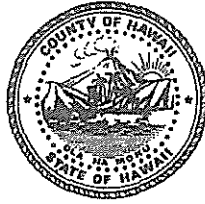


William P. Kenoi
Mayor



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
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April 8, 2010

Sally Kaaiakamanu, Tax Collection Assistant
Department of Finance, Real Property Tax Division
Aupuni Center, Suite 4
101 Pauahi Street
Hilo, HI 96720-4245

Dear Ms. Kaaiakamanu:

**DETERMINATION OF PRE-EXISTING LOTS
Portions of Land Commission Award 5159
And of a Commissioners of Crown Lands Deed to T. Spencer
Pu'u'eo, South-Hilo, Hawai'i
Tax Map Keys 2-6-002:017, 018 & 019**

This is in response to your verbal and e-mail request dated March 31, 2010, inquiring as to the validity of the subject Tax Map Parcels.

We have reviewed our department records as well as 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. The first reference to TMK 2-6-002:017 is on the original Tax Map Plat dated January 31, 1933 with an area of 7,922 sq. ft.;
2. As of August 4, 1949, according to RPT records, TMK 2-6-002:017 consisted of a revised area of 10,176 sq. ft. (the original area of 7,922 sq. ft. plus 2,184 sq. ft. which appears to have been reclaimed from the Wailuku River bank);

3. On May 27, 1950, TMK 2-6-002:018, with an area of 2,826 sq. ft., was recorded by Instrument No. 89123 in Book 2345, Page 54 at the Bureau of Conveyances (the description of this parcel includes one course as "...being course along top of bank, the true boundary following the Wailuku River at High Water Mark...");
4. On October 31, 1955, the Territory of Hawai'i condemned 3 parcels (Parcels 2, 3 & 6) totaling 5,376 sq. ft. for Hawai'i Belt Road purposes with a remnant area of 4,800 sq. ft. (this remnant area agrees with the combined area reflected on the current Tax Map Plat of TMKs 2-6-002:017, 018 and 019); and
5. The first time that RPT records mention TMK 2-6-002:019 is an entry from March 7, 1951 with an area of 2,777 sq. ft. There is no mention of the method of the "creation" of this parcel.

Section 23-118 of the Hawai'i County Code (HCC) states that the director may certify a lot as pre-existing if 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. Neither TMK 2-6-002:018 nor TMK 2-6-002:019 were recorded prior to November 22, 1944, and the records at hand do not indicate that they were created by court order or subdivision since that date.

Therefore, we find that TMK 2-6-002:017, currently depicted as three (3) parcels on the Tax Map Plat, is instead one (1) legal lot of record containing 4,800 sq. ft. of land, inasmuch as TMK. 2-6-002:018 and TMK 2-6-002:019 were never created within the parameters of County law.

Please be advised that 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.

Please be aware that, should the various owners of the subject land not concur with the above finding, they may appeal the director's decision to the Board of Appeals, and the Board of Appeals may affirm the decision, may reverse or modify the decision, or remand the decision with appropriate instructions.

Sally Kaaiakamanu, Tax Collection Assistant
Department of Finance, Real Property Tax Division
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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
Manager, DWS
Director, DPW
G. Bailado-GIS Analyst