom link for additional DLNR staff testifying remotely for HCR10 HD2 as backup.

HCR-10-HD-2

Submitted on: 4/9/2024 4:39:48 PM

Testimony for WTL on 4/11/2024 2:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Mike Elhoff	Individual	Support	Written Testimony Only

Comments:

Aloha, I am the homeowner at 45-221 Ka Hanahou Circle and seeking easements on my shoreline that were built when the property and neighborhood were developed in the early 1950s. None of the previous owners had resolved these easements and I have taken on the task of finally seeking to make them right by the State. They include a boat ramp and some portions of the rock seawall that slightly protrude into State waters (Kaneohe Bay). I have submitted for review and received confirmation from Dept. of Conservation and Coastal Lands that removing the structures would likely cause more damage than leaving them and that they pose no negative issues to neighbors or the environment. Over the past 70 years they have become integral to the surrounding marine life, with fish, coral, turtles and eels residing around them. I am committed to maintaining them in a safe and maintained condition. Mahalo nui for your support.

HCR-10-HD-2

Submitted on: 4/10/2024 8:08:46 AM

Testimony for WTL on 4/11/2024 2:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Kyle Kodama	Individual	Support	Written Testimony Only

Comments:

To Whom it May Concern,

I am writing this letter to support my neighbor Mike Elhoff in hopes that a resolution can be made in regards to the easement encroachment on his property.

Mike is a respectful and kind person who always looks after the best interest of others in the neighborhood. He loves the ocean and has built his career and home around the water. Mike is a big environmentalist and I believe he will do an excellent job maintaining his property (and easement in question) on the bay. I hope that he will be able to retain the easement and resolve this legality.

I have no doubt that Mike will do his part to preserve the marine life around his home, help to improve water quality around his area and protect Kaneohe Bay.

I appreciate your time in this matter.

Thank you,

Kyle Kodama