

CERTIFIED MAIL

November 30, 1990

Mr. Mark A. Donohoo
73-959 Ahikawa Street
Kailua-Kona, HI 96740

Dear Mr. Donohoo:

Ohana Dwelling Application(OD 90-406)
Mark A. Donohoo
TMK: 7-3-28:60, Lot 19

The ohana dwelling application and related submittals received October 22, 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 December 30, 1976 and recorded on February 16, 1977 in Liber 12019 at Page 95 includes restrictions, covenants and conditions.

The aforesaid recorded Warranty Deed, page 97, states in part:

"(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 purposes; 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.

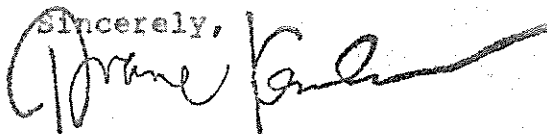
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The Director's decision is final, except that within thirty (30) days after receipt of this letter, you may appeal the decision in writing to the Board of Appeals in accordance with the following procedures:

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

MO/WRY:etn
cc: Corporation Counsel