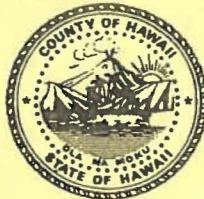


William P. Kenoi  
Mayor



BJ Leithead Todd  
Director

Margaret K. Masunaga  
Deputy

## County of Hawai'i

### PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720  
Phone (808) 961-8288 • Fax (808) 961-8742

October 12, 2010

Island Planning  
ATTN: Jeffrey Melrose  
1405 Waianuenue  
Hilo, Hawaii 96720

Dear Mr. Bressler:

#### **Cancellation of Ohana Dwelling Permit (OHD-10-000135)**

**Applicant:** Patrick Bressler  
**Land Owner:** Bressler/Maybee Trust  
**Proposal:** Construct A Detached Ohana Dwelling Unit  
**Tax Map Key:** (3) 2-3-015:050

We have received your letter on October 11, 2010, regarding your Ohana Dwelling Permit. As per your request, we have cancelled your Permit (OHD-10-000135).

Should you have any further questions and/or concerns, please feel to contact Jonathan Holmes of this Department.

Sincerely,

BJ LEITHEAD TODD  
Planning Director

JRH/MM:mm

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xc: State Department of Health  
Department of Public Works  
Real Property Tax  
Department of Water Supply

William P. Kenoi  
Mayor



BJ Leithead Todd  
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### PLANNING DEPARTMENT

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Phone (808) 961-8288 • Fax (808) 961-8742

October 20, 2010

Mr. Jeffrey Melrose  
Island Planning  
1405 Waiānuenu Avenue  
Hilo, HI 96720

Dear Mr. Melrose:

**SUBJECT: "Closure Letter" due to Confirmed Removal of Unpermitted Kitchen**

**Complaint: Multiple Dwelling Units within a Single-Family  
Residentially Zoned District**

**References: (1) Warning Letter dated June 8, 2010  
(2) First Time Extension Request dated July 6, 2010  
(3) Letter from Patrick Bressler dated September 5,  
2010  
(3) Ohana Dwelling Unit Permit Application (OHD-10-  
000135) dated September 9, 2010**

**File No. 2010-067E**

**Tax Map Key: 2-3-015: 050, Riverside Park, Hilo, Hawai'i**

Our records show that by our letter dated September 9, 2010, Ohana Dwelling Unit Permit Application (OHD-10-000135) granted permission to construct an attached single-family Ohana Dwelling Unit on the subject property, subject to conditions listed.

Our records further show that on October 5, 2010, Mr. Patrick Bressler stopped by our office wishing to speak to Zoning Inspector Robert Usagawa, who was out on sick leave. Mr. Bressler explained to Zoning Inspector Scott Leonard that he was not planning on pursuing the Ohana permit and wanted someone to inspect the house to confirm that the dwelling structure contained only one (1) kitchen, because he was leaving the island on October 11, 2010. Mr. Leonard informed Mr. Bressler that he could conduct the requested inspection of the property on October 7<sup>th</sup>.

Mr. Jeffrey Melrose  
Island Planning  
Page 2  
October 20, 2010

On October 11, 2010 this office received a letter from Mr. Patrick Bressler, dated September 5, 2010, which stated, in part:

“After reviewing your letter of September 9, 2010 and consulting with my planner Jeffery Melrose of Island Planning, I have concluded that at this time I cannot afford to go any further in pursuing an Ohana permit and therefore will not be continuing with the permit application.”

“At the present time, the house has only one kitchen, the house is unoccupied, and if I rent the house in the future it will be as one unit with one kitchen.”

Based on Mr. Bressler’s letter we forwarded you our “Cancellation of Ohana Dwelling Permit (OHD-10-000135)” letter dated October 12, 2010.

Upon Robert Usagawa’s return to work on October 18, 2010, Scott Leonard informed Robert that he conducted the inspection on October 7, 2010, and observed that there is only one (1) kitchen in the entire dwelling structure. The other unpermitted kitchen was removed.

Based on Scott Leonard’s confirmation that the unpermitted kitchen has been removed, and only one (1) kitchen was observed within the entire dwelling structure, this Zoning Code Violation/Complaint file is “closed.”

If you have any further questions please contact our Zoning Inspector Robert Usagawa at (808) 961-8150.

Sincerely,



BJ LEITHEAD TODD  
Planning Director

RSU:kwr

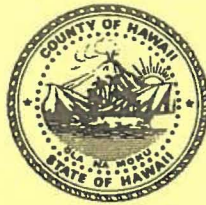
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cc: Amy Self, Esq.  
Mayor’s Office, Attention: Mr. Kevin Dayton  
Department of Public Works-Building Division-Hilo  
State Department of Health  
Real Property Tax Office-Hilo  
Mr. Robert Usagawa, Zoning Inspector

Mr. Jeffrey Melrose  
Island Planning  
Page 3  
October 20, 2010

cc: Bressler / Maybee Trust  
c/o Patrick L. Bressler, Laurie E. Bressler and  
Hope A. Maybee  
Trustees of Bressler / Maybee Revocable Trust  
855 Cobble Cove Lane  
Sacramento, CA 95831

William P. Kenoi  
Mayor



BJ Leithead Todd  
Director

Margaret K. Masunaga  
Deputy

## County of Hawai'i

### PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720  
Phone (808) 961-8288 • Fax (808) 961-8742

September 9, 2010

Island Planning  
ATTN: Jeffrey Melrose  
1405 Waianuenu Avenue  
Hilo, HI 96720

Dear Mr. Bressler:

**Subject: Ohana Dwelling Unit Permit Application (OHD-10-000135)**  
**Applicant(s): Patrick Bressler**  
**Land Owner(s): Bressler/Maybee Trust**  
**Proposal: Construct A Detached Ohana Dwelling Unit**  
**Tax Map Key: (3) 2-3-015:050**

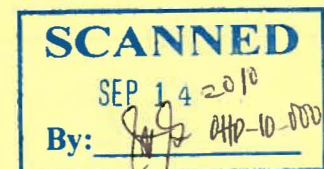
The subject Application for an Ohana Dwelling Unit Permit was reviewed by the required agencies and their respective comments are as follows:

1. The Department of Public Works (DPW) (memorandum dated August 18, 2010):

"We have reviewed the subject application forwarded by your letter dated August 2, 2010 and have the following comments.

Approximately half of the existing dwelling is located within Flood Zone A as designated on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Flood Zone A is the Special Flood Hazard Area inundated by the 100-year flood where base flood elevations have not been determined.

Construction within the designated FEMA flood zone shall comply with the requirements of Chapter 27, Floodplain Management, of the Hawaii County Code.



Please contact Frank DeMarco, County Floodplain Coordinator, at 961-8042 with any questions or concerns regarding construction within the flood zone.

2. The Department of Water Supply (DWS) (memorandum dated August 31, 2010):

“We have reviewed the subject application and have the following comments and conditions.

Please be informed that the subject parcel is currently served by a 5/8-inch meter, which is adequate for only one dwelling at an average daily usage of 400 gallons. Inasmuch as this application is proposing an additional attached dwelling, the installation of a separate 5/8-inch meter will be required. Water can be made available from the Department’s existing 6-inch waterline within Ka`iulani Street, fronting the subject parcel.

Therefore, the Department has no objections to the proposed application, subject to the applicant understanding and accepting the following conditions:

1. Installation by the Department of Water Supply, of a 1-inch service lateral to service a 5/8-inch meter, which shall be limited to an average daily flow of 400 gallons.
2. Remittance of the following charges, which are subject to change, to our Customer Service Section:

FACILITIES CHARGE (FC):

2 <sup>nd</sup> service to the parcel	\$5,500.00
---------------------------------------	------------

SERVICE LATERAL INSTALLATION CHARGE:

<u>Install one meter on Ka`iulani Street, a County road</u>	<u>\$4,000.00</u>
Total (Subject to Change)	\$9,500.00

Should there be any questions, please contact Mr. Ryan Quitariano of our Water Resources and Planning Branch at 961-8070, extension 256.”

3. The State of Hawaii Department of Health (DOH-HILO) (memorandum dated August 12, 2010):

Mr. Patrick Bressler  
Page 3  
September 9, 2010

“Two dwellings cannot be served by one cesspool according to EPA’s large capacity cesspool rule. The sewage disposal system must be upgraded to a septic system to serve two dwellings.

We recommend that you review all of the Standard Comments on our website: <http://hawaii.gov/health/environmental/env-planning/landuse/landuse.html>. Any comments specifically applicable to this project should be adhered to.

The same website also features a Healthy Community Design Smart Growth Checklist (Checklist) created by Built Environment Working Group (BEWG) of the Hawaii State Department of Health. The BEWG recommends that state and county planning departments, developers, planners, engineers and other interested parties apply the healthy built environment principles in the Checklist whenever they plan or review new developments or redevelopments projects. We also ask you to share this list with others to increase community awareness on healthy community design.”

4. The Hawaii County Fire Department (HFD) (memorandum dated August 10, 2010):

“We have no comments to offer at this time in reference to the above-mentioned Ohana Dwelling permit application.”

We note the following documents that accompanied your application. The original and notarized affidavits of **Patrick & Laurie Bressler and Hope A. Maybee** dated July 10, 2010, included with the Ohana Dwelling application states:

“This is to declare that the below named and signed Trustees of the Bressler/Maybee Trust do hereby affirm:

1. That these applicants are the titleholders of the affected property.
2. That to the best of their knowledge, the applicants know of no restrictions, covenants, or other land use restrictions applicable to the lot by way of a deed or lease or other provision that would prohibit the construction or placement of an ohana dwelling unit or a second dwelling unit on the above described lot held by the Bressler/Maybee trust.
3. That the owners of the above described lot held by the Bressler/Maybee trust have not altered or added any foundation, moved any walls, or added any square footage to the structure as submitted and approved to the County of Hawaii

Mr. Patrick Bressler  
Page 4  
September 9, 2010

Panning Department by the then owner in 1990. The current owners have only done minor changes including cosmetic and appliance updates.”

In view of the above, by this letter, you are hereby **granted** permission to construct an attached single-family Ohana Dwelling Unit subject to the following conditions:

1. The proposed Ohana Dwelling Unit shall comply with Ordinance No. 96-47 and Rule 12, the County of Hawaii Planning Department's Rules of Practice and Procedure relating to Ohana Dwelling Units.
2. Non-transferability: The permit for the Ohana Dwelling Unit shall be personal to the applicant until construction of the Ohana Dwelling Unit has been completed. The permit shall not be transferable or assignable to any other person prior to its completion to the satisfaction of the Chief Engineer, Department of Public Works.
3. Prohibition of Advertising, Sales, and Transfers: No person shall advertise or represent to the public that a permit to construct an Ohana Dwelling Unit is transferable with the sale of the property on which the permit has been granted.
4. Building Permit: **The applicant is required to secure a building permit from the Department of Public Works, Building Division, for the construction of the Ohana Dwelling Unit on or before September 9, 2011.**

Please bring or attach a copy of this Permit to assist the reviewing agencies in understanding and expediting the review and processing of the building construction plans and building permit application for the additional building improvements necessary to establish the Ohana Dwelling on the subject parcel.

- a) A one time 30-day time extension to obtain the building permit may be granted by the Planning Director. A written request for a time extension shall be filed with the Planning Director not less than forty-five (45) days prior to the expiration date of the Ohana Dwelling Unit permit. The Planning Director shall render a decision on the request for a time extension prior to the expiration date of the permit.
- b) The applicant shall not be able to obtain further extensions beyond the initial 30-day time extension. Further, such failure to conform to the time requirement shall not be cause to petition the Planning Director, Board of Appeals or any other governmental body for relief from the time requirement.



5. Requirements for Height, Site Area (Lot size), Yard (Setback) and Off-Street Parking (Parking spaces):

- a) Height limit: The height limit for the proposed attached Ohana Dwelling Unit shall be twenty-five (25'-0") feet.
- b) Zoning and Minimum Building Site Area (Lot Size): The subject TMK parcel containing 28,147 sq. ft. is zoned Residential (RS-15) by the County and is situated within the State Land Use Urban district.
- c) Minimum Yards (Setbacks) and Open Space: The proposed Dwelling Unit is required to comply with the yards and open space requirements of the Hawaii County Zoning Code.

The respective minimum open space and setback requirements for the proposed attached Ohana Dwelling Unit to be located on the subject TMK property shall be as follows:

- Front yard(s) – minimum **fifteen** (25) feet required;
- Side yard(s) – minimum **fifteen** (15) feet required
- Open space from other main structure(s) – minimum **fifteen** (15) feet required.

- d) Off-Street Parking: The Ohana Dwelling Unit shall be provided with a minimum of two (2) off-street parking spaces that comply with the requirements of Section 25-4-53 of the Zoning Code. All existing and additional parking spaces shall be arranged so as to be individually accessible.

6. This Ohana Dwelling permit is subject to all other applicable rules, regulations and requirements of the Planning Department, Department of Public Works, Fire Department and State Department of Health and other reviewing agencies/divisions listed on the Building Permit Application.

Mr. Patrick Bressler  
Page 6  
September 9, 2010

Ohana Dwelling Units are prohibited on a building site that is the subject of an approved variance from the Subdivision Code (Chapter 23), the Zoning Code (Chapter 25), and property where a second Dwelling Unit is specifically prohibited by a change of zone ordinance.

- a) No variance from the requirements of Chapter 23 and Chapter 25, Hawaii County Code, as amended, shall be granted to permit the construction or placement of an Ohana Dwelling Unit.
- b) An Ohana Dwelling Unit shall not be permitted on a lot which has been the subject of a previously granted variance from any provision of Chapter 23 and Chapter 25, Hawaii County Code, as amended.

Should you have any questions regarding the above, please contact Jonathan Holmes of this office at (808)961-8288.

Sincerely,



BJ LEITHEAD TODD  
Planning Director

JLH:shg

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xc: Dept. of Health, Chief Sanitarian  
Dept. of Public Works  
Real Property Tax  
Dept. of Water Supply