

CERTIFIED MAIL

November 1, 1994

Mr. Joseph H. Scroggin II
77-6473 Leilani Street
Kailua-Kona, HI 96740

3664

Dear Mr. Scroggin:

Ohana Dwelling Application (OHD 94-279)
Edward Hinshaw, et al.
Tax Map Key: 7-7-12: 18, Lot 55

This acknowledges ohana dwelling application and related submittals received October 25, 1994.

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 recorded Warranty Deed dated May 5, 1969, and recorded on June 6, 1969, in the State of Hawaii Bureau of Conveyances in Liber 6545 Page 411 states in part that:

"(b) The above-described premises, and every portion thereof, shall be used for private residence purposes only, including private garage and/or servants' quarters and other similar purposes reasonably necessary in connection with such 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 one (1) story in height including basement, shall be constructed, placed or maintained upon said premises during said term." [Emphasis supplied]

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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.

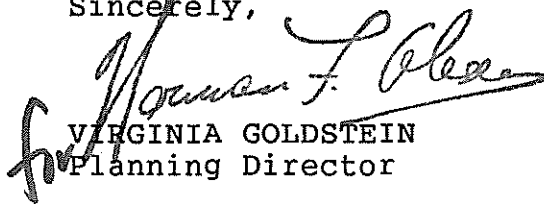
The Director's decision is final, except that within thirty (30) days after receipt of this letter, you may appeal the decision in writing to the Board of Appeals in accordance with the following procedures:

1. A non-refundable filing fee of two hundred dollars (\$200).
2. Then (10) copies of the petition for the appeal incorporation the following:
 - a. The name, address, and telephone number of the appellant and the name, title, and address of the appellants representative.
 - b. A description of the property involved in the appeal including the tax map key number of the property, and the appellants 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 further questions, please feel free to contact
this office at 961-8288.

Sincerely,


VIRGINIA GOLDSTEIN
Planning Director

GB:mjh
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