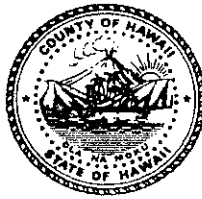


William P. Kenoi  
Mayor



Duane Kanuha  
Director

Bobby Command  
Deputy Director

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PLANNING DEPARTMENT

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January 21, 2014

Chrystal Thomas Yamasaki, LPLS  
Wes Thomas Associates  
75-5749 Kalawa Street  
Kailua-Kona, HI 96740-1818

Dear Ms. Yamasaki:

**PRE-EXISTING LOTS OF RECORD REVISED DETERMINATION**  
**Royal Patent 4425, L.C. Aw. 7783 and Royal Patent 4574, L.C. Aw. 7796, Apana 1**  
**Hōlualoa 3<sup>rd</sup> & 4<sup>th</sup> and Kaumalumu, North Kona, Hawai'i**  
**TMK: 7-7-001:002**

In light of the arguments presented by your client's counsel to the Board of Appeals (BOA-13-000137), we have revisited our determination of July 18, 2013, regarding the above subject property.

We hereby declare that, although not expressly excluded from the action of subdivision SUB 7070, the two (2) Royal Patents have not been extinguished and remain as separate pre-existing lots of record pursuant to Section 23-118 (a) of the Subdivision Code with regards to the criteria to determine pre-existing lots.

We understand that with this revised determination, revised plat maps will be submitted for subdivision SUB-13-001294 which will include these two (2) kuleanas as part of the action.

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

Sincerely,

DUANE KANUHA  
Planning Director

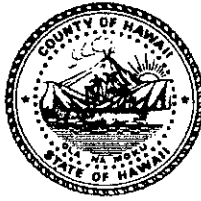
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Chrystal Thomas Yamasaki, LPLS  
Wes Thomas Associates  
Page 2  
January 21, 2014

xc: Tax Maps and Records Supervisor  
Real Property Tax Division-Kona  
Planning Department-Kona  
Manager, DWS  
Board of Appeals (BOA-13-000137)  
William Brilhante, Jr., Corporation Counsel  
Christian Twigg-Smith  
Louisa Twigg-Smith  
Roy A. Vitousek III, Cades Schutte LLP  
SUB-13-001294 (Twigg-Smith, Christian)

William P. Kenoi  
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July 18, 2013

Chrystal Thomas Yamasaki, LPLS  
Wes Thomas Associates  
75-5749 Kalawa Street  
Kailua-Kona, HI 96740-1818

Dear Ms. Yamasaki:

**PRE-EXISTING LOTS OF RECORD DETERMINATION**  
**Royal Patent 4425, L.C. Aw. 7783 and Royal Patent 4574, L.C. Aw. 7796, Apana 1**  
**Hōlualoa 3<sup>rd</sup> & 4<sup>th</sup> and Kaumalumu, North Kona, Hawai'i**  
**TMK: 7-7-001:002**

We have received your letter of May 22, 2013, regarding the above subject property.

We have reviewed the documents submitted, our department records and those of the Department of Finance-Real Property Tax Division (RPT). Our review of the records has found the following:

1. The subject properties are shown within Lot A-1 of consolidation and resubdivision number SUB 7070 which was approved by the Planning Director on January 13, 1999. Lot A-1 contains 531.694 acres of land area;
2. In the description for SUB 7070, there is no mention of these two (2) Land Patents as being "exclusions" from the action.

Since the properties in question were not excluded from the referenced action, we must therefore consider them to have been extinguished by the subdivision and their land area included in Lot A-1.

In accordance with Ordinance No. 99-112, you may appeal the director's decision as follows:

- (a) Any person aggrieved by the decision of the director in the administration or application of this chapter, may, within thirty days after the date of the director's written decision, appeal the decision to the board of appeals.
- (b) A person is aggrieved by a decision of the director if:
  - (1) The person has an interest in the subject matter of the decision that is so directly and immediately affected, that the person's interest is clearly distinguishable from that of the general public; and
  - (2) The person is or will be adversely affected by the decision.
- (c) 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.
- (d) The appellant, the owners of the affected property, 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.

The board of appeals may affirm the decision of the director, or it may reverse or modify the decision, or it may remand the decision with appropriate instructions if based upon the preponderance of evidence the board finds that:

- (1) The director erred in its decision; or
- (2) The decision violated this chapter or other applicable law; or
- (3) The decision was arbitrary or capricious or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.

In view of the above and for your reference, we have enclosed the GENERAL PETITION FOR APPEAL OF DECISIONS BY PLANNING DIRECTOR form.

Chrystal Thomas Yamasaki, LPLS  
Wes Thomas Associates  
Page 3  
July 18, 2013

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

Sincerely,



DUANE KANUHA  
Planning Director

JRH:Inm

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Enc.: General Petition for Appeal of Decisions by Planning Director

xc: Tax Maps and Records Supervisor  
Real Property Tax Division-Kona  
Manager, DWS  
Planning Department-Kona