

Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

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

June 7, 2004

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

Dear Mr. Lim:

DETERMINATION OF PRE-EXISTING LOTS **TMK: 5-4-03:02**

This is to acknowledge receipt of your letter of May 29, 2003, and documents regarding the subject matter.

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 consists of sixteen (16) separate legal lots of record:

- 1) Portion of R.P. Grant 2744 area not available (1 lot);
- 2) Portion of R.P. Grant 7606, L.C. Aw. 9979, dropped Parcel 10 area not available (1 lot);
- 3) Portion of R.P. Grant 2689, Dropped Parcel 9 consisting of 9.476 acres (1 lot);
- 4) Portion of L.C. Aw. 10908 area not available (1 lot);
- 5) Portion of R.P. Grant 1552, Portion of dropped Parcel 17 area not available (1 lot);
- 6) Portion of R.P. Grant 1850 and a portion of dropped Parcel 7 areas not available (2 lots);
- 7) R.P. Grant 7128, L.C. Aw. 8085 area not available (1 lot);
- 8) R.P. Grant 1553 area not available (1 lot);
- 9) R.P. Grant 2407 area not available (1 lot);
- 10) R.P. Grant 2105 area not available (1 lot);
- 11) Portion of R.P. Grant 1546:1, Portion of R.P. Grant 1546:2 and R.P. Grant 7553, Portion of L.C. Aw. 8735 areas not available (3 lots); and
- 12) R.P. Grant 4825, L.C. Aw. 6591-B areas not available (2 lots).

Please be advised that private roadways do not subdivide properties.

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Steven S. C. Lim, Esq.
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It is our understanding that, based on this information provided regarding pre-existing lots, you may 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, you may want to have a modern metes and bounds survey be conducted for a more accurate and current land area determination and that a map reflecting this information may be submitted for certification.

A request for separate tax map key parcel numbers should be in writing to this department.

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

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

ETC:lnm

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xc: Tax Maps and Records Supervisor
Real Property Tax Division-Kona
Manager-DWS
Planning Dept.-Kona

Harry Kim
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Christopher J. Yuen
Director

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County of Hawaii
PLANNING DEPARTMENT

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January 14, 2008

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

Dear Mr. Lim:

CLARIFICATION OF DETERMINATION OF PRE-EXISTING LOTS
TMK: 5-4-003:002

This is to acknowledge receipt of your letter of April 13, 2007, and status request letters of July 6 and September 14, 2007, and documents regarding the subject matter. We apologize for the length of time to 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 property has no further legal lots of record than those recognized in our June 7, 2004 letter to you and as certified on September 26, 2005.

It is clear from the documentation (described in the "Union Mill Co. To Territory of Hawaii Deed") that the roadway in question (the 0.121 acre portion of TMK 5-4-003:012) leads only to the private (easement) roadway ("Kapa'au Road") and does not bisect Grant 2105. The "Kapa'au Road" is mostly a private roadway easement with the exception of the section from the Akoni Pule Highway to the southern boundary of TMK 5-4-004:006 which is a government road. As stated in the above-mentioned June 7, 2004 determination letter, private (easement) roadways do not subdivide property.

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

In accordance with sec. 23-5 of the Hawai'i County code, sec. 6-10.2 of the Hawai'i 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 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.
- (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 sec. 23-5, Hawai'i County Code, the board of appeals may affirm the decision of the director, 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 an abuse of discretion or clearly unwarranted exercise of discretion.

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

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

Sincerely,


CHRISTOPHER J. YUEN
Planning Director

JRH:lnm

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Enc.: County of Hawaii Board of Appeals General Petition for Appeal of Decisions by Planning Director

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xc: ~~T~~ax Maps and Records Supervisor I
Real Property Tax Division-Kona
Manager-DWS
Director-DPW
Planning Dept.-Kona
SUB-06-000483 (Surety Kohala Corporation)