



**Lili'uokalani  
Trust**

LAND USE COMMISSION  
STATE OF HAWAII

2019 SEP -3 A 7:47

**E 'ONIPA'A KĀKOU**  
*Let us all be steadfast.*

August 28, 2019

Mr. Daniel E. Orodener, Executive Officer  
State of Hawai'i  
Land Use Commission  
Department of Business, Economic Development & Tourism  
P.O. Box 2359  
Honolulu, Hawai'i 96804-2359

**Subject: 2019 Annual Progress Report  
LUC Docket No. A89-646  
Lili'uokalani Trust  
Keahuolū, North Kona, Island of Hawai'i**

Dear Mr. Orodener,

Please find enclosed an annual progress report in compliance with Condition 22 of LUC Docket No. A89-646. This report addresses the status of the development and compliance with the conditions of approval for the current year.

If you have any questions or comments, please feel free to contact Ms. LeeAnn Silva or myself at (808) 203-6150.

Sincerely,

Michael Shibata  
Director of Real Estate

Enclosure

# ANNUAL REPORT TO THE STATE LAND USE COMMISSION

Lili'uokalani Trust Keahuolū Lands

LUC Docket No. A89-646

Decision and Order, August 28, 1991

Submitted in Compliance with Condition 22

August 28, 2019

## Introduction

This is a report on the status of development for the Lili'uokalani Trust Keahuolū Land in Kailua-Kona, Hawai'i, and the extent to which conditions of approval are being complied with. The report is submitted in compliance with Condition 22 of LUC Docket No. A89-646, Decision and Order, dated August 28, 1991. This report addresses the status of the development and compliance with the conditions of approval for the current year.

## Status of Conditions

**Condition 1.** *Petitioner shall generate one (1) non-tourism related job, or the equivalent thereof, for each hotel unit Petitioner is allowed to build. As used herein, "non-tourism related" means not related to hotels or residential condominiums intended for use as transient accommodations, or recreational, entertainment or other facilities and services used primarily by tourists. The equivalent value of one (1) non-tourism related job will be determined by the Office of State Planning.*

This condition is currently not applicable. This condition was imposed as a result of the Petitioner's proposal to build a "business-serving hotel complex" within the project area. As of this date, Petitioner has not built the "business-serving hotel complex". Should hotel units be proposed for the project area, and the Petitioner is allowed to build a hotel, the Commission will determine if this condition or any other is necessary and applicable to any hotel project built by the Petitioner.

**Condition 2.** *Petitioner shall design and construct all structures and buildings in compliance with County, State, and Federal codes and standards.*

The Kmart, Macy's and Makalapua Stadium Cinemas projects within Phase I of the project complied with this condition at the time of their completion in 1994, 1997 and 2000, respectively. The Petitioner and its developers will continue to comply with this condition for all future structures and buildings. The Kona Judiciary Complex is also within Phase I of the project. The Petitioner has required that the State of Hawai'i (State) Department of Accounting and General Services (DAGS) and Judiciary comply with this condition as part of the conditions of purchase. The Kona Judiciary Complex parcel was subdivided on January 25, 2018 and conveyed to the State, Board of Land and Natural Resources on July 27, 2018. At the date of this report, the Kona Judiciary Complex construction is underway and is estimated to be completed by September 2019.

jointly plan the source development and transmission system to provide water in a timely manner. The Keahuolū Lands Water Resource Development Agreement was signed by the Petitioner and DWS on February 23, 2010 which describes the Petitioner's participation in the Palani Transmission Line and storage facilities on Trust land adjacent to the Queen Lili'uokalani Village. Additionally, the Petitioner participated in the construction of a water transmission line within the Ane Keohokālole Highway.

**Condition 7.** *The Landowner shall connect the wastewater system for the proposed development of the Property to the Kealakehe Wastewater Treatment Plant. Construction of structures within the Property shall not commence until the Landowner has obtained assurances from the County of Hawaii that capacity at this plant has been reserved or will be available at the time occupancy occurs of structures within the Property; provided that, if the capacity at the Kealakehe Wastewater Treatment Plant is not sufficient for the proposed development of the Property, the Landowner may utilize other alternatives acceptable to the State Department of Health and County of Hawaii.*

The Petitioner has obtained the necessary approvals for connecting existing structures (including the Kona Judiciary Complex) within the Property to the County wastewater system. The Petitioner will continue to comply with this condition in future developments in the project area.

**Condition 8.** *Petitioner shall fund and construct highway improvements, including but not limited to the dedication of rights-of-way, necessitated by the proposed phased development and in designs and schedules accepted by and coordinated with the State Department of Transportation and the County of Hawaii.*

The necessary highway improvements for Makalapua Center (accepted by and coordinated with the State DOT and the County of Hawai'i) were completed as part of the earlier Kmart and Macy's projects. The Petitioner conveyed the necessary right-of-way to the State to widen Queen Ka'ahumanu Highway in satisfaction of the condition. The transaction was memorialized in a Purchase and Sale Agreement (PSA) entered into between the State DOT and the Trust dated September 12, 2003, as amended. The PSA transaction transferred nine parcels of Petitioner's lands to the State DOT and two highway boundaries in favor of the State DOT for highway improvements. As part of the PSA transaction, the State Director of Transportation, Rodney K. Haraga sent a letter to Robert Ozaki, Trust Administrator, dated September 17, 2003 stating that the State DOT released the Trust from further obligations related to highway improvements under Condition 8.

**Condition 9.** *Petitioner shall work with the appropriate departments of the State and County on the designs and construction of all roadway improvements within the Property. Petitioner shall work with the appropriate departments of the State and County on regional traffic improvements necessitated by the proposed phases of the development. Petitioner's participation shall not at any time exceed its pro rata share of roadway improvements made necessary by the increased traffic resulting from each phase of the development. In the event that the County of Hawaii*

Development Plan includes a regional transit-oriented development plan; however there is no formal regional program for transportation management. If one is created, the Petitioner will participate in a regional transportation program.

The Petitioner will collaborate with the appropriate State and County agencies, as well as neighboring landowners including the State's Department of Hawaiian Home Lands, Hawaii Housing Finance & Development Corporation, and Department of Land and Natural Resources on a regional program for transportation management, as needed.

***Condition 12.*** *Petitioner shall work with the County to establish a reasonable buffer area along the boundary of the Property to maintain the visual integrity from Queen Kaahumanu Highway.*

A plan for landscaping of a buffer area along the boundary of the property with Queen Ka'ahumanu Highway was submitted to the County in October 1993. Plans for new projects along Queen Ka'ahumanu Highway will include consideration of a buffer along the highway.

***Condition 13.*** *Petitioner shall preserve those historic sites, as agreed to in writing with the Historic Preservation Division, State Department of Land and Natural Resources, in compliance with Chapter 6E, Hawaii Revised Statutes. The Petitioner shall submit to the State Historic Preservation Division a detailed historic preservation mitigation plan in two parts, a preservation plan and an archaeological data recovery plan. This mitigation plan must be approved by the State Historic Preservation Division, prior to any field work and prior to any construction in the vicinity of historic sites. Also, the Petitioner must obtain verification by the State Historic Preservation Division that successful execution of the mitigation plan has been completed prior to any construction in the vicinity of the historic sites.*

In a letter dated June 5, 1998, State DLNR Historic Preservation Division (SHPD) approved a proposal on behalf of the Petitioner; 1) ensuring that the preservation plan for the preserve would be completed "before the adjacent parcels are developed," and 2) that the detailed "archaeological inventory survey of the preserve area is completed before the preservation plan is developed." The Petitioner worked with the County in the development of the Ane Keohokālole Highway. As part of the project the County contracted Pacific Legacy, Inc. and performed data recovery at selected sites within the highway corridor; completed an archaeological inventory survey within the 25-acre historic preserve area (HPA); as well as a preservation plan. All of this work has been done in conjunction with and approved by the State Historic Preservation Division.

Together with local community organizations and public agencies, the Petitioner's Kona-based staff continues to develop short- and long-range plans to coordinate the planning, management, and maintenance of the 25-acre HPA.

In 2009, related to the Ane Keohokālole Highway project, SHPD stated that newly acquired information has indicated that the previous archaeological report did not accurately reflect the nature, distribution or significance of historic properties. As a

**Condition 18.** *Petitioner shall fund and install, to the specifications and satisfaction of the State Office of Civil Defense, the necessary facilities within the Property and a siren paging encoder in the Kona Police Department substation.*

As reported earlier, the State Office of Civil Defense deferred to County jurisdiction on this matter, and the County does not require a siren paging encoder.

**Condition 19.** *Petitioner shall develop and maintain on-site facilities to insure that the nearshore, offshore, and deep ocean waters remain in pristine condition. Petitioner shall also participate in a water quality monitoring program in accordance with the methods and procedures approved by the State Department of Health.*

As part of the water quality monitoring program, Dr. Steve Dollar conducted sampling in June 1996, while earthwork for the Liberty House (now Macy's), Makala Blvd. and Luhia Street extension projects were in progress. No changes in water quality attributable to the project were noticed. The report was submitted to DOH in September 1996 and approved by the DOH, with the need for additional monitoring to be determined on a project-by-project basis. The Petitioner informed DOH of the grading for the Makalapua Stadium Cinemas project and received DOH's concurrence that no water quality monitoring was necessary, based on the results of the earlier study. The Trust will continue to inform DOH of future projects in the subject area.

**Condition 20.** *Petitioner shall complete the development on the Property in substantial compliance with the representations made before the Land Use Commission. Failure to so develop may result in the reversion of the Property to its former land use classifications or a change to a more appropriate classification.*

The Petitioner is currently reviewing the urbanized lands under this docket in context of its other land holdings in North Kona and updating its conceptual land plan in order to address changes in market demand and community needs. This process is anticipated to be completed in 2020. If there are any changes made to the permitted land uses earlier represented in this docket, the Petitioner will seek an amendment to the decision and order of the Commission.

**Condition 21.** *Petitioner shall give notice to the Land Use Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the Property, provided that individual tenant leases may not be reported.*

The Petitioner has conveyed in fee simple approximately 10 acres of land to the State for the Kona Judiciary Complex within Phase I of the project area. Construction of the Kona Judiciary Complex is estimated to be complete by September 2019.

**Condition 22.** *Petitioner shall provide annual reports to the Commission, the Office of State Planning and the County of Hawaii Planning Department in connection with the status of the subject project and the Petitioner's progress in complying with the conditions imposed.*