

CERTIFIED MAIL

October 23, 1991

Mrs. Victoria Obedoza
76-0169 Royal Poinciana Drive
Kailua-Kona, Hawaii 96740

Dear Mrs. Obedoza:

Ohana Dwelling Application (OD 91-470)
Victoria Obedoza, et al.
Tax Map Key: 7-6-18:97

This acknowledges ohana dwelling application and related
submittals received May 2, 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 Warranty Deed dated April 24, 1963 and
recorded in the Bureau of Conveyances of the State of Hawaii in
Liber 4953 at Page 85 includes restrictions, covenants and
conditions which states:

- "1. The above described premises 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 two (2) stories in height, together with one (1) outbuilding not exceeding one (1) story in height, shall be constructed, placed or maintained upon said premises during said term, excepting Lots 12 through 39, inclusive, and Lots 59 through 91, inclusive, and known as 'Border Lots', upon which duplex-type dwellings may be constructed. [Emphasis supplied]

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The Planning Department has determined that the above stated covenants have a restriction that no more than a single family dwelling can be constructed on the property. 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 restrictions 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.