

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

August 9, 2013

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Ref: EO 4130

OAHU

Authorize the Chairperson to Execute Condominium Property Regime Documents; Senior Residence at Iwilei Affordable Rental Housing Project on the State Land Set Aside by Governor's Executive Order No. 4130 to Hawaii Housing Finance and Development Corporation; Iwilei, Honolulu, Oahu; TMK (1) 1-5-007:002

BACKGROUND:

On October 12, 2001, under agenda item D-7, the Board authorized recommending the Governor to set aside the subject State parcel to Hawaii Housing Finance and Development Corporation ("HHFDC") for affordable rental housing projects purposes. Executive Order No. 4130 was signed by the Governor on October 24, 2005.

On October 27, 2006, under agenda item D-4, the Board authorized HHFDC to proceed with the condominium property regime ("Project") for the above mentioned project.

On July 22, 2011, under agenda item D-5, the Board consented to the lease between HHFDC and the developer, Senior Residence at Iwilei Limited Partnership, for the housing project.

The Project documents including but not limited to the Declaration ("Declaration") and Condominium Map (Map) were prepared for HHFDC to review and consider. After discussions between HHFDC and the Department of the Attorney General, it was determined that Section 514B-31(a), HRS requiring the fee simple owner of the property to execute the Declaration would mean the Chairperson of the Department is required to execute the Declaration, but not HHFDC.

During the development of the Project, a Declaration ("Declaration") and Condominium Map (Map) will be prepared for the fee owner to execute. Further, it will be necessary to create easements, establish unit limited common element land boundaries, parking lot configurations for each of the buildings within the Project, common element boundaries and other matters typical of any condominium development. All of these features and covenants

relating thereto would be contained in the Declaration and Map. HHFDC have represented that the foregoing items may change from time to time due to discovered site conditions, building permit requirements and other matters not now known.

Staff recommends the Board to authorize the Chairperson to execute the condominium documents, including the Declaration, and subsequent amendments to the condominium documents, including the Declaration and Map, on the condition that the Declaration provide that upon a termination of the condominium project and the removal of the Declaration and Map, that all condominium easements will be automatically terminated.

The Declaration will have a provision stating that upon the expiration of the Ground Lease, the Chairperson shall have the right and ability to terminate the condominium project and remove the Declaration, Map and any other condominium documents made in connection therewith as an encumbrance on the property.

A letter dated July 15, 2013 from HHFDC summarizing the above mentioned issues is attached as **Exhibit 1**. There are no other pertinent issues or concerns.

RECOMMENDATION: That the Board:

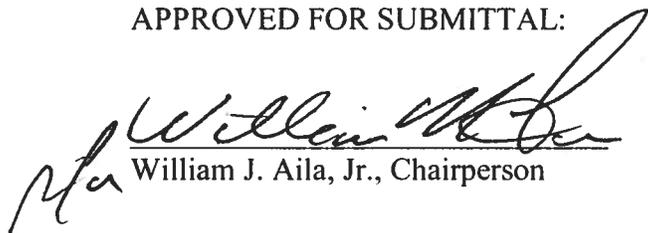
1. Authorize the Chairperson to execute the condominium project regime documents, including the Declaration, and other applicable documents as described above in the Background Section and any amendments thereto that may be required from time to time.
2. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State.

Respectfully Submitted,



Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

NEIL ABERCROMBIE
GOVERNOR



KAREN SEDDON
EXECUTIVE DIRECTOR

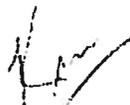
STATE OF HAWAII

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July 15, 2013

To: William J. Aila, Jr., Chairperson
Board of Land and Natural Resources

From: Karen Seddon 
Executive Director

Subject: Approval of Condominium Property Regime Documents
Senior Residence at Iwilei Affordable Rental Housing Project
Iwilei, Oahu, Hawaii
Governor's Executive Order No. 4130
TMK (1) 1-5-007: 002

On October 12, 2001, the Board of Land and Natural Resources (BLNR) approved the set aside of the above subject project site at Iwilei, Oahu, Hawaii, TMK (1) 1-5-007: 002, to the Housing and Community Development Corporation of Hawaii (HCDCH) for affordable rental housing project purposes. HCDCH is a predecessor agency of the Hawaii Housing Finance and Development Corporation (HHFDC). Executive Order No. 4130 was executed by the Governor on October 24, 2005.

On October 27, 2006, BLNR authorized HHFDC to proceed with the condominium property regime (CPR) for the above subject 160-unit Senior Residence at Iwilei affordable rental housing project (Project) on behalf of the State.

HHFDC entered into a ground lease with the Senior Residence at Iwilei Limited Partnership (SRILP) on March 29, 2007 with a termination date of March 31, 2062. The ground lease was subsequently amended by Amended and Restated Ground Lease dated July 1, 2012 (Ground Lease).

Construction financing for the Project closed on or about July 27, 2012, and as of April 30, 2013, construction of the Project is approximately 39% complete. Completion of construction is estimated to be December 31, 2013. Prior to completion of construction, SRILP will be finalizing the CPR documents, including a Declaration (Declaration) and

EXHIBIT " / "

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Bylaws (Bylaws), for the Project. The CPR documents will need to be completed before the permanent financing can repay the construction financing.

After discussions between HHFDC and the Department of Attorney General for another HHFDC affordable rental housing project on State land in Pearl City, Oahu, Hawaii, the Hale Mohalu II affordable family and senior rental housing project, it was determined that Section 514B-31(a), HRS, requires the fee simple owner of the property to execute the Declaration, which means that the Chairperson of the Department of Land and Natural Resources (DLNR) is required to execute the Declaration, but not HHFDC nor SRILP.

Further, it will be necessary to create easements, establish unit limited common element land boundaries, parking lot configurations for each of the buildings within the Project, common element boundaries and other matters typical of any condominium development. All of these features and covenants relating thereto would be contained in the CPR documents, which may need to be changed from time to time due to discovered site conditions, building permit, financing or operational requirements and other matters not now known.

HHFDC requests that BLNR authorize its Chairperson to execute the CPR documents, including the Declaration, Bylaws and other applicable documents, and any amendments to the CPR documents that may be required from time to time for the development and operation of the Project.

Thank you for your favorable consideration of this matter.

Should there be any questions or comments regarding this matter, please contact Stan S. Fujimoto, Project Manager, at 587-0541.

c: Senior Residence at Iwilei Limited Partnership