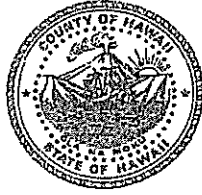


Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

July 22, 2003

Mr. Tommy R. Thompson
31 Piliialoha Street
Hilo, Hawaii 96720

Dear Mr. Thompson:

SUBJECT: Additional Farm Dwelling Agreement (AFDA)
Applicant: Tommy R. Thompson (Lessee)
Owners: Glenn A. Thompson and Richard F. Thompson
State Land Use: Agricultural
County Zoning: Agricultural (A-1a)
Land Area: 1.0-acres
Tax Map Key: (3) 1-5-041:146

Pursuant to authority conferred to the Planning Director by Chapter 25, Article 5, Division 7, Section 25-5-77 of the Zoning Code and Planning Department Rule 13, Farm Dwellings, we have reviewed your request for an additional farm dwelling on the subject property. Your submittals included the following information:

1. A notarized affidavit that the additional dwelling shall be used for farm-related purposes in the form of the enclosed Additional Farm Dwelling Agreement to be submitted for recordation with the Bureau of Conveyances.
2. Name and address of the landowner(s) or lessee(s), if the latter has a lease on the building site with a term exceeding one year from the date of the farm dwelling agreement.
3. Written authorization of the landowner(s) if the lessee filed the request.

EXHIBIT

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Mr. Tommy R. Thompson

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4. A farm plan or evidence of the applicant's continual agricultural productivity or farming operation within the County, including an explanation of why this AFD is needed in connection with the agricultural productivity or farming operation.

Your farm plan included the following ongoing and proposed income producing agricultural activities:

(a) Ongoing agricultural activities include the following:

- i. The activity is proposed.

(b) Proposed agricultural activities include the following:

- i. 30% to 50% of the 1-acre parcel to be dedicated to the growing of taro, noni, pineapple, yams, sweet potatoes and other saleable produce.

5. In support, evidence of a State of Hawaii Department of Taxation's General Excise (GE) Tax License has also been presented.

Findings:

1. In Chapter 205, Hawaii Revised Statutes (HRS), the State Land Use Law does not authorize residential dwellings as a permitted use in the State Land Use Agricultural district unless the dwelling is related to an agricultural activity or is a farm dwelling. A **farm dwelling** as defined in Section 205-4.5, Chapter 205, HRS, **means a single family dwelling located on and used in connection with a farm, including clusters of single family farm dwellings permitted within agricultural parks developed by the State, or where agricultural activity provides income to the family occupying the dwelling.** (emphasis added)
2. The subject lot was created by subdivision (SUB 1332) approved on February 24, 1959, which, pursuant to HRS §205-4.5(b), allows the first dwelling on the lot to be a single-family dwelling.
3. The Farm Plan, GE Tax License (ID number 30131692), and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate that there will be income producing agricultural activity and the income will be taxed.

EXHIBIT

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4. In addition, the following agencies have submitted their comments as stated below:

(a) Department of Water Supply (Letter dated July 3, 2003):

“We have no objections to the proposed additional farm dwelling. The subject property is not within the service limits of the Department of Water Supply’s existing water service facilities. The Department’s nearest water facility is at the end of a 12-inch waterline along Paradise Drive and is approximately 2,800 feet away. We understand that the applicant is proposing a rain catchment system to meet water needs. Therefore, there are no requirements to be satisfied for this Department.

Should there be any questions, please call our Water Resources and Planning Branch at 961-8070”

(b) Real Property Tax Office (per tax clearance submitted):

“This is to certify that the real property taxes due to the County of Hawaii on the parcel(s) listed above have been paid up to and including June 30, 2003.”

(c) Department of Health (Memorandum dated July 3, 2003):

“The use of individual wastewater systems is allowed. The type and number of individual wastewater systems to be used on each lot will be determined by the wastewater rules in effect at the time of building permit application.”

Decision:

In view of the above, your request to construct a **second** (first AFD) dwelling on the property is approved subject to the following conditions:

1. The Building Permit (BP) for the first single-family dwelling shall be applied for prior to or at the same time as this AFD BP. Bear in mind that there is a two year time limit from this approval for you to obtain a BP for the AFD and the farm plan must be 75% implemented within three years of issuance of the BP.
2. The AFD shall only be used to provide shelter for persons involved in the agricultural or farm-related activity on the building site. Family members who are not engaged in agricultural or farm-related activities are allowed to reside in the farm dwelling.

EXHIBIT

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Mr. Tommy R. Thompson

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3. The agreement shall run with the land and apply to all persons who may, now or in the future, use or occupy the additional farm dwelling. The enclosed AFD Agreement must be returned to the Planning Department with the appropriate notarized signatures along with a check made out to the Bureau of Conveyances in the amount of \$25.00 in accordance with the enclosed AFDA Instructions. The Planning Department will not approve a building permit application for the additional dwelling until the AFDA document and all required attachments have been accepted for recordation.
4. All other applicable rules, regulations, and requirements of the Planning Department (including but not limited to the Zoning Code, Chapter 25, Department of Public Works, Department of Water Supply, Fire Department and State Department of Health and other reviewing agencies/divisions listed on the Building Permit Application.
5. Your AFDA has been approved based wholly on proposed agricultural activity as summarized previously in this letter. It is required that the First Party (owners and lessees) to the Agreement shall have implemented at least 75% of the proposed farm plan within three (3) years of approval of the BP for the additional farm dwelling. The Second Party (County of Hawaii Planning Department) of the Agreement may allow time extensions and modifications for good cause shown by First Party.
6. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
7. This AFDA shall be valid for a period of two (2) years from the date of this approval letter to secure a BP for the additional farm dwelling. Failure to secure a BP for this additional farm dwelling on or before July 23, 2005 may cause the Director to initiate proceedings to invalidate the AFDA.


EXHIBIT

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Mr. Tommy R. Thompson
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Should you have any questions, please feel free to contact Jonathan Holmes of this office at 961-8288.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

JRH:pak
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Enclosure: AFDA document
AFDA document instruction sheet

xc: Mr. Milton Pavao, DWS
Mr. Mike McCall, RPT

EXHIBIT
A



R-941

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
DEC 15, 2004 08:02 AM

Doc No(s) 2004-253083



/s/ CARL T. WATANABE
REGISTRAR OF CONVEYANCES

20 1/1 Z6

AFTER RECORDATION, RETURN BY MAIL TO:

County of Hawaii Planning Department
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

TITLE OF DOCUMENT:

ADDITIONAL FARM DWELLING AGREEMENT

PARTIES TO DOCUMENT:

FIRST PARTY: GLENN A. THOMPSON

SECOND PARTY: COUNTY OF HAWAII

PROPERTY DESCRIPTION:

TMK: (3) 1-5-041:146

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 24th day of March, 2003, by and between **GLENN A. THOMPSON**, herein called the "First Party," whose mailing address is 31 Piliialoha Street, Hilo, Hawaii 96720, and the COUNTY OF HAWAII, herein called the "Second Party."

IT IS HEREBY AGREED that the First Party may construct a second farm dwelling located on the property described by Tax Map Key (3) 1-5-041:146 situated within the State Land Use Agricultural district and zoned Agricultural (A-1a) by the Second Party.

IT IS HEREBY ACKNOWLEDGED that the First Party is the legal owner of the property above described.

IT IS HEREBY FURTHER AGREED that this approval to construct one additional farm dwelling is given subject to the following conditions:

1. The additional farm dwelling shall be used to provide shelter to person(s) involved in the agricultural or farm-related activity on the property. Family members who are not engaged in agricultural or farm-related activity are allowed to reside in the farm dwelling.
2. The agreement shall run with the land and apply to all persons who may now or in the future use or occupy the additional farm dwelling.
3. This agreement shall include any and all conditions specified in the Additional Farm Dwelling Agreement letter, attached to this document as Exhibit "A".

IT IS HEREBY FURTHER AGREED that if this agreement is with a lessee, the legal owner shall be a party to this agreement.

IT IS HEREBY FURTHER AGREED that should the pertinent provisions of the State and County laws and rules and regulations change to authorize said farm dwelling, upon request of the First Party, this Agreement may be reconsidered for possible amendment and/or severance.

IT IS HEREBY FURTHER AGREED that if the property is situated within the State Land Use Agricultural district, the Second Party may impose a fine of not more than \$5,000 for violation of Section 205-4.5, Hawaii Revised Statutes. If the violation is not corrected within six months of such citation and the violation continues, a citation for a new and separate violation may be imposed. There shall be a fine of not more than \$5,000 for any additional violation. The Second Party may also impose fines for any violation of Chapter 25, Hawaii County Code, as amended, in accordance with the procedures and fine schedule outlined in Division 3, Article 2, of said code.

IN CONSIDERATION OF THE AFORESAID, the Second Party hereby approves this Agreement as being in conformity with Sections 205-2 and 205-4.5 of the Hawaii Revised Statutes, relative to permitted uses within the State Land Use Agricultural district. This Agreement is also in conformance with Chapter 25, Hawaii County Code, as amended.

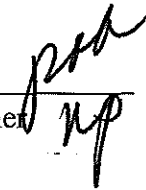
IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written.

FIRST PARTY:


x 

GLENN A. THOMPSON, Legal Owner

FIRST PARTY:

~~RICHARD F. THOMPSON, Legal Owner~~ 

SECOND PARTY:



Christopher J. Yuen, Planning Director
County of Hawaii Planning Department

ACKNOWLEDGMENT

State of CALIFORNIA

County of ORANGE

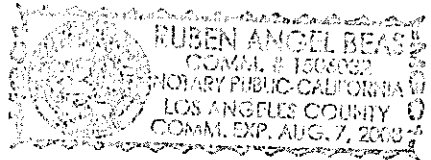
} ss.

On 9/29/04, before me RUBEN ANGEL BEAS,
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared *[Signature]* Glen S. Thompson,
Name(s) of Signer (s)

personally known to me
 proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is are subscribed to the within instrument and acknowledged to me that he/she/ they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal

[Signature]
Signature of Notary Public

Place Notary Seal Above

25

R-441

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

NOV 09, 1999 08:02 AM

Doc No(s) 99-179189

/s/CARL T. WATANABE
ACTING
REGISTRAR OF CONVEYANCES

X

After recording, return to:
GLENN ANDREW THOMPSON
PO BOX 4262
HILO HI 96720

RELEASE OF MORTGAGE

KNOW ALL MEN BY THESE PRESENTS:
That Countrywide Home Loans, Inc. (fka Countrywide Funding Corporation) whose principal office and post office address is:
1800 Tapo Canyon Road, MSN SV2-88
Simi Valley, CA 93063

having received full payment of the obligation(s) mentioned in and secured by that certain mortgage it made by
GLENN ANDREW THOMPSON DRENDA MARIE THOMPSON

dated 09/20/1994 and recorded in Bureau of Conveyances of the state of Hawaii in Book N/A, Page N/A, Doc # 94-157895 does/do hereby release, cancel and discharge said mortgage and release and forever quit claim unto said Mortgagors, their hosts, personal representatives, successors in interest and assigns, all right, title and interest by Mortgagee acquired under said Mortgage in and to the property therein described.

IN WITNESS WHEREOF, said mortgagee have caused these presents to be duly executed this 19 day of October, 1999
Countrywide Home Loans, Inc. (fka Countrywide Funding Corporation)

Ronn A Pisapia
Vice President

Christina Ramirez
Assistant Secretary

STATE OF CALIFORNIA § COUNTY OF VENTURA §

On 10/19/1999 before me, the undersigned, a Notary Public in and for said State, personally appeared Ronn A Pisapia and Christina Ramirez personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) who executed the within instrument as the Vice President and Assistant Secretary Personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as the Vice President and Assistant Secretary of the Corporation that executed the within instrument and acknowledged pursuant to its by-laws or a resolution of its board of directors.

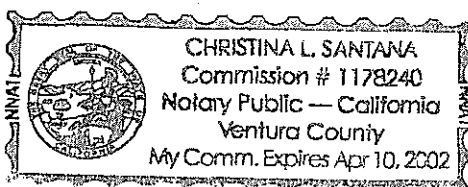
WITNESS my hand and official seal

Christina L. Santana
Notary Public

Prepared by Christina Ramirez

(notarial seal)

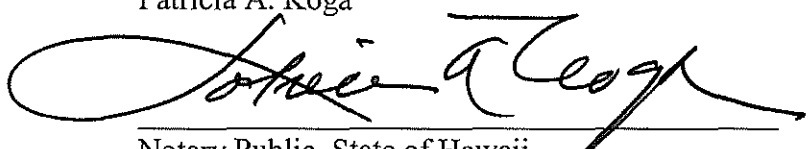
CFC Loan # 1657323



STATE OF HAWAII)
) SS
COUNTY OF HAWAII)

On this 9th day of December, 2004 before me personally appeared Christopher J.

Yuen, to me personally known, who, being by me duly sworn, did say that he is the Planning Director of the County of Hawaii; and that the Planning Department of the County of Hawaii has no corporate seal; and that the instrument was signed on behalf of the Planning Department of the County of Hawaii, a government agency, and said Christopher J. Yuen acknowledged the instrument to be the free act and deed of said Planning Department, County of Hawaii.

Patricia A. Koga

Notary Public, State of Hawaii

My commission expires: 07/17/06

