

FOR INFORMATION

I. SUBJECT

Discussion Regarding the Option to Purchase Reserved Housing Units During the Unit’s Regulated Term Pursuant to Hawaii Administrative Rules § 15-22-186 (c)(1).

II. BACKGROUND

This matter is being brought to the board as a proactive strategy to maintain and encourage more of the current inventory of reserved housing units within the Kakaako Community Development District (“District”) to be maintained as affordable units for a longer time.

Reserved housing units are regulated by the Hawaii Community Development Authority (“HCDA”) through the requirement that shared equity is owed to the HCDA whenever the reserved housing unit is sold, and through HCDA’s one-time right to buy back the reserved housing unit if the unit will be sold during the unit’s regulated term.

This discussion focuses primarily on the HCDA’s one-time option to buy back a reserved housing unit when the reserved housing unit will be sold during the unit’s regulated term.

There are currently 501 Reserved Housing units in the District that are still within the regulated term, with another 697 to be built in the next few years:

Project	Number of Regulated Units	Regulated Term	Approx. Expiration of Regulated Term	Rules Governing Project
Keauhou Place	9	5 Years	November 2022	2005
Ke Kilohana	150	5 Years	May 2024	2005
Rycroft Terrace	152	10 Years	October 2024	2005
Aalii	150	2-5 Years	November 2023-2026	2005
803 Waimanu	40	5 Years	December 2026	2011
Ulana*	697	2-10 Years	Pending, 2026-2036	2005

**In the presale stage, anticipated construction completion in 2024*

The above table, specifically the last column on the right, illustrates that most of the reserved housing units that are in their regulated term are regulated under the 2005 rules.

Once an owner notifies the HCDA of their intent to sell their reserved housing unit during the regulated term, the options are:

- a. Buyback the unit
- b. Waive the buyback option – this allows the owner to sell the unit at market rates and pay the shared equity due to the HCDA upon closing, or rent the unit at market rates

Pursuant to Hawaii Administrative Rules (HAR), the HCDA shall have the first option to purchase the unit (buyback) if the owner wishes to sell during the regulated term:

- a. “2005 Rules” HAR § 15-22-186 (c)(1) allows “the authority or a governmental agency approved by the authority” to have the first option to purchase the unit
- b. “2011 Rules” HAR § 15-218-36 allows “the authority or an entity approved by the authority” to have the first option to purchase the unit

The buyback price is set by formula according to either in the 2005 or 2011 rules.

The shared equity due to the HCDA is also set by formula according to the applicable HAR. Amounts vary significantly depending on the project and affordability of each unit, with some units having no shared equity while others having shared equity in excess of \$200,000.

III. DISCUSSION

To maintain and encourage more of the current inventory of District reserved housing units to be maintained as affordable units for a longer time, additional buy back agents should be designated.

Currently, the HCDA relies on its sister state agency, the Hawaii Housing Finance and Development Corporation (HHFDC). So far, the HHFDC has repurchased five reserved housing units and resold them to income-restricted buyers under HHFDC’s own affordable housing program. HHFDC’s regulated term and buyback provision for all repurchased units lasts for ten years after HHFDC resells the unit to a new buyer.

The HCDA currently does not have the staff or financial resources to buyback and resell individual units on its own; therefore, we would waive buyback for any unit offered for sale during the regulated term if we did not have a willing partner to repurchase the unit on our behalf.

If a reserved housing unit is not bought back by HCDA or HHFDC, HCDA’s one-time right to buy back the reserved housing unit is waived and is the reserved housing owner is only subject to the shared equity requirement.

In situations where the HHFDC declines to buyback a unit during the regulated term, the HCDA would like to utilize the resources of another entity such as a non-profit organization dedicated to the creation and preservation of affordable homes in Hawaii instead of waiving the HCDA's right to buyback the subject unit. These non-profits purchase homes and renovate them before reselling them to eligible buyers under their own affordable housing program. These programs have similar requirements and restrictions to HCDA's Reserved Housing Program, such as income restrictions and a first option to purchase (buyback provision) whenever the homeowner decides to sell the unit.

Partnerships such as these would greatly enhance the HCDA's ability to keep more reserved housing units affordable for a longer time.

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