REPORT TO THE TWENTY-THIRD LEGISLATURE
STATE OF HAWAII
2005

PURSUANT TO S.C.R. 135, S.D. 1

REQUESTING THE CONVENING OF AN AFFORDABLE HOUSING TASK FORCE

Prepared For the:

Affordable Housing Task Force

By:
Housing and Community Development Corporation of Hawaii

Acknowledgements
The Housing and Community Development Corporation of Hawaii appreciates the considerable efforts of the Affordable Housing Task Force which was convened in response to S.C.R. 135, S.D. 1. A list of the Task Force members is included in Exhibit "A" of this report.

Special thanks go to the members of the Task Force working groups and their chairs: Marvin Awaya, Pacific Housing Assistance Corporation; Craig Hirai, Hawaii Association of Realtors; Nani Medeiros, Office of the Governor; Don Tarleton, Hawaii Community Reinvestment Corporation; and Dean Uchida, Land Use Research Foundation of Hawaii. Additional thanks go to Harry Saunders and Carleton Ching of Castle & Cooke Homes Hawaii, Inc. for their assistance with the logistics of the August 17, 2004 housing forum.

Introduction

S.C.R. 135, S.D. 1 requested the Housing and Community Development Corporation of Hawaii (HCDCH) to convene a task force to develop near-term solutions to Hawaii's affordable housing shortage problem, with respect to both the ownership and rental markets. The task force was to include representatives from the appropriate state, county, and federal agencies, developers, financial institutions, the real estate industry, and housing advocacy organizations. The S.C.R. requested that the task force consider the following issues:

1. Incentives for the development of affordable housing;
2. Acceleration of regulatory and permitting processes;
3. Infrastructure issues;
4. Implementation issues; and
5. Incentives for affordable housing financing.

This report to the Legislature provides the findings and recommendations of the Affordable Housing Task Force.

Background

Hawaii is at a critical housing juncture. Rents and sales prices have reached an all time high. Homelessness has increased. A large segment of our population, primarily lower income families have been priced out of the market. The high cost of housing serves as a major workforce recruiting, retention and expansion challenge.

On July 20, 2004, Governor Linda Lingle convened the Affordable Housing Task Force to find workable solutions to the affordable housing crisis in Hawaii. The Task Force first met on August 17, 2004 at the State Capitol at an affordable housing forum, "W*here Our Workers Will Live?"* Members of the Task Force were asked to come up with "doable" strategies to increase the supply of affordable housing. The Task Force members were split into three task groups and made the short-term (within 2 years) and long-term (up to 6 years) recommendations summarized below. A complete list of these recommendations is attached as Exhibit "B."

Task Group 1: Acceleration of regulatory and permitting processes and other incentives to develop affordable housing.

The two-tier system of state and county land use approvals is often cited as a major barrier to the development of affordable housing. Developers of large residential projects may take 7-10 years to complete the entitlement process. Group 1's mission was to identify ways to compress and streamline the land use entitlement and permitting process and to identify other workable incentives to stimulate affordable housing production.

Short term (within 2 years) priority recommendations:

- Make government land available for affordable housing development.
- Expedite the plan approval process, which currently takes over a year to complete. Counties are currently understaffed. Consider outsourcing these functions with county oversight in place and without compromising health, safety, and other Building Code requirements.

- Increase the conveyance tax and the percentage of the tax that is dedicated to affordable housing.

Long-term (up to 6 years) priority recommendation:

- Eliminate duplicative reviews by the State Land Use Commission and County zoning authorities.

Task Group 2: Infrastructure issues.
The lack of major off-site infrastructure, such as water, sewer, roadway and drainage systems, is another barrier to the development of affordable housing. In the past, the federal government funded infrastructure development. Currently, housing developers are required to install infrastructure, the cost of which is passed on to housing consumers. Group 2's mission was to identify ways to address this issue including financing schemes for infrastructure development.

Short term (within 2 years) priority recommendations:

- Increase the political will to support efforts.
- Use State land for long-term leases for housing or as collateral.
- Use creative public/private financing for infrastructure.

Long-term (up to 6 years) priority recommendation:

- Use coordinated, integrated long-term development plans to guide the use of Capital Improvement Project (CIP) funds. (CIP funds used to be about forward planning for infrastructure and development and led development vs. following it or playing catch-up. CIP should be used for planned development, and development should be largely according to those plans.)

Task Group 3: Incentives for affordable housing financing.
Gap financing is critical to developing new, affordable rental units. Generally, tax credits can cover 50% of the project costs, private financing covers 25% of the project costs, and gap financing is needed for the final 25% of project costs. Group 3's mission was to identify alternative schemes to provide for gap financing, as well as other mechanisms to finance the development of affordable housing.

Short term (within 2 years) priority recommendations:

- The Rental Housing Trust Fund needs a dedicated source of funding – perhaps through an increase of the conveyance tax dedication.
- Provide incentives to landlords to maintain affordable rentals rather than removing them from the market.
- Provide for better coordination between existing funding sources at all levels of government and private sources.

<u>Long-term (up to 6 years) priority recommendations:</u>

- The State needs to treat affordable housing as a priority policy and act as a facilitator to bring the parties together to lower the costs for developers to provide this housing.
- Establish an affordable housing finance agency that has no other duties (e.g., no public housing duties).

<u>Working Groups</u>

Subsequent to the August 17th housing forum, the HCDCH convened five smaller working groups comprised of task force members with specific expertise in the issue areas that were identified as top priorities. A list of the working group members is attached as Exhibit "C". The working groups were asked to develop the priority recommendations from the housing forum into specific implementation strategies, and, where applicable, to draft legislation, that would address the affordable housing crisis in the State.

The five working groups met in October through December 2004 to address the following issue areas:

1. Streamlining the state and county land use entitlement process.
2. Creative financing for infrastructure development.
3. Improving the coordination of federal, state and county financing programs to facilitate affordable housing development.
4. Financing strategies to develop affordable housing including funding for the Rental Housing Trust Fund.
5. Creating an institutional structure to focus on stimulating the development of affordable, workforce housing.

<u>Findings and Recommendations</u>

There is general agreement on the need to increase the housing supply as a whole.

In the 1970s, when Makiki was being built, approximately 18,000 units were delivered. In the last 5 years, less than 3,000 units were delivered on Oahu. There are not enough total housing units being delivered, leading to an imbalance between housing supply and demand. Significant increases in construction costs, a shortage of a skilled construction workforce, limited land for development, and the lengthy land use entitlement process contribute to the high costs of housing. Current financial resources are insufficient to meet these costs.

We need a push to develop <u>all</u> housing. In order to do so, there must be agreement that affordable housing is a state and county priority. We need the **political will** and **commitment** to work together – to create partnerships and a combination of incentives to address the affordable housing shortage. The “toolbox” of development and financing incentives is summarized on the following pages. (Exhibit “D” provides full detail via meeting notes for each of the working groups.)

Incentives for the development of affordable housing

- To lower overall development costs, provide exemptions from general excise taxes (GET) or tax credits for the planning, design, financing and construction of rental or for-sale housing affordable to households earning up to 140% of the median income for five years.

- The counties could provide incentives for the development of affordable housing including:
  - Additional development density for the donation of land for affordable housing.
  - Authorize the transfer of development rights.
  - Create a government advocate or "expediter" for affordable housing. The "expediter" would steer affordable housing projects through the county entitlement process.
  - Allow a developer to satisfy an affordable housing condition by building affordable rental units off-site in an area acceptable to the county including on State, County or Hawaiian Home Lands.
  - Provide 2 to 3 times more affordable housing credits to a developer who builds affordable rental housing to satisfy an affordable housing condition.

Tools to accelerate the regulatory and permitting processes

- Eliminate overlapping and duplicative state and county land use reviews. The role of the State Land Use Commission (LUC) could be redefined to focus on the effective determination of statewide land use policy. The LUC would conduct periodic reviews of land use district boundaries, within the constitutional framework of State stewardship over important agricultural and natural resource areas.

- Eliminate the 15-acre threshold for county council review of district boundary amendments or increase the threshold to 50 acres by amending section 205-4, HRS.

- Create county design standards for workforce housing. The design standards should include controls in planning, urban and architectural design to guide the creation of communities that are desirable places to live and work. There should be a good mix of affordable, gap and market housing types to provide social and economic integration.
  (Affordable housing projects developed under the provisions of Chapter 201G, HRS may obtain expedited state and county land use and zoning, as well as waivers from subdivision and building codes. These developments are considered "substandard" due to waivers approved by the counties. The creation of design standards for "workforce housing" would eliminate the inherent conflicts between the 201G waivers and county operating and maintenance.)

Infrastructure issues

- Coordinate government-funded highway and road improvements to specifically address affordable housing needs.

- There are various financing mechanisms to develop infrastructure including federal and state CIP funds, developer exactions, impact fees, and tax increment financing. If there is political will, a broad-based tax increase (e.g., Atlanta sales tax) could be passed to provide a dedicated funding source for the development of infrastructure such as roads, water (source, transmission, storage), sewer (treatment and transmission), drainage, solid waste, public facilities (schools and parks), and utility corridors.

Incentives for affordable housing financing

- To enhance project feasibility and support the overall production of rental housing, streamline the approval process for the Rental Housing Trust Fund (RHTF) and make it more flexible.
  - Repeal the RHTF Advisory Commission to eliminate duplicative reviews.
  - Allow for more flexibility in the use of the RHTF by repealing sections 201G-432(e) and (f), HRS, which mandate stringent affordability requirements that hamper project feasibility.
  - Relax stringent underwriting criteria by amending section 201G-432(g), HRS by removing the loan-to-value ratio cap of 95% and revising the debt-coverage ratio to not less than 1.0 to 1.0.
  - Expand the pool of eligible applicants for the RHTF to include nonprofit and for-profit developers and corporations, limited liability corporations or partnerships, and partnerships by amending section 201G-435, HRS.
  - Increase the types of activities and projects that are eligible for RHTF assistance by amending section 201G-436, HRS. Activities and projects eligible for assistance would also include rental housing for persons and families with incomes at or below 140% of the median income, student housing, assisted living facilities, and mixed-finance public housing developments.

- Provide additional funding for the Rental Housing Trust Fund (RHTF).
  - Transfer significant portions of the annual amount of GET collected on residential rents being paid into the General Fund to the RHTF.
  - Authorize an increase from 25% to 50% of conveyance tax collections that are transferred to the RHTF. (The RHTF currently receives approximately $2-3 million per year. This would double the amount of conveyance tax revenues that go to the RHTF and lessen the amount that goes to the General Fund.)

    Note: The Department of Taxation estimated that FY 2004 general fund tax collections on residential rents were $86.6 million. If 25% of GET collections on residential rents were transferred to the RHTF, this would amount to approximately $20 million each year. Combined with 50% of conveyance tax revenues or approximately $5 million, the RHTF would have a total of approximately $25 million annually. At the increased funding level, the RHTF could be leveraged with low income housing tax credits to finance the development of approximately 400 rental housing units per year (compared to 200-250 units per year at the current funding level).

  - Increase the amount of the conveyance tax on higher-priced properties.

Currently the conveyance tax rate is 10 cents per $100.00 of consideration. The tax rate could be adjusted so that the tax rate increases as the amount of consideration increases.

- Fund the HCDCH's Dwelling Unit Revolving Fund and authorize it to be used for permanent financing by amending section 201G-411, HRS.

- If there is political will, the State of Hawaii could issue taxable bonds to address Hawaii's housing crisis. Proceeds could be used for the development of affordable housing, homeless facilities, credit enhancement (loan guarantees) for conventional financing, and down payment loans for first-time homebuyers. Proceeds from the bond issue would be allotted without a requirement to repay the funds.

- The State could provide a 2:1 tax deduction or state tax credits for the donation of land for affordable housing.

<u>Implementation issues</u>
To address the high cost of development and rising construction costs, developers must seek and leverage various sources of funding to enhance project feasibility. Therefore, **the coordination of federal and state financing programs should be improved**. Recommendations to improve coordination include the following:

- Hold joint informational meetings to help developers to understand federal and state financing programs and how the funds can work together. (Beginning in January 2005, the HCDCH will be meeting with the federal and county housing directors to move toward improved coordination of the financing programs.)

- Passage of a concurrent resolution that requests that the HCDCH convene a coordinating committee comprised of housing stakeholders to evaluate government financing programs and make recommendations to improve the coordination of programs to support the development and preservation of affordable housing. The concurrent resolution should appropriate funds to facilitate neighbor island participation.

  This initiative could also entail the enactment of legislation that calls for a comprehensive analysis of the HCDCH's financing and development programs and recommendations for legislative and administrative changes to make the HCDCH's programs more user-friendly.

Integral to the success of the housing initiative is having an effective institutional structure that supports the delivery of affordable housing. A survey of 52 state housing finance agencies (HFAs) nationwide was conducted to determine how other HFAs were structured. Only Alaska and Hawaii manage public housing, and most HFAs do not engage in the development or sale of housing. Therefore, to be effective, the State entity should be structured in such a way that it can focus on financing housing. Four alternatives were considered:

1. Create a new HFA;
2. Separate the public housing functions by transferring the financing and development functions to a newly created housing finance and development agency (e.g., HHA and HFDC);

3. Create a mini-HFA within the HCDCH; or
4. Strengthen HCDCH's current organizational structure.

It will take at least 2 years to complete any formal structural change which involves the enactment of legislation and a formal reorganization. With HCDCH's other priorities, it may not be the best time to implement any structural change right now. However, the survey results and examples of best practices nationwide indicate that the creation of a separate, focused HFA would probably be the best institutional structure. **It may be possible to immediately create a new HFA to demonstrate legislative intent while allowing more time for the transfer of the housing finance functions, positions, and funding sources.** Proposed legislation to create a new HFA could incorporate some of language in Act 51, Session Laws of Hawaii 2004 which sets up an interagency working group and phased transition period.

<u>Conclusion</u>

The push to address Hawaii's critical affordable housing shortage is in motion. Starting with the passage of S.C.R. 135, S.D. 1 and the Governor's convening of the Affordable Housing Task Force, we now have a proposed "toolbox" of financing and development incentives to help address the housing shortage.

To move forward, policy makers need too decide on what alternatives will be pursued and funded. After the policy decisions are made, the appropriate tools can be further refined and implemented.

The community of housing stakeholders – the HCDCH and other state, county, and federal agencies, developers, financial institutions, the real estate industry, and housing advocates -- is committed to working together. With the political will, we can increase housing opportunities for Hawaii's people.

Exhibit A

AFFORDABLE HOUSING TASK FORCE

Name		Organization
Michael	Amii	Department of Community Services, City and County of Honolulu
Herman	Andaya	Dept. of Housing and Human Concerns, County of Maui
Thomas	Arizumi	Department of Health
Sandy	Asato	Department of Hawaiian Home Lands
Stephanie	Aveiro	HCDCH
Marvin	Awaya	Pacific Housing Assistance Corporation
Sandy	Baz	Maui Economic Opportunity, Inc.
Simon	Bebb	Hotels in Paradise, Inc.
Barbara	Bell	County of Hawaii Dept. of Environmental Management
Rene	Berthiaume	Network Enterprises, Inc.
Jennifer	Bethel	Department of Land and Natural Resources
Teresa	Bill	UH -- Bridge to Hope
Joseph	Blevins	Department of Hawaiian Home Lands
Thad	Bond	Forest City Hawaii, Inc.
Dennis	Bunda	Community Life Resource Center
Stanford	Carr	Stanford Carr Development Corporation
Bernard	Carvalho	Offices of Community Assistance, County of Kauai
Mark	Chandler	U.S. Department of Housing and Urban Development
Carlton	Ching	Castle & Cooke, Hawaii
Meredith	Ching	Alexander & Baldwin, Inc.
Suzanne	Chun Oakland	State Senator
Gilbert	Coloma-Agaran	Dept. of Public Works and Environmental Mgmt., County of Maui
William	Coward	Homeless Project Consultant
Eric	Crispin	Department of Planning and Permitting
Dan	Davidson	Department of Land and Natural Resources
Daniel	Dinell	Hawaii Community Development Administration
Kenneth	Fiedler	Catholic Charities Hawaii
Michael	Flores	U.S. Department of Housing and Urban Development
Michael	Foley	County of Maui Department of Planning
Danny	Fred	Aloha Noblehouse, Inc.
Cheryl	Fukunaga	U.S. Department of Housing and Urban Development
Vito	Galati	Cades Schutte, L.L.L.P.
Victor	Geminiani	Legal Aid Society of Hawaii
Karin	Gill	Office of Representative Brian Schatz
Harvey	Goth	D. R. Horton – Schuler Division
Donna	Goth	Aina Nui Corporation
Douglas	Haigh	County of Kauai Department of Public Works
Kathleen	Hasegawa	Good Beginnings Alliance
Darlene	Hein	Affordable Housing and Homeless Alliance
Craig	Hirai	Hawaii Association of Realtors
Kendall	Hirai	Hawaii HomeOwnership Center
Rex	Jitchaku	County of Hawaii Office of Housing and Community Development
Brian	Kajikawa	County of Hawaii Dept. of Public Works

Exhibit A

Lowell	Kalapa	Tax Foundation of Hawai'i
Leatrice	Kauahi	City Bank
Craig	Kekahuna	Abraham Holdings
Thao	Khamoui	U.S. Department of Agriculture/Rural Development
Andrea	Kia	Honolulu Board of Realtors
Galen	Kuba	County of Hawaii Dept. of Public Works
Bert	Kuioka	Board of Water Supply
Harold	Kurohara	Community Life Resource Center
Harold	Kuwahara	Community Life Resources
Betty Lou	Larson	Catholic Charities Hawaii
Phil	Lee	Office of Representative Mindo
B. Jay	Lembeck	The Open Door Academy
Jack	Mahan	U.S. Department of Agriculture/Rural Development
Ladye	Martin	County of Kauai Department of Public Works
Ralph	Masuda	Castle & Cooke, L.L.C.
Scott	Matsuura	Alexander & Baldwin, Inc.
Lynn	Maunakea	Institute for Human Services
Bruce	McClure	County of Hawaii Dept. of Public Works
Nani	Medeiros	Office of the Governor
John	Meyers	Innovative Housing Solutions
Stacey	Mikelson	Department of the Attorney General
Bernie	Miranda	Department of Health
Thelma	Myers	Domus Systems
Ralph	Nagamine	County of Maui Dept. of Public Works & Environmental Management
Clyde	Namuo	Office of Hawaiian Affairs
Keith	Nitta	County of Kauai Department of Planning
Norman	Noguchi	Honolulu Board of Realtors
Edwin	Okubo	Dept. of Housing and Human Concerns Housing Div.
Charles	Ota	Chamber of Commerce of Hawaii
James	Pacopac	Pacific Resource Partnership
Karen	Piltz	Chun Kerr Dodd Beaman & Wong
David	Rae	Campbell Estate
Ken	Rainforth	County of Kauai
William	Ramsey	Bill Ramsey, Inc., Property Managers
Gerald	Reiss	Aloha Noblehouse, Inc.
Charles	Riding	Maui Economic Concerns of the Community, Inc.
Genevieve	Salmonson	Department of Health
Harry	Saunders	Castle & Cooke
Mike	Sessions	Innovative Housing/Hawaii Habitat for Humanity
Claudia	Shay	Self-Help Housing Corporation of Hawaii
Stacy	Sur	HIAHI
Lorraine	Shinn	U.S. Department of Agriculture/Rural Development
Warren	Suzuki	Maui Land and Pine
Edwin	Taira	County of Hawaii Office of Housing and Community Dev.
Ron	Takahashi	County of Hawaii Dept. of Public Works
Stephanie	Taketa	U.S. Department of Agriculture/Rural Development
Don	Tarleton	Hawaii Community Reinvestment Corporation

Exhibit A

George	Tengan	County of Maui Department of Water Supply
Laura	Thielen	Kalihi Palama Health Center
Bruce	Tsuchida	Townscape, Inc.
R. Brian	Tsujimura	Imanaka Kudo & Fujimoto
Dean	Uchida	Land Use Research Foundation
Jayna	Uyehara	Department of Taxation
Peter	Van Zile	Hawaii Habitat for Humanity
Mercer	Vicens	A & B Properties, Inc.
Jose	Villa	Office of Hawaiian Affairs
Craig	Watase	Mark Development, Inc. -- BIA - Hawaii
Charles	Wathen	Pier Management Hawaii, L.L.C.
Jory	Watland	Kokua Legal Services
KC	West	Domus Systems
Randy	Wong	Department of Community Services
Patrick	Yamada	American Savings Bank
Glenn	Yasui	Department of Transportation
Harold	Yee	Department of Health
Peter	Young	Department of Land and Natural Resources
Jerry	Young	Christians in Real Estate
Chris	Yuen	County of Hawaii Planning Department

AFFORDABLE HOUSING TASK FORCE

GROUP 1 -- ACCELERATION OF REGULATORY AND PERMITTING PROCESSES AND OTHER INCENTIVES TO DEVELOP AFFORDABLE HOUSING

The two-tier system of state and county land use approvals is often cited as a major barrier to the development of affordable housing. Developers of large residential projects may take 7-10 years to complete the entitlement process. Group 1's mission was to identify ways to compress and streamline the land use entitlement and permitting process, as well as identify other workable incentives to stimulate affordable housing production.

Top Priorities:

Short-term

- Make government land available for affordable housing development.
- Expedite the plan approval process, which currently takes over a year to complete. Counties are currently understaffed. Consider outsourcing these functions with County oversight in place and without compromising health, safety, and other Building Code requirements.
- Increase the conveyance tax and the percentage of that tax that is dedicated to affordable housing.

Long-term

- Eliminate duplicative reviews by the State Land Use Commission and County zoning authorities.

Other Recommendations:

The remainder of Group 1's recommendations is grouped by subject matter. Individual recommendations are listed in descending order of priority, with the first having a higher priority, as determined by a poll of the group participants.

Elimination of duplicative governmental reviews and requirements:

- Adopt consistent statewide definitions of zoning terms. "Conservation" may have the same meaning as "open space" on another island. Agriculture is another area in which consistency between the State and County definitions would be welcome, within a particular regime.
- Eliminate subdivision registration process at the State level. It is redundant.
- Create a single point of contact or a clearinghouse for housing development.
- Consider creating a single point of entry for environmental reviews. Housing projects with State, County, and Federal components have many different environmental requirements. It is difficult to find the path that addresses them all.

Streamline and improve governmental review processes:

- Reinstate Act 15-type superpowers, which expired in 1993, to allow HCDCH to expedite projects more quickly than the Chapter 201G processes.
- If government establishes building affordable housing as a priority and communicates this through its system to the appropriate entities, significant gains could be achieved.
- Make the State Department of Transportation answer their phone. The lack of responsiveness holds up projects.
- Streamline Chapter 201G, HRS and note the availability of waivers. County councils have 45 days for approval and County agencies have 30 days to review. The agencies are sometimes slow and exceed the 30 day period.
- During the plan review and permitting process, the County should resist the temptation to second-guess the developers' engineers, whose education and training may reflect more current practices.
- Governments often require private developers to develop infrastructure that is oversized (e.g. extra large water lines) to address anticipated future needs that have been projected inaccurately. Planning should address current and reasonably foreseeable needs, not require provisions to accommodate needs too far in the future.
- Require that when conditions are set by Code, regulatory agencies cannot amend requirements. Confine these to a single area.
- Chapter 201G, HRS can be used without resulting in substandard housing.*

<u>Secure resources to develop affordable housing:</u>

- Increase funding of federal Section 8 housing. Create incentives for private developers to develop Section 8 inventory. Project-basing Section 8 vouchers could significantly increase the number of affordable units, with the assistance of HUD.

- Reconsider what costs should be borne by whom. Private developers are currently expected to assume responsibility for infrastructure costs.

- Get government to pay for their own requirements.

- Government should provide subsidies from the general fund rather than target specific groups like new development or new housing sales.

- Place a surcharge on the conveyance tax for "investor" purchasers (not owner-occupant/speculative). Dedicate resources generated to an affordable housing fund.

- Graduated conveyance tax scale based on the amount of the sale.

<u>Update building codes and other rules and regulations:</u>

- The Building Code should be reviewed and updated. Counties should reconsider and reevaluate the Code to identify opportunities to streamline based on Mainland models and alternative building materials, etc. Counties should determine what is mandatory and what is discretionary, and reduce requirements on discretionary matters.

- Review and consider amending subdivision rules and requirements such as parking, sidewalks, road width, and the number of utility outlets.

- Consider adoption of the International Residential Building Code for building, electrical, and plumbing. This is specific to residential developments. Develop teams of trained inspectors to perform inspections in the three areas.

- Rules required of government-as-developer and those required by private sector developers are different. Government is required to deal with environmental assessments and other requirements that the private sector is not required to do. The playing field should be leveled.

- International Code Council/National Fire Protection Association fire regulations differ. Consider adopting a "family of codes."

- Consider developing a "rural code."

- Make sure that as waivers from development standards/requirements are considered that substandard housing is not being created. Affordable housing should look like market housing.*

Address the high cost of insurance:

- Builders' general liability insurance is expensive. Create a captive insurance program to help cover designers and consultants, etc. A participant gave an example of an instance where construction insurance increased by 300%.

- Create an insurance program that covers probable costs, "things that could happen during construction." The current cost to avoid liability may be more expensive than having insurance. Hydrant spacing was cited as an example.

Provide development incentives:

- The Hawaii Community Development Authority (HCDA) has a requirement to develop "reserved (affordable) housing" targeted for specific income groups (e.g. gap groups) for residential development in the Kaka'ako district. Costs actually become disincentives for development. Government should figure out how to turn this into an incentive by considering looking at density bonuses, cluster zoning, etc.

- Consider, as a longer term strategy, waiving water and sewer connection fees to significantly reduce the cost per unit. This could save about $10,000 to $15,000 in fees.

- Incentives to increase rental housing versus for sale housing. "Affordable" means different things for each. What would increase incentives? Density bonuses, more tax credits.

The proper role of government:

- Government should build affordable rentals and acquire buildings that have been Section 8 before they are snapped up in the open market by those who will convert them into condos.

- Government should facilitate housing development, as the City and County of Honolulu's Department of Housing has done. Turn to private developers with additional incentives, and increase the efficiency of the process.

- The public sector should stimulate development in the private sector.

- The private sector can do public-private partnerships, such as the Ford Island housing project.

Other recommendations:

- Build cooperatives rather than condos for long-term affordability.
- Community land trusts should be considered as an affordable housing option.*
- Limited equity co-operatives should be considered as an affordable housing option.*

** These recommendations were made at the plenary session, not during the working group session.*

Exhibit B

AFFORDABLE HOUSING TASK FORCE

RECOMMENDATIONS OF GROUP 2 – INFRASTRUCTURE ISSUES

The lack of major off-site infrastructure, such as water, sewer, roadway and drainage systems, is another barrier to the development of affordable housing. In the past, the federal government funded infrastructure development. Currently, housing developers are required to install infrastructure, the cost of which is passed on to housing consumers. The Infrastructure Working Group identified ways to address this issue including financing schemes for infrastructure development.

Group 2 first took the time to define the issue and the criteria of what infrastructure really meant, who really pays for it, and the differences that exist regionally, island-by-island, and county-by-county.

<u>Top Priorities</u>:

<u>Short-term</u>

- ➢ Increase the political will to support efforts.
- ➢ Use State land for long-term leases for housing, or as collateral.
- ➢ Use creative public/private financing for infrastructure.

<u>Long-term</u>

- ➢ Coordinated, integrated long-term development plans should guide use of Capital Improvement Project (CIP) funds.
    - o CIP used to be about forward planning for infrastructure and development and led development vs. following it or playing catch-up. CIP should be used for planned development, and development should be largely according to those plans

<u>Other Recommendations:</u>

- Return to government development of infrastructure.
    - Observation: State has no cash; so where else, what other financing sources are there?
- Look at impact fees on a local/regional level

- Offer tax credits

- Creative public/private financing for infrastructure construction (such as tax credits, tax exempt bond financing, improvement districts, Mellos/Roos or community facilities districts, etc.).

- Consider putting state land up as collateral

- Cost of affordable housing is also a product of “volume” -- the number of units being developed.

- The big question is “who really pays" for infrastructure.

- Fed/State subsidy still means that the tax-payer is subsidizing the cost
  - Whether it is subsidy, incentive, or tax increase.

- Tax payers would not mind paying more if they knew they were getting value for their increased tax.

- General observations: regardless of market or rental housing, the cost of infrastructure is generally the same, but is influenced by other factors that impact perceived or actual quality.

- Quality of life and other conditions should not be sacrificed in the process of reducing cost of infrastructure.

- CIP in contemporary model is really a “catch-up” and should be put back on the front end.

- There are limited highway and school funds – there should be planning as to where the growth in the affordable market is best placed before those resources are committed.*

- Transportation costs have a major impact on affordability. Affordable housing should be placed where public transportation is accessible and where jobs are located, to avoid huge commuting expenses for residents.*

* *These recommendations were made at the plenary session, not during the working group session.*

Exhibit B

AFFORDABLE HOUSING TASK FORCE

RECOMMENDATIONS OF GROUP 3 – INCENTIVES FOR AFFORDABLE HOUSING FINANCING

Gap financing is critical to developing new, affordable rental units. Generally, tax credits can cover 50% of the project costs, private financing covers 25% of the project costs, and gap financing is needed for the final 25% of project costs. Group 3's mission was to identify alternative schemes to provide for gap financing, as well as other mechanisms to finance the development of affordable housing.

The lists presented below represent the results of the group's prioritization of issues, in descending order of priority. The group felt all items were important even if no votes were received during prioritization.

Top Priorities:

Short-term:

- The Rental Housing Trust Fund (RHTF) needs a dedicated source of funding – perhaps through an increase of the conveyance tax dedication.
- Provide incentives to landlords to maintain affordable rentals rather than removing them from the market.
- Provide for better coordination between existing funding sources at all level of government and private sources.

Long-term (Group 3 identified 2 long-term priorities):

- The State needs to treat affordable housing as a priority policy and act as a facilitator to bring the parties together to lower the costs for developers to provide this housing.
- Establish an affordable housing finance agency that has no other duties (e.g. public housing).

Short Term Recommendations:

- Change the rules for the Dwelling Unit Revolving Fund so it can be used for long term financing.

- Get more Section 8 project-based vouchers to support the financing of affordable rental projects.

- Provide tax increment financing.

- Set a level of dollars from high-end developments that need to be given to a builder of affordable housing – either ownership or rental.

- Encourage the Department of Hawaiian Homelands (DHHL) to meet its gap obligations through applying for community loan funds for native peoples under the federal government.

- Pressure banks to use Community Reinvestment Act (CRA) funds to augment the RHTF.

- Reinstate the original Kaka`ako link between market and affordable housing development in that area. (Note: The 3-year waiver of the cash-in-lieu requirement will expire on September 16, 2004)

- Increase opportunities for people to be involved in grant writing workshops that could assist groups in applying for the affordable housing monies out there i.e. U.S. Department of Housing and Urban Development (HUD) and other agency monies.

- Consolidate all housing trust funds into one which would serve both affordable rental and homeownership.

- Set up a fund to privately insure a percentage of the gap funding with matching dollars.

- Allow for flexibility in use of public and trust fund dollars in mixed use developments.

<u>Long Term Recommendations:</u>

- Look at the disposition of public housing and re-use to keep it in the rental market – portfolio re-engineering.

- Provide dedicated funding to the RHTF and allocate it to the counties to disperse.

- Allow developers to make donations of land with restrictive covenants to satisfy affordable housing requirements - attach a requirement that housing stay affordable if government funds are used.

- Increase project-based Section 8.

- Set up a state guarantee fund for housing bonds and mortgages up to a certain percent, including DHHL projects.

- Look at providing incentives for middle income market rentals.

- Remove government from the provision and management of affordable housing – look at the way the military privatized their housing.

- Coordinate state and county funding streams for affordable housing.

- The state and counties need to look at the requirements they impose on developers and see what amount this adds to the cost of housing and assess how they will defray the costs they add when the developer is providing affordable units.

- Create housing data and resource consortium (maybe at UH) to collect and disseminate data around the issue of affordable housing – stock etc.

- Look at partnering with non-governmental organizations and faith-based organizations for defraying rental costs to low income residents.

- Provide marketing and training for bank personnel in all the various programs available so that they can steer customers to the right one.

- Issue Special Purpose Revenue Bonds for affordable housing development.

- Decrease profit restrictions on the sponsors of affordable housing.

- Increase rental housing for middle income market - use RHTF to do this.

- Lenders need outreach and education on how to access various existing affordable housing financing programs.*

<u>Other comments made that did not go directly to financing</u>:

- Need to focus on the low end of the need scale.
- Look at creative rezoning.

* *This recommendation was made at the plenary session, not during the working group session.*

Exhibit C

Task Force Working Groups

Smaller working groups evaluated and, where appropriate, mapped out implementation plans for the highest ranked recommendations made by the task force.

A. **Streamline the state and county land use entitlement process** which may include revising Chapter 201G, HRS or temporary "Act 15, SLH 1988, superpower" legislation to accelerate land use and development approvals for affordable housing projects at the state and county levels.

Nani Medeiros, Governor's Office (Chair)
Dean Uchida, Land Use Research Foundation
Stanford Carr
Dan Davidson, Department of Land and Natural Resources
Harry Saunders, Castle & Cooke (Alan Arakawa)
Meredith Ching, A&B
Harvey Goth, Schuler Homes
Dave Rae, Campbell Estate
Eric Crispin, Department of Planning and Permitting
Gail Kaito, City Department of Community Services
Ed Okubo, Maui – Department of Housing and Human Concerns
Ed Taira, Hawaii – Office of Housing and Community Development
Ken Rainforth, Kauai – Kauai County Housing Agency
Karen Piltz, Chun, Kerr Dodd, Beaman &Wong
Tom Otake, HCDCH

B. **"Creative financing" for infrastructure development.**

Dean Uchida, Land Use Research Foundation (Chair)
Gilbert Coloma-Agaran, County of Maui, Department of Public Works and Environmental Mgmt.
Daniel Dinnell, Hawaii Community Development Authority
Douglas Haigh, County of Kauai Department of Public Works
Ralph Nagamine, County of Maui Dept. of Public Works and Environmental Mgmt.
Ron Takahashi, County of Hawaii Department of Public Works
Glenn Yasui, Department of Transportation
Thad Bond, Forest City Hawaii, Inc.
Carleton Ching, Castle and Cooke Hawaii

C. **Improve the coordination of federal, state and county financing programs to facilitate affordable housing development**.

Marvin Awaya, Pacific Housing Assistance Corporation (Chair)
Darren Ueki, HCDCH

Sandy Asato, Department of Hawaiian Home Lands
Rene Berthiaume, Network Enterprises, Inc.
Mark Chandler, U.S. Department of HUD-CPD
Cheryl Fukunaga, U.S. Department of HUD
Mike Flores, U.S. Department of HUD-Public Housing
Gail Kaito, City Department of Community Services
Jack Mahan, U.S. Dept. of Agriculture – Rural Development
Stacy Sur, Hawaii Community Reinvestment Corporation

D. **Financing strategies to develop affordable housing including funding for the Rental Housing Trust Fund.**

Craig Hirai, Hawaii Association of Realtors (Chair)
Betty Lou Larson, Catholic Charities/Rental Housing Trust Fund Advisory Commission
Darren Ueki, HCDCH
Laura Thielen, Aloha United Way
Sandi Miyoshi, HCDCH
Patrick Yamada, American Savings Bank
Debbie Luning, Gentry Homes
Chuck Wathen, Urban Land Institute
Vito Galati, Cades Schutte, L.L.L.P.
Gail Kaito, City Department of Community Services

E. **Create an institutional structure to focus on stimulating the development of affordable, workforce housing.**

Don Tarleton, Hawaii Community Reinvestment Corporation (Chair)
Craig Hirai, Hawaii Association of Realtors
Marvin Awaya, Pacific Housing Assistance Corporation
Pamela Dodson, HCDCH
Rick Manayan, DBEDT
Henry Oliva, DHS
Dean Uchida, Land Use Research Foundation
Charlie Ota, Chamber of Commerce
Warren Suzuki, Maui Land and Pine

Exhibit D

Streamlining Working Group
November 3, 2004, 12:00 p.m., Governor's Conference Room

Present: Nani Medeiros (Chair), Gail Kaito, Dean Uchida, Dave Rae, Meredith Ching, Harry Saunders, Stanford Carr, Karen Piltz, Harvey Goth, Ed Taira, Ed Okubo, Rick Manayan, Eric Crispin, Janice Takahashi

Recommendations are *italicized*.

This group looked at various approaches to stimulate the development of affordable housing. Chapter 201G, HRS allows for the expedited processing of affordable housing projects at the State land use and county planning and zoning levels. However, 201G could be revised to provide time limits for federal, state, and county agencies to review housing project proposals; establish more flexibility in defining affordable housing projects as a means to enhance project feasibility; and protect funds dedicated to housing. Exemptions from general excise taxes for affordable rental projects constructed was discussed. Group members suggested an infusion of state funds to finance the development of affordable rental housing and re-examining the role of the State Land Use Commission to eliminate duplicative land use reviews at the State and county levels. To provide more fairness, equity and predictability in establishing exactions for public facilities or services, impact fees should also be curtailed and redefined.

A GET exemption could help but, alone, it does not provide sufficient incentive for private developers to develop affordable rental housing. Government exactions for sewer and schools alone today add $15,000 per unit. Moreover, the construction of rental housing cannot be done without a subsidy. *The GET exemption should be expanded to include affordable for-sale housing since it is important to open up the overall supply of housing. The time period for the exemption should also be expanded to 4 or 5 years since it takes so long to get a project off the ground. The tax credit could be graduated based on the affordability of the units.* There has to be a whole list of incentives for rental housing because the subsidy is so great, such as DURF financing at reasonable rates.

An income tax credit similar to the one to stimulate construction and remodeling several years ago may be preferable to the GET exemption.

The counties would not support any "Act 15" type legislation. Developers should meet the county standards if they want the county to accept dedication and maintain the infrastructure. Chapter 201G already allows the developer and the county to negotiate exemptions up front (e.g., number of parking stalls). Imposing time limits for administrative review of the development application is fair. However, it could backfire on the developer. If the county agencies cannot meet the deadline, they may just reject the application. We should be looking at departmental reviews. Many agency reviews are extraneous and the scope of review could be reduced. The DOT, DOE, DOH and SHPO consistently do not respond in a timely manner for 201G requests so requests sometimes go to the Council without them. *There should be agreement that affordable housing is a state and county priority and keep administrative reviews to the basics. Use the general fund for schools and roads instead of requiring them of the projects.*

It comes down to simple economics -- a question of supply and demand. On Oahu, less than 3,000 units were delivered in the last 5 years. In the 1970s, when Makiki was being built, there were 18,000 units delivered. Not enough total housing units have been delivered. *We need a push to develop all housing.* It is also a matter of capacity. Military privatization will be using the trades to do 1,000 units a year. We don't have enough of a skilled construction workforce. It takes special management to manage low-income rental housing. We don't have the property management companies like on the mainland; they won't come here because we don't have the numbers of units they need to manage. We also need to look at ohana units, although there are issues of aging infrastructure and parking.

We will need partnerships and a combination of incentives to address the affordable housing shortage. For-profit developers need to joint venture with nonprofit entities that can develop and manage affordable rental housing. Maui has been putting for profits together with nonprofits. Kauai provides *"bonus credits"* to developers that satisfy a unilateral agreement with more low-income units. *Allow developers to satisfy their affordable housing conditions off-site -- even on state or county land.* Even to get 500 rental units will be difficult (much less 17,000)

Scaling back the authority of the LUC would eliminate overlapping and duplicative reviews. The role of the LUC should be strategic planning at the macro level, releasing enough urban acreage for the county's long term needs without having to do a project by project review which happens at the county level. Consider eliminating the 15-acre threshold for county council review of district boundary amendments or increasing the threshold to 50 acres. This should be presented to the county planning directors.

On October 12, 2004, the City approved a third party review process whereby a third-party reviewer certifies to the completeness of the plans for review by the county. This addresses problem of multiple reviews by the administrative agency and serves to streamline the review/approval process. Can third party reviews address multiple agency reviews? Could a third party reviewer certify compliance with agency comments?

Exhibit D

LAND USE RESEARCH
FOUNDATION OF HAWAII
700 Bishop Street, Ste. 1928
Honolulu, Hawaii 96813
Phone 521-4717
Fax 536-0132

December 8, 2004

Honorable Stephanie Aveiro, Executive Director
Housing and Community Development Corporation of Hawaii
677 Queen Street, Suite 300
Honolulu, Hawaii 96813

Ms. Aveiro:

Subject: Report from the Working Group on Creative Financing for Infrastructure Development

<u>Background:</u>

The Governor convened the Affordable Housing Task Force in August 2004 in response to S.C.R. 135, S.D.1. This task force was comprised of approximately 100 stakeholders including representatives from federal, state and county agencies; for-profit and nonprofit developers; bankers; property managers; realtors; social service providers; and housing and homeless advocates. The purpose of this task force was to come up with recommendations and implementation strategies for addressing the affordable housing crisis.

Members of the Affordable Housing Task Force attended a conference with the theme *"Where Our Workers Will Live"* on August 17, 2004. The focus was to find feasible ways to address barriers to the development of affordable housing: (1) the lengthy land use entitlement process; (2) the lack of major off-site infrastructure to support development; and (3) the lack of financing resources to develop affordable housing. Task force members made short (within 2 years) and long-term (up to 6 years) recommendations to address each of the barriers.

Smaller working groups were formed to evaluate and, where appropriate, map out implementation plans for the highest ranked recommendations made by the task force. This report is being submitted by the Working Group on "Creative financing" for infrastructure development. Working Group participants were:

Dean Uchida, Land Use Research Foundation (Chair)
Douglas Haigh, County of Kauai, Department of Public Works
Gilbert Coloma-Agaran, County of Maui, Department of Public Works
Glenn Yasui, State Department of Transportation

Exhibit D

Thad Bond, Forest City Hawaii
Carleton Ching, Castle and Cooke Homes Hawaii, Inc.
Jan Takahashi, HCDCH

Approach:

The Working Group reviewed existing infrastructure financing methodologies to assess what alternatives are currently available. The National Association of Home Builders prepared an article entitled "Paying for Growth." It has a listing of the various forms of alternative infrastructure financing and/or service delivery systems being used to date. The article includes a discussion of the following:

- ***1) Competitive Contracting--*** "Competitive contracting" means the process by which classified employees of a department, agency, or institution of higher education compete with businesses, individuals, nonprofit organizations, or other entities for contracts. This process is closely aligned with the common term "managed competition." Under managed competition, the state departments/employees and private firms compete to determine who is the most economic and efficient service provider. With contracting out (also called outsourcing and/or privatization), only private entities are allowed to compete by submitting a proposal or bid;

- ***2) Design/Build/Operate--*** The private partner builds a facility to the specifications agreed to by the public agency, operates the facility for a specified time period under a contract or franchise agreement with the agency, and then transfers the facility to the agency at the end of the specified period of time. In most cases, the private partner will also provide some, or all, of the financing for the facility, so the length of the contract or franchise must be sufficient to enable the private partner to realize a reasonable return on its investment through user charges. At the end of the franchise period, the public partner can assume operating responsibility for the facility, contract the operations to the original franchise holder, or award a new contract or franchise to a new private partner. The BTO model is similar to the BOT model except that the transfer to the public owner takes place at the time that construction is completed, rather than at the end of the franchise period;

- ***3) Asset Sales--*** The sale of public assets to the private sector that then steps in to operate privately the public assets, such as toll roads, airports, or wastewater treatment plants. The proceeds of the sale can be used to finance other infrastructure improvements. While this concept is popular in theory, many statutory impediments, particularly at the federal level, have discouraged its widespread implementation. The primary impediment has surfaced from the 100 percent grant repayment requirement found in the "Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments," referred to as the Common Rule. Under the Common Rule, once an infrastructure asset is sold to the private sector, state and local governments must repay to the federal government the full amount of any federal grant funds used to construct that asset. Of greatest impact is the provision of the order that allows a state or local government to repay the federal grants on a depreciated basis rather than at the full 100 percent rate. With the change in the repayment requirements, the sale of public infrastructure assets to the private sector has recently begun to take hold. For example, the wastewater treatment plant in Franklin, Ohio, discussed briefly above, was sold to a private company, Wheelabrator-Ohio, during the past year since the depreciated federal grant repayment obligation reduced the municipality's costs of sale and thus enabled the private company and the municipality to negotiate an acceptable sale price. In fact, under the criteria of Executive Order 12,803, the federal grant had depreciated to zero so that the municipality was able to reap approximately $6 million from the sale, which it used to reduce certain debt obligations as well as finance other infrastructure improvements. The private company will undertake the operations of the wastewater treatment plant at rates lower than the municipality had charged for operation;

- ***4) Partnership Schools—***A public school system can negotiate with a developer to build a public school facility, in accordance with designs and standards set by the community or state, and lease the facilities to the school system under a long-term arrangement at a predetermined rent. Whereas the developer/investor would be responsible for the physical structure of the public school, the school system would still operate the school with its own teachers, administrators, curricula, educational guidelines and standards, and other such requirements pertaining to educational process. The lease term would coincide with the term of the tax exempt bonds issued to finance the facility, and that at the end of the lease term, the physical structure automatically become the property of the public school system. This arrangement allows for government to take advantage of the lower costs and quicker site development processes of the private sector, while retaining full policy control. Cost savings are also achieved because the interim private owner can make the facility available for other uses when it is not needed for educational purposes;

- ***5) Bond Banks—***Are state sponsored entities that make local infrastructure projects feasible by providing access to the municipal bond market and direct and indirect financial subsidies to local jurisdictions. Bond banks work by issuing their own debt securities, typically enhanced by some form of state credit support. Bond banks act as conduits, re-lending bond proceeds to local jurisdictions to finance water and sewer, school, transportation, solid waste and economic development projects. By pooling a number of smaller issues and backing them with the state's credit, bond banks reduce the cost of borrowing for local jurisdictions. Smaller issuers often are not rated or have lower credit ratings than other issuers in the municipal bond markets. Small issuers often use bond banks because they provide such jurisdictions with lower cost of capital, in terms of both interest rates and costs of issuance. Bond banks also provide smaller issuers with better market access. They are of particular benefit to jurisdictions with projects that are too small to be sold publicly; the fixed issuance costs would be too great to make it cost effective to go to market alone. Bond banks provide local jurisdictions with technical and administrative expertise with respect to the complexities of debt issuance. Municipal finance authorities in states that do not have bond banks should push for state laws that allow for their creation.

- ***6) Special Districts--*** Special districts operate more like a business enterprise, charging customers for their services. For example, a hospital district charges room fees just to their patients, not the district's other residents. Water districts charge water rates to their customers. Virtually all water, waste and hospital districts are enterprise districts. Non-enterprise districts provide services that don't lend themselves to fees because they benefit the entire community, not just certain residents. These districts provide services like parks, police and fire protection, pest abatement, libraries, and cemeteries and rely overwhelmingly on property taxes to fund their operating budgets. Although some non-enterprise districts like parks and libraries may charge fees for some services, these fees generate very little revenue. Additionally, both enterprise and non-enterprise districts can issue either general obligation or revenue bonds to help pay for capital improvements;

- ***7) Community Development Authorities—***CDA's are special taxing districts that allow developers to issue tax-exempt debt to fund infrastructure improvements. In turn, property owners within the district pay an amount in addition to the property tax to service the debt. In effect, the developer-created district performs a quasi-governmental function in co-operation with local government. The CDA concept offers lower cost tax-exempt borrowing, and obviates the need to add infrastructure cost and/or impact fees into the price of the house. A Mello-Roos District is an area where a special tax is imposed on those real property owners within a Community Facilities District. This district has chosen to seek public financing through the sale of bonds for the purpose of financing certain public improvements and services. These services may include streets, water, sewage and drainage, electricity, infrastructure, schools, parks and police protection to newly developing areas. The tax you pay is used to make the payments of principal and interest on the bonds. Your taxes may be paying for both services and facilities. The services may be financed only to the extent of new growth, and services include: Police protection, fire protection, ambulance and paramedic services, recreation program services, library services, the operation and maintenance of parks, parkways and open space, museums, cultural facilities, flood and storm protection, and services for the removal of any threatening hazardous substance. Facilities which may be financed under the Act include: Property with an estimated useful life of five years or longer, parks, recreation facilities, parkway facilities, open-space facilities, elementary and secondary school sites and structures, libraries, child care facilities, natural gas pipeline facilities, telephone lines, facilities to transmit and distribute electrical energy, cable television lines, and others;

- ***8) Small Scale Water and Wastewater Systems—***Recent technological changes in water supply and treatment are allowing residential development, including projects with as few as 100 houses, to go forward independent of existing public treatment services. Several private water companies can provide and operate cost effective water treatment facilities for developments of between 100 and 1,000 housing units. The developer/builder finances the construction of the small-scale facility, and sells the investment incrementally to the utility provider as new housing units are connected to the system;

- ***9) Special Purpose Corporations—***A not for profit entity can be established for any lawful purpose other than for pecuniary profit. Not for profit's are regulated by state tax authorities with respect to their state tax exemptions, and by the IRS with respect to their federal income tax exemption. A Not for profit entity may qualify to issue tax-exempt debt if it meets certain IRS requirements. A special purpose Not for Profit can be an important funding source under which a private developer builds and operates a project for a specified period of time, after which ownership reverts back to the government unit. The corporation can issue tax-exempt bonds backed by revenue sources such as tolls, regular lease payments from government units, tax revenues, or a combination of sources;

- ***10) Tax Increment Financing—*** Tax increment financing funds projects through the issuance of bonds that pay for acquisition, demolition, and infrastructure costs associated with redevelopment. In theory, the process is straightforward. A municipal development authority sees a blighted area in which development could occur given enough preparation, such as sewage or sidewalk upgrades, or construction of a parking garage. The local government bodies that draw taxes from the blighted area agree to the development, a TIF district is drawn around the area, and its property tax base is frozen. The taxes on this frozen base continue to go to the local governments covering the district for a specified time. The authority then sells bonds to fund the improvements. A private developer, enticed by the improved infrastructure, builds an office building or other commercial or residential structures. The property tax revenues on the blighted land that were flat or declining now increase. This rise, or tax increment, is captured by the municipal development authority and set aside to retire the bonds that funded the improvements. Once the bonds are retired, the higher taxes revert to the city, county, school board, and any other taxing body that covers the district.

- ***11) Impact Fees--***Generally speaking, "impact fees" are financial contributions (i.e., money, land, etc.) imposed by communities on developers or builders to pay for capital improvements within the community which are necessary to service/accommodate the new development. Impact fees, however, must be reasonable. To ensure fairness, impact fees can only be assessed (1) for capital improvements that are a direct consequence of the new development and (2) in an amount not exceeding the proportionate share required to serve the new development. In other words, a developer cannot be required to pay a disproportionate share of improvements that also benefit other persons (i.e., a bridge on the other side of town);

- ***12) Road Pricing--***Road Pricing means that motorists pay directly for driving on a particular roadway. Value Pricing is a marketing term which emphasizes that road pricing can directly benefit motorists through reduced congestion or improved roadways. Economists have long advocated Road Pricing as an efficient and equitable way to pay roadway costs and encourage more efficient transportation. Road Pricing has two general objectives: revenue generation and congestion management.

<u>Working Group: Defining Infrastructure</u>

In order to focus the effort of the group, we began by defining "infrastructure" for the purpose of this working group. The following list is what was agreed upon as Public Infrastructure.

1. Roads
2. Water (source, transmission, storage)
3. Sewer (treatment, transmission)

4. Drainage
5. Solid waste
6. Public facilities (schools, parks)
7. Utility corridors

Note: Infrastructure needs and financing opportunities are different for a master planned type of development on raw land and an infill or redevelopment project due to the magnitude of units, size of development and its effects on regional and neighborhood capacities, and subsequent infrastructural requirements. Financing programs need to be tailored for the particular circumstances.

Identify Existing Funding Mechanisms Used in Hawaii

County Funding Process: Counties use basically the following methods: 1) Federal funds (which generally require a local match); 2) State and county Capital Improvement Program (CIP) appropriations funded through general obligation or revenue bonds; 3) Developer impact fees, and developer exactions are generally utilized to fund infrastructure projects; and 4) User fees such as sewer and water fees. Due to the policy on limiting the amount of bond debt, some CIP projects are funded with cash, either from the general fund, property taxes, or a special fund (i.e., fuel taxes, licensing fees, or user fees such as sewer or water.

The County of Maui may float up to $18 million in revenue bonds each year for infrastructure improvements. However, that is not sufficient to meet all infrastructure needs. A new landfill, for example, is estimated to cost from $10 million to $20 million. On Kauai, a new landfill would drain the county's CIP capacity. In the Ewa region of Oahu, developer impact fees at 20% will help fund 5 regional transportation projects.

The County of Kauai used Community Development Block Grants {CDBG} and Disaster CDBG funds to support well development, water mains and storage tanks for water infrastructure. These funds were also used for street lights and turning lanes required by DOT for projects sponsored by the County of Kauai, and ADA renovations at public facilities.

State Highways Process: The Federal Authorization Act normally spans 6 years. The State Department of Transportation (DOT) prepares a 3-year statewide plan for constrained projects and another 3-year plan for unconstrained projects. DOT is looking to shift priority to maintenance from CIP. Unless there is an existing transportation project in the works, an affordable housing project will not be included in the State Highway System

Identification of the Problem

In the 1970s, the federal government paid for the development of major off-site infrastructure such as wastewater plants. The level of federal funding has substantially decreased. Today, the State is fortunate to maintain existing levels of federal funding. In the future, it will be more difficult. In the late 1980s, the State Legislature created the Homes Revolving Fund (HRF) to finance major off-site infrastructure in master planned communities sponsored by the Housing Finance and Development Corporation. The HRF was recently repealed following years of legislative raids to balance the State budget.

There are varying State and county departmental priorities and therefore in the case of affordable housing, coordinating highway and road improvements to specifically address affordable housing needs may not be a priority in light of regional highway and/or county road improvements that are prioritized to meet departmental requirements and standards (i.e. health and safety, etc.).

There is also a lack of a statewide Affordable Housing advocate to coordinate and seek cooperation form various levels of government to address affordable housing. Perhaps HCDCH has to resume the role of an Affordable Housing developer (like in the past) and/or take an active lead in implementing Affordable Housing programs with (or without) private partnership to insure there are constant affordable product being providing regardless of market conditions (do it in good and bad economic times)

Developers of worker housing projects may obtain expedited state and county land use and zoning approvals, as well as waivers from subdivision and building codes under Chapter 201G, Hawaii Revised Statutes. The intent is to reduce costs to reach the affordable target but many times there are inherent conflicts between the 201G waivers and county operating and maintenance. Though subdivision design of this type still must meet basic health and safety, counties are left with maintaining less than standard subdivision improvement. **First Time Affordable homebuyers need to understand that the subdivision processed under Chapter 201G is "substandard" due to waivers approved by the counties.** Additionally, since waivers or exemptions are discretionary, there are liability issues that arise with "substandard" subdivisions.

Under HRS Chapter 201G, a developer processes an application either through the State or the county housing agency. During the initial application review stage, while county agencies might provide comments on the proposed waivers, HCDCH or the county housing agency may allow the waiver request to go forward for approval by a County Council even though a particular county agency raised concerns about the proposed waiver of standards. Whether processed through HCDCH or the county housing agency, a 201G project requires a County Council to approve.

Unless the application also discloses that the developer intends to dedicate the improvements to give the County Council notice of the implication of agreeing to the waiver of County standards, the infrastructure would remain private and the homeowners association or the developer would be responsible for maintenance. We understand that the County's Attorneys have opined that State law requires the County to accept roadway dedications without imposing conditions when the improvements meet County standards (underground utilities -- drainage and sewer -- generally are accepted if those facilities are in the roads). In theory, the County Council could separately accept dedication of the infrastructure, with or without conditions, despite being substandard separately from the 201G approval process.

**Note that there is a policy concern with imposing maintenance costs on a project with a large number of affordable units due to the ongoing costs -- homeowners who qualify for affordable units may not be in the best position to be paying maintenance costs (i.e., pump stations, private sewer treatment plants, etc.).

Another issue may be the increased demand for "concurrent development" of public infrastructure in advance of growth and urban demand. Some "smart growth advocates" tout this principle as sensible as compared to the existing process which involves planning (i.e. 5, 10, 20 year plans) and implementing infrastructure according to priorities, demand and available funding. Advancing infrastructure construction in advance of housing construction means increasing up-front funding, which may neither be practical nor feasibility for the promotion of affordable housing.

Exhibit D

Government Financing Programs Work Group
December 10, 2004, 9 a.m., HCDCH Board Room

Present: Marvin Awaya (Chair), Jack Mahan, Mike Flores, Gail Kaito, Stacy Sur, Darren Ueki, Craig Hirai, Jeanne Hamilton.

Identification of Problem:
1) Are we using all the available resources to their maximum capacity? There are quantifiable amounts of federal funds that Hawaii has access to but are not being used to their full potential. For example,

- Vacant units in government assisted housing need to be put back into service as rentals to increase the affordable housing inventory.
- Hawaii has not gone for the 20 units of Section 202 housing for Honolulu for the past two years. The program is challenging to use. Governmental agency cooperation is vital to finding ways to make use of the program.
- Kauai and HCDCH currently have Section 8 housing choice voucher utilization rates below 90%. The vouchers could be project-based for acquisition or development to support increasing the inventory.
- What other programs are not being used to their fullest? How do we plug the leaks?

2) Agencies need to work so that the developers are provided with a full deck of cards to make their projects work. Are there local decisions (state level, county level, local HUD interpretations) that impede affordable housing?

- HUD 202 program.
- The timings of the Notices of Funds Available (NOFA) are staggered across the year. USDA generally issues its NOFA at the beginning of the calendar year, with applications submitted 90 days later. HUD generally issues its NOFA between March and May, with applications submitted June – August. HCDCH issues its Consolidated Application for tax credits, Rental Housing Trust Fund, etc., in late October, with applications due in January. The City and County of Honolulu issues its RFP for HOME and CDBR in September with applications due in late October and budget approval the following June. Other counties issue RFPs in October/November with applications due in January.
- Which impediments can be resolved and what can we do? Need to identify those policies and take steps to resolve them.

Steps to be taken:
1) Joint application session – HCDCH, HUD, USDA, and possibly Counties – can conduct two workshop sessions per year with potential applicants to discuss agency programs and application processes.

2) HCDCH, HUD, and USDA are committed to meeting monthly to go through coordination issues with their programs, identify what is not working, determine if it is a statutory or other issue, and find ways to get programs working together.

3) HCDCH will obtain an Attorney General opinion about whether HCDCH can certify to HUD multifinance regulations. If not, HCDCH will need enabling legislation.

Steps to be considered:

1) Projects need to be worked throughout the year, not just during application periods. Addressing the coordination from the policy standpoint is a long-term process. Addressing coordination from a project standpoint may be more productive in the short-term. Two potential models from economic development efforts are Red Teams and Community Economic Revitalization Teams (CERTs). A third possible model may be the "housing expediter" position that Maui County is trying.

   - Red Team: a project is identified that needs help. Member of the funding agencies, legislators, whomever, are assigned to meet to a red teams to meet on a project for a brief, designated amount of time. The object is not to show favoritism but to bring all the resources together on an issue.
   - CERTs are designed to provide a single point of access to state and federal programs in rural areas. It becomes an institutionalized one-stop shop. Agencies work together to tweak programs to make particular projects viable. Information about the Washington State CERT program is available at www.oted.wa.gov/ed/wacert/home.asp.
   - Maui County has designated a position to be a "housing expediter."

   To pursue a Red Team or CERT type of approach, criteria would need to be established so that projects are selected according to a public process or set of criteria. This may be through a county's competitive RFP process, etc. Once the competitive bar has been established, then the resources can be brought together to work on the issue.

   The Millenial Housing Commission report may provide some information or recommendations on federal coordination.

Working Group's Next Steps

1) The working group will meet at 1:30 p.m. on Wednesday, December 15, in the PEO conference room of HCDCH to finalize recommendations to the Governor, legislature, or financing programs.

Exhibit D

Coordination of Government Financing Programs Work Group
December 15, 2004, 1:30 p.m., HCDCH Board Room

Present: Marvin Awaya (Chair), Jack Mahan, Mike Flores, Mark Chandler, Cheryl Fukunaga, Gail Kaito, Stacy Sur, Darren Ueki, Janice Takahashi

<u>Update to December 8, 2004 notes</u>
During the meeting on December 8, 2004, the working group identified the underutilization of available resources including HUD Section 8 housing choice vouchers as a problem. As Kauai and HCDCH had voucher utilization rates below the HUD standard of 90%, it was suggested that the unused vouchers could be project-based to acquire or develop rental housing. It appears this is no longer an option since funding levels will be reduced in 2005 for agencies that did not fully utilize their section 8 voucher allocations in 2004. The 2005 appropriations act implements a budget-based method to determine the level of funding for the section 8 housing choice voucher program. The amount allocated for the program in 2005 will be based on the average lease-up level for the months of May-July 2004 multiplied by 12 with some adjustments. Therefore, project-basing of unused section 8 vouchers is no longer a viable financing option to stimulate the development or preservation of rental housing. **With HUD's shift to project-based budgeting, it is important that agencies closely monitor utilization and improve coordination between the leasing and budgeting functions.**

<u>Coordination and leveraging of funding sources</u>
Construction costs have increased substantially. A member of the working group mentioned that between January and August 2004 project costs increased by 30% due primarily to increases in the cost of steel, fuel, and the production of petroleum-based products. Developers must seek and leverage various sources of funding to enhance project feasibility. Under the Community Planning and Development programs, HUD encourages a mix of incomes to improve project feasibility. The USDA-RD is paying increased attention to "moderate" income, defined as 115% of the HUD median income. Under the Guaranteed Rural Rental Housing (Section 538) Program, the average rent of all units is 30% of 100% of the area median income and maximum rents are 30% of 115% of the area median income.

Some financing programs do not allow for taking a second position. **The use of parity loans should be explored to improve the leveraging of multiple financing sources.** Government agencies could enter into a tri-party agreement which identifies how debt and equity would be split in the event of default.

<u>Land and zoning issues</u>
Another major component of construction costs is the high cost of land. **The state or county legislative bodies could enact land-related incentives as follows:**

- Provide a 2:1 tax deduction for the donation of land for affordable housing.
- Provide state tax credits for the donation of land for affordable housing.
- Provide additional development density for the donation of land for affordable housing.
- Create community land trusts.
- Authorize the transfer of development rights.
- Authorize leases of government property for affordable housing at $1.00 per year.

- Create a system of exactions for affordable housing. (It should be noted that the members discussed the possibility that exactions could have a negative effect on production and if adverse to the financial feasibility of a development. An exaction, if imprudently applied could have the unintended effect of impeding the production of affordable housing. Consideration should be given to crediting additional or fractional "affordable housing credit" for the development of projects that target lower income residents.)
- Streamline the land entitlement process. Government grants or loans may be lost due to the lengthy process. The USDA has a self-help housing grant and site loans that are good for 24 months. Grantees may lose the USDA grant because it takes more than 2 years to obtain entitlements.
- Create county "expediters" to expedite the development of affordable housing. The expediter would steer affordable housing projects through the county entitlement process. (Note: Maui County has an "expediter." However, that person may not be functioning as members envision here. The chief executive of the county may have to intervene and appoint a departmental cabinet-level assistant to coordinate projects between various county departments. This appointment is contingent on local resources and the current level of coordination in each of the counties.)

<u>Revise government financing programs for added flexibility</u>
During the December 8th meeting, the working group suggested that **joint informational meetings be held to help developers to understand federal and state financing programs and how the funds can work together.** There is commitment to do this and beginning in January 2005, the HCDCH will be meeting with the federal and county housing directors to move toward improved coordination of the financing programs.

Federal financing program requirements are generally firm and the most difficult to change. Therefore, state and county housing programs should be designed to augment existing federal programs. **Consideration should be given to a concurrent resolution requiring the HCDCH to convene a coordinating committee comprised of housing stakeholders to evaluate government financing programs and make recommendations to improve the coordination of programs to support the development and preservation of affordable housing. The concurrent resolution should appropriate funds to facilitate neighbor island participation.**

The coordinating committee established pursuant to the concurrent resolution would not replace the coordinating team approach for specific projects that was discussed on December 8, 2004. The Community Economic Revitalization Teams (CERTs) concept was recommended to addressing coordination from a project standpoint. In Washington State, CERTs were designed to provide a single point of access to state and federal programs in rural areas. It becomes an institutionalized one-stop shop. Agencies work together to tweak programs to make particular projects viable.

The Rental Housing Trust Fund (RHTF) program could be streamlined and made more flexible to enhance project feasibility. Proposed revisions follow:

- Eliminate duplicative reviews and streamline the RHTF approval process by repealing the RHTF Advisory Commission.

- Repeal sections 201G-432(e) and (f), HRS to allow for more flexibility in the use of the RHTF.
- Amend section 201G-432(g), HRS by removing the loan-to-value ratio cap of 95% and revising the debt-coverage ratio to not less than 1.0 to 1.0.
- Amend section 201G-435, HRS to expand the pool of eligible applicants to include nonprofit and for-profit developers and corporation, limited liability corporations or partnerships, and partnerships.
- Authorize the RHTF to pay for pre-development grants. (Note: The RHTF may fund pre-development loans or grants. However, the RHTF has not recently funded this activity due to limited funds.)
- While not a legislative action, a separate report to HCDCH will be provided on streamlining the administrative and loan approval process. There are several requirements that are outdated and inapplicable to second mortgage financing. Furthermore, the RHTF needs encouragement to be less "risk adverse" and more proactive in processing and reviewing loan applications.

Consideration should also be given to authorize the HCDCH's Dwelling Unit Revolving Fund to be used for permanent financing by amending section 201G-411, HRS.

<u>"Big" bond issue</u>
There was agreement among the working group that political will is needed to address the housing crisis. The State of California enacted Proposition 46, the Housing and Emergency Shelter Trust Fund Act of 2002, in response to the state's continuing housing crisis. The Act was a $2.1 billion bond measure that provided millions of dollars to help fund the construction, rehabilitation and preservation of affordable rental housing, emergency shelters and homeless facilities, as well as funds for downpayment assistance to low and moderate income first-time homebuyers. Seniors, families with children, teachers, persons with disabilities, veterans and working people were identified as the beneficiaries of Prop. 46. The money to pay for the Prop. 46 programs came from tax revenues generated over a 20 year period. By financing the cost of the housing programs over time, the State could offer much-needed programs today without incurring a large expense in the immediate fiscal year. Although California was in a deficit in 2002, the State decided it was a good time to issue taxable bonds since interest rates were low. The development of housing that resulted from Prop. 46 were also viewed as an economic stimulus. The following link provides a list of programs from Prop. 46:
http://www.calhfa.ca.gov/hcd-prop46.pdf

If there is political will, the State of Hawaii could issue taxable bonds to address Hawaii's housing crisis. Proceeds could be used for the development of affordable housing, homeless facilities, credit enhancement (loan guarantees) for conventional financing, and downpayment loans for first-time homebuyers. Proceeds from the bond issue would be allotted without a requirement to repay the funds.

<u>Graduated conveyance tax</u>
The RHTF, in combination with low-income housing tax credits, has been the primary source of financing for the development of affordable rental housing. Approximately 200-250 rental units are developed or preserved annually. **To increase the level of funding for the RHTF,**

consideration should be given to increasing the amount of the conveyance tax on higher-priced properties. Currently, the conveyance tax rate is 10 cents per $100.00 of consideration. The tax rate could be adjusted as follows: 10 cents per $100.00 for consideration paid in the amount of less than $600,000; 20 cents per $100.00 for consideration paid in the amount of $600,000 to less than $1 million; and 30 cents per $100 for consideration paid in the amount of $1 million or greater.

Financing Strategies to Develop Affordable Housing
October 26, 2004, 9:00 a.m., HCDCH Boardroom

Present: Craig Hirai (Chair), Debbie Luning, Betty Lou Larson, Laura Thielen, Darren Ueki, Mavis Masaki, Janice Takahashi

Sources of financing to develop rental housing include:

1. Rental Housing Trust Fund (RHTF) provides equity gap financing at very favorable terms.

2. Hula Mae Multifamily Program provides tax-exempt bond financing for for-profit and nonprofit entities. The program may be coupled with the 4% tax credits. Debt must be repaid.

3. In lieu fees. Developers may have the option of satisfying an affordable housing condition imposed by the State Land Use Commission or a county unilateral agreement by paying a fee instead of actual developing affordable housing. The fees generally are paid to the counties.

4. General excise tax (GET) exemptions. The HCDCH and the counties are authorized under Sections 46-15.1 and 201G-116, HRS, to certify eligible affordable housing projects for exemption from GET. This equates to a cost savings of approximately 4% per unit.

Strategies for consideration:

1. When mortgage interest rates or real property taxes increase, homeowners are able to realize larger Hawaii income tax deductions, which can be viewed as subsidies from the General Fund. However, when a tenant's rent increases his or her landlord pays 4% of the increase to the State General Fund as GET. The State Department of Taxation estimates that GET collections on residential rents is $86.6 million for FY 2004, based on U.S. Census Bureau , U.S. Bureau of Labor Statistics, and DBEDT data. **Is there a way to capture a share of any increase in GET collections on residential rents or a share of the GET collections on residential rents?** Funds could be deposited in the Rental Housing Trust Fund (similar to how 25% of conveyance tax revenues are currently deposited in the RHTF).

2. GET exemptions serve as an incentive for developers to develop affordable housing. Presently, developers must generally participate in a "government assistance" program approved by the HCDCH to be eligible for the exemption. **The GET exemption could be expanded to privately-sponsored affordable rental housing projects that are newly constructed or substantially rehabilitated within a certain timeframe.** Eligibility criteria must be developed including the minimum number of units, minimum period of affordability, timeframe to commence and complete development, etc. Legislation will be needed.

   Section 8 voucher recipients have difficulty finding rental units in the private market. Should GET exemptions be provided to landlords who rent to Section 8 recipients? After some discussion, the working group decided that to exempt all Section 8 rents from GET would be too costly relative to any new rental housing units created, and tabled the proposal.

3. Unilateral agreements do not provide sufficient incentive for developers to build rental housing. **The counties should consider providing 2 to 3 times more affordable housing credit to developers for building affordable rentals. The counties should also allow developers to build the affordable rentals outside of the developer's development plan area anywhere in the county or on Hawaiian Home Lands.**

4. The RHTF receives 25% of conveyance tax collections or approximately $2-3 million per year. The RHTF program, coupled with low income housing tax credits, is the most productive of all government assistance programs. However, there isn't enough money in the RHTF. **More of the conveyance tax collections could be diverted to the RHTF; suggest an increase to 50% of current collections.** Legislation will be needed.

5. **Community Reinvestment Act** funds could be used to augment the RHTF.

Next meeting: November 9, 2004 at 9:00 a.m. at HCDCH.

Exhibit D

Financing Strategies to Develop Affordable Housing Working Group
November 9, 2004, 9:00 a.m., HCDCH Boardroom

Present: Craig Hirai (Chair), Gail Kaito, Laura Theilen, Betty Lou Larson, Vito Galati, Sandi Miyoshi, Mavis Masaki, Janice Takahashi, Darren Ueki.

<u>Authorize a percentage of General Excise Tax (GET) collections on residential rents to be deposited into the Rental Housing Trust Fund (RHTF).</u>

The State Department of Taxation (DoTax) estimated that FY 2004 GET general fund tax collections on residential rents were $86.6 million. There are at least a couple of administrative hurdles to track the exact amount of residential tax collections. The DoTax would have to revise the General Excise Tax (GET) forms and create a computer line entry. The earliest that can happen is calendar year 2006 since the GET forms have already been prepared for 2005. At this point, it is unknown how difficult this is or how much it will cost.

1. In the alternative, why not look at capturing a percentage of tax collections on total rents? Total rents include equipment rentals and commercial leases, and as such, there is no clear nexus.

2. Given the uncertainty of how much will be collected, what about a straight dollar amount instead of a percentage of GET collections? From a budget standpoint, it is easier to justify particularly when collections decrease.

How much is needed in the RHTF to satisfy housing development activity? Approximately $5-10 million is needed each year to effectively leverage the low income housing tax credits. Funds from the RHTF could also be leveraged with Community Development Block Grant, HOME Investment Partnerships or Federal Home Loan Bank funds. Project-based Section 8 rent subsidies really improve project cash flow and allow the RHTF loan to be repaid faster. In theory, the RHTF could put money in any rental housing project to enhance its feasibility. While there is no ceiling on RHTF loan amounts, RHTF policy has been to leverage RHTF funds as much as possible. The largest RHTF loan amount was for approximately $4 million; the average has been between $1.5 million and $2.75 million. The level of development applications has also been driven by what is available in the RHTF. Approximately $7 million in RHTF funding is needed annually to leverage the 9% federal low income housing tax credits available for the State of Hawaii.

If the Legislature was to authorize 25% of GET collections on residential rents, this would amount to approximately $20 million each year for the RHTF. With an additional $5 million from conveyance tax collections, the RHTF would have a total of approximately $25 million annually. Historically, leveraging of the RHTF with the 9% low income housing tax credits resulted in approximately 250 units per year. With additional funding for the RHTF, approximately 150 additional rental units could conservatively be developed each year. This is based on a development cost of $200,000 and the following leveraging ratios: a 15% conventional first mortgage and 85% from the RHTF and other sources. This would result in the total production of approximately 400 rental units per year or 4,000 rental units over a ten-year period.

The justification to enact legislation to capture a percentage of GET collections for residential rents should include a comparison with income tax benefits for homeowners.

What is the estimated revenue loss on the State General Fund of income tax deductions for homeowner payments of real property taxes and home mortgage interest? DoTax estimated that in 2002 at a 6% effective State income tax rate the revenue loss because of homeowners' mortgage interest deductions was $100 million and the revenue loss because of homeowners' real property tax deductions was $8 million, or a total estimated tax benefit to homeowners of $108 million.

<u>Authorize GET exemptions for planning, design, financing and construction of affordable housing units (up to 140% of the area median income) for a period of 5 years.</u>

Developers in the Streamlining Working Group did not believe the GET exemption for rental units for families earning up to 80% of the area median income was enough of an incentive to stimulate the development of affordable rentals. The GET exemption should be viewed in combination with other incentives. Additionally, developers felt that an income tax credit was preferable to the GET exemption. In reality, DoTax did not allow developers take the tax credit, as there was no mechanism to pass the benefit on to the homeowner. As such, the Financing Working Group felt the GET exemption should be legislatively pursued. However, the GET exemption should be expanded to include for sale housing units for those earning up to 140% of the area median income to address the underserved. There is a need to increase the overall supply of housing units. It is easier to build for the higher end of the affordable housing spectrum (e.g., 140% of median v. 50-80% of median income) and it takes the least amount of incentive. The strategy should be to put the largest number of units on the market at the fastest rate possible. That would free up units at the lower end of the income spectrum although not at a 1:1 ratio given the extent of households doubling up. At the same time, we cannot lose sight of the need to focus on low income rentals particularly since the overall cost to the community is great. The amount spent on the homeless population and the instability that homelessness causes is great. By providing permanent affordable housing, those costs are reduced.

The GET exemption should apply to affordable housing projects of 5 or more units inasmuch as it is not particularly cost effective for either owners or the HCDCH to administer GET exemptions for extremely small projects, and it was felt that the residential loan cutoff of 4 units would be appropriate in this case. It was also felt that a 2-year exemption period would be too short given the lengthy time period to obtain government approvals, and that an exemption period of 5 years would be appropriate.

Legislation should authorize the HCDCH to collect reasonable fees to administer all GET exemption programs.

Counties should allow a developer to satisfy an affordable housing condition by building affordable rental housing units off-site in an area acceptable to the county including on Hawaiian home lands.

The previous strategy under consideration by the Financing Working Group was to allow developers to build the affordable rentals outside of the developer's development plan area **anywhere in the county** or on Hawaiian home lands [emphasis added]. In retrospect, rental housing should be suitably located as determined by the counties. The county planning directors should be consulted on this recommendation.

Authorize an increase from 25% to 50% of conveyance tax collections that are diverted to the RHTF.

Draft legislation.

Utilize Community Reinvestment Act funds to augment the RHTF.

Banks have a CRA that may be satisfied in many different ways. In 1992, the banks with assistance from the State and City established the Hawaii Community Reinvestment Corporation (HCRC) to address the CRA requirement. Until 2004, the banks controlled the HCRC board and it operated much like a mini-bank. Major changes were made in 2004 to enable the HCRC to bring in people involved in the housing community and renew its commitment to rental housing.

Consider Authorizing RHTF Funding for HUD Mixed-Finance Public Housing Development.

Under the HUD Mixed-Finance Public Housing Development program, public housing units may be intermixed with non-public housing, low-income, and/or market rate housing units to create a mixed-income development. Homeownership opportunities for public housing residents and others within a mixed-finance/mixed-income development may also be allowed. If a mix of public housing units and non-public housing, low-income, and/or market rate rental housing units are to be constructed or rehabilitated under this program, consideration should be given to authorizing RHTF funding for such developments.

Next meeting: December 7, 2004 at 1:00 p.m. at HCDCH. (The meeting was subsequently rescheduled to December 13, 2004 at 9:00 a.m. at HCDCH.)

Financing Strategies to Develop Affordable Housing Working Group
December 13, 2004, 9:00 a.m., HCDCH Planning Conference Room

Present: Craig Hirai (Chair), Karen Iwamoto, Gail Kaito, Betty Lou Larson, Debbie Luning, Sandi Miyoshi, Mavis Masaki, Darren Ueki, Chuck Wathen, Janice Takahashi

General Discussion

Condominium units have been a large component of the rental supply. In recent years, many of these units have been sold as owners take advantage of the seller's market. This loss in rental housing stock places upward pressure on rents. A member of the working group projected that rents will increase by as much as 8% a year over the next 4 years.

Rents have not, however, reached a level to spur the private development of rental housing units. Therefore, there is a need to create competition to develop rental housing by providing developer incentives including financing and the removal of disincentives. Disincentives include restrictions on developer's profit, a lengthy approval process, and unnecessary financing requirements. While the state should diligently review applications for financing assistance, flexibility is needed. The extent to which a project is scrutinized should be commensurate with the level of risk. For example, if there is credit enhancement for a tax-exempt revenue bond financed project, there could be less scrutiny by the State

General Excise Tax (GET) collections on residential rents

Reference is made to a July, 2004 report by the State Department of Taxation (DoTax) entitled *"Tax Credits Claimed by Hawaii Taxpayers, 2002."* Of the $125.9 million in tax credit claims in tax year 2002, there were general fund outflows benefiting residential renters of approximately $10.2 million (the Low-Income Renter's Credit of $7.18 million and the Low-Income Housing Tax Credit of $3.025 million). The DoTax estimated that FY 2004 general fund tax collections on residential rents were $86.6 million. If there is approximately $10.2 million in residential tax credit claims, that leaves about $76 million in general excise taxes paid by renters that continues to be retained annually in the general fund. **Thus, the working group believes that it would be reasonable to transfer significant portions of the annual amount of general excise taxes collected on residential rents being paid into the general fund to the Rental Housing Trust Fund for a period of ten years.**

Consider Authorizing RHTF Funding for HUD Mixed-Finance Public Housing Development.

The HUD Mixed-Finance Public Housing Development program transforms the typical "public housing project" to a mixed-income housing community. If a mix of public housing units and non-public housing, low-income, and/or market rate rental housing units could be constructed or rehabilitated under this program, **consideration should be given to authorizing Rental Housing Trust Fund (RHTF) funding for such mixed-finance developments.** The level of funding for such projects must be equitable keeping in mind the need to construct other types of rental housing both on Oahu and the neighbor islands.

Pursuant to HRS section 201G-432(e), (1) at least 50% of the RHTF-funded units in a project must be for persons and families with incomes up to 60% of the area median family income (MFI); (2) at least 10% of the units must be for persons and families with incomes up to 30% of

MFI; and (3) the remaining units for persons and families with incomes up to 100% of MFI. While meeting the 10% @ 30% MFI and 50% @ 60% MFI requirements is probably attainable in HUD mixed-finance projects, the 100% MFI restriction may be unfeasible particularly when market rents are needed to subsidize the lower-income units**. Consideration should be given to amending the 100% MFI income cap in section 201G-432(e)(3).**

In HUD mixed-finance public housing developments, the HCDCH may need to become a partner in a formal partnership or a member in limited liability company with a for-profit developer. Such a formal partnership or limited liability company would technically be a for-profit entity. Pursuant to section 201G-436, HRS, preference for RHTF funding may be given to non-profit developers over for-profit developers. This preference may hinder the HCDCH from partnering with for-profit developers to revitalize public housing under the HUD Mixed-Finance Public Housing Development Program. **Consideration should be given to modifying section 201G-436, HRS for HUD mixed-finance development projects.**

RHTF Funding for Preservation and New Construction Projects

At the Moanalua Terrace, a 700+ unit preservation project, approximately 50% of the units are rented at market prices. This mix of lower-income and market units is needed to ensure the financial and socio-economic viability of the project. The income for market rate residents generally does not exceed 140% of MFI.

It is estimated that a new construction rental project could feasibly support no more than 20% of its units at up to 50% of MFI. Developers do not want to be hampered by RHTF income restrictions such as those stated in section 201G-432(3). Another RHTF restriction that may serve as a disincentive to private-sector participation in the development of rental housing is the preference for non-profit developers over for-profit developers. The intent should be to encourage widespread development of rental housing to address the critical shortage. **Consideration should be given to modifying the income requirements in section 201G-432(3), as well as the nonprofit developer preference in section 201G-432(3).**

RHTF Funding for Student Housing

A large number of units in McCully and Moiliili are rented to university students. If more student housing units are built, that would relieve pressure on the rental market in these neighborhoods and in other neighborhoods impacted by university and college students. **Consideration should be given to authorize the RHTF to finance student housing projects.**

Next meeting: December 16, 2004, 2:00 p.m., HCDCH Planning Conference Room

Financing Strategies to Develop Affordable Housing Working Group
December 16, 2004, 2:00 p.m., HCDCH Planning Conference Room

Present: Craig Hirai (Chair), Karen Iwamoto, Gail Kaito, Betty Lou Larson, Debbie Luning, Sandi Miyoshi, Mavis Masaki, Laura Thielen, Chuck Wathen, Janice Takahashi

Analysis of State Financing and Development Programs
The HCDCH's financing and development assistance programs must be user-friendly for developers in order to expedite the development of affordable housing. While decision-making must be based on a system that is transparent and accountable, overly restrictive eligibility and selection criteria and a lengthy approval process serve as barriers to housing production. Placing restrictions on a developer's profit margin, for example, may serve as a disincentive to development. Instead, the loan documents could include deed restrictions on the affordable housing unit. **Consideration should be given to enacting legislation that calls for a comprehensive analysis of the HCDCH's financing and development programs and recommendations for legislative and administrative changes to make the HCDCH's programs more user-friendly.** A committee of bankers, developers, and other industry leaders could review and assess HCDCH's enabling legislation, programs, policies, and administrative rules. Public informational meetings could be held to solicit input on the committee's preliminary findings and recommendations prior to submittal of a final report to the Legislature no later than October, in advance of the next legislative session. A legislative appropriation will be needed.

State Guarantee of Private Equity Fund
A member of the working group suggested the creation of a private equity fund such as the Enterprise Foundation, a national foundation, to support the development of rental housing units. Funding sources for the equity fund could include the banks (to satisfy CRA requirements). The State of Hawaii could offer a "moral obligation" pledge as a credit enhancement for the equity loan to lower the cost of financing. The member believed that since the State would not be pledging its full faith and credit, such a guarantee would not adversely impact the State's bonding authority. However, the group felt that if legislation is introduced this session, further consideration should be given to questions such as whether the State may be required to appropriate money for a reserve fund in the event of default.

Amendments to the Rental Housing Trust Fund (Subpart III.Q. of Chapter 201G, HRS)
To enhance project feasibility and encourage the production of rental housing, consideration should be given to revising the legislative restrictions on the use of the RHTF.

- **Repeal section 201G-432(e), HRS.**
  Section 201G-432(e), HRS reads as follows:

  "Moneys in the fund shall be used for the purpose of providing in whole or in part loans or grants for housing projects wherein:
  (1) At lease fifty per cent of the available units are for persons and families with incomes at or below sixty per cent of the median family income;
  (2) At least ten per cent of the available units are for persons and families with incomes at or below thirty per cent of the median income; and

(3) The remaining units are for persons and families with incomes at or below one hundred per cent of the median family income; provided that the corporation may establish rules to ensure full occupancy of fund projects."

While there is a need to provide housing opportunities for households at the bottom end of the income scale, the income restrictions imposed in subsection 201G-432(e), HRS may negatively impact overall project feasibility and hinder the overall production of rental housing units. The HCDCH should provide developers with the flexibility needed to build affordable and sustainable rental housing projects. Rather than imposing strict income limitations, the HCDCH should give preference to rental housing projects that provide for the maximum sustainable number of units for lower income persons or families as a portion of an overall mixed-income tenant population. Moreover, funding from the RHTF is generally coupled with the allocation of low-income housing tax credits. As most tax credit projects provide rental housing units for households with incomes at or below sixty per cent of the median family income, the needs of the 60% target group should be addressed. The working group therefore recommends that Section 201G-432(e), HRS be amended to read as follows:

"Moneys in the fund shall be used for the purpose of providing in whole or in part loans or grants for rental housing units for persons and families with incomes at or below one hundred forty per cent of the median family income."

- **Repeal section 201G-432(f), HRS.**
  This section requires that at least one-third of the funds allocated to construction projects for the biennium shall have been committed to projects that guarantee affordable units to persons or families within comes at or below thirty per cent of the median income pursuant to subsection (e)(2). It also requires that the HCDCH to report annually to the Legislature documenting existing projects in compliance with subsection (e)(2). If section 201G-432(e) is modified as set forth above, section 201G-432(f), HRS should be modified accordingly or repealed.

- **Amend section 201G-436, HRS.**
  This section defines activities eligible for assistance from the RHTF, preferences for the types of housing structures funded by the RHTF, and preferences for the types of rental projects funded by the RHTF. The following revisions to section 201G-436, HRS are proposed to enhance project feasibility and support the overall production of rental housing units:
  "201G-436 Eligible projects. (a) Activities eligible for assistance from the fund shall include but not be limited to:
  (1) New construction, rehabilitation, or preservation of [~~low-income~~] rental housing units [~~that meet the criteria for eligibility described in subsection (e);~~] <u>for persons and families with incomes at or below one hundred forty per cent of the median family income;</u>
  (2) The leveraging of moneys with the use of fund assets;
  (3) Pre-development activity grants or loans to nonprofit organizations; and

(4) Acquisition of rental housing units for the purpose of preservation as [~~low-income or very low-income housing~~] rental housing units for persons and families with incomes at or below one hundred forty per cent of the median family income.

(b) [~~Preference shall be given to projects producing~~] An eligible project shall produce units in at least one of the following categories:

(1) Multifamily units;
(2) Attached single-family units;
(3) Apartments;
(4) Townhouses;
(5) Housing units above commercial or industrial space;
(6) Single room occupancy units;
(7) Accessory apartment units;
(8) Employee housing; [~~and~~]
(9) Student housing;
(10) Assisted living facilities; and
(11) Other types of units meeting the criteria for eligibility set forth in subsection (c).

(c) The corporation shall establish an application process for fund allocation that gives preference to projects meeting the criteria set forth below that are listed in descending order of priority:

(1) Serve the original target group;
(2) Provide [~~maximum number of units for the least amount of subsidy~~] at least five per cent of the available units for persons and families with incomes at or below thirty per cent of the median income;
(3) Provide the maximum number of units for persons and families with incomes at or below eighty per cent of the median income;
(4~~3~~) Are committed to serving the target population over a longer period of time;
(5~~4~~) Increase the integration of income levels of the immediate community area;
(6~~5~~) Meet the geographic needs of the target population, such as proximity to employment centers and services; and
(7~~6~~) Have favorable past performance [~~with fund moneys.~~] in developing, owning, managing or maintaining affordable rental housing.

The corporation may include other criteria in the above process as it deems necessary to carry out the purpose of this part.

If the corporation, after applying the process described in this subsection, finds nonprofit project equally ranked with a for-profit or government project the corporation shall give preference to the nonprofit project in allotting fund moneys.

Working Group on Institutional Structure
November 16, 2004, 2:00 p.m., HCDCH Boardroom

Present: Don Tarleton (Chair), Craig Hirai, Warren Suzuki, Henry Oliva, Pamela Dodson, Dean Uchida, Janice Takahashi, Mavis Masaki

> Assignment – "Create an institutional structure to focus on stimulating the development of affordable, workforce housing."
>
> Workforce housing was defined as housing for working class households whose income is in the range of 80 to 140 percent of the HUD area median income.

Background
The working group arose out of comments at the August 17th Task Force meeting that responsibility for public housing, land reform and housing finance and development is too much on one plate for the Housing and Community Development Corporation of Hawaii (HCDCH) Executive Director and Board to handle effectively. The HCDCH has had a history of morphing in structural format over the years. Originally, the Hawaii Housing Authority (HHA) was a unified housing agency. It was split into the Housing Finance and Development Corporation (HFDC), which assumed the housing finance, development and land reform functions, and a smaller HHA, which retained the public housing and housing management functions. The two were subsequently merged into the HCDCH. The suggestion made at the August 17th meeting was to split off the housing finance functions into a separate agency, or conversely, split off the public housing side.

Survey of National Council of State Housing Agencies (NCSHA) members
Prior to the meeting, Chair Tarleton conducted a survey of state housing finance agencies (HFAs) nationwide to determine how their housing agencies were structured functionally. Of the 52 agencies surveyed, 17 responded. The survey results are attached to this summary.

Most HFAs do not supervise public housing, or engage in development or sale of housing themselves. The survey also showed that most HFAs delegated more decision-making authority to staff with respect to applications for assistance, and that several agencies were quasi-autonomous from their state administrations, and, for example, have exemptions from state procurement rules, employment practices, and other bureaucratic mandates.

Additionally, Chair Tarleton mentioned that although he did not receive survey responses from every jurisdiction, that he was aware through NCSHA anecdotally that only Alaska and Hawaii have public housing functions.

Discussion
There is a tremendous need for the development of new affordable housing units, and that HCDCH's Finance Branch is practically the only entity in the State bringing about new production of affordable rental housing through its financing packages. However, a substantial portion of the HCDCH Board time is devoted to public housing items. Given that the HCDCH Board is comprised of volunteers with a limited amount of time to devote to the agency, it was

discussed whether there was enough time for the Board to concentrate on the finance and development issues.

Based on the example of the consolidation of HHA and HFDC into the HCDCH, it would take two years to complete a formal structural change because it would require legislation and a formal reorganization. However, the HCDCH has other priorities that must be accomplished in the meantime, so it may not be the best time to actually implement an agency split right now. However, the survey results and examples of best practices nationally indicate that that course of action would probably be best.

The working group discussed alternatives to a split. Mixed-finance housing, a HUD initiative, was suggested as a means to replace or refurbish public housing units. It would involve public/private partnerships to redevelop public housing properties intermixed with affordable and market units. The private sector partner may be able to satisfy county affordability requirements by participating, and the HCDCH would gain new public housing units. Also, the private sector could manage the property while the HCDCH would only supervise. It was noted that this initiative may not add to the inventory of affordable units overall, and there remains a significant need for new affordable rental units.

The HCDCH has only approximately 5,000 public housing units statewide, which takes up a significant amount of its time, whereas the entire market requires more inventory (i.e. 17,000 affordable rental units). If nothing is done to address aging apartments, the State would actually lose inventory. It was suggested that the HCDCH focus on where its efforts can be best allocated to solve the affordable housing problem. For example, the HCDCH needs to complete decision-making on its financing programs more quickly. Decision-making on tax credit awards took 9 months this year, in part because the same architects and engineers that review the proposals also have duties relating to public housing rehabilitation. The public housing related duties must come first, resulting in the deferral of applications for programs such as the Low-Income Housing Tax Credit Program.

<u>Suggestions for future action/consideration</u>
The HCDCH needs to work to demonstrate that its work is of value to the community and demonstrate its credibility as an agency, and needed resources and political support will follow. It was suggested that a split, if decided upon, should come after the education process is completed.

There was a suggestion that the recommendation should be to further study an agency split. However, the group decided to consider the matter further and meet again to come up with its final recommendation.

<u>Next meeting</u>
The group agreed that another meeting will be scheduled in December at a time and place to be determined to complete the final recommendations.

Exhibit D

Working Group on Institutional Structure
December 2, 2004, 10:00 a.m., HCDCH Boardroom

Present: Don Tarleton (Chair), Craig Hirai, Charles Ota, Henry Oliva, Pamela Dodson, Dean Uchida, Janice Takahashi, Mavis Masaki

> Assignment – "Create an institutional structure to focus on stimulating the development of affordable, workforce housing."

Discussion

Chair Tarleton updated the group on three additional survey responses received since the previous meeting. Rhode Island, New York City, and Illinois responded, and all three have separate Housing Financing Agencies (HFAs) that do not administer public housing programs.

There was discussion regarding the HCDCH's status as a "troubled" public housing authority (PHA). The HCDCH has entered into a Memorandum of Agreement (MOA) with the U.S. Department of Housing and Urban Development (HUD) to resolve problems that HUD has identified related to several aspects of the HCDCH's management and maintenance of its federal public housing properties. The HUD Assistant Secretary for Public and Indian Housing, Michael Liu, has stated that if HUD is not satisfied that the HCDCH has complied with the terms of the MOA at the end of the MOA period, the HCDCH could enter HUD receivership. Under receivership, all of the HCDCH's assets, whether or not directly related to public housing, could be taken over by HUD receivers. This would include affordable housing financing and development assets, like the Dwelling Unit Revolving Fund and the Rental Housing Trust Fund. If that in fact took place, it is likely that efforts that are not related to public housing, such as the Governor's initiative to spur the development of 17,000 new affordable rental units, will be sidelined. However, if a separate HFA were created, to which the HCDCH's revolving funds would be transferred, those assets may not be taken over by HUD receivers.

Chair Tarleton threw out for discussion the concept of creating a new HFA within the State government from scratch. The new HFA would administer the Hula Mae Single Family, Mortgage Credit Certificate, Hula Mae Multi-Family, Low-Income Housing Tax Credit, and Rental Housing Trust Fund programs, General Excise Tax exemptions, and the Section 8 Program. The advantages of this proposal would be that it would be easier to set up a new agency that is modeled like the HFAs employed by the other 48 States. The new agency would have a governing board appointed by the Governor. There was discussion over the practicalities of how such an action would be implemented, including to what Department the HFA would be attached, and whether positions would be transferred from the HCDCH's Finance branch to the new agency or whether new positions would be created.

One advantage would be that the new agency's board would have an opportunity to become more knowledgeable in the details of housing financing programs, such as bond financing, and, because of that familiarity, would be more comfortable with delegating some decision-making to staff in order to deliver financial resources more expeditiously. The board would be able to devote all of its time to developing resources to bring about needed affordable housing units.

This would result in more streamlined decision-making on financing packages and be more business-friendly. It was also suggested that the new agency follow a private sector organizational model. The result of the new agency would be faster, more professional delivery of financial services to speed production of affordable housing.

Concerns were raised that by creating a new HFA apart from the HCDCH and its Development branch, the current initiative to package financing and developable lands for developers to create incentives to build affordable housing might suffer. However it was noted that the new HFA and the HCDCH could work together on affordable housing projects.

Mr. Oliva suggested we look at Act 51, SLH 2004, which phases in the transfer of functions, positions, and resources prospectively. Therefore, it may be possible to immediately create a new housing finance agency to demonstrate legislative intent while allowing more time for the transfer of the housing finance functions, positions, and funding sources to occur.

It was suggested that the HCDCH also consider partnering with the private sector in order to more efficiently handle some of its public housing agency (PHA) functions. This would involve taking an approach similar to the public-private ventures used by the military, whereby, a private-public venture would acquire, develop and manage mixed-income, mixed-use, and/or mixed-finance housing projects in partnership with the HCDCH. HUD, under its mixed-finance public housing development program, already allows PHAs to leverage HUD funds with private or other public sources of financing to develop projects with public housing units and may provide an operating subsidy for the ongoing operation of these public housing units. A key part of this initiative would be for the HCDCH to restructure its portfolio of properties in order to obtain capital and address its public housing backlog. Mixed-finance public-private ventures would also be helpful in increasing the overall number of affordable rental units.

Another form of privatization would be for the State to issue a request for proposals for the development of workforce housing. In return the selected developer would receive zoning or other entitlements for another parcel of land unrelated to the housing parcel. For example, the developer would be granted commercial or industrial zoning which could offset losses relating to the development of workforce housing.

<u>Recommendations</u>:

The four alternatives are:

1. Create a new HFA.
2. Separate the public housing functions by transferring the financing and development functions to a newly created housing finance and development agency (e.g. HHA and HFDC);
3. Create a mini-HFA within the HCDCH; or
4. Strengthen what HCDCH has now.

Of the four alternatives, the Working Group decided on the following recommendations:

1. The group feels that an HFA would be the most responsive organizational structure and would provide the most professional delivery of financial services to speed production of affordable housing. Therefore, a new HFA should be created to administer the Hula Mae Single Family, Mortgage Credit Certificate, Hula Mae Multi-Family, Low-Income Housing Tax Credit, and Rental Housing Trust Fund programs, General Excise Tax exemptions, and the Section 8 program. The new HFA should be business-friendly and responsive to private and non-profit developers in the delivery of financial resources for affordable housing development.

2. The HCDCH should implement HUD's mixed finance housing initiative to improve the conditions of its public housing properties and increase the number of affordable rentals. In doing so, the HCDCH should partner with the private sector to carry out the burdens of ownership, including the day-to-day management and maintenance work, allowing the HCDCH to focus on compliance and oversight.

The Working Group also recommended that the HCDCH share the preliminary findings and recommendations of the Affordable Housing Task Force with key stakeholders before finalizing the report to the Legislature. Stakeholders include the HCDCH Board of Directors, the Mayors, the federal, state and county housing directors, and the county planning directors.