

Honolulu Affordable Housing Preservation Initiative

What is really going on here?

History: The City Housing Portfolio consists of 12 properties that were acquired primarily between 1987 and 1994. General obligation bonds were sold to purchase the properties and there is a current outstanding balance of approximately \$70 million dollars. CDBG funds were also used to help pay for portfolio which also needs to be paid back. The City has contemplated selling off the properties since 2001 and under the Harris Administration in 2004 a condominium conversion program was considered for 3 of the Chinatown Properties (Chinatown Gateway, Marin Tower and Harbor Village)¹. This prompted an outcry by the current residents² which led to the formation of a task force in 2005³. And in 2006 and 2008, the Mayor's Two Affordable Housing Advisory Groups recommended selling the properties using both a business and social plan to maximize revenue and create the greatest number of affordable units⁴. In 2008 the City hired a Real Estate and Financial expert (Paul Garity)⁵ to analyze all the possible sale scenarios to fulfill the social and economic requirements of the City. This analysis listed several options that would generate the highest return to the City as well as those that would preserve mixed income affordable rental units. A compromise proposition which included being sensitive to the existing tenants and the neighborhood, led to the current offering⁶.

Current: In February 2012, The City and County of Honolulu issued a Request for Proposals to acquire leasehold interest in 12 rental housing complexes containing a total of 1,257 units. The following are several of the larger inconsistencies between what was required in the offering information versus what was actually awarded to the winning bid ("HAHP"). They are as follows:

Call for Proposals - All closings shall occur no later than October 31, 2012, with the exception of Kulana Nani and Westlake Apartments, which shall close upon the completion of all pre-closing activities required by the United States Department of Housing and Urban Development.⁷

VS.

City Council 8-22-12 – Assuming required financing is secured, closing of this transaction should occur by April 1, 2013. HAHP may extend the closing date to June 28, 2013 if needed to secure necessary financing, which date is further extendable to September 26, 2013. The City may further extend the closing date beyond this date, but by no means shall the closing date extend beyond March 31, 2014.⁸

HAHPI RFP - A second deposit in the amount of FOUR MILLION AND NO/100 DOLLARS (\$4,000,000.00) shall be made into escrow by the Successful Proposer upon the satisfactory completion of due diligence. The initial and second deposit shall be refunded to the Successful Proposer only if the Honolulu City Council, in their sole and absolute discretion, elects not to authorize the execution of the Leases for the Real Property. Upon the adoption of a Resolution authorizing the execution of the Leases by the Honolulu City Council, the initial and second deposits will be deemed nonrefundable and credited against future amounts owed to the City under the Purchase and Sale Agreement.⁹

VS.

City Council 8-22-12 - Provided that this Agreement has not been terminated and all closing conditions have been satisfied as provided hereunder Buyer will pay the full remaining balance of the Purchase Price. Securing all of the financing including Tax Exempt Bonds, State LIHTC and Federal LIHTC are a buyer's closing condition. Therefore, HAHPI could cancel the PSA up until the closing with absolutely no penalty.¹⁰

HAHPI RFP – The City will evaluate and value the Proposer's compensation to the City, based on the City's review of the financial information provided in the Proposal. The City, at its sole discretion, may discount or dismiss compensation proposals which the City determines to be speculative or otherwise not guaranteed.¹¹

VS.

City Council 8-22-12 –Securing all of the financing including Tax Exempt Bonds, State LIHTC and Federal LIHTC are a buyer's closing condition. Therefore, HAHPI could cancel the PSA up until the closing with absolutely no penalty.¹⁰

HAHPI RFP – Under no circumstances, including the rejection of Proposals, will the City reimburse any costs incurred by in connection with this RFP, any Proposer or any other person during this procurement process including the preparation of a Proposal.¹²

VS.

City Council 8-22-12 Agreement – At the present time, the City has not reached an agreement with HUD on the CDBG buy-out amount or on the full parameters of such a buy-out. As provided for in the PSA, if the buy-out price exceeds \$50,000,000, the City has a right to terminate the PSA. Should the City exercise its right to terminate the PSA, the City will be required to reimburse HAHPI for its reasonable actual out-of-pocket negotiation, due diligence, and closing preparation expenses, not to exceed \$500,000.¹³

City Council 8-22-12 – Should the City default under the PSA, the City will be required to pay HAHPI liquidated damages in the sum of \$2,000,000.¹⁴

HAHPI RFP – Displacement of any tenant without cause prohibited. Tenants with income in excess of income limits are subject to over income rent provisions below. If during an annual income recertification a tenant shall be found to be over allowable income limits, rent shall be adjusted to 30% of gross income or per HOME Program rules for HOME-designated units during the HOME Compliance period. Additionally, current tenant rents could only gradually be increased and would not hit maximum affordable levels for several years.¹⁵

VS.

City Council 8-22-12 – Buyer shall have the right after closing to relocate current residents who occupy apartment units that are included in the Affordable Rental Housing Component, whose household income exceeds the applicable income limitation qualifications for apartment units in the Affordable Rental Housing Component, to comparable apartment units in the Market Rental Housing Components. This means that all residents over 60% AMI would be subject to relocation. We are unsure if there will be enough units to accommodate this group and it is not clear what consequences could occur.¹⁶

Sources:

- 1 – March 2004 Sale of City Properties
- 2 – 4-3-04, Honolulu Advertiser City Plan Jeopardizes Renters
- 3 – City Report 2005
- 4 – Background Mayor's Reports
- 5 – City Expert Hired
- 6 – Call for Proposals Red
- 7 – Call for Proposals – Page 3, Paragraph 7
- 8 – City Council 8-22-12, Page 11
- 9 – HAHPI RFP OM Red, Page 14, Paragraph 22
- 10 – City Council 8-22-12, Page 51, Paragraph 5.14
- 11 – HAHPI RFP OM Red, Page 22, Paragraph 2, Subparagraph 2
- 12 – HAHPI RFP OM Red, Page 15, Paragraph 27
- 13 – City Council 8-22-12, Page 12
- 14 – City Council 8-22-12, Page 12, Default and Termination
- 15 – HAHPI RFP OM Red, Page 43, General Provisions
- 16 – City Council 8-22-12, Page 54, Section (b), 2nd Paragraph