

William P. Kenoi
Mayor



Duane Kanuha
Director

Bobby Command
Deputy Director

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County of Hawai'i
PLANNING DEPARTMENT

East Hawai'i Office
101 Pauahi Street, Suite 3
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July 7, 2015

Michael J. Matsukawa, Esq.
Attorney at Law
75-5751 Kuakini Highway, Suite 201
Kailua-Kona, HI 96740

Dear Mr. Matsukawa:

CORRECTION of Pre-existing Lots of Record Determination
TMK: 8-7-003:001, 012 & 013

Please be advised that there was a typographical error in our letter dated June 25, 2015. The last paragraph on Page 1 should have read:

"Given the above, **we concur** with your contention that there are nine (9) pre-existing lots (portions of ahupuaa) of record within Parcel 001." The previous letter erroneously referred to Parcel 004.

We apologize for any confusion this may have been caused. Should you have any questions, please feel free to contact Jonathan Holmes of this department.

Sincerely,

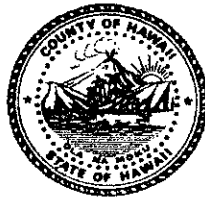
DUANE KANUHA
Planning Director

JRH:Inm

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xc: Tax Maps and Records Supervisor
Real Property Tax Division-Kona
Planning Department-Kona
Manager, DWS
✓G. Bailado, GIS Analyst (via e-mail)

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June 25, 2015

Michael J. Matsukawa, Esq.
Attorney at Law
75-5751 Kuakini Highway, Suite 201
Kailua-Kona, HI 96740

Dear Mr. Matsukawa:

Pre-existing Lots of Record Determination
TMK: 8-7-003:001, 012 & 013

We have received your correspondence of April 14, 2015. We apologize for the length of time taken to respond.

We have reviewed the information 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 confirmed the following:

Parcel 001

1. Portion of Ahupuaa Makuu 3rd, being also a Portion of Land Commission Award 11,293, Apana 1;
2. Portion of Ahupuaa Makuu 1st, being also a Portion of Grant 1971;
3. Portion of Ahupuaa Makuu 2nd, being also a Portion of Grant 1971;
4. Portion of Ahupuaa Maunaoni 1st, being also a Portion of Grant 1971;
5. Portion of Ahupuaa Maunaoni 2nd, being also a Portion of Grant 1971;
6. Portion of Ahupuaa Maunaoni 3rd, being also a Portion of Grant 1971;
7. Portion of Ahupuaa Maunaoni 4th, being also a Portion of Grant 1971;
8. Portion of Ahupuaa Maunaoni 5th, being also a Portion of Grant 1971;
9. Portion of Ahupuaa Maunaoni 6th, being also a Portion of Grant 1971; and
10. We do not have any record of these lands having been consolidated with each other or any other lands adjoining them despite their having been conveyed within one Grant.

Given the above, **we concur** with your contention that there are nine (9) pre-existing lots (portions of ahupuaa) of record within Parcel 004.

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Michael J. Matsukawa, Esq.
Attorney at Law
Page 2
June 25, 2015

Parcels 012 & 013

1. Presently, Parcel 012 is a Portion of the Remainder Lot 2 of subdivision SUB 7363 approved on January 5, 2001;
2. Formerly, 158.40 acre Portion of former Parcel 002, created in 1961 (technically an illegal subdivision) Tax Maps Bureau plat 842- '60;
3. Formerly, 0.60 acre Portion of former Parcel 002, created in 1961 (technically an illegal subdivision) Tax Maps Bureau plat 7349- '60; and
4. We do not have any record of these lands having been consolidated with each other or any other lands adjoining them despite their having been conveyed within one Grant.

Given the above, **we do not concur** with your contention that there are multiple pre-existing lots (portions of ahupuaa) of record within Parcel 012 and Parcel 013. Because of the action of consolidation and resubdivision, previously existing portions of the ahupuaa have been extinguished and these two (2) parcels are now single existing lots of record.

With regard to the legality of these two (2) parcels existence, we have the following to offer:

Although the creation in 1961 of the two (2) parcels was not done as an actual subdivision through this department, be aware 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 Code.

We do recognize that if any trails or other right-of-ways are later identified as passing through these ahupuaa, this determination may need to be amended.

A request for any additional Tax Map Parcel numbers must be authorized in writing by the landowner(s) and be addressed to our Tax Maps and Records Section. Please be aware that should it be requested, there will be no notification of the issuance of any additional parcel numbers and you are advised that periodic checks of the plat map on our web site at <http://www.hawaiicounty.gov/tax-maps/current/zone-8/section-7/> is advised.

Should you disagree with this determination, the remedy is to bring the matter before the Board of Appeals.

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:

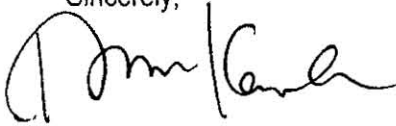
- (1) The director erred in its decision; or
- (2) The decision violated this chapter or other applicable law; or
- (3) The decision was arbitrary or capricious or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.

Michael J. Matsukawa, Esq.
Attorney at Law
Page 4
June 25, 2015

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

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Duane Kanuha', written in a cursive style.

DUANE KANUHA
Planning Director

JRH:Inm

\\COH33\planning\public\Admin Permits Division\PELOR(Pre-ExistingLotOfRecord)\2015\8-7-003-001&012&013MaunaoniPropMATSUKAWA 06-25-15.doc

Enc.: General Petition For Appeal Of Decisions By Planning Director form

xc: Tax Maps and Records Supervisor
Real Property Tax Division-Kona
Planning Department-Kona
Manager, DWS
G. Bailado, GIS Analyst (via e-mail)

COUNTY OF HAWAII
BOARD OF APPEALS

GENERAL PETITION FOR APPEAL OF DECISIONS BY PLANNING DIRECTOR

(Type or legibly print the requested information)

APPELLANT: _____

APPELLANT'S SIGNATURE: _____ DATE: _____

ADDRESS: _____

TELEPHONE: (Bus.) _____ (Home) _____

APPELLANT'S INTEREST IN THE PROPERTY: _____

APPELLANT'S NATURE OF APPEAL AND REQUEST: _____

LAND OWNER: _____

TAX MAP KEY: (land in question) _____ AREA OF PROPERTY: _____

STATE LAND USE DESIGNATION: _____ COUNTY ZONING: _____

STREET ADDRESS OF PROPERTY: _____

APPELLANT'S REPRESENTATIVE: _____

REPRESENTATIVE'S SIGNATURE: _____ DATE: _____

REPRESENTATIVE'S ADDRESS: _____

TITLE: _____ TELEPHONE: (Bus.) _____

THIS PETITION MUST BE ACCOMPANIED BY A FILING FEE OF TWO HUNDRED FIFTY DOLLARS (\$250) PAYABLE TO THE COUNTY DIRECTOR OF FINANCE AND:

1. The Original and ten (10) copies of this completed petition with the following:
 - a. A description of the property involved in the appeal in sufficient detail for the public to precisely locate the property.
 - b. A statement explaining the nature of the appeal and the relief requested.
 - c. A statement explaining:
 - (i) How the decision appealed from violates the law; or
 - (ii) How the decision appealed from is clearly erroneous; or
 - (iii) How the decision appealed from was arbitrary or capricious, or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.
 - d. A clear and concise statement of any other relevant facts.
2. Proof of Service by the Appellant on the Planning Director for an appeal from the Planning Director's decision relating to the Zoning Code.
3. A list of the names, address and tax map keys of all owners of property within boundaries established by Section 8-11(d) of the Board of Appeals Rules of Practice and Procedure.