

January 27, 2025

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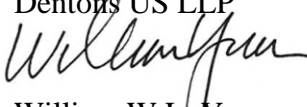
Re: Proposed Administrative Rules to Implement Ninety-Nine Year Leasehold Program

Ladies and Gentlemen:

I write on behalf of Ko Laila, LLC, a Hawai`i limited liability company, who is proposing to develop a project under the State of Hawaii's Ninety-Nine Year Leasehold Program. These proposed rule changes are intended to clarify ambiguities or suggest improvements in the sales and buyer qualification process.

I also want to call attention to our suggested rule §15-223-65. It is likely that any proposed project under the Ninety-Nine Year Leasehold Program will also use the HRS §201H-38 program. In that event, the proposed buyers must qualify under requirements applicable to both programs. Hawai`i Community Development Authority and Hawai`i Housing Finance and Development Corporation must decide which agency will take the lead in qualifying buyers, administering buyer relations and determining how buyers can satisfy the requirements of both programs.

I raise this issue because the sales documents must clearly explain the regulations and restrictions to which the buyers are subject. Any conflicts are best resolved before your rules are finalized.

Very truly yours,  
Dentons US LLP  
  
William W.L. Yuen

Cc: Ko Laila, LLC

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

SUBTITLE 4

HAWAII COMMUNITY DEVELOPMENT AUTHORITY

CHAPTER 223

NINETY-NINE YEAR LEASEHOLD RESIDENTIAL CONDOMINIUM  
PROGRAM

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SUBCHAPTER 1

GENERAL PROVISIONS

**§15-223-1 Purpose and intent.** Consistent with the intent of section 206E-282, Hawaii Revised Statutes, the purpose of this chapter is to establish the ninety-nine year leasehold program for the purpose of providing low-cost, leasehold residential condominium units for sale to Hawaii residents on state-owned lands within an urban redevelopment site. This chapter is adopted under chapter 91, HRS, and implements the provisions of chapter 206E, HRS, Part XII, Ninety-Nine Year Leasehold Program. [Eff ] (Auth: HRS §§206E-4,206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

**§15-223-2 Administration.** The HCDA, through its executive director, shall administer the provisions of this chapter. [Eff ] (Auth: HRS §§206E-4,206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

**§15-223-3 Severability.** If a court of competent jurisdiction finds any provision or provisions of this chapter to be invalid or ineffective in whole or in part, the effect of that decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this chapter shall continue to be separately and fully effective. [Eff ] (Auth: HRS §§206E-4,206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

**§15-223-4 Rules of Interpretation.** (a) Provisions of the rules are activated by "shall" when required; "should" when recommended; and "may" when optional.

(a) Terms not defined in section 15-223-6 (definitions) shall be accorded their commonly accepted meanings. In the event of conflicts between these definitions and those found elsewhere within the HCDA's administrative rules, these rules shall take precedence for this chapter.

(b) Words used in the singular include the plural; words used in plural include the singular.

(c) Words used in the present tense include the future tense; words used in future tense include the present tense. [Eff ] (Auth: HRS §§206E-4, 206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

**§15-223-5 Interpretation by the executive director.** (a)

In administering this chapter, the executive director, when deemed necessary by the executive director, may render written interpretations to clarify or elaborate upon the meaning of specific provisions of this chapter for intent, clarity, and applicability to a particular situation.

(d) A written interpretation shall be signed by the executive director and include the following:

- (1) Identification of the section of this chapter in question;
- (2) A statement of the question;
- (3) A statement of interpretation; and
- (4) A statement of justification.

(e) A written interpretation issued by the executive director shall be the basis for administering and enforcing the pertinent sections of this chapter. All written interpretations rendered pursuant to this chapter shall be public record, and shall be effective on the date signed by the executive director. [Eff ] (Auth: HRS §§206E-4, 206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

**§15-223-6 Definitions.** As used in this chapter, the following words and terms shall have the following meanings unless the context shall indicate another or a different meaning or intent:

"Condominium Unit" means a residential condominium unit developed under the ninety-nine year leasehold program.

"Develop" or "development" means the planning, financing, and acquisition of real property, demolition of existing structures, clearance of real property, construction, reconstruction, alteration, or repairing of approaches, streets, sidewalks, utilities, and services or other site improvements, or construction, reconstruction, repair, remodeling, extension, equipment, or furnishing of buildings or other structures or any combination of the foregoing, of any Project. It also includes any and all undertakings necessary therefore.

"Developer" means a private person, or an entity retained by the HCDA to develop a ninety-nine year leasehold residential condominium project under the ninety-nine year leasehold condominium program. "Eligible buyer" means a person or a household that is eligible to purchase a condominium unit pursuant to §15-223-18, Eligibility.

"Executive Director" means the executive director of the HCDA.

"HCDA" means the Hawaii community development authority established by section 206E-3, Hawaii Revised Statutes.

"Household" means an individual; or two or more persons who live or intend to live together as a unit and who may, but need not be, related by blood, marriage, or operation of law.

"HRS" means the Hawaii Revised Statutes.

"Mixed-use project" means a project consisting of any combination of: a commercial project, a redevelopment project, or a residential project that include ninety-nine year leasehold residential condominium units.

"Owner" means the eligible buyer who has purchased and resides in the condominium unit.

"Owner-occupied residential use" means any use currently permitted in existing residential zones consistent with owner occupancy. "Owner-occupied residential use" does not include renting or subleasing by the owner of a residential condominium unit to any tenant or sublessee of any kind.

"Program" means the ninety-nine year leasehold program.

"Project" means a specific work or improvement, including real and personal properties, or any interest therein, acquired, owned, constructed, reconstructed, rehabilitated, or improved by the HCDA, or a developer, including a commercial project, redevelopment project, residential project, mixed-use project, that include ninety-nine year leasehold residential condominium units.

"Public transit station" means a planned or existing station connected to a locally preferred alternative for a mass transit project.

"State" means the State of Hawaii.

"Urban redevelopment site" means non-ceded state-owned lands within a one-mile radius of a public transit station in a county having a population greater than five hundred thousand.

[Eff ] (Auth: HRS §§206E-4, 206E-281, 206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

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§15-223-7 to §15-223-17 (Reserved).

SUBCHAPTER 2

ELIGIBILITY TO PURCHASE NINETY-NINE YEAR LEASEHOLD  
CONDOMINIUM UNITS

**§15-223-18 Eligibility.** (a) An eligible buyer may own other real property for up to six months after closing on the purchase of a condominium unit.

(f) Within six months from the closing on the purchase of a condominium unit, the eligible buyer shall have completed the sale of any other residential or non-residential real property owned by the eligible buyer. The eligible buyer shall provide proof, that is acceptable to the executive director, of the sale of the real property(ies) to the executive director within thirty-days of the sale of the property(ies).

(g) The eligible buyer:

- (1) Shall be a qualified resident of the State, as defined in section 201H-32, HRS;
- (2) Shall not own any other real property, including any residential or non-residential property, except as provided in §15-223-18(a);
- (3) Shall not have any beneficial ownership of any trusts, corporation, limited liability company or partnership that hold real property; and
- (4) Shall not have any co-ownership or fractional ownership of a residential or non-residential real property, except as provided in §15-223-18(b).

(5) Shall not have a family or household income exceeding a percentage of area median income established by Hawai`i Housing Finance and Development Corporation ("HHFDC") if the eligible buyer desires to qualify to purchase an "affordable" unit, the price of which is restricted by buyer's income.

(6) Agrees not to use the condominium unit for any purpose other than owner-occupied residential use.

(h) An owner of a condominium unit who is in the process of selling the condominium unit to another eligible buyer may purchase and hold other residential or non-residential real property(ies) up to six months in advance of closing on the sale of the condominium unit.

[Eff ] (Auth: HRS §§206E-4,206E-284) (Imp: HRS §206E-284)

**§15-223-19 Owner occupancy.** (a) The eligible buyer shall not use the condominium unit for any purpose other than owner-occupied residential use.



(i) An eligible buyer shall be considered an owner-occupant if the eligible buyer resides in the condominium unit for at least two-hundred and seventy days annually. The owner shall submit an annual affidavit to the executive director attesting that the owner has resided in the condominium unit for at least two-hundred seventy days each year.

(j) The executive director may waive the requirements of §15-223-19 (a) and (b) where the inability of an owner to reside in the condominium unit is due to unforeseen circumstances, military transfer, serious illness, ~~or~~ other hardship circumstances, temporary work assignment, education or church mission outside of Hawaii as determined by the executive director in the executive director's sole discretion. The owner of the condominium unit shall file an application of waiver of the occupancy requirement to the executive director for a determination. The application shall contain a statement describing the basis for the waiver of the occupancy requirement and the estimated duration of the proposed waiver. [Eff ] (Auth: HRS §§206E-4,206E-284) (Imp: HRS §206E-284)

**§15-000-20 to §15-223-30 (Reserved) .**

### SUBCHAPTER 3

#### MARKETING AND SALE OF NINETY-NINE YEAR LEASEHOLD RESIDENTIAL CONDOMINIUM UNITS

**§15-223-31 Marketing and Sale of Condominium Units.** (a)  
The HCDA may advertise the sale of condominium units and qualify and select eligible buyers for the condominium units. It may also permit the developer of the condominium units, or the developer's designated representative, to be responsible for advertising the sale of the condominium units and qualifying and selecting eligible buyers for the condominium units.

(k) Applications for the purchase of the condominium units shall be accepted on a first-come, first-served or on a lottery basis. The applications shall be submitted in person by the applicant. Only completed applications shall be acceptable. Applicants shall not be required to submit a deposit amount exceeding \$500. [Eff ] (Auth: HRS §§206E-4,206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

**§15-223-32 Condominium Units Sale Announcement.** For a period of thirty calendar days, the HCDA or the developer shall publish or cause to be published in ~~the classified section of~~ at least one newspaper published daily in the State and having a general circulation in the county in which the project is located, at least twice a week, or once a week if paired with another form of public notice such as a designated project website or informational meeting, an announcement containing the following information regarding the sale of condominium units in the project:

- (1) The location of the project;
- (2) The total number of condominium units in the project;
- (3) The minimum sales price or range of sales prices of the condominium units;
- (4) The approximate size of the condominium units;
- (5) A statement that one hundred per cent of the condominium units are being sold in leasehold;
- (6) The eligible buyer requirements in §15-223-18;
- (7) The owner-occupancy requirements in §15-223-19;
- (8) If applicable, a statement that the condominium units will be offered to prospective purchasers through a public lottery;
- ~~(9)~~ The name and address of the real estate broker designated by the HCDA or the developer, whom eligible buyers may contact to be placed to obtain further information on the project; and
- ~~(10)~~ A statement that the condominium units will be available to any eligible buyers without regard to race, sex, color, religion, marital status, familial status, national origin, person with a disability status, age, or HIV (human immunodeficiency virus) infection. [Eff \_\_\_\_\_] (Auth: HRS §§206E-4, 206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

**§15-223-33 Application intake list.** (a) During the initial offering period of thirty calendar days, the HCDA or the developer shall compile an application intake list consisting of the names, email and mail addresses, and phone numbers of all individuals stating a desire to purchase a condominium unit contained in the project.

(1) The application intake list shall be compiled in the order in which applicants have submitted to the HCDA or the developer an acknowledgment that the applicant meets the eligible buyer requirements in §15-223-18.

(m) Any individual who makes any false statement in the acknowledgment will be subject to criminal charges and civil action under the laws of the State. Any individual found to have willfully submitted false information, made

misstatements, or withheld important information will be deemed to be ineligible for the project and disqualified from purchase of condominium units in any future projects, provided that the HCDA shall not waive its right to pursue any other recourse provided by law.

(n) If the marketing and sales of the condominium units is conducted by the developer, the developer shall submit the application intake list and the applicants' acknowledgment to the HCDA and HHFDC (if applicable) within ten days of the expiration of the initial thirty day offering period. Within thirty days of the expiration of the initial thirty day offering period, the ~~developer~~HCDA or HHFDC shall verify that applicants meet the eligible buyer requirements in §15-223-18 and submit a list of eligible buyers for the executive director's review and approval.

(o) If the marketing and sales of the condominium units is conducted by the developer, within thirty days ~~before~~after the close of project sales to buyers who applied during the initial thirty day offering period, the developer shall submit to the HCDA a summary of which individuals on the eligible buyer list purchased a condominium unit, which did not purchase a condominium unit, and the applicant's reason for not purchasing a unit if a reason was provided by the applicant. [Eff ] (Auth: HRS §§206E-4, 206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

**§15-223-34 Sales of condominium units.** (a) The HCDA or the developer shall offer the condominium units to eligible buyers on the application intake list by one of the following methods:

- (1) In the order in which their names appear on the list;
- (2) By the drawing of lots; or
- (3) By any other reasonable and fair method as determined by the executive director.

(p) If the marketing and sale of the condominium units is conducted by the developer, the developer shall also be required to comply with the following:

- (1) Prior to the sale of any of the condominium units, the developer shall submit to the executive director, for review and approval, copies of the sales contracts and ~~deeds~~condominium conveyance documents for the condominium units;
- (2) Prior to the sale of any of the condominium units, the developer shall submit to the executive director a copy of the covenants, conditions, and restrictions, if any, for review and approval;
- (3) If the marketing and sale of the condominium units is conducted by the developer, the developer shall submit to the executive director a list of all

- purchasers by condominium unit number, name, date of sales contract, date of recordation, tax map key, and property address; and
- (4) The HCDA or the developer shall comply with all applicable state and federal fair housing laws. [Eff ] (Auth: HRS §§206E-4, 206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

**§15-223-35 to §15-223-45 (Reserved) .**

SUBCHAPTER 4

RESALE OR TRANSFER OF LEASEHOLD CONDOMINIUM UNITS

**§15-223-46 Purpose.** This subchapter governs the general procedures for the resale of a condominium unit by an owner to another eligible buyer. [Eff ] (Auth: HRS §§206E-4, 206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

**§15-223-47 Applicability.** This subchapter applies to all condominium units developed and sold under the program as defined in §15-223-6. [Eff ] (Auth: HRS §§206E-4, 206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

**§15-223-48 Right of First Refusal to Purchase by the HCDA.** (a) If an owner wants to sell a condominium unit within five years from the date of the initial purchase ~~date~~ of the condominium unit, the HCDA shall have the right of first refusal to purchase the condominium unit.

(q) For purchase of the condominium unit by the HCDA, purchase price shall be determined by the HCDA by taking into consideration the original sale price of the condominium unit, consumer price index for Honolulu area published by the United States Bureau of Labor Statistics, and the cost of any value-added improvements made by the owner of the condominium unit. The following formula shall be utilized to calculate the purchase price:

*Purchase Price = (Original Sale Price X Consumer Price Index Factor) + Cost of any Value-Added Improvements made by the Owner*

The Consumer Price Index Factor shall be ~~computed based on the annual consumer price index for Honolulu area~~ fraction whose numerator is the Consumer Price Index for all Urban Consumers in Urban Hawai`i (1982-1984 = 100) published by the United States Bureau of Labor Statistics in effect on the date of calculation, and whose denominator is the Consumer Price Index for all Urban consumers in Urban Hawaii in effect on the date from which increases in the Consumer Price Index is being measured.

The condominium unit owner shall provide financial documentation acceptable to the executive director indicating the actual cost of any value-added improvements before the cost can be eligible for inclusion in determining the purchase price. [Eff \_\_\_\_\_ ] (Auth: HRS §§206E-4,206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

**§15-223-49 Resale of the Condominium Unit.** If the HCDA does not exercise its right to purchase the condominium unit, the owner of the condominium unit may sell the unit to an eligible buyer as defined in §15-223-18. When the sale of the condominium unit pursuant to §15-223-48 is to any entity other than the HCDA, the former owner shall not qualify for purchase of another condominium unit under the program. [Eff \_\_\_\_\_ ] (Auth: HRS §§206E-4,206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

**§15-223-50 Transfer upon the Death of the Condominium Owner to an Heir.** (a) Upon the death of the owner of a condominium unit, the condominium unit may be transferred to the deceased's heir by devise or as any other real property under existing law, provided that the deceased's heir qualifies as an eligible buyer.  
(b) If the deceased's heir does not qualify as an eligible buyer, the deceased's heir shall sell the condominium unit to another eligible buyer as defined in §15-223-18 within six-months from the date of disqualification of the deceased's heir as an eligible buyer as determined by the HCDA in its sole discretion. Within the first five years from the date of the initial purchase of the

condominium unit, the HCDA shall have the right of first refusal to purchase the condominium unit before it can be sold to another eligible buyer.. [Eff ] (Auth: HRS §§206E-4,206E-283, 206E-284) (Imp: HRS §§206E-283, 206E-284)

**§15-223-51 to §15-223-61 (Reserved) .**

SUBCHAPTER 5

ENFORCEMENT AND PENALTIES

**§15-223-62 Enforcement of Owner Occupant Requirement.**

(a) The condominium units shall not be advertised for rent, rented, or used for any purpose other than for owner-occupied residential use as provided in §15-223-19.

(c) The owner of the condominium unit shall annually submit an acknowledgment to the executive director attesting that the owner has remained an owner occupant of the condominium unit as provided in §15-223-19. Any condominium unit owner making a false statement in the acknowledgment will be subject to criminal charges and civil action under the laws of the State. [Eff ] (Auth: HRS §§206E-4, 206E-283) (Imp: HRS §206E-283)

**§15-223-63 Cure Period.** If a condominium unit owner is in violation of the owner-occupancy requirement, the HCDA shall notify the condominium unit owner in writing and the condominium unit owner shall have sixty (60) calendar days to cure the violation from the date of the written notification. [Eff ] (Auth: HRS §§206E-4,206E-283) (Imp: HRS §206E-283)

**§15-223-64 Penalties.** (a) If after notification of the owner-occupancy requirement violation, the condominium unit owner fails to cure the violation within the sixty day cure period, the HCDA may require an owner to sell the condominium unit to an eligible buyer within one hundred and eighty-days from the end of the cure period.

(d) The HCDA may disqualify a person, or a household that is required to sell the condominium unit pursuant to §15-223-64(a) from purchasing another condominium unit developed under the program. [Eff \_\_\_\_\_ ] (Auth: HRS §§206E-4,206E-283) (Imp: HRS §206E-283)

(e) ~~§15-223-65 Conflicts.~~ In the event a Project is subject to restrictions on owner-occupancy, maximum sales prices, restrictions on resale or government option to purchase imposed by HHFDC or another agency, the executive director shall cooperate with HHFDC or the other agency to facilitate the developer's and each owner's compliance with the requirements of all government programs. [Eff \_\_\_\_\_ ] (Auth: HRS §§206E-4,206E-283) (Imp: HRS §206E-283)

~~§15-223-65~~§15-223-66 to §15-223-75 (Reserved) .

## SUBCHAPTER 6

### FORECLOSURE

**§15-223-76 Foreclosure.** (a) In the event of a foreclosure, any law to the contrary notwithstanding, a mortgagee under a mortgage covering a condominium unit shall, prior to commencing mortgage foreclosure proceedings, notify the HCDA in writing of:

- (1) Any default of the mortgagor under the mortgage within ninety days after the occurrence of the default; and
- (2) Any intention of the mortgagee to foreclose the mortgage under chapter 667, HRS.

~~(e)~~(f) In the event of a foreclosure, the mortgagee shall provide the HCDA the opportunity to exercise its right of first refusal to purchase the condominium unit, if the foreclosure occurs within five years from the date of sale of the condominium unit to the owner.

~~(f)~~(g) If the HCDA exercises its right to purchase the condominium unit, the purchase price shall be calculated based on the formula provided in §15-223-48 (b). .

[Eff ] (Auth: HRS §§206E-4, 206E-284) (Imp: HRS §206E-284)

**§15-223-77 Sale of a Condominium Unit by the Mortgagee Pursuant to a Foreclosure.** If the HCDA does not exercise its right of first refusal to purchase the condominium unit, the mortgagee of the condominium unit may sell the unit in leasehold for a term not to exceed 99 years to any buyer without requirement of owner-occupancy. Provisions of §15-223-18 and §15-223-19 shall not be applicable to sale of a condominium unit under this section. . [Eff ] (Auth: HRS §§206E-4,206E-284) (Imp: HRS §206E-284)

**§15-223-78 to §15-223-88 (Reserved) .**



<b>Summary report:</b>	
<b>Litera Compare for Word 11.4.0.111 Document comparison done on 1/23/2025 3:17:57 PM</b>	
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Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	<b>46</b>

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Feb. 3, 2022

Hawaii Community Development Authority  
Department of Business, Economic Development & Tourism  
547 Queen Street  
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**Subject: Public Hearing Comments on Draft Administrative Rules for the Ninety-Nine Year Leasehold Condominium Program**

Staff and Fellow Members of the Hawaii Community Development Authority,

I appreciate the opportunity to provide feedback on the proposed administrative rules for the Ninety-Nine Year Leasehold Condominium Program (HAR Chapter 15-223). My comments focus on enhancing **transparency, efficiency, and effectiveness** in the implementation of the program.

**1. Transparency**

**Clarification of Buyer Eligibility (§15-223-18)**

The rule requires eligible buyers to divest any other property within six months of purchasing a leasehold unit. However, it lacks clear enforcement mechanisms for non-compliance. I recommend:

- Explicitly defining consequences for buyers who fail to meet this requirement (e.g., forced sale, penalties).
- Establishing a process for requesting extensions due to financial hardship or market downturns.
- Modifying §15-223-18(4) to avoid penalizing minimal ownership in REITs by allowing an exception for a non-controlling, <1% interest in a publicly traded security.

**Public Disclosure of Sales and Marketing Outcomes (§15-223-31 - §15-223-34)**

Currently, the rules do not require developers to publicly disclose buyer selection outcomes. To maintain public trust and fairness, I suggest:

- Requiring HCDA to publish in its annual report, the outcomes of any project(s) in that year, to include:
  - The number of applicants per unit.
  - The selection process used (lottery or first-come, first-served).
  - The income distribution of buyers.
- Allowing the executive director to set a cap or pause on applications after receiving, for example, five times the number of available units. This avoids creating a situation where staff are required to process excessive applications for a limited number of units.

- Requiring developers in §15-223-34(c) to submit the full intake list along with eligibility determinations to facilitate future policy evaluation and automatic cross-applications (see note on §15-223-33 below).

## **2. Efficiency**

### **Right of First Refusal (ROFR) & Pricing Formula (§15-223-48)**

The purchase price formula for HCDA's ROFR includes a Consumer Price Index (CPI) adjustment but lacks safeguards against volatility. I recommend:

- Narrowing use of CPI to the home price component to avoid setting purchase prices based on unrelated goods such as food and transportation. The precise series is CUUSA426SEHC01: *Owners' equivalent rent of primary residence in Urban Hawaii*.
- Considering using a 3-year moving average instead of yearly CPI changes to smooth out large positive and negative shocks in home prices.
- Requiring an independent appraisal of "value-added improvements" claimed by sellers for improvements greater than a certain limit or percentage of the new purchase price.

### **Foreclosure & Resale Process (§15-223-76 - §15-223-77)**

The current rules allow a foreclosing lender to sell units on the open market without eligibility restrictions, potentially undermining the program's purpose. To ensure long-term affordability, I recommend:

- Restricting foreclosed units to eligible buyers under HCDA oversight.
- Checking with experienced mortgage bankers to confirm that the above recommendation, as well as HCDA's ROFR, would not jeopardize lending on these units.

### **Resale Restrictions (§15-223-49)**

The rule currently prevents a former owner of a resale unit from ever purchasing another unit under the program, which may be unnecessarily harsh. To recognize legitimate changing housing needs (e.g., purchasing a studio as a young single, then another unit as a senior living alone), I recommend allowing former owners to reapply for the program after a period of 10 years.

### **Application Intake List (§15-223-33)**

Allowing eligible applications that were not selected for one project to be automatically added to the intake list for all future projects within the same year, to reduce administrative burden on applicants.

Requiring retention of records for research use, and access to qualified researchers, with applicants able to opt-out of participation on their application without affecting their prospects.

## **3. Effectiveness**

### **Enforcement of Owner-Occupancy (§15-223-62 - §15-223-64)**

The current enforcement mechanism for non-owner occupancy primarily relies on forced resale, which may not be sufficient deterrence. I suggest:

- Implementing escalating fines for non-compliance before mandating a sale.
- Reducing the cure period from 60 to 30 days for blatant, documented violations such as online rental listings.

#### **Defining Hardship Waivers for Owner-Occupancy (§15-223-19)**

The rules allow the executive director to waive occupancy requirements but do not define “hardship.” To ensure fairness, I recommend:

- Defining specific hardship categories, such as:
  - Temporary relocation for medical treatment.
  - Military deployment.
  - Economic hardship requiring temporary rental (subject to HCDA approval).

#### **Ensuring Penalties are Fairly Applied (§15-223-64)**

Based on the Rules of Interpretation in §15-223-4, I recommend that “may” in subsections (a) and (b) be changed to “should”.

#### **4. Modernization**

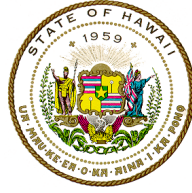
To enhance accessibility and long-term policy evaluation, I recommend:

- **Executive Director’s Interpretive Authority (§15-223-5)**
  - Mandating that all official interpretations be posted to the HCDA website on the same page as the program's governing statutes and rules within 30 days and remain there so long as they are in effect.
- **Sale Announcements (§15-223-32):** Requiring the agency to announce the sale on official state social media channels in addition to newspaper publications.

Thank you for considering my comments. I look forward to participating in further discussions to develop this important program.

Sincerely,

Trey Gordner



The Senate  
Ka 'Aha Kenekoa

STATE CAPITOL  
HONOLULU, HAWAII 96813

January 28, 2025

Mr. Craig K. Nakamoto  
Hawaii Community Development Authority  
547 Queen Street  
Honolulu, Hawaii 96813

Subject: Support for Ninety-Nine Year Leasehold Residential Condominium Program Draft Administrative Rules

Aloha e Mr. Nakamoto,

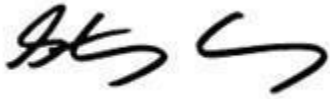
I write to express my support of the Hawai'i Community Development Authority's (HCDA) Ninety-Nine Year Leasehold Residential Condominium Program Draft Administrative Rules, dated January 13, 2025. This program represents a significant effort to provide long-term affordable housing for Hawai'i residents by leveraging state-owned lands near transit-oriented development sites.

Established through Act 97 (Session Laws of 2023), the program seeks to develop low-cost leasehold residential condominiums on non-ceded state-owned lands near transit stations, consistent with section 206E-282, Hawai'i Revised Statutes.

The draft rules set clear eligibility and owner-occupancy requirements to ensure housing is reserved for qualified residents and discourage speculative investment. Notably, buyers must be qualified Hawai'i residents, buyers cannot hold ownership in other property, except during a six-month grace period, and units must be owner-occupied, with a minimum residency of 270 days per year. Additionally, HCDA has a right of first refusal to purchase any units being resold, and sellers are not eligible to buy another unit through the program.

This initiative has the potential to make a lasting impact on the availability of affordable housing in our state. Thank you for your continued leadership in addressing Hawai'i's housing needs.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Stanley Chang', written in a cursive style.

Stanley Chang  
Senator, District 9  
Chair, Committee on Housing