

STATE OF HAWAII
HAWAII COMMUNITY DEVELOPMENT AUTHORITY
KAKAAKO BUSINESS MEETING

Wednesday, December 5, 2018

MINUTES

I. CALL TO ORDER/ROLL CALL

A regular business meeting of the Kakaako Members, Hawaii Community Development Authority (“Authority” or “Board”), a body corporate and a public instrumentality of the State of Hawaii, was called to order by, John Whalen Chair of the Authority at 9:42 AM, December 5, 2018 at Authority’s principal offices at 547 Queen Street in Honolulu, Hawaii, 96813.

Members Present: Phillip Hasha
Jason Okuhama
Wei Fang
Beau Bassett
David Rodriguez (DOT Ex-Officio)
Mark Anderson (B&F Ex-Officio)
Mary Pat Waterhouse
John Whalen, Chair

Members Excused: William Oh
Kathy Sokugawa (DPP non-voting)

HCDA Staff Present: Aedward Los Banos, Executive Director
Deepak Neupane, Kakaako Planning and Development Director
Garett Kamemoto, Compliance Assurance & Community Outreach Officer
Lindsey Doi, Asset Manager
Francine Murray, HCDA Program Specialist
Alison Miyasaki, Administrative Services Officer
Charlyn Ontai, Asset Management Specialist
Tommilyn Soares, HCDA Secretary to the Executive Director

Legal Counsel: Lori Sunakoda, Deputy Attorney General

II. APPROVAL OF MINUTES

Minutes of the November 7, 2018 Kakaako Authority meeting were approved as presented.

III. ACTION ITEMS

Shall the Hawaii Community Development Authority Authorize the Transfer of Rycroft Terrace Unit No. 529 to a Revocable Trust During the Regulated Term and Waive the Authority's First Option to Purchase and Defer the Shared Equity Due to the Authority?

Ms. Lindsey Doi referred to the report provided in the board packet. The owner of Rycroft Terrace Unit 529 is requesting a waiver of the reserved housing rules under Hawaii Administrative Rules § 15-22-188, to transfer the unit to a revocable trust as part of estate planning to avoid the probate process. The owner would like to remain living in his unit and defer the payment of shared equity.

Chair Whalen asked regarding the Regulated Term, the board would be reviewing the requirements and restrictions that were in place at the time the owner purchased the unit and possibly applying any rules that have been recently amended to the reserved housing rules?

Executive Director Los Banos responded and clarified that the owner of this unit is requesting this waiver under HAR Chapter 15-22 and while owners have an option to opt into the recently amended reserved housing rules (that allow these types of transfers) HCDA staff is processing this request under the Chapter 15-22 rules. Therefore, the board has an option to exercise its waiver of the transfer (requiring the owner to pay its shared equity) or exercise its option to buy back the reserved housing unit. There is an exception provision per HAR Chapter 15-22-188 that states a waiver may be granted by the authority (not the Executive Director) on a case-by-case basis if the following are met:

1. The waiver will not result in a speculation;
2. Where fiscal management will not allow repurchase of the unit; or
3. Where such waiver will allow permanent financing by other mortgage lenders.

Mr. Los Banos also noted for the board that this section does not preclude the authority from applying conditions to its waiver or deferral. Therefore, the authority may include a condition on its waiver to either continue its current regulated term or reset it for another 10 years. HCDA staff's recommendation is to continue its regulated term. The second condition that the board may include to ensure there will be a result of no speculation is that the HCDA Executive Director review the Revocable Trust to ensure there will be no speculation and to confirm that this transfer request is to avoid the probate process as the owner originally indicated.

Deputy Attorney General Lori Sunakoda noted for the authority that Deputy Attorney General Max Levins did confer with HCDA staff on the speculation question and is recommending a third condition be incorporated (for consistency and recordation) into the new deeds that state these new conditions, if a waiver is granted.

Chair asked if this is the first time a request as such was brought forward for board action?

Mr. Los Banos responded, yes.

Member Bassett asked if there are any cases where owners have acquired a reserved housing

unit in a trust? If so, according to the deed, who is the occupant? Would it be the person that created the trust, trustee, or beneficiary? He also noted that technically the trustee could be anyone and not the owner and would like that clarified in the trust or deed. Member Bassett recommends that a provision be included to note that the occupant be the person that created the trust as the trustee could possibly change. He also asked what happens to these units if an owner dies.

Executive Director Los Banos noted for Member Bassett that the reserved housing unit rules specify the succession of lineal decent.

Board members expressed concerns and questions and asked staff to further investigate and provide more information to the following questions:

1. What is the Hawaii Housing Finance and Development Corporation's process to such requests or Revocable Trusts, if any?
2. Has HCDA ever allowed this type of transfer?
3. How can the board ensure this Revocable Trust follows the same conditions as the current deed?

There were no further comments and no public testimony.

MOTION

Member Anderson made a motion for the authority to defer the action item.

Member Bassett seconded.

Ms. Doi conducted the roll call vote.

Motion passed with 8 yes votes and 1 excused.

Member Bassett requested staff to review the conditions to all the Reserved Housing Deeds and that Counsel review all conditions specific to the individual and addresses how the board can ensure this trust follows the same conditions and to also ask HHFDC for guidance on its process.

Shall the Authority Authorize the Executive Director to Award and Execute a Three-Year Contract with Two One-Year Options to Extend for the Management and Maintenance of the Kauhale Kakaako Parking to the Highest-Ranked, Responsive, and Responsible Respondent?

Ms. Doi presented the staff report provided in the board packet. HCDA is soliciting an RFP for the Kauhale Kakaako Parking Garage Management and Maintenance to increase revenue through the modernization of the garage. The solicitation will be awarded to the respondent with the highest scoring proposal, evaluated by a committee that consists of HCDA staff. The solicitation closes on December 10, 2018 and the contract will commence on January 1, 2018.

Member Waterhouse asked why this RFP was not solicited sooner.

Ms. Doi responded that the solicitation changed from an Invitation for Bid to a Request for Proposals and the review process took longer than expected.

Member Hasha expressed his frustration about the board not having an opportunity to provide comments to the bids that will be received.

Member Waterhouse asked if the current vendor can be extended one more month?

Mr. Los Banos and Ms. Doi explained that according to the State Procurement process and rules, HCDA will need to request an approval from the comptroller to extend the current contractor; however, the time frame may not allow a sufficient amount of time for a response from the Comptroller that could result in a procurement violation.

Chair Whalen suggests requesting an approval from the Comptroller to extend.

Discussion among board members recommends amending the members of the RFP evaluation committee to include one board member.

There were no further comments, questions or public testimony.

MOTION:

Member Anderson motioned for the board to authorize the Executive Director to award and execute a three-year contract with two one-year options to extend for the management and maintenance of the Kauhale-Kakaako parking to the highest-ranked, responsive, and responsible respondent, provided that Board Member Phillip Hasha serve on the RFP Evaluation Committee.

Member Bassett seconded.

Ms. Lindsey Doi conducted the roll call vote. Motion passed with 7 yes votes, 1 abstention and 1 excused.

IV. INFORMATION AND DISCUSSION

KUPU 2018 Annual Report to the Authority.

Kaulana McCabe, KUPU Program Manager of the Community program that operates out of the Net Shed presented KUPU's FY17-18 Annual Report and provided a brief update on the construction and net shed. The widening of the road on the Makai end of the building will be the next construction project being worked on. Renovations are scheduled to be completed by the end of January 2019. KUPU anticipates investing approximately 6 million into the renovation and construction of the area by the second quarter of 2019.

Member Waterhouse noted that per the contract agreement between HCDA and KUPU, the board specified there will be no commercial activity held at the net shed. Per the information reported,

Member Waterhouse is unfamiliar with some of the organizations listed.

Mr. McCabe noted that most of the organizations that utilized the net shed were nonprofit community groups that held workshops as well as Ohana groups that used the space for private meetings.

Member Waterhouse stated that the board did not want the space to be utilized by private groups and that the space should be open to the community.

Member Fang asked if there was a six-month report as noted in KUPU's lease and if there is a site visit planned with construction being completed in January 2019? Member Fang also asked if there is any information that can be provided on work done prior to January 2018?

Member Bassett stated that the board members are trying to establish a financial framework and some of the details are outlined and provided in the lease as a guideline and recommends KUPU provide additional financial details.

Member Waterhouse stated that the board would like to make it clear that the Net Shed is to be opened and available to the community.

Discussion among board members recommend KUPU come back to the board with an updated report in February 2019.

There were no further comments or questions and no public testimony.

V. REPORT OF THE EXECUTIVE DIRECTOR

Monthly Activities Update of the Kakaako Office

Chair Whalen referred to the report provided in the board packet.

There were no questions and no public testimony.

VI. ADJOURNMENT

Chair Whalen adjourned the regular meeting at 10:58 am.

Approved and Submitted by,



John Whalen, Chairperson

JAN 09 2019

Date Approved by HCDA Board