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HAWAII COMMUNITY DEVELOPMENT AUTHORITY
STATE OF HAWAII
PUBLIC HEARING
RE:
AMENDMENT OF HAWAII ADMINISTRATIVE RULES,
TITLE 15, CHAPTER 218,
"KAKA'AKO RESERVED HOUSING RULES"

TRANSCRIPT OF PROCEEDINGS

Wednesday, August 16, 2017

Taken at 547 Queen Street, Second Floor
Honolulu, Hawaii 96813
commencing at 9:08 a.m.

Reported by: LAURA SAVO, CSR No. 347

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A P P E A R A N C E S

John Whalen, Chairperson
Mary Pat Waterhouse, Vice Chairperson
Deepak Neupane, Director of Planning and Development
Aedward Los Baños, Administrative Services Officer
Garett Kamemoto, Communications & Community Outreach
Officer
Michael G.K. Wong, Deputy Attorney General
Lori Sunakoda, Deputy Attorney General

MEMBERS PRESENT:

Beau Bassett
Wei Fang
Laurel Johnston
William Oh
David Rodriguez
Kathy Sokugawa

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Jennifer Darrah-Okike	35
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1 Wednesday, August 16, 2017, 9:08 a.m.

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3 CHAIR WHALEN: Good morning. I'd like to
4 call to order the August 16, 2017, public hearing of
5 the Hawaii Community Development Authority. The time
6 is now 9:08 a.m. My name is John Whalen, Chair of
7 the Authority, and I'm the presiding officer for this
8 hearing.

9 Let the record reflect that the following
10 members are present: David Rodriguez, Wei Fang,
11 Mary Pat Waterhouse, Beau Bassett and John Whalen.
12 We expect another one to arrive shortly, but we have
13 quorum.

14 At an earlier public hearing on
15 June 7th, 2017, the Authority voted not to adopt
16 the Draft Kaka'ako Reserved Housing Rules posted on
17 April 6, 2017, for a public hearing held on
18 May 17, 2017, and directed staff to prepare a new
19 draft presented to the Authority at its
20 July 5th, 2017, meeting.

21 I'd just like to note for the record that
22 board member William Oh has arrived.

23 At its July 5th, 2017, meeting, the
24 Authority approved the proposed draft Kaka'ako
25 reserved housing rules with three HCDA staff-proposed

1 amendments for the purpose of holding a public
2 hearing.

3 Notice of today's public hearing was
4 published on July 16, 2017, in the Honolulu
5 Star-Advertiser, Maui News, The Garden Island, Hawaii
6 Tribune-Herald and West Hawaii Today. The notice was
7 also sent to HCDA's email list and posted on the HCDA
8 website. A copy of the notice can also be viewed
9 outside in the foyer if anyone present is interested
10 in reviewing it.

11 In addition to the required 30-day notice,
12 the Authority also posted a meeting notice/agenda six
13 days prior to this meeting to give the public
14 additional notice above and beyond what is required.

15 Today's public hearing on the proposed
16 draft Kaka'ako reserved housing rules published on
17 July 16th, 2017, is convened under the provisions of
18 Hawaii Revised Statutes, Chapter 91 and 206E, and
19 Hawaii Administrative Rules, Chapter 15-219, to
20 consider the following matter: The HCDA is proposing
21 to amend Hawaii Revised -- Hawaii Administrative
22 Rules, Chapter 15-218 entitled Kaka'ako Reserved
23 Housing Rules to promote development of more reserved
24 housing units as well as preserve existing reserved
25 housing stock. Proposed amendments to the Kaka'ako

1 Reserved Housing Rules will expand the source of
2 reserved housing units, preserve reserved housing
3 stock, encourage development of for-sale and rental
4 reserved housing units, and create consistency with
5 affordable housing rules administered by other state
6 and city agencies.

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

11 Before we receive public testimony, let me
12 briefly explain the procedures for this hearing.
13 First, the HCDA will present its report. Following
14 that, we will hear testimony by the public in the
15 order that the individuals have signed up.
16 Individual comments will be limited to no more than
17 three minutes, but we will accept written testimony
18 of any length. Only members of the Authority will be
19 permitted to ask questions of the public. This is
20 not a decision-making hearing. So there will be no
21 decision made today.

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

25 Now, Director of Planning and Development

1 Deepak Neupane will provide the HCDA staff report.

2 MR. NEUPANE: Thank you, Chair and
3 members. A copy of the draft rule is in your packet,
4 and I will just walk through some of the highlights
5 and go section by section in the PowerPoint, and then
6 try to address any of the questions that the members
7 may have.

8 Just some broader housekeeping kind of
9 things that I wanted to address out front. First,
10 the title of the chapter is amended to Kaka'ako
11 Reserved Housing and Workforce Housing Rules just to
12 reflect that the chapter covers not only reserved
13 housing but workforce housing too.

14 Also, the section titles are amended
15 because there are -- there are changes to the section
16 titles and some new sections were added. So that's
17 not part of the rule, but that's more of the
18 housekeeping of the rules.

19 On subchapter 1, General Provisions,
20 section 15-218-1, Purpose and Intent is amended to
21 provide clarity. It provides clarity in that
22 reserved housing is a requirement for developing
23 residential projects in Kaka'ako. It also clarifies
24 that the workforce housing program is a voluntary
25 program. It is not a mandatory program.

1 And section 15-218-3 and -4 is amended to
2 provide clarity. So grammatical stuff and those kind
3 of comments.

4 Section 218-5, Definitions, it adds
5 definitions -- new definitions and it deletes some of
6 the old definitions that are not used in the rules
7 anymore.

8 And section 218-17, Requirements of
9 Reserved Housing, amends the requirement to 20
10 percent of the total number of residential units in a
11 multi-family residential development instead of 20
12 percent of the square foot. The current rule
13 requires that 20 percent of the floor area be set
14 aside as reserved housing. That has changed to 20
15 percent of the units. And part of the reason being
16 there is that later on in the rule, you know, there's
17 a table for --

18 The intent of 20 percent initially was to
19 encourage building more bigger, larger reserved
20 housing units, and that the three-bedroom kind of
21 reserved housing units, that would be taken care of
22 by that unit-size factor. So that is no longer
23 needed, and floor area is no longer needed to make
24 those kind of adjustments.

25 In that section further down, the

1 reserved housing to begin construction prior to
2 initial certificate of occupancy, and there's a
3 requirement on the developer to provide financial
4 guarantee to the HCDA that those units will be built.

5 Also, because of the change in the
6 statute several years ago, there's a provision that
7 deals with a cash-in-lieu payment instead of
8 providing reserved housing. Also, some changes are
9 for revisions to provide clarity in the rules.

10 Paragraph -- section 218-18, Reserved
11 Housing Unit Floor Area, this more deals with
12 exemptions where it still keeps the provision that
13 floor area used for reserved housing doesn't count
14 towards FAR; therefore, it provides almost 20 percent
15 bonus floor area for providing reserved housing. No
16 requirement for public facilities dedication for
17 reserved housing units. It provides flexibility in
18 off-street parking requirement, building height,
19 building setback and off-street loading requirements
20 of Mauka Area Rules.

21 There's a new section added, and I
22 mentioned it earlier, 218-19, Unit Type and
23 Corresponding Factor, where a two-bedroom unit is
24 considered to be one unit, and then, you know, a
25 three-bedroom and three-bedroom-plus and bigger units

1 are considered to be a little bit more than one unit,
2 and, similarly, one bedroom and a studio are
3 considered to be less than one unit, and this is what
4 I was addressing earlier. It takes care of the
5 incentive of providing larger units. So we didn't
6 have to resort to floor area concept and things.

7 Also, the calculation makes it -- the
8 calculation is a lot easier too when you look at 20
9 percent of the unit versus 20 percent of floor area.

10 Another section, 218-20, was added to
11 provide guidelines for sales and rentals of reserved
12 housing. Now, this is just a guideline. This is
13 similar to what is used by HHFDC on the occupancy of
14 the reserved housing. So it helps to ensure larger
15 units are provided to larger families and, you know,
16 acts as a guideline for the developer and sales of
17 the unit. And the occupancy is based on the
18 occupancy guideline of City and County of Honolulu
19 housing code.

20 A new section added on workforce housing:
21 218-21. Again, I'd like to emphasize that it makes
22 it clear that it's a voluntary program, and the
23 requirement for workforce housing where 75 percent of
24 the units are priced based on an AMI of 140 percent
25 or below. It eliminates the unit size, a

1 specification that's in the current rules, provides
2 for 100 percent floor area bonus and exempts from
3 public facility dedication fee. There is also a
4 provision that the Authority may consider modifying
5 off-street parking and loading requirements.

6 Section 218-29, it governs the sale,
7 rental or transfer of reserved housing and workforce
8 housing units. It describes the process in the rule.
9 The general qualification, the only amendment that's
10 addressed in that section, is that the qualifying
11 household should have sufficient gross income to
12 qualify for a loan. It's something that wasn't in
13 the earlier rules, and this provision comes directly
14 from the provisions that HHFDC has in its affordable
15 housing program. It also provides for a provision
16 for someone who already owns a reserved housing unit
17 in Kaka'ako but had changes in family because of
18 birth of children and, you know, the size of the
19 family has increased, for those families to be able
20 to apply for a larger unit if it's available within
21 the district. It didn't exist in the current rule,
22 but that's added in the new amendment.

23 Section 218-31, Sales and Rental of
24 Reserved Housing, it standardizes the workforce
25 housing and reserved housing sales program, and it

1 provides that the Authority may manage the sales
2 program itself or allow the developer to manage it.
3 It addresses sales notice requirement and information
4 to be included in the notice and adds a provision
5 that priority shall be given to any family displaced
6 within the Kaka'ako Community Development District
7 because of development in the district.

8 Section 218-32 amends the provision where
9 it exempts a retirement account from counting towards
10 assets and also provides that the 20 percent of the
11 purchase price that's used as down payment from
12 counting towards assets.

13 Occupancy requirement in this provision
14 has been revised to make sure that the purchaser of
15 the unit is an occupant of the unit. It allows for
16 verification requirement and for the Authority to
17 enforce the rule in case, you know, a purchaser of
18 the unit is not the occupant of the unit too. And it
19 adds verification requirement too. It allows for the
20 HCDA to require that the owner, at a regular
21 interval, provide information that the owner is the
22 occupant of the unit.

23 Section 218-34, Factors to Be Used,
24 establishes factors for reserved housing and
25 workforce housing sales price determination based on

1 a couple of elements there where a down payment --

2 Now, this is just for the purpose of
3 calculating the sales price. It should be limited to
4 10 percent of the sales price. Also, the applicable
5 AMI, like, whether it's at 100 percent, 110 percent,
6 120 percent and so forth. And, also, the housing
7 cost limits to 33 percent of the household income and
8 includes mortgage payment, mortgage insurance
9 premium, AOA dues, and also takes into account the
10 interest, which is published by Freddie Mac for a
11 30-year mortgage, and also the unit factor that is --
12 was part of the earlier provision.

13 It allows for a maximum sales price to be
14 based on 140 percent of AMI as long as the weighted
15 average sales price of all of the reserved housing
16 units of the project is no more than a price
17 calculated based on 120 percent of AMI, and also
18 requires that the executive director establish and
19 publish a reserved housing sales price formula every
20 year.

21 This is an example. It's too busy and
22 small to read, but this is an example of the price
23 calculation template or basically a formula that will
24 be provided to a developer on a project that has
25 reserved housing, and the developer can work through

1 this spreadsheet to determine the various pricing
2 levels at various AMIs.

3 Terms of Reserved Housing and Workforce
4 Housing: Establishes the first option to purchase
5 the reserved housing or workforce housing unit by the
6 Authority, which has been amended to 30 years. The
7 current rule provides for five years, but the amended
8 rule provides for a 30-year buyback period. And it
9 establishes the formula to determine the buyback
10 purchase price where the buyback price is based on
11 the original fair market value of the unit
12 appreciated by an index, which is the index published
13 by the Honolulu Board of Realtors, minus the
14 Authority's equity in the unit. And also provides
15 for consideration for owner-made improvements in the
16 unit in determining the buyback price.

17 It regulates subsequent mortgages placed
18 on the reserved housing units. It needs to be
19 approved by the ED, and then it limits the subsequent
20 mortgages to the buyback price established by the
21 formula. Basically, what it does is that it doesn't
22 jeopardize the Authority's equity being mortgaged by
23 a homeowner, and this amendment was provided taking
24 into consideration the comments provided by a lot of
25 Honolulu banks and Honolulu Mortgage Bankers

1 Association and the financing community.

2 And I have an example there on,
3 typically, how you would calculate buyback price and,
4 you know, the original sales price of the unit and
5 then the original fair market value so that it
6 establishes the equity sharing. And then the next
7 column after that is the annual median sales price
8 change published by Honolulu Board of Realtors. And
9 the rest is showing you the calculation that, you
10 know, based on past data from 2016 to 2012, if
11 someone bought a unit in 2012 and it was \$408,000,
12 pretty much the buyback price established by the
13 Authority would be 518,000. The Authority's equity
14 would be 62,000 in the unit, and then the owner's
15 profit would be 110,000. So this addresses a lot of
16 concerns and comments that was received concerning,
17 you know, the opportunity for an owner of a unit to
18 build equity in the unit. And I believe the way the
19 formula is set up, it provides a very robust
20 opportunity for, you know, increasing equity for the
21 owner of the unit.

22 Some sections that are no more required
23 and, therefore, are deleted are sections 36 and 37.

24 Section 218-36 (sic) addresses the
25 foreclosure requirement to notify the Authority. The

1 Authority becomes party to any foreclosure action,
2 and the Authority is in second position after the
3 lender and entitled to any remaining proceeds up to
4 the maximum of its equity sharing. And the owner is
5 entitled to any remaining funds after all that is
6 taken care of.

7 And section 218-39 provides for
8 foreclosure sale. And this section addresses some of
9 the comments that we have received regarding regular
10 secondary mortgage market with FHA and all of that
11 where this meets the requirement for FHA to
12 provide -- to purchase a mortgage in the secondary
13 market where, if it's a foreclosure sale, then all of
14 the requirements of the rules are extinguished at
15 that point and not applicable.

16 Section 218-40 requires for -- it creates
17 the deed restriction by incorporating equity sharing
18 and then the buyback provisions in the deed.

19 Section 218-41 addresses equity sharing,
20 amends the formula a little bit, makes it consistent
21 with actually HHFDC's formula. And the last bullet
22 point there on "HCDA's equity sharing subordinated to
23 any mortgage created for the purchase of reserved
24 housing or workforce housing unit," that amendment
25 was included based on the comments provided by the

1 local financial institutions, including Hawaii
2 Mortgage Bankers Association where the current rule
3 provides only for a first mortgage being -- the
4 equity sharing being subordinated to just the first
5 mortgage created for the purchase of the unit. And
6 the comment was received that because there is a 20
7 percent down payment requirement, a person might have
8 to take a second mortgage to purchase a unit and --
9 or pay mortgage insurance premium, which is money out
10 front. So this is to provide more opportunity for
11 the buyers and make it easier for the buyers who
12 qualified for the loan -- for a second mortgage that
13 we made the changes.

14 And, again, the criteria from staff side
15 was to look at whether the Authority's equity share
16 would be in jeopardy or not, but allowing that --
17 restricting it to the mortgage created only for the
18 purchase of the unit, you know, I believe that it
19 doesn't jeopardize the Authority's equity sharing in
20 the unit. And it allows flexibility for bankers and
21 flexibility for the owners. It particularly creates
22 additional opportunity for the owner for financing
23 the purchase of the unit.

24 Going back to the formula on equity
25 sharing, it is a percentage based on the original

1 fair market value and original reserved housing sales
2 price. And I have an example there.

3 Section 218-42, "Deferral," provides for
4 deferral of first option to purchase and adds
5 conditions to deferral of first option to purchase in
6 equity sharing. This section was added to address
7 situations where there's real situations where
8 someone, say, because of their job or family
9 situation, have to move out or, you know, move to a
10 foreign country or move to the mainland, but they
11 don't want to sell their unit. So it creates
12 opportunity for those people to either transfer the
13 unit to a family member if the family member
14 qualifies and those kind of circumstances, and it
15 creates for a life trust and situations like that.

16 "Terms of Reserved Housing and Workforce
17 Housing For Rent": Again, maximum qualifying income
18 of 140 percent of AMI for rental units as long as the
19 weighted average rent is based on an household income
20 of 120 percent. I've listed the factors for
21 determining monthly rents for reserved housing units,
22 and 30 percent of the applicable AMI includes
23 utilities, exempts parking, telephone, television and
24 internet, and ED to establish a formula. So on the
25 spreadsheet there, there's a formula on the bottom

1 that really calculates what the applicable rents are.

2 The next provision, 218-45, "Rental of
3 Reserved Housing and Workforce Housing Unit By
4 Owner," and this provision was added to, again,
5 address the situations where, you know, it's a
6 purchase by say sometimes --

7 We had a case where it was a military
8 family who purchased the unit and was transferred to,
9 I believe this was Japan, and wanted to keep the
10 ownership of the unit, and we had no provision for
11 the owner to allow -- to rent the unit. So it
12 clarifies that; that a family that needs to --
13 because of personal circumstances, needs to move out
14 of the unit, is allowed to rent the unit as long as
15 the unit is rented to a qualified household.

16 Section 218-46, cash-in-lieu provision.
17 Again, as I mentioned earlier, the cash-in-lieu
18 provision is added because it's put in the statute
19 again, and it establishes a formula which is higher
20 of the two, 7 percent of gross revenue of the project
21 or the difference of average -- fair market value and
22 average reserved housing sales price, whichever is
23 greater, and I have a formula there on how it gets
24 calculated.

25 Section 218-47, that's just the effects

1 of subsequent rule amendments. This is for owner of
2 reserved housing where, under the current rule, it
3 provides the option for those owners to come under
4 the new rules or to stay within the existing -- the
5 rules that they qualified under.

6 A new section was added, section 218-48,
7 to address fees for provisions for establishing fees
8 for administering reserved housing and workforce
9 housing program. We get a lot of requests for
10 buyback and things like that, and right now there is
11 no provision for fees established for spending,
12 especially asset management staff. So we're spending
13 a lot of time going through that analysis and
14 administering the program. So there is a provision
15 for fee.

16 With that, that ends my presentation, and
17 if board members have any questions, I can address
18 those.

19 CHAIR WHALEN: Thank you, Deepak.

20 Before we get into questions of board
21 members, I just want to note for the record that
22 Kathy Sokugawa and Laurel Johnston --

23 MEMBER JOHNSTON: Sorry I was late. I
24 apologize.

25 CHAIR WHALEN: Actually, if I may, I'll

1 start out with a question. I didn't see, well, in
2 your presentation, the amendment that eliminates the
3 requirement in the present rules that workforce
4 housing projects may not receive any form of subsidy
5 or assistance. But I don't see it actually in the
6 Ramseyer version of the rules.

7 MR. NEUPANE: It is in the Ramseyer
8 version, but let me go back and address that. The
9 current provision is that to qualify as a reserved
10 housing -- sorry -- the workforce housing program,
11 the workforce housing project cannot use, you know,
12 state/federal government funds. That provision has
13 been taken out in the proposed rules.

14 CHAIR WHALEN: So it would be sort of the
15 situation -- well, there was a newspaper story today
16 about the dedication of Keahole where it met the
17 rental housing requirements for reserved housing, but
18 they received funding from HHFDC. I think either a
19 construction loan or a GET waiver.

20 MR. NEUPANE: Yeah, I believe it was a
21 GET exemption. For that project, it was negotiated
22 with HHFDC. The requirement -- the HCDA's rental
23 reserved housing requirement is only for 15 years.

24 CHAIR WHALEN: Right.

25 MR. NEUPANE: So for receiving GET, the

1 project agreed to be -- keep it as a reserved --
2 administered as a reserved housing unit for 30 years,
3 and that was the reason for that.

4 CHAIR WHALEN: Okay.

5 MR. NEUPANE: The Authority's policy in
6 the past has been that if there is going to be any
7 additional HHFDC funding, like GET exemption and
8 situations like that, to allow that if it goes over
9 and beyond what is required by the current rules.

10 CHAIR WHALEN: Okay. I just wanted to
11 clarify that. I don't know if there are other
12 projects that are examples of that.

13 MR. NEUPANE: The 440 Keawe Street of the
14 Kamehameha Schools has the situation where it was
15 exempted from GET, but now instead of 15 years, it's
16 regulated for 30 years.

17 CHAIR WHALEN: So it's a combination of
18 incentives and direct assistance?

19 MR. NEUPANE: That is correct.

20 CHAIR WHALEN: Okay. Are there any other
21 questions?

22 MEMBER BASSETT: I have a question.

23 CHAIR WHALEN: Yes.

24 MEMBER BASSETT: This is regarding the
25 Ramseyer format 15-218-19 and its relationship to

1 what you're mentioning how you amended the other
2 chart regarding -- where is it? Basically, you took
3 out the requirement for the reserved housing unit's
4 square footage to be correlated with the FAR. What
5 section was that?

6 MR. NEUPANE: That's section 17.

7 MEMBER BASSETT: So what was the reason
8 for that change?

9 MR. NEUPANE: Well, initially, in 2011
10 when the rule was -- new rule was adopted, it went
11 from 20 percent of the unit to 20 percent of the
12 floor area. The thinking at that time was that, you
13 know, if it is floor area, then it probably will
14 provide incentive for the developer to build larger
15 units, saying that three bedroom units and all, you
16 know, because it reduces the number of bathrooms and
17 kitchens and things like that; right? So instead of
18 providing, say, on a 100-unit project, the
19 requirement would have 20 units, but now if you use
20 floor area, then the developer doesn't necessarily
21 have to build 20 units. It could be 15 units, but
22 some of the units would be a three-bedroom unit. So
23 that was the incentive.

24 But now because of the table that's
25 introduced in section 19 where there is an incentive

1 provided to the developer by providing a larger unit,
2 we didn't believe that, you know, we still needed to
3 keep the floor area and go to the number of units now
4 because it basically does the same thing.

5 MEMBER BASSETT: So the way that I see
6 this is, is that one potential, which is like on the
7 bad side of things, right, is that if you have a
8 developer that's required to build 20 units, then
9 they could just cram as many bedrooms as they can
10 into a very small area and that would meet -- you
11 know, they could develop less than 20 percent of
12 their FAR. Just squeeze in maybe like three bedrooms
13 into what should have been, like, an 800-square-foot
14 spot. Is that a concern?

15 MR. NEUPANE: No, that's not a concern
16 because, you know, the size of living spaces is
17 determined by Honolulu housing code. So the building
18 code takes care of, you know, the size of the -- the
19 minimum size of the units anyway. From a health and
20 safety issue, that's not a concern.

21 MEMBER BASSETT: I see. Okay. And also,
22 I guess, the market will, you know, address that as
23 well.

24 MR. NEUPANE: And the market does address
25 it. I mean, typically, in the newer units, a

1 three-bedroom unit tends to be, you know, 11-, 1200
2 square foot anyway.

3 MEMBER FANG: I think I might add, at the
4 time, we were also discussing the City's proposed
5 affordable housing changes, and they had a similar
6 kind of unit-factor-type table.

7 MR. NEUPANE: Yeah, I mean, the City and
8 County's current affordable housing rules, and I
9 believe they are going to adopt some of that in the
10 new version too, does have a similar table like this.
11 Theirs is more elaborate. It takes into account, you
12 know, different kinds of bedrooms and bathrooms and
13 all. We simplified it to just go by the number of
14 bedroom units.

15 CHAIR WHALEN: I believe they have a
16 different formula for TOD areas.

17 MR. NEUPANE: Yeah. On the requirement
18 for affordable housing.

19 MEMBER BASSETT: I have another question.
20 This morning, we received some testimony from the
21 Speaker of the House regarding a concern that the
22 transfers that he's specifying here could trigger our
23 buyback and equity sharing provisions. I'm not sure
24 if staff has a response to these concerns.

25 MR. NEUPANE: Yes, I do. I mean, you

1 know, this is -- we had received this comment earlier
2 too, and the comments are taken care of in the rules,
3 actually, by the, you know, provision of deferral
4 that I just went through. Let me point out the
5 section here: 218-42. That takes care of, you
6 know -- it provides for deferral of first option to
7 purchase and equity sharing. And if you look in the
8 paragraph in the Speaker's comment, that says 15-304,
9 that's 127, "Permitted Transfer," it takes care of
10 bullet No. 2, paragraph 2, No. 2 through 7, and it's
11 the exact language from that that's in our rule
12 because I copied it pretty much from HHFDC's
13 provision because that comes from HHFDC's provisions.

14 And the No. 1 paragraph there is taken
15 care of because, you know, the rule was amended to
16 allow for, you know, a second -- a second mortgage of
17 the buyback -- all the way up to the buyback price
18 established by the Authority. So in that sense, I
19 think the Speaker's comments are already taken care
20 of and included in the rules and addressed in the
21 rules.

22 MEMBER BASSETT: The difference is that
23 the language that he's citing here from HHFDC says
24 that "that corporation must require -- shall require
25 that consent be granted to those transfers," where

1 ours says "that we may." Is there a reason why we
2 chose not to follow completely the language of HHFDC?

3 MR. NEUPANE: Well, it's up to the
4 discretion of the Authority. It's always been at the
5 discretion of the Authority, and we wanted to leave
6 the language like that.

7 MEMBER BASSETT: Has it ever been our
8 practice historically to not allow for these kinds of
9 transfers?

10 MR. NEUPANE: Not sure.

11 Asset Manager or Aedward, do you have --

12 I am not aware of anyone transferring it
13 to family members, but, you know, a lot of the cases,
14 the Authority has either exercised its option to
15 purchase, and if the Authority doesn't exercise its
16 option to purchase, then the unit can be sold at
17 market. So --

18 CHAIR WHALEN: Okay. Any other questions
19 before we get public testimony?

20 VICE CHAIR WATERHOUSE: In this same
21 section under part 2, "Transfer to a Relative," and
22 in looking at the definitions, it said, you know, if
23 it's not -- it's not in that section. In looking at
24 Merriam-Webster, a relative is anyone by blood or by
25 affiliate, which I'm assuming is by marriage. So

1 what I'm concerned about is, you know, it could be a
2 cousin. How far -- how far do we go with this? And
3 I think the other sections, you know, do address
4 descendants, spouses, children. But I don't know
5 what -- what else was the thought behind that.

6 MR. NEUPANE: Well, the terminology, like
7 I said, you know, is completely borrowed from HHFDC's
8 rule, and we haven't defined "related." But then
9 there is a tacit provision in the definition section
10 that says that "Terms not defined in the section
11 shall be accorded their commonly accepted meanings."
12 So that provides for flexibility and interpretation
13 either to the executive director or to the Authority
14 in how the Authority or the executive director
15 decides to make that determination.

16 Now, you know, we could -- we could
17 define what a relative is, but once there is a
18 definition, it's going to be fairly narrow. And if
19 the intent of the Authority is to make it fairly
20 narrow, I can go back and define "relative" in the
21 rules, but then you have to keep in mind that that is
22 the definition. If something comes -- if we get into
23 a situation other than that, then it creates some
24 kind of conundrum at a later time.

25 And, also, again, I would like to mention

1 that any changes that we made in the rules, and the
2 AG probably will provide more detailed information on
3 this, may cause us to go back to another set of
4 hearings too. So I just want to caution about
5 changes -- making changes to the rule at this point
6 where it may trigger another set of hearings.

7 VICE CHAIR WATERHOUSE: And I know we
8 cannot do any decision-making at this time.

9 MEMBER JOHNSTON: Can I ask that really
10 the determining factor is whether they're eligible;
11 right? So you could be related to them and not be
12 eligible. So it's not going to matter how we define
13 "relative."

14 MR. NEUPANE: Yes.

15 CHAIR WHALEN: Katherine?

16 MEMBER SOKUGAWA: Do we know in the next
17 5 or 10 years how many sites will be affected by the
18 new rules? In other words, we anticipate they'd be
19 redeveloped to include housing that would be having
20 to be required to follow these rules on
21 affordability?

22 MR. NEUPANE: I don't know the exact
23 number of, you know, projects or sites that may be
24 affected, but what I can say is that any project
25 outside of Kamehameha Schools Master Plan and Ward

1 Neighborhood Master Plan would be -- would have to
2 follow these rules if these rules get adopted.

3 MEMBER SOKUGAWA: Right. But it's also
4 not applicable to under 20,000-square-foot lots.

5 MR. NEUPANE: That is correct, yeah.

6 MEMBER SOKUGAWA: So we can kind of do
7 some back-of-the-envelope estimate based on existing,
8 underdeveloped uses and, therefore, a possibility
9 that they may be redeveloped in the next five, ten
10 years.

11 MR. NEUPANE: I could look at that. I
12 haven't really looked at that.

13 MEMBER SOKUGAWA: The other question -- I
14 have lots, but I'll try to restrain myself. So
15 section 48 talks about establishing fees. Could we
16 add something about the purpose of the fees or what
17 they're expected to perform or cover? It has the
18 words that, "The Authority may establish if it's
19 deemed necessary." Okay. I get that. "Reasonable
20 or convenient," I don't get that. What would be a
21 convenient fee? And I would think that it would be
22 helpful to know, for the director to establish those
23 fees, is it intended to cover the cost of running the
24 whole program, a portion of the cost? Should there
25 be differentiated fees for first-time buyers, resale?

1 Do we have an estimate of how much it's going to cost
2 us to process these applications?

3 MR. NEUPANE: We do. It's mostly to
4 address, you know, buyback situations and then --
5 mostly to address buyback. We get requests for
6 buybacks, and then the staff has to, you know, go
7 through the paperwork, has to appraise the units and
8 those kind of things. It's intended to cover that.

9 Typically, initial sale, up until now,
10 the Authority has always allowed the developer to
11 administer the sale program. So, therefore, there is
12 no initial cost to that applicant, and the intent of
13 that section is to cover only if there's a buyback
14 request.

15 MR. LOS BAÑOS: So, Member Sokugawa, the
16 only thing I'll add is that this rule was also
17 something borrowed from HHFDC, something that
18 currently exists as well.

19 MEMBER SOKUGAWA: Thank you.

20 MR. NEUPANE: And mirrors the language
21 too.

22 MEMBER SOKUGAWA: We have experience --
23 the Department of Planning and Permitting does have
24 experience with this issue. We qualify first-time
25 homeowners. We qualify buybacks. So it takes a

1 considerable amount of time to do that work. And so
2 it's not a small cost if you base it on our
3 experience. So I just wanted to know that -- what is
4 the intent of the fees and how they should be
5 calculated.

6 The other question I have is there's a
7 provision here that says the Authority may modify the
8 off-street parking. I would suggest that we get more
9 explicit, especially if they're within a transit
10 station, that across the board from the beginning,
11 that the parking -- as the city has been doing, is
12 reducing the parking automatically by half to
13 encourage a reduction of cost on affordable housing
14 rather than leave it open-ended.

15 MEMBER BASSETT: What provision is that?

16 MEMBER SOKUGAWA: There's a provision
17 that says "The Authority may modify the off-street
18 parking requirement." And I'm suggesting that if
19 it's near a rail station, the affordable housing
20 should at least be cut by half.

21 MEMBER BASSETT: What section is it?

22 MEMBER SOKUGAWA: It was kind of in --
23 page, whatever, 2-18 -- section 218-18, "Adjustments
24 to High Density and General Development
25 Requirements."

1 MEMBER FANG: At the very end of that
2 section.

3 MR. NEUPANE: Member Sokugawa, the
4 parking requirement is administered by Mauka Area
5 Rules. And so the provision in the reserved housing
6 rules is just for the Authority to be able to amend
7 that.

8 MEMBER SOKUGAWA: I understand that, but
9 I think we should be even beyond that and make a rule
10 or a guideline that says as a minimum, you would only
11 need to provide half the parking that would normally
12 be authorized by TOD. You can go lower or you can go
13 higher, but I think that would be a very good signal
14 to developers to say, "That's some place where I
15 could automatically cut costs."

16 CHAIR WHALEN: Well, we do have a TOD
17 overlay that has not yet been adopted in the rule,
18 and that, I think, probably one of the key provisions
19 is to reduce the off-street parking requirement. I
20 think, actually, the challenge has been to find
21 developers who are willing to reduce parking.

22 MEMBER SOKUGAWA: I'm not saying it has
23 been easy for us either. Developers and their
24 bankers are resistant to dropping the parking
25 requirement, you know, but I pretty much believe that

1 in the next 40 years, we're going to be dramatically
2 changing our mobility habits, and there are going to
3 be a lot of empty parking garages, and they're not
4 able to retrofit into habitable spaces. Construction
5 standards are totally different. So unless you've
6 done that now, you're going to be stuck with a lot of
7 empty spaces. So that would be unfortunate,
8 including the front-end cost of affordable housing
9 now, in 20 years, you're not going to need them.

10 CHAIR WHALEN: We're sort of veering from
11 questions to discussion.

12 MEMBER SOKUGAWA: Sorry.

13 CHAIR WHALEN: Thank you.

14 Any other questions we have for staff?

15 Okay. People have been waiting patiently
16 to give their testimony. As of today, the HCDA has
17 received 147 written testimonies. Board members were
18 provided with copies of testimony before today's
19 meeting. Testimony that was received up until
20 12:00 p.m., August 15th, yesterday, 2017, have been
21 printed and provided to members.

22 If you emailed or faxed your written
23 testimony, you do not need to resubmit a copy today.
24 If you'd like to submit written testimony today,
25 please hand it to our clerk. Ku'ulei will be taking

1 it. Ku'u lei is sitting there at the table. So she
2 can record it and add it to the record.

3 We will now hear testimony from the
4 public. Speakers will be called up to testify in the
5 order in which they have signed up. Public
6 testimony, as I stated before, will be limited to
7 three minutes each, but you can also supplement this
8 with written testimony.

9 Please refrain from reading your written
10 testimony if it is lengthy, particularly. Instead
11 summarize your comments in the time that you have
12 available. When you are called, please come up to
13 the witness table and speak directly into the
14 microphone. Please state your name, any organization
15 that you're representing, and whether you submitted
16 written testimony.

17 Now, I don't have anyone signed up to
18 speak. I'm flabbergasted. No one signed up to
19 speak. But let me ask if anyone wishes to speak at
20 this point even if you haven't signed up.

21 Yes, please come forward. Just sit at
22 the chair and state your name and if you're
23 representing any organization.

24 MS. DARRAH-OKIKE: Okay. Hi. Thank you,
25 everyone, for coming here to deal with these

1 important issues. My name is Jennifer Darrah-Okike.
2 I'm representing myself. I am a researcher and
3 professor. I've studied housing policy for many
4 years. I'm here to underscore the importance of
5 strong policy for inclusionary zoning. This is
6 something I've studied for many years. It's a policy
7 tool that is so important. It's one that's been
8 successfully used in other very high-cost-of-living
9 areas like Honolulu.

10 I understand there's some debate about
11 where to set the limit in terms of where to target
12 the housing in terms of low- and moderate-income
13 households, and I'd like to make a very strong case
14 for keeping that --

15 Well, let's talk about what is area
16 median income. Median income is about the area.
17 It's a relative measure. So it captures our
18 realities in your area. And to put it in terms that
19 are simple to understand, 100 percent of area median
20 income is right smack dab in the middle. So, by
21 definition, anything that would include up to 100
22 percent of the area median income, by definition, is
23 talking about half. Half of the households here.

24 I would encourage this body, as I know it
25 does, to take very, very seriously the charge that it

1 was given. This area was envisioned in the late
2 '70s. This body was established with a vision for
3 creating housing in an urban core that would be vital
4 and that would include all types of households and
5 all types of families to benefit. There's bodies and
6 bodies of research that suggest that societies, as a
7 whole, improve when there is social mixing. Areas
8 themselves are stronger when there's social mixing
9 across income, across group, across occupation. Even
10 individual households benefit.

11 So we're really at risk of losing
12 something really important for our society in general
13 and also for our area in particular if Kaka'ako
14 becomes too heavily influenced and occupied by the
15 very highest-income families.

16 So I'd encourage you to live up to the
17 charge that was given to this body. In very, very
18 high-cost-of-living places, the only way -- research
19 has shown time and time again that the only way there
20 can be some modicum of inclusion is when public
21 bodies like you and public policies stand up
22 affirmatively to balance out the picture and really
23 keep the eye on the prize in terms of inclusion. So
24 I would say keep your eye on the prize of 100 percent
25 area median income.

1 Every person in the state of Hawaii is
2 taxed. Every person, every household across the
3 income distribution has contributed to the public
4 monies and the millions of dollars that have been
5 invested in Kaka'ako. It's an investment in all of
6 Hawaii's future, all of the island's future. Why
7 would we completely leave out half of the population
8 from even having a chance?

9 So I would keep your eye on the prize to
10 target policies at 100 percent so that half -- half
11 or more of the people can have some chance of living
12 in this vibrant place and making it better for
13 everybody.

14 So I leave my -- I'll leave it there, but
15 I'm happy to answer any questions. And I'll just
16 remind us that, again, median income is already area
17 relative. So it doesn't make sense to say, "Well, in
18 a high-cost-of-living place, we really need to target
19 to 140 percent." It's already relative. So when we
20 talk about 100 percent median, we're talking about if
21 we say below 100 percent, that is half -- by
22 definition, half of all households. And so we're
23 talking about your service workers. We're talking
24 about county workers. We're talking about teachers.
25 And we need to -- we need to bring our policies down.

1 Other localities have reserved housing
2 that are very robust at the 100 percent, 120 percent
3 level. I've personally never seen policies pitched
4 to the 140 percent median income level. So I'm
5 surprised that we would do that in such a special
6 area where there is so much demand, and, yet, so much
7 need for an inclusive society. So thank you.

8 CHAIR WHALEN: Thank you.

9 Any questions of the speaker? Okay.
10 Anyone else?

11 Yes.

12 MEMBER SOKUGAWA: I don't think it's a
13 disrespect to the Authority, but there is a competing
14 hearing on affordable housing at the legislature in,
15 like, 20 minutes. So some people may have had to
16 choose which hearing to attend.

17 CHAIR WHALEN: Well, I would say in terms
18 of relative importance, the legislature gets more
19 attention than the HCDA. It's not always the case.
20 But in this instance, yeah, I think the timing of the
21 hearing -- well, we set our hearing date first.

22 MEMBER SOKUGAWA: Yes, we did. Yes, we
23 did.

24 CHAIR WHALEN: So, anyway, yeah, sorry
25 for, I guess, divided attention on those two things.

1 But are you -- are you attending that one, the
2 legislature?

3 MEMBER SOKUGAWA: Well, it depends on
4 when this meeting adjourns.

5 CHAIR WHALEN: So I think you're sort of
6 a command performance over there; right? Don't you
7 have to go?

8 MEMBER SOKUGAWA: No.

9 CHAIR WHALEN: Anyone else like to speak
10 at this point?

11 Well, okay, we had -- you know, as I say,
12 we've gotten a lot of testimony. We have already
13 been reviewing our second draft of the rules. We
14 have tried to listen to the suggestions that were
15 made. Our next meeting will be a decision-making
16 hearing on the rules, but I just want to thank
17 everybody who has participated. We've learned a lot.
18 We know that there are lots of challenges that we
19 can't rely on just rule-making and requirements; that
20 there needs to be also financing to support
21 affordable housing and make it affordable for the
22 long term. And it's a very complex area that
23 requires looking at what the private sector does and
24 what their needs are, but also what the demands are
25 in terms of the public's need for affordable housing.

1 The next public hearing will be for
2 decision-making on Wednesday, September 6th, at
3 1:00 p.m. So on behalf of the HCDA Authority members
4 and its staff, I thank you for your attendance today.
5 The hearing now stands adjourned. The time is now
6 10:04 a.m. Thank you.

7 (Hearing adjourned at 10:04 a.m.)

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C E R T I F I C A T E

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

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

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

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

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

Dated this 20th day of August 2017 in Honolulu, Hawaii.

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