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, June 13, 2018

Taken at 547 Queen Street, Second Floor
Honolulu, Hawaii 96813
commencing at 9:03 a.m.
APPEARANCES

John Whalen, Chairperson
Mary Pat Waterhouse, Vice Chairperson
Garett Kamemoto, Interim Executive Director
Deepak Neupane, Director of Planning and Development
Lori Sunakoda, Deputy Attorney General
Max Levins, Deputy Attorney General

MEMBERS PRESENT:
Mark Anderson
Beau Bassett
Wei Fang
Phillip Hasha
Jason Okuhama
David Rodriguez
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PUBLIC TESTIMONY BY:

David Arakawa 7
Wednesday, June 13, 2017, 9:03 a.m.

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CHAIR WHALEN: Good morning. I'd like to call to order the June 13th, 2018, public hearing of the Hawaii Community Development Authority. The time is now 9:03 a.m. My name is John Whalen, Chair of the Authority and presiding officer of this hearing.

Let the record reflect that the following members are present: Mark Anderson, Phillip Hasha, Wei Fang, Mary Pat Waterhouse, Beau Bassett and John Whalen.

So today's public hearing is being convened under the provisions of Hawaii Revised Statutes, Chapters 91 and 206E, and Hawaii Administrative Rules, Chapter 15-219, to consider the following matter: The HCDA is proposing to amend HAR Chapter 15-218 entitled "Kaka'ako Reserved Housing Rules" to promote development of more reserved housing units and 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.

(Member Rodriguez joined the proceedings.)

CHAIR WHALEN: And I'd like to note for the record that David Rodriguez, board member, has joined the meeting.

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

Notice of today's public hearing was published on May 1st, 2018, in the Honolulu Star-Advertiser, Maui News, The Garden Isle, Hawaii Tribune-Herald and West Hawaii Today. 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 rule amendments were presented at the June 16 -- June 6, 2018, public hearing last week.

So the procedure in taking testimony, before we receive the testimony, please let me briefly explain how we go about this. First, the
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. Only members of the Authority will be permitted to ask questions of the public.

Members, if you have any questions for a testifier, please raise your hand at the conclusion of their remarks.

The director of planning and development, Deepak Neupane, will now provide the HCDA staff report.

MR. NEUPANE: Thank you, Chair. The staff report on the reserved housing amendments are in your packet. I'll just point out the difference between the rules that were approved by the board last year, but not signed by the governor, and then the change that's incorporated for this year.

So if you look at the first page, you know, basically two changes were made. One was on Section 15-218-17(j). Additional language was included to provide some flexibility to the board in case, based on the economy, there was some modification to be made in the reserved housing rules to help encourage development.
And the second one was on the regulated term. The regulated term of 30 years in the earlier version was changed to the regulated term of 10 years for both reserved housing and workforce housing, as well as I'd like to mention that the regulated term for the rental housing still stays at 30 years.

With that, you know, if members have any questions because the rest of the presentation was presented in September of last year.

(Member Okuhama joined the proceedings.)

CHAIR WHALEN: Thank you. I'll note for the record that Jason Okuhama, board member, has joined the meeting.

Okay. We received written testimony from Hawaii Appleseed Center in support, and we have one person signed up to speak. I'm happy to see the check part noted "Support" from David Arakawa.

So if you could please approach and give your testimony.

MR. ARAKAWA: Sure. Thank you. David Arakawa on behalf of Land Use Research Foundation of Hawaii.

We'd like to start our testimony by thanking the HCDA staff, who worked really, really hard on these rules and the amendment, and the HCDA
board and staff for listening to the comments -- many of the comments from the developers in the Kaka'ako area.

In many ways, the HCDA rules are progressive and would serve as a model for other affordable housing rules in the other counties. I say in many ways, but not in all ways.

We -- as you know, in the past, we have opposed -- we opposed that 30-year restricted period based on the testimony of experienced developers and economists, Hawaii economists. And, you know, at that time, the perspective was from a land use attorney and land use organization, but since then, I've been appointed to Hawaii Tourism Authority, and I look at that and we handle matters on the tourism authority and I -- and I -- it's just -- you know, the issue comes to fore.

If there was a proposal for the Hawaii Tourism Authority to experiment and take something from San Francisco, Miami or Boston or someplace else and disregard all of the tourism industry in Hawaii or disregard all the economists in Hawaii, you know, I dare to say that the HDA (sic) would not do that. So I commend HDA -- excuse me. I commend HCDA for taking another look at this.
We do support the amendment, the 10-year restricted period. We do have concerns with the provision that allows modification of the rules without having to go through a hearing process, and I've -- I put our comments in the -- you know, in our testimony.

You know, the -- that type of unfettered discretion, while we support that at certain administrative levels, this board has shown a propensity to experiment and disregard developers that actually know how to build affordable housing and disregard economists -- experienced Hawaii economists in favor of experimenting based on other jurisdictions. So we believe the rule should stay as it is. Thank you very much.

CHAIR WHALEN: Thank you.

Are there any questions of the testifier?

Okay. Thanks, David.

I should also note that there was one written testimony submitted today, but there are a total of eight written testimonies submitted, and potentially at the last hearing last week, additional written testimonies were submitted.

Is there anyone else who'd like to speak on this matter and offer testimony?
Okay. So this is the time for -- we can move into deliberation. If the board is ready to vote, is there a motion to adopt the proposed Kaka'ako Reserved Housing Rules amendments?

MEMBER ANDERSON: So moved.

CHAIR WHALEN: So moved from Mark Anderson. Is there a second -- second to that motion so we can have some discussion?

MEMBER OKUHAMA: I second.

CHAIR WHALEN: Thank goodness. Jason Okuhama seconds the motion.

Okay. So is there discussion on the motion?

MEMBER BASSETT: I'd like a little more time to read the testimony that was just submitted this morning from Gavin Thornton. It's like four pages long.

(Brief pause while members review written testimony.)

CHAIR WHALEN: Okay. So we are in discussion. Does anyone want to share based on review of the testimony in the three years that we have been studying this and attempting to get something adopted and signed by the governor?

MEMBER WATERHOUSE: I have a question for
Deepak.

On presentation, you had shown the unit type and corresponding factor under 218-19. Is there -- where is the demand for units?

MR. NEUPANE: I think more than demand, I think what is in the supply really is, you know, in a lot of the buildings, it's a two-bedroom, two-bath unit. That's the highest density units. So, typically, there isn't a whole lot of three-bedroom units being built. And then there is the problem or the challenges we found with some of the units that the studios haven't been selling that well. The main reason for doing this factor in there was to -- you know, the family -- if we want a good demographic in Kaka'ako with families and all that living in there, there is some incentive put in there for larger units. So there is basically an 8 percent incentive given for a three-bedroom unit. And if the developer wants to build a smaller unit, then there is a 10 percent and a 30 percent penalty, so to speak.

MEMBER WATERHOUSE: So let's say in reserved housing units that are -- have been recently sold, where is the demand?

MR. NEUPANE: It's mostly two-bedroom units.
MEMBER WATERHOUSE: Pardon me?

MR. NEUPANE: The two-bedroom units.

MEMBER WATERHOUSE: The two-bedroom units. Okay.

CHAIR WHALEN: I'd just like to ask this question mainly to get it on the record. This provision for modification of the housing requirements, most of that section is now in the rules; right? But it's either -- it's a zero sum decision that the board makes. It's either to suspend the rules across the board, or it could be viewed more on a temporary basis, I mean, for particular conditions that affect the market conditions; right? And this decision would have to come to the board if there's any modification?

MR. NEUPANE: It does have to come to the board, and the main reason was that looking at the case like Hokua, you know, in 2001, because of the economy, there was no development, and the board had to suspend the rule -- reserved housing rules to get projects going. So it may be more effective to have more tools in the toolbox, so to speak. Instead of having to suspend the whole rule, tweak a few elements here and there in the rules that will allow for development. Like, for example, maybe reducing
that 20 percent to maybe 15 percent or 10 percent or 
allowing for a price adjustment kind of thing. So 
that's the reason for putting the provision in there 
that you can have smaller tweaks and you don't have 
to abandon the whole set of rules to encourage 
development.

CHAIR WHALEN: Okay. So this would 
require a public hearing?

MR. NEUPANE: It will require a board 
meeting.

CHAIR WHALEN: A board meeting which, 
let's face it, it's a public hearing.

INTERIM EXECUTIVE DIRECTOR: You know, 
and it would typically come up in the context of 
somebody, you know, submitting some sort of 
development permit and asking that they get some 
relief from the rules because market conditions don't 
support us supporting the full rule. So there would 
be ample opportunity for the public to weigh in one 
way or another on any modification that the board may 
choose to make.

CHAIR WHALEN: Right. Okay.

Are there any other questions? Okay. I 
think we're ready for -- unless there is any other 
discussion, we're ready for a roll call vote. Shall
MR. NEUPANE: No. I can.

Members, the motion has been made and moved seconded. On the motion, Member Anderson?

MEMBER ANDERSON: Yes.

MR. NEUPANE: Member Okuhama?

MEMBER OKUHAMA: Yes.

MR. NEUPANE: Member Rodriguez?

MEMBER RODRIGUEZ: Yes.

MR. NEUPANE: Member Fang?

MEMBER FANG: No.

MR. NEUPANE: Member Waterhouse?

MEMBER WATERHOUSE: Yes.

MR. NEUPANE: Member Hasha?

MEMBER HASHA: Abstain.

MR. NEUPANE: Member Bassett?

MEMBER BASSETT: Yes.

MR. NEUPANE: Chair Whalen?

CHAIR WHALEN: Yes.

MR. NEUPANE: The motion passes with six for the motion, one against and one abstained.

CHAIR WHALEN: Thank you. Well, that was an unexpectedly short hearing. So we actually can't start the second hearing until 11:00 o'clock. So this is recess. I'm sure Laura's happy too.
Thank you very much, everyone. Yes.

Okay. I have to say those words; right? The meeting is now -- the public hearing is now adjourned at 9:22 a.m.

(Hearing adjourned at 9:22 a.m.)
CERTIFICATE

STATE OF HAWAII

) ss.

CITY AND COUNTY OF HONOLULU

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

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

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

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

Dated this 18th day of June 2018 in Honolulu, Hawaii.

s/s Laura Savo____________________
LAURA SAVO, RPR, CSR NO. 347