

ACT 252

H.B. NO. 2078

A Bill for an Act Relating to Ohana Zoning.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 46-4, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) [Neither this section nor any other law,] Each county [ordinance, or rule] shall [prohibit] adopt reasonable standards to allow the construction of two single-family dwelling units on any lot where a residential dwelling unit is permitted; provided:

- (1) All applicable county requirements, not inconsistent with the intent of this subsection, are met, including building height, setback, maximum lot coverage, parking, and floor area requirements; [and]
- (2) The county determines that public facilities are adequate to service the additional dwelling units permitted by this subsection[.]; and
- (3) Construction of the second dwelling is otherwise in accordance with applicable zoning ordinances and rules, and general plan and development plan policies.

Nothing in this section shall supersede any recorded covenant or deed restriction that prohibits the construction of a second dwelling on a lot.

After receiving notice that a permit has been granted pursuant to this subsection, the applicant, once a week, for two consecutive weeks, shall publish a notice in a newspaper of general circulation in the area stating the applicant's name and address of the property, and notifying the public that the permit has been obtained. No construction shall be initiated until the last of the notices has been published. If the applicant fails to publish the notices, and constructs the unit, and a covenant or deed restriction exists that would have precluded the construction of the second unit, any person or entity who successfully brings an action for violation of the covenant or deed restriction shall be entitled to reasonable attorney's fees and costs.

This subsection shall not apply to lots developed under planned unit development, cluster development, or similar provisions which allow the aggregate number of dwelling units for the development to exceed the density otherwise allowed in the zoning district.

Each county shall establish a review and permit procedure necessary for the purposes of this subsection.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 9, 1988.)