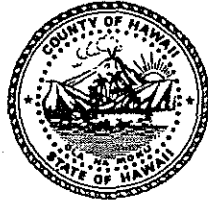


William P. Kenoi  
Mayor



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  
Phone (808) 961-8288 • Fax (808) 961-8742

**CERTIFIED MAIL**  
**(7006 2150 0004 3151 9110)**

May 23, 2011

Morton E. Bassan, Jr.  
P.O. Box 21  
Nā'ālehu, HI 96772

Dear Mr. Bassan:

**RESCISSION OF FINAL SUBDIVISION APPROVAL NO. SUB-02-000136**

**SUBDIVIDER: BASSAN, Morton E. Jr.**

Subdivision of Lot 6,

Of Kiolaa-Kea'ā Homestead Lots (Registered Map No. 2176),

Being the whole of Grant 5064,

Into Lots 6-A to 6-H, Inclusive & Lots 6-J & 6-K,

At Nukakaia & Pu'umaka'ā, Ka'ū, Island of Hawai'i, Hawai'i

TMK: 9-4-005:010

Please be informed that on October 24, 2008, we wrote to rescind the final subdivision approval of the final plat map dated October 24, 2005 for SUB-02-000136. That rescission was stayed by the filing of a bankruptcy action. In an attempt to allow you to resolve the lack of improvements having been constructed, on April 8, 2009 a restated Subdivision Agreement was entered into between the County and yourself which was conditioned on the improvements being completed on or before March 13, 2011. This has not occurred and we have been informed of the dismissal of the bankruptcy action. Therefore, we hereby **rescind** the final approval of the subdivision, SUB-02-000136.

You are instructed to immediately return the three (3) copies of the certified final plat map that were sent to you by our letter dated March 30, 2006.

Morton E. Bassan, Jr.

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May 23, 2011

While we are saddened that we are forced to rescind this subdivision approval, we are compelled to do so due to (1) your failure to complete the required subdivision improvements on or before March 13, 2011, pursuant to the restated subdivision agreement dated April 8, 2009; and (2) your failure to fund the Certificate of Deposit within 6 months from the date of the restated subdivision agreement as security for the completion of the required subdivision improvements, pursuant to the terms of the subdivision agreement. We are not willing to grant any further extensions to the subdivision agreement since the intent of this agreement is to secure the construction of subdivision improvements in a timely manner.

Please be further informed that in accordance with Section 23-5 of the Subdivision Code, an appeal of this decision may be filed with the Board of Appeals within thirty (30) days after receipt of this letter in accordance with the Board's Rules of Practice and Procedures. Pursuant to Board of Appeals (BOA) Rules of Practice and Procedure, Part 8. (Appeals), Section 8-15 regarding General Standards for Appeals (Non-Zoning):

"A decision appealed from may be reversed or modified or remanded only if the Board finds that the decision is:

- (1) In violation of the Code or other applicable law; or
- (2) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record;  
or
- (3) Arbitrary, or capricious, or characterized by an abuse of discretion or clearly unwarranted exercise of discretion."

Should an appeal of my decision be contemplated, please contact this office for the proper form by writing to us at:

County of Hawaii Planning Department  
Aupuni Center  
101 Pauahi Street, Suite No. 3  
Hilo, Hawaii 96720

The proper form for filing of an appeal is also available at our website (<http://www.co.hawaii.hi.us/forms/planforms.html>). Look for the form entitled, "BOA Planning Director", which is available for download in both MSWord and .pdf formats.

Morton E. Bassan, Jr.  
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May 23, 2011

If you should have any questions, please feel free to contact this office at (808)961-8288.

Sincerely,



BJ LEITHEAD TODD  
Planning Director

JRH:lnm

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xc:     Manager, DWS  
          Director, DPW  
          District Environmental Health Program Chief, DOH  
          District Engineer, DOT  
          Real Property Tax Division-Hilo  
          Tax Maps and Records Supervisor  
          County Treasurer  
          Chrystal Thomas Yamasaki, LPLS, Wes Thomas Associates  
          Amy Self, Deputy Corporation Counsel, Office of the Corporation Counsel  
          Ted N. Pettit, Esq., Case, Lombardi & Pettit  
          Alexis M. McGinness, Esq., Case, Lombardi & Pettit  
          Linus P. Tavares, Vice President, Farm Credit Services of Hawaii, ACA  
          Aaron S.Y. Chung, Esq., Attorney at Law