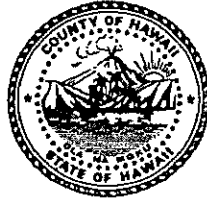


Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

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

February 27, 2001

Mr. P. Quentin Tomich
P.O. Box 675
Honokaa, Hawaii 96727

PER CORRESPOND
COG
DOC 2001-041655
3-22-01

Dear Mr. Tomich:

Additional Farm Dwelling Agreement

Applicant: P. Quentin Tomich

Land Owner: P. Quentin Tomich, Caroline W. Tomich, David R. Rose,
and Marcia Rose

Tax Map Key: 4-4-008:079

Pursuant to authority conferred to the Planning Director by 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 submittals included the following information:

1. A notarized affidavit that the additional dwelling shall be used for farm-related purposes in the form of the proposed Additional Farm Dwelling Agreement.
2. 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.
3. Written authorization of the landowner if the lessee filed the request.
4. A farm plan or evidence of the applicant's continual agricultural productivity or farming operation within the County, including an explanation of why this additional farm dwelling is needed in connection with the agricultural productivity or farming operation.

002231

FEB 28 2001

Mr. P. Quentin Tomich
Page 2
February 27, 2001

5. In support, evidence of a State of Hawaii Department of Taxation's General Excise (GE) Tax License has also been presented.

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 (ID number 30101322), 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 from your agricultural activity is being taxed.
3. In addition, the following agencies have submitted their comments as stated below:
 - (a) Department of Water Supply (Memorandum dated January 29, 2001):

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

For your information, this parcel is part of a subdivision and has no existing service. In this area, subdivisions created by variance are allowed one service (5/8-inch meter) on a first come first served basis. Our records show that one service already exists for this subdivision. 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 any additional meter 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.

Mr. P. Quentin Tomich
Page 3
February 27, 2001

Therefore, the Department has no objections to the proposed application subject to the applicant understanding and accepting that the Department cannot provide water service to the proposed additional farm dwelling. Further, should the application be approved, dwellings in the subdivision must not share the existing meter.

Should there be any questions, please call our Water Resources and Planning Branch at 961-8665.”

(b) Real Property Tax Office (Memorandum dated January 25, 2001):

“Property is receiving agricultural use value.

Real property taxes are paid through December 31, 2000.”

(c) Department of Health (Memorandum dated February 2, 2001):

“The subject lot(s) are located in a Non-Critical Wastewater Disposal Area where cesspools are allowed under the current rules. More than one cesspool is allowed provided 10,000 sq. ft. per cesspool is available. Each cesspool can dispose of 1,000 gallons per day of wastewater.”

Decision:

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

1. The second farm dwelling shall only be used to provide shelter for persons 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. All other applicable rules, regulations, and requirements of the Planning Department (including but not limited to the Zoning Code, Chapter 25, Department of Public Works, Department of Water Supply, Fire Department and State Department of Health and other reviewing agencies/divisions listed on the Building Permit Application.

Mr. P. Quentin Tomich
Page 4
February 27, 2001

4. In reference to the Department of Water Supply's comment, 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-water catchment system with a minimum capacity of 6,000 gallons 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 related to water testing and water purifying devices.
 - (b) Any farm dwelling should be provided with and maintain a private water supply system with an additional minimum storage capacity of 3,000 gallons for fire fighting and other emergency purposes. The emergency water supply system, including the necessary compatible connection devices and the location of the water storage unit 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

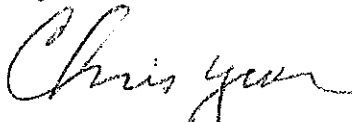
3. Include a self-addressed stamped envelope to have the recorded document returned to you.

Mr. P. Quentin Tomich
Page 5
February 27, 2001

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

Should you have questions or require further information, please feel free to contact Larry Brown of my staff at 961-8288.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

LMB:cps

P:\WPWIN60\Larry\FDA\Tomich 4-4-8-79 apvl.doc

enclosure

xc: Mr. Milton Pavao, DWS
Mr. Frank Manalili, Finance Department

AFTER RECORDATION, RETURN BY MAIL TO:

**P. Quentin Tomich
P.O. Box 675
Honokaa, Hawaii 96727**

TITLE OF DOCUMENT:

Additional Farm Dwelling Agreement

PARTIES TO DOCUMENT:

**First Party: P. Quentin Tomich, Caroline W. Tomich, David R. Rose
and Marcia Rose**
Second Party: County of Hawaii

PROPERTY DESCRIPTION:

TMK: (3) 4-4-008:079

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 17th day of JANUARY, 2001,
by and between P. QUENTIN TOMICH, CAROLINE W. TOMICH herein called the
"First Party," whose mailing address is DAVID R. ROSE AND MARCIA ROSE
P.O. Box 675 HONOKAA, HI 96727

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 4-4-008:79 LOT 70B
situated within the State Land Use AGRICULTURAL district
and zoned A-5a by the Second Party.

IT IS HEREBY ACKNOWLEDGED that the First Party is the LEGAL OWNER
(legal owner/lessee)
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

P. Iventer Tomich *David R. Rose*
Caroline W. Tomich *Maricia Rose*

(Legal Owner)

(Lessee)

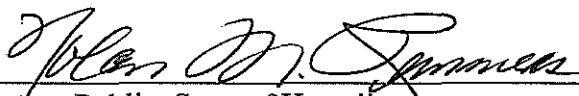
SECOND PARTY

Chris Green

Planning Director
County of Hawaii Planning Department

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this 17th day of January, 2001 before me personally
appeared P. QUENTEN TOMICH, CAROLINE W. TOMICH, to me known to be the persons
DAVID R. ROSE AND MARCIA ROSE
described in and who executed the foregoing instrument, and acknowledged that ~~he/she~~ they
~~his/her~~ these executed the same as ~~his/her~~ free act and deed.



Notary Public, State of Hawaii
NOLAN M. REMMERS

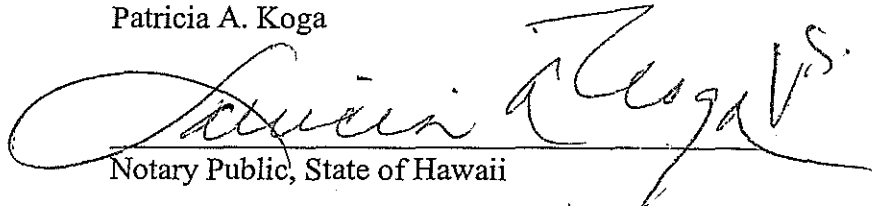
L.S.

My commission expires: 1-13-03

STATE OF HAWAII)
) SS
COUNTY OF HAWAII)

On this 28th day of February, 2001 before me personally
appeared Christopher J. Guen, to me personally known, who, being
by me duly sworn, did say that he ~~is~~^{is} the Planning Director of the County of Hawaii;
and that the Planning Department of the County of Hawaii has no corporate seal; and that
the instrument was signed on behalf of the Planning Department of the County of Hawaii,
a government agency, and said Christopher J. Guen 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

JAN 17 PM 2 18
PLANNING DEPARTMENT
COUNTY OF HAWAII

TOMICH

PLOT PLAN

Supplement to Farm layout
TMK 4-4-008:79 Lot 70B

