

STATE OF HAWAII
HAWAII COMMUNITY DEVELOPMENT AUTHORITY
KAKAAKO
Honolulu, Hawaii, 96813

April 5, 2017

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

HCDA Board Members:

SUBJECT:

Shall the Authority Authorize the Executive Director to Negotiate and Enter Into an Agreement with the Hawaii Housing Finance and Development Corporation (HHFDC) to Serve as the HCDA's Designated Buyback Authority to Repurchase and Resell Rycroft Terrace Reserved Housing Units Sold During the Regulated Term, in Accordance with HHFDC's Affordable Housing Program?

SUMMARY:

Given the HCDA's staffing limitations, an agreement between the HCDA and its sister agency, the Hawaii Housing Finance and Development Corporation (HHFDC), would be beneficial for managing units subject to the Reserved Housing program and keeping such units affordable in the long term. Given HHFDC's expertise in administering a successful affordable housing program, it is more efficient for the HCDA to enter into an agreement with HHFDC than procuring for such services elsewhere.

AUTHORITIES:

Hawaii Administrative Rules (HAR) § 15-22-186(c)(1) states that during the regulated term, "If an owner wishes to transfer title to the reserved housing unit, the authority or a governmental agency approved by the authority shall have the first option to purchase the unit [.]"

On September 7, 2016, the Board delegated to the HCDA Executive Director the ability to execute buybacks at the price determined under HAR § 15-22-186(c)(1) of the vested Mauka Area Rules, provided there are adequate funds available in the Hawaii Community Development Revolving Fund, Reserved Housing subaccount. The Board directed staff to return to the Board for approval if utilizing other funding sources. The minutes for the September 7, 2016, General Meeting are attached as Exhibit A.

BACKGROUND:

To date, the Board has exercised its right to buyback two units during the regulated term. At the Board's direction, HCDA staff initiated the buyback process of Rycroft Terrace Units "A" and "B" in November 2016. HCDA staff procured appraisal services to assess the current fair market

values of both units, which was completed in February 2017. HCDA staff was then able to calculate the final purchase prices based upon the formula in HAR § 15-22-186(c)(1).

By rule, the purchase price is the lower of:

- (A) The current fair market value of the reserved housing unit less the authority's share of the equity in the unit as determined by HAR § 15-22-187 of this chapter; or
- (B) The original sales price of the reserved housing unit adjusted proportionately to the change in median income computed from the date of the purchase to the date of the sale.

Rycroft Terrace Unit “A” Repurchase Price = \$216,515 (lower of the two calculations)

Calculation A	
Current fair market value	\$275,000
Shared equity	-(\$44,700)
Purchase Price	<u>\$230,300</u>
Calculation B	
Original sales price	\$203,300
Change in median income	x106.5%
Purchase Price	<u>\$216,515</u>

Rycroft Terrace Unit “B” Repurchase Price = \$162,391 (lower of the two calculations)

Calculation A	
Current fair market value	\$239,000
Shared equity	-(\$33,520)
Purchase Price	<u>\$205,480</u>
Calculation B	
Original sales price	\$152,480
Change in median income	x106.5%
Purchase Price	<u>\$162,391</u>

HCDA staff met with HHFDC staff to discuss the possibility of a partnership that would result in longer affordability and alternative administration of HCDA’s Reserved Housing Units. HHFDC currently manages affordable housing units across the state and has experience in reselling such units to qualified buyers.

HHFDC staff noted they are open to entering into an agreement with HCDA, provided they are able to apply HHFDC’s rules after the repurchase is complete. Both HCDA and HHFDC agreed that the repurchase price calculated by HCDA rules must be honored with the original owner, as calculated above. Both agencies also agreed that the resale price for a qualified new buyer must not exceed 140% area median income (AMI) threshold, consistent with both HCDA and HHFDC rules.

However, HHFDC proposes that the HCDA rules governing the Reserved Housing Unit would be lifted after HHFDC purchases the unit. HHFDC staff is well versed in the application of their own rules and HCDA staff concurs that the units would be managed more efficiently by HHFDC if they were not subject to HCDA rules and covenants after repurchase.

HHFDC staff noted that they must still complete their due diligence to determine if repurchasing the units at HCDA's prices (calculations according to HCDA rules) would be workable. If it is determined that it is not financially feasible for HHFDC to complete the repurchase, HCDA's/HHFDC's first option to repurchase the Reserved Housing Unit would be waived.

HHFDC's affordable housing program contains both a regulated term and a shared equity provision, much like HCDA's Reserved Housing Program. However, HHFDC's program is more standardized and does not vary from unit to unit. Under HHFDC's program, each unit is subject to a 10-year regulated term and a fixed percentage of shared appreciation equity (SAE) that may be paid at any time after HHFDC's initial resale to a qualified resident purchaser approved by HHFDC, but is due and payable upon sale or transfer as stipulated by HAR § 15-307-125.

If HCDA and HHFDC entered into an agreement, HCDA's Reserved Housing stock would be transferred to HHFDC upon HHFDC's repurchase of the unit from the original owner at HCDA's calculated repurchase price. HHFDC would then resell that unit to a qualified resident as defined in HRS 201H-32 whose income does not exceed a maximum of 140% AMI at a price calculated by the HHFDC. HHFDC would strive to resell the unit to the original AMI category served when HCDA set the guidelines for that particular unit, or the next higher AMI category that would allow HHFDC to cover its costs under this program. Upon resale, the unit would become an HHFDC-regulated unit and would be managed under the same conditions as any other HHFDC inventory.

Entering into such an agreement would produce the following benefits for both agencies:

HCDA Benefits

1. HCDA does not need to procure services for a real estate broker to conduct the buyback and resale of applicable Reserved Housing Units.
2. HCDA does not need to create a program to manage buyback and resale of applicable Reserved Housing Units.
3. HCDA does not need to expend any funds on repurchasing or reselling Reserved Housing Units.
4. Reserved Housing Unit owners and potential buyers gain the expertise and knowledge base of HHFDC, resulting in more timely transactions. This is especially important considering the two pending buybacks.
5. Reserved Housing Units are regulated for 10 additional years under HHFDC, regardless of the original regulated term length under HCDA's rules (which can be as short as 2 years in some cases).

HCDA Losses

1. HCDA does not collect shared equity from each Reserved Housing Unit sold during the Regulated Term.

HHFDC Benefits

1. HHFDC adds additional affordable housing units to their existing stock.
2. More units are kept affordable for longer with HHFDC's 10-year regulated term.
3. HHFDC gains any profit from the resale of the Unit, including the shared equity that would originally be due to HCDA, which would be utilized for the development of additional housing units.

HHFDC Losses

1. HHFDC staff takes on the administrative burden of managing the program for an unknown number of Reserved Housing Units at the Rycroft Terrace development.

As Rycroft Terrace is the only development in Kakaako Mauka with 10-year regulated terms for all of its Reserved Housing Units, it bears to reason that the majority of buybacks will occur within this development. Regulated terms for other Reserved Housing Units in Kakaako have either already expired or are less than five years.

Additional documentation on HCDA's 2005 Mauka Area Rules and Summary of Costs are provided as Exhibits B and C, respectively.

ANALYSIS:

The Board has previously noted that it is their intention to maintain the affordability of Reserved Housing Units as long as possible. As noted above, an agreement with HHFDC would lengthen the regulated term for any repurchased Reserved Housing Units.

Further, an agreement with HHFDC would alleviate the HCDA staff burden of administering a buyback/ resale Reserved Housing Program, which has not yet been established. The creation of such a program would require at least 5 additional full-time staffing positions and would take some time to ramp up. This would further delay the two pending buybacks that were authorized in November 2016.

Such an agreement would provide a win-win for both the HCDA and HHFDC, as HHFDC is currently well equipped to handle the repurchase and resale of HCDA's Reserved Housing Units. In return for the additional staff workload, HHFDC would benefit from the proceeds of the resale, which would include HCDA's shared equity. Although HCDA would lose this source of funding, HCDA would also not need to expend funds to procure the services of a real estate broker and additional staff. The costs for both of those items would likely far exceed the losses of the shared equity resulting from such an agreement.

Limiting the scope of the buyback authority to Reserved Housing Units in Rycroft Terrace would enable HHFDC to test the program on a smaller scale and take immediate action on the two pending buybacks for Rycroft Terrace Units "A" and "B."

RECOMMENDATION:

HCDA staff recommends the Board:

Authorize the Executive Director to Negotiate and Enter Into an Agreement with the Hawaii Housing Finance and Development Corporation (HHFDC) to Serve as the HCDA's Designated Buyback Authority to Repurchase and Resell Rycroft Terrace Reserved Housing Units Sold During the Regulated Term, in Accordance with HHFDC's Affordable Housing Program.

Respectfully submitted,



Lindsey Doi
Asset Manager

APPROVED FOR SUBMITTAL:



Jesse K. Souki, Executive Director
Hawaii Community Development Authority

Attachments:

- Exhibit A- Minutes of the September 7, 2016 General Meeting of the HCDA
- Exhibit B- 2005 Reserved Housing Rule Summary
- Exhibit C- Summary of Costs

**Minutes of a Regular Meeting
of the Members of the
Hawaii Community Development Authority
State of Hawaii**

Wednesday, September 7, 2016

GENERAL BUSINESS

I. CALL TO ORDER/ROLL CALL

A general business meeting of the Members of the Hawaii Community Development Authority (“Authority” or “HCDA”), a body corporate and a public instrumentality of the State of Hawaii, was called to order by Chair Whalen at 10:12 AM September 7, 2016 at Authority’s principal offices at 547 Queen Street in Honolulu, Hawaii, 96813, pursuant to Article IV, Section 1 of the Authority’s Bylaws.

Members Present: Beau Bassett
Wei Fang
Michael Golojuch, Sr.
Scott Kami
Jason Okuhama
David Rodriguez
Mary Pat Waterhouse
William Oh
Amy Luersen
Derek Kimura
John Whalen

Members Absent: George Atta
Kalani Capelouto
Steven Scott
Shirley Swinney
Donna Camvel

Others Present: Aedward Los Banos, Interim Executive Director & ASO
Mike Wong, Deputy Attorney General
Lori Sunakoda, Deputy Attorney General
Deepak Neupane, Planning Director
Tessa Malama, Director of Planning and Development - Kalaehoa
Lindsey Doi, Asset Manager
Garett Kamemoto, Communications and Community Outreach Officer
Laura Savo, Court Reporter

III. BUSINESS MATTERS

2. Information and Discussion: Executive Director (ED) Search Committee Update

Chair Whalen noted that consultant Bishop & Company, came up with a list of first-round candidates (after reviewing applications, resumes and conducting background checks and some preliminary interviews). The ED search committee will start to schedule interviews this month with those list of candidates.

Member Bassett asked Chair Whalen to clarify the process and asked at what stage the selection for a new Executive Director will be presented before the full board. Chair Whalen stated the ED search committee will interview the first-round list of candidates and present at least two, may be three, candidates for the full board to meet with, interview and to make a selection. The ED search committee is hopeful to make its recommendation by the November meeting.

There were no comments or questions from the board members or the public.

3. Decision Making: Establishment of the 2017 HCDA Legislative Task Force

Chair Whalen named Member Mary Pat Waterhouse, Shirley Swinney and Chair Whalen to the 2017 Legislative Task Force and stated the Task Force is allowed one additional (fourth) member and asked if there was anyone interested in participating.

There were no comments or questions from the board members or the public.

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

- a. Sale or Transfer After the Regulated Term
- b. Sale or Transfer During the Regulated Term

Chair Whalen stated, the board was provided information at a previous board meeting regarding the current item and reminded board members the decision will be made based on ministerial decisions that the board has previously made. The decisions and the delegation follow the rules and regulations related to reserve housing. Chair Whalen asked for any comments before proceeding to a vote.

Member Waterhouse mentioned in the staff report regarding the second item "the sale or transfer during the regulated term" it describes if there are inadequate funds in the reserved housing subaccount and adequate funds elsewhere. She suggested revising the language to reflect "staff shall propose to the board the buyback using other funding sources"

Member Kami asked Mr. Los Banos to expand on the "sale or transfer after the regulated term" and clarify what staff is asking. Mr. Los Banos explained that current

director for a term of four years concerning limited actions relating to the administration of the HCDA's Reserved Housing Program as set forth in the interim executive director's staff report dated September 7, 2016, as amended by the board's discussion today.

Member William Oh seconded the motion.

Interim Executive Director, Aedward Los Banos, conducted the roll call vote. All members unanimously approved. Motion passed with 10 votes and four excused.

IV. ADJOURNMENT

Chairperson Whalen adjourned the regular meeting at 10:55 a.m.

Respectfully submitted,

/s/

John Whalen,
Chair

Note: The transcript of this meeting contains a verbatim record and should be consulted if additional detail is desired.

2005 RESERVED HOUSING RULE SUMMARY

	2005 Rules (All KS, HHC)
Equity Sharing is the HIGHER of:	<p>HAR §15-22-187</p> <p>A. Original FMV – Original sale price</p> <p>B. $((\text{Original FMV} - \text{Original sale price}) / \text{Original FMV}) \times (\text{Resale FMV} - \text{Original sale price} - \text{Sales costs})$</p> <p>Authority shall determine the FMV of the unit at the time of the initial sale and at the time of resale.</p>
Occupancy	<p>§15-22-190</p> <p>During the regulated term, or if Authority waives its option to purchase, owner/ renter occupancy is required.</p> <p>The Authority may evict or buyback the unit if this provision is not met.</p> <p>Chart for occupancy maximums included in rules.</p>
Regulated Term	<p>§15-22-186</p> <p>Regulated terms based on unit affordability (%AMI).</p> <p><100% AMI = 10 years</p> <p>100-119% AMI = 5 years</p> <p>120-140% AMI = 2 years</p>
Income Limits	<p>§15-22-184</p> <p>Buying = <140% AMI</p> <p>Renting = <100% AMI</p> <p>Assets shall not exceed 125% of the above limit</p>
Buyback Authority	<p>§15-22-186</p> <p>“If an owner wishes to transfer title to the reserved housing unit, the authority or a governmental agency approved by the authority shall have the first option to purchase the unit...”</p>
Buyback Price is the LOWER of:	<p>§15-22-186</p> <p>A. Current FMV – Shared Equity</p> <p>B. Original sales price adjusted proportionately to the change in median income computed from the date of purchase to the date of sale</p>
Deferral of equity sharing	<p>§15-22-188</p> <p>ED may defer equity sharing requirement “if owner wishes to transfer title to the unit and the property or lease by devise or through the laws of descent to a family member who would otherwise qualify under rules established by the authority.”</p> <p>Certain waiver conditions apply.</p>

Buyback Summary of Costs**Rycroft Terrace Unit A (1-Bedroom with 1 parking stall)**

- Monthly Fixed Costs (Total = \$658)
 - o Maintenance Fee (\$468)
 - o Property taxes (\$40)
 - o Mortgage Insurance (estimated \$150/ month based on 10% down payment)
- HCDA Calculated Buyback Purchase Price = \$216,515
- Resale Price (assuming same monthly fixed costs and 5% interest rate)
 - o 80% AMI = \$224,254
 - o 100% AMI = \$294,299

Rycroft Terrace Unit B (Studio with 1 parking stall)

- Monthly Fixed Costs (Total = \$369)
 - o Maintenance Fee (\$244)
 - o Property taxes (\$25)
 - o Mortgage Insurance (estimated \$100/ month based on 10% down payment)
- HCDA Calculated Buyback Purchase Price = \$162,391
- Resale Price (assuming same monthly fixed costs and 5% interest rate)
 - o 80% AMI = \$237,658
 - o 100% AMI = \$327,716