

STATE OF HAWAII
HAWAII COMMUNITY DEVELOPMENT AUTHORITY
KAKAAKO
Honolulu, Hawaii
April 5, 2017

Chairperson and Members
Hawaii Community Development Authority
State of Hawaii
Honolulu, Hawaii

HCDA Kakaako Board Members:

SUBJECT:

Shall the Authority Authorize the Executive Director to Amend the Planned Development Agreement for 404 Piikoi, Phase IV to Allow Additional Time for Hale Kewalo, LP to Close all Financing Required for Development of Hale Kewalo Project?

SUMMARY:

The January 7, 2015 amendment to Planned Development Agreement for 404 Piikoi, Phase IV approved by the Authority provides, among other things, that within 12 months of obtaining approval for a low-income housing tax credit and rental housing revolving fund from the Hawaii Housing Finance and Development Corporation (HHFDC), or within such longer period of time as may be approved by the Authority, the developer of Hale Kewalo project shall close all financing requirements for development of the project. On March 10, 2016, the HHFDC approved Hale Kewalo, LP's application for a low-income housing tax credit and rental housing revolving fund. Hale Kewalo, LP is in the process of closing all financing necessary for the Hale Kewalo project and requires additional time to complete it.

AUTHORITIES:

Hawaii Revised Statutes § 206E-4. Previous Authority Actions.

BACKGROUND:

The Development Permit, PD 2-84 (Permit) for 404 Piikoi Project (Project), was issued by the Hawaii Community Development Authority (HCDA) on November 7, 1984 and has been subsequently amended several times. Kewalo Development LLC (Kewalo Development) was the developer of the final phase (Phase IV) of the Project which included a for sale market residential unit tower and a separate mid-rise reserved housing building (RH Project) on a separate parcel along Kona Street. On March 19, 2014, the HCDA approved the assignment and transfer of the Permit's remaining reserved housing obligations from Kewalo Development LLC to SCD Piikoi, LLC, a Hawaii limited liability company (Carr), on certain terms and conditions more particularly set forth in the Permit. Subsequently the Planned Development Agreement

(Agreement) for the Project was amended on April 10, 2014. On January 7, 2015 the Authority approved further amendment of the Agreement.

The January 7, 2015 amendment provides, among other things, that:

(1) Carr shall develop on the Land an affordable rental project, currently planned to consist of approximately 128 apartment units, to be rented to persons earning not more than 60% of the area median income. These requirements shall remain in place for a 60-year period, commencing from the issuance of the certificate of occupancy for the RH Project.

(2) Kewalo Development shall immediately place into an irrevocable escrow account at Title Guaranty Escrow Services of Hawaii (Escrow) the following: (a) \$1,900,000 in cash, less \$217,800 previously released to Carr to pay for design and other predevelopment costs for the RH Project (the Cash Deposit), (b) a standard Limited Warranty Deed conveying the Land to Carr (the Carr Deed), and (c) a standard Limited Warranty Deed conveying the Land to HCDA (the HCDA Deed).

(3) By January 7, 2016, Carr shall obtain both an award of low-income housing tax credits (LIFTC) and a rental housing trust fund (RHRF) allocation from Hawaii Housing Finance and Development Corporation for the RH Project (the HHFDC Awards). If Carr fails to secure the HHFDC Awards by such date, then HCDA shall instruct Escrow to record the HCDA Deed and to release the balance of the Cash Deposit to HCDA, and all of Carr's rights to the Land and to develop the RH Project shall be deemed terminated.

(4) Assuming Carr succeeds in securing the HHFDC Awards within the approved period of time, then within 12 months from the date the last of the HHFDC Awards is awarded to Carr, or within such longer period of time as may be from time to time approved by HCDA, Carr shall close all of the financing required for the development of the RH Project (the Financing Requirements).

(a) If Carr satisfies the Financing Requirement within such approved period of time, then HCDA shall instruct Escrow to record the Carr Deed concurrently with the closing of such financing and to release the balance of the Cash Deposit to Carr.

(b) If Carr fails to satisfy the Financing Requirement within such approved period of time, or should at any time before then abandon the RH Project, then: (i) HCDA shall instruct Escrow to record the HCDA Deed and release the balance of the Cash Deposit to HCDA, (ii) Carr shall promptly assign and deliver to HCDA all work product (plans, studies, reports, permits, etc.) pertaining to the development of the RH Project, and (iii) All of Carr's rights to Land and to develop the RH Project shall be deemed terminated.

On June 24, 2015, Hale Kewalo, LP (Kewalo), Carr's development entity for RH Project (Hale Kewalo), submitted a request to HHFDC for approvals from certain exemptions from statutes, ordinances, and rules for the RH Project pursuant to Hawaii Revised Statutes § 201H-38 (201H Exemptions). On August 19, 2015, Kewalo also submitted a consolidated application for (a) Tax-exempt issuance of \$31,500,000 from the Hula Mae Multi-Family (HMMF) Bond

Program; (b) \$1,880,416 in annual Federal Low-Income Housing Tax Credit (LIHTC) and \$940,208 in annual State LIHTC from the non-volume cap pool (4% LIHTC); and (c) A Rental Housing Revolving Fund (RHRF) project award loan of \$10,600,000.

On October 15, 2015, HHFDC approved the Hale Kewalo as eligible for 201H Exemption. Subsequently on November 4, 2015 the City Council approved the 201H Exemption for Hale Kewalo. On March 10, 2016, HHFDC approved Kewalo's application for LIHTC and RHRF.

On May 4, 2016, the Authority ratified an administrative amendment of the prior Executive Director amending the Agreement and made a determination that Carr has substantially met the requirement for HHFDC Award.

On October 5, 2016, the Authority authorized the Interim Executive Director to execute the Declaration of Land Use and Restrictive Covenant required by the HHFDC over land owned by the HCDA and identified as parcel 26, Tax Map Key: 2-3-7 for development of Hale Kewalo project.

On March 9, 2017, the HHFDC approved an extension of its Resolution No. 083, which provides for official intent with respect to issuance of HMMF tax exempt revenue bonds for the Hale Kewalo project. This extension provides Kewalo additional time to close financing for the Hale Kewalo project.

ANALYSIS:

In a letter dated March 13, 2017, Kewalo has requested additional time to close the financing required for the Hale Kewalo project. A copy of the letter is provided as Exhibit A. As discussed in the letter in detail, the time extension for closing is required to address high risk special flood areas issues for the project site with the US Department of Housing & Urban Development (HUD). Kewalo is making progress in its discussion with HUD and completing the 8-step process that is required by the HUD for project in high risk special flood areas. Kewalo anticipates HUD's approval for the project by the end of March. The HHFDC has approved extensions of its conditions for the Hale Kewalo project to issue HMMF bonds to September 30, 2017.

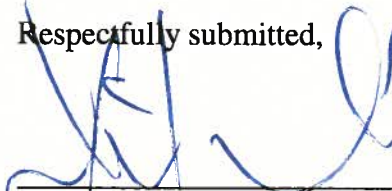
Kewalo has already submitted a construction plan to the City & County of Honolulu, Department of Planning & Permitting for approval of building permit.

Kewalo has been working on both construction and financing of the Hale Kewalo project in a diligent manner and given the circumstances it is reasonable that the Authority provide additional time for Kewalo to close the financing for the project. Since the HHFDC extension is until September 30, 2107, it is reasonable that the Authority also extend the closing of financing to September 30, 2017.

RECOMMENDATION:

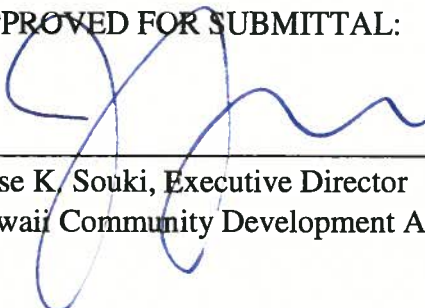
Staff recommends that the Authority Authorize the Executive Director to Amend the Planned Development Agreement for 404 Piikoi, Phase IV to Allow Additional Time for Hale Kewalo, LP to Close all Financing Required for Development of Hale Kewalo Project.

Respectfully submitted,



Deepak Neupane
Director of Planning and Development

APPROVED FOR SUBMITTAL:



Jesse K. Souki, Executive Director
Hawaii Community Development Authority

Attachments (1):

- (1) Exhibit A — Time extension request from Kewalo

EXHIBIT A

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RECEIVED

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HALE KEWALO, LP

1100 Alakea Street, 27th Floor
Honolulu, HI 96813

HAWAII COMMUNITY
DEVELOPMENT
AUTHORITY

March 13, 2017

Jesse K. Souki, Executive Director
Hawaii Community Development Authority
547 Queen Street
Honolulu, HI 96813

Re: Request for Extension to Financing Period of Hale Kewalo's Development Agreement

Dear Executive Director Souki:

On behalf of Hale Kewalo, LP, we respectfully request an extension to the Financing Period as stipulated in Administrative Amendment No. 1 to the Development Agreement dated November 24, 2015 so as to satisfy the Financing Requirement. Paragraph (3) and Paragraph (4) of the aforementioned Development Agreement stipulates:

3. By January 7, 2017, Carr shall obtain both an award of low-income housing tax credits and a rental housing trust fund allocation from the HHFDC for the RH Project (the "HHFDC Awards"). If Carr fails to secure the HHFDC Awards by such date, then the HCDA shall instruct Escrow to record the HCDA Deed and to release the balance of the Cash Deposit to the HCDA, and all of Carr's rights to the Land and to develop the RH Project shall be deemed terminated.
4. Assuming Carr succeeds in securing the HHFDC Awards within the approved period of time, then within 12 months from the date the last of the HHFDC Awards is awarded to Carr, or within such longer period of time as may from time to time be approved by HCDA (the "Financing Period"), Carr shall close all financing required for the development of the RH Project (the "Financing Requirement").

On March 10, 2016, the Board of Directors of HHFDC approved the following financing sources for the benefit of Hale Kewalo:

- \$31,500,000 allocation from the Hula Mae Multi-Family Tax-exempt Bond Program
- \$10,600,000 allocation from the Rental Housing Revolving Fund
- \$1,880,416 annual allocation of Federal Low-Income Housing Tax Credits
- \$940,208 annual allocation of Hawaii Low-Income Housing Tax Credits

The Amended and Restated Development Agreement required Hale Kewalo to satisfy the aforementioned Financing Requirement prior to March 10, 2017. Although we have worked diligently to close the transaction and begin construction of our workforce rental, Hale Kewalo fell short of satisfying the Financing Requirement due to unforeseen circumstances encountered while working with the U.S. Department of Housing and Urban Development ("HUD") on securing our Section 221(d)(4) Senior Permanent Loan.

Provided below is a detailed narrative and status update regarding Hale Kewalo's financing sources.

Hula Mae Multi-Family Tax-Exempt Revenue Bonds

On March 10, 2016, HHFDC approved Resolution No. 083 which set forth the agency's Official Intent with Respect to the Issuance of Hula Mae Multi-Family Tax-Exempt Revenue Bonds up to \$31,500,000 for the Hale Kewalo Project. Upon the adoption of the resolution, we worked with HHFDC to secure and retain the necessary parties involved in the issuance of the HMMF Bonds. The Attorney General's Office selected Hawkins Delafield & Wood LLP to serve as Bond Counsel to the

HHFDC. Furthermore, HHFDC in concert with the Department of Budget and Finance approved Citigroup Global to serve as Underwriter and U.S. Bank Global Corporate Trust Services to serve as Trustee for the proposed HMMF Bond issuance for the Hale Kewalo project.

The Provisions and Conditions of Inducement Resolution No. 083 stipulated that “the Hula Mae Multi-Family Bonds shall be issued within 12 months from the date of Resolution No. 083.” Given the unanticipated obstacle encountered while working with HUD to close our Section 221(d)(4) Senior Permanent Loan, Hale Kewalo submitted an extension request to HHFDC on February 22, 2017. Our request for an extension to Resolution No. 083 gained unanimous approval from the HHFDC Board of Directors at their March 9, 2017 meeting. Per the extension, the Hale Kewalo’s HMMF Bonds must be issued prior to September 30, 2017.

Financing conference calls to close the transaction will begin upon completion of the 8-Step Decision Making Process which we anticipate completing by the end of the month. Greater detail is provided below in discussion about the project’s HUD Section 221(d)(4) Senior Permanent Loan.

HUD 221(d)(4) Senior Permanent Loan

Hale Kewalo’s financing structure includes the use of a HUD 221(d)(4) Senior Permanent Loan. While working to close our loan, we encountered a significant and unexpected obstacle due to the project’s location within a High Risk Special Flood Area (SFHA) as determined by the Federal Emergency Management Agency (FEMA). HUD prefers alternate sites be investigated outside the flood area prior to committing to a project. To proceed with loan closing, HUD required that we first attempt to obtain a Conditional Letter of Map Amendment or Revision (CLOMA/CLOMR) from FEMA, and if unsuccessful, to undergo HUD’s 8-Step Decision Process as per Executive Order 11988 in accordance with regulations at 24 CFR 55.20 Subpart C – Procedures for Making Determinations on Floodplain Management.

We were unsuccessful in obtaining a CLOMA/CLOMR from FEMA. After spending nearly three months educating HUD on Hawaii’s unique geographic characteristics and scarcity of developable land, we persuaded the agency to allow us to undergo the 8-Step Decision Making Process. To our knowledge, Hale Kewalo is the first project in the State’s history to navigate HUD’s 8-Step Decision Making Process and will set precedent for the development of future workforce rental housing using Federal HUD monies that maybe located in a SFHA. Per the second step of the process, we published the requisite early notice in the Classified Section of the Honolulu Star-Advertiser on November 2, 2016 to apprise the public as well as interested agencies of our intent to construct Hale Kewalo within a SFHA. Since publication, we have continued to make progress with HUD and are nearing completion of the sixth step of the 8-Step process. We anticipate HUD’s approval to proceed with development of Hale Kewalo at its current location by the end of March.

In concert with the 8-Step Decision Making Process, we continue to work with HUD on finalizing our Section 221(d)(4) Senior Permanent Loan.

LOW-INCOME HOUSING TAX CREDITS

Hale Kewalo, LP entered a Letter of Intent (LOI) with PNC Bank, National Association to facilitate the purchase of the project’s Federal and State LIHTCs on October 13, 2016. Per the LOI, PNC committed to purchasing Hale Kewalo’s Federal LIHTCs at \$1.06. However, the recent presidential election has proven detrimental to LIHTC pricing as the President’s proposed reduction in corporate tax rates has subsequently reduced investor appetite for credits. Since the November 2016 election, our equity commitment from PNC was reduced from \$1.06 to \$0.91 cents, resulting in over a \$3 Million gap. We anticipate that pricing will increase by the time of Hale Kewalo’s closing, however, to be prudent we requested additional RHRF monies to account for some of the equity gap if necessary.

RENTAL HOUSING REVOLVING FUND

For the development of Hale Kewalo, HHFDC approved the preliminary commitment for a Rental Housing Revolving Fund (RHRF) loan not to exceed \$10,600,000. The preliminary commitment letter stipulated that “the loan is to be closed and recorded no later than December 31, 2016.” Unexpected setbacks relating to securing our HUD Section 221(d)(4) Senior Permanent Loan severely inhibited our ability to close and record the RHRF loan by December 31, 2016. To account for a later closing, Hale Kewalo sought an extension to the RHRF loan commitment. On November 23, 2016, the Executive Director of HHFDC approved a 9-month extension to the RHRF LOI until September 30, 2017.

Shortly after receiving the aforementioned extension, news of the increased likelihood of substantial tax reform under President Trump negatively affected the pricing of Low-Income Housing Tax Credits (LIHTCs) and our investor, PNC, could no longer purchase the Federal tax credits as previously proposed thereby reducing the amount of equity we could raise for Hale Kewalo. Given the potential for a gap in project equity, Hale Kewalo is seeking to increase the RHRF loan amount to \$14 million.

On February 15, 2017, we submitted a Consolidated Financing Application to HHFDC for additional RHRF loan monies in the amount of \$3.4 million to account for the current uncertainty in the equity markets as well as provide supplementary funds should the project so require. Per HHFDC, successful applicants will be notified upon the adoption of an approved project list by the Board of Directors for the RHRF program which is anticipated to occur in June of this year.

CLOSING


Aside from changes in LIHTC pricing and its impact on Hale Kewalo, we continue to make significant progress towards closing the transaction and breaking ground on this workforce rental project.

- Hale Kewalo's construction plans were submitted to the City County of Honolulu, Department of Planning and Permitting (DPP) for review and approval on September 27, 2016. To date, Hale Kewalo's plans have been approved by the Building, Electrical, Fire, Mechanical, and Structural Branches of DPP. The Civil, Traffic, and Waste Water Branches of DPP are still reviewing our construction plans. Applicant anticipates securing Hale Kewalo's building permit from DPP by the beginning of April.
- Hale Kewalo submitted construction drawings to the State's Disability and Communications Access Board (DCAB) for review and approval on October 18, 2016. Alakea Design Group (ADG), the project architect, received DCAB comments in January. ADG addressed DCAB's comments and received a "Final Document Review Letter" for the project on March 6, 2017.

Once we obtain approval from HUD to proceed with development at the current project site, we will begin financing conference calls and anticipate a closing in July of this year. We deeply appreciate the Hawaii Community Development Authority's continued support and commitment to developing the much needed Hale Kewalo. We respectfully request your consideration of an extension to the Financing Period as stipulated in Hale Kewalo's Amended and Restated Development Agreement.

Should you have any questions, please feel free to contact me at (808) 537-5220. Mahalo again for your consideration.

Sincerely,
HALE KEWALO, LP
By: SCD PIIKOI, LLC (its general partner)
By: STANFORD CARR DEVELOPMENT, LLC (its managing member)


Stanford S. Carr