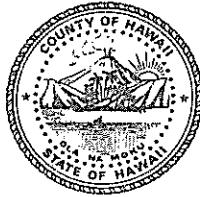


Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

May 24, 2001

Peter Kubota, Esq.
Attorney at Law
505 Kilauea Avenue
Hilo, HI 96720

Dear Mr. Kubota:

Request for Determination of Pre-existing Lots, TMK numbers, for 9 TMK's in Pepeekeo, by R. M. Towill, Applicant.

We met concerning the above-referenced request for determination of pre-existing lots. This consists of a request to recognize as pre-existing lots (1) approximately 55 parcels that are in old grants, and (2) about 71 units that were in plantation camps that existed at one time, but were abandoned and destroyed decades ago.

My staff is still working on (1). With respect to the plantation camps, because you mentioned that your client was in a "due diligence" period, I wanted to make a prompt response. I am writing separately to let you know that we will not recognize the individual plantation camp houses in long-destroyed plantation camps as pre-existing lots for the purpose of consolidation and re-subdivision.

R. M. Towill furnished documentation that individual plantation employees and their families rented the camp houses and an adjacent yard or garden plots. The camps were in existence in the '50s and were built before the enactment of the first county subdivision code in 1944. I did not see in the application when they were abandoned and demolished, but I believe it was in the '50s or '60s.

The issue is whether these individual units will be counted as pre-existing lots of record for the purpose of consolidation and re-subdivision, and, hence, be exempt from current subdivision standards for roads, water, drainage, flood control, and the like.

MAY 25 2001

Peter Kubota, Esq.
Attorney at Law
Page 2
May 24, 2001

The subdivision code, §23-7, is not explicit on when lots should be counted as pre-existing. For that reason, we must administer the law in a way that best conforms to the overall purposes and policies of the subdivision code. Given these policies, I believe it is very clear that these abandoned units should not be counted.

The main Hawaii case on the question of recognizing pre-existing lots is Akai v. Lewis, 37 Haw. 374 (1946). The court, in approving the sale of a parcel on the grounds that it had been subdivided before the enactment of the subdivision code, said:

"What was done is not in conflict with the general purpose and spirit of the ordinance, the avowed purpose of which was and is to prevent the subdividing of larger areas into smaller areas for the purpose of sale, lease or rent, without providing for adequate light, air, fire protection, traffic safety and to insure the proper sanitation and drainage of lands..."

The present subdivision code no longer contains or expresses a statement of purpose, but the older versions stated almost the same purpose quoted in Akai v. Lewis. See Ord. 58 (1947).

To accept long-demolished plantation camps as pre-existing lots would not be consistent with the goal of having certain minimum standards for the sale or lease of individual parcels. There were many plantation camps on the island, which have long since disappeared. They were built to house the plantation labor force, who were tenants-at-will. I am certain that the kind of diligent research done for the area in question would, if done throughout the island, turn up thousands of units of plantation housing that existed at one time or another. Many of these camps existed in areas not served by adequate roads, water or sewers.

The result of recognizing old plantation camps would be that hundreds, and perhaps thousands, of individual lots could be created without meeting minimal standards, without any control. We could end up with major new substandard subdivisions simply by the happenstance that at one time a plantation camp had been located in the area.

Nothing in the subdivision code requires this result.

It is true that the Planning Department has in past years recognized the lots in existing plantation camps as pre-existing lots, so that the camp lots could be sold in fee simple to the lessees. This was consistent with the purpose of the subdivision code and Akai v. Lewis. The homes were still occupied, and could continue to be occupied indefinitely. The result of the subdivision was that the renters could become owners.

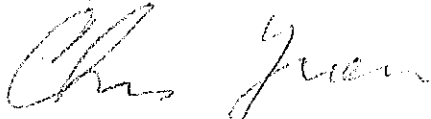
Peter Kubota, Esq.
Attorney at Law
Page 3
May 24, 2001

The result of resurrecting old plantation camps as existing lots would be that what is now vacant agricultural land could be divided up into many new lots -- 55 in this case -- and each could be a building site for at least one new house.

We will recognize one pre-existing lot for each of the individual camps.

I should mention that our denial of your request with respect to the camp lots is a matter that can be administratively appealed to the Board of Appeals.

Sincerely,



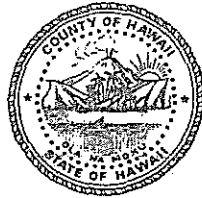
CHRISTOPHER J. YUEN
Planning Director

CJY:cps

p:\users\craig\letters\Kubota pre existing lots

cc: Lincoln Ashida, Esq.
Ed Cheplic
Roy Takemoto
R. M. Towill

Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

July 2, 2001

Peter Kubota, Esq.
Attorney at Law
505 Kilauea Avenue
Hilo, HI 96720

Dear Mr. Kubota:

SUBJECT: PRE-EXISTING LOTS CORRESPONDENCE

In addition to the reasons cited in my letter of May 24, 2001, the Planning Department will also rely on the fact that the Subdivision Code specifically deals with plantation camp subdivisions in H.C.C. §23-103 to §23-111.

A plantation camp subdivision must have existing homes which must be conveyed to the former employees of the sugar plantation. §23-104(4). With respect to your clients' plan to use the lots for consolidation/resubdivision purposes, a relocation of a plantation camp subdivision can be done only by county council resolution. §23-105. See also §23-111.

Sincerely,

A handwritten signature in cursive script, appearing to read "Chris Yuen".

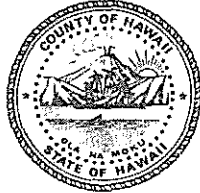
CHRISTOPHER J. YUEN
Planning Director

CJY:pak
Wpwin60\Pat\Kubota pre-existing lots correspondence

cc: Corporation Counsel

JUL 11 2001

Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

August 6, 2001

Ryan M. Suzuki, Surveyor
R.M. Towill Corporation
420 Waiakamilo Road, Suite 411
Honolulu, HI 96817-4941

Dear Mr. Suzuki:

DETERMINATION OF PRE-EXISTING LOTS

TMK: 2-7-003:001; 2-7-004:001; 2-7-007:001, 007 & 012;
2-7-009:016; 2-8-009:003 & 009

This is to acknowledge receipt of your letter of April 4, 2001, and documents regarding the subject matter. We apologize for our belated response, however, the delay was a result of doing the necessary research in order to provide you with a thorough and accurate reply.

Please be advised that we have reviewed the documents submitted, our department records, as well as those of the Real Property Tax Division, and determined that the subject properties consists of fifty-six (56) separate legal lots of record (see enclosed parcels & descriptions).

As explained in our letter of May 24, 2001 to Peter Kubota, Esq. (copy enclosed), we will recognize one (1) pre-existing lot for each of the individual camps. As such, two (2) additional lots of record are acknowledged.

It is our understanding that, based on this information provided regarding pre-existing lots, you will be submitting an application for consolidation and resubdivision of the subject parcels which would result in the development of specific metes and bounds for the subdivided lots. If consolidation and resubdivision is not the intent, then it is recommended that a modern metes and bounds survey be conducted for a more accurate and current land area determination and that a map reflecting this information be submitted for certification.

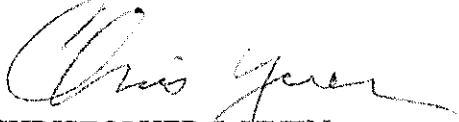
A request for separate tax map key parcel numbers should be in writing to the Real Property Tax Division.

2949
AUG 07 2001

Ryan M. Suzuki, Surveyor
R.M. Towill Corporation
Page 2
August 6, 2001

Should you have any questions, please feel free to contact Ed Cheplic of this department.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

ETC/RTU/RSK:lnm

PAWP60\PREX\PREP\rec2001\2-7-3-1SUZUKIRMTC.doc

Encs.- List of Parcels & Descriptions

Copy of letter to Peter Kubota, Esq. (05/24/01)

xc: Tax Maps and Records Supervisor II
Real Property Tax Division-Hilo
Manager-DWS
Peter Kubota, Esq.
Henry (Hank) Correa Realty, LLC

Tax Map Key 2-7-007:001 (Exhibit B-1)

Total of 22 Lots of Record

1. Portion of Grant 3656:3 (area not designated)
2. Portion of Grant 3122 (area not designated)
3. All of Grant 2003:1 (area not designated)
4. Portion of L.C. Aw. 11216:43 (R.P. 7162:2) (area not designated)
5. L.C. Aw. 11216:43 (R.P. 7139) (area not designated)
6. L.C. Aw. 11216:43 (R.P. 7141:2) (area not designated)
7. L.C. Aw. 11216:43 (R.P. 7160) (area not designated)
8. L.C. Aw. 11216:43 (R.P. 7140) (area not designated)
9. Portion of Grant 3656:1 (area not designated)
10. Portion of Grant 3140 (area not designated)
11. Grant 1052:2 (area not designated)
12. Grant 1049:2 (area not designated)
13. Portion of Grant 1052:1 (area not designated)
14. Portion of Grant 3656:2 (area not designated)
15. Portion of Grant 2722 (area not designated)
16. Portion of L.C. Aw. 6247 (area not designated)
17. Grant 2691 (area not designated)
18. Grant 1349:1 (area not designated)
19. Grant 2394 (area not designated)
20. Grant 2366:2 (area not designated)
21. Grant 2524 (area not designated)
22. Portion of L.C. Aw. 7713:20 (Total area approximately 2,963.5 acres)

Tax Map Key 2-7-007:007 (Exhibit B-2)

Total of 3 Lots of Record

1. Portion of L.C. Aw. 6247 (area approximately 15.4 acres)

Tax Map Key 2-7-007:012 (Exhibit B-2)

1. Grant 1939 (Total area approximately 63.75 acres)
2. Portion of Grant 2146 (area not designated)

Tax Map Key 2-7-009:016 (Exhibit B-3)

Total of 10 Lots of Record

1. Grant 2663 (area not designated)
2. Grant 2533 (area not designated)
3. Grant 2663 (area not designated)
4. Grant 1038 (area not designated)
5. Grant 958 (Total area approximately 63.3 acres)
6. Portion of Grant 1037 (area not designated)
7. Grant 2003:2 (area not designated)
8. Portion of Grant 807 (Total area approximately 58.1 acres)
9. Portion of Grant 2229 (area not designated)
10. Portion of Grant 2229 (area not designated)

Tax Map Key 2-7-010:003 (Exhibit B-4)

Total of 1 Lot of Record

1. Portion of L.C. Aw. 7713:20 (Total area approximately 51.0 acres)

Tax Map Key 2-8-003:001 (Exhibit B-5)

Total of 3 Lots of Record

1. Portion of L.C. Aw. 8559-B, Apana 17 and 18 (Total area approximately 409.5 acres)
2. Portion of L.C. Aw. 8559-B, Apana 17 and 18 (area not designated)
3. Portion of Grant 1158 (area not designated)

Tax Map Key 2-8-004:001 (Exhibit B-6)

Total of 8 Lots of Record

1. Portion of L.C. Aw. 8559-B, Apana 17 and 18 (area not designated)
2. Portion of Grant 1158 (area not designated)
3. Portion of Grant 194 (area not designated)
4. L.C. Aw. 5663 (area not designated)
5. Portion of Grant 872 (Total area approximately 760 acres)
6. Portion of Grant 194 (Total area approximately 1.6 acres)
7. Portion of Grant 872 (Total area approximately 14.2 acres)
8. Portion of Grant 872 (Total area approximately 798 acres)

Tax Map Key 2-8-009:003 (Exhibit B-7)

Total of 5 Lots of Record

1. Portion of Grant 1158 (area not designated)
2. Portion of L.C. Aw. 5663 (area not designated)
3. Portion of Grant 194 (area not designated)
4. Portion of Grant 872 (area not designated)
5. Portion of L.C. Aw. 2289 (Total area approximately 591.9 acres)

Tax Map Key 2-8-009:009 (Exhibit B-8)

Total of 2 Lots of Record

1. Portion of Grant 872 (Total area approximately 93.3 acres)
2. Portion of L.C. Aw. 2289 (area not designated)