

CERTIFIED MAIL

May 6, 1985

Mr. John Dinmore
P. O. Box 2964
Kailua-Kona, HI 96740

Dear Mr. Dinmore:

Ohana Dwelling Permit (OD 84-124)
Tax Map Key 7-4-07:48

On December 10, 1984, this office approved an Ohana Dwelling Permit for the subject property. In reviewing our previous action, we note that there is a restrictive covenant that prohibits the construction of more than a single family dwelling on the property. In view of this restriction, we are rescinding our previous approval and apologize for any inconvenience our previous action has brought. The reasons for the denial are as follows:

Section 25-271 (3) of the Zoning Code, Governing regulations for Ohana dwellings, specifies "That at the time of application for a County Building Permit for a second dwelling unit, the subject lot or land 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."

Exhibit A, Restrictive Covenants, Paniolo Country Subdivision - Unit II, furnished, includes restrictive covenants running with the land.

This submittal states the following:

"III. Covenants, 1. LAND USE, (a) Residential Purpose: No improvement except a single family dwelling and such outbuildings as are usually accessing thereto shall be constructed, placed or permitted to remain on any lot (emphasis added)."

MAY 08 1985

Mr. John Dinmore
Page 2
May 6, 1985

The Planning Department interprets the above provision as precluding your submitted proposal. Your options are to take steps with the covenantees to have the restriction removed or waived or appeal our determination through the procedures set forth below.

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:

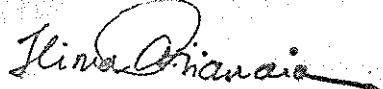
1. A non-refundable filing fee of one hundred dollars (\$100).
2. Ten (10) copies of the petition for the appeal incorporating the following:
 - a. The name, address, and telephone number of the appellant and the name, title, and address of the appellant's representative.
 - b. A description of the property 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
 - 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.

The denial of your ohana dwelling application was due to a deed restriction that only one single family dwelling may be constructed on the property. Therefore, it should be pointed out that even if the Board of Appeals disposes the petition in your favor, its decision is meaningless.

Mr. John Dinmore
Page 3
May 6, 1985

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

Sincerely,



for ALBERT LONO LYMAN
Planning Director

MO:wkim

cc: Chief Engineer, DPW
Chief Sanitarian, DOH
Real Property Tax