

CERTIFIED MAIL

June 22, 1988

Mr. John B. Fishback
P.O. Box 538
Kamuela, HI 96743

Dear Mr. Fishback:

Ohana Dwelling Application (OD 88-130)
John B. Fishback, Etal
Tax Map Key: 6-6-04:39

Reference to ohana dwelling application and related submittals for proposed duplex conversion received June 13, 1988.

Section 25-271 (3), Article 25, Regulations for Ohana Dwelling, of the zoning code, states "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 May 4, 1984 Deed recorded in Liber 17857 at Page 386, Exhibit "A" and "B", Condition c states "That no more than one dwelling shall be constructed on said lot, or if the same be subdivided, no more than one dwelling on each lot created as a result of said subdivision; provided, however, that accessory buildings, so long as they do not comprise dwelling units and so long as the same are erected in conformity with a plot plan, pursuant to a design and with materials comparable to and compatible with the single-family dwelling mentioned above, will be permitted."

The Planning Department interprets the foregoing condition as precluding the request to construct an ohana dwelling (duplex conversion) on the subject parcel. Therefore we regret to inform you that your request to construct an ohana dwelling on the subject parcel is denied. The Director's decision is final, except, however, you may take steps with the covenantees to have the restriction/condition removed. Alternatively, 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:

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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 deed restriction that only one single family dwelling may be constructed on subject parcel. 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/ALL:etn
cc: Chief Engineer, DPW
Chief Sanitarian, DOH