

CERTIFIED MAIL

August 13, 1985

Mr. Reed Takaaze  
138 Apoke Street  
Hilo, HI 96720

Dear Mr. Takaaze:

Ohana Dwelling Application (OD 85-94)  
Reed Takaaze  
Tax Map Key: 2-5-22:29, lot 13

We regret to inform you that after reviewing your application for an ohana dwelling, three (3) copies of a site plan, and deed submittals, the Planning Director is hereby denying your ohana application. The reason(s) 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."

The copy of a deed which you furnished includes restrictive covenants running with the land and dated March 9, 1948 and recorded in Liber 2113 at Page 37.

Covenant two (2) states "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 the Ainako Subdivision, Series 3, other than one detached single family dwelling and garage, servants quarters and other outbuildings incidental to residential use of the lot."

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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.

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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.

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

Sincerely,



ALBERT LONO LYMAN  
Planning Director

WRY:wkm

cc: Chief Engineer, DPW  
Chief Sanitarian, DOH  
Raymond Kobayashi w/encl.