

Harry Kim  
Mayor



Michael Yee  
Director

Roy Takemoto  
Managing Director

April Surprenant  
Acting Deputy Director

West Hawai'i Office  
74-5044 Ane Keohokālole Hwy  
Kailua-Kona, Hawai'i 96740  
Phone (808) 323-4770  
Fax (808) 327-3563

**County of Hawai'i**  
**PLANNING DEPARTMENT**

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

October 12, 2020

Michael Tran & Lynn M Lee  
73-1215 Ahulani St.  
Kailua-Kona, HI 96740

Dear Michael Tran & Lynn M Lee:

Ohana Dwelling Permit Application (OHD-20-000198)  
Applicant: Michael Tran & Lynn M Lee  
Owner: Michael Tran & Lynn M Lee  
State Land Use: Urban  
County Zoning: Agricultural (A-5a)  
Land Area: 19,751 s.f.  
TMK: (3) 7-3-022:101

Please accept our apologies for the delay regarding this applications. Upon review of your application and as applicable, comments from the public and government agencies for an Ohana Dwelling Unit Permit (OHD), you are hereby **granted** approval to construct a detached OHD subject to conditions set forth below in this letter.

**REQUEST**

The applicant is requesting an OHD Permit to construct an additional dwelling unit on the subject property.

**PROPERTY DESCRIPTION**

The subject TMK parcel, comprised of 19,751 s.f. situated within the Kona Coastview Subdivision, North Kona, Island of Hawai'i. The property is zoned Agricultural (A-5a) by the County and is situated within the State Land Use Urban district.

**AGENCY COMMENTS**

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

1. The Hawaii County Department of Public Works (DPW): See attached memorandum dated March 13, 2020 (**Exhibit A**);
2. The Department of Water Supply (DWS): See attached memorandum dated March 13, 2020 (**Exhibit B**);
3. The Hawai'i County Fire Department (HFD): The HFD did not comment on this application as of this date;

4. The State of Hawai'i Department of Health (DOH): See attached memorandum dated March 11, 2020 (**Exhibit C**).
5. The Department of Environmental Management (DEM): See attached memorandum dated February 24, 2020 (**Exhibit D**)

### **COMMUNITY COMMENTS**

Notice were sent to surrounding property owners on January 06, 2020 and February 27, 2020. Comment letter from Deidre L Robbins, was received in opposition See attached letter dated March 4, 2020 (**Exhibit E**).

### **ADDITIONAL FINDINGS**

We note the following documents that accompanied your application:

The original and notarized affidavits of Michael Tran & Lynn M. Lee, dated January 6, 2020, included with the OHD application states:

- 1) *Michael Tran and Lynn M. Lee are the Title Holders (in fee) of subject TMK (3) 7-3-022-101 located at 73-1215 Ahulani St., Kailua Kona, HI 96740 within 300 feet of this property.*
- 2) *Michael Tran and Lynn M. Lee declare and state: The subject property is free from any restrictions, covenant or other land use restrictions applicable to the lot by way of deed or lease or other provisions do not prohibit the construction or placement of an Ohana dwelling unit or second unit.*

### **ANALYSIS**

The proposed building site for the subject OHD application is a legal lot of record greater than 10,000 square feet located within the Agricultural district and is designated Urban by the State Land Use Commission. Additional dwellings are not normally permitted on this lot, and there is no guest house located on the property. There are no pending subdivision actions affecting the subject TMK property, nor has any variance, Planned Unit Development, Cluster Plan Development, or other preemption from requirements of the Hawai'i County Code been granted. There has not been a previously approved variance from the Subdivision Code (Chapter 23) and the Zoning Code (Chapter 25) on the property, nor are there any conditions within a change of zone ordinance that would prohibit an OHD. The applicant has not submitted any OHD applications in the previous two years. Therefore, the application meets the requirements for an OHD Permit.

The Department of Water Supply has stated in its memorandum dated March 13, 2020, " *that the subject parcel is currently served by a 5/8 inch meter (Account No. 937-04522) which is adequate for only one (1) dwelling at an average daily usage of 400 gallons. Inasmuch as this application is proposing and additional 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 Ahulani Street, fronting the subject parcel...* "

### **DECISION AND CONDITIONS**

In view of the above, by this letter, you are hereby **granted** permission to construct a detached single-family OHD subject to the following conditions:

- 1) The proposed OHD shall comply with Ordinance No. 96-47 and Rule 12, the County of Hawai'i Planning Department's Rules of Practice and Procedure relating to OHD's.
- 2) **Non-transferability:** The permit for the OHD shall be personal to the applicant until construction of the OHD has been completed. The permit shall not be transferable or assignable to any other person prior to completion of its construction to the satisfaction of the Chief Engineer, DPW.
- 3) **Prohibition of Advertising, Sales, Transfers:** No person shall advertise or represent to the public that a permit to construct an OHD 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, within one (1) year from the date of this approval for the construction of the OHD on or before October 13, 2021.

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 OHD on the subject parcel.

- a) The applicant shall consult with the DPW to conform with driveway requirements and to address potential runoff issues with the placement of the OHD.
  - b) The applicant shall contact the DWS and pay any required facilities charge and service lateral installation charges to the DWS.
  - c) The applicant shall correspond with the DOH to determine the number and type of individual wastewater systems allowed.
  - d) The applicant shall consult with the HFD to verify the accessibility of the premises for emergency/fire fighting purposes.
  - e) 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 OHD permit. The Planning Director shall render a decision on the request for a time extension prior to the expiration date of the permit.
  - f) 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 detached OHD shall be **twenty-five (25'-0")** feet.

- b) Zoning and Minimum Building Site Area (Lot Size): The subject TMK parcel, containing 19,751 s.f., is zoned Agricultural (A-5a) 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 Hawai'i County Zoning Code, Section 25-6-35 and 25-4-7.

The respective minimum open space, front, rear, side yard and dwelling unit requirements for the proposed detached OHD to be located on the subject TMK property shall be the minimum yard requirements as follows:

- i) Front yard - minimum **twenty-five (25)** feet required;
  - ii) Rear yard – minimum **twenty-five (25)** feet required;
  - iii) Side yards – minimum **fifteen (15)** feet required; and
  - iv) Between dwelling units – minimum **fifteen (15)** feet required.
- d) Off-Street Parking: The OHD 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) A guest house shall not be permitted or constructed where an ohana dwelling has been permitted or constructed.
  - 7) This OHD permit is subject to all other applicable rules, regulations and requirements of the Planning Department, DPW, HFD, DOH and DWS and other reviewing agencies/divisions listed on the Building Permit Application.
  - 8) OHD's 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, Hawai'i County Code, as amended, shall be granted to permit the construction or placement of an OHD.
    - b) An OHD 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, Hawai'i County Code, as amended.

If you have any questions please call Deanne Bugado of our West Hawai'i Office at 323-4770.

Sincerely,



Michael Yee  
Planning Director

Michael Tran & Lynn M Lee  
Page 5 of 5  
October 12, 2020

DEB:deb  
P:\Ohana\Kona Ohana\Approval\OHNap-7-3-22-101\_Trان & Lee

Encls: Agency & Public comments – Exhibits A-E

xc: Chief Sanitarian, DOH  
Manager, DWS  
Chief, HFD  
Chief Engineer, DPW  
GIS Section (via email)



# BUILDING DIVISION – DPW

PLANNING DEPARTMENT  
County of Hawaii  
74-5044 Ane Keohokalole Hwy  
Kailua-Kona, HI 96740

COUNTY OF HAWAII – 74-5044 Ane Keohokalole HWY. BLDG E 1<sup>st</sup> Floor KAILUA-KONA, HI 96740  
Hilo Office (808) 961-8331 \* Fax (808) 961-8410 Kona Office (808) 323-4720

RECEIVED MAR 13 2020

Date of Notice: March 13, 2020  
Owner: Michael Tran & Lynn M. Lee  
Mailing address: 43945 Clark Ct. Landcaster, CA. 93536

Address location of property: 73-1215 Ahulani St. Kailua Kona, HI. 96740

SUBJECT: OHD – 20-000198  
Convert detached bedrooms to ohana dwelling unit

T.M.K.: (3) 7-3-022:101

This is to inform you that our records on file, relative to the status of the subject, discloses that:

- No Building, Electrical and Plumbing permit was issued for work done on the premise.
- No building permit was issued for the change of occupancy.
- At the time of completion, the subject complied to all building regulations that were in effect.
- Variance from any building regulation (Building, Electrical, Plumbing, or Sign) was/was not granted.
- The following violation(s) still outstanding:
  - Building       Electrical       Plumbing       Sign
- Others:

Records show all permits are complete.

**Chris Domino – Building Plans Examiner**  
County of Hawaii Department of Public Works Building Division

BD-10

SCANNED  
MAR 15 2020  
By: 132022



**DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII**  
 345 KEKŪANAŌ'A STREET, SUITE 20 • HILO, HAWAII 96720  
 TELEPHONE (808) 961-8050 • FAX (808) 961-8657

March 13, 2020

**TO:** Mr. Michael Yee, Director  
 Planning Department

**FROM:** Keith K. Okamoto, Manager-Chief Engineer

**SUBJECT:** Ohana Dwelling Permit Application (OHD-20-000198)  
 Applicants: Michael Tran and Lynn M. Lee  
 Tax Map Key 7-3-022:101

2020 MAR 14 PM 2:33  
 hand deliver  
 PLANNING DEPARTMENT  
 COUNTY OF HAWAII

Please be informed that the subject parcel is currently served by a 5/8-inch meter (Account 937-04522), which is adequate for only one (1) dwelling at an average daily usage of 400 gallons. Inasmuch as this application is proposing an additional 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 Ahulani Street, fronting the subject parcel, in accordance with the Department's existing water availability conditions, which are subject to change without notice.


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 restricted to an average usage of 400 gallons per day.
2. Remittance of the following charges, which are subject to change, to our Customer Service Section:

<b>FACILITIES CHARGE (FC):</b>	
2 <sup>nd</sup> service to the parcel	\$5,500.00
<b>SERVICE LATERAL INSTALLATION CHARGE:</b>	
<u>Install one (1) meter on Ahulani Street, a County road</u>	<u>\$3,000.00</u>
Total (Subject to Change)	\$8,500.00

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

Sincerely yours,



*K*  
 Keith K. Okamoto, P.E.  
 Manager-Chief Engineer

RQ:dfg

copy – Mr. Michael Tran and Ms. Lynn M. Lee  
 DWS Customer Service Sections (Hilo and Kona)

*... Water, Our Most Precious Resource ... Ka Wai A Kāne ...*

The Department of Water Supply is an Equal Opportunity provider and employer.

132026

DAVID Y. IGE  
GOVERNOR OF HAWAII



PLANNING DEPARTMENT

BRUCE S. ANDERSON  
DIRECTOR OF HEALTH  
74-5044 Ane Keohokalole Hwy  
Kailua-Kona, HI 96740

RECEIVED APR - 7 2020

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. BOX 916  
HILO, HAWAII 96721-0916

MEMORANDUM

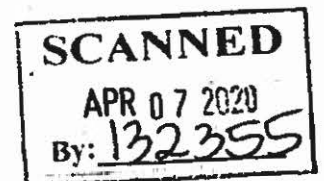
DATE: March 11, 2020

TO: Mr. Michael Yee  
Planning Director, County of Hawaii

FROM: Eric Honda  
District Environmental Health Program Chief

SUBJECT: Application: Ohana Dwelling Unit Permit (OHD-20-000198)  
Applicants: Michael Tran and Lynn M. Lee  
Landowners: Michael Tran and Lynn M. Lee  
Request: Convert Detached Bedroom to Ohana Dwelling Unit  
TMK: (3) 7-3-022:101

The Health Department found no environmental health concerns with regulatory implications in the submittals.





Harry Kim  
Mayor

Roy Takemoto  
Managing Director



William A. Kucharski  
Director

Diane A. Noda  
Deputy Director


# County of Hawai'i

## DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

345 Kekūanāo'a Street, Suite 41 · Hilo, Hawai'i 96720  
Ph: (808) 961-8083 • Fax: (808) 961-8086  
Email: cohdem@hawaiicounty.gov

### MEMORANDUM

TO: Michael Yee, Director  
Planning Department

FROM: William A. Kucharski, Director   
Environmental Management Department

DATE: February 24, 2020

SUBJECT: Ohana Dwelling Permit Application (OHD-20-000198)  
Applicants: Michael Tran and Lynn M. Lee  
Land Owners: Michael Tran and Lynn M. Lee  
Proposal: Convert Detached Bedroom to Ohana Dwelling Unit  
Tax Map Key: (3) 7-3-022:101

2020 FEB 27 09:11:14  
COUNTY OF HAWAII  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

The Solid Waste Division has reviewed the subject application and offers the following comments and/or recommendations (contact the Solid Waste Division for details):

- No comments.
- Commercial operations, State and Federal agencies, religious entities and non-profit organization may not use transfer stations for disposal.
- Aggregates and any other construction/demolition waste should be responsibly reused to its fullest extent.
- Ample and equal room should be provided for rubbish and recycling.
- Green waste may be transported to the green waste sites located at the West Hawai'i Organics Facility and East Hawai'i Organics Facility, or other suitable diversion programs.
- Construction and demolition waste is prohibited at all County Transfer Stations.
- Submit Solid Waste Management Plan in accordance with attached guidelines.
- Existing Solid Waste Management Plan is to be followed. Provide update to the department on current status.
- Other: \_\_\_\_\_

The Wastewater Division has reviewed the subject application and offers the following comments and/or recommendations (contact the Wastewater Division for details):

- ( X ) No comments.
- ( ) Require connection of existing and/or proposed structures to the public sewer in accordance with Section 21-5 of the Hawai'i County Code.
- ( ) Require Council Resolution to approve sewer extension in accordance with Section 21-26.1 of the Hawai'i County Code. Complete Sewer Extension Application.
- ( ) Require extension of the sewer system to service the proposed subdivision in accordance with Section 23-85 of the Hawai'i County Code.
- ( ) *Check or line out as applicable:* [ ] If required by the Director of the Department of Environmental Management ("Director of DEM"), [ ] applicant shall conduct a sewer study in accordance with the then applicable wastewater system design standards prior to approval to connect to the County sewer system. Applicant shall provide such sewer line or other facility improvements as the Director of DEM may reasonably require, which the sewer study may indicate are advisable for mitigation of impacts of the proposed project. Contact Wastewater Division Chief for details.
- ( ) Other: \_\_\_\_\_  
\_\_\_\_\_

WK:mef

March 4, 2020

'20 MAR 5 3:44 PM

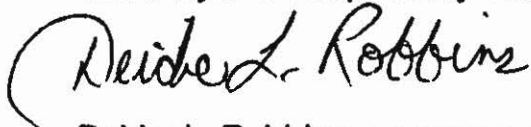
Dear Hawaii County Planning Director,

Michael Tran, and Lynn Lee are applying for an Ohana Permit. The letter we received, for comment, states it's the "Second Notice", but we never received another notice. He has built 2 structures behind our property this year. He built a large 2 bedroom dwelling and a large, separate carport for that dwelling at the back of his lot. The person living in the existing, older home on the property says the owner intends to use the new "Ohana" as an Air BnB. My understanding of the "Ohana Permit" classification was originally for local owners, living on their property to be able to build an adjacent or detached dwelling for family. The owner is a California resident that appears to have bought this property in foreclosure solely as an investment and is not going to be living here.

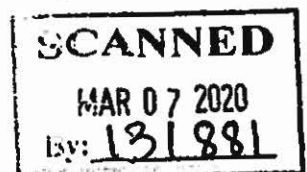
I don't know the laws well and I was disappointed that Mr. Tran cut all the trees and vegetation to pave and gravel the entire lot. To us, it is an eyesore and has reduced the value of our property. More than that, our understanding of our neighborhood was that years ago the laws said properties could no longer be "condominiumized" due to the density of the population in our neighborhood already. We were surprised that this new neighbor was able to build a second dwelling right behind our property and it fall within the "Ohana" classification. It seems to have the same affect that the "no condominiumizing" law was trying to prevent.

I'm not sure the use or value of this public comment. When they were clearing the referenced property, we also pointed out that there were remnants of old home place, but I do not know if it had any cultural significance. I don't know if they looked into that at all. Finally, I don't like the idea of Air BnB visitors in our backyard and neighborhood that has been traditionally families. We purchased our property in 1998, its been a wonderful place to raise our family. I think this is a sign of the times and our neighborhood may likely increasingly become an absentee landowner's investment opportunity. That makes me sad.

Sincerely and Respectfully Yours,

Deidre L. Robbins, co-owner of  
73-1222 Loloa Drive  
Kailua Kona, HI 96740

(TMK 7-3-013-009-0000)



Ohana Application Second Notice

February 27<sup>th</sup>, 2020

To: Surrounding Neighbors


From: Michael Tran and Lynn M. Lee 73-1215 Ahulani St, Kailua Kona HI 96740

Proposal: Ohana Permit Application for TMK (3) 7-3-022-101 within 300 feet of subject property

To whom this may concern:

1. Michael Tran and Lynn M. Lee are the Title Holders (in fee) of subject TMK (3) 7-3-022-101 located at 73-1215 Ahulani St, Kailua Kona, HI 96740 within 300 feet of this property.
2. Michael Tran and Lynn M. Lee declare and state: The subject property is free from any restrictions, covenants or other land use restrictions applicable to the lot by way of deed or lease or other provision do not prohibit the construction or placement of an Ohana dwelling unit or a second dwelling unit.
3. The deadline for submitting written public comments to the Planning Director is **March 13<sup>th</sup>, 2020**. (Address: Director of Hawaii County Planning Department West Hawaii: 74-5044 Ann Keohokalole Hwy Kailua Kona, HI 96740). The Planning Director will render a decision on my application no later than **March 30<sup>th</sup>, 2020**. If you have any questions, please call Bennett Mark (Planning Director) at (808) 323-4770.
4. Should you have any questions, please call me (Michael Tran) at 661-430-3578

Signature



Michael Tran

Property TMK: 3-7-3-022-101

73-1215 Ahulani St Kailua Kona, HI 96740

