HAWAII COMMUNITY DEVELOPMENT AUTHORITY
STATE OF HAWAII

PUBLIC HEARING
RE:
AMENDMENT OF HAWAII ADMINISTRATIVE RULES,
TITLE 15, SUBCHAPTER 4, CHAPTER 218,
"KAKA'AKO RESERVED HOUSING RULES"

TRANSCRIPT OF PROCEEDINGS

Tuesday, March 28, 2017

Taken at 547 Queen Street, Second Floor
Honolulu, Hawaii 96813
commencing at 9:01 a.m.

Reported by: LAURA SAVO, CSR No. 347
APPARANCES

Curtis T. Tabata, Hearings Officer

Deepak Neupane, Dir. of Planning and Development

Garett Kamemoto, Communications & Community Outreach Officer

MEMBERS PRESENT:

(None present.)
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Tuesday, March 28, 2017, 9:01 a.m.
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THE HEARINGS OFFICER: Good morning. I'd like to call the March 28, 2017, public hearing of the Hawaii Community Development Authority to order. It is now 9:01 a.m. My name is Curtis Tabata, and I am the hearings officer appointed by the Authority to conduct this hearing.

Today's public hearing is held pursuant to the provisions of Chapter 91 and Chapter 206E, Hawaii Revised Statutes, Title 15, Chapter 219, Hawaii Administrative Rules. 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.

The hearings officer so appointed shall have all 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.

On October 5, 2016, the Authority
approved the retention of a hearings officer to
counsel the public hearings relating to the proposed
amendments to the Kaka'ako Reserved Housing Rules.
HCDA staff presented the proposed draft amendments to
the Kaka'ako Reserved Housing Rules to the Small
Business Regulatory Review Board on December 21,
2016, and the SBRRB voted to recommend holding public
hearings on the park rules.

On October 21, 2016, Governor David Ige
approved the HCDA to hold public hearings on the
Kaka'ako Reserved Housing Rules.

Notice of this public hearing was
published on February 26, 2017, in the Honolulu
Star-Advertiser. The notice was also sent to HCDA's
e-mail list and posted on the HCDA website.

The HCDA's proposing to amend Title 15,
Chapter 218, Hawaii Administrative Rules, entitled
"Kaka'ako Reserved Housing Rules." The overarching
purpose of the proposed amendments to the Kaka'ako
Reserved Housing Rules is to promote the development
of additional reserved housing units while preserving
the existing inventory of current reserved housing
units in the Kaka'ako Community Development District.

The proposed amendments will expand the
sources of reserved housing units, encourage further
development of for-sale and rental reserved housing units, preserve existing reserved housing inventory, ensure consistency with affordable housing rules administered by other state and city agencies, and clarify specific existing provisions and terms in the current Kaka'ako Reserved Housing Rules. Additionally, the proposed amendments will establish buyback and equity sharing options for workforce housing units.

The decision-making hearing for this item is scheduled for March (sic) 3, 2017, at 1:00 p.m. On that date, public testimony will be accepted prior to the report from the hearings officer on the testimony heard here today. After the receipt of public testimony and the report, the HCDA Authority members will take action on this item.

I would note, as of March 24, 2017, the HCDA has received 70 written testimonies. We will now hear testimony from the public. Speakers will be called up to testify in the order in which they have signed up. Public testimony will be limited to three minutes each. Please refrain from reading your written testimony, and, instead, summarize your comments in the time that you have available. When you are called, please come up to the witness table
and speak directly into the microphone. Please state your name and any organization that you are representing.

From the sign-up list, our first public testifier is Richard Bowles to be followed by Paul Cassidy, Jr.

Please.

MR. BOWLES: Good morning.

THE HEARINGS OFFICER: Good morning.

MR. BOWLES: My name is Richard Bowles. I recently moved into 801 South Street, Building B. That's what prompted me to come in and speak this morning.

I don't really have an affiliation other than my wife and child, my 10-year-old daughter, and perhaps, I guess, I would be affiliated with just regular people. And as you know, as anyone in the room knows, it's difficult in Hawaii right now. My wife and I have good jobs. She's been with the State of Hawaii for 30 years, and I've been in IT in Honolulu for 40. And so we've been part of the business community, and we make a fair salary, but it's just difficult for us to get into something like this workforce housing that we're basically privileged and blessed to be a part of now.
So I'd just like to say that although the reserved housing amendments or the rules, in general, are a really good thing to make sure there's a cross section within Kaka'ako of regular people amidst a lot of wealthy type of situations that only certain people can afford condos there. So I would just like to implore you, as far as the workforce housing specific rules go, to leave things be because I guess I'm of the opinion if it ain't broke, don't fix it. Because I just lived through this experience right now where we're not able to get a nice place unless we go out past Pearl City or Waipahu or perhaps Kaneohe, but not Kailua. Not Hawaii Kai. We're kind of in a difficult situation to try and live the dream or to have a good quality of life and not spend hours on the freeway every day or in our commute.

So thank you, HCDA, for the opportunity that we have in our current place and what you've done with workforce housing, and I would just beg you and implore you, beseech you, to keep things the way they are and allow more of these types of structures to come up near the city, near the downtown area where people can walk to work and have their quality of life with their families where they don't need to travel so far to get to their jobs. And they can
also be part of this community, whether it's coaching kids or giving back in other ways to be part of this, and not tax the people that do produce these structures with any more rigorous kinds of rules and regulations. Thank you.

THE HEARINGS OFFICER: Thank you.

MR. BOWLES: Thank you very much. I really appreciate your time.

THE HEARINGS OFFICER: Paul Cassiday, Jr.

MR. CASSIDAY: Good morning. My name's Paul Cassiday, Jr., and I thought --

(Bell ringing.)

MR. CASSIDAY: Oh, good. That was you, not me.

THE HEARINGS OFFICER: That was me. Sorry.

MR. CASSIDAY: I love it.

THE HEARINGS OFFICER: I've got to turn this off. It's my way to keep time.

MR. CASSIDAY: It's a smartphone. It's the operator.

THE HEARINGS OFFICER: Yes, sir.

Please --

MR. CASSIDAY: Good morning.

THE HEARINGS OFFICER: -- state your name
and your affiliation, if any.

MR. CASSIDAY: My name is Paul Richard Kaunahoakalani Cassiday, Jr. I am a sixth-, seventh-generation Hawaiian. My great, great, great, great grandfather Alexander Adams had a house around here. He also had a business -- one of the first businesses. It was a Lucas Mill. They were contractors and built the palace and then Moana Hotel, got out of the business and the family spread.

My affiliation today is with the Waterhouse Foundation. They are great supporters of things like the National Association of Social Workers, which they gave 500 bucks to, because my son got a scholarship from them, for his thing up at UH. So I was pretty pleased about that.

They have talked to me, reached out over the years about affordable housing, and I got a call yesterday asking if I'd come in to testify. I said, "Yes." They said, "Would you represent our point of view?" And I said, "I'd be more than pleased to. You guys are good community people."

So it's pretty simple. They have land in Kaka'ako, and they've been part of the outreach of the staff here to inform landowners and other stakeholders of the proposed changes and why and
wherefore. To date today, they don't feel that they have enough time to digest what is being proposed and what the effect of that will be. So it is my testimony that there be more time given for critical thought applied to these changes on something as important as this.

Just as a point of reference, I also did the 2014 Affordable Rental Housing Study for the state, the city and the other four counties, and it showed that probably one in five households in the state struggle with shelter, obtaining shelter, and need some sort of public assistance. So referencing that report as the fact of where we are in terms of a critical juncture for housing our own people, I think it is worth considering giving more time before coming to a decision on this, and that would be my testimony.

THE HEARINGS OFFICER: Thank you.

Bill Wilson.

MR. WILSON: Good morning.

THE HEARINGS OFFICER: Good morning.

MR. WILSON: My name is Bill Wilson, and I'm the chairman of the Hawaiian Dredging Construction Company.

Our company has built and is building
more of the recent residential housing projects in Kaka'ako than any other contractor. My concern is that the proposed rules will effectively stop future work in the district. It has already slowed in the last year as the demand for market units has, in fact, reduced, and the proposed changes associated with reserved housing units will make it more difficult for those developers to subsidize those units. Further, for the workforce housing units, that the challenges that will exist there will be greater too given both the equity sharing and buyback rights that are proposed for future workforce housing projects.

In the recent years, only one workforce housing project has been developed, and I believe that the restrictions that are proposed will ensure that others are not in the future. I think that the real concern is who will build future projects. The work is needed for the construction industry. The construction industry is prepared to build affordable projects in Kaka'ako as we have in the recent past, but, unfortunately, with these proposed rules, I believe that will not occur, and the opportunities for the buyers in the district in the past will not occur in the future due to those proposed
limitations. Thank you.

THE HEARINGS OFFICER: Thank you.

Next testifier is Harrison from DPP. I can't read the last name. Sorry. Is there a Harrison here?

MR. RUE: Too many microphones.

Harrison Rue. For the record, R-u-e. We stand on our written testimony.

THE HEARINGS OFFICER: Thank you.

Harrison, could you spell your last name for me, please?

MR. RUE: R-u-e.

THE HEARINGS OFFICER: Thank you.

George Massengalo? Sorry if I mispronounced your name, sir.

MR. MASSENGALE: You did, but that's okay.

THE HEARINGS OFFICER: If you could please --

MR. MASSENGALE: Everybody does.

THE HEARINGS OFFICER: If you could please correct me, I'd appreciate that.

MR. MASSENGALE: My name is George Massengale, M-a-s-s-e-n-g-a-l-e, and I'm here today on behalf of Hawaii Habitat for Humanity.
We did not prepare a formal testimony; however, I will submit something after this meeting -- after this hearing today. Our main objection to the regulations at this point in time is we question the affordability requirements. We think most of the units that we see in workforce housing and for-sale housing are for people between 100 percent and up to 140 percent. We think those should be lowered.

Late last year, the city council, which we offer a lot of testimony, defined affordable housing as housing between 30 and 80 percent AMI. We would like to see these -- the high end lowered on the particular projects that are outlined on the rules.

I would point out that 100 percent AMI is $100,000 a year for a family of four. 120 is about 120,000. 140, 140,000. The rules, as they are now, would price people outside of the market. So we would like to see some softening of affordable housing requirements. And, again, I will submit testimony after this hearing when I get back to my office today.

THE HEARINGS OFFICER: Thank you.

MR. MASSENGALE: Thank you.
THE HEARINGS OFFICER: Galen Fox.

MR. FOX: Thank you. I'm Galen Fox. I speak as a resident of Kaka'ako and a member of Kaka'ako United.

I want to just make one point and that is that 140 percent of area medium income is not affordable, and the law under which HCDA operates under Section 20E-1 (sic) speaks of the problem of lack of affordability of housing in Honolulu that's to be solved, in part, by HCDA.

Section 206E-4(18) says that "Affordable housing requirements should be satisfied through reserved housing," and that's also workforce housing.

And Section 206E-101 says that "Reserved housing means housing designated for residents in the low- or moderate-income range." So it's very important. To fulfill reserved housing requirements, you have to build affordable housing in the low- or moderate-income range. 140 percent of area median income is not affordable housing and is not in the moderate-income range.

A study commissioned by the City said that households making over 120 percent of area median income don't need government support. They also say that the 140-AMI tier used by the City
represents housing incomes from 120 to 140 percent. That's a tier above the affordable range.

The former executive director of HCDA, Tony Ching, used to constantly present a ladder that's referenced in my written testimony. The ladder shows the rising levels of affordability. "Affordable" -- the word "affordable" tops off at 100 percent of area median income. Above that from 100 and 140 percent, he defines as workforce or reserve housing. By his own law, he cannot define workforce or reserve housing above affordable because it has to be affordable.

Now, the University of Hawaii's economics department studied 29 mainland jurisdictions for how they handled inclusive housing. HCDA is supposed to be about inclusive housing. That's where you bring people of various income levels together -- living together. The 29 jurisdictions they studied, not one -- not one of those 29 jurisdictions recognizes anything above 120 percent of area median income as affordable. In fact, only eight even go as high as 120 percent. The City, in its latest proposal, tops off at 120 percent. The chart shows the data that I just gave and is in my written testimony.

I was stunned to read in the newspaper
recently that the current executive director of HCDA said that stakeholders have come up with an agreement to keep the 140 percent AMI level in the rules. Now, that's in contrast to the rules that were presented last year. The draft rules stopped at 120 percent.

So the executive director comes in and says "stakeholders." I've always thought that word "stakeholders" is probably 10 or 20 people at the most, people who can get around the table. The community is not present. We never heard about this stakeholders' meeting. We don't know anything about it. You know, it's good that you have a hearing, but I'm here to speak for thousands of people who cannot qualify for housing between 120 and 140 percent of area median income. Thousands, tens of thousands, hundreds of thousands.

86 percent of the people in Hawaii, according to the 2013 statistics, file tax returns showing their income as less than 100,000 a year. Less than 100,000 a year, you cannot buy a piece of property in the 120 to 140 percent range.

Please -- please do not go away from the 2016 draft and raise this level from 120 percent to 140 percent. Bad. Thank you.

THE HEARINGS OFFICER: Thank you.
Dan Nishikawa.

MR. NISHIKAWA: Good morning. My name is Dan Nishikawa, and I'm within OliverMcMillan.

We have submitted testimony, but I wanted to summarize a few key points this morning. We have successfully completed two projects here in Kaka'ako Mauka: Pacifica Honolulu and Symphony Honolulu. We are proud to have completed 224 reserved housing units in each of these buildings, 25.5 percent of our 877 units delivered. Over 85 percent of all of our units sold have been to local Hawaii residents.

We understand and appreciate that certain rule changes are good and appropriate, specifically when it's changed to add additional qualified buyers for this reserved housing program and changing other provisions in the Mauka Rules to give the developers the ability to add the additional density on these projects.

We think that any of these changes to the rules, most importantly, must be made to enable and promote additional reserved housing units, and making rule changes that make it difficult or more difficult for developers, or buyers may make these projects unfeasible. We also think that the rules should be different for for-rent, multi-family projects, and
the same rules should not necessarily apply to for-rent projects. Our view is that incentives should be considered for for-rent, workforce, multi-family projects for rent.

We think that there are certain areas in these draft rules that require additional study. One, specifically, is the calculation of how these reserved units are credited based on size factor. We think that the calculation and use of in-lieu fees need further study, and we think that limiting the blended 120 percent AMI may be challenging for developers in a high-cost and high-interest-rate environment. We stand by our comments in our written testimony. Thank you.

THE HEARINGS OFFICER: Thank you.

Stanford Carr.

MR. CARR: Good morning.

THE HEARINGS OFFICER: Good morning.

MR. CARR: Stanford Carr from Stanford Carr Development.

I'm here -- we've provided written testimony that's been submitted. My two concerns I have are the utilizing of the Honolulu Board of Realtors' condominium index as a means of recognizing the appreciation on a subsequent sale of a reserved
or workforce housing unit. I believe this impediment on the appreciation will actually prohibit buyers from actually buying --

The unintended consequences would be no project will be built because if they're unable -- if developers are unable to meet their presale requirements, they wouldn't be able to obtain secure and satisfy the conditions of the construction financing.

The second comment I have is also related to that on the perpetual perpetuity of keeping the unit in affordability. We've seen this concept fail in many other instances, and I'd like the Authority to recognize the mistakes other cities have made in respect to trying to create what I would interpret as socialized housing.

The other concern I have is the 30-year mandatory requirement to preserve rentals. As it is, you don't see production rental housing being developed in the Kaka'ako District. To impose an additional 30 years of building and maintaining rentals is not smart. I mean, it's just adding another disincentive of why you already don't have an existence of production rentals unless you're utilizing a federal/state subsidized program. If you
use low-income housing tax credits, you're required to, by way of a regulatory agreement, record it against the land to maintain the units as rentals for a period of 30 years. To impose that same condition on property owners that are not subject to any regulatory agreement or federal/state subsidies to build rental units, it's also not a good idea. Thank you.

THE HEARINGS OFFICER: Thank you.

Henry Chang.

MR. CHANG: My name's Ken Chang. Henry is still parking the car.

THE HEARINGS OFFICER: Oh, thank you.

MR. CHANG: And we are speaking here on behalf of Ililani, LLC. We're a developer. I would like to just generally say that workforce housing and reserved housing were two separate categories, and the current modifications to the rules would essentially create one category of affordable housing.

It is an unfortunate fact, but in this country now, we have what the Urban Land Institute calls two-levels-of-affordability problem. In the housing market, the utilized most recent report describes the big "A" and the small "a" problem.
Well, we very much agree with the earlier speaker that the big "A" problem, which involves subsidies, must be solved, and 140 AMI, clearly, is not a big "A" problem with subsidies.

There's also a small "a" problem in this country today where the lower-middle and the middle class housing has to be provided. Workforce housing is one of the few successful programs in this country that addresses the lower middle and middle class housing problem.

The number of units produced up to date far exceeds the reserved housing units in this city, and we believe that much further study needs to be taken on these rules to make sure there is no confusion that there are two levels of affordability that must be addressed by every community. Thank you.

THE HEARINGS OFFICER: Thank you. Lisa Eveleth.

MS. EVELETH: Hi. My name is Lisa Eveleth. I submitted written testimony, but I'm not sure if it made it. So just in case, I'd like to read it.

My family owns Coral Commercial Center located at 670 Auahi Street. It's about four and a
quarter acres in the heart of Kaka'ako. We're currently comprised of warehouse and retail tenants.

It's recently come to my attention that HCDA has been working on affordable housing rules that will significantly affect the future development options of my property and other nonmaster plan lands in Kaka'ako. I wasn't approached by HCDA staff or leadership and informed of these proposed changes. A process wasn't laid out for us to learn and voice our concerns about the proposed rule amendments.

I think we can all agree that the State of Hawaii is in great need of affordable housing; however, we all need to work together to make this happen. My first recommendation is that we take a step back and gather more information and input from the community so we can best understand how to move forward in a productive manner to create more affordable housing.

I commend the HCDA board for all their hard work in trying to increase reserved housing and encourage the affordable housing development in Kaka'ako. I believe that the incentives, such as flexible parking and floor area bonuses for workforce housing, have encouraged developers and landowners to build affordable housing. However, the newly
proposed equity sharing and buyback provisions tied
to workforce housing do not encourage workforce
housing development. As these rules will not apply
to master plan areas in Kaka'ako, such as Kamehameha
Schools and Howard Hughes, those affected by these
new rules will be at a great disadvantage when
contemplating workforce housing. The new buyback
equity sharing provision creates an uneven playing
ground for landowners. If this rule passes, I
believe we will see a halt to workforce housing on
nonmaster plan areas in Kaka'ako.

My second recommendation to the board is
to keep the workforce housing as is and please do not
add the buyback provision and equity sharing at this
time. Kaka'ako is thriving. The live-work-play
neighborhood is within reach. It would be a shame to
see that development stop before the vision has been
met. Thank you.

THE HEARINGS OFFICER: Thank you. Is
there anybody else here who would like to testify?

Hearing none, on behalf of the HCDA
Authority members and its staff, I thank you for
attending today. Thank you. The hearing now stands
adjourned.

(Hearing adjourned at 9:32 a.m.)
CERTIFICATE

STATE OF HAWAII
) ss.
CITY AND COUNTY OF HONOLULU
)

I, LAURA SAVO, a Certified Shorthand Reporter in and for the State of Hawaii, do hereby certify:

That the foregoing proceedings were taken down by me in machine shorthand at the time and place herein stated, and was thereafter reduced to typewriting under my supervision;

That the foregoing is a full, true and correct transcript of said proceedings;

I further certify that I am not of counsel or attorney for any of the parties to this case, nor in any way interested in the outcome hereof, and that I am not related to any of the parties hereto.

Dated this 3rd day of April 2017 in Honolulu, Hawaii.

____________________________
LAURA SAVO, RPR, CSR NO. 347