

State raids airport-system funds

THU DEC 23 1993 SBH

□ A congressional probe will investigate whether the diversion to purchase two parcels was illegal

By Ian Y. Lind

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After exhausting funds authorized by the Legislature for the purchase of land in Ewa from Campbell Estate, state officials raided highly restricted airport funds for another \$65 million to complete the 1991 purchase of Hawaii Raceway Park and the

Hawaii Meat Co. feedlot.

The two parcels made up the most expensive part of a \$110 million condemnation of Campbell Estate land at Kapolei, the largest land acquisition ever undertaken by the state.

State planning director Harold Masumoto, who directed negotiations with Campbell Estate, yesterday said he was still

researching the issue. The Star-Bulletin provided written questions to Masumoto two weeks ago after he declined to be interviewed.

Gov. Waihee's press secretary said the administration was simply responding to legislative and community pressure in its efforts to find a permanent site for a racing facility.

The land deal, which appears to have been tenuously related to actual airport operations, was not disclosed to bond buyers or noted in the airport system's annual audit.

Disclosure of the \$65 million expenditure comes as state officials have successfully concluded an interim increase in landing fees at Honolulu Airport. The state negotiated the hike to cover a shortfall in revenues.

If the land deal is found to have been unrelated to airport operations, the deal could also threaten federal grants for airport operations, and ultimately jeopardize the status of bonds sold to finance the airport system. The state had \$1.4 billion in outstanding airport bonds as of March 30, 1993.

Congressional investigators recently visited Honolulu as part of a nationwide probe into the diversion of funds from airports to financially strapped state and local governments. Such transfers could violate state and federal laws as well as the conditions attached to grants of federal funds.

The state says that the use of airport funds was justified because it intended to exchange the properties in Kapolei with landowners and lessees being displaced

THU DEC 23 1993 SBH
See LAND DEAL, Page A-6

FROM PAGE ONE . . .

LAND DEAL: State officials use airport funds to buy 2 parcels

Continued from Page A-1

from Ualena Street to make way for airport expansion. This exchange never took place.

Attorneys for Hawaii Meat now charge that the airport funds were actually "misappropriated" for purposes unrelated to the airport system.

In recently filed court documents, attorneys Steven Jones and Ke-Ching Ning charge that the true 'deal' involved in the Raceway and Feedlot transaction had nothing to do with relocating lessees displaced by the airport expansion. It was to accommodate certain private interests who wished to gain control of the land for motor racing.

Hawaii Raceway Park is operated by Hawaii Motorsports Center, a partnership involving Thomas T. Enomoto, a close associate of Gov. John Waihee and a major contributor to political campaigns.

Question of political clout

The Star-Bulletin reported earlier this year that the Enomoto group took over the racing facility and obtained a new five-year lease without competitive bidding when the state got control of the facility from Campbell Estate.

"We categorically deny any misappropriation of funds," state Transportation Director Rex Johnson said in written response. However, Johnson said, "since this is the subject of on-going litigation, we are not able to comment further."

State Rep. David Hagino, a frequent critic of the Waihee administration, denounces the governor's personal enthusiasm for racing, along with the political clout of the racetrack operators, were a major factor in the state's purchase.

"The ultimate question is why there was almost an obsession to buy the land," Hagino said. "I don't think you can escape that. The man (Gov. Waihee) has a mania for racing cars. I think that was the intention from Day One, to use that money to build a motor speedway."

"That is absolutely not true," responded Carolyn Tanaka, Waihee's press secretary. "The state's efforts to find a permanent site for a racing facility was the result of requests from the community, the (Honolulu) City Council, and the Legislature . . . specifically the House of Representatives."

Tanaka said a legislative committee chaired by Hagino had even pushed for a 1989 resolution asking the administration to study the use of state land for a race track.

That resolution, adopted by the House of Representatives, made no mention of purchasing land or using airport-related funds.

Probe on fund-spending

Dan Matsumoto, acting director of the Federal Aviation Administration's Airport District Office in Honolulu, said grant agreements between the FAA and the state require all revenues for the airport to be used for construction, operation, and maintenance of the airport system.

Last year, the U.S. Department of Transportation challenged a \$32.3 million payment from airport funds to pay for the state's central administrative costs. Federal investigators said that the figure, which represented 5 percent of airport revenues, was too high. They recommended that the funds be repaid and that future federal grants be withheld until the state complied.

Although that dispute has been settled, congressional investiga-

tors are now probing the possible diversion of airport funds.

Gerald Coughlin, surveys and investigations staff of the U.S. House Appropriations Committee, was in Hawaii last month to interview state and federal airport officials.

Coughlin, reached by telephone in Washington, declined to comment on the committee's investigation or their specific interest in Hawaii. However, the FAA's Matsumoto confirmed that he met with Coughlin in early November.

"Hawaii is one of the five or six places that they're interested in," Matsumoto said.

Before his visit, Coughlin requested information and records regarding airport revenues, costs, bond obligations, and loans or other diversions of airport funds.

State records show that state officials suggested raiding airport funds for the racetrack and feedlot purchase only after they determined that the amount authorized by the Legislature would not be enough to complete the massive deal. To make the move legal, they raised the possibility of a land exchange with Ualena Street landowners.

But state records show that the exchange quickly fell through, and bond consultants advised that airport funds could not be used for the land deal.

Bond shuffling for land?

According to Rep. Jim Shon, a member of the state House Transportation Committee, "the key question is the bonds, and whether or not DOT got advice from the bond counsel saying that this could not be done."

"There appears to be no written communication on this subject," Transportation Director Johnson now says. "We could find none in our files. The advice was apparently verbal."

But attorney Samuel I. Hellman, the state's bond counsel in New York, recalls advising against the use of bond proceeds for the rumored land swap with Ualena Street landowners "because it could subject the bonds to becoming taxable." Hellman said he is "pretty sure" that he did not offer additional opinions after the exchange fell through.

"The overall perception is that people were pretty fast and loose with monies, moving it around," Shon said.

Millions of public dollars were shuffled through different accounts by state Budget Director Yukio Takemoto after it was determined that even the airport fund was insufficient to complete the payment to Campbell Estate.

State records show that in early November 1991, Takemoto authorized a \$36 million "loan" from the state general fund to the airport account. Then two checks totaling nearly \$65 million were drawn from the augmented airport account to complete the Kapolei purchase.

The general funds could not be spent directly because there was no authority to go beyond the amount authorized earlier by the Legislature.

Rep. Hagino called the use of airport funds for the racetrack purchase "the most arrogant action" of the beleaguered Waihee administration. When the original funds appropriated by the Legislature for buying land at Kapolei were exhausted, the administration should have come back to the Legislature for additional funds, Hagino said.

"We were still in session when the agreement was reached," Hagino said. "There would be absolutely no technical problem to

Flying too high with airport funds?

- November 1986:** Gov. John Waihee elected; soon after, his administration eyes buying Campbell Estate lands for Kapolei "second city."
- Spring 1988:** Legislature appropriates \$61 million to buy Campbell Estate lands; state begins to condemn more than 2,000 Ewa acres.
- March 1991:** State negotiators, led by planning director Harold Masumoto, reach tentative condemnation deal with Campbell to take 1,300 acres for \$110 million. Acreage includes 1,100 acres of sugar land, the 59-acre Hawaii Raceway Park and 124-acre Hawaii Meat Co. feedlot.
- March 1991:** 113 Kapolei acres were paid for with airport funds, but Masumoto cannot get landowners along 23 acres of Ualena Street, being displaced by airport expansion, to consider a land exchange.
- Summer 1991:** State transportation officials try to block raid on airport funds. Then director Ed Hirata and airports chief Owen Miyamoto express concern about expending money for Kapolei land from the airport account.
- October 1991:** A "memorandum of understanding" contemplates a complex exchange involving the Airports Division, Harbors Division, Department of Land and Natural Resources, and some Ualena Street lessees. Signers include Hirata, Masumoto and then DNLR head Bill Paty. Paty later says he has reservations, but signed since the move had the governor's approval. The scenario: DOT would trade the Raceway Park/Feedlot acreage for Kapalama Military Reservation the state is buying. Those Kapalama lands are to be offered to some relocating Ualena businesses; the remainder, to other business lessees.
- November 1991:** State Budget Director Yukio Takemoto authorizes \$36 million "loan" from state general fund to airport account. Two checks totaling nearly \$65 million then are drawn from augmented airport account to complete Kapolei purchase.
- March 1992:** U.S. Department of Transportation challenges \$32.3 million payment from airport funds for state's central administrative costs, calling it high. They recommend that the funds be repaid and future federal grants be withheld until state complies.
- December 1992:** 40 acres at Kapalama Military Reservation set aside to state DOT for airport and harbor use; paid for primarily with airport funds, but uses seem to be mostly harbor related.
- Spring 1993:** State Legislature passes resolution authorizing 65-year lease to private developer to build and operate a warehouse facility at Kapalama; no mention is made of any airport-related use or interest.
- November 1993:** Gerald Coughlin, surveys and investigations staff of U.S. House Appropriations Committee, in Hawaii to interview state and federal airport officials.

Star-Bulletin

getting the authorization."

The problem, Hagino said, would have been political. The administration may have insisted on using airport funds because their use is normally subject to little public scrutiny and would avoid another legislative review.

Collapsing airport revenues

These questions come at a particularly difficult time for the airport system. Dramatically lower revenues from the duty-free stores, and the diversion of \$250 million in airport funds to highway construction a few years ago, have left the airport strapped for cash. Nearly \$1 billion of planned construction is being postponed, including a new international terminal and a "people mover" transit system.

At the same time, airlines are

being asked to pay significantly higher fees in order to make up the shortfall.

One local bond professional, who asked not to be identified, said that the diversion of airport funds to purchase a racetrack in the face of collapsing airport revenues could pose a threat to safety of airport bonds.

The airports had nearly four times the income needed to pay the interest on outstanding bonds in 1990, but that margin dropped to 2-1 last year, leaving little margin for error. If the ratio falls below 1.35-1, the state would be in technical default on its bond obligations.

The failure of the state to disclose the Kapolei land purchase to bond buyers, or to note it in annual audits, could also raise questions from investors.