

Pre-decisional Document

**DOCKET NO. A11-798 STATE OF
HAWAI‘I , DEPARTMENT OF
EDUCATION**

Kūlanihāko‘i (formerly Kīhei) High School (Maui)

Status Report

***STAFF
REPORT***

ACTION MEETING

February 9, 2023



Daniel Orodener, Executive Officer

Submitted: February 3, 2023

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1. EXPLANATION OF PROCEEDING

Status and Progress Report hearings provide the Petitioner an opportunity to update the Commission on progress or problems in compliance with the representations and conditions of the decision and order.

This proceeding is not intended for any decision making at this time.

2. AUTHORITY

Pursuant to HAR 15-15-90(c) “The Commission may require the petitioner to submit to periodic reports indicating what progress has been made in complying with any conditions that may have been imposed by the commission.”

3. BACKGROUND INFORMATION

The proceeding before the Land Use Commission (“LUC”) is to hear a status report by State of Hawai‘i, Department of Education (“DOE”) Kūlanihāko‘i (Formerly Kīhei) High School (Maui).

On July 29, 2013, the Commission issued its Findings of Fact, Conclusions of Law, and [Decision and Order](#) (“2013 D&O”) and granted the Petition subject to twenty-five (25) conditions.

2019 County Declaratory Order (DR 19-65)

February 6, 2019

The Commission received [Maui County Resolution 19-20](#) re A94-706 asking for Declaratory Order asking that Condition 1 (b) of the 2013 D&O requires an available above or below ground pedestrian crossing.

April 2, 2019

The Commission issued its [Order Granting Petitioner Department of Planning County of Maui’s Petition for Declaratory Order and Certificate of Service to Parties](#).

Commission ORDERED that the Petition be GRANTED and it is declared that under the particular facts of this case, that Condition 1(b) of the Decision and Order of July 29, 2013, Docket No. A11-794 DOE Kihei High

School requires that a pedestrian overpass or underpass be constructed before the opening of the first phase of the new high school in Kihei and that construction of the overpass or underpass was a mandatory requirement and was not optional. In addition, the DOE is required to get approval from Department of Transportation of its Pedestrian and Traffic plans.

2020 Motion to Amend
August 20, 2020

The Commission received Petitioners [Motion to Amend](#) Findings of Fact, Conclusions of Law, and Decision and Order.

August 2, 2021

Most Recent [Annual Report \(2021\)](#)

The annual reports for this Docket are due prior to the anniversary date of the Commission's approval of the Petition (July 29, 2013). On that basis, the 2022 annual report from the DOE is delinquent and overdue.

September 28, 2022

The Commission issued its Findings of Fact, Conclusions of Law, and [Decision and Order](#) Denying Petitioners Motion to Amend the Land Use Commission's 2013 Decision and Order.

Petitioner Maui Planning Department

Information via [public letter from the Kihei Community Association](#)

December 1, 2022

The DOE sought temporary certificates of occupancy from the Maui County Planning Department. Michele McLean, the former Planning Department Director, denied the application.

Status Report

January 26, 2023

LUC emailed Petitioner that a Status Report hearing was being scheduled

January 30, 2023 –
February 8, 2023

Numerous public testimonies received and
posted

4. STAFF NOTES

This is an opportunity for the DOE to update the Commission on how and when it plans to open the new high school and its progress in planning and constructing the grade separated pedestrian over or underpass.