

JAN 19 2007

A BILL FOR AN ACT

RELATING TO THE HAWAIIAN HOMES COMMISSION ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 204.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§204.5. Additional powers.** In addition and supplemental
4 to the powers granted to the department by law, and
5 notwithstanding any law to the contrary, the department may:

6 (1) With the approval of the governor, undertake and carry
7 out the development of any Hawaiian home lands
8 available for lease under and pursuant to section 207
9 of this Act by assembling these lands in residential
10 developments and providing for the construction,
11 reconstruction, improvement, alteration, or repair of
12 public facilities therein, including, without
13 limitation, streets, storm drainage systems,
14 pedestrian ways, water facilities and systems,
15 sidewalks, street lighting, sanitary sewerage
16 facilities and systems, utility and service corridors,
17 and utility lines, where applicable, sufficient to



1 adequately service developable improvements therein,
2 sites for schools, parks, off-street parking
3 facilities, and other community facilities;

- 4 (2) With the approval of the governor, undertake and carry
5 out the development of available lands for homestead,
6 commercial, and multipurpose projects as provided in
7 section 220.5 of this Act, and in consultation with
8 the beneficiaries of the trust, as defined in section
9 220.5, if a project includes any commercial
10 development, as a developer under this section or in
11 association with a developer agreement entered into
12 pursuant to this section by providing for the
13 construction, reconstruction, improvement, alteration,
14 or repair of public facilities for development,
15 including, without limitation, streets, storm drainage
16 systems, pedestrian ways, water facilities and
17 systems, sidewalks, street lighting, sanitary sewerage
18 facilities and systems, utility and service corridors,
19 and utility lines, where applicable, sufficient to
20 adequately service developable improvements therein,
21 sites for schools, parks, off-street parking
22 facilities, and other community facilities;



1 (3) With the approval of the governor, designate by
2 resolution of the commission all or any portion of a
3 development or multiple developments undertaken
4 pursuant to this section an "undertaking" under part
5 III of chapter 39, Hawaii Revised Statutes; and

6 (4) Exercise the powers granted under section 39-53,
7 Hawaii Revised Statutes, including the power to issue
8 revenue bonds from time to time as authorized by the
9 legislature.

10 All provisions of part III of chapter 39, Hawaii Revised
11 Statutes, shall apply to the department and all revenue bonds
12 issued by the department shall be issued pursuant to the
13 provisions of that part, except these revenue bonds shall be
14 issued in the name of the department, and not in the name of the
15 State.

16 As applied to the department, the term "undertaking" as
17 used in part III of chapter 39 shall include a residential
18 development or a development of homestead, commercial, or
19 multipurpose projects under this Act. The term "revenue" as
20 used in part III of chapter 39, shall include all or any portion
21 of the rentals derived from the leasing of Hawaiian home lands



1 or available lands, whether or not the property is a part of the
2 development being financed."

3 SECTION 2. Section 220.5, Hawaii Revised Statutes, is
4 amended to as follows:

5 1. By amending subsections (a) and (b) to read as follows:

6 "(a) Notwithstanding any law to the contrary, the
7 department is authorized to enter into and carry out contracts
8 to develop available lands for homestead[?] projects, and
9 commercial[?] and multipurpose projects[?] in consultation with
10 the beneficiaries of the trust; provided that the department
11 shall not be subject to the requirements of competitive bidding
12 if no state funds are to be used in the development of the
13 project.

14 (b) Notwithstanding any law to the contrary, the
15 department is authorized to enter into project developer
16 agreements with qualified developers for, or in connection with,
17 any homestead[?] project, commercial, or multipurpose project[?]
18 in consultation with the beneficiaries of the trust, or portion
19 of any project; provided that prior to entering into a project
20 developer agreement with a developer, the department shall:



- 1 (1) Set by appraisal the minimum rental of the lands to be
2 disposed of on the basis of the fair market value of
3 the lands;
- 4 (2) Give notice of the proposed disposition in accordance
5 with applicable procedures and requirements of section
6 171-60(a)(3), Hawaii Revised Statutes;
- 7 (3) Establish reasonable criteria for the selection of the
8 private developer[+], in consultation with the
9 beneficiaries of the trust if the project includes any
10 commercial development; and
- 11 (4) Determine within forty-five days of the last day for
12 filing applications the applicant or applicants who
13 meet the criteria for selection, and notify all
14 applicants of its determination within seven days of
15 such determination. If only one applicant meets the
16 criteria for selection as the developer, the
17 department then may negotiate the details of the
18 project developer agreement with the developer;
19 provided that the terms of the project developer
20 agreement shall not be less than those proposed by the
21 developer in the application. If two or more
22 applicants meet the criteria for selection, the



1 department shall consider all of the relevant facts of
2 the disposition or contract, the proposals submitted
3 by each applicant, and the experience and financial
4 capability of each applicant and, within forty-five
5 days from the date of selection of the applicants that
6 met the criteria, shall select the applicant who
7 submitted the best proposal. The department then may
8 negotiate the details of the disposition with the
9 developer, including providing benefits to promote
10 native Hawaiian socio-economic advancement; provided
11 that the terms of the project developer agreement
12 shall not be less than those proposed by the developer
13 in the application."

14 2. By amending subsection (g) to read as follows:

15 "(g) As used in this section, the following words and
16 terms shall have the following meanings unless the context
17 indicates another or different meaning or intent:

18 "Commercial project" means a project or that portion of a
19 multipurpose project, including single-family or multiple-family
20 residential, agricultural, pastoral, aquacultural, industrial,
21 business, hotel and resort, or other commercial uses designed
22 and intended to generate revenues as authorized by this Act;



1 "Consultation with the beneficiaries of the trust" means a
2 process of engaging individual beneficiaries, and beneficiary
3 and beneficiary-serving organizations, that provides for the
4 timely and meaningful dissemination of information and the
5 gathering of input, and allows for a reasonable time and
6 reasonable access to relevant information for evaluation and
7 consideration.

8 "Developer" means any person, partnership, cooperative,
9 firm, nonprofit or for-profit corporation, or public agency
10 possessing the competence, expertise, experience, and resources,
11 including financial, personal, and tangible resources, required
12 to carry out a project;

13 "Homestead project" means a project or that portion of a
14 multipurpose project, including residential, agricultural,
15 pastoral, or aquacultural uses designed and intended for
16 disposition to native Hawaiians under this Act; provided that
17 this term shall also include community facilities for homestead
18 areas;

19 "Multipurpose project" means a combination of a commercial
20 project and a homestead project;

1 "Project" means a specific undertaking to develop,
2 construct, reconstruct, rehabilitate, renovate, or to otherwise
3 improve or enhance land or real property;

4 "Project developer agreement" means any lease, sublease,
5 conditional leasing agreement, disposition agreement, financing
6 agreement, or other agreement or combination of agreement,
7 entered into under this section by the department, for the
8 purpose of developing one or more projects."

9 SECTION 3. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 4. This Act shall take effect upon its approval.

12

INTRODUCED BY:

Russell Kohl



Report Title:

Hawaiian Homes Commission Act; Beneficiary Consultation

Description:

Provides for consultation with beneficiaries when a project includes commercial development.

