

CERTIFIED MAIL

June 6, 1991

Mr. and Mrs. Lawrence Nerveza
17 Poni Moi Place
Hilo, Hawaii 96720

Dear Mr. and Mrs. Nerveza:

Ohana Dwelling Application (OD 91-213)
Lawrence Nerveza, et al
Tax Map Key: 2-2-46:109, Lot 29 219/

The ohana dwelling application and related submittals received May 6 and June 3, 1991 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 the recorded Warranty Deed dated December 24, 1990 and the November 15, 1990 Declaration of Restrictive Covenants recorded as Document No. 90-181853 includes restrictions, covenants and conditions which states:

"It is the intent of these covenants that no ohana dwellings or multi-family dwellings shall be allowed on any lot subject to these covenants."

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.

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:

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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,



NORMAN K. HAYASHI
Planning Director

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cc: Corporation Counsel