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GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
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CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

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KAHO'OLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Ref: OCCL:LY

CORR: HA 16-68

Mr. Ken Church
Sent via e-mail: dockline3@yahoo.ca

OCT 16 2015

SUBJECT: Request for a Determination Regarding Non-Conforming Agricultural Uses on Properties Located at Wailea, South Hilo, Hawai'i
Tax Map Keys: (3) 2-9-003: 013, 029, 060

Dear Mr. Church:

The Office of Conservation and Coastal Lands (OCCL) is in receipt of your request for a determination whether non-conforming agricultural uses on the subject properties is allowable pursuant to Hawai'i Administrative Rules (HAR), Chapter 13-5.

According to the information you have provided, record surveys dated 1905 and 1953 show that the subject parcels were used for cane production. In addition, the letter and map provided by Mr. Cross, custodian of records for C. Brewer & Co. Ltd., provides further evidence that the parcels were used by sugar companies for agricultural production for over 100 years. The letter from Mr. Cross states that a total of 3.2 acres were used for agriculture, while the remaining balance of the properties consisted of a gulch on the northern end of the field and a narrow uncultivated area along the ocean pali.

The OCCL notes that the project area is located within the Conservation District Resource subzone. Based on the evidence provided, it would appear that the properties were used for sugar cane production as early as 1905. Hawai'i Revised Statutes §183C-5 specifically states that "*Neither this chapter nor any rules adopted hereunder shall prohibit the continuance of the lawful use of any building, premises, or land for any trade, industrial, residential, or other purpose for which the building premises, or land was used on October 1, 1964, or at the time any rule adopted under authority of this part takes effect. All such existing uses shall be nonconforming uses.*" Therefore, if your properties were being cultivated for sugar on October 1, 1964, that use is grandfathered.

Should you have any questions regarding this correspondence, please contact Lauren Yasaka of our Office at (808) 587-0386.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Samuel J. Lemmo".

Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

C: HDLO
CoH, Planning Dept.