



Virgin Islands Housing Finance Authority's Testimony before the Committee on Government Operations, Veterans Affairs, and Consumer Protection

**Bill No. 35-0058, which seeks to amend title 29 of the
Virgin Islands Code, by adding chapter 25 to enact the
Public-Private Partnership Agreement Act**

Good morning Senator Carla Joseph, Chair of the Committee on Government Operations, Veterans Affairs, and Consumer Protection, members of the committee, other Senators present, and the listening and viewing audience. I am Dr. Stephanie Berry, Chief Operating Officer of the Virgin Islands Housing Finance Authority (VIHFA). On behalf of Dayna Clendinen, our Interim Executive Director and Chief Disaster Recovery Officer, I am pleased to provide testimony regarding Bill No. 35-0058, which seeks to amend title 29 of the Virgin Islands Code, by adding chapter 25 to enact the Public-Private Partnership Agreement Act.

Governing Authority

The Virgin Islands Housing Finance Authority (VIHFA) was established through section 103 of title 21 of the Virgin Islands Code as an autonomous governmental instrumentality of the Government of the Virgin Islands. VIHFA does not operate under the procurement framework established by Virgin Islands' procurement statutes as codified under chapter 23 of title 31. Property and Procurement does not procure our goods and services. Furthermore, as a recipient of federal funds, the creation and revisions to our procurement policies are guided by the U.S. Department of Housing and Urban Development's procurement specifications, by which we must comply.

As authorized by Chapter 2 (entitled "Home Owners Construction and Mortgage Assistance") of Title 21 (entitled "Homestead and Home Loans), VIHFA can do all things necessary to carry out its purposes, exercise the powers granted, and implement the provisions of the above-mentioned chapter, which include but are not limited to:

- (h) make rules and regulations that provide for the management of its operations
- (k) make, enter into and enforce all contracts necessary, convenient or desirable for the performance of its powers, including contracts with any person, firm, corporation, association, agency, governmental agency or other entity, and all Virgin Islands governmental agencies are authorized to enter into contracts, and otherwise cooperate with the Authority to facilitate the purposes of this chapter.
- (n) bid for the purchase of property upon which the government or another party for its benefits, hold a mortgage at any foreclosure or other sale, or acquire and take possession of any such property, subject to any contract with the holders of any of its obligations;
- (o) procure insurance against any loss in connection with the property and other assets of the government, in such amounts and from such insurers as it deems desirable; and
- (v) acquire, convey, transfer, pledge, lease, hold and dispose of real and personal property for the purposes set forth in this chapter including, without limitations prescribed in (v).

Additionally, Subchapter IX (entitled "Home Ownership and Development") of Chapter 1 (entitled: "Community Development and Renewal; Slum Clearance and Housing") of Title 29 of the Virgin Islands Code (entitled "Public Planning and Development") states, in relevant part, that in addition to any other powers conferred upon him by this subchapter or any other provisions of law, the Executive Director of the Virgin Islands Housing Finance Authority, with the approval of the Governor, and on behalf of the Government of the United States Virgin Islands, may:

- (1) acquire and dispose of any real property or superfiary house

- (4) construct, maintain, and operate such buildings and facilities and improvements as he deems necessary
- (6) enter into contracts
- (13) adopt, alter, amend, or repeal regulations to govern the Government's policies and activities in general in carrying out the purposes of this subchapter and in exercising and discharging the powers and duties granted to and imposed on him by this subchapter, which regulations or amendments thereof, after approval by the Governor, shall have the force of law.

Lastly, in *Apex Construction Company, Inc. v. Virgin Islands Housing Finance Authority, et al.*, the Superior Court of the Virgin Islands explained that the VIHFA:

”was authorized to initiate and administer the Virgin Islands Affordable Housing Program. [29 V.I.C. §§ 940-946](#). With this program the authority of VIHFA was expanded to include the power to acquire, subdivide, develop, and dispose of real property. [29 V.I.C. § 940\(a\)](#) and [\(b\)](#). VIHFA also gained the power to “develop, construct, rehabilitate, own, operate and maintain buildings and improvements deemed necessary and appropriate to the execution of the purposes of this Act.” [29 V.I.C. § 940\(a\)](#). VIHFA adopted a Procurement Policy, effective June 1, 2011, to implement its powers. The Procurement Policy provides the procedures VIHFA must follow when awarding construction contracts.”

Given the aforementioned, VIHFA’s authority established by 21 V.I.C. § 103 and other related sections of the Virgin Islands Code would not be changed by the procurement requirements set forth in Bill No. 35-0058

Recommendation

Bearing in mind that VIHFA’s mission includes providing service across the continuum of housing, VIHFA supports a coordinated approach amongst all stakeholders. As it pertains specifically to the Bill, it is recommended that emergency housing facilities be included as a qualifying project in §1503 Definitions (n). 29 V.I.C. Ch. 1 states in part, that there is a serious emergency where “persons and families, who, because of circumstances beyond their control, are being obliged to vacate premises... are unable to find other housing accommodations.” From the time this legislation was established circa 1958 to present (post 2017 Hurricanes Irma and Maria and the 2020 pandemic), emergency housing still remains a public need. Furthermore, although this public need is not wholly satisfied by existing facilities, it is constantly on the radar of the agencies and organizations who serve individuals and families in crisis, which can in the blink of an eye be any one of us.

All stakeholders’ participation in the process is essential to making any legislation impactful. VIHFA is confident that we can continue to have partnerships that develop, finance, and operate decent, safe, and sanitary facilities, while providing quality support services through local organizations that serve the needs of the people of the Virgin Islands of the United States, including those who are involuntarily displaced. Senators, this concludes my testimony, but before I end, I would like to thank all persons and public/private organizations who work tirelessly to assist

persons and families in crisis. I would also like to thank VIHFA staff, the sponsor of Bill No. 35-0058, Senator Marise James, and the members of this body for their continued support of VIHFA's mission. On behalf of our Interim Executive Director Dayna Clendinen and the staff at VIHFA, I extend compliments of the season to all of you and the listening and viewing audience.

I stand ready to answer any questions you may have.