

Shall the Authority Approve a Request for the 1025 Waimanu Street Parcel (Artspace) to be Encumbered as Affordable Housing in Perpetuity?

Staff Report

June 24, 2015

Background: The Authority approved a Development Permit for the Ola Ka ‘Ilima Artspace Lofts project (“Project”) on January 15, 2015 (Exhibit A). On November 25, 2014, the Authority also approved ground lease terms and authorized the Executive Director to enter into a ground lease for the land parcel owned by the Hawaii Community Development Authority (“HCDA”) at 1025 Waimanu Street (Lot 40, Tax Map Key: 2-3-003: 040) for construction of the Project (Exhibit B).

The Project proposes to provide 84 rental units affordable to households earning between 30% and 60% of the Area Median Income (AMI) for 65 years, and with a preference for residents participating in the arts.

EAH Housing, a non-profit corporation will manage the Project. Some of the ground-floor commercial space is reserved for the PA‘I Foundation and will serve as a classroom space for traditional Hawaiian practices.

Discussion: Ola Ka ‘Ilima Lofts, Limited Liability Limited Partnership (“LLLP”) is the entity that will develop the Project. At the time of approval of a Development Permit, the Project was estimated to cost approximately \$39 million. Artspace Projects, Inc. (Artspace) is assembling a financing stack of grants, low-income housing tax credits, and loans for construction of the Project. Through a letter dated June 15, 2015, (Exhibit C) the LLLP is informing the Authority that the City and County of Honolulu (“City”) has appropriated \$7,202,000.00 from the City’s Affordable Housing Fund (“Fund”) for development, construction and maintenance of the Project. However, in order to access the monies from the Fund, the LLLP must demonstrate to the City that the Project will be used for affordable housing in perpetuity. The LLLP is requesting that the HCDA place a covenant on Lot 40 as an affordable housing development lot in perpetuity.

Currently by statute, the HCDA can only offer a 65-year lease. However, it appears that there is no restriction on placing covenants or encumbrances on fee simple property owned by the HCDA. The request from LLLP indicates that at any time if the HCDA or the LLLP defaults on the perpetuity commitment, or wishes to discharge the commitment, all monies from the Fund that were provided for the Project must be returned to the City. Staff believes that the HCDA should not agree to potential future financial commitment. If the City is willing to waive the financial commitment for the HCDA or if the LLLP is willing to provide a financial guarantee to the HCDA in the amount of the total Fund, the HCDA should consider encumbering the property as affordable housing development lot in perpetuity.

Recommendation: Staff recommends that the Authority approve the request for the 1025 Waimanu Street Parcel (Artspace) to be encumbered as affordable housing in perpetuity provided that the City does not impose financial commitment on the HCDA or if the LLLP is willing to provide a financial guarantee to the HCDA in the amount of the total Fund.

Attachments: Exhibit A – Findings of Fact, Conclusion of Law, Decision and Order
Exhibit B – Approved Ground Lease Terms
Exhibit C – Letter from Carlsmith Ball LLP, dated June 15, 2015