

CERTIFIED MAIL

September 15, 1992

Mr. Craig T. Nakaishi
103 Hokupaa Street
Hilo, Hawaii 96720

Dear Mr. Nakaishi:

Ohana Dwelling Application (OD 92-233) *2827*
Craig T. Nakaishi
Tax Map Key: 2-4-40:86, Lot 86

This acknowledges ohana dwelling application and related
submittals received August 7, 1992.

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 December 22, 1986, recorded in
the Bureau of Conveyances of the State of Hawaii in Book 20213, Page
672, and Deed of Co-Executors dated September 20, 1972, recorded
September 28, 1972, in the Bureau of Conveyances, State of Hawaii,
in Book 8622, Page 339 includes restrictions, covenants and
conditions which states:

- "1. The above granted premises shall be used for residential
use only.
2. One home only of new materials and providing a minimum
floor area of 760 square feet, excluding garage and open
patios, may be constructed on said premises."
Emphasis supplied.

The Planning Department upon consultation with the Office of the
Corporation Counsel has determined that the above stated covenants
have a restriction that no more than one single family dwelling can
be constructed on the property. Pursuant to Article 25 of the
Hawaii County Zoning Code, 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.

SEP 16 1992

Mr. Craig T. Nakaishi
Page 2
September 15, 1992

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 Gilbert Bailado of this office.

Sincerely,



NORMAN K. HAYASHI
Planning Director

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cc: Corporation Counsel