

CERTIFIED MAIL

December 2, 1987

Mr. Roy K. Okada  
440 Awa Street  
Hilo, HI 96720

Dear Mr. Okada:

Ohana Dwelling Application (OD 87-184)  
Roy K. Okada, Etal  
Tax Map Key: 2-2-52:1

Reference to subject application and related submittals received November 20, 1987.

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 recorded Warranty Deed dated June 6, 1973, P. 2 is subject to "the restrictive covenants contained in that certain Land Patent Grant No. S-14, 145, to which reference is hereby made."

Pursuant to Condition 6, P. 2 and 3 of copy of recorded Land Patent No. S-14, 145 received states, "That no more than one dwelling shall be constructed on each subdivision lot; provided, however, that accessory buildings, so long as the same are erected in conformity with a plot plan and are of a character and design suitable to the area, will be permitted."

The Planning Department interprets the above provision as precluding subject ohana application and therefore regret to inform you a request to construct ohana dwelling on the subject parcel is denied. Your option is to take appropriate steps with the covenantee to have the restriction removed or waived or appeal our determination through procedure set forth below.

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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 subject property. Therefore, it should be pointed out that even if the Board of Appeals disposes the petition in your favor, its decision is meaningless.