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**July 2, 2009**

**Transportation and Planning Committee  
City and County of Honolulu  
Hearing Date: Thursday, July 2, 2009, 9:00 a.m.  
Committee Meeting Room**

**Comments Regarding Communication D-423(2009)  
Draft City Affordable Housing Rules  
Submitted by the Department of Planning and Permitting**

Honorable Transportation and Planning Committee Chair Gary Okino, Vice Chair Donovan Dela Cruz, and Members of the Transportation and Planning Committee:

I am Dave Arakawa, the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF appreciates the opportunity to provide **comments** regarding Communication D-423 (2009), which transmits the Department of Planning and Permitting (DPP) Draft City Affordable Housing Rules (Draft UA Rules) and a copy of City Council Resolution 05-154 CD1. The Communication indicates that amendments are reflected in the draft rules and that further amendments may be required after public discussion. As discussed below, LURF opposes some of the proposed amendments in DPP's Draft UA Rules, and has a number of recommendations for other changes to the UA Rules. We would respectfully recommend **deferral of the adoption of these rules at this time to allow further dialogue and discussions with key Affordable Housing stakeholders, City Departments and Council Members (and DPP's affordable housing consultant?) as to the effects of the proposed changes.**

**BACKGROUND.** The lack of affordable housing remains a significant problem affecting Hawaii, particularly the City and County of Honolulu. Finding ways to provide sufficient affordable housing and market housing for Hawaii's residents has been a major objective for our elected officials, and state and county agencies, and members of the housing industry and business community. For the past three years, LURF has

participated in both the Mayor's Affordable Housing Advisory Group (AHAG) and the Governor's Affordable Housing Barriers Task Force (AHBTF).

AHAG was composed of representatives from the City Administration, DPP and other City Departments, City Council staff, and non-profit and market developers of affordable and market housing. AHAG has focused on partnerships between public and private groups to develop a housing production strategy that would provide a solution to the affordable housing needs of the people of Oahu. The AHAC Committee produced two reports – the 2006 Report and Recommendations and the 2008 Comprehensive Housing Strategy for the City and County of Honolulu. LURF supports both reports and the strategy set forth in the 2008 AHAC Report.

Additionally, LURF was a participant in the Governor's AHBTF, which was a statewide task force comprised of representatives from all four counties, business, labor, developers, architects, nonprofit providers of services, legal experts, the State, and the legislature, whose purpose was to identify, address and propose regulatory reform and solutions to remove the barriers to the production of affordable housing.

The major conclusions reached in all of these reports and studies was that **the affordable housing problem is based on the lack of the overall supply of housing in all income groups**; that the government and private sector must work together to **establish creative incentives and alternatives** to allow the building of more affordable and market housing; and that the parties should strive to **streamline the entitlement process and remove governmental barriers** to the expeditious development of affordable and market housing.

**LURF POSITION.** While LURF understands that the contents of Communication D-423 and the Draft UA Rules was in response to a 2005 Council resolution, and many of the major changes in the draft reflect the 2005 resolution, and do not necessarily reflect the position of DPP or the current situation relating to the development of affordable and market housing.

LURF opposes several of the changes in the proposed draft, including, among other things, changing the definition of "moderate income household" in Section 1-2 from 120% to 100%; adding new restrictions relating to the cash- in-lieu payments; and restricting the alternatives for satisfying affordable housing conditions.

Also, in general, the adoption of the draft UA Rules submitted by DPP would reduce incentives for developers who want to build more affordable housing for our island residents. LURF is in support of legislation that provides incentives and encourages housing developers to partner with DPP, the City Administration, other City departments and the Council to develop realistic solutions toward increasing the supply of housing in all sectors and solving Hawaii's housing shortage crisis.

Some of the changes proposed in this UA Draft will affect the development of thousands of homes and millions of dollars of construction costs and taxes. WE believe that AHAG has the experience and expertise to provide valuable input regarding any future amendments to the UA Rules. However, we also understand that the Council has approved \$200,000 in DPP's budget to hire an affordable housing consultant to review the UA rules and recommend changes. We believe that it would be premature to hold public hearings and approve amendments to the UA rules without the input of AHAG

and the opportunity for AHAG to work with the various City parties, including any consultant who might be hired by the City.

Thus, LURF **opposes the current draft City Affordable Housing Rules and recommends a deferral of the discussion of this draft so that the Council members, City departments, City Administration (DPP's affordable housing consultant?) and AHAC can work together on housing issues.**

**RECOMMENDED AMENDMENTS TO THE UA RULES.** Over the past several years LURF and AHAG have recommended various changes to be included in the revisions to UA rules. A few of the more important amendments are described below:

1. With respect to rezoning UAs, housing developments with **less than one hundred units shall not be required to build affordable units**, but may satisfy affordable housing conditions by other allowable options to meet affordable housing requirements.
2. The total UA Affordable Housing Rezoning Requirement (Affordable Housing Requirement) shall be defined as **“the total number of housing units multiplied by 0.30 (30 percent);”**
3. Affordable Housing Requirements are applicable to “Moderate Income Households,” which are defined as “A household whose income is greater than eighty percent, but which does not exceed **one hundred forty percent of the Median Income** for the Honolulu Metropolitan Statistical Area most recently determined by HUD, as adjusted for household size”;
4. **Options to meet Affordable Housing Requirements** imposed by unilateral agreements shall include the following:
  - Construct affordable housing units for sale or rent on the re-zoned project site. (2007 Auditor's Report)
  - Construct affordable housing units for sale or rent on property other than the re-zoned project site. (2007 Auditor's Report)
  - Provide finished house lots for owner-builder efforts.
  - Convey improved or unimproved land, on or off-site, suitable for affordable housing construction. (2007 Auditor's Report)
  - Contribute a cash, or “in-lieu” fee based on a set formula. (2007 Auditor's Report)
  - Housing developers may utilize excess affordable housing credits earned under a unilateral agreement to meet affordable housing requirements imposed by another unilateral agreement. (2007 Auditor's Report)
5. **Allow In-Lieu Fees,**” which are defined as “A cash contribution (“in-lieu fee”) to BFS, which is available to satisfy the affordable housing requirement, in an amount equal to the difference between the estimated cost of building the affordable housing units, less the estimated sales price of the affordable housing units at the time the in-lieu payment is due.” The in-lieu fees shall be used for affordable housing programs as established by the City Council and City Administration; and

6. Generally, the satisfaction of affordable housing requirements and the excess and receiving sites should be within the same geographical area, within 7.5 miles from the project site, or designated transit oriented development area. However, **upon a showing of good cause, the DPP Director shall have the discretion to allow the satisfaction of affordable housing requirements and the excess and receiving site to be located in other areas within the City and County of Honolulu outside of 7.5 miles from the project site.**

Over the past several years LURF members and AHAG have also proposed other changes to the UA Rules, which we hope to further discuss with DPP, the City Administration and other City departments, as well as Council Members.

LURF respectfully requests that the discussion of the draft City Affordable Housing Rules be **deferred** in this Committee to allow further dialogue and discussions with key Affordable Housing stakeholders, DPP, the City Administration, other City Departments and Council Members as to the effects of proposed changes.

We appreciate the opportunity to present comments regarding Communication D-423 (2009).