

STATE OF HAWAII
HAWAII COMMUNITY DEVELOPMENT AUTHORITY
KAKAAKO, KALAELOA & HEEIA BUSINESS

August 5, 2020

Chairperson and Members
Hawaii Community Development Authority
State of Hawaii
Honolulu, Hawaii 96813

HCDA Board Members:

SUBJECT: During Any Emergency Period in which the Governor of the State of Hawaii Has Issued a Proclamation affecting Chapter 92, Hawaii Revised Statutes, Shall the Authority delegate to the Interim Executive Director the Authority to Take the Following Actions?

- The extension of any Right of Entry previously approved by the Authority for an Additional Period of up to twelve (12) months;
- The approval of any contract for services previously approved by the Authority provided the contract was procured in accordance with all applicable laws;
- Granting of any utility easement solely in a right of way where no other use is allowable; and
- Accepting an Environmental Assessment where an anticipated Finding of No Significant Impact has been previously issued, the Authority has not as a body voted to object to the finding, and there have been no material changes to the draft final Assessment.

BACKGROUND:

This action item is being brought before the board at the request of Chairman John Whalen, who requested staff to propose interim measures to carry on routine operations of HCDA consistent with the Governor's proclamations during the COVID-19 emergency.

SUMMARY:

On March 4, 2020, the Governor of the State of Hawaii issued a proclamation declaring a state of emergency to support State and county responses to COVID-19. Since that time, nine supplementary proclamations have been issued, the latest on July 17, 2020.

In relevant part of the proclamation states the following: "Boards are discouraged from meeting during the emergency disaster relief period and should only be meeting as necessary to comply with a law, operational necessity, or in furtherance of emergency responses to COVID-19."

There are certain actions that the Hawaii Community Development Authority (HCDA) could delegate to the Interim Executive Director (or the Executive Director as the situation dictates) that does not affect the policy-making authority of the board.

This action item is brought to the Authority to streamline processes during the current and any future pandemic, and is not intended to allow the Interim Executive Director to create new policy, but to continue current policy during a period where any Governor has issued a proclamation discouraging boards from meeting during an emergency, like COVID-19.

ANALYSIS:

This action item is intended to grant the Interim Executive Director limited powers and does not allow for any changes to HCDA policy that has been previously approved by a vote by the Authority.

As listed above, staff anticipates:

- The extension of any Right of Entry (ROE) previously approved by the Authority for a period of up to twelve (12) months;
 - HCDA staff anticipates a handful of ROEs may become due over the next few months. Where these ROEs have been previously approved by the Authority, HCDA staff believes that an extension for a limited time is prudent, especially during a time where meetings are discouraged.
- The approval of any contract for services previously approved by the Authority provided the contract was procured in accordance with all applicable laws;
 - HCDA staff conducts its procurement in accordance with state law. Staff has traditionally requested approval to procure individual services (landscaping, maintenance, cleaning of restrooms, pest control, etc.) And also sought to get approval for each contract if it exceeds a certain dollar amount. However, since procurement procedures are dictated by law, it is more prudent that the approval should be done by the Head of Procurement Agency (HOPA), as provided by law. The HOPA is designated by the State Procurement Office in accordance with the law. Currently the HOPA is the Interim Executive Director. This would not apply to new services not previously anticipated.
- Granting of any utility easement in a right of way where no other use is allowable;
 - HCDA receives frequent requests for utility easements. Where the easement does not negatively affect HCDA property (example: Board of Water Supply wanting to have an easement across Queen Street for fire hydrants) this action item proposes allowing the Interim Executive Director to grant such an easement.
- Accepting an Environmental Assessment where an anticipated Finding of No Significant Impact has been previously issued, the Authority has not as a body voted to object to the finding, and there have been no material changes to the draft final Assessment
 - To the extent that an anticipated Finding of No Significant Impact has been issued, and there are no material changes to the environmental statement, HCDA is proposing to allow that during an emergency period the Interim Executive Director be allowed to accept the Assessment. This item is limited to findings that have been previously brought to the Authority.

HCDA staff notes that these actions as listed are permissive as opposed to mandated. If someone petitions the HCDA to approve the above actions and the Interim Executive Director disagrees, the items will be placed on the next board agenda for final disposition.

RECOMMENDATION:

During Any Emergency Period in which the Governor of the State of Hawaii Has Issued a Proclamation affecting Chapter 92, Hawaii Revised Statutes, Shall the Authority delegate to the Interim Executive Director the Authority to Take the Following Actions?

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APPROVED FOR SUBMITTAL:



Garrett Kamemoto, Interim Executive Director