

Decision Making: Shall the Authority Delegate to the Executive Director the Following Limited Actions Relating to the Administration of the HCDA's Reserved Housing Program –

1) Sale or Transfer After the Regulated Term, 2) Sale or Transfer During the Regulated Term, and 3) Owners' Refinancing Request and Subordination of Shared Equity Interest?

Staff Report

September 7, 2016

Background: As prefaced at the July 6, 2016 and August 3, 2016 General Meetings, in the interest of streamlining future meetings of the Authority, staff recommends the delegation of certain decisions relating to HCDA Reserved Housing to the Executive Director. Such decisions are currently subject to Board approval and represent multiple agenda items at nearly every monthly Board meeting. The request for delegation only pertains to those decisions that the Board has *consistently* taken in the past year.

While staff does believe these decisions are significant for the agency, the consistency to which they have been historically reviewed and applied could be administered directly by staff. Doing so would expedite responses to Reserved Housing Unit owners and would also lessen the agenda for future Board meetings.

If approved by the Board, any decisions identified above will be included in the Executive Director Report at the next regularly scheduled Board meeting. Any request on which the Board has *not* previously taken a position will be brought to the Board for approval.

Discussion: The Interim Executive Director recommends the following limited actions relating to the administration of the HCDA's Reserved Housing Unit Program be delegated to the Executive Director as follows:

1. **Sale or Transfer After the Regulated Term** – acceptance of Shared Equity Payment and execution of a release of the HCDA's Shared Equity Encumbrance for sale of the reserved housing unit after the regulated term has expired, excluding sales and transfers where the value of Shared Equity Interest is calculated pursuant to Hawaii Administrative Rules (HAR) §15-218-41(b)(2) (HAR §15-22-187(b)(2) of the vested Mauka Area Rules) and HAR §15-216-41(b)(2) (for Kalaeloa).

2. **Sale or Transfer During the Regulated Term** – exercise the HCDA’s option to “buy-back” a reserved housing unit during the regulated term, where specific enumerated conditions have been met.
3. **Owner’s Refinancing Request and Subordination of Shared Equity Interest** – approve refinancing of owner’s primary mortgage up to the value of the original acquisition loan amount, provided that such that approval would not adversely impact recovery of the HCDA’s Shared Equity Interest and subordination of HCDA Shared Equity Interest as second lien holder.

Any transaction that does not meet the criteria specified in the conditions set forth below that further details each request, shall continue to be brought for Board action. Also any appeal of a decision issued under this delegation would also be brought for Board action.

1. Sale or Transfer After the Regulated Term

By a Board decision at its November 7, 2012 meeting, the Executive Director is already authorized to execute and deliver documents for the release of the shared equity encumbrance of a reserved housing unit, upon receipt of shared equity payment for the sale or transfer of a reserved housing unit, outside of the regulated term.

Currently, this process entails a staff review of the sales price for consistency with recent market sales and scrutiny of the transaction to the extent the sales price affects HCDA’s calculation of shared equity. Market values have not yet risen to a point where the calculation described in HAR §15-218-41(b)(2) (HAR §15-22-187(b)(2) of the vested Mauka Area Rules) or HAR §15-216-41(b)(2) (for Kalaeloa) has been triggered.

Staff proposes to modify the previous Board action to **exclude** from delegation, any sale or transfer where the Shared Equity Interest value as calculated under HAR §15-218-41(b)(2) (HAR §15-22-187(b)(2) of the vested Mauka Area Rules) or HAR §15-216-41(b)(2) for Kalaeloa, would prevail. The HCDA does not have a history that can be applied under this circumstance and the underlying “market price” could prove to be subjective.

2. Sale or Transfer During the Regulated Term

Since the buy-back provisions were made “operational” by Act 71, Session Laws of Hawaii 2014, the Authority has consistently voted to

buy-back all units within the regulated term to retain them as reserved housing units, as provided for under HAR §15-218-36 (HAR §15-22-186(c)(1) of the vested Mauka Area Rules) or HAR §15-216-36 for Kalaeloa.

To the extent there are funds available in the Hawaii Community Development Revolving Fund, Reserved Housing subaccount, the Board delegates to the Executive Director the ability to execute buy-back at the price determined and stipulated by HAR §15-218-36 (HAR §15-22-186(c)(1) of the vested Mauka Area Rules) or HAR §15-216-36 for Kalaeloa. If there are inadequate funds in the Reserved Housing sub-account, and adequate funds elsewhere, staff may propose the buy-back using other funding sources.

3. *Owner's Refinancing Request and Subordination of Shared Equity Interest*

Unless previously released by the HCDA, HCDA's shared equity interest is second only to a primary mortgage on a reserved housing unit at the time of the original sale. Lower interest rates or other personal circumstances may require an owner to re-finance their unit to access earned equity or realize savings in monthly payments.

To safeguard the value and collection of HCDA's shared equity interest at the first point of sale, staff has historically recommended and the Board has historically taken action to:

1. Approve requests to refinance the primary mortgage up to the value of the original acquisition loan amount, provided that market conditions have not deteriorated to adversely impact recovery of the HCDA's shared equity interest.
2. Deny all requests subordinating the HCDA's shared equity interest to a 2nd mortgage (such as a Home Equity Line of Credit - HELOC) or similar financing tool that would demote the HCDA's "second position" on the property.