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Rec'd 1-29-71

January 28, 1971

Mr. Ramon Duran
Executive Officer
Land Use Commission
State of Hawaii
Honolulu, Hawaii

Subject: Whether a commercial dog kennel is a
permitted use within an Agricultural
District?

Dear Sir:

This is in response to your request for an opinion as to whether a commercial dog kennel would be a permitted use within an Agricultural District. It is contended that such a use would fall into the definition of "animal husbandry" and is therefore a permitted use under paragraph 2.14(d) of Sub Part C, Part II, State Land Use District Regulations.

We are of the opinion that under the existing Regulations, a commercial dog kennel is not a permitted use within an Agricultural District.

Paragraph 2.14 of Sub Part C, Part II, State Land Use District Regulations, states, in pertinent part, that:

"Except as otherwise provided, the following land and building uses are compatible and permitted within this district [agricultural district] except when a county ordinance or regulation is more restrictive. Except as otherwise provided, uses not expressly permitted are prohibited.

. . .

January 28, 1971

- "(c) Raising of livestock, including but not limited to poultry, bees, fish or other domestic animals.
- "(d) Farm dwellings, farm buildings, or activities or uses related to farming and animal husbandry."

"Animal husbandry" has been defined as "agriculture; cultivation of the soil for food; farming, in the sense of operating land to raise provisions" (Black's Law Dictionary, Fourth ed.) and as "a branch of agriculture concerned with the production and care of domestic animals; spec: scientific study of the problems of animal production (as breeding and feeding)." (Webster's Third New International Dictionary)

We do not believe that the caring of dogs contemplated in a commercial dog kennel is within the definition of "animal husbandry." The above indicates that the underlining element or animal husbandry is the breeding or production of domestic animals, and that the caring of the same is incidental to the breeding and production.

In Borough of Demarest v. Heck, 201 A.2d 75, 84 N.J. Super. 100 (1964), the Court held that a "hostel for horses" was not an agricultural business allowable under the zoning ordinance, but was in the nature of a commercial enterprise. Likewise, we do not believe that a "hostel for dogs" would be a permitted agricultural use within the scope of "animal husbandry".

Very truly yours,

Walton D. Y. Hong
Walton D. Y. Hong
Deputy Attorney General

APPROVED:

Bertram T. Kanbara
BERTRAM T. KANBARA
Attorney General