

CERTIFIED MAIL

September 15, 1992

Mr. Tim Haley
1123 11th Ave. Suite #402
Honolulu, Hawaii 96010

Dear Mr. Haley:

2828

Ohana Dwelling Application (OD 92-234)
Tim Haley
Tax Map Key: 6-7-05:15

The ohana dwelling application and related submittals 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 Declaration of Covenants, Conditions and Restrictions for Waiki'i Ranch dated February 15, 1989, and recorded on March 3, 1989, in Liber 22913 at Page 309 includes restrictions, covenants and conditions which states:

"No 'Ohana dwellings' shall be permitted to be constructed on any Lot. 'Ohana dwelling' herein shall mean an ohana dwelling as permitted by the Ohana Dwelling Procedures promulgated by the County of Hawaii Planning Department or similar procedures promulgated from time to time."

The Planning Department has determined that the above stated covenants have a restriction that no ohana 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. Tim Haley
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 this office.

Sincerely,



NORMAN K. HAYASHI
Planning Director

WRY:eti
6131D-1
cc: Corporation Counsel
West Hawaii Office