

Koror State Planning Comm'n v. Haruo, 8 ROP Intrm. 361 (2001)
KOROR STATE PLANNING COMMISSION,
Plaintiff,

v.

DONALD HARUO,
Defendant.

CRIMINAL CASE NO. 99-366

Supreme Court, Trial Division
Republic of Palau

Decided: January 16, 2001

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice.

The issue before the court is whether the National Government delegated to the Koror State Government the power to enact and implement the enforcement provision of the Koror State Zoning Law. The Court believes the National Government has delegated the power to the Plaintiff to enforce its zoning laws through its Planning Commission.

RPPL 3-5 delegated the authority to enact a “comprehensive zoning code” to the states. That delegation contains no limitation on the states’ power to enforce its zoning code.

Defendant Donald Haruo challenges the authority to Koror State to impose daily fines of \$50 for each day of a zoning violation that exists for 224 consecutive days. Haruo argues that under *State of Koror v. Blanco*, 4 ROP Intrm. 208 (1994), the state is authorized to impose only a maximum fine of \$100.

As in *Blanco*, the starting point of analysis is Article XI, section 2, of the Palau Constitution, which states:

All governmental powers not expressly delegated by this Constitution to the states nor denied to the national government are powers of the national government.
The national government may delegate powers by law to the state governments.

In RPPL 3-5 § 1(2), the Olbiil Era Kelulau (OEK) authorized any state planning commission “to enact comprehensive zoning codes and subdivision laws in accordance with mast plans and land use requirements developed under the authority of the Trust Territory Land Planning Act.” This is an express delegation of powers to enact comprehensive zoning codes.

The Court believes that the power to enforce the zoning laws is included in a delegation of power to enact “comprehensive zoning codes,” which the OEK has expressly delegated the power to Koror State. The Court finds that Koror State is authorized to impose the challenged

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penalties.

First, the same act provides for the repeal of 31 PNC Divisions 3 and 4 upon the enactment of such a comprehensive zoning code by the Koror State Government. Thus, the OEK intended for the Koror State comprehensive zoning code to fill the field occupied by 31 PNC Divisions 3 and 4. Division 3 is the Koror Zoning Law, 31 PNC §§ 3001-3342. The enforcement provision, previously 31 PNC § 3340, was part of Division 3.

Second, the term, “comprehensive” means to “cover[] a matter under consideration completely or nearly completely.” *Webster’s Third New Int’l Dictionary* 467 (1981). A zoning code would not be comprehensive without some method of enforcing its requirements.

¶362 Finally, unlike the statute in *Blanco*, RPPL 3-5 does not limit the penalties the state may enact. In *Blanco*, the Court concluded that a state’s police powers are limited to imposing a maximum fine of \$100 because that limitation was included in the Legislature’s express delegation of power to the states. The statute which provided the express delegation of police powers provided that “[n]o municipal ordinance shall provide for any penalty greater than a one hundred dollar fine, or ninety days imprisonment, or both.” *Blanco*, 4 ROP Intrm. at 213. Here, there is no such limitation of power.

The Court concludes that Koror State is authorized to exact the fines outlined in KSPL K-6-88-98 § 3340 because such power has been delegated by law to the state governments.