

July 28, 2017

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Ms. Susan Gagorik
Planning Department
County of Hawaii
101 Pauahi Street, Suite 3
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Re: Michael J. Matsukawa Letter Dated July 18, 2017, Referencing Alae, South Kona, TMK Plat (3) 8-7-005 and SUB 06-435

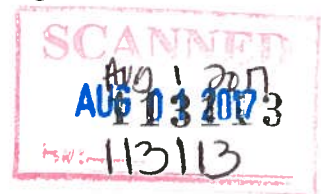
Dear Ms. Gagorik:

This will follow up on Mr. Matsukawa's letter of July 18, 2017, which purports to relate to Subdivision No. 06-000435. In fact, Mr. Matsukawa represents developer Lyle Anderson who is trying to force his neighbors to extinguish recorded access easements over property owned by Mr. Anderson (TMK Nos. 8-7-003: 00, 012 - 014, 016 - 023 and 8-7-005: 004 and 027) (see attached map printed from the County GIS) to facilitate Mr. Anderson's future development.

Our office represents Peter Dungate, owner of TMK Parcels 8-7-007: 008-011 located in the ahupua'a of Pahoehoe 1st to the south and adjacent to Alae 1st. These parcels benefit from a recorded access easement over the parcels owned by Mr. Anderson's company (Mauna'oni Properties LLC) as well as other burdened properties. This access easement is what Mr. Matsukawa refers to as the "North Easement."

Contrary to Mr. Matsukawa's assertions, the North Easement does not "terminate" at the State-owned property. As Mr. Matsukawa is well aware, there is an existing public road across the State-owned property that joins the recorded easement at the south side of the State property. This roadway is identified on maps as "Old Government Road." See attached TMK Maps and Wes Thomas Associates Map Showing Pre-Existing Lots of Record. There is no need for an easement for a member of the public to use a public road over public property.

On behalf of Mr. Dungate, we ask that the County take no action which could adversely affect the access rights of Mr. Dungate or other benefitted landowners over the legal, recorded access easements burdening Mr. Anderson's property and benefitting Mr. Dungate and others' properties.



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The so-called North Easement is a far better, less steep roadway than the South Easement road. The North Easement provides legal access for emergency vehicles as well as the regular access for benefitted landowners. There will be substantial adverse impacts on public safety and health if access over these easements is in any way impaired.

I attach copies of the recorded easements burdening Mr. Anderson's property and benefitting Mr. Dungate's property. Mr. Dungate does not intend to voluntarily extinguish these easements. The County is not a party to these easements and has no jurisdiction to make any declaration or take any legal action relative to these recorded easements and should refrain from getting involved in Mr. Anderson's scheme.

Please provide copies of all correspondence related to Mr. Matuskawa's request to this office.

If you have questions or require additional information, please contact me.

Very truly yours,



Roy A. Vitousek III

for

CADES SCHUTTE

A Limited Liability Law Partnership

RAV:bah

encl.: County GIS printout with added identifiers
Google Earth aerial photo showing the properties/roadways
TMK Plat Map 8-7-005
Wes Thomas Associates September 27, 2010, Map

cc: Peter Dungate