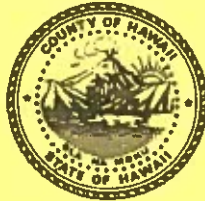


William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret Masunaga
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

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

June 5, 2009

Steven S. C. Lim, Esq.
Carlsmith Ball LLP
121 Waianuenue Avenue
Hilo, HI 96720

Subject: Grant of Public Access Easement for Kona Sea Ranch
Subdivision Nos. SPH 05-06 and 05-07
TMK: 8-7-011:001, 016, 026 & 034

Dear Mr. Lim:

We have reviewed the subject Grant of Public Access Easement documents transmitted by your letter dated May 22, 2009 and find that some corrections to Section 1(b) on page 4 dealing with the Maintenance and Control of the Pedestrian Public Access Easements will be necessary before our recommendation for recordation and acceptance by the County Council can be made.

As written, Sec. 1(b) provides that the Grantor shall have no responsibility to maintain, control, implement or provide pedestrian public access upon and through the project and that the Grantee shall be solely responsible for maintaining, controlling, insuring and repairing the pedestrian public access easements (mauka-makai and lateral), and any and all improvements constructed upon and/or located within said public access easements, in a good and safe condition, ordinary wear and tear accepted. This section must be amended to recognize that the pedestrian access easements PA-1 and PA-6 are within the 50' wide Kukui o Pa'e Place private subdivision roadway for which the Grantee cannot accept any responsibility for maintenance or repair. Additionally, any improvements to PA-3 and PA-4 that may be made by the respective lot owners shall not be the responsibility of the County to maintain or repair.

Finally, insofar as the interior subdivision roadway is privately owned and gated, the Grantor or a legally established Kona Sea Ranch homeowner or road maintenance association shall be responsible for the maintenance, repair or replacement of all required shoreline public access signage with the exception of that located outside the entrance gate to the subdivision within the Māmalahoa Highway right-of-way.

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Carlsmith Ball LLP

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We look forward to your prompt resubmittal of this Grant of Pedestrian Public Access Easement with appropriate amendments addressing the above concerns.

Please feel welcome to contact Larry Brown at 961-8135 if you have any questions.

Sincerely,



BJ LEITHEAD TODD
Planning Director

LMB:cs

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xc: Amy Self, Deputy Corporation Counsel
Larry Brown, Long Range Division

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SPH 05-06 & SPH 05-07
TMKs 8-7-11:25 and 8-7-11:26