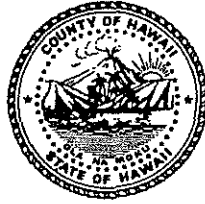


William P. Kenoi  
Mayor



Bobby Jean Leithead Todd  
Planning Director

Margaret K. Masunaga  
Deputy Planning Director

County of Hawaii

**PLANNING DEPARTMENT**

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

May 5, 2011

Duane A. and Sharyn S. Masukawa  
91 Kekela Street  
Hilo, HI 96720

Dear Mr. & Mrs. Masukawa:

**DETERMINATION OF PRE-EXISTING LOT**  
**Waiākea Homestead House Lots, Waiākea, South Hilo, Hawai'i**  
**Tax Map Key 2-2-039:044 (& 077)**

This is in response to your letter dated April 21, 2011, requesting a determination of a pre-existing lot for the above-described property, Parcel 044.

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:

1. Parcel 044 originally consisted of Lot 2 and Lot 12 of Block 401, Waiākea Homestead House Lots;
2. The lots were issued Land Patent (Grant) No.9507 on June 28, 1928;
3. Parcel 077 first shows up in the Real Property Tax records by way of a deed recorded in Book 1961 Page 274 on June 6, 1946 with a description of "Hilo side Half of Lot 11 Por Sub Lot 12 Blk 401 Gr 9507 Waiākea Hmstds Area 19,158ø (sq.ft.) or 0.4398 Ac"; and
4. With regard to recognizing pre-existing lots, Section 23-118 states, in relevant part, "... The lot was created and recorded prior to November 22, 1944 or the lot was created through court order (e.g. partition) prior to July 1, 1973 ..."

Without evidence of Lot 11 having been through a court-ordered partition in 1946, we are unable to recognize Parcel 044 (and ergo, Parcel 77), in the configuration presently shown on the Tax Map Plats, as a legally created lot(s) of record. This lot remains a 38,923 square foot parcel.

Duane A. and Sharyn S. Masukawa

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May 5, 2011

As is the case here, the past practices of the State Bureau of Conveyances (BOC) with regard to the methods of recording land ownership documents has not always been in agreement with County subdivision law. Prior to the mid 1990's, it was a simple matter of presenting properly prepared deed documents and/or subdivision plats to the BOC and they would be recorded and subsequently indicated on the Tax Map Plats giving the appearance of legally subdivided land. These maps are for property tax assessment purposes only and do not necessarily reflect the proper creation of lots as specified in county law. Needless to say, this situation presents some difficulty for the Planning Department and for those who think that they have a legally created parcel of land.

Notwithstanding the length of time that the lots have been possessed in their current configuration, for the sake of legitimacy, we will require that an application for the subdivision of the original 38,923 sq.ft. lot into the two (2) lots be submitted for our approval. The Residential Single-Family zoning of the properties allows for this action.

Please understand that to do otherwise would be contrary to the codes and could be construed as favorable treatment of singular land owners that would not necessarily be offered to others in similar situations.

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

Sincerely,

  
BJ LEITHEAD TODD  
Planning Director

JRH:lnm

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