



GOVERNMENT OF THE VIRGIN ISLANDS OF THE UNITED STATES

DEPARTMENT OF PLANNING AND NATURAL RESOURCES

4611 Tutu Park Mall
Suite 300, 2nd Floor
St. Thomas, VI 00802
(340) 774-3320

45 Mars Hill, Frederiksted
St. Croix, VI 00840
(340) 773-1082
dpnr.vi.gov



Office of the Commissioner

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**Testimony of Jozette J. Walker, Assistant Commissioner
Department of Planning and Natural Resources
before the Committee on Disaster Recovery, Infrastructure and Planning
Bill No. 36-0070**

Good day Honorable Senator Marise C. James, Chair of the 36th Legislature's Committee on Disaster Recovery, Infrastructure and Planning, Vice Chair Senate President Milton E. Potter, Senator Alma Francis Heyliger, Sponsor of Bill No. 36-0070, other committee members, non-committee members and legislative staff present, fellow testifiers, and members of the viewing and listening public.

My name is Jozette J. Walker, Assistant Commissioner of the Department of Planning & Natural Resources (DPNR) and I appear today on behalf of Jean-Pierre L. Oriol, Commissioner of DPNR, to provide testimony on Bill No. 36-0070, which seeks to amend Title 28, Chapter 19 of the Virgin Islands Code by adding Section 423 to establish a process for the return of land acquired through eminent domain if unused for its intended public purpose within twenty-five (25) years as requested by the Chair's invitation dated May 30, 2025. With me in person and/or virtually are Marlon Hibbert, Director of the Division of Coastal Zone Management and Sean L. Krigger, Director & Deputy State Historic Preservation Officer.

I. General Position

DPNR understands the intent of Bill No. 36-0070 to ensure transparency and accountability in the use of eminent domain, and to guard against underutilization of public assets. However, we offer the following comments to underscore the operational, legal, and planning considerations that must be weighed carefully. These comments also support and complement the testimony offered by our sister agencies, the Department of Property and Procurement (DPP) and the Department of Justice.

II. Agency Perspective and Planning Context

As the central authority overseeing land use planning, zoning enforcement, and permitting across the public and private sectors, DPNR is uniquely positioned to evaluate the long-term implications of this Bill on the built environment, economic development, cultural and natural resource protection.

Moreover, DPNR serves as Administrator of the Virgin Islands Comprehensive Land and Water Use Plan (CLWUP), a forward-looking framework that guides responsible growth, protects sensitive environmental resources, and promotes sustainable infrastructure development.

Large-scale capital projects—such as schools, transportation corridors, recreational facilities, and resilience infrastructure often span decades of planning. Thus, the introduction of a rigid 25-year sunset for the intended public use, even with a reversion clause, could inadvertently stall infrastructure pipelines or result in rushed, suboptimal development.

III. Key Concerns and Recommendations

A. Timing and Land Development Realities

We echo shared concern that a fixed 25-year window for public use does not align with the full lifecycle of planning, permitting, funding, and executing major capital projects. As the agency charged with issuing permits and zoning approvals for both public and private construction, DPNR can confirm that projects frequently encounter extended delays due to:

- Budgetary constraints
- Environmental and historic resource reviews
- Federal coordination and compliance
- Infrastructure interdependencies
- Natural disaster recovery and resilience needs

In this context, a parcel's status may appear inactive while planning or permitting phases are underway. We caution against any language that could enable premature or speculative claims for reversion by former owners during this period.

B. Zoning and Reuse Flexibility

The Bill as written may also limit the Government's ability to repurpose eminent domain-acquired parcels for alternate public uses that emerge after acquisition. Flexibility is essential. For example, a site acquired for a school could later be more suitable for a public clinic or resilience hub, based on community needs and demographic shifts. We recommend including a "Repurposing Clause" that allows for alternate public uses where the original use proves infeasible but where the parcel remains aligned with the broader public good.

C. Comprehensive Land Stewardship: Reuse vs. Reversion

Rather than defaulting to reversion, we propose that Government-owned lands that remain undeveloped after 20+ years be subject to periodic public review and reallocation through the CLWUP process or through coordinated interagency planning. This could allow DPP, DPNR, and other agencies to identify alternate community-serving uses including parks, cultural sites, affordable housing, or environmental protection zones without triggering costly reversions and reacquisition barriers.

IV. Enhancing Public Access through Easements

We reiterate our strong support for alternative land access mechanisms, such as perpetual easements. This would allow the Government to preserve access to beaches, shorelines, trails, and other commons while avoiding full condemnation and title transfer. In particular, DPNR urges the inclusion of easement language for:

- Beach and shoreline access
- Traditional trails and freshwater access
- Cultural sites and greenways
- Ecological buffers and flood mitigation areas

This approach upholds the public trust doctrine, supports our goals under the CLWUP, and aligns with the United Nations Sustainable Development Goals (SDGs) #11 (Sustainable Cities & Communities), 13 (Climate Action), and 15 (Life on Land), strengthening grant and funding eligibility for the territory.

V. Suggested Amendments

To strengthen existing legislation with sound planning and sustainable governance, we recommend the Legislature consider the following:

1. Amend § 411 to expand the definition of “public use” to reflect sustainable, cultural, and climate-adaptive purposes.
2. Add a Repurposing Clause under § 423 to allow alternative public uses upon agency petition.
3. Add a Transparency Clause requiring annual publication of eminent domain acquisitions and their status.
4. Incorporate a “First Offer” or “Right of First Refusal” model only if the Government elects to dispose of the property, consistent with national best practices (e.g., New Hampshire, Rhode Island).

VI. Conclusion

DPNR acknowledges the goals of Bill No. 36-0070 to uphold responsible land stewardship and safeguard the rights of Virgin Islanders. However, to achieve these objectives without compromising long-term planning and the public interest, we advocate for flexibility, transparency, and expanded tools for public land use.

We thank the Committee for its leadership and thoughtful engagement on this important matter. We stand ready to work with our legislative and executive partners to refine the proposed language in a manner that balances public accountability, government function, and sustainable development.

This concludes my testimony, and we are available to answer any questions you may have.