

**EXHIBIT "K"**

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
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2018/ELOG-918

August 7, 2018

Anders G.O. Nervell, Esq.  
Clay Chapman Iwamura Pulice & Nervell  
Attorneys at Law  
Topa Financial Center, Bishop Street Tower  
700 Bishop Street, Suite 2100  
Honolulu, Hawaii 96813

Dear Mr. Nervell:

SUBJECT: 2801 H La-i Road Condominium Project  
Owner: Dale Hope, Trustee  
2801 H La-i Road, Palolo, Honolulu  
Tax Map Key: 3-4-021: 013

This is in response to your letter dated May 4, 2018, requesting the Department of Planning and Permitting (DPP) to provide written verification that the subject condominium property regime (CPR) under Chapter 514B, Hawaii Revised Statutes (HRS), as described and set forth in the project's Declaration, Condominium Map, and By-Laws, does not restrict, limit, or prohibit agricultural uses or activities, pursuant to Section 205-4.6, HRS.

The condominium statute requires verification by an appropriate county official that the project does not include any restrictions limiting or prohibiting agricultural uses or activities (HRS §514B-52(b)). As stated in your letter, but not in your condominium documents, the proposed two-unit condominium is located on lands zoned AG-2, General Agricultural District. The property is also in the State Agricultural District. The DPP does not find specific language in the condominium documents limiting or prohibiting agricultural uses and activities.

Anders G.O. Nervell, Esq.  
August 7, 2018  
Page 2

Declaration of Condominium Property Regime.

We request the following be addressed by the final document:

1. Section 1.1(a) of the Declaration, should have the definition of "Accessory Farm Structure" amended to indicate a farm dwelling is excluded.
2. Sections 5.2 and 5.3 indicate that Unit 1 contains an area of 0.659 acre, and Unit 2 contains an area of 3.455 acres. It is recommended that each unit contain at least 2 acres to maximize the potential agricultural use of the property. As the smaller Unit 1 already includes a farm dwelling, a paved concrete driveway, and other improvements, it will have very limited space for agricultural use.

Compliance with County Zoning and Development Ordinances.

The condominium statute requires conformance of the CPR with the existing underlying county zoning for the property, and all applicable county permitting requirements adopted by the county in which the property is located, including any supplemental rules (HRS §514B-5). Review of development permits for the Project will be based on the entire property and/or underlying zoning lot, not by individual CPR unit.

The DPP acknowledges that the Declaration and/or Developer's Public Report includes or will contain the following disclosures:

1. The Project is not immune to future changes to zoning and building code requirements; i.e., condominium units are not "vested" by virtue of their establishment prior to changes in development codes.
2. Any earth movement of more than 50 cubic yards, cut, or fill in excess of 3 feet in height at the deepest point, or causing a change in drainage patterns, will require a grading permit.
3. The term of any lease of a unit shall be no less than 30 days (Section 9.2), and consequently, there will be no "short-term" rentals.

In closing, the DPP will continue to dispel the commonly held misunderstanding that condominium units either have the same development privileges as subdivided lots, or are exempt from zoning regulations. We are providing a more thorough review of the CPR documents in an attempt to be proactive in reducing these misunderstandings and manage everyone's expectations when it comes to compliance with applicable codes.

Anders G.O. Nervell, Esq.  
August 7, 2018  
Page 3

Should you have any questions, please contact Mario Siu-Li, of our Subdivision Branch, at 768-8098.

Very truly yours,



Kathy K. Sokugawa  
Acting Director

cc: State Department of Commerce and  
Consumer Affairs, Real Estate Section  
County Planning Departments  
DPP, Customer Service Division  
DPP, Planning Division  
DPP, Land Use Permit Division

**End of EXHIBIT "K"**