

STAND. COM. REP. NO. 1506

Honolulu, Hawaii

APR 12 2013

RE: S.C.R. No. 162
S.D. 2

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred S.C.R. No. 162, S.D. 1, entitled:

"SENATE CONCURRENT RESOLUTION URGING CONTINENTAL PACIFIC, LLC, AND THE STATE HISTORIC PRESERVATION DIVISION TO, AMONG OTHER THINGS, PLACE AN IMMEDIATE STAY OF EVICTION TO ALLOW RESIDENTS OF KAHUKU VILLAGE TO REMAIN IN THEIR HOMES UNTIL AN ARCHAEOLOGICAL INVENTORY SURVEY CAN BE COMPLETED FOR THE ENTIRE PROJECT AND ENSURE THAT THE KAHUKU VILLAGE PROJECT ADHERES TO ALL REQUIREMENTS, INCLUDING REQUIREMENTS FOR THE TREATMENT OF BURIAL REMAINS AND FOR CONDOMINIUM PROPERTY REGIMES,"

begs leave to report as follows:

The purpose and intent of this measure is to urge Continental Pacific, LLC, and the State Historic Preservation Division to:

- (1) Place an immediate stay of eviction to allow residents of Kahuku Village to remain in their homes until an archaeological inventory survey can be completed for the entire condominium project; and
- (2) Ensure that the Kahuku Village project adheres to all requirements, including requirements for the treatment of burial remains and for condominium property regimes.

Your Committee received testimony in support of this measure from four individuals. Testimony in opposition to this measure was submitted by Continental Pacific, LLC. Your Committee

2013-2275 SCR SSCR SMA.doc



received comments on this measure from the Department of Land and Natural Resources and Kahuku Plantation Residents Association.

Your Committee finds that Kahuku Village V currently comprises about seventy residential homes originally built for plantation workers on the makai side of Kamehameha Highway on land formerly owned by the James Campbell Estate. In 2006, Continental Pacific, LLC (Continental Pacific), purchased Kahuku Village from the James Campbell Estate with plans to convert Kahuku Village into a condominium property regime. Additionally, necessary infrastructure improvements are planned to be completed in and around the Village, such as existing and new roadway improvements, new water lines for fire protection, replacement of existing cesspools with septic tanks, and storm run-off remediation and related drainage improvements.

Your Committee further finds that in January 2012, during construction at Kahuku Village to install a road, Continental Pacific unearthed burials in an area outside of the planned construction area that was designated by permit. The issuing of permits would have triggered an archaeological inventory survey to be conducted. However, the Department of Land and Natural Resources reported that the City and County of Honolulu Department of Planning and Permitting never notified the State Historic Preservation Division when the Department of Planning and Permitting issued the permits, as required under city law. As a result, an archaeological inventory survey was never conducted prior to the start of construction. This measure assists in remedying this problem by urging the State Historic Preservation Division to work with Continental Pacific to develop and implement an archaeological inventory survey for the entire Kahuku Village project and an appropriate burial treatment plan in an expeditious manner, among other actions.

Your Committee also finds that in February 2012, Continental Pacific initiated the process of instituting a condominium property regime that would allow for the sale of single-family residential lots to the Kahuku Village occupants, many of whom are descendants from the original Kahuku Plantation workers. To date, no single-family residential lots have been sold to Kahuku Village occupants and sixteen Kahuku Village occupants have been sent eviction notices by Continental Pacific while numerous other occupants have been forced to relocate due to construction.



In light of the unearthed burials and the absence of a completed archaeological inventory survey for the entire project, your Committee has serious concerns regarding Continental Pacific's decision to initiate the sale of single-family residential lots to Kahuku Village occupants and its decision to evict occupants due to construction. Your Committee notes that under section 514B-83, Hawaii Revised Statutes, a developer is required to submit a public report containing any facts, documents, or information that would have a material impact on the use or value of a unit or any appurtenant limited common elements or amenities of the project available for an owner's use and to promptly amend the public report to reflect any pertinent or material change, or both, in required information. The unearthing of burials or results of an archaeological inventory survey may constitute such information and facts that may have a material impact on the use or value of the project pursuant to section 514B-83, Hawaii Revised Statutes. Accordingly, this measure addresses your Committee's concerns by urging Continental Pacific to place an immediate stay of eviction to allow residents of Kahuku Village to remain in their homes until an archaeological inventory survey can be completed for the entire project and requesting Continental Pacific to consult with the Real Estate Commission to ensure that the project adheres to the statutory requirements for condominium property regimes.

Your Committee has amended this measure by adopting amendments suggested by the Kahuku Plantation Residents Association that:

- (1) Deletes language indicating the State Historic Preservation Division will not grant any new permits to Continental Pacific until the developer has conducted an archaeological inventory survey;
- (2) Adds language indicating the State Historic Preservation Division believes an archaeological inventory survey must be conducted for the project area;
- (3) Adds language revealing that burials were unearthed again within the project area on March 4, 2013;
- (4) Inserts language requesting the Real Estate Commission to submit a written report to the Legislature regarding the Kahuku Village project with respect to Continental



Pacific's adherence to the statutory requirements for condominium property regimes; and

- (5) Makes technical, nonsubstantive amendments for the purpose of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 162, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 162, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,



CLAYTON HEE, Chair



