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, May 31, 2017

Taken at 547 Queen Street, Second Floor

Honolulu, Hawaii 96813

commencing at 9:00 a.m.

A P P E A R A N C E S

John Whalen, Chairperson
Jesse Souki, Executive Director
Deepak Neupane, Director of Planning and Development
Garett Kamemoto, Communications & Community Outreach Officer
Michael G.K. Wong, Deputy Attorney General
Lori Sunakoda, Deputy Attorney General

MEMBERS PRESENT:
Beau Bassett
Wei Fang
Laurel Johnston
William Oh
Jason Okuhama
David Rodriguez
Steven Scott
Kathy Sokugawa
Mary Pat Waterhouse

I N D E X

Wednesday, May 31, 2017, 9:00 a.m.

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CHAIR WHALEN: Good morning. I'd like to call to order the May 31st, 2017, public hearing of the Hawaii Community Development Authority. The time is now 9:00 a.m. My name's John Whalen, Chair of the Authority, and I'm the presiding officer for the hearing.

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

Today's public hearing is being convened under the provisions of Hawaii Revised Statutes, Chapters 91 and 206E, and Hawaii Administrative Rules, Chapter 15-219, to consider the following matter:

The HCDA is proposing to amend the Hawaii Administrative Rules, Chapter 15-218, entitled "Kaka'ako Reserved Housing Rules," to promote development of more reserved housing units as well as to preserve reserved housing stock.

The proposed amendments to the Kaka'ako Reserved Housing Rules will expand the source of reserved housing units, preserve reserved housing stock, encourage development of for-sale and rental reserved housing units, and create consistency with affordable housing rules administered by other state and city agencies.

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

The Authority has already conducted three separate public hearings on this matter, on March 28th, May 3rd, and May 17th. The Authority is conducting today's public hearing to collect additional public testimony before rendering a decision on adopting the proposed amendments.

Notice of today's public hearing was published on April 16th, 2017, in Honolulu Star-Advertiser, Maui News, the Garden Isle (sic), Hawaii Tribune-Herald, and West Hawaii Today. The notice was also sent to HCDA's e-mail list and posted on the HCDA website. A copy of the notice can also be viewed outside in the foyer if anyone present is interested in reviewing it.

Before we receive public testimony, let me briefly explain the procedures for this hearing. First, HCDA staff will present its report. Following that, we will hear testimony by the public in the order that individuals have signed up. Individual comments will be limited to no more than three minutes so that we can get through all the testimony and people aren't waiting around. Only members of the Authority will be permitted to ask questions of the public.

Members, if you have any questions for a testifier, please raise your hand at the conclusion of their remarks. HCDA's executive director, Jesse Souki, and director of planning and development, Deepak Neupane, will now provide the HCDA staff report.

EXECUTIVE DIRECTOR: Thank you, Chair. Good morning, Authority members. I'm going to give an overview of what staff has been working on, and then Deepak will get into specific -- the staff report and some proposed options.

CHAIR WHALEN: I'd just like to pause to note for the record that Laurel Johnston has just joined the meeting. Thank you.

EXECUTIVE DIRECTOR: So this is the second of our required hearings under Chapter 206E. The last hearing we had, on May 31st, was our presentation hearing, and we held two additional hearings prior to that. And so we're in the process now of our second official hearing, which is the decision-making hearing.

Just gives a high-up overview of the process that got us here, since 2014 when the Authority began the process, and the reserved housing investigative committee appointment and report in 2015, subsequently, until the four public hearings that we're having starting in March.

So there are several objectives that were outlined in our presentation at the last hearing and in the board's -- Authority's reports. But a couple of the themes that have risen to the top or have been a focus -- objectives have been to expand the affordability and preserve the inventory of affordable housing units.

Today's public hearing, we'll have the staff report and public testimony and possibly an executive session, if the board desires, and discussion and potentially decision-making.

So in order to meet those objectives, it's first important to know where we are in the affordability ranges. There's the market-rate housing, which is above 140 percent of AMI. There's the low-to-moderate-income housing, which is 80 to 140 percent of AMI, and the low-income housing, below 80 percent of AMI. And what we're focusing on on these rules are the 80 to 140 percent AMI.

So what does that mean? Well, low-income projects -- so that's the other program that we work on, that we're not looking at today. For families making less than 80 percent of AMI, that's about 83,000 or 84,000 or below for a family of four. For that program, which is separate again from what we're talking about today, HCDA has contributed about 23 million dollars. We have about

1200 rentals added since 1989.

We partner with HHFDC on this project. We have three projects in the pipeline that are being planned and developed that are supported by HCDA.

And just some examples, tangible examples for you to look at, we have the Halekauwila Place, which is 204 rental units at 60 percent or less of the AMI, and HCDA contributed 17 million for that project. Art space lofts, 84 rental units, 60 percent or less of AMI, HCDA contributed land, and that's under development.

There's the Nohona Hale, or the micro units. That's the 105 rental units, 60 percent or less of AMI. And specifically for this project we're targeting also the very low income, which is the 10 percent of units need to be set aside at 30 percent of AMI. And HCDA contributed the land to make that project possible.

So what we're talking about today, under our rules again, is that 80 to 140 AMI of the workforce housing and reserved housing programs, those are for low-to-moderate-income families. So a family of four, these are 2017 numbers, about 84,000 to 121,000 for a family of four. This includes, for example, high school teachers and accountants, or housekeepers and administrative assistants, childcare worker or crane operator.

Just to also put these numbers into context, we derive our AMI based on the HUD figures, the Housing and Urban Development, the federal government, that's put out annually.

Our numbers are -- we start with that as a base. And our numbers are developed based on the Kaka'ako Community Development District, so we use HUD numbers that are specific to urban Honolulu. The numbers might look different if you look at HHFDC, the Hawaii Housing Finance and Development Corporation, because their program is statewide. So the numbers they use for HUD is a little different and -- or the city's, you know, because the city is an island-wide program. So their numbers might look a little different. But what we use is targeted for the district using HUD numbers.

So the reserved housing program, that's the mandatory program. Currently, the existing rule is 20 percent of units must be set aside at 140 percent of AMI or below. We're not changing the 20 percent requirement, but we are changing the -- potentially changing the 140 percent of AMI. Reserved housing program already has a buyback and shared equity provisions.

Incentives for the reserved housing program include a 20 percent FAR, floor-to-area ratio, which means more floor space to develop, and no public facilities dedication requirements for the reserved housing portion of the project. So that's the mandatory reserved housing program.

The workforce housing program is a voluntary program. Currently, there's no buyback or shared equity provisions for that program. For that program, if a developer wishes to participate, 75 percent of their units currently need to set -- be set aside, between a hundred percent and 140 percent of AMI, and the one -- the thing we're looking at in the proposed rules is bringing that down to 120, and 25 percent can be sold at market rate.

In exchange for providing those units, there's a bonus FAR of a hundred percent, which means you can build double the structure. And there's no public facilities fees, which can amount to millions of dollars. There's also flexibility with setbacks and so forth.

So the proposed reserved housing rules amendment doesn't affect existing buyers who bought in the program currently, so it doesn't affect them. It will only affect future projects in the Kaka'ako Community Development District.

So since the March 28 hearing, we've received hundreds of pieces of testimony. That's officially part of the record. And in coming to the proposed rules that have been under consideration, posted at the website, that was developed based on the testimony that was received before the March 28, you know, those ten meetings and all the public input, outreach, meetings with developers and the community over the three years.

So this is 30,000 feet. Deepak will get into details. But there has been some major themes that arose during all of the conversation and testimony that we've had about the proposed rules. And those three things are: The continuous buyback for reserved housing and workforce housing; the shared equity for workforce housing; and the AMI figure, should it be higher or should it be lower.

So just very briefly, the buyback provision applies to workforce housing and reserved housing programs under the new rules. The purpose of this is to preserve affordable housing inventory. If the owner sells, HCDA has the first option to purchase. And then we'll resell the unit at an affordable sales price.

This -- HCDA has, from the notice from the buyer -- or from the notice of the seller who wants to sell the unit, HCDA has 60 days to either waive that buyback provision, purchase it, or designate another buyer.

For example, this legislative session, land trust was authorized to do these types of transactions for affordable units. So that might be a vehicle for selling these units and buying these units.

There are protections for the interested seller of the affordable unit. You know, they will receive no less than the original sales price, so they won't lose money on it.

The shared equity for workforce housing: So the shared equity provision already applies to the reserved housing program. And the purpose of the shared equity provision is to preserve affordability for the subsidized portion of the project. It's a percentage of the fair market value resale. And to protect the owner/seller of the unit, no equity sharing will occur if it's below the original sales price or if equity is less than a half percent.

And then the third sort of theme that has come up a lot is the concept of the AMI. So the adjusted median income, again, is based on the HUD, HUD numbers that we adjust for the district specifically. The current rule is that there's a ceiling of 140 percent of AMI for the workforce and reserved housing projects. And so what that requires the landowner/developer to do is to sell the units at a price that is affordable to someone earning that level of income.

So what the board is considering under the proposed rule is keeping that ceiling, you'll see on the illustration on the right, but bringing it down to 120 percent of AMI on average.

So what this does is push down the number of units that can be affordable below 120, and it also provides flexibility to the developer, depending on the market at the time, how many units should be above or below the 120, so long as it averages 120. And that, that number was arrived at through staff discussions with developers and running pro formas and an independent economic analysis that we've done. We procured an independent economic analysis to be sure that units could still be developed at this -- at this level. Because this is a market-based tool, so we need it to work in the market. And so we found that that works in the market.

And that was the overview, and so Deepak will get into the specifics of the staff report.

CHAIR WHALEN: Before we do that, I'd just like to pause and note for the record that David Rodriguez joined the meeting while -- during the presentation.

MEMBER RODRIGUEZ: Thank you.

EXECUTIVE DIRECTOR: Thank you.

MR. NEUPANE: Thank you, Chair and Board Members. And you have the staff report. I went through section by section of the reserved housing rules, the public hearing on May 17. I am not going to go through that today. But if members have any questions on any particular section, I can address that.

Aside from that, you know, there are three sections in the staff report. One is the staff report that summarizes the comments. And then the main themes that have emerged from all the comments, I have summarized that in the staff report. The other document that you have is actually a summary of public comments. And then the staff comment on those public testimony is a 24-, 25-page document. I am not going to read through every single one of them. But if members have any questions, I can address those questions.

And then lastly, behind that purple tab, is the economic analysis that Jesse just mentioned, that was conducted by a consultant, Strategic Economics, is the same consultant that the city and county has used, been using doing work on the city and county's affordable housing department.

On the staff report itself, I would just like to point out that it goes through the background and then provides details on all the different community stakeholder outreach and the hearings that we had. And then the second page, there's the summaries of -- summary of major points raised in public testimony. What I have done is that if the public testimony addressed a particular section of the rule, then I have provided testimony -- provided comments on that. And if it was generic, then there is -- in the second and third page, there are just, generally, comments.

What I would like to do is point out to the board members that based on 148 or so comments that staff has reviewed, staff has prepared a -- so just an alternative to some of the proposed -- proposed amendment. And I would like to walk the members through that.

If you look on the second -- third page -- and the way that it's organized is that the staff's suggested alternative is right next to the comment that generated that alternative.

If you go to your -- go on to the third page and look at the fourth column, that's the staff-suggested alternative. If you look in the first column, it's actually the proposed wording in the rules. And then the second column is the comment that has come through.

So based on the comments, staff is making some suggestions and amending the language of section 15-218-35(d) to read as follows. The comment was that the second mortgage placed on the reserved housing units shall will be no more than 80 percent of the original sales value. And I think there's some legitimate comment from some of the stakeholders that that's going to disincentivize the owner to make any improvements on the units and all, and then take advantage of some of the equity that the owners have built in the unit. So to have -- to consider that, staff is suggesting an alternative language there. And I'll just read the alternative language.

It says that: "Any subsequent mortgage placed on the reserved housing or workforce housing unit by the owner shall require approval from the executive director and shall not exceed the fair market value of the unit less the authority's share of equity in the unit as determined in section 15-218-41(b)." That last section has the following level establishing shared equity.

The main thing for consideration in this section was that in any transaction by the owner of the unit that the Authority's share of equity is not in jeopardy. And as long as that's protected, the staff believes that the proposed language, you know, protects the Authority's equity share in the unit. So it achieves the purpose of that. That is the original intent of the section anyway, and at the same time provides adequate incentive for the owner to make improvements to the unit and realize the value, you know, the increase in the value of the unit.

The second item there, regarding again section 15-218-35(c), that's more provided for clarity. The intent in drafting the rule was always that the -- any value, any additional value created by the owner by improving the unit and all should be credited to the -- to the unit owner if there was a buyback and purchase of the unit by the Authority.

Reading through the comments that were -- testimony that were received and as well as going back and reading the rule, staff understands why the confusion might have been created that in buying back the owner wasn't given any credit for the improvements made. So the intent here now, the suggestion is to clarify that by explicitly providing that language in the section for setting the purchase price for buyback that the -- any improvement made by the owner shall be added to the buyback price of the unit. And I have language in there to address that.

CHAIR WHALEN: Well --

MR. NEUPANE: Yeah. The next one is -- yeah, go to the next page. That's the third item that the staff is suggesting that the Authority consider. There's a lot of comment regarding the buyback being a continuous buyback and the perpetuity, as I like to call the P word, has been used. And to make it consistent with what the city and county has proposed, staff is making a suggestion to amend section 15-218-35(a) to have the language that "If the owner of a reserved housing or workforce housing unit wishes to sell the unit within 30 years from the date of issuance of certificate of occupancy for the unit, the Authority or an entity approved by the Authority shall have the first option to purchase the unit."

So this basically establishes a 30-year buyback period; and if a unit is sold after 30 years, then the Authority will not have the option to buy back, and it can be sold at market at that point.

The fourth suggestion, the next page, alternative suggestion that the staff is making is regarding workforce housing projects. And those are comments and difficulty in financing these kind of projects. And also, when staff considered looking at alternative financial instruments out there available to a developer in developing these kind of projects, it's making a suggestion to take away the restrictions for using federal, state, or local funding for such projects.

So they're proposing two changes, one in definition of workforce housing, by defining it by saying that new residents of projects where at least 75 percent of the residential units are set aside for purchase or for rent by households earning no more than 140 percent of AMI shall qualify as workforce housing.

So basically it takes away the restrictions of not being able to use any of federal, state, or local financing options. What it does, is that allows the developer to now take advantage of the some of the city and county's as well as the state funding mechanism, such as exemption from GET for projects that fall under affordable housing category as well as exemption from property taxes that's allowed by the city and county. And obviously, there are certain criteria that has to be met to get those exemptions.

So those are the four alternative language to say that staff -- that staff is proposing. Apart from that, you know, you have the staff's analysis. And if members have any questions, I can address those.

CHAIR WHALEN: Does anybody want to lead off with a question, Board Members? Staff? Yes, Laurel?

MEMBER JOHNSTON: What is the difference between the 120 percent and 140 percent, like average salary when you range it out?

MR. NEUPANE: 140 percent would be -- the hundred percent AMI is 86,600 for 2017. So 140 percent would be just 140 percent of that. Let me just quickly --

MEMBER JOHNSTON: Sorry.

MR. NEUPANE: -- calculate that.

CHAIR WHALEN: Okay. I think it was 121.

MR. NEUPANE: Yeah, I think it comes out to be 1- --

MEMBER JOHNSTON: I can't do that.

MR. NEUPANE: -- around 121,000 or something. So --

CHAIR WHALEN: Actually, Jesse had a slide that showed that.

MEMBER JOHNSTON: Oh, sorry, I missed it.

EXECUTIVE DIRECTOR: I was looking up the table.

MR. NEUPANE: 86,600 times 1.4. So 140 percent would be 121,240 dollar --

MEMBER JOHNSTON: Okay.

MEMBER FANG: For a single person.

MEMBER JOHNSTON: That's for --

MR. NEUPANE: No, our family of four.

MEMBER JOHNSTON: For a family of four, right.

MR. NEUPANE: And they are all for a family of four.

MEMBER JOHNSTON: So the range as between a single person and family of four, that's what I'm trying to get at. Sorry.

CHAIR WHALEN: Yeah.

MR. NEUPANE: Yeah, but in a single person, I don't have the number in front of me. But we do have it on our website, where it's calculated --

MEMBER JOHNSTON: Okay.

MR. NEUPANE: -- for a family of one based on a

HUD form.

CHAIR WHALEN: I'd just like to follow up on that, because there's been a lot of confusion about who would be eligible for this housing and what the sales prices would be. Because actually, there are two tables that define AMI at different percentages of the median income, one that Hawaii Housing and Finance Development Corporation uses, which is an adjusted table; and then the other is when generated originally by HUD. And the reason why there's a difference between them, I understand, is because HUD, in their briefing materials, allows state and local housing jurisdictions with unusually expensive housing markets to make some adjustments to -- to the --

MEMBER JOHNSTON: Yeah.

CHAIR WHALEN: In order to provide financing tools.

MEMBER JOHNSTON: Right.

CHAIR WHALEN: You know, for that sort of middle --

MEMBER JOHNSTON: Right.

MR. NEUPANE: Yes.

CHAIR WHALEN: And so that's what HHFDC has -- has done.

MR. NEUPANE: Yeah. Member Johnston, I have the numbers here. So --

CHAIR WHALEN: Yeah. So -- but those figures are a lot more meaningful to people looking for housing, right? I mean, so --

EXECUTIVE DIRECTOR: Right. Then just before you walked in, I had talked a little about it in the presentation. But -- so HHFDC, you know, when they compute their numbers, they're looking at the entire state. So their program numbers are a little different. And then the city is looking at island-wide. We're focused just on the district. So -- and another thing to note about our AMI numbers, they are more favorable to buyers.

MR. NEUPANE: Yeah, just to add to what Jesse said, is that actually what HHFDC does is that they use a table published by HUD that relates to multifamily tax subsidy project income. So because they deal with tax subsidy projects, most of the projects are like that, HHFDC uses that table. And it is my understanding that the city and county, because they also are dealing with tax subsidy projects, is using the same table that's published by HUD.

CHAIR WHALEN: Right.

MR. NEUPANE: Pretty much all of the projects in Kaka'ako, reserved housing projects and workforce housing projects, are not tax subsidy projects. And therefore, HCDA uses a multifamily income table that's published by HUD.

So based on that table, Member Johnston, the numbers I have here, for a 120 percent AMI and one-person family, the annual -- the income limit would be $72,750. So at 140 percent for a family of one, it would be 84,900 dollar.

CHAIR WHALEN: Another thing I'd like to point out, and I think actually gives a better understanding of who's actually being served by this housing market, is that for a four-person household, there is a pretty strong likelihood that there'll be two wage earners in that household.

Hawaii has maybe the highest percentage of two wage earners' households, particularly for -- for those side. Now, they may not have jobs continuously or employment continuously during that period, but there tends to be.

So when we talk about, you know, typical types of employment, we really should be thinking maybe, you know, one wage earner is in one field and the other wage earner is in another that may not be quite as high income, but it does improve their -- their capacity to purchase a unit.

MR. NEUPANE: The use of multifamily income published by HUD, which is what HCDA had been using up until -- in the past, too, is really -- helps affordability at the lower end.

CHAIR WHALEN: Right.

MR. NEUPANE: In establishing prices for the units.

CHAIR WHALEN: Right. Okay.

Do we have any other questions about the staff presentation? I -- some of those alternatives suggested may involve some questions that the board has to consult with the attorneys about the degree to which we can make changes to the rules at this point, whether they're sub- -- considered substantive changes or not. So I just wanted to point that out before we get into too much detailed discussion about the choices available to us.

Any other questions? Yes?

MEMBER WATERHOUSE: Yeah, I just wanted to confirm what I thought I heard Deepak say.

As far as workforce housing, that the developers will be able to use any type of loans or anything else from the federal government or the state government to help subsidize; is that correct?

EXECUTIVE DIRECTOR: The current rules don't allow.

MEMBER WATERHOUSE: Correct.

EXECUTIVE DIRECTOR: And based on comments from the testimony, one of the staff alternatives is to allow them to use. For example, the GET tax --

MEMBER WATERHOUSE: Okay.

EXECUTIVE DIRECTOR: -- exemption if that applies.

MEMBER WATERHOUSE: Okay. Okay. Okay.

CHAIR WHALEN: I think maybe the other opportunity that came up is because the city is proposing changes to its housing program. I mean, not just in terms of what the requirements are for inclusionary zoning in transit-oriented development districts but also the incentives being provided.

So Kaka'ako is an integral part of the City and County of Honolulu. It may be under a somewhat different jurisdiction for development rules. But if a developer is building affordable housing that meets the city's criteria for affordable housing and the city is offering certain kinds of incentives, that should be available also, at least the financial incentives, ones that -- the reduction of property taxes, for example.

MEMBER WATERHOUSE: Yeah. Yeah. No, I'm fine. I'm fine with that.

CHAIR WHALEN: Yeah.

MEMBER WATERHOUSE: I just didn't see it in the -- you just dropped it out; is that what happened?

MR. NEUPANE: That is correct.

MEMBER WATERHOUSE: Okay.

MR. NEUPANE: From the definition of the rules, the restriction and the definition, we just crossed that language out.

MEMBER WATERHOUSE: Of workforce housing?

MR. NEUPANE: Yeah.

MEMBER WATERHOUSE: Okay. Okay, thank you.

CHAIR WHALEN: But they do have to meet the city criteria.

Okay. Any other questions, Board Members?

Anything anybody on the housing task force wants to add at this point? Let's just start with the testimony, I guess. Okay.

Well, we have received, as of today, 148 written testimonies. And I believe that is in addition to the testimonies that we had previously received. So let me say that I hope you all had a nice long weekend, because board members didn't. We were reading a lot of testimony. I read every -- every written testimony that was submitted in addition to the staff's reports.

The board members were provided with the copies of today's testimony before today's meeting. Testimony that was received after 1:00 p.m. on May 30th, 2017, have been printed and handed to members.

If you have e-mailed or faxed your written testimony, you did not need to resubmit a copy today. It's already been printed. If you would like to submit written testimony today, please hand it to our clerk. I think Tommilyn would be receiving it. Tommi, Tommilyn.

MS. MOSES: No.

CHAIR WHALEN: Well, she's not at the door right now. So if she can record it and add it to the record.

We will now hear testimony from the public. And I have just four people that have signed up to testify, so I'll call them in the order in which they were received.

Public testimony will be limited to three minutes each, again, so that we can keep the testimony moving and everyone gets a chance to speak.

Please refrain from reading your testimony, or your written testimony. Instead summarize your comments in the time that you have available.

When you're called, please come up at the witness table and speak directly into the microphone so the comments can be recorded. Please state your name, any organization that you're representing and whether you submitted written testimony. The first individual signed up to speak is Jeremy Sorenstein (phonetic) -- Shorenstein. Sorry. Jeremy?

MR. SHORENSTEIN: So my name is Jeremy Shorenstein. I'm an owner-occupant at 801 South Street.

I'm also on the board at the AOAO for 801 South Street. I didn't get a chance to submit testimony in time. I just finalized it this morning. But --

CHAIR WHALEN: Okay.

MR. SHORENSTEIN: -- I'd like to present it now. And then I have handouts for the board as well if you'd like a paper copy, if that's acceptable.

CHAIR WHALEN: Okay. Well, you've submitted before and then spoken. So if it's something that you want to say in addition to your previous comments --

MR. SHORENSTEIN: Right.

CHAIR WHALEN: -- I mean, we've had a chance to review them.

MR. SHORENSTEIN: Well, this is different.

CHAIR WHALEN: This is different?

MR. SHORENSTEIN: Yeah.

CHAIR WHALEN: Okay, fine.

MR. SHORENSTEIN: If you'd like a copy.

CHAIR WHALEN: All right. Thank you.

MR. SHORENSTEIN: Okay. (Distributes documents.)

Good morning, HCDA Board. Thank you for taking the time to listen to my testimony. I'd like to take the next three minutes to present just some sales information about 801 South Street and then, per the board's request during my last testimony, some information on the rental units at 801 South Street.

So for context, I -- this information is pulled from public sources and also from speaking with the manager of the AOAO for 801 South Street.

So if we start in the top left corner, let's see, for the total of 801 South Street, 22 units were sold to investors -- 22 percent, excuse me, sold to investors and 78 percent sold to owner-occupants. So that owner-occupants is equivalent to 819 units.

And if you'll look at the bottom left corner of the first page, you can see the unit resales. And there's been a total of 23 units sold, 16 of which were investor units, and seven owner-occupant units were sold. So that equates -- so 7 divided by 819 is less than 1 percent. So again, less than 1 percent of owner-occupants have sold their units at 801 South Street to date, meaning that over 99 percent are still owner-occupants, including myself. I'm happy to live in Kaka'ako and be able to be a homeowner in Kaka'ako. So, grateful for that.

Some interesting information, if you go to the bottom right corner, of those 23 units sold, 15 were sold to investors and 8 were sold to owner-occupants. And this, this is the most interesting part, I think, and the most exciting; is that of those eight owner-occupant units, they were all sold at under 140 percent AMI pricing.

So without mandate, without rules in place, resales of owner-occupant units at 801 South Street were sold as qualified workforce housing units. So the rules that HCDA housing placed today has turned market forces to respond in a way that HCDA intended, for the resale of these units to maintain as workforce housing units, under 140 percent AMI. So I thought that was really impressive and noteworthy for the board to understand.

Moving to the second page, it's not as attractive, unfortunately, but the question regarding the rentals at 801 South Street. So starting in the top left -- and again, this information is from the AOAO manager. So starting at the top left, the rental type, then we have the average rental rate for each type of unit, and then the 140 percent AMI rental rate per the number of persons in a household.

So the summary of this is that current units being rented at 801 South Street are being rented at under 140 percent AMI. And then how many units are being rented at 801 South Street per the AOAO manager, there's 240 units, or 23 percent of the units are being rented. So that means 77 percent are not, and being owner occupied.

So to put that in context, I looked at a report that HCDA put out in late 2014, and if you added 810 South

Street to the total number of HCDA reserved rental housing projects, you'd see that 801 South Street is the third largest affordable rental project permitted by HCDA in Kaka'ako. So that's not something to scoff at. I think that's something for HCDA to really be proud of.

So I wanted to give this information to the board so then they would, you know, be able to make their best decision today for whether to support or oppose the rule changes.

CHAIR WHALEN: Okay. Thank you.

MR. SHORENSTEIN: Yeah.

CHAIR WHALEN: Are there any questions the Board has for Mr. Shorenstein?

Thank you for your testimony.

MR. SHORENSTEIN: Thank you.

CHAIR WHALEN: Next speaker is John Kobelansky.

MR. KOBELANSKY: Good morning, everybody. It is I, John Kobelansky, resident of Kaka'ako. I'm in disguise today. And besides, Sharon is not here to tell me what wear. So --

I just wanted to reiterate the common mango's perspective on affordability of housing in Kaka'ako. The common mango is a guy like me. And I mentioned this last time I was at a hearing, but it hits so close to home for a lot of people that live on the island who cannot afford housing. Okay, does this mean? Well, to me it means this: When I was looking for a place to move out of my rental in Aina Haina -- I was living in a house in Aina Haina -- we searched high and low, and I went all over the island. And we ended up in Kaka'ako, because Kaka'ako represented the biggest bang per buck. And I know nothing about the community back then. We moved in, innocent little angels, only to discover that they're going to develop this community. And then we had to spring into action. So that's why I come to the hearings today and all the hearings that I attend.

But it's very important that we remember our roots and where we started from. My life may be a little better now, but I still have a lot of bills to pay. And I want to make sure that we're doing the best to make things affordable so people have a chance to live in this community. And so a lower AMI would be better. Our group was shooting for 120 percent. But I see according to your latest charts it's averaged at 120 and it's up to 140. So that's good. That's kind of like saying, okay, we're making a dent here.

So I'm looking at the little guy, the common mango like me, moving into a place that he can afford to live in and survive and actually retire in. This is the community. So we have a tremendous stake here. And I appreciate all your efforts to make sure, to ensure that affordability remains a top priority in the state of Hawaii.

And one more comment I want to make, and this has come up all of a sudden because of other things that are coming into the community, and maybe not in Kaka'ako but elsewhere, especially places like Park Lane. Lots of people are buying into these spaces, and I don't know if they can turn it over and make a profit 'cause market is at an all-time high, but I think the amount of speculation that I'm seeing happening now is going to change the quality of life here. So I want us to kind of downplay that as much as possible. Whatever action you can take to keep speculation down, I think it achieves a great end in establishing good quality of life here in Hawaii. Thank you.

CHAIR WHALEN: Thank you, John.

Any questions for the speaker? Thank you.

Paul Brewbaker.

MR. BREWBAKER: Good morning, and thanks again for this third of three opportunities this month to testify on aspects of the proposals to change regulatory requirements. I build on macro -- okay, see, no, this isn't working.

I build on macrodynamics that I presented last time attributing the reduction in Oahu homebuilding after the big 1970s to changes in regulatory regime. And today I emphasize microeconomics in suggesting that the rules, changes being contemplated, exclude alternatives, and I'll suggest one if -- maybe I can get this working, maybe not. It's in the -- it's in the version of the PDFs that you received.

So both the city and HCDA have engaged strategic economics to use financial feasibility models to test hypotheses concerning modification of these requirements. And basically what you see there is that the spacial economics means that economies of scale are driving most of the viability, as I've illustrated here taken from the -- from the Strategic Economics report. So there's sufficient economic surplus to be mobilized by developing high-end units at the front of the house to cross-subsidize the low-end house, low-end housing units. That is, the high end can cross-subsidize the low end, but the middle cannot.

And so I suggest that you don't face a simple choice between the current rules and a tweak here and there. I suggest that there are even more dramatic and radical options, considering, for example, that rules not even apply to anything under, say, 80 percent of the -- in the lower 80 percent of the existing home price distribution. And I just pick that because 140 percent of adjusted median income is the threshold at which about 80 percent of the population lives below. But really, you can choose anything.

And I imagine there are other alternatives as well, and I'll conclude with that comment. Thank you.

CHAIR WHALEN: Okay. Thank you.

I did read your report, by the way.

MR. BREWBAKER: Thanks.

CHAIR WHALEN: Any questions from board members? Thank you.

Kent Walther.

MR. WALTHER: Hi again. I'm Kent Walther. I'm not representing any company, but I do work with Tradewind Capital Group. For the third time in a row I hadn't plan to testify. Actually, Deepak and I were in a Toastmasters Club years ago, and I'm getting a lot of practice now with all this impromptu speaking.

But I noticed last night that there's a new report that was posted for the board to review. I was at home, so I didn't have a printer, so I don't have a copy of the report. But it was a report done by Strategic Economics, consulting firm based out of Berkeley, California. The report was dated May 26, which is last Friday. So I assume it was probably published over the weekend and posted it, and then I saw it last night.

I took the opportunity to review it last night. And I assume that this report, as Deepak and Jesse both mentioned on multiple occasions today, represents the independent economic analysis that you as board members are using to rely upon to determine whether these proposed rule changes would affect the feasibility of development of workforce housing units.

Again, I didn't have a whole lot of time to review the report, so I focused just on the workforce housing part, not on the affordable housing part, which I'm not as well equipped to speak to anyway.

So with regard to the report -- and I think it's important to examine some of the assumptions in there. As you know, in an analysis like that it's only as good as the assumptions and the input that go into it. I found two and a half fairly major what I consider flaws or errors in the report that I'd like to bring to the board's attention and also to staff, the first of which is with regard to the feasibility analysis on the second to last page of the report. And I apologize. I don't have a copy of it right now.

This feasibility analysis relies upon several assumptions made regarding sales prices of the units, both for market-rate units and for workforce-rate units. The assumptions used for the market-rate units were for a workforce housing project that has 75 percent workforce housing units and 25 percent market rate. Those 25 percent of market-rate units, the report assumes that the one-bedrooms are selling for $558,000 per one-bedroom unit. The two-bedroom units are then sold for $765,000 per unit.

The report states that these sales -- these sales prices are based out of comparables from the buildings Waihonua, Symphony, and Collection. And as you all know, those are what I consider luxury buildings or, at the very least, upscale buildings in Kaka'ako, all new construction, a very different animal from workforce housing. We have one workforce housing project in Kaka'ako, and that's 801 South Street. I assume you're familiar with that building as well. It's not quite accurate to compare the two.

If you were to say, well, what is the market price of a workforce housing unit in Kaka'ako today, I would actually point to -- to the resales at 801 South Street. There's been people who are saying the prices may be too high. I disagree, but let's say they are high. Let's say they represent the market rate of those units. 801 South Street, the one-bedrooms sell for $475,000 per unit. Now, on average, I'm taking all the average -- I'm taking the average of all the one-bedrooms that sold in the past two years.

The two-bedroom units sell for $653,000 per unit. This pricing that the Strategic Economics advisory group that wrote the report, the market prices that they're using are 78 percent higher than what the market prices actually are in Kaka'ako today for workforce housing product. And we're talking about workforce housing, which is a building in which 25 percent of the units are market rate and the other 75 are workforce rate. Very different from, for example, Symphony. Symphony, you've got like a 10-, 15-million-dollar penthouse at the top, which is different, a different level of amenities, different level of finishes.

I mentioned there's a second error in the report, and that is with regard to the sales prices for the workforce housing units. On page 4 of the study that was posted on the website over the weekend, the consultants talked about what the 120 percent AMI pricing would be for one-bedroom and two-bedroom units that they used in their analysis. For the one-bedroom units they used $378,000. For the two-bedroom units they used $458,000.

However, when you get to the guts of their analysis, on page 9 of the study, which is the workforce pro forma, they use a -- they use significantly different sales prices for the workforce housing units. The blended average of the two categories of one-bedroom and two-bedroom units is $482,000. So if you're saying the average of the workforce is 42, that's well above their earlier stated values of about 378 and 450. Something's not adding up there.

So I assume that someone at HCDA on staff is kind of checking the math, challenging assumptions, making sure that, you know, this is all penciling out. Because, you know, the board is being asked to rely upon this information fairly heavily, and it's been referenced several times by staff. I just want to make sure that we're all doing that here.

The third thing, which I said there's two and a half things that I challenge. The last half thing is actually one of the basic tenets of the analysis is that a developer will proceed with the project if it meets the hurdle of 18 percent profit margin on cost. And developers typically, okay, look at either profit margin on costs or profit margin on revenue when deciding whether or not to proceed with a project.

The feasibility threshold that they use is an 18 percent profit margin on cost, which translates to a 15 percent profit margin on net revenue. You'll hear developers use both.

The consultants basically say that a developer will make -- they'll make the greenlight decision to proceed once they hit that feasibility hurdle. And they base that on allegedly talking to developer -- their exact language was "developers with experience developing high-rise projects in Honolulu."

As I've mentioned previously, I've been privy to quite a few pro formas and proposed projects here in town as people come to my current employer and my former employer for financing. I can tell you that that's not the typical margin for proceeding, for making a greenlight decision. Where I worked, we would actually not invest in those projects. A project margin that low on either revenue or cost is too risky. High-rise development is an inherently risky enterprise. And there are people who will proceed at those margins. I'm not saying they don't exist. But as I alluded to in previous testimony, those people have different incentives; they are different abilities to finance these projects.

I have seen one project in town that did proceed with a 15 percent profit margin on revenue, which translates to 18 percent profit on costs. That project was not financed. That project was a hundred percent equity. That's a financing structure that the -- the local local developers, little guys, or even the successful little guys cannot do because they actually need to borrow from a bank. They need to lever their investment needs to these projects.

So, you know, I bring these points up with the study because I just wanted to challenge, you know, not only the accuracy, but also the reliability of the study that is -- I think is very important for you all to be -- to be relying upon.

CHAIR WHALEN: Can you wrap up, please?

MR. WALTHER: I'll wrap up.

CHAIR WHALEN: It's long --

MR. WALTHER: And finally -- yeah.

CHAIR WHALEN: -- past three minutes. Yeah.

MR. WALTHER: Thank you for your patience.

CHAIR WHALEN: Okay.

MR. WALTHER: So the last thing is, you know, the company that did the study is called Strategic Economics. If you go to their website, you can kind of find out a little bit more about them, their agenda, their world view.

So I looked at them this morning. And basically they're -- they have 11 principals and associates, ten of whom have master's in planning. Seven of them were from Cal Berkeley. You know, the one principal there who doesn't a master's in planning, he has a master's in public policy. I have nothing against people who have master's in planning. I have a good friend who has a master in planning from Berkeley. My wife has a master's from Berkeley as well.

CHAIR WHALEN: All right. So, please, I mean, you know, you're really --

MR. WALTHER: Right.

CHAIR WHALEN: -- rambling here.

MR. WALTHER: Thank -- okay.

CHAIR WHALEN: So just get to the point.

MR. WALTHER: Okay. Thank you.

CHAIR WHALEN: And wrap up. Please.

MR. WALTHER: All right.

CHAIR WHALEN: You have like half a minute.

MR. WALTHER: Okay. So the final, look, the final sense is actually -- is that, you know, I question the wisdom of hiring planners to do an economic and financial feasibility analysis. This is very important, and the board's voting on something today that's basically going to shut down the production of workforce housing for middle-class-income people in Hawaii. I just ask you to take care that you examine what you have before you. Thank you.

CHAIR WHALEN: First of all, I'd like to have -- staff, do you have any comments or responses to that, or questions?

EXECUTIVE DIRECTOR: You know, I have an economics degree from the university, but I won't say I'm an expert. But one critique of the profession has been that if you stack up economists on a line, you'll never reach a conclusion. You know, which is only to say that depending on your philosophy, if you are a Keynesian who believes that government can have something to do with the market and be sure that the public is benefiting from affordable housing and development, or if you believe that it should be a free and open market and let the market resolve very -- different schools of thought.

And I don't think we want to argue about that today, Berkeley notwithstanding. But I think that the report that we have from Strategic Economics that was posted on Thursday, the public, we had referenced previously as well, that was the final, does make a best-effort and rational-basis argument for why the numbers we selected work, based on actual data that we have from the work that HCDA has done in the district. And that information that Strategic worked on was based on pro formas that we had been running previously. So, you know, it doesn't come out of nowhere. We just wanted an independent look at what we were doing.

MR. NEUPANE: And the work they had for city and county too.

EXECUTIVE DIRECTOR: And the work the city and county had been doing in the district. So, you know, we can disagree about the analysis, but that's the analysis that we have.

CHAIR WHALEN: Well, I'd just like to make a comment that to get a master's degree in urban planning depends on where you went to school. Where I went to school was Columbia University, and we were required to take real estate economics courses and do pro formas for projects. So we don't come ungrounded in economics.

MR. WALTHER: Chairman, no disrespect. I know you're experienced and well -- well-respected planner in town. I just kind of question that having one point of view from this one company.

CHAIR WHALEN: Thank you.

Any other questions? Thank you.

We don't have any others. But -- anyone else signed up, but would you like to speak?

Also, actually, the previous speaker, did you submit written testimony?

MR. WALTHER: I did two days ago. Did not confirm what I did this time.

CHAIR WHALEN: Okay. If you would like to submit written comments, that might be helpful to have it on record.

MR. HUI: Hi, good morning, everyone. My name is Kris Hui. I represent OliverMcMillan. We're a local developer in town. I did submit written testimony about six weeks ago in the -- prior to the very first hearing.

Couple of the points that I wanted to make today really has to deal a little bit with new housing delivery. Looking back at the history of HCDA, which was founded in 1976, in 1987, 30 years ago, was roughly the first time that HCDA introduced reserve housing for sale. And specifically, kind of to the district that we're looking at is in Kaka'ako. And looking back at the projects that have actually been delivered -- and when I mean delivered, I mean fully built, people closed escrow and moved in. There have been a total of 617 units delivered in the last 30 years. And what -- what's quite special about that, I think, is in the last five, six years, the majority of those units have been delivered.

Taking OliverMcMillan, for example, when I was looking to move back home and work here, you know, one of the things that enticed me working for OliverMcMillan was that it actually was a company that wanted to build affordable housing, reserve housing specifically. We were approached many times to ask if we wanted to buy credits to basically not include affordable or reserve housing in our buildings, and we declined.

And so with Pacifica and Symphony Honolulu, we did deliver 224 units, which frankly is about 36 percent of the entire 30-year history that it's been delivered.

With that said, take workforce housing in 2011, when the Mauka Area Rules came about, 801 South delivered another 784 units in about six years' period of time. And as we look forward to, again, Kaka'ako specifically for-sale, reserve or workforce housing specifically, there's another 618 units that we can see being delivered in the form of Keauhou Place, Ke Kilohana, as well as the 803 Waimanu project.

So one of the major main points that we wanted to make, as far as OliverMcMillan, is that, you know, there is this catalyst that is moving, and there -- it's different to build in Kaka'ako, specifically HCDA. I used to work for affordable housing developer in San Diego for seven years before I moved back. The difference in affordable housing in California, as we know, it's more stringent, similar to the great intent that HCDA board is trying to put in the rules today.

But the primary difference in the affordable housing that California has pushed forward and has done successfully is a lot of it's subsidized. I think the main difference for what we're doing here, in Kaka'ako specifically, is that private developers, for-profit developers are being asked to build housing and include it in their projects.

Again, this is something that OliverMcMillan has not shied away from. We continue to want to do that. However, we do see certain aspects of certain rules to make it potentially more onerous for a project to be feasible. We frankly, right now, are not landowners of any form. We do not own a single piece of land. We frankly would partner with landowners that want to ultimately see housing being built and play a part in that role. And from what we hear, a lot of the landowners that may be sitting behind us that aren't Kamehameha Schools or Howard Hughes, that these rules don't necessarily apply to, will find it hard to also move forward.

And so I kind of close with that statement that it -- the rules here are -- are -- I think the intent is great, but they don't exactly apply to everyone in the district, number one. And number two, it does -- there are differences with applying affordable rules where in cases like California or other places, where they're typically subsidized projects, they don't always apply to private inclusionary development. Thank you.

CHAIR WHALEN: Thank you. Any questions?

MEMBER OH: Sure.

CHAIR WHALEN: Yes.

MEMBER OH: Kris.

MR. HUI: Yes.

MEMBER OH: You mentioned that in terms of the landowners, right? So the fact that OliverMcMillan doesn't own a single parcel or single lot in the area.

MR. HUI: Mm-hmm.

MEMBER OH: Now, without revealing corporate, you know, business plans or so forth --

MR. HUI: Sure.

MEMBER OH: -- I mean, with the current workforce housing rules as it is --

MR. HUI: Workforce? Okay.

MEMBER OH: Yes, the workforce. Specifically, workforce housing rules. Have you been in talks in terms of possibilities or any financial feasibility with any smaller landowners and/or even partnering up with KS or Howard Hughes?

MR. HUI: We have. We have -- we have -- we have actually went and discussed with Kamehameha Schools about a certain block to develop. And based on all of our financial feasibility analysis, the -- for that specific site, workforce did not pencil for us. And so we actually proposed retail mixed-use with apartments. But it -- we did not find common ground with what we believe land value should be to make that project pencil for OliverMcMillan and its risk parameters coupled with what the Kamehameha Schools was looking for with respect to return for land.

And then on the work -- on a different site, we also looked at the workforce 7.0 FAR studied, again, based on the site and other rules that are related to tower separation, tower spacing, four-plate sizing, related to the size of your land. And we also could not find a project that could pencil for the site that we happened to be looking at.

MEMBER OH: So you're saying that basically with the current -- the type of the sizes in Kaka'ako right now, especially with the smaller landowners --

MR. HUI: Mm-hmm.

MEMBER OH: -- you're saying that you've talked with landowners, smaller landowners, and for the most part you haven't been able to make it work because it didn't pencil? Is that what you're saying?

MR. HUI: For the most part -- again, we don't have access to every single site in every --

MEMBER OH: Sure --

MR. HUI: -- in the entire district. For the ones that -- again, I think Mr. Brewbaker mentioned scale is important. We primarily don't look at 20- to 50-unit projects. They will likely be 400-foot tall buildings with 400-plus units. Similar to A'ali'i, as you -- you all have approved, there is a trend to go to smaller units these days. And this is not that different than the high cost of housing in San Francisco or New York City or other places.

And so as far as looking at feasibility of certain particular land sites, you know, we always will start with current zoning, because we're not looking to ask for something different. And so naturally as you -- Symphony and Pacifica, both projects, the market units subsidize the reserved units. And as that gap grows, you know, with construction costs and whatnot, and frankly, land cost, you know, there are -- there's less likely projects, at least in the short to medium term, that are -- that look financially feasible.

You know, as -- as you look back at history, in HCDA's history, around the time of the superblock, which we can realize with Nauru Tower, Hawaiki, Ko'olani, Hokua, that ultimately, eight towers, took almost 30 years to finally be finished, with the culmination of Waihonua. So it isn't -- it seems like this big boom is happening. And it's true that, you know, projects I think around a certain price point and certainly with the scale that Howard Hughes is able to accomplish, you know, that's kind of what we've seen in the last five years.

MEMBER OH: Okay. Thank you, Kris.

MR. HUI: Thank you.

CHAIR WHALEN: I just wanted to ask you about you mentioned looking at zoning first. The only project I'm aware of that OliverMcMillan has done in Kaka'ako is the Symphony.

MR. HUI: Pacifica Honolulu as well.

CHAIR WHALEN: Pacifica as well? Okay.

I recall -- I'm not as familiar with the Pacifica or their background, but this board is certainly familiar with the Symphony in terms of the reflective-glass issue.

MR. HUI: Yes.

CHAIR WHALEN: But prior to that, there was a significant variance that was requested and granted by the previous board.

MR. HUI: Sure.

CHAIR WHALEN: For the Symphony Tower.

MR. HUI: Mm-hmm.

CHAIR WHALEN: So when you entered into the, you know, purchase of the property, did you anticipate that that variance would be required? And were you relying on a variance to --

MR. HUI: No, I don't think there was a reliance on a variance. I think what was occurring was actually something similar to this time.

In 2010, when the land was being purchased and discussed, the Mauka Area Rules were being put into place in 2011. So I think we were also at a culmination of looking at a project where rules also are changing. We're trying to adapt to them and follow them and ultimately make a successful project out of it.

The variance related to the turning of the building, I believe, was looking originally at no mauka-makai orientation. If you look across the street at 909 Kapiolani or Pacifica, all of those buildings were broadside to Kapiolani to preserve a view corridor towards Diamond Head. And so the building was originally designed that way. Prior to the 2011 Mauka Area Rules, OliverMcMillan tried its best to follow the newest rules, as you all are looking to look at today. And so in the middle of design, basically, we looked to keep the original design, which then required a variance.

CHAIR WHALEN: Okay. Well, the 2011 rules took 11 years to adopt.

MR. HUI: Sure.

CHAIR WHALEN: There was -- in the meantime there was an environmental impact statement, interim design studies. So the rules about the tower orientation were known long in advance of the actual adoption of the rules. So are you purchased -- went into a purchase agreement in

2010?

MR. HUI: Roughly 2010.

CHAIR WHALEN: You're not aware of the advent of any of these changed rules? I mean, because I think that seems a little strange to me, that there was no awareness.

MR. HUI: Well, I -- I think, you know, rules, are like you said, being presented for many, many years. I think ultimately when they get adopted is -- is an important milestone, if you will. And we ultimately are purchasing land based on rules that are in place as opposed to rules that we are trying to forecast what legislature will ultimately approve.

CHAIR WHALEN: Okay. Anything?

MEMBER WATERHOUSE: John.

CHAIR WHALEN: Yes?

MEMBER WATERHOUSE: I had a question. You had mentioned in your testimony to date and also in your written testimony submitted at the end of March that there is this trend for smaller units?

MR. HUI: (Nods.)

MEMBER WATERHOUSE: What do you -- are you -- I don't want to put words in your mouth, but what are you meaning by that? What's -- what's going on?

MR. HUI: From what we've seen --

MEMBER WATERHOUSE: What's causing --

MR. HUI: -- in San Francisco or other high-cost housing areas --

MEMBER WATERHOUSE: No, no, how about here?

MR. HUI: Well, it's similar here. So in Honolulu, high-cost housing area, such as downtown, Kaka'ako, Ala Moana area, right now, because of also the high cost of construction, the high cost of land, the -- the one way to continue to build housing is to ultimately build smaller units that will then have a price point that is still tolerable or able to be afforded by the masses. And translating to a similar, you know, size building, it means more units, more density, smaller units.

MEMBER WATERHOUSE: Okay. And how about the market? Is that what the demand is as well? Because --

MR. HUI: I think no one knows that yet. Our average unit sizes at Symphony were 1100 square feet. We built one-bedrooms at 672 square feet. So I think developers will try to be nimble and look at rules as they come, and as they're adopted, and as they're approved. And if the rule that's approved provides a factor of less than one for a one-bedroom, it's going to make it more difficult to build, because a one-bedroom unit, I -- I never understood why a one-bedroom would not be counted as one unit. But for some reason in the rules it's, I think, .9 of a unit.

So there's a -- there's going to be, again, potential challenges to deliver the amount of number of units and have the market unit subsidized for reserve housing; which is primarily what OliverMcMillan does, builds market housing and reserve housing. So we're a little less versed on the workforce side.

MEMBER WATERHOUSE: Thank you.

CHAIR WHALEN: Yes. Any other questions? I think, Laurel, did you have a question?

MEMBER JOHNSTON: No. I just wanted you to recognize Pat.

CHAIR WHALEN: Okay. All right.

MEMBER SCOTT: I have a question.

MR. HUI: Yes.

MEMBER SCOTT: Just as far as clarification, you said you were working on two projects that didn't pencil out.

MR. HUI: Yeah, I was asked if we --

MEMBER SCOTT: Right.

MR. HUI: We continue to look at projects all the time.

MEMBER SCOTT: But those were projects based on the current rules, not on --

MR. HUI: That's correct.

MEMBER SCOTT: -- proposed rules? Right.

MR. HUI: That's correct.

MEMBER SCOTT: So under the current rules, you weren't able to --

MR. HUI: That's correct.

MEMBER SCOTT: -- make it work?

MR. HUI: Yes.

MEMBER SCOTT: Okay.

MR. HUI: Thank you for your time.

CHAIR WHALEN: All right. Thank you.

MR. HUI: Great. Thanks.

CHAIR WHALEN: Anyone else like to speak who has not signed up to speak?

Okay. I would like members now to consider and deliberate on the proposed amendments and staff-suggested alternatives.

Before I -- we do that, I do have some legal questions, and I think maybe other board members do, in terms of the amount of modification that could be made to the draft rules in terms of case law. So I'd like to discuss that with our deputy attorneys general in executive session.

Is there a motion to enter into executive session in accordance with Hawaii Revised Statutes 92-5(a)(4) to consult with the board's attorneys on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities with respect to administrative rules amendments?

MEMBER FANG: So moved.

MEMBER SCOTT: So moved.

CHAIR WHALEN: Well, that was quick. Which of -- let's see. We'll say that Wei was -- made the motion and Steve seconded.

Is there any discussion on the motion?

All those in favor, say aye.

BOARD MEMBERS: Aye.

CHAIR WHALEN: Any opposed?

Okay. So the motion has been made and approved to enter into executive session. We'll move to the fifth floor conference room for the executive session.

The executive -- oh, boy, I hate to make these estimates, the session, how long the session will take, particularly on this question. I would say probably an hour.

Or longer? Oh, my goodness. Did somebody say longer? Anyway, an hour.

And the public can -- you can all wait in this room if you want. You're welcome to do that. But I can't predict exactly when we'll come out of executive session, because I think there'll probably be a lot of discussion.

MEMBER JOHNSTON: (Confers off the record.)

CHAIR WHALEN: Okay. So I'll ask to join the board, Jesse Souki, Deepak Neupane, Michael Wong, Lori Sunakoda, and it will be Tommilyn or Kuulei? Kuulei?

MR. NEUPANE: (Nods.)

CHAIR WHALEN: Kuulei Moses. Thank you.

So we may or may not see you later, but we'll return to this room after the executive session is over.

EXECUTIVE DIRECTOR: Chair?

CHAIR WHALEN: Yes.

EXECUTIVE DIRECTOR: For the public benefit, I'll send someone down in an hour to give a status if the board hasn't broken its executive session. So --

CHAIR WHALEN: Okay. That's a good idea, because I don't want to leave you hanging and waiting here, expecting us to be back exactly in an hour. So we'll have somebody let you know. If you're still here, we'll have you -- we'll let you know if we're likely to need more time. Thank you.

(Recess taken from 10:20 a.m. until 12:43 p.m.)

CHAIRMAN WHALEN: Back in regular session at 12:45 p.m.

Earlier in this hearing, the staff presented its report that recommended several possible revisions to the draft regulations for the board to consider. In order to provide the public sufficient time to review and comment on not just what those recommendations were, the specific language of any possible revisions, we thought it would be best to continue the hearing. But first I would like to ask if there is any motion from the board, a board member, to consider -- to see what possible revisions we might consider.

MEMBER OH: I'd like to make a motion.

CHAIRMAN WHALEN: Yes.

MEMBER OH: So, one, I move that the staff incorporate the staff-proposed changes from the staff report and provide the board with a Ramseyer version.

Number two, I move to continue this hearing to June 7th, at 1:30 p.m.

CHAIRMAN WHALEN: Okay. Is there a second to that motion?

MEMBER SCOTT: Second.

CHAIRMAN WHALEN: Okay. It's been moved by Mr. Oh, then seconded by Mr. Scott to offer this motion.

Do board members wish to have a voice vote on this motion? So I'd ask all those in favor of the motion say aye.

BOARD MEMBERS: Aye.

CHAIRMAN WHALEN: Are there any opposed?

Okay. So the hearing is continued to 1:30 on July 7th --

MEMBER SCOTT: June 7th.

CHAIRMAN WHALEN: June 7th, rather. Sorry, June 7th. And there will be a further hearing to be announced and posted subsequent to that, when we have issued the -- for decision-making.

So that concludes the business of the hearing. It now stands continued. The time is now 12:46 p.m.

(The hearing adjourned at 12:46 p.m.)

CERTIFICATE

I, ANN B. MATSUMOTO, Certified Shorthand Reporter in the State of Hawaii, do hereby certify:

That I was acting as shorthand reporter in the foregoing matter on Wednesday, the 31st day of May 2017;

That the foregoing proceedings were taken down in computerized machine shorthand by me to the best of my ability at the time and place stated herein;

That the foregoing is a true and correct transcript of the proceedings had in the foregoing matter and that said transcript is a true and correct transcription of my stenographic notes.

I further certify that I am not of counsel or attorney for any of the parties hereto, nor in any way interested in the outcome of the cause named in the caption.

Dated this 21st day of June 2017, in Honolulu, Hawaii.

Ann B. Matsumoto

ANN B. MATSUMOTO, CSR 377