

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

July 12, 2013

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

Ref: EO 4349

OAHU

Authorize the Chairperson to Execute Condominium Property Regime Documents; Hale Mohalu II Affordable Rental Housing Project on the State Land Set Aside by Governor’s Executive Order No. 4349 to Hawaii Housing Finance and Development Corporation; Waimano, Ewa, Oahu; TMK (1) 9-7-019:035

BACKGROUND:

On July 8, 2010, under agenda item D-19, the Board authorized recommending the Governor to set aside the subject State parcel to Hawaii Housing Finance and Development Corporation (“HHFDC”) for affordable senior and multi-family rental housing projects purposes. The Board also authorized HHFDC to proceed with the condominium property regime (“Project”) and other permits relating to the housing project. Executive Order No. 4349 was signed by the Governor on January 17, 2011.

HHFDC entered into a ground lease in April 2011 with the Coalition for Specialized Housing (“CSH”), with a termination date of April 30, 2081. The lease was subsequently assigned to Hale Mohalu II Senior LP (“HMSLP”) of which CSH is the general partner.

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 and HMSLP.

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. HMSLP and 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 to HMSLP.

Staff recommends the Board to authorize the Director 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 Director 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 June 12, 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 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,



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Barry Cheung  
District Land Agent

APPROVED FOR SUBMITTAL:



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William J. Aila, Jr., Chairperson



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NEIL ABERCROMBIE  
GOVERNOR



RECEIVED

KAREN SEDDON  
EXECUTIVE DIRECTOR

2013 JUN 13 AM 9:10

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM

HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION

677 QUEEN STREET, SUITE 300

Honolulu, Hawaii 96813

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DEPT. OF LAND & NATURAL RESOURCES  
STATE OF HAWAII

IN REPLY REFER TO:

13:DEV/0049

June 12, 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  
Hale Mohalu II Affordable Rental Housing Project  
Pearl City, Hawaii  
Governor's Executive Order No. 4349  
TMK (1) 9-7-019: 035

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DEPT. OF LAND & NATURAL RESOURCES  
STATE OF HAWAII

On July 8, 2010, the Boards of Directors of the Hawaii Housing Finance and Development Corporation (HHFDC) and the Department of Land and Natural Resources (DLNR) approved a condominium property regime (CPR) for the above subject 332-unit Hale Mohalu II affordable senior and family rental housing project in Pearl City, Hawaii, TMK (1) 9-7-019: 035 (Project). The DLNR Board approval authorized HHFDC to proceed with the CPR on behalf of the State.

Since Section 514B-31(a), Hawaii Revised Statutes, requires execution of the CPR documents by the fee simple owner of the property, CPR documents were executed by the developer and HHFDC, and submitted to DLNR for approval on February 26, 2013.

After on a meeting between the Department of Attorney General and the developer's attorney held on June 6, 2013, HHFDC requests that the Board of Land and Natural Resources authorize its Chairperson to execute the necessary CPR documents, and amendments thereto, for the Project.

Phase I of the Project (164 senior units) has been completed and the developer needs DLNR approval of the CPR documents in order to refinance and start construction of the next phase of 84 family rental units. Future amendments to the CPR map are pending so HHFDC requests that authorization to the Chairperson include execution of any

EXHIBIT "1"

To: William J. Aila, Jr., Chairperson  
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amendments to the CPR documents necessary for 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: Hale Mohalu II Senior LP