HAWAII COMMUNITY DEVELOPMENT AUTHORITY

STATE OF HAWAII

PUBLIC HEARING

RE:

AMENDMENT OF HAWAII ADMINISTRATIVE RULES,

TITLE 15, CHAPTER 218,

"KAKA'AKO RESERVED HOUSING RULES"

TRANSCRIPT OF PROCEEDINGS

Wednesday, May 17, 2017

Taken at 547 Queen Street, Second Floor

Honolulu, Hawaii 96813

commencing at 9:07 a.m.

Reported by: LAURA SAVO, CSR No. 347

A P P E A R A N C E S

John Whalen, Chairperson

Jesse Souki, Executive Director

Deepak Neupane, Director of Planning and Development

Garett Kamemoto, Communications & Community Outreach Officer

Michael G.K. Wong, Deputy Attorney General

Lori Sunakoda, Deputy Attorney General

MEMBERS PRESENT:

Beau Bassett

Wei Fang

William Oh

Jason Okuhama

David Rodriguez

Mary Pat Waterhouse

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Wednesday, May 17, 2017, 9:07 a.m.

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CHAIR WHALEN: Good morning. I'd like to call to order the May 17th, 2017, public hearing of the Hawaii Community Development Authority. The time is now 9:07 a.m. Sorry for the slight delay in starting. My name is John Whalen, Chair of the Authority, and I'm the presiding officer for the hearing.

Let the record reflect that the following members are present: Wei Fang, Mary Pat Waterhouse, Beau Bassett, Jason Okuhama, William Oh and John Whalen. So the quorum is met.

Today's hearing is being convened under the provisions of HRS, Hawaii Revised Statutes, Chapter 91 and 206E, and Hawaii Administrative Rules, Chapter 15-219.

Consider the following matter: The HCDA is proposing to amend Hawaii Administrative Rules, Chapter 15-218, entitled "Kaka'ako Reserved Housing Rules," to promote development of more reserved housing units as well as to preserve existing reserved housing stock.

The proposed amendments to the Kaka'ako Reserved Housing Rules will expand the source of reserved housing units, preserve reserved housing stock, encourage development of for-sale and rental reserved housing units, and create consistency with affordable housing rules administered by other state and city agencies.

The proposed amendments also provide for buyback and equity sharing in workforce housing units. In addition to the proposed amendment, the proposed amendment clarifies certain definitions in existing provisions.

The Authority has already conducted two separate public hearings on this matter on March 28 and May 3rd. The Authority is conducting today's public hearing to collect additional public testimony. There will be no decision-making on the proposed amendments today.

A notice of today's public hearing was published on April 16, 2017, in Honolulu Star-Advertiser, Maui News, the Garden Isle (sic), Hawaii Tribune Herald and West Hawaii Today. The notice was also sent to HCDA's email list and posted on the HCDA website. A copy of the notice can also be viewed outside in the foyer if anyone present is interested in reviewing it. The proposed rules being considered today are also posted on the HCDA website.

The Authority will conduct the decision-making hearing on May 31st, 2017 -- May 31st, 2017.

Before we receive public testimony, let me briefly explain the procedures for this hearing. First, HCDA staff will present its report. Following that, we will hear testimony by the public in the order that the individuals have signed up. Individual comments will be limited to no more than three minutes, mainly so that everyone gets to speak without undue delay in waiting to speak. Only members of the Authority will be permitted to ask questions of the public.

Members, if you have any question for a testifier, please raise your hand at the conclusion of their remarks. HCDA's executive director, Jesse Souki, and director of planning and development, Deepak Neupane, will now provide a presentation of the proposed rules.

EXECUTIVE DIRECTOR: Good morning. Welcome, everyone.

This is an overview of the process so far for where we are. So prior to this hearing, the HCDA was working on developing the proposed rules. So this is the rule that was posted on the website and is under consideration. That proposed rule hasn't changed. There haven't been any amendments made to that proposed rule yet. The board hasn't decided on any changes that it may or may not want to make. That's the purpose of this hearing process.

So working up during the development of the proposed-rule phase, an affordable housing investigative committee was formed. That's less than quorum, but more than two members, and that investigative committee has been looking at the various issues and studying the topic. Research was conducted, stakeholder consultation, agency consultation. And this consultation happens with the task force, but also with staff, with members of the community and stakeholders, on the proposed rules.

Outreach: The draft rules proposed. There was a board meeting where the board said that it was okay for us to move forward, but the rule as proposed, and we move forward from there. And we've been collecting and evaluating all the comments we received.

So on this slide --

You know, we had two hearings before this, and, you know, because of the public's request and the board's accommodation, we're holding two more hearings. Under Chapter 206E-5.6, we're required to have two hearings. So I'm counting this as the two hearings, hearing 1 and hearing 2 officially, under Chapter 206E-5.6.

So this first hearing today is the presentation of the proposed rules, and the board will be collecting comments. And then between this first hearing and the second hearing, we'll be preparing a final staff report. We'll be taking additional comments, reviewing and analyzing all of the comments we've received. We also have an independent economic analysis that will be looking at the analysis we've done of the rules, and then we'll put that together, and we'll probably meet with the task force, who wants to go over that.

Then at the May 31st hearing too, that's the decision-making hearing. We're required to have a decision hearing/meeting separate from today's presentation hearing under 206E. HCDA's unique in that way.

At that hearing, that's when the board will decision -- make a decision on the proposed rules that are currently posted on the website. We'll present a final staff report, which will include the final report of the investigative committee and then decision-making, as I said.

So some of this is familiar from the past hearings, but this just shows the timeline starting in 2014 with the creation of the task force and until today, which is the formal hearing process, the 10 public meetings that were held and consultation and so forth.

So my part of this presentation is to talk about the rules as they are. So as the rules are currently.

This first slide is to offer some context because we're looking at amending or proposing to amend our rules for reserved housing and workforce housing, two separate programs, but we also have another program where the agency strategically invests in rental projects below 80 percent of AMI. So we've contributed 23 million to those sorts of rental projects. There's over 1,100 projects since 1989 that has been created. These are in partnerships with HHFDC, the Hawaii Housing Finance Development Corporation, and private developers, and we have three more projects on the way, including the microunits on Cooke Street, the artist lofts, and that will be about 317 units.

So the workforce housing -- and that

program I mentioned in the previous slide is not what these rules are about. The rules are focused on the workforce housing and reserved housing programs, two separate programs. These programs are for the middle group, 80 to 140 percent of AMI, moderate-income families. For a family of four, that's approximately $83,700 to $121,250 combined income. And just as sort of a slice of who that might be, it would be a high school teacher and an accountant or a housekeeper and an administrative assistant or a childcare worker and a crane operator. Those incomes would fall within those areas, and that's under the existing program.

So the current reserved housing program, it's a mandatory program. 20 percent of all units in new projects, they need to set aside 20 percent. There's a bonus floor-to-area ratio. So that just means more buildable space for the 20 percent that is set aside. There's no public facilities dedication requirement for that portion of the project, and that can amount to millions of dollars in fees that do not need to be paid. And there's a buyback and shared equity provision.

The buyback provision that we currently have, which allows the HCDA to buy back units at an affordable price, that is currently -- there's a term of years, depending under which rule you fall under because there's been amendments to the rules in the past. But the shared equity that we currently have is in perpetuity because the shared equity stays with the unit until it's sold, and then once it's sold, we get the shared equity. So, conceivably it could be in perpetuity for as long as the unit is held.

So the current workforce housing program, it's a voluntary program. Developers who are interested in taking advantage of this program would set aside 75 percent of the units in a new project. For doing that -- for setting aside 75 percent of the units as affordable, they get a bonus floor-to-area ratio of 100 percent. So that's double the density. There's no public facilities dedication fee for that bonus FAR, which is, again, amounting to millions of dollars in savings. And for this program currently, there's no buyback or shared equity provision.

So who do these rules affect? The proposed rules do not affect current homeowners or developers with existing permits or master plan projects, unless they want to be covered. There are provisions in the rules that they might want to opt into, and that is something they might want to do.

It only affects future projects.

So my part was about how the rules are. Deepak is going to cover how the rules -- the proposed rules and the changes. The first thing he's going to cover, which is important and provides context, is the task force got together and met over the past three years and came up with some objectives about why they're changing the rules. And you'll see in the slides that Deepak goes through, after covering what those objectives are, the slides at the title will have the objective matched up to the change to the amendment. So you can see why the changes are being proposed, what objective is trying to be met. And so I'll turn it over to Deepak.

MR. NEUPANE: Thanks, Jesse. And good morning, members.

I've done this presentation a few times in front of the Authority and the public, but, basically, looking at the proposed draft amendments, what you have on that slide is basically an outline of the different sections of the rules. So I won't go into a lot of detail on this because I will walk the Authority and the public through pretty much each section of the rules as they are amended.

Like Jesse mentioned earlier, I just

wanted to walk everyone through the work of the task force and the recommendation that came out from the task force. So the first one there is to expand the source of reserved housing and workforce housing, and to do that, the requirement -- the recommendation was to change the requirement to a residential project with 10 or more units instead of what the current regulation is.

The second one is to preserve reserved and workforce housing stock, and for that, there's the provision for buyback and equity sharing for both reserved housing and workforce housing.

On preserving rental housing, the recommendation is to regulate rental reserved housing for 30 years instead of the 15 years that it is currently regulated for.

Encourage housing development: There are several options that are provided, and as Jesse mentioned earlier, I have in detail in other slides too the various incentives that's been provided in the rules.

Create consistency: We've looked at the city and county's affordable housing rules, the existing and the proposed. City and county is going through affordable housing rule changes. We have looked at that, and then the rules of Hawaii Housing Finance and Development Corporation. And then, again, you know, provide incentive for larger units as the city and county does.

And then shared equity, it's harmonizing the shared equity formula with what is used by HHFDC, cash-in-lieu provision, land dedication. Our payment is calculated as percentage of gross revenue. There are a couple of options in the actual amendment.

Create mobility: One of the questions that had come out is that if you are an owner of a reserved housing unit, then are you stuck with that unit? Can you, if there is an opportunity, be able to purchase another larger reserved housing based on your family -- changes in your family and all of that? So that provision has been included in the rules.

And, also, some of the questions that have come through stakeholder meetings and all was that, you know, can we increase the pool of applicants for reserved housing as well as workforce housing, and that's by looking at assets and all and allowing some flexibility in assets, and exempting retirement accounts that are not generally liquid and are not available for people to draw from to --

excluding those from asset limits.

And on workforce housing, the recommendation creating not only for-sale category of workforce housing, but rental workforce housing too, and then including buyback provision and equity sharing provisions on those.

And then because the Mauka Area Rules is essentially a form-based rule, it really doesn't work well with the concept of exemptions or, you know, modification of those provisions. So take that provision out.

EXECUTIVE DIRECTOR: Deepak, can you just briefly explain what the difference is between form based and zoning is?

MR. NEUPANE: The difference between -- the zoning that's traditionally been used is called Euclidean zoning, and that's versus --

I think it was back in, I believe, the '30s or the '40's, there was a big court case that the county of Euclid in Ohio challenged land use regulation and all. So, you know, because that word "Euclidean" comes up, and sometimes people use it -- I think they misuse it, the definition of "Euclid," saying that it's Euclid, meaning two dimensional. It's really not two dimensional. It goes back to the court case in Euclid for the Euclidean zoning versus form based, which, talking about dimensionality, is three-dimensional rules, and it really doesn't look at the Euclidean kind of zoning, but more, you know, as if a designer or a builder would have looked at land use and then in terms of creating neighborhoods, streetscapes and those kinds of things. So that's the difference.

So let me now delve into the actual sections of the rules. I have the sections up there in the slides, and I'll walk you through each section. So starting with section 1 through 5, you know, just amended to provide clarity in the language. There's no substantive changes there. Specifically in section 5, there are some definitions added, definitions of moderate income, low income, household income, and those were done to just, you know, create consistency between the definition that HCDA has been using and definitions used by HHFDC or the City and County of Honolulu.

Expanding the source of reserved housing: The current reserved housing rule requires reserved housing on projects -- on residential projects on a lot of 20,000 feet or less. The proposed amendment is to make that requirement applicable to any residential project in the district that has 10 or more residential units.

Another amendment I specifically wanted to point out to the Authority members is that on the timing of construction of reserved housing, the language right now that's in there created some confusion about --

You know, typically, if the reserved housing is built within the project itself, then the language saying that the reserved housing needs to be delivered before the certificate of occupancy creates a conundrum because it's in the same building. So unless they have the certificate of occupancy for the building, it cannot be delivered. So, you know, relooking at that and making it easier for -- both from staff perspective on implementing the rules, and then from the contractor, the developer side, not having the confusion on when the delivery of the reserved housing is, and it's tied to the construction of the reserved housing and -- you know, which needs to start prior to issuing a certificate of occupancy for the main project, and that tends to work whether it's in the same building or the reserved housing is provided in a separate -- separate building. On top of that, there are certain other elements that are added in there to provide -- guarantee that the developer is going to deliver reserved housing, and those are financial guarantee, financial bond, and also the requirement that the developer provide an executed copy of the construction contract for the reserved housing units to the Authority.

It also allows for an added cash-in-lieu payment provision. That's -- the reason for that being that since the adoption of the 2011 rules, the statute had changed, and the statute now, that is, you know, the 206E, has language allowing for cash-in-lieu payment instead of providing units. So just to address the change in law, you know, we're adding a section in the rule to address that. And there are, you know, several minor provisions just to provide clarity.

Encourage housing development: And I wanted to address this, as Jesse mentioned a little bit, to go into what are the incentives being provided in the rules. One for reserved housing, it's 20 percent floor area bonus. So that translates to .7 FAR. That's 3.5 FAR provided by right for any building. Then 20 percent of that becomes .7. So that's for -- you know, so the developer is not using the 3.5 FAR for, you know, reserved housing. Nothing of that comes out for reserved housing.

For workforce housing, 100 percent FAR. So, you know, the FAR can go up to 7.0. Also, no public facility dedication requirement for reserved housing or workforce housing floor area in a project. And depending on the size of project, that can be a substantial number. If you look at a workforce housing project such as 801 South, between the two towers, the public facility dedication could have been close to about $6 million. So it's not a substantive number.

Also, there is flexibility provided in reduction of off-street parking requirement of building height where the building height doesn't exceed the 400-foot limit. The 400-foot limit is in the statute. So that cannot be changed by rules, and also in building setbacks and, you know, off-street loading requirements.

Now, this is to provide incentive for larger units and also make it consistent with the City and County of Honolulu's regulations. There is a factor for unit type. So it provides incentive to the developer if, you know, a larger unit is provided because, you know, if you look in the table, a three-bedroom unit counts as more than one unit. And if it is larger than three bedrooms, then it counts, you know, 116 percent more than one unit, which basically means that the developer's requirement, if the developer is providing larger units, could be less than 20 percent of the total units.

Also, this goes back to creating mobility for a family to move into a larger unit. It's provided as a guideline -- occupancy guideline, and it creates consistency with what HHFDC has and the City and County of Honolulu has on the unit size and the number of household size that can occupy a particular unit size. And I want to emphasize that this is not a requirement. This is a guideline.

Expand source of housing: Obviously, you know, keeping the workforce housing provision in the rule helps with providing more affordable housing, and, also, there has been interest by the development community in the past, at least in meetings with me, that there seems to be some interest in doing rental workforce housing. So that provision has been added in the rules to allow for rental workforce housing, and that really provides more incentive for building rental reserved housing units.

Now, this, in several sections in the

rules there, you know, tie the amendment to creating mobility and allowing more households in need to qualify for reserved housing and workforce housing unit purchase. Those are general qualifications. One qualification that was added, and that's, again, to create consistency with the city and county and HHFDC, is that sufficient gross income to qualify for a mortgage loan. And also, as I mentioned earlier, it provides, you know, if a household already owns a reserved housing unit but wants to go to a bigger or larger unit, if and when it's available, then that option is provided in the rules.

It also standardizes the workforce housing and reserved housing rules and provides some clarity on how the sale of reserved housing as well as workforce housing is managed. Basically, the option there is for the Authority to manage the sale itself or allow the developer to manage the sale of either reserved or workforce housing. And there's a provision that is included in the rule that allows -- that gives priority to families that are residing in the Kaka'ako Community Development District that get displaced by any development in the district preference in purchasing reserved housing units or workforce housing units in the district.

On income and asset, again, as I mentioned, you know, looking at a gift for down payment because one of the challenges that I hear and, you know, I was -- I'm a good example of it myself because I had to get a gift from a family member to pay for a down payment to be able to afford a unit. So that provision is included there as well as retirement accounts that tend to be more often illiquid to be exempted from counting assets. And it helps increase the pool of buyers for who can qualify for reserved or affordable housing.

So affordable housing for qualified households, one of the requirements is that it's an occupancy -- owner occupancy is a requirement. We expanded that section to provide some clarity that the Authority may require -- exercise the buyback option if it's not been owner occupied, and then the ability for the Authority to verify that a unit is occupied by the owner.

Create affordability: Mostly going into how a reserved housing or workforce housing unit is priced. So if you look in the formula, the formula only allows for 10 percent down payment. It doesn't mean that the household purchasing the unit -- if they can afford to put 20 percent down payment, it doesn't prevent them from putting in 20 percent down payment. It's just a requirement on the developer that when the price of the unit is calculated, you know, they can consider only 10 percent as down payment.

And some of the details there in the next slide, I have, actually, pricing in there. I don't -- that's -- probably you can't read that that well. Basically, what it translates to is a little bit under $300,000 for a studio at 80 percent of AMI to about, you know, a little bit over $600,000 for a two bedroom at 140 percent of AMI.

Terms of reserved housing establishes the option to purchase the reserved housing or workforce housing unit by the Authority and establishes a buyback purchase price. I have an example there, which is based on the actual price of reserved housing from one of the projects that been done in the past, and using the actual numbers published by the Honolulu Board of Realtors. So if you look in that table, if a unit was purchased --

That's too far for me to read from here, but it's about $400,000. That's the reserved housing unit price. And then at that time when it was purchased in 2011, the market -- fair market value of that unit was about $457,000. So using the proposed formula, the Authority's equity sharing in the formula would be 10.7 percent of the market value, and in terms of number, that translates to about $49,000. So as the year goes by -- years go by, the value of the unit appreciates based on -- annually based on the Honolulu Board of Realtors median price change. And in this example, it has gone up every single year between, you know, about 3 to 8 percent. The last in 2016 being a little bit over 8 percent. So if a household -- if a family purchases a unit in 2011 and wanted to sell it in 2016, the price would have been the -- based on the formula, it would have been 580,000 or something like that. The Authority's equity share would have escalated to 62,000 and the --

Thank you, Ku'ulei.

And, you know, the owner's profit would have been $110,000. You know, assuming that family put in 80 percent down payment -- 20 percent down payment, which is about $80,000, they got their down payment back, plus an additional $110,000. So that's a fairly good return on equity.

There were some deletions in the rules because of the provisions of the buyback and equity sharing. The existing provisions, you know, 36 and 37, were no longer applicable. So they are deleted.

I just wanted to expand a little bit on this. I had it in the previous slides too, but there was a lot of questions from bankers and mortgage lender associations and all. So I just wanted to emphasize a little bit in case of foreclosure sales and things like that where, you know, the Authority -- there's a requirement that the owner and the lender notify the Authority, and the Authority does become party to a foreclosure action. The Authority is in second position for getting its equity back -- shared equity back after the, you know, loan gets paid back to the bank or financial institution, and if there is any remaining funds, then that goes to the owner of the unit.

I also wanted to emphasize that if there is a foreclosure sale, then the provisions 35 and 41 relating to buyback and equity sharing are automatically extinguished and they no longer attach to any subsequent sale.

Preserving affordability and shared equity: There's a requirement there to put -- include the provision of equity sharing and buyback in the deed. And just the equity sharing requirement, there's a formula for an equity sharing requirement, and as I explained earlier, it's based on the percentage of the market value of the unit. The formula is there and that's a hypothetical example there. The difference between market value and then the reserved or workforce housing price of the unit, in that example, if you look at it, if the unit was sold, then the equity sharing for the Authority would be 140,000 and then the owner will get back $160,000 in that case.

EXECUTIVE DIRECTOR: Deepak, just real quick with that example. How long was -- how long did the owner hold on to it before they sold it?

MR. NEUPANE: I didn't take that into account. This was just a hypothetical example. So it may happen in two years depending on, you know, what is the change in price, or it could take, you know, five to ten years based on market.

EXECUTIVE DIRECTOR: But that's based on what you've seen in the district? Is that a reasonable assumption?

MR. NEUPANE: Yeah, I think it is reasonable based on what I have seen in the district. If you look at it -- if you go back in the slide -- I shouldn't say in the district.

I went the wrong way here. Let me go the other way.

It is based on the numbers published for the county -- City and County of Honolulu. If you look at that appreciation and, roughly, if I add up, it's like 10, 15, 18 plus 8, about 26 percent escalation in five years. So, you know, given that, I think the numbers that I have used in that hypothetical example is not unreasonable.

There's a provision to allow for transfer to family members and we've provided more clarity on that, and the rule makes it consistent with the similar provisions used by HHFDC. And, you know, let me emphasize that if it is transferred to a family member, then the Authority may -- you know, it may defer the equity sharing as well as its buyback option.

On rental reserved housing, one of the, you know, changes is, again, expanding the option by allowing workforce housing to be rental housing and keeping the maximum AMI at 140 percent.

The numbers there are difficult to read, and let me see if I can read the slide.

Given the AMI for 2017, and I used the 2017 AMI for this calculation, the rent for a studio at 80 percent of AMI would be about $1,200 all the way to -- for a three bedroom, it could go up to about -- at 140 percent of AMI all the way up to $3,200.

Cash-in-lieu provision: This is to provide some flexibility in situations where it may not be feasible, for whatever reason, for the developer not to build an actual unit, and it's based -- it's calculated based on the percentage of gross revenue or a difference between the fair market value -- average fair market value of the units in the building and the average reserved and workforce housing units. And I say reserved housing on this because, typically, workforce housing doesn't have the cash-in-lieu option because workforce housing is voluntary.

And the formula is based on my research -- on staff research on other jurisdictions and some pro forma that I have looked at on what may be the difference in profit for a developer in just doing a market project versus doing a project with reserved housing units. I have an example there to show how it may calculate.

And this is, I believe, the last slide. As Jesse mentioned earlier, there is a provision for current reserved housing owners to either stay in the rule that they are -- the projects were approved under, or to move into the new rules once it gets adopted, and there is some notification requirement by the Authority if the rule gets adopted.

That's the end of my presentation, if members have any questions.

CHAIR WHALEN: Members, do you have --

Yes, Mary Pat.

MEMBER WATERHOUSE: Thank you.

As far as the requirement of changing the minimum requirement from 20,000 square feet of lot to 10 units, I just wanted to find out what the basis was for that.

MR. NEUPANE: You know, in the discussion with the task force when we looked at, typically, the provision of the Mauka Area Rules where it allows for a 3.5 FAR on all parcels unlike the previous rules where it was limited to 1.5, if you take an example of, you know, a 20,000-square-foot parcel and an FAR of 3.5, that's 75,000 square feet of buildable floor area. And if it was a residential project, then it could amount to about close to 100 units in the project. And thinking that a project of that size should have a reserved housing requirement.

MEMBER FANG: Sorry if I'm speaking out. Please correct me if I'm wrong, but I think also the city's rules -- the city's rules are also mirroring a requirement for projects of 10 units or more.

MR. NEUPANE: 10 units or more.

MEMBER FANG: So part of it was to create consistency.

MR. NEUPANE: Thank you, Member Fang. That's the city and county -- the new proposed requirement is 10 units or -- 10 or more units.

MEMBER WATERHOUSE: So at the last hearing, there was -- well, this does apply to workforce housing; right?

MR. NEUPANE: Workforce housing is a different category. That's -- like Jesse mentioned, it's a volunteer program. So --

MEMBER WATERHOUSE: Oh, that's right.

MR. NEUPANE: -- you know, there is no requirement on the workforce housing.

MEMBER WATERHOUSE: Okay. But there's no -- do you guys have -- besides, you know, what other localities are doing, do you have any research that has shown that this is actually creating more units, more reserved housing units?

MR. NEUPANE: The examples that I have

looked at -- San Francisco, Boston, Chicago, Denver -- you know, they have similar requirements, and what it does is they are trying to expand the source of housing. So Boston has pretty much a requirement. And some -- you know, some jurisdictions even have requirements on commercial development instead of just residential.

MEMBER WATERHOUSE: But we don't know -- I guess my concern is do we know for sure whether or not this really has created -- you know, and I understand. I've read some of that research where that's the way it is, but whether or not it really has created more reserved housing or it has stopped development.

EXECUTIVE DIRECTOR: So, Member Waterhouse, that's a good question. I would answer it in a couple of ways. One is that it has worked. 20 percent of all units in the district for reserved housing is set aside. So we have that stock of reserved housing. And so this rule just continues that.

The other thing is that --

MEMBER WATERHOUSE: But do you have any -- okay. Well, I mean, I don't hear that any research has been done on this, and I haven't been able to find any that is compared to -- you know, the two have been compared and we really are getting a lot more reserved housing. I mean, it's just, you know, based on our experience versus other people's, you know, rules, laws, whatever. So if we can find any, that would be helpful.

EXECUTIVE DIRECTOR: So we do have -- so Deepak, as part of his work, has run the pro formas and has done some extensive research on this, and we are bringing on an economic consultant to evaluate the work we've done. So I think that will help address your question.

MEMBER WATERHOUSE: Okay. Good, good, good.

CHAIR WHALEN: I'd like to follow up with a question related to that, actually, because as you're aware, I attended the National Planning Conference last week in New York, and I attended a session -- shared the notes with you from that session of the -- a session on density bonuses for affordable housing undertaken by certain cities. And the cities that you mentioned, except for Denver, the inclusionary zoning provisions have worked very effectively in those cities. In San Francisco, I have a slide that shows there were tens of thousands of units that were created in San Francisco under that program. One of the observations, though, is that the density bonuses offered by those cities are less than what's being proposed or actually in effect here. Density bonuses are less and the affordability is deeper in those cities. They generally try to reach a lower household income. And every one of those cities have perpetual affordability in their programs so that they have housing trusts. They didn't mention buyback, specifically. None of them have run into any problems with Fannie Mae or Freddie Mac because these units have been sold with those affordability -- long-term affordability provisions.

While in New York, I went on a tour of the Brooklyn waterfront where there's a lot of redevelopment. Now, New York has some very exciting financing provisions that I wish Hawaii had because a lot of the problems that we have here is the lack of adequate financing and, frankly, public financing to support rental housing. But they -- the developers are embracing the development of affordable housing in those cities and because -- it works in those cities because they have high demand for market-rate housing in those cities, particularly in certain sections.

So in Chicago, for example, where there is a luxury market in certain areas that are sort of market-rate housing in certain areas of the city and other areas of the city not so much, they apply the affordable housing program or that requirement -- inclusionary zoning requirement to those places where the market is more robust for market housing.

So I'd be happy to share those notes also with the task force to look at.

MR. NEUPANE: Chicago does it by different neighborhoods too.

CHAIR WHALEN: By different neighborhoods. And they make adjustments -- Boston makes adjustments according to the market conditions in that neighborhood. But in Kaka'ako, I don't think anyone can deny there has been a pretty strong market for market-rate housing.

MR. NEUPANE: And the density bonus provided in the provisions, existing rules and the current rules, are fairly generous. You know, doubling of density for workforce housing has the effect of, you know, cutting the land cost for the developer by half. Let's say, you know, if you build just 500 units, it can now provide 1,000 units, and then the cost associated with -- the land cost associated with each unit is going to be cut down by 50 percent because of that. So, say, if the land cost was $20 million, then the actual cash benefit to the developer is about $10 million just by doubling the density --

EXECUTIVE DIRECTOR: On top of the fees.

MR. NEUPANE: -- on top of the public facility -- waiver of the public facility dedication.

MEMBER WATERHOUSE: John, I have some other questions too.

CHAIR WHALEN: Yes.

MEMBER WATERHOUSE: The reserved housing that would be built separate from the market units, in our experience, how long has it been for them to be delivered?

MR. NEUPANE: There are two examples that I can think of where the reserved housing units were separate from the market project. One was 1133 Waimanu, and that was delivered in advance of completing all the market housing units. There were about -- there were four towers as part of that project, and 80 percent of the reserved housing requirement on that project was delivered after the completion of the first tower, which was the Nauru Tower. The remaining 20 percent --

MEMBER WATERHOUSE: How long did that take to be constructed?

MR. NEUPANE: Oh, the project itself? Yeah, I think 1133 Waimanu was about, you know, 200-plus units. So I think the actual time frame for construction of something like that of 200 units is going to be probably about 18 months.

MEMBER WATERHOUSE: But we also have instances in the case of A & B and also Howard Hughes where we have not seen the delivery of those reserved housing units.

MR. NEUPANE: That is correct. I think what Member Waterhouse is mentioning is the remaining obligation on 404 Piikoi was that project has four towers, the Nauru, Hawaiki, Koolani and Waihonua. So there was a residual requirement on that, and that got delayed because at the time, the Authority wanted to pursue a different option. And Howard Hughes has started construction of its reserved housing project.

MEMBER WATERHOUSE: And when -- so what I'm trying to get an idea of is, like, from the start of the permit process to the completion, ready for occupancy, how long of a process is that?

MR. NEUPANE: The way the rule provisions are right now, the requirement to build reserved housing, if it is outside of the market project, is before a certificate of occupancy is issued for the market tower. So the start of construction would, say, about two years from the time that the market tower is started, but before the market tower is completed. And then it will probably take another 18 months or so to complete the construction of the reserved housing project depending on the size of the project.

MEMBER WATERHOUSE: So what my concern is, is that if we make this change where it doesn't need to be delivered until later, that those reserved housing are going to be three and a half years delayed rather than if we kept the rules the way they are. I mean, they could be.

MR. NEUPANE: You know, typically, it is going -- if it's not on the same project, it's going to be difficult for the developer to build reserved housing out front just because of the financing and all. I think that consideration has gone into, you know, coming up with the regulation. If the reserved housing is in the market building itself, then it gets constructed at the same time. It gets delivered at the same time as the market units.

So what Member Waterhouse is pointing out is that if the reserved housing project gets built separate from the market unit, then there is going to be some delay in providing those units, and the answer is yes.

MEMBER WATERHOUSE: In response to your concern about the financing, wouldn't the developers be selling units -- selling market units simultaneously? So they would be getting some kind of funding.

MR. NEUPANE: Well, developers would be selling units and then, you know, once they finish the construction of the market unit, they will build the reserved housing unit. I mean --

MEMBER WATERHOUSE: Well, what I'm thinking is why couldn't it be done at least simultaneously? Because if they are selling market units at that time, then they should be able to get -- you know, financing shouldn't be an issue.

MR. NEUPANE: It may not be. I think the provision of, you know, the timeline of starting construction of reserved housing at certificate of occupancy of the market unit is provided as a flexibility to the developer.

MEMBER OH: Deepak, if I may jump on this conversation.

Member Waterhouse, what happens with the financing, the developers need to presale. So there are presale requirements. So 75 percent of the units have to be sold before the construction triggers. So if you're talking about the front-end financing to the construction financing, then yes, 75 percent of the units do have to be sold.

MEMBER FANG: Under the contract.

MEMBER OH: Under the contract.

CHAIR WHALEN: Let's -- instead of having a discussion on the board -- I mean, it's important for clarification, but, you know, there will be time for that in the decision-making hearing. Meanwhile, we have people in the audience waiting to testify. But there is just one thing just for clarification because it's come up in previous testimony. So just for clarification and a little historical background, the workforce housing rules went into effect with the 2011 rules and amendments; is that correct? And prior to that time -- and made some other changes. Prior to that time, was housing a permitted use in Central Kaka'ako?

MR. NEUPANE: Yes.

CHAIR WHALEN: But with a limitation --

MR. NEUPANE: Limitation of 1.5 FAR.

CHAIR WHALEN: 1.5. So that made it very different from the rest of the district?

MR. NEUPANE: That is correct.

CHAIR WHALEN: Okay. Meanwhile, we have two larger landowners. I think that some of the testimony implied that there was lack of equity between large landowners and small landowners. The two major landowners -- Kamehameha Schools and Howard Hughes Corporation, Victoria Ward -- had master plans that were approved by the previous board, and those rights have been vested according to the 2005 rules of the Authority. Are those two master plan areas allowed to develop workforce housing?

MR. NEUPANE: There is no provision for workforce housing in the 2005 rules.

CHAIR WHALEN: Right. So, in other words, they can't build projects at double the density; whereas, areas outside of those master plan areas could be eligible for workforce housing projects?

MR. NEUPANE: That is correct.

CHAIR WHALEN: Okay. And there has been only one workforce housing project built to date? That's the 801 South Street?

MR. NEUPANE: Yes.

CHAIR WHALEN: Thank you. Because I think there's been a little confusion about that in terms of the equity between large landowners and small landowners.

Are there any other questions that might not stimulate discussion on the board at this point?

Okay. I'd like to start calling people to testify, but before we receive public testimony, let me -- we've done the report. So as of today, HCDA has received 130 written testimonies. Board members are provided with copies of testimony before today's meeting. Testimony was received after 1:00 p.m. on May 3rd through 8:00 a.m. May 17th and have been printed and handed out to members. I haven't received anything. So I assume that the testimonies that we previously received are in this binder.

MEMBER BASSETT: No. We've got more.

EXECUTIVE DIRECTOR: Members should have gotten this.

CHAIR WHALEN: Okay. All right. Well, I didn't.

EXECUTIVE DIRECTOR: It's in the pile.

CHAIR WHALEN: Some of them may be repeats of previous testimony or reiteration.

If you emailed or faxed your written testimony, you do not need to resubmit a copy today. If you'd like to submit written testimony today, please hand it to our clerk -- I mean, that have not already been submitted to our clerk -- to our clerk at the door so she can record it and add to the record.

We'll now hear testimony from the public. Speakers will be called up to testify in the order in which they signed up. Public testimony will be limited to three minutes each. Please refrain from reading your written testimony so that we can try to get through this hearing and everybody gets a chance to speak, and, instead, summarize your comments in the time that you have available. When you're called, please come up to the witness table, either one, and speak directly into the microphone. Please state your name, any organization that you're representing and whether you submitted written testimony. We read all written testimony.

The first individual signed up to speak is Christopher Delaunay.

MR. DELAUNAY: Aloha, Chair Whalen and members of the Hawaii Community Development Authority. I'm Chris Delaunay, government relations manager for Pacific Resource Partnership. PRP represents the Hawaii Regional Council of Carpenters, the largest construction union in the state, and more than 240 of Hawaii's top contractors.

I provided written testimony for the May 3rd hearing. I focused on potential job loss to the construction industry if proposed rules are passed. I would like to add that PRP has serious concerns that these proposed rules would halt construction of new projects in Kaka'ako, especially workforce housing projects.

There is a demand for more workforce housing. According to the state's special action team's affordable rental housing report to the Hawaii State Legislature in 2016, statewide, approximately 24,551 housing units will be needed in the five-year period from 2016 to 2020. Nearly 20,000 units, 81 percent, will be needed by Hawaii's workforce and lower-income households, those earning 140 percent and below the area median income. 6,400 units, 26 percent, will be needed for households earning from 80 percent to 140 percent AMI. These are typically for-sale units primarily for first-time homebuyers who don't have properties they are trading out of.

There is clearly a demand for more

workforce housing. How do we expect to build more workforce housing with HCDA's proposed rules when, one, more restrictions are placed on workforce housing? Requiring development of 10 residential units or more to provide 20 percent of the total number of units as reserved housing is a burden, not an incentive to build more workforce housing. Two, on top of more restrictions, how do we expect to build more workforce housing when government subsidies aren't allowed for workforce housing projects?

HCDA workforce housing rules don't allow government subsidies for workforce housing projects. Only private money can be used. This leads me to a question of why are we making it more difficult to satisfy the workforce housing demand with these proposed rules? Isn't it in the best interest of the state to encourage the construction of more workforce housing, not make it more difficult?

Also, too, there is some talk about city proposed housing -- affordable housing rule requirements. I did look at the website. I hadn't seen any bill or anything introduced regarding that. So I'm not -- so we are not sure what will pass out of council or be signed into law by the mayor.

Therefore, we don't know what the city requirements will look like at the end.

So as such, PRP opposes the proposed housing rules and encourages the HCDA board to support further discussions on the topic with key stakeholders to find a collaborative solution to our housing crisis. Thank you.

CHAIR WHALEN: Thank you. Chris, you're aware probably having, you know, worked on city council staff, of Chapter 201H, the state housing statute that allows exemption from different zoning requirements and also a deferral or exemption from fees and the rest.

MR. DELAUNAY: Correct.

CHAIR WHALEN: It's interesting to make a comparison between the 801 South Street project and Kapiolani Residence. I don't know if you were still on city council staff when the Kapiolani Residence came up. It's a 201H project. It reaches a similar market, except, actually, Kapiolani Residence is a little deeper affordability. 120 percent of AMI households qualify for, I think, 60 percent of the units there and -- but it's similar in terms of size, size of the project.

So when the 2011 rules were adopted with this workforce housing project, I think that the proposal from the advocates for or the developers of 801 South Street were actually the ones who proposed that there be no subsidy. However, there are incentives. One is doubling the density, and the other is deferral of public -- or exemption from public facility dedication fee worth about $6 million according to Deepak. So to say that there is no alternative for workforce housing I think may not be accurate because 201H still could be used as a tool for providing workforce housing. You know, the same kinds of requirements except -- except that HHFDC requires buyback and equity sharing. Is that your understanding of 201H?

MR. DELAUNAY: Well, I know there are exemptions -- I don't know it in that detail in relation to the workforce housing -- these workforce housing rules or whether or not it would apply. I would leave it up to the people that are in the business to testify on that and answer those questions. I'm not as familiar as they are.

CHAIR WHALEN: Were you requested to testify?

MR. DELAUNAY: I'm sorry?

CHAIR WHALEN: Were you requested to

testify on their behalf?

MR. DELAUNAY: No. We have an interest in this, and, basically, we can lose jobs if ill-advised policies go through. And so it's in our interest to make sure that we have construction work for our members.

CHAIR WHALEN: Okay.

MR. DELAUNAY: So that's our interest in this.

CHAIR WHALEN: Okay. Any board members have any other questions?

Okay. Thank you.

MR. DELAUNAY: All right. Thank you.

Dione Kalaola. I'm sorry. I got your name wrong. What's your name?

MR. KALAOLA: It's right. Kalaola.

Good morning, HCDA board members. My name is Dione Kalaola, a drywaller by trade and a member of the Hawaii Regional Council of Carpenters. The men and women of the Hawaii Regional Council of Carpenters built all of the Howard Hughes towers in Kaka'ako to date. I am here testifying on behalf of those who rely on the construction in Kaka'ako to provide for their families.

We have been following the news of this

board changing the requirements of affordable housing. We strongly support the building of more affordable housing as this is achievable for my fellow brothers and sisters in construction. That said, we are extremely skeptical of the proposed rule change because we believe that it could possibly backfire. The concern we have is that these proposed rules will do the opposite of their intention and, instead, decrease the number of affordable units in Kaka'ako. These rules will make it impossible for the projects to lock in investors who will look for other places to build.

This board has a big responsibility to ensure that the policies they enact are studied, vetted, and have buy-in from those who actively participate in the development and building industry. As we begin to enter a slowdown of construction in the urban core, a poorly thought-out policy could be the difference between a slowdown and a downturn.

As a representative of Hawaii Regional Council of Carpenters, I strongly urge this board to properly vet these rules before making any changes to the policy. Thank you.

CHAIR WHALEN: Thank you.

Board members, any questions?

MEMBER WATERHOUSE: What rule change in particular do you have concern about?

MR. KALAOLA: I'm just really in strong support of our views and ideas as a representative of our regional council.

MEMBER WATERHOUSE: Thank you.

CHAIR WHALEN: Catherine Graham.

MS. GRAHAM: Good morning, HCDA board members and Chair Whalen. Thank you very much for this opportunity to talk.

I am in support -- surprise -- of these changes. I am with Housing Now Hawaii and FACE. We are affordable housing advocates. And I did submit written testimony, and there were three things in my testimony that I want to highlight. Number one is the intention of our -- our policies, and I want our intentions to be in favor of local people. And I say that not thinking that we don't want newcomers to come in. I was a newcomer 40 years ago, and so I'd like to think that I have contributed to this community. But we have a lot of people here, and I think this includes a lot of the union folks and the contractors who are speaking against these regulations. They also need affordable housing. And so I just would like our intention to be clear that we want to build housing that anyone who lives here in Hawaii would be able to afford.

Affordability -- the level of affordability is also very important. I saw in Deepak's presentation everything that was rental was at 80 percent AMI, all of his examples. There are people who don't make that much money. If you have two childcare providers, not just a childcare provider and, you know, an accountant, they're not going to be making 80 percent of the area median income. They're still a working couple -- there are still working families who don't make that much money, and we would like them to be able to have the option of living closer to where they work.

The other thing is the length of affordability, and I loved your charge there, Mr. Whalen, with the fact that a lot of municipalities around the country have affordability in perpetuity. I just think that's a no-brainer, but I know that there's a lot of people who don't like that idea. So 30 years is a minimum. 60 years is better. In perpetuity would just be my dream. That would be lovely.

And so I think -- I'm impressed with all of the work that you've done, and there's no way I could figure out what all of that meant, but I'd just like to really keep those three points in your minds when you're going to be making a decision on this. Thank you very much.

CHAIR WHALEN: Thank you.

Any questions? Thank you.

Paul Brewbaker. We have a copy of your treatise here footnoted. So we'll read that.

MR. BREWBAKER: I got my three second time right here or three minute.

MR. YOSHIOKA: The mike's not on, Paul.

CHAIR WHALEN: Just before you start, I just want to note for the record that David Rodriguez, who's representing DOT, has joined the hearing.

MR. BREWBAKER: Good morning. My name is Paul Brewbaker. I operate a consultancy called TZ Economics. I'm engaged with several area developers to provide an economic analysis of the proposed changes, and I'll provide a copy of that to the board and the HCDA staff next week. I've been working on it for a couple weeks now.

Last time -- at the last public hearing, I presented a half dozen observations that I've included in writing this time, and I'll develop a few of those today in my comments.

First -- and, actually, this is interesting because the subject came up -- the housing economics literature is extremely unkind to exclusionary zoning policy. So I can, you know, provide references if you want, but basically the finding is that inclusionary zoning policies yield less housing and less affordable housing.

Even in the planning and developer literature -- and I'll give you an example. If you go to the city and county's website and you look at what they've posted in support of their rule changes, you'll find an evaluation that is mixed at best. Inclusionary zoning works in some places. It doesn't work in others. There's no -- in that literature on the city's website, you won't find any conclusion as to where it does and doesn't work, but I was intrigued by two comments. One that Board Chair Whalen made a second ago that there are successes in major metropolitan areas in the East Coast and in San Francisco, and one that Harrison Rue made last time at this hearing in which he observed that he can get 120 percent of AMI to work down on Ala Moana Boulevard. And that raises my third observation, which is the irony that where it does seem to work is where you're building luxury homes. And we have all this language we use: workforce, reserve, affordable, blah, blah, blah. Inclusionary zoning works where people are building very expensive homes because those homes can cross-subsidize the low-priced homes that we seek to add to the inventory. The problem is that the people building in the middle are the ones that get caught in these rules. The complexity makes it very difficult for their projects to work. So what you have is if you're building at the front of the house, as Howard Hughes likes to say, you can make these rules work. If you're building up mauka, up on Beretania, which I get is not in your jurisdiction, but the point is if you look at how much urban redevelopment is going on in that mauka corridor, it's virtually none.

So my concern is that by reducing the AMI thresholds, what looks to me as if we're expanding the scope of the reserved housing requirements in this case. And, finally, this idea of, you know, only the new guy pays the tax, so to speak; right? The only guy actually contributing to reserved housing development is the new homeowner moving into one of these units and the developers building them. The people that already live, how much are they paying? How much are the rest of us on the island paying? Nothing. That seems like a really odd way to fulfill our "affordable," the adjective, housing needs.

So, yeah, I'm thinking we're not there yet with this proposal. I'm sorry. I didn't know the task force was working for the last three years. I would have loved to have been involved. I'd be curious which housing economists have been involved. I'm not one. I play one on TV, but I'm here to tell you that, you know, what we're seeing in this proposal is not something I'd be inclined to act upon at this point in time. And I'm sorry. I just went over by a minute, but I'll stop there.

CHAIR WHALEN: Any questions for Paul?

MEMBER BASSETT: I'll just wait until you're done.

MR. BREWBAKER: It's cool.

MEMBER BASSETT: I just wanted to know which developers have retained you to provide this analysis.

MR. BREWBAKER: I'm not exactly sure, and I don't actually have a contract and I haven't actually written my scope. But I've been working with Linda Schatz, and I had lunch with a bunch of guys, the guy Kent, the guy -- Alton Kuioka's son, Scott, I mean, you know, five or six guys. So I think some of them worked with the 801 South Street. They're kind of the 801 South Street crowd.

CHAIR WHALEN: Well, this is a small island. You'll get paid.

MR. BREWBAKER: Pardon?

CHAIR WHALEN: This is a small island. You'll get paid.

MR. BREWBAKER: Part of the problem is it wasn't clear, you know, what I was going to bring to this discussion. So I had to get caught up pretty quickly and I was taking notes profusely. I hope your slide show is posted somewhere.

But just to jump ahead, I plan to come back next time. My idea is skip the income thresholds entirely. Forget about quantiles of the distribution of income and think about quantiles as the distribution of home prices and, you know, pick a rule. All these things are arbitrary, 10 units, whatever, not 11, really sure, not 9, 10 units. So pick something like, you know, we'll apply these rules if you're building in the top X percent of the home -- of the existing home-price distribution. A million dollar unit would be right now, you know, somewhere in the top 15 or 20 percent of existing homes transactions, and then just kind of have a free-for-all everywhere else. That's kind of what the -- I mean, I don't know --

I don't even know what 140 percent AMI translates into as a home price. Can you tell me? Can somebody please tell me? I go to the mortgage calculator and I get all this --

MEMBER FANG: There's a very clear calculation at HUD.

MR. BREWBAKER: Okay. But what's the price? What price are we talking about at 140 percent?

CHAIR WHALEN: It's depends on the household size.

MR. BREWBAKER: No. The dollar price of the unit. What would be the --

MEMBER FANG: It's a factor of the household size, whether you have a two-person household, a one-person household.

MR. BREWBAKER: Okay. Well, that's a whole other thing. You're going to dictate how many people have to live in the unit. I'm just saying so you pick a household size --

MEMBER BASSETT: I think we're getting

outside the scope of my question to the witness.

MR. BREWBAKER: Well --

CHAIR WHALEN: We're having a discussion. So I do have a question. Are you familiar with the Kapiolani Residence project, the 1631 Kapiolani Boulevard?

MR. BREWBAKER: No.

CHAIR WHALEN: Well, it's a 201H project. You're probably familiar with 201H.

MR. BREWBAKER: I have no idea what that is.

CHAIR WHALEN: Okay. Well, that's a state statute that allows exemption from all rules and also exemption from some fees for affordable housing, and it goes through HHFDC and usually is presented to the city council for the city council approval.

In the case of Kapiolani Residence, it was approved by the city council. They sold -- they sold out in December. And they were offering units larger than 801 South, for example, if you want to make an invidious comparison, larger units than at 801 South for more affordable prices for households that could qualify for 140 percent AMI and below. They got other exemptions. In other words, that kind of housing is -- can be developed and is being developed under 201H. It's been used for years to develop affordable housing for households at 140 percent AMI and below. So are you saying that because everything depends on what HCDA does in terms of the workforce housing, that at this -- that this would somehow impede the development --

MR. BREWBAKER: No. What I'm saying is I think the point you just made is that if you can exempt yourself from the rules, you can actually build the housing. And that's -- you know, my argument is if you're going to apply the rules, apply it to the part of the home price distribution where, A, we observe that it seems to work. You know, Howard Hughes can come through with this because they build at the front of the house, as they say. But we're all living in the back of the balcony; right? Normal people, people at the 140 percent, whatever price unit that translates into. Let's say average household density is three persons. Can somebody give me a number?

You know, I would say make the rules apply -- think about applying rules where if you're concerned about having too much high-end housing, apply it there. But making complexity where people are looking for flexibility and, when enabled, can deliver, I think suggest maybe cutting out the lower part of the home-price distribution.

CHAIR WHALEN: Well, would you say that being allowed to double the density and to be exempted from public facilities charges, which every other developer has to pay, is providing flexibility?

MR. BREWBAKER: Sure. But where did double come from? See, my whole thing is why is there even -- right? Why is there even a density rule? Why is there a height limit? Why do we regulate the transmissivity of light in the glass on the cladding, the exterior of the building?

CHAIR WHALEN: Okay. Now we're getting into libertarian land. Let's not debate.

MR. BREWBAKER: Sure. I understand. But to understand my point, there are a bunch of rules in place now. Everybody seems to know how to operate under those rules. You know, there's just a temptation to change them every five years, and what I'm hearing from a lot of people is it sounds like there's a risk here that you'll get less rather than more, which I'm thinking is not the intent.

CHAIR WHALEN: Well, if we follow the example of these other cities that I mentioned earlier, I don't think that we're -- we run much risk of that danger.

MR. BREWBAKER: Except that the literature suggests that they're failing too. The problem in the housing economics literature is that cities all over the country are failing to build enough "affordable," the adjective, housing.

CHAIR WHALEN: Well, there was an economist who spoke -- you know, a housing economist --

MR. BREWBAKER: Right.

CHAIR WHALEN: -- who spoke, Lisa Sturtevant, speaking on Montgomery County's inclusionary zoning ordinance.

MR. BREWBAKER: Which is where? Montgomery County?

CHAIR WHALEN: Outside of D.C.

MR. BREWBAKER: D.C. metro?

CHAIR WHALEN: D.C. metro area. She says that "Inclusionary zoning requirements can generate significant amounts of affordable housing if the requirements are not set at a level so high so as to discourage market-rate development." So that's the reason why most municipalities have picked that 20 percent set-aside number.

"Inclusionary zoning" -- this is a quote. "Inclusionary zoning works best in markets where there is strong demand for market-rate housing."

Now, would you say that Kaka'ako has a strong market for market-rate housing?

MR. BREWBAKER: At the high-end, absolutely. I mean, yes, in general.

CHAIR WHALEN: Just in general in the neighborhood.

MR. BREWBAKER: Just in general. But what I'm saying is if you're building -- give me a number unit -- a $700,000 unit, that unit is not going to be able -- or a $500,000 unit, that unit is not going to mobilize across subsidy sufficient to deliver on these quotas; right? It's once you get -- once you get up in the home-price distribution. And if I go to suburban D.C., right, just like in Honolulu, if I got out from the city, the valuation is going to drop so that the top 10 percent or the top 30 percent aren't a million and up. And what you observe is it's this interaction of geography where you can spatially radiate outward, as I noted in my written testimony, which in that you can't do that, you know, between Beretania and Ala Moana Boulevard. It's just a combination of the regulatory restrictions and the geographic bounds that tends to make these kinds of approaches backfire if you're building in the middle. If you're building at the high-end, you can pull it off. So --

CHAIR WHALEN: So, in other words, it seems like the real estate economists have mixed opinions?

MR. BREWBAKER: No. I'd say in the economics literature, what people have been finding over the last couple decades, is moving towards this consensus that if you've got a lot of high-end product, you can make the rules work. If you're not constrained by geographic barriers, steep slopes and water bodies in the literature, then you can make it work.

Denver can make it work because they can radiate outward across the prairie notwithstanding the boundary at its west end. But I think Boston, San Francisco and New York City, these are much more problematic areas, and they can work if you have the high-end buyer. And that's why I think it works, you know, for the people at the front of the house and maybe all the way back to Kapiolani.

My guess is, and this is more of a warning for the city since you're contemplating similar changes, they're the ones who are going to have to figure out how to build up on Beretania, and right now it doesn't look like anybody's building up on Beretania. It works on Kapiolani because you can start to get that value. But the valuation gradient drops so much, you can't make it work even a couple blocks mauka.

CHAIR WHALEN: We'll let the city worry about that.

MR. BREWBAKER: Okay. Thanks for your time.

CHAIR WHALEN: Thank you.

Oh, I'm sorry. There's one more question from Mary Pat.

MEMBER WATERHOUSE: Okay. So it seems that 801 South Street has -- obviously was very successful.

MR. BREWBAKER: It went right into the middle of the home-price distribution and delivered, right.

MEMBER WATERHOUSE: Okay. That's why?

MR. BREWBAKER: Right.

MEMBER WATERHOUSE: So it's --

MR. BREWBAKER: But this rule would be any time you build more than 10 units, boom, we invoke.

MEMBER WATERHOUSE: So, you know, this was -- 801 South Street was built when it was up to 140 percent. Now, there's the issue right now, and I don't know if you can answer this question, but, you know, it's regulated for -- currently, it's regulated for five years; right? How long?

CHAIR WHALEN: Less than that in some cases.

MR. NEUPANE: Not workforce housing. Workforce housing is not regulated currently.

MEMBER WATERHOUSE: It's not regulated at all?

MR. NEUPANE: At all.

MEMBER WATERHOUSE: Okay. Okay. I'm getting confused with reserved housing.

No, no. Wait. Hang on. So we're proposing that if we change the rules for workforce housing, that we will regulate it based on the reserved -- no -- Honolulu price index or the residential price index and they can sell it, but they will earn incrementally. Because right now, what's been happening and why we change -- why we're proposing to change the rules is that they could essentially flip it in a year or two and make, you know, 100,000, 80,000. And, you know our purpose was --

MR. BREWBAKER: They won the lottery.

MEMBER WATERHOUSE: Yes.

MR. BREWBAKER: They actually won the lottery.

MEMBER WATERHOUSE: Exactly. So how do we make something like that work for both the community as well as, yeah, for the community? How would --

MR. BREWBAKER: So it seems like there are two issues that are commingled here. One is this perception of unfairness. You've won the lottery. We're not going to let you win the lottery. That seems unfair for some reason. Everybody else is all hurt because they didn't win the lottery. So they're going to take their --

And then the second is how do we fund -- how do we sort of maintain a program, right, which evidently neither the public nor legislature -- legislators are willing to fund in other ways? There's not -- we could just dedicate public funding to making sure there was enough housing for poor people. But, no. We're going to make the new guy -- right? The only guy sort of paying are the new guys that move in, whether they win the lottery or even if they don't win the lottery. They just move in; right? They're buying a unit that had to carry the financial burden of all these requirements, only the new units. And we can say, "Well, it's not as burdensome if I can afford a $3 million unit as my fifth house, my fifth condo." Yeah, sure. But most of us are 801 South Street kind of people. And 801 South Street worked because they didn't have to follow these kinds of rules. A lot of buildings, if you look over the last couple of cycles, happened when, temporarily, the rules were suspended and the building went. What did that tell you?

So the two issues, as I say, it's kind of weird. We set up a lottery, and then we're upset that somebody flips this house. And then the second is this idea that, well, we'll just only make the new guys pay in. If it's so important to the community, why isn't the whole community -- why do we have ridiculously low property tax rates and can't do anything; right? Why are we all hung up at the legislature? So it's kind of crazy.

MEMBER FANG: I think we're a little off topic right now.

MR. BREWBAKER: So I know I sound like a

libertarian. What I'm saying if you're a social -- if this is a social democracy -- this is in the language of my testimony. If this is a social democracy, then let's step up and pay to make it happen.

CHAIR WHALEN: Okay. Well, we don't have any --

MR. BREWBAKER: I got that but --

CHAIR WHALEN: -- authority over the legislature or whether it's appropriate for housing. We may agree, but I think we may need to wrap this up.

MR. BREWBAKER: Okay.

MEMBER WATERHOUSE: Thank you, Paul.

MR. BREWBAKER: Thanks.

CHAIR WHALEN: Thank you.

Let's see. Gerry Majkut. If you can correct me on my pronunciation.

MR. MAJKUT: That's close.

Thank you, Chair Whalen, Director Souki and committee members. My name is Gerry Majkut and I'm president of Hawaiian Dredging, and I did submit written testimony.

Thank you for the opportunity to provide testimony on the proposed amendments to the reserved housing rules.

UNIDENTIFIED SPEAKER: We can't hear you.

MR. MAJKUT: I'll speak up a little bit.

Founded in Hawaii in 1902, Hawaiian Dredging Construction is the largest general contractor in Hawaii, and we are very proud to be part of the community. I have attended the HCDA meetings in March and on May 3rd and listened to the testimony presented at those hearings as well as had the opportunity to read some of the written testimony. I have a concern that these proposed rules will have a negative effect on the development of future workforce housing in Kaka'ako. This, of course, will have a negative impact on the construction industry. The many business leaders, financial institutions, landowners and developers that provide testimony have identified this may stop development of future housing in Kaka'ako, in effect, the diminishing employment in the construction industry in Kaka'ako.

Hawaiian Dredging Construction Company will soon be opening our new office in Kaka'ako at 605 Kapiolani Boulevard, and we look forward to being a significant part of the overall development in Kaka'ako. And, again, thank you for giving me a chance to speak.

CHAIR WHALEN: Any questions, board members?

Thank you.

MR. MAJKUT: Thank you.

CHAIR WHALEN: Chris Deuchar.

MR. DEUCHAR: Hello, everyone. My name is Chris Deuchar. I'm with Form Partners. I'm also the incoming chair of ULI Hawaii, the Urban Land Institute, and I'm a member of the National Urban Mixed-Use Development Council with ULI, past president of NAIOP. I'm actually here, though, to speak on my own behalf as a developer.

My company and my partners and I have developed over 400 residential units in Honolulu and Waikiki. I actually did a project in Kaka'ako many years ago, the Vanguard Lofts.

I first would like to thank you very much for the opportunity to testify. I want to thank you all as well for your work on this. Jesse and Deepak, I know there's been a lot of work. I commend you for working on this issue. Honolulu is in a major housing crisis, as a lot of cities are across the United States. This isn't an issue. It is a crisis, and something needs to be done. And I understand the community wants it. Many in the development community agree that something needs to be done.

I think there are some very good things in your rules, and I think the intent is great. I am concerned about some of the items in the rules, and I think I would like to see them changed or tweaked. I think that the stakeholders, developers, the people who have built homes can weigh in and help change some things. I think, particularly as it relates it the workforce housing, I echo a lot of the sentiments that Paul had talked about, Brewbaker. But, generally, I've been doing a lot of work with Harrison and the city and several other developers on the city's affordable housing rules and the changes that are being proposed.

That whole workforce housing, that middle, that is generally what gets squeezed, to Paul's point. And while we have in Kaka'ako a lot of great luxury apartments to help underwrite that 80 percent -- I'm sorry -- the 20 percent that are required in the gap, and I think that's worked fairly well and been fairly successful. Obviously, there's two big landowners that have been exempt. So there are some that have come in less. But when you look at what 801 South Street, in my mind, when I drive through Kaka'ako and when people are coming into town, I look at that and I think that's the best thing that's happened in Honolulu in a long time and in Kaka'ako.

I know there's been concern about how much money maybe some of the owners have come in. I think there are some ways to structure that. Maybe a waterfall or an earned equity that phases out over a five- or seven-year period. But there's some significant differences, though, between Kaka'ako's workforce housing and the 201H program. 201H, you only have to do 50 percent of the units plus one in order to get all of those same incentives. A lot of the developers move that up to 60 percent because they can get greater incentives with waivers on GET, and they're also available to get the DURF financing which, in essence, acts as a huge equity addition to a project. It makes it much easier for the developer to deliver those units. So in many ways, it's a much better program.

I think the fact that the current workforce housing rules in Kaka'ako do not take advantage of a lot of those subsidies does help in a lot of ways and that it's not using those state funds and the DURF and other things along those lines. So

I don't think you can compare them. They're not really an apples-to-apples comparison.

I do think the occupancy guidelines that are in place, you know, the city's, I don't think are that great. I think they should be further incentivized on larger ones, a larger amount because those are so much more difficult to provide. And I think if you're doing a studio or a one bedroom in particular, I don't think they should be penalized. I think it should be further incentivized. There's many other things in the rules that I think can be worked out, but I do think there are some very good things in them, but I have great concern about the workforce housing and the effects it will have on the shared equity among other things.

CHAIR WHALEN: Okay. Thank you. Any questions?

MEMBER OH: I have a question, Chair.

CHAIR WHALEN: Yes.

MEMBER OH: Chris; right?

MR. DEUCHAR: Yes.

MEMBER OH: So is your work on the NAIOP and also the -- was it ULI?

MR. DEUCHAR: Urban Land Institute.

MEMBER OH: This notion of, like,

inclusionary zoning, IZ, my understanding is that inclusionary zoning was really enacted in the late 20th century, 1980s, '90s. Is that the case? I may be wrong.

CHAIR WHALEN: '70s.

MEMBER OH: Right around there. Okay.

So this notion that it's worked in some cities and it hasn't worked in some cities, I get that. Real estate is local by nature. But at the same time, I know you mentioned that Honolulu has an affordable housing problem. Would you agree that the affordable housing problem is really national? It's a national epidemic; right?

MR. DEUCHAR: I would. I mean, I can't say "national," but, certainly, in most of the major cities where you have expensive homes is generally where you're seeing it.

MEMBER OH: So affordable housing is such a diverse topic, and the reason why I'm questioning you is that at the end of the day, if these inclusionary zoning rules were enacted and --

Of course, we also know that 20 percent or 25 percent of -- San Francisco just enacted a 25 percent; right? Is that the case recently? Proposition C? That for us, it hasn't worked. Like, the notion that it works, it doesn't work. The fact that we have some of the greatest minds in the country, even worldwide, working on this whole problem, it hasn't worked because there's still a crisis; right?

MR. DEUCHAR: Yeah.

MEMBER OH: So in terms of workforce housing -- I know you specifically mentioned this, and I'll get to my question. The comparison between the 201H versus the workforce housing, I get that. In terms of privately financed workforce housing, it's privately financed. It doesn't take on the subsidies, which are the financial subsidies from the state and also the local and so forth.

Are there, based on what you see in Kaka'ako, right --

Because we have a very unique structure in the sense that our lot sizes are different. Other than KS, Kamehameha Schools and Howard Hughes, we have smaller landowners, which we felt, and this is lack of enforcement on our part too, as being the primary drivers of development; right? Because the lots are smaller. They tend to be smaller. So given what you see, the current rules that we have, are we giving the ammunition for the smaller landowners?

When I mean small, I mean it proportionately. They may not be small, but they're definitely not Kamehameha Schools and, of course, Howard Hughes. Do they have the ammunition or the means or are we giving them the tools to be able to provide workforce housing or even reserved housing based on what you've seen so far?

MR. DEUCHAR: Well, you know, obviously, this is a complex issue as it relates nationally and locally throughout. I'll answer your question. Let me give you a little bit of color behind it. I think in a lot of these cities you see -- San Francisco, New York, Boston, Seattle -- there are incentives that are provided, financial tools, other things that the developer can take advantage of to meet those inclusionary housing rules. As an example, I think Seattle just passed -- raised their property taxes in order to provide some funding for affordable housing.

I think you also need to look at too, there's a whole strata of affordable housing in the definitions. If you're 60 percent and under, you can take advantage of federal and state tax credits, generally, to help provide financing. So what happens a lot of times in these cities that pass these inclusionary housing, a developer will team up with somebody that will do those tax credit deals. I find that a bit of a ruse because that money -- there's a certain amount -- there should be more to be sure, but that money is always going to be spent. There's always going to be affordable housing provided for the 60 percent and less. It's not enough, but it will always be there because there are financing tools.

When you get between 60 and 120 percent, there's really not that many financial tools. I mean, I know you guys have some on apartments, but when you're talking about for-sale, it's very, very difficult to finance that.

What you've seen in HCDA, in my opinion, is success at that 120 to 140 because, to Paul's point, when you're selling luxury condominiums, you can make up the delta that you need to provide that housing.

So really what we're talking about in my opinion is that the 60 to 120, how do you fill that gap? And it gets tougher the lower you go. And I've been telling this to the city and I'm going to continue to tell it to the city and working with some of the council members, we need to provide that funding somehow to fill that gap, and that's got to come from somewhere. The developer can't provide it. Architects don't work for free. That money has got to come from somewhere. And it's unfair and it's unrealistic to put it on the new buyers. It only works on the luxury for that 120 to 140.

To answer your question, though, what are we doing for the small landowners, or enough? I don't know if I can answer that. I mean, whether you're developing a 20-unit project or a 1,000-unit project, you're going through the same steps. Frankly, it's harder for the smaller guy because the steps that we have to go through, whether it's in HCDA or the city, and, frankly, in some ways at least when I went through HCDA, it was pretty reasonable compared to the city, I thought. Very developmental oriented and very proactive, but it is still a long, arduous process to get there, which just raises the cost of housing and other things. That's the world we live in. I get it. We're not going to get past that.

To answer your question, I don't know if I can. I think for the smaller guy, it's just as difficult as it is for the big guy and so --

MEMBER OH: Well, it's not just as difficult. I think it's much more difficult; is that correct?

MR. DEUCHAR: I think probably so. For the smaller guys, it's much more difficult generally speaking anyways because usually the landowners -- development has gotten so complex because of all the requirements, you know, from a regulatory standpoint, but also from the lenders all the way through. So unless you're a professional developer, you're generally -- you're not going to be able to do it. And the professional developers, if they're going to spend that time and effort, it's better to do it on a larger one.

I hope I've answered your question, but to tie back a little bit to what Paul was saying, the workforce housing, in my mind, is crucial. I mean, it's all crucial. We need affordable housing all the way through, and it is a crisis. But that 60 to 120, we've got to get some money somehow.

Setting that aside, what 801 South Street did was wonderful. I mean, it produced so much housing at that level that's needed. Do we need more -- lower and more? To be sure. But a lot of the people who made some money selling their units, and I understand that's been a real sticking point for a lot of people, they -- they would not have made as much money if there was five or six or ten more projects just like that coming behind them because people would have come up and said, "Why would I buy a used one when I can go buy a new one?" And that's a bit of, you know, the market dictating what you can do. But I think to try and penalize that, to Paul's point earlier, is the wrong thing to do. You need to be focusing more on the luxury to pay those lower ones, and that's where I can see the shared equity.

If you want to stop people from flipping, I get that too. I think there should be a shared equity maybe for the first five years or some kind of a waterfall program or seven years, but as you said earlier, it's a voluntary program to go through the workforce housing. Those people still have to qualify and do all these things, and it's not that much more affordable. 140 is not that much further away for a lot of these people, and they'll just assume and say, "God, why even buy it? I'll stretch and go find something else or go find something used in another area that I don't have to share equity in perpetuity." And I think there's a lot of people here who have testified that we want it in perpetuity and I get that. I understand that. But I would ask how many of them have units they live in that are in perpetuity? Most of their equity is probably theirs, I would bet.

So it's just -- I feel it's penalizing that, and I think there are some great things in your rules. I think there are some great ideas. I'd like to see some of them tweaked, and I think we can do that. I myself, I would be happy to volunteer my time. I know there's other developers as well. But I live here, grew up here. I have kids here. I want my family to be able to afford it here. I think about that all the time. It's a huge issue, and I'm trying to work with the city to come up with something that works, but, you know, in a lot of ways theirs is much worse what they're talking about doing. But I think we need to be careful because a lot of -- a lot of times policy or legislation can be passed that can have unintended consequences, and I just would hope and ask that you take to heart some of our ideas or thoughts as a development community because I think you can take what you're doing and maybe make it better or more feasible. That's my opinion.

CHAIR WHALEN: Well, you offered some specific comments and suggestions.

MR. DEUCHAR: I have more, but I think

there's things to be talked about other times.

CHAIR WHALEN: Well, I'd share them with staff, I think. You don't need to --

MR. DEUCHAR: I agree.

MEMBER BASSETT: Did you submit written testimony?

MR. DEUCHAR: I have not yet. I'm actually in the process with some others. We've been developing and working on a framework that we're trying to present to the city to work through. I think, effectively, what they're working on now, at least with their interim TOD and then the mayor's policy in a lot of ways, is going to act as a moratorium. So I would ask for a little time. I've been asked to come in and submit testimony from some other developers, and I want to because, obviously, Kaka'ako is a big part of our development community. But I'm working on this framework with others to try and kind of relay a lot of the things I've discussed with others and how it relates to it. But when that will be ready, we're trying to get that done in the next several -- couple weeks. Although, your next meeting --

CHAIR WHALEN: 31st.

MR. DEUCHAR: When are you voting?

CHAIR WHALEN: 31st. Two weeks.

MR. DEUCHAR: Is the vote?

CHAIR WHALEN: Yeah.

MR. DEUCHAR: Oh. I'll have something by then.

MEMBER OH: What was your last name?

MR. DEUCHAR: Deuchar.

MEMBER OH: Spelling?

MR. DEUCHAR: D-e-u-c-h-a-r. It's very easy.

CHAIR WHALEN: Developers are working with tight deadlines.

MR. DEUCHAR: I've got to work too.

CHAIR WHALEN: Yeah, yeah, I know.

EXECUTIVE DIRECTOR: Chair, if I can make a technical comment.

CHAIR WHALEN: Yes.

EXECUTIVE DIRECTOR: I won't speak to the policy. That's the board's job. But one thing that came up since Mr. Brewbaker was this concept of the windfall with the shared equity.

CHAIR WHALEN: Yes.

EXECUTIVE DIRECTOR: The way that the rules are structured, it's not about a windfall. The rules are structured with a shared equity because it's a unit that we're relaxing the restrictions, which is a form of subsidy. And the agency would like to recover a portion of that, and the purpose of that is two points. One is so that the unit is resold at an affordable price. So you're keeping that unit in affordability. And the second part of it, if we do see the equity -- we usually don't because the way it works out is it usually goes to the unit at an affordable price, but if we do get equity, it goes to the 80 percent and below, 60 percent and below AMI rentals. So it's not about the windfall.

CHAIR WHALEN: Right. The rules we're talking about are just one segment of the market, I mean, on trying to reach a deeper affordability.

MEMBER WATERHOUSE: You're talking about the proposed rules; right?

EXECUTIVE DIRECTOR: Yes, the proposed rules.

MEMBER WATERHOUSE: But the windfall, I had mentioned, is based on the current rules?

EXECUTIVE DIRECTOR: What the current rules for the reserved housing --

MEMBER WATERHOUSE: No, no, not reserved housing. The workforce housing.

EXECUTIVE DIRECTOR: Oh, the workforce housing, there's no shared equity there.

CHAIR WHALEN: It's a form of legalized gambling; right? Win the lottery and winner take all.

MEMBER WATERHOUSE: Does Laura need a break?

CHAIR WHALEN: Oh, would you like a break for five minutes?

THE REPORTER: Yes.

CHAIR WHALEN: Let's take a break for five minutes. The court reporter needs to unwind a bit.

(Recess taken from 11:00 a.m.
until 11:11 a.m.)

CHAIR WHALEN: Okay. We're resuming the hearing. It's 11:11. The next person signed up to speak is Leimomi Khan.

MS. KHAN: Aloha, Chair Whalen and members of the committee today. Thank you for your efforts to produce amendments to the Kaka'ako Reserved Housing Rules that would address the needs for affordable housing and also for your volunteer services for this, obviously, very complex work.

As the chair of District 26 of the

Democratic Party, which includes McCully, Kaheka, Kaka'ako and downtown, I can unequivocally state that our district is very interested and concerned about the issue of affordable housing, especially as we've seen a growing population of homeless in our district. I have encouraged our members to provide testimony to you and some of them have.

We have not had the opportunity to meet as a whole group. Therefore, the testimony that I will be giving this morning is solely mine as a kama'aina and resident of the Kaka'ako District.

Okay. So first off, I am concerned about the bottom-line effect of these rules, specifically, will they result in sufficient affordable housing to correct the shortage of affordable housing? And by example, I wish to give you some statistics pulled off of various websites. And that is from 1984 to the present, there were 2,739 total affordable workforce units. If I take 1994 to 2015, the statistics that I have, that averages out to 67 units a year. However, between 2005 and 2013, there were 2,429 units averaging out to 304.

So I wonder if we continue on that path of an average of, say, 300 a year, would that really put a dent in the availability of affordable housing?

Will these proposed rules help with increasing that number?

I did offer in my written testimony that I provided today, and, hopefully, you all have a copy, three recommendations. One is to define the moderate income as 120 percent of the AMI or lower -- it's now, as you know, at 140 percent -- in order for us to make available the affordable units to those who are in most need.

Also, currently, 20 percent of the housing units built in the project are reserved for low- and moderate-income households. I recommend that the reserved units include an allocation for those in the low-income group with "low" defined as 80 percent of AMI or lower. The definition of "low income" is fine, but there's nothing in the amendments to require that at least a portion of the 20 percent go to low-income households.

I also suggest that, in the rules, there be a requirement for evaluation of these rules, minimally, perhaps every 18 months, for the purpose of determining whether it has achieved its intended purpose of producing affordable homes.

I'm making no comments as it relates to the interest of developers, the construction and the mortgage industry because I'm not knowledgeable enough to do so. They are best to represent their interests. But it seems obvious to me that the rules to be effective must take into consideration any concerns that they may have. I have been to two hearings. It bothers me that not one single construction industry representative, not one from the development industry, has come here and said, "We fully support your rules or proposed rules." It makes me wonder whether this very -- these very important stakeholders, whether they were consulted. And maybe they were, but it just seems so unusual to me that they don't come with, "We support you," or "We support a portion," or "We don't support and this is what we would recommend that you do." I don't see much of that.

The bottom line, though, is that I would simply ask those critical stakeholders that the rules be reasonable and with the intent of all contributing to the solution of producing affordable housing. As I say, I'm a kama'aina. I'm not -- I want to say that I represent the voice of the maka'ainana, the average person who is out there struggling. So, again, we very appreciate the work that you're doing to try to make the rules better so that there will be an increase in affordable housing for us. Mahalo.

CHAIR WHALEN: Thank you.

Board members, any questions of the speaker?

Thank you.

Jeremy Shorenstein.

MR. SHORENSTEIN: You pronounced it correctly.

CHAIR WHALEN: That means you wrote legibly.

MR. SHORENSTEIN: Again, my name is Jeremy Shorenstein. I'm an owner-occupant at 801 South Street. I'm also on the board of the AOAO.

So just from a couple comments from board members and then in talking to people in the public, there seems to be this inaccurate stigma against people reselling their units and making absurd profits. The way that I understand the workforce housing is 25 -- so 75 percent are sold -- you know, are required to sell to owner/occupants, correct, and then 25 percent can be sold to investors; is that right?

CHAIR WHALEN: Owner occupancy is not required; right?

MR. NEUPANE: Owner occupancy is not a

requirement. The way the rule exists right now, it's 75 percent of the units has to be priced at or below 140 percent of AMI and sold to a household with income at or below 140.

MR. SHORENSTEIN: So 25 percent can be sold --

MR. NEUPANE: 25 percent is not regulated.

MR. SHORENSTEIN: Got it. So there's 1,035 units at 801 South Street, and I've just been tracking how many units have been sold. So 23 units have been sold last time I checked. So that's 2 percent of the entire building have been sold. And of those, seven of those were owner/occupants and they were the 140 percent AMI. Okay. They sold. But if you look at where it was in the beginning, seven of those were owner/occupants. And if you look at all of the people who bought into 801 of those 23, now there's eight owner/occupants. So of the 23 that sold, you've increased owner occupancy by one family.

So I'm somebody who bought in at the under-140-percent AMI. Apparently, I have a ton of equity in my condo. I won the lottery, as some people have said. Am I going to sell my unit? No. Why? Because where am I going to go? Sure, I can have a little more money, but where am I going to buy another place? Where else am I going to go? Housing prices are crazy in Hawaii. I'm extremely grateful that HCDA created rules where I can be on that housing ladder and start to grow that. So then when I do have -- I stated this previously. When I do have a family and kids, then I can hopefully move into a single-family home and then use that equity for a down payment on a single-family home.

I understand that, hey, people are making too much money, but, sure, that's fine, but I'm not actually going to sell my unit because I would hate to go back to being a renter. That's not ideal. I don't think anyone would want to go from renter to homeowner back to renter. It doesn't make sense in my mind. So I want to put that out there. Only 2 percent of the units at 801 South Street have sold, and of the owner/occupants that sold, there's actually been an increase of one family that are owner/occupants. In my mind, that seems like a success, but that's for the board to judge.

CHAIR WHALEN: As a member of the AOAO, are you aware of how many units might be rented? I mean, they might be -- they may not have been sold, but are they rented?

MR. SHORENSTEIN: I know it's less than 50 percent because that's not allowed. Less than 50 percent. I think it's around one third, but I can't say exactly.

CHAIR WHALEN: So a lot of them, they're not owner-occupant units then? In other words, these are -- these are units that are being held as an investment, essentially?

MR. SHORENSTEIN: Yeah. Like I said, I'm not sure. This is just a guess on my part.

CHAIR WHALEN: Yeah.

MR. SHORENSTEIN: If they were rented out at 140 percent of AMI, would that still satisfy what the HCDA board is trying to accomplish?

CHAIR WHALEN: Nobody's checking. So there's no -- we have no way of knowing, you know, how many of these units are rented at what price --

MR. NEUPANE: The reason we are not checking is that there is currently no requirement on workforce housing to, you know, follow up and check whether these are being rented or not. With the new proposed rules, the HCDA would be following up and making sure that if they are rented, they are rented within the 140 percent of the AMI guideline.

MEMBER OKUHAMA: The property management

company should know because when you buy a unit, they've got to disclose to the potential buyer the owner-occupancy percentage for financing purposes.

CHAIR WHALEN: Okay. I was just curious if you had any of that information.

MR. SHORENSTEIN: I can find out and --

CHAIR WHALEN: It seems like a big gap.

MR. SHORENSTEIN: -- send it to the board. There's one more meeting. So maybe I'll get that presented then. Thank you.

CHAIR WHALEN: Any other questions of Mr. Shorenstein?

Thank you for your testimony.

Jesse Ryan Kawela Allen.

MR. ALLEN: Good morning, everybody. It's exciting to me to be on the frontline of this debate and conversation. I appreciate all the efforts that are being put forth by volunteers today and this month.

We do have a housing shortage. I am a Realtor, self -- I'm basically an independent contractor. I have been a Realtor in Hawaii for five years now after moving home. I'm from here. I have never earned as a successful Realtor -- my clients have told me that. I have never earned 120 percent of the AMI. I would love to. I haven't yet. I think that that would be a great number to consider adding to the workforce housing. Maybe not all of the units, but at least a portion, pricing them lower than 140. I agree with the audit that you were discussing. Adding that into the sales is very important. And let's see. Excuse me for a second. I get very nervous. It's a big moment to have this opportunity.

MEMBER BASSETT: Can you say your name again?

MR. ALLEN: Oh, sure. Jesse, last name Allen.

MEMBER BASSETT: And did you submit written testimony?

MR. ALLEN: I have not yet.

So on some of these -- of the 20 rules in the proposals, as far as Rule No. 9 goes, I would love to see the weighted average of 120 percent -- I'm sorry -- Rule 5 and 6, reduction to 120 percent of the AMI for the workforce housing. And, also, I do approve of the shared equity. I think that's a great idea, and I don't think that that would affect my clients' decision-making in purchasing these units.

Let's see. Rule No. -- Rule No. 14, I would love to see a change in the language from "No real estate agent is necessary for the transaction saving on fees." These are not fees. These are commissions. They're our income. I'd like to see that changed. And also the fact that real estate agents are used in the first steps of the process from the developer to the purchaser, to remove real estate agents in the next step, I don't know if that's safe for the purchasers or sellers. I think that realtors provide a tremendous service. We pay -- our fees pay for our commissions, and we pay fees to the Board of Realtors which then provide all this data that you're using for your information. This data cost me money to get that information for everyone to use. So I would love to see a little less vilifying of realtors.

And then, also, I think that just the fact that we're having this discussion and these rules debated and talked about is really serving the public very well. So thank you.

MEMBER OH: Question, Chair.

CHAIR WHALEN: Yeah.

MEMBER OH: Jesse, thank you for your testimony.

MR. ALLEN: You're welcome.

MEMBER OH: You mentioned -- and this is a very important issue. So I bring this up again. You mentioned that your clients would not be deterred from purchasing a unit with shared equity; correct?

MR. ALLEN: I do believe that.

MEMBER OH: Is that -- how can we accept that information as true? Is that -- can you maybe provide some color as to how you're able to arrive at that information?

MR. ALLEN: I've had conversation with clients who are looking to buy in town. A lot of them choose to buy in Ewa Beach or areas a little further out to find pricing and comfortability for them. I've discussed that -- these rules with clients and they've told me --

MEMBER OH: They've said that?

MR. ALLEN: Yeah.

MEMBER OH: So these are clients who are looking for alternatives in Ewa Beach or the west side?

MR. ALLEN: Some are, yes.

MEMBER OH: They're not clients who are specifically limited to Kaka'ako?

MR. ALLEN: That's correct. And the ones

who are limited to Kaka'ako, if that's their limitation, again, you know we're in a housing -- chronic shortage. So folks are not going to not purchase because of the shared equity.

MEMBER OH: Okay. Because it really boils down to the question if there's an alternative building without shared equity within the same vicinity versus a building that had shared equity and their choices were limited to Kaka'ako, then would that client choose to purchase, you know, without the shared equity; right?

MR. ALLEN: So a new construction versus a resale?

MEMBER OH: A comparable building.

MR. ALLEN: Right. So if you're buying a resale, you're already buying something that was probably built in the '70s, '80s, perhaps that would be comparable. Maintenance fees are going to be significantly higher on those units. So your purchase cost is already going to be slightly higher if you're qualifying for what I've proposed to be 120 percent. Which my basis for that is because if you set the rules at 140, like we saw with 801 South, the developers are going to sell at 135 percent. They're not going to drop it much lower than 140. So the risk we run with continuing this made-up number, as Paul Brewbaker said, just these artificial numbers, if we pick 140 percent, which I don't think any other municipality in the country uses 140 for their workforce housing -- I could be mistaken -- if you're dropping to 120 percent and then adding shared equity, I don't see that as being a hindrance.

MEMBER OH: My question really came down to the issue of shared equity; right? So if you had two choices and they're comparable. I'm not talking about a different, older building with a higher HOA cost. Comparable costs, comparable basis in terms of the purchase price, comparable amenities. And if you were the purchaser or any of your clients were the purchasers, would they be, you know, inclined to choose a unit or building that did not have shared equity; right? So as long as your clients have said that, then I'm fine with that. It's just my question is are these clients, if they have alternatives in Ewa Beach and so forth and that's an entirely different set of clients that you're working with; right?

MR. ALLEN: I think they're losing faith with rail. So I think they're more inclined to buy in town even with -- sorry. That's kind of the theme today. But I think they're still inclined. And if you look at the profit margin that was just being discussed at 801 South -- we use that as an example because that's the only real workforce housing project. But with seeing that just within a year, the resale average is $130,000 on average of the 23 sold units, if you were to share in that equity, that buyer is still making more money than they would be buying a comparable resale that's already had the equity taken out of it from years of owners. The equity to be gained is out of the first sale; right?

MEMBER OH: That's precisely my point; right?

MR. ALLEN: And then they're also earning the benefit of maintaining that price below a certain percent AMI with your rule as 140. So if the price -- the first sale price is being held low, then that means that that second sale price to the open market is going to be exponentially higher than any comparable resale of an older building comparable. Does that make sense? That's a hard question to answer because it's speculation of what buyers would intend but --

MEMBER OH: And that is a difficult thing to gauge, right, obviously? But in terms of this comparison, it's pretty evident that if given the same set of options, I would choose a building without shared equity, obviously, but, I mean, there are other factors that you're seeing on the ground.

MR. ALLEN: Yeah. Currently, over the 30 years from 1985 to 2015, the average increase of value in property is 4.5 to 4.9, depending on single family versus condo. That's the 30-year average with all the ups and downs of the '90s, the 2006, you know, reduction, and the average is 4.5 increase per year over 30 years. You're not going to see that. You're going to see much larger equity growth for these folks who are buying workforce and selling it, even with shared equity. You're still going to beat that 4.5 number. Everyone at 801 South is. Even if they shared that with the HCDA, they'd still beat that 4.5 30-year average --

MEMBER OH: Are you talking to the future or --

MR. ALLEN: I'm talking the 30-year average from 1985 to 2015, 4.5 percent increase in property value. It ranges from 4.5 to 4.9, depending on single family. Then, of course, that's statewide. You're seeing greater growth and increases in the metro areas. Yeah.

Oh, thank you. You reminded me on a second point. As far as these cash-in-lieu options, I highly oppose that. We don't have a cash shortage per se, but we do have a housing shortage. So cash in lieu of housing, I think, is unacceptable. But these rules are a great start and a great -- you know, great opportunity for us to kind of get together and chat. Thank you.

CHAIR WHALEN: With respect to the --

Are there any other questions?

With respect to the question of shared equity on the sale of the unit, I was going to ask staff on the example of Ke Kilohana, it's a reserved housing unit. I think there were 375 units up for sale. They all have shared equity requirements. I believe the number of people who wanted to buy a unit, there were 900. They had less than 900 people who were qualified. So it doesn't seem to have been a deterrent in that instance.

MEMBER OH: With that aspect, the Ke Kilohana was reserved housing. So depending on the AMI, I think it's 100 percent at two years, three years and five years. So there was a finite amount of shared equity at that point for the Ke Kilohana.

But, Deepak, I think it changes things

when it's held in perpetuity versus a set period of a shared equity/buyback option; right?

MR. NEUPANE: Shared equity has always been in perpetuity.

MEMBER OH: I'm sorry. For the reserved housing?

MR. NEUPANE: For the reserved housing. Even in the Chapter 22, which is 2005 rules, shared equity, once created, stays there forever unless the unit is not sold. So the only difference that has been proposed in the addendum --

MEMBER OH: Is the buyback?

MR. NEUPANE: -- is that the Authority retains the buyback option.

MEMBER OH: The option to buy. That's more along the lines what I was referring to, the buyback option being held in perpetuity.

MR. ALLEN: I don't see that as being a deterrent.

MEMBER OH: Either?

MR. ALLEN: No. People want houses. I mean, they're clambering. There's 58 percent owner occupancy in Hawaii overall. 42 percent of our population rents. That's far from any number anywhere else in the country. We're totally flip-flopped. We need way more owner/occupants. Now, I'm saying that, but here I am asking for stricter and tighter regulations on development. But not all development. Just on workforce housing, reserved housing. And I think that there's plenty of room. I'm fully willing to disclose my income. I'd love to share that opportunity with anybody who else who's a developer --

CHAIR WHALEN: Not necessary.

MR. ALLEN: -- to see how much they're making on their workforce housing projects.

CHAIR WHALEN: Not necessary.

Okay. I think that's it for our questions. Thank you very much, Jesse.

EXECUTIVE DIRECTOR: Chair, just a brief technical comment because this came up a couple of times in testimony. The current rule is 140 percent of AMI. The proposed rules are 120 percent AMI on average up to 140. So that would give us a range of affordability that can be less than 120 and up to 140.

CHAIR WHALEN: Okay. Next speaker, Galen Fox.

MR. FOX: Thank you for the opportunity to appear again before you folks. John Whalen, I apologize for raising my hand. I misunderstood something you said about audience participation. I got it wrong. So I apologize for doing that.

I want to say, once again, that people who work with Kaka'ako United, we're faced with understanding HCDA and the rules under which it operates. We appreciate that the law essentially calls for inclusive housing. That's what the HCDA law was about. We've been working with it for four years. We think that there ought to be a mixed community that includes affordable housing.

We all should remind ourselves that when we're talking about reserved housing, 80 percent of the housing is sold at market rates. We have a housing crisis in Honolulu. We have the worst housing crisis in the country.

According to SMS's report on the homeless population here, which went into a broader look of affordable housing in Hawaii, only 5 percent of the people in Hawaii can afford a median-priced home. So everybody sort of needs help. But when you're selling 80 percent of market and you're reserving 20 percent for low- and moderate-income people, and that's where you satisfy a requirement to build affordable housing in Kaka'ako, you ought to make sure that that 20 percent really goes to the people who need it.

Reserved housing could be sold at almost any level, but I think HCDA should really think hard about its responsibility to push it down to the people who really need it by capping the limit at 120 and not average 120, but top 120.

I do have a comment about workforce housing because it comes up -- this term comes up all the time. Workforce housing originated about 30 years ago in Aspen, Colorado. The problem in Aspen is the people who worked there couldn't live there. They had to travel an hour and a half or two hours to get to work in Aspen. And, you know, the kind of forward-looking, liberal community that Aspen is realized that this was not an acceptable situation. So they created workforce housing.

Workforce housing was workforce housing. It was for people who waited tables, who -- the maids who worked in the properties in Aspen. That's what workforce housing is supposed to be. It's not supposed to be for 140 percent AMI. At least if you're going to do something about it, you can try to push it down to a lower level. Wouldn't it be wonderful if workforce housing really worked so that the people who worked in Waikiki could live in workforce housing? I don't -- I don't think as we sit here, we're going to quite make that happen, but at least we can do better. Thank you.

CHAIR WHALEN: Thank you, Galen.

Any questions for Galen?

Thank you. And you submitted written testimony too; right?

MR. FOX: I did. I encourage you to read it. Thank you.

CHAIR WHALEN: It's been read. I don't know if there's a recent installment that I haven't read yet, but I'll get to it.

Actually, Ricky Cassiday. You're hiding behind the flag there. I wasn't sure if you were still here or not. That's why I missed calling you.

MR. CASSIDAY: I appreciate you guys sitting because I know how bad it is for your back and for an extended period of time, especially those who are doing it without competence (sic).

I think it's important to identify myself so that you guys have a context. I am sixth-generation kama'aina. My Great, Great, Great Grandfather Adams had a house right around the corner. His children had a mill called the Lucas

Mill. We built the palace.

MR. YOSHIOKA: (Inaudible.)

MR. CASSIDAY: You know, I hate Wayne because he takes the worst comments of mine and he puts it out over the thing, and it's easy for me to look dumb. But sounding dumb is something I try not to do.

So I'm not counting my three minutes left, but let me finish my background because it's important to see where I might be coming from. Context is everything.

So kama'aina Hawaiian. Grew up here. Dad worked for Amfac. We did the first leasehold conversion in Niu Valley. We went to Dennis O'Connor and got the -- our neighbors their fee simple.

I'd like to come back to that for a sec because what's different about Hawaii than any other place in the world has to do with the concentration of landownership and the drive to own stuff and the inequity of the tax system and the surrogate of wealth, owning your land. I mean, it's a big deal to own your land, and so restraints on it really do hurt, especially some people.

So I grew up a surfer, went away, came back, started working for Gentry Homes. I went through the first affordable housing bubble, and I dealt with all the bureaucracies that grew up in order to mandate equity. Okay. The city's affordable housing staff went down in flames, eventually. It didn't really help, per se, sell homes. It did help equity, and it was wildly successful in terms of moving everybody out west. After which, the rail came in to move everybody back east. So you gotta watch out for unintended consequences in the long term. This is a long-term view.

I've worked for every developer in town, except the smart ones, a bunch of law firms, landowners, banks, offshore guys, onshore guys. My practice is consultancy. I write feasibility studies about 60 percent of the time, long-term studies 40 percent of the time. Affordable housing is about 35 percent resort/residential, 35 percent in primary housing. I do maybe 40 percent rental and 60 percent for-sale.

I've worked for a lot of public agencies, including yours, the state. I did the 2000 affordable rental housing study, and that's where I'd like to start my testimony because that showed how bad things are. One in five of us needs public housing. That's 80,000 people. At best, there's 10,000 units.

The next one in five needs workforce housing. So two in five people are suffering badly right now, struggling to get housing. And if you look at the interest groups and the people testifying today, two in five did not show up. So there is a large silent majority struggling to get housing. And that would be my point of departure for rules -- any rules. I took off my glasses. I suggest you do the same thing and look at history.

Okay. Affordable housing worked in the '80s, and then after that, more and more rules came in, and every time they came in with a vengeance is when the real estate cycle heated up, and this is no different. The rules then got instituted at great -- public hearing, and then the economy turned or something happened and development went away. And then you had the down cycle, which is the struggle the agencies all had, planning whatever, in getting rid of the rules or creating exemptions. So your history is like this. You're doing it again. And I'm not going to comment specifically on the rules unless you ask me to, but in general, rules bind development. And in general, development has gone from, you know, 5,000 a year to 2,000 a year, if that, and that's why we're in the problem we are today.

The state and the city and Kaka'ako all need housing. Kaka'ako is a state agency funded by my grandparents and great grandparents. They fixed the infrastructure. Okay? Their investment needs to be realized. I'd like that to be noted. One of the best ways, if not the best way, for investment to get realized in Hawaii is to put your investment in our comparative advantage. It's a bunch of economic talk. But, basically, Hawaii is best in the world at quality of life, both short term, long term. That's why we have a visitor industry. That's also what makes us radically different from San Francisco or Boston, places where there is high incomes to afford expensive houses. Here what we do is we rip off the rich people. It's a Robin Hood model and it works very good. But at the end of the day, in order to house the least fortunate among us, we have to take from the most fortunate of the world, and they're all demanding to come here. So that's why, you know, the model hasn't worked for workforce housing. They're the one guys in the middle that really -- that they work their okoles off and they don't get -- I hate to put it this way, and, you know, I hope Wayne cuts this out, but they don't get respect or they don't get love and they don't get facility. And this is a change over my lifetime. I mean, I grew up. You know, everybody was all the same. You help your neighbor. You help your kids. You try and get them something.

So my glasses are off. I'm not talking to the rules, but I'm talking to the purpose. Okay. Your purpose, as a state agency, is to give the widest benefit to the widest number, to our people. And if two in five are struggling for housing and you're coming up with rules that may not do that or you're trying to tweak it, be careful. And here's where the rubber mitts hit the road. Be careful if developers stop developing. That happens. Okay? And it's not just development of affordable housing. You've got to see the continuum of development. Okay? There's super low end, low end, go up the ladder. Any housing helps. It doesn't hurt. Your purpose should be to get the best benefit out of all housing and redistribute it to those most in need rather than to put a bunch of rules in place. Okay? Rules have a way of sticking and having unintended consequences.

I'll leave you with this: Study what you're doing and put as your number one priority the creation of housing for the most people.

CHAIR WHALEN: Okay. Thanks, Ricky. I believe you were the economist or you were the one that did the market analysis for Kapiolani Residence?

MR. CASSIDAY: Which developer was that?

CHAIR WHALEN: SamKoo.

MR. CASSIDAY: Yeah, I did.

CHAIR WHALEN: Yes, you did.

MR. CASSIDAY: Yeah.

CHAIR WHALEN: Did you say that it was successful at selling units to households at 120 percent at AMI and below?

MR. CASSIDAY: Yeah. I was amazed at that. It was wildly successful. You had all sorts of people clambering for it. I got a double benefit from that when one of the realtors in South Korea called me and had me translate for them why those Koreans should buy. It was very successful. I was surprised. They had to deal with the three agencies, and they got to where they wanted to go.

Now, I've got to warn you a little bit about Asian investors, and I'm working for China Oceanwide. Their definition of profit is different than Americans. That's another difference between us and the rest of the country. We only have a couple developers that have learned how to do this. But their definition of profit goes over generations. SamKoo, the guys out in Hawaii Kai, lost a ton of money, the Koreans out there. It's a little different.

I got into an argument that I lost with HHFDC about this principle of mine, and I shared it with SamKoo. I said, you know, if I was God, and you now have a bunch of reasons why I shouldn't be, but if I was God, I would have gotten the most amount of money out of that place by selling it all at market, and then going to a place in Honolulu where the land is cheap and construction is easy, infrastructure and all that, and I'd put up more houses there and shelter more people.

So the cross-subsidization that Paul talked about, I think, you know, and this would be my shining light for rules, what's the best benefit for the most amount of people? And if it's not putting affordable units in luxury buildings and, instead, it's putting it into Kalihi or Waipahu or wherever, I take a hard look at that. You guys do have a boundary. I understand that.

CHAIR WHALEN: Okay. Well, in the case of SamKoo, you're probably aware that they bought that land, the site, at the peak of market.

MR. CASSIDAY: Yeah, they did.

CHAIR WHALEN: Probably a higher valuation than it might even be today. But they made it work. There was high demand for the units, and they were sold out as of December last year. So it can work. I think if the objective is -- of course, we're looking at just Kaka'ako District, but the city's policy is to promote affordable housing close to rail stations, and Kaka'ako is along the rail line. So, hopefully, we're consistent with that city policy. But it's very challenging here because of high land cost and expectation of landowners in terms of value.

Transportation is part of the living cost; right?

MR. CASSIDAY: Absolutely.

CHAIR WHALEN: So it kind of goes hand in hand. In other words, if you can reduce your transportation costs, you might have more disposable income for paying for housing; right?

MR. CASSIDAY: And you should marry the two. You should put affordable housing on affordable transit. And that's why I'm afraid of the rules here migrating over there and vice versa because, again, I don't see -- the mayor's my classmate. I'd look at Kirk and I say, "You know what, the problem is housing. It's not transit. You don't need a shorter commute. You need to shelter your people. Okay? And you need to pay for rail somehow. So you ought to figure out how to do stations that have all the real estate, all the cross-subsidization and pay for itself, instead of cannibalizing everybody's social -- you know, their safety net."

CHAIR WHALEN: And I think the point was brought up. I mean, I don't know what your viewpoint is. I'm asking if we -- if the city and state were to invest as much in housing as they are investing in transportation, we might have a better situation?

MR. CASSIDAY: That's a great point, and my read on that or reflection of what you just said is that if Duncan MacNaughton and Bert Kobayashi can make money, so can the city and so can the state. I mean, again, our quality of life is what makes us us, and so we ought to do a better job of sharing that benefit with us.

CHAIR WHALEN: Thank you, Ricky.

Any other questions?

Thank you. And for the life story.

Next is Sharon Moriwaki.

MS. MORIWAKI: Good afternoon already, Chair Whalen and members. Thank you for the opportunity to come, once again, to speak with you on behalf of Kaka'ako United. I'm testifying because I'm really saddened by the testimony that I've seen that just separates our community, those who need affordable housing, and we know there are many, many, and those who need employment and also profits. And I share in understanding the needs of both.

If you looked at, and I hope you do, the testimony by Diana Lorenz, who's with Feeding Hawaii Together, she provided you with just a list of all the salaries and it was 2010. So it might be higher today. It might be lower today. But even looking at construction unions that we've heard from, the highest paid would be those with Heat and Frost Insulators and Allied Workers. They're more talented, I guess, or skilled. They're making $81,000. Our median salary range that you're looking at, 100 percent of AMI, is 100,000. So you look at that and you look at what we're here for and what we hope that you will do as the board for building in Kaka'ako is that we want a community, and that's a community made up of diverse people, not necessarily buildings. And people aren't investors. People are people who live and want to live in Kaka'ako.

It saddens me with the 801 South Street who are looking at equity and building equity at an average from -- we have an MLS listing of all the sales, the 18 sales between 2015 and 2017. The average profit made or increase in what was bought at your reserved or workforce housing rate and what they sold for is about $130,000.

Again, we want the housing, but the housing should stay in that pool for people who need the housing. And that's what I think HCDA was created for in serving the needs of the people, and that was to build housing for the downtown workers to have housing here that would be close to their workplace. It's workforce housing, not workforce housing for the developer. And that's what the misnomer of workforce housing -- and I really appreciate the board changing what workforce housing is and making it the same as reserved housing in terms of what the schedule is because workforce housing is supposed to be for the workforce, as Galen said. But using that standard is 75 percent of the 140 percent AMI. I mean, that is not workforce housing. That's not housing for the workforce. That is just the percentage of units that would be sold in workforce -- for the workforce. And, again, changing that and having the same rate at the 120 percent is still high at 20 percent over the median which is, you know, 120,000 for a family of four. And that still is more than --

If you look at this listing that Diana provided, who can really afford that? And we want a community of people who live and care about Kaka'ako, and that's why we're so much for affordable housing is that we are creating this for people, not for the development. And, in fact, the front of the house is making a lot of money, as Brewbaker mentioned that Howard Hughes said. I mean, a one bedroom at a ground-floor level is $1.5 million. That's your 80 percent. We're talking about 20 percent that is for 120,000 -- 120 percent AMI. That is for people who really want to live.

We go around driving at night in Kaka'ako. I'd say half of the buildings are dark. So you can be building all this housing, but it's not housing people. And I think that's the bottom line here in that what HCDA is responsible for doing is really creating housing for people, and that housing has to be for our people who are workers, the people who can't afford it. And so I really urge this board to think carefully that you're here not for the development. If the developers don't want to build, then let us have green, open space for parks.

And the cash in lieu is also not something that we would want because you never can get enough money from the developers to build a unit that's comparable to what they would build. So let them build. And if they don't want to build -- I know it's in the law -- then make it so unattractive that they won't take the cash in lieu.

So I urge you, once again, on behalf of the people who live here and work here, who really would like to see a community here that you -- you, the board -- can set the policy. And as a developer friend of mine said, "You set the policy, you do it. If you set it high, great, we'll take it to the edge." So I leave that with you in terms of your responsibility for us, the people. Mahalo.

CHAIR WHALEN: Thank you, Sharon.

Any questions, board members? Thank you.

Last one signed up, waiting very patiently, is Council Member Carol Fukunaga.

COUNCIL MEMBER FUKUNAGA: Good afternoon.

CHAIR WHALEN: Good afternoon.

COUNCIL MEMBER FUKUNAGA: I'm just going to offer very brief comments. You have my written testimony. I did want to comment, in particular, on what I think is a very valuable direction that we're moving in.

You know, the Department of Planning and Permitting recently amended their comments to reflect an interest in attaining closer alignment between city zoning policies and HCDA's zoning policies, and I think that's really an important step forward because what HCDA has done with the proposed amendments to the reserved housing rules has really established sort of a benchmark for looking at how the city and state can develop the most affordable housing in the urban core, and I certainly applaud that.

I do support, you know, the city's kind of endorsement of the 120 percent AMI level; although, we do not yet have that ordinance proposal before us. But I do know the city has been working for a very long time. And I think the steps that HCDA is taking at this point are very much appreciated steps forward. I think it will really help to leverage what we can accomplish with TOD development. If the city and state also maximize what we develop in terms of our own state and county lands, the zoning requirements that you're putting into place for affordable housing will really, combined with those requirements, allow us to get ourselves out of this housing crisis.

So thank you for the opportunity to testify, and I'm happy to answer your questions.

CHAIR WHALEN: Council Member, thanks, first of all, for coming to testify. I think the point about aligning HCDA with the city's policy is very important because Kaka'ako is part of the City and County of Honolulu. I mean, these boundaries are kind of artificial in a sense. But there are some things that are proposed in the city's -- at least, I realize it's a draft until it's actually adopted by the city council -- that offers certain kinds of incentives for affordable housing. I think that kind of goes hand in hand with the requirements. And one of them is relaxation of real property tax assessments, which is a big issue in Kaka'ako.

COUNCIL MEMBER FUKUNAGA: Yes.

CHAIR WHALEN: And I wonder if those incentives could also be available for developments in Kaka'ako. For example, if somebody's doing a rental housing project that's exempted or there's a reduction, at least in real property. I know it's a sensitive issue right now, real property taxes, but if those kind of incentives could also apply to Kaka'ako projects.

COUNCIL MEMBER FUKUNAGA: That really is a very good point to raise. You know, one of the comments I received at last night's neighborhood board meeting in Nu'uanu was whether or not the city might consider real property tax incentives for those who develop ADU or permanent supportive housing units to help address some of the homeless housing needs in Honolulu. And, you know, although the city is facing a lot of challenges, I think if there's ways that we can create opportunities for people to try and pitch in where possible, the more we create incentives, I think they actually work better than mandates in many instances.

So to the extent the city's zoning incentives and HCDA's incentives go hand in hand, I think that's going to be very valuable. I don't necessarily think the HCDA's incentives and city's incentives need to be the same. I think the focus on the particular groups that we're trying to help is important, though.

CHAIR WHALEN: Okay. Thank you.

COUNCIL MEMBER FUKUNAGA: Thank you very much.

CHAIR WHALEN: Okay. Is there -- we got through the stack. Is there anybody else who did not sign up that wishes to testify?

Yes, please.

MR. CHANG: I wasn't planning on speaking.

CHAIR WHALEN: Pardon?

MR. CHANG: I wasn't planning on speaking, but you guys inspired me.

CHAIR WHALEN: Oh, a spontaneous testifier. I think you actually testified before.

MR. CHANG: Yeah, a long time ago.

So my name is Henry Chang. I'm with Ililani LLC. We're trying to develop workforce housing across from Halekauwila Place, and it's a very difficult site, L-shaped, kind of a constrained site.

What I want to talk about is process. And, mainly, it's that, you know, we all drive cars; right? And when you have a green light, you go through the intersection, but when you have a flashing yellow or a flashing red, you kind of slow down and you decide whether it's safe to cross or not.

So since November and before that, in September, we've been giving our opinions with other developers to the governor's office and HCDA task force, and we've been waving the yellow flags and red flag. Recently, I've been hearing that the big banks in Honolulu, they don't think that perpetual deed restriction on workforce housing is financeable via mortgages. That's a big red flag to me. It could mean that we talk to banks. If they say, "No workforce housing," we say, "No workforce housing."

So our goal -- Ken and I are brought up in Honolulu -- we want to create a lot of midrange housing. Now, if we can't, we're going to have to go to market and reserved housing. So I just want to suggest that May 31st is a big day. It's crossing the intersection. And if you decide to gun it in spite of guys waving the red and yellow flags, I think that would run counter to our instincts to be careful at intersections. In the case of what's the consequence of having to stop at a red light? You just have to wait until it's green again and try again when it's safe.

So my question is, is it absolutely

necessary to make a yes vote for those rules on May 31st, or is there opportunity to say "Time out"? Let's listen to Chris Deuchar. I think Chris Deuchar's arguments were very compelling. You want to have extended price restrictions. Do it in a way that bankers say, "Yeah, we can finance that." And don't put --

Some people may disagree, but I view 801 South Street as a runaway success. People wanted it. Even if some people rented it, some people won the lottery and resold at 2 percent, most of the people who are living there are staying there because there's nowhere else to go. And gap housing has always been a problem for Honolulu where how do you create it. And Marshall Hung, he said, "I could have charged 30 percent more, but I didn't because I wanted to create cheap stuff for people to buy."

So I would encourage you to, like, be very careful. I know there's an urgency -- there's a desire to get it done where you want to have, you know, permanently low-cost housing put into place, but I would suggest, to me, when you have all developers, contractors waving the yellow and red flag and bankers saying "This is a problem," I would suggest you take more time with Chris, because he's got a lot of credibility. You know, he's not, like, active in Kaka'ako actually developing a project. You know, just take some time to talk to him and understand whether this is a time to press the button. Because I think, you guys, this to me is like a yellow-red flag flashing in the intersection. It's worthwhile taking some time.

CHAIR WHALEN: Okay. Thank you. I just want to ask have you filed an application for a workforce housing development project?

MR. CHANG: We submitted our initial development application. We're incomplete. So we're continuing to work with it, and we're going to meet with HCDA to address the comments.

CHAIR WHALEN: So a delay would actually help you, wouldn't it?

MR. CHANG: Well, obviously, it would, but in our case, it's more a case of it's not that we would -- we're concerned about the rules being an incremental problem for us. They're a yes-or-no problem for us whether we have to go to market or not.

CHAIR WHALEN: I just wanted to hear the background.

MR. CHANG: That's true. Thank you.

EXECUTIVE DIRECTOR: Chair, might I make a technical comment?

CHAIR WHALEN: Yes.

EXECUTIVE DIRECTOR: The issue by the, quote/unquote, "big bankers," you know, we've seen it in the testimony and it is a concern. And so we followed up on it. And the comments are general. So they're not specific. There's just this general comment from the lenders and some of the banks that it might create a hurdle for financing in what they say is the secondary market. And to address that, staff has reached out to HUD. We have looked at the guidelines that are posted online for Fannie Mae/Freddie Mac. And we've received testimonies from the city's consultants who package these types of loans as his expertise and works with these institutions, and they all consistently find that it is not a fatal flaw to have a deed restriction like the kinds we're proposing; that there is going to be a need to tailor the instruments for conveyance in a way that makes sense to the lenders, but it's -- from what we've found so far in consultation, it is not a fatal flaw. But we are still meeting with some of these lenders between now and the next meeting to really hear specifically what their concerns might be and try to address those and have some kind of a recommendation to the task force for consideration.

CHAIR WHALEN: Well, as came out in the earlier testimony and comments, many other jurisdictions have permanently affordable housing requirements for their for-sale projects. And so somehow they managed to finance for new buyers of those same units, and they were able to sell them to the secondary mortgage market. So we can learn from those jurisdictions, if we need, on what steps they needed to take to ensure that that would -- the resale of those affordable units could be.

MR. NEUPANE: I have some literature and looked at Fannie Mae and Freddie Mac, VA, FHA and all of them and what they call their guidelines for secondary sales and mortgage, and in reading that guideline, what they call the restrictions that are in the proposed rules are what they called acceptable restrictions. And so it seems like it shouldn't be an issue.

CHAIR WHALEN: Okay. Thank you.

Anyone else wish to speak that hasn't? Please.

MR. WALTHER: Hi. I'm the same person who didn't sign up last time and testified.

Chairman Whalen, I still owe you a written summary of what my testimony was from the last meeting.

Again, my name is Kent Walther. I work with Tradewind Capital Group. As I mentioned previously, I worked on the financing of quite a few developments, many of which were in the Ala Moana and Kaka'ako area. And as I mentioned earlier, 801 South Street is probably the one I'm most proud of just given the impact to the community and the product type that it represented.

So I just wanted to address one thing that I heard mentioned was, Chairman Whalen, I'm -- it's very hard to hear your comments and Member Waterhouse's comments about going to outside consultants, kind of figuring out what the different impacts of these different rule changes would be, which is what I asked for in my previous testimony. I thank you for that.

Director Souki, you know, going to HUD and going to the different lenders, you can listen to these various developers or people with vested interests opine on these things, but I think once you get it from the people who actually know and know what the impacts are, that's powerful.

One thing I wanted to specifically address, Chairman Whalen, you brought up the SamKoo project which is called Kapiolani Residences. When I first started looking into this issue of proposed amendments, my first question, I think, was similar to yours which was, "Hey, if those guys can do it with the buyback restrictions, with the shared equity provisions, why can't other developers do it? If they can make it work, obviously, you can too."

So I had the question. What I've been told -- and this isn't really my story to tell because I encourage you to talk to the developer of Kapiolani Residence. They're the people they've been working with. In that instance, the developer was required to put up a substantial -- a substantially higher amount of equity than would normally be required of a developer.

As I mentioned, I've worked with several local developers here in town on the financing side. I just want to say that I think there's value to working with local developers, such as some of the ones mentioned, Kobayashi-MacNaughton. Developing these 400-foot high-rises is inherently risky and dangerous. No matter how good you are, things are going to go wrong. I think it's important how the developer addresses those issues when they occur.

Deepak, you and I have had conversations before about some of the high-rises in Kaka'ako that you and I may not like. One of them is that the Koolani project built by a Florida-based developer who came in, did a one-and-done project. They finished it, had major issues with before completion. The Florida developer set up a shell LLC to develop the project. The owners had no recourse to the developer because they were chasing basically a shell company.

Local developers like Kobayashi, MacNaughton, Marshall Hung, Stanford Carr, these guys live and work here. They're in the community. They want to keep doing project after project. They can't just burn bridges like that.

I think a lot of you probably saw on the news the other day there's a developer in town here recently called China -- I'm sorry -- Hawaii City --

Mr. Fang of Hawaii City Plaza recently submitted testimony to Council Member Fukunaga and her colleagues at the city council. I read the transcripts, and I was, like, 25 percent amused and 75 appalled by some of the things this very tone-deaf representative -- developer was representing to the council, even culminating in a discrimination lawsuit against the city. You know, these foreign investors and developers come into the market. I'm grateful for some of the housing product they provide, but do they have the same interest and same care for the community that some of the local developers have? I believe the answer is no.

And the point I'm trying to make is you look at Kapiolani Residences, the financing structure that was implemented for that project with a huge amount of equity is not something that the local guys would be able to do. You would have to have what Wayne doesn't include in the article as "crazy Chinese capital" or "crazy money" coming in.

Ricky Cassiday kind of talked about different profit incentives for these developers. That's a very nice way of saying there's some crazy money out there. Is that who you want to have developing our housing stock, or do you want to have local developers do it? I believe that the proposed amendments would disadvantage the local developers, make it harder for folks like Kobayashi, MacNaughton, Stanford Carr, Marshall Hung, OliverMcMillan, etc., to build the kind of housing for our local residents that we need.

In conclusion, I just want to say I think everyone here is united in wanting more housing, more affordable housing. I think we just have to figure out how best to do it and make sure these proposed amendments don't inhibit the very purpose we're trying to accomplish. I thank you for your time.

CHAIR WHALEN: Okay. Any questions?

MEMBER OH: Kent, you mentioned you arranged for the financing for SamKoo. Well, you were involved in the financing --

MR. WALTHER: Again, that's not my story to tell. You know, previously, I was with BlackSand Capital. We had developers approach us. I was not involved in the SamKoo financing.

MEMBER OH: Okay. But you're aware of what was happening.

MR. WALTHER: I've been told of the equity requirement, and they were not able to obtain the kind of financing that a local developer would need to make a project feasible for that.

MEMBER OH: Right, right. So same thing for myself. I've heard myself too, and this is through the grapevine and all of these different sources, that for SamKoo, the first project was really about a lost LEED project; is that correct?

Is that your understanding?

MR. WALTHER: Again, I can't speak to it, but from what I read in the paper, they have multiple projects that are tied together. So maybe they're going to lose money on one and make it back on the second. Again, it's not my story. I don't fully understand the economics there. I have heard from and met with the developer, which I encourage all of you to do so, the SamKoo developers, kind of get an understanding of what their motivations are, how they're structured, what their level of expertise is. It's a very different animal than what you'll find is a typical development here. And I don't want to say too much because it's really their story.

MEMBER OH: To clarify -- to confirm, you're saying the developers -- the local developers right in this state basically don't have the wherewithal or the capacity to put in the equity as much as SamKoo did on that project?

MR. WALTHER: I say they don't have the capacity, and they're making more sane decisions in terms of the finances of these projects.

MEMBER OH: Okay. All right. Thank you.

CHAIR WHALEN: But the project's being built and it's sold out.

MR. WALTHER: For which I'm grateful, yeah. How many of those can we produce and who do you want developing them is the question.

CHAIR WHALEN: Any other questions?

MEMBER BASSETT: Just to follow up, are there specific amendments that you can point to?

MR. WALTHER: Thank you for asking that. So I would actually defer to, like I said, with Director (sic) Waterhouse's question and Director Whalen's questioning. I would defer to the experts on that. I can talk about how the banks aren't going to provide mortgages or the banks aren't going to provide construction financing. I just gave a concrete example of how the banks would not provide construction financing to the SamKoo developers up to the level that a local developer would need.

I would rely on the experts like Paul Brewbaker, Ricky Cassiday. I strongly encourage you to read the UHERO reports by Sumner LaCroix and by Paul -- Carl Bonham to figure out what the impacts of the specific rule changes would be. I think a lot of us are kind of speculating. I'd rather defer to the experts.

CHAIR WHALEN: Any other questions? Thank you.

MR. WALTHER: Thank you.

CHAIR WHALEN: Are there any other spontaneous testifiers? Okay. Well, that seems to wrap up -- oh, I'm sorry. Okay. Bob Nakata.

MR. NAKATA: Thank you, Mr. Chairman and members of this board. I'm Bob Nakata with FACE, Faith Action for Community Equity, and my perspective may be a little bit different, but I think it is important.

I've appeared before you in the past and I'm surprised at the reaction that I got. But what I'm looking at, and I'm coming off the legislative session, my disappointment that no funding solution came out of them for rail. And I've always seen rail and affordable housing together. They go together.

As a state -- as a city, the investment, and I use that word advisedly, the investment in rail, not the cost of rail, the investment in rail is something that needs to be done. But those who financially benefit from the construction of rail should have some investment in affordable housing for the people of this city, and I don't see that. And I think you folks are in a position to -- and I don't want to use this word, but I will -- extract something from them which is of great benefit to the people of this city, and that benefit is affordable housing. So these are not terms that I like to use, but those who benefit from the construction of rail should be giving something back to this community in the way of affordable housing. So I'm glad to see the movement in talking about how do we get those who benefit from the rail to contribute to its cost. And I think what you folks are doing is one of those things.

Again, in words that I don't like to use, but the development community needs to be forced to make that contribution. On the other hand, I'm involved somewhat, and I don't know whether I'm free to talk about it or to mention his name, but there is an effort going on to say affordable housing is something that demands all of our participation and it's costly. It's very costly. That's why we don't have what's needed. But the different parts of the development community should be contributing to the production of affordable housing because they are -- they are benefitting from it. So the effort is to talk to the different segments -- bankers, laborers, others who benefit from it -- to say to each we all have to give to the common effort, and I was going to say housing, but the common effort of building a good community.

Cassiday always surprises me. He comes at it from a unique perspective also. He sees that we have built a great community. We have. The natural beauty of this state is God given, but in the process of building an economy, Hawaii attracted all kinds of people, and it was hard won that we learned how to live with each other in a good way. That's the contribution that Hawaii has to give to the world. So maybe what I'm talking about is another step in that direction. How do we, as a community, with different interests come together to build the affordable housing that we need going on into the future? We need to put some effort in that direction.

So I'm glad that you folks are doing what you're doing in terms of trying to develop a more equitable system which provides housing for everyone. Thank you.

CHAIR WHALEN: Thank you.

Are there any questions?

Thank you.

Any other speakers?

Okay. Then on behalf of HCDA Authority members and its staff, I thank you for your attendance at the hearing and patience. The decision-making hearing will be -- as I mentioned earlier, will be conducted on May 31st at 9:00 a.m. in this room. So the hearing now stands adjourned. The time is now 12:26 p.m.

(The hearing adjourned at 12:26 p.m.)

C E R T I F I C A T E

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 27th day of May 2017 in Honolulu, Hawaii.

____
LAURA SAVO, RPR, CSR NO. 347