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County of Hawai'i
PLANNING DEPARTMENT

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December 28, 2016

Robert D. Triantos, Esq.
Carlsmith Ball, LLP
PO Box 1720
Kailua-Kona, HI 96745-1720

Dear Mr. Triantos:

DETERMINATION OF PRE-EXISTING LOTS
"Coffee Farm Lots", South Kona, Hawaii
Tax Map Key 8-1-021:029

We have received your request dated December 12, 2016.

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).

Our review of the records has found the following:

1. Coffee Farm Lots boundaries were determined as follows in a letter from Carlsmith, Wichman and Case dated September 3, 1974, "The boundaries were determined by stonewalls, fences and ownership of coffee trees as described by the lessees and others well acquainted with the boundaries."
2. "Plan Showing Coffee Farm Lots Existing ..." approved by Planning Director May 11, 1977 (SUB No. 3540). On this map it shows the existing and original boundaries for Parcel 029.

In 1977, the Planning Department acknowledged that lots in the Coffee Farm Lots had been created prior to the enactment of the subdivision laws. The result was Subdivision No. 3540, whereby the Planning Department formally recognized the boundaries of those lots. Subdivision No. 3540 shows Parcel 029 as consisting of two (2) lots, F-14-A & F-14-B.

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Although Exhibit "A" of the Warranty Deed dated January 31, 1990 and recorded as Document 90-014064 mentions "...comprising of Lots F-14B and F-14A...", we find that further language within said deed eliminates the roadway as truly bisecting the parcel of land, to-wit, "Together with an **Easement** for roadway and utility purposes over and across all of the roadways shown on that certain map dated the 24th day of May, 1974, filed with the County of Hawai'i as Subdivision No. 3540 and ... further shown on the Tax Maps of the Third Taxation Division over and across Tax Map Keys 8-1-021:001 through 037 as Easements A, B, C, D, E, F and G."

As noted above, the boundaries of the Coffee Farm Lots were determined by actual "on the ground" features "... as described by the lessees and others well acquainted with the boundaries ..." Therefore, Lots F-14B & F-14A were left in a common parcel as described by those familiar with actual possession of the 5.988 acres.

We do not have any records of this parcel being consolidated with any other lot adjoining it.

In view of the above, Parcel 029, currently described as one (1) Tax Map Key Parcel, remains as a single entity of record, despite the two lot numbers associated with it.

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

In accordance with Section 23-5 of the Hawai'i County Code, Section 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:

- (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 Section 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 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:

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- (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 direct you to a fillable .pdf document of the County of Hawai'i BOARD OF APPEALS GENERAL PETITION FOR APPEAL OF DECISIONS BY PLANNING DIRECTOR OR PUBLIC WORKS DIRECTOR located here
<http://records.co.hawaii.hi.us/weblink/1/edoc/71137/Appeal%20of%20Decisions%20by%20PL%20or%20PW%20Dir.pdf>.

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

Sincerely,



MICHAEL YEE
Planning Director

JRH:lnm

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