

CERTIFIED MAIL

July 12, 1991

Mr. Patrick Callahan
75-339 Aloha Kona Drive
Kailua-Kona, HI 96740

Dear Mr. Callahan:

Ohana Dwelling Application (OD 91-221)
Patrick Callahan
Tax Map Key: 7-5-28:61, Lot 61

2225

This acknowledges ohana dwelling application and related
submittals received April 4, 1991.

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 Deed dated March 24, 1976 and recorded in
the Bureau of Conveyances of the State of Hawaii in Liber 11362 at
Page 62 includes restrictions, covenants and conditions which states:

"(1) Residential Purposes. The premises described herein
and every portion thereof shall be used for private residence
purposes only (except public roads and recreational areas)
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 dwelling house designed and built for the
use and occupancy of a single family, not exceeding 18 feet in
height from the high point of the lot, shall be constructed,
placed or maintained upon said premises during said term."

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Mr. Patrick Callahan

Page 2

July 12, 1991

The Planning Department upon consultation with the Office of the Corporation Counsel has determined that the recorded deed language precludes the development of an ohana dwelling unit on subject tax map key parcel. Pursuant to Article 25 of the Hawaii County Zoning Code, we therefore regret to inform you a request to construct ohana dwelling on the subject tax map key 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.

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.

Mr. Patrick Callahan_
Page 3
July 12, 1991

Should you have any further questions, please feel free to
contact Masa Onuma or William Yamanoha of this office at 961-8288.

Sincerely,



NORMAN H. HAYASHI
Planning Director

WRY/MO:eti
2417D-3
cc: Corporation Counsel
West Hawaii Office