

CERTIFIED MAIL

February 9, 1983

Mr. Dennis Torikai
115 Nanea Street
Hilo, HI 96720

Dear Mr. Torikai:

Ohana Dwelling Application (0083-10)
Dennis Torikai
Tax Map Key: 2-7-19:31

We regret to inform you that after reviewing your application and comments received from the affected agencies, the Planning Director is hereby denying your ohana application. The reason(s) for the denial are as follows:

1. Ordinance No. 804, relating to Regulations for Ohana Dwelling permits the construction of a second dwelling unit on a lot subject to certain provisions:
 - a. Art. 20, Sec. 1. Purpose and applicability. "It is not the intent of this Ordinance to supersede private deed restrictions or agreements which may prohibit the construction of an additional dwelling on the lot."
 - b. Art. 20, Sec. 2. General Provisions. "Notwithstanding any law, ordinance, or rule to the contrary, two dwelling units may be constructed on any lot within all State Land Use Urban, Agricultural, Rural and Conservation districts provided that: 3) That at the time of application for a county building permit for a second dwelling unit, the subject lot or land parcel is not restricted by a recorded covenant or a recorded lease provision (in a lease having a term of not less than fifteen years) which prohibits a second dwelling unit."

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2. The following are the restrictive covenants contained in your deed:
 - a. That for a period commencing with the date hereof and ending January 1, 1962, all lots in the Honolii Pali Tract 2, as shown on File Plan No. 489 on file in the said office of the Registrar of Conveyances shall be known and described as residential lots, and that the within granted premises shall be subject to the following further restrictions during said period.
 - b. No structure shall be erected, altered, placed or permitted to remain on any one residential lot of the granted premises as said lots are presently shown on said map of said tract, other than one detailed single-family dwelling and garage, sewants' quarters and other outbuildings incidental to residential use of the lot.
 - c. At the end of said period said restrictions shall automatically be extended for further periods of ten years each unless during any ten-year period the same are changed in whole or in part by the agreements of the owners of a majority of said lots as shown on said File Plan.
3. We do not have any documents which states that the restrictions have been deleted as per above item 2c.

In view of the above, we have determined that the above covenant restricts the construction of more than one dwelling unit on the property thereby disqualifying this property from Ordinance No. 804 relating to Ohana Dwelling Regulations.

The Director's decision is final, except that within thirty (30) days after receipt of this letter, you may appeal the decision in writing to the Board of Appeals in accordance with the following procedures:

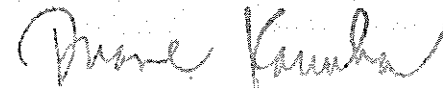
1. A non-refundable filing fee of one hundred dollars (\$100).

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2. Ten (10) copies of the petition for the appeal incorporating the following:
 - a. The name, address, and telephone number of the appellant and the name, title, and address of the appellant's representative.
 - b. A description of the property involved in the appeal, including the tax map key number of the property, and the appellant's interest in the property.
 - c. A plain statement of the nature of the appeal and the relief requested.
 - d. A statement explaining:
 - 1) How the decision appealed from violates the law; or
 - 2) How the decision appealed from is clearly erroneous; or
 - 3) How the decision appealed from was arbitrary or capricious, or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.
 - e. A clear and concise statement of any other relevant facts.

Should you have any further questions, please feel free to contact this office at 961-8288.

Sincerely,



for SIDNEY FUKU
Planning Director

MO:ds

cc: Chief Engineer, DPW
Chief Sanitarian, DOH