

**STATE OF HAWAII
HAWAII COMMUNITY DEVELOPMENT AUTHORITY
KAKAAKO MEETING**

Wednesday, January 4, 2023

MINUTES

I. CALL TO ORDER/ROLL CALL

The Hawaii Community Development Authority (“Authority” or “Board”), a body corporate and a public instrumentality of the State of Hawaii, met virtually (utilizing the state-supported Zoom Meeting platform) for a Regular meeting on January 4, 2023.

Chairperson Chason Ishii called the January 4, 2023, HCDA Kakaako Authority Regular meeting to order at 9:01 a.m.

Acknowledgement that the Meeting is Being Convened Virtually

Executive Director Craig Nakamoto reiterated the wording contained in the Meeting Agenda regarding the guidelines and directives provided by Section 92-3.7, Hawaii Revised Statutes, to enable public boards and commissions to conduct business virtually with a meeting site open to the public.

About the foregoing, Mr. Nakamoto reiterated wording contained in the Meeting Agenda, noting that the HCDA welcomes public attendance via the Zoom link provided and also at the meeting site, located at The American Brewery Building, 547 Queen Street, 2nd Floor Board room, Honolulu, Hawaii 96813. He noted that the meeting would be live streamed on the HCDA’s YouTube Channel contained in the Meeting Agenda, and that the HCDA also welcomed public comment and public participation via submission of written and/or oral testimony. Mr. Nakamoto stated that individuals, if any, from the public who had requested to provide testimony were on standby and would be permitted to speak during the public testimony session of the specific agenda item.

Chair Ishii conducted the roll call. Those present were as follows:

Members Present: Peter Apo, Vice Chairperson
Sterling Higa
Melissa Miranda-Johnson, DOT (Ex Officio)
Craig Hirai, DPP (Ex Officio)
Dane Wicker, DBEDT (Ex Officio)
Kevin Sakoda
Chason Ishii, Chairperson

Members Excused: Luis Salaveria, B&F (Ex Officio)
Phillip Hasha

Legal Counsel: Kelly Suzuka, Deputy Attorney General

Staff Present: Craig Nakamoto, HCDA Executive Director
Garet Sasaki, HCDA Administrative Services Officer
Lindsey Doi Leaverton, HCDA Asset Manager
Francine Murray, HCDA Community Outreach Officer
Tommilyn Soares, HCDA Executive Secretary

A quorum was present.

II. APPROVAL OF MINUTES
Regular Meeting Minutes of December 7, 2022

Chair Ishii asked for comments or corrections. Member Higa noted two corrections. The meeting minutes were approved as corrected.

III. DECISION MAKING
Consider Adopting Hearing Officer Wayne Nasser’s Recommended Findings of Fact, Conclusions of Law and Decision and Order in the Following Consolidated Contested Case Hearing Matter: Docket No. ACC-2017-01 in Re Petition of the Golden Eagle Marine Charter Services Corp.

The Authority may convene in executive session pursuant to HRS §92-5(a)(4) to consult with the Board’s attorney on questions and issues pertaining to the Board’s powers, duties, privileges, immunities and liabilities.

Chair Ishii polled the board members to affirm that those participating in decision making have reviewed the record and the hearing officer’s recommended Findings of Fact, Conclusions of Law, and Decision and Order.

Chair Ishii, Vice Chair Apo, and Members Higa, Hirai, and Sakoda affirmed. Members Miranda-Johnson and Wicker did not affirm.

Counsel for the Petitioner, Mr. Christopher Muzzi, noted his appearance for the record and presented the Petitioner’s arguments on exceptions to the hearing officer’s recommended Findings of Fact, Conclusions of Law, and Decision and Order.

Counsel for the Respondents, Mr. Bryan Ho, noted his appearance for the record and presented the Respondents’ responsive arguments to the Petitioner’s arguments on exceptions.

Mr. Muzzi presented the Petitioner’s rebuttal of the Respondents’ presentation.

There were no questions or comments by board members.

Public Testimony

There were no inquiries to provide verbal testimony, and no written testimonies were received.

Vice Chair Apo motioned for the board to enter an Executive Session. Member Higa seconded.

There was no discussion on the motion. Chair Ishii called for a voice vote; all members unanimously affirmed. Chair Ishii requested the following people to participate in the Executive Session: HCDA Executive Director Craig Nakamoto, HCDA Deputy Attorney General Kelly Suzuka, and HCDA Staff Francine Murray, Tommilyn Soares, and Kapilialoha Kidder.

Pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, the Authority convened in Executive Session at 9:26 a.m.

The Authority met in Executive Session until 9:53 a.m.

Chair Ishii reconvened the public meeting at 9:53 a.m.

Executive Director (ED) Nakamoto thanked each parties’ counsel for their time and presentations. ED Nakamoto stated that the board is deferring action and the board suggests to the parties that they meet in mediation to settle the matter, adding that the matter can be calendared for one month for mediation.

Mr. Ho expressed concerns regarding the logistics of mediation and stated he is unsure if his client will grant authority for mediation.

ED Nakamoto reiterated the board deferring action in this matter, and suggested the parties meet in mediation. If the parties have either settled or are unable to mediate, a rehearing will be scheduled for board decision.

Mr. Ho asked if it would be possible to calendar it for a month, during which the attorneys will both know if their respective clients will authorize mediation and reach an agreement to participate, then the parties can investigate how long mediation would take to schedule, then inform Deputy Attorney General Suzuka of their plans, so that the board can push decision making further; he continued by saying if the parties do not mediate, then the matter would stay on schedule for the February 2023 Kakaako Authority meeting.

Mr. Muzzi stated he will have a scheduling issue because he will be out of the country on the day of the February board meeting.

Mr. Ho stated if the matter comes back in February, it will be for decision-making with no further arguments and asked Mr. Muzzi if someone else could attend in his place.

Mr. Muzzi stated as long as there is no input required from him in February, it would be fine.

ED Nakamoto confirmed the matter will be scheduled for February, subject to the parties needing more time for mediation, if necessary.

Mr. Ho asked if that would be decision making with no further argument from either of the lawyers.

ED Nakamoto confirmed there will be no further arguments from either party.

MOTION:

Member Hirai motioned (1) for the Authority to defer action on Hearing Officer Wayne Nasser's Recommended Findings of Fact, Conclusions of Law and Decision and Order in the Following Consolidated Contested Case Hearing Matter: In Re Petition of the Golden Eagle Marine Charter Services Corporation, Docket No. ACC-2017-01 and (2) recommend that the parties meet in mediation to settle this matter and calendar another hearing in one month, subject to rescheduling to March if the parties reach some kind of settlement.

Member Wicker seconded.

Chair Ishii asked if there was any discussion on the motion.

There was no discussion from board members.

ED Nakamoto conducted the roll call vote. Motion passed with 6 ayes, 2 excused, and 1 abstained.

Request to Establish a Permitted Interaction Group, Pursuant to Hawaii Revised Statutes §92-2.5(b), to Determine the Requirements and Qualifications for Designating a Non-Governmental Entity as a Buyback Agent for HCDA Reserved Housing Units that are Intended to be Sold during the Reserved Housing Unit's Regulated Term, and Present the Permitted Interaction Group's Findings and Recommendations to the Authority.

Ms. Lindsey Doi Leaverton, HCDA Asset Manager, presented the staff report and noted this is a follow-up to the board's approval at its December 7, 2022, meeting to grant the ED's petition for waiver or suspension of Administrative Rules to allow non-governmental entities to buyback HCDA's reserved housing units. With that waiver,

HCDA may establish program requirements and qualifications to determine which non-governmental entities are eligible to buyback HCDA's Reserved Housing Units. A Permitted Interaction Group (P.I.G.) is being recommended to provide guidance on the program requirements for HCDA staff to follow when entering into contracts with eligible entities.

Member Hirai asked if there is a problem with HHFDC.

Ms. Leaverton stated HCDA enjoys its relationship with HHFDC but would like to further increase the options available to buyback units offered for sale during the regulated term. She added that HCDA would like to avoid waiving its buyback opportunity, to keep those units regulated for as long as possible. Ms. Leaverton stated the goal of this plan is to expand to non-governmental entities in addition to governmental agencies.

There were no further questions or comments by board members.

Public Testimony

There were no inquiries to provide verbal testimony, and no written testimonies were received.

MOTION:

Chair Ishii asked for a motion for the Authority to Establish a Permitted Interaction Group, Pursuant to Hawaii Revised Statutes §92-2.5(b), to Determine the Requirements and Qualifications for Designating a Non-Governmental Entity as a Buyback Agent for HCDA Reserved Housing Units that are Intended to be Sold during the Reserved Housing Unit's Regulated Term and Present the Permitted Interaction Group's Findings and Recommendations to the Authority.

Member Higa motioned. Vice Chair Apo seconded.

Chair Ishii asked if there was any discussion on the motion.

There was no discussion from board members.

Ms. Leaverton conducted the roll call vote. Motion passed with 7 ayes, and 2 excused.

Chair Ishii asked if any members would like to volunteer to participate in the P.I.G. ED Nakamoto stated there must be less than 5 members. Chair Ishii and Members Hirai and Higa volunteered to be in the P.I.G.

IV. REPORT OF THE EXECUTIVE DIRECTOR

Monthly Report and Other Status Reports

Approved permit applications that did not require HRS §206E-5.6, public hearings.

ED Nakamoto deferred to the written report provided in the board packet and asked members if they had any questions.

There were no comments or questions by board members.

Public Testimony

There were no inquiries to provide verbal testimony, and no written testimonies were received.

V. ADJOURNMENT

Chair Ishii thanked those who joined the meeting on Zoom and then adjourned the meeting at 10:07 a.m.

Sterling Higa, Secretary

Date Board Approved