



DEPT. COMM. NO. 328

STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

February 1, 2017

The Honorable Ronald D. Kouchi, President
and Members of the Senate
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Joseph M. Souki, Speaker
and Members of the House of
Representatives
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

For your information and consideration, I am transmitting a copy of the Annual Report on the Pilot Project for Lease of Public School Lands, pursuant to Section 302A-1151.1, Hawaii Revised Statutes (HRS). In accordance with Section 93-16, HRS, I am also informing you that the report may be viewed electronically at:

<http://www.hawaiipublicschools.org/VisionForSuccess/SchoolDataAndReports/StateReports/Pages/Legislative-reports.aspx>

Very truly yours,

A handwritten signature in black ink, appearing to read "K. Matayoshi", written over a horizontal line.

Kathryn S. Matayoshi
Superintendent

KSM:jmb
Enclosures

c: Legislative Reference Bureau
Office of School Facilities and Support Services

Pilot Project for Lease of Public School Lands
§302A-1151.1 HRS
2017 Legislative Report

§302A-1151.1 HRS was enacted on June 21, 2013 as a pilot program to allow the Hawaii State Department of Education (DOE) to explore the possibility of managing public school properties to generate revenue for modern improvements to its educational facilities. This is the third report to the legislature documenting DOE activities to date.

(1) Project timeline:

§302A-1151.1 HRS requires that the DOE focuses on underutilized assets to increase the educational benefit to students statewide. In 2014, the DOE initiated a facilities master plan to assess all DOE facilities and provide a strategic plan of facilities which was to consider community population growth and student enrollment projections. Due to a change in the master plan efforts, we were required to advance the implementation of §302A-1151.1 HRS independent of the master plan findings. Without an assessment of projected student enrollments based on planned growth in existing and new urban areas, it would be premature for the DOE to randomly select schools that are perceived to be “underutilized.”

For example, elementary schools in the urban corridor that are currently operating under full capacity are expected to experience tremendous growth in student enrollment once the Transit Project, and proposed redevelopment of some of the state-owned Public Housing projects are initiated. Once it became clear that the necessary information to identify underutilized assets would not be available through the initial master planning efforts, the DOE shifted its focus to identify three (3) pilot projects on non-school DOE facilities. To that end, the initial site selection short-list does not include any portion of any school campus or other education specific facilities for development.

The focus on non-school, or education specific, sites also allowed for the establishment of a “process” to redevelop DOE facilities that could be tested without the additional challenges of closing or repositioning an existing school. It also allows for the DOE to present a model that could be used as an example to show communities what might be possible if a school is identified for closure in the future.

In developing the process, the DOE identified a range of possible redevelopment opportunities for sites selected under §302A-1151.1 HRS. These would include the following: a) Revenue Generation to Fund 21st Century Schools; b) A new 21st Century School; or c) A Hybrid mixed-use project with school and possibly revenue generation or some other benefit (i.e. teacher housing) for the DOE.

Listed below are the initial pilot project sites currently under consideration, and a summary of work done to date to substantiate the development potential of each site.

Sample Site No. 1 - 1037 South Beretania Street (1042 Young Street)

This site is presently used by the DOE Auxiliary Services Branch and the Student Transportation Services Branch.

Property Description:

Auxiliary Services Facility - 1042 Young Street	
Tax Map Key	2-4-002:019
Area	29,193 sf
Zoning	BMX-3
Ownership	City and County of Honolulu
Building	1,210 sf (Built 2001)
Flood Zone	X
Tax Assessed Value	
Land	\$5,897,200
Building	\$192,300

Similar to other DOE Facilities in urban Honolulu the underlying fee on the property is owned by the City and County of Honolulu. In 1965, Act 97 transferred the authority of County schools, and their properties, from the counties to the state. The intent was to provide equity across the state for all public schools. As part of Act 97 the executive functions associated with land ownership and all responsibility for the planning, construction, improvement, maintenance of public school facilities and grounds, and the transportation of school children public schools was transferred to the DOE. In support of §302A-1151.1 HRS, it was revealed that the county school lands were never transferred to the state, which means there are still public school campuses that are listed as county land and campuses with both state and county lands.

In 2003, the legislature enacted Act 154, SLH 2003, which essentially executed quitclaim deeds for Hawaii County public school lands and conveyed the lands to the State of Hawaii. Arguably, Act 154/2003 was self-executing, meaning that no further action was required to transfer the Hawaii County public school lands to the state. In that case, the lands would have become “public lands” under §171-2 HRS under the management and control of the Board of Land and Natural Resources. However, it is likely that the specific Tax Map Key for these lands are not listed on the Department of Land and Natural Resource’s (DLNR’s) inventory of public lands. Quitclaim deeds are useful to eliminate confusion or conflict over jurisdiction.

In January 2014, the Managing Director’s office indicated that the Mayor would not take a position on County school land until specific sites were identified.

At a meeting with the DOE on June 30, 2015, the Museum indicated that they needed more parking and classrooms and were looking into the possibility of incorporating the DOE Young Street property into the Museum’s development plans. At the time, the Museum timeline for

development was accelerated due to funding limitations and the DOE was unsure when it might be ready to move forward with the Young Street parcel. The mutual decision was to allow the Museum to proceed with redevelopment options on their state-owned leased lands and if the DOE found it was in a position to jointly develop the site, the DOE would approach the Museum at a later date.

After the initial meeting with Museum representatives, the DOE commissioned a market study of the Young Street property which showed that the site would be best suited for ground floor retail/commercial with a residential rental tower and parking. As was discussed at the June 2015 meeting, the DOE disclosed that it was exploring the possibility of redeveloping the Young Street property to generate a revenue stream for the DOE to use in modernizing existing school facilities. The DOE subsequently met with the Hawaii Housing Finance Development Corporation (HHFDC) to discuss the possibility of such a development. The HHFDC suggested that the redevelopment of the site could also address the parking and classroom needs of the Museum if the two parcels were developed as one project.

On October 13, 2015, the DOE met with the DLNR and the Museum. The DLNR was very supportive of the suggestion to joint develop the DOE property with the parking lot of the Museum to provide a stacked parking structure that both parties could use. The idea would be to remove the parking area from the Museum's lease, set aside the property to the DOE through executive order, and allow the DOE to joint develop this site with their existing Young Street parcel to allow for more parking that could be shared by the Museum and the DOE, while at the same time providing for additional programmatic space for the Museum.

At this meeting, Museum representatives made it clear they were not prepared to enter into such an arrangement. They indicated they need the space for future expansion and were not willing to consider a joint use. Given this, the DOE selected to proceed with the initial development plans for this property.

In early 2016, the Mayor's Administration indicated that they would not support the DOE's proposed mixed use development on the Young Street property. They indicated that if the DOE was not going to use it for the Auxiliary Services Branch, the City would take back the property and use it in conjunction with development activities on the Neal Blaisdell Property.

In June of 2016, the City Council held a hearing on Bill No. 34 which would have facilitated the DOE's use of existing public school lands owned by the City and County of Honolulu. §302A-1151.1 HRS establishes a pilot program for the lease of public school lands, some of which are owned by the City and County of Honolulu. Under the program, the DOE is authorized to lease school land and facilities to private persons or entities in accordance with the terms of §302A-1151.1 HRS. The DOE testified in support of the bill however, the bill is still pending before Council and no final decision has been made on the bill.

Questions regarding this site are:

1. How a lease will be issued by the City and County of Honolulu to allow HHFDC to redevelop the property and provide an income stream to the DOE;
2. Is the disposition process used by HHFDC for selection of developers thru a Request For Proposals (RFP) process appropriate for the DOE to use in redevelopment of their facilities;
3. How will the Office of Environmental Quality Control (OEQC) process a Chapter 343 HRS document prepared by the DOE based on “maximum allowable uses under the existing zoning;” and
4. Will the City and County of Honolulu, Department of Planning and Permitting (DPP) allow the DOE to secure entitlements on the property under a maximum allowable use approach prior to selecting a developer for the site?

Given the current Administration’s position on the DOE’s use of city-owned school lands, this site is being reconsidered as a pilot at this time.

Sample Site No. 2 - 690 Pohukaina

The site is on state-owned land immediately adjacent to Mother Waldron Park in Kakaako.

Property Description:

690 Pohukaina Street	
Tax Map Key	2-1-051: 041
Area	94,425 sf
Zoning	HCDA
Ownership	State of Hawaii
Tax Assessed Value	
Land	\$10,958,200
Building	\$735,100

In November of 2014, the DOE met with the Hawaii Community Development Authority (HCDA) to discuss the possibility of developing a public school in Kakaako. The meeting was prompted by the HCDA’s interest in redevelopment of a portion of McKinley High School Campus. At the meeting the HCDA suggested that the DOE contact Forest City, the developers who were selected for the 690 Pohukaina development in Kakaako. The HCDA believed Forest City could be open to the idea of including a public school in their project based on requirements in the RFP for:

25,000 sf Civic Space
10,000 sf Community Space
30,000 sf High Tech Business Incubator and Innovation Space
30,000 sf Commercial Space
95,000 sf (non-residential space)

On December 1, 2014, the DOE met with Forest City to discuss the possibility of including a new public school in the 690 Pohukaina project. The DOE provided the background on the project and how the need for an elementary new school was identified in ongoing discussions between the DOE and the HCDA. The Superintendent was briefed and in-turn briefed the Board of Education Chairman. The transition team for Governor Ige was also briefed. None of the parties expressed any concerns about moving forward with Forest City to determine if a school could be included in their project.

The DOE provided some general educational specifications for traditional, non-vertical schools, for student enrollments up to 750. Approximate range of area required was between 95,000 and 114,000 for the projected enrollment. Providing Forest City with these ranges was to allow them to assess what might be feasible (i.e. classrooms, cafeteria, administrative offices, etc.) within the proposed development and project estimated construction costs.

On December 8, 2014, the DOE and Forest City met with the HCDA to discuss the inclusion of a school in the 690 Pohukaina Project and the disposition process (i.e. roles and responsibilities) on negotiations for a new public school in Forest City's proposal for the project.

The DOE informed the HCDA of the initial discussion with Forest City. The HCDA indicated that it would allow Forest City to negotiate directly with the DOE on what the specific needs for the school would be. Once an agreement was reached between Forest City and the DOE on the size, configuration and cost of the new school, the HCDA would need to assess the agreement to determine if it meets the requirements of the RFP.

The DOE made it clear that the HCDA would need to remain involved in the disposition process since the DOE does not have a contractual position from which to negotiate directly with Forest City. The DOE stated that from their understanding of the existing agreement between the HCDA and Forest City, the changes essentially would be as follows:

Replace the, yet fully defined, 90,000 square feet of civic, commercial, community space, that Forest City was to provide with +/- 100,000 square feet of space for the new Pohukaina Elementary School (to be funded thru a 65 year land lease credit and direct appropriation from State Legislature).

The HCDA indicated that the initial RFP, which provided for one 600 foot+ tower, had already been modified based on the legislature's imposition of a height limit in Kakaako. Forest City would be allowed to revise its proposal based on the reduced height. Forest City reconfigured their project proposal to accommodate a vertical elementary school with one housing tower and joint use parking. Forest City's initial assessment suggests there will be less rental units in the final project given the height reduction and the inclusion of the school. Forest City has begun meeting with potential investors to further define what would be the most viable project scope.

The HCDA also shared that they intended to use a portion of the civic space, identified in the original RFP, to support Library Services in the project. The HCDA indicated that the library was to receive 15,000 square feet in administrative office space in the project and 5,000 additional square feet for an electronic library/community room in the project. The DOE

indicated a commitment to finding a library replacement space if the school project impinged on available square footage; and work with Forest City designers to see if a shared use with the schools' library could be feasible.

In discussions with the DLNR, the DOE proposed applying the rent from the project to the new school construction as opposed to direct payment to the DLNR. It was determined that the standing agreement for a lease payment from Forest City to the DLNR would remain.

On June 16, 2015, the DOE and Forest City met with the HCDA staff to discuss the progress of negotiations to date and an update on the collaboration between Forest City and the DOE. The meeting established the need for a Memorandum of Understanding (MOU) between the DOE and the HCDA to clearly establish roles and responsibilities to allow Forest City to negotiate directly with the DOE on the school design and school related improvements within the project. The MOU, produced and signed by both parties, establishes an escrow account to allow the DOE to transfer Capital Improvement Program funds to compensate Forest City for design and construction of the new school.

On October 29, 2015, the HCDA was briefed on the project in an Executive Session. We understand that the HCDA staff clarified that the lease cannot exceed the 65 years that was specified in the RFP. The lease would be from the HCDA to Forest City. The HCDA also indicated that its Deputy Attorney General would ensure that the existing deal that Forest City has with the reduced number of affordable rentals and the school conforms to the RFP.

At both its February and March Board meetings, the HCDA discussed the development of 690 Pohukaina, which has been in the works for years. At the February Meeting, the HCDA Board entertained a request by the DOE to amend development plans to include an elementary school at the site. No decision was made in February however, the HCDA Board did express its support for a school in the district to serve the growing community.

On March 2, 2016, the HCDA determined that including a school in the 690 Pohukaina development required a change that did not constitute a "de minimis" change to its Solicitation, for which an award has been made and a development agreement is currently being negotiated. The HCDA Board directed staff to continue talks with all parties on how to best proceed with the current solicitation and award. The HCDA remains in support of a school in Kakaako.

On September 7, 2016 the HCDA Board deferred action on the 690 Pohukaina project based on concerns raised by their Deputy Attorney General regarding the RFP process.

On October 13, 2016, the HHFDC Board was briefed on the possibility of taking over the project from the HCDA. The HHFDC would obtain a lease from the DLNR for the site and conceptually provide for Forest City to develop their rental housing project; allow the DOE to have a vertical school as a part of the develop; provide a structured parking area to be shared by all users on the site; and finally, provide for a Low Income Housing Tax Credit (LIHTC) project to be built on the site. The DOE is awaiting formal Board action from HHFDC on the project.

Issues to be addressed in this pilot project site are:

1. How a lease will be issued by the DLNR thru the HHFDC to Forest City, which will allow the DLNR to collect the lease rent over the 65 year lease term;
2. How will a project comprised of affordable rentals and a public elementary school be viewed by prospective renters of the project and adjacent property owners;
3. Can the first vertical elementary school in Hawaii be replicated and used in other locations/communities around the state?

Sample Site No. 3 - 475 22nd Avenue

The site is encumbered by the DOE through Executive Order No. 4290, which set aside the lands for “Public Education Purposes.” The site is presently used by the Office of Curriculum, Instruction and Student Support.

Property Description:

Office of Curriculum, Instruction and Student Support - 475 22nd Avenue	
Tax Map Key	3-1-042: 035
Area	284,665 sf (6.535 Acres)
Zoning	Residential
Ownership	State of Hawaii
Tax Assessed Value	
Land	\$41,132,400
Building	\$346,200

Potential development of this site has been discussed with the HHFDC, which indicated that “Market Rentals” would be an appropriate use for the site. The HHFDC would assist in the redevelop using its RFP selection process to assist the DOE in selecting a developer. A ground lease would be paid to the DOE, for the use of the property, creating a revenue stream for 21st Century improvements to public schools.

A preliminary infrastructure assessment to determine the existing sewer and water capacity has been completed. The land use entitlement requirements are being researched while a conceptual plan for the development is being prepared. These are necessary steps that need to be taken prior to conducting a public outreach and preparation of the environmental assessment.

Questions regarding this pilot project site are:

1. In view of the fact that the DOE cannot hold fee title to the property, how will the land disposition be handled on the redevelopment of the site;
2. What revenue might the DOE expect from a ground lease of the site to be used for “market rental housing;”
3. How will the OEQC process a Chapter 343 HRS document prepared by the DOE based on “maximum allowable uses under the existing zoning;”

4. Will the City and County of Honolulu, DPP allow the DOE to secure entitlements on the property under a maximum allowable use approach prior to selecting a developer for the site?

Research on the three (3) Pilot sites is ongoing. The DOE is holding preliminary briefings with elected officials and representatives of the potentially affected communities. The DOE is evaluating the basic infrastructure capacity and other off-site issues that may prevent or preclude proceeding with the sites as a Pilot Project. Zoning and other land use entitlements are also being researched for each of the sites.

The DOE is committed to public engagement and will be transparent in its project efforts. As the site selection process becomes more certain, the DOE will commence meetings and discussions. The selected site community will be informed of the project progress and outcomes.

(2) Summary of the DOE activities, results, and recommendations to optimize the use of public school lands as a means to build or renovate 21st century schools and school-centered communities:

Since the enactment of §302A-1151.1 HRS, the DOE has worked to create a process that is transparent, and objective, in how sites are selected and subsequently developed.

I. Site Selection:

- Process Oriented and Market Driven:

The DOE has invested considerable time in developing a process for site selection and how the sites would be developed or redeveloped. Meetings have been held with numerous private developers to better understand what investors consider in developing or redeveloping sites. Through these discussions it was determined that site location and size, zoning, market demand, and community support are issues that developers consider in any such project.

The DOE has also consulted with government regulatory agencies to determine the process for compliance with Chapter 343 HRS, county zoning, and the disposition of public lands (i.e. DOE Facilities). This fact finding and analysis will be used in the development, or redevelopment, of the pilot project sites.

Given the non-school nature of the initial pilot project selection, the DOE has yet to formally engage in community discussions. The intent has been to work out the mechanics of the process to determine each site's development potential, and all foreseeable obstacles, to ensure the viability of the projects before engaging with stakeholders.

The DOE continues to vet the various processes required in the selection, and potential development, of any DOE facility. These processes will be revised and improved as the DOE continues to advance the initiative.

II. Program Communication:

The DOE will develop a communication plan for once the initial sites have been established. The DOE's Office of Communications will initiate public relations efforts and will coordinate outreach with the identified communities.

III. On-going Consultation:

The DOE will continue its efforts to involve all pertinent entities on the site selection and development/redevelopment process. This includes conversations with specific communities once the initial short-list of sites has been fully established, as well as a representation of stakeholders, educators, community leaders, community program providers, real estate developers and investors, elected officials, and municipal leaders, etc. This group will review the short-list of sites, the process and criteria for selection, and make recommendations for final three (3) sites to be selected. The DOE will take recommendations under advisement and will make final recommendations to the Board of Education.

(3) Summary of all school and community engagement efforts undertaken or that will be undertaken by the DOE in carryout of the pilot program:

As stated earlier, no current school sites are presently being considered in the initial short-list of pilot sites. Should information become available, that helps to identify any specific school assets for consideration, community engagement will be front and center in the discussions. Since the initial enactment of §302A-1151.1 HRS, it has been understood that community engagement is key to the success of the program. The on-going consultation, described above, represents one level of engaging key stakeholders who can provide specific information and oversight to guide the process.

(4) Summary of the DOE's current and project budgeted expenses, including the identification of any contracts with third parties and the creation of temporary positions within the department in carrying out the pilot program.

§302A-1151.1 HRS provided \$100,000 in appropriations for the first year of the program. An additional \$300,000 has been obligated, to date, to continue consultant support and provide for the initial program set up. Given the effective scope of the program, extended appropriations **to §302A-1151.1 HRS for an additional \$250,000 for FY2017 is requested.** This funding will be used to support the balance of the program requirements leading to the successful implementation of the three (3) pilot projects.

The additional funds requested will support the preparation of an environmental assessment or environmental impact statement for each of the three (3) pilot sites to comply with Chapter 343 HRS, cost associated with additional market studies, cost associated with projecting student enrollment on schools on Oahu given the impact of the Oahu Rail Transit project on areas identified for future growth, and the cost of developing and managing the RFP process. To offset this cost to the State, perhaps the Legislature could advance the funds with the requirement that these funds be replaced from revenue generated from each of the three projects.

Without the funding for the environmental documents, none of the three pilot projects will be able to move forward from the initial selection.

(5) Summary of any capacity and funding issues or challenges the department has encountered in carrying out the pilot project:

To initiate the program, the DOE has been able to subsidize its capacity with consultants funded through the legislative appropriation. As the program begins to take on a greater dimension there will be a greater demand on DOE staff to effectively support the program. Funding levels, as described in paragraph (4), will allow the DOE to continue to receive support from consultants throughout the program. The expectations on DOE may require additional staffing or an adjustment of DOE priorities.