

CERTIFIED MAIL

December 8, 1993

Mr. Kim A. Maier
P. O. Box 621
Kailua-Kona, HI 96745

Dear Mr. Maier:

Ohana Dwelling Application (OD 93-371)
Michelle A. Dimas
Tax Map Key: 7-3-47:4, Lot 3

3350

This acknowledges ohana dwelling application and related submittals received November 23, 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 recorded Warranty Deed dated January 7, 1975, and recorded on March 24, 1975, in the Bureau of Conveyances of the State of Hawaii in Liber 10529 at Page 343 includes restrictions, covenants and conditions which states:

"(a) Residential Purposes. 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

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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 twenty (20) feet in height from the highest point of the building site to the highest point of the structure, which shall not exceed twenty-four (24) feet in height, shall be constructed, placed or maintained upon said premises during said term; [Emphasis supplied] nor shall any portion of said premises be used for through roadway between public roads bordering said premises."

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

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- 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 at 961-8288.

Sincerely,



VIRGINIA GOLDSTEIN
Planning Director

GB:mjs
1829D

xc: Corporation Counsel
West Hawaii Office