

Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

February 14, 2003

Tango and Tokie Fujimoto
100 Laukona Street
Hilo, Hawaii 96720-1966

Dear Tango and Tokie Fujimoto:

SUBJECT: Ohana Dwelling Permit Application 3887 (2003-001)
Applicant: Tango and Tokie Fujimoto
Land Owner: Tango and Tokie Fujimoto
**Proposal: Construct A New Detached
Ohana Dwelling Unit**
Tax Map Key: (3) 2-5-017:021

Your Application for an Ohana Dwelling Unit Permit, attachments, and filing fee were received for consideration by this office. The subject Ohana dwelling application is being denied as explained below.

Despite your notarized affidavit to the contrary, the language of your deed precludes ohana dwelling units in your subdivision. The section in question reads:

- “(2) No structure shall be erected, altered, placed or permitted to remain on any residential building plot as presently shown on said map of the Ainako Subdivision, Series One (1) other than one detached single family-dwelling and garage, servant’s quarters and other outbuildings incidental to residential use of the plot”

The Circuit Court of the Third Circuit in CIVIL NO. 90-128 upheld this restriction disallowing ohana dwellings.

Further language in your deed states:

- “(8) At the end of said period said restrictions shall automatically be extended for further periods of ten years each unless during any ten-year period the same are

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changed in whole or in part by the agreement of the owners of a majority of said lots as shown on said File Plan”

If the restriction (2) were to be deleted from the deed documents of the subdivision, it may be considered a substantial change of circumstance, thus allowing the possibility of a resubmission of this application prior to expiration of the one-year waiting period following a denial as outlined in Section 25-2-6 of the Zoning Code.

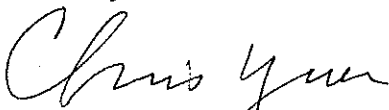
Any person aggrieved by the decision of the director in the issuance of an ohana dwelling permit decision, except for a decision regarding the duration of a permit under section 25-6-39.2, may appeal the director's action to the board of appeals, in accordance with this chapter, within thirty days after the date of the director's written decision. A form for that purpose is included with this letter if you should choose to use it.

Your application and submittals are being returned to you for your use should your situation change. Be aware that there were several problems with the application as presented. Please read and follow the instructions carefully. Among the requirements that were not included were:

1. A non-refundable filing fee ...
2. A plot plan, drawn to scale ...
3. Elevations of the ohana ...
4. The notice that was mailed needs documentary evidence of that mailing. Proof of service may consist of certified mail receipts, affidavits, or the like.
5. A certification of clearance ...

If you should have any questions, please feel free to contact Jonathan Holmes of this office at 961-8288.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

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Enclosures