STATE OF HAWAII
HAWAII COMMUNITY DEVELOPMENT AUTHORITY
KAKAAKO
Honolulu, Hawaii, 96813

June 3, 2020

Chairperson and Members
Hawaii Community Development Authority
State of Hawaii
Honolulu, Hawaii

HCDA Board Members:

SUBJECT: Shall the Authority Authorize the Interim Executive Director to Temporarily Increase the Maximum Allowable Refinancing Limit for Reserved Housing Units Governed by the 2005 and 2011 Reserved Housing Rules?

SUMMARY:

The current Hawaii Community Development Authority (HCDA) reserved housing policy is to limit approval of all refinancing requests to the original loan amount, provided it does not exceed 80% of the original purchase price. Numerous reserved housing unit owners have informed the HCDA that this limitation negatively impacts their ability to take advantage of low interest rates and refinance their homes. Given the current COVID-19 pandemic, many reserved housing unit owners are facing extreme financial uncertainty. A temporary increase in the allowable refinancing limit to 95% of the original purchase price, regardless of original loan amount, would help these owners afford their mortgages during these unprecedented times.

AUTHORITIES:

On September 7, 2016, the Authority delegated to the executive director certain limited actions relating to the administration of the HCDA's Reserved Housing Program. One of these actions was approving all requests to refinance primary mortgages up to the value of the original loan amount, provided that market conditions have not deteriorated to adversely impact recovery of the HCDA's shared equity interest. Another of these actions was denying all requests subordinating the HCDA's shared equity interest to a second mortgage (e.g., a Home Equity Line of Credit) or similar financing tool that would demote the HCDA's "second position" on the property.

Hawaii Administrative Rules (HAR) §15-218-35(c) (2011 Reserved Housing Rules), states, "During the regulated term, the executive director shall approve any initial or subsequent mortgage placed on a reserved unit which does not exceed 80% of the original purchase price of the unit."

In accordance with the September 7, 2016 Board action and the 2011 Reserved Housing Rules, it is currently HCDA's policy to limit all refinancing requests to 80% of the original purchase price or the original loan amount, whichever is lower. This policy applies to all Reserved Housing units governed by the 2011 Reserved Housing Rules, as well as the 2005 Reserved Housing Rules, which is silent on refinancing.

The Authority's September 7, 2016 approval of certain limited actions relating to reserved housing was limited to a four-year term, expiring on September 7, 2020.

BACKGROUND:

On March 13, 2020, the Association of Unit Owners of 988 Halekauwila (AOUO) sent a letter to Chairperson John Whalen requesting assistance for Reserved Housing unit owners at Ke Kilohana. The AOUO notes that Ke Kilohana was marketed and sold as affordable housing, but maintenance fees recently increased over 53%.

The AOUO says this fee hike is causing financial hardship for many Reserved Housing unit owners, who may not be able to afford living in their units any longer. The AOUO notes that the aforementioned financial hardship could be mitigated if Ke Kilohana owners were allowed to refinance their mortgages in limits higher than what is currently allowed by the HCDA.

The AOUO says the prevailing 30-year mortgage interest rate is now around 3.11%, down significantly from the 4.25% to 4.5% rates seen back in May 2019, when Ke Kilohana owners originally closed on their units.

As previously mentioned, the HCDA currently limits refinancing requests to 80% of the original purchase price or the original loan amount, whichever is lower, in order to protect HCDA's shared equity interest in the unit. The AOUO notes this policy prevents homeowners who made 5% or 10% down payments from refinancing.

The AOUO requests the HCDA increase its maximum refinancing limit to allow all Ke Kilohana owners to take advantage of the lower rates and thereby lower their monthly mortgage payments to absorb the cost of the increased maintenance fees.

ANALYSIS:

Given the unprecedented economic challenges of the COVID-19 pandemic, many Hawaii residents are facing financial anxiety. The HCDA recognizes these anxieties are heightened for those Ke Kilohana residents who may not have budgeted for increased maintenance fees.

There are currently over a thousand Reserved Housing units governed by the HCDA. As allowable within the rules, the HCDA believes it can do its part to alleviate some of the financial stress for Reserved Housing unit owners and help them afford to stay in their homes.

Although the current maximum refinancing limit is based upon HAR §15-218-35(c) as indicated above, the HCDA is not precluded from enacting a policy to raise this limit. All refinancing requests would still require HCDA approval to subordinate its position on the original mortgage.

The HCDA has learned that some Ke Kilohana unit owners financed as much as 95% of the purchase price of their Reserved Housing units. The HCDA recognizes that its current policy of limiting refinancing to 80% of the original purchase price negatively impacts such owners.

Given an appreciation in appraised values, most Reserved Housing units are currently worth more than their original purchase price. It does not represent much risk to HCDA to increase the refinancing maximum to 95% of the original purchase price, as this amount would still be lower than the current fair market value in the majority of cases.

In increasing the refinancing maximum, the HCDA may also choose to ignore the original loan amount, which varies greatly between Reserved Housing unit owners. The original loan amount is very arbitrary, as some Reserved Housing unit owners utilized monetary gifts to substantially shrink their original loans. Others may have taken out loans worth up to 95% of the original purchase price. Given this wide disparity, the original purchase price is a much more stable factor to include in a broad policy.

HCDA's Reserved Housing rules require all Reserved Housing unit owners to pay "shared equity" upon the first sale or transfer of the unit after the regulated term has expired. The amount of shared equity due is calculated by rule, but is generally the original fair market value, less the original purchase price.

If the HCDA increases the refinancing maximum to 95% of the original purchase price, HCDA's portion of the shared equity would likely still be preserved due to strong current fair market values.

Examining current loan to value ratios on a case by case basis could allow for an even higher refinancing maximum that would still preserve HCDA's shared equity interest for certain Reserved Housing units. However, case by case analysis will be extremely challenging for the HCDA's limited staffing resources.

HCDA staff recommends adopting a blanket policy instead of case by case analysis. This is important to create a uniform policy that can be quickly and easily applied to <u>all</u> Reserved Housing Units governed by the 2005 and 2011 Reserved Housing Rules. This ensures fairness for all Reserved Housing unit owners and also enables HCDA to work more efficiently with its resources.

The HCDA must be careful in ensuring such a policy change does not encourage owners to cash out equity that might jeopardize HCDA's shared equity interest in the unit. HCDA staff proposes increasing the refinancing maximum as a temporary measure until September 7, 2020. The policy can then be reassessed to address any potential unforeseen consequences.

RECOMMENDATION:

HCDA staff recommends that the Board:

Authorize the Interim Executive Director to Temporarily Increase the Maximum Allowable Refinancing Limit for Reserved Housing Units Governed by the 2005 and 2011 Reserved Housing Rules.

Respectfully submitted,

Lindsey Doi
Asset Manager

APPROVED FOR SUBMITTAL:

Garett Kamemoto, Interim Executive Director

Attachments
Exhibit A – Letter from Ke Kilohana AOUO dated March 13, 2020

KE KILOHANA

March 13, 2020

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

Dear Chairperson Whalen,

On behalf of the Association of Unit Owners of 988 Halekauwila ("the AOUO"), I write to request assistance from the Hawaiʻi Community Development Authority ("HCDA") to ameliorate the financial difficulties suffered by homeowners who purchased units at the Ke Kilohana project under the Reserved Housing program established pursuant to HCDA's administrative rules.

The HCDA approved the Ke Kilohana project under rules aimed at increasing the stock of affordable housing in the state of Hawaiʻi. Under these approvals, Howard Hughes Corporation ("Howard Hughes"), 988 Halekauwila, LLC, and Victoria Ward, Limited ("Victoria") and other associated entities (collectively "the developers") were required to offer a number of reserved housing units at Ke Kilohana. In 2016, the developers made representations about how much the maintenance fees would be for the reserved housing units to the HCDA. In 2017, the developers publicly disclosed an estimated budget for the Project, associated with these estimated maintenance fees. By the time the residential board took over in August 2019, the AOUO was operating at a deficit of approximately $40,000 to $50,000 per month. The AOUO was forced to increase total monthly fees/assessments by 53.44% for the homeowners, effective March 2020, less than a year after these individuals bought their homes.

The HCDA's lofty goal of providing affordable housing is frustrated by the fact that the recent maintenance fee hike is beyond the reach of a majority of the AOUO. 88.4% of the Project's homeowners purchased units designated as reserved housing. These homeowners, who were required to meet income restrictions to qualify to buy these homes, are facing financial difficulty with responding to this increase. If they cannot afford the increase, they have no option except to offer their unit for sale back to the HCDA at the price they paid, losing their investment, closing costs, and home.

This precarious financial situation could be mitigated if Ke Kilohana homeowners were able to refinance their mortgages. Last May, when most reserved housing unit owners closed on the sales of their condos, the prevailing 30-year mortgage interest rate was 4.25% - 4.5%. Today, the prevailing 30-year mortgage is 3.11%. Such a significant difference in mortgage rates could result in lower monthly mortgage payments.

However, Ke Kilohana homeowners cannot take advantage of these rates without HCDA's consent which is conditioned on satisfying certain requirements that are challenging, if not insurmountable. Consent from HCDA is required prior to refinancing an existing loan, regardless of whether the regulated term has expired or not. It is our understanding that the HCDA will only approve requests to refinance the owner's primary mortgage up to the original loan amount, if and only if, it does not exceed 80 percent of the original purchase price. This requirement is discussed on the HCDA's website in a section entitled "Refinancing A Reserved Housing Unit," though no citations to the HCDA's rules are provided or referenced. Under this requirement, homeowners who made a 10% down payment on their reserved housing units cannot refinance to obtain a lower mortgage rate.

HCDA could allow the homeowners to take advantage of these favorable refinancing opportunities by making the following accommodations:

1. Grant an exemption to Ke Kilohana homeowners from HCDA's requirement that the refinanced loan amount constitute no more than 80% of the original purchase price, so as to provide relief to homeowners who made 10% down payments on their units and to those homeowners who do not have cash on-hand to pay for the closing costs of the refinanced loan.

2. Expedite the review process for requests for approvals submitted by Ke Kilohana homeowners. On average, Ke Kilohana homeowners have been waiting for up to sixty (60) days to obtain HCDA approval for refinancing. This length of time jeopardizes homeowners' ability to maintain rates locked in by lenders for a limited period of time.

The HCDA is also asked to use its broad powers to require the developers to take corrective action to make the AOUO financially solvent and to live up to the representations made by the developers in their submissions for HCDA approval.

The AOUO looks forward to a prompt response from the HCDA.

Very truly yours,

Tod H Gushiken

Tod Gushiken
Board President of AOUO of 988 Halekauwila