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County of Hawaii
PLANNING DEPARTMENT

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January 25, 2008

Michael J Matsukawa, Esq.
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Territorial Centre, Suite 201
75-5751 Kuakini Highway
Kailua-Kona, HI 96740

Dear Mr. Matsukawa:

Lots of Record Determination
Honuaino 3rd, North Kona, Hawai'i
TMK: 7-9-009:018

This is in response to your letters dated October 3, 2007 and December 13, 2007, and accompanying attachments, requesting a determination of pre-existing lots for the above-described property. Please accept our apology for the length of time to respond.

The subject request involves Land Commission Award 5561, Apana 2 (L.C. Aw. 5561:2), being a portion of Grant 1462.

A portion of Grant 1462 was recorded by deed on February 26, 1941 from Shipman, et.al. to Minoru Kadooka, et.al. that included 5.909 acres. On April 25, 1947, Tsutomu Kadooka and wife Masako Kadooka were the grantors of the aforementioned property to grantee Sunao Kadooka.

On August 4, 1952, this 5.909 acre parcel was granted subdivision approval (SUB 584) which separated a one acre parcel from the lot. The description on the subdivision plat map states, in part, "Proposed Subdivision Lot 1 of Parcel 18, Tax Map 7-9-09" The records at hand do not mention L.C. Aw. 5561:2 as being consolidated into Grant 1462 prior to the deeds of 1941 nor into Parcel 18 prior to, or as part of the subdivision. Moreover, the created one acre parcel (Lot 1) is not physically situated upon L.C. Aw. 5561:2.

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Your submission of a highlighted portion of the Tax Map Plat requests that we recognize three (3) lots of record. The logic is that L.C. Aw. 5561:2 is separated by the property line between Parcels 018 and 001. If we followed that logic, then there would be five (5) lots of record (the Portion of the Land Commission Award within Parcel 018, two (2) portions of the Land Commission Award in Parcel 001, and the balances of Parcels 018 and 001). If this were the case (that the deeds creating property lines for Parcels 001 and 018 subdivided property) then the Land Commission Award would be considered extinguished (subdivided).

Our position with regards to the property line dividing TMK Nos. 7-9-009:001 and 7-9-009:018 which "bisects" L.C. Aw. 5561:2, is that we do not believe that the mere fact that the tax maps were drawn in a way that crosses L.C. Aw. 5561:2 that it has the effect of subdividing the property. The tax maps were created for tax purposes, and do not create a subdivision. For example, the fact that two tax map parcels were drawn as bisecting one Land Commission Award did not, in itself, subdivide the Land Commission Award into two lots. The contrary is also true; we do not say that the fact that many grants are contained within a single tax map parcel had the effect of consolidating the grants.

Therefore, we find that there are two (2) Lots of Record:

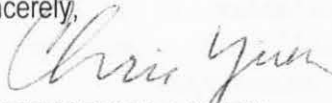
1. L.C. Aw. 5561:2, area unknown; and
2. The balance of Parcel 7-9-009:018, Portion of Grant 1462, balance of 4.909 acres, area unknown.

We have no record of L.C. Aw. 5561:2 being consolidated into any adjoining property.

We understand that, after receiving this pre-existing lot determination, you intend to submit an application to consolidate and resubdivide these properties in order to allow the Department of Public Works to create a turnaround to alleviate traffic in Kainaliu Village. Please be aware that such action will extinguish the Land Commission Award. As such, and since a portion of the Land Commission Award resides within Parcel 001, the owner of that parcel will need to consent to that proposed action.

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

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

JRH:Inm

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