



DEPT. COMM. NO. 225

STATE OF HAWAII
DEPARTMENT OF EDUCATION

P.O. BOX 2360
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

December 29, 2017

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

The Honorable Scott K. Saiki, Speaker
and Members of the House of
Representatives
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki, 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, 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://bit.ly/DOELegReports>.

Sincerely,

A handwritten signature in black ink, appearing to read "Christina M. Kishimoto".

Dr. Christina M. Kishimoto
Superintendent

CMK:jmb
Enclosure

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



State of Hawaii
Department of Education

Annual Report on Pilot Project for Lease of Public School Lands

December 29, 2017

§302A-1151.1, Hawaii Revised Statutes (HRS) requires the Department of Education (DOE) to report on the Public School Land Pilot Program, until the completion of projects.

The Pilot Project for Lease of Public School Lands, §302A-1151.1 HRS, was enacted on June 21, 2013 as a pilot program to allow the DOE to explore the possibility of managing public school properties to generate revenue for modern improvements to its educational facilities. This is the fourth report to the Hawaii State Legislature documenting DOE activities to date.

2018 DOE Legislative Report
Annual Report on Pilot Project for Lease of Public School Lands

(1) Project timeline:

§302A-1151.1 (HRS) requires that the DOE focus 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, the DOE advanced 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 was deemed 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 below full capacity are expected to experience tremendous growth in student enrollment once the residential development related to the Honolulu Authority for Rapid Transportation (“HART”) project is completed, 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 school sites 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 currently include any portion of any school campus for development.

The focus on non-school sites has 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 the DOE to present a model that could be used as an example to show communities what might be possible if a school in their area 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.
- c) A hybrid mixed-use project with school and possibly revenue generation or some other benefit (i.e. teacher housing) for the DOE.

Over the last year the DOE has been working through issues related to each manner of project; working with a demographer to establish projected enrollments along the transit corridor; working to develop a process specific to public private projects; working with the legislature to transfer county-owned school lands to the State.

Recently the Board of Education (BOE) asked that the DOE provide a list of school sites that should be considered for development. The DOE is expected to provide the list of school sites to the BOE by January 2018, and is currently working on selection criteria to establish a list of candidate schools.

Listed below are the initial pilot project sites and a summary of work done to date.

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 (“City”). 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 to 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 on county land, and campuses with both state and county land.

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 Resources (DLNR’s) inventory of public lands.

In January 2014, the City's 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 Honolulu Museum of Art indicated that they needed more parking and classrooms and were looking into the possibility of incorporating the DOE's 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. 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 was not brought before Council.

During the 2017 Legislative Session HB-116 was introduced as a measure to transfer all county school lands to the State. During the session the list of county schools lands was reduce and no longer includes the property at 1042 Young St. The DOE is currently maintaining this property, in its present state, to serve DOE support functions.

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 a new elementary 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 building 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. 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 fewer 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 working with Forest City designers to see if a shared use with the school's 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 2016 meetings, the HCDA discussed the development of 690 Pohukaina, which has been in the works for years. At the February meeting, the HCDA 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 HHFDC Board approved the project and the DOE has been working with staff at HHFDC to prepare the needed documents and MOUs, necessary to facilitate the construction of a school within this housing development. The DOE has also been working

with the City to develop a use agreement for Mother Waldron Park that allows the new school to use the park exclusively during school hours of operation. The initial schematic design for the vertical elementary has begun, with full design on the project expected to begin early fall 2018.

With the lease payment for the property going to DLNR, the Pohukaina project is not expected to generate revenue for the DOE, but the DOE is still committed in its efforts to continue with the project (including a legislative funding request for supplemental budget for FY19 for the amount of \$60M), given the knowledge that can be learned from developing such a dual agency public private project. The documents and procedures from this project can be used to develop similar projects on other school sites and will provide the needed “proof of concept” for the development community to show that the DOE is ready and able to partner on development projects across 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.

General

Continued work on the three (3) candidate Pilot sites has stopped until BOE can be updated and evaluate the possible school sites to consider for development. The DOE expects to present a list of potential school sites to the BOE in January 2018. Once the BOE has reviewed and approved site selections the DOE will hold preliminary briefings with elected officials and representatives of the potentially affected communities.

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 BOE.

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

The DOE is currently considering all school sites for an initial short-list of pilot sites to be presented to the BOE. Once a short list of candidate schools is approved by the BOE, 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 DOE in carrying out the pilot program.

§302A-1151.1 HRS provided \$100,000 in appropriations for the first year of the program. An additional \$500,000 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 **for an additional \$500,000 for FY2019 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 HART project on areas identified for future growth, and the cost of developing and managing the RFP process.

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 DOE has encountered in carrying out the pilot project:

To initiate the program, the DOE has been able to subsidize its lack of capacity and expertise in the property development area 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.

One of the biggest hurdles, in developing school sites, is the issue of land ownership. The DOE does not own the land under its schools. The land is owned by the DLNR and/or state counties. This creates a financial uncertainty for lending institutions, which the developer community finds extremely challenging.



Find current and past DOE Reports online at:

<http://HawaiiPublicSchools.org>