

# **Shall the Authority Authorize the Retention of a Hearings Officer to Conduct the Public Hearings Relating to the Proposed Amendments to the Kakaako Community Development District Reserved Housing Rules?**

*Staff Report*  
October 5, 2016

**Background:** On May 7, 2014, the Authority initiated amendments to Chapter 218 of Title 15, entitled “Kakaako Reserved Housing Rules”, Hawaii Administrative Rules. On August 6, 2014, the Authority appointed a subcommittee to investigate enhancement of the HCDA’s reserved housing program in Kakaako Community Development District and recommend necessary statutory and/or rule amendments. On May 6, 2015, the report of the reserved housing subcommittee was presented to the Authority. Additional presentation of the Kakaako Reserved Housing Rules was provided to the Authority on September 2, 2015. On February 3, 2016, the Authority appointed a new affordable housing investigative committee to track the revisions of the rules concerning reserved housing and workforce housing.

**Discussion:** The affordable housing investigative committee presented its recommendation to the Authority on July 6, 2016. Staff presented proposed draft amendments to the Kakaako Reserved Housing Rules to the Authority on September 7, 2016. Staff also presented the proposed draft amendments to the Kakaako Reserved Housing Rules to the Small Business Regulatory Review Board (SBRRB) on September 21, 2016. The SBRRB voted to recommend holding public hearings on the Kakaako Reserved Housing Rules. Staff is preparing the request to the Governor for holding public hearings.

Section 15-219-26 of the HCDA’s Rules of Practice and Procedure provides that to the extent permitted by law, the Authority may duly appoint a hearings officer pursuant to Section 92-16, Hawaii Revised Statutes (HRS). A hearings officer so appointed shall have all of the powers which would be held and enjoyed by the Chairperson or Authority or any member thereof in connection with the hearing. Section 206E-5.6, HRS, provides that two separate public hearings be held before the Authority can adopt an amendment to any of the Authority’s community development rules. The Authority can appoint a hearings officer to conduct public hearings for the Kakaako Reserved Housing Rules. Appointing a hearings officer will allow flexibility in conducting the public hearings. The hearings officer can collect public testimony and provide the Authority a report on the public hearings. Decision of adoption of the rules will have to be made during the course of an Authority meeting. Services of a hearings officer can be procured by utilizing State procurement process. Staff has prepared a scope of services for the hearings officer which is provided as Exhibit A.

**Recommendation:** It is recommended that the Authority authorize the retention of a hearings officer to conduct the public hearings relating to the proposed amendments to the Kakaako Community Development District Reserved Housing Rules.

Attachment: Exhibit A – Scope of Services for Hearings Officer

**Solicitation to Procure the Services of a Hearings Officer to Conduct Public Hearings for Chapter 210 of Title 15, Hawaii Administrative Rules, entitled “Rules, Regulations, Charges, and Fees for Public Parks” (Park Rules) and Chapter 218 of Title 15, Hawaii Administrative Rules, entitled “Kakaako Reserved Housing Rules”.**

**I. Minimum Qualifications**

The minimum qualifications for the hearings officer (Consultant) shall be as follows:

- A. An attorney, licensed to practice in the State of Hawaii,
- B. Has at least 10 years of practice experience in the areas of land use, zoning, zoning entitlements, land use permitting, environmental disclosure, and historic preservation,
- C. Has appeared before the land use commission, zoning board of appeals, or similar administrative bodies, and
- D. Has served as a hearings officer in at least one (1) contested case hearing related to land use, zoning, zoning entitlements, and development permits.

Along with the bid proposal, the Consultant shall provide the Hawaii Community Development Authority (HCDA) with a resume showing the Consultant’s minimum qualifications.

**II. Scope of Work**

The Consultant’s scope of work shall be as follows:

- A. Generally be available between November 2016 and June 2017 to preside over any public hearings for Chapter 210 of Title 15, entitled “Rules, Regulations, Charges, and Fees for Public Parks”, Hawaii Administrative Rules, and Chapter 218 of Title 15, entitled “Kakaako Reserved Housing Rules”, Hawaii Administrative Rules,
- B. Review the proposed amendments to the Park Rules and the Kakaako Reserved Housing Rules,
- C. Prepare a report of the public hearings for the Authority,
- D. Attend meetings with the HCDA staff and Authority members, as requested, and
- E. Perform any other tasks and functions, as requested by the HCDA, related to the public hearings.

**III. Consultant’s Compensation**

The Consultant shall be paid on an hourly basis at a rate not to exceed \$150.00 per hour. **General excise tax and expenses shall be included in your hourly rate.**