

Kidder, Kapilialoha

From: DBEDT HCDA Contact
Sent: Wednesday, April 7, 2021 9:54 AM
To: Kidder, Kapilialoha; Neupane, Deepak
Subject: FW: Public Testimony Website Submission {Project Name:15}

-----Original Message-----

From: ClintHamada <clinth@hawaii.edu>
Sent: Tuesday, April 6, 2021 6:42 AM
To: DBEDT HCDA Contact <dbedt.hcda.contact@hawaii.gov>
Subject: Public Testimony Website Submission {Project Name:15}

Name

Clint Hamada

Address

United States

Map It <<http://maps.google.com/maps?q=United+States>>

Email

clinth@hawaii.edu <<mailto:clinth@hawaii.edu>>

Do you support or oppose?

Oppose

Comment

My name is Clint Hamada. I am providing the attached testimony regarding the proposed amendments to HAR § 15-218-41 as a current law school student at the William S. Richardson School of Law. Thank you for your time and consideration.

File Upload

* HCDA-Testimony.pdf <<http://dbedt.hawaii.gov/hcda/index.php?gf-download=2021%2F04%2FHCDA-Testimony.pdf&form-id=4&field-id=4&hash=c8bb485c4c49324b6de6915bfa6ec55e98822cb34be9fdd8f980c1269e9dd1ca>>

April 7, 2021

To: Department of Business, Economic Development & Tourism
Hawai'i Community Development Authority ("HCDA" or the "Authority")
Attn: Mr. John Whalen, Chairperson

From: Clint Hamada, Honolulu resident, William S. Richardson School of Law 3L student

Re: **Proposed Amendments to Hawai'i Administrative Rules, Section 15-218-41,
Kaka'ako Reserved Housing Rules**

Dear Chairperson John Whalen and HCDA members,

Thank you for receiving and considering the public's input regarding the proposed amendments to Hawai'i Administrative Rules ("HAR") Section 15-218-41, allowing owners of reserved housing to pay the Authority's share of equity at any time without the precondition of a sale or transfer. As someone with close friends who are either existing or prospective owners of reserved housing, I understand the unique need for viable affordable housing options within our Honolulu community. Accordingly, I must **oppose** the proposed amendments as they are currently drafted. My apprehension stems from two primary reasons.

First, the proposed amendments will likely increase the number of reserved housing units that will eventually exit the reserved housing "pool." If owners choose to pay the shared equity far in advance of a resale, owners will pay a total amount noticeably below what the Authority would have received later in time post-appreciation. As a result, if the Authority wishes to repurchase a unit that has already paid the shared equity, the Authority will have to expend additional funds to compensate the amount that the shared equity would have appreciated. This difference in repurchase price theoretically makes repurchasing more difficult for the Authority, thereby allowing more reserved housing units to enter the ordinary housing market. The proposed amendments therefore contradict the stated purpose of Chapter 15-218 to "increase . . . supply of housing for residents of low- or moderate-income. . . ." HAR § 15-218-1.

Second, the proposed amendments' current language provides virtually no information regarding the new application process required for an owner to pay the shared equity amount early. The amendments state that "[t]he owner of a reserved housing or workforce housing unit may pay all or part of the authority's share of equity at any time without a sale or transfer of the reserved housing or workforce housing unit *by making an application* to the executive director." HAR § 15-218-41(g) (emphasis added). The term "making an application" implies that an owner's mere creation and completion of an application will sufficiently allow the owner to pay the shared equity. In other words, the current phrasing equates the application to a form of notice rather than a screening process. If the amendments' intent is to actually install a true application process, where some applications will be granted and others will not, I believe it is in the best interest of the Authority and the public that the criteria for successful applications be clearly outlined.

Sincerely,



Kidder, Kapilialoha

From: DBEDT HCDA Contact
Sent: Wednesday, April 7, 2021 9:56 AM
To: Kidder, Kapilialoha; Neupane, Deepak
Subject: FW: Public Testimony Website Submission {Project Name:15}

-----Original Message-----

From: DBEDT HCDA Contact <dbedt.hcda.contact@hawaii.gov>
Sent: Wednesday, April 7, 2021 9:54 AM
To: DBEDT HCDA Contact <dbedt.hcda.contact@hawaii.gov>
Subject: FW: Public Testimony Website Submission {Project Name:15}

-----Original Message-----

From: JosephSulon <jsulon@hawaii.edu>
Sent: Tuesday, April 6, 2021 8:11 AM
To: DBEDT HCDA Contact <dbedt.hcda.contact@hawaii.gov>
Subject: Public Testimony Website Submission {Project Name:15}

Name

Joseph Sulon

Address

60 N Beretania St. Apt. 1910
Honolulu, Hawaii 96817
United States

Map It

<<http://maps.google.com/maps?q=60+N+Beretania+St.+Apt.+1910+Honolulu%2C+Hawaii+96817+United+States>>

Email

jsulon@hawaii.edu <<mailto:jsulon@hawaii.edu>>

Do you support or oppose?

Support

Comment

The comments on the attached document are in reference to the proposed amendments to HAR § 15-218.

File Upload

* [SULON-HCDA-Proposed-Amendment-Comment.docx](https://dbedt.hawaii.gov/hcda/index.php?gf-download=2021%2F04%2FSULON-HCDA-Proposed-Amendment-Comment.docx&form-id=4&field-id=4&hash=b3f7276e7dbe6ffae29da8a0cbc126474070a57951c2b308d3e89c920399740d) <<https://dbedt.hawaii.gov/hcda/index.php?gf-download=2021%2F04%2FSULON-HCDA-Proposed-Amendment-Comment.docx&form-id=4&field-id=4&hash=b3f7276e7dbe6ffae29da8a0cbc126474070a57951c2b308d3e89c920399740d>>

TO: Hawaii Community Development Authority

Attn: John Whalen, Chairperson

RE: Proposed 2021 Kakaako Reserved Housing Rules Amendments

April 7th, 2021, 9:00am Hearing

Dear Mr. Whalen and HCDA Board Members,

My name is Joseph Sulon, a current 3L student at the University of Hawaii William S. Richardson School of Law and a resident of Honolulu County. After reviewing the proposed amendment to Hawaii Administrative Rule (“HAR”) § 15-218, I would like to express my ***tentative support*** for the proposal and suggest a potentially better alternative.

The proposed amendment to allow owners to purchase shared equity prior to the resale of a reserved property creates an opportunity for owners to transform affordable housing into investment opportunities to the potential detriment of those who need access to affordable housing. Pursuant to HAR § 15-218-35, the regulated term for a reserved housing or workforce housing unit shall be ten years from the issuance of certificate of occupancy.

Under the proposed amendment, owners could buyout the HCDA’s equity share early, then profit on the appreciated value at the time of resale because the appreciated value will solely benefit them. This is a substantial benefit to those owners looking to progress outside of the affordable housing and will grant them extra capital when purchasing their next house. Any additional profit in the pockets of the affordable housing owners to be used in purchasing a next home is an admirable goal and is why I support this amendment. However, this added benefit will also likely incentivize investors to try and obtain ownership of a reserved home under the § 15-218-30 requirements if possible because it grants access to an affordable home that can be quickly “flipped” for profit without now having to worry about the HCDA receiving their equity share.

While this proposed amendment does not decrease the requirements for obtaining affordable housing, it does incentivize investors to find their way into the system. An investor with capital obtaining an affordable home could simply buyout the HCDA’s equity share then “flip” the house at a substantially higher price that would either strain HCDA resources to purchase back or lead to a more rapid removal of housing from the affordable housing pool. The existence of the ten-year rule in HAR § 15-218-35 deters affordable housing owners from quickly reselling their houses at a profit because the HCDA still has an equity share it can take a piece of on the resale. This amendment essentially obsoletes that protection and allows for the quick purchase of, buyout, and resale at a higher cost. This not only harms the HCDA should it want to purchase the home back, but also future purchasers who rely on access to affordable housing.

As a firm believer in the importance of affordable housing in Hawaii, I would like to offer my support to this amendment insofar as it grants additional capital to those owners who could legitimately take advantage of it. To address the concern of investors using this amendment to

“flip” affordable houses, I would like to suggest altering the language of the amendment from “at any time” to “after two years of ownership”. Setting a two-year ownership minimum before buying out the HCDA’s equity share would both allow for owners to benefit from the appreciation value of sole ownership significantly quicker while deterring investors from using affordable housing as a medium for quick profit by placing a minimum ownership requirement. Additionally, I would like to pose the following questions for clarification:

- 1.) The proposed amendment references an application made to the Executive Director prior to the equity share purchase, does this indicate there is a potential for the application to be denied?
- 2.) What are the criteria for approving or denying an application?

Thank you for your time.

Sincerely,

Joseph Sulon

Kidder, Kapilialoha

From: DBEDT HCDA Contact
Sent: Wednesday, April 7, 2021 9:57 AM
To: Kidder, Kapilialoha; Neupane, Deepak
Subject: FW: Public Testimony Website Submission {Project Name:15}

-----Original Message-----

From: DBEDT HCDA Contact <dbedt.hcda.contact@hawaii.gov>
Sent: Wednesday, April 7, 2021 9:54 AM
To: DBEDT HCDA Contact <dbedt.hcda.contact@hawaii.gov>
Subject: FW: Public Testimony Website Submission {Project Name:15}

-----Original Message-----

From: KatiePham <ntpham@hawaii.edu>
Sent: Tuesday, April 6, 2021 11:07 AM
To: DBEDT HCDA Contact <dbedt.hcda.contact@hawaii.gov>
Subject: Public Testimony Website Submission {Project Name:15}

Name

Katie Pham

Address

1415 Victoria St Apt 1008

Honolulu, HI 96822

United States

Map It <<http://maps.google.com/maps?q=1415+Victoria+St+Apt+1008+Honolulu%2C+HI+96822+United+States>>

Phone

(808) 381-9835

Email

ntpham@hawaii.edu <<mailto:ntpham@hawaii.edu>>

Project Name

PROPOSED RESERVED HOUSING RULES AMENDMENTS

Do you support or oppose?

Support

Comment

I am testifying to offer my tentative support of the proposed amendment to § 15-218-41.

File Upload

* [KatiePham_15-218-41_Written-Testimony.pdf](https://dbedt.hawaii.gov/hcda/index.php?gf-download=2021%2F04%2FKatiePham_15-218-41_Written-Testimony.pdf&form-id=4&field-id=4&hash=4cef1f45b5f49ccf7ad8729268ab5b9658e765bb8b50204bcd19f8e33c0134d8) <https://dbedt.hawaii.gov/hcda/index.php?gf-download=2021%2F04%2FKatiePham_15-218-41_Written-Testimony.pdf&form-id=4&field-id=4&hash=4cef1f45b5f49ccf7ad8729268ab5b9658e765bb8b50204bcd19f8e33c0134d8>

April 6, 2021

To: Mr. John Whalen
Hawai'i Community Development Authority
547 Queen St.
Honolulu, HI 96813

From: Katie Pham, Honolulu County resident, William S. Richardson School of Law student

**Re: Proposed amendment to Hawaii Administrative Rules, Title 15, Subtitle 4, Chapter 218
“Kakaako Reserved and Workforce Housing Rules”**

Dear Mr. Whalen and the HCDA,

I am testifying to express my concerns regarding the Hawai'i Community Development Authority's (the "Authority") proposed amendment to Chapter 15-218 – Kakaako Reserved and Workforce Housing Rules, specifically § 15-218-41, Equity sharing requirements. Pursuant to the proposed amendment, which will become subsection (g) of § 15-218-41, “the owner of a reserved housing or workforce housing unit may pay all or part of the authority's share of equity at any time without a sale or transfer of the unit.”

Thank you for receiving and considering the public's input on matters affecting affordable housing, which is such important issue in Hawai'i. After reviewing the materials provided online, my understanding is that this proposed amendment will potentially allow owners of reserved housing or workforce housing units to receive higher capital gains from the resale of their units in the event that the Authority waives its option to purchase the unit. While I commend the Authority for proposing this rule, which could lead to many families being able to buy other properties in the future when they decide to leave the reserved housing or workforce housing program—thanks to the appreciation gained on their affordable housing unit—I have some concerns and questions.

From my reading and understanding of the program, under the current rules, the Authority's shared equity in a reserved housing or workforce housing unit is to last ten years from the issuance of the certificate of occupancy. The new amendment will enable the owner to pay in advance the shared equity owed to the Authority that otherwise must be paid upon resale under the current rules. My concern is that under the proposed amendment's regime, owners may be incentivized to quickly “flip” a unit and sell it for a profit. Without data showing how many reserved housing or workforce housing units get purchased by the Authority or designated by the Authority for sale to a new qualified buyer under the program, I am wary that this new regime will accelerate the rate at which affordable units will leave the affordable housing pool. Although I commend the Authority's plan to use the equity paid to it to provide more affordable units in the future, the need for affordable housing in Hawai'i—and especially on O'ahu—is present and will likely continue to increase.

The current language of the proposed amendment is also vague regarding what the application process entails. From reading the proposed amendment, it is not clear to me what “making an application” means, what the criteria for approving or denying an application are, or

whether an application can be denied at all. My suggestion, then, would be for the Authority to issue clear instructions on the application process and set out criteria it will use in reviewing applications. In addition, to deter owners from treating affordable units as investment for capital gains and therefore flipping units and selling them quickly, the Authority should also consider putting a minimum requirement of two to three years of ownership before a resale is authorized—applicable to cases where the Authority waives its purchase right.

For the foregoing reasons, I **tentatively support** the proposed amendment to § 15-218-41. I believe that this amendment could benefit owners of affordable housing units and enable many families to build wealth in the future. However, unless the concerns that I have highlighted here are addressed, the rules will likely lead to a reduction of affordable housing units overall, which will detrimentally impact people in need of affordable housing both now and in the future. Thank you for allowing me this opportunity to testify on this proposed amendment.

Sincerely,

A handwritten signature in black ink, appearing to read 'Katie Pham', with a stylized, flowing script.

Katie Pham