

CERTIFIED MAIL

April 16, 1984

Ms. Sandra Bergman
Remunerative Investments Ltd.
P. O. Box 1458
Kamuela, HI 96743

Dear Ms. Bergman:

Ohana Dwelling Application (OD 84-49)
Remunerative Investments Ltd.
Tax Map Key: 6-4-12:85

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. Purposes 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 of land parcel is not restricted by a recorded covenant of a recorded lease provision (in a lease having a term of not less than fifteen years) which prohibits a second dwelling unit."

APR 17 1984

Ms. Sandra Bergman
Page 2
April 16, 1984

2. A covenant contained in your deed states "8. Single Family Residential Dwelling. No dwelling shall be erected, altered, placed or permitted to remain on any lot other than one detached single family residential dwelling, (and permitted accessory buildings), containing a floor area, exclusive of open porches, garages and carports, of not less than 1,500 square feet; and no dwelling shall exceed two stories in height. All roofing material for such residential dwelling shall consist of wood shake or Monier roof tile or other tile of comparable quality. Construction of residential improvements shall comply with all governmental laws, rules, regulations and permits."
3. The ohana dwelling application is for the construction of a second single family dwelling unit.

We have determined that the above covenant restricts the construction of more than one or the second dwelling unit on the subject parcel thereby disqualifying this parcel 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
 - 2) How the decision appealed from is clearly erroneous; or

Ms. Sandra Bergman
Page 3
April 16, 1984

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

WRY:wkm

cc: Chief Engineer, DPW
Chief Sanitarian, DOH