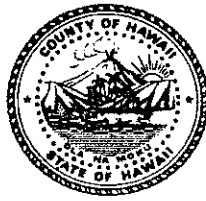


William P. Kenoi  
Mayor



Duane Kanuha  
Director

Bobby Command  
Deputy Director

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

May 13, 2014

Sin Mook Kang  
PO Box 1313  
Kurtistown, HI 96760

Dear Mr. Kang:

**DETERMINATION OF PRE-EXISTING LOTS OF RECORD**  
**'Ōla'a Reservation Lots, Ola'a, Puna, Hawai'i**  
**Tax Map Key 1-7-013:109**

This is in response to further research into the determination of pre-existing lots for the above-described property.

We have reviewed a document which is an Indenture Agreement dated February 7, 1903, between 'Ōla'a Sugar Co., Ltd. and the Hilo Railroad Co. This Indenture Agreement was recorded with the Bureau of Conveyances in Liber 242, Pages 442 through 444. This document included a metes and bounds description of the railroad right-of-way.

Our research has not found any evidence that the right-of-way was extinguished by consolidation with either portion of Lot 8.

**Therefore, we revise our original determination as follows:**

1. Lot 8, containing approximately 51.311 acres, consists of two (2) buildable remainder areas and the non-buildable, nonconforming railroad right-of-way.

We do not have any record of these portions of Lot 8 having been consolidated with each other or any other adjacent lands.

Sin Mook Kang  
Page 2  
May 13, 2014

In view of the above, we find that Parcel 109, currently described as one (1) Tax Map Key Parcel, is actually three (3) legal lots of record.

Please be aware of the following excerpt of the Subdivision Code:

"Section 23-120. Use of certain pre-existing lots in consolidation and resubdivision.  
A pre-existing lot that was created for use as a road lot, a railroad right-of-way, a flume line, or a pole anchor, shall be excluded for calculating the number of lots in applying section 23-7, unless it is conforming, except to create road lots or other non-buildable lots."

Therefore, these three (3) pre-existing lots may only be consolidated and resubdivided to create two (2) buildable lots.

Should you have any questions, please feel free to contact Jonathan Holmes of this department.

Sincerely,



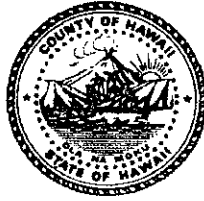
DUANE KANUHA  
Planning Director

JRH/SKG:lnm

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xc: William Brilhante, Jr., Deputy Corporation Counsel  
Tax Maps and Records Supervisor  
Real Property Tax Division-Hilo  
Manager, DWS  
G. Bailado, GIS Analyst II (via e-mail)

William P. Kenoi  
Mayor



Duane Kanuha  
Director

Bobby Command  
Deputy Director

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September 25, 2013

Sin Mook Kang  
PO Box 1313  
Kurtistown, HI 96760

Dear Mr. Kang:

**DETERMINATION OF PRE-EXISTING LOTS OF RECORD**  
**'Ōla'a Reservation Lots, Ola'a, Puna, Hawai'i**  
**Tax Map Key 1-7-013:109**

This is in response to your letter dated August 9, 2013, and accompanying attachments, requesting a determination of pre-existing lots for the above-described property.

We have reviewed the documents submitted, our department records and those of the Department of Finance-Real Property Tax Division (RPT) in accordance with Article 11 (Pre-existing Lots) of the Subdivision Code (Sections 23-117 through 23-120).

Our review of the records has found the following in concurrence with your submittal:

1. Lot 8, Being also a Portion of Grant 4131, containing approximately 51.311 acres, as depicted on Hawai'i Territorial Survey (HTS) Plat 854 dated February 1915.

Although there has been a Railroad right-of-way shown on some of the maps we have seen, these are akin to easements and did not subdivide the affected lots. Our records indicate that a number of the lots in this area were grouped into single parcel numbers while under single ownership by the sugar plantation. On October 3, 1988, this department issued a determination of the individuality of most of these lots and individual Tax Map Key Parcel Numbers were issued to them.

We do not have any record of this Lot 8 having been two lots that were consolidated.

In view of the above, we find that Parcel 109, currently described as one (1) Tax Map Key Parcel, is only one (1) legal lot of record.

In accordance with Ordinance No. 99-112, you may appeal the director's decision as follows:

- (a) Any person aggrieved by the decision of the director in the administration or application of this chapter, may, within thirty days after the date of the director's written decision, appeal the decision to the board of appeals.
- (b) A person is aggrieved by a decision of the director if:
  - (1) The person has an interest in the subject matter of the decision that is so directly and immediately affected, that the person's interest is clearly distinguishable from that of the general public; and
  - (2) The person is or will be adversely affected by the decision.
- (c) An appeal shall be in writing, in the form prescribed by the board of appeals and shall specify the person's interest in the subject matter of the appeal and the grounds of the appeal. A filing fee of \$250 shall accompany any such appeal. The person appealing a decision of the director shall provide a copy of the appeal to the director and to the owners of the affected property and shall provide the board of appeals with the proof of service.
- (d) The appellant, the owners of the affected property, and the director shall be parties to an appeal. Other persons may be admitted as parties to an appeal. Other persons may be admitted as parties to an appeal, as permitted by the board of appeals.

The board of appeals may affirm the decision of the director, or it may reverse or modify the decision, or it may remand the decision with appropriate instructions if based upon the preponderance of evidence the board finds that:

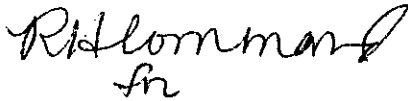
- (1) The director erred in its decision; or
- (2) The decision violated this chapter or other applicable law; or
- (3) The decision was arbitrary or capricious or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.

Sin Mook Kang  
Page 3  
September 25, 2013

In view of the above and for your reference, we have enclosed the GENERAL PETITION FOR APPEAL OF DECISIONS BY PLANNING DIRECTOR form.

Should you have any questions, please feel free to contact Jonathan Holmes of this department.

Sincerely,

A handwritten signature in black ink, appearing to read "Duane Kanuha". The signature is written in a cursive style with a large initial "D".

DUANE KANUHA  
Planning Director

JRH:lnm

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Enc.: GENERAL PETITION FOR APPEAL OF DECISIONS BY PLANNING DIRECTOR

xc: Tax Maps and Records Supervisor  
Real Property Tax Division-Hilo  
Manager, DWS

COUNTY OF HAWAII  
BOARD OF APPEALS

GENERAL PETITION FOR APPEAL OF DECISIONS BY PLANNING DIRECTOR

(Type or legibly print the requested information)

APPELLANT: \_\_\_\_\_

APPELLANT'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: (Bus.) \_\_\_\_\_ (Home) \_\_\_\_\_

APPELLANT'S INTEREST IN THE PROPERTY: \_\_\_\_\_

APPELLANT'S NATURE OF APPEAL AND REQUEST: \_\_\_\_\_

LAND OWNER: \_\_\_\_\_

TAX MAP KEY: (land in question) \_\_\_\_\_ AREA OF PROPERTY: \_\_\_\_\_

STATE LAND USE DESIGNATION: \_\_\_\_\_ COUNTY ZONING: \_\_\_\_\_

STREET ADDRESS OF PROPERTY: \_\_\_\_\_

APPELLANT'S REPRESENTATIVE: \_\_\_\_\_

REPRESENTATIVE'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

REPRESENTATIVE'S ADDRESS: \_\_\_\_\_

TITLE: \_\_\_\_\_ TELEPHONE: (Bus.) \_\_\_\_\_

THIS PETITION MUST BE ACCOMPANIED BY A FILING FEE OF TWO HUNDRED FIFTY DOLLARS (\$250) PAYABLE TO THE COUNTY DIRECTOR OF FINANCE AND:

1. The Original and ten (10) copies of this completed petition with the following:
  - a. A description of the property involved in the appeal in sufficient detail for the public to precisely locate the property.
  - b. A statement explaining the nature of the appeal and the relief requested.
  - c. A statement explaining:
    - (i) How the decision appealed from violates the law; or
    - (ii) How the decision appealed from is clearly erroneous; or
    - (iii) How the decision appealed from was arbitrary or capricious, or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.
  - d. A clear and concise statement of any other relevant facts.
2. Proof of Service by the Appellant on the Planning Director for an appeal from the Planning Director's decision relating to the Zoning Code.
3. A list of the names, address and tax map keys of all owners of property within boundaries established by Section 8-11(d) of the Board of Appeals Rules of Practice and Procedure.