

Public Law 199 - 84th Congress
Chapter 441 - 1st Session
H. R. 6331

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pub. in 1977

AN ACT

All 69 Stat. 428.

Authorizing the Territory of Hawaii, through its duly designated officers and boards, to negotiate a compromise agreement, exchange with, sell or lease to the owners of certain shorelands, certain tidelands, both in the Territory of Hawaii, and to make covenants with such owners, in settlement of certain damage claims and for a conveyance of littoral rights.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Public Lands of the Territory of Hawaii, with the concurrence of the Board of Harbor Commissioners and the approval of two-thirds of the Board of Public Lands and of the Governor of the Territory of Hawaii, is hereby authorized and empowered, any provision of the Hawaiian Organic Act or any other law to the contrary notwithstanding, to enter into a compromise agreement with the owners of certain shorelands in the Territory of Hawaii covered by land court applications numbered 314, 1549, 1653, and 852 and 1092 (land court consolidation 32), and with any other owner or owners of lands abutting any part of the tidelands described in section 2 hereof, involving the conveyance by the Territory to said owners, or some of them, of all or any part of the tidelands described in section 2 of this Act, or to make a sale of all or any part of said lands described in section 2, to said owners, or some of them, or to exchange all or a part of said lands described in section 2, with said owners, or some of them, provided that said owners, who may have littoral rights appurtenant to said shorelands, affecting the tidelands described in section 2, convey to the Territory such littoral rights, agree to the construction of a public beach and groin along the seaward side of the lands described in section 2 of this Act, and release all claims for compensation, damages or otherwise which they have or might have against the Territory of Hawaii by reason of acts or omissions of the Territory, or for which the Territory is claimed to be responsible, done or omitted in connection with the development of the shoreline, yacht harbor and beaches in and adjoining said area. The Commissioner of Public Lands, with the concurrence of the Board of Harbor Commissioners, is hereby authorized and empowered, any provision of the Hawaiian Organic Act or any other law to the contrary notwithstanding, to lease for a period of fifty-five years all or any part of said lands described in section 2, to said owners, or some of them.

Hawaiian tide-lands.
Sale or exchange, etc., agreement.

31 Stat. 141.
48 USC 491.

SEC. 2. The tidelands authorized to be conveyed or leased by the Commissioner of Public Lands by this Act are described as follows: Land at Waikiki, Honolulu, Oahu, Territory of Hawaii: Being a portion of area transferred to the Territory of Hawaii by Presidential Proclamation Numbered 1856, dated October 27, 1928. Situated off Kalia, Waikiki, Honolulu, Oahu, Territory of Hawaii.

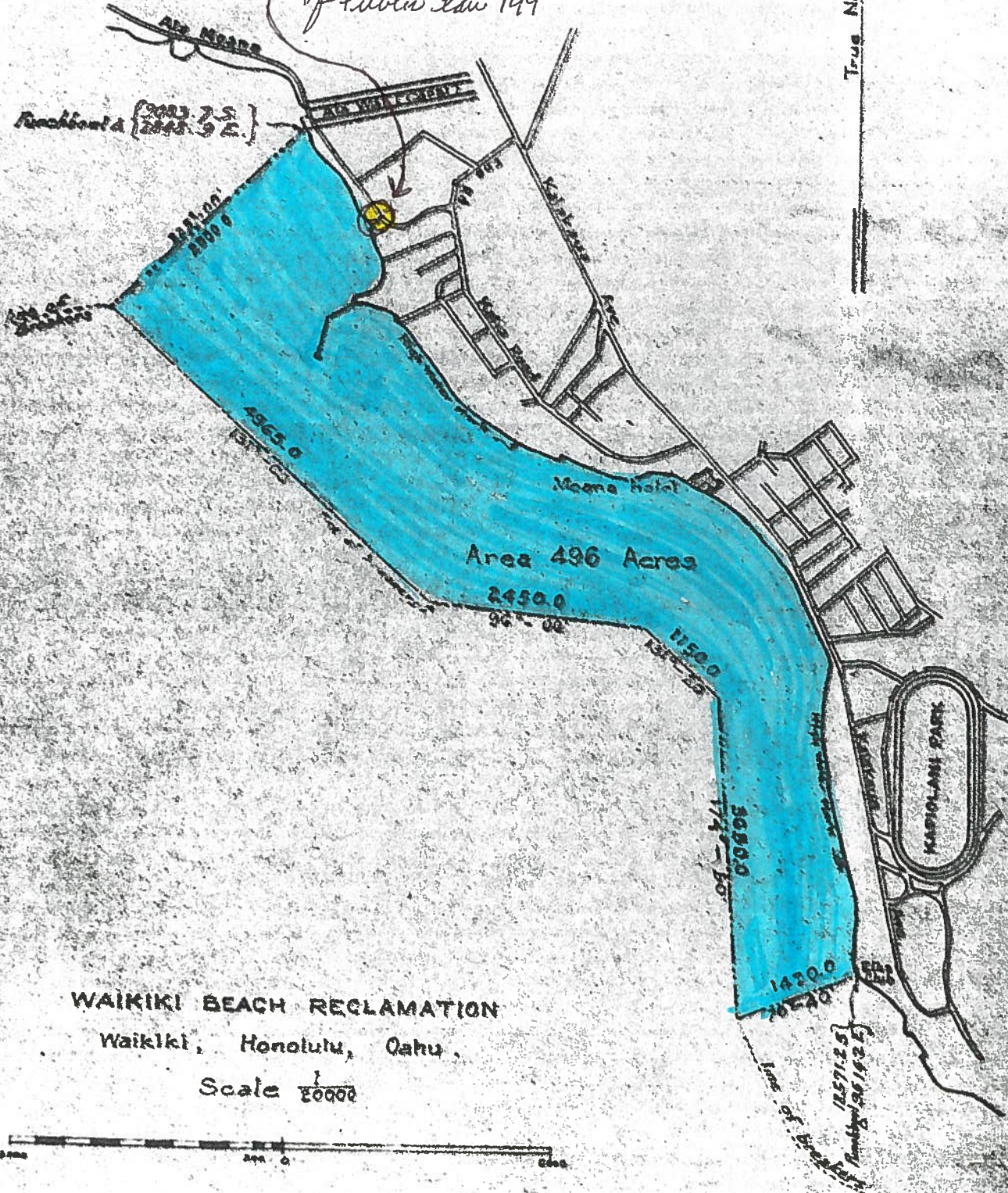
Beginning at an \nearrow cut in face of seawall on the easterly boundary of this parcel of land, being also the west corner of land court application 1653, the coordinates of said point of beginning referred to Government survey triangulation station "PUNCHBOWL" being 10,981.46 feet south and 3,555.61 feet east and running by azimuths measured clockwise from true south:

Along face of seawall, along highwater mark of land court application 1653 for the next three courses, the direct azimuths and distances between points along said face of seawall being:

1. 310 degrees, 12 minutes, 46.20 feet to an \nearrow cut in face of seawall;

Littoral rights exchange area
of Public Law 199

True North



WAIKIKI BEACH RECLAMATION
Waikiki, Honolulu, Oahu.
Scale $\frac{1}{20000}$



PRESIDENTIAL PROCLAMATION AREA 1928

143

NOV 21 1958

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<p>DEC 21 1958</p> <p>11 05</p> <p>133 134 135 136 137 138 139</p> <p>61 62 63 64 65 66 67 68 69 70</p>	<p>CARLSMITH & CARLSMITH P. O. Box 686 HILO, HAWAII</p>
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INDENTURE AND DEED

THIS INDENTURE AND DEED made, executed and delivered this 20th day of December, 1956, by and between the TERRITORY OF HAWAII, whose place of business and post office address is Iolani Palace, Honolulu, City and County of Honolulu, Territory of Hawaii, hereinafter called "Territory", and ALA MOANA PROPERTIES, LIMITED, a Hawaii corporation, whose principal place of business is 1350 Ala Moana, said Honolulu, and whose post office address is Post Office Box 3468, said Honolulu, hereinafter called "Ala Moana",



W I T N E S S E T H:

WHEREAS, the parties hereto did enter into an "Agreement" dated April 30, 1956, whereby the parties hereto, under the provisions of Section 4535, Revised Laws of Hawaii, 1945, and other pertinent provisions of law thereunto enabling, did agree to an exchange of land, extinguishment of certain easements, establishment of new easements, and restriction of use of lands and yacht harbor; and

WHEREAS, the Board of Harbor Commissioners, at a meeting held April 26, 1956, has concurred in, and the Commissioner of Public Lands of the Territory of Hawaii, and the Attorney General of the Territory of Hawaii, and the Governor of the Territory of Hawaii, have approved the above-mentioned Agreement;

NOW, THEREFORE, for and in consideration of the covenants of Territory contained in said Agreement, and for

and in consideration of the conveyance of certain lands by Territory and the granting and extinguishment of certain easements by Territory, as hereinafter set forth, Ala Moana:

1. Does hereby give, grant, bargain, sell and convey unto the said Territory, its successors and assigns, that certain parcel of land situate on the Southwest side of Ala Moana, at Kalia, Waikiki, said Honolulu, generally known as Lot 23, area 40,944 square feet, as shown on Map No. 4 on file in the Office of the Assistant Registrar of the Land Court of the Territory of Hawaii with Land Court Consolidation No. 32 of Bishop Trust Company, Limited, Trustee for the Hobron Land Trust, said lot being a portion of the land described in Land Court Transfer Certificate of Title No. 66815 issued to Ala Moana.

TO HAVE AND TO HOLD the same, with the improvements thereon, and all rights, easements, privileges and appurtenances thereunto belonging or appertaining unto the said Territory, its successors and assigns, in fee simple forever.

2. Does hereby give, grant, bargain, sell and convey unto the Territory, its successors and assigns, that certain parcel of land situate on the Southwest side of Ala Moana, at Kalia, Waikiki, said Honolulu, generally known as Lot 25, area 30,109 square feet, as shown on Map No. 4 on file in the Office of the Assistant Registrar of the Land Court of the Territory of Hawaii with Land Court Consolidation No. 32 of Bishop Trust Company, Limited, Trustee for the Hobron Land Trust, said lot being a

portion of the land described in Land Court Transfer Certificate of Title No. 66815 issued to Ala Moana.

TO HAVE AND TO HOLD the same, with the improvements thereon, and all rights, easements, privileges and appurtenances thereunto belonging or appertaining unto the said Territory, its successors and assigns, in fee, so long as said area be used for the purposes of public recreation and/or a roadway.

EXCEPTING and RESERVING, HOWEVER, to Ala Moana a non-exclusive easement of access into, out of, and along said lots.

AND, the Territory covenants that no buildings or structures (other than necessary and incidental to the construction and maintenance of a roadway thereon) shall be constructed or erected nor permitted to be constructed or erected on said Lot 25; and further, that if a roadway be constructed and maintained by the Territory on said Lot 25, that a mauka sidewalk area (not to exceed three and one-half feet in width including curbing) be provided, and that parking on said lot be limited to loading and unloading only; and that these covenants shall run with the land.

3. Does hereby remise, release and forever discharge the Territory, its successors and assigns, of and from any and all manner of action or actions, cause and causes of action, suits, controversies and trespasses, damages, claims and demands of whatsoever kind or nature, on account of any failure by the Territory to maintain a public beach on Lots 23, 24, 25, and 26, as shown on Map No. 4 on file in

the Office of the Assistant Registrar of the Land Court with Land Court Consolidation No. 32 of Bishop Trust Company, Limited, Trustee for the Hobron Land Trust.

A.M. 4. Does hereby remise, release and forever discharge the Territory, its successors and assigns, of and from any and all manner of action or actions, cause and causes of action, suits, controversies and trespasses, damages, claims and demands of whatsoever kind or nature, in connection with any failure by the Territory to maintain a clear view of the ocean makai from the lots referred in the preceding paragraph and makai from Lots 4, 14, 15, and 19, as shown on Map 1 of said Land Court Consolidation No. 32, from Lots 2-A and 6-A as shown on Map No. 2 of said Land Court Consolidation No. 32, and from Lot No. 22 as shown on Map No. 3 of said Land Court Consolidation No. 32.

5. Does hereby remise, release and forever discharge the Territory, its successors and assigns, from any obligation to maintain in the future a clear view of the ocean makai from the lands described in the preceding paragraph; PROVIDED, HOWEVER, that the Territory shall use the 8-foot strip of land and retaining wall makai of Lots 23 and 25 referred to herein only for sea wall and sidewalk purposes, existing transformers, electric light standards, drainage outlets, and gear lockers, any such structures except electric light standards not to exceed four (4) feet in height above existing sidewalk, and said gear lockers not to occupy more than thirteen (13) lateral feet of each forty (40) lateral feet of the sea wall;

AND PROVIDED FURTHER, HOWEVER, that the Territory shall restrict its use of the marine area immediately makai of the said described 8-foot strip and in front of or makai of the property of Ala Moana to non-commercial seaworthy marine vessels in first-class condition, shall prohibit the persons on such craft from setting up residences or effectuating major repairs on vessels while in said area, and shall refrain from building, causing to be built, or permitting to be built, any structures within said marine area above the level of the existing sidewalk on the 8-foot strip described herein, except for catwalks and bitts, cleats, or other mooring devices thereon.

6. Does hereby surrender, grant, convey, relinquish, release and quitclaim to Territory, its successors and assigns, any and all littoral rights appurtenant to Lots 24 and 26, as shown on Map No. 4 of said Land Court Consolidation No. 32, and Lot No. 19 as shown on Map No. 1 of said Land Court Consolidation No. 32.

TO HAVE AND TO HOLD the same, together with all rights and privileges belonging or appertaining thereto, unto the said Territory, its successors and assigns, forever.

7. Does hereby remise, release and forever discharge the Territory, its successors and assigns, of and from any and all manner of action or actions, cause and causes of action, suits, controversies and trespasses, damages, claims and demands of whatsoever kind or nature, and from any and all provisions and obligations of that certain Agreement known as the Waikiki Agreement entered into on October 19, 1928,

between the Territory and various property owners, including Ala Moana's predecessors in title and interest, said Agreement being recorded in the Bureau of Conveyances of the Territory of Hawaii in Book 1047, Pages 176-202.

8. Does hereby give, grant, bargain, sell, convey, release, relinquish and quitclaim unto the Territory, its successors and assigns, any and all reversionary or other interest it has or might claim, as successors to the title and interest of the Hobron Land Trust, in that certain parcel of land known and denoted as Lot No. 2, area 11,041 square feet, as shown on Map No. 1 on file in the Office of the Assistant Registrar of the Land Court of the Territory of Hawaii with Land Court Application No. 852, said lot being a portion of the land described in Land Court Transfer Certificate of Title No. 12,829 issued to the Territory.

TO HAVE AND TO HOLD the same unto the said Territory, its successors and assigns, forever.

AND, for and in consideration of the covenants of Ala Moana contained in said Agreement, and for and in consideration of the conveyance of certain lands by Ala Moana, as hereinbefore set forth, and the release of littoral rights and other claims by Ala Moana, as hereinbefore set forth, Territory:

(a) Does hereby give, grant, bargain, sell and convey unto the said Ala Moana, its successors and assigns, all of the following described property:

That certain parcel of land situate on the Southwest side of Ala Moana, at Kalia, Waikiki, said

Honolulu, known as Lot No. 5-C-1-B-1, area 724 square feet, as shown on Map No. 45 on file in the Office of the Assistant Registrar of the Land Court of the Territory of Hawaii with Land Court Application No. 852 of Bishop Trust Company, Limited, Trustee for the Hobron Land Trust, and being a portion of the land described in Land Court Transfer Certificate of Title No. 12829 issued to Territory.

EXCEPTING and RESERVING, HOWEVER, unto the Territory all littoral rights of whatever nature or kind which are or may be thereunto appertaining.

TO HAVE AND TO HOLD the same, with the improvements thereon, and all rights, easements, privileges and appurtenances thereunto belonging or appertaining unto the said Ala Moana, its successors and assigns, in fee simple forever.

(b) Does hereby surrender, release, cancel, extinguish, quitclaim, sell and convey unto the said Ala Moana, its successors and assigns, all of the following described property:

That certain perpetual easement in favor of the Territory for a public right of way over Lot No. 4, area 1,840 square feet, as shown on Map No. 1 on file in the Office of the Assistant Registrar of the Land Court of the Territory of Hawaii with Land Court Consolidation No. 32 of the Bishop Trust Company, Limited, Trustee for the Hobron Land Trust, and noted on Transfer Certificate of Title No. 63399.

TO HAVE AND TO HOLD the same unto the said Ala Moana, its successors and assigns, forever.

(c) Does hereby grant and convey unto the said Ala Moana, its successors and assigns, a perpetual easement for the construction, use and maintenance for storm drain purposes only, over, across or under Lot 25, said lot being all of the land conveyed to the Territory pursuant to Paragraph (2) of this Indenture and Deed, and noted on Land Court Transfer Certificate of Title No. 66816 issued to the said Territory.

TO HAVE AND TO HOLD the same unto the said Ala Moana, its successors and assigns, forever.

(d) Does hereby grant and convey unto the said Ala Moana, its successors and assigns, a perpetual non-exclusive easement for pedestrian and vehicular traffic over and across Lot 23, said lot being all of the land conveyed to the Territory pursuant to Paragraph (1) of this Indenture and Deed, and noted on Land Court Transfer Certificate of Title No. 66816 issued to the said Territory.

TO HAVE AND TO HOLD the same unto the said Ala Moana, its successors and assigns, so long as the said Ala Moana has no other reasonable alternative access to said Lot 25; PROVIDED, HOWEVER, that in the event and when such alternative access to the above-mentioned Lot 25 be available, this easement shall be terminated and extinguished, except that if and so long as any licensees of the Territory are afforded access over and across said Lot 23, similar access shall likewise be afforded Ala Moana.

IN WITNESS WHEREOF, the TERRITORY OF HAWAII has caused these presents to be duly executed by those Territorial officials in whom the authority so to do is in them vested by law, and ALA MOANA PROPERTIES, LIMITED has caused these presents to be executed and its corporate seal to be hereunto affixed by its proper officers in that behalf duly authorized, on the day and year first above written.

TERRITORY OF HAWAII

By *Jammal Hilder King*
Governor, Territory of Hawaii

ALA MOANA PROPERTIES, LIMITED

By *Edith Hummel*
Its VICE-PRES.

By *C. W. Hummel* C. W. HUMMEL
Its VICE-PRES. and SECRETARY

COUNTERSIGNED:

Wm. H. King
Commissioner of Public Lands

B. E. Neeth
Chairman, Board of Harbor
Commissioners

APPROVED AS TO FORM:

Richard R. Abaydera
Attorney General, Territory of
Hawaii

CORPORATION

TERritORY OF HAWAII

City and County of Honolulu

} ss.


On this 20th day of December, A. D. 1956, before me appeared

A. A. Carswell and C. W. Humme

to me personally known, who, being by me duly sworn, did say that they are the

Vice-President and Vice-President and Secretary

respectively of Ala Moana Properties, Limited, a Hawaiian corporation
and that the seal affixed to the foregoing instrument is the corporate seal of said
corporation and that said instrument was signed and sealed in behalf of said corpora-
tion by authority of its Board of Directors, and the said A. A. Carswell
and C. W. Humme acknowledged said instrument to be the
free act and deed of said corporation.


Notary Public, First Judicial Circuit
Territory of Hawaii.
My commission expires June 30, 1957.