

CERTIFIED MAIL

January 22, 1993

Ms. Janice H. Walker  
P. O. Box 1424  
Kamuela, HI 96743

Dear Ms. Walker:

Ohana Dwelling Application (OD 92-337)  
Janice H. Walker Firm Trust  
Tax Map Key: 6-6-7:12, Lot 12

2956

We regret to inform you that after reviewing your application and comments received from the affected agencies, the Planning Director is hereby denying your ohana application. The reason(s) for the denial are as follows:

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."

We note that condition (c) of the covenants states: "That the Patentees shall not construct more than one (1) single family dwelling on the lot." We find that this language is sufficiently clear to prohibit the building of more than one dwelling on the lot and therefore no ohana permit should be granted.

The Department of Land and Natural resources, Land Management Division, indicates that they passed new regulations which would allow the lot owners to buy certain covenant provisions provided there are no objections from other lot owners within the subdivision. We advise you to seek deviation of these covenants from the Department of Land and Natural resources.

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Ms. Janice H. Walker  
Page 2  
January 22, 1993

The Planning Department, in consultation with the Office of the Corporation Counsel, interprets the above condition (c) as precluding subject ohana application and therefore regret to inform you a request to construct ohana dwelling on the subject 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 procedures 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:

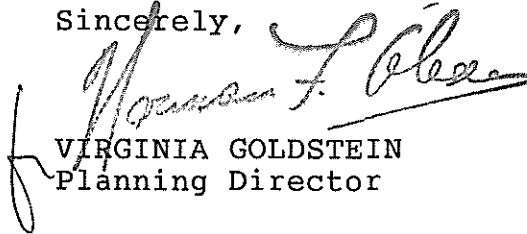
1. A non-refundable filing fee of one hundred dollars (\$100).
2. Ten (10) copies of the petition for the appeal incorporating the following:
  - a. The name, address, and telephone number of the appellant and the name, title, and address of the appellant's representative.
  - b. A description of the 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.

Ms. Janice H. Walker  
Page 2  
January 22, 1993

The denial of your ohana dwelling application was due to a deed restriction that only one single family dwelling may be constructed on the property. Therefore, it should be pointed out that even if the Board of Appeals disposes the petition in your favor, its decision is meaningless.

Should you have any further questions, please feel free to contact this office at 961-8288.

Sincerely,

A handwritten signature in cursive script, appearing to read "Virginia Goldstein", is written over a horizontal line. The signature is written in dark ink and is positioned to the right of the typed name.

VIRGINIA GOLDSTEIN  
Planning Director

GB:mjs  
7699D

cc: Chief Engineer, DPW  
Chief Sanitarian, DOH

Scanned Map  
Unavailable  
Due to Size

See File

