

NEIL ABERCROMBIE
GOVERNOR



KAREN SEDDON
EXECUTIVE DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION

IN REPLY REFER TO:
11 AM/210

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September 28, 2011

Robert Faleafine, President
Realty Laua LLC
1505 Dillingham Blvd, Suite 215
Honolulu, Hawaii 96819

Subject: NOTICE TO CURE
Contract No. PPMS 10-01

Dear Mr. Faleafine,

A series of articles published by the *Hawaii Reporter* raised concerns from residents, former employees, and state legislators about the management and living conditions at the Honokowai Kauhale rental project in Lahaina, Maui. The Hawaii Housing Finance and Development Corporation ("HHFDC") therefore commissioned an independent compliance audit to look into the concerns.

The audit included numerous interviews with tenants and management staff, as well as a walk-through of tenant units and surface inspections of the project grounds. The audit has been completed and the auditor, Spectrum Seminars ("Spectrum"), has prepared a report ("Audit Report").

Based on the findings in the Audit Report, and pursuant to section 13(a) of the General Conditions to HHFDC Contract No. PPMS 10-01 ("Contract") with Realty Laua, HHFDC hereby issues to Realty Laua this NOTICE TO CURE breaches of the Contract which must be corrected to avoid further action.

The table below details the actions by Realty Laua management and maintenance staff at Honokowai Kauhale that constitute a substantial breach of the Contract and must be corrected:

Breach	Findings	CORRECTIVE ACTION AND TIMING	
		Corrective Action Plan Required	Immediate Action Required
(1) Non-compliance with Fair Housing Laws and Inconsistent Application of House Rules	According to the Audit Report, there appears to be discrimination against some protected classes. The resident manager, [REDACTED] ("Resident Manager"), stated that there are unwritten rules being implemented and	Develop and distribute clear House Rules to tenants that are in compliance with Fair Housing laws	Remove existing Resident Manager and replace in accordance with Contract

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	<p>enforced. One such rule requires that when the property lights come on in the evening, all children must be indoors for the night unless accompanied by an adult. This appears to be discrimination against families with children.</p> <p>Based on tenant statements, there also appears to be "steering," which occurs when tenants are assigned to a unit and not given a choice at move-in or at transfer when others are said to have been given a choice and there is more than one unit of the size desired available.</p> <p>Furthermore, there appears to be an inconsistent application of House Rules by the Resident Manager. For instance, House Rules prohibit parking spaces and common areas from being used for storage of property. However, according to the Audit Report, there is a commercial trailer in a parking space on the property that has been stored there for at least six (6) years.</p> <p>In another instance, the House Rules requires that no items of personal property, including motorcycles, mopeds, or dirt bikes, be left or allowed to stand on the lanai, entryways, and common areas. However, more than one such vehicle was observed on the lanai area during the Audit Report interviews.</p> <p>In yet another instance, the House Rules prohibit extensive repairs of motor vehicles, yet tenants reported that some, but not all, have been written up or chastised for doing minor repairs on their cars.</p> <p>And in another instance, it appears that the policy of charging for repairs is applied inconsistently. Several tenants found out upon calling management that the policy changed and now requires</p>	<p>and that incorporate any unwritten rules being implemented and enforced at the project.</p> <p>Any changes or additions to the House Rules must be reviewed and approved by HHFDC prior to implementation, and shall be distributed to all tenants in writing.</p>	<p>requirements.</p>

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	<p>tenants to be charged for both parts and labor when repairs are conducted. However, this does not seem to be happening to all tenants, as at least one noted that a recent repair in that tenant's unit was free of charge.</p> <p>There are also unlevel sidewalks on the property that need to be leveled in order to meet Fair Housing access requirements.</p>		
(2) Failure to adequately maintain physical condition of the project	<p>Previous Spectrum compliance monitoring reports indicate repeated findings of maintenance and repair concerns not adequately addressed by Realty Laua. Audit Report observations and photos of Honokowai Kauhale show unacceptable project grounds maintenance. Audit Report states that the overall physical condition of the project is clearly substandard. Items within the control of the Resident Manager include:</p> <ul style="list-style-type: none"> • Windows on second floor units in need of cleaning; • Laundry facilities in need of routine upkeep and replacement machines; • Sidewalks in need of repair to eliminate hazardous level changes; • Debris on roofs; and • Plants growing in gutters. 	<p>Make any and all maintenance repairs (excluding capital improvements) necessary to bring the property into compliance with applicable laws and up to a condition acceptable to HHFDC.</p>	<p>Remove existing Resident Manager and replace in accordance with Contract requirements.</p>
(3) Personnel qualifications	<p>It is unclear what current maintenance staff qualifications are and whether or not they are qualified in accordance with the Contract to be employed in such positions, as evidenced by the physical condition of the property. According to the Audit Report, the overall physical condition of the project is clearly</p>	<p>The main office should interview, screen, and hire all applicants for on-site positions. All on-site positions should be advertised to</p>	<p>Remove existing staff and replace in accordance with Contract requirements.</p>

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	substandard and not being maintained and repaired in an acceptable condition.	ensure Equal Opportunity Hiring is done. Written job descriptions must be signed by each employee and managed accordingly.	
	Current Resident Manager has created an atmosphere of intimidation and fear of reprisals, as reported by tenants.		Remove existing Resident Manager and replace in accordance with Contract requirements.
(4) Failure to promote and maintain good relations and communication with tenants	<p>According to the Audit Report, there is no central complaint log being maintained and there does not appear to be a very clear policy as to how complaints are handled and resolved. The Resident Manager receives the complaint and files it into the appropriate tenant files. The Resident Manager then attempts to resolve the issue. From this point on, it is unknown whether complaints are satisfactorily resolved.</p> <p>According to the Audit Report, some tenants did not want to report repair conditions caused by normal wear and tear due to unclear policies as to who is responsible for repair charges and what types of situations constitute normal wear and tear.</p> <p>Furthermore, House Rules fail to address unlicensed or inoperable vehicles in section IV.1, yet tenants reported that they were given notices or told to remove such vehicles.</p>	<p>Develop and incorporate into the House Rules clear and comprehensive Tenant Complaint Procedures and maintain a central Complaint Log that tracks all key data associated with each complaint, including the final disposition status of each incident.</p> <p>Rewrite House Rules to be more specific and to incorporate any unwritten rules being implemented and enforced at the project.</p> <p>Any changes or additions to the House Rules must be reviewed and</p>	Remove existing Resident Manager and replace in accordance with Contract requirements.


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		approved by HHFDC prior to implementation, and shall be distributed to all tenants in writing.	
(5) Inadequate marketing activity to lease available units, considering the long term vacancies of rent ready units. Wait list not adequately maintained.	Audit Report and statement from Resident Manager indicate that over 40 rent ready units are vacant. Resident Manager stated that no active marketing is being done other than some flyers distributed in the past. According to the Audit Report, applicants on the wait list who no longer want to be processed have not been removed.	Develop a comprehensive marketing plan acceptable to HHFDC for rent ready units. Develop and include wait list procedures acceptable to HHFDC in Tenant Selection Plan.	Remove existing Resident Manager and replace in accordance with Contract requirements.
(6) Insufficient Tenant Selection Plan (TSP)	According to the Audit Report, TSP is vague and subject to abuse. TSP fails to or does not adequately address several key areas, including: (1) TSP fails to address the applicability of minimum income requirements to applicants holding Section 8 vouchers or who receive rent supplements (minimum income requirements do not apply in these cases); (2) TSP fails to address the effect of no credit rating on an applicant (HUD has stated that no credit is good credit. However, Resident Manager stated that no credit rating is a negative factor on an applicant's application.); (3) TSP fails to address the possibility of no landlord reference and what affect it may have on the applicant's application; (4) TSP states that applicants and household members <u>may</u> be subjected to criminal background checks (this could be considered a discriminatory practice – either <u>all</u> or <u>no</u> applicants should be subjected to such checks); (5) TSP fails to address identification verification requirements for legal aliens (In one instance, a legal alien providing written documentation of legal status in this country had application denied for not	Rewrite TSP to comprehensively address deficient areas. Any changes or additions to the TSP must be reviewed and approved by HHFDC.	Remove existing Resident Manager and replace in accordance with Contract requirements.

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	possessing a social security number.); and (6) TSP only allows applicant to choose one bedroom type when it is possible that they might be willing to choose a different size unit if available first.		

HHFDC requires Realty Laua to comply with all provisions of this NOTICE TO CURE within 10 days following the date of this notice or by October 10, 2011, whichever is later. Any failure on the part of Realty Laua to take immediate action on all items so specified and to produce an acceptable Corrective Action Plan pursuant to the Contract (see Request for Proposals No. PPMS-2008-01, Section 2, III, A, 2) by the date indicated herein will result in HHFDC taking further action. HHFDC reserves the right to exercise any and all options available under the Contract.

We appreciate your cooperation on this matter.

Sincerely,



Karen Seddon, Executive Director
 Hawaii Housing Finance and Development Corporation