

CERTIFIED MAIL

November 28, 1990

Mr. William Duarte, Jr.  
P.O. Box 41  
Holualoa, HI 96725

Dear Mr. Duarte:

Ohana Dwelling Application (OD 90-249)  
William Duarte, Jr.  
TMK: 7-6-09:33, Lot 7

The ohana dwelling application and related submittals received February 27, 1990 were reviewed under Article 25, Regulations for Ohana Dwelling.

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 recorded Warranty Deed dated August 27, 1982 and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 16562 at Page 711 includes restrictions, covenants and conditions. The aforementioned recorded Warranty Deed states:

- "(a) The above described premises, and every portion thereof, shall be used for private residence purposes only, 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 residence house shall be constructed, placed or maintained upon said premises during said term."

Based on this, the above provision precludes an ohana dwelling on the subject tax map key parcel. Consequently, we have no choice but to deny your ohana dwelling application.

NOV 29 1990

William Duarte, Jr

Mr. ~~Clement R. Zierke~~

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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 two hundred dollars (\$200).
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.

Should you have any questions, please feel free to contact this office.

Sincerely,



DUANE KANUHA  
Planning Director

WLM/MO/WRY:etn

cc: Corporation Counsel