

STAND. COM. REP. NO.

1186

Honolulu, Hawaii

MAR 22 2007

RE: H.B. No. 1590
H.D. 3
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Madam:

Your Committee on Water, Land, Agriculture, and Hawaiian
Affairs, to which was referred H.B. No. 1590, H.D. 3, entitled:

"A BILL FOR AN ACT RELATING TO EMINENT DOMAIN,"

begs leave to report as follows:

The purpose of this measure is to protect the property rights
of real property owners by requiring that government entities
possessing the power of eminent domain offer to resell any real
property taken by eminent domain to the original property owner if
the property taken is not used for the purpose for which it was
condemned.

Testimony in support of this measure was submitted by
Kamehameha Schools and the Hawaii Association of Realtors.

There are two constitutional requirements for the exercise of
eminent domain. The property taken must be for a public purpose
and the property owner is entitled to receive just compensation.
There are many instances where condemned property sits idle for
years until plans are realized. If the purported public purpose
of the condemned property is never realized, the government may
sell the property to the highest bidder, which is usually not the
original owner of the condemned property.

Your Committee finds that condemnation actions should occur
only when necessary and when a viable plan is in place for the
condemned property. Despite being entitled to just compensation,

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owners of condemned property still incur financial and emotional stress from losing their property rights and being forced to relocate their homes or businesses. This stress is heightened when the condemned property sits idle for years because a viable plan for the property is not available, or when the condemned property is sold to someone else who placed the highest bid. Requiring a government entity after five years to offer the right of first refusal to the owner of the condemned for resale at the current appraised value, or condemnation price plus remediation or improvement costs if the property taken is not used for the purpose for which it was condemned will prevent condemned property from sitting idle.

Your Committee has amended this measure by deleting the contents of this measure and inserting the language of S.B. No. 1279, S.D. 1, which:

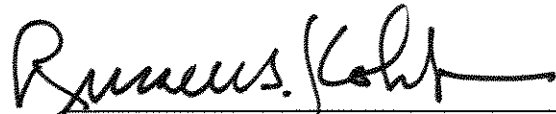
- (1) Amends chapter 46, Hawaii Revised Statutes, to include a new section that requires county agencies possessing the power of eminent domain to offer to resell any real property taken by eminent domain to the original property owner if the property taken is not used for the purpose for which it was condemned;
- (2) Amends chapter 101, Hawaii Revised Statutes, to include two new sections that:
 - (A) Allow a property owner or an individual with an interest in the property to be condemned to request a declaratory ruling to determine if the condemnation action by a government entity is for public use; and
 - (B) Require state government agencies possessing the power of eminent domain to offer to resell any real property taken by eminent domain to the original property owner if the property taken is not used for the purpose for which it was condemned;
- (3) Changes the effective date of this measure from July 1, 2112, to effective upon approval; and
- (4) Makes technical, nonsubstantive amendments for the purposes of clarity and style.



Your Committee believes that the amended measure will assist in leveling the playing field for real property owners and protect their real property interests, which fulfills the intent of this measure.

As affirmed by the record of votes of the members of your Committee on Water, Land, Agriculture, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1590, H.D. 3, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1590, H.D. 3, S.D. 1, and be referred to the Committee on Judiciary and Labor.

Respectfully submitted on
behalf of the members of the
Committee on Water, Land,
Agriculture, and Hawaiian
Affairs,




RUSSELL S. KOKUBUN, Chair



The Senate
Twenty-Fourth Legislature
State of Hawaii

Record of Votes
Committee on Water, Land, Agriculture and Hawaiian Affairs
WAH

Bill / Resolution No.:* HB 1570 HD3	Committee Referral: WAH, JDL	Date: 3/19/07		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KOKUBUN, Russell S. (C)	X			
TOKUDA, Jill N. (VC)	X			
FUKUNAGA, Carol	X			
HEE, Clayton	X			
SLOM, Sam	X			
TOTAL	5	0	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center; font-size: 2em; font-family: cursive;">  </div>				
Distribution: Original Yellow Pink File with Committee Report Clerk's Office Drafting Agency				

*Only one measure per Record of Votes