

CERTIFIED MAIL

March 4, 1983

Mr. Charles T. Hua
P. O. Box 618
Honaunau, HI 96726

Dear Mr. Hua:

Ohana Dwelling Application (0083-15)
Charles T. Hua
Tax Map Key: 8-4-05:2

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 is contained in your lease (No. 24,866) with the Trustees of the Estate of Bernice Pauahi Bishop.

Covenant No. 7 (Use) states that "Lessee will use said productive area solely for the cultivation of truck, orchard, flower or nursery crops or such other crops as may be approved in writing by Lessors and any part of said premises for accessory buildings and other improvements useful for or incidental to said agricultural purposes, and will use any house site hereby demised solely for one single-family dwelling and appurtenances, and will not make or suffer any strip or waste or unlawful, improper or offensive use of said premises or any part thereof."

In view of the above, we have determined that the above lease 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).
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

Mr. Charles T. Hua

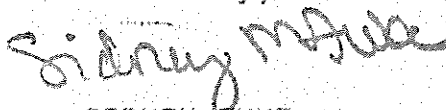
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- 2) How the decision appealed from is clearly erroneous; or
 - 3) How the decision appealed from was arbitrary or capricious, or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.
- e. A clear and concise statement of any other relevant facts.

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

Sincerely,



SIDNEY FUKU
Planning Director

MO:ds

cc: Chief Engineer, DPW
Chief Sanitarian, DOH
William Steyton - Bernice Pauahi Bishop Estate
Kona Branch
P. O. Box 686
Kealahou, HI 96750