



**STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS**

**P. O. BOX 1879
HONOLULU, HAWAII 96805**

**REPORT ON STATUS OF THE KA MAKANA ALII PROJECT AND
ACT 187, SESSION LAWS OF HAWAII 2010**

November 2013

*To the House of Representatives
Twenty-Seventh Legislature, 2013
State of Hawaii*

BACKGROUND

Pursuant to House Resolution 130 (2013), the Department of Hawaiian Home Lands (DHHL) is requested to provide a written report on the status of the Ka Makana Alii Project in Kapolei, Oahu.

The resolution specifically requests updates on the following: the status of the project; any anticipated new partners for the project; the projected revenue stream for the project; the projected timeline for the project; and the terms of the development agreement or any other agreement with DeBartolo Development, LLC, that relates to the project and whether the parties to any such agreement are in compliance with its terms.

The resolution also requests an update on Act 187, Session Laws of Hawaii 2010, as amended by Act 175, Session Laws of Hawaii 2012, be included in the report.

STATUS REPORT ON HAWAII DEBARTOLO LLC - KA MAKANA ALII PROJECT

(1) The Status of the project:

Hawaii DeBartolo, LLC (“HD”) has requested a 12-month extension to November 30, 2014 to exercise the option to pull down the general lease. As part of the agreement to allow for the extension, DeBartolo agreed to certain financial commitments. The Hawaiian Homes Commission will review this request at a special meeting to be held on November 14, 2013.

As of October 30, 2013, HD was continuing its pre-construction work for the Project. The following summarizes the achievement of key benchmarks and the status of current development matters.

Environmental Report. On December 12, 2011, the Hawaiian Homes Commission made its finding of no significant impact with respect to the Project based on the environmental assessment for the Project submitted by HD. On February 22, 2012, the 30-day challenge period to the environmental assessment expired without any objections filed regarding the report.

Land Use Commission Decision and Order. On February 11, 2013, the Department filed the Declaration of Conditions regarding the amendment to the Land Use Commission’s 1999 decision and order. The amendment was necessitated by the 1999 decision and order providing that the land (the “Land”) under the Project must be used for a sports complex. The amended decision and order provides that the Land can be used for a shopping center.

Leasing. Attached (“Attachment A”) is a summary of the status of HD’s leasing work as of October 1, 2013. As shown in the summary, of the 669,000 square feet of gross

leasable area in Phase 1 of the Project, HD has leased or is in discussions and negotiations for approximately 620,000 square feet of gross leasable area.

Roadways Access for the Project. HD and the Department of Transportation, State of Hawaii, have agreed upon a Memorandum of Agreement regarding the Project's access to the adjacent roadways, which agreement is being reviewed by the Attorney General. HD is also in the process of completing the permit application for the intersection at Kapolei Parkway and Kinoiki Street to be submitted to the City and County of Honolulu. DHHL and HD are working with the owners of the parcels situated between the Project and Roosevelt Road in order to provide access to and from the Project to Roosevelt Road, including working through applicable federal and State processes with such owners and other stakeholders.

Project Infrastructure (On-Site and Off-Site). All major utilities are currently stubbed to the Land and are of adequate size to meet the Project's requirements. HD has started the preliminary design process with Hawaiian Electric Company and other local utility providers to coordinate development of the onsite infrastructure and distribution. Belt Collins, the Project's engineer-of-record, is in the process of designing and laying out the required onsite storm, water and sanitary systems in conformity with the evolving site plan.

(2) Any anticipated new partners for the project

HD has two members: DeBartolo Development, LLC and the Prudential Insurance Company of America, Inc. At this time, no change in HD's constituency is anticipated.

(3) The projected revenue stream for the project

The annual base ground rent (revenue stream) to the DHHL from this general lease for the initial twenty-five (25) years of the lease term is projected to be approximately \$142,638,135.

It is projected that DHHL will receive approximately \$600 million in base ground rent over the term of the lease.

The department also received option waiting period payments since July 12, 2012 to October 31, 2013 in the total amount of \$453,727.38. Should the Hawaiian Homes Commission approve the extension request its special meeting on November 14, 2013, DeBartolo will pay DHHL \$1.8 million on December 1, 2013, for the one-year extension.

(4) The projected timeline for the project

Late 2013 – Continuing work on preliminary design, leasing efforts and offsite roadway planning

Early 2014 – Continuing work on grading and site utilities’ plans, building plans and offsite plans

Mid 2014 – Continuing work on permit applications; ground blessing; start bidding and material procurement for construction of buildings

Early 2015 – Start intersection and retail building construction

Mid 2015 – Start anchor tenant building and hotel construction

Mid 2016 – Grand Opening of Phase 1 anchor and retail

Mid to late 2016 – Grand Opening of hotel

(5) The terms of the development agreement or any other agreement with DeBartolo Development LLC that related to the project and whether the parties to any such agreement are in compliance with its terms

HD and DHHL are parties to that certain Amendment to and Restatement of Option to Lease dated January 12, 2012 (the “Option”). In addition, HD has a number of agreements with its consultants and other service provider. To the best of HD’s knowledge, HD and DHHL, and HD and the other parties, are complying with their rights and obligations under the Option and other agreements, respectively.

STATUS REPORT ON ACT 187 (SLH, 2010) AND ACT 175 (SLH, 2012)

(1) An update on the status and effect of Act 187, Session Laws of Hawaii 2010, as amended by Act 175, Session Laws of Hawaii 2012:

Act 187, as amended by Act 175, was appended to the Hawaiian Homes Commission Act as Section 228. This statutory amendment is a great tool for the department as it manages its available lands, but the statutory language requires the promulgation of rules prior to implementation, and implementation of the lease extension provision has been delayed due to this requirement.

Rulemaking was initiated in July, and at its regular meeting of July 22, 2013, the Hawaiian Homes Commission approved the draft administrative rule language to implement Section 228, and authorized the department to conduct beneficiary consultation of these draft rules. Pursuant to the DHHL Beneficiary Consultation Policy, administrative rules amendments are subject to a series of statewide consultation meetings. A total of eight (8) beneficiary consultation meetings were held on Hawaii, Maui, Molokai, Oahu and Kauai between August 21 and August 29, 2013. These meetings were designed to inform beneficiaries of the draft language and the rulemaking process.

At its regular meeting of October 28, 2013, the Hawaiian Homes Commission approved the “Beneficiary Consultation Report on Rulemaking to Implement Hawaiian Homes Commission Act, Section 228” and authorized staff to initiate the formal rulemaking process. As of the completion of this report, the commission-approved draft rule language was transmitted to the Department of the Attorney General for review and approval.

(2) The applicability of Act 187 to the Ka Makana Alii project

Once the aforementioned administrative rules are promulgated, any DHHL general lease holder, including Hawaii DeBartolo LLC, can apply for the extension of lease pursuant to Hawaiian Homes Commission Act, Section 228, provided that all the conditions and criteria in the law and in the rules are met.

(3) Whether Act 187 should be extended or made permanent

Based on our interpretation of Act 187, part II of this act is already permanent and requires no further legislative action. Once the aforementioned administrative rules are promulgated, the department will be able to grant general lease extensions pursuant to the terms outlined in the law and in the rules. Again, this authority is a great tool for the department and allows for improved management of the DHHL’s trust lands.

ATTACHMENT A

**Ka Makana Alii
Phase I Tenant Deal Status
(As of 10/03/13)**

Total Phase I GLA	669,000
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<u>Total by Deal Status</u>		
<i>Description</i>	<i>SF</i>	<i># of Tenants</i>
Total Phase I Deals	620,032	65
Active Retail Discussions	105,550	5
Letter of Intent Negotiation	390,675	55
Leases Executed and in Negotiation	123,807	5
<u>Total by Retail Category</u>		
Anchor	102,000	1
Entertainment	45,000	1
Jr. Anchor	230,234	8
Restaurants & Fast Food	37,208	8
Specialty Retails	205,590	47