

12:102351

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



LLOYD M. HARAGUCHI
EXECUTIVE DIRECTOR

STATE OF HAWAII
PUBLIC LAND DEVELOPMENT CORPORATION

POST OFFICE BOX 2359
HONOLULU, HAWAII 96804

October 12, 2012

MEMORANDUM

TO: THE HONORABLE NEIL ABERCROMBIE
Governor, State of Hawai'i

THRU: *for* WILLIAM J. AILA, JR., Chairperson
Board of Land and Natural Resources

Paul J. Conry

FROM: LLOYD HARAGUCHI, Executive Director
Public Land Development Corporation

SUBJECT: Request for Approval to Conduct Public Hearing for the Adoption of New Chapters 13-301 "Rules of Practice and Procedure", Hawaii Administrative Rules, and 13-302 "Public Land Development Program", Hawaii Administrative Rules

In accordance with Administrative Directive 09-01, the Public Land Development Corporation requests your approval to conduct public hearings on proposed Chapters 13-301, "Rules of Practice and Procedure", Hawaii Administrative Rules (HAR) and 13-302 "Public Land Development Program", HAR, as approved by the Public Land Development Corporation (PLDC) Board of Directors on October 11, 2012.

The proposed draft rules are attached hereto as Exhibit "A". Please find information required by Administrative Directive 99-02 below.

1. Exact changes to be made and the reasons for the changes, including a justification for the proposed adoption, amendment or repeal of any rule. If applicable, the present rule shall be cited and the proposed rule shall be quoted in full without paraphrasing.

Background

The Legislature, with the Governor's approval created the PLDC pursuant to Act 55, Session Laws of Hawaii 2011. As stated in section 171C-1, Hawaii Revised Statutes, the PLDC's role is to "identify the public lands that are suitable for development under [chapter 171C, HRS], carry on marketing analysis to determine the best revenue-generating programs for the public lands identified, enter into public-private agreements to appropriately develop the public lands identified, and provide the leadership for the development, financing, improvement, or enhancement of the selected development opportunities."

The proposed **CHAPTER 13-301, RULES OF PRACTICE AND PROCEDURE**, establishes operating procedures for the Corporation.

The proposed **CHAPTER 13-302, PUBLIC LAND DEVELOPMENT PROGRAM**, sets forth a procedure for the Corporation to initiate, by itself or with qualified persons, or enter into cooperative agreements with qualified persons for the development or financing of projects that make optimal use of public land for the economic, environmental, and social benefit of the people of Hawaii.

Authority

The statute governing the PLDC, Chapter 171C, HRS, authorizes rulemaking under section 171C-4, HRS. This section states that the PLDC may adopt rules pursuant to Chapter 91, HRS, to carry out its duties.

Proposed Rules Summary

CHAPTER 13-301, RULES OF PRACTICE AND PROCEDURE

The Chapter contains general provisions relating to the office location and hours, board meetings, and delegation of authority to the Executive Director; and sets forth procedures for proceedings before the board, contested case hearings, declaratory rulings, and petitions for amendment, adoption, or repeal of administrative rules.

Subchapter 1 - General Provisions, contains standard provisions relating to the Corporation's business hours and location; board meetings including preparing the agenda for meetings and quorum; the submittal, filing and retention of documents; and delegation of authority to the Executive Director.

Subchapter 2 - Proceedings Before the Board, sets forth procedures for administrative proceedings.

Subchapter 3 - Contested Case Proceedings, sets forth procedures for contested case hearings before the board or hearings officer.

Subchapter 4 - Declaratory Rulings, addresses petitions for a declaratory order as to the applicability of any statutory provision or of any rule or order of the Corporation.

Subchapter 5 - Rule Relief, sets forth procedures for the consideration and disposition of petitions for the adoption, amendment, or repeal of any of the Corporation's administrative rules.

Subchapter 6 - Other Provisions, contains standard provisions relating to forms, gender and number, and severability.

Chapter 13-302, PUBLIC LAND DEVELOPMENT PROGRAM

This chapter sets forth a procedure for the Corporation to initiate, by itself or with qualified persons, or enter into cooperative agreements with qualified persons for the development or financing of projects that make optimal use of public land for the economic, environmental, and social benefit of the people of Hawaii.

Subchapter 1 - General Provisions, sets forth the purpose of the program, defines terms used in the chapter, and provides for the collection of fees and recovery of expenses.

Subchapter 2 - Development of Projects by Corporation, sets forth the process for the creation of project partnerships using public lands. This subchapter provides a process and guidelines for the selection of projects, project applicants and project partners by the PLDC.

Subchapter 3 - Severability, contains a standard provision relating to severability.

2. Manner in which the proposed adoption, amendment, or repeal of the rules would affect the operations or programs of the department or agency in terms of responsibilities, functions, activities, and interrelationships, both internal and external.

Internal effects

The adoption of proposed Chapters 13-301 and 13-302, HAR, will aid the PLDC and its Board in carrying out its statutory functions. The rules will provide a clear reference for administration of its programs and operations.

External effects

The adoption of proposed Chapters 13-301 and 13-302 will aid PLDC stakeholders, state agencies seeking to utilize PLDC to redevelop their public land inventories, and members of the public in accessing the agency's program policies and procedures. Clarifying the PLDC's interpretation and implementation of statutory provisions, and giving these policies and procedures the force of law will enable program users to adequately plan potential projects and to understand necessary processes and requirements. It will also increase transparency to members of the public to set forth the requirements and criteria the PLDC will operate under, which will increase public understanding and confidence in the PLDC and its program.

3. Final result (e.g. a program improvement/clarification of statute) to be expected by instituting the proposed adoption, amendment, or repeal of a rule.

Once these rules are adopted, the PLDC can carry out its statutory functions of making optimal use of public land for the economic, environmental, and social benefit of the State.


NEIL ABERCROMBIE
Governor of Hawaii

11-9-12
DATE

Enclosures

carrollcox.com