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VIA E-MAIL AND ORIGINAL BY U.S. MAIL

Re: Whether Accessory Dwelling Units are Allowed in Waialae Iki Ridge, Units II, III and IV

Dear Waialae Iki Ridge Homeowner:

I have been retained by the Board of Directors of your Waialae Iki Ridge Community Association (“WIRCA”) to address the issue of whether Accessory Dwelling Units (“ADUs”) are allowed in Units II, III and IV of Waialae Iki Ridge.

On September 14, 2015, the City and County of Honolulu adopted Ordinance 15-41, covering ADUs. As a result, there have been a number of inquiries made by WIRCA owners regarding whether they can build ADUs on their lots. Under the ordinance, ADUs can be attached or detached from the primary dwelling.

The short answer is “no”, ADUs are not allowed in Units II, III and IV of Waialae Iki Ridge. Article II, Section 1 of the Declaration of Protective Provisions (the “Declaration”) covering Units II, III and IV, provides that “**only one (1)** single-family dwelling shall be erected, placed, maintained or allowed on a Residential Lot.” An ADU is a type of single-family dwelling. Therefore, the construction of an ADU, whether attached or detached, on a lot with an existing single-family dwelling would violate the Declaration, which runs with the land and is binding upon all owners, lessees, and occupants of any lot in Units II, III and IV. Accordingly, owners in Units II, III or IV cannot build an ADU on their lots. Please note that the guidebook on ADUs, published by the City and County of Honolulu, provides the basic requirements to apply for an ADU permit. One of the basic requirements asks whether there are any private covenants applicable to the subject property, and, if there are, the guidebook warns the applicant that an ADU is not allowed.

The Declaration pertaining to the Units is available on WIRCA’s website, www.wirca.org. Please refer to my April 29, 2016 letter about the history and applications of the restrictive covenants and the Declaration.

Your Board strongly recommends that each owner comply with the Declaration and the applicable restrictive covenants, including the prohibition against ADUs. These documents benefit your community as a whole and increase property values, and they remain in full force and effect. Pursuant to the Declaration, legal proceedings may be brought against any person(s) violating or attempting to violate any restriction or covenant, and any judgment may require all costs and expenses of such enforcement action, including attorney’s fees, to be paid by the person(s) in violation.

If you have questions concerning ADUs, please contact your Board.

Sincerely,

William C. Byrns