MINUTES OF THE REGULAR MEETING OF THE HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION HELD AT THEIR OFFICE AT 677 QUEEN STREET, SUITE 300, ON THURSDAY, FEBRUARY 11, 2010 IN THE CITY AND COUNTY OF HONOLULU, STATE OF HAWAII

The Board of Directors (Board) of the Hawaii Housing Finance and Development Corporation (HHFDC) met for their Regular Meeting at 677 Queen Street, Suite 300, Honolulu, Hawaii, on Thursday, February 11, 2010, at 9:00 a.m.

CALL TO ORDER/ ROLL CALL

Chairman Charles King called the meeting to order at 9:00 a.m.

Present: Director Charles King, Chairman
Director David Lawrence, Vice Chairman
Director Betty Lou Larson, Secretary
Director Linda Smith
Director Allan Los Banos, Jr.
Director Ralph Mesick
Director Francis Jung

Executive Director Karen Seddon

Excused: Director Georgina Kawamura
Director Theodore Liu

Staff Present: Sandra Ching, Deputy Attorney General
Craig Iha, Deputy Attorney General
Janice Takahashi, Chief Planner
Darren Ueki, Finance Manager
Rick Prahler, Development Branch Chief
Stan Fujimoto, Development Section Chief
Marlene Lemke, Real Estate Services Section Chief
Peter Nelson, Property Management Coordinator
Leonell Domingo, Development Project Coordinator
Kent Miyasaki, Housing Information Specialist
Esa Pablo, Secretary to the Board

Guests: Dickson Lee, Takushi Wong Lee & Yee
Harry Saunders, Castle & Cooke
Bruce Barrett, Castle & Cooke
Richard Mirikitani, Castle & Cooke

QUORUM

With a quorum present, Chairman King noted that with the recusal of Director Mesick on agenda item III. B. and Director Smith being excused at 10:45 a.m., perhaps the agenda could be amended to address first, agenda item III. B., followed by the remaining agenda items III. A. and III. C., respectively.

II. A. APPROVAL OF MINUTES 1/14/10 Regular Meeting

Director Lawrence moved, seconded by Director Los Banos to approve the Meeting Minutes of January 14, 2010.

Director Mesick commented on page 320, third paragraph, which should read as follows: "Director Mesick questioned the methodologies of the land residual analysis of $6.8 million, commenting that even at a 5% discount rate, the present value would only be $61 million . . . ."

The motion was unanimously approved, as amended.

III. B. DISCUSSION AND/OR

Director Lawrence moved, seconded by Director Smith, to discuss possible actions on the Castle & Cooke Hawaii Homes Inc.'s (CCHHI) request, for the HHFDC to waive its consent on the selection process of a successor purchaser in

DECISION MAKING
Discussion and Possible Action Requested by Castle & Cooke Homes Hawaii Inc., to Waive the Hawaii Housing Finance and Development Corporation's Consent Requirements as to Kapolei Properties Placed Under a Master Credit Facility, Located in Kapolei, Oahu, TMK Nos.: (1) 9-1-016 177 and 178 (Nohona); and (1) 9-1-016:166 and 168 (Kealakai)

the event of a foreclosure; with Director Mesick abstaining.

Development Branch Chief Rick Prahler presented the For Action, reporting on transactions that took place between the HHFDC and Castle & Cooke Hawaii Homes Inc. (CCHHI) in 2005 through 2009.

In May 2009, the HHFDC consented CCHHI's request to place the conveyed properties being developed, Villages of Kapolei, Village 5 (Nohona) and Village 6 (Kealakai), under its parent company master credit facility (Parent Company), enabling the project to receive lower cost financing as opposed to an outside lender.

As such, the Parent Company is now requesting that the HHFDC waive its consent for: (1) Castle & Cooke, Inc. (CCI) to pledge the stock of CCHHI to secure CCI's existing Parent Company; and (2) CCHHI to mortgage only the for sale residential development lots of Nohona and Kealakai, subject to the conditions under the development agreement and recorded memorandum of agreement dated in December 2005 and February 2006, respectively.

Mr. Prahler stated that staff is requesting for the Board's guidance in determining whether or not to waive the HHFDC's consent, as being requested by the CCHHI, substantially described in this For Action.

In response to Director Smith, Mr. Prahler concurred that CCHHI's request would allow CCHHI to select a successor purchaser only in the event of a foreclosure. Executive Director Karen Seddon added that the purpose for the development agreement was to enable HHFDC's participation in the selection process of a new successor purchaser to ensure that such affordable housing efforts would be met based on the CCHHI owning the property.

Director Smith inquired if the terms and conditions of the existing development agreement would apply to the next successor purchaser. Mr. Prahler concurred and added that in discussions with the Attorney General's Office, the HHFDC has found no precedence for the waiving of its consent.

In response to Chairman King, Mr. Prahler clarified that the reason for the consent right within the development agreement is to ensure that the next successor purchaser is equally capable of completing the project as an affordable housing development.

In response to Director Smith, Mr. Prahler stated that the conveyance agreement and the development agreement are similar. Executive Director Seddon clarified that the development and memorandum agreements are a part of the conveyance agreement document and all of its terms and conditions would apply to the next entity.

In response to Director Jung, Mr. Prahler stated that CCHHI currently owns the title to the property with no lien encumbrance attached.

Discussion ensued on the CCHHI Parent Company's request for the waiver of the HHFDC's consent on a successor purchaser. CCHHI representative Harry Saunders explained that having a property transferred subject to another board's approval prolongs the foreclosure process and is not favorable among its participating lenders. Furthermore, within today's economic market, lenders tend to tighten their credit restrictions for added security to protect their position and avoid as much risk as possible.

In response to Director Lawrence, Mr. Prahler and CCHHI representatives Mr. Richard Mirikitani and Mr. Saunders stated that the Nohona and Kealakai projects are anticipated to close by June 2010 and in the third quarter of 2011, respectively.

Director Lawrence inquired on potential impacts to the CCHHI if the Board

should choose to keep its consent. Mr. Saunders stated that although that decision would not eliminate the Master Credit Facility, it would potentially tighten the Parent Company's conditions and increase CCHHI's costs, potentially slowing down the development process of the Nohona and Kealakai projects.

Director Larson expressed concern on the precedence for future projects, if the Board should choose to waiver its consent.

Chairman King inquired on comments by the Deputy Attorney Generals' Sandra Ching and Craig Iha. Mr. Iha stated that such matters are preferred to be disclosed in executive session.

Director Smith suggested that perhaps such concerns brought forth by Director Larson could be addressed within the meeting minutes, stating that the Board's waiver of consent would only apply to this specific transaction and does not bind any future boards or potential projects under similar circumstances.

V. EXECUTIVE SESSION
9:20 a.m.

Director Larson moved, seconded by Director Jung, to convene in Executive Session pursuant to Section 92-59(a)(4), Hawaii Revised Statutes, to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities on the presented matter.

The motion was unanimously approved.

RECONVENED
9:45 a.m.

Chairman King reconvened the Regular Meeting at 9:45 a.m. and noted that because staff's request was for the Board's guidance, the main motion made is not necessary, and will therefore be withdrawn.

Director Larson suggested that the motion specifically state that the waiving of consent will only apply to this transfer and will not affect future considerations of other projects.

Director Jung moved, seconded by Director Lawrence, that the HHFDC Board of Directors approve to waive its consent under the Development Agreement for confirmation of a successor purchaser in the event of a foreclosure, on a one-time basis, to the Castle & Cooke Homes Hawaii Inc., for the Villages of Kapolei, Villages 5 and 6.

The motion carried, with Director Mesick abstaining.

III. A. DISCUSSION AND/OR DECISION MAKING
Discussion and Possible Action on Request on Behalf of Honokowai Villa Company, L.P. (Seller) to Certify Honokowai Villa (TMK (2) 4-4-001:054) as a Villa Company, L.P. (Seller) to Certify Honokowai Villa (TMK(2) 4-4-001:054) as a Low Income Housing Development and Eligible for Exemption From Conveyance Tax Pursuant to HRS Section 247-3(17)

Mr. Prahler presented the For Action, stating that Honokowai Villa Company, L.P. (Seller), completed the Honokowai Villas (Project) in 1989, comprised of 56 units located in Lahaina, Maui.

The Project was financed under the United States Department of Agriculture (USDA), Section 515 Program, subject to income and pre-payment restrictions for a period of 20 years and could only be rented by persons and families who met such requirements of the Section 515 Program. The Project's 20-year period expired in 2008 and the Section 515 Program restrictions no longer apply.

The Seller sold the project to Lahaina Honokowai Villa, L.P. (Purchaser), for $12.5 million under a Purchase and Sale Agreement dated May 30, 2008, which the Purchaser plans to rehabilitate and assume the Section 515 Program mortgage loan. The Purchaser has also applied for federal Low Income Housing Tax Credits (LIHTC) and has previously committed to a Rental Housing Trust Fund (RHTF) second mortgage loan.

Mr. Prahler stated that the Seller's attorney, Mr. Dickson Lee, who is present, has presented its request in numerous letters provided to the HHFDC, asking to certify the Project as a low-income housing development, provided in HRS Section 247-3, Section 17 (HRS Section 274-3), in order to be eligible for exemption from the conveyance tax.

Mr. Prahler provided an overview on the legislative history of HRS Section 247-3, stating that based on those legislative provisions, staff has concluded that the intent of the conveyance tax exemption was to serve as an incentive for property owners to sell real property at a price that supports the development of affordable rental housing. In order to place the provisions of HRS Section 247-3 in effect, the HHFDC would need to certify that the entity acquiring the real property is an affordable housing developer. However, because of the absence of Hawaii Administrative Rules on this matter, the Board must establish such certifications.

The Purchase and Sale Agreement was executed prior to the request for exemption from conveyance taxes. Therefore, this does not appear to be an integral part of the transaction and thus, benefiting only the Seller. As such, staff does not believe that the Board should approve the Seller's request for certification.

Mr. Prahler called upon Mr. Lee to state his case and answer any questions the Board may have.

In response to Director Lawrence, Mr. Lee clarified that his client, the Seller, sold the project to the Purchaser for $12.5 million, but that sale has not yet closed.

Mr. Lee introduced himself to the Board, stating the position of the Seller, concerning his eligibility for exemption from the conveyance tax, pursuant to HRS Section 247-3.

Chairman King thanked Mr. Lee for his statement and opened for questions.

In response to Director Jung, Mr. Lee stated that there is a delay in the closing of the sale due to the financial circumstances of the Purchaser, whose intent is to rehabilitate this project to continue its use as a low-income housing development.

In response to Director Jung, Mr. Lee clarified that he believes this exemption to be an integral part of the transaction based on the legislative history provided, which points out the Seller's right for conversion of market or other uses, preserving this project as a low-income housing development for the extended period of 61 years.

In response to Director Smith, Finance Manager Darren Ueki stated that funding from the RHTF is provided only to developers who intend to develop low-income housing projects, of which the Purchaser of this Project received approval for LIHTC and funding from the RHTF in the summer of 2009.

Discussion ensued on the type of documentation needed to certify a project as a low-income housing development other than the HHFDC's For Actions approved by the Board.

Chairman King commented that the Board could perhaps receive explanation on this matter from the Deputy Attorney Generals' present.

Director Jung moved that the HHFDC Board of Directors, for the purposes of this particular sale, for the duration of the 61-year extension, certify the Honokowai Villa project as a low-income housing development pursuant to the provisions of HRS Section 247-3(17).

Director Lawrence seconded.

Director Larson asked to further discuss the matter in Executive Session.

EXECUTIVE SESSION
10:15 a.m.

Director Larson moved, seconded by Director Smith, to convene in Executive Session pursuant to Section 92-59(a)(4), Hawaii Revised Statutes, to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities on the presented matter.

The motion was unanimously approved.

RECONVENED
10:30 a.m.

Chairman King reconvened in Regular Session at 10:30 a.m.

The motion made by Director Jung, prior to executive session, was restated and unanimously approved.

III. C. DISCUSSION AND/OR DECISION MAKING
Information on the Compliance with the United States Environmental Protection Agency (Region IX) Consent Agreement and Final Order (Docket No. UIC-AO-2005-0011) Pertaining to the Closure of Thirteen Large Capacity Cesspools at the Jack Hall Affordable Housing Project, Located in Kailua-Kona, Hawaii, TMK No.: (3) 7-4-017: 030

Chairman King proceeded to agenda item III. C.

The Board asked to discuss this matter in Executive Session.

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EXECUTIVE SESSION
10:35 a.m.

Director Lawrence moved, seconded by Director Larson, to convene in Executive Session pursuant to Section 92-59(a)(4), Hawaii Revised Statutes, to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities on this matter.

The motion was unanimously approved.

RECONVENED
11:05 a.m.

Chairman King reconvened in Regular Session at 11:05 a.m. and proceeded to the Report of the Executive Director.

IV. REPORT OF THE EXECUTIVE DIRECTOR

In response to Chairman King, Executive Director Seddon reported that she had spoken at the ULI seminar "Building Housing and Sustainable Communities in Hawaii," orchestrated by Director Mesick, promoting HHFDC's programs and financing tools. In addition, Ms. Makani Maeva, Pacific Housing Advisors, demonstrated how she has used the HHFDC's financing tools to develop her project, Lokahi Ka'u, demonstrating the private-public partnership.

Director Larson inquired on the 2009 RHTF appropriation of $30 million. Executive Director Seddon stated that the Executive Supplemental Budget lapses the $30 million in CIP Funds and the decision of the Legislature is yet to be seen on whether or not a portion or the full $30 million amount would be reinstated.

Director Larson inquired on possible efforts that could be done to precipitate the decision of the Legislature. Executive Director Seddon called upon Chief Planner Janice Takahashi, who stated that the $30 million appropriation had previously been approved and included within the State budget; however, the Administration has presently chosen to use it for the purposes of balancing the State's budget rather than rental housing development. As such, perhaps efforts provided by the community can exhibit the importance of the RHTF and how it is greatly needed.

Director Larson inquired on the impact to the HHFDC's efforts on affordable housing without the anticipated $30 million RHTF appropriation. Finance Manager Darren Ueki gave a brief overview on the events leading up to the remaining balance of approximately $11 million at the end of the current fiscal year ending in June 2010 and further reported on the remaining three project requests currently under review, totaling an aggregate amount of approximately

$16 million. As such, with the down pricing of the LIHTC and the decrease in funds from the RHTF, greater challenges are expected and the HHFDC's standard processes will need to be reanalyzed accordingly.

The Board inquired on the proposed House Bill 2867, which repeals various income tax credits and deductions, including the State LIHTC. Ms. Takahashi stated that she believes that bill to be very broad and provided more for input and comment.

Director Lawrence inquired on the Development Branch Status Report, page 3, Pohukaina, item 1, e, regarding the Department of Land and Natural Resources (DLNR) request for payment of fair market lease rent for commercial/retail uses in Halekauwila Place in support of its Recreational Renaissance Plan. Development Section Chief Stan Fujimoto stated that HHFDC has responded that the commercial/retail uses were an integral part of the housing operation and is needed to subsidize the affordable rental housing project.

Director Lawrence inquired on the Villages of Leiali'i. Mr. Fujimoto stated that the project hired an electromagnetic resistivity survey consultant to determine potential high elevation water sources.

In response to the Board, Ms. Takahashi reported on the status of the 2010 Legislative Session:

(1) There are a number of bills that would change the way the General Excise Tax Exemptions are approved and in the way gross income would be calculated based on the inclusion of housing allowances for military personnel only. HHFDC feels that everyone's gross income should be calculated equally, to avoid discrimination.

(2) The various Construction Industry Task Force bills are generating much discussion, particularly on the bill regarding reductions to the County's affordable housing requirements.

(3) The majority of the HHFDC's measures have been introduced by Legislators, which are proceeding forward. The measures address a 45-day issuance of ministerial permits, infrastructure dedication, and the monetization of the Low Income Housing Tax Credits.

Director Lawrence inquired on the status of the RFI for the Villages of Leiali'i's renewable energy project. Executive Director Seddon reported that the HHFDC received two responses, which staff will meet with individually next week.

In response to Director Lawrence, Executive Director Seddon stated that the appraisal for the Leiali'i property designated for the renewable energy project is in process. Mr. Fujimoto added that the HHFDC is looking at the highest and best use for the parcel.

In response to Director Larson, Executive Director Seddon stated that once staff has evaluated its possible options on the Leiali'i project, the Board will then be informed and requested to vote accordingly.

With no further discussion, Chairman King asked for a motion to adjourn.

VI. ADJOURNMENT

Director Lawrence moved, seconded by Director Jung, to adjourn the meeting at 11:25 a.m.

The motion was unanimously approved.

Betty Lou Larson

BETTY LOU LARSON
Secretary