

**ACT 288**

**H.B. NO. 2239**

A Bill for an Act Relating to Land Acquisition.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. In its final report dated January 2006, the joint legislative housing and homeless task force expressed concern that the inventory of affordable

housing rental units may be reduced. Affordable rental housing projects built in part with government subsidies have been offered for sale at market prices as a result of the expiration of income and conveyance restrictions encumbering the property. The task force is committed to ensuring that such units remain affordable to persons at certain income levels.

In recent months, media reports have announced that several affordable housing projects may be offered for sale, such as the Kukui Gardens affordable rental housing project. Kukui Gardens was built in part with federal funds and its affordability restrictions will expire in five years.

The purpose of this Act is to preserve Kukui Gardens as an affordable housing project.

SECTION 2. The legislature finds that:

- (1) Kukui Gardens is a unique affordable housing resource on twenty-two acres in central Honolulu that provides housing for two thousand five hundred working residents and senior citizens in eight hundred fifty-seven low-income housing units, of which over fifty per cent of the units are rented to families with incomes under fifty per cent of the median family income, and over twenty per cent of the units are rented to families with incomes over one hundred ten per cent of the median family income;
- (2) Kukui Gardens supports the character of the neighborhood by being the primary source of workforce housing for all of historic Chinatown;
- (3) The eight hundred fifty-seven affordable rental units in Kukui Gardens are irreplaceable in the current Honolulu housing market;
- (4) Kukui Gardens is currently for sale, and therefore at risk of becoming a market rate rental project or condominium after 2011, when the project's affordable housing commitment period with the United States Department of Housing and Urban Development expires; and
- (5) The residents, surrounding community, and the island of Oahu would benefit from the active intervention of the State in this transaction to ensure that there is no negative impact on current and future residents.

The legislature therefore declares that it is in the public interest and is required for public use to acquire Kukui Gardens as an affordable housing project by exercise of the power of eminent domain. The legislature further declares that it is necessary to provide for the public financing of the acquisition of Kukui Gardens by condemnation through the expenditure of general funds, revenue bonds, rental housing trust funds, federal and state low-income housing tax credits, or any other public and private funds at the disposal of the State.

SECTION 3. The Hawaii housing finance and development administration or any appropriate entity of the State shall immediately initiate negotiations with Kukui Gardens Corporation, or its successor in interest, to either:

- (1) Make available, without competitive award, public financing resources to extend affordable rents at Kukui Gardens through at least 2016; provided that at least fifty per cent of the rental units at Kukui Gardens are retained at affordable rents to households whose incomes do not exceed eighty per cent of the median family income, of which five per cent of the units are set aside for households whose incomes do not exceed thirty per cent of the median family income; or
- (2) Acquire the property known as Kukui Gardens, tax map key (I) 1-7-26: 07, and may partner with private for-profit or nonprofit developers for acquisition of the property; provided that eighty per cent of the housing units on the property shall be retained in perpetuity as affordable

housing for households at or below one hundred forty per cent of the median family income as determined by the United States Department of Housing and Urban Development.

The Hawaii housing finance and development administration or the appropriate entity of the State shall submit a report to the legislature not later than twenty days prior to the convening of the regular session of 2007 regarding its efforts to acquire Kukui Gardens and its recommendations for financing the purchase of the property.

SECTION 4. If an agreement to either extend affordable rents to at least 2016 or acquire the property is not reached within a reasonable time as determined by the Hawaii housing finance and development administration or any other appropriate entity of the State, the state agency shall exercise its power of eminent domain to acquire the property. For the purposes of this Act, and notwithstanding any provision of section 201G-16, Hawaii Revised Statutes, to the contrary, condemnation of the Kukui Gardens property shall not be subject to legislative disapproval.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$200,000 or so much thereof as may be necessary for fiscal year 2006-2007 for the purpose of negotiating with the owner of Kukui Gardens to either extend the period of affordable rents to at least 2016, acquire Kukui Gardens, or to commence the condemnation process.

The sum appropriated shall be expended by the Hawaii housing finance and development administration for the purposes of this Act.

SECTION 6. This Act shall take effect on July 1, 2006.

(Approved July 7, 2006.)