

CERTIFIED MAIL

April 16, 1984

Mr. Melvin Ah Sing
70 Apoke Street
Hilo, HI 96720

Dear Mr. Ah Sing:

Ohana Dwelling Application (OD 84-50)
Melvin Ah Sing
Tax Map Key: 7-6-19:27

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."

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2. A covenant contained in your deed states, "1. The above described premises and every portion thereof shall be used for private residence purposes only (except public roads and recreational areas) including private garage and/or servants' quarters and other similar purposes reasonably necessary in connection with such private residence, and for no other purpose; and no building other than a private dwelling house designed and built for the use and occupancy of a single family, not exceeding two (2) stories in height, together with one (1) outbuilding not exceeding one (1) story in height, shall be constructed, placed or maintained upon said premises during said term, excepting Lots 12 through 39, inclusive, and Lots 59 through 81, inclusive, and known as 'Border Lots', upon which duplex-type dwellings may be constructed."

Lot 170 is not included among the "Border Lots," upon which duplex-type dwellings may be constructed.

3. The ohana dwelling application is for a new duplex which is defined as "a building containing only two dwelling units." A single family dwelling is defined as a building containing only one 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.

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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,



SIDNEY FUKU
Planning Director

WRY:wkm

cc: Chief Engineer, DPW
Chief Sanitarian, DOH