

Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • FAX (808) 961-8742

November 9, 2006

Steven S. C. Lim, Esq.
Carlsmith Ball, LLP
A Limited Liability Law Partnership
121 Waianuenue Avenue
Hilo, HI 96720

Dear Mr. Lim:

DETERMINATION OF PRE-EXISTING LOTS
TMK: 2-8-02:12

This is to acknowledge receipt of your letter of August 1, 2005, and documents regarding the subject matter. Specifically, your request is for the approval of four (4) pre-existing lots.

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 property consist of one (1) separate legal lot of record:

Parcel 12 consists of 16.75 acres.

This determination is based on the fact that the reservation of the 15-ft. wide flume right-of-way and the 10-ft. wide ditch right-of-way are easements that do not subdivide property.

Should you not concur with the above finding, your recourse is as follows:

In accordance with Section 23-5 of the Hawaii County Code, Section 6-10.2 of the Hawaii County Charter, and Rule 8 of the Board of Appeals, you may appeal the director's decision as follows:

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- (a) 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 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.
- (b) The appellant 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.

According to Section 23-5, Hawaii County Code, the board of appeals may affirm the decision of the director, or it may reverse or modify the decision, or it may reverse or modify the decision or remand the decision with appropriate instructions if based upon the preponderance of evidence the board finds that the decision is:

- (a) In violation of this chapter or other applicable law; or
- (b) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (c) Arbitrary, or capricious, or characterized by and abuse of discretion or clearly unwarranted exercise of discretion.

In view of the above, we have enclosed COUNTY OF HAWAII BOARD OF APPEALS GENERAL PETITION FOR APPEAL OF DECISIONS BY PLANNING DIRECTOR.

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

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

ETC:Inm

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Enc. - Board of Appeals General Petition for Appeal of Decisions by Planning Director

xc: Tax Maps and Records Supervisor I
Real Property Tax Division-Hilo
Manager-DWS
Jalene Ramona Hitzeman Revocable Living Trust c/o Steven S.C. Lim, Esq.