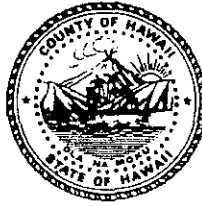


William P. Kenoi  
Mayor



BJ Leithead Todd  
Director

Margaret K. Masunaga  
Deputy

West Hawai'i Office  
74-5044 Ane Keohokalole Hwy  
Kailua-Kona, Hawai'i 96740  
Phone (808) 323-4770  
Fax (808) 327-3563

**County of Hawai'i**  
PLANNING DEPARTMENT

East Hawai'i Office  
101 Pauahi Street, Suite 3  
Hilo, Hawai'i 96720  
Phone (808) 961-8288  
Fax (808) 961-8742

March 20, 2013

Lori Mikkelson  
All Aina Services  
P.O. Box 291  
Laupahoehoe, HI 96764

Dear Lori Mikkelson:

**SUBJECT: RECORDED ORIGINAL FARM DWELLING AGREEMENT**  
**AFDA No: FDA-11-000299**  
**Document No: A-45340800**  
**Owner: LORN DOUGLAS**  
**TMK: (3)1-4-020:007**

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Enclosed, please find the original document of the above-referenced Additional Farm Dwelling Agreement for the subject TMK parcel, which was recorded with the State Bureau of Conveyances on May 31, 2012.

A copy of this document will be maintained in our files at the Hilo office. If you should have any questions, please contact this office at (808) 961-8288.

Sincerely,

  
BJ LEITHEAD TODD  
Planning Director

AK:nci  
P:\Admin Permits Division\AFDA\2011\Recorded AFDA\FDA-11-000299DouglasTMK1-4-020-007.doc

Encs: Recorded AFDA (Original) Document # A-45340800

*WAGN*



STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED

May 31, 2012 8:02 AM

Doc No(s) A-45340800



1 1/1 KEO  
B-32070457

/s/ NICKI ANN THOMPSON  
REGISTRAR

*2*

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AFTER RECORDATION, RETURN BY MAIL TO:

County of Hawai'i Planning Department  
101 Pauahi Street, Suite 3  
Hilo, Hawai'i 96720

---

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TITLE OF DOCUMENT:

**FARM WORKERS QUARTERS AGREEMENT (FDA-11-000299)**

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PARTIES TO DOCUMENT:

**FIRST PARTY: LORN DOUGLAS,  
TRUSTEE OF THE LORN DOUGLAS TRUST**

**SECOND PARTY: COUNTY OF HAWAI'I**

---

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PROPERTY DESCRIPTION:

**TMK: (3) 1-4-020:007**

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FARM WORKERS QUARTERS AGREEMENT

THIS AGREEMENT made and executed this 15 day of MAY, 2012, by and between **LORN DOUGLAS, TRUSTEE OF THE LORN DOUGLAS TRUST**, herein called the "First Party," whose mailing address is RR2 Box 4544, Pahoa, HI 96778, and the COUNTY OF HAWAI'I, herein called the "Second Party."

IT IS HEREBY AGREED that the First Party may construct additional farm dwelling improvements (identified as "farm workers quarters") located on the property described by Tax Map Key (3) 1-4-020:007 situated within the State Land Use Agricultural district and zoned Agricultural (A-3a) 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 additional farm dwelling improvements is given subject to the following conditions:

1. The farm dwelling improvements 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, dated December 14, 2011, 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, Hawai'i 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, Hawai'i County Code, as amended.

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

FIRST PARTY:



\_\_\_\_\_  
LORN DOUGLAS,  
TRUSTEE OF THE LORN DOUGLAS TRUST  
Legal Owner

SECOND PARTY:



\_\_\_\_\_  
BJ ZEITHEAD TODD, Planning Director  
County of Hawaii Planning Department

STATE OF HAWAII  
COUNTY OF HAWAII

)  
) SS.  
)

On this 15<sup>th</sup> day of May, 2012 before me personally appeared LORN DOUGLAS, TRUSTEE OF THE LORN DOUGLAS TRUST, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

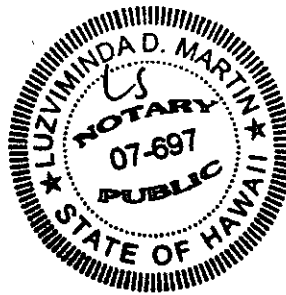
Luzviminda D. Martin

Notary Public, State of Hawaii



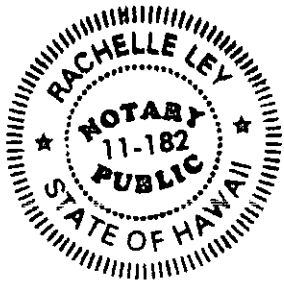
My commission expires: 12-30-2015

Doc. Date: 5-15-12 # Pages: 4  
Notary Name: Luzviminda D. Martin Third Circuit  
Doc. Description: FARM WORKERS  
QUARTERS AGREEMENT (FOA-11-100299)  
Luzviminda D. Martin 5-15-12  
Notary Signature Date  
NOTARY CERTIFICATION



STATE OF HAWAI'I )  
 ) SS.  
 COUNTY OF HAWAI'I )

On this 29th day of May, 2012, before me personally appeared BJ Leithead Todd, to me personally known, who, being by me duly sworn, did say that BJ Leithead Todd is the Planning Director of the County of Hawai'i, and that the Planning Department of the County of Hawai'i has no corporate seal; and that the instrument was signed on behalf of the Planning Department of the County of Hawai'i, a government agency, and said BJ Leithead Todd acknowledged the instrument to be the free act and deed of said Planning Department, County of Hawai'i.

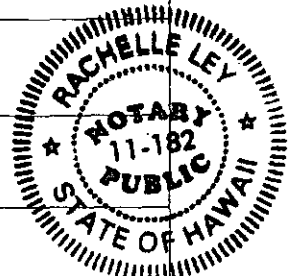


*Rachelle Ley*  
 \_\_\_\_\_  
 Rachelle Ley

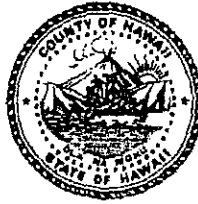
Notary Public, State of Hawai'i  
 Third Judicial Circuit

My Commission Expires: June 12, 2015

Document Date:	May 29, 2012	No. of Pages:	6
Notary Name:	Rachelle Ley	Third Judicial Circuit	
Doc. Description:	Farm Workers Quarters Agreement (FDA-11-000299)		
	Tax Map Key (3) 1-4-020:007		
<i>Rachelle Ley</i> Notary Signature		5/29/2012	Date



William P. Kenoi  
Mayor



BJ Leithead Todd  
Director

Margaret K. Masunaga  
Deputy

West Hawai'i Office  
74-5044 Ane Keohokalole Hwy  
Kailua-Kona, Hawai'i 96740  
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Hilo, Hawai'i 96720  
Phone (808) 961-8288  
Fax (808) 961-8742

December 14, 2011

Lori Mikkelson  
All Aina Services  
P.O. Box 291  
Laupahoehoe, HI 96764

**SUBJECT:** Additional Farm Dwelling Agreement (FDA-11-000299) (**REVISED**)  
Applicant: Polestar Gardens  
Land Owner: LORN DOUGLAS TRUST  
State Land Use: Agricultural  
County Zoning: A-3a (Agricultural, minimum building site of three acres)  
Land Area: 20.519 acres  
Tax Map Key: (3) 1-4-020:007, Kapoho, Puna, Hawai'i

Dear Ms. Mikkelson,

This approval letter will supersede the Planning Department's Additional Farm Dwelling Agreement dated June 14, 2011.

On May 9, 2011 a request was made for three Additional Farm Dwellings to be located throughout the 20+ acre property. On June 14, 2011, the Planning Department granted approval for additional housing; however, such approval was limited to only one (1) Additional Farm Dwelling.

On November 1, 2011 a supplemental request was made to modify the proposed housing and view the additional housing accommodations as "Farm Workers Quarters." Such request would include the construction of a "hub house" (consisting of a central two-bedroom house with kitchen) and eight detached bedrooms located within close proximity to the house to be developed in the next few years.

Pursuant to authority conferred upon 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 additional farm dwellings on the subject property. Your May 9, 2011 submittal included the following information:

**EXHIBIT**  
**A**



1. Names, address and the signatures of the applicants/landowners.
2. A farm plan or evidence of the applicants' 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 existing and proposed income-producing agricultural activities:
  - a. Ongoing agricultural activities for the POLESTAR GARDENS include the following:
    - i. Maintain approximately 600 banana trees, 12 avocado trees, 24 cacao trees, breadfruit trees, mango trees, guava trees, coconut trees, lychee trees, macadamia nut trees, rambutan trees and longon trees;
    - ii. Maintain lemon/lime trees, orange trees, fig trees, durian trees, rolinia trees, abiu trees, papaya trees, cashew and soursop trees;
    - iii. Tend to the vegetable garden which includes sweet potatoes, taro, kale and other greens;
    - iv. Tend to the greenhouse vegetables which include tomatoes, cucumbers, squash and zucchini and to the shade house vegetables which include lettuce, herbs and flowers;
    - v. Wash and box fruits and vegetables in preparation for delivery and sale at the farmers market and for the Community Supported Agriculture;
    - vi. Established farm as a Community Supported Agriculture with 12 clients;
    - vii. Approximately 64 or more hours per week are required for operating the farm.
  - b. Proposed agricultural activities includes the following:
    - i. Expand the vegetable garden with corn, carrots and radishes;
    - ii. Expand the shade house vegetables to include more herbs, flowers and greens;
    - iii. Prepare half an acre for landscape nursery, beginning with 100 ornamental palm trees with an additional 100 trees every six months for the next three years;
    - iv. Repair liner to existing 200,000 gallon pond for use in irrigation system;
    - v. Trench and install water lines and pump for pressurized distribution;
    - vi. Construct 20'x32' greenhouse for vegetable cultivation;
    - vii. Construct 20'x48' shade house and raised beds for lettuce and greens;
    - viii. Construct pig fencing for half-acre vegetable garden;
    - ix. Mow and prepare western three-acre field for alternating single-crop production;
    - x. Construct chicken shed adjacent to vegetable garden;
    - xi. Obtain Organic Certification;
    - xii. Approximately 60 or more additional hours per week will be required to operate the farm.

Furthermore, your November 1, 2011 submittals modified the proposal to reflect "farm workers quarters" as follows:

1. Development of a central two-bedroom house with kitchen ("hub house") along with eight detached bedroom built within fifty feet of the house over the next few years while expanding farm activities.

Findings:

1. In Chapter 205, Hawai'i 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 prior to June 4, 1976 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 and the agreement to use the dwelling(s) for agricultural or farm-related activity on the building site demonstrate that there is income-producing agricultural activity.
4. In addition, the following agencies have submitted their comments as stated below:
  - a. Department of Water Supply (DWS) memorandum dated June 7, 2011:

"Please be informed that the subject parcel is not within the Department's existing service limits. The closest point of adequacy is the end of an existing 8-inch waterline within Kapoho-Pāhoa Road, approximately 1.2 miles west of the subject parcel.

Therefore, the Department has no objections to the proposed application, subject to the applicant understanding and accepting that the Department cannot provide service to the proposed additional farm dwellings.

Should there be any questions, please contact Mr. Ryan Quitarano of our Water Resources and Planning Branch at 961-8070, extension 256."

- b. Department of Health (DOH) memorandum dated May 12, 2011:

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

We recommend that you review all of the Standard Comments on our website:

<http://hawaii.gov/health/environmental/env-planning/landuse/landuse.html>.

Any comments specifically applicable to this project should be adhered to.

The same website also features a Healthy Community Design Smart Growth Checklist (Checklist) created by Built Environment Working Group (BEWG) of the Hawaii State Department of Health. The BEWG recommends that state and county planning departments, developers, planners, engineers and other interested parties apply the healthy built environment principles in the Checklist whenever they plan or review new developments or redevelopments projects. We also ask you to share this list with others to increase community awareness on healthy community design.”

Decision:

In view of the above, your request to construct Additional Farm Dwellings (“Farm Workers Quarters”), identified as a central hub house with additional detached bedrooms, on the property is **approved** subject to the following conditions:

1. 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.
2. Applicant’s commitment to the farm plan will be shown in the form of the enclosed Farm Workers Quarters Agreement affidavit, to be notarized and submitted for recordation with the Bureau of Conveyances, which states that the additional dwelling shall be used for farm-related purposes.
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 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 \$30.00 in accordance with the enclosed instructions. The Planning Department will not approve a building permit application for the additional dwelling until the 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 any other reviewing agencies/divisions listed on the Building Permit (BP) Application shall be adhered to.

5. The applicant is responsible for any State and Federal tax consequences due to the income produced from the farm activity.
6. Your AFDA for Farm Workers Quarters has been approved based on ongoing and proposed agricultural activity as summarized previously in this letter.
7. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
8. The Department of Water Supply has determined that a County approved water system is not available to support the AFD. An Additional Farm Dwelling that is not served by an approved water system may be permitted to use a water catchment system in an area that receives an annual rainfall of at least eighty (80) inches of rain per year. A minimum 9,000 gallon water catchment system for domestic consumption and fire fighting purposes will be required for the AFD.
9. This AFDA shall be valid for a period of two (2) years from the date of this approval letter to secure a Building Permit for the additional farm dwelling. Failure to secure a BP for this additional farm dwelling on or before December 5, 2013 may cause the Director to initiate proceedings to invalidate the AFDA.

Please feel free to contact Jonathan Holmes of this office at (808) 961-8288 or [jholmes@co.hawaii.hi.us](mailto:jholmes@co.hawaii.hi.us) should you have any further questions and/or concerns.

Sincerely,



for  
BJ LEITHEAD TODD  
Planning Director

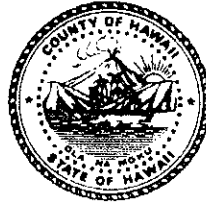
GES/JRH:kwr

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Enclosures: AFDA document (Revised – “Farm Workers Quarters Agreement”)  
AFDA document instruction sheet

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

William P. Kenoi  
Mayor



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December 14, 2011

Lori Mikkelson  
All Aina Services  
P.O. Box 291  
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Lori Mikkelson  
All Aina Services  
Polestar Gardens/LORN DOUGLAS TRUST  
Page 5 of 5  
December 14, 2011

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Please feel free to contact Jonathan Holmes of this office at (808) 961-8288 or [jholmes@co.hawaii.hi.us](mailto:jholmes@co.hawaii.hi.us) should you have any further questions and/or concerns.

Sincerely,



For  
BJ LEITHEAD TODD  
Planning Director

GES/JRH:kw

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Enclosures: AFDA document (Revised – “Farm Workers Quarters Agreement”)  
AFDA document instruction sheet

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