

CERTIFIED MAIL

July 28, 1993

Mr. Rowland Hill, Jr.  
145 Paukaa Drive  
Hilo, HI 96720

Dear Mr. Hill:

Ohana Dwelling Application (OD 93-230) 3219  
Rowland W. Hill  
TMK: 2-7-16:13, Lot 8

This acknowledges ohana dwelling application and related submittals received June 22, 1993.

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 the recorded instrument dated May 1, 1950, filed in the Bureau of Conveyances, State of Hawaii, recorded June 6, 1950, in Liber 2349, Page 34, includes restrictions, covenants and conditions as follows:

- "(2) No structure shall be erected, altered, placed or permitted to remain on any one residential lot of the granted premises as said lots are presently shown on said map of the Honolii Pali Tract, other than one detached single-family dwelling and garage, servants' quarters and other outbuildings incidental to residential use of the lot."

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The Planning Department 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 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.

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

Sincerely,



for VIRGINIA GOLDSTEIN  
Planning Director

GB:mjs  
0162D

xc: Corporation Counsel