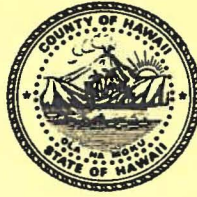


Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Russell Kokubun
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

January 27, 1999

Mr. and Mrs. Martin Ganigan, Jr.
RR1 Box 189 Kaieie
Papaikou HI 96781

Dear Mr. and Mrs. Ganigan, Jr.:

Additional Farm Dwelling Agreement
Applicants: Martin Ganigan, Jr. & Linda Ganigan
Land Owners: Martin Ganigan, Jr. & Linda Ganigan
Tax Map Key: 2-7-5:31

Pursuant to authority conferred to the Planning Director in Ordinance 96-160, Chapter 25, Article 5, Division 7, Section 25-5-77 of the Zoning Code and Planning Department Rule 13, Farm Dwellings, we have reviewed your request for an additional farm dwelling on the subject property. Your submittal included the following information:

- (a) A notarized affidavit that the additional dwelling shall be used for farm-related purposes in the form of the proposed Additional Farm Dwelling Agreement.
- (b) Name and address of the landowner or lessee, if the latter has a lease on the building site with a term exceeding one year from the date of the farm dwelling agreement.
- (c) Written authorization of the landowner.
- (d) A farm plan of the applicant's continual agricultural productivity or farming operation within the County. The plan shows how the farm dwelling will be utilized for engagement in agricultural productivity or farming operation.
- (e) In support, evidence of a State of Hawaii Department of Taxation's Gross Income License (GE 30095375) has also been presented.

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Findings:

1. In Chapter 205, Hawaii Revised Statutes, the State Land Use Law does not authorize residential dwellings as a permitted use in the State Land Use Agricultural district unless the dwelling is related to an agricultural activity or is a farm dwelling. A farm dwelling as defined in Section 205-4.5, Chapter 205, HRS, means a single family dwelling located on and used in connection with a farm, including clusters of single family farm dwellings permitted within agricultural parks developed by the State, or where agricultural activity provides income to the family occupying the dwelling. (emphasis added)
2. The Farm Plan, GE Tax License, and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate that there is agricultural activity and that income is being/will be taxed.
3. In addition, the following agencies have submitted their comments as stated below:
 - a. Department of Water Supply (Memorandum dated December 31, 1998):

We have reviewed the subject application and have the following comments.

For your information, an existing 5/8-inch meter services the property which is adequate for only one dwelling at 600 gallons per day.

Inasmuch as this application is proposing an additional detached dwelling, the installation of a separate 5/8-inch meter by the applicant would normally be required in accordance with Department regulations. However, the Department's existing water system facilities cannot support an additional meter for the proposed additional farm dwelling at this time. Extensive improvements and additions, including source, storage, transmission, booster pumps, and distribution facilities must be constructed. Currently, sufficient funding is not available and no time schedule is set.

Should there be any questions, please contact our Water Resources and Planning Branch at 961-8660.

Mr. and Mrs. Martin Ganigan, Jr.
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b. Real Property Tax Office (Memorandum dated December 28, 1998):

Comments from the Appraisal Section: The owners have not applied for the agricultural use assessment and the property is NOT being assessed at it's agricultural value.

Comments from the collection section: Current. Real Property taxes are paid through December 31, 1998.

c. Department of Health (Memorandum dated December 28, 1998):

The Department of Health is unable to make comments to the proposed project at this time. The applicant needs to provide a site plan showing existing and proposed dwellings and wastewater systems.

(Memorandum dated January 8, 1999):

The Health Department found no environmental health concerns with regulatory implications in the submittals.

Decision:

In view of the above, your request to construct an additional farm dwelling is approved subject to the following conditions:

1. The additional farm dwelling shall be used to provide shelter to only person(s) involved in the agricultural or farm-related activity on the building site.
2. The agreement shall run with the land and apply to all persons who may now or in the future use or occupy the additional farm dwelling.
3. In reference to your January 10, 1999 response to the Department of Water Supply's comments, may we suggest the following:
 - a. Any dwelling not serviced by a County water system should be provided with and maintain a private potable rain catchment system which includes a minimum 6,000 gallon for domestic consumption or potable uses. This catchment system should adhere to the Department of Public Works, Building Division's "Guidelines for Owners of Rain Catchment Water Systems" as well as the State Department of Health requirements

Mr. and Mrs. Martin Ganigan, Jr.

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related to water testing and water purifying devices.

- b. The second farm dwelling should be provided with and maintain a private water supply system which includes an additional minimum 3,000 gallon water storage capacity for fire fighting and emergency purposes. The emergency water supply system, including the necessary compatible connector system and location of the water storage capacity on the property, should meet with the approval of the Hawaii County Fire Department.

The Planning Director has completed the appropriate portions of the enclosed Additional Farm Dwelling Agreement. You must record this approved Additional Farm Dwelling Agreement with the State Bureau of Conveyances and/or Land Court within thirty days of receipt of this approval. In sending this document out for recordation, please note the following:

1. The original and one copy of the document must be submitted for recordation.
2. A check in the amount of \$25.00 to cover the recordation fee should be made out to the State of Hawaii, Bureau of Conveyances and attached to the Agreement. Their address is as follows:

State of Hawaii
Bureau of Conveyances
P.O. Box 2867
Honolulu, HI 96803

3. Also required is a self-addressed stamped envelope to have the recorded document returned to you.

You must submit a copy of the recorded Farm Dwelling Agreement to the Planning Director prior to approval of the building permit for the farm dwelling.

Mr. and Mrs. Martin Ganigan, Jr.

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January 27, 1999

Should you have questions or require further information, please feel free to contact Esther Imamura at 961-8288.

Sincerely,



VIRGINIA GOLDSTEIN
Planning Director

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Enclosure

xc: Mr. Milton Pavao, DWS
Mr. Kalani Schutte, Finance Department

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this _____ day of Oct, 1998,
by and between Martin Ganigan Jr and Linda Ganigan herein called the
"First Party," whose mailing address is RR1 Box 189 Kaiela
Papaikou, Hi 96781
and the COUNTY OF HAWAII, herein called the "Second Party."

IT IS HEREBY AGREED that the First Party may construct an additional farm dwelling
located on the property described by Tax Map Key 2-7-005:031
situated within the State Land Use Agricultural district
and zoned A-10a by the Second Party.

IT IS HEREBY ACKNOWLEDGED that the First Party is the lessee legal owner
(legal owner/lessee) mwp
of the property above described.

IT IS HEREBY FURTHER AGREED that this approval to construct an additional farm
dwelling is given subject to the following conditions:

1. The additional farm dwelling shall be used to provide shelter to only person(s)
involved in the agricultural or farm-related activity on the building site.
2. The agreement shall run with the land and apply to all persons who may now or in
the future use or occupy the additional farm dwelling.
3. The landowner or lessee shall record the approved Additional Farm Dwelling
Agreement with the State of Hawaii, Bureau of Conveyances and/or with the

Land Court System within thirty days from the date of receipt of approval. A copy of the recorded Additional Farm Dwelling Agreement shall be submitted to the Planning Director of the County of Hawaii prior to approval of the building permit.

IT IS HEREBY FURTHER AGREED that if this agreement is with a lessee, the legal owner shall be a party to this agreement.

IT IS HEREBY FURTHER AGREED that should the pertinent provisions of the State and County laws and rules and regulations change to authorize said farm dwelling, upon request of the First Party, this Agreement may be reconsidered for possible amendment and/or severance.

IT IS HEREBY FURTHER AGREED that if the property is situated within the State Land Use Agricultural district, the Second Party may imposed a fine of not more than \$5,000 for violation of Section 205-4.5, Hawaii Revised Statutes. If the violation is not corrected within six months of such citation and the violation continues, a citation for a new and separate violation may be imposed. There shall be a fine of not more than \$5,000 for any additional violation. The Second Party may also impose fines for any violation of Chapter 25, Hawaii County Code, as amended, in accordance with the procedures and fine schedule outlined in Division 3, Article 2, of said code.

IN CONSIDERATION OF THE AFORESAID, the Second Party hereby approves this Agreement as being in conformity with Sections 205-2 and 205-4.5 of the Hawaii Revised Statutes, relative to permitted uses within the State Land Use Agricultural district. This Agreement is also in conformance with Chapter 25, Hawaii County Code, as amended.

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year
first above written.

FIRST PARTY

Martin Ganigan Jr.
Linda Ganigan

(Legal Owner) Martin Ganigan, Jr.
Linda Ganigan

(Lessee)

SECOND PARTY

A. Koh

for Planning Director
County of Hawaii Planning Department

STATE OF HAWAII

)

) SS:

COUNTY OF HAWAII

)

On this 27th day of November, 19 99, before me personally
 appeared MARTIN BANIGAN JR and LINDA BANIGAN to me known to be the person
 described in and who executed the foregoing instrument, and acknowledged that ^{that} he/~~she~~ executed
 the same as ^{that} his/~~her~~ free act and deed.

*m
n/p*

*m
n/p*

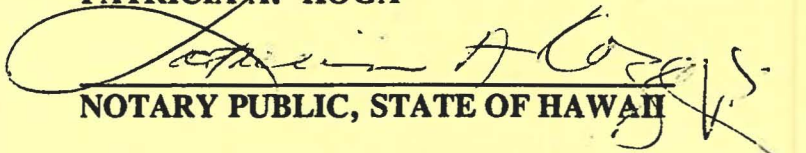
Marcella Uubio
 Notary Public, State of Hawaii
 3rd Judicial Circuit
 My commission expires: 3/25/2000

L-9.

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this 29th day of January, 1999, before me personally appeared RUSSELL KOKUBUN, to me personally known, who, being by me duly sworn, did say that he is the Deputy Planning Director of the County of Hawaii; and that the Planning Department of the County of Hawaii has no corporate seal; and that instrument was signed on behalf of the Planning Department of the County of Hawaii, a government agency, and said RUSSELL KOKUBUN, acknowledged the instrument to be the free act and deed of said Planning Department, County of Hawaii.

PATRICIA A. KOGA



NOTARY PUBLIC, STATE OF HAWAII

MY COMMISSION EXPIRES: 7/17/02

