

CERTIFIED MAIL

December 20, 1994

Ms. Sue Aronson
P.O. Box 31
Holualoa, HI 96725

RE: Ohana Dwelling Application (OD 94-311)
Sue Aronson
TMK: 7-6-19:46, Lot 140 3678

This acknowledges Ohana Dwelling application and related submittals received November 22, 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 July 27, 1962 and recorded in the State of Hawaii, Bureau of Conveyances in Liber 4330 Page 465 states in part that:

"1. 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 servant's 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 designated and built for the use and occupancy of a single family, not exceeding two (2) stories in height, together with one (1) out-building not exceeding one (1) story in height, shall be constructed, placed or maintained upon said premises during said term, excepting Lots 12 through 39, inclusive, and Lots 59 through 81, inclusive, and known as "Border Lots", upon which duplex-type dwellings may be constructed." (Emphasis Supplied)

The Planning Department has determined that the above stated covenants have a restriction that no more that a private dwelling house designed

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and built for the use and occupancy of a single family 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 incorporation 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 further questions, please feel free to contact this office at 961-8288.

Sincerely,



Virginia Goldstein
Planning Director

dms
5680D