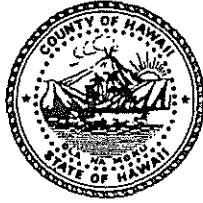


William P. Kenoi
Mayor



Bobby Jean Leithead-Todd
Planning Director

Margaret K. Masunaga
Deputy Planning Director

County of Hawaii

PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720
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September 1, 2009

Joanna U. Kaalele
Title Guaranty of Hawaii, Inc.
235 Queen Street
Honolulu, HI 96813

Dear Ms. Kaalele:

Legal Lot of Record Determination
Onouli 2nd, South Kona, Hawai'i
TMK: 8-1-019:007

This is in response to your letter dated August 12, 2009, and accompanying attachments requesting a determination of the legal existence of the subject property.

We have reviewed the documents submitted, our department records and those of the Department of Finance – Real Property Tax Division (RPT) in accordance with Article 11 (Pre-existing Lots) of the Subdivision Code (Sections 23-117 through 23-120).

Firstly, we offer the following excerpt from the Subdivision Code:

“Section 23-118. Criteria to determine a pre-existing lot.

The director shall certify that a lot is pre-existing if the lot meets one of the following criteria:

(a) The lot was created and recorded prior to November 22, 1944 . . . ”

Please be informed that the past practices of the State Bureau of Conveyances (BOC) with regard to the methods of recording land ownership documents has not always been in agreement with County subdivision law. Prior to the mid 1990's, it was a simple matter of presenting properly prepared deed documents and/or subdivision plats to the BOC and they would be recorded and subsequently indicated on the Tax Map Plats giving the appearance of legally subdivided land. These maps are for property tax assessment purposes only and do not necessarily reflect the proper creation of lots as specified in county law. Needless to say, this situation is not unique to this property and does present some difficulty for the Planning Department and for those who think that they have a legally created parcel of land.

Joanna U. Kaalele
Title Guaranty of Hawai'i, Inc.
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While the documented history that you supplied would seem to indicate that the lot in question is a legal entity, the above date is important in this instance. The last legal conveyance of any portion of (previous) Tax Map Parcel 8-1-006:011 was when Parcel 8-1-006:038 (1.839 acres) was created by Deed dated September 6, 1941, recorded in Liber 1661, Page 131, leaving 9.34 acres in Parcel 011. Parcel 038 was subsequently legally subdivided into Parcels A through E (SUB 1179) approved on October 7, 1957.

The "creation" (March 6, 1945) of the 5.0 acre portion of Parcel 011 (Parcel 045, presently TMK 8-1-018:004) was an illegal subdivision action. However, we note that final approval was granted to a consolidation and resubdivision of the 3.34 acre (4.34 acre less subject 1.0 acre "created" on December 9, 1946) balance of Parcel 011 (then Parcel 8-1-019:006) and adjacent Parcel 8-1-016:042 on May 20, 1992 (SUB 6139). Parcel 011 never did exist as a 3.34 acre entity because the 5.0 acre and 1.0 acre portions of Parcel 011 were never legally created by county approved subdivision. By the erroneous approval of Suidivision No. 6139, the Planning Department granted defacto acknowledgement of Parcel 8-1-019:007 and Parcel 8-1-018:004 as existing legal lots.

Further, building permits for dwellings and/or other structures have been issued for these parcels over the years. Under these circumstances, the Planning Director has determined that it is in the best interest that Parcels 8-1-019:007 and 8-1-018:004 be recognized as legal lots of record.

Therefore, we affirm that TMK 8-1-019:007 and 8-1-018:004 are legal lots of record.

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

Sincerely,



BJ LEITHEAD TODD
Planning Director

JRH:lnm

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xc: Tax Maps and Records Supervisor
Real Property Tax Division-Kona
Manager-DWS
Director-DPW
Planning Dept.-Kona
TMK File 8-1-018:004