

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

August 9, 2019

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.: 19OD-087

OAHU

Seeking Authorizations for Various Actions Relating to the Proposed Mixed-Use Residential Development at 902 Alder Street, Kewalo, Honolulu, Oahu, Tax Map Key: (1) 2-3-012:019:

- a) Cancellation of Governor's Executive Order No. 1577 and Reset Aside to the Hawaii Housing Finance and Development Corporation for Mixed-use Residential and Current and Future Family Court Services including Shelter Services for Juveniles under the Jurisdiction of the Court;
- b) Issuance of Right-of-Entry Permit to the Hawaii Housing Finance and Development Corporation;
- c) Consent to the Right-of-Entry Permits to be issued by the Hawaii Housing Finance and Development Corporation related to the development of the project;
- d) Authorize the Creation of a Condominium Property Regime; Authorize the Chairperson to Execute Documents related to the Condominium Property Regime;
- e) Consent to the Leases issued by the Hawaii Housing Finance and Development Corporation to the Selected Developer and the Judiciary; and
- f) Consent to Mortgage.

CONTROLLING AGENCY (of subject executive order):

Juvenile Court of the First Judicial Circuit ("Judiciary").

APPLICANT (requesting set aside):

Hawaii Housing Finance and Development Corporation ("HHFDC").

LEGAL REFERENCE:

Sections 171-6, -11, -22, -55 Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kewalo, Honolulu, Oahu, identified by Tax Map Key: (1) 2-3-012:029, as shown on the map attached as **Exhibit A**.

AREA:

1.450 acres, more or less.

ZONING:

State Land Use District: Urban  
City and County of Honolulu LUO: A-2 Medium Density Apartment

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Governor's Executive Order No. 1577 setting aside 1.450 acres to the Juvenile Court of the First Judicial Circuit for detention home purposes.

PURPOSE OF SET ASIDE:

Mixed-use residential and current and future family court services including shelter services for juveniles under the jurisdiction of the court purposes.

LEASE TERMS & CONDITIONS:

LOCATION:

Portion of Government lands situated at Kewalo, Honolulu, Oahu, identified by Tax Map Key: (1) 2-3-012:019.

AREA:

1.450 acres, more or less, with the respective portions between the developer and the Judiciary to be decided upon the establishment of the condominium property regime described below.

CHARACTER OF USE:

For the Developer - for affordable family rental housing project purposes; and

For the Judiciary - for family court services including shelter services for juveniles under the jurisdiction of the court purposes.

TERM & RENTAL:

Both leases are for 75 years, with the commencement date to be determined by the HHFDC, and at an annual rental of \$1.00 each.

USE OF LOAN PROCEEDS:

For the development of the proposed mixed-use residential development described below.

The total anticipated cost for the project is about \$89 million. The developer will obtain a loan from the bank for about \$46 million, which will be reduced to \$19 million after the infusion of total tax credit equity (about \$45 million) and HHFDC's \$24 million loan.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the OEQC's Environmental Notice on July 23, 2016 with a finding of no significant impact (FONSI).

APPLICANT REQUIREMENTS: Applicant shall be required to:

1. Process and obtain any appropriate designation of easement and subdivision from the Department of Planning and Permitting at Applicant's own cost;
2. Submit the subject parcel to a Condominium Property regime registered with the Department of Commerce and Consumer Affairs, Real Estate Branch, at Applicant's own cost; and
3. Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

The subject parcel ("Property") has been set aside pursuant to Executive Order No. ("EO") 1577 to the Judiciary for detention home purposes since 1953. Around 1969, an area of 956 square feet was withdrawn by EO 2484 for widening of Alder Street purposes. In 2010, the detention home program that used to occupy one of the buildings was relocated to the Kapolei Judiciary Complex, while other juvenile programs/services continue to stay on the Property.

Pursuant to discussions between the Judiciary and HHFDC, agreement was reached to develop the Property into a mixed-use project in the form of a condominium property regime consisting of about 200 affordable rental housing units for low-income families and a juvenile shelter/service center to continue the provision of programs or services administered by the Judiciary. The residents of the housing units will be subject to an income not exceeding 60% of Honolulu's gross median income.



There will be a parking structure to be shared among the users. A Memorandum of Agreement dated September 6, 2017 was signed by the Judiciary and HHFDC describing the components of the development project and the respective obligations between the parties. A rendering of the project is attached as **Exhibit B**.

Upon its completion, HHFDC will lease the respective portions of the project to MK Adler Street Partners, LLLP (“Partnership”), the entity selected by HHFDC through a request for proposal process, and the juvenile shelter/service center portion to the Judiciary. Both leases are for a term of 75 years at an annual rent of \$1.00 each.

To facilitate the development of the project, HHFDC requests a right-of-entry (“ROE”) which shall expire upon the issuance of the requested executive order. If approved, HHFDC plans to issue ROEs to the developer and entities responsible for the planning, design, and construction of the Project. Staff recommends the Board authorize the issuance of the requested ROE to HHFDC and consent to the ROEs to be issued HHFDC to the Partnership.

Staff also recommends the Board consent to the mortgage arrangement described in the Use of Loan Proceeds section.

HHFDC’s request also mentions a non-exclusive easement in favor of the City and County of Honolulu for roadway corner rounding purposes. Further, easements for other purposes, e.g. utilities, will be needed in favor other governmental agencies or public utility companies. Staff will seek the approval from the Board at an appropriate date when more information on these easements are available.

As the project has gone through the environmental assessment process which involved the solicitation for comments from other agencies, staff did not process another round of similar solicitation for today’s request.

There are no other pertinent issues or concerns. Staff recommends the Board authorize the requested set aside pursuant to the Recommendations listed below.

RECOMMENDATION: That the Board:

1. Approve of and recommend to the Governor the issuance of an executive order canceling Governor’s Executive Order No. 1577 and subject to the following:
  - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
  - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;

- C. Review and approval by the Department of the Attorney General; and
  - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- 2. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to the Hawaii Housing Finance and Development Corporation under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
  - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
  - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
  - C. Review and approval by the Department of the Attorney General; and
  - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- 3. Authorize the issuance of a right-of-entry to HHFDC which shall expire upon the issuance of the requested executive order.
- 4. Consent to the right-of-entry permits to be issued by the HHFDC to (1) MK Alder Street, LLC for planning, design, and construction of the project, and (2) MK Adler Street Partners, LLLP (“Partnership”) as the developer for the project.
- 5. Authorize HHFDC, on behalf of the State, to proceed with the creation by the selected developer of a Condominium Property Regime (CPR) described above.
- 6. Authorize the Chairperson to execute the consent and joinder to the CPR, including to the Declaration, Bylaws, and other documents required in connection with the creation of the CPR, and any amendments to the CPR documents that may be required under the terms thereof from time to time for the development and operation of the project, further subject to the following:
  - A. Review and approval by the Department of the Attorney General; and
  - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- 7. Consent to Lease between HHFDC and the Partnership of an undivided interest in the Property that is equal to the common interest appurtenant to the Residential Unit at a rent of \$1.00 per year for 75 years, and to the conveyance of the Residential

Unit and its appurtenant undivided interest in the common elements of the CPR (excluding the Property) by HHFDC to the Partnership, subject to the terms of such Lease, in accordance with Section 514B-36 of the Hawaii Revised Statutes, further subject to the terms and conditions cited above.

8. Consent to Lease between HHFDC and the Judiciary under the terms and conditions cited above.
9. Authorize the Chairperson to execute the Consent to Mortgage by the Partnership of the Partnership's leasehold interest in the Property and interest in the Residential Unit and appurtenant undivided interest in the common elements of the CPR (excluding the Property), to secure the Partnership's senior and junior construction and permanent financing obligations, and other documents relating thereto, further subject to the following:
  - A. Review and approval by the Department of the Attorney General; and
  - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

  
Barry Cheung  
District Land Agent

APPROVED FOR SUBMITTAL:

  
Suzanne D. Case, Chairperson





**TMK (1) 2-3-012:019**

**EXHIBIT A**



