

May 3, 2017

To: Mr. John Whalen, Chairperson, and Members
Hawaii Community Development Authority

HAWAII COMMUNITY DEVELOPMENT AUTHORITY
547 Queen Street
Honolulu, Hawaii 96813

From: Louise Black, Kaka'ako Resident
876 Curtis St, #3504
Honolulu, HI 96813
Email: louse.leilehua@gmail.com

MAY 03 2017

Received
AS

Subject: Revision of HCDA Reserved Housing Rules

Reserved and Workforce Housing asset limits for qualifying buyers should be 120% of Area Median Income (AMI) instead of 140%.

In 1976, Kaka'ako became a community development district under the HCDA to serve the "highest needs and aspirations of Hawaii's people". Kaka'ako's "highest needs" included affordable housing, reserving a share of housing for "low- or moderate-income households". Early HCDA newsletters touted a balanced mixed-use and mixed-income community. Instead, Kaka'ako is becoming a playground for the world's investors.

The UH Economic Research Organization's (UHERO) 2010 study of affordable housing policies offered zero support for defining 140% AMI as "moderate". Of 29 mainland jurisdictions' studied, including high-cost San Francisco, New York and Virginia's Fairfax County, none supported households making above 120% AMI. In fact, only 8 jurisdictions even reached 120% AMI.


Our own City's proposed housing rules make 120% the upper limit of their affordable housing definition. The City had commissioned a study by Keyser Marston Associates, Inc. The study defined "moderate income" housing as between 80% and 120% of AMI. Keyser Marston stated that households making over 120% of AMI don't need government support.

Also, a housing study done by the former HCDA Board drafted new housing rules defining "moderate income" as no higher than 120% of AMI.

There is a looming crisis of a lack of sufficient affordable housing. Mayor Caldwell, has underscored the fact that households earning about 80% of AMI represent about three-fourths of this housing need. According to Civil Beat's "Living Hawaii" series, Honolulu has the third-highest housing costs of any American city. 47% of Honolulu households pay more than 30% of income on housing – highest in the nation. In 2013, 86% of Honolulu income tax filers earned less than \$100,000. HCDA can make the move in the right direction to help alleviate the acute need for affordable housing.



Mortgage Bankers Association of Hawaii
P.O. Box 4129, Honolulu, Hawaii 96812

Received
MAY 03 2017 

May 2, 2017

HAWAII COMMUNITY DEVELOPMENT AUTHORITY
547 Queen Street
Honolulu, Hawaii 96813

The Honorable John P. Whalen, Chair,
Jesse Souki, Executive Director
Members of the Task Force Committee
Hawaii Community Development Authority

Re: Proposed amendments relating to HAR Chapter 15-218,
"Kakaako Reserved Housing Rules"

I am Victor Brock, representing the Mortgage Bankers Association of Hawaii ("MBAH"). The MBAH is a voluntary organization of individuals involved in the real estate lending industry in Hawaii. Our membership consists of employees of banks, savings institutions, mortgage bankers, mortgage brokers, financial institutions, and companies whose business depends upon the ongoing health of the financial services industry of Hawaii. The members of the MBAH originate and service or support the origination and servicing of the vast majority of residential and commercial real estate mortgage loans in Hawaii. When, and if, the MBAH testifies on legislation or rules, it is related only to mortgage lending and servicing.

The Mortgage Bankers' Association of Hawaii supports all efforts that can be made to increase the availability of affordable housing while preserving the most flexible of financings options for those homebuyers to both purchase and to refinance those properties to lower their monthly housing expense and/or finance maintenance or improvement of those properties.

Specifically, with respect to the proposed revisions to the HAR Chapter 15-218, "Kakaako Reserved Housing Rules", we support the following:

- The exclusion of "income of a co-mortgagor who is not a household member" in the definition of "Household Income" in section *§15-218-5 Definitions*
- The exclusion of both "qualified retirement accounts" and "gifts of equity up to twenty per cent of the purchase price" from the calculation of assets subject to the 135% of the applicable income limit in section *§15-218-32 Income*

We understand that revisions to section *§15-218-35 Terms of reserved housing and workforce housing for sale* are intended to extend the *regulated term* from 5 years to perpetuity, with the intent of retaining affordable housing designation instead of releasing these properties from the stock of affordable housing after they are owned for five years.

However, the way the proposed revision was compiled may have unintended long-term negative consequences. In the *Existing vs Proposed Reserved Housing Rules* summary of changes posted to your website, item number 18 indicates that there is no change from the current rule. But this summary is not correct, as there is indeed a change as written. The current rule restricts cash-out refinancing to 80% of the original purchase price for only the first five years of ownership in §15-218-35 (c). As proposed, the revised rule would also extend the term under which refinancing is restricted to 80% of the original purchase price, from 5 years to perpetuity! This means that these homeowners would not be able to tap into their share of appreciated value ever to finance home improvements, repairs, or updates, which would lead to deterioration of these units in the long run. Therefore we strongly recommend striking the proposed §15-218-35 (d) altogether, or at least striking the part that states “shall not exceed eighty percent of the original purchase price of the reserved housing unit and”. Other existing City and County and State restrictions have limited cash-out refinancing after the regulated term to 80% of the homeowner’s original purchase price PLUS 80% of their share of appreciation. However none have limited financing to 80% of the original purchase price in perpetuity as proposed in these revised rules. The HCDC will still be able to limit the amount of cash out refinancing with the provisions of §15-218-35(b)(5) as well as §15-218-41(g)(3).

Another part of the proposed rule which discourages home improvement, repairs, and updates to housing is the proposed limit in §15-215-35 (c) on the buyback price to the amount of appreciation based on the “corresponding annual median sales price percent index for condominiums published by the Honolulu Board of Realtors”. No account is made for the documented costs of home improvements (as is given in section §15-218-41(c)), and homeowners will be discouraged from spending money to improve or even maintain their home if they understand that value of those property specific improvements is not recognized at the time buyback price determination is made. Accordingly, we recommend that the buyback price continue to be calculated based on the current market value of the particular housing unit, which will reflect the market value of improvements and encourage homeowners to maintain the condition and value of their properties and the affordable housing stock in the Kakaako community.

Thank you for the opportunity to present this testimony.

VICTOR BROCK
Mortgage Bankers Association of Hawaii

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR



KATHY K. SOKUGAWA
ACTING DIRECTOR

TIMOTHY F. T. HIU
DEPUTY DIRECTOR

May 2, 2017

Mr. John P. Whalen, Chair
and Members of the Board
Hawaii Community Development Authority
547 Queen Street
Honolulu, Hawaii 96813

Dear Chair Whalen and Board Members:

SUBJECT: Amendments to Kakaako Reserved Housing Rules (Revised)

This amends our comments dated March 24, 2017, which were based on an earlier draft of the Rules.

Everyone agrees that we need more affordable housing on Oahu. To the extent that governments can work together, we can be more effective in achieving this goal. Therefore, we are pleased that HCDA is re-evaluating its affordable housing policies and requirements, even as the City is updating its strategy and regulations.

We have been working with HCDA staff and other housing agencies to develop closely aligned affordable housing policies. The draft HCDA Rules and the City's proposed policies are more closely aligned than in the past, with respect to defined recipient or need groups, offering an in-lieu fee option, and longer re-sale restriction time periods. This is good practice, as we are dealing with generally, the same developers and overall housing market, and consistent policies should produce an even distribution of affordable housing.

Attached is an extended discussion on the similarities and our research that justifies our proposal.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy K. Sokugawa".

Kathy K. Sokugawa
Acting Director

Attachment

Attachment

Additional Background Information

Over the last three years, the City conducted extensive technical analysis on how much affordable housing should be required in a typical development. As a result, an islandwide affordable housing requirement (AHR) ordinance will be submitted to City Council soon. The analysis shows that the amount of affordable housing required should vary by income level, whether it is for sale or rental, and whether it is built on-site or off-site. The analysis also showed that the basic requirement of 20 percent affordable units (15 percent if rental) that both HCDA and the City are proposing should work in the hot market areas like Ala Moana and Kakaako.

Due to the vast majority of housing needs being at lower income levels, the City proposal is to reduce the top tier of affordability from 140 percent of Area Median Income (AMI) to 120 percent of AMI, with one-half of the affordable units priced at 100 percent of AMI. The HCDA proposal refers to an average, allowing a significant number of the units to be sold at the 140 percent level. Consideration should be given to requiring more of the units to be sold at the 100 and 120 percent AMI level.

The City's proposed requirement will give developers several options for compliance. The proposed ordinance incentivizes production of the required affordable units on site; but it would allow off-site production, although more units would be required. An in-lieu fee option is included, but not preferred; the proposed rate of \$45 per square foot is deemed high enough to incentivize on-site production, but still give developers another option. Most developers who are in pre-application discussions with the Department of Planning and Permitting (DPP) for projects in the Ala Moana rail station area (which overlaps with the Kakaako Community Development District) are planning to provide the affordable units on site at the recommended minimum of 20 percent of all units.

Unlike HCDA's proposed shared equity and buy-back requirements in perpetuity, the DPP proposes a minimum 30-year period of affordability, to build up and maintain the supply of affordable units over time. This extended period is reflective of programs in hundreds of localities across the country. Several banks have submitted testimony against HCDA's proposal, claiming that a perpetual shared equity requirement would limit banks from reselling mortgages on the secondary market (to Fannie Mae, Freddie Mac, FHA, etc.); and that this would impact the developers' ability to finance projects. Rick Jacobus, a consultant to the City, assures that Fannie Mae, Freddie Mac, and FHA do finance shared appreciation and deed restricted units (although he cautions that appropriate documents need to be carefully drafted). We understand that Fannie Mae and Freddie Mac are about to announce plans to make financing these homes even easier.

Some have argued that the extended restricted sales period will limit a homeowners' ability to build equity and "move up the housing ladder" with a large profit after their period of affordability ends. Both HCDA and City proposals allow homeowners to build equity for a future housing purchase. The City proposal is as follows: Appreciation is tied to the Consumer Price Index. As an example, assume an average 1 percent increase per year on overall house value, a \$300,000 home could appreciate by \$3,000 the first year, \$3,300 the next, etc. With a 10 percent down payment, that \$30,000 investment could appreciate by up to 10 percent per year. Compounded annually, it could grow to over \$77,000 in ten years. Since payments include paying down the mortgage balance, homeowners would also be building equity. Although the

amount would vary depending on the interest rate and term of mortgage, the principal payments could add up to an additional \$40,000 to \$60,000 in equity in 10 years. Although HCDA's proposed requirement includes equity sharing, and appreciation is tied to median home sales rather than CPI, there would still be a substantial amount available for down payment on a next house.

Recent national data has shown that this equity building works in practice. A 2009 Urban Institute study of seven programs (www.urban.org/policy-centers/metropolitan-housing-and-communities-policy-center/projects/shared-equity-research) included the City of San Francisco, which has similar affordability issues to Honolulu. For the 10-year period ending in 2010, the typical seller of an affordable home made \$70,000 on resale, for an average rate of return of 11.3 percent annual compounded interest on the down payment. The Grounded Solutions Network uses HomeKeeper web app data to track how many affordable home sellers are able to buy market rate homes; for 80 programs, the national average is 59 percent of sellers (<http://myhomekeeper.org/social-impact-dashboard>).

Moses, Kuulei N

From: ChristopherDelaunay <cdelaunay@prp-hawaii.com>
Sent: Tuesday, May 02, 2017 1:40 PM
To: &HCDA
Subject: Public Testimony Website Submission Kakaako Reserved Housing rules

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Christopher Delaunay

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Pacific Resource Partnership

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Project Name

Kakaako Reserved Housing rules

Do you support or oppose?

Oppose

File Upload

- [Testimony_HCDA_Kakaako-Reserved-Housing-Rules-Amendments_03-May-2017.pdf](#)

May 3, 2017

John Whalen, Chair
Hawaii Community Development Authority
547 Queen Street
Honolulu, HI 96813

RE: Proposed Amendments Relating to HAR Chapter 15-218 "Kakaako Reserved Housing Rules"

Dear Chair Whalen and members of the Hawaii Community Development Authority:

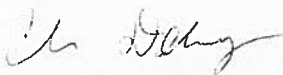
Pacific Resource Partnership (PRP) is a not-for-profit organization that represents the Hawaii Regional Council of Carpenters, the largest construction union in the state, and more than 240 of Hawaii's top contractors. Through this unique partnership, PRP has become an influential voice for responsible construction and an advocate for creating a stronger, more sustainable Hawaii in a way that promotes a vibrant economy, creates jobs, and enhances the quality of life for all residents.

The proposed amendments to HCDA's Reserved Housing rules threaten to halt the construction of new projects in the Kakaako area. This would have a negative impact on the construction industry and the many sectors the industry supports.

Historically, the implementation of ill-advised policies has resulted in sharp losses in construction jobs. In late 2006, Maui County enacted an ordinance requiring 50% of the units in residential development projects be workforce housing. A law enacted in 2007 required developers to provide proof that projects had long-term source of water, adding further burden and cost to the developer. These policies, along with the Great Recession, triggered a construction industry slow-down which wasn't reversed until the 50% requirement was lowered to 25% in 2014. Between December 2006 and January 2011, Maui County construction employment fell by 53%, a direct loss of over 3,000 construction jobs. These aren't jobs the industry or Hawaii can afford to lose.

Honolulu faces a severe housing shortage. The lessons from Maui are vital: everyone loses when supply is limited by unwise policies. The restrictions in the Proposed Reserved Housing rules before the HCDA don't benefit housing supply, Honolulu residents, or the construction industry. HCDA's focus needs to be creating more housing, not limiting it. PRP respectfully requests that you reject the proposed amendments before you, and provide stakeholders the opportunity to rethink and redraft HCDA's Reserved Housing rules in order to encourage more development opportunities in Kakaako.

Sincerely,



Christopher Delaunay
Government Relations Manager



Moses, Kuulei N

From: JohnKobelansky <jjkobela@hawaiiantel.net>
Sent: Tuesday, May 02, 2017 1:42 PM
To: &HCDA
Subject: Public Testimony Website Submission Kakaako Reserved Housing rules

Name

John Kobelansky

Organization

JJ's Swim & Fitness

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Phone

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Project Name

Kakaako Reserved Housing rules

Comment

Please choose and support whatever is best for the Aina and the people of Hawaii Nei.
Kind Regards,
John Kobelansky Jr.

Moses, Kuulei N

From: NealOkabayashi <nokabayashi@fhb.com>
Sent: Tuesday, May 02, 2017 12:49 PM
To: &HCDA
Subject: Public Testimony Website Submission Kakaako Reserved Housing rules

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Neal Okabayashi

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nokabayashi@fhb.com

Project Name

Kakaako Reserved Housing rules

Do you support or oppose?

Oppose

Comment

correction on the phone number for Neal Okabayashi. It is 525-5785

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- [HCDA-May-2-2017.pdf](#)



Neal K. Okabayashi
Senior Vice President & Attorney
Government Affairs

May 2, 2017

Mr. John Whalen, Chairman
Mr. Jesse Souki
Hawaii Community Development Authority
547 Queen Street
Honolulu, Hawaii 96813

Re: Proposed Amendments Relating to HAR Chapter 15-128
Kakaako Reserved Housing Rule

Dear Messrs. Whalen and Souki:

My name is Neal K. Okabayashi, a senior Vice President at First Hawaiian Bank and also in charge of government relations.

Thank you for this opportunity to express our views on this effort to increase affordable housing in the Kakaako neighborhood. We applaud your efforts to increase the inventory of affordable housing in Kakaako. However, some of the proposed restrictions on the units impacted by the proposal, such as equity sharing, may result in the unintended consequence for the goal of increasing affordable housing and workforce housing and serve as an impediment to that goal.

One concern is that mortgage loans on such units may not be a qualified mortgage under the Consumer Financial Protection Bureau's ability to repay rules because government sponsored enterprises (e.g., Fannie Mae) may not be willing to purchase such mortgage loans. Failure of such loans to qualify as a qualified mortgage, will impact marketability as the inventory of available loans may shrink. If the number of sold units will be diminished, that may lead to discouraging developers interested in constructing more housing units. Thus, the laudable goal of increasing the affordable housing inventory may be deterred by the proposed amendment, especially the equity sharing proposal. Therefore, we urge you to carefully review your proposal to not create unintended consequences.

If you have any questions, please feel free to call the undersigned at 525-7732.

Sincerely,

A handwritten signature in black ink, appearing to read "Neal K. Okabayashi".

Neal K. Okabayashi

Moses, Kuulei N

From: GalenFox <galenwfox@gmail.com>
Sent: Tuesday, May 02, 2017 12:48 PM
To: &HCDA
Subject: Public Testimony Website Submission Kakaako Reserved Housing rules

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Project Name

Kakaako Reserved Housing rules

Do you support or oppose?

Support

Comment

WITH STRONG RESERVATIONS; AMENDMENT NEEDED TO LOWER CEILING UNDER DEFINITION OF "MODERATE" TO 120% OF AMI.

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140% of AMI is NOT “Moderate Income Housing”

Galen Fox

HCDA Public Hearing, 9:00 a.m.

May 3, 2017

In 2014, an HCDA board committee proposed tightening HCDA's housing rules to cap reserved housing's upper limit at 120% of area median income (AMI), down from 140% of AMI.

City rezoning for housing development requires 20% of the project to sell to households making no more than 120% of AMI. Lowering HCDA's upper limit on reserved housing sales — 20% of HCDA project sales — to 120% would match the city's requirement.

The city and HCDA know Honolulu the highest-priced housing market in the country, one of the highest in the developed world, and one that is driving Oahu families to the mainland. Honolulu has the country's lowest rate of home ownership, and Honolulu's share of households paying more than 30% of income on housing is at 47% the nation's highest.

In 2016, HCDA responded to Honolulu's housing problem by lowering the upper limit on reserved housing sales to 120% of AMI. But after meeting with “stakeholders,” — not including the community — HCDA restored reserved housing's upper limit of 140% of AMI.

While HCDA calls for sales to “average” of 120% of AMI, that's not a *ceiling* of 120% of AMI. Not when the city requires 20% of its affordable housing to sell for 120% of AMI *or less*.

Not when, according to UHERO's study of inclusive housing, not a single mainland jurisdiction recognizes sales above 120% of AMI as affordable housing.

Not when the city's Keyser Marston Associates study defines “moderate” income housing as between 80% and 120% of AMI, adding that households making over 120% of AMI don't need government support.

Unlike the city, HCDA's law specifies that “affordable/reserved housing” is “low- or moderate-income housing.” That makes defining “moderate” a legally significant act.

The dictionary says “moderate” means “tending toward the mean or average.” HUD defines the bottom of the “moderate” range as 80% of AMI. If the “moderate” band begins at 80% AMI on the low end of the median (at 100% AMI), an equal bandwidth of 20% would set the upper limit at 120% AMI — *not* 140% AMI.

As long as “moderate” means “tending toward the mean or average,” then HCDA's definition of “moderate housing” should go no higher than 120% of AMI.

The draft housing rules will help build a “low- or moderate-housing” pool in Kaka'ako of both reserved and workforce housing. But that effort is compromised when in dollar terms half the units will sell at market rates, beyond the reach of “low- or moderate-income households.”

Additionally, the comparative advantage that HCDA's 140% of AMI ceiling offers developers over the city's 120% of AMI maximum (for 20% of units) will drive the market further away from the “low- or moderate-income housing” required by HCDA's law.

Moses, Kuulei N

From: JustinLuney <justinluney@gmail.com>
Sent: Tuesday, May 02, 2017 11:56 AM
To: &HCDA
Subject: Public Testimony Website Submission Kakaako Reserved Housing rules

Name

Justin Luney

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Project Name

Kakaako Reserved Housing rules

Do you support or oppose?

Oppose

Comment

Thank you for giving me the opportunity to submit written testimony. Although I support the purpose and intent of the rules, I cannot fully support the amendments at this time. Please see my written testimony attached.

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- [JustinLuney_Testimony.pdf](#)

Testimony of Justin Luney

Hawaii Community Development Authority
547 Queen St.
Honolulu, HI 96813

May 3, 2017

RE: Kaka'ako Reserved Housing Rules – Proposed Amendments

Dear HCDA,

Thank you for giving me the opportunity to submit written testimony. I am a third-year law student at the University of Hawaii at Manoa and am submitting this testimony as one of the course requirements for Administrative Law.

Although I support the purpose and intent of the Reserved Housing Rules, I have some reservations on the proposed rule changes that prevents me from fully supporting the rule changes at this time.

It is unclear how the change in general development requirements for reserved housing units will affect development in Kaka'ako. *See* § 15-218-18 (changing requirement from 20,000 square feet to ten or more residential units). Although I support the intent of §15-218-35, terms of reserved housing and workforce housing for sale, these limitations may put an undue hardship on buyers. One potential way to remove this hardship is to reconsider the length in which reserved housing and workforce housing units shall be regulated for, such as extending the period to only twenty-five instead of thirty years. §15-218-43 (“[Units] shall be regulated for a period of thirty years from the date of issuance certificate of occupancy for the project.”) I do, however, support the five-year buyback option, though other alternatives may be considered besides relying on the Honolulu Board of Realtors annual median sales price percent change. *See* §15-218-35.

Thank You,
Justin Luney

Moses, Kuulei N

From: LindaSchatz <lindaschatz@schatzcollaborative.com>
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To: &HCDA
Subject: Public Testimony Website Submission Kakaako Reserved Housing rules

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Project Name

Kakaako Reserved Housing rules

Do you support or oppose?

Oppose

File Upload

- [17_0503_Schatz-Collaborative-Testimony.pdf](#)



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Email: lindaschatz@schatzcollaborative.com
Schatzcollaborative.com

May 3, 2017

Via email to: Hawaii Community Development Authority

Hawaii Community Development Authority
547 Queen Street
Honolulu, HI 96813

**SUBJECT: Reserved Housing Taskforce Recommendations, Kaka'ako Community Development District
Reserved Housing Rules Proposed Draft Amendments**

Dear HCDA Board Members,

I am submitting written testimony to express my concerns over the proposed draft amendments to the Reserved Housing rules. There are several points of concern that warrants slowing this rule making process to ensure broad community feedback is received and that there is broad support by all stakeholders. The concerns are:

1. The community outreach process over the last three years has been spotty and not inclusive of the overall community.
2. More of the same regulatory barriers will not increase housing supply at deeper affordability levels.

1. The community outreach process over the last three years has been spotty and not inclusive of the overall community.

The process has been spotty in its effort to reach out to all community stakeholders and there has been a lack of continuity in communication in the last three years. Landowners who are directly affected were not notified and included in this process of developing the current reserved housing amendments. It is particularly important that these landowners should have been consulted with given that the bulk of housing production within the Kaka'ako district resides within the Howard Hughes and Kamehameha Schools master plan and they are exempt from the proposed reserved housing amendments for any of their future developments. These affected landowners were recently contacted only late summer of 2016 by concerned community members after HCDA had already drafted the rules with the attorney general's office. They should have been consultant with back in 2014 when this process started but they were not and was not aware until last summer.

2. More of the same regulatory barriers will not increase housing supply at deeper affordability levels.

We have had a serious housing supply shortage for the last 60 years, which creates an affordability crisis. About 60 years ago land use law went into effect and in the early 1970's HCDA was formed to put a separate set of regulations on zoning and development that was intended to encourage redevelopment of housing and commercial uses in the Kaka'ako district. Since then housing



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supply/production has dropped dramatically. Available urban land has become scarce and costly. Cost of living and construction has gone up significantly. So why would more regulation, essentially more of the same, create more housing?

In 2006, Maui created stricter regulations for workforce housing requiring 50% of the units be restricted and in perpetuity. No workforce housing was built during that time. In December of 2014, Maui County decided to relax the affordable housing restrictions from 50% to 25%. The other changes to the county's workforce housing ordinance included: *"exempting developments within the Wailuku redevelopment area to encourage the revitalization of Wailuku; allowing residential workforce housing credits to be issued for 100 percent affordable projects to be used in any community plan area; deleting the "gap income" group and finding those who make 140 percent or more of the median income to be able to afford market rates; reducing the deed restriction period for ownership units; reducing the deed restriction for rental units from the life of the unit to 30 years; and eliminating the county's right for first refusal to acquire a property in the event of a foreclosure."*¹

Relaxing these restrictions created a series of projects that became feasible and has increased the pipeline for workforce housing in Maui. Recently many projects using the 201H process has been submitted to the county council for approval. The 201H-38 process was meant to create affordable and workforce housing and allows projects to be exempted from statutes, ordinances, charter provisions, and rules. It is essentially a process to de-regulate creating a condition whereby projects become feasible. To provide an example, my partners and I are currently developing a 300+ unit new construction apartment project on Maui with the County's relaxed housing restrictions and the 201H process. We will be able to provide affordability rent ranges in the 80% to 140% area median income for studios and 1, 2, and 3 bedrooms. We will also be cross-subsidizing these lower income rents with 40% of our unit mix at market rate rents. This project does not depend on government subsidies because we'll be able to cross-subsidize the rents and because we have essentially de-regulated the project to save costs. Previously, with the high levels of restrictions a project like this could not pencil. This project is a garden style, 3 story, surface parked project to be built on land that is relatively inexpensive compared to Kaka'ako.

Compare this Maui example with the proposed rules amendments today and you are where Maui was back in 2006 when they passed these restrictive workforce housing policies and no housing units were built as they hit a recession. Not until 2014 did they change the rules well after the recovery. HCDA is in the position of making this same mistake. We are currently through the peak of the cycle and if you impose these stricter regulations developers will choose to build outside of the boundaries of Kaka'ako. The other major differences you have compared to this Maui example is that Kaka'ako has higher land costs and less of it thereby necessitating the construction of mid-rise to high-rise structures that costs 30-60% more. These building types often require a higher rate of return because they are riskier to develop.

There is overwhelming data in many studies across the nation that over-regulating has choked off housing supply thereby creating an affordability problem. Edward Glaeser, a professor of economics at Harvard University states, "The best way to make cities more affordable is to reduce the barriers to building and unleash the cranes. To do so, end the dizzying array of land use regulations in most cities

¹ <http://www.mauinews.com/news/local-news/2014/12/bill-aims-to-add-affordable-units-by-relaxing-rules/>



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that increase costs.”² The White House published a Housing Development Toolkit in 2016 that notes researchers, “have found that barriers to housing development increased rapidly from 1970 to 1990, and continue to increase through the present day. Researchers have also documented a sharp increase in the gap between home prices and construction costs, with stringent housing regulations now driving cost increases previously shaped by construction costs and quality improvements.”³

At first glance, the rules on paper seem to be a win for affordable and workforce housing, but in practice the Reserved Housing Unit Type and Corresponding Factor Table, the buyback and equity sharing provision in perpetuity, the development of 10 residential units or more shall provide reserved housing, the 30 year rental restrictions and the proposed cash in lieu amounts will stall the production of housing if passed. I encourage the board to slow this process down and pull together a broad working group from all sectors to find a better solution, one that incentivizes production.

Warmest Regards,

A handwritten signature in black ink that reads "Linda Schatz". The signature is fluid and cursive.

Linda Schatz
Principal

² <https://www.nytimes.com/roomfordebate/2013/10/16/housing-thats-not-a-luxury/ease-housing-regulation-to-increase-supply>

³ The White House, Washington, September 2016, Housing Development Toolkit

Moses, Kuulei N

From: DerekLock <dlock@hawaii.biz>
Sent: Tuesday, May 02, 2017 11:21 AM
To: &HCDA
Subject: Public Testimony Website Submission Kakaako Reserved Housing rules

Name

Derek Lock

Email

dlock@hawaii.biz

Project Name

Kakaako Reserved Housing rules

Do you support or oppose?

Oppose

File Upload

- [HCDA-Testimony-5-2-17.pdf](#)

Downtown Capital LLC
215 North King St STE 1000
Honolulu HI 96817

May 1, 2017

Dear Chair Whalen and HCDA Board Members,

While HCDA's intentions to amend the 2011 Mauka Area Reserved Housing Rules are perceived to be necessary, I believe them to be misguided and it will have a negative impact on the community regarding the production of needed affordable housing. If the goal is to create more affordable housing, introducing added layers of restrictions will hurt these efforts.

My testimony is in opposition to the Proposed Reserved Housing Rules and will make the following two points; 1) Workforce Housing as it is currently defined by HCDA does not need deed restrictions such as buybacks and equity sharing to remain affordable. 2) By adding layers of restrictions to development in Kakaako, HCDA is making development opportunities more restrictive by shrinking the feasibility box a developer needs, ultimately hurting Workforce Buyers.

- 1) With the Proposed Reserved Housing Rules, Workforce Housing is wrongly being integrated with Reserved Housing. There are inherent differences between Workforce Housing and Reserved Housing and they should be kept separate. Buyback and equity sharing provisions are not needed to keep Workforce Housing affordable. Workforce Housing units are modest units with modest amenities. The units are modest because of the Workforce Housing formula where 75% of a project has a unit price and unit size restriction. Due to cost constraints associated with the formula, a price ceiling is created, allowing a Workforce Housing project to stay affordable in perpetuity.

An analogy of why Workforce Housing remains affordable is to compare it to a Toyota. Since the market value for a Toyota is somewhat capped the manufacturer builds and delivers a product at that market value while still turning a profit. That Toyota (because of materials used and the lack of bells and whistles) will never sell for the same price as a Lexus. Whereas, Reserved Housing (and Inclusionary Housing in particular) is selling a Lexus at Toyota pricing. In time, the Lexus selling at Toyota pricing has the opportunity to convert up and sell at Lexus prices.

A real-life example of Workforce Housing staying affordable in perpetuity is 1133 Waimanu. 1133 Waimanu was completed over 20 years ago in 1996 and was developed by the same developer as 801 South St. It is situated in the most prime Kakaako location just Mauka of Hokua and Koolani. 100% of 1133 Waimanu's units were priced for 140% AMI and below and unit sizes are comparable to 801 South St. Today, 20 years later, resales have consistently

stayed under 140% AMI. Price wise, this is how 801 South St will mature. Price and rent wise it will always remain under the 140% AMI ceiling.

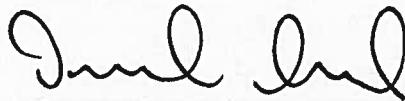
- 2) From a construction financing point of view restrictions such as buybacks and equity sharing increase risks in the eyes of a construction lender. Greater risks could increase the equity required on the developer to secure a construction loan. Instead of the normal 20% down, a developer subjected to buyback and equity sharing provisions may need to put up to 50% or more in cash equity to secure a construction loan. For a large developable parcel in Kakaako, a condominium project could have a construction cost up to \$150M. Very few companies in Hawaii can afford a \$75 million cash investment to make a development work.

Furthermore, risks in the eyes of a construction lender may increase the requirement to trigger the construction loan. Instead of the normal 65% presale requirement, an 80% or 85% presale requirement may be necessary to trigger the loan. On a 400 unit project this could mean that a developer may have to achieve up to 80 more sales (on top of the usual 260 sales) which could take months (if ever) in a soft market especially given the tight restrictions HCDA is proposing.

Under these scenarios, in order for the project to commence it would require a strong buyer's market or the willingness of a developer to commit higher cash equity dollars to do a project.

We currently are in a housing shortage crisis. HCDA's proposed approach to keeping Affordable Housing affordable is a band aid philosophy through price and rent controls which will only compound the problem. This will artificially hold down prices preventing local families from climbing up the housing ladder. I am urging HCDA's Board to preserve Subchapter 4 and the Workforce Housing rule to leave it as is.

Thank you,



Derek Lock

Project Manager, Downtown Capital LLC

Moses, Kuulei N

From: DavidOi <daveoi52@gmail.com>
Sent: Tuesday, May 02, 2017 10:12 AM
To: &HCDA
Subject: Public Testimony Website Submission Kakaako Reserved Housing rules

Name

David Oi

Email

daveoi52@gmail.com

Project Name

Kakaako Reserved Housing rules

Do you support or oppose?

Oppose

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March 1, 2017

Hawaii Community Development Authority
547 Queen St.
Honolulu, HI 96813

To Whom It May Concern:

I am writing to you as a recent purchaser of 801 South St. Building B. My wife and I purchased our unit in this project as a workforce/reserved housing unit. This is our first home together and with our two young children.

I work full-time , as does my wife. We would not have been able to purchase our unit at 801 South St. without the current reserved housing rules. Our income is steady, we work hard, but as is the case with many families in Hawaii, saving for a down-payment on a home for our family is difficult with the current cost of living in Hawaii. We do not qualify for or utilize any sort of public assistance. I feel we represent the typical Hawaii workforce family.

With the purchase of our property with the current workforce housing structure, we have been able to fulfill our dream of a home for our family and build equity for the future. The equity and stability of home ownership will allow us to remain in Hawaii and keep our money in the local economy. We have no intentions of renting out our unit or ever becoming "investors"; we simply are a hard-working couple who have been able to now afford a home in town.

Any sort of changes to the rules for reserved/workforce housing or the implementation of any sort of equity –sharing, buy-back or dedication fees would jeopardize the same opportunity for countless other families in Hawaii. There are many honest families out there who work hard every day and make ends meet completely on their own. The current reserved/workforce housing program rewards them for these efforts and shows everyone that hard work can payoff and that owning property in Hawaii is possible.

I urge you to not make any proposed changes to the current rules. Any changes will hurt more people than it helps, and I believe cause an exodus of the young workforce from Hawaii which will cause greater challenges for the local economy.

Sincerely,



David T. Oi

Moses, Kuulei N

From: JenniferMitsuyoshi <jennmits@gmail.com>
Sent: Tuesday, May 02, 2017 10:07 AM
To: &HCDA
Subject: Public Testimony Website Submission Kakaako Reserved Housing rules

Name

Jennifer Mitsuyoshi

Email

jennmits@gmail.com

Project Name

Kakaako Reserved Housing rules

Do you support or oppose?

Oppose

File Upload

- [20170502095401117.pdf](#)

February 23, 2017

TO: Hawaii Community Development Authority

RE: Proposed rule changes re Kakaako development

Dear Members of the HCDA:

My name is Jennifer Mitsuyoshi and I am an owner-occupant at 801 South Street. I oppose the proposed rule changes the HCDA seeks to impose on developers and potential buyers of affordable units in Kakaako. These changes will discourage developers from constructing sorely needed affordable units and continue to keep home ownership out of the hands of working class people. It will also allow the HCDA to tell buyers what they can and cannot do with their own property. It makes no sense to buy property that comes with such conditions – it means the property is not really yours.

Instead of building workforce or affordable housing, developers are building luxury and ultra-luxury condominiums. It is upsetting to see potential homes for Hawai'i's working class people instead become second, part-time vacation homes for others.

I am very grateful to Downtown Capital for building the 801 South Street project. We need more projects like 801 South Street. I urge the HCDA to leave the existing rules alone. We need more affordable homes, not luxury ones.

Sincerely,

Jennifer Mitsuyoshi

Moses, Kuulei N

From: JordanLum <jordan.lum@hotmail.com>
Sent: Tuesday, May 02, 2017 10:04 AM
To: &HCDA
Subject: Public Testimony Website Submission Kakaako-Reserved Housing rules

Name

Jordan Lum

Email

jordan.lum@hotmail.com

Project Name

Kakaako Reserved Housing rules

Do you support or oppose?

Oppose

File Upload

- [201705020953562071.pdf](#)

Jennifer and Jordan Lum
801 South Street #2225
Honolulu, HI 96813

February 27, 2017

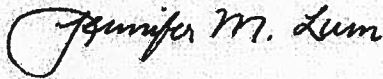
HCDA
547 Queen Street
Honolulu, HI 96813

To The HCDA:

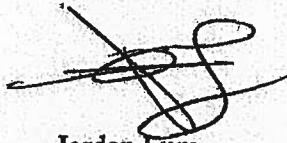
As new homeowners, we feel especially fortunate to have had the opportunity to make 801 South Street our first home. The chance to purchase a condominium unit in the Kaka'ako area was a dream that became reality for us at a time when there is a lack of affordable housing for the working people, people just like us who strive to continue to grow and thrive in this urban community. For this reason, we are in support of no change to the workforce housing rules because of the potential negative impact it may have upon the future growth of not only the Kaka'ako community, but Hawaii at large.

We are grateful and overjoyed to be living in what seemed to be out of reach for us. It is our hope that the future will see more Workforce Housing projects, such as 801 South Street, to benefit the people and future of Hawaii.

Sincerely,



Jennifer Lum



Jordan Lum

Moses, Kuulei N

From: JenniferLum <jenma1212@gmail.com>
Sent: Tuesday, May 02, 2017 10:04 AM
To: &HCDA
Subject: Public Testimony Website Submission Kakaako Reserved Housing rules

Name

Jennifer Lum

Email

jenma1212@gmail.com

Project Name

Kakaako Reserved Housing rules

Do you support or oppose?

Oppose

File Upload

- [20170502095356207.pdf](#)

Jennifer and Jordan Lum
801 South Street #2225
Honolulu, HI 96813

February 27, 2017

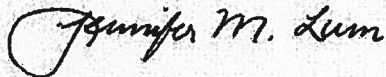
HCDA
547 Queen Street
Honolulu, HI 96813

To The HCDA:

As new homeowners, we feel especially fortunate to have had the opportunity to make 801 South Street our first home. The chance to purchase a condominium unit in the Kaka'ako area was a dream that became reality for us at a time when there is a lack of affordable housing for the working people, people just like us who strive to continue to grow and thrive in this urban community. For this reason, we are in support of no change to the workforce housing rules because of the potential negative impact it may have upon the future growth of not only the Kaka'ako community, but Hawaii at large.

We are grateful and overjoyed to be living in what seemed to be out of reach for us. It is our hope that the future will see more Workforce Housing projects, such as 801 South Street, to benefit the people and future of Hawaii.

Sincerely,



Jennifer Lum



Jordan Lum

Moses, Kuulei N

From: BlaneYoshimura <blane.yosh@gmail.com>
Sent: Tuesday, May 02, 2017 10:01 AM
To: &HCDA
Subject: Public Testimony Website Submission Kakaako Reserved Housing rules

Name

Blane Yoshimura

Email

blane.yosh@gmail.com

Project Name

Kakaako Reserved Housing rules

Do you support or oppose?

Oppose

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- [20170502095040914.pdf](#)

February 13, 2017

Hawaii Community Development Authority
547 Queen Street
Honolulu, HI 96813

RE: TESTIMONY FOR AFFORDABLE HOUSING DEVELOPMENT

To Whom It May Concern,

I am testifying in support of the 801 South Street Workforce Housing as it has provided my fiancé and I with a place to call home in urban Honolulu. 801 South Street is an efficient use of our land for housing. It is critical that we support those who are willing to take the risk of developing these homes, whether it be through tax incentives, government funding, or infrastructure support.

I understand that the buyers of Tower A have experienced a significant appreciation in value of their units since they originally contracted to purchase and that buys of Tower B will also enjoy this increase in equity. This is the result of the lack of inventory and affordable housing. As a young person, I only know a handful of my peers who have a place to all their own. Of that handful, 80% live in the continental United States. Why does this bother me? Hawaii born children can't afford the high cost of living, especially the housing cost.

I know that many of my peers, who choose to stay in Hawaii, struggle on the daily basis whether to put food on the table or to make rent. This can also be observed amongst the employees I supervise and when I converse with them about their struggles. Some may blame this upon life choices. But I know that these people work hard daily and aren't given the opportunity to own property. Opportunities like 801 South Street and affordable housing give local people the opportunity to own property in Hawaii.

Even with the scarcity of developments like 801 South Street, the HCDA is proposing restrictions on selling units, 30-year buy-back or shared equity requirements, etc. This will only diminish opportunities like 801 South Street, and enforce projects that only target high margin investors that do not support and house the local community.

Hawaii needs more developments like 801 South Street. Local development for local people.

Aloha and mahalo nui,

A handwritten signature in cursive script, appearing to read "Blane Yoshimura". The signature is written in black ink and is positioned above the printed name.

Blane Yoshimura

Moses, Kuulei N

From: SHARONMORIWAKI <sharonymoriwaki@gmail.com>
Sent: Tuesday, May 02, 2017 8:54 AM
To: &HCDA
Subject: Public Testimony Website Submission Kakaako Reserved Housing rules

Name

SHARON MORIWAKI

Address

425 SOUTH ST
KAKAAKO, HAWAII 96813
United States
[Map It](#)

Phone

(808) 428-1348

Email

sharonymoriwaki@gmail.com

Project Name

Kakaako Reserved Housing rules

Do you support or oppose?

Oppose

Comment

See attached comments which supports in general but opposes and requests changes to the draft proposed, specifically:

- 1) define "moderate income" as no more than "120% AMI"
- 2) make provisions to allocate some of the reserved and workforce housing to low-income households

agree with other provisions such as:

- 1) requiring workforce housing to follow same requirements as reserved housing
- 2) demanding equity sharing for all reserved and workforce housing sales, and bolster and ensure monitoring and enforcement -
-so "no fast flipping for profit"
- 3) 30 year regulated term for rentals

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- [SYM-RH-TESTIMONY-5-3-2017.pdf](#)

May 3 2017

To: Mr. John Whalen, Chairperson, and Members
Hawaii Community Development Authority

From: Sharon Moriwaki, Resident & President of Kaka'ako United citizens group

Subject: Revision of HCDA Reserved Housing Rules, Chapter 218 of Title 15, Hawaii Administrative Rules ("2017 Proposed Rules")

I am Sharon Moriwaki, a resident of Kaka'ako. I agree with the March 23 2017 testimony submitted by Kaka'ako United but add my comments and concerns based on additional information since then.

I, too, commend the HCDA board for finally bringing to the public and in reviewing and revising the Kaka'ako Reserved Housing Rules, Chapter 218 of Title 15, Hawaii Administrative Rules -- to achieve one of the major purposes for carving Kaka'ako and other community development districts out of the city & county of Honolulu's integrated land use plans. The law is clear that the HCDA would be responsible for planning these communities to "serve the highest needs and aspirations of HAWAII'S PEOPLE." And the overwhelming need of the state and, specifically urban Honolulu, continues since 1976 to this day: the need for "suitable affordable housing," for "low- and moderate- income families." (See Chapter 206E, HRS).

The Legislature has not forgotten the purposes of Chapter 206E, HRS. In fact, in researching the legislative history, you will find many attempts to address the need for affordable housing—from 2009 to as recently as 2015. One bill required 30% of units be in reserved housing and increasing every five years if there was insufficient affordable housing being built; another defined moderate income for purchased units at 120% AMI and for rentals at 100% AMI. Unfortunately, these were never passed. It left to the HCDA the responsibility for establishing standards to achieve the housing needed for Hawaii's low and moderate income residents.

We are pleased that you have taken on this challenge!

You are entrusted to create a quality community for those who want to live in Kaka'ako --not for offshore investors but for residents; and also for those of moderate-and low-income families. Your policies can be a model for the rest of the county and state for years to come if you:

- 1) Meet the need for true moderate-income housing. HAR Sections 15-218-32-34 and 43 . Reserved and workforce housing for sale and for rent should all be limited to "120% AMI" NOT 140% AMI. The City & County of Honolulu is proposing its own affordable housing ordinance as it, too, knows that Honolulu's residents desperately need affordable housing. And, the city --as well as every other jurisdiction with affordable housing policies—is setting its maximum at 120% AMI or less; many jurisdictions have set even lower levels. Those with incomes of 120-140% AMI can buy or rent market-priced units so why should they benefit from the state's affordable housing policies?

Unlike the city, HCDA operates under a law that explicitly requires "affordable housing" for "low- or moderate-income families." That law makes the definition of "moderate income" of legal significance to carry out the intent of HRS Chapter 206E.

The dictionary says "moderate" means "tending toward the mean or average." HUD's Community Development Block Grant program defines the bottom of the "moderate" range as 80% of area median income (AMI). If the "moderate" band begins at 80% AMI on the low end of the median (at 100% AMI), an equal bandwidth of 20% would set the upper limit at 120% AMI – not 140% AMI. As long as "moderate" means "tending toward the mean or average," and HCDA follows HUD's standards, then HCDA's definition of "moderate housing" should go no higher than 120% of the area median income.

- 2) Address the need for low-income housing. The proposed reserved housing rules also do not address the need for low-income for-sale and for-rent housing – an even more critical need for Honolulu's residents. While the proposed draft has added the definition of "low-income household" at 80% AMI or lower (HAR 15-218-5), it has not proposed any requirement that housing be available for this group of residents. HCDA should revisit its 2016 draft that did provide guidance to developers by including housing for low income households, particularly in workforce housing projects.

HCDA's 2016 draft proposed a for-sale housing schedule that apportioned the reserved units as follows: 10% for people with incomes at less than 80% AMI; 60% at 80-110% AMI; and 30% at 110-120% AMI (See Section 15-218-21 of the 2016 draft). Additionally, it limited rental units to low-income households of 80% AMI or lower (HAR 15-218-43). This or a similar provision should be inserted into the 2017 Reserved Housing Rules to ensure that some of the reserved housing is allocated for low-income residents.

- 3) Require workforce housing to follow the same requirements as reserved housing. HAR Section 15-218-21. I am in full agreement that the workforce housing rules should follow the reserved housing requirements. And, why not? These are the same beneficiaries of the affordable housing policies – our workforce. The only difference is that the workforce housing project developer will get additional concessions for building more affordable units. The concessions given to workforce housing developers are far more liberal, e.g., 100% increase in density, exemption from public facilities payment requirements (HAR 15-217-65) and other modifications such as off street parking. Just because "workforce housing" makes up 75% of the project, instead of the 20% reserved housing HCDA requires elsewhere, is no excuse for loosening the requirement that all such units be for "low- or moderate-income households." As with other "low- or moderate income housing," the maximum income limit should be 120% AMI.

Also, workforce housing projects not now monitored must be monitored in the future to keep sales and rentals in the "low- or moderate-income housing" pool. I support the proposed 2017 rules for maintaining a stable affordable housing pool, with the regulated term for rental units at 30 years (HAR 15-218-43) and the equity sharing safeguard for purchased units as discussed below (HAR 15-218-35).

- 4) Demand equity sharing when selling reserved housing/workforce housing units. HAR 15-218-35. The proposed rules are in accordance with the purposes for maintaining a stable affordable housing pool. It appears that some of the workforce housing project developer/real estate agents may have misinformed purchasers of the purpose and requirements of workforce housing.

I point specifically to the owners of 801 South Street who were recently published in a Honolulu Star Advertiser op-ed (*Honolulu Star Advertiser*, April 20 2017). They stated that they were against any changes to the workforce housing rules that would prevent buyers to build equity to "buy up."

This is NOT the purpose of housing reserved for "low- and moderate- income households!" A real

estate broker told us that of the 18 units in the 801 South Street project that sold since 2015, the profit made ranged from \$73,667 to \$206,700, with the average at \$131,246. One unit sold after only two months, with the original owner making a profit of \$140,600! This is definitely a way to build equity fast, but undermines the purpose of supporting Honolulu's workforce housing needs.

Such sales show that there is need for HCDA to monitor workforce housing projects. HAR 15-218-21 appears to require developers and/or owners to report their intent to sell, give HCDA the first option to buy, and, if HCDA does not purchase, still require the seller to notify HCDA of the sale and to share in the unit's appreciation with HCDA so as to return these funds for building more affordable housing. It is only fair where the owner benefits from being able to purchase low- or moderate-income housing and funds are used to maintain the affordable housing pool for others in need.

The city addressed equity sharing in its March 24 testimony, agreeing that buyers should be able to reap some benefit of the appreciation of the unit value upon resale, but made clear that the equity sharing should not deviate from the need to provide a stable pool of affordable units for sale and for rent. In its proposed affordable housing rules, the city underscored the public purpose of the requirement to help "grow and maintain a stable supply of affordable and workforce housing." This is one of HCDA's explicit mandates by law.

It is time for HCDA to stand firm for the best interests of Hawaii's people – fulfilling its mission and purpose as set forth in HRS 206E by:

- 1) defining correctly "moderate income" to be no more than 120% AMI;
- 2) allocating a portion of the reserved and workforce housing units for "low-income" households at 80% AMI or below;
- 3) keeping in the affordable housing pool the low-and moderate-income housing units for at least 30 years;
- 4) requiring workforce housing developments to follow the same requirements as for reserved housing; and
- 5) monitoring all sales and rentals so they are not "flipped for profit" but are kept in the pool for low- and moderate-income families and individuals.

These changes, in addition to the others which are being proposed, will help build housing affordable for Hawaii's people.

Thank you for the opportunity to testify.