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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.

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A P P E A R A N C E S

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

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

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

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

21 The proposed amendments to the Kaka'ako
22 Reserved Housing Rules will expand the source of
23 reserved housing units, preserve reserved housing
24 stock, encourage development of for-sale and rental
25 reserved housing units, and create consistency with

1 affordable housing rules administered by other state
2 and city agencies.

3 (Member Rodriquez joined the
4 proceedings.)

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

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

12 Notice of today's public hearing was
13 published on May 1st, 2018, in the Honolulu
14 Star-Advertiser, Maui News, The Garden Isle, Hawaii
15 Tribune-Herald and West Hawaii Today. Notice was
16 also sent to HCDA's email list and posted on the HCDA
17 website. A copy of the notice can also be viewed
18 outside in the foyer if anyone present is interested
19 in reviewing it.

20 The proposed rule amendments were
21 presented at the June 16 -- June 6, 2018, public
22 hearing last week.

23 So the procedure in taking testimony,
24 before we receive the testimony, please let me
25 briefly explain how we go about this. First, the

1 HCDA staff will present its report. Following that,
2 we will hear testimony by the public in the order
3 that the individuals have signed up. Individual
4 comments will be limited to no more than three
5 minutes. Only members of the Authority will be
6 permitted to ask questions of the public.

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

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

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

19 So if you look at the first page, you
20 know, basically two changes were made. One was on
21 Section 15-218-17(j). Additional language was
22 included to provide some flexibility to the board in
23 case, based on the economy, there was some
24 modification to be made in the reserved housing rules
25 to help encourage development.

1 And the second one was on the regulated
2 term. The regulated term of 30 years in the earlier
3 version was changed to the regulated term of 10 years
4 for both reserved housing and workforce housing, as
5 well as I'd like to mention that the regulated term
6 for the rental housing still stays at 30 years.

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

10 (Member Okuhama joined the proceedings.)

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

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

18 So if you could please approach and give
19 your testimony.

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

23 We'd like to start our testimony by
24 thanking the HCDA staff, who worked really, really
25 hard on these rules and the amendment, and the HCDA

1 board and staff for listening to the comments -- many
2 of the comments from the developers in the Kaka'ako
3 area.

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

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

18 If there was a proposal for the Hawaii
19 Tourism Authority to experiment and take something
20 from San Francisco, Miami or Boston or someplace else
21 and disregard all of the tourism industry in Hawaii
22 or disregard all the economists in Hawaii, you know,
23 I dare to say that the HDA (sic) would not do that.
24 So I commend HDA -- excuse me. I commend HCDA for
25 taking another look at this.

1 We do support the amendment, the 10-year
2 restricted period. We do have concerns with the
3 provision that allows modification of the rules
4 without having to go through a hearing process, and
5 I've -- I put our comments in the -- you know, in our
6 testimony.

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

16 CHAIR WHALEN: Thank you.

17 Are there any questions of the testifier?

18 Okay. Thanks, David.

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

24 Is there anyone else who'd like to speak
25 on this matter and offer testimony?

1 Okay. So this is the time for -- we can
2 move into deliberation. If the board is ready to
3 vote, is there a motion to adopt the proposed
4 Kaka'ako Reserved Housing Rules amendments?

5 MEMBER ANDERSON: So moved.

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

9 MEMBER OKUHAMA: I second.

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

12 Okay. So is there discussion on the
13 motion?

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

18 (Brief pause while members review
19 written testimony.)

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

25 MEMBER WATERHOUSE: I have a question for

1 Deepak.

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

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

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

24 MR. NEUPANE: It's mostly two-bedroom
25 units.

1 MEMBER WATERHOUSE: Pardon me?

2 MR. NEUPANE: The two-bedroom units.

3 MEMBER WATERHOUSE: The two-bedroom
4 units. Okay.

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

16 MR. NEUPANE: It does have to come to the
17 board, and the main reason was that looking at the
18 case like Hokuu, you know, in 2001, because of the
19 economy, there was no development, and the board had
20 to suspend the rule -- reserved housing rules to get
21 projects going. So it may be more effective to have
22 more tools in the toolbox, so to speak. Instead of
23 having to suspend the whole rule, tweak a few
24 elements here and there in the rules that will allow
25 for development. Like, for example, maybe reducing

1 that 20 percent to maybe 15 percent or 10 percent or
2 allowing for a price adjustment kind of thing. So
3 that's the reason for putting the provision in there
4 that you can have smaller tweaks and you don't have
5 to abandon the whole set of rules to encourage
6 development.

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

9 MR. NEUPANE: It will require a board
10 meeting.

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

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

22 CHAIR WHALEN: Right. Okay.

23 Are there any other questions? Okay. I
24 think we're ready for -- unless there is any other
25 discussion, we're ready for a roll call vote. Shall

1 I conduct it?

2 MR. NEUPANE: No. I can.

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

5 MEMBER ANDERSON: Yes.

6 MR. NEUPANE: Member Okuhama?

7 MEMBER OKUHAMA: Yes.

8 MR. NEUPANE: Member Rodriguez?

9 MEMBER RODRIGUEZ: Yes.

10 MR. NEUPANE: Member Fang?

11 MEMBER FANG: No.

12 MR. NEUPANE: Member Waterhouse?

13 MEMBER WATERHOUSE: Yes.

14 MR. NEUPANE: Member Hasha?

15 MEMBER HASHA: Abstain.

16 MR. NEUPANE: Member Bassett?

17 MEMBER BASSETT: Yes.

18 MR. NEUPANE: Chair Whalen?

19 CHAIR WHALEN: Yes.

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

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

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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.)

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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 18th day of June 2018 in Honolulu, Hawaii.

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