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 7, 2017

Taken at 547 Queen Street, Second Floor
Honolulu, Hawaii 96813
commencing at 1:31 p.m.

Reported by: LAURA SAVO, CSR No. 347
APPEARANCES

John Whalen, Chairperson
Steven Scott, Vice 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
Jade Butay
Wei Fang
William Oh
Jason Okuhama
Mary Pat Waterhouse
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CHAIR WHALEN: Okay. Good afternoon.
I'd like to call to order the June 7th, 2017, public hearing of the Hawaii Community Development Authority. The time is now 1:31 p.m. My name is John Whalen, Chair of the Authority, and I am the presiding officer at this hearing.

Let the record reflect that the following members are present: Jade Butay, Wei Fang, Mary Pat Waterhouse, Beau Bassett, Jason Okuhama, William Oh, Steven Scott and John Whalen.

Today's public hearing is a continuation of the public hearing held on May 31st, 2017, which convened under the provisions of Hawaii Revised Statutes, Chapter 91 and 206E, and Hawaii Administrative Rules, Chapter 15-219, to consider the following matters:

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 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 by other state and city agencies.

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

The Authority has conducted four public hearings on this matter: Wednesday (sic), March 28th, 2017, at 9:00 a.m.; Wednesday, May 3rd at 1:00 p.m.; Wednesday, May 17th at 9:00 a.m.; Wednesday, May 31st, 2017, at 9:00 a.m.

HCDA staff suggested alternatives to the proposed amendments that were presented at the May 31st public hearing. On May 31st, 2017, the Authority directed staff to incorporate changes from the staff report, provide the Authority with a Ramseyer version of the proposed rule amendment, and to continue the public hearing on Wednesday, June 7, 2017, today, at 1:30 p.m.

The Authority is conducting today's public hearing to consider HCDA staff's suggested
alternatives to the proposed amendments. 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 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.

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

MR. NEUPANE: Thank you, Chair. I've got a short PowerPoint just to go over the alternatives that was suggested by staff at the May 31st hearing, and in reviewing -- going back and reviewing the rule again, there was one definition that it looked like the term "net appreciation" was not used anywhere in the rules. Therefore, I'm including that as part of the suggestion to delete that definition. So section 15-218-4, definition section, where currently the term "net appreciation" is, delete it since it is not
There were -- apart from that, there were four suggested areas where staff recommended some changes considering workforce housing. Two of them were considering workforce housing projects. Basically, there's two areas in the rules in section 15-218-4 where the definition -- it changed. What I have in the PowerPoint slide is the current definition under the current heading, and then in black, and then the proposed new definition in the purplish color.

So the current definition says that "'Workforce housing project' means a new multi-family residential development where at least 75 percent of the residential units are set aside for public purchase or -- for purchase or for rent by households earning no more than 140 percent of AMI and which does not require financial assistance for construction from federal, state and county governmental bodies."

The new recommendation is to take away the financing restrictions. So the new definition is "'Workforce housing project' means a new multi-family residential development where at least 75 percent of the residential units are set aside for purchase or
for rent by households earning no more than 140 percent of AMI."

Next, and related to the same workforce housing project in section 15-218-18, paragraph (a) of that section is amended to read, again, basically taking away the restriction for using federal, state and county funding. So the proposed language is "New residential projects" -- "project or projects where at least 75 percent of the residential units are set aside for purchase or for rent by households earning no more than 140 percent of AMI shall qualify as a workforce housing project."

In section 15-218-35, the terms of reserved housing and workforce housing for sale, the suggestion is to change the buyback period. Currently, the wording says -- the language in the rule is that "If the owner of a reserved housing or workforce housing unit wishes to sell the unit, the current Authority or an entity approved by the Authority shall have the first option to purchase the unit."

The proposed language is "If the owner of a reserved housing or workforce housing unit wishes to sell the unit within 30 years from the date of issuance of certificate of occupancy for the unit,
the Authority or an entity approved by the Authority shall have the first option to purchase the unit."

So the new language added is in the PowerPoint in purple.

Similarly, in section (c), the buyback -- determination of buyback price for the unit, staff is making the recommendation that the cost of qualified improvements made by the owner be added into the buyback price so the owner can take advantage of the improvements they have made in the unit. So the language on the buyback provision is modified to read -- to include that, and I'll read the new language.

"The buyback price shall be determined based on the original fair market value of the reserved housing or workforce housing unit appreciated annually by a corresponding annual median sales price percent change index for condominiums published by the Honolulu Board of Realtors, plus the allowable cost of improvements made by the owner, if any, less the Authority's share of equity in the unit."

And to make sure that the owner has really made the improvements and the improvements are legitimate, there is an additional requirement that
the owner shall provide financial documents acceptable to the Authority indicating the actual cost of improvements before the cost is eligible for inclusion in determining the buyback price.

The fourth and the last suggestion is regarding any subsequent mortgage placed on the reserved housing or workforce housing unit. The suggested language is in purple in the PowerPoint: "Any subsequent mortgage placed on the reserved housing or workforce housing unit by the owner shall require approval from the executive director and shall not exceed the buyback price established in subsection (c) of the rules."

So those are the four suggested alternatives proposed by staff. If members have any questions, I can address those.

Also, I just wanted to add that the original PowerPoint is on the HCDA website, and members of the community can download it. I did provide members with a copy -- with a Ramseyer-formatted revised copy of the rules with added suggested language, as I was directed by the board at the last public hearing. Copies are available outside as well as the PowerPoint I just went through is outside -- is available outside for
public review.

MEMBER BASSETT: I have a question. This is regarding 15-218-35, subsection (c). This is the part where we talked about the allowable cost of improvements being added on to the purchase price. So as far as, like, the language "allowable costs," how is that going to be -- how do you foresee that working out? How is that going to be determined of what is allowable?

MR. NEUPANE: That probably, you know, requires some interpretation. I think the "allowable" language is put in there to say that, you know, the owner might decide to gold plate their unit, and at that time is the Authority actually going to pay for that.

MEMBER BASSETT: So it's going to be just discretion of the ED or are we going to put in some kind of policy or something?

MR. NEUPANE: The language is acceptable to the Authority. So unless the Authority delegates that power to the ED, that decision rests with the Authority.

MEMBER BASSETT: I'm just thinking if I was the owner of this unit, I would be looking for guidance as to what kind of improvements I should
make that will actually be calculated into the buyback price. Is there any kind of guidance that we would provide these owners?

EXECUTIVE DIRECTOR: We'd develop a policy interpretation for that as general guidance probably related to the habitability of the unit and not betterments. And it comes back to the board unless the board delegates. So we will present it to the board saying, "This is the criteria we applied and here's why we think you should or should not include it," and then the board --

MEMBER BASSETT: So we would basically create some kind of policy as to how to interpret this?

EXECUTIVE DIRECTOR: Uh-huh.

MEMBER BASSETT: Okay.

VICE CHAIR SCOTT: And, also, there should be a differentiation between improvements and maintenance because maintenance is not basically improving. It's just obviously repairing or --

MEMBER FANG: Upkeep.

VICE CHAIR SCOTT: -- upkeep.

EXECUTIVE DIRECTOR: Wear and tear, you know, distinguishing it.

VICE CHAIR SCOTT: There's a difference
between that and actually improving the actual
property, the unit.

MR. NEUPANE: I believe the operative
word is "improvement," not "maintenance."

VICE CHAIR SCOTT: Yes.

MEMBER FANG: I have another question.

On the slide for 15-218-35 regarding the terms of
reserved housing and workforce housing for sale, the
proposed language doesn't really jibe with what I
understood to be kind of what we have discussed that
the 30 years' period would start from the date of
issuance of certificate of occupancy, meaning the 30
years --

Can you clarify? Is that 30 years
from -- does that reset every time the unit is sold
to a new owner, or does it start at one point when
the building gets certificate of occupancy?

MR. NEUPANE: The way I'm looking at it
is, you know, initially, the unit is sold as a
reserved housing. So the reserved housing rule
applies to that unit. Now, if the Authority buys
back and the Authority resells that unit as a
reserved housing, then this set of rules will apply
to that sale again. So, yes, if it resells as a
reserved housing, then the clock starts -- the
30-year clock starts again.

MEMBER FANG: Okay.

CHAIR WHALEN: There may be a question about the wording of this --

MEMBER FANG: Yeah.

CHAIR WHALEN: -- whether it would apply as a reset because certificate of occupancy is issued once, right, for a new building?

MR. NEUPANE: That is correct.

CHAIR WHALEN: This is section 15-218-35?

MR. NEUPANE: 35(a), the third slide.

MEMBER BASSETT: Wait. I'm looking at the actual document.

MR. NEUPANE: It's paragraph (a) on that actual document if you look at the rule.

Now, I do understand -- I think the challenge is just setting the clock initially. You know, from staff side, we looked at certificate of occupancy being, you know, an appropriate date.

CHAIR WHALEN: It would be for a new building.

MR. NEUPANE: New building. But I do understand the challenge, and when it resells, then at that point there is no certificate of occupancy.

MEMBER BASSETT: So are we looking to
change that language now?

    MR. NEUPANE: We could look at it saying
that, initially, we should sell the unit --

    CHAIR WHALEN: Or when a new buyer is
authorized to occupy the unit or something to that
effect.

    MR. NEUPANE: Yeah, something to that
effect. I can go back and, you know, modify that
language to make sure that, initially, it starts at
the certificate of occupancy, and, subsequently, if
there is a buyback, then it's maybe at the point of,
you know, resale -- date of resale or something like
that.

    MEMBER FANG: Thank you.

    MEMBER WATERHOUSE: You know, in regards
to this same issue, the 35(a) or 35(b) -- well,
anyway, 35, 36, this buyback cost, one thing I'm a
little concerned about is -- well, for one is that,
you know, now that we have included this -- the cost
of any additions -- any renovations that are done,
it's going to be more work for the staff; right? You
know, trying to address that and then, you know, what
do you include, what don't you include? So with that
in mind, I'm wondering if it's just not worthwhile
for us just to go get appraised value for the unit.
And then I think it would be easier also to convince the sellers of the unit that this is -- this is the value rather than trying to come up with some, you know, formula that -- I think it would be -- yeah, I just think it would be more convincing for the owners of the unit.

MR. NEUPANE: That's a very valid point, Member Waterhouse, and there have been several comments during the testimony regarding that. One suggestion was that, you know, why doesn't the buyback price be set at, you know, whatever the market -- appraisal of the market value of the unit is at that point minus the Authority's share of equity. And if that is the direction that the board would like to go, then on staff side, we can certainly look at that.

MEMBER WATERHOUSE: Or even --

MR. NEUPANE: It does take up all the issues of the improvements and all these things.

MEMBER WATERHOUSE: Yeah. Even if we go back to the formula that we had previously, our old formula, you know, the lower of or the higher of.

MR. NEUPANE: It is the lower of -- the current formula is the lower of CPI or AMI.

MEMBER WATERHOUSE: Yeah, yeah. That's
right.

MR. NEUPANE: That still has the -- you know, the provision for considering owner-made improvements is in the current rule too. It ties to the equity sharing. So we still have the same problem. That problem will go away if the board decides to, you know, change the formula for the buyback price and say that it's whatever the market value of the unit at that point minus, obviously, the Authority's share of equity on the unit. The challenge there is that depending on what the market is, one, the unit may have to be subsidized quite a bit to make it reserved housing and affordable housing from affordability side. From a buyer's side, the market being what it is, it may really be -- if the market is -- has gone south at that point, then it really creates an economic hardship for the owner.

The formula that's proposed by the staff kind of manages the downside for the owner of the unit and then manages, you know, the price escalation in terms of affordability, and that was the reason, you know, that formula was suggested.

MEMBER WATERHOUSE: So if we went back to the current formula, what you're saying then, if I
hear you right, is that it could affect the owners in a down market?

MR. NEUPANE: Current buyback formula, if the unit is -- if the Authority decides to buy the unit back within the regulated term, then the price is based on -- that buyback price is based on CPI or AMI, whichever is lower. And that number is going to be considerably lower than using the Honolulu Board of Realtors' index.

MEMBER WATERHOUSE: Okay. Got it.

EXECUTIVE DIRECTOR: May I ask a procedural question for the board? So if -- so I think the intent of the board or the options, I guess, for today, the board could adopt the rules as is, like it was originally presented, and then it would have to talk to the AG about the issue of substantive changes. It could adopt the rules with the staff changes, and then they would need to talk to the AG about the substantive-change issue. It could direct staff to publish a new form of the proposed rules with any changes we actually want today, and that would become the proposed rules for the next two hearings we're required to post, or you could defer and have us work on different elements of this and propose something entirely new to the
board -- well, not entirely new based on this, but something new to the board at another meeting.

The reason why I ask is if we're going to take the option that we're making changes now that we want to be the proposed rules that we pose for the hearing, then we probably should be more specific about what changes you want staff to make now and not have staff say, "Okay. We'll go away and look at that." Because that means we're going to pose something that you've never seen before.

CHAIR WHALEN: Right.

EXECUTIVE DIRECTOR: And then we're in that hearing conundrum where you have all this testimony, but it's hard to make changes because the law says we can't make changes without going through another process again.

CHAIR WHALEN: Right. We could be caught in an endless wordsmithing loop.

EXECUTIVE DIRECTOR: Groundhog Day.

CHAIR WHALEN: The idea was to be responsive to the public testimony that we've received to address some of those issues that have come up, but, you know, getting the precise language right at the beginning sometimes is challenging because the questions, I think, that have come up so
far is whether the staff proposals reflect exactly, you know, what the board's intent was at the last meeting, for example, in Wei's question. There may be places where -- or things that the board had intended that didn't seem to be quite covered by the staff's proposal, but it's not a really significant change. It's a matter of getting the right language to reflect what that intent is. So we will get to that point later in the hearing when we have some discussion and decision-making as to what the next steps will be after we hear public testimony.

So I see the value on having these presentations at this point is to get some sense of, you know, the direction that the board has taken so far in response to the public testimony, and then maybe hear, you know, what other things might come up in the public hearing in terms of testimony. I can guarantee there will be no perfect draft, not when you have divergent opinions. So they're not going to be something that you can say is a complete consensus. That's just the nature of a major public issue like this. We're just not going to get that perfect draft that's going to satisfy everyone and include all of the public concerns.

So, anyway, that's my take on it. I
think later on, we'll get to that sort of procedural step of what do we do next in terms of do we try to elaborate on some changes that we would like to see in a new draft? Do we then publish that draft for further public testimony and then hold the follow-up of required public hearings? But at some point, we've got to end this process.

VICE CHAIR SCOTT: I have a question here. What section is it in that the average is going to be 100-- the weighted average is going to be 120 percent; that the high can't be any higher than the 140 percent and the weighted average of the units will be 120?

MR. NEUPANE: If you look -- Member Scott, if you look in paragraph 34(c), section 15-218-34 --

VICE CHAIR SCOTT: (C)?

MR. NEUPANE: Paragraph (c).

VICE CHAIR SCOTT: Okay.

MR. NEUPANE: It says that the maximum allowable sales price shall be calculated based on AMI of no more than 140 percent provided that the weighted average sales price of all reserved housing or workforce housing units in the project shall be the price calculated based on AMI of no more than 120
percent.

CHAIR WHALEN: You touched on all the changes, essentially, in those four slides; right?

MR. NEUPANE: Those were the four changes that was in the staff report at the last hearing.

CHAIR WHALEN: Right. Okay. So everything else was pretty much carried forward?

MR. NEUPANE: Yes, except for the definition of "net appreciation" because that term is not used in the rules. So we will delete that.

CHAIR WHALEN: Which is kind of redundant.

EXECUTIVE DIRECTOR: That should have been taken out previously.

CHAIR WHALEN: Okay. Any other questions? Because I think we really want to start opening it up for public testimony.

EXECUTIVE DIRECTOR: I think that just to put some language in for Member Fang's question about 15-218-35(a), so I would suggest that -- and you don't have to adopt this now. This is just suggested. If the owner of a reserved housing or workforce housing unit wishes to sell the unit within 30 years, I would add "from the date of purchase," and then strike everything up to the comma.
CHAIR WHALEN: Right. We just need the language to reflect the intent.

EXECUTIVE DIRECTOR: Right.

MR. NEUPANE: So the certificate of occupancy, it ties it to the date of purchase.

CHAIR WHALEN: Original purchase?

MR. NEUPANE: Well, date of any purchase.

CHAIR WHALEN: Okay. Ready to proceed? Are there any more questions before we go? Okay.

MEMBER WATERHOUSE: This issue that I brought up already, we'll discuss that later on?

CHAIR WHALEN: We'll have a discussion after receiving public testimony.

MEMBER WATERHOUSE: Okay.

CHAIR WHALEN: And at that point, we'll decide where we go from here.

MEMBER BASSETT: And about the appraisal?

CHAIR WHALEN: Yeah, that idea is one that could be brought up.

MEMBER WATERHOUSE: Yeah.

CHAIR WHALEN: Okay. As of today, HCDA has received 145 written testimonies -- 150, correction, updated to the minute, 150 written testimonies. Board members were provided with copies of testimony before today's meeting. Testimony
received after 1:00 p.m. on June 6, yesterday, have been printed and handed to members.

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 so that she can record it and add it to the record.

Now we'll 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. Instead, summarize your comments in the time that you have available so people can get to speak -- everyone can get to speak.

If you are called, please come up to the witness table and speak directly into the microphone so that it can be duly recorded. State your name, any organization that you're representing, and whether you submitted written testimony.

So the first person that signed up to speak is Kent Walther from Tradewind Capital Group.

MR. WALThER: All right. Thank you for this additional opportunity to testify. Today, I'd like to supplement my written testimony that was submitted earlier this week. I will not rehash the
arguments made there. I just wanted to add some new things that were discovered upon further review of the Strategic Economics report dated May 26 that was the subject of my comments.

First of all, I just want to confirm that the board received my written testimony?

CHAIR WHALEN: Yes.

MR. WALTHER: Thank you. So the prior issues that I raised were substantial, but there's been another issue that we found with the report, which is that if you look at the different pro formas supporting the feasibility of both workforce and market rate high-rise developments, one of the key assumptions there that I missed in my cursory review earlier was that they rely on a building efficiency of 83 percent for the market rate tower and 84 percent for the workforce housing tower. It's important because building efficiency ratio is basically the salable square footage of the building divided by the gross square footage of the building.

Using 83 percent and 84 percent is highly unusual and highly aggressive. In fact, I've not seen a building built in this town at that level. I called the developer of 801 South Street this morning to ask what the building efficiency was for 801 South
Street. They reported it was 74 percent. I looked through files of other high-rise projects that my firm's been pitched throughout the past couple years, whether they've been successfully completed, and the building efficiencies range from about 71 percent to 77 percent. I have yet to see a building above 80 percent, yet alone 83 or 84 percent.

Interestingly, the report -- the feasibility conclusion hinges upon this efficiency because if you dial down the efficiency for the workforce from 84 percent to even 1 percent down to 83 percent, it renders the project infeasible by the assumptions laid out within the report.

So I think an overall comment, coupled with the earlier issues I had with the report, it seems to me that the report is kind of goal-seeking a certain answer. It seems like there was a preset conclusion to me that the assumptions are dialed exactly to support a preformed conclusion. Any of the assumptions that I brought up so far, you bring them to a level of reasonability, it blows up the conclusion. It actually shows it is not feasible to develop workforce housing under the proposed amendments. You take all of them together, it actually shows you the developer will lose money.
So I find this concerning since HCDA is relying upon this report by Strategic Economics, and even more concerning, for the record, that the city, it's my understanding, is also engaging this firm to do an analysis for them and that's all. Thank you.

CHAIR WHALEN: I was wondering do you have any reaction at all to what the staff presented today in terms of making workforce housing eligible for subsidies?

MR. WALTHER: I think that's a step in the right direction. I haven't had time to fully digest it.

CHAIR WHALEN: I think you might want to work that into your worksheet.

Any other questions? Thank you.

Dan Nishikawa.

MR. NISHIKAWA: Good afternoon. Thank you for this opportunity to speak before you. Dan Nishikawa, and I was not able to attend the last public hearing. So I wanted to make a few comments on some of the things that were brought up at the last meeting.

First of all, OM has submitted written testimony, and I'm not going to be reading that today, but I want to reiterate a couple things that
my colleague Kris Hui had said at the last hearing. I heard from Kris that there were some disparaging remarks made about Oliver McMillan, which I don't appreciate.

I am very proud of the work that Oliver McMillan has done in Honolulu and specifically Kaka'ako. Our work at Pacifica Honolulu prior to your coming on, John, was a project that was stalled for over a year, partially completed. We got it reentitled with the cooperation of staff, executive director at the time, and the board to make that project work as Pacifica Honolulu where we did 124 reserved housing units.

I also am very proud of the work that we did at Symphony Honolulu where we did 100 reserved housing units. And the 224 units that we have done in Kaka'ako represent about a third of the reserved housing that has been done in this district, and I think that the work that you are doing as a board is good, and I do think some of these changes are good and necessary. I can tell you that we had many, many people that wanted to try and qualify as a reserved housing buyer, but because of the clarity or uncleanness of the rules, they couldn't qualify for one reason or another. So I do think these changes
that you're making towards making these buyers, you
know, with the rules very clear, I think those are
all good and positive changes.

I do think that not having a distinction
between rental versus for-sale reserved housing units
is a mistake. I think that it's very difficult for
construction projects to pencil out. And I can tell
you that we have looked at a number of projects in
Kaka'ako and other places, and Kaka'ako is --
Honolulu's unique because of the costs associated
with development. One specific thing that was
brought up last week was, is a project viable at 15
to 18 percent, as indicated in your report, and I
would tell you that, from a developer's perspective,
that is not a sufficient return on cost for a project
to move forward. The acceptable return on cost from
both an investment -- financial investment
perspective and also from a lender's perspective,
with all the necessary contingencies for cost
escalations and such, is in the 25 to 30 percent
return-on-cost range. And I can tell you from
firsthand experience that most pro formas start that
way, but they end far below that. So, you know, I
just think that when you -- when you're looking at
project viability and basing your judgments on
whether a project is viable based upon a 15 to 18
percent return on cost, I will tell you that those
numbers don't hold true for -- especially in
Honolulu.

   Excuse me one minute. I just want to
make sure I touch on everything.

   I also want to talk about the impact. I
think that the impact of these changes, times aren't
always good, and I can tell you that the last
probably six to eight years have been very good, and
all the boats have been rising because the tide has
been rising. And I can say that any rules that you
put in place, you want to make sure that you set --
set this area up for positive -- positive
development, which I think is the mission of the
HCDA. And these rules, I would hope, would impact
not just the minority of the landowners, but it would
be consistent for the community, and it would affect
all of Kaka'ako and not just the minority of the
people that are not affected by previously approved
master plans or such. And I think that having two
sets of rules will make it very -- not only difficult
for buyers or renters -- affordable buyers or
renters, but I also think it will perhaps create a
chilling effect on development.
I also -- regarding the formula and some of the other changes in the proposed rules, I don't really understand how one unit is considered less than one unit in as far as its credit. That's very confusing to me. And I also want to just say that I know it's not an easy decision. I know it's a big issue. It's an important issue. And then I do support positive changes that will make it better and easier for reserved housing renters and buyers, and I hope some special consideration is being made to making it clear for everybody and making the changes positive.

CHAIR WHALEN: Okay. Thank you. I have a question. You mentioned -- just more of a clarification.

MR. NISHIKAWA: Sure.

CHAIR WHALEN: You mentioned there needed to be a distinction between sales units and rental units. What were you referring to?

MR. NISHIKAWA: I just think that it would be great to have more rental affordable units or rental reserved units here, and if somehow the rules could reflect a distinction. You know, I'm not here to write the rules. It was a comment as I was reading the proposed rules that there is no
distinction between rental or for-sale reserved, and it seems like it's an important distinction, and I think things should be done to encourage rental -- rental reserved units. I think that because, as a rental unit, it will bring in a different type of person living there. I mean, I think some of these other rules relative to buyback and things won't come into play if you have that. Just thought for the board to perhaps think about some kind of incentive or some way to incentivize developers to do for-rent.

CHAIR WHALEN: At the last hearing that we had, one of the staff's presentation that preceded it explained how these rules fit into a bigger housing strategy in Kaka'ako, and that we can't solve all the housing problems, obviously, through rule-making, you know, for inclusionary zoning or for workforce housing. There is a big demand, even a bigger demand for affordable rental housing, but that is primarily a program that requires subsidies. And we've written down the cost of land. You know, we have partnerships with HHFDC and nonprofits to try to provide that kind of housing to meet that market. It's not something that --

Reserved housing isn't necessarily the way we're going to look at the rental housing.
MR. NISHIKAWA: You know, I understand what you just said, but I do think there are things you can incorporate into your rules. I'm not saying that you should provide subsidies or any of the things you're not set up to do, but I'm just saying you can create the rules where it would make rental reserved housing more viable and from an overall rule perspective. I'm not saying that you're providing any additional subsidies, but I'm saying you're putting everybody into the same bucket per your proposed rules. You're not making a distinction in your own rules that if you had a distinction, I think you could make it easier for projects to happen.

CHAIR WHALEN: Well, there are two classes. There is for-sale and for-rent. If you have some sort of specific suggestions, I mean, that would be helpful.

MR. NISHIKAWA: Well, you know --

CHAIR WHALEN: I'm not asking you to do a lot of homework for us, but since you've taken the time to testify, it certainly would be helpful to get your perspective.

MR. NISHIKAWA: Well, I'm testifying because we do care about Kaka'ako, and we have done what I think is good work in the district. So that's
why I'm here.

VICE CHAIR SCOTT: Can I tell you one thing, when our working group actually met with several developers and builders, one thing that became apparent was that they said that without the rental housing -- without heavy subsidies was impossible. So it became very apparent there was nothing we could necessarily offer unless they went out and got all sorts of government subsidies somehow to make it affordable as far as affordable rentals, and that was almost universal with all the people --

MR. NISHIKAWA: And I would agree with that, Steve, and I just -- but I can tell you that Oliver McMillan is working in other places in this city where landowners have chosen because they want to have rental on their property. Now, this is a ground-lease situation, but you can structure a deal to make something viable if you have the right land structure and the right -- you know, whether it's percentage rent or whatever it is to make some things work. And I'm not here to make rules, but I'm just making a comment that you have a chance to make a distinction on for-sale versus for-rent, and if for-rent is something that is a good, overriding thing, perhaps it's something you should say you'll
give special consideration on specific rules or formulas or, you know, calculations for rental projects. It's just a comment.

MR. NEUPANE: Chair, could I ask questions?

CHAIR WHALEN: Yes.

MR. NEUPANE: Dan, when you say "distinction," what are you specifically looking at?

MR. NISHIKAWA: Well, I know there's projects we've looked at where we've actually considered, for example, in a liner building, taking a liner building that's part of the podium and making that a for-rent, affordable part of the project on its own separate condominium map, and then doing for-sale in a tower above.

We've looked at that on city-owned projects -- city-owned property jurisdictions. But because we were, you know -- because with the TOD, each project on the TOD is being looked at kind of on a one-off basis. So there aren't specific rules or formulas or requirements that they're jamming the developer into; right? At least at this point.

MR. NEUPANE: That kind of distinction is, you know, I think -- I believe if you read through Mauka Area Rules and reserved housing rules,
that's already permitted in the district.

MR. NISHIKAWA: I'm not saying it's not allowed. All I'm saying is you can make the rules -- you can lax the rules to incentivize developers to do that by not imposing the same -- or giving bonus credits, as an example, to do a portion of your project as reserved rentals versus reserved for sale.

MR. NEUPANE: So are you looking at reducing the percentage required if it's rental? I don't understand. What do you mean by --

MR. NISHIKAWA: Yeah, I don't have the solution, but it's something that I think that you have the opportunity to create a playing field that, you know, provides a clarity and then also incentivizes developers in a good and positive way that will be impactful for the community. And I don't have the answer, Deepak, but perhaps, yes, if you did do that, you would get some kind of relief on percentage or something to that effect.

MR. NEUPANE: Okay. I just wanted to understand what you mean by distinction.

MR. NISHIKAWA: But there is no distinction in the current rules as I read them.

MR. NEUPANE: Well, there is. I mean --

MR. NISHIKAWA: I mean, there's no --
you're getting -- you're better off --

CHAIR WHALEN: That's the distinction you're talking about is the incentive?

MR. NISHIKAWA: Yes, the incentive portion.

MR. NEUPANE: The distinction is already there for for-sale and for-rent projects, right? In for-sale -- for-rent project, we can go into market after 30 years with no equity sharing, no buyback or any of that. So when a developer is running a pro forma, one of that becomes part of the equation, right, when you are calculating your return versus the sale? So there is a distinction --

MR. NISHIKAWA: Well, the distinction you're talking about is by not doing something, you're, therefore, not having to comply with these other for-sale rules if you keep it as a -- that's not providing any incentive. That's just saying, "We're not going to jam you into that small can that you're trying to create."

MR. NEUPANE: Well, when you are looking at a long-term return, there's certainly a difference between a rental project and for-sale project. So that distinction is already there.

MR. NISHIKAWA: I agree you have a
distinction in your rules. I'm saying there's no incentive in your rules. Thank you.

VICE CHAIR SCOTT: One last thing. I don't remember anyone dissing OliverMcMillan.

MR. NISHIKAWA: Well, I mean, you know, I think there was some comments regarding glass, which I don't think that's relevant at all to this particular issue. I think there were comments relative to variances at the last public issue which have nothing at all to do with this particular issue. And I just want to say that I appreciate the work that you guys do and I appreciate working here in Kaka'ako, but I want to make sure that the rules that are put in place are positive and good for everybody.

CHAIR WHALEN: Thank you. Let's see, Ricky Cassiday. There you are. You stay close to that flag, I notice.

MR. CASSIDAY: I go to sleep like Andrew Gomes sometimes does at these hearings. I wanted to say that I recognize, like the former speaker, you guys do a lot of work. I also come to say thank you for putting up with me, and I'm your sure okoles could do something better.

I wanted to come today because I did look at the study produced by Strategic Economics, and I
had some comments on it, but I think it's important that I state my assumptions up front which basically are that, as a community, we're faced with huge challenges, rail, paying for rail, paying for rail without taking away public services, and providing shelter. And, indeed, while these are giant considerations relative to your task here, it just seems to me that everything's connected, particularly since the rules that you make here will also go to the city and because it was the same study.

I participated in a panel when Harrison Rue went out in front of the full council on zoning to describe the study and what he -- what was the takeaway from it, and the salient point of that was when Kymberly Pine said, "Well, tell me, is this going to produce more or less housing?"

He said, very honestly, "We can't tell. We don't know, and we won't be able to tell until zoning applications come in."

And it is to that point that I speak to you guys here knowing that this is a big decision with huge implications. The only thing I caution is to make sure, to ask yourself what's the problem you're trying to solve, and do you have all the data to do it.
I went through, again, the Strategic Economics things. I found some flaws in it from my perspective. The biggest probably is that they took a number of mainland markets and said it's the same. We are not -- this is not Kansas, Dorothy. We are radically different. The leasehold, the composition of our society, the workforce, the major industry conspires to make for a lot of low paying jobs and a lot of really expensive real estate, and because of that, our business model is based on quality of life. And our affordable housing policy traditionally has recognized we take market units and cross-subsidize affordable units.

You have before you a set of rules. I hope -- I would suggest you need to vet them, stress test them for both, you know, all the end products, not just the number of affordable, and I use that in quotation marks, as opposed to housing that's affordable for everybody.

Ann Kobayashi came up to me just now and said, "You know, what we don't have is a voice for the middle class or the working class," and, you know, we're looking for that and I'm looking for the same thing in that order. So that's basically a data dump of my quick thoughts.
CHAIR WHALEN: Okay. Thank you. Do you have any questions, board members?

MEMBER OH: I do.

Obviously, you've gone through the rules. So right now what we have is pretty much a result of the former rules with the reserved housing rules and then the workforce being a subset of the rules. So they're basically essentially entirely different animals. Are you suggesting that the workforce housing rules -- I mean, there's no changes in that it would be a complete subset of the rules as it is right now? Are you okay with the current sort of integration of the reserved housing rules and workforce housing rules?

MR. CASSIDAY: I'm going to answer that totally different. You listen to developers. They are very smart and very cost-effective and cheap. What I've seen here, and it really does encourage me, is that you push the conversation down to the weeds and you have a chance at that point to fertilize everything, but do it in a way not so that you get rules and hard and fast things. Do it in a way that you do have a partnership to get to where you want to go. It's the "get to where you want to go" that I'm far --
You know, there's smart people in this room on both sides. Both have institutional biases. I'm only here to state, "Hey, look out for unintended consequences and go for the goal." Don't get up in rules. Rules you get stuck with for a cycle. You're looking out into, you know, maybe two, three, four more years of good barring a black swan event. Why not try to do the best that you can in collaboration? And don't vote for any rules that somebody -- that really says this is going to have a bad impact on Kaka'ako and the rest of them.

So, again, I mean, I'm amazed that you guys have got what you got. You really have done a heck of a lot of work. I just want it to be a really good end product.

MEMBER OH: Thank you.

CHAIR WHALEN: Any other questions? Thank you. You can go back to the flag.

MR. CASSIDAY: I'm going home.

CHAIR WHALEN: Go back home, yeah. That would be better.

MR. CASSIDAY: My wife's yelling at me.

CHAIR WHALEN: David Arakawa.

MR. ARAKAWA: Good afternoon, Chair and members of the HCDA and HCDA staff. We'd like to
start by commending both the Authority and the
subcommittee that was created by the Authority and
the staff for working together with the stakeholders
and developers on a lot of -- a number of changes
that are already made to these rules. So that's a
good step in the right direction.

I wanted to answer Commissioner Oh's or
Authority Member Oh's question up front. We believe
there's a huge difference between workforce housing
and reserved housing, and that it should be kept
separate. We would like to see the rules stay as
they are for workforce housing with one exception.
If the workforce housing is publicly funded or
publicly aided --

Right now, the workforce housing is
privately funded, privately financed. So you should
leave it alone. If it receives public funds, which
your staff has recommended to ease the rules to allow
public funding of workforce housing, then maybe it
should be subject to some of these restrictions.
Okay? So I'll start with that.

You know --

CHAIR WHALEN: David, just for the
record, I think you represent Land Use Research
Foundation?
MR. ARAKAWA: Oh, I'm sorry. I represent Land Use Research Foundation, David Arakawa.

CHAIR WHALEN: I think you're well-known, but not everybody knows --

MR. ARAKAWA: No, no, no. I wanted to thank you more than I wanted to talk about myself.

MEMBER OH: You're eager to answer my question.

CHAIR WHALEN: Okay. I'm sorry to interrupt.

MR. ARAKAWA: No, no, no. Warranted.

Warranted.

We took a look at this, and we're looking at 10 major, major issues, 10 or 11 major issues that we believe warrant further review and investigation by this Authority and by all of the stakeholders together. And we know that everybody on this Authority and everybody that's involved with home building in Kaka'ako and the advocates for more affordable housing want to get it right. We believe there are these 11 issues.

One -- first issue is we've heard for a long time about allegations of improper resales or flipping of reserved housing units and flipping of income-restricted workforce housing units. So to get
to the bottom of it -- because we believe some of these rules are the result of those allegations, we believe that this Authority should get to the bottom of it and come up with the truth on that issue first. There have been allegations and there have been denials back and forth, back and forth. So to get to the bottom of that to know what we're dealing with. Absent proven major negative impacts, we would ask that this board leave these privately financed workforce housing projects alone. They're about the only affordable housing program in the state that works. Over 1,000 units in the past five years. I don't think there's any other affordable housing program in the entire state that generated that much. So you know what, leave them alone unless you can prove misconduct or prove problems.

Third issue, got incentives. Okay. You folks heard from the developers about how hard it is to do rental housing and affordable housing. The city is embarking on this program and proposing a number of incentives in their island-wide affordable housing policy. So perhaps this Authority can work with the city to incorporate some of those incentives.

Item No. 4, perhaps we can do a
collaborative review. Instead of a battle of the experts, get the economic experts together to work together to review the Strategics Economics final memorandum. Mr. Walther raised some issues. Rick Cassidy raised some issues with the report. LURF was involved with the city report. It had the same type of issues and challenges to the flawed assumptions, mathematical calculation mistakes and incorrect conclusions in addition to the experience of the authors.

Some of the unrealistic assumptions -- there are four basically that we found so far in the city report and this report. That efficiency rating of 85 percent, that means 85 percent of the area of the project is available to be sold or rented out or whatever, and that's not going to happen. Not 85 percent of the entire project is going to be able to be sold or rented. That's a super high -- high estimate or assumption.

The cost of the land -- at least in the city report, I believe the cost of the land was pegged at 200 a square foot where it's more like 300 to 500 a square foot. So that bears some looking at too. That will skew -- both those things will skew the numbers. The third thing that will skew the
numbers is one parking space, assuming one parking space for all units, including three bedrooms. And the fourth is, as Rick mentioned, Hawaii is different from the mainland. So let's get the experts together in one room talking together with staff and the Authority to work those out.

Another fifth issue is the unintended consequences. You have letters from banks and financial institutions saying that this will hurt the financing for these major projects. Some people say, "Yes." Some people may say, "No." The people who say "No," let's get them together all in one room all with these financial institutions and hammer that out. That's something that you folks should know before passing these rules which could affect millions of dollars and thousands of people.

We've made a list of -- we've made a list --

The last thing is be careful about the unintended consequences of IZ restrictions. I was personally involved as corp counsel in the lifting of the IZ restrictions in 1999. From 1999 to 2005, we had to lift the affordable housing restrictions on buyback and resales and -- resales and buyback of affordable homes in the city and county. So we had
to repeal that for six years because it wasn't working.

Likewise, Maui, I have it in here. We were involved in redrafting the Maui affordable housing rules after it failed for six years -- eight years, I guess. Eight years. Three homes sold. Three homes sold on Maui under that affordable housing policy.

There are a number of amendments we've proposed, and we've lined them up by sections, and the main -- main thing about this is to draw the distinction not only between for-sale and rent, okay, and the City's new proposed policy does give better incentives if you produce rental, a lower percentage of your total number of units. So Deepak was talking about that. That's the city -- what the city is proposing as an incentive to get people to build more rental. So that is something we believe the Authority should take a look at. And the main difference we're looking at is the difference between publicly assisted workforce housing projects and privately financed workforce housing projects. So there should be a distinction. We believe the rules should stay as they are for privately financed workforce housing. And if it's publicly financed,
then you folks can go ahead and take a look at
imposing other restrictions on publicly financed
affordable housing -- publicly financed workforce
housing.

So I'm not going to go through all of the
revisions. They're there. Two of the major
revisions proposed by Stanford Carr, one of our
members. Our members that develop in Kaka'ako
include Kamehameha Schools, Howard Hughes, Stanford
Carr, A & B and Castle and Cooke. I hope I didn't
leave anybody out, but those are some of our members
who have developed housing in Kaka'ako.

Two of them, No. 8 and No. 9, we would
ask the Authority to take a look at Stanford Carr's
testimony on the buyback price and that it should be
determined by the existing rules or by employing the
HHFDC's shared appreciation equity program formula.

Number 9, his comment that terms of the
reserved housing and publicly assisted workforce
housing for rent, we would argue that this Authority
should maintain the current regulated terms and do
not apply restricted terms to privately financed
workforce housing rentals. That's it.

CHAIR WHALEN: Okay. Thank you.

MR. ARAKAWA: Oh, one last -- I don't
I know if you folks caught this, but in this handout, I believe that the definition section is 15-218-5, not 4. Dash 5, not 4. I may be wrong, but I don't think so. Okay. Thank you.

CHAIR WHALEN: David, I have a couple questions, I guess. One of the issues you raised, I guess, from your group, and it's been raised by mortgage bankers and other lenders, the fear that buyback and equity sharing restrictions are going to affect the secondary mortgage market; that Freddie Mac and Fannie Mae won't buy mortgages. We have had contact on that issue directly with --

Deepak, I'll ask you about your conference call. Previously, we've gotten assurances from people who actually work with those organizations and said there's not a problem with shared equity or continuous buyback or even perpetually applicable buyback provisions, but if you'd just share your --

MR. NEUPANE: Sure.

David, you know, at the behest of -- I believe Mortgage Bankers Association and First Hawaiian Bank and the federal credit union here and I believe some other banks, so Linda from First Hawaiian Bank was kind enough to set up a meeting, a
telephone conference between, you know, her and the other folks and then a representative of Freddie Mac last Monday. So we had a good conversation and all. So when we went through the -- you know, the deed restrictions, buyback and equity sharing, the response from Freddie Mac's representative was that it's not an issue, secondary market. You know, they buy that all the time. And when I asked the person about, well, we are raising, you know, the buyback period from five years to maybe perpetuity and maybe we are reconsidering bringing it back to 30 years, so what is their opinion on that. And the response was that the longer the buyback period, the better. So this is coming from Freddie Mac.

So that said, you know, it doesn't look like, you know, the two deed restrictions that we had -- one is equity sharing and buyback -- is a concern for Freddie Mac and Fannie Mae. Fannie Mae, that material is on the website. You can actually -- there's a guideline that Fannie Mae publishes that you can just look at it and basically says it's not an issue. Actually, the HCDA rules, you know, all the deed restrictions go away if there's a foreclosure sale, and Fannie Mae allows and even Freddie Mac allows the deed restrictions to continue
even after a foreclosure sale. So it looks like what we are proposing in the rule, which has always been in the rule actually, is not an issue with bankers or Freddie Mac and Fannie Mae and FHA and VA and those folks.

CHAIR WHALEN: So it seems to be largely a local concern?

MR. ARAKAWA: You know, I wasn't commenting -- I wasn't necessarily commenting on the secondary mortgage market, but if that's so, then let's get it in writing. Let's get it in writing that there will be absolutely no problems in selling these secondary mortgages and they will back that -- and they will back that. They will put their money where their mouth is or their mouth -- yeah, money where their mouth is. So get it in writing. That's great.

I don't know anything. I'm not arguing about that or that's not -- you know, that may be a concern of the various banking --

All I'm saying is get these guys together in one room, talk the same language.

Did you invite the people who wrote --

MR. NEUPANE: Some of the people who made that comment were part of that meeting.
MR. ARAKAWA: So if that's the case, I mean, great. I don't know if they said, "It's not a problem. It's a bit more complicated, but it can be done." Because if they said, "It's a bit more complicated," then you gotta ask, "Why," or "How much money would that cost?" Because you can finance anything. You can finance anything, but it might mean that you have to put 50 percent down or 40 percent down. That makes the project unfeasible. But from the lender's standpoint, "Oh, I can finance anything. I just ask them for a higher down"; right? So I don't know. Freddie Mac and Fannie Mae, that's another thing, but if they're willing to guarantee it in writing, that's fine. What we were talking is the our experience with the City and County of Honolulu from 1999 to 2005 when housing product was on the market, and you had some with a 10-year -- 10-year restriction, a 10-year restriction, and other product without any restriction. Nobody was buying the products with the 10-year restriction. 10-year restriction. Couldn't sell them. Couldn't sell them. Okay? That's a fact. That's a fact. That's all I'm saying. That's a fact. And if you're financing -- if you're financing a project and the people you're financing
with read UHERO's report --

I'm not making this up. It's in UHERO's report; right? University of Hawaii Economic Research Organization, their report. You know, it's in the report that they have to repeal -- we had to repeal. I was at Corp Counsel at the time. Because you couldn't sell units. If somebody reads that report, a financing organization reads that report and says, "Wait a minute. Wait a minute. Back in 1999 to 2005, the city actually had to repeal a 10-year -- 10-year because nobody was buying."

What if we finance this project and nobody buys it under a 30-year restriction? Huh?

Right? You think that's not important to a --

Not you. I'm sorry. I don't mean to talk to you like that, Deepak, because I know you work hard.

But I'm asking you folks to consider whether we get financing people in here and say, "Look, if the city had to repeal a 10-year restriction because it couldn't sell affordable units, developers couldn't sell affordable units, then what happens?"

MEMBER OH: David, just for the record, I think we have to make sure we set that distinction
between financing for the individual units for the
buyers versus financing for construction lenders on
the front end of development. So if there is a risk
associated with the construction loan, with the
construction mortgage because, you know, of
complications, obviously, this is all a function of
the market -- of financial markets, but I think at
least for the individual units, I think it's been
made pretty clear that there is no problem with that.
However, with the construction financing, which is,
of course, a critical part of development and a
critical part of getting development built, units
built, and if that poses a problem, then it should be
a concern to all of us.

MR. ARAKAWA: Thank you. I'm sorry. I
should have clarified. I'm sorry.

CHAIR WHALEN: And you don't think we're
at all similar to what Maui's inclusionary zoning is?

MR. ARAKAWA: I think I would say -- I
would say -- I would say about -- I don't know. I
don't want to put a number on it, but I think you
folks, this Authority and the staff and the
subcommittee have done, you know, a great job in
trying to work with the various stakeholders and
listen to the various stakeholders and, in fact,
included some restrictions based on talking with the stakeholders. That wasn't the case on Maui. Okay? That's one thing. But the thing that was similar is that Maui listened to a mainland expert. Maui listened to a mainland expert.

CHAIR WHALEN: The same one we used?

MR. ARAKAWA: No, no, not the same one you used, but against all testimony from local housing developers, local real estate experts saying, "This isn't going to work. This isn't going to work." And the Maui Council said, "No. We need more affordable housing. We're going to do it. We don't care what you experienced home builders say or what you people experienced in the real estate market say. We don't care. We're just going to do it because we need more housing." Three units built in eight years, built and sold in affordable housing.

So in that respect, we don't think that this Authority is like the Maui County Council, which has done a great -- which did a great job in 2014 to change the law, but we don't think this Authority is like that. We think this Authority is more interested, we hope, in doing the right thing to get more affordable housing; right? Doing the right thing to get more affordable housing. I think they
were fixated on getting more affordable housing by their own rules or by what they thought would be a way to get it.

So we are concerned with going down that same path of disregarding two experts who the state depends on to do their budget; right? They sit on the Council on Revenues. They sat for many years, Brewbaker -- Paul Brewbaker and UHERO; right? So disregarding them. I don't know if Strategic Economics advises the State of California on their budget. But, hey, you know, the two guys who are testifying on this -- on this issue -- on IZ inclusionary zoning do. So that's all I can say.

I think it would be a good thing if everybody works together, though, if Strategic Economics works together. But to disregard -- you know, to disregard them, Carl Bonham and Dr. Brewbaker -- Dr. Brewbaker, Dr. Bonham versus I know there are a lot of good people with master's in economics, but to disregard their recommendations, I think -- not I think. It probably would be prudent for this Authority to seriously consider those kind of comments.

And, again, I think you folks really do take the time and effort to listen to testimony, and
your staff really does take the time to dig deep.
So --

CHAIR WHALEN: Okay. Thank you.

Any other questions, board members?

Thanks, David.

Jean Jeremiah.

MS. JEREMIAH: Good afternoon. I'm Jean Jeremiah. I came in late. So I don't know what has been addressed or questioned or answered already, but I came here not to dissect and question each and every amendment being proposed and have a counterproposal, but to address the issue of affordable housing and the shortage of housing not only in the Kaka'ako area but statewide.

I'm a resident of Kaka'ako, but all I have to do, and yourselves, is look around and all these high-rise, luxury condominiums are going up. And I work for city and county. I've sat in presentations in meetings where the developers and lobbyists come in, applying for their zoning permits, planning, etc., and they're not even local residents. These are foreign investors. I've actually sat in those meetings.

So my question is we have a housing shortage and affordable price based on our local
income here -- our local salary scale here because even those presentations, I questioned at one time, "Who did your research?" And these are all mainland studies based on mainland salary scales, mainland population, mainland environment, but they're not addressing the people here. So I even said that, "How can you say this is affordable? Define affordable to me."

I mean, I myself -- I mean, for someone who's earning 30,000, 40,000, 50,000 a year, what is affordable to them? Give me an example of a unit, a purchase price or rental price. Tell me, how much can a 30,000 income, 40,000, 50,000 income afford? Can you folks give me -- give me a purchase price?

CHAIR WHALEN: We --

MS. JEREMIAH: Because that's the salary scale here of a working class, working professional. I mean, tell me -- give me a development with that salary scale that we can afford.

MEMBER OH: Are you referring to rentals or homeowners?

MS. JEREMIAH: I just said purchase price or rental. Tell me. Based on the salary scale here, can you --

MEMBER OH: Based on a salary of 30,000,
you're probably not looking into buying a house. It's probably not possible. That's the reality of the shadow market that we have in Hawaii. So you are correct.

MS. JEREMIAH: Yeah. So that's what I'm saying. So in relation to that question, define "affordable." Obviously, it doesn't apply to our salary scale here or to our population here. And as I said, without sounding redundant, I've sat in those meetings. I mean, Jesse and I used to work together at city and county. These are foreign investors. They're not even owner occupied. These people are not owner occupied. So where do you want us to go? We can't afford to live here. We can't afford to purchase here. Where do you want us local people to go?

CHAIR WHALEN: Well, in earlier presentations, we talked about these rules as being part of a bigger housing policy, and some of them really require government subsidy in order to do rental housing. And we do have projects like that in the pipeline in Kaka'ako, but that's not part of these rules. That's outside those rules. Like, 630 Cooke Street, 920 Pohukaina project, these are all -- Artspace project, Hale Kewalo, that was on the
agenda earlier. These are all rental projects that are being developed in partnership with the state housing agency, and we use whatever public land is available to try to enable them to be built. And that's -- that's to try to reach at least some of the demand for affordable rental projects.

MS. JEREMIAH: But when you say "government subsidy," how many people qualify for government subsidy? Because we're on the borderline. We're talking about work -- I mean, I can understand the low income and those single parents, three kids, but there's a good ratio. They're on the borderline, working-class professionals. Because they keep on promoting work, live and play, work, live and play, but look around you, these are luxury -- I mean, every corner, every -- you know, it's just pushing us out.

We have these university students that are graduating. They want to live independently. Where are they going? They're moving to the mainland because they just can't afford to live here.

I volunteer -- I do a lot of community service, and I'm at the homeless shelter every month serving dinner, and people standing in line are not just homeless people lying on the street. Homeless,
they're living in their cars because they can't afford the rent. They can't afford the house, but they're homeless. I mean, I have -- I'm talking from firsthand experience. So it's -- unless the state addresses it, this is going out of control to put it very simply.

CHAIR WHALEN: Okay. What this hearing is about is one little piece of trying to meet that demand for housing. It's not really focused -- it's more focused on the moderate-income households, and these are rules that are already in place, but we're proposing some changes to those rules to make it -- to have that housing available for a longer period of time than it is at present. Right now, you can only build so much, and actually over the years, you just lose that inventory when it goes on to the market --

MS. JEREMIAH: Well, we have to start somewhere. I understand what you're saying. It's not going to happen overnight, but even those owner occupied, like I said, I've sat in those meetings. I've sat in those presentations. And a moratorium of one year owner occupied, even that I have proposed in those meetings, those moratoriums should be at least five years, ten years because one year they turn around, they sell it two or three times the price.
Again, we're kicked out. We're not the ones benefiting from these affordable housing, put in brackets, "luxury."

MEMBER FANG: Ma'am, I think the rules that have been drafted and are in place and we're looking to amend regarding buyback provisions attempt to address your concern about units that then get resold.

MS. JEREMIAH: Uh-huh.

MEMBER FANG: I think like Chair Whalen was saying, we all empathize with your concern about affordability in general terms, and I think all of us have been trying to work within the parameters of what HCDA is able to do to address those. And we also have been working to ensure that the staff at HCDA is working on interagency councils so that they can interface with other government bodies to pick up the other facets of affordability and living here. But like Chair Whalen said today or at this meeting and on this subject, these amendments, we're kind of -- we have some parameters that we have to work within, and they happen to be the rules that we've been discussing for the last few months.

MS. JEREMIAH: I understand, and I also know that it's not just one high-rise going up. If
it's still on the works -- on the plan, former Governor Abercrombie approved 22 high-rises in Kaka'ako alone. And this is another concern I addressed at the city and county and at the state. I'm always there. When I say state -- state capitol, look at the roads around these perimeters, Cooke Street, Coral Street, South Street, one way in, one way out. A simple high-rise of conservatively 300 units multiplied by two cars, that's 600 cars per building, and you're talking about 22. Where are you going to put those cars? One way in, one way out this whole block.

So this is just looking ahead, you know. I mean, we're talking about affordable as one issue here, but even the rail, there's so much criticism because there was no preplanning -- I mean, there is planning, but it wasn't planned rightly or managed rightly. I don't want this affordable Kaka'ako to end up the same thing that, like, we didn't look ahead, we didn't plan ahead, we didn't address these issues ahead.

CHAIR WHALEN: Well, that's what we're attempting to do.

MS. JEREMIAH: I appreciate that very much, but, again, not to question -- or because I
read it, but I came from another meeting, by the way, and I didn't have time to do my own research when I got the letter in the mail about a couple of days or something. So I'm just bringing to your attention these issues and, hopefully, it can be -- I don't know -- redefined or resolved and addressed in a more broader scope. Thank you.

CHAIR WHALEN: Okay. Thank you.

That's all who have signed up to speak. Are there any -- is there any other testimony at this point?

Okay. I think we can get into discussion. I think our executive director, Jesse Souki, previewed -- there are a number of ways we can approach this. We have staff presentations or staff proposals for amending the current draft of the rules. We've heard additional testimony and read additional testimony for today. So there are a couple of ways we can handle this. One is we can come up with a list of -- well, we can -- we can decide whether or not the staff proposals that were presented are ideas that should be incorporated into a revised draft of the rules. We can consider adding additional revisions to the current draft. It's possible to consider adopting the draft that is
before us without any changes and take a vote on that, but whatever we do, if we don't adopt the current draft of the rules that have been the subject of this hearing, we would have to schedule additional public hearings to consider a revised draft.

So in order to avoid that endless loop that I talked about earlier where we just come up with one revised draft after another repeatedly, I would suggest that we think about revisions that have been proposed by the staff, whether we want to bring those forward in a revised draft, whether we want to propose any other revisions for consideration. We don't have to have the exact language at this point, but I think we need to have direction to the staff to draft the language for those revisions. And then have a revised draft that we announce as part of our second round or additional -- this would be a third round of hearings. We have to have two hearings each time.

So, as I say, I think this is the time to get our ideas out here and get a revised draft that we think can go ahead. Nothing is immutable, by the way. I mean, just because you adopt a set of rules doesn't mean it's never changed again. Rules are constantly revised or continually revised, I should
Anybody have any ideas about how to proceed on this?

MEMBER FANG: I think it was brought up -- I forget if by Deepak or Jesse earlier today -- the question of whether some of the changes constitute as substantive or not, and for me, I would appreciate a little bit of an opportunity to confer with our attorneys to get a better understanding of what might constitute as substantive before we move on.

CHAIR WHALEN: Okay. This would be -- I think you're talking about not just the proposals submitted by the staff but possibly other things.

MEMBER FANG: Yeah.

VICE CHAIR SCOTT: Well, just wording on some of those proposals. Like that one with regards to the 30 years, if we change the wording, does that constitute a substantial change?

CHAIR WHALEN: Right. Okay. Then it sounds like somebody wants to make a motion to meet in executive session. Is that true?

VICE CHAIR SCOTT: I make a motion we --

MEMBER FANG: I second.

VICE CHAIR SCOTT: -- have an executive
session.

CHAIR WHALEN: The wording --

DEPUTY AG WONG: It would be pursuant --

I'm sorry, Chair. That would be pursuant to HRS
section 92-5(a)(4).

CHAIR WHALEN: I should know that by
heart by now, but thank you for filling in that
wording.

The motion is to meet in executive
session --

That's your --

VICE CHAIR SCOTT: Yes.

CHAIR WHALEN: -- original suggestion is
to move into executive session pursuant to Chapter
91-5(a)(4)?


DEPUTY AG WONG: To consult with the
board's attorneys.

CHAIR WHALEN: To consult with the
board's attorneys on questions of liability --

DEPUTY AG WONG: Powers, duties --

CHAIR WHALEN: -- powers, duties and
privileges and immunities. So we have a second to
seize a motion from Wei Fang.
All those in favor, say aye.

(Board members voted.)

CHAIR WHALEN: Any opposed?

I'm just not saying anything at this point, but I think it's important for the board members to feel comfortable with, you know, proceeding with any possible revisions that might be nonsubstantive as opposed to those that are substantive and would require additional public hearings.

So I would like to -- so the motion passes, and I'd ask that our board's attorneys, Lori Sunakoda and Michael Wong, both be present probably. Jesse Souki, Deepak Neupane, and I think that's all we need in executive session, I believe. Oh, Ku'ulei, yes. I'm sorry. Ku'ulei.

So we will meet on the fifth floor?

I'd love to give you an estimate of when we're going to come back from this session, but I hazard to -- I wouldn't hazard an estimate at this point. I would say probably 45 minutes to an hour.

EXECUTIVE DIRECTOR: We'll come back down in an hour and let folks know what the status is.

CHAIR WHALEN: Come back down in an hour. You're welcome to stay here if you wish. I know you
probably have many other things to do, but if you
would like to stay here, somebody will come down in
an hour, if we're not finished, and let you know.

(Board members met in executive
session from 3:05 p.m. until 4:08 p.m.)

CHAIR WHALEN: The public hearing is now
resumed at 4:08 p.m. Thank you for your patience.
We did lot of discussion about procedure on how to do
this decision-making.

So I'd like to start by asking if there
is a motion to not adopt proposed -- the proposed
amendment relating to Hawaii Administrative Rules,
Chapter 15-218, in the draft posted on April 16th,
2017, for the public hearing held on May 17th, 2017?

VICE CHAIR SCOTT: So moved.

CHAIR WHALEN: Steve Scott moves. Is
there a second to that motion?

MEMBER WATERHOUSE: Second.

CHAIR WHALEN: Second, Mary Pat
Waterhouse.

Is there any discussion on the motion?
I'd just like to say, you know, part of the reason
for considering this is that we have public hearings
for a reason. That is to listen to testimony and to
make any appropriate revisions to rules, the draft
rules as presented, and in order to do that and consider revised rules, we first need to dispose of this -- the present draft that's been presented at the public hearings.

So any other comments before we take a vote?

Okay. Shall we have a roll call vote, please? We can probably take a voice vote. Shall we just take a voice vote? No. Roll call.

MEMBER OH: Just to be clear, this is to not adopt; right?

CHAIR WHALEN: To not adopt, yes.

MR. NEUPANE: Members, the motion has been made and seconded. On the motion, Member Scott?

VICE CHAIR SCOTT: Yes.

MR. NEUPANE: Member Waterhouse?

MEMBER WATERHOUSE: Yes.

MR. NEUPANE: Member Bassett?

MEMBER BASSETT: Yes.

MR. NEUPANE: Member Fang?

MEMBER FANG: No.

MR. NEUPANE: Member Butay?

MEMBER BUTAY: Yes.

MR. NEUPANE: Member Okuhama?

MEMBER OKUHAMA: Yes.
MR. NEUPANE: Member Oh?

MEMBER OH: Yes.

MR. NEUPANE: Chair Whalen?

CHAIR WHALEN: Yes.

MR. NEUPANE: The motion passes with seven ayes, one nay and one excused.

CHAIR WHALEN: Okay. Thank you.

Now, next, that does set aside the draft that was originally published for public hearing. There has since been a lot of discussion on that draft. We've heard a lot of public testimony. So the next step is whether to direct the staff to incorporate the staff-suggested alternatives to the proposed amendments that we discussed today.

I'd like to ask if there's a motion to that effect to direct the staff to incorporate those revisions or some modified form of those revisions that were presented at the hearing today? Is there a motion to direct the staff to do that?

VICE CHAIR SCOTT: I make a motion that we direct the staff to amend the particular points that they had proposed and that we also discussed today the changes to be made to these alternatives.

MEMBER WATERHOUSE: Second.

CHAIR WHALEN: Okay. I would like to ask
the maker of the motion and seconder to see if there's any clarification. One of the things that we discussed was for the 30-year buyback term, that it be reset when the unit is sold to another buyer so that the 30-year period is continuous. Is that agreeable to the maker of the motion and seconder?

VICE CHAIR SCOTT: Yes, it is based on when the unit is purchased.

CHAIR WHALEN: When the unit is purchased. Okay. Seconder?

MEMBER WATERHOUSE: Yes.

CHAIR WHALEN: You agree to that? Okay. Is there any further discussion on that motion?

EXECUTIVE DIRECTOR: Chair, for the benefit of the motion, just specifically, that would be section 15-218-35(a), and we are adding -- after the words "within 30 years," we're adding "from the date of purchase or repurchase," and striking the language "from" all the way to that comma, first comma. And what we're looking at is the staff-amended version that was posted for this hearing today for consideration.

CHAIR WHALEN: Okay. Another item that was discussed in terms of clarity is how to determine the valuation of improvements made by the owner of a
reserved housing unit or workforce housing unit, how
to credit them. Any direction to staff on how to
modify that language?

Okay. Then are we ready for a vote on
that provision in terms of directing staff for
revised -- prepare a revised draft with those
proposed changes?

MEMBER WATERHOUSE: Chair, are we voting
on each separate of the four items?

CHAIR WHALEN: The four staff proposals?

MEMBER WATERHOUSE: Yeah. Are we going
to vote on it all together?

CHAIR WHALEN: Well, the proposal is to
vote on them together, but if that's -- if you
prefer, I guess --

MEMBER WATERHOUSE: No, no, no. It's
okay.

CHAIR WHALEN: Yeah. This is mainly in
terms of time.

MEMBER WATERHOUSE: Right, right, right.

No. I'm fine. I just wanted to clarify that.

CHAIR WHALEN: Okay. So is there --

Yes.

MR. NEUPANE: This is only two, though.

Is the board going to vote on all four?
CHAIR WHALEN: All four, yes.

EXECUTIVE DIRECTOR: As proposed in the amended rules posted for today with the changes that were just discussed?

CHAIR WHALEN: Right.

MR. NEUPANE: Then on the section 15-218-35(c), the owner improvements, then there is no suggested change in the language.

CHAIR WHALEN: Yeah, that's what I asked. There is no suggested change.

Shall we have a roll call vote on that? Would you like a voice vote or roll call on each of these because --

VICE CHAIR SCOTT: Voice vote.

CHAIR WHALEN: Voice vote.

Okay. All those in favor of that motion, say aye.

VICE CHAIR SCOTT: Which one is this now?

CHAIR WHALEN: This is the motion to direct the staff to incorporate staff-suggested alternatives to the proposed amendments subject to clarification on the 30-year term being reset, and that's it. That's the only --

MEMBER BASSETT: Does someone have to move that first and then we do a voice --
CHAIR WHALEN: We did have a motion by Steve Scott, seconded by Mary Pat Waterhouse.

MEMBER BASSETT: Okay.

MEMBER OH: I think for clarity, we should have individual votes? Did we already do a voice vote already or we didn't do it?

MR. NEUPANE: Vote hasn't been made. So it can be a roll call vote.

CHAIR WHALEN: It can be a roll call vote if you'd like a roll call vote. Is that the preference of board members?

MEMBER BASSETT: It doesn't matter to me.

MEMBER FANG: No preference.

CHAIR WHALEN: I think we'll just do a voice vote because there was discussion on this. It was presented in public session and discussed. So all those in favor of the motion, say aye.

(Board members voted.)

CHAIR WHALEN: Any opposed? Okay.

MEMBER OH: Yes, I oppose.

CHAIR WHALEN: You're opposed? Okay. So that is seven in favor, one opposed.

Okay. Now I'd like to ask board members if they wish to direct staff to make any other
revisions to the rules, and I'll go sort of section by section. I mean, sort of blocks of sections. Maybe subchapters rather than all of the sections because there are a couple dozen of them.

EXECUTIVE DIRECTOR: And this will be working off of the annotated version that was posted today with the staff changes?

CHAIR WHALEN: Yes, right, still working off of those.

So if members have their copies here of that Ramseyer version, first of all, the subchapter 1, the general provisions are -- is there anything -- that includes definitions, are there any changes proposed for that subchapter?

MEMBER FANG: Subchapter 5, you mean?

CHAIR WHALEN: Subchapter 1.

MEMBER FANG: Subchapter 1, purpose and intent?

CHAIR WHALEN: Yeah. Purpose and intent -- well, actually, no. The subchapter is all of those sections.

MEMBER FANG: Subchapter 5. I'm sorry.

CHAIR WHALEN: It includes purpose and intent, administration, severability, interpretation by the executive director and definitions. Anybody
wish to offer a motion to make any revised changes in
that subchapter?

Okay. Let's move on to subchapter 2, which it's meatier. It's got more stuff in it. That's "Reserved Housing Requirements," and there are five sections. So that's requirements for reserved housing units, adjustments to height, density, and general development requirements for reserved housing units, reserved housing unit type and corresponding factor, reserved housing unit type and permissible household size, for-sale reserved housing schedule. None of those items were discussed much on the board, but --

Yes, go ahead. Are you offering a motion?

MEMBER WATERHOUSE: The one area that I have concern about is 218-17. This is section (a), and this is regarding residential development if it's "10 residential units or more shall provide" --

This is new language.

-- "shall provide at least 20 percent."

I am concerned about the smaller landowners that are still in our area, and that is primarily the properties that are left. And if we are trying to encourage residential development, a
lot of these smaller parcels will probably be doing workforce housing or smaller units, more middle income rather than a high-rise or the more expensive units. I think that we should go back to the original language, and I think that would encourage some more of that kind of development.

CHAIR WHALEN: The original language of -- yeah, could you -- I mean, are you offering a specific --

MEMBER WATERHOUSE: Yeah, yeah. So just leave the original language in there. "Dwelling units on a lot greater than 20,000 square feet," it's right above the -- it's what was crossed out. Leave that in.

VICE CHAIR SCOTT: It's crossed out.

CHAIR WHALEN: I see that. Everybody see that on the board what she's referring to, 15-21-17? It's basically the threshold for the reserved-housing-unit requirement on properties whenever housing is developed.

MEMBER WATERHOUSE: And, you know, in looking at what some mainland cities have been doing is they have said, you know, for smaller-size units, it's 10 percent because it is -- you know, I can see where, financially, it would be very difficult for,
you know, small lot sizes to make it affordable to --
to be able to do affordable units, rather, to break
even if they have -- if they have a requirement of 20
percent affordable units.

MEMBER FANG: What is the -- since you're
talking about smaller lot sizes, what is the height
setback and the front- and side-yard setbacks we're
talking about?

MR. NEUPANE: Well, depending on where
the land parcels are, they're probably -- in Central
Kaka'ako, the height limit is 65 feet, and because it
is a form-based rule, there is no concept of setback.
It's just building frontage build-to line. It
depends what street you are on. If the front is Ward
Avenue, then there is a 5 to 15 feet build-to line.
If you are on one of the side streets, like Queen
Street or Waimanu or Kawaiaha'o, then there is no
build-to-line requirement. The building could come
up to the property line. So it just depends on -- I
don't have the Mauka Area Rules in front of me, but
from memory, that's what it is.

MEMBER FANG: Okay. Thank you.

CHAIR WHALEN: There are housing code
requirements, though, I mean, besides -- I mean, for
light and air?
MR. NEUPANE: Certainly, there are building permit requirements. So that has to be followed.

CHAIR WHALEN: Right.

MR. NEUPANE: I'll give you an example. Some of the projects that I looked at when we were in New York City for APA conference, there was a project that we looked at where it's a microunit on a 5,000-square-foot lot and 55 units.

MEMBER FANG: But that was higher than 65?

MR. NEUPANE: It was a little bit higher than 65 feet.

If you look in terms of floor area, provided that the FAR, floor area ratio, of 3.5 is allowed in Central Kaka'ako, a 5,000-square-foot lot, the total building area that you can build is going to be 17,500. And if you consider that maybe an average gross square footage of a two bedroom is going to be 1,000 square feet, you could probably build up to 17 units on those parcels.

CHAIR WHALEN: Okay. But we have a motion. I don't know if we got a second to that motion.

VICE CHAIR SCOTT: Second.
CHAIR WHALEN: Okay. Steve Scott seconds. So now we can continue discussion.

The city -- just to compare, the city is proposing a 10-unit threshold; is that right?

MR. NEUPANE: That is correct. The proposed affordable housing program applies to projects with 10 or more units.

CHAIR WHALEN: Right. Okay. Any other comments? Questions? So let's take a vote on that. We'll try the voice vote again, and if it's not clear, we can do a roll call vote on that.

All those in favor of the motion made on the table to restore the original wording in section 15-218-17 to essentially require reserved housing units only on lots that are greater than 20,000 gross square feet in area rather than the projects that have 10 or more units --

That's the motion we're considering.

All those in favor, say aye.

(Board members voted.)

CHAIR WHALEN: Any nays? I'm a nay on that.

MEMBER BASSETT: I'm a nay. You should take a roll call vote.

CHAIR WHALEN: Yeah, let's take a roll
call vote.

    MR. NEUPANE: Members, the motion made and seconded.

    On the motion, Member Waterhouse?

    MEMBER WATERHOUSE: Yes.

    MR. NEUPANE: Member Scott?

    VICE CHAIR SCOTT: Yes.

    MR. NEUPANE: Member Butay?

    MEMBER BUTAY: Yes.

    MR. NEUPANE: Member Okuhama?

    MEMBER OKUHAMA: Yes.

    MR. NEUPANE: Member Bassett?

    MEMBER BASSETT: No.

    MR. NEUPANE: Member Fang?

    MEMBER FANG: I'm going to abstain from that. I feel like I need a little bit more information or time to consider.

    MR. NEUPANE: Member Oh?

    MEMBER OH: Yes.

    MR. NEUPANE: Chair Whalen?

    CHAIR WHALEN: No.

    MR. NEUPANE: Motion passes with five ayes, one no and one abstained.

    VICE CHAIR SCOTT: Two noes.

    MR. NEUPANE: Sorry. Two noes. Two noes
and one abstained.

CHAIR WHALEN: Subchapter 3. Last call with anything in subchapter 2, "Reserved Housing Requirements"?

Subchapter -- moving on to subchapter 3, which is Sale and Rental of Reserved Housing Units, and there's many subsections in that one, including the purpose, qualifications for reserved housing, sale of reserved housing and workforce housing units, income, occupancy requirements, factors to be used for reserved housing unit sale determination, terms of reserved housing for sale, repealed, repealed, foreclosure, transfers of title pursuant to a mortgage foreclosures, incorporation in deed, equity sharing requirements, deferral of first option to purchase and equity sharing, terms of reserved housing unit -- reserved for rent, factors to be used for determining monthly rent for reserved housing unit for rent, rental of reserved housing unit by reserved housing owner, cash in lieu, effects of subsequent rule amendments.

So there are quite a few sections in there. Some of them, I think, have been covered. There were some staff proposals that involved those sections. So --
MEMBER FANG: So we were just talking about --

CHAIR WHALEN: Anything additional.

MEMBER FANG: -- anything additional?

CHAIR WHALEN: Yes?

MEMBER WATERHOUSE: This actually addresses one of the areas that the staff did change. This is referring to the buyback price. So this is under 218-35(c). And instead of using the formula that's presented here, my recommendation to go back to the original formula or original -- what is section 36, which is at the bottom of that page, "First Option to Purchase," and the reason being is that when we added the cost of -- the allowable cost of improvements made by the owner, it's going to be difficult for the staff to keep track of that. It's going to be difficult for the owner to keep track of that. And I'm thinking that as a buyer of a unit like that, that they would rather have the actual fair market value of that unit calculated rather than a percentage that goes across the whole island as far as a calculation as an index to increase. So twofold. One, it's just easier for the staff in a lot of ways to keep track. And then, secondly, it also would be more accurate of the value of that --
of that unit if we have an appraisal done on that
unit for the selling -- sorry -- for the sale price
of the unit. Not the original purchase price, but
the -- when it's sold at the fair market value, it is
estimated by appraisal that is done currently.

EXECUTIVE DIRECTOR: So, basically, we
would strike -- we would strike all the language
under subsection 218-35(c). We would keep the
language that says "The buyback price shall be no
less than the original sale price of the reserved
housing or workforce housing unit." We'll keep that
protection. Strike everything else. Then we would
take the language that we -- that we struck under
218-36 and insert that into subpart (c).

MEMBER WATERHOUSE: Yes. Yeah. We can
do that.

EXECUTIVE DIRECTOR: We'd make editorial
changes.

What do you think, Deepak?

MR. NEUPANE: I have a clarification
request on that. So I just want to understand. Does
the motion offered by Member Waterhouse include
paragraph -- that struck paragraph section 218-36-1
and -2 or just -1? Because that section provides --

MEMBER WATERHOUSE: It's the lower of.
MR. NEUPANE: -- two options in "lower of."

MEMBER WATERHOUSE: It's the lower of. So it's the whole section. It's on all 36(a)-1 and -2 (sic) because it's got to be lower of.

MR. NEUPANE: I just want the board to be aware that then it's most likely that the buyback price will be calculated on CPI or AMI because that's going to be, certainly, lower than fair market value. I want to make it clear that that's the intent of the board.

MEMBER FANG: That's the proposal.

MR. NEUPANE: That's the intent of the motion.

CHAIR WHALEN: Right. That's the intent of the motion which needs a second, by the way. Is there a second to that motion?

VICE CHAIR SCOTT: Let me just clarify. What is the motion, Mary Pat?

MEMBER WATERHOUSE: In 35 --

MR. NEUPANE: Not the CPI. Sorry. It's not the CPI. It's just AMI.

VICE CHAIR SCOTT: AMI.

MEMBER WATERHOUSE: 35.

VICE CHAIR SCOTT: It's 36. You want to
put that into 35(c)?

MEMBER WATERHOUSE: Yeah. Get rid of 35(c), and except for that last paragraph of (c) -- I'm sorry. Get rid of 35(c), except for the very last paragraph or sentence of it, and replace it with 36.

EXECUTIVE DIRECTOR: I think you want to keep -- sorry. I think what you want to do is strike all of (c) except for the language -- it's the second-to-the-last sentence. It says "The buyback price shall be no less than the original sale price of the reserved housing or workforce housing unit."


EXECUTIVE DIRECTOR: Right. And then insert 36.

MEMBER WATERHOUSE: Correct. Thank you.

EXECUTIVE DIRECTOR: And with editorial changes to make it work.

VICE CHAIR SCOTT: But you're still taking into consideration any improvements that they might make to the unit?

MEMBER WATERHOUSE: No, because at that point, it will be fair market value.

VICE CHAIR SCOTT: But then if you have
the lower of fair market value or the AMI --

    MR. NEUPANE: The second portion of that
section says that --

    MEMBER WATERHOUSE: Oh, that's why you're
thinking that if we eliminated the second portion,
then we would stick with the fair market value?

    MR. NEUPANE: Correct. So I wanted to
know exactly what the motion is.

    MEMBER WATERHOUSE: I can change it.

    MEMBER BASSETT: Can you clarify what --
of the stricken language in 36, right, there's two
options, 1 and 2. Can you explain how 2 plays out?

    MR. NEUPANE: Yeah. The 2 would be based
on AMI just the way we calculated. Say, five years
down the road, this is --

    You know, the board already voted to have
a 30-year buyback period. So the buyback is going to
be 30 years. So within 30 years, say year No. 10,
you know, the person wants to sell it, and then so we
look at the AMI at that point. Excuse me. If the
original unit was sold at, say, 120 percent of AMI,
so we'd look at what is the 120 percent AMI number 10
years from now, you know, and then base the sales
price on that AMI number.

    MEMBER BASSETT: So there's an equation
that was used --

MR. NEUPANE: Yeah. It would be the same equation that there is in the rule now, but the dollar number for family income will be 120 percent of AMI, whatever it is, 10 years from the day of the purchase. And looking at the past data, I believe it's reasonable to say that that number is -- that sales price number, based on AMI, is going to be lower than what the fair market value of the unit is going to be at that point in time.

VICE CHAIR SCOTT: Right. And that may not take into consideration any improvements that they have --

MEMBER BASSETT: Which it doesn't; right?

MR. NEUPANE: Which it doesn't in the rules.

MEMBER BASSETT: So for discussion purposes, I think that's the key part that of the old language, there's the lower of 1 and 2, and it's actually No. 2 which ensures that this unit will be affordable. Without No. 2, if we were just to base it on market prices, there's a potential that it will be taken outside of the affordable range, which is my concern.

EXECUTIVE DIRECTOR: Yes. The price --
VICE CHAIR SCOTT: Can you make it the lower of, but then take into consideration any improvements that they have put into the unit to make it over and above what, let's say, the AMI comes out to?

MEMBER FANG: And then less the Authority's share of equity in the unit.

MEMBER WATERHOUSE: Yes. We have to have that.

MEMBER BASSETT: But I feel like that defeats what you're trying to get at, which is the administrative burden calculating that.

VICE CHAIR SCOTT: But there's going to be a cost to appraisal. If you have to have it appraised for fair market value, you're going to have to pay an appraiser to actually do the appraisal. That's going to be -- instead of staff doing it, you're going to have someone outside as an appraiser doing it.

CHAIR WHALEN: Bringing up that point, there's been discussion with HHFDC to take over the buyback function or maybe a nonprofit to do that, especially now with the legislation that enables that. So --

Excuse me.
MEMBER BASSETT: Sorry.

CHAIR WHALEN: There was a -- I don't know whether this has been vetted with either HHFDC or, you know, a nonprofit that might step into that role to manage the purchase of these buybacks and resell them and the rest. But if the intent was to reduce the administrative burden, I wonder if that's really been vetted with either of our --

EXECUTIVE DIRECTOR: So for the two units that the board approved for HHFDC to process the buyback for us, the board agreed that HHFDC would apply their own rules.

CHAIR WHALEN: Their own rules, right.

EXECUTIVE DIRECTOR: So I'm not sure how we handle it in the future with the Land Trust, but one approach might be to let them use their own rules. I'm not sure.

But for this one, this is the existing rule on how we process it that we'd be bringing back. And so if you look at 36, subsection (1), it talks about the fair market price of the unit less the Authority's share of equity. And the second one is using the housing unit price calculated based on AMI. And this is how we determine at what price we buy it back as the Authority. So it would be the lower of
the two to preserve the affordability. So we don't care about, say, preserving our equity so much as keeping it affordable for resale, which is why the AMI doesn't talk about the equity because the buyer's going to get back, you know, whatever the price is at the AMI; right?

We should have escalated because the AMI today at 120 is going to be higher AMI in, say, 10 years; right? Because incomes go up, generally. I don't want to predict the future, but over time, series of data, income goes up. So that's why equity is not mentioned in that section and it's worded a little differently, but the lower of the two.

That doesn't take into account -- you know, currently, we don't take into account improvements because we're looking at selling it at that lower price. If we took into account the improvements, that would be further subsidy by the agency, which is fine, but that would require additional cash.

CHAIR WHALEN: So I guess the primary objective is to try to keep the affordable housing stock and allow other --

MR. NEUPANE: There's some impact consequences of this.
CHAIR WHALEN: -- buyers. In the discussion, I'm just not sure if the reason -- if the intent is compelling enough to make this change when we're not really sure what the --

MEMBER BASSETT: I guess we have to be clear on what the proposed change is, if it was to go back totally to 36. It seemed like you were saying 36, but get rid of (2).

MEMBER WATERHOUSE: Well, that's what I was originally thinking, but then I got confused. But I agree now that it needs to go back to 36. If we're going to address the issue to try to make it affordable, it needs to go back to that.

VICE CHAIR SCOTT: To the lesser of?

MEMBER WATERHOUSE: Yeah. Yeah.

CHAIR WHALEN: So is the motion then to -- first of all, are you suggesting that the motion be withdrawn then or --

MEMBER WATERHOUSE: No, no. But I guess I have a question for Deepak then --

CHAIR WHALEN: Okay.

MEMBER WATERHOUSE: -- and Jesse.

So given the proposed option and the current rule, what are the benefits of each?

MR. NEUPANE: Well, the benefit of the
current rule is that, you know, it's based on an
index, and then regardless of, you know, market
fluctuations, you know, it's based on median. So
there's less variability. And then there's a
downside protection for the owner because the, you
know, sales price -- the repurchase price is not
going to be less than what the original purchase
price was.

MEMBER BASSETT: You're not talking about
the current? You're talking about the proposed --

MR. NEUPANE: I'm talking about the
proposed rule.

MEMBER FANG: We also talked about it in
terms of that the index is easily accessible to a lot
of people. So you can easily look up online and find
the information or arrive at a close estimate of what
your unit sales price would be.

MR. NEUPANE: And, you know, it
provides -- like, I provided historic data to the
Authority about when you look at an average, it's
4.7 percent escalation every year based on the last
30 years of data.

Now, yeah, it could be that the owner
ends up selling at a down market because of many
reasons and he just happens to be unlucky. Then,
yeah, the prices won't go up.

The current option that we have is --
there's a couple things to keep in mind. One is the
buyback period is only five years. So the section
was written with that in mind, that the buyback is
five years, not 30 years. That if you applied both
paragraph (1) and paragraph (2) and look at the lower
of, then it's very likely that the AMI price is going
to be lower. So from keeping affordability, it is
much better because it's going to be at a lower
price. But if you are looking at it from a buyer's
perspective, then there is a good chance that the
buyer is not going to be able to take out, you know,
much equity out of that unit.

MEMBER FANG: The seller? The seller
won't be able to take out --

MR. NEUPANE: The seller. Sorry. The
seller, yeah, or the owner of the unit. Because, you
know, prices at AMI is going to be lower than -- it's
pretty much guaranteed that the price calculated
based on the AMI is going to be lower than fair
market value.

VICE CHAIR SCOTT: Deepak, is there an
index that applies just to Kaka'ako rather than just
island-wide?
MR. NEUPANE: I don't know. I haven't seen one.

CHAIR WHALEN: It would be certainly based on a smaller number of sales.

MR. NEUPANE: It would be based on a smaller number. I mean, if you just look at general statistics, as your sample size gets smaller, your variability goes up.

MEMBER OH: Member Waterhouse, are you okay with maybe perhaps using the same index that the HHFDC uses, perhaps?

MEMBER WATERHOUSE: Yes, I would be fine with that.

MR. NEUPANE: No, HHFDC doesn't have an index. HHFDC is based on fair market value.

MEMBER OH: So no index. Just the fair market value is what the HHFDC uses?

MEMBER WATERHOUSE: And the shared equity.

MR. NEUPANE: Minus the shared equity, certainly.

MEMBER FANG: And it eliminates the AMI?

MR. NEUPANE: Eliminates the AMI.

EXECUTIVE DIRECTOR: That would be what subsection 36-1 says.
MR. NEUPANE: Of course, it is going to have impact on affordability because 10 years from now, fair market value is going to be fairly high. The way the buyback -- the shared equity formula is structured --

You know, shared equity may be a little bit higher because of the fair market value, but, still, the price may not be as affordable as, you know, the board may desire. So there are pluses and minuses afoot.

Also, I'd like to mention that if the concern is determining, you know, the improvements made by the owner, then if section (c) is modified, then I would recommend that the Authority consider section 41 to be modified and not allow for the same requirement in equity sharing because section 41(b) provides that the Authority shall make allowance for cost of improvements made by the owner of reserved housing or workforce housing in determining the Authority's share of equity sharing. And that was in the case if the Authority waives its buyback option, then it goes into fair market value anyway. So to be consistent then, if that provision is -- that language is taken out from section 35(c), that language shall be taken out from section 41(d).
CHAIR WHALEN: It gets very complicated.

Anyway, we have to break at this point because some of you need to move your cars, and I think our court reporter needs a break also. So let's take 10 minutes. I don't know how long it takes to get the cars. And one of our members has to go. Jade, we'll miss you. You probably won't miss us. So it's 4:50 now. Reconvene at 5:00? Continue at 5:00.

EXECUTIVE DIRECTOR: Can we reconvene at 5:30 or 5:15?

CHAIR WHALEN: Is that enough time for you?

MR. NEUPANE: I have to go pick up my children. I can make it by 5:15.

CHAIR WHALEN: 5:15. It's 25 minutes. So we'll reconvene at 5:15. We're this close.

(Recess taken from 4:50 p.m. until 5:07 p.m.)

CHAIR WHALEN: We're resuming at 5:07 p.m., a little earlier than scheduled, amazingly.

So we're on a motion that was offered by Mary Pat. I don't believe we still have a second to it yet, but we had some discussion -- quite a bit of
discussion on what the motion really was about; right? Is there anything that you wanted to revise in the wording of the motion at this point or --

MEMBER WATERHOUSE: Well, I'm not too sure if Deepak completely answered my question. You know, for both of these, the current one and the proposed one, what are the advantages of each?

MR. NEUPANE: Advantages from?

MEMBER WATERHOUSE: From both. From our perspective, from the affordable housing -- yeah, the person that would buy into -- the buyer's perspective or the seller's perspective, you know, which -- which one, you know, is better?

MR. NEUPANE: Let me address that again. I believe if you look at it from the affordability perspective, then what is in the current rule, the section 15-218-36, that's been crossed out. It has the advantage because most likely the prices based on AMI are going to be lower than fair market value. So that makes the affordability.

And I believe -- I don't remember -- about a year ago when I presented, you know, the draft rules to the board maybe for the first or second time, there was a question from Member Scott Kami at that time, and one of his concerns was that,
"Hey, if you use this formula, then it is really difficult for the owner of a reserved housing to, you know, build any equity in the unit." And given that comment plus the comments that were received in discussion with the stakeholders, the language that's offered in the current amendment was a compromise. The unit doesn't go into fair market value.

So, you know, the owner of a reserved housing just can't flip the unit and then make a windfall. But at the same time, since it's tied to the median price change data published by Board of Realtors, you know, that increase is substantially better than the price based on the AMI. So the reserved housing owner ends up getting quite a bit of equity. And I provided an example to the board in one of my presentations, and I can repeat that. If the initial fair market value was $500,000 and the initial reserved housing price was $400, that's -- $400,000, so it's at 20 percent. So those kind of examples. If the owner bought it for $400,000, and based on the, you know, Board of Realtors' median index, he could sell after five years and pay equity sharing and still make about slightly over $100,000 in equity in profit from the unit. So that's the advantage to the owner of the reserved housing.
The perspective from affordability, yeah, it does now, you know, depress the affordability, but it doesn't depress quite at that level as if it was left to go to fair market value. So the Authority would have to put back the equity sharing into the unit, plus some additional subsidy if it was going to be -- if the Authority was going to make the unit affordable at the same AMI as it was before. So from staff's perspective, the proposed language was a compromise between the two.

MEMBER BASSETT: Intending to give the owners a chance to gain more equity, No. 1?

MR. NEUPANE: Yeah.

MEMBER BASSETT: And also to protect them from a bad market?

MR. NEUPANE: Yeah. It protects from the downside because, you know, the minimum buyback price is no less than the original sales price of the unit.

MEMBER BASSETT: And then the additional language about the improvements was an added benefit to --

MR. NEUPANE: Added benefit. I think it came through comments where, you know, I think one of the testimony was that, "Hey, if you don't take into factor the investment that the owner is going to make
into improving the unit, then what is the motivation for that owner to keep that unit updated -- you know, up to date and in good condition? So you need to factor that into, you know, the buyback price." And I think that was a reasonable comment and so that's --

MEMBER BASSETT: That wasn't a comment that was just specific to our proposed amendment. That was a comment that would be relevant to our actual rules that we're operating under now of the AMI.

MR. NEUPANE: That is correct.

MEMBER BASSETT: They would have the same critique on the rules as they are now.

MR. NEUPANE: Uh-huh.

MEMBER FANG: And the selection of the Honolulu Board of Realtors' index, again, the purpose was to choose an index that was specific to Hawaii, but also was easily accessible so that people could look it up and have a fair estimate of maybe where their sales price would stand.

MEMBER BASSETT: So I think when it comes to the owner's perspective, the revised rule is a lot more friendly to the owner. It is a little bit more, administratively, a headache for us because we have
to factor in what is the allowable cost of improvement, but that's because we're doing something to give the owner even more benefit than they would have had under the old rule.

MR. NEUPANE: That is correct.

MEMBER OKUHAMA: We're actually doing a 30-year now, though. That's the difference. So, of course, because of the 30-year, you would want to be a little more forgiving to the buyer.

MEMBER BASSETT: But not being so forgiving as to just giving them market value because that would take it outside of affordability to pass on to the next affordable buyer.

MR. NEUPANE: And I have looked at other jurisdictions, and I believe it's in the economic analysis done by Strategic Economics too. A lot of other -- many other jurisdictions tie the buyback price to CPI or AMI. So the formula that has been proposed is generous compared to, you know, San Francisco, Boston, New York, Denver, some of the other jurisdictions out there.

CHAIR WHALEN: Generous to the seller.

MR. NEUPANE: Generous to the owner of the reserved housing unit.

CHAIR WHALEN: The owner, right.
MEMBER WATERHOUSE: And the reason we chose this or you folks proposed this formula over the HHFDC formula is because?

MR. NEUPANE: Well, HHFDC -- HHFDC's program is a little bit different because of the way the equity sharing and all of that is calculated. And HHFDC, basically, those are all LIHTC projects -- type of projects.

MEMBER WATERHOUSE: Those are what?

MR. NEUPANE: Low-Income Housing Tax Credit and those kind of projects, and also the formula is different. HHFDC, what it does is that it initially establishes the price, sales price and then the market price and calculates equity sharing. And at the back end, you know, the buyback period is 10 years on those. And then if they buy it in 10 years, then I believe HHFDC's formula is, the buyback within 10 years, it's tied to CPI. It's only if they waive their first option to purchase or it's after the 10 years, then it goes to fair market value at that point. But within the regulated term, I believe HHFDC's formula is to tie it to CPI. I can't say that for certain. I don't have the rule in front of me, but that's what my recollection is.

MEMBER WATERHOUSE: I will take back
my --

CHAIR WHALEN: Withdraw your motion?

MEMBER WATERHOUSE: Thank you.

CHAIR WHALEN: Okay. Just last call for any other changes to that subchapter 3. There are a lot of sections in there. I’m looking at the list. Two and three are the -- the easiest way to follow it is the table of contents, the beginning.

MEMBER OH: So subchapter -- Chair --

CHAIR WHALEN: Yes.

MEMBER OH: -- if I may, this is actually subchapter 4, which is, of course, of the workforce housing rules; right?

CHAIR WHALEN: Subchapter 4 is repealed.

MEMBER OH: It was not included with the current -- with the proposed rules.

CHAIR WHALEN: Oh, okay.

MEMBER OH: It was part of the old rules. And, of course, I know we were going to vote on this, and, of course, I wanted to say that this does not represent the opinion of anybody else other than for myself. You know, the key intent of our rules is really the preservation of affordable units, but bear in mind that these rules really don't apply to existing inventory. Only to new units that are being
considered built. We're in the middle of the biggest housing shortage crisis in the history of the state, and I think if I'm absolutely serious about trying to alleviate the crisis and provide moderately priced housing for the hardworking people of our state, then I have reservations about not utilizing the only incentive we have. So for that reason, I'm okay with subchapters 1, 2 and 3, but I'd like to make a motion to leave subchapter 4 as it is.

MEMBER FANG: I think doesn't most of the text of subchapter 4 get brought into subchapter 2?

CHAIR WHALEN: Yeah, it does.

MEMBER OH: It does, and it's integrated, I think. I think what has happened is it really got integrated in subchapter 3, and a lot of the rules really got carried over into subchapter 3; right? But for subchapter 3, it's really discussing the reserved housing again or is it --

MR. NEUPANE: The sales price calculation and then the buyback and equity sharing provisions now apply to -- well, let me back up.

The workforce housing provision is still there, and then, you know, the incentives that was provided in subchapter 4 for building workforce housing units is still preserved. It's there in
terms of density bonus and then some other waiver of
the rule requirement like public facility dedication
and all of that.

MEMBER FANG: It's now in section 21.

MR. NEUPANE: Yeah. What is different is
that because buyback, you know, and through the
discussions with the Authority before and the task
force, the buyback provision and equity sharing
provision was, you know, made applicable to workforce
housing project. So from an administrative process,
you know, or perspective, it became a lot easier to
integrate that with provisions than to have to repeat
all of those provisions in a separate subchapter, and
that's why it was integrated.

MEMBER FANG: And then the section -- I
believe the section about the maximum unit sizes in
subchapter 4 was deleted because we didn't want to
prescribe additional rules on developers. You know,
we didn't want to micromanage exactly what they were
building, the style type.

MEMBER OH: You're talking about the
sizes of the units?

MEMBER FANG: Right. That's from the
table in subchapter 4, specifically.

MR. NEUPANE: The additional reasoning
there is that the unit sizes were there based on the feedback provided by the developer in 2011 and then adopting the rule, and the argument was that, "Hey, the unit sizes are small. So it's not going to appreciate as much." And that may be true or not, but if the Authority is going to have the buyback provision on those units, then there is really no need to try to, you know, manage the appreciation of those units through size of the unit.

MEMBER OH: Through reserved, yes. Through workforce, no; right? Okay. So you're saying that because -- if we're trying to put back the workforce housing rules and we're leaving that intact as it is, then because it's been already integrated to the current rules, I mean, it's going -- it's basically -- it can't qualify as a motion?

CHAIR WHALEN: You can make the motion to strike.

EXECUTIVE DIRECTOR: What you could do is ask -- you could direct us to keep the workforce housing provisions as they are in the 2011 rules.


EXECUTIVE DIRECTOR: And then make changes accordingly in the proposed rules to be
consistent with that. So we'll pull all the workforce housing stuff out --

MR. NEUPANE: From other sections.

EXECUTIVE DIRECTOR: -- from other sections to put it back to what it was.

CHAIR WHALEN: And just to allow things to run as they have been?

EXECUTIVE DIRECTOR: There wouldn't be the buyback --

CHAIR WHALEN: Or qualification of buyers or anything?

EXECUTIVE DIRECTOR: -- or equity --

MEMBER OH: For reserved housing, everything would remain the same. Just for workforce.

MR. NEUPANE: Just for workforce.

MEMBER FANG: When we're talking about everything, we're talking about a lot of different things. Not just the buyback, but it's the rules that were relaxed or that were proposed to be relaxed around qualifying buyers, you know, the assets that they're allowed to count as qualifying assets, previous ownership of other property, things like that.

MEMBER WATERHOUSE: When you brought that
up, William, were you thinking of putting back only
the one-year requirement rather than the 30-year?

MEMBER OH: For workforce housing, yes.

EXECUTIVE DIRECTOR: There's no
requirement.

MR. NEUPANE: The one-year requirement is
not from the 2011 rules, but it's the condominium
statute that if you are an owner-occupant buyer, then
you have to occupy the unit for at least a year
before you can rent or sell the unit.

MEMBER OH: That's for the 75 percent of
the units?

MR. NEUPANE: That's not through HCDA
rules. That's through the condominium statute on,
you know --

EXECUTIVE DIRECTOR: What Member
Waterhouse is referring to with the one-year, I
think, is HRS Chapter 514B, which defines condominium
projects, and it has a provision defining owner
occupancy -- owner-occupant.

MR. NEUPANE: Yeah. Owner-occupant
requirement.

VICE CHAIR SCOTT: So we're not going to
have any rules for workforce housing?

EXECUTIVE DIRECTOR: What Member Oh is
proposing is we go back to the original workforce housing program without any changes.

VICE CHAIR SCOTT: Wasn't that one of the things we were trying to avoid was going back to not have the affordability over a longer period of time? I thought that was one of the directives that we had for the working group.

MEMBER OH: It's not for the working group. It's the reserved housing rules and workforce housing rules, Steve. So we're still changing it from five years -- two years, three years, five years. For reserved housing rules, we're taking it all the way to 30 years for reserved housing. We're still lowering the AMI, the weighted average, to 120 percent, of course, with a maximum of 140 percent.

So what I am making the motion for is, yes, to leave the workforce housing rules as it is without any changes to it for the 2011 Mauka Area Rules.

MEMBER FANG: Okay. Let's vote on it, then.

CHAIR WHALEN: Well, let's have a second. Is there a second?

EXECUTIVE DIRECTOR: Just to be clear for the staff, the reserved housing rules as it was in
2011, but all the changes that apply to reserved housing we keep in the proposed rules.

MEMBER OH: Correct.

CHAIR WHALEN: So is there a second to the motion? Because, otherwise, we won’t have a vote. Is there a second?

Motion fails for lack of second.

So I think that pretty much -- we hadn't anticipated calling for chapter 4 -- subchapter 4, but that's -- I think the list of proposed changes to be included in a revised draft that will be --

MEMBER BASSETT: There's something that I noticed. I just noticed in the headings here, the titles don't match what the revised headings are.

EXECUTIVE DIRECTOR: I was going to say that, you know, when these rules were originally proposed, so my comment would be that we make the titles consistent. So even for the rules, it says "Kaka'ako Reserved Housing Rules," but it's reserved and workforce. So we'd strike out "reserved" and just call that the Kaka'ako Housing Rules.

MEMBER BASSETT: Even in some of the section headings, for example, like, "218 Reserved Housing Unit Type and Corresponding Factor," when you go to the actual section, it just says "Unit Type and
Corresponding Factor." So the change was made in
the -- in the substance of the rule, but not changed
in the heading -- in the table of contents.

EXECUTIVE DIRECTOR: Which section is
that?

MEMBER BASSETT: So it happens a lot.
Subsection 19, 20, 21, 30, 31, 34. So you can just
do a pass on all of it to make sure the headings --

MR. NEUPANE: That's like editing and
I'll take a look at that.

MEMBER BASSETT: Sometimes it matches
what it used to be and sometime it matches what it is
now. So just to be consistent to have it all match
to what you're proposing it to be.

MR. NEUPANE: Yes. We'll go through the
table of contents and make sure that the table and
contents and the body matches because it looks like
some of the changes were made and some of the changes
were not.

MEMBER OH: So we're leaving the general
title without the "Reserved Housing Rules," then? Is
that what you're saying?

EXECUTIVE DIRECTOR: It should be
Kaka'ako Housing Rules.

MR. NEUPANE: I would say Kaka'ako
Reserved Housing Rules and Workforce Housing Rules.

EXECUTIVE DIRECTOR: So would the board prefer just Housing Rules or Reserved and Workforce Housing Rules?

MEMBER BASSETT: When you do that, just provide -- like, if you can do the same strikeout for all the titles and everything that you do here. Does that make sense?

EXECUTIVE DIRECTOR: Yeah. We'll be sure it matches up with the statute to be consistent with the statutes.

MR. NEUPANE: The term "reserved housing" is used in the statute, and I believe that is the reason why it's called reserved housing.

EXECUTIVE DIRECTOR: So we'll probably have to do it as reserved and workforce housing, but we'll show the strikeouts.

MR. NEUPANE: Because if we say just "housing," it could be that it's --

CHAIR WHALEN: So it brings me to my next request for a motion. Shall we authorize the staff to make nonmaterial, editorial changes related to form and consistency?

MEMBER FANG: So moved.

CHAIR WHALEN: So moved.
MEMBER BASSETT: I'll second.

CHAIR WHALEN: Beau Bassett seconds. All those in favor, say aye.

(Board members voted.)

CHAIR WHALEN: Any opposed?

Okay. The revised draft will be presented by staff to the board at our next regular meeting -- Kaka'ako meeting. I think it's -- I believe that updates today. So July 7th.

EXECUTIVE DIRECTOR: July 5th.

CHAIR WHALEN: Missed again. So July 5th, 2017. And then two public hearings will be scheduled subsequent to that after notice has been published for 30 days in advance of the public hearing. We have suggested dates for those hearings, but shall we --

EXECUTIVE DIRECTOR: We had to adjust them based on this.

CHAIR WHALEN: We might have to adjust the dates and also make sure we have quorum present for those hearing dates, but they'll be in the latter part of July, maybe early August.

EXECUTIVE DIRECTOR: Probably August.

Early August and mid-August, two meetings.

CHAIR WHALEN: Okay. So --
EXECUTIVE DIRECTOR: Hearings, not meetings.

CHAIR WHALEN: So that actually concludes our hearing for the day, unless there's any desire to make any public comment at this point. But we're having two more hearings and a regular meeting where the revised draft will be presented. So on behalf of HCDA Authority members and its staff, thank you for attending and your patience. The hearing now stands adjourned at 5:32 p.m.

(Hearing adjourned at 5:32 p.m.)
CERTIFICATE

STATE OF HAWAII )
CITY AND COUNTY OF HONOLULU ) ss.

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 19th day of June 2017 in Honolulu, Hawaii.

____________________________
LAURA SAVO, RPR, CSR NO. 347