

**FINDINGS AND RECOMMENDATIONS OF THE HAWAII HOUSING FINANCE AND
DEVELOPMENT CORPORATION LEASEHOLD POLICY SUBCOMMITTEE (PERMITTED
INTERACTION GROUP)**

January 13, 2022

I. FACTS

- A. The HHFDC's Lease Term Extension policy¹ ("Extension Policy") and Hawaii Administrative Rules ("HAR") Section §15-207-225, sets forth the criteria for lease term extensions to December 31, 2055. The Extension Policy is valid for leasehold properties where the leased-fee interest is not available for purchase and necessary for mortgage purposes if the current or proposed new lessee (i.e. buyer of the property in a leasehold sales transaction), is willing to pay the new increased annual lease rents and all applicable fees. See Exhibit A – HHFDC Lease Term Extension Policy.
1. Of the total 13 leasehold projects with a combined 544 lots/units, only three (3) projects – the Waianae Community Development Project ("Uluwehi"), built in 1974, Waimanalo Village 1 built in 1978, and Waimanalo Village Increment 2, sold in 2005 – having a combined 475 single family lots, meet the criteria of HHFDC's Lease Extension Policy. In addition, these projects are located on ceded lands along with four additional single-family projects totaling 521 lots. See Exhibit B – HHFDC Leasehold Portfolio Overview.
- B. At the December 2018 Board of Directors meeting, Waimanalo Village Board members and residents reiterated their request to purchase the land and extend their lease. See Exhibit C –December 2018 Board Meeting Minutes and For Information of Waimanalo Village. As a result of discussions, the HHFDC Board established a Leasehold Policy Subcommittee consisting of Directors Spindt, Atta, Lin and Evans, to do the following:
1. Review current HHFDC leasehold policies; and
 2. Recommend possible modifications.
- C. Subsequently, upon Chair Spindt and Directors Lin and Evans departure from the Board, Chair Mende and Directors Sparlin and Chang was asked to join the subcommittee. In May, after thanking the members for their hard work, Chair Mende dissolved the Leasehold Policy Subcommittee and established the new 2021 Leasehold Policy Subcommittee consisting of Directors Mende, Sparlin, Chang and Sasaki (the, "Subcommittee").
- D. The subcommittee held a series of meetings with program staff to further address questions² raised by the board. Deliberations centered on the following intended to preserve affordability, provide lease terms fair and equitable for all, and to cover

¹ HHFDC's current Lease Term Extension Policy is effective as of May 19, 2011 and supersedes the 2005 and 2006 policies. An example of how the new lease rents are computed is included.

² Questions raised by the Board include, why the leases have not been extended; whether the assessed value of the land was determined by fee simple sales within the development or outside of the area; whether a benchmark appraisal should be done to compare the respective county's assessed values; whether income demographics are known; what kind of things have been looked at in resolving how land values are assessed for lease extensions; and who is responsible to engage discussion with the Office of Hawaiian Affairs regarding sale of state land.

HHFDC costs.

1. Policy issues
2. Other leasehold models
3. Lease term
4. Lease rent
5. Lease provisions
6. Ability to purchase the leased fee interest

E. The Subcommittee's initial findings and recommendations are consistent with HHFDC's mission, which in part is to preserve the supply of workforce and affordable housing statewide and provides a basis for discussion in consideration of a new leasehold policy.

II. INITIAL FINDINGS AND RECOMMENDATIONS

A. Policy issues

1. Findings. The Subcommittee finds that the existing leasehold policy is applicable to 86% of HHFDC's leases (474 of the total 545 lots) and limited in scope (for mortgage purposes). It does not address those who desire to remain in place for more than the (original) 55-year term of the lease; may not qualify for a new loan based on retirement or fixed income; and/or cannot afford to pay an increased lease rent. The policy also does not address the disparity resulting from the contractual ability to purchase the leased-fee interest in the lot which in part provides stability and security in fee simple ownership.
2. Recommendations. Establish a new lease policy that is fair and equitable to all; will not force out lessees; adds value; provides for security in terms of stability for current and future generations; provides for the ability to refinance to address deferred maintenance or make additional home improvements; and to create wealth in terms of adding onto the existing structure or building a new structure, as may be permitted by current laws, rules, and regulations (e.g. accessory dwelling unit).

B. Other leasehold models.

1. Findings. The Subcommittee finds that other state of Hawaii leasehold policies, such as that of the DLNR and DHHL revealed similarities and differences with parts of HHFDC's leases. For example, DLNR's lease policy include a similar standard in the lease term of 55-years; and differ in terms of established lease rents to cover the agency's costs and periodic analysis of the agency's costs to manage the lease program. DHHL's lease program differs from HHFDC's in terms of the 99-year lease term as constant for all lessees regardless of start date but similar with a \$1.00 per year lease rent, payable in advance for the entire term. The Subcommittee discussed DHHL's long term (99-year) lease as a consideration for providing added value (longevity and multi-generational living) in exchange for removal of the option to purchase the land given the high cost of the leased fee interest in some subdivisions; the lessee's ability to qualify for a loan to purchase the land; or the absence of a lease option to purchase the land.
 - a. The Subcommittee also found that the Hawaii Community Development Authority passes on 30% of construction costs onto the lessee. Infrastructure improvements and costs for the nearly 55-year-old developments are currently managed by the project

associations and condo law requires a capital improvement budget that is analyzed every three years.

2. Recommendations. If applicable, build cost of infrastructure into the lease rent or impose a lease premium and conduct a reserve study every 5 years. Direct the project association to other viable remedies or resources to effectively manage its infrastructure.

C. Lease Term

1. Findings. The Subcommittee finds that the standard lease term for a residential lease is 55-years. The lease term is fixed in 10-year increments for an initial 30-years for mortgage purposes. Subsequent renegotiation for the remaining 25-years (in 10-, 10-, and 5- year increments) is included in the lease and applied pursuant to Section 519-2, HRS. Based on the current Leasehold Policy, leases are set to expire from 2030 (approximately 8 years of remaining term) thru 2055 (approximately 33 years of remaining term).
2. Recommendations. Establish a lease term of 99-years which adds value to the lease in terms of security, longevity, ability to build and borrow on the equity for deferred maintenance or capital improvements and if permitted, installation of an accessory dwelling unit;

D. Lease Rent³

1. Findings. The Subcommittee finds that current lease rents are less than current affordable rent guidelines published by the HHFDC using Department of Housing and Urban Development (HUD) figures. Public information and data were collected and used as proxies to independently evaluate owner occupancy, household income, and land value. Collectively, data was used to evaluate current methodology and also in comparison with best practices and other leasehold models. For example, census data was used independently as a proxy for household income and collectively with HHFDC's Affordable Rent Guidelines in review of maximum lease rents according to household income for unit types per subdivision. County assessed land values were used as a proxy for land appraisals. Current lease rents are based on renegotiation of the lease rent pursuant to Section 519-2, HRS and best practices, during the reopening period under the lease. The methodology used to establish new lease rents under the HHFDC lease extension policy is the same as that of the renegotiation of lease rent process. In consideration of a new lease instead of a lease extension, consideration is given to a reduced rate of return in alignment with HHFDC's mission and existing lease term extension policy

³ The Exhibit D – Lease Rent Matrix was prepared to evaluate HHFDC's current project lease rent with other rent guidelines such as HHFDC's Affordable Rent Guidelines and current methodology of establishing new lease rents pursuant to Chapter 519, HRS (Renegotiation of Lease Rent) and HHFDC's Lease Term Extension Policy. Comparisons were made between the (i) current monthly project lease rents (shaded in yellow); (ii) the HHFDC Affordable Rent Guidelines per project number of bedrooms; (iii) using a rate of return of 2% and 4% and multiplying it to the respective county assessed land value in lieu of a fair market value appraisal which is consistent with current lease extension policy and section 519-2, HRS (refer to Part 2 columns shaded in gray); and (iv) using an average of the affordable guideline rents for households with incomes ranging from 80%-100% of the area median income (AMI) per project number of bedrooms (refer to Part 3 column shaded in pink). Page 2 of the matrix illustrates the total lease rent revenue generated using the various methods of establishing the lease rent.

which provides a lower than 4% rate of return at HHFDC's discretion. See Exhibit D - Lease Rent Matrix

2. Recommendations.

- a. Establish a new lease rent methodology in priority order as follows:
 - i. To cover HHFDC administrative costs and expenses with cost analysis every five years;
 - ii. Based on original project income, e.g. 80% to 120% area median income; and
 - iii. As-is.
- b. Fix the lease rent for a 55-year term with incremental 10-year increases and computed by using the respective county assessed value of the land and multiplying it by 2% for the initial 10 years and applying a 30% increase for the subsequent 10-year increments – an increase of 3% per year.

E. Lease Provisions. See Exhibit E.

1. Findings. The Subcommittee finds that the differences between the project leases have been the subject of deliberation for years citing the purpose and construction of the development and current events during the development, as reasons for the inconsistencies. For example, lease rent for the Waimanalo Village subdivisions are \$1.00 for the term of the lease, whereas other subdivisions are based on 4% of the current assessed value of the land, approximately \$333.33 per month or \$4,000 per year on land valued at \$100,000. The ability to purchase the leased fee interest also varies just within the Waimanalo Village subdivisions alone.

2. Recommendations

- a. Establish lease provisions for HHFDC to effectively manage and enforce the lease in compliance with current laws, rules and regulations.
- b. Establish and impose standard lease provisions based on current laws, rules and regulations; best practices; and promulgated HHFDC administrative rules.
- c. Establish and impose a form of buyback and shared appreciation equity (SAE) for the duration of the lease term to maintain affordability and deter speculation given the new long-term (99-year) lease term.

F. Ability to purchase the leased-fee interest

1. Findings.

- a. The Subcommittee finds that of a combined 1,095 lots in 13 projects, 540 leases have converted to fee simple. See Exhibit F – Summary of Lease Fee Sales. Of the remaining 545 in leasehold, approximately 13% or 70 lots, in a combined nine projects, have the option to purchase the leased fee interest by contractual right in the lease or prior predecessor board approval, as follows:
 - i. 36 lots in four projects have a contractual right to purchase of the leased-fee interest;

- ii. 20 lots/units in four projects had a contractual right for a specified period (10-20 years), but the option has since expired. However, HHFDC continues to honor the option provided or the predecessor Board approved continued sale; and
 - iii. 14 units/lots in two projects received predecessor Board approval to purchase the leased-fee interest.
- b. All state land sales are subject to Hawaii Revised Statutes Section 171-64.7(f), as amended. On June 23, 2021, Governor David Ige signed Act 64 2021 SLH which amends HRS 171-64.7 and exempts HHFDC from the legislative approval requirement to sell some of its land that meets certain criteria⁴. The HHFDC intends to notify the 70 lots of the amendment to the law which may result in future leased-fee purchases. Lessees interested in purchasing the leased-fee interest in the lot shall submit a written request to the HHFDC to start the process. The estimated timeframe to complete the purchase transaction is six months from the date of the (fair market value of the land) appraisal report.
2. Recommendations. Establish a new lease with no future option to purchase the land in lieu of a new long-term (99-year) lease.

G. Implementation

1. Findings.

- a. The Subcommittee finds that clear communication of a new leasehold policy is essential to effectuate a seamless conversion on a voluntary basis. Developing a schedule to conduct informational meetings in the communities where the properties are located, providing written requirements for lessee’s review and decision to opt-in or not, and completing required documentation including possible physical inspection of the properties, are prudent measures to ensure compliance with current and future lease terms and conditions.
- b. Additional findings also indicate that of the total lots remaining in leasehold, a total of 474 are without the option to purchase the leased-fee interest in the land and likely to opt-in to a new leasehold policy. Assuming all 474 lots opt-in to the conversion, completion of the requirements will likely to be staggered which will result in various start and end dates, same as today’s leases. Alternately, having various start dates with a fixed end date may result in having a shorter lease term than the proposed 99-years, which is also the same as today’s leases.

2. Recommendations

⁴ Act 64, 2021 SLH amends HRS Section 171-64.7(f) to read as: “(f) This section shall not apply to: ... (4) Individual sales of the leased fee interest in a leasehold condominium unit or single family house lot to its lessee by the HHFDC; provided that: one of the corporation’s predecessor agencies approved the sale of the lease fee interest no later than November 4, 1994; ... more than 50 per cent of all units was sold or otherwise transferred prior to July 13, 2009; the sale is to the lessee of record; and the corporation shall submit documentation to the Office of Hawaiian Affairs at least three months before the sale of a unit or house lot under this paragraph.

- a. Establish procedural guidelines and requirements to effectuate the conversion of a new leasehold policy, such as conversion is voluntary, and all costs and fees to be paid by lessee.
- b. Establish a specified start and end date in alignment with the earliest lease expiration date (2030) and last (bulk) recording date. For example, in the sale of new affordable developments, all documents are prepared and executed in advance in expectation of a future/pre-determined bulk or mass recording date.
- c. Establish a timeframe in which to rollout the new policy which include but is not limited to seeking legislative authority to establish and impose a form of buyback and SAE and promulgating administrative rules for the new policy.

III. SUMMARY OF RECOMMENDATIONS

- A. Policy. Establish a new lease policy that is fair and equitable to all; will not force out lessees; adds value; provides for security in terms of stability for current and future generations; provides for the ability to refinance to address deferred maintenance or make additional home improvements; and to create wealth in terms of adding onto the existing structure or building a new structure, as may be permitted by current laws, rules, and regulations (e.g. accessory dwelling unit).
- B. Lease Term. Establish a lease term of 99-years which adds value to the lease in terms of security, longevity, ability to build and borrow on the equity for deferred maintenance or capital improvements and if permitted, installation of an accessory dwelling unit.
- C. Lease Rent. Establish a new lease rent methodology in priority order as follows:
 1. To cover HHFDC administrative costs and expenses with cost analysis every five years;
 2. Based on original project income, e.g. 80% to 120% area median income; and
 3. As-is; and
 4. Fix affordable lease rent for a 55-year term with incremental 10-year increases and computed by using the respective county assessed value of the land and multiplying it by 2% for the initial 10 years and applying a 30% increase for the subsequent 10-year increments – an increase of 3% per year.
- D. Lease Provisions.
 1. Infrastructure. If applicable, build cost of infrastructure into the lease rent or impose a lease premium and conduct a reserve study every 5 years. Direct the project association to other viable remedies or resources to effectively manage its infrastructure.
 2. Establish and impose standard lease provisions to effectively manage and enforce the lease in compliance with current laws, rules and regulations; and based on best practices and promulgated HHFDC administrative rules.
 3. Establish and impose a form of buyback and shared appreciation equity (SAE) for the duration of the lease term to maintain affordability and deter speculation given the new long-term lease term.
 4. Ability to purchase the leased-fee interest. Establish a new lease with no future option to purchase the land in exchange for a new long-term lease.
- E. Implementation.

EXHIBIT A

2011 HHFDC LEASE TERM EXTENSION POLICY

HHFDC's Lease Term Extension Policy is revised below, and supersedes all other Lease Term Extension Policies.

1. HHFDC will grant lease term extensions only on its leasehold properties where the Leased-fee interest in the property is not available for purchase. Waiahole Valley is not included, unless the lease does not contain an extension clause (ex. Lots 48/49).
2. Lessee must be current in lease rent and compliant with all lease terms before lease term extension can be considered
3. Any Lessee may request a lease term extension for mortgage purposes if they are willing to pay the increased annual lease rents, as well as, all of the costs and fees associated with the lease term extension (i.e., amendment of lease attorney preparation, HHFDC administrative fees, title and escrow fees, conveyance tax fees, document preparation fees, recordation fees, etc). At HHFDC's discretion, HHFDC may consider non-mortgage extension requests on a case by case basis.
4. The incremental lease rent periods will begin on January 1 and July 1. This practice is to accommodate HHFDC's lease rent billing cycle wherein lease rents are invoiced semi-annually on July 1 and January 1. Uniform lease rent dates allows for more efficient accounting planning.
5. The extension term will not exceed the year 2055. This date will be reviewed by HHFDC annually, and increased at HHFDC's discretion.
6. In exchange for a lease term extension, the lease rent shall be determined as follows:
 - a. The lease rent will be set in ten year increments until lease termination.
 - b. The first ten years annual lease rent shall be calculated based upon the County tax assessor's assessed value of the land multiplied by a 4% rate of return. At HHFDC's discretion, it may set lease rents based upon the fair market value of the land of the lot/unit, or any other appropriate valuation. It also may elect to use a rate of return lower than 4% at its discretion.
 - c. Each subsequent ten year lease rent period shall increase 30% from the annual lease rent of the prior year (30% per 10 years is based upon Hawaii property values generally increasing 3% per year, as advised by HHFDC's consulting appraisers).
7. If the current lease rent schedule is greater than the lease rent would be under a lease term extension, then the greater amount of lease rent is used for that ten year period.
8. The lease term extension will render any future lease rent renegotiations void since all future periods will be addressed within the lease term extension, and this fact and the new rents shall be incorporated within an Amendment of Lease.
9. An Amendment of Lease shall be prepared by Lender's attorney, with Lessee paying all costs associated with the Lease Term Extension. The Lender will use an escrow and title company licensed to do business in the state of Hawaii to prepare a preliminary title report and record the Amendment of Lease to reflect the new lease rents.
10. Exhibit B-1 is an example of how the lease rent will be determined.

Implementation of the Policy:

1. Request for extension needs to be submitted to HHFDC by Lender requiring an extension in order to make the loan. Lender's written request should include therequest for a lease extension, the name of the loan applicant (lessee or lessee's purchaser) the reason for the extension and the minimum number of years needed in order to make the loan, and a certification that the extension is for mortgage purposes.
2. Upon receipt of request, HHFDC will send a letter to the Lender with a copy tothe Lessee requesting the following:
 - a. Loan applicant's authorization for Release of Information (form to be included for completion) to HHFDC by lender that loan applicant has selected to pursue obtaining a loan.
 - b. Completed property information sheet (form to be included for completion), current title report, copy of the DROA if is a sale andHHFDC's administrative fee payable to HHFDC.
3. Upon receipt of requested items from the Lender, HHFDC will provide a letter of agreement with the terms for the extension which will need to be agreed to and signed by the lessee and buyer, if applicable, and returned to HHFDC within 30days.
4. Upon receipt of signed agreement, HHFDC will notify Lender to have Lender's attorney prepare the Amendment of Lease and conveyance tax certificate basedon the letter of agreement. Document preparation cost to be paid by lessee.
5. Amendment of Lease to be signed by HHFDC and Lessee (or Buyer) andrecorded by Lender's escrow.

Lease Term Extension EXAMPLE

* Lease currently terminating 2030 will be extended to 2055 (25 year lease extension).

Example: HHFDC receives a request for lease term extension on 4/28/11.
 Current annual lease rent is fixed as follows:
 \$527 until 2014,
 \$685 (second ten years 2014-2024) and
 \$890 (last five years 2025-2030).

In determining the new lease rent, you obtain tax assessor's value of your unit/lot: \$30,600

First year of extension request remains the same at current lease rent through 6/30/11 at \$527.
 Thereafter:

First – 10 years annual lease rent (7/1/11-6/30/21)	\$1,224
Multiply tax assessor value by 4%	$\$30,600 \times 4\% = \$1,224$
Second – 10 years annual lease rent (7/1/21-6/30/31)	\$1,591
Multiply 1 st ten year term by 30% (3% per year) ($\$1,224 \times 30\% = \367) (rounded)	$\$1,224 + \$367 = \$1,591$
Third – 10 years annual lease rent (7/1/31-6/30/41)	\$2,068
($\$1,591 \times 30\% = \477) (rounded)	$\$1,591 + \$477 = \$2,068$
Fourth - 10 years annual lease rent (7/1/41- 6/30/51)	\$2,688
($\$2,068 \times 30\% = \620) (rounded)	$\$2,068 + \$620 = \$2,688$
Remaining 4 years annual lease rent (7/1/51-6/30/55)	\$3,494
($\$2,688 \times 30\% = \806) (rounded)	$\$2,688 + \$806 = \$3,494$

EXHIBIT B

B. Leasehold Portfolio Overview.

Subdivision Name	No. of Lots/ Units	Location	Type Units	First Sale*	Original Lease Term	Lease Expiration Date	Lease Extension Policy	Lease Fee Purchase Option?	Meets HRS §171-64.7	Ceded?	Avg Assessed value of the Land 2021	Annual Lease Rent
												Using 4% ROR
Kaluaaha Estates	6	Molokai	Single Family	1986	55	2042	No	YES	Yes	Yes	\$82,500	\$555 - \$772
Palolo Solar Homes	1	Oahu	Single Family	1981	55	2036	No	YES	Yes	Yes	\$474,800	\$11,600
Pele Street (Habitat For Humanities)	1	Oahu	Duplex	2005	65	2059	No	YES	No	No	\$935,500	\$1 for entire term (55 years)
Waimanalo Village - Self Help	28	Oahu	Single Family	1994	55	2043	No	YES	Yes	Yes	\$495,782	\$1 for entire term (49 yrs)
Lihue Town Estates	1	Kauai	Single Family	1974	55	2031	No	Initial 10 yrs	Yes	Presumed No	\$456,100 Total Property	\$5,480
Nahoa Apartments	14	Oahu	Condominium	1974	55	2030-2041	No	Initial 10 yrs & Board Approved 1993	Yes	No	\$140,000	\$540; \$2035 - \$2467
Nanakai Gardens	1	Oahu	Single Family	1975	55	2031	No	Initial 10 yrs	Yes	No	\$479,800	\$8,240
Hui Koolau	4	Oahu	Single Family	1974	55	2030	No	Initial 20 yrs	Yes	No	\$612,975	\$11,222 to \$12,342
Hale Aupuni	12	Oahu	Single Family Duplex	1974	55	2030-2035	No	NO (Board Approved 1990)	Yes	Yes	\$494,500	\$1,267
Puana Malu	2	Oahu	Condominium	1974	55	2031-2033	No	NO (Board Approved)	Yes	No	\$99,400	\$3,333
Waianae Community Development "Uluwehi"	380	Oahu	Single Family Duplex & Townhouse	1974	55	2030-2052; 2055	Yes	NO (Board Approved 1994; Offer Expired)	No	Yes	\$131,375	\$300 - \$1224
Waimanalo Village- Increment I	67	Oahu	Single Family	1978	55	2043	Yes	NO (Board Approved 1994; Offer Expired)	No	Yes	\$500,794	\$1 for entire term (69 yrs or less)
Waimanalo Village- Increment II	27	Oahu	Single Family	2004	39	2043	Yes	NO	No	Yes	\$482,089	\$1 for entire term (39 yrs or less)
Total:	545						476		69	521		

***Notes:**

- 1) Projects: Additional leasehold properties will include Kamakana on Hawaii Island and potentially, the Liliha Civic Center.
- 2) First Sales: Original sales were made to buyers having incomes ranging from 80% to 120% AMI and subject to the 10-year buyback program.
- 3) Waimanalo Village Increment II lease provision includes step up lease rent in the event of certain occurrences, e.g. non-owner occupancy; sale that is not a "permitted transfer".
- 4) Waimanalo Village Increment II is a product of a Memorandum of Understanding providing a homeownership option to a specific number of renters. Lease term based on Waimanalo Village Master Lease.
- 5) Nine (9) subdivisions with a combined 70 lots have the ability to purchase the leased fee interest in the land either by contractual option or predecessor approval.
- 6) Three (3) subdivisions with a combined 474 lots are unable to purchase the leased fee interest in the land.
- 7) Seven (7) subdivisions with a combined 521 lots are on ceded land.

EXHIBIT C

HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
BOARD OF DIRECTORS
REGULAR MEETING

December 13, 2018

MINUTES

The Board of Directors of the Hawaii Housing Finance and Development Corporation met for a regular meeting at their office, located at 677 Queen Street, Honolulu, Hawaii, on Thursday, December 13, 2018, at 9:00 a.m.

I.
CALL TO
ORDER/
ROLL CALL

With a quorum present, Chair Milo Spindt called the meeting to order at 9:01 a.m.

Those present were as follows:

Present: Director Milo Spindt, Chair
Director Leilani Pulmano, Vice Chair
Director Rona Fukumoto, Secretary
Director George Atta
Director Donn Mende
Director Sara Lin
Director Mary Alice Evans (9:09 a.m.)
Designee Scott Kami for Director Laurel Johnston

Executive Director Craig Hirai

Excused: Director Melvin Kahele

Staff Present: Sandra Ching, Deputy Attorney General
Matthew Dvonch, Deputy Attorney General
Janice Takahashi, Chief Planner
Darren Ueki, Finance Manager
Rick Prahler, Development Branch Chief
Carianne Abara, Development Support Section Chief
Lorna Kometani, Sales and Counseling Section Chief
Holly Osumi, Chief Financial Officer
Melissa Loy, HHFDC Corporate Controller
Christopher Woodard, Real Estate Portfolio Manager
Leo Domingo, Housing Development Specialist
Albert Palmer, Housing Development Specialist
Kent Miyasaki, Housing Information Specialist
Esa Pablo, Secretary to the Board

Guests: Maile Vickery, Hui Malama O Ke Kai/Waimanalo Village
Wendy Lorenzo, Director WVRC
Lynn Lorenzo, Resident
Shao Yu Lee, DOD Engineering Office
Gina Ichiyama, DAGS
T.J. Joseph, Honolulu Habitat for Humanity
Carl Cunningham, Mark Development
Koali Castillo, Waimanalo Village
Derek Castillo, Waimanalo Village
Kauai Prusinski, Waimanalo Village Resident
Leighton Yuen, Goodsill
Stanford Carr, SCD
Kevin Kasai, SCD
Chris Oakes, SCD
Andrew Reenders, CBRE
Dana Peiterson, CBRE

Real Estate Portfolio Manager Chris Woodard noted that the Waimanalo Village subdivision is managed by both the Real Estate Portfolio & Compliance Section, which he heads, and the Real Estate Services Section, headed by Sales & Counseling Section Chief Lorna Kometani.

Woodard presented and discussed the For Information, which summarized background information on the Waimanalo Village subdivision, current lot composition and lease types of the subdivision, historical plan for leasehold conversion, rental project issues, and potential vacant lot development. The following issues were highlighted and discussed:

Based on inquiries from Waimanalo Village lessees interested to purchase the leased-fee interest in their lots, HHFDC staff has met with the Office of Hawaiian Affairs (OHA) staff to: apprise OHA of HHFDC's intent to entertain the request to sell in fee simple its Waimanalo Village land; inquire if OHA would oppose such a sale; and inquire if the 1994 HFDC Board approval meets the OHA Ceded Lands Policy.

Although OHA staff stated that prior Board approval was made prior to the onset of the ceded land litigation thereby meeting the OHA Ceded Lands Policy, HHFDC OHA would not provide written confirmation regarding the same as requested by HHFDC.

The 2004 Memorandum of Understanding (MOU), which provided for the sale of Rental Project dwellings in order to pay off the Waimanalo Village Residence Corporation (WVRC)'s HUD loan and construct a community center, remains in full force and effect. With no community center built, it is unclear whether or not the completed leased sales generated sufficient cash for construction.

The WVRC reported that the remaining 46 homes require renovation at an estimated cost of \$6.6 million (\$143,478 per unit) based on a 2018 contract proposal. Woodard noted that, according to WVRC's 2015 Internal Revenue Service Form 990, the nonprofit's revenues are generated from rent and rent subsidies, and the WVRC had \$832,845 of cash on hand as of December 31, 2015. Financing assistance may be requested for the renovations.

**III. A.
DISCUSSION
AND/OR
DECISION
MAKING**

Information on the Waimanalo Village Project, Waimanalo, Oahu, TMK Nos.:
(1) 4-1-102: various,
(1) 4-1-034; various,
and (1) 4-1-009: 048

For the remaining three developable lots of the 1978 Master Lease lots, a \$250,000 DURF budget was approved at the November 8, 2018 Board of Directors Meeting for planning and environmental studies, and other related costs, for the development of homes on developable lots. A developer will be selected through a Request for Proposal (RFP) process.

Woodard introduced the following guests from the community: Maile Vickery, resident and former president of the WVRC; Windy Lorenzo, resident and current Director of the WVRC Board; Derek Castillo, resident and site manager; Kau Prusinski, leasehold homeowner; and T.J. Joseph, Honolulu Habitat for Humanity.

Chair Spindt opened the floor for public testimony.

Prusinski stated that the residents' request is that they would have an option to purchase the land, providing a way for the community to continue their place in Hawaii. She further requested the Board's cooperation and support.

Lorenzo stated that having the opportunity for lease-to-fee conversion or a 55-year lease, extended with 20 years would help the community.

Vickery thanked the Board for their time and thanked Woodard and Kometani for all their hard work over the past two years with the community. Vickery reiterated the request for the option of a lease to fee conversion and lease extension, asking that the Board look at the various types of leases that make up the community.

In regard to the \$250,000 DURF budget for the three developable lots, Director Lin inquired on the infrastructure capacity in the area. Woodard stated that both water and sewer capacity has been confirmed sufficient for the planned development. Additional homes will be developed pursuant to 201H and will require street and overhead utility exemptions.

Vice Chair Pulmano asked why leases have not been extended. Woodard stated that to his knowledge, the HHFDC's internal policy requires that extended leases be set with an annual lease rent to be equal to 4% of the assessed value of the land. With the land value in Waimanalo Village being high, such lease extensions for lessees have become difficult to afford, with land values being \$30,000 at the time of the 1990s approval and then ballooning to \$400,000 today.

Chair Spindt asked whether the assessed value of the land was determined by sales of the fee simple units within the development or based on sales outside of the area. Woodard stated that the internal policy uses the City and County of Honolulu's (City's) assessed value of the land with the applied 4% rate of return.

In response to Chair Spindt's question, Vickery stated that because there is not a lot of fee simple residential units/parcels, assessors often look at what is being sold in the closest proximity of the area, which in this case, are often times the beachfront properties that are higher in value and skew the numbers.

Chair Spindt questioned the assessed land value of \$400,000, stating that in the broader scheme of the market on Oahu, the disparity between values of the beach lots in comparison to the homestead lots are significant, and such formulated assessed values may not be equitable to tenants within the Waimanalo Valley.

Woodard noted that staff has a list of leasehold parcel sales over the last five years, which could be provided to the Board.

Director Mende asked whether a benchmark appraisal should be done to compare the City's assessed values. Woodard stated that staff could look at that.

Vice Chair Pulmano asked whether the income demographics are known. Woodard stated that HHFDC is privy to household income information for the rental project; however, was not sure that would be a representation of the entire subdivision.

Vice Chair Pulmano asked what kind of things have been looked at in resolving how land values are assessed for lease extensions. Woodard stated that a leasehold conversion is being looked at. This way, if one is unable to purchase the fee, it would allow another person to come in to purchase the lease for a more marketable asset, only applying to the parcel; not to the person or lessee.

Woodard posed the question on whether HHFDC's leasehold policies should be changed to address the Board's concern of how the annual rents are set and if so, what restrictions, if any, should be attached (i.e., household income affordability restriction).

With housing as one of its goals, Director Lin suggested that HHFDC collaborate with OHA on possible solutions. Woodard stated that such discussions with OHA could be scheduled.

Vice Chair Pulmano asked whether it is HHFDC's responsibility to engage with OHA or whether it is community's responsibility. Woodard stated that he believes a joint responsibility would be most effective.

Discussion ensued on HHFDC's policies on the 4% land value and extension requests for the various leasehold subdivisions. Although interested in looking at different options other than the current 4% internal policy, Chair Spindt stated that perhaps a subcommittee could later be formed to look at and evaluate HHFDC's policies, as it would require a policy change not only for Waimanalo, but for all of its leasehold subdivisions.

Given the ongoing issues with its various leases, Vice Chair Pulmano suggested that the Board consider establishing a subcommittee at this meeting, to look into its current HHFDC leasehold policies. However, Pulmano noted that because her mother owns property in Uluwehi, she requested that she not participate as a member of the subcommittee.

The HHFDC Leasehold Policy Subcommittee was established for the purpose of reviewing current HHFDC leasehold policies and recommending possible modifications. Members of the subcommittee were named as follows:

1. Milo Spindt
2. George Atta
3. Sara Lin
4. Mary Alice Evans

The Board recessed at 9:58 a.m. and reconvened the meeting at 10:07 a.m.

**HHFDC
LEASEHOLD
POLICY
SUBCOMMITTEE**

**RECESSED
9:58 a.m.
RECONVENED
10:07 a.m.**

FOR INFORMATION

I. SUBJECT

Information on the Waimanalo Village Project, Waimanalo, Oahu, TMK Nos.: (1) 4-1-012: various, (1) 4-1-034: various, and (1) 4-1-009: 048

II. FACTS

Project:	Waimanalo Village
Location:	Waimanalo, Koolauapoko, Oahu
TMK Nos.:	(1) 4-1-012: various, (1) 4-1-034: various, and (1) 4-1-009: 048
No. of Parcels:	188
Land Area:	Approximately 43 acres
Land Tenure:	Leasehold and fee simple
Trust Land Status:	Section 5(b) lands of the Hawaii Admission Act (“ceded lands”)
Zoning:	R-5 Residential; AG-2 Agricultural (9.5-acre “buffer lot”)
Project Type:	Single-family, for-sale and rental homes
Lessor:	Hawaii Housing Finance and Development Corporation (“HHFDC”)
Lessees:	Rental Project Waimanalo Village Residence and 1978 Corporation (“WVRC”) (54 Master Lease: combined lots) Other Projects: One hundred twenty-two (122) homeowners
Lease Expiration Date:	March 14, 2043
Fee-Simple Owners:	Twelve (12) Self-Help Housing Project homeowners

A. Subdivision Chronology

1. The Waimanalo Village subdivision traces its roots to a C. Brewer sugar plantation located on land leased from the State of Hawaii. The plantation closed in 1947, and the lease was assigned to Waimanalo Agricultural Development Company, which rented former plantation homes to residents. Upon lease expiration, the predecessor entity to the Department of Land and Natural Resources issued month-to-month revocable permits to residents.
2. In the 1970s, an attempt by the State to develop the subject property and its surroundings was met with strong community opposition, and the State proceeded with less-intensive development.
3. In 1978, a subdivision master lease (the “1978 Master Lease”) was executed between Hawaii Housing Authority (“HHA,” a predecessor to HHFDC) and Waimanalo Residents Housing Development Corporation (“WRHDC,”

predecessor to WVRC). The rent was \$1.00 for the full term of the 65-year lease. Waimanalo Village was subsequently developed with 140 homes (completed from 1978 to 1981), but not all areas were built out.

- a. Sixty-seven (67) improved house lots (the “Increment 1 Project”) were sold in leasehold to homeowners who were originally qualified under Chapter 359G (now Chapter 201H), Hawaii Revised Statutes (“HRS”).
 - b. In 1981, 73 improved house lots (the “Rental Project”) were released from the 1978 Master lease and separately master leased from HHA to WRHDC. These homes were originally rented to tenants of low and moderate incomes who qualified under Section 8 of the National Housing Act. In 1988, the Rental Project lease was amended to add the WVRC office building lot to the premises.
4. In the early 1990s, 40 new dwellings (the “Self-Help Housing Project”) were completed and sold in leasehold with technical assistance and support from Self-Help Housing Corporation of Hawaii (“SHHCH”). These leases grant the lessees the right to purchase the fee-simple interests in their properties, and to date 11 lessees have completed such purchases.
 5. Pursuant to a Memorandum of Understanding dated June 29, 2004 (the “2004 MOU”) by and between Housing and Community Development Corporation of Hawaii (a predecessor to HHFDC) and WVRC, 27 Rental Project homes (the “Increment 2 Project”) were sold in leasehold to the renters of said homes.
 - a. The leasehold sales allowed WVRC to raise funds to pay off a U.S. Department of Housing and Urban Development (“HUD”) loan secured by the Rental Project lease and to construct a community center on the existing WVRC office parcel. While the HUD loan was repaid, the community center was never built.
 6. The current lot composition of the subdivision is summarized as follows:

<u>Lot Type</u>	<u>No. of Lots</u>
1978 Master Lease	7
Rental Project	47
Increment 1 Project	67
Self-Help Housing Project	28
Increment 2 Project	27
Fee Simple (Self-Help Housing)	<u>12</u>
Total	188

A project location map is attached as **Exhibit A**. Subdivision maps are attached as **Exhibits B** (mauka area), **C** (makai area), and **D** (buffer lot).

B. Historical Plan for Leasehold Conversion

1. On September 21, 1992, Housing Finance and Development Corporation (“HFDC,” a predecessor to HHFDC) Board of Directors (the “HFDC Board”) approved:
 - a. The commencement of negotiations regarding the sale of leased-fee interests in the combined Increment 1 Project and Rental Project lots (a combined 140 lots); and
 - b. The provision of leased-fee purchase options for the 40 Self-Help Housing Project lots then planned for development.

The HFDC Board’s actions were conditioned on:

- a. Leased-fee sales prices based on fair market value; and
 - b. HFDC Board approval of the sales prices prior to finalization of the transaction.
2. On February 11, 1994, the HFDC Board approved the sale of its leased-fee interests in the 140 Increment 1 Project and Rental Project lots based on sales prices determined by appraisal dated June 16, 1993. The sales price of \$4.13 million (based on a benchmark value of \$29,500 per lot) was subject to apportionment based on lot size and desirability.
 3. On November 4, 1994, the Office of Hawaiian Affairs (“OHA”) filed a lawsuit in the First Circuit Court, State of Hawaii (OHA v. Housing Finance and Development Corporation, later renamed OHA v. Housing and Community Development Corporation of Hawaii) to seek a moratorium on the State’s attempted sale of ceded lands. The lawsuit halted the planned leased-fee sales in Waimanalo Village as well as in the Waianae Community Development Project (a.k.a. Uluwehi) in Waianae, Oahu.
 4. In 2008, the Hawaii Supreme Court granted OHA’s request to stop the sale of ceded lands, which was later reversed upon the State’s petition to the United States Supreme Court. OHA and the State settled the litigation and agreed to dismiss the lawsuit without prejudice conditioned on the passage of special legislation requiring a two-third’s majority vote by both legislative chambers before ceded lands could be sold or transferred. Act 176, Session Laws of Hawaii (“SLH”) 2009 as amended by Act 169, SLH 2011, which is codified as Section 171-64.7, HRS, sets forth a process for the sale of the leased-fee interest. **Exhibit E** provides an overview of this process (in the form of a template letter to lessee).
 5. Since the passage of Act 176, SLH 2009 as amended by Act 169, SLH 2011, HHFDC has obtained legislative approval to sell the leased-fee interest in three Waimanalo Village lots. HHFDC has worked to create an open and transparent relationship with OHA regarding the fee-simple sales of ceded lands to leasehold owners. On February 6, 2013, OHA adopted a Board of Trustees policy entitled “Ceded Lands” (the “OHA Ceded Lands Policy”), which is attached as **Exhibit F**.

According to the OHA Ceded Lands Policy, “OHA shall not oppose a resolution submitted to the Hawaii State Legislature pursuant to Act 176 (2009) and Act 169 (2011) for the sale of the fee simple interest of apartments, townhouse, and house for home ownership where [1] there is already an agreement in an existing contract with the state agency allowing the homeowner to purchase the fee simple interest for home ownership, [2] there have been prior sales in the development to the extent that the units have previously been substantially sold, or [3] sales of the fee simple interest were approved by the responsible state housing agency prior to the filing of the lawsuit OHA v. Hawaii Finance and Development Corporation, Civil No. 94-4207-11, First Circuit Court, State of Hawaii, November 4, 1994.”

III. DISCUSSION

A. 2017 Leasehold Conversion Request

1. On December 17, 2016, HHFDC received an inquiry from Waimanalo Village lessees interested to purchase the leased-fee interest in their lots.
2. On February 2, 2017, staff requested advice from the Department of Attorney General regarding the validity of the February 11, 1994 HFDC Board approval of leased-fee sales of improved residential house lots in the Waimanalo Village subdivision. Deputy Attorney General Sandra Ching reviewed the request and determined that the prior approval was null and void based on terms and conditions of the purchase and sale agreement. (Specifically, there was a requirement to close the transaction within 180 days of the HFDC Board approval.)
3. On March 16, 2017, staff met with representatives from WVRC to inform them of the process and requirements to purchase leased-fee interests in their Waimanalo Village lots, namely that the request must be made by the community’s representative organization on behalf of the lessees. WVRC was also informed that the 1994 approval was null and void.
4. On July 14, 2017, HHFDC received a formal request from WVRC on behalf of 77 leasehold homeowners (including WVRC as the leasehold owner of the Rental Project) interested to purchase a total of approximately 127 lots.
5. On August 10, 2017, staff met with OHA staff to:
 - a. Apprise OHA of HHFDC’s intent to entertain the request to sell in fee simple its Waimanalo Village land;
 - b. Inquire if OHA would oppose such a sale; and
 - c. Inquire if the 1994 HFDC Board approval meets the OHA Ceded Lands Policy. Various historical information on the Waimanalo Village project was provided to OHA staff at the meeting.

6. On October 25, 2017, staff met with OHA staff to discuss their review and determination regarding HHFDC's prior Board approval of the lease fee sales and OHA's Ceded Lands Policy. Per discussion, OHA staff stated that prior Board approval was made prior to the onset of the ceded land litigation thereby meeting their ceded land policy. HHFDC staff requested written confirmation of discussion specifically that HHFDC's prior Board approval meets their ceded land policy. However, after OHA's review and further discussion of HHFDC's request, HHFDC was informed that OHA Board approval is required before written confirmation can be provided.
7. In addition to the historical and current lessee interest in leasehold conversion, a number of lessees have expressed interest in lease extensions beyond 2043. (Primarily, this is due to the financing challenges posed by the remaining lease term of approximately 24 years.) However, unlike with other HHFDC residential subdivisions such as Uluwehi, no Waimanalo Village lease extensions have been executed.

B. Rental Project Issues

1. The 2004 MOU, which provided for the sale of Rental Project dwellings in order to pay off the aforementioned HUD loan and to construct a community center on the existing WVRC office parcel, resulted in 27 leasehold sales at market prices.
 - a. The agreement remains in full force and effect.
 - b. While WVRC reports that additional renters are interested to purchase their homes in leasehold, staff notes that WVRC did not construct the community center at an estimated cost of \$600,000. It is unclear whether or not the completed leased sales generated sufficient cash to do so.
2. WVRC reports that the remaining 46 Rental Project homes require renovation. A contractor proposal prepared in early 2018 estimated that it would cost approximately \$6.6 million (\$143,478 per unit) to complete the renovations.
 - a. According to WVRC's 2015 Internal Revenue Service Form 990, substantially all of the nonprofit's revenues are generated from rent and rent subsidies. Cash on hand as of December 31, 2015 totaled \$832,845.
 - b. In order to obtain the financing for a renovation project, WVRC likely will need an extension of the Rental Project lease beyond 2043.
 - c. WVRC may ask HHFDC for assistance with financing such a renovation project.


C. Development Lots

1. The remaining 1978 Master Lease lots include three developable lots, two roadway lots, the buffer lot, and a park lot. The three developable lots totaling 4.1 acres were contemplated to be subdivided into 25 house lots per the 1975 Revised Environmental Impact Statement (the "1975 EIS") for the overall Waimanalo Village project.
2. At its November 8, 2018 regular meeting, the HHFDC Board of Directors approved a Dwelling Unit Revolving Fund budget of \$250,000 for planning and environmental studies, and other related costs, for the development of affordable, single-family homes on the three developable lots (the "Waimanalo Village Infill Project").
3. HHFDC intends to select a developer for the Waimanalo Village Infill Project through a Request for Proposals ("RFP") process to be published next year. Based on community feedback (including several meetings with WVRC), the RFP may give preference to self-help housing organizations.

Attachments: Exhibit A – Project Location Map
Exhibit B – Subdivision Map (Mauka)
Exhibit C – Subdivision Map (Makai)
Exhibit D – Subdivision Map (Buffer Lot)
Exhibit E – Overview of HHFDC's Leasehold Conversion Process
Exhibit F – OHA Ceded Lands Policy

Prepared by: Lorna Kometani, Real Estate Services Section Chief 

 Chris Woodard, Real Estate Portfolio Manager 

Reviewed by: Richard Prahler, Development Branch Chief 

Janice Takahashi, Chief Planner 

EXHIBIT D

D. Matrix of Lease Rents as of June 24, 2021 ..
(Sorted by No. of Bedrms)

Island	Subdivision Name (No. of Bedrms)	Type Proj (SF- MF)	No. of Lots/ Units	Avg Income (Census Data)	Part 1: Current Lease Rents (As-Is) based on lease provisions (4% of fair market value appraisal)				Actual HUD AMI per bedroom type	Part 2: Computing lease rent using Current Assessed Land Value (CAV) and rate of return of 2% and 4% [c]			Part 3: Computing lease rent using bedroom type and affordable Rent Guidelines
					Annual Lease Rent (LR) Range	Total Annual LR ACTUAL	Avg Annual LR (per lot)	Est. Monthly (Mo.) LR per lot		LR using 2% of 2021 CAV (Compare with Current Monthly LR)	LR using 4% of 2021 CAV (Compare with Current Monthly LR)	Avg Assessed value of the Land 2021	LR using average of 80%- 100% AMI [1]
					Annual LR multiplied by 12	Total annual divided by no. of subdivision lots	Avg Annual LR per lot divided by 12 months	Refer to HUD Limits/ HHFDC Afford Rent Guidelines	Multiply county assessed value by 2%	Multiply county assessed value by 4%	From County Assessment	Compare with AMI for bedroom type	
Oahu, Salt Lake	Puana Malu 2 bedrm	MF	2	\$57,500	\$4,251 to \$4,373	8,624.66	4,312.33	359.36	Below 30%	\$1,988/yr or \$166/mo	\$3,976/yr or \$331/mo	\$99,400	29,376/yr or 2,448/mo
Oahu, Mililani	Nahoa Apartments 2 bedrm	MF	14	\$85,903	\$2,289 to \$3,235	36,096.31	2,578.31	214.86	Below 30%	\$2,800/yr or \$233/mo	\$5,600/yr or \$467/mo	\$140,000	29,376/yr or 2,448/mo
Molokai	Kaluuaaha Estates 3 bedrm	SF	6	\$37,902	\$4,920	29,520.00	4,920.00	410.00	Below 30%	\$2,122/yr or \$177/mo	\$4,245/yr or \$354/mo	\$106,117	29,016/yr or 2,418/mo
Kauai	Lihue Town Estates 3 bedrm	SF	1	\$47,759	\$7,124	7,124.00	7,124.00	593.67	Below 30%	\$9,122/yr or \$760/mo	\$18,244/yr or \$1,520/mo	\$456,100 Total Property	28,620/yr or 2,385/mo
Oahu	Waimanalo Village- Increment I 2, 3, 4, (5, 6, 7) bedrm	SF	67	\$78,603	\$1 for entire term (69 yrs or less)	67.00	NA	NA	Below 30%	\$10,015/yr or \$835/mo	\$20,032/yr or \$1,669/mo	\$500,794	33,618/yr or 2,448-3,155/mo
Oahu	Waimanalo Village- Increment II (Incl rental & for-sale) 2, 3, 4, (5) bedrm	SF	27 [a]	\$78,603	\$1 for entire term [b]	27.00	NA	NA	Below 30% (4 bdrm); 31-50% (2 bdrm)	\$9,642/yr or \$803/mo	\$19,284/yr or \$1,607/mo	\$482,089	33,618/yr or 2,448-3,155/mo
Oahu	Waimanalo Village - Self Help 3, 4, 5 bedrm	SF	28	\$78,603	\$1 for entire term (49 yrs)	28.00	NA	NA	Below 30%	\$9,916/yr or \$826/mo	\$19,831/yr or \$1,653/mo	\$495,782	35,892/yr or 2,827-3,155/mo
Oahu	Palolo Solar Homes 3 bedrm	SF	1	\$28,606	\$13,680	13,680.00	13,680.00	1,140.00	30%	\$9,496/yr or \$791/mo	\$18,992/yr or \$1,583/mo	\$474,800	33,924/yr or 2,827/mo
Oahu, Kapolei	Nanakal Gardens 3 bedrm	SF	1	\$106,591	\$10,712	10,712.00	10,712.00	892.67	Below 30%	\$9,596/yr or \$800/mo	\$19,192/yr or \$1,599/mo	\$479,800	33,924/yr or 2,827/mo
Oahu, Kaneohe	Hui Koolau 3 bedrm*	SF	3	\$78,603	\$14,589 to \$16,045.12	45,379.24	15,126.41	1,260.53	31-50%	\$12,260/yr or \$1,021/mo	\$24,519/yr or \$2,043/mo	\$612,975	35,892/yr or 2,827-3,155/mo
Oahu, Waimanalo	Hale Aupuni 3, 4 bedrm	SF - Duplex	12	\$78,603	\$1,771	21,252.00	1,771.00	147.58	Below 30%	\$9,890/yr or \$824/mo	\$19,780/yr or \$1,648/mo	\$494,500	35,892/yr or 2,827-3,155/mo
Oahu	Waianae Community Development "Uluwehi" 3, 4 bedrm	SF - Duplex	380	\$25,665	\$685 to \$7,180	325,693.56	857.09	71.42	Below 30%	\$2,628/yr or \$219/mo	\$5,255/yr or \$438/mo	\$131,375	35,892/yr or 2,827-3,155/mo
Oahu, Punchbowl	Pele Street (2) 3-bedrm	Duplex	1	NA	\$1 for entire term (55 years)	1.00	1.00	NA	NA	\$18,710/yr or \$1,559/mo	\$37,420/yr or \$3,118/mo	\$935,500	NA

EXHIBIT D

Island	Subdivision Name (No. of Bedrms)	Type Proj (SF- MF)	No. of Lots/ Units	Avg Income (Census Data)	Annual Lease Rent (LR) Range	Total Annual LR ACTUAL	Avg Annual LR (per lot)	Est. Monthly (Mo.) LR per lot	Actual HUD AMI per bedroom type	LR using 2% of 2021 CAV (Compare with Current Monthly LR)	LR using 4% of 2021 CAV (Compare with Current Monthly LR)	Avg Assessed value of the Land 2021	LR using average of 80%- 100% AMI [1]
	As of June 24, 2021	Total:	543		60,021 - 69,040	527,896		5,914		\$108,185	\$216,370		395,040/yr or 18,930 - 26,661/mo
	As of 2019		543		48,176 - 54,516	517,903		5,445					11,451 to 24,709 / mo.

Island	Project Name	Type	No. of Lease Lots	Range Annual Lease Rent	Total Actual LR	Avg LR Per Lot	LR using 2%	LR using 4%	Avg. Assessed Value 2021
Oahu	Waiahole Valley- Residential Lease	SF	66	\$600 to \$4,534		\$1,130	\$5,770	\$11,540	\$288,500
Oahu	Waiahole Valley- Agricultural Lease	AG	41	\$200 to \$11,400		\$987	\$10,946	\$21,892	\$547,300

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Part 1 - As-Is. Actual annual total lease rent per subdivision. Actual monthly lease rents are compared to rents calculated using respective county assessed land values in Part (2) & HHFDC published HUD rent guidelines by bedroom type in Part (3).

All subdivisions have fixed rents through the end of the lease term as of the following dates; except Kaluaaha Estates, Molokai.

2005	Puana Malu
2008	Lease Rent Renegotiation (LRR) occurred for projects: Hale Aupuni, Hui Koolau, Lihue Town Es
2013 LRR:	Palolo Solar
2015 - 2016 LRR:	Uluwehi & Naho
2016 - 2017 LRR:	Naho
2020	Kalua'aha Estates require lease rent renegotiations in 2020; scheduled for Feb 2022.

[a] WV-Incr II total approved rental lots for leasehold sale: 36. Actual sold: 27. Remaining in rental and managed by the project association: 11.

[b] (3) lots paying specified "increased" lease rent of \$9,988 due to subsequent non-permitted transfer (foreclosure sale) of property; Total annual lease rent - \$29,691/yr or \$824/mo.

[c] Section 519-2 HRS governs lease rent renegotiations and establishes a rate of return of 4% in determining new lease rents. Current review of HHFDC's Leasehold Policy is not subject to section 519-2 HRS. Therefore, consideration is made for a reduced rate of return in the spirit of HHFDC's mission to preserve the intent of leasehold development.

Part 2 - Comparing est. current lease rents with the average current assessed land value for the subdivision.

Part 3 - Comparing est. current monthly lease rents with HHFDC Affordable Rent Guidelines at 80% to 100% AMI. Market rents may be lower than rent guidelines. Rents are based on 30% of household income including 30% of utility cost (such as water, sanitary sewage services, electrical and gas, where applicable). DOES NOT factor mortgage payment, if any. Lessee income unknown.

HHFDC's Affordable Guidelines: <https://dbedt.hawaii.gov/hhfdc/files/2021/05/2021-Income-Rent-Sales-Guidelines.pdf>

EXHIBIT D

EXHIBIT E

Proposed additional lease provisions

Title	Description
Accept setback lines	Clarifying requirements as applicable; existing dwelling.
Addition of Accessory Dwelling Unit (ADU)	Intended to assist with payment of lease rents; applicable to single family lots only.
Definitions	Add as separate to standardize terms used in leases.
Hazardous materials not permitted	Protection of the premises.
Lessee acceptance of premises "as-is"	Existing dwellings therefore lessor indemnify as to existing/current condition of premises.
Membership in association	Familiarity of property maintenance and repair requirements, compliance and overall curb appeal.
New lease term	99 years to refinance to improve the dwelling; provides value.
No purchase of land	In exchange for long term lease at affordable rents.
Permitted Transfer	Lessor consent required; Transfer to "qualified resident" will not trigger SAE or impact lease rent.
Repurchase option	HRS 201H-47 amendment required.
Requirements on Transfer	Lessor prior written consent required to maintain current records for lease rent payment purposes; administrative fees applicable.
Shared appreciation upon sale or non-permitted transfer	HRS 201H-47 amendment required.
Subletting/Not owner occupied	Maintain affordable lease rents intended for owner occupants.

Current HHFDC Standard Lease Provisions

Title	Description
Appraisal	Defined requirements when necessary to determine lease rent.
Assignments	Lessor consent not required. Recommendation: Require prior written consent to maintain accurate ownership records for property condition and lease rent payment purposes.
Bond	Bond required before commencing with construction of any improvements of the project, guaranteeing completion of such construction free and clear of all mechanic's and materialmen's liens
Condemnation	Lessee not entitled to any claim against lessor for compensation or indemnity for leasehold interest; all compensation and damages for or on account of any land shall be payable to and be the sole property of lessor.
Consent to Mortgage	Lessor consent not required. Recommendation: Require prior written consent to maintain accurate ownership records for property condition and lease rent payment purposes.
Construction of improvements	Per plans prepared by licensed architect, if required first, must obtain prior written consent/approval from lessor and association. Comment: Failure to comply may result in City notice for lessor action for non-compliance.
Defeasance	Lessor may terminate the lease if rent is not paid within 30 days after due. Comment: If a mortgage loan exists on the property, HHFDC standard practice is to notify lender of unpaid rent and possible collection of lease rent. See "Lease Rent" below.

Definitions	Few defined. Recommendation: Include as for general understanding of commonly used terms.
Fire insurance	Lessee pay proportionate share of the expense.
Improvements required by law	Lessee will cause the association to make required repairs and improvements, when required. Comment: Lessee cooperation with the association is essential to maintaining the property.
Incidents of ownership	Lessee shall at all times during said term be deemed the owner for purposes of the declaration.
Indemnity	Lessee indemnify lessor against all claims.
Inspection	Permit lessor and its agents to enter and examine the premises and its state of repair and conditions. Lessee at his own expense shall repair and make good all defects within 30 days after being notified.
Lessor's costs and expenses	Lessee pay on demand to lessor for enforcing any of the covenants in the lease, such as notice of demand to cure lease default. Assessment of administrative fee is applicable.
Liability Insurance	Lessee pay proportionate share of the expense.
Liens	Lessee will indemnify lessor against all liens, charges and encumbrances including incurred fees.
Managing agent	Lessee pay proportionate share of the expense for association to procure a managing agent.
Miscellaneous	Acceptance of rent not deemed a waiver of any breach of any covenant.
Observance of laws	Observe all laws including maintaining unit in a strictly clean and sanitary condition; and indemnify lessor against all actions due to nonobservance or nonperformance by lessee or any person under them. Assessment of administrative fee is applicable as a matter of enforcing the lease. Comment: Notice of demand to cure will be issued and requires confirmation of inspection upon completion.
Payment of rates & others charges	Pay proportionate share of charges related to the property, such as utilities, special & capital assessments. Comment: Failure may be cause for 3rd party lien against the property.
Payment of rent	Rent shall be paid without any deduction and without any notice or demand at the office of lessor or its designated agent. <i>"Reminder Notice" of lease rent amount similar to association dues notice mailed by accounting section.</i> Assessment of administrative fee is applicable as a matter of enforcing the lease/collecting lease rent. Per mortgagee protection provision below, lessor must provide 120 days written notice before terminating the lease.
Payment of taxes & assessments	Pay or cause to be paid 10 days before due all, such as real property taxes or assessments. Comment: Failure may be cause for 3rd party lien against the property.
Protection of Mortgagee	Lessor will not terminate the lease if lessee is in default without 120 days written notice to the mortgagee. Comment: Mortgagee is likely to pay on behalf of lessee to protect its mortgage interest.
Repair & maintenance	At lessee's expense, repair, maintain and amend as necessary; including all adjacent land between any street boundary and the established curb or street line in a neat and attractive condition.
Repurchase of Lease by Lessor	If applicable, property is subject to the buyback program and shall be enforced solely by lessor. Provisions has automatically expired.
Residential and nondiscriminatory use	Lessee will use and allow the use for residential purposes only; will not keep or allow to be kept, livestock, pigeons, or poultry; no tenement or rooming house or for carrying on any business or trade; occupy as principal residence if applicable (10-year buyback). Note: may vary by lease (nuance of description).

Surrender	Lessee to peaceably deliver up to lessor possession of the premises at the end of the term or sooner determination of the lease.
Uninsured Casualty	Lessee may surrender the lease and be relieved of any further obligations subject to payment to lessor of all rent then occurred if the residential buildings are damaged or destroyed by any casualty
Waste & unlawful use	Lessee will not make or use the property for unlawful purposes.

EXHIBIT F

F. Summary of Lease Fee Sales

Subdivision Name	No. of Lots/ Units	Orig. No. of Unit/Lots	Type Units	No. of Bedrooms	Lease Fee Purchase Option?	Ceded?	Meets HRS §171- 64.7	1st Legislative Approval	Avg Assessed Land Value 2014	Avg Assessed Land Value 2019	Avg Assessed Land Value 2021	Annual Lease Rent (Use 4% ROR)
Kaluahaha Estates	6	22	SF	3	YES	Yes	Yes	N	\$95,960	\$106,117	\$82,500	\$555 - \$772
Palolo Solar Homes	1	5	SF	3	YES	Yes	Yes	2012	\$347,600	\$474,800	\$474,800	\$11,600
Pele Street (Habitat For Humanities)	1	2	Duplex	3	YES	No	No	N	\$664,700		\$935,500	\$1 for entire term (55 years)
Waimanalo Village - Self Help	28	40	SF	3, 4, 5	YES	Yes	Yes	2012	\$391,790	\$495,782	\$495,782	\$1 for entire term (49 yrs)
Lihue Town Estates	1	50	SF	3	Initial 10 yrs	Presumed No	Yes	N			\$456,100 Total Property	\$5,480
Nahoa Apartments	14	231	Condo	2	Initial 10 yrs .. Board Approved 1993	No	Yes	2010	\$40,650	\$157,300	\$140,000	\$540; \$2035 -\$2467
Nanakai Gardens	1	10	SF	3	Initial 10 yrs	No	Yes	N	\$300,500	\$527,100	\$479,800	\$8,240
Hui Koolau	4	37	SF	3	Initial 20 yrs	No	Yes	2017	\$408,075	\$549,525	\$612,975	\$11,222 to \$12,342
Hale Aupuni	12	190	SF	3, 4	NO (Board Approved 1990)	Yes	Yes	2014	\$123,500	\$445,058	\$494,500	\$1,267
Puana Malu	2	24	Condo	2	NO (Board Approved)	No	Yes	2010	\$93,600	\$104,000	\$99,400	\$3,333
Waianae Community Development "Uluwehi"	380	380	Single Family Duplex & Townhouse	3, 4	NO (Board Approved 1994; Offer Expired)	Yes	No	N			\$131,375	\$300 - \$1224
Waimanalo Village- Increment I	67	67	SF	2, 3, 4, (5, 6, 7)	NO (Board Approved 1994; Offer Expired)	Yes	No	N	\$374,000		\$500,794	\$1 for entire term (69 yrs or less)
Waimanalo Village- Increment II	27	38	SF	2, 3, 4, (5)	NO	Yes	No	N			\$482,089	\$1 for entire term (39 yrs or less)
Total:	544					69						

***Notes:**

- 1) Four (4) subdivisions have a contractual obligation for the term of the lease. An additional four (4) had a contractual obligation for a limited time only.
- 2) Four (4) subdivisions obtained predecessor Board approval but the option for 2 subdivisions lapse with the onset of the ceded land litigation.
- 3) One project does not have an option to purchase.

EXHIBIT F