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BY-LAWS OF THE
ASSOCIATION OF APARTMENT OWNERS OF
THE HEIGHTS AT WAILUNA, INCREMENT 1

EXHIBIT "A" - (The Land)

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BY-LAWS OF THE
ASSOCIATION OF APARTMENT OWNERS OF
THE HEIGHTS AT WAILUNA, INCREMENT 1

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BY-LAWS OF THE
ASSOCIATION OF APARTMENT OWNERS OF
THE HEIGHTS AT WAILUNA, INCREMENT 1

WHEREAS, THE TRUSTEES OF THE ESTATE OF BERNICE PAUAAHI BISHOP, herein called the "Lessor", own in fee simple that certain land described in EXHIBIT "A" attached hereto and made a part hereof and also described in the Declaration of Horizontal Property Regime hereinafter referred to; and

WHEREAS, LEAR SIEGLER, INC., a Delaware corporation authorized to do business in Hawaii, and LEAR SIEGLER PROPERTIES, INC., a Delaware corporation authorized to do business in Hawaii, whose places of business is 700 Bishop Street, Suite 1112, Honolulu, Hawaii, and whose post office address is P. O. Box 3230, Honolulu, Hawaii, herein called "Sublessor", are the Lessees named in that certain Bishop Estate Lease No. 27,480, dated December 13, 1984, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 18370 at page 272, demising said land;

WHEREAS, Lessor and Sublessor did lease said land to JOHN D. LUSK & SON, a California corporation authorized to do business in the State of Hawaii, whose principal place of business and post office address in Hawaii is Suite 1618, Davies Pacific Center, 841 Bishop Street, Honolulu, Hawaii 96813, herein called "Developer", by that Certain Bishop Estate Lease No. 27,480-A, dated April 3, 1985, recorded in said Bureau in Liber 18561, page 710; and

WHEREAS, Developer has undertaken to improve said land pursuant to the terms of said Lease and in accordance with plans incorporated herein by reference and filed simultaneously herewith in said Bureau of Conveyances as Condominium Map No. _____; and

WHEREAS, the Lessor, Sublessor and Developer shall establish that certain condominium project to be known as

"THE HEIGHTS AT WAILUNA, INCREMENT 1"

by Declaration of Horizontal Property Regime to be recorded or filed of record in the State of Hawaii contemporaneously herewith;

NOW, THEREFORE, the following By-Laws shall apply to the above condominium project (herein called the "Project") situate on said land as described in and established by Declaration of Horizontal Property Regime (herein called the "Declaration") to be recorded or filed of record in the State of Hawaii contemporaneously herewith, and to all present and future owners, tenants and occupants of any apartments of the Project and to all other persons who shall at any time use the Project. The acquisition or rental of any apartment or the common element will signify that these By-Laws are accepted, ratified and will be complied with.

ARTICLE I

ASSOCIATION OF APARTMENT OWNERS

Section 1. Membership. All owners of apartments of the Project shall constitute the Association of Apartment Owners, herein called the "Association". The owner of any apartment upon acquiring title thereto shall automatically become a member of the Association and shall remain a member thereof until such time as his ownership of such apartment ceases for any reason, at which time his membership in the Association shall automatically cease. To such extent and for such purposes, including voting, as shall be provided by lease of any apartment filed with the Board of Directors of the Association, (herein called the "Board"), the lessee of an apartment shall be deemed to be the owner thereof. The purchaser of an apartment pursuant to an agreement of sale recorded in the bureau of conveyances or land court shall have all the rights of an apartment owner, including the right to vote, provided that the seller may retain the right to vote on matters substantially affecting his security interest in the apartment.

Section 2. Place of Meetings. Meetings of the Association shall be held at the Project or such other suitable place within the State convenient to the apartment owners as may be designated by the Board.

Section 3. Annual Meetings. The first meeting of the Association shall be held not later than one hundred eighty days after recordation of the first apartment conveyance; provided forty per cent or more of the Project has been sold and recorded. If forty per cent of the Project is not sold and recorded at the end of one year, an annual meeting shall be called; provided ten per cent of the apartment owners so request. Thereafter annual meetings of the Association shall be held within three months after the end of each accounting year.

Section 4. Special Meetings. Special meetings of the Association may be held at any time upon the call of the President or a petition signed by at least twenty-five per cent (25%) of the apartment owners and presented to the Secretary. No business shall be conducted except as stated in the notice thereof unless by consent of at least eighty per cent (80%) of the owners present, either in person or by proxy.

Section 5. Notice of Meetings. The Secretary shall give written or printed notice of each annual and special meeting to every apartment owner according to the Association's record of ownership, at least fourteen (14) days, if practicable, before the date set for such meeting, in any of the following ways: (a) by delivering it to him personally, or (b) by leaving it at his apartment in the Project or at his usual residence or place of business, or (c) by mailing it, postage prepaid, addressed to him at his address as it appears on the Association's record of ownership. The written or printed notice of meeting shall contain at least the following: A statement as to whether

it is an annual or special meeting; the authority for the call of the meeting, the place, day and hour of such meeting; the items on the agenda for such meeting; and a standard proxy form authorized by the Association, if any. If notice is given pursuant to the provisions of this section, the failure of any apartment owner to receive actual notice of any meeting shall in no way invalidate such meeting or any proceeding thereat. The presence of any apartment owner in person or by proxy at any meeting shall be deemed a waiver of any required notice to such owner unless he shall at the opening thereof object to the holding of such meeting because of the failure to give notice in accordance with the provisions hereof.

Section 6. Quorum. The presence at any meeting in person or by proxy of a majority of apartment owners shall constitute a quorum, and the acts of a majority of the apartment owners at any meeting at which a quorum is present shall be the acts of the Association except as otherwise provided herein. The term "majority of apartment owners" herein means the owners of apartments to which are appurtenant more than fifty per cent (50%) of the common interests as established by the Declaration, and any other specified percentage of the apartment owners means the owners of apartments to which are appurtenant such percentage of the common interests.

Section 7. Voting. Voting shall be on a percentage basis, and the percentage of the total vote to which each apartment is entitled shall be the percentage of the common interests assigned to such apartment in the Declaration. Votes may be cast in person or by proxy by the respective apartment owners as shown in the record of ownership of the Association. A personal representative, guardian or trustee may vote in person or by proxy at any meeting of the Association the percentage of vote for any apartment owned or controlled by him in such capacity, whether or not the same shall have been transferred to his name in the Association's record of ownership, provided that he shall first present evidence satisfactory to the Secretary that he owns or controls such apartment in such capacity. The vote for any apartment owned of record by two or more persons may be exercised by any one of them present at any meeting in the absence of protest by the other or others, and in case of protest each co-tenant shall be entitled to only a share of such vote in proportion to his share of ownership in such apartment.

Section 8. Proxies and Pledges.

(a) A proxy, to be valid, must be delivered to the secretary of the association of apartment owners or the managing agent, if any, at least by 4:30 p.m. two business days prior to the date of the meeting to which it pertains, and must contain at least: the name of the association of apartment owners, the date of the meeting of the association of apartment owners, the printed name and signature of the person or persons giving the proxy, the apartment or apartments for which the proxy is given, the printed name of the person or entity to whom the proxy is given, and the date that the proxy is given.

(b) A proxy shall only be valid for the meeting to which the proxy pertains and its adjournments, may designate any person as proxy, and may be limited as the apartment owner desires and indicates.

(c) Proxies may be given to the board of directors as an entity.

(d) Nothing in this section shall affect the holder of any proxy under a first mortgage of record encumbering an apartment or under an agreement of sale affecting an apartment.

(e) No resident manager, or managing agent shall solicit, for use by such manager or managing agent, any proxies from any apartment owner of the association of owners which employs him, nor shall he cast any proxy vote at any association meeting except for the purpose of establishing a quorum.

(f) No member of a board of directors who uses association funds to solicit proxies, shall cast any proxy votes for the election or reelection of board members at any association meeting unless the proxy form specifically authorizes the board member to vote for the election or reelection of board directors.

Section 9. Adjournment. Any meeting of the Association may be adjourned from time to time to such place and time as may be determined by majority vote of the apartment owners present, whether or not a quorum be present, without notice other than the announcement at such meeting. At any such adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted by a quorum at the meeting as originally called.

Section 10. Order of Business. The order of business at all meetings of the Association shall be as follows:

- (a) Roll call.
- (b) Proof of notice of meeting.
- (c) Reading of minutes of preceding meeting.
- (d) Report of officers.
- (e) Report of committees.
- (f) Election of directors.
- (g) Unfinished business.
- (h) New Business.

ARTICLE II

BOARD OF DIRECTORS

Section 1. Number and Qualifications. The affairs of the Association shall be governed by a Board of Directors (the "Board") composed of not less than three (3) and not more than nine (9) persons; provided that if the Project has more than one hundred individual apartment units there shall be an elected board of not less than nine members unless not less than seventy-five per cent of all apartment owners vote

by written ballot to set the minimum number of directors at less than nine during an annual meeting or special meeting called for the purpose of reducing the minimum number of directors. Each member of the Board shall be the sole owner or co-owner of record of an apartment, or a vendee under an agreement of sale of an apartment, or a partner in a general partnership if such partnership is an owner of record or a general partner of a limited partnership if such partnership is an owner of record. If a corporation is an apartment owner, any officer of such corporation shall be eligible to serve as director so long as he remains an officer of such corporation. No resident manager of the Project shall be eligible to serve as director. The directors shall serve without compensation.

Section 2. Powers. The Board of Directors shall have all powers necessary for the administration of the affairs of the Association and may do all such acts and things therefor as are not by law, the Declaration or these By-Laws directed to be exercised or done only by the apartment owners.

Section 3. Election and Term. Election of directors shall be by a cumulative voting by secret ballot at each annual meeting and any special meeting called for that purpose. Directors shall hold offices for a period of three (3) years and until their respective successors have been elected, subject to removal as herein provided, except that at the first annual meeting one-third (1/3) of the directors shall be elected for one (1) year, one-third (1/3) for two (2) years and one-third (1/3) for three (3) years.

Section 4. Vacancies. Vacancies in the Board of Directors caused by any reason other than removal of a director by the Association shall be filled by vote of a majority of the remaining directors, even though they may constitute less than a quorum, and each person so elected shall be a director until his successor is elected at the next annual meeting of the Association. Death, incapacity or resignation of any director, or his continuous absence from the State of Hawaii for more than six months, or his ceasing to be the sole owner or co-owner of an apartment or vendee under an agreement of sale, shall cause his office to become vacant.

Section 5. Removal of Directors. At any regular or special meeting of the Association duly called, any one or more of the directors may be removed with or without cause by vote of a majority of apartment owners and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the apartment owners shall be given an opportunity to be heard at such meeting.

Section 6. Annual Meeting. Notice of the annual Board meeting shall be given in a reasonable manner at least fourteen (14) days, if practicable, prior to such meeting. At each such meeting the Board shall elect the officers of the Association for the ensuing year.

Section 7. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors, but at least one (1) such meeting shall be held during each calendar quarter of every year. Notice of regular meetings of the Board shall be given to each director, personally or by mail, telephone, or telegraph, at least one (1) day prior to the date of such meeting.

Section 8. Special Meetings. Special meetings of the Board of Directors may be called by the President on at least twenty-four (24) hours' notice to each director, given personally or by telephone or telegraph, which notice shall state the time, place and purpose of such meeting. Special meetings of the Board shall be called by the President or Secretary in like manner and with like notice on the written request of at least two (2) directors.

Section 9. Waiver of Notice. Before or at any meeting of the Board of Directors any director may in writing waive notice of such meeting, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall be a waiver of notice to him of such meeting. If all the directors are present at any meeting of the Board, no notice thereof shall be required, and any business may be transacted at such meeting.

Section 10. Quorum of Board. At all meetings of the Board of Directors a majority of the total number of directors shall constitute a quorum for the transaction of business, and the acts of a majority of the directors present at any meeting at which a quorum is present shall be the acts of the Board. If less than a quorum shall be present at any meeting of the Board, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 11. Board Meetings. All meetings of the Board of Directors shall be open to all members of the Association, provided that association members who are not on the board of directors may not participate in any deliberation or discussion unless expressly so authorized by the vote of a majority of a quorum of the board of directors. The board of directors, with the approval of a majority of a quorum of its members, may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters or litigation in which the association is or may become involved. The nature or any and all business to be considered in executive session shall first be announced in open session.

Section 12. Conflict of Interest. No director shall vote or cast proxy at any Board meeting on any issue in which he has a conflict of interest.

Section 13. Fidelity Bonds. The Board of Directors shall require that all officers, employees and agents of the

Association handling or responsible for its funds, shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

ARTICLE III

OFFICERS

Section 1. Designation. The principal officers of the Association shall be a President, a Vice-President, a Secretary, and a Treasurer, all of whom shall be elected by, and in the case of the President from, the Board of Directors. The Board may appoint an Assistant Treasurer, an Assistant Secretary and such other officers as in its judgment may be necessary.

Section 2. Election and Term. The officers of the Association shall be elected annually by the Board of Directors at its annual meeting and shall hold office at the pleasure of the Board.

Section 3. Removal. Any officer may be removed either with or without cause by vote of a majority of the members of the Board of Directors, and his successor elected at any regular meeting of the Board or any special meeting called for such purpose.

Section 4. President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board of Directors. Subject to the control of the Board he shall exercise general supervision and direction over the management and conduct of the business and affairs of the Association. He shall also have such other powers and duties as may be provided by these By-Laws or assigned to him from time to time by the Board.

Section 5. Vice-President. The Vice-President shall assume and perform the duties of the President in the absence or disability of the President or whenever the office of President is vacant. He shall also have such other powers and duties as may be assigned to him from time to time by the Board.

Section 6. Secretary. The Secretary shall attend and keep the minutes of all meetings of the Association and of the Board of Directors, give all notices thereof as provided by these By-Laws, maintain and keep a continuous and accurate record of ownership of all apartments, have charge of such books, documents and records of the Association as the Board may direct, and in general perform all the duties incident to the office of Secretary. If the Secretary is not present at any meeting, the presiding officer shall appoint a secretary pro tempore who shall keep the minutes of such meeting and record them in the books provided for that purpose.

Section 7. Treasurer. The Treasurer shall maintain and keep the financial records and books of account of the

Association, prepare regular reports thereof and be responsible for the proper deposit and custody in the name of the Association of all its funds and securities.

Section 8. Auditor. The Association may, by vote at the annual meeting, require a yearly audit of the Association books by a certified public accountant or accounting firm as auditor, who shall not be an officer of the Association nor own any interest in any apartment.

ARTICLE IV

ADMINISTRATION

Section 1. Management. The Board of Directors shall at all times manage and operate the Project and have such powers and duties as may be necessary or proper therefor including, without limitation, the following:

(a) Supervision of its immediate management and operation;

(b) Maintenance, repair, replacement and restoration of the common elements and any additions and alterations thereto;

(c) Purchase, maintenance and replacement of any equipment and provision of all water, sewer and other utility services required for the common elements;

(d) Provision at each apartment of all water, sewer, electricity and such other utility services and utilities as the Board shall deem necessary either at the expense of such apartment or as a common expense as determined by the Board;

(e) Employment, supervision and dismissal of such personnel as may be necessary for the maintenance and operation of the Project;

(f) Preparation at least sixty (60) days before each fiscal year of a proposed budget and schedule of assessments for such year;

(g) Collection from each residential apartment owner of all assessments and other charges payable to Wailuna Recreation Association by each such apartment owner and payment of same to Wailuna Recreation Association.

(h) Collection of all installments of assessments levied and payment of all common expenses authorized by the Board;

(i) Purchase and maintenance in effect of all policies of hazard and liability insurance for the Project required by the Declaration and such other insurance and bonds as may be required or authorized by the Declaration or the Board;

(j) Custody and control of all funds of the Association, maintenance of full and accurate books of account and records of such funds and preparation of regular financial reports thereof.

(k) Notification of all persons having any interest in any apartment according to the Association's record of ownership of delinquency exceeding sixty (60) days in the payment of any assessment against such apartment.

(l) Establishment of such late fees, penalties and fines as it deems appropriate with respect to enforcement of the provisions of the Declaration, these By-Laws and the house rules adopted pursuant to these By-Laws; provided such penalties and fines are not inconsistent with the law or the provisions herein, and the unpaid amount of such penalties and fines against any apartment owner shall constitute a lien against his interest in his apartment which may be foreclosed by the Board of Directors or Managing Agent in the same manner as provided in the Horizontal Property Act for common expenses.

Section 2. Managing Agent. The Board of Directors shall annually employ a responsible corporation authorized to do business in Hawaii as Managing Agent to manage and control the Project subject at all times to direction by the Board, with all the administrative functions set forth specifically in the preceding Section 1 and such other powers and duties and at such compensation as the Board may establish.

Section 3. Books of receipts and expenditures; unpaid assessments; availability for examination. the manager or board of directors shall keep detailed, accurate records in chronological order, of the receipts and expenditures affecting the common elements, specifying and itemizing the maintenance and repair expenses of the common elements and any other expenses incurred. The manager or board of directors shall also keep monthly statements indicating the total current delinquent dollar amount of any unpaid assessments for common expenses. All records and the vouchers authorizing the payments, and statements shall be kept and maintained at the address of the project, or elsewhere within the State as determined by the board of directors, and shall be available for examination by the apartment owners at convenient hours of week days.

Section 4. Representation. Except as provided for in Section 7 of Article V herein, the President or Managing Agent, subject to the direction of the Board of Directors, shall represent the Association or any two or more apartment owners similarly situated as a class in any action, suit, hearing or other proceeding concerning the Association, the common elements or more than one apartment, and on its or their behalf may institute, defend, intervene in, prosecute and settle any such actions, suits and proceedings, without prejudice to the rights of any apartment owners individually to appear, sue or be sued. Service of process on two or more

apartment owners in any such action, suit or proceeding may be made on the President or Managing Agent. Every first mortgagee to whom the Lessee is required by the terms of the mortgage to pay same, or whenever there is no such mortgagee, every Managing Agent shall also be the agent of the respective Lessees under any apartment leases filed with the Board for the collection, custody and payment of all rent, taxes, assessments and other charges thereunder payable to their Lessor.

Section 5. Execution of Instruments. All checks, drafts, notes, acceptances, conveyances, contracts and other instruments shall be signed on behalf of the Association by such person or persons as shall be provided by general or special resolution of the Board of Directors or, in the absence of any such resolution applicable to such instrument, by the President or Vice-President and by the Treasurer or Secretary.

ARTICLE V

OBLIGATIONS OF APARTMENT OWNERS

Section 1. Assessments. All apartment owners shall pay to the Managing Agent in advance on the first day of each and every month: (a) The monthly installments of assessments against their respective apartments for common expenses of the Project; (b) Any assessments against an apartment pertaining to a limited common element appurtenant to such apartment; (c) All assessments against each apartment by Wailuna Recreation Association; and, (d) With respect to any lease of any apartment filed with the Board of Directors, a monthly sum determined by the Managing Agent to be sufficient to accumulate and pay when due all rent, taxes, assessments and other charges thereunder payable by the Lessee of such apartment.

In the event all said monthly charges are not received by the Managing Agent on or before the 15th day after said charges are due, the Managing Agent may assess a late payment charge in an amount not in excess of Fifteen Dollars (\$15.00) to the appropriate apartment owner; and if said charges, including said late payment charge, are not received within thirty (30) days after said monthly charges are due, an additional late charge in an amount not in excess of Fifteen Dollars (\$15.00) and interest at the rate of one per cent (1%) per month calculated from such due date may be assessed. The amount of the late charge and interest rate may be adjusted by the Board.

Section 2. Maintenance of Apartments and Condo Lots. Every apartment owner of a Condo lot described in the Declaration shall at his own expense at all times well and substantially repair, maintain, amend and keep his apartment and Condo lot (except for that portion of the front yard of Condo lot between the fence and the private street of the project), including, without limitation, all internal installations therein such as water, electricity, gas, telephone, sewer, sanitation, lights and all other fixtures

and accessories belonging to such apartment and all foundations, walls, floors, roofs and ceilings of such apartment, with all necessary reparations and amendments whatsoever in good order and condition except as otherwise provided by law or the Declaration, and shall be liable for all loss or damage whatsoever caused by his failure to perform any such work diligently, and in case of such failure after reasonable notice to perform shall reimburse to the Association promptly on demand all expenses incurred by it in performing any such work authorized by the Board of Directors or the Managing Agent.

Note: The front yard of each Condo lot shall be planted and cultivated and maintained exclusively by the Association and any exterior painting of any apartment or other improvements can be done only with the prior written consent of the Board of Directors.

Section 3. Damage to Common Elements. Every apartment owner and occupant shall reimburse the Association promptly on demand all expenses incurred by it in repairing or replacing any uninsured loss or damage to the common elements or any furniture, furnishment and equipment thereof caused by such owner or occupant or any person under either of them and shall give prompt notice to the Managing Agent of any such loss or damage or other defect in the Project when discovered.

Section 4. Restrictions on Use of Condo Lots. All Condo lots have a front yard area, as hereinafter designated. All Condo lots but for Condo lots 42, 80, 121, 122 and 128 also have a side yard area and a rear yard area, as said two areas are hereinafter designated. There are one or more fences and walls along the various boundary lines of Condo lots, and there is normally a fence in the front portion of the condo lot that extends between and connects to adjacent dwelling units. The fences and walls that are common elements are shown on the Condo Map.

The three (3) yard areas above referred to are defined as follows:

(i) the front yard area of each Condo lot is that yard area of the Condo lot located between the front fence (and the garage and front of the dwelling unit) and the road that is a portion on the project;

(ii) the side yard area of the aforesaid specific Condo lots is that portion of the Condo lot located between adjoining dwelling units; and

(iii) the rear yard area of the aforesaid specific Condo lots is the remaining portion of the Condo lot which is that land area behind the house which is that part of the dwelling unit furthest from the garage.

There are certain restrictions on the use of the three (3) different yard areas, as follows:

(i) The front yard shall be planted and cultivated and landscaped and maintained exclusively by the Association for the exclusive benefit of the apartment owner.

(ii) The side yard shall be planted and cultivated and landscaped by the apartment owner but this area shall be a passive type of area (a no activity area) because of the proximity of the adjoining dwelling unit. This side yard is basically for use for ingress and egress and there shall be no continuing activities permitted in this area. In addition, no fences, walls or other improvements or hedges or other dense plantings shall be permitted or allowed that tends to cut down on or restrict the natural light and the natural circulation of air. Likewise no additional artificial lighting of the side yard shall be permitted. (Note: These restrictions do not affect Condo lots 42, 80, 121, 122 and 128.)

(iii) The rear yard shall be deemed to be the active area for normal and typical activities relating to family usage of a private yard. In addition, however, the following Condo lots have an area known as a environmental protective corridor (EPC): 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 82, 83, 84, 85, 117, 118 and 120. No plants, trees or other landscaping or fences or walls or other improvements or the placing of any item of personal property of any kind shall be permitted to exist with an EPC area that exceed two and one half (2-1/2) feet in height above existing grade. (Note: These restrictions do not affect Condo lots 42, 80, 121, 122 and 128.)

Section 5. Restrictions on Use of Project.

(a) The apartments shall be used only for such purposes as stated in the Declaration.

(b) All common elements of the project shall be used only for their respective purposes as designed.

(c) No apartment owner or occupant shall plant or cultivate or landscape the common elements or the front portion of the Condo lot or place, store or maintain within or upon any of the common elements any furniture, packages or objects of any kind or otherwise obstruct transit through such common elements or the front portion of the condo lot.

(d) There shall be strict compliance with the terms and conditions of article VI of these bylaws entitled "Architectural Control."

(e) No improvements or movable personal property in excess of two and one-half (2-1/2) feet in height above existing grade shall be constructed or permitted to exist within five (5) feet of any condo lot boundary line.

(f) No plants, trees or other landscaping or fences or walls or other improvements or the placing of any item of personal property of any kind shall be permitted to exist with an EPC area that exceed two and one half (2-1/2) feet in height above existing grade.

(g) Except as otherwise restricted herein, no plants or hedges, trees or other landscaping shall be permitted within the side yard or rear yard of any Condo lot that shall extend above the existing roof line of the dwelling unit as it appears in the initial Condominium Map.

(h) No improvement shall be constructed on a Condo lot that shall increase the square footage of the dwelling unit by more than 350 square feet as it appears in the initial Condominium Map and no improvement shall be added above the roof line of the dwelling unit as shown on the initial Condominium Map.

(i) Every apartment owner and occupant shall at all times keep his apartment and Condo lot neat and clean and in a strictly clean and sanitary condition, and each apartment owner and occupant shall observe and perform all laws, ordinances, rules and regulations now or hereafter made by any governmental authority or the Association for the time being applicable to the use of the Project.

(j) No apartment owner or occupant shall make or suffer any strip or waste or unlawful, improper or offensive use of his apartment and Condo lot or the Project or the common elements nor alter or remove any furniture, furnishings or equipment of the common elements.

(k) All occupants shall avoid making noises and using musical instruments, radios, televisions and amplifiers in such manner as may disturb other occupants;

(l) No garments, rugs or other objects shall be hung from the windows or facades of any building or otherwise displayed in public view.

(m) No rugs or other objects shall be dusted or shaken from the windows or doors of any apartment or cleaned by beating or sweeping on any walkways, lanais, entries or other exterior part of the Project.

(n) No livestock, poultry, rabbits or other animals whatsoever shall be allowed or kept in any part of the project except that dogs, cats and other household pets in reasonable number may be kept by the apartment owners and occupants in their respective apartments and Condo lots with the prior written approval by the Board but shall not be kept, bred or used therein for any commercial purpose nor allowed on any common elements except in transit when carried or on leash, provided that any such pet causing a nuisance or unreasonable disturbance to any other occupant of the project shall be permanently removed therefrom promptly upon notice given by the Board of Directors or Managing Agent.

(o) No apartment owner or occupant shall without the written approval of the Board of Directors install any wiring for electrical or telephone installations, machines or air conditioning units, or other equipment or appurtenances whatsoever on the exterior of any building of the project or protruding through the walls, windows or roof thereof.

(p) No apartment owner or occupant shall without the prior written approval of the Board of Directors and Lessor, erect, place or maintain any television or other antennas, or solar energy systems or any other types of

objects or equipment on any building visible from any point outside of his apartment.

(q) Nothing shall be allowed, done or kept in any apartment or common elements of the project which would overload or impair the floors, walls, or roofs thereof, or cause any increase in the ordinary premium rates or the cancellation or invalidation of any insurance thereon maintained by or for the Association.

(r) No signs whatsoever, including without limitation, commercial, political or similar signs, visible from neighboring property shall be erected or maintained upon or within any apartment or Condo lot except:

(i) Such signs as may be required by legal proceedings;

(ii) Apartment identification signs of a combined total face area of one square foot or less for each resident;

(iii) Not more than one "For Sale" or "For Rent" sign having a maximum face area of three square feet, such sign to refer only to the premises on which it is situated.

(s) No house trailer, mobile home, tent or similar facility or structure shall be kept, placed or maintained upon or within any Condo lot at any time.

(t) No boat or trailer or truck of more than one-ton capacity shall be kept, placed or maintained upon or within any Condo lot.

(u) No trailer, vehicle or boat shall be constructed, or reconstructed or repaired upon or within any Condo lot in such a manner that such construction, reconstruction or repair is visible from neighboring Condo lots, nor shall any vehicle not in good operating condition be maintained upon or within any Condo lot so as to be visible from any neighboring Condo lot, provided that nothing in this paragraph shall prevent an apartment owner from performing maintenance work or minor repairs on his own trailer, vehicle or boat in his garage.

(v) No open storage of furniture, fixtures, appliances and other goods and chattels not in active use will be permitted within a Condo lot so as to be visible from neighboring Condo lot, and no outside clothes lines or other outside clothes drying or airing facilities shall be permitted when they are visible from neighboring Condo lot.

(w) An apartment owner shall not permit any exterior fires whatsoever within the Condo lot, except small barbecue and imu fires, and shall not permit any condition on or within his Condo lot which creates a fire hazard.

(x) An apartment owner shall not park his car on any portion of his Condo lot visible from any adjacent Condo

lot, except in a garage or on a paved driveway area, and boats, trailers or truck campers will not be kept within or on any Condo lot except in a garage.

(y) No garage shall be used in a manner inconsistent to the use of same for other than the parking of vehicles and boats.

(z) Each apartment owner and occupant shall do what is necessary to preserve and maintain the drainage patterns on his Condo lot and adjoining Condo lots.

Section 6. House Rules and Regulations. The Board, upon giving notice to all apartment owners in the same manner as herein provided for notice of meetings of the Association and opportunity to be heard thereon, may adopt, amend or repeal any supplemental rules and regulations (sometimes referred to as "house rules") governing the details of the operation and use of the common elements not inconsistent with Declaration or these Bylaws or any provision of the law.

Section 7. Default in Payment of Assessments. Each monthly assessment and each special assessment of the Association and all assessments of Wailuna Recreation Association and all other assessments chargeable to an apartment owner under Article V shall be separate, distinct and personal debts and obligations of the apartment owner against whom the same are assessed. In the event of a default or defaults in payment of any such assessment or assessments and in addition to any other remedies herein or by law provided, the Board of Directors may enforce each such obligation as follows:

(a) By suit or suits at law to enforce each such assessment obligation. Each such action must be authorized by the Board at a regular or special meeting thereof and any such suit may be instituted by any one member of the Board or by the Managing Agent. Each such action shall be brought in the name of the Board and the Board shall be deemed to be acting on behalf of all the apartment owners. Any judgment rendered in any such action shall include, where permissible under any law, a sum for reasonable attorneys' fees in such amount as the Court may adjudge against such defaulting apartment owner. Upon full satisfaction of any such judgment, it shall be the duty of the Board to authorize any two members thereof, acting in the name of the Board, to execute and deliver to the judgment debtor an appropriate satisfaction thereof.

(b) At any time after the occurrence of any such default, the Board may give a notice to the defaulting apartment owner, with a copy to the mortgagee of such apartment owner, if such mortgagee has furnished its name and address to the Board, which said notice shall state the date of the delinquency, the amount of the delinquency and make a demand for payment thereof. If such delinquency is not paid within ten (10) days

after delivery of such notice, the Board may elect to file a claim of lien against the apartment of such delinquent apartment owner. Such claim of lien shall state (1) the name of the delinquent apartment owner or reputed apartment owner, (2) a description of the apartment against which claim of lien is made, (3) the amount claimed to be due and owing (with any proper offset allowed), (4) that the claim of lien is made by the Board pursuant to the terms of these By-Laws and of Chapter 514A, Hawaii Revised Statutes, as amended, and (5) that a lien is claimed against said described apartment in an amount equal to the amount of the stated delinquency. Any such claims of lien shall be signed and acknowledged by any two or more members of the Board and shall be dated as of the date of the execution by the last such Board member to execute said claim of lien. Upon recordation of a duly executed original or copy of such claim of lien with the Bureau of Conveyances or the Assistant Registrar of the Land Court of the State of Hawaii, the Board shall have all remedies provided in Section 514A-90, Hawaii Revised Statutes, as amended. Each default shall constitute a separate basis for a claim of lien or a lien. In the event the foreclosure is under power of sale, the Board, or any person designated by it in writing, shall be entitled to actual expenses and such fees as may be allowed by law or as may be prevailing at the time the sale is conducted. The certificate of sale shall be executed and acknowledged by any two members of the Board or by the person conducting the sale.

(c) For the purposes of this Section 7, a certificate executed and acknowledged or made under penalty of perjury by the Managing Agent or by any two members of the Board shall be conclusive upon the Board and the apartment owners in favor of any and all persons who rely thereon in good faith as to the matters therein contained (except for any subsequently dishonored checks), and any apartment owner shall be entitled to such a certificate setting forth the amount of any due and unpaid assessments with respect to his apartment (or the fact that all assessments due are paid if such is the case) within fifteen (15) days after demand therefor and upon payment of a reasonable fee as established by the Board. In the event any claims of liens have been recorded and thereafter the Board shall receive payment in full of the amount claimed to be due and owing, then upon demand of the apartment owner or his successor, and payment of a reasonable fee, as established by the Board, the Managing Agent or the Board, acting by any two members, shall execute and acknowledge (in the manner provided above) a release of lien, stating the date of the original claim of lien, the amount claimed, the date, the recordation data if recorded in the Bureau of Conveyances or the document number if filed in the Land Court, the fact that the lien has been fully satisfied and that the particular lien is released and discharged, such release of lien to be delivered to the apartment owner or his successor upon payment of the fee.

Section 8. Record of Ownership. Every apartment owner shall promptly cause to be duly recorded or filed of record the deed, lease, assignment, Agreement of Sale or other conveyance to him of such apartment or other evidence of his title thereto and shall file such document with and present such other evidence of his title to the Board of Directors through the Managing Agent. The Managing Agent or the Board of Directors shall maintain all such information together with an accurate and current list of members of the Association which shall include their current addresses and shall also maintain a record of the names and addresses of the vendees of an apartment under an agreement of sale, if any. The list shall be maintained at a place designated by the Board of Directors.

ARTICLE VI

ARCHITECTURAL CONTROL

Section 1. Appointment of Architectural Committee. The Board of Directors shall appoint an Architectural Committee, consisting of not less than three (3) members, who shall serve at the pleasure of the Board. The members of such Committee shall not be entitled to any compensation for services performed pursuant to this covenant. Said representatives may be the members of the Board of Directors of the Association.

The Committee in its discretion, may promulgate from time to time standards as to landscaping, building, fences, walls or other structures that do not conflict with provisions of the Declaration or those bylaws.

Section 2. Architectural Approval. No building, fence, wall or other structure shall be commenced, erected or maintained upon the project, nor shall any exterior addition to or change or alteration therein, including patio covers and antennas, be made until the plans and specification showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Committee and Lessor.

Section 3. Environmental Protective Corridors. It is the desire of the Association to protect certain environmental corridors within certain condo lots. Consequently, those certain Condo lots listed in Section 4 of Article V and shown on the Condominium Map have shaded areas within the rear yard in which nothing may be built with a height greater than two and one half (2 1/2) feet above existing grade and nothing may be planted which grows to a height in excess of two and one half (2 1/2) feet above existing grade. These areas are known as the "EPC" areas.

All of the foregoing notwithstanding, if two adjacent apartment owners so agree in writing, they may, with the prior written approval of the Architectural Committee, construct a fence or wall between their Condo

lots to a height not exceeding six (6) feet above the highest finished dwelling unit slab. Should such a wall or fence be desired, then the apartment owner proposing such a wall must have his neighbor's permission attached to and made a part of the drawing which he submits to the Architectural Committee for approval, and prior to granted approval of the fence in writing the Architectural Committee must assure itself that said fence will not adversely affect any EPC area in the project.

Section 4. Landscaping Approval. The provisions of this Section 4 are subordinate to the provisions of Section 3 above set forth. No trees, bushes, shrubs or plants which at maturity, and without clipping or pruning thereof, would exceed the height of the dwelling house on a Condo lot shall be planted or emplaced until the plans and specifications for the placement of any such trees, bushes, shrubs or plants have been submitted to and approved in writing by the Architectural Committee as to the preservation of the natural view and aesthetic beauty which each Condo lot is intended to enjoy. Said plans as submitted shall show in detail the proposed elevations and locations of said trees, bushes, shrubs or plants, including the location and elevation of same in relation to all other Condo lots subject to these restrictions. Approval of said plans by the Architectural Committee may be withheld if in the reasonable opinion of the Committee the view of any Condo lot would be impeded by the location of such tree, bush, shrub or plant, or in any other manner. In any event, the Architectural Committee shall have the right to require any member to remove, trim, top, or prune any tree, or shrub, which in the reasonable belief of the Architectural Committee impedes or detracts from the view of any Condo lot.

Section 5. Lanai Structures, Sun Shades and Gazebos. Structures in this section shall be designed to continue and/or complement architectural features of the dwelling unit. The exterior appearance of the addition shall be built and finished to match the color and trim of the dwelling unit. No such structure shall be built within a EPC area.

Section 6. Repainting. All repainting of exterior surfaces must have the prior written approval of the Architectural Committee.

Section 7. Consents. The Architectural Committee is required to communicate within a reasonable period of time. In the event that the committee and Lessor fails to approve or disapprove of plans and specifications and design within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required, and this Article will be deemed to have been fully complied with.

ARTICLE VII

MORTGAGES AND MORTGAGEES

Section 1. Notice to Board of Directors. An apartment owner who mortgages his interest in an apartment shall notify the Association of the name and address of his mortgagee and within ten (10) days after the execution of the same shall file a conformed copy of such mortgage with the Association; the Association shall maintain such information in a book entitled "Mortgages of Apartments".

Section 2. Notice of Meetings. A mortgagee of an apartment will, upon request, be entitled to written notice of all meetings of the Association and will be entitled to designate a representative to attend all such meetings.

Section 3. Notice of Unpaid Common Expenses and Assessment of Wailuna Recreation Association. The Association whenever so requested in writing by an owner or mortgagee of an interest in an apartment shall promptly report any then unpaid assessments or common expenses due from the apartment owner involved.

Section 4. Notice of Default. The Board, when giving notice to an apartment owner of a default in paying common expenses or other default, shall send a copy of such notice to each holder of a mortgage covering such apartment or interest therein whose name and address has theretofore been furnished to the Association. In each and every case where the lender-mortgagee has made a request, the Association shall notify the lender-mortgagee of any unpaid assessments that are thirty (30) days delinquent or more.

Section 5. Examination of Books. Each apartment owner and each mortgagee shall be entitled to examine the books and records of the Association or the Project at reasonable times on business days, but an owner may not examine said books more than once a month. Each mortgagee shall have the right to require the Board of Directors or the Association to provide such mortgagee with an annual financial statement of the Project within ninety (90) days following the end of each fiscal year of the Project, and such other annual reports and financial data as may be reasonable.

Section 6. Management Contracts. Any management agreement for the Project will be terminable by the Board of Directors for cause upon 30 days' written notice thereof, and the term of any such agreement may not exceed one year, renewable by agreement of the parties for successive one-year periods.

Section 7. Mortgage Protection. Notwithstanding all of the provisions hereof:

(a) The liens created hereunder against any apartment and its appurtenant interest in the common elements shall be subject and subordinate to and shall not affect the rights of the holder of any indebtedness

secured by any recorded mortgage of such interest, made for value, provided that after the foreclosure of any such mortgage there shall be a lien upon the interest of the purchaser at such foreclosure sale to secure all assessments, whether regular or special, assessed hereunder to such apartment if falling due after the date of such foreclosure sale.

(b) All taxes, assessments and charges which may become liens prior to the first mortgage under the laws of the State of Hawaii shall relate only to the individual apartment units and not to the condominium Project as a whole.

(c) The Declaration and By-laws shall not give an apartment owner or any other party, priority over any rights of first mortgagees of apartment units pursuant to their mortgages in the case of a distribution to apartment owners of insurance proceeds or condemnation awards for losses to or a taking of apartment units and/or common elements.

Section 8. Partition or Subdivision. No apartment in the Project may be partitioned or subdivided without prior approval of a holder of any first mortgage lien of such apartment.

Section 9. Right of First Refusal Not Applicable. In the event that there shall be any right of first refusal to purchase any apartment by the Association, any first mortgagee who obtains title to an apartment pursuant to the remedies provided in the mortgage, or foreclosure of the mortgage or assignment of apartment lease in lieu of foreclosure, shall be exempt from such "right of first refusal".

Section 10. Unpaid Common Expenses or Assessments. Any first mortgagee who obtains title to the apartment pursuant to the remedies provided in the mortgage or foreclosure of the mortgage shall not be liable for such apartment's unpaid common expenses and assessments which accrue prior to the acquisition of title to such unit by the mortgagee. The unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the apartment owners, including the acquirer of such apartment, his successors and assigns.

Section 11. Release of Information. The Board of Directors may provide any information available to it pertaining to an apartment or the Project to the first mortgagee of such apartment and such mortgagee may provide any information to the Board of Directors regarding the mortgagor, the mortgagor's loan and the status of such loan.

Section 12. Conflicting Provisions and Amendment to Article VII. In the event of any conflict in the provisions of the Declaration or these By-Laws and the provisions of this Article VII, the provisions of this Article VII shall prevail. Notwithstanding any other provisions of the Declaration or these By-Laws, no amendment to this Article VII shall affect the rights of the holder of any mortgage

recorded in the Bureau of Conveyances, State of Hawaii, or filed in the Office of the Assistant Registrar of the Land Court, State of Hawaii, prior to the filing of such amendment, who does not join in the execution thereof.

ARTICLE VIII

MISCELLANEOUS

Section 1. By-Laws, Amendments, Copies. Except as otherwise provided in these Bylaws, these Bylaws may be amended in any respect not inconsistent with provisions of law or the Declaration by the affirmative vote or written consent of sixty-five per cent (65%) of the apartment owners and the written consent of the Lessor, effective only upon the recording of an instrument setting forth such amendment and vote duly executed by such owners or by any two officers of the Association. Upon the request of any apartment owner, mortgagee or other interested party, the Secretary or the Managing Agent shall supply such party with a copy of the By-Laws as amended and shall certify that such copy is current to the date of such certification; provided, however, that the requesting party shall pay a reasonable service charge plus the actual cost of reproduction.

Section 2. Liability and Indemnity of Directors and Officers. The members of the Board of Directors and officers shall not be liable to the apartment owners for any mistake of judgment or otherwise except for their own individual gross negligence or wilful misconduct. The Association shall indemnify each director and officer of the Association against all costs, expenses and liabilities, including the amount of judgments, amounts paid in compromise settlements and amounts paid for services of counsel and other related expenses which may be incurred by or imposed on him in connection with any claim, action, suit, proceeding, investigation or inquiry hereafter made, instituted, or threatened in which he may be involved as a party or otherwise by reason of his being or having been a director or officer, or by reason of any action taken or authorized or approved by him or any omission to act as director or officer, whether or not he continues to be a director or officer at the time of the incurring or imposition of such costs, expenses or liabilities, except such costs, expenses or liabilities as shall relate to matters as to which he is liable by reason of his negligence or misconduct toward the Association in the performance of his duties as such director or officer. As to whether or not a director or officer was liable by reason of negligence or misconduct toward the Association in the performance of his duties as such director or officer, in the absence of such final adjudication of the existence of such liability, the Board of Directors and each director and officer may conclusively rely upon an opinion of legal counsel selected by the Board of Directors. The foregoing right of indemnification shall not be exclusive of other rights to which any such director or officer may be entitled as a matter of law or otherwise, and shall inure to the benefit of the heirs, personal representatives, and assigns of each such director and officer.

Section 3. Audit. The members of the association of apartment owners may require by vote at the annual meeting a yearly audit of the association books by a certified public accountant.

Section 4. Waiver. The failure of the Board to insist in any one or more instances upon a strict performance of or compliance with any of the covenants of the apartment owner hereunder or to exercise any right or option herein contained, or to serve any notice, or to institute any action or summary proceeding, shall not be construed as a waiver, or a relinquishment for the future, of such covenant or option or right, but such covenant or option or right shall continue and remain in full force and effect. The receipt by the Board of any sum paid by the apartment owner hereunder, with or without knowledge by the Board of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver, express or implied, by the Board of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the President pursuant to authority contained in resolution of the Board of Directors.

Section 5. Conduct of Meetings. All Association and Board of Directors' meetings shall be conducted in accordance with the most current edition of Roberts Rules of Order.

Section 6. Minutes of Meetings. The minutes of meetings of the Board of Directors, and Association of Apartment Owners shall be available for examination by apartment owners at convenient hours at a place designated by the Board.

Section 7. Association May Incorporate. All of the rights, powers, obligations and duties of the Association imposed hereunder may be exercised and enforced by a non-profit membership corporation, formed under the laws of the State of Hawaii for the purposes herein set forth by the Association. Said corporation shall be formed upon the written approval of a majority of the voting apartment owners. The formation of said corporation shall in no way alter the terms, covenants and conditions set forth herein and the Articles and By-Laws of said corporation shall be subordinated hereto and controlled hereby. Any action taken by said corporation, which said action is in violation of any or all of the terms, covenants or conditions contained herein, shall be void and of no effect.

Section 8. Subordination. These By-Laws are subordinate and subject to all provisions of the Declaration and any amendments thereto and the Horizontal Property Act (Chapter 514A, Hawaii Revised Statutes, as amended) which shall control in case of any conflict. All terms herein (except where clearly repugnant to the context) shall have the same meaning as in the Declaration or said Horizontal Property Act.

Section 9. Interpretation. In case any provision of these By-Laws shall be held invalid, such invalidity shall not render invalid any other provision hereof which can be

given effect. Nothing in these By-Laws shall be deemed or construed to authorize the Association or Board of Directors to conduct or engage in any active business for profit on behalf of any or all of the apartment owners.

CERTIFICATE OF ADOPTION

The Trustees of the Estate of Bernice Pauahi Bishop, "Lessor," Lear Siegler, Inc., and Lear Siegler Properties, Inc., "Sublessor," and John D. Lusk & Son, "Developer," hereby adopt the foregoing as the Bylaws of the Association of Apartment Owners of The Heights at Wailuna, a horizontal property regime created by the Declaration of Horizontal Property Regime recorded contemporaneously with these By-Laws.

In Witness Whereof, the Lessor, Sublessor and Developer have executed these presents this 17th day of September, 1985.

[Signature] LEAR SIEGLER, INC.
[Signature] By [Signature]
Its Vice President
[Signature] LEAR SIEGLER PROPERTIES, INC.
Trustees of the Estate of
Bernice Pauahi Bishop
"Lessor"
By [Signature]
Its Vice President
"Sublessor"
JOHN D. LUSK & SON
By [Signature]
Its Vice President
"Developer"

APPROVED AS TO FORM
CONTENTS AND AUTHORIZATION

[Signature]
Documentary Department

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 26th day of September, 1985,
before me personally appeared Henry H. Peters,
Matsuo Takabuki and Richard Lyman, Jr.,
three of the Trustees of the Estate of Bernice Pauahi Bishop,
to me known to be the persons who severally executed the
foregoing instrument and acknowledged that they severally
executed the same as their free act and deed.

LM
LESLIE M. TAKUJAI
Notary Public, State of Hawaii
My commission expires Sept. 27, 1988

[Signature]
Notary Public, State of Hawaii

My Commission Expires: _____

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 17th day of September, 1985,
before me appeared HENRY F. ALVES, to me personally known,
who, being by me duly sworn, did say that he is the Vice
President of LEAR SIEGLER, INC., a Delaware corporation
authorized to do business in Hawaii; and that the seal
affixed to the foregoing instrument is the corporate seal of
said corporation and that said instrument was signed and
sealed in behalf of said corporation by authority of its
Board of Directors, and the said HENRY F. ALVES acknowledged
said instrument to be the free act and deed of said
corporation.

[Signature]
Notary Public, State of Hawaii

My Commission Expires: 10-12-87

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

)
) SS.
)

On this 17th day of September, 1985,
before me appeared HENRY F. ALVES, to me personally known,
who, being by me duly sworn, did say that he is the Vice
President of LEAR SIEGLER PROPERTIES, INC., a Delaware
corporation authorized to do business in Hawaii; and that
the seal affixed to the foregoing instrument is the
corporate seal of said corporation and that said instrument
was signed and sealed in behalf of said corporation by
authority of its Board of Directors, and the said HENRY F.
ALVES acknowledged said instrument to be the free act and
deed of said corporation.



Mary R. Rush
Notary Public, State of Hawaii

My Commission Expires: 10-12-87

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

)
) SS.
)

On this 17th day of September, 1985,
before me appeared ERNEST A. HARRIS, to me personally known,
who, being by me duly sworn, did say that he is Vice-
President of JOHN D. LUSK & SON, a California corporation
authorized to do business in the State of Hawaii, and that
the seal affixed to the foregoing instrument is the corporate
seal of said corporation and that said instrument was signed
and sealed in behalf of said corporation by authority of its
Board of Directors, and the said ERNEST A. HARRIS acknow-
ledged said instrument to be the free act and deed of said
corporation.



Mary R. Rush
Notary Public, State of Hawaii

My Commission Expires: 10-12-87

EXHIBIT A

WAILUNA

LOT 11B

LAND SITUATED AT WAI'IAU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,
Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Southeast corner of this parcel of land, on the Northwestern side of Kaahumanu Street, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 6988.05 feet North and 12,118.88 feet East and running by azimuths measured clockwise from true South:

1. 70° 00' 191.73 feet along the Northwestern side of Kaahumanu Street;
2. Thence along the Northwestern side of Kaahumanu Street, on a curve to the left with a radius of 2030.00 feet, the chord azimuth and distance being 68° 04' 10" 136.77 feet;
3. 160° 00' 109.61 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
4. 250° 00' 17.50 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
5. 160° 00' 142.36 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
6. 70° 00' 18.21 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;

7.	85° 42' 30"	7.77 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
8.	70° 00'	36.63 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
9.	86° 55' 30"	4.87 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
10.	70° 00'	35.43 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
11.	85° 24'	4.61 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
12.	70° 00'	34.63 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
13.	91° 42' 30"	3.94 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
14.	70° 00'	7.86 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
15.	100° 40'	31.62 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
16.	129° 12' 30"	5.86 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
17.	100° 40'	21.64 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
18.	114° 00'	56.53 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
19.	142° 26' 30"	44.84 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;

20. 118° 53' 10" 35.58 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
21. 181° 29' 30" 30.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
22. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the left
with a radius of 185.00 feet, the
chord azimuth and distance being
259° 37' 15" 76.11 feet;
23. 247° 45' 62.14 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
24. 157° 45' 151.74 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
25. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 140.00 feet,
the chord azimuth and distance
being 231° 10' 54" 18.79 feet;
26. 227° 20' 57.02 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
27. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
right with a radius of 110.00 feet,
the chord azimuth and distance
being 257° 13' 30" 109.64 feet;
28. 287° 07' 405.76 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
29. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 60.00 feet,
the chord azimuth and distance
being 285° 06' 59" 4.19 feet;
30. 17° 25' 42.32 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;

31. 38° 38' 6.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
32. 17° 25' 36.47 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
33. 342° 22' 30" 162.89 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
34. 252° 22' 30" 6.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
35. 342° 22' 30" 102.22 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu, to the point of
beginning and containing an area
of 5.050 Acres.

TOGETHER WITH Easements 1, 4, 6, 7, 8 and 9 for roadway and
access purposes, described as follows:

EASEMENT 1

FOR ROADWAY AND UTILITY PURPOSES

LAND SITUATED AT WAI'IAU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,

Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Southeast corner of this easement, on the
Northwesterly side of Kaahumanu Street, the coordinates of which
referred to Government Survey Triangulation Station "EWA CHURCH" being
6723.35 feet North and 11,536.62 feet East and running by azimuths
measured clockwise from true South:

1. Along the Northwesterly side of Kaahumanu Street, on a curve to
the left with a radius of 2030.00
feet, the chord azimuth and
distance being 56° 53' 12"
30.00 feet;

2. 146° 15' 36.46 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
3. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 185.00
feet, the chord azimuth and
distance being 130° 07' 30"
102.76 feet;
4. 114° 00' 156.58 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
5. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
right with a radius of 215.00
feet, the chord azimuth and
distance being 140° 07' 30"
189.34 feet;
6. 166° 15' 32.32 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
7. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
right with a radius of 215.00
feet, the chord azimuth and
distance being 179° 12' 30"
96.42 feet;
8. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
right with a radius of 105.00
feet, the chord azimuth and
distance being 204° 24' 20"
44.52 feet;
9. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 25.00 feet,
the chord azimuth and distance
being 191° 41' 54" 21.09 feet;
10. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
right with a radius of 25.00 feet,
the chord azimuth and distance
being 182° 00' 04" 13.15 feet;
11. 197° 15' 103.34 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;

12. 287° 15' 20.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
13. 17° 15' 68.70 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
14. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 10.00 feet,
the chord azimuth and distance
being 336° 21' 24" 13.09 feet;
15. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
right with a radius of 25.00 feet,
the chord azimuth and distance
being 302° 21' 32" 6.00 feet;
16. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 25.00 feet,
the chord azimuth and distance
being 284° 18' 30" 21.09 feet;
17. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
right with a radius of 105.00
feet, the chord azimuth and
distance being 271° 03' 22"
42.56 feet;
18. 282° 45' 132.18 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
19. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 185.00 feet,
the chord azimuth and distance
being 277° 07' 15" 36.29 feet;
20. 1° 29' 30" 30.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
21. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
right with a radius of 215.00
feet, the chord azimuth and
distance being 97° 07' 15"
42.18 feet;
22. 102° 45' 132.18 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;

23. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 75.00 feet, the chord azimuth and distance being 57° 27' 30" 106.60 feet;
24. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 185.00 feet, the chord azimuth and distance being 359° 12' 30" 82.97 feet;
25. 346° 15' 32.32 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
26. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 185.00 feet, the chord azimuth and distance being 320° 07' 30" 162.92 feet;
27. 294° 00' 156.58 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
28. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 215.00 feet, the chord azimuth and distance being 310° 07' 30" 119.43 feet;
29. 326° 15' 36.79 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, to the point of beginning and containing an area of 30,554 Square Feet.

EASEMENT 4
FOR ROAD AND UTILITY PURPOSES

LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,
Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Northeast corner of this easement, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 7008.56 feet North and 11,780.53 feet East and running by azimuths measured clockwise from true South:

1. 340° 00' 30.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
2. 70° 00' 144.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
3. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
right with a radius of 215.00
feet, the chord azimuth and
distance being 92° 00' 161.08
feet;
4. 114° 00' 261.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
5. 204° 00' 4.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
6. 114° 00' 15.04 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
7. 159° 00' 5.66 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;

8. 294° 00' 38.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
9. 204° 00' 23.88 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
10. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 20.00 feet,
the chord azimuth and distance
being 236° 29' 17" 21.49 feet;
11. 294° 00' 36.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
12. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 20.00 feet,
the chord azimuth and distance
being 339° 00' 28.28 feet;
13. 294° 00' 174.50 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
14. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 185.00 feet,
the chord azimuth and distance
being 272° 00' 138.60 feet;
15. 250° 00' 144.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu, to the point of
beginning and containing an area
of 17,297 Square Feet.

EASEMENT 6

FOR ROADWAY AND UTILITY PURPOSES

LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII.

Being a portion of Royal Patent 4475,

Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the most Westerly corner of this easement, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 7112.24 feet North and 12,073.12 feet East and running by azimuths measured clockwise from true South:

1. 252° 22' 30" 268.60 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
2. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 105.00 feet,
the chord azimuth and distance
being 203° 26' 15" 158.34 feet;
3. 154° 30' 313.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
4. 244° 30' 8.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
5. 334° 30' 55.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
6. 244° 30' 22.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
7. 334° 30' 8.50 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;

8. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being 289° 30' 28.28 feet;
9. 334° 30' 36.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
10. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being 19° 30' 28.28 feet;
11. 334° 30' 173.50 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
12. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 135.00 feet, the chord azimuth and distance being 23° 26' 15" 203.58 feet;
13. 72° 22' 30" 268.60 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
14. 162° 22' 30" 30.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, to the point of beginning and containing an area of 23,277 Square Feet.

EASEMENT 7
FOR ACCESS PURPOSES

LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,
Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Southwest corner of this easement, the
coordinates of which referred to Government Survey Triangulation
Station "EWA CHURCH" being 7313.33 feet North and 11,192.99 feet East
and running by azimuths measured clockwise from true South:

1. 197° 15' 50.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
2. 297° 44' 20.34 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
3. 17° 15' 46.30 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
4. 107° 15' 20.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu, to the point of
beginning and containing an area
of 963 Square Feet.

EASEMENT 8
FOR ACCESS PURPOSES

LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,
Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Northwest corner of this easement, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 7080.90 feet North and 11,244.47 feet East and running by azimuths measured clockwise from true South:

1. 294° 00' 36.54 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
2. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 20.00 feet,
the chord azimuth and distance
being 281° 29' 17" 8.67 feet;
3. 24° 00' 23.88 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
4. 114° 00' 38.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
5. 159° 00' 9.90 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
6. 204° 00' 15.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu, to the point of
beginning and containing an area
of 971 Square Feet

EASEMENT 9
FOR ACCESS PURPOSES

LAND SITUATED AT WAI'IAU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,
Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Northeast corner of this easement, the
coordinates of which referred to Government Survey Triangulation
Station "EWA CHURCH" being 7627.05 feet North and 12,287.87 feet East
and running by azimuths measured clockwise from true South:

1. 334° 30' 47.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
2. 64° 30' 22.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
3. 154° 30' 55.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
4. 244° 30' 9.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
5. 276° 06' 30" 15.26 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu, to the point of
beginning and containing an area
of 1158 Square Feet.

SUBJECT, HOWEVER, to Easements 2, 3 and 5 for roadway and utility purposes and portion of Easement 10 for drainage purposes, described as follows:

EASEMENT 2

THIRTY (30.00) FEET WIDE FOR ROADWAY AND UTILITY PURPOSES

LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,
Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Southwest corner of this easement, on the Northwestern side of Kaahumanu Street, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 6961.12 feet North and 12,044.90 feet East and running by azimuths measured clockwise from true South:

1. 160° 00' 101.32 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;

2. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 185.00 feet, the chord azimuth and distance being $133^{\circ} 33' 30''$ 164.76 feet;
3. $107^{\circ} 07'$ 161.87 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
4. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 185.00 feet, the chord azimuth and distance being $87^{\circ} 26'$ 124.62 feet;
5. $67^{\circ} 45'$ 103.14 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
6. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 215.00 feet, the chord azimuth and distance being $79^{\circ} 37' 15''$ 88.45 feet;
7. $181^{\circ} 29' 30''$ 30.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
8. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 185.00 feet, the chord azimuth and distance being $259^{\circ} 37' 15''$ 76.11 feet;
9. $247^{\circ} 45'$ 103.14 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
10. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 215.00 feet, the chord azimuth and distance being $267^{\circ} 26'$ 144.83 feet;
11. $287^{\circ} 07'$ 161.87 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
12. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 215.00 feet, the chord azimuth and distance being $313^{\circ} 33' 30''$ 191.47 feet;

13. 340° 00' 101.32 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
14. 70° 00' 30.00 feet along the Northwesterly side of
Kaahumanu Street, to the point of
beginning and containing an area
of 23,137 Square Feet.

EASEMENT 3

FOR ROADWAY AND UTILITY PURPOSES

LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,
Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Northwest corner of this easement, the
coordinates of which referred to Government Survey Triangulation
Station "EWA CHURCH" being 7008.56 feet North and 11,780.53 feet East
and running by azimuths measured clockwise from true South:

1. 250° 00' 203.22 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
2. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 20.00 feet,
the chord azimuth and distance
being 195° 30' 28" 32.56 feet;
3. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
right with a radius of 185.00
feet, the chord azimuth and
distance being 330° 30' 28"
61.02 feet;
4. 340° 00' 16.32 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
5. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 20.00 feet,
the chord azimuth and distance
being 115° 00' 28.28 feet;

6. 70° 00' 212.19 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
7. 160° 00' 30.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu, to the point of
beginning and containing an area
of 7178 Square Feet.

EASEMENT 5

FOR ROAD AND UTILITY PURPOSES

LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,

Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Northeast corner of this easement, the
coordinates of which referred to Government Survey Triangulation
Station "EWA CHURCH" being 7112.24 feet North and 12,073.12 feet East
and running by azimuths measured clockwise from true South:

1. 342° 22' 30" 30.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
2. 72° 22' 30" 26.16 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
3. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 20.00 feet,
the chord azimuth and distance
being 26° 11' 15" 28.86 feet;
4. 160° 00' 17.84 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;

5. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 215.00 feet, the chord azimuth and distance being 153° 33' 48.30 feet;
6. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being 289° 44' 15" 24.27 feet;
7. 252° 22' 30" 35.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, to the point of beginning and containing an area of 1599 Square Feet.

EASEMENT 10

FOR DRAINAGE PURPOSES

LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,

Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Southwest corner of this easement, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 6965.22 feet North and 12,056.17 feet East and running by azimuths measured clockwise from true South:

1. 160° 00' 117.20 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
2. 141° 50' 91.93 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
3. 218° 38' 134.39 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;

4. 228° 30'	48.60 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
5. 129° 00'	2.43 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
6. 219° 00'	5.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
7. 309° 00'	15.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
8. 39° 00'	5.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
9. 125° 00'	2.43 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
10. 48° 30'	49.41 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
11. 38° 38'	125.61 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
12. 321° 50'	85.60 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
13. 340° 00'	118.80 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
14. 70° 00'	10.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, to the point of beginning and containing an area of 3931 Square Feet.

SUBJECT FURTHER, HOWEVER, to the following:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.

2. Agreement for Issuance of Special Use Permit under Section 21-2.71 of the Comprehensive Zoning Code of the City and County of Honolulu (Am. Ord. 3234) dated December 17, 1981, recorded in Liber 16210 at Page 16, by the Trustees of the Estate of Bernice Pauahi Bishop, "Declarant", as amended by instruments dated June 15, 1982, recorded in Liber 16546 at Page 182, and dated June 15, 1982, recorded in Liber 16609 at Page 600.

3. Declaration of Covenants, Conditions and Restrictions for the Wailuna Recreation Association, dated February 9, 1979, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 14026, page 566, as heretofore amended and as may hereafter be amended from time to time; and

SUBJECT ALSO, to, and excepting and reserving all rights-of-way and easements shown on the map (if any) attached hereto or shown on said Condominium Map or heretofore or hereafter granted, leased or required by Lessor to construct, install, operate, maintain, repair and replace lines and other transmission facilities and appurtenances for electricity, gas, telephone, water, sewer, drainage, radio and television signal distribution and other services and utilities over, across and under said easements according to the respective designations thereof, the right to enter for such purposes, and to trim any trees in the way of such lines and the right to grant or lease to any public utility, governmental authority, the Association, State of Hawaii, City and County of Honolulu, Board of Water Supply, or in favor of land in the general vicinity of the land being hereby submitted to the Horizontal Property Regime, or other corporation or entity such easements, rights and rights-of-way under the terms and conditions required by the grantee or lessee for such easement rights; provided, however, that such easements, rights and rights-of-way must be exercised in such manner as to not unreasonably interfere with the use of the land being hereby submitted to the Horizontal Property Regime, and in connection with the installation,

maintenance or repair of any facilities pursuant to any of said easements, rights and rights-of-way, the premises shall be promptly restored by and at the expense of the person owning and exercising such easement rights to the condition of the premises immediately prior to the exercise thereof.

SUBJECT ALSO, to and excepting and reserving unto adjoining land utility easements and right-of-way easements for vehicular and pedestrian ingress and egress to and from said adjoining land over and across the roadways shown on said Condominium Map.

Description Checked


<u>Apartment Number</u>	<u>Type of Dwelling Unit</u>	<u>Percent Ownership of Common Elements</u>
31	5	3.2
32	7	3.2
33	4	3.2
34	1	3.2
35	7	3.2
36	5	3.2
37	1	3.2
38	7	3.2
39	5	3.2
40	4	4.0
41	7	3.2
42	4R	3.2
79	4	3.2
80	7R	3.2
81	1R	3.2
82	5R	3.2
83	7R	3.2
84	4R	3.2
85	5R	3.2
117	7	3.2
118	5	3.2
119	1	3.2
120	5	3.2
121	7	3.2
122	5M	3.2
123	4R	3.2
124	7R	3.2
125	1R	3.2
126	5R	3.2
127	7R	3.2
128	5	3.2

Where an "R" is set forth in the middle column entitled "Type of Dwelling Unit", this reflects that the floor plan of that particular dwelling unit is a mirror image of the type of designated dwelling unit. Where an "M" is set forth in the middle column entitled "Type of Dwelling Unit" (122 only), this reflects a modified location of the garage door.

EXHIBIT "B"

6/17/85

RECORDATION REQUESTED BY:

Liber 19285
Page 725

AFTER RECORDATION RETURN TO:

RETURN BY: MAIL ☐ PICKUP ☐

BY-LAWS OF THE
ASSOCIATION OF APARTMENT OWNERS OF
THE HEIGHTS AT WAILUNA, INCREMENT 2

DAMON, KEY, CHAR & BOCKEN
(CHARLES W. KEY)
1600 Pauahi Tower
1001 Bishop Street
Honolulu, Hawaii 96813
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2029C/576
12/12/85

BY-LAWS OF THE
ASSOCIATION OF APARTMENT OWNERS OF
THE HEIGHTS AT WAILUNA, INCREMENT 2

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BY-LAWS OF THE
ASSOCIATION OF APARTMENT OWNERS OF
THE HEIGHTS AT WAILUNA, INCREMENT 2

WHEREAS, THE TRUSTEES OF THE ESTATE OF BERNICE PAUAAHI BISHOP, herein called the "Lessor", own in fee simple that certain land described in the Declaration of Horizontal Property Regime hereinafter referred to; and

WHEREAS, LEAR SIEGLER, INC., a Delaware corporation authorized to do business in Hawaii, and LEAR SIEGLER PROPERTIES, INC., a Delaware corporation authorized to do business in Hawaii, whose places of business is 700 Bishop Street, Suite 1112, Honolulu, Hawaii, and whose post office address is P. O. Box 3230, Honolulu, Hawaii, herein called "Sublessor", are the Lessees named in that certain Bishop Estate Lease No. 27,480, dated December 13, 1984, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 18370 at page 272, demising said land;

WHEREAS, Lessor and Sublessor did lease said land to THE LUSK COMPANY, formerly known as John D. Lusk & Son, a California corporation authorized to do business in the State of Hawaii, whose principal place of business and post office address in Hawaii is Suite 1618, Davies Pacific Center, 841 Bishop Street, Honolulu, Hawaii 96813, herein called "Developer", by that Certain Bishop Estate Lease No. 27,480-A, dated April 3, 1985, recorded in said Bureau in Liber 18561, Page 710; and

WHEREAS, Developer has undertaken to improve said land pursuant to the terms of said Lease and in accordance with plans incorporated herein by reference and filed simultaneously herewith in said Bureau of Conveyances as Condominium Map No. _____; and

WHEREAS, the Lessor, Sublessor and Developer shall establish that certain condominium project to be known as

"THE HEIGHTS AT WAILUNA, INCREMENT 2"

by Declaration of Horizontal Property Regime to be recorded or filed of record in the State of Hawaii contemporaneously herewith;

NOW, THEREFORE, the following By-Laws shall apply to the above condominium project (herein called the "Project") situate on said land as described in and established by Declaration of Horizontal Property Regime (herein called the "Declaration") to be recorded or filed of record in the State of Hawaii contemporaneously herewith, and to all present and future owners, tenants and occupants of any apartments of the Project and to all other persons who shall at any time use the Project. The acquisition or rental of any apartment or the common element will signify that these By-Laws are accepted, ratified and will be complied with.

ARTICLE I

ASSOCIATION OF APARTMENT OWNERS

Section 1. Membership. All owners of apartments of the Project shall constitute the Association of Apartment Owners, herein called the "Association". The owner of any apartment upon acquiring title thereto shall automatically become a member of the Association and shall remain a member thereof until such time as his ownership of such apartment ceases for any reason, at which time his membership in the Association shall automatically cease. To such extent and for such purposes, including voting, as shall be provided by lease of any apartment filed with the Board of Directors of the Association, (herein called the "Board"), the lessee of an apartment shall be deemed to be the owner thereof. The purchaser of an apartment pursuant to an agreement of sale recorded in the bureau of conveyances or land court shall have all the rights of an apartment owner, including the right to vote, provided that the seller may retain the right to vote on matters substantially affecting his security interest in the apartment.

Section 2. Place of Meetings. Meetings of the Association shall be held at the Project or such other suitable place within the State convenient to the apartment owners as may be designated by the Board.

Section 3. Annual Meetings. The first meeting of the Association shall be held not later than one hundred eighty days after recordation of the first apartment conveyance; provided forty per cent or more of the Project has been sold and recorded. If forty per cent of the Project is not sold and recorded at the end of one year, an annual meeting shall be called; provided ten per cent of the apartment owners so request. Thereafter annual meetings of the Association shall be held within three months after the end of each accounting year.

Section 4. Special Meetings. Special meetings of the Association may be held at any time upon the call of the President or a petition signed by at least twenty-five per cent (25%) of the apartment owners and presented to the Secretary. No business shall be conducted except as stated in the notice thereof unless by consent of at least eighty per cent (80%) of the owners present, either in person or by proxy.

Section 5. Notice of Meetings. The Secretary shall give written or printed notice of each annual and special meeting to every apartment owner according to the Association's record of ownership, at least fourteen (14) days, if practicable, before the date set for such meeting, in any of the following ways: (a) by delivering it to him personally, or (b) by leaving it at his apartment in the Project or at his usual residence or place of business, or (c) by mailing it, postage prepaid, addressed to him at his address as it appears on the Association's record of ownership. The written or printed notice of meeting shall contain at least the following: A statement as to whether it is an annual or special meeting; the authority for the call of the meeting, the

place, day and hour of such meeting; the items on the agenda for such meeting; and a standard proxy form authorized by the Association, if any. If notice is given pursuant to the provisions of this section, the failure of any apartment owner to receive actual notice of any meeting shall in no way invalidate such meeting or any proceeding thereat. The presence of any apartment owner in person or by proxy at any meeting shall be deemed a waiver of any required notice to such owner unless he shall at the opening thereof object to the holding of such meeting because of the failure to give notice in accordance with the provisions hereof.

Section 6. Quorum. The presence at any meeting in person or by proxy of a majority of apartment owners shall constitute a quorum, and the acts of a majority of the apartment owners at any meeting at which a quorum is present shall be the acts of the Association except as otherwise provided herein. The term "majority of apartment owners" herein means the owners of apartments to which are appurtenant more than fifty per cent (50%) of the common interests as established by the Declaration, and any other specified percentage of the apartment owners means the owners of apartments to which are appurtenant such percentage of the common interests.

Section 7. Voting. Voting shall be on a percentage basis, and the percentage of the total vote to which each apartment is entitled shall be the percentage of the common interests assigned to such apartment in the Declaration. Votes may be cast in person or by proxy by the respective apartment owners as shown in the record of ownership of the Association. A personal representative, guardian or trustee may vote in person or by proxy at any meeting of the Association the percentage of vote for any apartment owned or controlled by him in such capacity, whether or not the same shall have been transferred to his name in the Association's record of ownership, provided that he shall first present evidence satisfactory to the Secretary that he owns or controls such apartment in such capacity. The vote for any apartment owned of record by two or more persons may be exercised by any one of them present at any meeting in the absence of protest by the other or others, and in case of protest each co-tenant shall be entitled to only a share of such vote in proportion to his share of ownership in such apartment.

Section 8. Proxies and Pledges.

(a) A proxy, to be valid, must be delivered to the secretary of the association of apartment owners or the managing agent, if any, at least by 4:30 p.m. two business days prior to the date of the meeting to which it pertains, and must contain at least: the name of the association of apartment owners, the date of the meeting of the association of apartment owners, the printed name and signature of the person or persons giving the proxy, the apartment or apartments for which the proxy is given, the printed name of the person or entity to whom the proxy is given, and the date that the proxy is given.

(b) A proxy shall only be valid for the meeting to which the proxy pertains and its adjournments, may designate

any person as proxy, and may be limited as the apartment owner desires and indicates.

(c) Proxies may be given to the board of directors as an entity.

(d) Nothing in this section shall affect the holder of any proxy under a first mortgage of record encumbering an apartment or under an agreement of sale affecting an apartment.

(e) No resident manager, or managing agent shall solicit, for use by such manager or managing agent, any proxies from any apartment owner of the association of owners which employs him, nor shall he cast any proxy vote at any association meeting except for the purpose of establishing a quorum.

(f) No member of a board of directors who uses association funds to solicit proxies, shall cast any proxy votes for the election or reelection of board members at any association meeting unless the proxy form specifically authorizes the board member to vote for the election or reelection of board directors.

Section 9. Adjournment. Any meeting of the Association may be adjourned from time to time to such place and time as may be determined by majority vote of the apartment owners present, whether or not a quorum be present, without notice other than the announcement at such meeting. At any such adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted by a quorum at the meeting as originally called.

Section 10. Order of Business. The order of business at all meetings of the Association shall be as follows:

- (a) Roll call.
- (b) Proof of notice of meeting.
- (c) Reading of minutes of preceding meeting.
- (d) Report of officers.
- (e) Report of committees.
- (f) Election of directors.
- (g) Unfinished business.
- (h) New Business.

ARTICLE II

BOARD OF DIRECTORS

Section 1. Number and Qualifications. The affairs of the Association shall be governed by a Board of Directors (the "Board") composed of not less than three (3) and not more than nine (9) persons; provided that if the Project has more than one hundred individual apartment units there shall be an elected board of not less than nine members unless not less than seventy-five per cent of all apartment owners vote by written ballot to set the minimum number of directors at less than nine during an annual meeting or special meeting called for the purpose of reducing the minimum number of directors. Each member of the Board shall be the sole owner or co-owner of

record of an apartment, or a vendee under an agreement of sale of an apartment, or a partner in a general partnership if such partnership is an owner of record or a general partner of a limited partnership if such partnership is an owner of record. If a corporation is an apartment owner, any officer of such corporation shall be eligible to serve as director so long as he remains an officer of such corporation. No resident manager of the Project shall be eligible to serve as director. The directors shall serve without compensation.

Section 2. Powers. The Board of Directors shall have all powers necessary for the administration of the affairs of the Association and may do all such acts and things therefor as are not by law, the Declaration or these By-Laws directed to be exercised or done only by the apartment owners.

Section 3. Election and Term. Election of directors shall be by a cumulative voting by secret ballot at each annual meeting and any special meeting called for that purpose. Directors shall hold offices for a period of three (3) years and until their respective successors have been elected, subject to removal as herein provided, except that at the first annual meeting one-third (1/3) of the directors shall be elected for one (1) year, one-third (1/3) for two (2) years and one-third (1/3) for three (3) years.

Section 4. Vacancies. Vacancies in the Board of Directors caused by any reason other than removal of a director by the Association shall be filled by vote of a majority of the remaining directors, even though they may constitute less than a quorum, and each person so elected shall be a director until his successor is elected at the next annual meeting of the Association. Death, incapacity or resignation of any director, or his continuous absence from the State of Hawaii for more than six months, or his ceasing to be the sole owner or co-owner of an apartment or vendee under an agreement of sale, shall cause his office to become vacant.

Section 5. Removal of Directors. At any regular or special meeting of the Association duly called, any one or more of the directors may be removed with or without cause by vote of a majority of apartment owners and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the apartment owners shall be given an opportunity to be heard at such meeting.

Section 6. Annual Meeting. Notice of the annual Board meeting shall be given in a reasonable manner at least fourteen (14) days, if practicable, prior to such meeting. At each such meeting the Board shall elect the officers of the Association for the ensuing year.

Section 7. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors, but at least one (1) such meeting shall be held during each calendar quarter of every year. Notice of regular meetings of the Board shall be given to each director, personally or by mail, telephone, or telegraph, at least one (1) day prior to the date of such meeting.

Section 8. Special Meetings. Special meetings of the Board of Directors may be called by the President on at least twenty-four (24) hours' notice to each director, given personally or by telephone or telegraph, which notice shall state the time, place and purpose of such meeting. Special meetings of the Board shall be called by the President or Secretary in like manner and with like notice on the written request of at least two (2) directors.

Section 9. Waiver of Notice. Before or at any meeting of the Board of Directors any director may in writing waive notice of such meeting, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall be a waiver of notice to him of such meeting. If all the directors are present at any meeting of the Board, no notice thereof shall be required, and any business may be transacted at such meeting.

Section 10. Quorum of Board. At all meetings of the Board of Directors a majority of the total number of directors shall constitute a quorum for the transaction of business, and the acts of a majority of the directors present at any meeting at which a quorum is present shall be the acts of the Board. If less than a quorum shall be present at any meeting of the Board, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 11. Board Meetings. All meetings of the Board of Directors shall be open to all members of the Association, provided that association members who are not on the board of directors may not participate in any deliberation or discussion unless expressly so authorized by the vote of a majority of a quorum of the board of directors. The board of directors, with the approval of a majority of a quorum of its members, may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters or litigation in which the association is or may become involved. The nature or any and all business to be considered in executive session shall first be announced in open session.

Section 12. Conflict of Interest. No director shall vote or cast proxy at any Board meeting on any issue in which he has a conflict of interest.

Section 13. Fidelity Bonds. The Board of Directors shall require that all officers, employees and agents of the Association handling or responsible for its funds, shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

ARTICLE III

OFFICERS

Section 1. Designation. The principal officers of the Association shall be a President, a Vice-President, a Secretary, and a Treasurer, all of whom shall be elected by, and in the case of the President from, the Board of Directors. The Board may appoint an Assistant Treasurer, an Assistant Secretary and such other officers as in its judgment may be necessary.

Section 2. Election and Term. The officers of the Association shall be elected annually by the Board of Directors at its annual meeting and shall hold office at the pleasure of the Board.

Section 3. Removal. Any officer may be removed either with or without cause by vote of a majority of the members of the Board of Directors, and his successor elected at any regular meeting of the Board or any special meeting called for such purpose.

Section 4. President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board of Directors. Subject to the control of the Board he shall exercise general supervision and direction over the management and conduct of the business and affairs of the Association. He shall also have such other powers and duties as may be provided by these By-Laws or assigned to him from time to time by the Board.

Section 5. Vice-President. The Vice-President shall assume and perform the duties of the President in the absence or disability of the President or whenever the office of President is vacant. He shall also have such other powers and duties as may be assigned to him from time to time by the Board.

Section 6. Secretary. The Secretary shall attend and keep the minutes of all meetings of the Association and of the Board of Directors, give all notices thereof as provided by these By-Laws, maintain and keep a continuous and accurate record of ownership of all apartments, have charge of such books, documents and records of the Association as the Board may direct, and in general perform all the duties incident to the office of Secretary. If the Secretary is not present at any meeting, the presiding officer shall appoint a secretary pro tempore who shall keep the minutes of such meeting and record them in the books provided for that purpose.

Section 7. Treasurer. The Treasurer shall maintain and keep the financial records and books of account of the Association, prepare regular reports thereof and be responsible for the proper deposit and custody in the name of the Association of all its funds and securities.

Section 8. Auditor. The Association may, by vote at the annual meeting, require a yearly audit of the Association books by a certified public accountant or accounting firm as auditor, who shall not be an officer of the Association nor own any interest in any apartment.

ARTICLE IV

ADMINISTRATION

Section 1. Management. The Board of Directors shall at all times manage and operate the Project and have such powers and duties as may be necessary or proper therefor including, without limitation, the following:

(a) Supervision of its immediate management and operation;

(b) Maintenance, repair, replacement and restoration of the common elements and any additions and alterations thereto (NOTE: In the event it becomes necessary to maintain or repair the drainage pipe within Easement D which affects Condo Lot 102, all such costs and expenses shall constitute common expenses; however, in the event such maintenance or repair results in damage to the residential unit constructed on said Condo Lot, then and in such event the owner of Apartment 102 shall be responsible to pay for the repair and reconstruction of said residential unit);

(c) Purchase, maintenance and replacement of any equipment and provision of all water, sewer and other utility services required for the common elements;

(d) Provision at each apartment of all water, sewer, electricity and such other utility services and utilities as the Board shall deem necessary either at the expense of such apartment or as a common expense as determined by the Board;

(e) Employment, supervision and dismissal of such personnel as may be necessary for the maintenance and operation of the Project;

(f) Preparation at least sixty (60) days before each fiscal year of a proposed budget and schedule of assessments for such year;

(g) Collection from each residential apartment owner of all assessments and other charges payable to Wailuna Recreation Association by each such apartment owner and payment of same to Wailuna Recreation Association;

(h) Collection of all installments of assessments levied and payment of all common expenses authorized by the Board;

(i) Purchase and maintenance in effect of all policies of hazard and liability insurance for the Project required by the Declaration and such other insurance and bonds as may be required or authorized by the Declaration or the Board;

(j) Custody and control of all funds of the Association, maintenance of full and accurate books of account and records of such funds and preparation of regular financial reports thereof;

(k) Notification of all persons having any interest in any apartment according to the Association's record of ownership of delinquency exceeding sixty (60) days in the payment of any assessment against such apartment; and

(l) Establishment of such late fees, penalties and fines as it deems appropriate with respect to enforcement of the provisions of the Declaration, these By-Laws and the house rules adopted pursuant to these By-Laws; provided such penalties and fines are not inconsistent with the law or the provisions herein, and the unpaid amount of such penalties and fines against any apartment owner shall constitute a lien against his interest in his apartment which may be foreclosed by the Board of Directors or Managing Agent in the same manner as provided in the Horizontal Property Act for common expenses.

Section 2. Managing Agent. The Board of Directors shall annually employ a responsible corporation authorized to do business in Hawaii as Managing Agent to manage and control the Project subject at all times to direction by the Board, with all the administrative functions set forth specifically in the preceding Section 1 and such other powers and duties and at such compensation as the Board may establish.

Section 3. Books of Receipts and Expenditures; Unpaid Assessments; Availability for Examination. The manager or board of directors shall keep detailed, accurate records in chronological order, of the receipts and expenditures affecting the common elements, specifying and itemizing the maintenance and repair expenses of the common elements and any other expenses incurred. The manager or board of directors shall also keep monthly statements indicating the total current delinquent dollar amount of any unpaid assessments for common expenses. All records and the vouchers authorizing the payments, and statements shall be kept and maintained at the address of the project, or elsewhere within the State as determined by the board of directors, and shall be available for examination by the apartment owners at convenient hours of week days.

Section 4. Representation. Except as provided for in Section 7 of Article V herein, the President or Managing Agent, subject to the direction of the Board of Directors, shall represent the Association or any two or more apartment owners similarly situated as a class in any action, suit, hearing or other proceeding concerning the Association, the common elements or more than one apartment, and on its or their behalf may institute, defend, intervene in, prosecute and settle any such actions, suits and proceedings, without prejudice to the rights of any apartment owners individually to appear, sue or be sued. Service of process on two or more apartment owners in any such action, suit or proceeding may be made on the President or Managing Agent. Every first mortgagee to whom the Lessee is required by the terms of the mortgage to pay same, or whenever there is no such mortgagee, every Managing Agent shall also be the agent of the respective Lessees under any apartment leases filed with the Board for the collection, custody and payment of all rent, taxes, assessments and other charges thereunder payable to their Lessor.

Section 5. Execution of Instruments. All checks, drafts, notes, acceptances, conveyances, contracts and other instruments shall be signed on behalf of the Association by such person or persons as shall be provided by general or special resolution of the Board of Directors or, in the absence of any such resolution applicable to such instrument, by the President or Vice-President and by the Treasurer or Secretary.

ARTICLE V

OBLIGATIONS OF APARTMENT OWNERS

Section 1. Assessments. All apartment owners shall pay to the Managing Agent in advance on the first day of each and every month: (a) The monthly installments of assessments against their respective apartments for common expenses of the Project; (b) Any assessments against an apartment pertaining to a limited common element appurtenant to such apartment; (c) All assessments against each apartment by Wailuna Recreation Association; and, (d) With respect to any lease of any apartment filed with the Board of Directors, a monthly sum determined by the Managing Agent to be sufficient to accumulate and pay when due all rent, taxes, assessments and other charges thereunder payable by the Lessee of such apartment.

In the event all said monthly charges are not received by the Managing Agent on or before the 15th day after said charges are due, the Managing Agent may assess a late payment charge in an amount not in excess of Fifteen Dollars (\$15.00) to the appropriate apartment owner; and if said charges, including said late payment charge, are not received within thirty (30) days after said monthly charges are due, an additional late charge in an amount not in excess of Fifteen Dollars (\$15.00) and interest at the rate of one per cent (1%) per month calculated from such due date may be assessed. The amount of the late charge and interest rate may be adjusted by the Board.

Section 2. Maintenance of Apartments and Condo Lots. Every apartment owner shall at his own expense at all times well and substantially repair, maintain, amend and keep his apartment and Condo lot (except for that portion of the front yard of Condo lot between the fence and the private street of the project), including, without limitation, all internal installations therein such as water, electricity, gas, telephone, sewer, sanitation, lights and all other fixtures and accessories belonging to such apartment and all foundations, walls, floors, roofs and ceilings of such apartment, with all necessary reparations and amendments whatsoever in good order and condition except as otherwise provided by law or the Declaration, and shall be liable for all loss or damage whatsoever caused by his failure to perform any such work diligently, and in case of such failure after reasonable notice to perform shall reimburse to the Association promptly on demand all expenses incurred by it in performing any such work authorized by the Board of Directors or the Managing Agent.

Note: The front yard of each Condo lot shall be planted and cultivated and maintained exclusively by the Association and any exterior painting of any apartment or other

improvements can be done only with the prior written consent of the Board of Directors.

Section 3. Damage to Common Elements. Every apartment owner and occupant shall reimburse the Association promptly on demand all expenses incurred by it in repairing or replacing any uninsured loss or damage to the common elements or any furniture, furnishment and equipment thereof caused by such owner or occupant or any person under either of them and shall give prompt notice to the Managing Agent of any such loss or damage or other defect in the Project when discovered.

Section 4. Restrictions on Use of Condo Lots. All Condo lots have a front yard area, a side yard area and a rear yard area, as hereinafter designated. There are one or more fences and walls along the various boundary lines of Condo lots, and there is normally a fence in the front portion of the condo lot that extends between and connects to adjacent dwelling units. The fences and walls that are common elements are shown on the Condo Map.

The three (3) yard areas above referred to are defined as follows:

(i) the front yard area of each Condo lot is that yard area of the Condo lot located between the front fence (and the garage and front of the dwelling unit) and the road that is a portion on the project;

(ii) the side yard area of the aforesaid specific Condo lots is that portion of the Condo lot located between adjoining dwelling units; and

(iii) the rear yard area of the aforesaid specific Condo lots is the remaining portion of the Condo lot which is that land area behind the house which is that part of the dwelling unit furthest from the garage.

There are certain restrictions on the use of the three (3) different yard areas, as follows:

(i) The front yard shall be planted and cultivated and landscaped and maintained exclusively by the Association for the exclusive benefit of the apartment owner.

(ii) The side yard shall be planted and cultivated and landscaped by the apartment owner but this area shall be a passive type of area (a no activity area) because of the proximity of the adjoining dwelling unit. This side yard is basically for use for ingress and egress and there shall be no continuing activities permitted in this area. In addition, no fences, walls or other improvements or hedges or other dense plantings shall be permitted or allowed that tends to cut down on or restrict the natural light and the natural circulation of air. Likewise no additional artificial lighting of the side yard shall be permitted.

(iii) The rear yard shall be deemed to be the active area for normal and typical activities relating to

family usage of a private yard. In addition, however, the following Condo lots have an area known as a environmental protective corridor (EPC): 86, 87 and 96 through 116, inclusive. No plants, trees or other landscaping or fences or walls or other improvements or the placing of any item of personal property of any kind shall be permitted to exist with an EPC area that exceed two and one half (2-1/2) feet in height above existing grade.

Section 5. Restrictions on Use of Project.

(a) The apartments shall be used only for such purposes as stated in the Declaration.

(b) All common elements of the project shall be used only for their respective purposes as designed.

(c) No apartment owner or occupant shall plant or cultivate or landscape the common elements or the front portion of the Condo lot or place, store or maintain within or upon any of the common elements any furniture, packages or objects of any kind or otherwise obstruct transit through such common elements or the front portion of the condo lot.

(d) There shall be strict compliance with the terms and conditions of article VI of these bylaws entitled "Architectural Control."

(e) No improvements or movable personal property in excess of two and one-half (2-1/2) feet in height above existing grade shall be constructed or permitted to exist within five (5) feet of any condo lot boundary line.

(f) No plants, trees or other landscaping or fences or walls or other improvements or the placing of any item of personal property of any kind shall be permitted to exist with an EPC area that exceed two and one half (2-1/2) feet in height above existing grade.

(g) Except as otherwise restricted herein, no plants or hedges, trees or other landscaping shall be permitted within the side yard or rear yard of any Condo lot that shall extend above the existing roof line of the dwelling unit as it appears in the initial Condominium Map.

(h) No improvement shall be constructed on a Condo lot that shall increase the square footage of the dwelling unit by more than 350 square feet as it appears in the initial Condominium Map and no improvement shall be added above the roof line of the dwelling unit as shown on the initial Condominium Map.

(i) Every apartment owner and occupant shall at all times keep his apartment and Condo lot neat and clean and in a strictly clean and sanitary condition, and each apartment owner and occupant shall observe and perform all laws, ordinances, rules and regulations now or hereafter made by any governmental authority or the Association for the time being applicable to the use of the Project.

(j) No apartment owner or occupant shall make or suffer any strip or waste or unlawful, improper or offensive use of his apartment and Condo lot or the Project or the common elements nor alter or remove any furniture, furnishings or equipment of the common elements.

(k) All occupants shall avoid making noises and using musical instruments, radios, televisions and amplifiers in such manner as may disturb other occupants;

(l) No garments, rugs or other objects shall be hung from the windows or facades of any building or otherwise displayed in public view.

(m) No rugs or other objects shall be dusted or shaken from the windows or doors of any apartment or cleaned by beating or sweeping on any walkways, lanais, entries or other exterior part of the Project.

(n) No livestock, poultry, rabbits or other animals whatsoever shall be allowed or kept in any part of the project except that dogs, cats and other household pets in reasonable number may be kept by the apartment owners and occupants in their respective apartments and Condo lots but shall not be kept, bred or used therein for any commercial purpose nor allowed on any common elements except in transit when carried or on leash, provided that any such pet causing a nuisance or unreasonable disturbance to any other occupant of the project shall be permanently removed therefrom promptly upon notice given by the Board of Directors or Managing Agent.

(o) No apartment owner or occupant shall without the written approval of the Board of Directors install any wiring for electrical or telephone installations, machines or air conditioning units, or other equipment or appurtenances whatsoever on the exterior of any building of the project or protruding through the walls, windows or roof thereof.

(p) No apartment owner or occupant shall without the prior written approval of the Board of Directors and Lessor, erect, place or maintain any television or other antennas, or solar energy systems or any other types of objects or equipment on any building visible from any point outside of his apartment.

(q) Nothing shall be allowed, done or kept in any apartment or common elements of the project which would overload or impair the floors, walls, or roofs thereof, or cause any increase in the ordinary premium rates or the cancellation or invalidation of any insurance thereon maintained by or for the Association.

(r) No signs whatsoever, including without limitation, commercial, political or similar signs, visible from neighboring property shall be erected or maintained upon or within any apartment or Condo lot except:

(i) Such signs as may be required by legal proceedings;

(ii) Apartment identification signs of a combined total face area of one square foot or less for each resident;

(iii) Not more than one "For Sale" or "For Rent" sign having a maximum face area of three square feet, such sign to refer only to the premises on which it is situated.

(s) No house trailer, mobile home, tent or similar facility or structure shall be kept, placed or maintained upon or within any Condo lot at any time.

(t) No boat or trailer or truck of more than one-ton capacity shall be kept, placed or maintained upon or within any Condo lot.

(u) No trailer, vehicle or boat shall be constructed, or reconstructed or repaired upon or within any Condo lot in such a manner that such construction, reconstruction or repair is visible from neighboring Condo lots, nor shall any vehicle not in good operating condition be maintained upon or within any Condo lot so as to be visible from any neighboring Condo lot, provided that nothing in this paragraph shall prevent an apartment owner from performing maintenance work or minor repairs on his own trailer, vehicle or boat in his garage.

(v) No open storage of furniture, fixtures, appliances and other goods and chattels not in active use will be permitted within a Condo lot so as to be visible from neighboring Condo lot, and no outside clothes lines or other outside clothes drying or airing facilities shall be permitted when they are visible from neighboring Condo lot.

(w) An apartment owner shall not permit any exterior fires whatsoever within the Condo lot, except small barbecue and imu fires, and shall not permit any condition on or within his Condo lot which creates a fire hazard.

(x) An apartment owner shall not park his car on any portion of his Condo lot visible from any adjacent Condo lot, except in a garage or on a paved driveway area, and boats, trailers or truck campers will not be kept within or on any Condo lot except in a garage.

(y) No garage shall be used in a manner inconsistent to the use of same for other than the parking of vehicles and boats.

(z) Each apartment owner and occupant shall do what is necessary to preserve and maintain the drainage patterns on his Condo lot and adjoining Condo lots.

Section 6. House Rules and Regulations. The Board, upon giving notice to all apartment owners in the same manner as herein provided for notice of meetings of the Association and opportunity to be heard thereon, may adopt, amend or repeal any supplemental rules and regulations (sometimes referred to as "house rules") governing the details of the operation and use of the common elements not inconsistent with Declaration or these Bylaws or any provision of the law.

Section 7. Default in Payment of Assessments. Each monthly assessment and each special assessment of the Association and all assessments of Wailuna Recreation Association and all other assessments chargeable to an apartment owner under Article V shall be separate, distinct and personal debts and obligations of the apartment owner against whom the same are assessed. In the event of a default or defaults in payment of any such assessment or assessments and in addition to any other remedies herein or by law provided, the Board of Directors may enforce each such obligation as follows:

(a) By suit or suits at law to enforce each such assessment obligation. Each such action must be authorized by the Board at a regular or special meeting thereof and any such suit may be instituted by any one member of the Board or by the Managing Agent. Each such action shall be brought in the name of the Board and the Board shall be deemed to be acting on behalf of all the apartment owners. Any judgment rendered in any such action shall include, where permissible under any law, a sum for reasonable attorneys' fees in such amount as the Court may adjudge against such defaulting apartment owner. Upon full satisfaction of any such judgment, it shall be the duty of the Board to authorize any two members thereof, acting in the name of the Board, to execute and deliver to the judgment debtor an appropriate satisfaction thereof.

(b) At any time after the occurrence of any such default, the Board may give a notice to the defaulting apartment owner, with a copy to the mortgagee of such apartment owner, if such mortgagee has furnished its name and address to the Board, which said notice shall state the date of the delinquency, the amount of the delinquency and make a demand for payment thereof. If such delinquency is not paid within ten (10) days after delivery of such notice, the Board may elect to file a claim of lien against the apartment of such delinquent apartment owner. Such claim of lien shall state (1) the name of the delinquent apartment owner or reputed apartment owner, (2) a description of the apartment against which claim of lien is made, (3) the amount claimed to be due and owing (with any proper offset allowed), (4) that the claim of lien is made by the Board pursuant to the terms of these By-Laws and of Chapter 514A, Hawaii Revised Statutes, as amended, and (5) that a lien is claimed against said described apartment in an amount equal to the amount of the stated delinquency. Any such claims of lien shall be signed and acknowledged by any two or more members of the Board and shall be dated as of the date of the execution by the last such Board member to execute said claim of lien. Upon recordation of a duly executed original or copy of such claim of lien with the Bureau of Conveyances or the Assistant Registrar of the Land Court of the State of Hawaii, the Board shall have all remedies provided in Section 514A-90, Hawaii Revised Statutes, as amended. Each default shall constitute a separate basis for a claim of lien or a lien. In the event the foreclosure is under power of sale, the Board, or any person designated by it in writing, shall be entitled to actual expenses and such fees as may be allowed by law or

as may be prevailing at the time the sale is conducted. The certificate of sale shall be executed and acknowledged by any two members of the Board or by the person conducting the sale.

(c) For the purposes of this Section 7, a certificate executed and acknowledged or made under penalty of perjury by the Managing Agent or by any two members of the Board shall be conclusive upon the Board and the apartment owners in favor of any and all persons who rely thereon in good faith as to the matters therein contained (except for any subsequently dishonored checks), and any apartment owner shall be entitled to such a certificate setting forth the amount of any due and unpaid assessments with respect to his apartment (or the fact that all assessments due are paid if such is the case) within fifteen (15) days after demand therefor and upon payment of a reasonable fee as established by the Board. In the event any claims of liens have been recorded and thereafter the Board shall receive payment in full of the amount claimed to be due and owing, then upon demand of the apartment owner or his successor, and payment of a reasonable fee, as established by the Board, the Managing Agent or the Board, acting by any two members, shall execute and acknowledge (in the manner provided above) a release of lien, stating the date of the original claim of lien, the amount claimed, the date, the recordation data if recorded in the Bureau of Conveyances or the document number if filed in the Land Court, the fact that the lien has been fully satisfied and that the particular lien is released and discharged, such release of lien to be delivered to the apartment owner or his successor upon payment of the fee.

Section 8. Record of Ownership. Every apartment owner shall promptly cause to be duly recorded or filed of record the deed, lease, assignment, Agreement of Sale or other conveyance to him of such apartment or other evidence of his title thereto and shall file such document with and present such other evidence of his title to the Board of Directors through the Managing Agent. The Managing Agent or the Board of Directors shall maintain all such information together with an accurate and current list of members of the Association which shall include their current addresses and shall also maintain a record of the names and addresses of the vendees of an apartment under an agreement of sale, if any. The list shall be maintained at a place designated by the Board of Directors.

ARTICLE VI

ARCHITECTURAL CONTROL

Section 1. Appointment of Architectural Committee. The Board of Directors shall appoint an Architectural Committee, consisting of not less than three (3) members, who shall serve at the pleasure of the Board. The members of such Committee shall not be entitled to any compensation for services performed pursuant to this covenant. Said representatives may be the members of the Board of Directors of the Association.

The Committee in its discretion, may promulgate from time to time standards as to landscaping, building, fences, walls or other structures that do not conflict with provisions of the Declaration or those bylaws.

Section 2. Architectural Approval. No building, fence, wall or other structure shall be commenced, erected or maintained upon the project, nor shall any exterior addition to or change or alteration therein, including patio covers and antennas, be made until the plans and specification showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Committee and Lessor.

Section 3. Environmental Protective Corridors. It is the desire of the Association to protect certain environmental corridors within certain condo lots. Consequently, those certain Condo lots listed in Section 4 of Article V and shown on the Condominium Map have shaded areas within the rear yard in which nothing may be built with a height greater than two and one half (2 1/2) feet above existing grade and nothing may be planted which grows to a height in excess of two and one half (2 1/2) feet above existing grade. These areas are known as the "EPC" areas.

All of the foregoing notwithstanding, if two adjacent apartment owners so agree in writing, they may, with the prior written approval of the Architectural Committee, construct a fence or wall between their Condo lots to a height not exceeding six (6) feet above the highest finished dwelling unit slab. Should such a wall or fence be desired, then the apartment owner proposing such a wall must have his neighbor's permission attached to and made a part of the drawing which he submits to the Architectural Committee for approval, and prior to granted approval of the fence in writing the Architectural Committee must assure itself that said fence will not adversely affect any EPC area in the project.

Section 4. Landscaping Approval. The provisions of this Section 4 are subordinate to the provisions of Section 3 above set forth. No trees, bushes, shrubs or plants which at maturity, and without clipping or pruning thereof, would exceed the height of the dwelling house on a Condo lot shall be planted or emplaced until the plans and specifications for the placement of any such trees, bushes, shrubs or plants have been submitted to and approved in writing by the Architectural Committee as to the preservation of the natural view and aesthetic beauty which each Condo lot is intended to enjoy. Said plans as submitted shall show in detail the proposed elevations and locations of said trees, bushes, shrubs or plants, including the location and elevation of same in relation to all other Condo lots subject to these restrictions. Approval of said plans by the Architectural Committee may be withheld if in the reasonable opinion of the Committee the view of any Condo lot would be impeded by the location of such tree, bush, shrub or plant, or in any other manner. In any event, the Architectural Committee shall have the right to require any member to remove, trim, top, or prune any tree, or shrub, which in the reasonable

belief of the Architectural Committee impedes or detracts from the view of any Condo lot.

Section 5. Lanai Structures, Sun Shades and Gazebos. Structures in this section shall be designed to continue and/or complement architectural features of the dwelling unit. The exterior appearance of the addition shall be built and finished to match the color and trim of the dwelling unit. No such structure shall be built within a EPC area.

Section 6. Repainting. All repainting of exterior surfaces must have the prior written approval of the Architectural Committee.

Section 7. Consents. The Architectural Committee is required to communicate within a reasonable period of time. In the event that the committee and Lessor fails to approve or disapprove of plans and specifications and design within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required, and this Article will be deemed to have been fully complied with.

ARTICLE VII

MORTGAGES AND MORTGAGEES

Section 1. Notice to Board of Directors. An apartment owner who mortgages his interest in an apartment shall notify the Association of the name and address of his mortgagee and within ten (10) days after the execution of the same shall file a conformed copy of such mortgage with the Association; the Association shall maintain such information in a book entitled "Mortgages of Apartments".

Section 2. Notice of Meetings. A mortgagee of an apartment will, upon request, be entitled to written notice of all meetings of the Association and will be entitled to designate a representative to attend all such meetings.

Section 3. Notice of Unpaid Common Expenses and Assessment of Wailuna Recreation Association. The Association whenever so requested in writing by an owner or mortgagee of an interest in an apartment shall promptly report any then unpaid assessments or common expenses due from the apartment owner involved.

Section 4. Notice of Default. The Board, when giving notice to an apartment owner of a default in paying common expenses or other default, shall send a copy of such notice to each holder of a mortgage covering such apartment or interest therein whose name and address has theretofore been furnished to the Association. In each and every case where the lender-mortgagee has made a request, the Association shall notify the lender-mortgagee of any unpaid assessments that are thirty (30) days delinquent or more.

Section 5. Examination of Books. Each apartment owner and each mortgagee shall be entitled to examine the books and records of the Association or the Project at reasonable

times on business days, but an owner may not examine said books more than once a month. Each mortgagee shall have the right to require the Board of Directors or the Association to provide such mortgagee with an annual financial statement of the Project within ninety (90) days following the end of each fiscal year of the Project, and such other annual reports and financial data as may be reasonable.

Section 6. Management Contracts. Any management agreement for the Project will be terminable by the Board of Directors for cause upon 30 days' written notice thereof, and the term of any such agreement may not exceed one year, renewable by agreement of the parties for successive one-year periods.

Section 7. Mortgage Protection. Notwithstanding all of the provisions hereof:

(a) The liens created hereunder against any apartment and its appurtenant interest in the common elements shall be subject and subordinate to and shall not affect the rights of the holder of any indebtedness secured by any recorded mortgage of such interest, made for value, provided that after the foreclosure of any such mortgage there shall be a lien upon the interest of the purchaser at such foreclosure sale to secure all assessments, whether regular or special, assessed hereunder to such apartment if falling due after the date of such foreclosure sale.

(b) All taxes, assessments and charges which may become liens prior to the first mortgage under the laws of the State of Hawaii shall relate only to the individual apartment units and not to the condominium Project as a whole.

(c) The Declaration and By-laws shall not give an apartment owner or any other party, priority over any rights of first mortgagees of apartment units pursuant to their mortgages in the case of a distribution to apartment owners of insurance proceeds or condemnation awards for losses to or a taking of apartment units and/or common elements.

Section 8. Partition or Subdivision. No apartment in the Project may be partitioned or subdivided without prior approval of a holder of any first mortgage lien of such apartment.

Section 9. Right of First Refusal Not Applicable. In the event that there shall be any right of first refusal to purchase any apartment by the Association, any first mortgagee who obtains title to an apartment pursuant to the remedies provided in the mortgage, or foreclosure of the mortgage or assignment of apartment lease in lieu of foreclosure, shall be exempt from such "right of first refusal".

Section 10. Unpaid Common Expenses or Assessments. Any first mortgagee who obtains title to the apartment pursuant to the remedies provided in the mortgage or foreclosure of the mortgage shall not be liable for such apartment's unpaid common

expenses and assessments which accrue prior to the acquisition of title to such unit by the mortgagee. The unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the apartment owners, including the acquirer of such apartment, his successors and assigns.

Section 11. Release of Information. The Board of Directors may provide any information available to it pertaining to an apartment or the Project to the first mortgagee of such apartment and such mortgagee may provide any information to the Board of Directors regarding the mortgagor, the mortgagor's loan and the status of such loan.

Section 12. Conflicting Provisions and Amendment to Article VII. In the event of any conflict in the provisions of the Declaration or these By-Laws and the provisions of this Article VII, the provisions of this Article VII shall prevail. Notwithstanding any other provisions of the Declaration or these By-Laws, no amendment to this Article VII shall affect the rights of the holder of any mortgage which was recorded in the Bureau of Conveyances, State of Hawaii, or filed in the Office of the Assistant Registrar of the Land Court, State of Hawaii, prior to the filing of such amendment, who does not join in the execution thereof.

ARTICLE VIII

MISCELLANEOUS

Section 1. By-Laws, Amendments, Copies. Except as otherwise provided in these Bylaws, these Bylaws may be amended in any respect not inconsistent with provisions of law or the Declaration by the affirmative vote or written consent of sixty-five per cent (65%) of the apartment owners and the written consent of the Lessor, effective only upon the recording of an instrument setting forth such amendment and vote duly executed by such owners or by any two officers of the Association. Upon the request of any apartment owner, mortgagee or other interested party, the Secretary or the Managing Agent shall supply such party with a copy of the By-Laws as amended and shall certify that such copy is current to the date of such certification; provided, however, that the requesting party shall pay a reasonable service charge plus the actual cost of reproduction.

Section 2. Liability and Indemnity of Directors and Officers. The members of the Board of Directors and officers shall not be liable to the apartment owners for any mistake of judgment or otherwise except for their own individual gross negligence or wilful misconduct. The Association shall indemnify each director and officer of the Association against all costs, expenses and liabilities, including the amount of judgments, amounts paid in compromise settlements and amounts paid for services of counsel and other related expenses which may be incurred by or imposed on him in connection with any claim, action, suit, proceeding, investigation or inquiry hereafter made, instituted, or threatened in which he may be involved as a party or otherwise by reason of his being or having been a

director or officer, or by reason of any action taken or authorized or approved by him or any omission to act as director or officer, whether or not he continues to be a director or officer at the time of the incurring or imposition of such costs, expenses or liabilities, except such costs, expenses or liabilities as shall relate to matters as to which he is liable by reason of his negligence or misconduct toward the Association in the performance of his duties as such director or officer. As to whether or not a director or officer was liable by reason of negligence or misconduct toward the Association in the performance of his duties as such director or officer, in the absence of such final adjudication of the existence of such liability, the Board of Directors and each director and officer may conclusively rely upon an opinion of legal counsel selected by the Board of Directors. The foregoing right of indemnification shall not be exclusive of other rights to which any such director or officer may be entitled as a matter of law or otherwise, and shall inure to the benefit of the heirs, personal representatives, and assigns of each such director and officer.

Section 3. Audit. The members of the association of apartment owners may require by vote at the annual meeting a yearly audit of the association books by a certified public accountant.

Section 4. Waiver. The failure of the Board to insist in any one or more instances upon a strict performance of or compliance with any of the covenants of the apartment owner hereunder or to exercise any right or option herein contained, or to serve any notice, or to institute any action or summary proceeding, shall not be construed as a waiver, or a relinquishment for the future, of such covenant or option or right, but such covenant or option or right shall continue and remain in full force and effect. The receipt by the Board of any sum paid by the apartment owner hereunder, with or without knowledge by the Board of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver, express or implied, by the Board of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the President pursuant to authority contained in resolution of the Board of Directors.

Section 5. Conduct of Meetings. All Association and Board of Directors' meetings shall be conducted in accordance with the most current edition of Roberts Rules of Order.

Section 6. Minutes of Meetings. The minutes of meetings of the Board of Directors, and Association of Apartment Owners shall be available for examination by apartment owners at convenient hours at a place designated by the Board.

Section 7. Association May Incorporate. All of the rights, powers, obligations and duties of the Association imposed hereunder may be exercised and enforced by a non-profit membership corporation, formed under the laws of the State of Hawaii for the purposes herein set forth by the Association. Said corporation shall be formed upon the written approval of a majority of the voting apartment owners. The formation of said corporation shall in no way alter the terms, covenants and conditions set forth herein and the Articles and By-Laws of

said corporation shall be subordinated hereto and controlled hereby. Any action taken by said corporation, which said action is in violation of any or all of the terms, covenants or conditions contained herein, shall be void and of no effect.

Section 8. Subordination. These By-Laws are subordinate and subject to all provisions of the Declaration and any amendments thereto and the Horizontal Property Act (Chapter 514A, Hawaii Revised Statutes, as amended) which shall control in case of any conflict. All terms herein (except where clearly repugnant to the context) shall have the same meaning as in the Declaration or said Horizontal Property Act.

Section 9. Interpretation. In case any provision of these By-Laws shall be held invalid, such invalidity shall not render invalid any other provision hereof which can be given effect. Nothing in these By-Laws shall be deemed or construed to authorize the Association or Board of Directors to conduct or engage in any active business for profit on behalf of any or all of the apartment owners.

Section 10. Nonapplicability of Certain Provisions to Certain Apartments. Notwithstanding any of the provisions herein contained in these By-Laws or contained in the Declaration, the following provisions of these By-Laws do not apply to Apartment 90 (land areas 88, 89, 90 and 95) and do not apply to Apartments 91, 92, 93 and 94:

(1) The terms and provisions of Section 4 of Article V of these By-Laws;

(2) The terms and provisions of Subsections (c), (d), (e), (f), (g), (h), and (r) of Section 5 of Article V of these By-Laws; and

(3) The terms and provisions of Article VI of these By-Laws.

This Section 10 of Article VIII cannot be amended without the Lessor's and Developer's prior written consent, and Developer and Lessor hereby reserves the right from time to time to amend this Section 10 of these By-Laws and the Sections and Subsections of the By-Laws hereinabove referred to at any time prior to June 30, 1992 (or such other date as may be hereafter determined and established in writing by the Lessor) without the consent or joinder of persons then owning or leasing apartments.

CERTIFICATE OF ADOPTION

The Trustees of the Estate of Bernice Pauahi Bishop, "Lessor," Lear Siegler, Inc., and Lear Siegler Properties, Inc., "Sublessor," and The Lusk Company, "Developer," hereby adopt the foregoing as the Bylaws of the Association of Apartment Owners of The Heights at Wailuna, a horizontal property regime

created by the Declaration of Horizontal Property Regime recorded contemporaneously with these By-Laws.

In Witness Whereof, the Lessor, Sublessor and Developer have executed these presents this 27th day of January, 1986.

Raymond B. Thompson

LEAR SIEGLER, INC.

Richard L. Lusk

By Henry A. Glue
Its Vice President

Richard Lusk

LEAR SIEGLER PROPERTIES, INC.

Trustees of the Estate of
Bernice Pauahi Bishop

"Lessor"

By Henry A. Glue
Its Vice President

"Sublessor"

THE LUSK COMPANY

By Bernice A. Lusk
Its Vice President

"Developer"

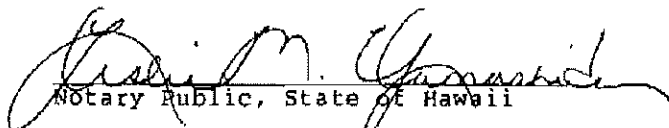
APPROVED AS TO FORM
CONTENTS AND AUTHORIZATION

Bernice A. Lusk
Deputy Secretary

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 4th day of February, 1986,
before me personally appeared Myron J. Thompson,
Matsuo Takebuki and Richard Loman, Jr.,
three of the Trustees of the Estate of Bernice Pauahi Bishop,
to me known to be the persons who severally executed the
foregoing instrument and acknowledged that they severally
executed the same as their free act and deed.


LESLIE M. YAMASHITA
Notary Public, State of Hawaii
My Commission Expires Sept. 27, 1988


Notary Public, State of Hawaii

My Commission Expires: _____

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 28th day of January, 1986,
before me appeared HENRY F. ALVES, to me personally known, who,
being by me duly sworn, did say that he is the Vice President
of LEAR SIEGLER, INC., a Delaware Corporation authorized to do
business in Hawaii; and that the seal affixed to the foregoing
instrument is the corporate seal of said Corporation and that
said instrument was signed and sealed in behalf of said
Corporation by authority of its Board of Directors, and the
said HENRY F. ALVES acknowledged said instrument to be the free
act and deed of said Corporation.


Notary Public, State of Hawaii

My Commission Expires: 11-30-86

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 28th day of January, 1986,
before me appeared HENRY F. ALVES, to me personally known, who,
being by me duly sworn, did say that he is the Vice President
of LEAR SIEGLER PROPERTIES, INC., a Delaware corporation
authorized to do business in Hawaii; and that the seal affixed
to the foregoing instrument is the corporate seal of said
corporation and that said instrument was signed and sealed in
behalf of said corporation by authority of its Board of
Directors, and the said HENRY F. ALVES acknowledged said
instrument to be the free act and deed of said corporation.

Carol A. Ott

Notary Public, State of Hawaii

My Commission Expires: 11-00-86

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 27th day of January, 1988,
before me appeared ERNEST A. HARRIS, to me personally known,
who, being by me duly sworn, did say that he is Vice President
of THE LUSK COMPANY, a California corporation authorized to do
business in the State of Hawaii, and that the seal affixed to
the foregoing instrument is the corporate seal of said corpora-
tion and that said instrument was signed and sealed in behalf
of said corporation by authority of its Board of Directors, and
the said ERNEST A. HARRIS acknowledged said instrument to be
the free act and deed of said corporation.

Mary R. Ruck
Notary Public, State of Hawaii

My Commission Expires: 10-12-87

L.S.

RECORDATION REQUESTED BY:

We hereby certify that this is a true copy of the original
filed as Land Court Document No. _____ and /or
recorded in Liber. 19486 on Page 518
on MAY 7 1986 (a 2:16 pm)

AFTER RECORDATION RETURN TO:

TITLE GUARANTY OF HAWAII, INCORPORATED

By E. J. [Signature]

RETURN BY: MAIL ☐ PICKUP ☐

BY-LAWS OF THE
ASSOCIATION OF APARTMENT OWNERS OF
THE HEIGHTS AT WAILUNA, INCREMENT 3

DAMON, KEY, CHAR & BOCKEN
(CHARLES W. KEY)
1600 Pauahi Tower
1001 Bishop Street
Honolulu, Hawaii 96813
Tel. No. 531-8031

3419C
1/13/86

BY-LAWS OF THE
ASSOCIATION OF APARTMENT OWNERS OF
THE HEIGHTS AT WAILUNA, INCREMENT 3

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BY-LAWS OF THE
ASSOCIATION OF APARTMENT OWNERS OF
THE HEIGHTS AT WAILUNA, INCREMENT 3

WHEREAS, THE TRUSTEES OF THE ESTATE OF BERNICE PAUAAHI BISHOP, herein called the "Lessor", own in fee simple that certain land described in the Declaration of Horizontal Property Regime hereinafter referred to; and

WHEREAS, LEAR SIEGLER, INC., a Delaware corporation authorized to do business in Hawaii, and LEAR SIEGLER PROPERTIES, INC., a Delaware corporation authorized to do business in Hawaii, whose places of business is 700 Bishop Street, Suite 1112, Honolulu, Hawaii, and whose post office address is P. O. Box 3230, Honolulu, Hawaii, herein called "Sublessor", are the Lessees named in that certain Bishop Estate Lease No. 27,480, dated December 13, 1984, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 18370 at page 272, demising said land;

WHEREAS, Lessor and Sublessor did lease said land to THE LUSK COMPANY, formerly known as John D. Lusk & Son, a California corporation authorized to do business in the State of Hawaii, whose principal place of business and post office address in Hawaii is Suite 1618, Davies Pacific Center, 841 Bishop Street, Honolulu, Hawaii 96813, herein called "Developer", by that Certain Bishop Estate Lease No. 27,480-A, dated April 3, 1985, recorded in said Bureau in Liber 18561, Page 710; and

WHEREAS, Developer has undertaken to improve said land pursuant to the terms of said Lease and in accordance with plans incorporated herein by reference and filed simultaneously herewith in said Bureau of Conveyances as Condominium Map No. 1003; and

WHEREAS, the Lessor, Sublessor and Developer shall establish that certain condominium project to be known as

"THE HEIGHTS AT WAILUNA, INCREMENT 3"

by Declaration of Horizontal Property Regime to be recorded or filed of record in the State of Hawaii contemporaneously herewith;

NOW, THEREFORE, the following By-Laws shall apply to the above condominium project (herein called the "Project") situate on said land as described in and established by Declaration of Horizontal Property Regime (herein called the "Declaration") to be recorded or filed of record in the State of Hawaii contemporaneously herewith, and to all present and future owners, tenants and occupants of any apartments of the Project and to all other persons who shall at any time use the Project. The acquisition or rental of any apartment or the common element will signify that these By-Laws are accepted, ratified and will be complied with.

ARTICLE I

ASSOCIATION OF APARTMENT OWNERS

Section 1. Membership. All owners of apartments of the Project shall constitute the Association of Apartment Owners, herein called the "Association". The owner of any apartment upon acquiring title thereto shall automatically become a member of the Association and shall remain a member thereof until such time as his ownership of such apartment ceases for any reason, at which time his membership in the Association shall automatically cease. To such extent and for such purposes, including voting, as shall be provided by lease of any apartment filed with the Board of Directors of the Association, (herein called the "Board"), the lessee of an apartment shall be deemed to be the owner thereof. The purchaser of an apartment pursuant to an agreement of sale recorded in the bureau of conveyances or land court shall have all the rights of an apartment owner, including the right to vote, provided that the seller may retain the right to vote on matters substantially affecting his security interest in the apartment.

Section 2. Place of Meetings. Meetings of the Association shall be held at the Project or such other suitable place within the State convenient to the apartment owners as may be designated by the Board.

Section 3. Annual Meetings. The first meeting of the Association shall be held not later than one hundred eighty days after recordation of the first apartment conveyance; provided forty per cent or more of the Project has been sold and recorded. If forty per cent of the Project is not sold and recorded at the end of one year, an annual meeting shall be called; provided ten per cent of the apartment owners so request. Thereafter annual meetings of the Association shall be held within three months after the end of each accounting year.

Section 4. Special Meetings. Special meetings of the Association may be held at any time upon the call of the President or a petition signed by at least twenty-five per cent (25%) of the apartment owners and presented to the Secretary. No business shall be conducted except as stated in the notice thereof unless by consent of at least eighty per cent (80%) of the owners present, either in person or by proxy.

Section 5. Notice of Meetings. The Secretary shall give written or printed notice of each annual and special meeting to every apartment owner according to the Association's record of ownership, at least fourteen (14) days, if practicable, before the date set for such meeting, in any of the following ways: (a) by delivering it to him personally, or (b) by leaving it at his apartment in the Project or at his usual residence or place of business, or (c) by mailing it, postage prepaid, addressed to him at his address as it appears on the Association's record of ownership. The written or printed notice of meeting shall contain at least the following: A statement as to whether it is an annual or special meeting; the authority for the call of the meeting, the

place, day and hour of such meeting; the items on the agenda for such meeting; and a standard proxy form authorized by the Association, if any. If notice is given pursuant to the provisions of this section, the failure of any apartment owner to receive actual notice of any meeting shall in no way invalidate such meeting or any proceeding thereat. The presence of any apartment owner in person or by proxy at any meeting shall be deemed a waiver of any required notice to such owner unless he shall at the opening thereof object to the holding of such meeting because of the failure to give notice in accordance with the provisions hereof.

Section 6. Quorum. The presence at any meeting in person or by proxy of a majority of apartment owners shall constitute a quorum, and the acts of a majority of the apartment owners at any meeting at which a quorum is present shall be the acts of the Association except as otherwise provided herein. The term "majority of apartment owners" herein means the owners of apartments to which are appurtenant more than fifty per cent (50%) of the common interests as established by the Declaration, and any other specified percentage of the apartment owners means the owners of apartments to which are appurtenant such percentage of the common interests.

Section 7. Voting. Voting shall be on a percentage basis, and the percentage of the total vote to which each apartment is entitled shall be the percentage of the common interests assigned to such apartment in the Declaration. Votes may be cast in person or by proxy by the respective apartment owners as shown in the record of ownership of the Association. A personal representative, guardian or trustee may vote in person or by proxy at any meeting of the Association the percentage of vote for any apartment owned or controlled by him in such capacity, whether or not the same shall have been transferred to his name in the Association's record of ownership, provided that he shall first present evidence satisfactory to the Secretary that he owns or controls such apartment in such capacity. The vote for any apartment owned of record by two or more persons may be exercised by any one of them present at any meeting in the absence of protest by the other or others, and in case of protest each co-tenant shall be entitled to only a share of such vote in proportion to his share of ownership in such apartment.

Section 8. Proxies and Pledges.

(a) A proxy, to be valid, must be delivered to the secretary of the association of apartment owners or the managing agent, if any, at least by 4:30 p.m. two business days prior to the date of the meeting to which it pertains, and must contain at least: the name of the association of apartment owners, the date of the meeting of the association of apartment owners, the printed name and signature of the person or persons giving the proxy, the apartment or apartments for which the proxy is given, the printed name of the person or entity to whom the proxy is given, and the date that the proxy is given.

(b) A proxy shall only be valid for the meeting to which the proxy pertains and its adjournments, may designate

any person as proxy, and may be limited as the apartment owner desires and indicates.

(c) Proxies may be given to the board of directors as an entity.

(d) Nothing in this section shall affect the holder of any proxy under a first mortgage of record encumbering an apartment or under an agreement of sale affecting an apartment.

(e) No resident manager, or managing agent shall solicit, for use by such manager or managing agent, any proxies from any apartment owner of the association of owners which employs him, nor shall he cast any proxy vote at any association meeting except for the purpose of establishing a quorum.

(f) No member of a board of directors who uses association funds to solicit proxies, shall cast any proxy votes for the election or reelection of board members at any association meeting unless the proxy form specifically authorizes the board member to vote for the election or reelection of board directors.

Section 9. Adjournment. Any meeting of the Association may be adjourned from time to time to such place and time as may be determined by majority vote of the apartment owners present, whether or not a quorum be present, without notice other than the announcement at such meeting. At any such adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted by a quorum at the meeting as originally called.

Section 10. Order of Business. The order of business at all meetings of the Association shall be as follows:

- (a) Roll call.
- (b) Proof of notice of meeting.
- (c) Reading of minutes of preceding meeting.
- (d) Report of officers.
- (e) Report of committees.
- (f) Election of directors.
- (g) Unfinished business.
- (h) New Business.

ARTICLE II

BOARD OF DIRECTORS

Section 1. Number and Qualifications. The affairs of the Association shall be governed by a Board of Directors (the "Board") composed of not less than three (3) and not more than nine (9) persons; provided that if the Project has more than one hundred individual apartment units there shall be an elected board of not less than nine members unless not less than seventy-five per cent of all apartment owners vote by written ballot to set the minimum number of directors at less than nine during an annual meeting or special meeting called for the purpose of reducing the minimum number of directors. Each member of the Board shall be the sole owner or co-owner of

record of an apartment, or a vendee under an agreement of sale of an apartment, or a partner in a general partnership if such partnership is an owner of record or a general partner of a limited partnership if such partnership is an owner of record. If a corporation is an apartment owner, any officer of such corporation shall be eligible to serve as director so long as he remains an officer of such corporation. No resident manager of the Project shall be eligible to serve as director. The directors shall serve without compensation.

Section 2. Powers. The Board of Directors shall have all powers necessary for the administration of the affairs of the Association and may do all such acts and things therefor as are not by law, the Declaration or these By-Laws directed to be exercised or done only by the apartment owners.

Section 3. Election and Term. Election of directors shall be by a cumulative voting by secret ballot at each annual meeting and any special meeting called for that purpose. Directors shall hold offices for a period of three (3) years and until their respective successors have been elected, subject to removal as herein provided, except that at the first annual meeting one-third (1/3) of the directors shall be elected for one (1) year, one-third (1/3) for two (2) years and one-third (1/3) for three (3) years.

Section 4. Vacancies. Vacancies in the Board of Directors caused by any reason other than removal of a director by the Association shall be filled by vote of a majority of the remaining directors, even though they may constitute less than a quorum, and each person so elected shall be a director until his successor is elected at the next annual meeting of the Association. Death, incapacity or resignation of any director, or his continuous absence from the State of Hawaii for more than six months, or his ceasing to be the sole owner or co-owner of an apartment or vendee under an agreement of sale, shall cause his office to become vacant.

Section 5. Removal of Directors. At any regular or special meeting of the Association duly called, any one or more of the directors may be removed with or without cause by vote of a majority of apartment owners and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the apartment owners shall be given an opportunity to be heard at such meeting.

Section 6. Annual Meeting. Notice of the annual Board meeting shall be given in a reasonable manner at least fourteen (14) days, if practicable, prior to such meeting. At each such meeting the Board shall elect the officers of the Association for the ensuing year.

Section 7. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors, but at least one (1) such meeting shall be held during each calendar quarter of every year. Notice of regular meetings of the Board shall be given to each director, personally or by mail, telephone, or telegraph, at least one (1) day prior to the date of such meeting.

Section 8. Special Meetings. Special meetings of the Board of Directors may be called by the President on at least twenty-four (24) hours' notice to each director, given personally or by telephone or telegraph, which notice shall state the time, place and purpose of such meeting. Special meetings of the Board shall be called by the President or Secretary in like manner and with like notice on the written request of at least two (2) directors.

Section 9. Waiver of Notice. Before or at any meeting of the Board of Directors any director may in writing waive notice of such meeting, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall be a waiver of notice to him of such meeting. If all the directors are present at any meeting of the Board, no notice thereof shall be required, and any business may be transacted at such meeting.

Section 10. Quorum of Board. At all meetings of the Board of Directors a majority of the total number of directors shall constitute a quorum for the transaction of business, and the acts of a majority of the directors present at any meeting at which a quorum is present shall be the acts of the Board. If less than a quorum shall be present at any meeting of the Board, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 11. Board Meetings. All meetings of the Board of Directors shall be open to all members of the Association, provided that association members who are not on the board of directors may not participate in any deliberation or discussion unless expressly so authorized by the vote of a majority of a quorum of the board of directors. The board of directors, with the approval of a majority of a quorum of its members, may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters or litigation in which the association is or may become involved. The nature or any and all business to be considered in executive session shall first be announced in open session.

Section 12. Conflict of Interest. No director shall vote or cast proxy at any Board meeting on any issue in which he has a conflict of interest.

Section 13. Fidelity Bonds. The Board of Directors shall require that all officers, employees and agents of the Association handling or responsible for its funds, shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

ARTICLE III

OFFICERS

Section 1. Designation. The principal officers of the Association shall be a President, a Vice-President, a Secretary, and a Treasurer, all of whom shall be elected by, and in the case of the President from, the Board of Directors. The Board may appoint an Assistant Treasurer, an Assistant Secretary and such other officers as in its judgment may be necessary.

Section 2. Election and Term. The officers of the Association shall be elected annually by the Board of Directors at its annual meeting and shall hold office at the pleasure of the Board.

Section 3. Removal. Any officer may be removed either with or without cause by vote of a majority of the members of the Board of Directors, and his successor elected at any regular meeting of the Board or any special meeting called for such purpose.

Section 4. President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board of Directors. Subject to the control of the Board he shall exercise general supervision and direction over the management and conduct of the business and affairs of the Association. He shall also have such other powers and duties as may be provided by these By-Laws or assigned to him from time to time by the Board.

Section 5. Vice-President. The Vice-President shall assume and perform the duties of the President in the absence or disability of the President or whenever the office of President is vacant. He shall also have such other powers and duties as may be assigned to him from time to time by the Board.

Section 6. Secretary. The Secretary shall attend and keep the minutes of all meetings of the Association and of the Board of Directors, give all notices thereof as provided by these By-Laws, maintain and keep a continuous and accurate record of ownership of all apartments, have charge of such books, documents and records of the Association as the Board may direct, and in general perform all the duties incident to the office of Secretary. If the Secretary is not present at any meeting, the presiding officer shall appoint a secretary pro tempore who shall keep the minutes of such meeting and record them in the books provided for that purpose.

Section 7. Treasurer. The Treasurer shall maintain and keep the financial records and books of account of the Association, prepare regular reports thereof and be responsible for the proper deposit and custody in the name of the Association of all its funds and securities.

Section 8. Auditor. The Association may, by vote at the annual meeting, require a yearly audit of the Association books by a certified public accountant or accounting firm as auditor, who shall not be an officer of the Association nor own any interest in any apartment.

ARTICLE IV

ADMINISTRATION

Section 1. Management. The Board of Directors shall at all times manage and operate the Project and have such powers and duties as may be necessary or proper therefor including, without limitation, the following:

(a) Supervision of its immediate management and operation;

(b) Maintenance, repair, replacement and restoration of the common elements and any additions and alterations thereto;

(c) Purchase, maintenance and replacement of any equipment and provision of all water, sewer and other utility services required for the common elements;

(d) Provision at each apartment of all water, sewer, electricity and such other utility services and utilities as the Board shall deem necessary either at the expense of such apartment or as a common expense as determined by the Board;

(e) Employment, supervision and dismissal of such personnel as may be necessary for the maintenance and operation of the Project;

(f) Preparation at least sixty (60) days before each fiscal year of a proposed budget and schedule of assessments for such year;

(g) Collection from each residential apartment owner of all assessments and other charges payable to Wailuna Recreation Association by each such apartment owner and payment of same to Wailuna Recreation Association;

(h) Collection of all installments of assessments levied and payment of all common expenses authorized by the Board;

(i) Purchase and maintenance in effect of all policies of hazard and liability insurance for the Project required by the Declaration and such other insurance and bonds as may be required or authorized by the Declaration or the Board;

(j) Custody and control of all funds of the Association, maintenance of full and accurate books of account and records of such funds and preparation of regular financial reports thereof;

(k) Notification of all persons having any interest in any apartment according to the Association's record of ownership of delinquency exceeding sixty (60) days in the payment of any assessment against such apartment; and

(1) Establishment of such late fees, penalties and fines as it deems appropriate with respect to enforcement of the provisions of the Declaration, these By-Laws and the house rules adopted pursuant to these By-Laws; provided such penalties and fines are not inconsistent with the law or the provisions herein, and the unpaid amount of such penalties and fines against any apartment owner shall constitute a lien against his interest in his apartment which may be foreclosed by the Board of Directors or Managing Agent in the same manner as provided in the Horizontal Property Act for common expenses.

Section 2. Managing Agent. The Board of Directors shall annually employ a responsible corporation authorized to do business in Hawaii as Managing Agent to manage and control the Project subject at all times to direction by the Board, with all the administrative functions set forth specifically in the preceding Section 1 and such other powers and duties and at such compensation as the Board may establish.

Section 3. Books of Receipts and Expenditures; Unpaid Assessments; Availability for Examination. The manager or board of directors shall keep detailed, accurate records in chronological order, of the receipts and expenditures affecting the common elements, specifying and itemizing the maintenance and repair expenses of the common elements and any other expenses incurred. The manager or board of directors shall also keep monthly statements indicating the total current delinquent dollar amount of any unpaid assessments for common expenses. All records and the vouchers authorizing the payments, and statements shall be kept and maintained at the address of the project, or elsewhere within the State as determined by the board of directors, and shall be available for examination by the apartment owners at convenient hours of week days.

Section 4. Representation. Except as provided for in Section 7 of Article V herein, the President or Managing Agent, subject to the direction of the Board of Directors, shall represent the Association or any two or more apartment owners similarly situated as a class in any action, suit, hearing or other proceeding concerning the Association, the common elements or more than one apartment, and on its or their behalf may institute, defend, intervene in, prosecute and settle any such actions, suits and proceedings, without prejudice to the rights of any apartment owners individually to appear, sue or be sued. Service of process on two or more apartment owners in any such action, suit or proceeding may be made on the President or Managing Agent. Every first mortgagee to whom the Lessee is required by the terms of the mortgage to pay same, or whenever there is no such mortgagee, every Managing Agent shall also be the agent of the respective Lessees under any apartment leases filed with the Board for the collection, custody and payment of all rent, taxes, assessments and other charges thereunder payable to their Lessor.

Section 5. Execution of Instruments. All checks, drafts, notes, acceptances, conveyances, contracts and other instruments shall be signed on behalf of the Association by such person or persons as shall be provided by general or special resolution of the Board of Directors or, in the absence

of any such resolution applicable to such instrument, by the President or Vice-President and by the Treasurer or Secretary.

ARTICLE V

OBLIGATIONS OF APARTMENT OWNERS

Section 1. Assessments. All apartment owners shall pay to the Managing Agent in advance on the first day of each and every month: (a) The monthly installments of assessments against their respective apartments for common expenses of the Project; (b) Any assessments against an apartment pertaining to a limited common element appurtenant to such apartment; (c) All assessments against each apartment by Wailuna Recreation Association; and, (d) With respect to any lease of any apartment filed with the Board of Directors, a monthly sum determined by the Managing Agent to be sufficient to accumulate and pay when due all rent, taxes, assessments and other charges thereunder payable by the Lessee of such apartment.

In the event all said monthly charges are not received by the Managing Agent on or before the 15th day after said charges are due, the Managing Agent may assess a late payment charge in an amount not in excess of Fifteen Dollars (\$15.00) to the appropriate apartment owner; and if said charges, including said late payment charge, are not received within thirty (30) days after said monthly charges are due, an additional late charge in an amount not in excess of Fifteen Dollars (\$15.00) and interest at the rate of one per cent (1%) per month calculated from such due date may be assessed. The amount of the late charge and interest rate may be adjusted by the Board.

Section 2. Maintenance of Apartments and Condo Lots. Every apartment owner shall at his own expense at all times well and substantially repair, maintain, amend and keep his apartment and Condo lot (except for that portion of the front yard of Condo lot between the fence and the private street of the project), including, without limitation, all internal installations therein such as water, electricity, gas, telephone, sewer, sanitation, lights and all other fixtures and accessories belonging to such apartment and all foundations, walls, floors, roofs and ceilings of such apartment, with all necessary reparations and amendments whatsoever in good order and condition except as otherwise provided by law or the Declaration, and shall be liable for all loss or damage whatsoever caused by his failure to perform any such work diligently, and in case of such failure after reasonable notice to perform shall reimburse to the Association promptly on demand all expenses incurred by it in performing any such work authorized by the Board of Directors or the Managing Agent.

Note: The front yard of each Condo lot shall be planted and cultivated and maintained exclusively by the Association and any exterior painting of any apartment or other improvements can be done only with the prior written consent of the Board of Directors.

Section 3. Damage to Common Elements. Every apartment owner and occupant shall reimburse the Association promptly on

demand all expenses incurred by it in repairing or replacing any uninsured loss or damage to the common elements or any furniture, furnishment and equipment thereof caused by such owner or occupant or any person under either of them and shall give prompt notice to the Managing Agent of any such loss or damage or other defect in the Project when discovered.

Section 4. Restrictions on Use of Condo Lots. All Condo lots have a front yard area and a rear yard area, as hereinafter designated. All Condo Lots, except for Condo Lot 21, have a side yard area, as hereinafter designated. Condo Lot 21 shall be deemed to have only a front yard area and a back yard area. There are one or more fences and walls along the various boundary lines of Condo lots, and there is normally a fence in the front portion of the condo lot that extends between and connects to adjacent dwelling units. The fences and walls that are common elements are shown on the Condo Map.

The three (3) yard areas above referred to are defined as follows:

(i) the front yard area of each Condo lot is that yard area of the Condo lot located between the front fence (and the garage and front of the dwelling unit) and the road that is a portion of the project;

(ii) the side yard area of each Condo lot is that portion of the Condo lot located between adjoining dwelling units and extending to the corner of either dwelling unit that is furthest from the road that is a portion of the project; and

(iii) the rear yard area of each Condo lot is the remaining portion of the Condo lot which is that land area behind the house which is that part of the dwelling unit furthest from the road that is a portion of the project.

There are certain restrictions on the use of the three (3) different yard areas, as follows:

(i) The front yard shall be planted and cultivated and landscaped and maintained exclusively by the Association for the exclusive benefit of the apartment owner.

(ii) The side yard shall be planted and cultivated and landscaped by the apartment owner but this area shall be a passive type of area (a no activity area) because of the proximity of the adjoining dwelling unit. This side yard is basically for use for ingress and egress and there shall be no continuing activities permitted in this area. In addition, no fences, walls or other improvements or hedges or other dense plantings shall be permitted or allowed that tends to cut down on or restrict the natural light and the natural circulation of air. Likewise no additional artificial lighting of the side yard shall be permitted.

(iii) The rear yard shall be deemed to be the active area for normal and typical activities relating to family usage of a private yard. In addition, however, all but the following two (2) Condo lots have an area known as

an environmental protective corridor (EPC): 1 and 21. No plants, trees or other landscaping or fences or walls or other improvements or the placing of any item of personal property of any kind shall be permitted to exist with an EPC area that exceed two and one half (2-1/2) feet in height above existing grade.

Section 5. Restrictions on Use of Project.

(a) The apartments shall be used only for such purposes as stated in the Declaration.

(b) All common elements of the project shall be used only for their respective purposes as designed.

(c) No apartment owner or occupant shall plant or cultivate or landscape the common elements or the front portion of the Condo lot or place, store or maintain within or upon any of the common elements any furniture, packages or objects of any kind or otherwise obstruct transit through such common elements or the front portion of the condo lot.

(d) There shall be strict compliance with the terms and conditions of article VI of these By-Laws entitled "Architectural Control."

(e) No improvements or movable personal property in excess of two and one-half (2-1/2) feet in height above existing grade shall be constructed or permitted to exist within five (5) feet of any condo lot boundary line.

(f) No plants, trees or other landscaping or fences or walls or other improvements or the placing of any item of personal property of any kind shall be permitted to exist with an EPC area that exceed two and one half (2-1/2) feet in height above existing grade.

(g) Except as otherwise restricted herein, no plants or hedges, trees or other landscaping shall be permitted within the side yard or rear yard of any Condo lot that shall extend above the existing roof line of the dwelling unit as it appears in the initial Condominium Map.

(h) No improvement shall be constructed on a Condo lot that shall increase the square footage of the dwelling unit by more than 350 square feet as it appears in the initial Condominium Map and no improvement shall be added above the roof line of the dwelling unit as shown on the initial Condominium Map.

(i) Every apartment owner and occupant shall at all times keep his apartment and Condo lot neat and clean and in a strictly clean and sanitary condition, and each apartment owner and occupant shall observe and perform all laws, ordinances, rules and regulations now or hereafter made by any governmental authority or the Association for the time being applicable to the use of the Project.

(j) No apartment owner or occupant shall make or suffer any strip or waste or unlawful, improper or offensive use of his apartment and Condo lot or the Project or the common

elements nor alter or remove any furniture, furnishings or equipment of the common elements.

(k) All occupants shall avoid making noises and using musical instruments, radios, televisions and amplifiers in such manner as may disturb other occupants;

(l) No garments, rugs or other objects shall be hung from the windows or facades of any building or otherwise displayed in public view.

(m) No rugs or other objects shall be dusted or shaken from the windows or doors of any apartment or cleaned by beating or sweeping on any walkways, lanais, entries or other exterior part of the Project.

(n) No livestock, poultry, rabbits or other animals whatsoever shall be allowed or kept in any part of the project except that dogs, cats and other household pets in reasonable number may be kept by the apartment owners and occupants in their respective apartments and Condo lots but shall not be kept, bred or used therein for any commercial purpose nor allowed on any common elements except in transit when carried or on leash, provided that any such pet causing a nuisance or unreasonable disturbance to any other occupant of the project shall be permanently removed therefrom promptly upon notice given by the Board of Directors or Managing Agent.

(o) No apartment owner or occupant shall without the written approval of the Board of Directors install any wiring for electrical or telephone installations, machines or air conditioning units, or other equipment or appurtenances whatsoever on the exterior of any building of the project or protruding through the walls, windows or roof thereof.

(p) No apartment owner or occupant shall without the prior written approval of the Board of Directors and Lessor, erect, place or maintain any television or other antennas, or solar energy systems or any other types of objects or equipment on any building visible from any point outside of his apartment.

(q) Nothing shall be allowed, done or kept in any apartment or common elements of the project which would overload or impair the floors, walls, or roofs thereof, or cause any increase in the ordinary premium rates or the cancellation or invalidation of any insurance thereon maintained by or for the Association.

(r) No signs whatsoever, including without limitation, commercial, political or similar signs, visible from neighboring property shall be erected or maintained upon or within any apartment or Condo lot except:

(i) Such signs as may be required by legal proceedings;

(ii) Apartment identification signs of a combined total face area of one square foot or less for each resident;

(iii) Not more than one "For Sale" or "For Rent" sign having a maximum face area of three square feet, such sign to refer only to the premises on which it is situated.

(s) No house trailer, mobile home, tent or similar facility or structure shall be kept, placed or maintained upon or within any Condo lot at any time.

(t) No boat or trailer or truck of more than one-ton capacity shall be kept, placed or maintained upon or within any Condo lot.

(u) No trailer, vehicle or boat shall be constructed, or reconstructed or repaired upon or within any Condo lot in such a manner that such construction, reconstruction or repair is visible from neighboring Condo lots, nor shall any vehicle not in good operating condition be maintained upon or within any Condo lot so as to be visible from any neighboring Condo lot, provided that nothing in this paragraph shall prevent an apartment owner from performing maintenance work or minor repairs on his own trailer, vehicle or boat in his garage.

(v) No open storage of furniture, fixtures, appliances and other goods and chattels not in active use will be permitted within a Condo lot so as to be visible from neighboring Condo lot, and no outside clothes lines or other outside clothes drying or airing facilities shall be permitted when they are visible from neighboring Condo lot.

(w) An apartment owner shall not permit any exterior fires whatsoever within the Condo lot, except small barbecue and imu fires, and shall not permit any condition on or within his Condo lot which creates a fire hazard.

(x) An apartment owner shall not park his car on any portion of his Condo lot visible from any adjacent Condo lot, except in a garage or on a paved driveway area, and boats, trailers or truck campers will not be kept within or on any Condo lot except in a garage.

(y) No garage shall be used in a manner inconsistent to the use of same for other than the parking of vehicles and boats.

(z) Each apartment owner and occupant shall do what is necessary to preserve and maintain the drainage patterns on his Condo lot and adjoining Condo lots.

Section 6. House Rules and Regulations. The Board, upon giving notice to all apartment owners in the same manner as herein provided for notice of meetings of the Association and opportunity to be heard thereon, may adopt, amend or repeal any supplemental rules and regulations (sometimes referred to as "house rules") governing the details of the operation and use of the common elements not inconsistent with Declaration or these By-Laws or any provision of the law.

Section 7. Default in Payment of Assessments. Each monthly assessment and each special assessment of the Association and all assessments of Wailuna Recreation

Association and all other assessments chargeable to an apartment owner under Article V shall be separate, distinct and personal debts and obligations of the apartment owner against whom the same are assessed. In the event of a default or defaults in payment of any such assessment or assessments and in addition to any other remedies herein or by law provided, the Board of Directors may enforce each such obligation as follows:

(a) By suit or suits at law to enforce each such assessment obligation. Each such action must be authorized by the Board at a regular or special meeting thereof and any such suit may be instituted by any one member of the Board or by the Managing Agent. Each such action shall be brought in the name of the Board and the Board shall be deemed to be acting on behalf of all the apartment owners. Any judgment rendered in any such action shall include, where permissible under any law, a sum for reasonable attorneys' fees in such amount as the Court may adjudge against such defaulting apartment owner. Upon full satisfaction of any such judgment, it shall be the duty of the Board to authorize any two members thereof, acting in the name of the Board, to execute and deliver to the judgment debtor an appropriate satisfaction thereof.

(b) At any time after the occurrence of any such default, the Board may give a notice to the defaulting apartment owner, with a copy to the mortgagee of such apartment owner, if such mortgagee has furnished its name and address to the Board, which said notice shall state the date of the delinquency, the amount of the delinquency and make a demand for payment thereof. If such delinquency is not paid within ten (10) days after delivery of such notice, the Board may elect to file a claim of lien against the apartment of such delinquent apartment owner. Such claim of lien shall state (1) the name of the delinquent apartment owner or reputed apartment owner, (2) a description of the apartment against which claim of lien is made, (3) the amount claimed to be due and owing (with any proper offset allowed), (4) that the claim of lien is made by the Board pursuant to the terms of these By-Laws and of Chapter 514A, Hawaii Revised Statutes, as amended, and (5) that a lien is claimed against said described apartment in an amount equal to the amount of the stated delinquency. Any such claims of lien shall be signed and acknowledged by any two or more members of the Board and shall be dated as of the date of the execution by the last such Board member to execute said claim of lien. Upon recordation of a duly executed original or copy of such claim of lien with the Bureau of Conveyances or the Assistant Registrar of the Land Court of the State of Hawaii, the Board shall have all remedies provided in Section 514A-90, Hawaii Revised Statutes, as amended. Each default shall constitute a separate basis for a claim of lien or a lien. In the event the foreclosure is under power of sale, the Board, or any person designated by it in writing, shall be entitled to actual expenses and such fees as may be allowed by law or as may be prevailing at the time the sale is conducted. The certificate of sale shall be executed and acknowledged by any two members of the Board or by the person conducting the sale.

(c) For the purposes of this Section 7, a certificate executed and acknowledged or made under penalty of perjury by the Managing Agent or by any two members of the Board shall be conclusive upon the Board and the apartment owners in favor of any and all persons who rely thereon in good faith as to the matters therein contained (except for any subsequently dishonored checks), and any apartment owner shall be entitled to such a certificate setting forth the amount of any due and unpaid assessments with respect to his apartment (or the fact that all assessments due are paid if such is the case) within fifteen (15) days after demand therefor and upon payment of a reasonable fee as established by the Board. In the event any claims of liens have been recorded and thereafter the Board shall receive payment in full of the amount claimed to be due and owing, then upon demand of the apartment owner or his successor, and payment of a reasonable fee, as established by the Board, the Managing Agent or the Board, acting by any two members, shall execute and acknowledge (in the manner provided above) a release of lien, stating the date of the original claim of lien, the amount claimed, the date, the recordation data if recorded in the Bureau of Conveyances or the document number if filed in the Land Court, the fact that the lien has been fully satisfied and that the particular lien is released and discharged, such release of lien to be delivered to the apartment owner or his successor upon payment of the fee.

Section 8. Record of Ownership. Every apartment owner shall promptly cause to be duly recorded or filed of record the deed, lease, assignment, Agreement of Sale or other conveyance to him of such apartment or other evidence of his title thereto and shall file such document with and present such other evidence of his title to the Board of Directors through the Managing Agent. The Managing Agent or the Board of Directors shall maintain all such information together with an accurate and current list of members of the Association which shall include their current addresses and shall also maintain a record of the names and addresses of the vendees of an apartment under an agreement of sale, if any. The list shall be maintained at a place designated by the Board of Directors.

ARTICLE VI

ARCHITECTURAL CONTROL

Section 1. Appointment of Architectural Committee. The Board of Directors shall appoint an Architectural Committee, consisting of not less than three (3) members, who shall serve at the pleasure of the Board. The members of such Committee shall not be entitled to any compensation for services performed pursuant to this covenant. Said representatives may be the members of the Board of Directors of the Association.

The Committee in its discretion, may promulgate from time to time standards as to landscaping, building, fences, walls or other structures that do not conflict with provisions of the Declaration or those By-Laws.

Section 2. Architectural Approval. No building, fence, wall or other structure shall be commenced, erected or maintained upon the project, nor shall any exterior addition to or change or alteration therein, including patio covers and antennas, be made until the plans and specification showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Committee and Lessor.

Section 3. Environmental Protective Corridors. It is the desire of the Association to protect certain environmental corridors within certain condo lots. Consequently, those certain Condo lots listed in Section 4 of Article V and shown on the Condominium Map have shaded areas within the rear yard in which nothing may be built with a height greater than two and one half (2 1/2) feet above existing grade and nothing may be planted which grows to a height in excess of two and one half (2 1/2) feet above existing grade. These areas are known as the "EPC" areas.

All of the foregoing notwithstanding, if two adjacent apartment owners so agree in writing, they may, with the prior written approval of the Architectural Committee, construct a fence or wall between their Condo lots to a height not exceeding six (6) feet above the highest finished dwelling unit slab. Should such a wall or fence be desired, then the apartment owner proposing such a wall must have his neighbor's permission attached to and made a part of the drawing which he submits to the Architectural Committee for approval, and prior to granted approval of the fence in writing the Architectural Committee must assure itself that said fence will not adversely affect any EPC area in the project.

Section 4. Landscaping Approval. The provisions of this Section 4 are subordinate to the provisions of Section 3 above set forth. No trees, bushes, shrubs or plants which at maturity, and without clipping or pruning thereof, would exceed the height of the dwelling house on a Condo lot shall be planted or emplaced until the plans and specifications for the placement of any such trees, bushes, shrubs or plants have been submitted to and approved in writing by the Architectural Committee as to the preservation of the natural view and aesthetic beauty which each Condo lot is intended to enjoy. Said plans as submitted shall show in detail the proposed elevations and locations of said trees, bushes, shrubs or plants, including the location and elevation of same in relation to all other Condo lots subject to these restrictions. Approval of said plans by the Architectural Committee may be withheld if in the reasonable opinion of the Committee the view of any Condo lot would be impeded by the location of such tree, bush, shrub or plant, or in any other manner. In any event, the Architectural Committee shall have the right to require any member to remove, trim, top, or prune any tree, or shrub, which in the reasonable belief of the Architectural Committee impedes or detracts from the view of any Condo lot.

Section 5. Lanai Structures, Sun Shades and Gazebos. Structures in this section shall be designed to continue and/or

complement architectural features of the dwelling unit. The exterior appearance of the addition shall be built and finished to match the color and trim of the dwelling unit. No such structure shall be built within a EPC area.

Section 6. Repainting. All repainting of exterior surfaces must have the prior written approval of the Architectural Committee.

Section 7. Consents. The Architectural Committee is required to communicate within a reasonable period of time. In the event that the committee and Lessor fails to approve or disapprove of plans and specifications and design within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required, and this Article will be deemed to have been fully complied with.

ARTICLE VII

MORTGAGES AND MORTGAGEES

Section 1. Notice to Board of Directors. An apartment owner who mortgages his interest in an apartment shall notify the Association of the name and address of his mortgagee and within ten (10) days after the execution of the same shall file a conformed copy of such mortgage with the Association; the Association shall maintain such information in a book entitled "Mortgages of Apartments".

Section 2. Notice of Meetings. A mortgagee of an apartment will, upon request, be entitled to written notice of all meetings of the Association and will be entitled to designate a representative to attend all such meetings.

Section 3. Notice of Unpaid Common Expenses and Assessment of Wailuna Recreation Association. The Association whenever so requested in writing by an owner or mortgagee of an interest in an apartment shall promptly report any then unpaid assessments or common expenses due from the apartment owner involved.

Section 4. Notice of Default. The Board, when giving notice to an apartment owner of a default in paying common expenses or other default, shall send a copy of such notice to each holder of a mortgage covering such apartment or interest therein whose name and address has theretofore been furnished to the Association. In each and every case where the lender-mortgagee has made a request, the Association shall notify the lender-mortgagee of any unpaid assessments that are thirty (30) days delinquent or more.

Section 5. Examination of Books. Each apartment owner and each mortgagee shall be entitled to examine the books and records of the Association or the Project at reasonable times on business days, but an owner may not examine said books more than once a month. Each mortgagee shall have the right to require the Board of Directors or the Association to provide such mortgagee with an annual financial statement of the Project within ninety (90) days following the end of each fiscal year

of the Project, and such other annual reports and financial data as may be reasonable.

Section 6. Management Contracts. Any management agreement for the Project will be terminable by the Board of Directors for cause upon 30 days' written notice thereof, and the term of any such agreement may not exceed one year, renewable by agreement of the parties for successive one-year periods.

Section 7. Mortgage Protection. Notwithstanding all of the provisions hereof:

(a) The liens created hereunder against any apartment and its appurtenant interest in the common elements shall be subject and subordinate to and shall not affect the rights of the holder of any indebtedness secured by any recorded mortgage of such interest, made for value, provided that after the foreclosure of any such mortgage there shall be a lien upon the interest of the purchaser at such foreclosure sale to secure all assessments, whether regular or special, assessed hereunder to such apartment if falling due after the date of such foreclosure sale.

(b) All taxes, assessments and charges which may become liens prior to the first mortgage under the laws of the State of Hawaii shall relate only to the individual apartment units and not to the condominium Project as a whole.

(c) The Declaration and By-Laws shall not give an apartment owner or any other party, priority over any rights of first mortgagees of apartment units pursuant to their mortgages in the case of a distribution to apartment owners of insurance proceeds or condemnation awards for losses to or a taking of apartment units and/or common elements.

Section 8. Partition or Subdivision. No apartment in the Project may be partitioned or subdivided without prior approval of a holder of any first mortgage lien of such apartment.

Section 9. Right of First Refusal Not Applicable. In the event that there shall be any right of first refusal to purchase any apartment by the Association, any first mortgagee who obtains title to an apartment pursuant to the remedies provided in the mortgage, or foreclosure of the mortgage or assignment of apartment lease in lieu of foreclosure, shall be exempt from such "right of first refusal".

Section 10. Unpaid Common Expenses or Assessments. Any first mortgagee who obtains title to the apartment pursuant to the remedies provided in the mortgage or foreclosure of the mortgage shall not be liable for such apartment's unpaid common expenses and assessments which accrue prior to the acquisition of title to such unit by the mortgagee. The unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the apartment owners, including the acquirer of such apartment, his successors and assigns.

Section 11. Release of Information. The Board of Directors may provide any information available to it pertaining to an apartment or the Project to the first mortgagee of such apartment and such mortgagee may provide any information to the Board of Directors regarding the mortgagor, the mortgagor's loan and the status of such loan.

Section 12. Conflicting Provisions and Amendment to Article VII. In the event of any conflict in the provisions of the Declaration or these By-Laws and the provisions of this Article VII, the provisions of this Article VII shall prevail. Notwithstanding any other provisions of the Declaration or these By-Laws, no amendment to this Article VII shall affect the rights of the holder of any mortgage which was recorded in the Bureau of Conveyances, State of Hawaii, or filed in the Office of the Assistant Registrar of the Land Court, State of Hawaii, prior to the filing of such amendment, who does not join in the execution thereof.

ARTICLE VIII

MISCELLANEOUS

Section 1. By-Laws, Amendments, Copies. Except as otherwise provided in these By-Laws, these By-Laws may be amended in any respect not inconsistent with provisions of law or the Declaration by the affirmative vote or written consent of sixty-five per cent (65%) of the apartment owners and the written consent of the Lessor, effective only upon the recording of an instrument setting forth such amendment and vote duly executed by such owners or by any two officers of the Association. Upon the request of any apartment owner, mortgagee or other interested party, the Secretary or the Managing Agent shall supply such party with a copy of the By-Laws as amended and shall certify that such copy is current to the date of such certification; provided, however, that the requesting party shall pay a reasonable service charge plus the actual cost of reproduction.

Section 2. Liability and Indemnity of Directors and Officers. The members of the Board of Directors and officers shall not be liable to the apartment owners for any mistake of judgment or otherwise except for their own individual gross negligence or wilful misconduct. The Association shall indemnify each director and officer of the Association against all costs, expenses and liabilities, including the amount of judgments, amounts paid in compromise settlements and amounts paid for services of counsel and other related expenses which may be incurred by or imposed on him in connection with any claim, action, suit, proceeding, investigation or inquiry hereafter made, instituted, or threatened in which he may be involved as a party or otherwise by reason of his being or having been a director or officer, or by reason of any action taken or authorized or approved by him or any omission to act as director or officer, whether or not he continues to be a director or officer at the time of the incurring or imposition of such costs, expenses or liabilities, except such costs, expenses or liabilities as shall relate to matters as to which he is liable by reason of his negligence or misconduct toward the Association

in the performance of his duties as such director or officer. As to whether or not a director or officer was liable by reason of negligence or misconduct toward the Association in the performance of his duties as such director or officer, in the absence of such final adjudication of the existence of such liability, the Board of Directors and each director and officer may conclusively rely upon an opinion of legal counsel selected by the Board of Directors. The foregoing right of indemnification shall not be exclusive of other rights to which any such director or officer may be entitled as a matter of law or otherwise, and shall inure to the benefit of the heirs, personal representatives, and assigns of each such director and officer.

Section 3. Audit. The members of the association of apartment owners may require by vote at the annual meeting a yearly audit of the association books by a certified public accountant.

Section 4. Waiver. The failure of the Board to insist in any one or more instances upon a strict performance of or compliance with any of the covenants of the apartment owner hereunder or to exercise any right or option herein contained, or to serve any notice, or to institute any action or summary proceeding, shall not be construed as a waiver, or a relinquishment for the future, of such covenant or option or right, but such covenant or option or right shall continue and remain in full force and effect. The receipt by the Board of any sum paid by the apartment owner hereunder, with or without knowledge by the Board of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver, express or implied, by the Board of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the President pursuant to authority contained in resolution of the Board of Directors.

Section 5. Conduct of Meetings. All Association and Board of Directors' meetings shall be conducted in accordance with the most current edition of Roberts Rules of Order.

Section 6. Minutes of Meetings. The minutes of meetings of the Board of Directors, and Association of Apartment Owners shall be available for examination by apartment owners at convenient hours at a place designated by the Board.

Section 7. Association May Incorporate. All of the rights, powers, obligations and duties of the Association imposed hereunder may be exercised and enforced by a non-profit membership corporation, formed under the laws of the State of Hawaii for the purposes herein set forth by the Association. Said corporation shall be formed upon the written approval of a majority of the voting apartment owners. The formation of said corporation shall in no way alter the terms, covenants and conditions set forth herein and the Articles and By-Laws of said corporation shall be subordinated hereto and controlled hereby. Any action taken by said corporation, which said action is in violation of any or all of the terms, covenants or conditions contained herein, shall be void and of no effect.

Section 8. Subordination. These By-Laws are subordinate and subject to all provisions of the Declaration and any

amendments thereto and the Horizontal Property Act (Chapter 514A, Hawaii Revised Statutes, as amended) which shall control in case of any conflict. All terms herein (except where clearly repugnant to the context) shall have the same meaning as in the Declaration or said Horizontal Property Act.

Section 9. Interpretation. In case any provision of these By-Laws shall be held invalid, such invalidity shall not render invalid any other provision hereof which can be given effect. Nothing in these By-Laws shall be deemed or construed to authorize the Association or Board of Directors to conduct or engage in any active business for profit on behalf of any or all of the apartment owners.

CERTIFICATE OF ADOPTION

The Trustees of the Estate of Bernice Pauahi Bishop, "Lessor," Lear Siegler, Inc., and Lear Siegler Properties, Inc., "Sublessor," and The Lusk Company, "Developer," hereby adopt the foregoing as the By-laws of the Association of Apartment Owners of The Heights at Wailuna, a horizontal property regime created by the Declaration of Horizontal Property Regime recorded contemporaneously with these By-Laws.

In Witness Whereof, the Lessor, Sublessor and Developer have executed these presents this 17th day of April, 1986.

Myron B. Thompson LEAR SIEGLER, INC.

William P. Richardson By Henry A. Glass
Its Vice President

Richard Lyman LEAR SIEGLER PROPERTIES, INC.

Trustees of the Estate of
Bernice Pauahi Bishop

"Lessor"

By Henry A. Glass
Its Vice President

"Sublessor"

THE LUSK COMPANY

By Ernest A. Harris
Its Vice President

"Developer"

APPROVED AS TO FORM
CONTENT AND AUTHORIZATION

Gould M. Lee
Documentary Department

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 10th day of April, 1986,
before me appeared HENRY F. ALVES, to me personally known, who,
being by me duly sworn, did say that he is the Vice President
of LEAR SIEGLER PROPERTIES, INC., a Delaware corporation
authorized to do business in Hawaii; and that the seal affixed
to the foregoing instrument is the corporate seal of said
corporation and that said instrument was signed and sealed in
behalf of said corporation by authority of its Board of
Directors, and the said HENRY F. ALVES acknowledged said
instrument to be the free act and deed of said corporation.

Carol A. Carr

Notary Public, State of Hawaii

My Commission Expires: NOVEMBER 20, 1986

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 17th day of April, 1986,
before me appeared ERNEST A. HARRIS, to me personally known,
who, being by me duly sworn, did say that he is Vice President
of THE LUSK COMPANY, a California corporation authorized to do
business in the State of Hawaii, and that the seal affixed to
the foregoing instrument is the corporate seal of said corpora-
tion and that said instrument was signed and sealed in behalf
of said corporation by authority of its Board of Directors, and
the said ERNEST A. HARRIS acknowledged said instrument to be
the free act and deed of said corporation.

L.S.

Mary R. Rush
Notary Public, State of Hawaii

My Commission Expires: 10-12-87

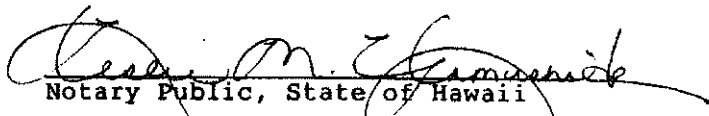
STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

)
) SS.
)

On this 28th day of April, 1986,
before me personally appeared Myron B Thompson,
Richard Lyman, Jr. and
three of the Trustees of the Estate of Bernice Pauahi Bishop,
to me known to be the persons who severally executed the
foregoing instrument and acknowledged that they severally
executed the same as their free act and deed.

 LESLIE M. YAMASHITA
Notary Public, State of Hawaii
My commission expires Sept. 27, 1988


Notary Public, State of Hawaii
My Commission Expires: _____

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

)
) SS.
)

On this 18th day of April, 1986,
before me appeared HENRY F. ALVES, to me personally known, who,
being by me duly sworn, did say that he is the Vice President
of LEAR SIEGLER, INC., a Delaware corporation authorized to do
business in Hawaii; and that the seal affixed to the foregoing
instrument is the corporate seal of said corporation and that
said instrument was signed and sealed in behalf of said
corporation by authority of its Board of Directors, and the
said HENRY F. ALVES acknowledged said instrument to be the free
act and deed of said corporation.


Notary Public, State of Hawaii
My Commission Expires: NOVEMBER 20, 1986

RECORDATION REQUESTED BY:

We hereby certify that this is a true copy of the original
filed as Land Court Document No. _____ and/or
recorded in Liber 19771 on Page 484
on AUG 19 1986 at 8:01 o'clock A.M.

TITLE GUARANTY OF HAWAII, INCORPORATED

AFTER RECORDATION RETURN TO:

By S. Kawahale

DAMON, KEY, CHAR + BOCKEN

Charles W. Key, Esq.

RETURN BY: MAIL ☐ PICKUP ☐

BY-LAWS OF THE
ASSOCIATION OF APARTMENT OWNERS OF
THE HEIGHTS AT WAILUNA, INCREMENT 4

DAMON, KEY, CHAR & BOCKEN
(CHARLES W. KEY)
1600 Pauahi Tower
1001 Bishop Street
Honolulu, Hawaii 96813
Tel. No. 531-8031

BY-LAWS OF THE
ASSOCIATION OF APARTMENT OWNERS OF
THE HEIGHTS AT WAILUNA, INCREMENT 4

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BY-LAWS OF THE
ASSOCIATION OF APARTMENT OWNERS OF
THE HEIGHTS AT WAILUNA, INCREMENT 4

WHEREAS, THE TRUSTEES OF THE ESTATE OF BERNICE PAUAI BISHOP, herein called the "Lessor", own in fee simple that certain land described in the Declaration of Horizontal Property Regime hereinafter referred to; and

WHEREAS, LEAR SIEGLER, INC., a Delaware corporation authorized to do business in Hawaii, and LEAR SIEGLER PROPERTIES, INC., a Delaware corporation authorized to do business in Hawaii, whose places of business is 700 Bishop Street, Suite 1112, Honolulu, Hawaii, and whose post office address is P. O. Box 3230, Honolulu, Hawaii, herein called "Sublessor", are the Lessees named in that certain Bishop Estate Lease No. 27,480, dated December 13, 1984, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 18370 at page 272, demising said land;

WHEREAS, Lessor and Sublessor did lease said land to THE LUSK COMPANY, formerly known as John D. Lusk & Son, a California corporation authorized to do business in the State of Hawaii, whose principal place of business and post office address in Hawaii is Suite 1618, Davies Pacific Center, 841 Bishop Street, Honolulu, Hawaii 96813, herein called "Developer", by that Certain Bishop Estate Lease No. 27,480-A, dated April 3, 1985, recorded in said Bureau in Liber 18561, Page 710; and

WHEREAS, Developer has undertaken to improve said land pursuant to the terms of said Lease and in accordance with plans incorporated herein by reference and filed simultaneously herewith in said Bureau of Conveyances as Condominium Map No. 1030; and

WHEREAS, the Lessor, Sublessor and Developer shall establish that certain condominium project to be known as

"THE HEIGHTS AT WAILUNA, INCREMENT 4"

by Declaration of Horizontal Property Regime to be recorded or filed of record in the State of Hawaii contemporaneously herewith;

NOW, THEREFORE, the following By-Laws shall apply to the above condominium project (herein called the "Project") situate on said land as described in and established by Declaration of Horizontal Property Regime (herein called the "Declaration") to be recorded or filed of record in the State of Hawaii contemporaneously herewith, and to all present and future owners, tenants and occupants of any apartments of the Project and to all other persons who shall at any time use the Project. The acquisition or rental of any apartment or the common element will signify that these By-Laws are accepted, ratified and will be complied with.

ARTICLE I

ASSOCIATION OF APARTMENT OWNERS

Section 1. Membership. All owners of apartments of the Project shall constitute the Association of Apartment Owners, herein called the "Association". The owner of any apartment upon acquiring title thereto shall automatically become a member of the Association and shall remain a member thereof until such time as his ownership of such apartment ceases for any reason, at which time his membership in the Association shall automatically cease. To such extent and for such purposes, including voting, as shall be provided by lease of any apartment filed with the Board of Directors of the Association, (herein called the "Board"), the lessee of an apartment shall be deemed to be the owner thereof. The purchaser of an apartment pursuant to an agreement of sale recorded in the bureau of conveyances or land court shall have all the rights of an apartment owner, including the right to vote, provided that the seller may retain the right to vote on matters substantially affecting his security interest in the apartment.

Section 2. Place of Meetings. Meetings of the Association shall be held at the Project or such other suitable place within the State convenient to the apartment owners as may be designated by the Board.

Section 3. Annual Meetings. The first meeting of the Association shall be held not later than one hundred eighty days after recordation of the first apartment conveyance; provided forty per cent or more of the Project has been sold and recorded. If forty per cent of the Project is not sold and recorded at the end of one year, an annual meeting shall be called; provided ten per cent of the apartment owners so request. Thereafter annual meetings of the Association shall be held within three months after the end of each accounting year.

Section 4. Special Meetings. Special meetings of the Association may be held at any time upon the call of the President or a petition signed by at least twenty-five per cent (25%) of the apartment owners and presented to the Secretary. No business shall be conducted except as stated in the notice thereof unless by consent of at least eighty per cent (80%) of the owners present, either in person or by proxy.

Section 5. Notice of Meetings. The Secretary shall give written or printed notice of each annual and special meeting to every apartment owner according to the Association's record of ownership, at least fourteen (14) days, if practicable, before the date set for such meeting, in any of the following ways: (a) by delivering it to him personally, or (b) by leaving it at his apartment in the Project or at his usual residence or place of business, or (c) by mailing it, postage prepaid, addressed to him at his address as it appears on the Association's record of ownership. The written or printed notice of meeting shall contain at least the following: A statement as to whether it is an annual or special meeting; the authority for the call of the meeting, the

place, day and hour of such meeting; the items on the agenda for such meeting; and a standard proxy form authorized by the Association, if any. If notice is given pursuant to the provisions of this section, the failure of any apartment owner to receive actual notice of any meeting shall in no way invalidate such meeting or any proceeding thereat. The presence of any apartment owner in person or by proxy at any meeting shall be deemed a waiver of any required notice to such owner unless he shall at the opening thereof object to the holding of such meeting because of the failure to give notice in accordance with the provisions hereof.

Section 6. Quorum. The presence at any meeting in person or by proxy of a majority of apartment owners shall constitute a quorum, and the acts of a majority of the apartment owners at any meeting at which a quorum is present shall be the acts of the Association except as otherwise provided herein. The term "majority of apartment owners" herein means the owners of apartments to which are appurtenant more than fifty per cent (50%) of the common interests as established by the Declaration, and any other specified percentage of the apartment owners means the owners of apartments to which are appurtenant such percentage of the common interests.

Section 7. Voting. Voting shall be on a percentage basis, and the percentage of the total vote to which each apartment is entitled shall be the percentage of the common interests assigned to such apartment in the Declaration. Votes may be cast in person or by proxy by the respective apartment owners as shown in the record of ownership of the Association. A personal representative, guardian or trustee may vote in person or by proxy at any meeting of the Association the percentage of vote for any apartment owned or controlled by him in such capacity, whether or not the same shall have been transferred to his name in the Association's record of ownership, provided that he shall first present evidence satisfactory to the Secretary that he owns or controls such apartment in such capacity. The vote for any apartment owned of record by two or more persons may be exercised by any one of them present at any meeting in the absence of protest by the other or others, and in case of protest each co-tenant shall be entitled to only a share of such vote in proportion to his share of ownership in such apartment.

Section 8. Proxies and Pledges.

(a) A proxy, to be valid, must be delivered to the secretary of the association of apartment owners or the managing agent, if any, at least by 4:30 p.m. two business days prior to the date of the meeting to which it pertains, and must contain at least: the name of the association of apartment owners, the date of the meeting of the association of apartment owners, the printed name and signature of the person or persons giving the proxy, the apartment or apartments for which the proxy is given, the printed name of the person or entity to whom the proxy is given, and the date that the proxy is given.

(b) A proxy shall only be valid for the meeting to which the proxy pertains and its adjournments, may designate

any person as proxy, and may be limited as the apartment owner desires and indicates.

(c) Proxies may be given to the board of directors as an entity.

(d) Nothing in this section shall affect the holder of any proxy under a first mortgage of record encumbering an apartment or under an agreement of sale affecting an apartment.

(e) No resident manager, or managing agent shall solicit, for use by such manager or managing agent, any proxies from any apartment owner of the association of owners which employs him, nor shall he cast any proxy vote at any association meeting except for the purpose of establishing a quorum.

(f) No member of a board of directors who uses association funds to solicit proxies, shall cast any of these proxy votes for the election or reelection of board members at any association meeting unless the proxy form specifically authorizes the board member to vote for the election or reelection of board directors and the board first posts notice of its intent to solicit proxies in prominent locations within the project at least thirty (30) days prior to its solicitation of proxies; provided that if the board receives within seven (7) days of the posted notice a request by any owner for use of association funds to solicit proxies accompanied by a statement, the board shall:

(i) Mail to all owners a proxy form containing either the names of all owners who have requested the use of association funds for soliciting proxies accompanied by their statements; or

(ii) Mail to all owners a proxy form containing no names, but accompanied by a list of names of all owners who have requested the use of association funds for soliciting proxies and their statements.

The statement shall not exceed one hundred (100) words, indicating the owner's qualifications to serve on the board and reasons for wanting to receive proxies.

Section 9. Adjournment. Any meeting of the Association may be adjourned from time to time to such place and time as may be determined by majority vote of the apartment owners present, whether or not a quorum be present, without notice other than the announcement at such meeting. At any such adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted by a quorum at the meeting as originally called.

Section 10. Order of Business. The order of business at all meetings of the Association shall be as follows:

- (a) Roll call.
- (b) Proof of notice of meeting.
- (c) Reading of minutes of preceding meeting.
- (d) Report of officers.
- (e) Report of committees.

- (f) Election of directors.
- (g) Unfinished business.
- (h) New Business.

ARTICLE II

BOARD OF DIRECTORS

Section 1. Number and Qualifications. The affairs of the Association shall be governed by a Board of Directors (the "Board") composed of not less than three (3) and not more than nine (9) persons; provided that if the Project has more than one hundred individual apartment units there shall be an elected board of not less than nine members unless not less than seventy-five per cent of all apartment owners vote by written ballot to set the minimum number of directors at less than nine during an annual meeting or special meeting called for the purpose of reducing the minimum number of directors. Each member of the Board shall be the sole owner or co-owner of record of an apartment, or a vendee under an agreement of sale of an apartment, or a partner in a general partnership if such partnership is an owner of record or a general partner of a limited partnership if such partnership is an owner of record. If a corporation is an apartment owner, any officer of such corporation shall be eligible to serve as director so long as he remains an officer of such corporation. No resident manager of the Project shall be eligible to serve as director. The directors shall serve without compensation.

Section 2. Powers. The Board of Directors shall have all powers necessary for the administration of the affairs of the Association and may do all such acts and things therefor as are not by law, the Declaration or these By-Laws directed to be exercised or done only by the apartment owners.

Section 3. Election and Term. Election of directors shall be by a cumulative voting by secret ballot at each annual meeting and any special meeting called for that purpose. Directors shall hold offices for a period of three (3) years and until their respective successors have been elected, subject to removal as herein provided, except that at the first annual meeting one-third (1/3) of the directors shall be elected for one (1) year, one-third (1/3) for two (2) years and one-third (1/3) for three (3) years.

Section 4. Vacancies. Vacancies in the Board of Directors caused by any reason other than removal of a director by the Association shall be filled by vote of a majority of the remaining directors, even though they may constitute less than a quorum, and each person so elected shall be a director until his successor is elected at the next annual meeting of the Association. Death, incapacity or resignation of any director, or his continuous absence from the State of Hawaii for more than six months, or his ceasing to be the sole owner or co-owner of an apartment or vendee under an agreement of sale, shall cause his office to become vacant.

Section 5. Removal of Directors. At any regular or special meeting of the Association duly called, any one or more

of the directors may be removed with or without cause by vote of a majority of apartment owners and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the apartment owners shall be given an opportunity to be heard at such meeting.

Section 6. Annual Meeting. Notice of the annual Board meeting shall be given in a reasonable manner at least fourteen (14) days, if practicable, prior to such meeting. At each such meeting the Board shall elect the officers of the Association for the ensuing year.

Section 7. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors, but at least one (1) such meeting shall be held during each calendar quarter of every year. Notice of regular meetings of the Board shall be given to each director, personally or by mail, telephone, or telegraph, at least one (1) day prior to the date of such meeting.

Section 8. Special Meetings. Special meetings of the Board of Directors may be called by the President on at least twenty-four (24) hours' notice to each director, given personally or by telephone or telegraph, which notice shall state the time, place and purpose of such meeting. Special meetings of the Board shall be called by the President or Secretary in like manner and with like notice on the written request of at least two (2) directors.

Section 9. Waiver of Notice. Before or at any meeting of the Board of Directors any director may in writing waive notice of such meeting, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall be a waiver of notice to him of such meeting. If all the directors are present at any meeting of the Board, no notice thereof shall be required, and any business may be transacted at such meeting.

Section 10. Quorum of Board. At all meetings of the Board of Directors a majority of the total number of directors shall constitute a quorum for the transaction of business, and the acts of a majority of the directors present at any meeting at which a quorum is present shall be the acts of the Board. If less than a quorum shall be present at any meeting of the Board, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 11. Board Meetings. All meetings of the Board of Directors shall be open to all members of the Association, provided that association members who are not on the board of directors may not participate in any deliberation or discussion unless expressly so authorized by the vote of a majority of a quorum of the board of directors. The board of directors, with the approval of a majority of a quorum of its members, may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters or litigation

in which the association is or may become involved. The nature or any and all business to be considered in executive session shall first be announced in open session.

Section 12. Conflict of Interest. No director shall vote or cast proxy at any Board meeting on any issue in which he has a conflict of interest.

Section 13. Fidelity Bonds. The Board of Directors shall require that all officers, employees and agents of the Association handling or responsible for its funds, shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

ARTICLE III

OFFICERS

Section 1. Designation. The principal officers of the Association shall be a President, a Vice-President, a Secretary, and a Treasurer, all of whom shall be elected by, and in the case of the President from, the Board of Directors. The Board may appoint an Assistant Treasurer, an Assistant Secretary and such other officers as in its judgment may be necessary.

Section 2. Election and Term. The officers of the Association shall be elected annually by the Board of Directors at its annual meeting and shall hold office at the pleasure of the Board.

Section 3. Removal. Any officer may be removed either with or without cause by vote of a majority of the members of the Board of Directors, and his successor elected at any regular meeting of the Board or any special meeting called for such purpose.

Section 4. President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board of Directors. Subject to the control of the Board he shall exercise general supervision and direction over the management and conduct of the business and affairs of the Association. He shall also have such other powers and duties as may be provided by these By-Laws or assigned to him from time to time by the Board.

Section 5. Vice-President. The Vice-President shall assume and perform the duties of the President in the absence or disability of the President or whenever the office of President is vacant. He shall also have such other powers and duties as may be assigned to him from time to time by the Board.

Section 6. Secretary. The Secretary shall attend and keep the minutes of all meetings of the Association and of the Board of Directors, give all notices thereof as provided by these By-Laws, maintain and keep a continuous and accurate record of ownership of all apartments, have charge of such books, documents and records of the Association as the Board may direct, and in general perform all the duties incident to

the office of Secretary. If the Secretary is not present at any meeting, the presiding officer shall appoint a secretary pro tempore who shall keep the minutes of such meeting and record them in the books provided for that purpose.

Section 7. Treasurer. The Treasurer shall maintain and keep the financial records and books of account of the Association, prepare regular reports thereof and be responsible for the proper deposit and custody in the name of the Association of all its funds and securities.

Section 8. Auditor. The Association may, by vote at the annual meeting, require a yearly audit of the Association books by a certified public accountant or accounting firm as auditor, who shall not be an officer of the Association nor own any interest in any apartment.

ARTICLE IV

ADMINISTRATION

Section 1. Management. The Board of Directors shall at all times manage and operate the Project and have such powers and duties as may be necessary or proper therefor including, without limitation, the following:

(a) Supervision of its immediate management and operation;

(b) Maintenance, repair, replacement and restoration of the common elements and any additions and alterations thereto;

(c) Purchase, maintenance and replacement of any equipment and provision of all water, sewer and other utility services required for the common elements;

(d) Provision at each apartment of all water, sewer, electricity and such other utility services and utilities as the Board shall deem necessary either at the expense of such apartment or as a common expense as determined by the Board;

(e) Employment, supervision and dismissal of such personnel as may be necessary for the maintenance and operation of the Project;

(f) Preparation at least sixty (60) days before each fiscal year of a proposed budget and schedule of assessments for such year;

(g) Collection from each residential apartment owner of all assessments and other charges payable to Wailuna Recreation Association by each such apartment owner and payment of same to Wailuna Recreation Association;

(h) Collection of all installments of assessments levied and payment of all common expenses authorized by the Board;

(i) Purchase and maintenance in effect of all policies of hazard and liability insurance for the Project required by the Declaration and such other insurance and bonds as may be required or authorized by the Declaration or the Board;

(j) Custody and control of all funds of the Association, maintenance of full and accurate books of account and records of such funds and preparation of regular financial reports thereof;

(k) Notification of all persons having any interest in any apartment according to the Association's record of ownership of delinquency exceeding sixty (60) days in the payment of any assessment against such apartment; and

(l) Establishment of such late fees, penalties and fines as it deems appropriate with respect to enforcement of the provisions of the Declaration, these By-Laws and the house rules adopted pursuant to these By-Laws; provided such penalties and fines are not inconsistent with the law or the provisions herein, and the unpaid amount of such penalties and fines against any apartment owner shall constitute a lien against his interest in his apartment which may be foreclosed by the Board of Directors or Managing Agent in the same manner as provided in the Horizontal Property Act for common expenses.

Section 2. Managing Agent. The Board of Directors shall annually employ a responsible corporation authorized to do business in Hawaii as Managing Agent to manage and control the Project subject at all times to direction by the Board, with all the administrative functions set forth specifically in the preceding Section 1 and such other powers and duties and at such compensation as the Board may establish.

Section 3. Books of Receipts and Expenditures; Unpaid Assessments; Availability for Examination. The manager or board of directors shall keep detailed, accurate records in chronological order, of the receipts and expenditures affecting the common elements, specifying and itemizing the maintenance and repair expenses of the common elements and any other expenses incurred. The manager or board of directors shall also keep monthly statements indicating the total current delinquent dollar amount of any unpaid assessments for common expenses. All records and the vouchers authorizing the payments, and statements shall be kept and maintained at the address of the project, or elsewhere within the State as determined by the board of directors, and shall be available for examination by the apartment owners at convenient hours of week days.

Section 4. Representation. Except as provided for in Section 7 of Article V herein, the President or Managing Agent, subject to the direction of the Board of Directors, shall represent the Association or any two or more apartment owners similarly situated as a class in any action, suit, hearing or other proceeding concerning the Association, the common elements or more than one apartment, and on its or their behalf may

institute, defend, intervene in, prosecute and settle any such actions, suits and proceedings, without prejudice to the rights of any apartment owners individually to appear, sue or be sued. Service of process on two or more apartment owners in any such action, suit or proceeding may be made on the President or Managing Agent. Every first mortgagee to whom the Lessee is required by the terms of the mortgage to pay same, or whenever there is no such mortgagee, every Managing Agent shall also be the agent of the respective Lessees under any apartment leases filed with the Board for the collection, custody and payment of all rent, taxes, assessments and other charges thereunder payable to their Lessor.

Section 5. Execution of Instruments. All checks, drafts, notes, acceptances, conveyances, contracts and other instruments shall be signed on behalf of the Association by such person or persons as shall be provided by general or special resolution of the Board of Directors or, in the absence of any such resolution applicable to such instrument, by the President or Vice-President and by the Treasurer or Secretary.

ARTICLE V

OBLIGATIONS OF APARTMENT OWNERS

Section 1. Assessments. All apartment owners shall pay to the Managing Agent in advance on the first day of each and every month: (a) The monthly installments of assessments against their respective apartments for common expenses of the Project; (b) Any assessments against an apartment pertaining to a limited common element appurtenant to such apartment; (c) All assessments against each apartment by Wailuna Recreation Association; and, (d) With respect to any lease of any apartment filed with the Board of Directors, a monthly sum determined by the Managing Agent to be sufficient to accumulate and pay when due all rent, taxes, assessments and other charges thereunder payable by the Lessee of such apartment.

In the event all said monthly charges are not received by the Managing Agent on or before the 15th day after said charges are due, the Managing Agent may assess a late payment charge in an amount not in excess of Fifteen Dollars (\$15.00) to the appropriate apartment owner; and if said charges, including said late payment charge, are not received within thirty (30) days after said monthly charges are due, an additional late charge in an amount not in excess of Fifteen Dollars (\$15.00) and interest at the rate of one per cent (1%) per month calculated from such due date may be assessed. The amount of the late charge and interest rate may be adjusted by the Board.

Section 2. Maintenance of Apartments and Condo Lots. Every apartment owner shall at his own expense at all times well and substantially repair, maintain, amend and keep his apartment and Condo lot (except for that portion of the front yard of Condo lot between the fence and the private street of the project), including, without limitation, all internal installations therein such as water, electricity, gas, telephone, sewer, sanitation, lights and all other fixtures and

accessories belonging to such apartment and all foundations, walls, floors, roofs and ceilings of such apartment, with all necessary reparations and amendments whatsoever in good order and condition except as otherwise provided by law or the Declaration, and shall be liable for all loss or damage whatsoever caused by his failure to perform any such work diligently, and in case of such failure after reasonable notice to perform shall reimburse to the Association promptly on demand all expenses incurred by it in performing any such work authorized by the Board of Directors or the Managing Agent.

Note: The front yard of each Condo lot shall be planted and cultivated and maintained exclusively by the Association and any exterior painting of any apartment or other improvements can be done only with the prior written consent of the Board of Directors.

Section 3. Damage to Common Elements. Every apartment owner and occupant shall reimburse the Association promptly on demand all expenses incurred by it in repairing or replacing any uninsured loss or damage to the common elements or any furniture, furnishment and equipment thereof caused by such owner or occupant or any person under either of them and shall give prompt notice to the Managing Agent of any such loss or damage or other defect in the Project when discovered.

Section 4. Restrictions on Use of Condo Lots. All Condo lots have a front yard area, a side area, and a rear yard area, as hereinafter designated. There are one or more fences and walls along the various boundary lines of Condo lots, and there is normally a fence in the front portion of the condo lot that extends between and connects to adjacent dwelling units. The fences and walls that are common elements are shown on the Condo Map.

The three (3) yard areas above referred to are defined as follows:

(i) the front yard area of each Condo lot is that yard area of the Condo lot located between the front fence (and the garage and front of the dwelling unit) and the road that is a portion of the project;

(ii) the side yard area of each Condo lot is that portion of the Condo lot located between adjoining dwelling units and extending to the corner of either dwelling unit that is furthest from the road that is a portion of the project; and

(iii) the rear yard area of each Condo lot is the remaining portion of the Condo lot which is that land area behind the house which is that part of the dwelling unit furthest from the road that is a portion of the project.

There are certain restrictions on the use of the three (3) different yard areas, as follows:

(i) The front yard shall be planted and cultivated and landscaped and maintained exclusively by the

Association for the exclusive benefit of the apartment owner.

(ii) The side yard shall be planted and cultivated and landscaped by the apartment owner but this area shall be a passive type of area (a no activity area) because of the proximity of the adjoining dwelling unit. This side yard is basically for use for ingress and egress and there shall be no continuing activities permitted in this area. In addition, no fences, walls or other improvements or hedges or other dense plantings shall be permitted or allowed that tends to cut down on or restrict the natural light and the natural circulation of air. Likewise no additional artificial lighting of the side yard shall be permitted.

(iii) The rear yard shall be deemed to be the active area for normal and typical activities relating to family usage of a private yard. In addition, however, the following Condo lots have an area known as an environmental protective corridor (EPC): 43, 44, 45, 46, 47, 48, 51, 52, 53, 54, 55, 56, 57, 58, 59 and 60. No plants, trees or other landscaping or fences or walls or other improvements or the placing of any item of personal property of any kind shall be permitted to exist with an EPC area that exceed two and one half (2-1/2) feet in height above existing grade.

Section 5. Restrictions on Use of Project.

(a) The apartments shall be used only for such purposes as stated in the Declaration.

(b) All common elements of the project shall be used only for their respective purposes as designed.

(c) No apartment owner or occupant shall plant or cultivate or landscape the common elements or the front portion of the Condo lot or place, store or maintain within or upon any of the common elements any furniture, packages or objects of any kind or otherwise obstruct transit through such common elements or the front portion of the condo lot.

(d) There shall be strict compliance with the terms and conditions of article VI of these By-Laws entitled "Architectural Control."

(e) No improvements or movable personal property in excess of two and one-half (2-1/2) feet in height above existing grade shall be constructed or permitted to exist within five (5) feet of any condo lot boundary line.

(f) No plants, trees or other landscaping or fences or walls or other improvements or the placing of any item of personal property of any kind shall be permitted to exist with an EPC area that exceed two and one half (2-1/2) feet in height above existing grade.

(g) Except as otherwise restricted herein, no plants or hedges, trees or other landscaping shall be permitted within

the side yard or rear yard of any Condo lot that shall extend above the existing roof line of the dwelling unit as it appears in the initial Condominium Map.

(h) No improvement shall be constructed on a Condo lot that shall increase the square footage of the dwelling unit by more than 350 square feet as it appears in the initial Condominium Map and no improvement shall be added above the roof line of the dwelling unit as shown on the initial Condominium Map.

(i) Every apartment owner and occupant shall at all times keep his apartment and Condo lot neat and clean and in a strictly clean and sanitary condition, and each apartment owner and occupant shall observe and perform all laws, ordinances, rules and regulations now or hereafter made by any governmental authority or the Association for the time being applicable to the use of the Project.

(j) No apartment owner or occupant shall make or suffer any strip or waste or unlawful, improper or offensive use of his apartment and Condo lot or the Project or the common elements nor alter or remove any furniture, furnishings or equipment of the common elements.

(k) All occupants shall avoid making noises and using musical instruments, radios, televisions and amplifiers in such manner as may disturb other occupants;

(l) No garments, rugs or other objects shall be hung from the windows or facades of any building or otherwise displayed in public view.

(m) No rugs or other objects shall be dusted or shaken from the windows or doors of any apartment or cleaned by beating or sweeping on any walkways, lanais, entries or other exterior part of the Project.

(n) No livestock, poultry, rabbits or other animals whatsoever shall be allowed or kept in any part of the project except that dogs, cats and other household pets in reasonable number may be kept by the apartment owners and occupants in their respective apartments and Condo lots but shall not be kept, bred or used therein for any commercial purpose nor allowed on any common elements except in transit when carried or on leash, provided that any such pet causing a nuisance or unreasonable disturbance to any other occupant of the project shall be permanently removed therefrom promptly upon notice given by the Board of Directors or Managing Agent.

(o) No apartment owner or occupant shall without the written approval of the Board of Directors install any wiring for electrical or telephone installations, machines or air conditioning units, or other equipment or appurtenances whatsoever on the exterior of any building of the project or protruding through the walls, windows or roof thereof.

(p) No apartment owner or occupant shall without the prior written approval of the Board of Directors and Lessor, erect, place or maintain any television or other antennas, or

solar energy systems or any other types of objects or equipment on any building visible from any point outside of his apartment.

(q) Nothing shall be allowed, done or kept in any apartment or common elements of the project which would overload or impair the floors, walls, or roofs thereof, or cause any increase in the ordinary premium rates or the cancellation or invalidation of any insurance thereon maintained by or for the Association.

(r) No signs whatsoever, including without limitation, commercial, political or similar signs, visible from neighboring property shall be erected or maintained upon or within any apartment or Condo lot except:

(i) Such signs as may be required by legal proceedings;

(ii) Apartment identification signs of a combined total face area of one square foot or less for each resident;

(iii) Not more than one "For Sale" or "For Rent" sign having a maximum face area of three square feet, such sign to refer only to the premises on which it is situated.

(s) No house trailer, mobile home, tent or similar facility or structure shall be kept, placed or maintained upon or within any Condo lot at any time.

(t) No boat or trailer or truck of more than one-ton capacity shall be kept, placed or maintained upon or within any Condo lot.

(u) No trailer, vehicle or boat shall be constructed, or reconstructed or repaired upon or within any Condo lot in such a manner that such construction, reconstruction or repair is visible from neighboring Condo lots, nor shall any vehicle not in good operating condition be maintained upon or within any Condo lot so as to be visible from any neighboring Condo lot, provided that nothing in this paragraph shall prevent an apartment owner from performing maintenance work or minor repairs on his own trailer, vehicle or boat in his garage.

(v) No open storage of furniture, fixtures, appliances and other goods and chattels not in active use will be permitted within a Condo lot so as to be visible from neighboring Condo lot, and no outside clothes lines or other outside clothes drying or airing facilities shall be permitted when they are visible from neighboring Condo lot.

(w) An apartment owner shall not permit any exterior fires whatsoever within the Condo lot, except small barbecue and imu fires, and shall not permit any condition on or within his Condo lot which creates a fire hazard.

(x) An apartment owner shall not park his car on any portion of his Condo lot visible from any adjacent Condo lot, except in a garage or on a paved driveway area, and boats,

trailers or truck campers will not be kept within or on any Condo lot except in a garage.

(y) No garage shall be used in a manner inconsistent to the use of same for other than the parking of vehicles and boats.

(z) Each apartment owner and occupant shall do what is necessary to preserve and maintain the drainage patterns on his Condo lot and adjoining Condo lots.

Section 6. House Rules and Regulations. The Board, upon giving notice to all apartment owners in the same manner as herein provided for notice of meetings of the Association and opportunity to be heard thereon, may adopt, amend or repeal any supplemental rules and regulations (sometimes referred to as "house rules") governing the details of the operation and use of the common elements not inconsistent with Declaration or these By-Laws or any provision of the law.

Section 7. Default in Payment of Assessments. Each monthly assessment and each special assessment of the Association and all assessments of Wailuna Recreation Association and all other assessments chargeable to an apartment owner under Article V shall be separate, distinct and personal debts and obligations of the apartment owner against whom the same are assessed. In the event of a default or defaults in payment of any such assessment or assessments and in addition to any other remedies herein or by law provided, the Board of Directors may enforce each such obligation as follows:

(a) By suit or suits at law to enforce each such assessment obligation. Each such action must be authorized by the Board at a regular or special meeting thereof and any such suit may be instituted by any one member of the Board or by the Managing Agent. Each such action shall be brought in the name of the Board and the Board shall be deemed to be acting on behalf of all the apartment owners. Any judgment rendered in any such action shall include, where permissible under any law, a sum for reasonable attorneys' fees in such amount as the Court may adjudge against such defaulting apartment owner. Upon full satisfaction of any such judgment, it shall be the duty of the Board to authorize any two members thereof, acting in the name of the Board, to execute and deliver to the judgment debtor an appropriate satisfaction thereof.

(b) At any time after the occurrence of any such default, the Board may give a notice to the defaulting apartment owner, with a copy to the mortgagee of such apartment owner, if such mortgagee has furnished its name and address to the Board, which said notice shall state the date of the delinquency, the amount of the delinquency and make a demand for payment thereof. If such delinquency is not paid within ten (10) days after delivery of such notice, the Board may elect to file a claim of lien against the apartment of such delinquent apartment owner. Such claim of lien shall state (1) the name of the delinquent apartment owner or reputed apartment owner, (2) a

description of the apartment against which claim of lien is made, (3) the amount claimed to be due and owing (with any proper offset allowed), (4) that the claim of lien is made by the Board pursuant to the terms of these By-Laws and of Chapter 514A, Hawaii Revised Statutes, as amended, and (5) that a lien is claimed against said described apartment in an amount equal to the amount of the stated delinquency. Any such claims of lien shall be signed and acknowledged by any two or more members of the Board and shall be dated as of the date of the execution by the last such Board member to execute said claim of lien. Upon recordation of a duly executed original or copy of such claim of lien with the Bureau of Conveyances or the Assistant Registrar of the Land Court of the State of Hawaii, the Board shall have all remedies provided in Section 514A-90, Hawaii Revised Statutes, as amended. Each default shall constitute a separate basis for a claim of lien or a lien. In the event the foreclosure is under power of sale, the Board, or any person designated by it in writing, shall be entitled to actual expenses and such fees as may be allowed by law or as may be prevailing at the time the sale is conducted. The certificate of sale shall be executed and acknowledged by any two members of the Board or by the person conducting the sale.

(c) For the purposes of this Section 7, a certificate executed and acknowledged or made under penalty of perjury by the Managing Agent or by any two members of the Board shall be conclusive upon the Board and the apartment owners in favor of any and all persons who rely thereon in good faith as to the matters therein contained (except for any subsequently dishonored checks), and any apartment owner shall be entitled to such a certificate setting forth the amount of any due and unpaid assessments with respect to his apartment (or the fact that all assessments due are paid if such is the case) within fifteen (15) days after demand therefor and upon payment of a reasonable fee as established by the Board. In the event any claims of liens have been recorded and thereafter the Board shall receive payment in full of the amount claimed to be due and owing, then upon demand of the apartment owner or his successor, and payment of a reasonable fee, as established by the Board, the Managing Agent or the Board, acting by any two members, shall execute and acknowledge (in the manner provided above) a release of lien, stating the date of the original claim of lien, the amount claimed, the date, the recordation data if recorded in the Bureau of Conveyances or the document number if filed in the Land Court, the fact that the lien has been fully satisfied and that the particular lien is released and discharged, such release of lien to be delivered to the apartment owner or his successor upon payment of the fee.

Section 8. Record of Ownership. Every apartment owner shall promptly cause to be duly recorded or filed of record the deed, lease, assignment, Agreement of Sale or other conveyance to him of such apartment or other evidence of his title thereto and shall file such document with and present such other evidence of his title to the Board of Directors through the Managing Agent. The Managing Agent or the Board of Directors

shall maintain all such information together with an accurate and current list of members of the Association which shall include their current addresses and shall also maintain a record of the names and addresses of the vendees of an apartment under an agreement of sale, if any. The list shall be maintained at a place designated by the Board of Directors.

ARTICLE VI

ARCHITECTURAL CONTROL

Section 1. Appointment of Architectural Committee. The Board of Directors shall appoint an Architectural Committee, consisting of not less than three (3) members, who shall serve at the pleasure of the Board. The members of such Committee shall not be entitled to any compensation for services performed pursuant to this covenant. Said representatives may be the members of the Board of Directors of the Association.

The Committee in its discretion, may promulgate from time to time standards as to landscaping, building, fences, walls or other structures that do not conflict with provisions of the Declaration or those By-Laws.

Section 2. Architectural Approval. No building, fence, wall or other structure shall be commenced, erected or maintained upon the project, nor shall any exterior addition to or change or alteration therein, including patio covers and antennas, be made until the plans and specification showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Committee and Lessor.

Section 3. Environmental Protective Corridors. It is the desire of the Association to protect certain environmental corridors within certain condo lots. Consequently, those certain Condo lots listed in Section 4 of Article V and shown on the Condominium Map have shaded areas within the rear yard in which nothing may be built with a height greater than two and one half (2 1/2) feet above existing grade and nothing may be planted which grows to a height in excess of two and one half (2 1/2) feet above existing grade. These areas are known as the "EPC" areas.

All of the foregoing notwithstanding, if two adjacent apartment owners so agree in writing, they may, with the prior written approval of the Architectural Committee, construct a fence or wall between their Condo lots to a height not exceeding six (6) feet above the highest finished dwelling unit slab. Should such a wall or fence be desired, then the apartment owner proposing such a wall must have his neighbor's permission attached to and made a part of the drawing which he submits to the Architectural Committee for approval, and prior to granted approval of the fence in writing the Architectural Committee must assure itself that said fence will not adversely affect any EPC area in the project.

Section 4. Landscaping Approval. The provisions of this Section 4 are subordinate to the provisions of Section 3 above set forth. No trees, bushes, shrubs or plants which at maturity, and without clipping or pruning thereof, would exceed the height of the dwelling house on a Condo lot shall be planted or emplaced until the plans and specifications for the placement of any such trees, bushes, shrubs or plants have been submitted to and approved in writing by the Architectural Committee as to the preservation of the natural view and aesthetic beauty which each Condo lot is intended to enjoy. Said plans as submitted shall show in detail the proposed elevations and locations of said trees, bushes, shrubs or plants, including the location and elevation of same in relation to all other Condo lots subject to these restrictions. Approval of said plans by the Architectural Committee may be withheld if in the reasonable opinion of the Committee the view of any Condo lot would be impeded by the location of such tree, bush, shrub or plant, or in any other manner. In any event, the Architectural Committee shall have the right to require any member to remove, trim, top, or prune any tree, or shrub, which in the reasonable belief of the Architectural Committee impedes or detracts from the view of any Condo lot.

Section 5. Lanai Structures, Sun Shades and Gazebos. Structures in this section shall be designed to continue and/or complement architectural features of the dwelling unit. The exterior appearance of the addition shall be built and finished to match the color and trim of the dwelling unit. No such structure shall be built within a EPC area.

Section 6. Repainting. All repainting of exterior surfaces must have the prior written approval of the Architectural Committee.

Section 7. Consents. The Architectural Committee is required to communicate within a reasonable period of time. In the event that the committee and Lessor fails to approve or disapprove of plans and specifications and design within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required, and this Article will be deemed to have been fully complied with.

ARTICLE VII

MORTGAGES AND MORTGAGEES

Section 1. Notice to Board of Directors. An apartment owner who mortgages his interest in an apartment shall notify the Association of the name and address of his mortgagee and within ten (10) days after the execution of the same shall file a conformed copy of such mortgage with the Association; the Association shall maintain such information in a book entitled "Mortgages of Apartments".

Section 2. Notice of Meetings. A mortgagee of an apartment will, upon request, be entitled to written notice of all meetings of the Association and will be entitled to designate a representative to attend all such meetings.

Section 3. Notice of Unpaid Common Expenses and Assessment of Wailuna Recreation Association. The Association whenever so requested in writing by an owner or mortgagee of an interest in an apartment shall promptly report any then unpaid assessments or common expenses due from the apartment owner involved.

Section 4. Notice of Default. The Board, when giving notice to an apartment owner of a default in paying common expenses or other default, shall send a copy of such notice to each holder of a mortgage covering such apartment or interest therein whose name and address has theretofore been furnished to the Association. In each and every case where the lender-mortgagee has made a request, the Association shall notify the lender-mortgagee of any unpaid assessments that are thirty (30) days delinquent or more.

Section 5. Examination of Books. Each apartment owner and each mortgagee shall be entitled to examine the books and records of the Association or the Project at reasonable times on business days, but an owner may not examine said books more than once a month. Each mortgagee shall have the right to require the Board of Directors or the Association to provide such mortgagee with an annual financial statement of the Project within ninety (90) days following the end of each fiscal year of the Project, and such other annual reports and financial data as may be reasonable.

Section 6. Management Contracts. Any management agreement for the Project will be terminable by the Board of Directors for cause upon 30 days' written notice thereof, and the term of any such agreement may not exceed one year, renewable by agreement of the parties for successive one-year periods.

Section 7. Mortgage Protection. Notwithstanding all of the provisions hereof:

(a) The liens created hereunder against any apartment and its appurtenant interest in the common elements shall be subject and subordinate to and shall not affect the rights of the holder of any indebtedness secured by any recorded mortgage of such interest, made for value, provided that after the foreclosure of any such mortgage there shall be a lien upon the interest of the purchaser at such foreclosure sale to secure all assessments, whether regular or special, assessed hereunder to such apartment if falling due after the date of such foreclosure sale.

(b) All taxes, assessments and charges which may become liens prior to the first mortgage under the laws of the State of Hawaii shall relate only to the individual apartment units and not to the condominium Project as a whole.

(c) The Declaration and By-Laws shall not give an apartment owner or any other party, priority over any rights of first mortgagees of apartment units pursuant to their mortgages in the case of a distribution to apartment owners of insurance proceeds or condemnation awards for

losses to or a taking of apartment units and/or common elements.

Section 8. Partition or Subdivision. No apartment in the Project may be partitioned or subdivided without prior approval of a holder of any first mortgage lien of such apartment.

Section 9. Right of First Refusal Not Applicable. In the event that there shall be any right of first refusal to purchase any apartment by the Association, any first mortgagee who obtains title to an apartment pursuant to the remedies provided in the mortgage, or foreclosure of the mortgage or assignment of apartment lease in lieu of foreclosure, shall be exempt from such "right of first refusal".

Section 10. Unpaid Common Expenses or Assessments. Any first mortgagee who obtains title to the apartment pursuant to the remedies provided in the mortgage or foreclosure of the mortgage shall not be liable for such apartment's unpaid common expenses and assessments which accrue prior to the acquisition of title to such unit by the mortgagee. The unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the apartment owners, including the acquirer of such apartment, his successors and assigns.

Section 11. Release of Information. The Board of Directors may provide any information available to it pertaining to an apartment or the Project to the first mortgagee of such apartment and such mortgagee may provide any information to the Board of Directors regarding the mortgagor, the mortgagor's loan and the status of such loan.

Section 12. Conflicting Provisions and Amendment to Article VII. In the event of any conflict in the provisions of the Declaration or these By-Laws and the provisions of this Article VII, the provisions of this Article VII shall prevail. Notwithstanding any other provisions of the Declaration or these By-Laws, no amendment to this Article VII shall affect the rights of the holder of any mortgage which was recorded in the Bureau of Conveyances, State of Hawaii, or filed in the Office of the Assistant Registrar of the Land Court, State of Hawaii, prior to the filing of such amendment, who does not join in the execution thereof.

ARTICLE VIII

MISCELLANEOUS

Section 1. By-Laws, Amendments, Copies. Except as otherwise provided in these By-Laws, these By-Laws may be amended in any respect not inconsistent with provisions of law or the Declaration by the affirmative vote or written consent of sixty-five per cent (65%) of the apartment owners and the written consent of the Lessor, effective only upon the recording of an instrument setting forth such amendment and vote duly executed by such owners or by any two officers of the Association. Upon the request of any apartment owner, mortgagee

or other interested party, the Secretary or the Managing Agent shall supply such party with a copy of the By-Laws as amended and shall certify that such copy is current to the date of such certification; provided, however, that the requesting party shall pay a reasonable service charge plus the actual cost of reproduction.

Section 2. Liability and Indemnity of Directors and Officers. The members of the Board of Directors and officers shall not be liable to the apartment owners for any mistake of judgment or otherwise except for their own individual gross negligence or wilful misconduct. The Association shall indemnify each director and officer of the Association against all costs, expenses and liabilities, including the amount of judgments, amounts paid in compromise settlements and amounts paid for services of counsel and other related expenses which may be incurred by or imposed on him in connection with any claim, action, suit, proceeding, investigation or inquiry hereafter made, instituted, or threatened in which he may be involved as a party or otherwise by reason of his being or having been a director or officer, or by reason of any action taken or authorized or approved by him or any omission to act as director or officer, whether or not he continues to be a director or officer at the time of the incurring or imposition of such costs, expenses or liabilities, except such costs, expenses or liabilities as shall relate to matters as to which he is liable by reason of his negligence or misconduct toward the Association in the performance of his duties as such director or officer. As to whether or not a director or officer was liable by reason of negligence or misconduct toward the Association in the performance of his duties as such director or officer, in the absence of such final adjudication of the existence of such liability, the Board of Directors and each director and officer may conclusively rely upon an opinion of legal counsel selected by the Board of Directors. The foregoing right of indemnification shall not be exclusive of other rights to which any such director or officer may be entitled as a matter of law or otherwise, and shall inure to the benefit of the heirs, personal representatives, and assigns of each such director and officer.

Section 3. Audits. The association of apartment owners shall require a yearly audit of the association financial accounts and no less than one yearly unannounced verification of the association's cash balance by a public accountant; provided that the yearly audit and the yearly unannounced cash balance verification may be waived by the majority vote of all apartment owners taken at an association meeting.

Section 4. Waiver. The failure of the Board to insist in any one or more instances upon a strict performance of or compliance with any of the covenants of the apartment owner hereunder or to exercise any right or option herein contained, or to serve any notice, or to institute any action or summary proceeding, shall not be construed as a waiver, or a relinquishment for the future, of such covenant or option or right, but such covenant or option or right shall continue and remain in full force and effect. The receipt by the Board of any sum paid by the apartment owner hereunder, with or without

knowledge by the Board of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver, express or implied, by the Board of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the President pursuant to authority contained in resolution of the Board of Directors.

Section 5. Conduct of Meetings. All Association and Board of Directors' meetings shall be conducted in accordance with the most current edition of Roberts Rules of Order.

Section 6. Minutes of Meetings. The minutes of meetings of the Board of Directors, and Association of Apartment Owners shall be available for examination by apartment owners at convenient hours at a place designated by the Board.

Section 7. Association May Incorporate. All of the rights, powers, obligations and duties of the Association imposed hereunder may be exercised and enforced by a non-profit membership corporation, formed under the laws of the State of Hawaii for the purposes herein set forth by the Association. Said corporation shall be formed upon the written approval of a majority of the voting apartment owners. The formation of said corporation shall in no way alter the terms, covenants and conditions set forth herein and the Articles and By-Laws of said corporation shall be subordinated hereto and controlled hereby. Any action taken by said corporation, which said action is in violation of any or all of the terms, covenants or conditions contained herein, shall be void and of no effect.

Section 8. Subordination. These By-Laws are subordinate and subject to all provisions of the Declaration and any amendments thereto and the Horizontal Property Act (Chapter 514A, Hawaii Revised Statutes, as amended) which shall control in case of any conflict. All terms herein (except where clearly repugnant to the context) shall have the same meaning as in the Declaration or said Horizontal Property Act.

Section 9. Interpretation. In case any provision of these By-Laws shall be held invalid, such invalidity shall not render invalid any other provision hereof which can be given effect. Nothing in these By-Laws shall be deemed or construed to authorize the Association or Board of Directors to conduct or engage in any active business for profit on behalf of any or all of the apartment owners.

CERTIFICATE OF ADOPTION

The Trustees of the Estate of Bernice Pauahi Bishop, "Lessor," Lear Siegler, Inc., and Lear Siegler Properties, Inc., "Sublessor," and The Lusk Company, "Developer," hereby adopt the foregoing as the By-laws of the Association of Apartment Owners of The Heights at Wailuna, a horizontal property regime

created by the Declaration of Horizontal Property Regime recorded contemporaneously with these By-Laws.

In Witness Whereof, the Lessor, Sublessor and Developer have executed these presents this 29th day of July, 1986.

Myron B. Thompson

LEAR SIEGLER, INC.

William F. Richards

By Henry A. Glue
Its Vice President

William F. Richards

LEAR SIEGLER PROPERTIES, INC.

Trustees of the Estate of
Bernice Pauahi Bishop

"Lessor"

By Henry A. Glue
Its Vice President

"Sublessor"

THE LUSK COMPANY

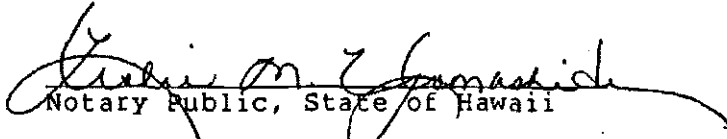
By [Signature]
Its Vice President
By Rich. A. Kuehl
Its Secretary "Developer"

APPROVED AS TO FORM
CONTENTS AND AUTHORIZATION
Ken W. Stahly
Documentary Department

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 8th day of August, 1986,
before me personally appeared Myron B. Thompson,
William S. Richardson and Matsumi Terauchi,
three of the Trustees of the Estate of Bernice Pauahi Bishop,
to me known to be the persons who severally executed the
foregoing instrument and acknowledged that they severally
executed the same as their free act and deed.


LESLIE M. YAMASHITA
Notary Public, State of Hawaii
My commission expires Sept. 27, 1988


Notary Public, State of Hawaii
My Commission Expires: _____

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 30th day of JULY, 1986,
before me appeared HENRY F. ALVES, to me personally known, who,
being by me duly sworn, did say that he is the Vice President
of LEAR SIEGLER, INC., a Delaware corporation authorized to do
business in Hawaii; and that the seal affixed to the foregoing
instrument is the corporate seal of said corporation and that
said instrument was signed and sealed in behalf of said
corporation by authority of its Board of Directors, and the
said HENRY F. ALVES acknowledged said instrument to be the free
act and deed of said corporation.


Notary Public, State of Hawaii
My Commission Expires: NOVEMBER 20, 1986

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

SS.

On this 30th day of JULY, 1980,
before me appeared HENRY F. ALVES, to me personally known, who,
being by me duly sworn, did say that he is the Vice President
of LEAR SIEGLER PROPERTIES, INC., a Delaware corporation
authorized to do business in Hawaii; and that the seal affixed
to the foregoing instrument is the corporate seal of said cor-
poration and that said instrument was signed and sealed in
behalf of said corporation by authority of its Board of
Directors, and the said HENRY F. ALVES acknowledged said
instrument to be the free act and deed of said corporation.

Carol A. Ott

Notary Public, State of Hawaii

My Commission Expires: NOVEMBER 20, 1984

STATE OF _____

SS.

COUNTY OF _____

CAT. NO. NH00737
TO 21945 CA (1-83)

(Corporation)

STATE OF CALIFORNIA
COUNTY OF Orange

SS.

On July 29, 1980 before me, the undersigned, Notary Public in and for
said State, personally appeared Donald R. Hoffensen

personally known to me or proved to me on the basis
of satisfactory evidence to be the person who executed
the within instrument as the
President, and Debbie Della Valle

personally known to me or
proved to me on the basis of satisfactory evidence to be
the person who executed the within instrument as the

Secretary of the Corporation
that executed the within instrument and acknowledged
to me that such corporation executed the within instru-
ment pursuant to its by-laws or a resolution of its
board of directors.

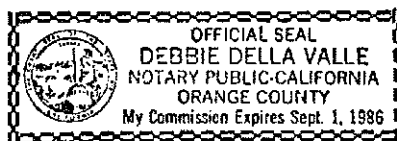
WITNESS my hand and official seal.

Signature

Debbie Della Valle

 **TICOR TITLE INSURANCE**

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(This area for official notarial seal)

RECORDATION REQUESTED BY:

ALL ORIGINALS OF THIS INSTRUMENT
RECORDED BY THE
OFFICE OF RECORDS
IN THE

BUREAU OF CONVEYANCES

AFTER RECORDATION RETURN TO:

DAMON, KEY, CHAR & BOCKEN

RETURN BY: MAIL ☐ PICKUP ☐

Recorded for ~~100~~ ³
day of October A.M. 1985
at 8:02 ~~am~~ ^{am}
Recorded at 18981
of 617

DECLARATION OF HORIZONTAL PROPERTY REGIME
OF
THE HEIGHTS AT WAILUNA, INCREMENT 1

EXHIBITS "A" and "B"
(Exhibit "A" - The Land)
(Exhibit "B" - Common Interests)

DAMON, KEY, CHAR & BOCKEN
(CHARLES W. KEY)
10th Floor, City Bank Bldg.
810 Richards Street
Honolulu, Hawaii 96813
Tel. No. 531-8031

7663B/441
8/30/85

DECLARATION OF HORIZONTAL PROPERTY REGIME
OF
THE HEIGHTS AT WAILUNA, INCREMENT 1

WHEREAS, THE TRUSTEES OF THE ESTATE OF BERNICE PAUHAH BISHOP, herein called the "Lessor", own in fee simple that certain parcel of land described in EXHIBIT "A" attached hereto and made a part hereof by this reference, the land described in EXHIBIT "A" being herein referred to as "said land"; and

WHEREAS, LEAR SIEGLER, INC. a Delaware corporation authorized to do business in Hawaii, and LEAR SIEGLER PROPERTIES, INC., a Delaware corporation authorized to do business in Hawaii, whose places of business is 700 Bishop Street, Suite 1112, Honolulu, Hawaii, and whose post office address is P.O. Box 3230, Honolulu, Hawaii, herein called "Sublessor", are the holders of that certain Bishop Estate Lease No. 27,480 dated December 13, 1984, recorded in the Bureau of Conveyances of Hawaii in Liber 18370 at page 272, demising said land; and

WHEREAS, Lessor and Sublessor did lease said land to JOHN D. LUSK & SON, a California corporation authorized to do business in the State of Hawaii, whose principal place of business and post office address in Hawaii is Suite 1618, Davies Pacific Center, 841 Bishop Street, Honolulu, Hawaii 96813, herein called "Developer", by that certain Bishop Estate Lease No. 27,480A, dated April 3, 1985, recorded in said Bureau in Liber 18561, page 710; and

WHEREAS, Developer has undertaken to improve said land pursuant to the terms of said Lease and in accordance with plans incorporated herein by reference and filed simultaneously herewith in said Bureau of Conveyances as Condominium Map No. _____ ("said Condo Map");

NOW, THEREFORE, in order to create a condominium project consisting of said land and improvements (herein called the "Project") and to be known as

"THE HEIGHTS AT WAILUNA, INCREMENT 1"

the Lessor, Sublessor and Developer hereby submit said land described in EXHIBIT "A" and improvements thereon to the Horizontal Property Regime established by the Horizontal Property Act, Chapter 514A, Hawaii Revised Statutes, as amended (herein called "the Act"), and in furtherance thereof make the hereinafter stated declarations as to divisions, limitations, restrictions, covenants and conditions and hereby declare and agree that said property is held and shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied and improved subject to said declarations, which declarations shall constitute covenants running with the land and shall be binding on and be for the benefit of the parties hereto, their respective successors and

assigns, and all subsequent owners and lessees of all or any part of the Project and their respective successors, heirs, personal representatives and assigns:

1. Apartments. There are hereby established thirty-one (31) freehold estates (herein called "apartments") consisting of thirty-one (31) separate dwelling units and other improvements numbered "31" through "42", "79" through "85" and "117" through "128", as shown in Column 1 of EXHIBIT "B" attached hereto and made a part hereof, each located within and situated upon certain specific delineated land areas shown on said Condo Map bearing the same number as the separate dwellings units. Each apartment consists of all improvements comprising the dwelling unit within each of said land areas, and all other improvements within each of said land areas EXCEPTING THEREFROM, however, the common elements within each of said dwelling units and within the other improvements situate on said land areas.

(1.1) The various separate 31 land areas numbered "31" through "42", "79" through "85" and "117" through "128" as shown on said Condo Map are limited common elements. Each of the apartments has appurtenant thereto as a limited common element the land area having the same number as said apartment, and this land area is sometimes referred to herein as a "Condo lot".

(1.2) The dwelling units are of double wall wood frame construction on concrete slab with a composition roof, and are principally constructed of wood, interior dry-wall partitions, exterior masonite siding or lath and plaster siding, glass, aluminum and appropriate trim. There are no basements.

(1.3) There are five types of dwelling units shown on said Condo Map. These five types of dwelling units are designated by 1, 4, 5, 5M or 7, and the type of dwelling unit comprising each apartment is set forth on EXHIBIT "B" attached hereto and made a part hereof.

(1.4) The number of rooms and stories of each type of dwelling unit is set forth below:

	<u>1</u>	<u>4</u>	<u>5</u>	<u>5M</u>	<u>7</u>
Number of Rooms	7	9	8	8	8
Number of Stories	1	2	2	2	2

(1.5) The approximate net living area of each type of dwelling unit consisting of the enclosed portion of the dwelling unit measured from the interior surface of the dwelling unit perimeter walls and the garage is set forth below in square feet:

	<u>1</u>	<u>4</u>	<u>5</u>	<u>5M</u>	<u>7</u>
Net living area:	1,135	1,448	1,302	1,302	1,344
Garage:	<u>435</u>	<u>423</u>	<u>467</u>	<u>467</u>	<u>415</u>
TOTAL	<u>1,570</u>	<u>1,871</u>	<u>1,769</u>	<u>1,769</u>	<u>1,759</u>

(1.6) Each of the apartments has immediate access to driveways on the grounds of the Project and to a public street.

2. Common Elements. One freehold estate is hereby designated in all of the remaining portions and appurtenances of the Project, herein called the "common elements", including specifically, but not limited to:

(2.1) The land described in EXHIBIT "A" in fee simple;

(2.2) All yards, grounds and landscaping, roads, the sidewalks within the road areas, walls, fences, and driveways. (NOTE: all the foregoing is as shown on said Condo Map except for the landscaping. The fences and walls and sidewalks within the road that are common elements are shown on Sheets 2 of 10 through Sheet 10 of 10 of said Condo Map);

(2.3) All ducts, electrical equipment, wiring, pipes and other central and appurtenant transmission facilities, installations over, under and across the land of the project which serve more than one apartment for services such as power, light, water, gas, drainage, sewer, telephone and radio and television signal distribution (Note: There are conduits within the Condo lots that are common elements, and there are conduits and a low voltage power source in the utility closets within the garage of each apartment that are also common elements); and

(2.4) The rain gutters and downspouts on the roof of each apartment adjacent to the common boundary line and the water drainage patterns on the surface of each condo lot; and

(2.5) Any and all apparatus and installations of common use and all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

3. Limited Common Elements. Certain parts of the common elements, herein called and designated "limited common elements", are hereby set aside and reserved for the exclusive use of certain apartments and such apartments shall have appurtenant thereto exclusive easements for the use of such limited common elements. The limited common elements so set aside and reserved are as follows:

(3.1) The various separate land areas (Condo lots) numbered "31" through "42", "79" through "85", and "117" through "128" as shown on said Condo Map are limited common elements. Each of the apartments has appurtenant thereto as a limited common element the land area having the same number as said apartment.

(3.2) The driveway extending from the road within the project to the garage of each dwelling unit is a limited common element on said apartment.

(3.3) All other common elements of the Project which are rationally related to less than all of said apartments shall be limited to the use of such apartments.

All limited common elements, costs and expenses, including but not limited to, maintenance, repair, replacement, additions and improvements, shall be charged to the owner of the apartment to which the limited common elements are appurtenant, and all such charges shall be collected in the same manner as common expenses and the Association shall have a lien against apartments for any unpaid charges in accordance with paragraph 9 of this Declaration.

4. Other Easements. In addition to the exclusive easements established in the limited common elements, the apartments shall also have and be subject to the following easements and license:

(4.1) Each apartment shall have appurtenant thereto nonexclusive easements in the common elements designed for such purpose for ingress to, egress from, utility services for and support and repair of such apartment; in the other common elements for use according to their respective purposes, subject always to the exclusive or limited use of the limited common elements as herein provided, and in all of the common elements for support.

Note: It will be necessary to enter each Condo lot adjoining each apartment for the repair and maintenance of the dwelling unit.

(4.2) If any part of the common elements now or hereafter encroaches upon any apartment or limited common elements, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall and does exist. In the event any buildings of the Project shall be partially or totally destroyed and then rebuilt, minor encroachments of any parts of the common elements due to construction shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist.

(4.3) Each apartment and all limited common elements shall be subject to an easement in favor of the owners of all other apartments for access to any common elements located within or adjoining such apartment or limited common element.

5. Common Interest. Each of the apartments has appurtenant thereto the undivided percentage interest in all the common elements of the Project as shown in EXHIBIT "B", such interest being defined and referred to herein as the "common interest" and the same proportionate share in all common profits and expenses of the Project and for all other purposes, including voting.

6. Purposes and Restrictions. The purposes for which said buildings and other improvements and each of the apartments are intended and shall be restricted as to use are as follows:

(6.1) The common interest and easements appurtenant to each apartment shall have a permanent character, shall not be altered without the consent of all owners of apartments affected thereby and Lessor as expressed in an amendment to this Declaration duly recorded, and shall not be separated from such apartment and shall be deemed to be conveyed or encumbered with such apartment even though not expressly mentioned or described in the conveyance or other instrument.

(6.2) The common elements shall remain undivided, and no right shall exist to partition or divide any part thereof except as provided by said Horizontal Property Act.

(6.3) The apartments shall be occupied and used only for residential purposes and no apartment shall be used as a tenement or rooming house or for or in connection with the carrying on of any business, trade or profession whatsoever. The apartments shall not be rented for transient or hotel purposes, which are defined as: (1) rental for any period less than thirty (30) days; or (2) any rental in which the occupants of the apartments are provided customary hotel services such as room service for food and beverages, maid service, laundry and linen or bellboy service. The apartments in the Project or any interest therein shall not be sold, transferred, conveyed, leased, occupied, rented or used for or in connection with any time-sharing purpose or under any time-sharing plan, arrangement or program, including without limitation any so-called "vacation license", "travel club membership" or "time interval ownership" arrangement. The term "time-sharing" as used herein shall be deemed to include, but is not limited to, any plan, program or arrangement under which the right to use, occupy, own or possess an apartment or apartments in the Project rotates among various persons on a periodically recurring basis according to a fixed or floating interval or period of time, whether by way of deed, lease, association or club membership, license, rental or use agreement, co-tenancy agreement, partnership or otherwise. Except for the foregoing, the owners of the apartments shall have the absolute right to lease such apartments.

(6.4) The owner of each apartment upon acquiring title thereto automatically shall become a member of the Association of Apartment Owners, herein called the "Association"; and shall remain a member thereof until such time as his ownership of such apartment ceases for any reason, at which time his membership in the Association automatically shall cease; provided, however, that if and to the extent a lease of any apartment filed with the Board of Directors of the Association so provides, the lessee of such apartment shall be deemed to be the owner thereof.

7. Administration. Administration of the Project shall be vested in the Association, consisting of all apartment owners of the Project in accordance with the By-Laws of

the Association (the "Bylaws") to be recorded contemporaneously herewith. Operation of the Project and maintenance, repair, replacement and restoration of the common elements, and any additions and alterations thereto, shall be in accordance with the provisions of said Horizontal Property Act, this Declaration and the By-Laws, and specifically but without limitation the Association shall:

(7.1) Make, build, maintain and repair all fences, sewers, drains, roads, curbs, sidewalks and parking areas which may be required by law to be made, built, maintained and repaired upon or adjoining or in connection with or for the use of the Project or any part thereof, including, but not limited to, any screening or landscaping of the facilities of Hawaiian Electric Company, Inc., and, if any, of Hawaiian Telephone Company, on the premises which may be required by law, ordinance or by any governmental agencies.

(7.2) Keep all common elements of the Project in a strictly clean and sanitary condition, and observe and perform all laws, ordinances, rules and regulations now or hereafter made by any governmental authority for the time being applicable to the Project or the use thereof.

(7.3) Well and substantially repair, maintain, preserve, amend and keep all common elements of the Project, including without limitation the buildings thereof, with all necessary reparations and amendments whatsoever in good order and condition except as otherwise provided herein, and maintain and keep said land and all adjacent land between any street boundary of the Project and the established curb or street line in a neat and attractive condition and all trees, shrubs and grass thereon in good cultivation and replant the same as may be necessary, and repair and make good all defects in the common elements of the Project herein required to be repaired by the Association, of which notice shall be given by any owner or his agent, within thirty (30) days after the giving of such notice.

(7.4) Not make or suffer any strip or waste or any unlawful, improper, or offensive use of the Project.

(7.5) Not erect or place on the Project any building or structure, including fences and walls, nor make additions or structural alterations to, or exterior changes of, any common elements of the Project, nor place or maintain thereon any signs, posters or bills whatsoever, except in accordance with plans and specifications, including detailed plot plan, prepared by a licensed architect if so required by Lessor, first approved in writing by Lessor and also approved by a majority of apartment owners (or such larger percentage as required by law or this Declaration) including all owners of apartments thereby directly affected, as determined by the Board of Directors (the "Board"), and complete any such improvements diligently after commencement thereof.

(7.6) Not commit any act or neglect whereby the Project or any part thereof at any time becomes subject to any attachment, judgment, lien, charge or encumbrance whatever.

(7.7) Before commencing or permitting construction of any improvement to the Project, obtain and

deposit with Lessor a bond naming as obligees Lessor and collectively all apartment owners as their respective interests may appear with a responsible corporate surety authorized to do business in the State of Hawaii, which bond shall guarantee completion of such construction in accordance with the contract therefor free and clear of all mechanics' and materialmen's liens and shall be in a penal sum not less than one hundred per cent (100%) of the cost of such construction.

(7.8) Have the right, to be exercised by its Board of Directors or its designee, to enter any apartments and limited common elements from time to time during reasonable hours as may be necessary for the operation of the Project or for making emergency repairs therein required to prevent damage to any apartments or common elements or for the installations, repair or replacement of any common elements.

(7.9) Observe any setback lines affecting the Project and shall not erect, place, or maintain any building or structure whatsoever between any street boundary of the Project and any setback line along such boundary except approved fences or walls.

8. Managing Agent and Service of Process.
Operation of the Project shall be conducted for the Association by a responsible corporate Managing Agent who shall be appointed by the Association in accordance with the By-Laws, except that the initial Managing Agent shall be appointed by the Developer. The Managing Agent is hereby authorized to receive service of legal process in all cases provided in said Horizontal Property Act. CERTIFIED MANAGEMENT, a division of AR Corporation, whose principal place of business and post office address is 98-1238 Kaahumanu Street, Honolulu, Hawaii 96782, is hereby designated as the agent to receive service of process until such time as the Board of Directors of the Association is elected.

9. Common Expenses.

(9.1) All charges, costs, and expenses incurred by the Association for or in connection with the administration of the Project, including, without prejudice to the generality of the foregoing, operation of the Project and maintenance, repair, rebuilding, and restoration of the common elements and any additions and alterations thereto; the maintenance, repair, all labor, services, materials, utility services and equipment therefor; all liability whatever for loss or damage arising out of or in connection with the common elements, or any accident, fire, or any nuisance thereon; and all premiums for fire and extended coverage and liability insurance required herein with respect to the Project and other insurance coverage that the Board may obtain; and the cost of all utility services, including water, electricity and gas, garbage disposal and any other similar service unless separately metered; shall constitute common expenses for which the apartment owners shall be severally liable in proportion to their respective common

interests. Rent and real property taxes and special assessments referred to in Section 514A-6, Hawaii Revised Statutes, as amended, shall not be common expenses of the Horizontal Property Regime hereby created and no payments thereof shall be payments of such common expenses. The Board shall from time to time assess the common expenses against all the apartments in their respective proportionate shares, and the unpaid amount of such assessments against any apartment shall constitute a lien against such apartment which may be foreclosed by the Board or Managing Agent as provided by said Horizontal Property Act, provided that thirty (30) days' prior written notice of intention to foreclose shall be mailed, postage prepaid, to the Lessor and all other persons having any interest in such apartment as shown in the Association's record of ownership.

(9.2) Notwithstanding any of the other terms and conditions contained herein, all limited common elements, costs and expenses, including but not limited to, maintenance, repair, replacement, additions and improvements, shall be charged to the owner of the apartment to which the limited common elements are appurtenant, and all such charges shall be collected in the same manner as common expenses and the Association shall have a lien against apartments for any unpaid charges in accordance with paragraph 9 of this Declaration.

(9.3) No apartment owner may exempt himself from liability for his contribution toward the common expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of his apartment.

(9.4) All sums chargeable as common expenses to any apartment but unpaid shall constitute a lien on such apartment prior to all other liens, except only (1) liens for taxes and assessments lawfully imposed by governmental authority against such apartment, and (2) liens for sums unpaid on mortgages of record. Such lien may be foreclosed by suit by the Association or the Managing Agent on its behalf, in like manner as a mortgage of real property, provided that thirty (30) days' prior written notice of intention to foreclose shall be mailed by registered mail to Lessor, mortgagees of record, and all other persons having any interest in such apartment as shown by the Association's records. The Managing Agent, acting on behalf of the Association and as directed by the Board of Directors, shall be entitled to bid on such apartment at foreclosure sale and to acquire, hold, lease, mortgage, and convey such apartment. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing such expenses.

(9.5) When the mortgagee of a mortgage of record or other purchaser of any apartment acquires title to such apartment as a result of a forfeiture or as a result of foreclosure of the mortgage, they and their respective heirs, successors, legal representatives and assigns shall not be liable for the share of the common expenses or assessments chargeable to such apartment which became due prior to such

acquisition of title. Such unpaid share shall be deemed common expenses collectible from all apartment owners, including such mortgagee or such other purchaser and their respective heirs, successors, legal representatives, and assigns.

10. Compliance With Declaration and By-Laws. All apartment owners, their tenants, families, servants and guests, and any other persons who may in any manner use the Project, shall be bound by and comply strictly with the provisions of this Declaration, the By-Laws of the Association, and all agreements, decisions and determinations of the Association as lawfully made or amended from time to time, and failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief, or both, maintainable by the Board or Managing Agent on behalf of the Association or, in a proper case, by any aggrieved apartment owners.

11. Insurance - Casualty, Liability and Other.

(11.1) The Board, on behalf of the Association at its common expense, shall purchase and at all times keep all buildings, improvements and fixtures of this Project, including the common elements and, whether or not part of the common elements, all exterior and interior walls, floors and ceilings, in accordance with the as-built condominium plans and specifications, insured against loss or damage by fire and such other hazards with extended coverage (including flood insurance under the provisions of the federal Flood Disaster Protection Act, if the property is located in an identified flood hazard area as designated by the federal Department of Housing and Urban Development) in an insurance company authorized to do business in Hawaii in an amount sufficient to provide for the full repair or full replacement thereof without deduction for depreciation in the event of such loss of apartments and appurtenant common interests. Exterior glass may be insured at the option of the Board. The insurance shall be in the name of the Association and naming Lessor as additional assured, and payable in case of loss to such bank or trust company authorized to do business in Hawaii as the Board shall designate for the custody and disposition as herein provided of all proceeds of such insurance, and from time to time cause to be deposited promptly with the Lessor true copies of such insurance policies or current certificates thereof, without prejudice to the right of each apartment owner to insure his apartment for his own benefit. Except as otherwise provided for herein or by the Act, in every case of such loss or damage, all insurance proceeds shall be used as soon as reasonably possible by the Association for rebuilding, repairing or otherwise reinstating the same buildings in a good and substantial manner according to the original plan and elevation thereof or such modified plans conforming to laws and ordinances then in effect as shall be first approved as herein provided. If the destruction is to an apartment, the owner of the apartment shall be required to make up any deficiency in the insurance proceeds, and if the destruction is of a common element the Association at its common expense

shall make up any deficiency in the insurance proceeds. Every such policy of insurance shall, if available at reasonable rates:

(1) Provide that the liability of the insurer thereunder shall not be affected by, and that the insurer shall not claim any right of setoff, counterclaim, apportionment, proration, or contribution by reason of any other insurance obtained by or for any apartment owner;

(2) Contain no provision relieving the insurer from liability for loss occurring while the hazard to such buildings is increased, whether or not within the knowledge or control of the Board, or because of any breach of warranty or condition or any other act or neglect by the Board or any apartment owner or any other persons under either of them;

(3) Provide that such policy may not be cancelled (whether or not requested by the Board) except by the insurer giving at least sixty (60) days' prior written notice thereof to the Board, Lessor, any mortgagee, and every other person in interest who shall have requested such notice of the insurer;

(4) Contain a waiver by the insurer of any right of subrogation to any right of the Board, Lessor or apartment owners against any of them or any other persons under them;

(5) Contain a waiver by the insurer of any right to deny liability because of vacancy of any apartment or apartments;

(6) Contain a provision requiring the insurance carrier, at the inception of the policy and on each anniversary date thereof, to provide the Board of Directors with a written summary in layman's terms of the policy. The summary shall include the type of policy, a description of the coverage and limits thereof, amount of annual premium, and renewal dates. The Board shall provide this information to each apartment owner.

(7) Contain a standard mortgage clause which shall:

(a) provide that any reference to a mortgagee in such policy shall mean and include all holders of mortgages of any apartment or apartment lease of the Project, in their respective order and preference, whether or not named therein;

(b) provide, that such insurance as to the interest of any mortgagee shall not be invalidated by any act or neglect of the Board, Lessor, or apartment owners or any persons under any of them;

(c) waive any provision invalidating such mortgagee clause by reason of the failure of any mortgagee to notify the insurer of any hazardous use or vacancy, any requirement that the mortgagee pay any premium thereon, any contribution clause; and

(d) provide that, without affecting any protection afforded by such mortgagee clause, any proceeds payable under such policy shall be payable to said bank or trust company designated by the Board.

(11.2) In the event the Act should hereafter be amended to provide that the Association is not required to provide the insurance coverage set forth in paragraph (11.1) immediately above and the Act requires or permits the individual apartment owners to obtain on their individual dwelling units the insurance coverage required thereon by the provisions of paragraph (11.1) immediately above, then and notwithstanding any of the provisions of this Declaration or the By-Laws, the Board of Directors, with the prior written approval of the Lessor, may require that the individual apartment owners obtain and pay all premiums for said insurance coverage on their individual apartments.

(11.3) The Board, on behalf of the Association at its common expense, shall also effect and maintain at all times comprehensive general liability insurance covering all apartment owners with respect to the Project and naming the Lessor as additional insured in a responsible insurance company authorized to do business in Hawaii with minimum limits of not less than \$1,000,000.00 for injury to one or more persons in any one accident or occurrence and \$300,000.00 for property damage, or such higher limits as the Lessor may from time to time establish with due regard to then prevailing prudent business practice in the State of Hawaii as reasonably adequate for Lessor's protection, and from time to time upon receipt thereof deposit promptly with the Lessor current certificates of such insurance, without prejudice to the right of any apartment owners to maintain additional liability insurance for their respective apartments.

(11.4) The Board may obtain other insurance coverage that it deems necessary or desirable.

(11.5) The Board shall review not less frequently than annually the adequacy of its insurance program and shall report in writing the Board's conclusions and any action taken on such review to the owner of each apartment and to the holder of any mortgage on any apartment who shall have requested a copy of such report.

12. Condemnation. In case at any time or times the Project or any part thereof shall be taken or condemned by any authority having the power of eminent domain, or shall be sold to such authority under threat of condemnation, all

compensation and damages for or on account of any land shall be payable to and be the sole property of Lessor, and all compensation and damages for or on account of any improvements of the Project shall be payable to such bank or trust company (the "Condemnation Trustee") authorized to do business in Hawaii as the Board shall designate as trustee for all apartment owners and mortgagees according to the loss or damage to their respective apartments and appurtenant common interests.

In the event all or any of the apartments are taken and there is no final judicial determination of the amount of condemnation proceeds allocable to each apartment so taken, the amount of the condemnation proceeds allocable to each apartment (including the apartment's appurtenant interest in the common elements exclusive of the land) shall be determined by a real estate appraiser ("appraiser") who shall be a member of the American Institute of Real Estate Appraisers, or any successor organization and who shall have acted on behalf of the apartment owners in the condemnation proceedings; or, if no such appraiser shall have acted on behalf of the apartment owners or if more than one appraiser shall have acted on behalf of the apartment owners, then an appraiser with such qualifications shall be selected by the Board to determine the amount of condemnation proceeds allocable to each apartment.

If the entire Project is taken, the Condemnation Trustee shall pay to each apartment owner and mortgagee, as their interests may appear, the portion of the condemnation proceeds determined in the above manner.

In the event of a partial taking of the Project in which (i) any apartment is physically eliminated, or (ii) a portion thereof is eliminated and the remaining portion cannot be repaired or rebuilt in a manner satisfactory to the owner of the apartment, the Board and to the Lessor, then such apartment shall be removed from the Project and the Condemnation Trustee shall disburse to the owner and any mortgagee of such apartment, as their interests may appear, in full satisfaction of their interests in the apartment, the portion of the proceeds of such award allocable to such eliminated or removed apartment after deducting the proportionate share of such apartment in the cost of debris removal, and the apartment owners shall amend this declaration to reflect the removal of said apartment(s) and the appropriate adjustment in the ownership of the common elements.

In the event of any partial taking of any of the common elements of the Project, the Board shall arrange for any necessary repair and restoration of the improvements remaining after the taking in accordance with the design thereof immediately prior to such condemnation or, if repair and restoration in accordance with such design are not permissible under applicable laws and regulations then in force, in accordance with such modified plan as shall be first approved by the Lessor, the Board, and the mortgagee

of record of each apartment in the Project remaining after such taking. If the sums held by the Condemnation Trustee are insufficient to pay the cost for such repair and restoration, the Board shall pay such excess as a common expense, and if necessary shall bring a special assessment against the apartment owners.

If the sums received as a result of a partial condemnation exceed the total of any amounts payable to the owner and any mortgagee of a removed apartment and the amount of costs for debris removal and for repair and restoration of the remaining buildings and improvements, such excess shall be divided among the apartment owners including the owners of any eliminated apartments in accordance with their interest in the common elements prior to the condemnation.

Unless restoration or replacement is undertaken within a reasonable time after such taking, condemnation or sale, the Association at its common expense shall remove all remains of such improvements on the remaining land and restore the site thereof to good orderly condition and even grade.

13. Insured Casualty and Uninsured Casualty.

(13.1) Insured Casualty. In case at any time or times any improvements of the Project shall be damaged or destroyed by any casualty herein required to be insured against, such improvements shall be rebuilt, repaired or restored unless (a) 80% or more of the apartments and (b) apartments to which are appurtenant 80% or more of the common interest shall vote against rebuilding, repairing or otherwise reinstating the buildings as aforesaid, which vote shall be taken at a meeting of the Association held prior to commencement of the rebuilding, repair or other reinstatement of the buildings and within 90 days after such loss or damage or such later date which is within 30 days after the insurance loss has been finally adjusted, and Lessor and all mortgagees shall consent thereto in writing, then and in such event the provisions of Section 514A-21 shall apply and the Association, within a reasonable time thereafter, at its common expense, shall remove all remains of improvements so damaged or destroyed and restore the site thereof to good orderly condition and grade. Any such restoration of the common elements shall be completed diligently by the Association at its common expense and the apartment owners shall be solely responsible for any restoration of their respective apartments so damaged or destroyed, according to the original plans and elevation thereof, or such other plan first approved as provided herein.

(13.2) Uninsured Casualty. In case at any time or times any improvements of the Project shall be damaged or destroyed by any casualty not herein required to be insured against, such improvements shall be rebuilt, repaired or restored unless seventy-five per cent (75%) of

the apartment owners vote against such rebuilding, repairing or restoration. Any such approved restoration of the common elements shall be completed diligently by the Association at its common expense and the apartment owners shall be solely responsible for any restoration of their respective apartments so damaged or destroyed, according to the original plans and elevation thereof, or such other plan first approved as provided herein. Unless such restoration is undertaken within a reasonable time after such casualty, the Association at its common expense shall remove all remains of improvements so damaged or destroyed and restore the site thereof to good orderly condition and even grade.

14. Alteration of Project. Restoration or replacement of the Project or of any building, or construction of any additional building or structural alteration or addition to any structure, different in any material respect from said Condominium Map of the Project, shall be undertaken by the Association or any apartment owners only pursuant to an amendment of this Declaration, duly executed by or pursuant to the affirmative vote of seventy-five per cent (75%) of the apartment owners and accompanied by the written consent of the holders of all liens affecting said apartments, and in accordance with complete plans and specifications therefor first approved in writing by Lessor and the Board, and promptly upon completion of such restoration, replacement or construction, the Association shall duly record or file of record such amendment together with a complete set of floor plans of the Project as so altered, certified as built by a registered architect or professional engineer, provided, however, that any alterations or additions within an apartment or within a limited common element appurtenant to and for the exclusive use of such apartment shall require only the prior written approval of the Lessor and the Board, and may be undertaken without an amendment to this Declaration or filing of a set of floor plans of the Project as so altered.

15. Merger of Increments.

(15.1) One or more condominium projects, whether or not adjacent to the Project, but which are part of the same incremental plan of development and in the same vicinity, may be merged together with the Project from time to time so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for sharing of the common expenses of the projects among all the owners of the apartments in the merged projects. Any such merger or mergers does not require the approval of the apartment owners, and shall be effective upon approval by the Board and the Lessor and the Developer and upon execution of the merger documents by two (2) officers of the Project and the Lessor and the Developer and recordation of same in the Bureau of Conveyances.

(15.2) Each and every conveyance, lease and mortgage or other lien given for or on any apartment created by this Declaration and all common interests and other

appurtenances thereto shall be subject to the merger provisions herein set forth, even though not expressly mentioned in such conveyance or other instrument.

16. Maintenance Reserve Fund. The Board of Directors of the Association shall establish and maintain a Maintenance Reserve Fund by the monthly assessment against and payment by all the apartment owners in proportion to their respective common interests, of such annual amount as the Board determines to be adequate to provide for the common utilities, insurance, maintenance, repair, restoration, and replacement of the common elements and other expenses of administration of the Project, and the furniture, fixtures, and mechanical equipment thereof, and for such other purposes as the Board deems necessary, all of which shall be deemed conclusively to be a common expense of the Project. The Board may include reserves for contingencies in such assessment, and such assessment may from time to time be increased or decreased at the discretion of the Board. The amount of the common expenses allocated, used or to be used for capital improvements, or any other capital expenditure, shall not be deemed income to the Association but shall be credited upon the books of the Association to the paid-in-surplus account as a capital contribution by the apartment owner. The proportionate interest of each apartment owner in said Fund shall not be withdrawn or assigned separately but shall be deemed to be transferred with such apartment even though not mentioned or described expressly in the instrument of transfer. If the Horizontal Property Regime established hereby is terminated or waived, said Fund remaining after full payment of all common expenses of the Association shall be distributed to all apartment owners, except for the owners of apartments reconstituted as a new Horizontal Property Regime, in proportion to their respective common interest.

17. Amendment of Declaration. Except as otherwise provided herein or in said Horizontal Property Act, this Declaration may be amended by affirmative vote or written consent of seventy-five per cent (75%) of the apartment owners and the written consent of Lessor and shall be effective only upon the recording of an instrument setting forth such amendment and vote duly executed by such owners or by any two officers of the Association, provided, however, that the Lessor and Developer expressly reserves the right to successively amend this Declaration without the consent or joinder of persons then owning or leasing the apartments by filing amendment(s) to this Declaration pursuant to the provisions of Section 514A-12, Hawaii Revised Statutes, after completion of the buildings described herein, by attaching to such amendment(s) the proper verified statement of a registered architect or professional engineer certifying that the final plans theretofore filed or being filed simultaneously with such amendment fully and accurately depict the layout, location, apartment numbers and dimensions of the apartments as built.

18. Definitions. The terms "majority" or "majority of apartment owners" herein mean the owners of apartments to which are appurtenant more than fifty per cent (50%) of the

common interests, and any specified percentage of the apartment owners means the owners of apartments to which are appurtenant such percentage of the common interest.

19. Invalidity. The invalidity of any provision of this Declaration shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such provision had never been included herein.

20. Wailuna Recreation Association. Each residential apartment owner of this Project is a member of Wailuna Recreation Association, a Hawaii non-profit corporation, and each residential apartment owner shall remain a member thereof until such time as his ownership of such apartment ceases for any reason, at which time his membership in said corporation shall automatically cease. Such membership shall be appurtenant to and may not be separate from ownership of a residential apartment and shall be deemed to be conveyed or encumbered with such apartment even though such membership is not expressly mentioned or described in the conveyance or other instrument.

21. Disclosures and Reservations. Notwithstanding any of the other terms and conditions of this Declaration or the By-Laws, Developer may use any and all apartments for sales purposes, and hereby discloses that Developer intends on constructing and selling additional housing on lands adjoining the Project, and that the construction activity of Developer shall continue on the site and on adjacent land after apartment owners occupy their apartments and that this activity may result in noise, dust or other annoyances to the apartment owners, and Developer hereby:

(a) reserves the right for itself and its employees, subcontractors, vendors and suppliers to use the common elements for access to construction areas within the Project and on adjacent land;

(b) reserves the right to conduct sales activities, including the use of model dwelling units, signs and extensive sales displays and activities in the Project until Developer ceases development of additional housing in the vicinity of the Project; and

(c) reserves the right for itself, its sales representatives and prospective purchasers to utilize the common elements for ingress and egress to unsold apartments within the Project and within land areas in the vicinity of the Project in order to show apartments to prospective buyers.

All the rights hereinabove reserved unto the Developer in this Section 21 shall terminate and end on December 31, 1991.

This Section 21 cannot be amended without the Developer's prior written consent.

IN WITNESS WHEREOF, the Lessor, Sublessor and Developer have executed these presents this 17th day of September, 1985.

[Signature] LEAR SIEGLER, INC.

[Signature] By [Signature]
Its Vice President

[Signature] LEAR SIEGLER PROPERTIES, INC.
Trustees of the Estate of
Bernice Pauahi Bishop

"Lessor"

By [Signature]
Its Vice President

JOHN D. LUSK & SON

"Sublessor"

By [Signature]
Its Vice President
"Developer"

APPROVED AS TO FORM
CONTENTS AND AUTHORIZATION

[Signature]
Documentary Department

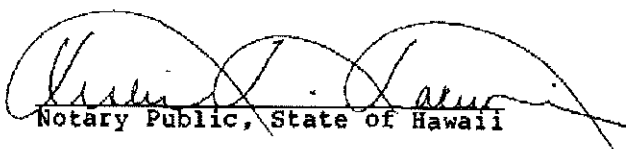
STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

)
) SS.
)

On this 26th day of September, 1985,
before me personally appeared Henry H. Peters,
Matsuo Takabuki and Richard Lyman, Jr.,
three of the Trustees of the Estate of Bernice Pauahi Bishop,
to me known to be the persons who severally executed the
foregoing instrument and acknowledged that they severally
executed the same as their free act and deed.


LESLIE M. TAKUMI
Notary Public, State of Hawaii
My commission expires Sept. 27, 1988


Notary Public, State of Hawaii

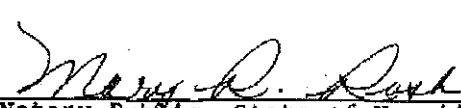
My Commission Expires: _____

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

)
) SS.
)

On this 17th day of September, 1985,
before me appeared HENRY F. ALVES, to me personally known,
who, being by me duly sworn, did say that he is the Vice
President of LEAR SIEGLER, INC., a Delaware Corporation
authorized to do business in Hawaii; and that the seal
affixed to the foregoing instrument is the corporate seal of
said corporation and that said instrument was signed and
sealed in behalf of said corporation by authority of its
Board of Directors, and the said HENRY F. ALVES acknowledged
said instrument to be the free act and deed of said
corporation.


Notary Public, State of Hawaii

My Commission Expires: 10-12-89



STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

)
) SS.
)

On this 17th day of September, 1965,
before me appeared HENRY F. ALVES, to me personally known,
who, being by me duly sworn, did say that he is the Vice
President of LEAR SIEGLER PROPERTIES, INC., a Delaware cor-
poration authorized to do business in Hawaii; and that the
seal affixed to the foregoing instrument is the corporate
seal of said corporation and that said instrument was signed
and sealed in behalf of said corporation by authority of its
Board of Directors, and the said HENRY F. ALVES acknowledged
said instrument to be the free act and deed of said corpora-
tion.



Mary R. Rush
Notary Public, State of Hawaii

My Commission Expires: 10-12-87

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

)
) SS.
)

On this 17th day of September, 1965,
before me appeared ERNEST A. HARRIS, to me personally known,
who, being by me duly sworn, did say that he is Vice-
President of JOHN D. LUSK & SON, a California corporation
authorized to do business in the State of Hawaii, and that
the seal affixed to the foregoing instrument is the corporate
seal of said corporation and that said instrument was signed
and sealed in behalf of said corporation by authority of its
Board of Directors, and the said ERNEST A. HARRIS acknow-
ledged said instrument to be the free act and deed of said
corporation.



Mary R. Rush
Notary Public, State of Hawaii

My Commission Expires: 10-12-87

EXHIBIT A

WAILUNA

LOT 11B

LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,
Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Southeast corner of this parcel of land, on the Northwestern side of Kaahumanu Street, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 6988.05 feet North and 12,118.88 feet East and running by azimuths measured clockwise from true South:

1. 70° 00' 191.73 feet along the Northwestern side of Kaahumanu Street;
2. Thence along the Northwestern side of Kaahumanu Street, on a curve to the left with a radius of 2030.00 feet, the chord azimuth and distance being 68° 04' 10" 136.77 feet;
3. 160° 00' 109.61 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
4. 250° 00' 17.50 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
5. 160° 00' 142.36 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
6. 70° 00' 18.21 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;

7. 85° 42' 30" 7.77 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
8. 70° 00' 36.63 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
9. 86° 55' 30" 4.87 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
10. 70° 00' 35.43 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
11. 85° 24' 4.61 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
12. 70° 00' 34.63 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
13. 91° 42' 30" 3.94 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
14. 70° 00' 7.86 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
15. 100° 40' 31.62 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
16. 129° 12' 30" 5.86 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
17. 100° 40' 21.64 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
18. 114° 00' 56.53 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
19. 142° 26' 30" 44.84 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;

20. 118° 53' 10' 35.58 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
21. 181° 29' 30" 30.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
22. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the left
with a radius of 185.00 feet, the
chord azimuth and distance being
259° 37' 15" 76.11 feet;
23. 247° 45' 62.14 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
24. 157° 45' 151.74 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
25. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 140.00 feet,
the chord azimuth and distance
being 231° 10' 54" 18.79 feet;
26. 227° 20' 57.02 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
27. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
right with a radius of 110.00 feet,
the chord azimuth and distance
being 257° 13' 30" 109.64 feet;
28. 287° 07' 405.76 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
29. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 60.00 feet,
the chord azimuth and distance
being 285° 06' 59" 4.19 feet;
30. 17° 25' 42.32 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;

31. 38° 38' 6.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
32. 17° 25' 36.47 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
33. 342° 22' 30" 162.89 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
34. 252° 22' 30" 6.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
35. 342° 22' 30" 102.22 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu, to the point of
beginning and containing an area
of 5.050 Acres.

TOGETHER WITH Easements 1, 4, 6, 7, 8 and 9 for roadway and
access purposes, described as follows;

EASEMENT 1

FOR ROADWAY AND UTILITY PURPOSES

LAND SITUATED AT WAI'IAU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,

Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Southeast corner of this easement, on the
Northwesterly side of Kaahumanu Street, the coordinates of which
referred to Government Survey Triangulation Station "EWA CHURCH" being
6723.35 feet North and 11,536.62 feet East and running by azimuths
measured clockwise from true South:

1. Along the Northwesterly side of Kaahumanu Street, on a curve to
the left with a radius of 2030.00
feet, the chord azimuth and
distance being 56° 53' 12"
30.00 feet;

2. 146° 15' 36.46 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
3. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 185.00
feet, the chord azimuth and
distance being 130° 07' 30"
102.76 feet;
4. 114° 00' 156.58 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
5. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
right with a radius of 215.00
feet, the chord azimuth and
distance being 140° 07' 30"
189.34 feet;
6. 166° 15' 32.32 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
7. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
right with a radius of 215.00
feet, the chord azimuth and
distance being 179° 12' 30"
96.42 feet;
8. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
right with a radius of 105.00
feet, the chord azimuth and
distance being 204° 24' 20"
44.52 feet;
9. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 25.00 feet,
the chord azimuth and distance
being 191° 41' 54" 21.09 feet;
10. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
right with a radius of 25.00 feet,
the chord azimuth and distance
being 182° 00' 04" 13.15 feet;
11. 197° 15' 103.34 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;

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23. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 75.00 feet, the chord azimuth and distance being $57^{\circ} 27' 30''$ 106.60 feet;
24. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 185.00 feet, the chord azimuth and distance being $359^{\circ} 12' 30''$ 82.97 feet;
25. $346^{\circ} 15'$ 32.32 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
26. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 185.00 feet, the chord azimuth and distance being $320^{\circ} 07' 30''$ 162.92 feet;
27. $294^{\circ} 00'$ 156.58 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
28. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 215.00 feet, the chord azimuth and distance being $310^{\circ} 07' 30''$ 119.43 feet;
29. $326^{\circ} 15'$ 36.79 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, to the point of beginning and containing an area of 30,554 Square Feet.

LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII ..

Beginning at the Northeast corner of this easement, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 7008.56 feet North and 11,780.53 feet East and running by azimuths measured clockwise from true South:

- 3 -

8. 294° 00' 38.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
9. 204° 00' 23.88 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
10. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 20.00 feet,
the chord azimuth and distance
being 236° 29' 17" 21.49 feet;
11. 294° 00' 36.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
12. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 20.00 feet,
the chord azimuth and distance
being 339° 00' 28.28 feet;
13. 294° 00' 174.50 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
14. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 185.00 feet,
the chord azimuth and distance
being 272° 00' 138.60 feet;
15. 250° 00' 144.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu, to the point of
beginning and containing an area
of 17,297 Square Feet.

EASEMENT 6
FOR ROADWAY AND UTILITY PURPOSES

LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,
Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the most Westerly corner of this easement, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 7112.24 feet North and 12,073.12 feet East and running by azimuths measured clockwise from true South:

1. 252° 22' 30" 268.60 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
2. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 105.00 feet,
the chord azimuth and distance
being 203° 26' 15" 158.34 feet;
3. 154° 30' 313.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
4. 244° 30' 8.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
5. 334° 30' 55.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
6. 244° 30' 22.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
7. 334° 30' 8.50 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;

8. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being 289° 30' 28.28 feet;
9. 334° 30' 36.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
10. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being 19° 30' 28.28 feet;
11. 334° 30' 173.50 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
12. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 135.00 feet, the chord azimuth and distance being 23° 26' 15" 203.58 feet;
13. 72° 22' 30" 268.60 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
14. 162° 22' 30" 30.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, to the point of beginning and containing an area of 23,277 Square Feet.

LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII

Beginning at the Southwest corner of this easement, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 7313.33 feet North and 11,192.99 feet East and running by azimuths measured clockwise from true South:

- 12-

LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII

Beginning at the Northwest corner of this easement, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 7080.90 feet North and 11,244.47 feet East and running by azimuths measured clockwise from true South:

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EASEMENT 9
FOR ACCESS PURPOSES

LAND SITUATED AT WAI'IAU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,
Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Northeast corner of this easement, the
coordinates of which referred to Government Survey Triangulation
Station "EWA CHURCH" being 7627.05 feet North and 12,287.87 feet East
and running by azimuths measured clockwise from true South:

1. 334° 30' 47.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
2. 64° 30' 22.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
3. 154° 30' 55.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
4. 244° 30' 9.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
5. 276° 06' 30" 15.26 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu, to the point of
beginning and containing an area
of 1158 Square Feet.

SUBJECT, HOWEVER, to Easements 2, 3 and 5 for roadway and utility purposes and portion of Easement 10 for drainage purposes, described as follows:

EASEMENT 2

THIRTY (30.00) FEET WIDE FOR ROADWAY AND UTILITY PURPOSES

LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,
Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Southwest corner of this easement, on the Northwestern side of Kaahumanu Street, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 6961.12 feet North and 12,044.90 feet East and running by azimuths measured clockwise from true South:

1. 160° 00' 101.32 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;

2. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 185.00 feet, the chord azimuth and distance being $133^{\circ} 33' 30''$ 164.76 feet;
3. $107^{\circ} 07'$ 161.87 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
4. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 185.00 feet, the chord azimuth and distance being $87^{\circ} 26'$ 124.62 feet;
5. $67^{\circ} 45'$ 103.14 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
6. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 215.00 feet, the chord azimuth and distance being $79^{\circ} 37' 15''$ 88.45 feet;
7. $181^{\circ} 29' 30''$ 30.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
8. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 185.00 feet, the chord azimuth and distance being $259^{\circ} 37' 15''$ 76.11 feet;
9. $247^{\circ} 45'$ 103.14 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
10. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 215.00 feet, the chord azimuth and distance being $267^{\circ} 26'$ 144.83 feet;
11. $287^{\circ} 07'$ 161.87 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
12. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 215.00 feet, the chord azimuth and distance being $313^{\circ} 33' 30''$ 191.47 feet;

13. 340° 00' 101.32 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
14. 70° 00' 30.00 feet along the Northwesterly side of
Kaahumanu Street, to the point of
beginning and containing an area
of 23,137 Square Feet.

EASEMENT 3

FOR ROADWAY AND UTILITY PURPOSES

LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,
Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Northwest corner of this easement, the
coordinates of which referred to Government Survey Triangulation
Station "EWA CHURCH" being 7008.56 feet North and 11,780.53 feet East
and running by azimuths measured clockwise from true South:

1. 250° 00' 203.22 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
2. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 20.00 feet,
the chord azimuth and distance
being 195° 30' 28" 32.56 feet;
3. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
right with a radius of 185.00
feet, the chord azimuth and
distance being 330° 30' 28"
61.02 feet;
4. 340° 00' 16.32 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
5. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 20.00 feet,
the chord azimuth and distance
being 115° 00' 28.28 feet;

6. 70° 00' 212.19 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
7. 160° 00' 30.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu, to the point of
beginning and containing an area
of 7178 Square Feet.

EASEMENT 5

FOR ROAD AND UTILITY PURPOSES

LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,
Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Northeast corner of this easement, the
coordinates of which referred to Government Survey Triangulation
Station "EWA CHURCH" being 7112.24 feet North and 12,073.12 feet East
and running by azimuths measured clockwise from true South:

1. 342° 22' 30" 30.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
2. 72° 22' 30" 26.16 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
3. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 20.00 feet,
the chord azimuth and distance
being 26° 11' 15" 28.86 feet;
4. 160° 00' 17.84 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;

5. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 215.00 feet, the chord azimuth and distance being $153^{\circ} 33'$ 48.30 feet;
6. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being $289^{\circ} 44' 15''$ 24.27 feet;
7. $252^{\circ} 22' 30''$ 35.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, to the point of beginning and containing an area of 1599 Square Feet.

EASEMENT 10

FOR DRAINAGE PURPOSES

LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,

Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Southwest corner of this easement, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 6965.22 feet North and 12,056.17 feet East and running by azimuths measured clockwise from true South:

1. $160^{\circ} 00'$ 117.20 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
2. $141^{\circ} 50'$ 91.93 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
3. $218^{\circ} 38'$ 134.39 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;

4. 228° 30'	48.60 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
5. 129° 00'	2.43 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
6. 219° 00'	5.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
7. 309° 00'	15.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
8. 39° 00'	5.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
9. 129° 00'	2.43 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
10. 48° 30'	49.41 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
11. 38° 38'	125.61 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
12. 321° 50'	85.60 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
13. 340° 00'	118.80 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
14. 70° 00'	10.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, to the point of beginning and containing an area of 3931 Square Feet.

SUBJECT FURTHER, HOWEVER, to the following:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.

2. Agreement for Issuance of Special Use Permit under Section 21-2.71 of the Comprehensive Zoning Code of the City and County of Honolulu (Am. Ord. 3234) dated December 17, 1981, recorded in Liber 16210 at Page 16, by the Trustees of the Estate of Bernice Pauahi Bishop, "Declarant", as amended by instruments dated June 15, 1982, recorded in Liber 16546 at Page 182, and dated June 15, 1982, recorded in Liber 16609 at Page 600.

3. Declaration of Covenants, Conditions and Restrictions for the Wailuna Recreation Association, dated February 9, 1979, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 14026, page 566, as heretofore amended and as may hereafter be amended from time to time; and

SUBJECT ALSO, to, and excepting and reserving all rights-of-way and easements shown on the map (if any) attached hereto or shown on said Condominium Map or heretofore or hereafter granted, leased or required by Lessor to construct, install, operate, maintain, repair and replace lines and other transmission facilities and appurtenances for electricity, gas, telephone, water, sewer, drainage, radio and television signal distribution and other services and utilities over, across and under said easements according to the respective designations thereof, the right to enter for such purposes, and to trim any trees in the way of such lines and the right to grant or lease to any public utility, governmental authority, the Association, State of Hawaii, City and County of Honolulu, Board of Water Supply, or in favor of land in the general vicinity of the land being hereby submitted to the Horizontal Property Regime, or other corporation or entity such easements, rights and rights-of-way under the terms and conditions required by the grantee or lessee for such easement rights; provided, however, that such easements, rights and rights-of-way must be exercised in such manner as to not unreasonably interfere with the use of the land being hereby submitted to the Horizontal Property Regime, and in connection with the installation,

maintenance or repair of any facilities pursuant to any of said easements, rights and rights-of-way, the premises shall be promptly restored by and at the expense of the person owning and exercising such easement rights to the condition of the premises immediately prior to the exercise thereof.

SUBJECT ALSO, to and excepting and reserving unto adjoining land utility easements and right-of-way easements for vehicular and pedestrian ingress and egress to and from said adjoining land over and across the roadways shown on said Condominium Map.

Description Checked

<u>Apartment Number</u>	<u>Type of Dwelling Unit</u>	<u>Percent Ownership of Common Elements</u>
31	5	3.2
32	7	3.2
33	4	3.2
34	1	3.2
35	7	3.2
36	5	3.2
37	1	3.2
38	7	3.2
39	5	3.2
40	4	4.0
41	7	3.2
42	4R	3.2
79	4	3.2
80	7R	3.2
81	1R	3.2
82	5R	3.2
83	7R	3.2
84	4R	3.2
85	5R	3.2
117	7	3.2
118	5	3.2
119	1	3.2
120	5	3.2
121	7	3.2
122	5M	3.2
123	4R	3.2
124	7R	3.2
125	1R	3.2
126	5R	3.2
127	7R	3.2
128	5	3.2

Where an "R" is set forth in the middle column entitled "Type of Dwelling Unit", this reflects that the floor plan of that particular dwelling unit is a mirror image of the type of designated dwelling unit. Where an "M" is set forth in the middle column entitled "Type of Dwelling Unit" (122 only), this reflects a modified location of the garage door.

EXHIBIT "B"

6/17/85

RECORDATION REQUESTED BY:

We hereby certify that this is a true copy of the original
filed as Land Court Document No. _____ and /or
recorded in Liber 19882 on Page 311
on SEP 24 1986 @ 8:01a

AFTER RECORDATION RETURN TO:

TITLE GUARANTY OF HAWAII, INCORPORATED

By Holly M. Wight

RETURN BY: MAIL ☐ PICKUP ☐

DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
AND
THE HEIGHTS AT WAILUNA, INCREMENT 3

THIS DECLARATION OF MERGER FOR THE HEIGHTS AT WAILUNA, INCREMENT 1, THE HEIGHTS AT WAILUNA, INCREMENT 2, AND THE HEIGHTS AT WAILUNA, INCREMENT 3, executed and entered into this 13th day of August, 1986, by and between the TRUSTEES OF THE ESTATE OF BERNICE PAUAKI BISHOP, herein called "Lessor", THE LUSK COMPANY, a California corporation authorized to do business in the State of Hawaii, herein called "Developer", and the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, INCREMENT 1, herein called "The Heights at Wailuna, Increment 1 Association",

WITNESSETH THAT

WHEREAS, The Heights at Wailuna, Increment 1 is a condominium project established by Declaration of Horizontal Property Regime recorded in the Bureau of Conveyances of the State of Hawaii in Liber 18981, page 617; and

WHEREAS, paragraph 15.1 of said The Heights at Wailuna, Increment 1 Declaration reads as follows:

(15.1) One or more condominium projects, whether or not adjacent to the Project, but which are part of the same incremental plan of development and in the same vicinity, may be merged together with the Project from time to time so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for sharing of the common expenses of the projects among all the owners of the apartments in the merged projects. Any such merger or mergers does not

require the approval of the apartment owners, and shall be effective upon approval by the Board and the Lessor and the Developer and upon execution of the merger documents by two (2) officers of the Project and the Lessor and the Developer and recordation of same in the Bureau of Conveyances.

and

WHEREAS, The Heights at Wailuna, Increment 2 is a condominium project established by Declaration of Horizontal Property Regime recorded in said Bureau in Liber 19285, page 693; and

WHEREAS,, The Heights at Wailuna, Increment 3 is a condominium project established by Declaration of Horizontal Property Regime recorded in said Bureau in Liber 19486, page 487; and

WHEREAS, paragraphs 15.1 and 15.2 of the Declarations of Horizontal Property Regime for The Heights at Wailuna, Increment 2, and for The Heights at Wailuna, Increment 3, read as follows:

(15.1) One or more condominium projects, whether or not adjacent to the Project, but which are part of the same incremental plan of development and in the same vicinity, may be merged together with the Project from time to time so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for sharing of the common expenses of the projects among all the owners of the apartments in the merged projects. Any such merger or mergers does not require the approval of the apartment owners, and shall be effective upon approval by the Board and the Lessor and the Developer and upon execution of the merger documents by two (2) officers of the Project and the Lessor and the Developer and recordation of same in the Bureau of Conveyances.

(15.2) Notwithstanding any provision to the contrary herein contained, Developer expressly reserves the right without the consent or joinder of persons then owning or leasing apartments in the Project to merge this Project with the condominium project known as "The Heights at Wailuna, Increment 1", established by Declaration of Horizontal Property Regime dated September 17, 1985, recorded in said Bureau of Conveyances in Liber 18981 at Page 617, to permit the joint use of the common elements of the merged projects by all the apartment owners of both projects.

and

WHEREAS, at a meeting of the Board of Directors of Association of Apartment Owners of The Heights at Wailuna,

Increment 1 held on August 6, 1986, said Board of Directors did unanimously vote for and approve a merger of The Heights at Wailuna, Increment 2, and The Heights at Wailuna, Increment 3 into and with The Heights at Wailuna, Increment 1 in accordance with the terms and conditions of this document; and

WHEREAS, pursuant to paragraphs 15.2 of said Declarations of Horizontal Property Regime of The Heights at Wailuna, Increment 2 and The Heights at Wailuna, Increment 3, the Developer reserved the right to merge The Heights at Wailuna, Increment 2 and The Heights at Wailuna, Increment 3 into and with The Heights at Wailuna, Increment 1; and

WHEREAS, all three projects are adjacent projects which are part of the same incremental plan of development; and

WHEREAS, the merger contemplated hereby is permitted by the Horizontal Property Regimes Act;

NOW, THEREFORE, pursuant to the aforesaid Declarations of Horizontal Property Regime, Lessor, Developer, and the Board of Directors of The Heights at Wailuna, Increment 1 Association do hereby declare that The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, and The Heights at Wailuna, Increment 3 are hereby merged on the following terms and conditions:

1. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 1 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 2 and THE HEIGHTS AT WAILUNA, INCREMENT 3, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 2 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 3, as though the three projects had been developed as a single condominium project.

2. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 2 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 1 and THE HEIGHTS AT WAILUNA, INCREMENT 3, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment in THE HEIGHTS AT WAILUNA, INCREMENT 1 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 3, as though the three projects had been developed as a single condominium project.

3. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 3 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 1 and THE HEIGHTS AT WAILUNA, INCREMENT 2, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 1 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 2, as though the three projects had been developed as a single condominium project.

4. THE HEIGHTS AT WAILUNA, INCREMENT 1 shall bear 33.7 percent, THE HEIGHTS AT WAILUNA, INCREMENT 2 shall bear 33.7 percent, and THE HEIGHTS AT WAILUNA, INCREMENT 3 shall bear 32.6 percent of the total common expenses of the merged project as the term "common expenses" is defined by the Horizontal Property Act, the Declarations of Horizontal Property Regimes, and the Bylaws for each project, treating the projects as a single project, and each individual apartment owner's share of the total common expenses shall be his percentage share of ownership of the common expenses as set forth in the Declaration of Horizontal Property Regimes for said project in which his condominium apartment is located times the percentage allocated in this paragraph 4 to the project in which his apartment is located; Provided, However, notwithstanding the provisions in this paragraph, the apartment owners of each project shall not be assessed for nor shall they have any obligation with respect to the debts, deficits or obligations of the other project existing prior to this merger.

5. The apartment owners shall be entitled to vote in the same proportion of the total vote as set forth above in paragraph 4 for the sharing of common expenses, and each individual apartment owner's share of the total vote shall be his percentage vote as set forth in the Declaration of Horizontal Property Regime for said project in which his condominium apartment is located times the percentage allocated above in paragraph 4 to the project in which is apartment is located.

6. There shall be one Board of Directors for the merged projects composed of not less than three (3) persons and not more than nine (9) persons. At the annual meeting of the owners of the condominium apartments next following this merger and at all subsequent such meetings, the Board of Directors to be elected shall govern the merged projects pursuant to the terms of the respective Declarations of Horizontal Property Regime and By-Laws. At a special meeting called for the purpose after the merger, the owners may remove the existing Board and elect a Board to govern the merged project until the next annual meeting.

7. Each of the projects shall be treated as part of a single project developed as a whole from the beginning and the respective Declarations of Horizontal Property Regime and By-Laws applicable to each shall be construed as one document applicable to the entire project as merged hereunder except to the extent expressly otherwise provided for therein. It is the purpose hereof to provide that from and after the date of merger all of the property subject hereto shall be treated as though it had been developed, divided into condominium apartments, held, occupied and used by the owners thereof as a single condominium project.

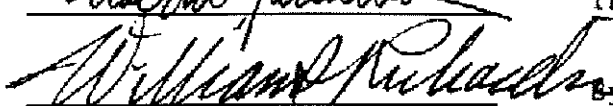
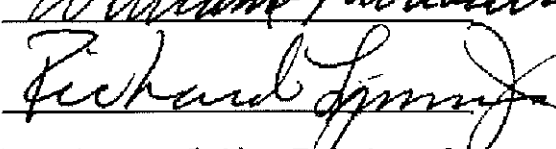
8. Additional merger or mergers may occur as set forth in the aforesaid Declarations of Horizontal Property Regime and as permitted and allowed by the Horizontal Property Act, and this Declaration of Mercer may be amended, modified,

cancelled or superseded by any such additional merger or mergers.

9. The projects shall henceforth be known as THE HEIGHTS AT WAILUNA.

The effective date of this merger is September 1, 1986.

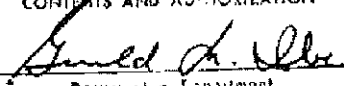
IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

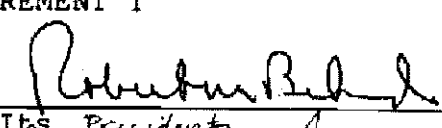
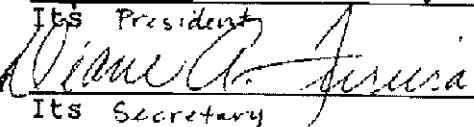

THE LUSK COMPANY


Its VICE-PRESIDENT
"Developer"
Trustees of the Estate of
Bernice Pauahi Bishop

"Lessor"

ASSOCIATION OF APARTMENT OWNERS
OF THE HEIGHTS AT WAILUNA,
INCREMENT 1

APPROVED AS TO FORM
CONTENTS AND AUTHORIZATION


Documentary Comment

By 
Its President
By 
Its Secretary

STATE OF HAWAII)

CITY AND COUNTY OF HONOLULU)

On this 11th day of August, 1986, before me personally appeared ROBERT M. BEHREND, known to me to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.


Notary Public, First Judicial
Circuit, State of Hawaii

My commission expires: 24 July 1990

STATE OF HAWAII
CITY AND
COUNTY OF HONOLULU

)
) SS:
)

On this 8th day of September, 1986,
before me personally appeared Matsuo Takabuki,
William S. Richardson and Richard Lyman, Jr.,
three of the Trustees of the Estate of Bernice Pauahi Bishop,
to me known to be the persons who severally executed the
foregoing instrument and acknowledged that they executed the
same as their free act and deed.

LESLEE M. YAVASHITA
Notary Public, State of Hawaii
My commission expires Sept. 27, 1988

Leslee M. Yavashita
Notary Public, State of Hawaii

My commission expires:

STATE OF Hawaii)
COUNTY OF Honolulu) SS.

On this 18th day of August, 1986,
before me appeared Ernest A. Harrison, to me
personally known, who being by me duly sworn, did say that he
is the Vice-President of THE LUSK COMPANY, a California
corporation authorized to do business in the State of Hawaii;
that the seal affixed to the foregoing instrument is the
corporate seal of said corporation, and that said instrument
was signed and sealed in behalf of said corporation by
authority of its Board of Directors, and the said
Ernest A. Harrison acknowledged said instrument to
be the free act and deed of said corporation.

Mary R. Pugh
Notary Public, State of Hawaii

My commission expires: 10-12-87

STATE OF HAWAII
CITY AND
COUNTY OF HONOLULU

)
) SS:
)

On this 13th day of August, 1986,
before me appeared X ~~Robert Schmidt~~ X and Diane A. Ferreira X and Secretary X

Diane A. Ferreira, to me personally known, who,
being by me duly sworn, did say that they are the
X ~~President~~ X and Secretary
respectively of ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS
AT WAILUNA, INCREMENT 1, an unincorporated association; that
the association has no seal; and that said instrument was
signed in behalf of said association by authority of its Board
of Directors, and the said X ~~Robert Schmidt~~ X and Secretary
acknowledged said instrument
to be the free act and deed of said corporation.

Danielle Marie Jensen
Notary Public, State of Hawaii

My commission expires: 7/9/89

15

RECORDATION REQUESTED BY:

We hereby certify that this is a true copy of the original
filed as Land Court Document No. _____ and/or
recorded in Liber 21036 on Page 618
on Aug. 17, 1987 @ 801 A.M.

AFTER RECORDATION RETURN TO:

TITLE GUARANTY OF HAWAII, INCORPORATED

By James A. Sakai

RETURN BY: MAIL ☐ PICKUP ☐

PARTIAL REVOCATION OF DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
AND
THE HEIGHTS AT WAILUNA, INCREMENT 3
AND
DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
THE HEIGHTS AT WAILUNA, INCREMENT 3,
AND
THE HEIGHTS AT WAILUNA, INCREMENT 4

THIS PARTIAL REVOCATION OF DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1, THE HEIGHTS AT WAILUNA,
INCREMENT 2, AND THE HEIGHTS AT WAILUNA, INCREMENT 3, AND THIS
DECLARATION OF MERGER FOR THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2, THE HEIGHTS AT WAILUNA,
INCREMENT 3, AND THE HEIGHTS AT WAILUNA, INCREMENT 4, executed
and entered into this 5th day of May, 1987, by the
TRUSTEES OF THE ESTATE OF BERNICE PAUHAH BISHOP, herein called
"Lessor", THE LUSK COMPANY, a California corporation authorized
to do business in the State of Hawaii, herein called
"Developer", and the ASSOCIATION OF APARTMENT OWNERS OF THE
HEIGHTS AT WAILUNA, INCREMENT 1, herein called "The Heights at
Wailuna, Increment 1 Association" and the ASSOCIATION OF
APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, INCREMENT 2, herein
called "The Heights at Wailuna, Increment 2 Association", and
the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHT AT WAILUNA,
INCREMENT 3, herein called "The Heights at Wailuna, Increment 3
Association,

WITNESSETH THAT:

WHEREAS, The Heights at Wailuna, Increment 1 is a
condominium project established by Declaration of Horizontal
Property Regime recorded in the Bureau of Conveyances of the
State of Hawaii in Liber 18981, page 617; and

WHEREAS, The Heights at Wailuna, Increment 2 is a
condominium project established by Declaration of Horizontal
Property Regime recorded in said Bureau in Liber 19285, page
693; and

WHEREAS,, The Heights at Wailuna, Increment 3 is a condominium project established by Declaration of Horizontal Property Regime recorded in said Bureau in Liber 19486, page 487; and

WHEREAS,, The Heights at Wailuna, Increment 4 is a condominium project established by Declaration of Horizontal Property Regime recorded in said Bureau in Liber 19771, page 448; and

WHEREAS, paragraph 15.1 of said Declarations for said The Heights at Wailuna, Increments 1, 2 and 3 read as follows:

(15.1) One or more condominium projects, whether or not adjacent to the Project, but which are part of the same incremental plan of development and in the same vicinity, may be merged together with the Project from time to time so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for sharing of the common expenses of the projects among all the owners of the apartments in the merged projects. Any such merger or mergers does not require the approval of the apartment owners, and shall be effective upon approval by the Board and the Lessor and the Developer and upon execution of the merger documents by two (2) officers of the Project and the Lessor and the Developer and recordation of same in the Bureau of Conveyances.

and

WHEREAS, paragraphs 15.1 and 15.2 of the Declaration of Horizontal Property Regime for The Heights at Wailuna, Increment 4, reads as follows:

(15.1) One or more condominium projects, whether or not adjacent to the Project, but which are part of the same incremental plan of development and in the same vicinity, may be merged together with the Project from time to time so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for sharing of the common expenses of the projects among all the owners of the apartments in the merged projects. Any such merger or mergers does not require the approval of the apartment owners, and shall be effective upon approval by the Board and the Lessor and the Developer and upon execution of the merger documents by two (2) officers of the Project and the Lessor and the Developer and recordation of same in the Bureau of Conveyances.

(15.2) Notwithstanding any provision to the contrary herein contained, Developer expressly reserves the right without the consent or joinder of persons then owning or leasing apartments in the Project to merge this Project

(i) That certain project known as "The Heights at Wailuna, Increment 1", established by that certain Declaration of Horizontal Property Regime dated September 17, 1985, recorded in said Bureau of Conveyances in Liber 18981, at page 617;

(ii) That certain project known as "The Heights at Wailuna, Increment 2", established by that certain Declaration of Horizontal Property Regime dated January 27, 1986, recorded in said Bureau of Conveyances in Liber 19285 at page 693; and

(iii) That certain project known as "The Heights at Wailuna, Increment 3", established by that certain Declaration of Horizontal Property Regime dated April 17, 1986, recorded in said Bureau of Conveyances in Liber 19486 at page 487; and

WHEREAS, THE HEIGHTS AT WAILUNA, INCREMENT 1, THE HEIGHTS AT WAILUNA, INCREMENT 2, and THE HEIGHTS AT WAILUNA, INCREMENT 3 were merged by that certain Declaration of Merger for The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, and The Heights at Wailuna, Increment 3, dated August 13, 1986, and recorded in said Bureau in Liber 19882, page 311; and

WHEREAS, at a meeting of the Boards of Directors of the Associations of Apartment Owners of The Heights at Wailuna, Increments 1, 2 and 3 held on May 6, 1987, said Boards of Directors did unanimously vote for and approve a merger of The Heights at Wailuna, Increment 4 into and with The Heights at Wailuna, Increments 1, 2 and 3 in accordance with the terms and conditions of this document; and

WHEREAS, pursuant to paragraphs 15.2 of said Declaration of Horizontal Property Regime of The Heights at Wailuna, Increment 4, the Developer reserved the right to merge The Heights at Wailuna, Increment 4 into and with The Heights at Wailuna, Increments 1, 2 and 3; and

WHEREAS, all four projects are adjacent projects which are part of the same incremental plan of development; and

WHEREAS, the merger contemplated hereby is permitted by the Horizontal Property Regimes Act;

PARTIAL REVOCATION OF DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
AND
THE HEIGHTS AT WAILUNA, INCREMENT 3

NOW, THEREFORE, Lessor, Developer and The Heights at Wailuna, Increment 1 Association, The Heights at Wailuna, Increment 2 Association and The Heights at Wailuna, Increment 3 Association do hereby revoke that certain Declaration of Merger for The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2 and The Heights at Wailuna, Increment 3

19882, page 311, only to the extent that same is in conflict with the Declaration of Merger of The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, The Heights at Wailuna, Increment 3, and The Heights at Wailuna, Increment 4, hereinafter set forth, said partial revocation being effective as of the effective date of the merger herein set forth.

DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
THE HEIGHTS AT WAILUNA, INCREMENT 3,
AND THE HEIGHTS AT WAILUNA, INCREMENT 4

NOW, THEREFORE, pursuant to the aforesaid Declarations of Horizontal Property Regime, Lessor, Developer, and the Boards of Directors of The Heights at Wailuna, Increments 1, 2 and 3 do hereby declare that The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, The Heights at Wailuna, Increment 3, and The Heights at Wailuna, Increment 4 are hereby merged on the following terms and conditions:

1. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 1 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 2, THE HEIGHTS AT WAILUNA, INCREMENT 3, and THE HEIGHTS AT WAILUNA, INCREMENT 4, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 2 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 3, and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 4, as though the four projects had been developed as a single condominium project.

2. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 2 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 1, THE HEIGHTS AT WAILUNA, INCREMENT 3, and THE HEIGHTS AT WAILUNA, INCREMENT 4, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment in THE HEIGHTS AT WAILUNA, INCREMENT 1 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 3, and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 4, as though the four projects had been developed as a single condominium project.

3. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 3 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 1 and THE HEIGHTS AT WAILUNA, INCREMENT 2, and THE HEIGHTS AT WAILUNA, INCREMENT 4, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 1 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 2, and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 4, as though the four projects had been developed as a single condominium project.

common elements in The Heights at Wailuna, Increment 1 and The Heights at Wailuna, Increment 2 and The Heights at Wailuna, Increment 3 to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within The Heights at Wailuna, Increment 1 and upon an owner of an apartment within The Heights at Wailuna, Increment 2 and upon an owner of an apartment within The Heights at Wailuna, Increment 3, as though the four projects had been developed as a single condominium project.

5. THE HEIGHTS AT WAILUNA, INCREMENT 1 shall bear 24.2188 percent, THE HEIGHTS AT WAILUNA, INCREMENT 2 shall bear 24.2188 percent, THE HEIGHTS AT WAILUNA, INCREMENT 3 shall bear 23.4375 percent, and THE HEIGHTS AT WAILUNA, INCREMENT 4 shall bear 28.1249 percent of the total common expenses of the merged project as the term "common expenses" is defined by the Horizontal Property Act, the Declarations of Horizontal Property Regimes, and the Bylaws for each project, treating the projects as a single project, and each individual apartment owner's share of the total common expenses shall be his percentage share of ownership of the common expenses as set forth in the Declaration of Horizontal Property Regimes for said project in which his condominium apartment is located times the percentage allocated in this paragraph 5 to the project in which his apartment is located; Provided, However, notwithstanding the provisions in this paragraph, the apartment owners of each project shall not be assessed for nor shall they have any obligation with respect to the debts, deficits or obligations of the other projects existing prior to this merger.

6. The apartment owners shall be entitled to vote in the same proportion of the total vote as set forth above in paragraph 5 for the sharing of common expenses, and each individual apartment owner's share of the total vote shall be his percentage vote as set forth in the Declaration of Horizontal Property Regime for said project in which his condominium apartment is located times the percentage allocated above in paragraph 5 to the project in which his apartment is located.

7. There shall be one Board of Directors for the merged projects composed of not less than three (3) persons and not more than nine (9) persons. At the annual meeting of the owners of the condominium apartments next following this merger and at all subsequent such meetings, the Board of Directors to be elected shall govern the merged projects pursuant to the terms of the respective Declarations of Horizontal Property Regime and By-Laws. At a special meeting called for the purpose after the merger, the owners may remove the existing Board and elect a Board to govern the merged project until the next annual meeting.

8. Each of the projects shall be treated as part of a single project developed as a whole from the beginning and the respective Declarations of Horizontal Property Regime and By-Laws applicable to each shall be construed as one document applicable to the entire project as merged hereunder except to the extent expressly otherwise provided.

merger all of the property subject hereto shall be treated as though it had been developed, divided into condominium apartments, held, occupied and used by the owners thereof as a single condominium project.

9. Additional merger or mergers may occur as set forth in the aforesaid Declarations of Horizontal Property Regime and as permitted and allowed by the Horizontal Property Act, and this Declaration of Merger may be amended, modified, cancelled or superseded by any such additional merger or mergers.

10. The projects shall henceforth be known as THE HEIGHTS AT WAILUNA.

1987. The effective date of this merger is July 1.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

Merion B. Thompson
[Signature]
Richard Lyman

Trustees of the Estate of
Bernice Pauahi Bishop

"Lessor"

THE LUSK COMPANY

By [Signature]
Its Vice President

"Developer"

APPROVED AS TO FORM
CONTENTS AND AUTHORIZATION

[Signature]
Documentary Department

ASSOCIATION OF APARTMENT OWNERS
OF THE HEIGHTS AT WAILUNA,
INCREMENTS 1, 2 AND 3

By [Signature]
Its President

By [Signature]
Its Secretary

STATE OF HAWAII
CITY AND
COUNTY OF HONOLULU

)
) SS:
)

On this 11th day of August, 1987,
before me personally appeared James H. Bishop and Richard A. Bishop, Jr.,
three of the Trustees of the Estate of Bernice Pauahi Bishop,
to me known to be the persons who severally executed the
foregoing instrument and acknowledged that they executed the
same as their free act and deed.

W

Louis M. L. L. L.
Notary Public, State of Hawaii

My commission expires:

STATE OF HAWAII
CITY AND COUNTY OF HONOLULU

)
) SS.
)

On this 5th day of May, 1987,
before me appeared ERNEST A. HARRIS, to me personally known,
who being by me duly sworn, did say that he is the Vice
President of THE LUSK COMPANY, a California corporation
authorized to do business in the State of Hawaii; that the seal
affixed to the foregoing instrument is the corporate seal of
said corporation, and that said instrument was signed and
sealed in behalf of said corporation by authority of its Board
of Directors, and the said ERNEST A. HARRIS acknowledged said
instrument to be the free act and deed of said corporation.

X.d.

Mary R. Lusk
Notary Public, State Hawaii

My commission expires: 10-12-89

STATE OF HAWAII
CITY AND
COUNTY OF HONOLULU

}
SS:
}

On this 7th day of July, 1987, before me appeared Diane A. [unclear] and [unclear], to me personally known, who, being by me duly sworn, did say that *She* they are the Secretary and [unclear] respectively of the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, INCREMENTS 1, 2 AND 3, an unincorporated association; that the association has no seal; and that said instrument was signed in behalf of said association by authority of its Board of Directors, and the said Secretary ~~and~~ ~~Secretary~~ acknowledged said instrument to be the free act and deed of said ~~corporation.~~
association.

[Signature]
Notary Public, State of Hawaii

My commission expires: 10/15/89

STATE OF HAWAII
CITY AND COUNTY OF HONOLULU } ss.

On this 25TH day of JUNE, 1987, before me appeared ROBERT M. BEHREND, to me known, who being duly sworn, did say that he is the President of the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, INCREMENTS 1, 2, and 3, an unincorporated association; that the association has no seal; and that said instrument was signed behalf of said association by authority of its Board of Directors, and the said President acknowledged said instrument to be the free act and deed of said ~~corporation.~~
association.

[Signature]
KEVIN F. SHIPLETT, Notary Public
First Judicial Circuit, State of Hawaii

My commission expires: 27 JULY 1990



FIRST HAWAII TITLE CORPORATION

EXCLUSIVE AGENT FOR CHICAGO TITLE INSURANCE COMPANY

201 Merchant Street, Suite 2000
Honolulu, Hawaii 96813
Ph: (808) 521-3411

March 29, 1993

CERTIFIED MANAGEMENT, INC.
3179 KOAPAKA STREET
HONOLULU, HAWAII 96819

Attention: M. J. Andres

Re: Order No. 46202
TMK: 9-8-02-48 (1)
"HEIGHTS AT WAILUNA, INC. I"

Dear M. J. Andres,

First Hawaii Title Corporation hereby certifies that we have examined the records of the Bureau of Conveyances of the State of Hawaii as they pertain to the above referenced Condominium and we find that as of March 22, 1993 at 8:00 A.M., said Condominium is encumbered by the Items shown on Exhibit "A" attached hereto.

Yours truly,

CONNIE GLEASON
Title Officer

CG:cl

EXHIBIT "A"

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

Dated: February 9, 1979
Recorded: September 28, 1979
Book: 14026
Page: 566
to which reference is hereby made.

The foregoing instrument was amended by the following:

AMENDMENT

Dated: February 28, 1986
Recorded: May 5, 1986
Book: 19479
Page: 318

3. Agreement for Issuance of Special Use Permit under Section 21-2-71 of the Comprehensive Zoning Code of the City and County of Honolulu (Am. Ord. 3234) dated December 17, 1981, recorded on March 11, 1982 in the Bureau of Conveyances of the State of Hawaii in Book 16210 Page 16, to which reference is hereby made.

The foregoing instrument was amended by the following:

AMENDMENT

Dated: June 15, 1982
Recorded: September 1, 1982
Book: 16546
Page: 182

The foregoing instrument was further amended by the following:

AMENDMENT

Dated: June 15, 1982
Recorded: September 29, 1982
Book: 16609
Page: 600

5. Easement 2 for roadway and utility purposes over, under, across and through a portion of the land herein described, containing an area of 23,137 square feet.
6. Easement 3 for roadway and utility purposes over, under, across and through a portion of the land herein described, containing an area of 7,178 square feet.
7. Easement 5 for roadway and utility purposes over, under, across and through a portion of the land herein described, containing an area of 1,599 square feet.
8. Portion of Easement 10 for drainage purposes over, under, across and through a portion of the land herein described, containing an area of 3,931 square feet.
9. The terms, provisions, covenants, easements and reservations as contained in the following:

LEASE NO. 27,480

Lessor: THE TRUSTEES OF THE ESTATE OF BERNICE PAUAAHI BISHOP
Lessee: LEAR SIEGLER, INC. and LEAR SIEGLER PROPERTY, INC., both Delaware corporations
Dated: December 13, 1984
Recorded: January 4, 1985
Book: 18370
Page: 281
Term: 27 years commencing January 1, 1985

10. The covenants, agreements, obligations, conditions, easements and other provisions as contained in the following:

DECLARATION OF HORIZONTAL PROPERTY REGIME OF "THE HEIGHTS AT WAILUNA, INCREMENT 1"

Dated: September 17, 1985
Recorded: October 3, 1985
Book: 18981
Page: 617

Condominium Map No. 973, to which reference is hereby made.

The foregoing Declaration of Horizontal Property Regime was amended by the following:

<u>Book</u>	<u>Page</u>	<u>Dated</u>	<u>Recorded</u>
19059	430	10/21/85	11/06/85

<u>Document No.</u>	<u>Dated</u>	<u>Filed On</u>
92-018752	02/03/92	02/07/92

11. By-Laws dated September 17, 1985, recorded on October 3, 1985 in said Bureau of Conveyances in Book 18981 Page 660, to which reference is hereby made.

12. PARTIAL REVOCATION OF DECLARATION OF MERGER FOR THE HEIGHTS OF WAILUNA, INCREMENTS 1, 2 AND 3 AND DECLARATION OF MERGER FOR THE HEIGHTS OF WAILUNA, INCREMENTS 1, 2, 3 AND 4

Dated: May 5, 1987
Recorded: August 19, 1987
Book: 21036
Page: 688

13. Any and all Apartment Leases and the encumbrances affecting same, if any.

SCHEDULE C

The land(s) upon which said Condominium Project is located is described as follows:

All of that certain parcel of land situated at Waiau,
Ewa, Oahu, State of Hawaii, described as follows:

Lot IIB, being a portion of Royal Patent 4475, Land Commission Award 7713, Apana 35 to V. Kamamalu, more particularly described as follows:

Beginning at the Southeast corner of this parcel of land, on the Northwesterly side of Kaahumanu Street, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 6988.05 feet North and 12,118.88 feet East and running by azimuths measured clockwise from true South:

1.	70°	00'	191.73	feet along the Northwesterly side of Kaahumanu Street;
2.	Thence along the Northwesterly side of Kaahumanu Street, on a curve to the left with a radius of 2030.00 feet, the chord azimuth and distance being 68° 04' 10" 136.77 feet;			
3.	160°	00'	109.61	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
4.	250°	00'	17.50	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
5.	160°	00'	142.36	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
6.	70°	00'	18.21	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
7.	85°	42' 30"	7.77	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
8.	70°	00'	36.63	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;

SCHEDULE C (continued)

9.	86°	55'	30"	4.87	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
10.	70°	00'		35.43	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
11.	85°	24'		4.61	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
12.	70°	00'		34.63	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
13.	91°	42'	30'	3.94	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
14.	70°	00'		7.86	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
15.	100°	40'		31.62	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
16.	129°	12'	30"	5.86	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
17.	100°	40'		21.64	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
18.	114°	00'		56.53	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
19.	142°	26'	30"	44.84	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
20.	118°	53°	10'	35.58	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;

SCHEDULE C (continued)

21. 181° 29' 30" 30.00 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;

22. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu, on a curve
to the left with a radius of
185.00 feet, the chord
azimuth and distance being
259° 37' 15" 76.11 feet;

23. 247° 45' 62.14 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;

24. 157° 45' 151.74 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;

25. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu, on a curve
to the left with a radius of
140.00 feet, the chord
azimuth and distance being
231° 10' 54" 18.79 feet;

26. 227° 20' 57.02 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;

27. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu, on a curve
to the right with a radius of
110.00 feet, the chord
azimuth and distance being
257° 13' 30" 109.64 feet;

28. 287° 07' 405.76 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;

29. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu, on a curve
to the left with a radius of
60.00 feet, the chord azimuth
and distance being 285° 06'
59" 4.19 feet;

SCHEDULE C (continued)

30.	17°	25'	42.32	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
31.	38°	38'	6.00	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
32.	17°	25'	36.47	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
33.	342°	22' 30"	162.89	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
34.	252°	22' 30"	6.00	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
35.	342°	22' 30"	102.22	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, to the point of beginning and containing an area of 5.050 Acres, more or less.

TOGETHER WITH Easements 1, 4, 6, 7, 8 and 9 for roadway and access purposes, described as follows:

EASEMENT 1
FOR ROADWAY AND UTILITY PURPOSES
LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII
Being a portion of Royal Patent 4475,
Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Southeast corner of this easement, on the Northwesterly side of Kaahumanu Street, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 6723.35 feet North and 11,536.62 feet East and running by azimuths measured clockwise from true South:

SCHEDULE C (continued)

1. Along the Northwesterly side of Kaahumanu Street, on a curve to the left with a radius of 2030.00 feet, the chord azimuth and distance being 56° 53' 12" 30.00 feet;
2. 146° 15' 36.46 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
3. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 185.00 feet, the chord azimuth and distance being 130° 07' 30" 102.76 feet;
4. 114° 00' 156.58 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
5. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 215.00 feet, the chord azimuth and distance being 140° 07' 30" 189.34 feet;
6. 166° 15' 32.32 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
7. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 215.00 feet, the chord azimuth and distance being 179° 12' 30" 96.42 feet;
8. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 105.00 feet, the chord azimuth and distance being 204° 24' 20" 44.52 feet;

SCHEDULE C (continued)

9. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 25.00 feet, the chord azimuth and distance being 191° 41' 54" 21.09 feet;
10. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 25.00 feet, the chord azimuth and distance being 182° 00' 04" 13.15 feet;
11. 197° 15' 103.34 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
12. 287° 15' 20.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
13. 17° 15' 68.70 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
14. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 10.00 feet, the chord azimuth and distance being 336° 21' 24" 13.09 feet;
15. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 25.00 feet, the chord azimuth and distance being 302° 21' 32" 6.00 feet;
16. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 25.00 feet, the chord azimuth and distance being 284° 18' 30" 21.09 feet;

SCHEDULE C (continued)

17. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 105.00 feet, the chord azimuth and distance being 271° 03' 22" 42.56 feet;
18. 282° 45' 132.18 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
19. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 185.00 feet, the chord azimuth and distance being 277° 07' 15" 36.29 feet;
20. 1° 29' 30" 30.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
21. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 215.00 feet, the chord azimuth and distance being 97° 07' 15" 42.18 feet;
22. 102° 45' 132.18 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
23. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 75.00 feet, the chord azimuth and distance being 57° 27' 30" 106.60 feet;
24. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 185.00 feet, the chord azimuth and distance being 359° 12' 30" 82.97 feet;

SCHEDULE C (continued)

25. 346° 15' 32.32 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
26. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu, on a curve
to the left with a radius of
185.00 feet, the chord
azimuth and distance being
320° 07' 30" 162.92 feet;
27. 294° 00' 156.58 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
28. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu, on a curve
to the right with a radius of
215.00 feet, the chord
azimuth and distance being
310° 07' 30" 119.43 feet;
29. 326° 15' 36.79 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu, to the
point of beginning and
containing an area of 30,554
square feet, more or less.

EASEMENT 4
FOR ROAD AND UTILITY PURPOSES
LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII
Being a portion of Royal Patent 4475,
Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Northeast corner of this easement, the
coordinates of which referred to Government Survey Triangulation
Station "EWA CHURCH" being 7008.56 feet North and 11,780.53 feet
East and running by azimuths measured clockwise from true South:

SCHEDULE C (continued)

1. 340° 00' 30.00 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
2. 70° 00' 144.00 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
3. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu, on a curve
to the right with a radius of
215.00 feet, the chord
azimuth and distance being
92° 00' 161.08 feet;
4. 114° 00' 261.00 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
5. 204° 00' 4.00 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
6. 114° 00' 15.04 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
7. 159° 00' 5.66 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
8. 294° 00' 38.00 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
9. 204° 00' 23.88 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
10. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu, on a curve
to the left with a radius of
20.00 feet, the chord azimuth
and distance being 236° 29'
17" 21.49 feet;

SCHEDULE C (continued)

11. 294° 00' 36.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
12. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being 339° 00' 28.28 feet;
13. 294° 00' 174.50 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
14. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 185.00 feet, the chord azimuth and distance being 272° 00' 138.60 feet;
15. 250° 00' 144.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, to the point of beginning and containing an area of 17,297 square feet, more or less.

EASEMENT 6
FOR ROADWAY AND UTILITY PURPOSES
LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII
Being a portion of Royal Patent 4475,
Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the most Westerly corner of this easement, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 7112.24 feet North and 12,073.12 feet East and running by azimuths measured clockwise from true South:

SCHEDULE C (continued)

1. 252° 22' 30" 268.60 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
2. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu, on a curve
to the left with a radius of
105.00 feet, the chord
azimuth and distance being
203° 26' 15" 158.34 feet;
3. 154° 30' 313.00 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
4. 244° 30' 8.00 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
5. 334° 30' 55.00 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
6. 244° 30' 22.00 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
7. 334° 30' 8.50 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
8. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu, on a curve
to the left with a radius of
20.00 feet, the chord azimuth
and distance being 289° 30'
28.28 feet;
9. 334° 30' 36.00 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
10. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu, on a curve
to the left with a radius of
20.00 feet, the chord azimuth
and distance being 19° 30'
28.28 feet;

SCHEDULE C (Continued)

11. 334° 30' 173.50 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
12. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu, on a curve
to the right with a radius of
135.00 feet, the chord
azimuth and distance being
23° 26' 15" 203.58 feet;
13. 72° 22' 30" 268.60 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
14. 162° 22' 30" 30.00 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu, to the
point of beginning and
containing an area of 23,277
square feet, more or less.

EASEMENT 7

FOR ACCESS PURPOSES

LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,

Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Southwest corner of this easement, the
coordinates of which referred to Government Survey Triangulation
Station "EWA CHURCH" being 7313.33 feet North and 11,192.99 feet
East and running by azimuths measured clockwise from true South:

1. 197° 15' 50.00 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
2. 297° 44' 20.34 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
3. 17° 15' 46.30 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;

SCHEDULE C (continued)

4. 107° 15' 20.00 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu, to the
point of beginning and
containing an area of 963
square feet, more or less.

EASEMENT 8
FOR ACCESS PURPOSES
LAND SITUATED AT WAI'IAU, EWA, OAHU, HAWAII
Being a portion of Royal Patent 4475,
Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Northwest corner of this easement, the
coordinates of which referred to Government Survey Triangulation
Station "EWA CHURCH" being 7080.90 feet North and 11,244.47 feet
East and running by azimuths measured clockwise from true South:

1. 294° 00' 36.54 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
2. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu, on a curve
to the left with a radius of
20.00 feet, the chord azimuth
and distance being 281° 29'
17" 8.67 feet;
3. 24° 00' 23.88 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
4. 114° 00' 38.00 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
5. 159° 00' 9.90 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
6. 204° 00' 15.00 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu, to the
point of beginning and
containing an area of 971
square feet, more or less.

SCHEDULE C (continued)

EASEMENT 9

FOR ACCESS PURPOSES

LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,

Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Northeast corner of this easement, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 7627.05 feet North and 12,287.87 feet East and running by azimuths measured clockwise from true South:

1.	334°	30'	47.00	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
2.	64°	30'	22.00	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
3.	154°	30'	55.00	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
4.	244°	30'	9.00	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
5.	276°	06' 30"	15.26	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, to the point of beginning and containing an area of 1158 square feet, more or less.

RECORDATION REQUESTED BY:

AFTER RECORDATION RETURN TO:

RETURN BY: MAIL ☐ PICKUP ☐

PARTIAL REVOCATION OF DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
AND
THE HEIGHTS AT WAILUNA, INCREMENT 3
AND
DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
THE HEIGHTS AT WAILUNA, INCREMENT 3,
AND
THE HEIGHTS AT WAILUNA, INCREMENT 4

THIS PARTIAL REVOCATION OF DECLARATION OF MERGER FOR THE HEIGHTS AT WAILUNA, INCREMENT 1, THE HEIGHTS AT WAILUNA, INCREMENT 2, AND THE HEIGHTS AT WAILUNA, INCREMENT 3, AND THIS DECLARATION OF MERGER FOR THE HEIGHTS AT WAILUNA, INCREMENT 1, THE HEIGHTS AT WAILUNA, INCREMENT 2, THE HEIGHTS AT WAILUNA, INCREMENT 3, AND THE HEIGHTS AT WAILUNA, INCREMENT 4, executed and entered into this 5th day of May, 1987, by the TRUSTEES OF THE ESTATE OF BERNICE PAUHI BISHOP, herein called "Lessor", THE LUSK COMPANY, a California corporation authorized to do business in the State of Hawaii, herein called "Developer", and the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, INCREMENT 1, herein called "The Heights at Wailuna, Increment 1 Association" and the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, INCREMENT 2, herein called "The Heights at Wailuna, Increment 2 Association", and the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHT AT WAILUNA, INCREMENT 3, herein called "The Heights at Wailuna, Increment 3 Association,

WITNESSETH THAT:

WHEREAS, The Heights at Wailuna, Increment 1 is a condominium project established by Declaration of Horizontal Property Regime recorded in the Bureau of Conveyances of the State of Hawaii in Liber 18981, page 617; and

WHEREAS, The Heights at Wailuna, Increment 2 is a condominium project established by Declaration of Horizontal Property Regime recorded in said Bureau in Liber 19285, page 693; and

WHEREAS,, The Heights at Wailuna, Increment 3 is a condominium project established by Declaration of Horizontal Property Regime recorded in said Bureau in Liber 19486, page 487; and

WHEREAS,, The Heights at Wailuna, Increment 4 is a condominium project established by Declaration of Horizontal Property Regime recorded in said Bureau in Liber 19771, page 448; and

WHEREAS, paragraph 15.1 of said Declarations for said The Heights at Wailuna, Increments 1, 2 and 3 read as follows:

(15.1) One or more condominium projects, whether or not adjacent to the Project, but which are part of the same incremental plan of development and in the same vicinity, may be merged together with the Project from time to time so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for sharing of the common expenses of the projects among all the owners of the apartments in the merged projects. Any such merger or mergers does not require the approval of the apartment owners, and shall be effective upon approval by the Board and the Lessor and the Developer and upon execution of the merger documents by two (2) officers of the Project and the Lessor and the Developer and recordation of same in the Bureau of Conveyances.

and

WHEREAS, paragraphs 15.1 and 15.2 of the Declaration of Horizontal Property Regime for The Heights at Wailuna, Increment 4, reads as follows:

(15.1) One or more condominium projects, whether or not adjacent to the Project, but which are part of the same incremental plan of development and in the same vicinity, may be merged together with the Project from time to time so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for sharing of the common expenses of the projects among all the owners of the apartments in the merged projects. Any such merger or mergers does not require the approval of the apartment owners, and shall be effective upon approval by the Board and the Lessor and the Developer and upon execution of the merger documents by two (2) officers of the Project and the Lessor and the Developer and recordation of same in the Bureau of Conveyances.

(15.2) Notwithstanding any provision to the contrary herein contained, Developer expressly reserves the right without the consent or joinder of persons then owning or leasing apartments in the Project to merge this Project with any and all of the following condominium projects to permit the joint use of the common elements of the merged projects by all the apartment owners of the projects:

(i) That certain project known as "The Heights at Wailuna, Increment 1", established by that certain Declaration of Horizontal Property Regime dated September 17, 1985, recorded in said Bureau of Conveyances in Liber 18981, at page 617;

(ii) That certain project known as "The Heights at Wailuna, Increment 2", established by that certain Declaration of Horizontal Property Regime dated January 27, 1986, recorded in said Bureau of Conveyances in Liber 19285 at page 693; and

(iii) That certain project known as "The Heights at Wailuna, Increment 3", established by that certain Declaration of Horizontal Property Regime dated April 17, 1986, recorded in said Bureau of Conveyances in Liber 19486 at page 487; and

WHEREAS, THE HEIGHTS AT WAILUNA, INCREMENT 1, THE HEIGHTS AT WAILUNA, INCREMENT 2, and THE HEIGHTS AT WAILUNA, INCREMENT 3 were merged by that certain Declaration of Merger for The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, and The Heights at Wailuna, Increment 3, dated August 13, 1986, and recorded in said Bureau in Liber 19882, page 311; and

WHEREAS, at a meeting of the Boards of Directors of the Associations of Apartment Owners of The Heights at Wailuna, Increments 1, 2 and 3 held on May 6, 1987, said Boards of Directors did unanimously vote for and approve a merger of The Heights at Wailuna, Increment 4 into and with The Heights at Wailuna, Increments 1, 2 and 3 in accordance with the terms and conditions of this document; and

WHEREAS, pursuant to paragraphs 15.2 of said Declaration of Horizontal Property Regime of The Heights at Wailuna, Increment 4, the Developer reserved the right to merge The Heights at Wailuna, Increment 4 into and with The Heights at Wailuna, Increments 1, 2 and 3; and

WHEREAS, all four projects are adjacent projects which are part of the same incremental plan of development; and

WHEREAS, the merger contemplated hereby is permitted by the Horizontal Property Regimes Act;

PARTIAL REVOCATION OF DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
AND
THE HEIGHTS AT WAILUNA, INCREMENT 3

NOW, THEREFORE, Lessor, Developer and The Heights at Wailuna, Increment 1 Association, The Heights at Wailuna, Increment 2 Association and The Heights at Wailuna, Increment 3 Association do hereby revoke that certain Declaration of Merger for The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2 and The Heights at Wailuna, Increment 3, dated August 13, 1986, and recorded in said Bureau in Liber

19882, page 311, only to the extent that same is in conflict with the Declaration of Merger of The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, The Heights at Wailuna, Increment 3, and The Heights at Wailuna, Increment 4, hereinafter set forth, said partial revocation being effective as of the effective date of the merger herein set forth.

DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
THE HEIGHTS AT WAILUNA, INCREMENT 3,
AND THE HEIGHTS AT WAILUNA, INCREMENT 4

NOW, THEREFORE, pursuant to the aforesaid Declarations of Horizontal Property Regime, Lessor, Developer, and the Boards of Directors of The Heights at Wailuna, Increments 1, 2 and 3 do hereby declare that The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, The Heights at Wailuna, Increment 3, and The Heights at Wailuna, Increment 4 are hereby merged on the following terms and conditions:

1. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 1 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 2, THE HEIGHTS AT WAILUNA, INCREMENT 3, and THE HEIGHTS AT WAILUNA, INCREMENT 4, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 2 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 3, and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 4, as though the four projects had been developed as a single condominium project.

2. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 2 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 1, THE HEIGHTS AT WAILUNA, INCREMENT 3, and THE HEIGHTS AT WAILUNA, INCREMENT 4, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment in THE HEIGHTS AT WAILUNA, INCREMENT 1 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 3, and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 4, as though the four projects had been developed as a single condominium project.

3. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 3 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 1 and THE HEIGHTS AT WAILUNA, INCREMENT 2, and THE HEIGHTS AT WAILUNA, INCREMENT 4, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 1 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 2, and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 4, as though the four projects had been developed as a single condominium project.

4. The owners of apartments in The Heights at Wailuna, Increment 4, shall have nonexclusive rights to use the

common elements in The Heights at Wailuna, Increment 1 and The Heights at Wailuna, Increment 2 and The Heights at Wailuna, Increment 3 to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within The Heights at Wailuna, Increment 1 and upon an owner of an apartment within The Heights at Wailuna, Increment 2 and upon an owner of an apartment within The Heights at Wailuna, Increment 3, as though the four projects had been developed as a single condominium project.

5. THE HEIGHTS AT WAILUNA, INCREMENT 1 shall bear 24.2188 percent, THE HEIGHTS AT WAILUNA, INCREMENT 2 shall bear 24.2188 percent, THE HEIGHTS AT WAILUNA, INCREMENT 3 shall bear 23.4375 percent, and THE HEIGHTS AT WAILUNA, INCREMENT 4 shall bear 28.1249 percent of the total common expenses of the merged project as the term "common expenses" is defined by the Horizontal Property Act, the Declarations of Horizontal Property Regimes, and the Bylaws for each project, treating the projects as a single project, and each individual apartment owner's share of the total common expenses shall be his percentage share of ownership of the common expenses as set forth in the Declaration of Horizontal Property Regimes for said project in which his condominium apartment is located times the percentage allocated in this paragraph 5 to the project in which his apartment is located; Provided, However, notwithstanding the provisions in this paragraph, the apartment owners of each project shall not be assessed for nor shall they have any obligation with respect to the debts, deficits or obligations of the other projects existing prior to this merger.

6. The apartment owners shall be entitled to vote in the same proportion of the total vote as set forth above in paragraph 5 for the sharing of common expenses, and each individual apartment owner's share of the total vote shall be his percentage vote as set forth in the Declaration of Horizontal Property Regime for said project in which his condominium apartment is located times the percentage allocated above in paragraph 5 to the project in which his apartment is located.

7. There shall be one Board of Directors for the merged projects composed of not less than three (3) persons and not more than nine (9) persons. At the annual meeting of the owners of the condominium apartments next following this merger and at all subsequent such meetings, the Board of Directors to be elected shall govern the merged projects pursuant to the terms of the respective Declarations of Horizontal Property Regime and By-Laws. At a special meeting called for the purpose after the merger, the owners may remove the existing Board and elect a Board to govern the merged project until the next annual meeting.

8. Each of the projects shall be treated as part of a single project developed as a whole from the beginning and the respective Declarations of Horizontal Property Regime and By-Laws applicable to each shall be construed as one document applicable to the entire project as merged hereunder except to the extent expressly otherwise provided for therein. It is the purpose hereof to provide that from and after the date of

merger all of the property subject hereto shall be treated as though it had been developed, divided into condominium apartments, held, occupied and used by the owners thereof as a single condominium project.

9. Additional merger or mergers may occur as set forth in the aforesaid Declarations of Horizontal Property Regime and as permitted and allowed by the Horizontal Property Act, and this Declaration of Merger may be amended, modified, cancelled or superseded by any such additional merger or mergers.

10. The projects shall henceforth be known as THE HEIGHTS AT WAILUNA.

The effective date of this merger is July 1, 1987.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

Myron B. Thompson

THE LUSK COMPANY

Richard Lyman

By Charles A. Lusk
Its Vice President

"Developer"

Trustees of the Estate of
Bernice Pauahi Bishop

"Lessor"

APPROVED AS TO FORM
CONTENTS AND AUTHORIZATION

Elizabeth L. J. Omer
Documentary Department

ASSOCIATION OF APARTMENT OWNERS
OF THE HEIGHTS AT WAILUNA,
INCREMENTS 1, 2 AND 3

By Robertus Behrend
Its President

By Diane A. Lusk
Its Secretary

STATE OF HAWAII
CITY AND
COUNTY OF HONOLULU

)
) SS:
)

On this 11th day of August, 1987,
before me personally appeared Henry A. Peters
and Richard A. Peters, Jr.,
three of the Trustees of the Estate of Bernice Pauahi Bishop,
to me known to be the persons who severally executed the
foregoing instrument and acknowledged that they executed the
same as their free act and deed.

W

Lauri M. Hammond
Notary Public, State of Hawaii

My commission expires:

STATE OF HAWAII
CITY AND COUNTY OF HONOLULU

)
) SS.
)

On this 5th day of May, 1987,
before me appeared ERNEST A. HARRIS, to me personally known,
who being by me duly sworn, did say that he is the Vice
President of THE LUSK COMPANY, a California corporation
authorized to do business in the State of Hawaii; that the seal
affixed to the foregoing instrument is the corporate seal of
said corporation, and that said instrument was signed and
sealed in behalf of said corporation by authority of its Board
of Directors, and the said ERNEST A. HARRIS acknowledged said
instrument to be the free act and deed of said corporation.

K.S.

Mary R. Rush
Notary Public, State Hawaii

My commission expires: 10-12-89

STATE OF HAWAII
CITY AND
COUNTY OF HONOLULU

)
) SS:
)

On this 7th day of July, 1987, before me appeared Diane H. Williams and She they are the Secretary and Secretary respectively of the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, INCREMENTS 1, 2 AND 3, an unincorporated association; that the association has no seal; and that said instrument was signed in behalf of said association by authority of its Board of Directors, and the said Secretary and Secretary acknowledged said instrument to be the free act and deed of said corporation.

Shirley B. Williams
Notary Public, State of Hawaii

My commission expires: 10/14/88

STATE OF HAWAII)
CITY AND COUNTY OF HONOLULU) ss.

On this 25TH day of JUNE, 1987, before me appeared ROBERT M. BEHREND, to me known, who being duly sworn, did say that he is the President of the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, INCREMENTS 1, 2, and 3, an unincorporated association; that the association has no seal; and that said instrument was signed behalf of said association by authority of its Board of Directors, and the said President acknowledged said instrument to be the free act and deed of said corporation.

Kevin F. Shiplett
KEVIN F. SHIPLETT, Notary Public
First Judicial Circuit, State of Hawaii

My commission expires: 27 JULY 1990

THE ORIGINAL OF THE DOCUMENT
RECORDED AS FOLLOWS:
STATE OF HAWAII

BUREAU OF CONVEYANCES

DEC 09 1993 TIME 8:20
DOCUMENT NO. 93-203760

LAND COURT SYSTEM

REGULAR SYSTEM

Return by: Mail [] Pickup [] To:

NEELEY & ANDERSON
Attorneys at Law, A Law Partnership
Joyce Y. Neeley (3134-0)
733 Bishop Street, Suite 2301
Honolulu, Hawaii 96813 (808) 536-8177

**CANCELLATION AND REVOCATION OF FIRST AMENDMENT TO
DECLARATION OF HORIZONTAL PROPERTY REGIME
OF THE HEIGHTS AT WAILUNA, INCREMENT 1**

WHEREAS, by Declaration of Horizontal Property Regime dated September 17, 1985, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 18981, at Page 617, the TRUSTEES OF THE ESTATE OF BERNICE PAUANI BISHOP, as Lessor; LEAR SIEGLER, INC. and LEAR SIEGLER PROPERTIES, INC., both Delaware corporations authorized to do business in the State of Hawaii, as Sublessor; and JOHN D. LUSK & SON, a California corporation authorized to do business in the State of Hawaii, as Developer, did submit the property described in said Declaration to the provisions of the Horizontal Property Act (now known as the Condominium Property Act) and Chapter 514A, Hawaii Revised Statutes, as amended;

WHEREAS, said Declaration provided for the organization of the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, INCREMENT 1 (hereinafter referred to as the "Association"); and

WHEREAS, a First Amendment to Declaration of Horizontal Property Regime of The Heights at Wailuna, Increment 1 was recorded by the Association on February 7, 1992 in the Bureau of Conveyances of the State of Hawaii as Document No. 92-018752 to amend Exhibit B to the Declaration related to common interests based on the certification by officers of the Association that the amendment was adopted by the written consent of the owners of apartments to which were appurtenant seventy-five percent (75%) of the common interests of Increment 1 and by each of the owners whose common interests would be modified by the First Amendment; and

WHEREAS, the Board of Directors of the Association has now learned that the First Amendment to the Declaration was not validly enacted because the requisite consent of owners and/or of mortgagees was not obtained.

NOW, THEREFORE, the First Amendment is hereby cancelled and revoked and the Declaration including Exhibit B as originally attached to the Declaration is hereby reinstated as though said First Amendment was never recorded.

IN WITNESS WHEREOF, the parties hereto have executed this instrument this 23rd day of November, 1993.

ASSOCIATION OF APARTMENT OWNERS
OF THE HEIGHTS AT WAILUNA

By Robert M. Buhl

Its PRESIDENT

By [Signature]

Its Secretary

STATE OF HAWAII)
) SS.
CITY OF HONOLULU)

On this 23rd day of November, 1993, before me personally appeared Robert M. Behrend, to me personally known, who being by me duly sworn, did say that he is the President of the Board of Directors of the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA; that said instrument signed on behalf of said Association by authority of its Board of Directors, and that said officer acknowledged said instrument to be the free act and deed of said Association.

LS

Svy J. Miyasaki
Notary Public
State of Hawaii

My commission expires: 10-6-95

STATE OF Hawaii)
) SS.
CITY OF Honolulu)

On this 29th day of November, 1993, before me personally appeared Leisa P. Ortiz, to me personally known, who being by me duly sworn, did say that she is the Secretary of the Board of Directors of the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA; that said instrument signed on behalf of said Association by authority of its Board of Directors, and that said officer acknowledged said instrument to be the free act and deed of said Association.

Angy Honda
Notary Public
State of Hawaii

My commission expires: 8/30/97

c:\doc\heights.wai\amendmnt.can

57 970
86-16654
RECORDATION REQUESTED BY:

86-16654

6 FEB 11 P2 07

AFTER RECORDATION RETURN TO:

19285 693

DAMON, KEY, CHAR & BOCKEN 531-8031

RETURN BY: MAIL ☐ PICKUP ☐

DECLARATION OF HORIZONTAL PROPERTY REGIME
OF
THE HEIGHTS AT WAILUNA, INCREMENT 2

EXHIBITS "A" and "B"
(Exhibit "A" - The Land)
(Exhibit "B" - Common Interests)

DAMON, KEY, CHAR & BOCKEN
(CHARLES W. KEY)
1600 Pauahi Tower
1001 Bishop Street
Honolulu, Hawaii 96813
Tel. No. 531-8031

2008C/642
12/19/85

1. Apartments. There are hereby established twenty-eight (28) freehold estates (herein called "apartments") consisting of twenty-eight (28) separate dwelling units numbers "86", "87", "90" through "94" and "96" through "116", as shown in Column 1 of EXHIBIT "B" attached hereto and made a part hereof, each located within and situated upon certain specific delineated land areas shown on said Condo Map. Each apartment consists of all improvements comprising the dwelling unit within each of said land areas, and said apartment further consists of all other improvements within each of said land areas that do not service any other apartment.

(1.1) The various separate land areas numbered "86" through "116" as shown on said Condo Map are limited common elements. Apartment "90" currently has appurtenant thereto, as limited common elements, land areas "88", "89", "90", and "95", and each of the other apartments has appurtenant thereto as a limited common element the land area having the same number as said apartment.

(1.2) There are currently no apartments designated number "88", "89" or "95". Notwithstanding any provisions herein to the contrary, Developer may, with the consent of the Lessor, at any time and from time to time prior to December 31, 1991 (said date may be extended by the Lessor) convert land areas "88", "89" and/or "95" into separate apartments by constructing a dwelling unit on any of said land areas "88", "89" or "95", and by appropriately amending this Declaration and the Condo Map and the By-Laws to reflect the construction of said Apartment(s).

(1.3) The dwelling units are of double wall wood frame construction on concrete slab with a composition roof, and are principally constructed of wood, interior drywall partitions, exterior masonite siding, glass, aluminum and appropriate trim. There are no basements.

(1.4) There are six types of dwelling units shown on said Condo Map. These six types of dwelling units are designated by 1, 4, 5, 5M, 7 or 7M, and the type of dwelling unit comprising each apartment is set forth on EXHIBIT "B" attached hereto and made a part hereof.

(1.5) The number of rooms and stories of each type of dwelling unit is set forth below:

	<u>1</u>	<u>4</u>	<u>5</u>	<u>5M</u>	<u>7</u>	<u>7M</u>
Number of Rooms	7	9	8	8	8	8
Number of Stories	1	2	2	2	2	2

(1.6) The approximate net living area of each type of dwelling unit consisting of the enclosed portion of the dwelling unit measured from the interior surface of the dwelling unit perimeter walls and the garage is set forth below in square feet:

	<u>1</u>	<u>4</u>	<u>5</u>	<u>5M</u>	<u>7</u>	<u>7M</u>
Net living area:	1,135	1,448	1,302	1,302	1,344	1,344
Garage:	<u>435</u>	<u>423</u>	<u>467</u>	<u>467</u>	<u>415</u>	<u>415</u>
TOTAL	<u>1.570</u>	<u>1.871</u>	<u>1.769</u>	<u>1.769</u>	<u>1.759</u>	<u>1.759</u>

(1.7) Each of the apartments has immediate access to driveways on the grounds of the Project and to a public street.

2. Common Elements. One freehold estate is hereby designated in all of the remaining portions and appurtenances of the Project, herein called the "common elements", including specifically, but not limited to:

(2.1) The land described in EXHIBIT "A" in fee simple;

(2.2) All yards, grounds and landscaping, loading zone, roads, the sidewalks within the road areas, walls, fences, and driveways. (NOTE: all the foregoing is as shown on said Condo Map except for the landscaping. The fences and walls and sidewalks within the road that are common elements are shown on the Site Plan which is a part of said Condo Map);

(2.3) All ducts, electrical equipment, wiring, pipes and other central and appurtenant transmission facilities, installations over, under and across the land of the project which serve more than one apartment for services such as power, light, water, gas, drainage, sewer, telephone and radio and television signal distribution (NOTE: There are conduits within the Condo lots that are common elements, and there are conduits and a low voltage power source in the utility closets within the garage of each apartment that are also common elements); and

(2.4) The following easement areas that affect and are within the following separate land areas, as shown on said Condo Map:

<u>EASEMENT AREAS</u>	<u>SEPARATE LAND AREAS</u>
B	93
C	101
D	102

(NOTE: Easement Area D contains a drainage pipe installed underground that is located below the dwelling unit constructed on Condo Lot 102.)

(2.5) The rain gutters and downspouts on the roof of each apartment adjacent to the common boundary line and the water drainage patterns on the surface of each condo lot; and

(2.6) Any and all apparatus and installations of common use and all other parts of the property necessary or

convenient to its existence, maintenance and safety, or normally in common use.

3. Limited Common Elements. Certain parts of the common elements, herein called and designated "limited common elements", are hereby set aside and reserved for the exclusive use of certain apartments and such apartments shall have appurtenant thereto exclusive easements for the use of such limited common elements. The limited common elements so set aside and reserved are as follows:

(3.1) The various separate land areas numbered "86" through "116" as shown on said Condo Map are limited common elements. Apartment 90 currently has appurtenant thereto, as limited common elements, land areas 88, 89, 90 and 95. Each of the other apartments has appurtenant thereto as a limited common element the land area having the same number as said apartment. (NOTE: The limited common area designated as land areas 88, 89, 90 and 95 are sometimes herein collectively referred to as a Condo lot and each of the other land areas are sometimes herein referred to as a Condo lot.)

(3.2) The driveway extending from the road within the project to the garage of each dwelling unit is a limited common element on said apartment.

(3.3) All other common elements of the Project which are rationally related to less than all of said apartments shall be limited to the use of such apartments.

All limited common elements, costs and expenses, including but not limited to, maintenance, repair, replacement, additions and improvements, shall be charged to the owner of the apartment to which the limited common elements are appurtenant, and all such charges shall be collected in the same manner as common expenses and the Association shall have a lien against apartments for any unpaid charges in accordance with paragraph 9 of this Declaration.

4. Other Easements. In addition to the exclusive easements established in the limited common elements, the apartments shall also have and be subject to the following easements and license:

(4.1) Each apartment shall have appurtenant thereto nonexclusive easements in the common elements designed for such purpose for ingress to, egress from, utility services for and support and repair of such apartment; in the other common elements for use according to their respective purposes, subject always to the exclusive or limited use of the limited common elements as herein provided, and in all of the common elements for support.

Note: It will be necessary to enter each Condo lot adjoining each apartment for the repair and maintenance of the dwelling unit.

(4.2) If any part of the common elements now or hereafter encroaches upon any apartment or limited common elements, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall and does

exist. In the event any buildings of the Project shall be partially or totally destroyed and then rebuilt, minor encroachments of any parts of the common elements due to construction shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist.

(4.3) Each apartment and all limited common elements shall be subject to an easement in favor of the owners of all other apartments for access to any common elements located within or adjoining such apartment or limited common element.

5. Common Interest. Each of the apartments has appurtenant thereto the undivided percentage interest in all the common elements of the Project as shown in EXHIBIT "B", such interest being defined and referred to herein as the "common interest" and the same proportionate share in all common profits and expenses of the Project and for all other purposes, including voting.

6. Purposes and Restrictions. The purposes for which said buildings and other improvements and each of the apartments are intended and shall be restricted as to use are as follows:

(6.1) The common interest and easements appurtenant to each apartment shall have a permanent character, shall not be altered without the consent of all owners of apartments affected thereby and Lessor as expressed in an amendment to this Declaration duly recorded, and shall not be separated from such apartment and shall be deemed to be conveyed or encumbered with such apartment even though not expressly mentioned or described in the conveyance or other instrument.

(6.2) The common elements shall remain undivided, and no right shall exist to partition or divide any part thereof except as provided by said Horizontal Property Act.

(6.3) The apartments shall be occupied and used only for residential purposes and no apartment shall be used as a tenement or rooming house or for or in connection with the carrying on of any business, trade or profession whatsoever. The apartments shall not be rented for transient or hotel purposes, which are defined as: (1) rental for any period less than thirty (30) days; or (2) any rental in which the occupants of the apartments are provided customary hotel services such as room service for food and beverages, maid service, laundry and linen or bellboy service. The apartments in the Project or any interest therein shall not be sold, transferred, conveyed, leased, occupied, rented or used for or in connection with any time-sharing purpose or under any time-sharing plan, arrangement or program, including without limitation any so-called "vacation license", "travel club membership" or "time interval ownership" arrangement. The term "time-sharing" as used herein shall be deemed to include, but is not limited to, any plan, program or arrangement under which the right to use, occupy, own or possess an apartment or apartments in the Project rotates among various persons on a periodically recurring basis according to a fixed or floating interval or period of time, whether by way of deed, lease, association or club membership, license, rental or use agreement, co-tenancy agreement, partnership or otherwise.

Except for the foregoing, the owners of the apartments shall have the absolute right to lease such apartments.

(6.4) The owner of each apartment upon acquiring title thereto automatically shall become a member of the Association of Apartment Owners, herein called the "Association", and shall remain a member thereof until such time as his ownership of such apartment ceases for any reason, at which time his membership in the Association automatically shall cease; provided, however, that if and to the extent a lease of any apartment filed with the Board of Directors of the Association so provides, the lessee of such apartment shall be deemed to be the owner thereof.

7. Administration. Administration of the Project shall be vested in the Association, consisting of all apartment owners of the Project in accordance with the By-Laws of the Association (the "Bylaws") to be recorded contemporaneously herewith. Operation of the Project and maintenance, repair, replacement and restoration of the common elements, and any additions and alterations thereto, shall be in accordance with the provisions of said Horizontal Property Act, this Declaration and the By-Laws, and specifically but without limitation the Association shall:

(7.1) Make, build, maintain and repair all fences, sewers, drains, roads, curbs, sidewalks and parking areas which may be required by law to be made, built, maintained and repaired upon or adjoining or in connection with or for the use of the Project or any part thereof, including, but not limited to, any screening or landscaping of the facilities of Hawaiian Electric Company, Inc., and, if any, of Hawaiian Telephone Company, on the premises which may be required by law, ordinance or by any governmental agencies.

(7.2) Keep all common elements of the Project in a strictly clean and sanitary condition, and observe and perform all laws, ordinances, rules and regulations now or hereafter made by any governmental authority for the time being applicable to the Project or the use thereof.

(7.3) Well and substantially repair, maintain, preserve, amend and keep all common elements of the Project, including without limitation the buildings thereof, with all necessary reparations and amendments whatsoever in good order and condition except as otherwise provided herein, and maintain and keep said land and all adjacent land between any street boundary of the Project and the established curb or street line in a neat and attractive condition and all trees, shrubs and grass thereon in good cultivation and replant the same as may be necessary, and repair and make good all defects in the common elements of the Project herein required to be repaired by the Association, of which notice shall be given by any owner or his agent, within thirty (30) days after the giving of such notice.

(7.4) Not make or suffer any strip or waste or any unlawful, improper, or offensive use of the Project.

(7.5) Not erect or place on the Project any building or structure, including fences and walls, nor make additions or structural alterations to, or exterior changes of,

any common elements of the Project, nor place or maintain thereon any signs, posters or bills whatsoever, except in accordance with plans and specifications, including detailed plot plan, prepared by a licensed architect if so required by Lessor, first approved in writing by Lessor and also approved by a majority of apartment owners (or such larger percentage as required by law or this Declaration) including all owners of apartments thereby directly affected, as determined by the Board of Directors (the "Board"), and complete any such improvements diligently after commencement thereof.

(7.6) Not commit any act or neglect whereby the Project or any part thereof at any time becomes subject to any attachment, judgment, lien, charge or encumbrance whatever.

(7.7) Before commencing or permitting construction of any improvement to the Project, obtain and deposit with Lessor a bond naming as obligees Lessor and collectively all apartment owners as their respective interests may appear with a responsible corporate surety authorized to do business in the State of Hawaii, which bond shall guarantee completion of such construction in accordance with the contract therefor free and clear of all mechanics' and materialmen's liens and shall be in a penal sum not less than one hundred percent (100%) of the cost of such construction.

(7.8) Have the right, to be exercised by its Board of Directors or its designee, to enter any apartments and limited common elements from time to time during reasonable hours as may be necessary for the operation of the Project or for making emergency repairs therein required to prevent damage to any apartments or common elements or for the installations, repair or replacement of any common elements.

(7.9) Observe any setback lines affecting the Project and shall not erect, place, or maintain any building or structure whatsoever between any street boundary of the Project and any setback line along such boundary except approved fences or walls.

8. Managing Agent and Service of Process. Operation of the Project shall be conducted for the Association by a responsible corporate Managing Agent who shall be appointed by the Association in accordance with the By-Laws, except that the initial Managing Agent shall be appointed by the Developer. The Managing Agent is hereby authorized to receive service of legal process in all cases provided in said Horizontal Property Act. CERTIFIED MANAGEMENT, a division of AR Corporation, whose principal place of business and post office address is 98-1238 Kaahumanu Street, Honolulu, Hawaii 96782, is hereby designated as the agent to receive service of process until such time as the Board of Directors of the Association is elected.

9. Common Expenses.

(9.1) All charges, costs, and expenses incurred by the Association for or in connection with the administration of the Project, including, without prejudice to the generality of the foregoing, operation of the Project and maintenance, repair, rebuilding, and restoration of the common elements and any additions and alterations thereto; the maintenance, repair,

all labor, services, materials, utility services and equipment therefor; all liability whatever for loss or damage arising out of or in connection with the common elements, or any accident, fire, or any nuisance thereon; and all premiums for fire and extended coverage and liability insurance required herein with respect to the Project and other insurance coverage that the Board may obtain; and the cost of all utility services, including water, electricity and gas, garbage disposal and any other similar service unless separately metered; shall constitute common expenses for which the apartment owners shall be severally liable in proportion to their respective common interests. Rent and real property taxes and special assessments referred to in Section 514A-6, Hawaii Revised Statutes, as amended, shall not be common expenses of the Horizontal Property Regime hereby created and no payments thereof shall be payments of such common expenses. The Board shall from time to time assess the common expenses against all the apartments in their respective proportionate shares, and the unpaid amount of such assessments against any apartment shall constitute a lien against such apartment which may be foreclosed by the Board or Managing Agent as provided by said Horizontal Property Act, provided that thirty (30) days' prior written notice of intention to foreclose shall be mailed, postage prepaid, to the Lessor and all other persons having any interest in such apartment as shown in the Association's record of ownership.

(NOTE: In the event it becomes necessary to maintain or repair the drainage pipe within Easement D which affects Condo Lot 102, all such costs and expenses shall constitute common expenses; however, in the event such maintenance or repair results in damage to the residential unit constructed on said Condo Lot, then and in such event the owner of Apartment 102 shall be responsible to pay for the repair and reconstruction of said residential unit.)

(9.2) Notwithstanding any of the other terms and conditions contained herein, all limited common elements, costs and expenses, including but not limited to, maintenance, repair, replacement, additions and improvements, shall be charged to the owner of the apartment to which the limited common elements are appurtenant, and all such charges shall be collected in the same manner as common expenses and the Association shall have a lien against apartments for any unpaid charges in accordance with paragraph 9 of this Declaration.

(9.3) No apartment owner may exempt himself from liability for his contribution toward the common expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of his apartment.

(9.4) All sums chargeable as common expenses to any apartment but unpaid shall constitute a lien on such apartment prior to all other liens, except only (1) liens for taxes and assessments lawfully imposed by governmental authority against such apartment, and (2) liens for sums unpaid on mortgages of record. Such lien may be foreclosed by suit by the Association or the Managing Agent on its behalf, in like manner as a mortgage of real property, provided that thirty (30) days' prior written notice of intention to foreclose shall be mailed by registered mail to Lessor, mortgagees of record, and all other persons having any interest in such apartment as

shown by the Association's records. The Managing Agent, acting on behalf of the Association and as directed by the Board of Directors, shall be entitled to bid on such apartment at foreclosure sale and to acquire, hold, lease, mortgage, and convey such apartment. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing such expenses.

(9.5) When the mortgagee of a mortgage of record or other purchaser of any apartment acquires title to such apartment as a result of a forfeiture or as a result of foreclosure of the mortgage, they and their respective heirs, successors, legal representatives and assigns shall not be liable for the share of the common expenses or assessments chargeable to such apartment which became due prior to such acquisition of title. Such unpaid share shall be deemed common expenses collectible from all apartment owners, including such mortgagee or such other purchaser and their respective heirs, successors, legal representatives, and assigns.

10. Compliance With Declaration and By-Laws. All apartment owners, their tenants, families, servants and guests, and any other persons who may in any manner use the Project, shall be bound by and comply strictly with the provisions of this Declaration, the By-Laws of the Association, and all agreements, decisions and determinations of the Association as lawfully made or amended from time to time, and failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief, or both, maintainable by the Board or Managing Agent on behalf of the Association or, in a proper case, by any aggrieved apartment owners.

11. Insurance - Casualty, Liability and Other.

(11.1) The Board, on behalf of the Association at its common expense, shall purchase and at all times keep all buildings, improvements and fixtures of this Project, including the common elements and, whether or not part of the common elements, all exterior and interior walls, floors and ceilings, in accordance with the as-built condominium plans and specifications, insured against loss or damage by fire and such other hazards with extended coverage (including flood insurance under the provisions of the federal Flood Disaster Protection Act, if the property is located in an identified flood hazard area as designated by the federal Department of Housing and Urban Development) in an insurance company authorized to do business in Hawaii in an amount sufficient to provide for the full repair or full replacement thereof without deduction for depreciation in the event of such loss of apartments and appurtenant common interests. Exterior glass may be insured at the option of the Board. The insurance shall be in the name of the Association and naming Lessor as additional assured, and payable in case of loss to such bank or trust company authorized to do business in Hawaii as the Board shall designate for the custody and disposition as herein provided of all proceeds of such insurance, and from time to time cause to be deposited promptly with the Lessor true copies of such insurance policies or current certificates thereof, without prejudice to the right of each apartment owner to insure his apartment for his own

benefit. Except as otherwise provided for herein or by the Act, in every case of such loss or damage, all insurance proceeds shall be used as soon as reasonably possible by the Association for rebuilding, repairing or otherwise reinstating the same buildings in a good and substantial manner according to the original plan and elevation thereof or such modified plans conforming to laws and ordinances then in effect as shall be first approved as herein provided. If the destruction is to an apartment, the owner of the apartment shall be required to make up any deficiency in the insurance proceeds, and if the destruction is of a common element the Association at its common expense shall make up any deficiency in the insurance proceeds. Every such policy of insurance shall, if available at reasonable rates:

(1) Provide that the liability of the insurer thereunder shall not be affected by, and that the insurer shall not claim any right of setoff, counterclaim, apportionment, proration, or contribution by reason of any other insurance obtained by or for any apartment owner;

(2) Contain no provision relieving the insurer from liability for loss occurring while the hazard to such buildings is increased, whether or not within the knowledge or control of the Board, or because of any breach of warranty or condition or any other act or neglect by the Board or any apartment owner or any other persons under either of them;

(3) Provide that such policy may not be cancelled (whether or not requested by the Board) except by the insurer giving at least sixty (60) days' prior written notice thereof to the Board, Lessor, any mortgagee, and every other person in interest who shall have requested such notice of the insurer;

(4) Contain a waiver by the insurer of any right of subrogation to any right of the Board, Lessor or apartment owners against any of them or any other persons under them;

(5) Contain a waiver by the insurer of any right to deny liability because of vacancy of any apartment or apartments;

(6) Contain a provision requiring the insurance carrier, at the inception of the policy and on each anniversary date thereof, to provide the Board of Directors with a written summary in layman's terms of the policy. The summary shall include the type of policy, a description of the coverage and limits thereof, amount of annual premium, and renewal dates. The Board shall provide this information to each apartment owner.

(7) Contain a standard mortgage clause which shall:

(a) provide that any reference to a mortgagee in such policy shall mean and include all holders of mortgages of any apartment or apartment

lease of the Project, in their respective order and preference, whether or not named therein;

(b) provide that such insurance as to the interest of any mortgagee shall not be invalidated by any act or neglect of the Board, Lessor, or apartment owners or any persons under any of them;

(c) waive any provision invalidating such mortgagee clause by reason of the failure of any mortgagee to notify the insurer of any hazardous use or vacancy, any requirement that the mortgagee pay any premium thereon, any contribution clause; and

(d) provide that, without affecting any protection afforded by such mortgagee clause, any proceeds payable under such policy shall be payable to said bank or trust company designated by the Board.

(11.2) In the event the Act should hereafter be amended to provide that the Association is not required to provide the insurance coverage set forth in paragraph (11.1) immediately above and the Act requires or permits the individual apartment owners to obtain on their individual dwelling units the insurance coverage required thereon by the provisions of paragraph (11.1) immediately above, then and notwithstanding any of the provisions of this Declaration or the By-Laws, the Board of Directors, with the prior written approval of the Lessor, may require that the individual apartment owners obtain and pay all premiums for said insurance coverage on their individual apartments.

(11.3) The Board, on behalf of the Association at its common expense, shall also effect and maintain at all times comprehensive general liability insurance covering all apartment owners with respect to the Project and naming the Lessor as additional insured in a responsible insurance company authorized to do business in Hawaii with minimum limits of not less than \$1,000,000.00 for injury to one or more persons in any one accident or occurrence and \$300,000.00 for property damage, or such higher limits as the Lessor may from time to time establish with due regard to then prevailing prudent business practice in the State of Hawaii as reasonably adequate for Lessor's protection, and from time to time upon receipt thereof deposit promptly with the Lessor current certificates of such insurance, without prejudice to the right of any apartment owners to maintain additional liability insurance for their respective apartments.

(11.4) The Board may obtain other insurance coverage that it deems necessary or desirable.

(11.5) The Board shall review not less frequently than annually the adequacy of its insurance program and shall report in writing the Board's conclusions and any action taken on such review to the owner of each apartment and to the holder of any mortgage on any apartment who shall have requested a copy of such report.

12. Condemnation. In case at any time or times the Project or any part thereof shall be taken or condemned by any

authority having the power of eminent domain, or shall be sold to such authority under threat of condemnation, all compensation and damages for or on account of any land shall be payable to and be the sole property of Lessor, and all compensation and damages for or on account of any improvements of the Project shall be payable to such bank or trust company (the "Condemnation Trustee") authorized to do business in Hawaii as the Board shall designate as trustee for all apartment owners and mortgagees according to the loss or damage to their respective apartments and appurtenant common interests.

In the event all or any of the apartments are taken and there is no final judicial determination of the amount of condemnation proceeds allocable to each apartment so taken, the amount of the condemnation proceeds allocable to each apartment (including the apartment's appurtenant interest in the common elements exclusive of the land) shall be determined by a real estate appraiser ("appraiser") who shall be a member of the American Institute of Real Estate Appraisers, or any successor organization and who shall have acted on behalf of the apartment owners in the condemnation proceedings; or, if no such appraiser shall have acted on behalf of the apartment owners or if more than one appraiser shall have acted on behalf of the apartment owners, then an appraiser with such qualifications shall be selected by the Board to determine the amount of condemnation proceeds allocable to each apartment.

If the entire Project is taken, the Condemnation Trustee shall pay to each apartment owner and mortgagee, as their interests may appear, the portion of the condemnation proceeds determined in the above manner.

In the event of a partial taking of the Project in which (i) any apartment is physically eliminated, or (ii) a portion thereof is eliminated and the remaining portion cannot be repaired or rebuilt in a manner satisfactory to the owner of the apartment, the Board and to the Lessor, then such apartment shall be removed from the Project and the Condemnation Trustee shall disburse to the owner and any mortgagee of such apartment, as their interests may appear, in full satisfaction of their interests in the apartment, the portion of the proceeds of such award allocable to such eliminated or removed apartment after deducting the proportionate share of such apartment in the cost of debris removal, and the apartment owners shall amend this declaration to reflect the removal of said apartment(s) and the appropriate adjustment in the ownership of the common elements.

In the event of any partial taking of any of the common elements of the Project, the Board shall arrange for any necessary repair and restoration of the improvements remaining after the taking in accordance with the design thereof immediately prior to such condemnation or, if repair and restoration in accordance with such design are not permissible under applicable laws and regulations then in force, in accordance with such modified plan as shall be first approved by the Lessor, the Board, and the mortgagee of record of each apartment in the Project remaining after such taking. If the sums held by the Condemnation Trustee are insufficient to pay the cost for such repair and restoration, the Board shall pay such excess as a

common expense, and if necessary shall bring a special assessment against the apartment owners.

If the sums received as a result of a partial condemnation exceed the total of any amounts payable to the owner and any mortgagee of a removed apartment and the amount of costs for debris removal and for repair and restoration of the remaining buildings and improvements, such excess shall be divided among the apartment owners including the owners of any eliminated apartments in accordance with their interest in the common elements prior to the condemnation.

Unless restoration or replacement is undertaken within a reasonable time after such taking, condemnation or sale, the Association at its common expense shall remove all remains of such improvements on the remaining land and restore the site thereof to good orderly condition and even grade.

13. Insured Casualty and Uninsured Casualty.

(13.1) Insured Casualty. In case at any time or times any improvements of the Project shall be damaged or destroyed by any casualty herein required to be insured against, such improvements shall be rebuilt, repaired or restored unless (a) 80% or more of the apartments and (b) apartments to which are appurtenant 80% or more of the common interest shall vote against rebuilding, repairing or otherwise reinstating the buildings as aforesaid, which vote shall be taken at a meeting of the Association held prior to commencement of the rebuilding, repair or other reinstatement of the buildings and within 90 days after such loss or damage or such later date which is within 30 days after the insurance loss has been finally adjusted, and Lessor and all mortgagees shall consent thereto in writing, then and in such event the provisions of Section 514A-21 shall apply and the Association, within a reasonable time thereafter, at its common expense, shall remove all remains of improvements so damaged or destroyed and restore the site thereof to good orderly condition and grade. Any such restoration of the common elements shall be completed diligently by the Association at its common expense and the apartment owners shall be solely responsible for any restoration of their respective apartments so damaged or destroyed, according to the original plans and elevation thereof, or such other plan first approved as provided herein.

(13.2) Uninsured Casualty. In case at any time or times any improvements of the Project shall be damaged or destroyed by any casualty not herein required to be insured against, such improvements shall be rebuilt, repaired or restored unless seventy-five percent (75%) of the apartment owners vote against such rebuilding, repairing or restoration. Any such approved restoration of the common elements shall be completed diligently by the Association at its common expense and the apartment owners shall be solely responsible for any restoration of their respective apartments so damaged or destroyed, according to the original plans and elevation thereof, or such other plan first approved as provided herein. Unless such restoration is undertaken within a reasonable time after such casualty, the Association at its common expense shall remove all remains of improvements so damaged or destroyed

and restore the site thereof to good orderly condition and even grade.

14. Alteration of Project. Restoration or replacement of the Project or of any building, or construction of any additional building or structural alteration or addition to any structure, different in any material respect from said Condominium Map of the Project, shall be undertaken by the Association or any apartment owners only pursuant to an amendment of this Declaration, duly executed by or pursuant to the affirmative vote of seventy-five percent (75%) of the apartment owners and accompanied by the written consent of the holders of all liens affecting said apartments, and in accordance with complete plans and specifications therefor first approved in writing by Lessor and the Board, and promptly upon completion of such restoration, replacement or construction, the Association shall duly record or file of record such amendment together with a complete set of floor plans of the Project as so altered, certified as built by a registered architect or professional engineer, provided, however, that any alterations or additions within an apartment or within a limited common element appurtenant to and for the exclusive use of such apartment shall require only the prior written approval of the Lessor and the Board, and may be undertaken without an amendment to this Declaration or filing of a set of floor plans of the Project as so altered.

15. Merger of Increments.

(15.1) One or more condominium projects, whether or not adjacent to the Project, but which are part of the same incremental plan of development and in the same vicinity, may be merged together with the Project from time to time so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for sharing of the common expenses of the projects among all the owners of the apartments in the merged projects. Any such merger or mergers does not require the approval of the apartment owner, and shall be effective upon approval by the Board and the Lessor and the Developer and upon execution of the merger documents by two (2) officers of the Project and the Lessor and the Developer and recordation of same in the Bureau of Conveyances.

(15.2) Notwithstanding any provision to the contrary herein contained, Developer expressly reserves the right without the consent or joinder of persons then owning or leasing apartments in the Project to merge this Project with the condominium project known as "The Heights at Wailuna, Increment 1", established by Declaration of Horizontal Property Regime dated September 17, 1985, recorded in said Bureau of Conveyances in Liber 18981 at Page 660, to permit the joint use of the common elements of the merged projects by all the apartment owners of both projects.

(15.3) Each and every conveyance, lease and mortgage or other lien given for or on any apartment created by this Declaration and all common interests and other appurtenances thereto shall be subject to the merger provisions herein

19. Invalidity. The invalidity of any provision of this Declaration shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such provision had never been included herein.

20. Wailuna Recreation Association. Each residential apartment owner of this Project is a member of Wailuna Recreation Association, a Hawaii nonprofit corporation, and each residential apartment owner shall remain a member thereof until such time as his ownership of such apartment ceases for any reason, at which time his membership in said corporation shall automatically cease. Such membership shall be appurtenant to and may not be separate from ownership of a residential apartment and shall be deemed to be conveyed or encumbered with such apartment even though such membership is not expressly mentioned or described in the conveyance or other instrument.

21. Disclosures and Reservations. Notwithstanding any of the other terms and conditions of this Declaration or the By-Laws, Developer may use any and all apartments for sales purposes, and Developer hereby discloses that Developer intends on constructing and selling additional housing on lands adjoining the Project, and that the construction activity of Developer shall continue on the site of the Project and on adjacent land after apartment owners occupy their apartments and that this activity may result in noise, dust or other annoyances to the apartment owners, and Developer further hereby makes the following disclosures and reservations:

(a) Apartment 90 has land areas 88, 89, 90 and 95 as appurtenant limited common elements. Developer reserves the right, with the consent of the Lessor, at any time and from time to time prior to December 31, 1991 (said date may be extended by the Lessor) to withdraw land areas 88, 89 and 95 from Apartment 90 and to convert Apartment 90 into four (4) separate apartments by constructing and/or reconstructing residential units and other improvements on land areas 88, 89, 90 and 95; and

Developer intends to retain ownership of apartments 90, 91, 92, 93 and 94 for use and occupancy in connection with Developer's sales activities concerning apartments within the Project and with respect to sales activities of other housing projects under the Developer in the vicinity of the Project; and

Developer reserves the right to construct and reconstruct improvements within land areas 88, 89, 90, 91, 92, 93, 94, and 95 or to change and modify and renovate said improvements from time to time; and in the event Developer should do so and/or should convert land areas 88, 89, 90 and 95 into separate apartments by constructing and/or reconstructing and/or renovating residential units and other improvements thereon, Developer reserves the right from time to time to amend the Declaration and the Condo Map and the By-Laws to appropriately reflect same without the consent or joinder of those persons then owning apartments so long as the ownership of common elements appurtenant to said separate apartments created from the

separate land areas now constituting Apartment 90 shall always be equal to one-fourth (1/4) of the ownership now appurtenant to Apartment 90 as herein set forth on Exhibit "B";

(b) Developer reserves the right for itself and its employees, subcontractors, vendors and suppliers to use the common elements for access to construction areas within the Project and on adjacent land;

(c) Developer reserves the right to conduct sales activities, including the use of model dwelling units, signs and extensive sales displays and activities in the Project until Developer ceases development of additional housing in the vicinity of the Project; and

(c) Developer reserves the right for itself, its sales representatives and prospective purchasers to utilize the common elements for ingress and egress to unsold apartments within the Project and within land areas in the vicinity of the Project in order to show apartments to prospective buyers.

All the rights hereinabove reserved unto the Developer in this Section 21 shall terminate and end on December 31, 1991, ^{WJH- M.R.P. C.S. 21.01 29} unless extended in writing by the Lessor.

This Section 21 cannot be amended without the Developer's prior written consent.

IN WITNESS WHEREOF, the Lessor, Sublessor and Developer have executed these presents this 27th day of January, 1986.

Myron B. Thompson
Richard Leonard
Trustees of the Estate of
Bernice Pauahi Bishop

"Lessor"

LEAR SIEGLER, INC.

By Henry L. Glue
Its Vice President

LEAR SIEGLER PROPERTIES, INC.

By Henry L. Glue
Its Vice President

"Sublessor"

THE LUSK COMPANY

By Ernest A. Lusk
Its Vice President

"Developer"

APPROVED AS TO FORM
CONTENTS AND AUTHORIZATION

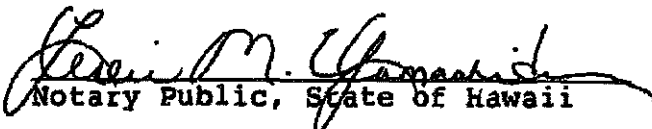
Donald M. Lusk
Documentary Department

19285 711

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 4th day of February, 1986,
before me personally appeared Myron B Thompson,
Matsuo Takabuki and Richard Lyman, Jr.,
three of the Trustees of the Estate of Bernice Pauahi Bishop,
to me known to be the persons who severally executed the fore-
going instrument and acknowledged that they severally executed
the same as their free act and deed.

 **LESLIE M. YAMASHITA**
Notary Public, State of Hawaii
My commission expires Sept. 27, 1988


Notary Public, State of Hawaii

My Commission Expires: _____

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 28th day of January, 1986,
before me appeared HENRY F. ALVES, to me personally known, who,
being by me duly sworn, did say that he is the Vice President
of LEAR SIEGLER, INC., a Delaware Corporation authorized to do
business in Hawaii; and that the seal affixed to the foregoing
instrument is the corporate seal of said corporation and that
said instrument was signed and sealed in behalf of said cor-
poration by authority of its Board of Directors, and the said
HENRY F. ALVES acknowledged said instrument to be the free act
and deed of said corporation.


Notary Public, State of Hawaii

My Commission Expires: 11-20-86

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

)
) SS.
)

On this 20th day of January, 1986,
before me appeared HENRY F. ALVES, to me personally known, who,
being by me duly sworn, did say that he is the Vice President
of LEAR SIEGLER PROPERTIES, INC., a Delaware corporation
authorized to do business in Hawaii; and that the seal affixed
to the foregoing instrument is the corporate seal of said cor-
poration and that said instrument was signed and sealed in
behalf of said corporation by authority of its Board of
Directors, and the said HENRY F. ALVES acknowledged said
instrument to be the free act and deed of said corporation.

Carol A. Co

Notary Public, State of Hawaii

My Commission Expires: 11-20-86

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

)
) SS.
)

On this 27th day of January, 1986,
before me appeared ERNEST A. HARRIS, to me personally known,
who, being by me duly sworn, did say that he is Vice President
of THE LUSK COMPANY, a California corporation authorized to do
business in the State of Hawaii, and that the seal affixed to
the foregoing instrument is the corporate seal of said
corporation and that said instrument was signed and sealed in
behalf of said corporation by authority of its Board of
Directors, and the said ERNEST A. HARRIS acknowledged said
instrument to be the free act and deed of said corporation.

Mary D. Rush
Notary Public, State of Hawaii

My Commission Expires: 10-12-87

L.H.

THE HEIGHTS AT WAILUNA, INCREMENT 2

WAILUNA

LOT IIC

LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,
Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Southwest corner of this parcel of land, on the Northwesterly side of Kaahumanu Street, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 6723.35 feet North and 11,536.62 feet East and running by azimuths measured clockwise from true South:

1. 145° 15' 36.79 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
2. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 215.00 feet,
the chord azimuth and distance
being 130° 07' 30" 119.43 feet;
3. 114° 00' 156.58 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
4. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
right with a radius of 185.00
feet, the chord azimuth and
distance being 140° 07' 30"
162.92 feet;
5. 166° 15' 32.32 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;

EXHIBIT "A"

6. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 185.00 feet, the chord azimuth and distance being 179° 12' 30" 82.97 feet;
7. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 75.00 feet, the chord azimuth and distance being 237° 27' 30" 106.60 feet;
8. 282° 45' 132.18 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
9. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 215.00 feet, the chord azimuth and distance being 277° 07' 15" 42.18 feet;
10. 298° 53' 10" 35.58 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
11. 322° 26' 30" 44.84 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
12. 294° 00' 56.53 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
13. 280° 40' 21.64 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
14. 309° 12' 30" 5.86 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
15. 280° 40' 31.62 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
16. 250° 00' 7.86 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
17. 271° 42' 30" 3.94 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;

TOGETHER WITH Easements 2 and 3 for roadway and utility purposes, described as follows:

EASEMENT 2

THIRTY (30.00) FEET WIDE FOR ROADWAY AND UTILITY PURPOSES

LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,
Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Southwest corner of this easement, on the Northwesterly side of Kaahumanu Street, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 6961.12 feet North and 12,044.90 feet East and running by azimuths measured clockwise from true South:

1. 160° 00' 101.32 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
2. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 185.00 feet,
the chord azimuth and distance
being 133° 33' 30" 164.76 feet;
3. 107° 07' 161.87 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
4. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 185.00 feet,
the chord azimuth and distance
being 87° 26' 124.62 feet;
5. 67° 45' 103.14 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;

6. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 215.00 feet, the chord azimuth and distance being 79° 37' 15" 88.45 feet;
7. 181° 29' 30" 30.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
8. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 185.00 feet, the chord azimuth and distance being 259° 37' 15" 76.11 feet;
9. 247° 45' 103.14 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
10. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 215.00 feet, the chord azimuth and distance being 267° 26' 144.83 feet;
11. 287° 07' 161.87 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
12. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 215.00 feet, the chord azimuth and distance being 313° 33' 30" 191.47 feet;
13. 340° 00' 101.32 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
14. 70° 00' 30.00 feet along the Northwesterly side of Kaahumanu Street, to the point of beginning and containing an area of 23,137 Square Feet.

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EASEMENT 3

FOR ROADWAY AND UTILITY PURPOSES

LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,
Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Northwest corner of this easement, the
coordinates of which referred to Government Survey Triangulation
Station "EWA CHURCH" being 7008.56 feet North and 11,780.53 feet East
and running by azimuths measured clockwise from true South:

1. 250° 00' 203.22 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
2. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 20.00 feet,
the chord azimuth and distance
being 195° 30' 28" 32.56 feet;
3. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
right with a radius of 185.00
feet, the chord azimuth and
distance being 330° 30' 28"
61.02 feet;
4. 340° 00' 16.32 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
5. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 20.00 feet,
the chord azimuth and distance
being 115° 00' 28.28 feet;

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6. 70° 00' 212.19 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
7. 160° 00' 30.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu, to the point of
beginning and containing an area
of 7178 Square Feet.

SUBJECT, HOWEVER, to Easement 4-A for roadway and utility purposes and Easement 8-A for access purposes, described as follows:

EASEMENT 4-A

FOR ROAD AND UTILITY PURPOSES

LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,
Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Northeast corner of this easement, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 7008.56 feet North and 11,780.53 feet East and running by azimuths measured clockwise from true South:

1. 340° 00' 30.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
2. 70° 00' 144.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;

3. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 215.00 feet, the chord azimuth and distance being 92° 00' 161.08 feet;
4. 114° 00' 261.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
5. 204° 00' 4.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
6. 114° 00' 15.04 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
7. 159° 00' 5.66 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
8. 294° 00' 38.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
9. 204° 00' 22.50 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
10. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being 242° 33' 24" 24.93 feet;
11. 294° 00' 36.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
12. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being 339° 00' 28.28 feet;
13. 294° 00' 170.50 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
14. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 185.00 feet, the chord azimuth and distance being 272° 00' 138.60 feet;
15. 250° 00' 144.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, to the point of beginning and containing an area of 17,302 Square Feet.

EASEMENT 8-A
FOR ACCESS PURPOSES

LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,
Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Northwest corner of this easement, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 7080.90 feet North and 11,244.47 feet East and running by azimuths measured clockwise from true South:

1. 294° 00' 40.54 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
2. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 20.00 feet,
the chord azimuth and distance
being 287° 33' 24" 4.49 feet;
3. 24° 00' 22.50 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
4. 114° 00' 38.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
5. 159° 00' 9.90 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
6. 204° 00' 15.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu, to the point of
beginning and containing an area
of 966 Square Feet.

SUBJECT FURTHER, HOWEVER, to the following:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.

2. Agreement for Issuance of Special Use Permit under Section 21-2.71 of the Comprehensive Zoning Code of the City and County of Honolulu (Am. Ord. 3234) dated December 17, 1981, recorded in Liber 16210 at Page 16, by the Trustees of the Estate of Bernice Pauahi Bishop, "Declarant", as amended by instruments dated June 15, 1982, recorded in Liber 16546 at Page 182, and dated June 15, 1982, recorded in Liber 16609 at Page 600.

3. Declaration of Covenants, Conditions and Restrictions for the Wailuna Recreation Association, dated February 9, 1979, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 14026, page 566, as heretofore amended and as may hereafter be amended from time to time; and

SUBJECT ALSO, to, and excepting and reserving all rights-of-way and easements shown on the map (if any) attached hereto or shown on said Condominium Map or heretofore or hereafter granted, leased or required by Lessor to construct, install, operate, maintain, repair and replace lines and other transmission facilities and appurtenances for electricity, gas, telephone, water, sewer, drainage, radio and television signal distribution and other services and utilities over, across and under said easements according to the respective designations thereof, the right to enter for such purposes, and to trim any trees in the way of such lines and the right to grant or lease to any public utility, governmental authority, the Association, State of Hawaii, City and County of Honolulu, Board of Water Supply, or in favor of land in the general

vicinity of the land being hereby submitted to the Horizontal Property Regime, or other corporation or entity such easements, rights and rights-of way under the terms and conditions required by the grantee or lessee for such easement rights; provided, however, that such easements, rights and rights-of-way must be exercised in such manner as to not unreasonably interfere with the use of the land being hereby submitted to the Horizontal Property Regime, and in connection with the installation, maintenance or repair of any facilities pursuant to any of said easements, rights and rights-of-way, the premises shall be promptly restored by and at the expense of the person owning and exercising such easement rights to the condition of the premises immediately prior to the exercise thereof.

SUBJECT ALSO, to and excepting and reserving unto adjoining land utility easements and right-of-way easements for vehicular and pedestrian ingress and egress to and from said adjoining land over and across the roadways shown on said Condominium Map.

Notarially Checked


END OF EXHIBIT "A"

THE HEIGHTS AT WAILUNA, INCREMENT 2
(a Leasehold Condominium)

<u>Apartment Number</u>	<u>Type of Dwelling Unit</u>	<u>Percentage Ownership of Common Elements</u>
86	7R	3.2%
87	5R	3.2%
90	5R	12.8%
91	4R	3.2%
92	5R	3.2%
93	1R	3.2%
94	7R	3.2%
96	5R	3.2%
97	7R	3.2%
98	1R	3.2%
99	5R	3.2%
100	7R	3.2%
101	5MR	3.2%
102	7M	4.0%
103	5	3.2%
104	1	3.2%
105	7	3.2%
106	5	3.2%
107	1	3.2%
108	7	3.2%
109	5	3.2%
110	7	3.2%
111	1	3.2%
112	4	3.2%
113	5	3.2%
114	7	3.2%
115	5	3.2%
116	4	3.2%
	TOTAL	100.0%

Where an "R" is set forth in the middle column entitled "Type of Dwelling Unit", this reflects that the floor plan of the particular dwelling unit is a mirror image of the type of designated unit. Where an "M" is set forth in the middle column entitled "Type of Dwelling Unit" this reflects a modified location of the garage.

<u>Apartment Number</u>	<u>Type of Dwelling Unit</u>	<u>Percentage Ownership of Common Elements</u>
86	7R	3.2%
87	5R	3.2%
88	7R rev.	3.2%
89	1R	3.2%
90	5R	3.2%
91	4R	3.2%
92	5R	3.2%
93	1R	3.2%
94	7R	3.2%
95	7R rev.	3.2%
96	5R	3.2%
97	7R	3.2%
98	1R	3.2%
99	5R	3.2%
100	7R	3.2%
101	5MR	3.2%
102	7M	4.0%
103	5	3.2%
104	1	3.2%
105	7	3.2%
106	5	3.2%
107	1	3.2%
108	7	3.2%
109	5	3.2%
110	7	3.2%
111	1	3.2%
112	4	3.2%
113	5	3.2%
114	7	3.2%
115	5	3.2%
116	4	3.2%
	TOTAL	100.0%

Where an "R" is set forth in the middle column entitled "Type of Dwelling Unit", this reflects that the floor plan of the particular dwelling unit is a mirror image of the type of designated unit. Where an "M" is set forth in the middle column entitled "Type of Dwelling Unit" this reflects a

RECORDATION REQUESTED BY:

We hereby certify that this is a true copy of the original
filed as Land Court Document No. _____ and /or
recorded in Liber 19882 on Page 311
on SEP 24 1986 @ 8:01 a

AFTER RECORDATION RETURN TO:

TITLE GUARANTY OF HAWAII, INCORPORATED

By Holly M. Wiggert

RETURN BY: MAIL ☐ PICKUP ☐

DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
AND
THE HEIGHTS AT WAILUNA, INCREMENT 3

THIS DECLARATION OF MERGER FOR THE HEIGHTS AT WAILUNA, INCREMENT 1, THE HEIGHTS AT WAILUNA, INCREMENT 2, AND THE HEIGHTS AT WAILUNA, INCREMENT 3, executed and entered into this 13th day of August, 1986, by and between the TRUSTEES OF THE ESTATE OF BERNICE PAUHI BISHOP, herein called "Lessor", THE LUSK COMPANY, a California corporation authorized to do business in the State of Hawaii, herein called "Developer", and the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, INCREMENT 1, herein called "The Heights at Wailuna, Increment 1 Association",

WITNESSETH THAT

WHEREAS, The Heights at Wailuna, Increment 1 is a condominium project established by Declaration of Horizontal Property Regime recorded in the Bureau of Conveyances of the State of Hawaii in Liber 18981, page 617; and

WHEREAS, paragraph 15.1 of said The Heights at Wailuna, Increment 1 Declaration reads as follows:

(15.1) One or more condominium projects, whether or not adjacent to the Project, but which are part of the same incremental plan of development and in the same vicinity, may be merged together with the Project from time to time so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for sharing of the common expenses of the projects among all the owners of the apartments in the merged projects. Any such merger or mergers does not

require the approval of the apartment owners, and shall be effective upon approval by the Board and the Lessor and the Developer and upon execution of the merger documents by two (2) officers of the Project and the Lessor and the Developer and recordation of same in the Bureau of Conveyances.

and

WHEREAS, The Heights at Wailuna, Increment 2 is a condominium project established by Declaration of Horizontal Property Regime recorded in said Bureau in Liber 19285, page 693; and

WHEREAS,, The Heights at Wailuna, Increment 3 is a condominium project established by Declaration of Horizontal Property Regime recorded in said Bureau in Liber 19486, page 487; and

WHEREAS, paragraphs 15.1 and 15.2 of the Declarations of Horizontal Property Regime for The Heights at Wailuna, Increment 2, and for The Heights at Wailuna, Increment 3, read as follows:

(15.1) One or more condominium projects, whether or not adjacent to the Project, but which are part of the same incremental plan of development and in the same vicinity, may be merged together with the Project from time to time so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for sharing of the common expenses of the projects among all the owners of the apartments in the merged projects. Any such merger or mergers does not require the approval of the apartment owners, and shall be effective upon approval by the Board and the Lessor and the Developer and upon execution of the merger documents by two (2) officers of the Project and the Lessor and the Developer and recordation of same in the Bureau of Conveyances.

(15.2) Notwithstanding any provision to the contrary herein contained, Developer expressly reserves the right without the consent or joinder of persons then owning or leasing apartments in the Project to merge this Project with the condominium project known as "The Heights at Wailuna, Increment 1", established by Declaration of Horizontal Property Regime dated September 17, 1985, recorded in said Bureau of Conveyances in Liber 18981 at Page 617, to permit the joint use of the common elements of the merged projects by all the apartment owners of both projects.

and

WHEREAS, at a meeting of the Board of Directors of Association of Apartment Owners of The Heights at Wailuna,

Increment 1 held on August 6, 1986, said Board of Directors did unanimously vote for and approve a merger of The Heights at Wailuna, Increment 2, and The Heights at Wailuna, Increment 3 into and with The Heights at Wailuna, Increment 1 in accordance with the terms and conditions of this document; and

WHEREAS, pursuant to paragraphs 15.2 of said Declarations of Horizontal Property Regime of The Heights at Wailuna, Increment 2 and The Heights at Wailuna, Increment 3, the Developer reserved the right to merge The Heights at Wailuna, Increment 2 and The Heights at Wailuna, Increment 3 into and with The Heights at Wailuna, Increment 1; and

WHEREAS, all three projects are adjacent projects which are part of the same incremental plan of development; and

WHEREAS, the merger contemplated hereby is permitted by the Horizontal Property Regimes Act;

NOW, THEREFORE, pursuant to the aforesaid Declarations of Horizontal Property Regime, Lessor, Developer, and the Board of Directors of The Heights at Wailuna, Increment 1 Association do hereby declare that The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, and The Heights at Wailuna, Increment 3 are hereby merged on the following terms and conditions:

1. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 1 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 2 and THE HEIGHTS AT WAILUNA, INCREMENT 3, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 2 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 3, as though the three projects had been developed as a single condominium project.

2. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 2 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 1 and THE HEIGHTS AT WAILUNA, INCREMENT 3, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment in THE HEIGHTS AT WAILUNA, INCREMENT 1 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 3, as though the three projects had been developed as a single condominium project.

3. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 3 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 1 and THE HEIGHTS AT WAILUNA, INCREMENT 2, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 1 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 2, as though the three projects had been developed as a single condominium project.

4. THE HEIGHTS AT WAILUNA, INCREMENT 1 shall bear 33.7 percent, THE HEIGHTS AT WAILUNA, INCREMENT 2 shall bear 33.7 percent, and THE HEIGHTS AT WAILUNA, INCREMENT 3 shall bear 32.6 percent of the total common expenses of the merged project as the term "common expenses" is defined by the Horizontal Property Act, the Declarations of Horizontal Property Regimes, and the Bylaws for each project, treating the projects as a single project, and each individual apartment owner's share of the total common expenses shall be his percentage share of ownership of the common expenses as set forth in the Declaration of Horizontal Property Regimes for said project in which his condominium apartment is located times the percentage allocated in this paragraph 4 to the project in which his apartment is located; Provided, However, notwithstanding the provisions in this paragraph, the apartment owners of each project shall not be assessed for nor shall they have any obligation with respect to the debts, deficits or obligations of the other project existing prior to this merger.

5. The apartment owners shall be entitled to vote in the same proportion of the total vote as set forth above in paragraph 4 for the sharing of common expenses, and each individual apartment owner's share of the total vote shall be his percentage vote as set forth in the Declaration of Horizontal Property Regime for said project in which his condominium apartment is located times the percentage allocated above in paragraph 4 to the project in which is apartment is located.

6. There shall be one Board of Directors for the merged projects composed of not less than three (3) persons and not more than nine (9) persons. At the annual meeting of the owners of the condominium apartments next following this merger and at all subsequent such meetings, the Board of Directors to be elected shall govern the merged projects pursuant to the terms of the respective Declarations of Horizontal Property Regime and By-Laws. At a special meeting called for the purpose after the merger, the owners may remove the existing Board and elect a Board to govern the merged project until the next annual meeting.

7. Each of the projects shall be treated as part of a single project developed as a whole from the beginning and the respective Declarations of Horizontal Property Regime and By-Laws applicable to each shall be construed as one document applicable to the entire project as merged hereunder except to the extent expressly otherwise provided for therein. It is the purpose hereof to provide that from and after the date of merger all of the property subject hereto shall be treated as though it had been developed, divided into condominium apartments, held, occupied and used by the owners thereof as a single condominium project.

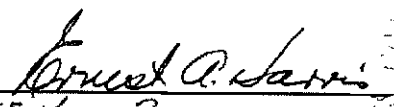
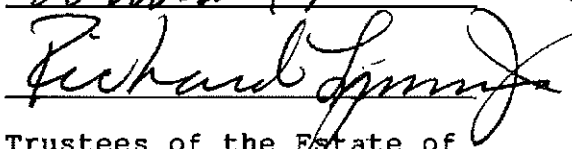
8. Additional merger or mergers may occur as set forth in the aforesaid Declarations of Horizontal Property Regime and as permitted and allowed by the Horizontal Property Act, and this Declaration of Merger may be amended, modified.

cancelled or superseded by any such additional merger or mergers.

9. The projects shall henceforth be known as THE HEIGHTS AT WAILUNA.

The effective date of this merger is September 1, 1986.

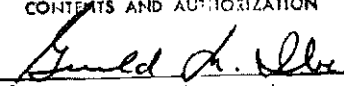
IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

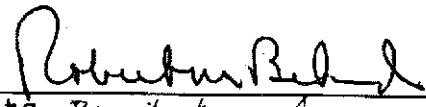
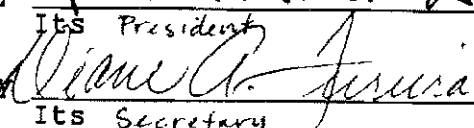

THE LUSK COMPANY

By Ernest A. Larrin
Its VICE-PRESIDENT

"Developer"
Trustees of the Estate of
Bernice Pauahi Bishop

"Lessor"

ASSOCIATION OF APARTMENT OWNERS
OF THE HEIGHTS AT WAILUNA,
INCREMENT 1

APPROVED AS TO FORM
CONTENTS AND AUTHORIZATION


Documentary Department

By 
Its President
By 
Its Secretary

STATE OF HAWAII)

CITY AND COUNTY OF HONOLULU)

On this 11th day of August, 1986, before me personally appeared ROBERT M. BEHREND, known to me to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.


Notary Public, First Judicial
Circuit, State of Hawaii

My commission expires: 24 July 1990

STATE OF HAWAII
CITY AND
COUNTY OF HONOLULU

)
) SS:
)

On this 8th day of September, 1986,
before me personally appeared Matsuo Takabuki,
William S. Richardson and Richard Lyman, Jr.,
three of the Trustees of the Estate of Bernice Pauahi Bishop,
to me known to be the persons who severally executed the
foregoing instrument and acknowledged that they executed the
same as their free act and deed.

W
LESLIE M. YAMASHITA
Notary Public, State of Hawaii
My commission expires Sept. 27, 1988

Leslie M. Yamashita
Notary Public, State of Hawaii

My commission expires:

STATE OF Hawaii)
COUNTY OF Honolulu) SS.

On this 18th day of August, 1986,
before me appeared Ernest A. Harkin, to me
personally known, who being by me duly sworn, did say that he
is the Vice-President of THE LUSK COMPANY, a California
corporation authorized to do business in the State of Hawaii;
that the seal affixed to the foregoing instrument is the
corporate seal of said corporation, and that said instrument
was signed and sealed in behalf of said corporation by
authority of its Board of Directors, and the said
Ernest A. Harkin acknowledged said instrument to
be the free act and deed of said corporation.

Mary R. Rusk
Notary Public, State of Hawaii

My commission expires: 10-12-87

STATE OF HAWAII
CITY AND
COUNTY OF HONOLULU

)
) SS:
)

On this 13th day of August, 1986,
before me appeared X ~~Robert B. Chabaud~~ X and Diane A. Ferreira
being by me duly sworn, did say that they are the
X ~~President~~ X and Secretary
respectively of ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS
AT WAILUNA, INCREMENT 1, an unincorporated association; that
the association has no seal; and that said instrument was
signed in behalf of said association by authority of its Board
of Directors, and the said X ~~President~~ X and Secretary
acknowledged said instrument
to be the free act and deed of said corporation.

Danielle Marie Jensen
Notary Public, State of Hawaii

My commission expires: 1/9/89

15

RECORDATION REQUESTED BY:

We hereby certify that this is a true copy of the original
filed as Land Court Document No. _____ and /or
recorded in Liber 19882 on Page 311
on SEP 24 1986 @ 8:01 a

AFTER RECORDATION RETURN TO:

TITLE GUARANTY OF HAWAII, INCORPORATED

By Holly M. W. Zett

RETURN BY: MAIL ☐ PICKUP ☐

DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
AND
THE HEIGHTS AT WAILUNA, INCREMENT 3

THIS DECLARATION OF MERGER FOR THE HEIGHTS AT WAILUNA, INCREMENT 1, THE HEIGHTS AT WAILUNA, INCREMENT 2, AND THE HEIGHTS AT WAILUNA, INCREMENT 3, executed and entered into this 13th day of August, 1986, by and between the TRUSTEES OF THE ESTATE OF BERNICE PAUAI BISHOP, herein called "Lessor", THE LUSK COMPANY, a California corporation authorized to do business in the State of Hawaii, herein called "Developer", and the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, INCREMENT 1, herein called "The Heights at Wailuna, Increment 1 Association",

WITNESSETH THAT

WHEREAS, The Heights at Wailuna, Increment 1 is a condominium project established by Declaration of Horizontal Property Regime recorded in the Bureau of Conveyances of the State of Hawaii in Liber 18981, page 617; and

WHEREAS, paragraph 15.1 of said The Heights at Wailuna, Increment 1 Declaration reads as follows:

(15.1) One or more condominium projects, whether or not adjacent to the Project, but which are part of the same incremental plan of development and in the same vicinity, may be merged together with the Project from time to time so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for sharing of the common expenses of the projects among all the owners of the apartments in the merged projects.

require the approval of the apartment owners, and shall be effective upon approval by the Board and the Lessor and the Developer and upon execution of the merger documents by two (2) officers of the Project and the Lessor and the Developer and recordation of same in the Bureau of Conveyances.

and

WHEREAS, The Heights at Wailuna, Increment 2 is a condominium project established by Declaration of Horizontal Property Regime recorded in said Bureau in Liber 19285, page 693; and

WHEREAS,, The Heights at Wailuna, Increment 3 is a condominium project established by Declaration of Horizontal Property Regime recorded in said Bureau in Liber 19486, page 487; and

WHEREAS, paragraphs 15.1 and 15.2 of the Declarations of Horizontal Property Regime for The Heights at Wailuna, Increment 2, and for The Heights at Wailuna, Increment 3, read as follows:

(15.1) One or more condominium projects, whether or not adjacent to the Project, but which are part of the same incremental plan of development and in the same vicinity, may be merged together with the Project from time to time so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for sharing of the common expenses of the projects among all the owners of the apartments in the merged projects. Any such merger or mergers does not require the approval of the apartment owners, and shall be effective upon approval by the Board and the Lessor and the Developer and upon execution of the merger documents by two (2) officers of the Project and the Lessor and the Developer and recordation of same in the Bureau of Conveyances.

(15.2) Notwithstanding any provision to the contrary herein contained, Developer expressly reserves the right without the consent or joinder of persons then owning or leasing apartments in the Project to merge this Project with the condominium project known as "The Heights at Wailuna, Increment 1", established by Declaration of Horizontal Property Regime dated September 17, 1985, recorded in said Bureau of Conveyances in Liber 18981 at Page 617, to permit the joint use of the common elements of the merged projects by all the apartment owners of both projects.

and

WHEREAS, at a meeting of the Board of Directors of Association of Apartment Owners of The Heights at Wailuna

Increment 1 held on August 6, 1986, said Board of Directors did unanimously vote for and approve a merger of The Heights at Wailuna, Increment 2, and The Heights at Wailuna, Increment 3 into and with The Heights at Wailuna, Increment 1 in accordance with the terms and conditions of this document; and

WHEREAS, pursuant to paragraphs 15.2 of said Declarations of Horizontal Property Regime of The Heights at Wailuna, Increment 2 and The Heights at Wailuna, Increment 3, the Developer reserved the right to merge The Heights at Wailuna, Increment 2 and The Heights at Wailuna, Increment 3 into and with The Heights at Wailuna, Increment 1; and

WHEREAS, all three projects are adjacent projects which are part of the same incremental plan of development; and

WHEREAS, the merger contemplated hereby is permitted by the Horizontal Property Regimes Act;

NOW, THEREFORE, pursuant to the aforesaid Declarations of Horizontal Property Regime, Lessor, Developer, and the Board of Directors of The Heights at Wailuna, Increment 1 Association do hereby declare that The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, and The Heights at Wailuna, Increment 3 are hereby merged on the following terms and conditions:

1. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 1 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 2 and THE HEIGHTS AT WAILUNA, INCREMENT 3, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 2 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 3, as though the three projects had been developed as a single condominium project.

2. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 2 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 1 and THE HEIGHTS AT WAILUNA, INCREMENT 3, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment in THE HEIGHTS AT WAILUNA, INCREMENT 1 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 3, as though the three projects had been developed as a single condominium project.

3. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 3 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 1 and THE HEIGHTS AT WAILUNA, INCREMENT 2, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 1 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 2, as though the three projects had been developed as a single condominium project.

4. THE HEIGHTS AT WAILUNA, INCREMENT 1 shall bear 33.7 percent, THE HEIGHTS AT WAILUNA, INCREMENT 2 shall bear 33.7 percent, and THE HEIGHTS AT WAILUNA, INCREMENT 3 shall bear 32.6 percent of the total common expenses of the merged project as the term "common expenses" is defined by the Horizontal Property Act, the Declarations of Horizontal Property Regimes, and the Bylaws for each project, treating the projects as a single project, and each individual apartment owner's share of the total common expenses shall be his percentage share of ownership of the common expenses as set forth in the Declaration of Horizontal Property Regimes for said project in which his condominium apartment is located times the percentage allocated in this paragraph 4 to the project in which his apartment is located; Provided, However, notwithstanding the provisions in this paragraph, the apartment owners of each project shall not be assessed for nor shall they have any obligation with respect to the debts, deficits or obligations of the other project existing prior to this merger.

5. The apartment owners shall be entitled to vote in the same proportion of the total vote as set forth above in paragraph 4 for the sharing of common expenses, and each individual apartment owner's share of the total vote shall be his percentage vote as set forth in the Declaration of Horizontal Property Regime for said project in which his condominium apartment is located times the percentage allocated above in paragraph 4 to the project in which is apartment is located.

6. There shall be one Board of Directors for the merged projects composed of not less than three (3) persons and not more than nine (9) persons. At the annual meeting of the owners of the condominium apartments next following this merger and at all subsequent such meetings, the Board of Directors to be elected shall govern the merged projects pursuant to the terms of the respective Declarations of Horizontal Property Regime and By-Laws. At a special meeting called for the purpose after the merger, the owners may remove the existing Board and elect a Board to govern the merged project until the next annual meeting.

7. Each of the projects shall be treated as part of a single project developed as a whole from the beginning and the respective Declarations of Horizontal Property Regime and By-Laws applicable to each shall be construed as one document applicable to the entire project as merged hereunder except to the extent expressly otherwise provided for therein. It is the purpose hereof to provide that from and after the date of merger all of the property subject hereto shall be treated as though it had been developed, divided into condominium apartments, held, occupied and used by the owners thereof as a single condominium project.

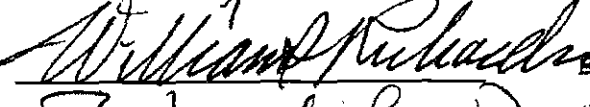
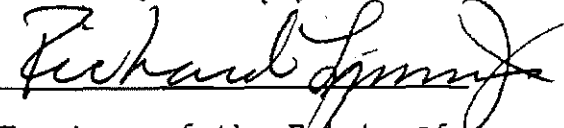
8. Additional merger or mergers may occur as set forth in the aforesaid Declarations of Horizontal Property Regime and as permitted and allowed by the Horizontal Property Act, and this Declaration of Merger may be amended, modified

cancelled or superseded by any such additional merger or mergers.

9. The projects shall henceforth be known as THE HEIGHTS AT WAILUNA.

The effective date of this merger is September 1, 1986.

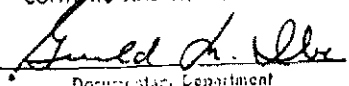
IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

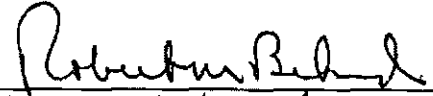
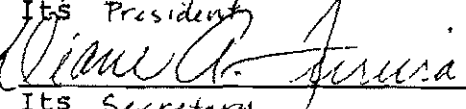



THE LUSK COMPANY
By 
Its VICE-PRESIDENT
"Developer"
Trustees of the Estate of
Bernice Pauahi Bishop

"Lessor"

ASSOCIATION OF APARTMENT OWNERS
OF THE HEIGHTS AT WAILUNA,
INCREMENT 1

APPROVED AS TO FORM
CONTENTS AND AUTHORIZATION


Documentary Department

By 
Its President
By 
Its Secretary

STATE OF HAWAII)

CITY AND COUNTY OF HONOLULU)

On this 11th day of August, 1986, before me personally appeared ROBERT M. BEHREND, known to me to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.


Notary Public, First Judicial
Circuit, State of Hawaii

My commission expires: 24 July 1990

STATE OF HAWAII
CITY AND
COUNTY OF HONOLULU

)
) SS:
)

On this 8th day of September, 1986,
before me personally appeared Matsuo Takabuki,
William S. Richardson and Richard Lyman, Jr.,
three of the Trustees of the Estate of Bernice Pauahi Bishop,
to me known to be the persons who severally executed the
foregoing instrument and acknowledged that they executed the
same as their free act and deed.

W
LESLIE M. YAMASHITA
Notary Public, State of Hawaii
My commission expires Sept. 27, 1988

Leslie M. Yamashita
Notary Public, State of Hawaii

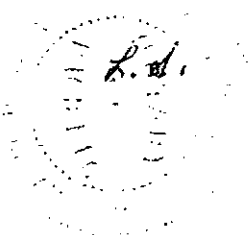
My commission expires:

STATE OF Hawaii)
COUNTY OF Honolulu) SS.

On this 18th day of August, 1986,
before me appeared Ernest A. Harrison, to me
personally known, who being by me duly sworn, did say that he
is the Vice-President of THE LUSK COMPANY, a California
corporation authorized to do business in the State of Hawaii;
that the seal affixed to the foregoing instrument is the
corporate seal of said corporation, and that said instrument
was signed and sealed in behalf of said corporation by
authority of its Board of Directors, and the said
Ernest A. Harrison acknowledged said instrument to
be the free act and deed of said corporation.

Mary R. Rush
Notary Public, State of Hawaii

My commission expires: 10-12-87



STATE OF HAWAII
CITY AND
COUNTY OF HONOLULU

)
) SS:
)

On this 13th day of August, 1986,
before me appeared X ~~Robert Behrman~~ X and Diane A. Ferreira X and Secretary X

Diane A. Ferreira, to me personally known, who,
being by me duly sworn, did say that they are the
X ~~President~~ X and Secretary
respectively of ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS
AT WAILUNA, INCREMENT 1, an unincorporated association; that
the association has no seal; and that said instrument was
signed in behalf of said association by authority of its Board
of Directors, and the said X ~~Secretary~~ X and Secretary X
acknowledged said instrument
to be the free act and deed of said corporation.

Danielle Marie Jensen
Notary Public, State of Hawaii

My commission expires: 7/9/89

15

RECORDATION REQUESTED BY:

We hereby certify that this is a true copy of the original
filed as Land Court Document No. _____ and/or
recorded in Liber 21036 on Page 688
on Aug. 17, 1987 @ 8:01 a.m.

AFTER RECORDATION RETURN TO:

TITLE GUARANTY OF HAWAII, INCORPORATED

By James P. Nakai

RETURN BY: MAIL ☐ PICKUP ☐

PARTIAL REVOCATION OF DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
AND
THE HEIGHTS AT WAILUNA, INCREMENT 3
AND
DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
THE HEIGHTS AT WAILUNA, INCREMENT 3,
AND
THE HEIGHTS AT WAILUNA, INCREMENT 4

THIS PARTIAL REVOCATION OF DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1, THE HEIGHTS AT WAILUNA,
INCREMENT 2, AND THE HEIGHTS AT WAILUNA, INCREMENT 3, AND THIS
DECLARATION OF MERGER FOR THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2, THE HEIGHTS AT WAILUNA,
INCREMENT 3, AND THE HEIGHTS AT WAILUNA, INCREMENT 4, executed
and entered into this 5th day of May, 1987, by the
TRUSTEES OF THE ESTATE OF BERNICE PAU'AHU BISHOP, herein called
"Lessor", THE LUSK COMPANY, a California corporation authorized
to do business in the State of Hawaii, herein called
"Developer", and the ASSOCIATION OF APARTMENT OWNERS OF THE
HEIGHTS AT WAILUNA, INCREMENT 1, herein called "The Heights at
Wailuna, Increment 1 Association" and the ASSOCIATION OF
APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, INCREMENT 2, herein
called "The Heights at Wailuna, Increment 2 Association", and
the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHT AT WAILUNA,
INCREMENT 3, herein called "The Heights at Wailuna, Increment 3
Association",

WITNESSETH THAT:

WHEREAS, The Heights at Wailuna, Increment 1 is a
condominium project established by Declaration of Horizontal
Property Regime recorded in the Bureau of Conveyances of the
State of Hawaii in Liber 18981, page 617; and

WHEREAS, The Heights at Wailuna, Increment 2 is a
condominium project established by Declaration of Horizontal
Property Regime recorded in said Bureau in Liber 19285, page
693; and

WHEREAS,, The Heights at Wailuna, Increment 3 is a condominium project established by Declaration of Horizontal Property Regime recorded in said Bureau in Liber 19486, page 487; and

WHEREAS,, The Heights at Wailuna, Increment 4 is a condominium project established by Declaration of Horizontal Property Regime recorded in said Bureau in Liber 19771, page 448; and

WHEREAS, paragraph 15.1 of said Declarations for said The Heights at Wailuna, Increments 1, 2 and 3 read as follows:

(15.1) One or more condominium projects, whether or not adjacent to the Project, but which are part of the same incremental plan of development and in the same vicinity, may be merged together with the Project from time to time so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for sharing of the common expenses of the projects among all the owners of the apartments in the merged projects. Any such merger or mergers does not require the approval of the apartment owners, and shall be effective upon approval by the Board and the Lessor and the Developer and upon execution of the merger documents by two (2) officers of the Project and the Lessor and the Developer and recordation of same in the Bureau of Conveyances.

and

WHEREAS, paragraphs 15.1 and 15.2 of the Declaration of Horizontal Property Regime for The Heights at Wailuna, Increment 4, reads as follows:

(15.1) One or more condominium projects, whether or not adjacent to the Project, but which are part of the same incremental plan of development and in the same vicinity, may be merged together with the Project from time to time so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for sharing of the common expenses of the projects among all the owners of the apartments in the merged projects. Any such merger or mergers does not require the approval of the apartment owners, and shall be effective upon approval by the Board and the Lessor and the Developer and upon execution of the merger documents by two (2) officers of the Project and the Lessor and the Developer and recordation of same in the Bureau of Conveyances.

(15.2) Notwithstanding any provision to the contrary herein contained, Developer expressly reserves the right without the consent or joinder of persons then owning or leasing apartments in the Project to merge this Project

(i) That certain project known as "The Heights at Wailuna, Increment 1", established by that certain Declaration of Horizontal Property Regime dated September 17, 1985, recorded in said Bureau of Conveyances in Liber 18981, at page 617;

(ii) That certain project known as "The Heights at Wailuna, Increment 2", established by that certain Declaration of Horizontal Property Regime dated January 27, 1986, recorded in said Bureau of Conveyances in Liber 19285 at page 693; and

(iii) That certain project known as "The Heights at Wailuna, Increment 3", established by that certain Declaration of Horizontal Property Regime dated April 17, 1986, recorded in said Bureau of Conveyances in Liber 19486 at page 487; and

WHEREAS, THE HEIGHTS AT WAILUNA, INCREMENT 1, THE HEIGHTS AT WAILUNA, INCREMENT 2, and THE HEIGHTS AT WAILUNA, INCREMENT 3 were merged by that certain Declaration of Merger for The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, and The Heights at Wailuna, Increment 3, dated August 13, 1986, and recorded in said Bureau in Liber 19882, page 311; and

WHEREAS, at a meeting of the Boards of Directors of the Associations of Apartment Owners of The Heights at Wailuna, Increments 1, 2 and 3 held on May 6, 1987, said Boards of Directors did unanimously vote for and approve a merger of The Heights at Wailuna, Increment 4 into and with The Heights at Wailuna, Increments 1, 2 and 3 in accordance with the terms and conditions of this document; and

WHEREAS, pursuant to paragraphs 15.2 of said Declaration of Horizontal Property Regime of The Heights at Wailuna, Increment 4, the Developer reserved the right to merge The Heights at Wailuna, Increment 4 into and with The Heights at Wailuna, Increments 1, 2 and 3; and

WHEREAS, all four projects are adjacent projects which are part of the same incremental plan of development; and

WHEREAS, the merger contemplated hereby is permitted by the Horizontal Property Regimes Act;

PARTIAL REVOCATION OF DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
AND
THE HEIGHTS AT WAILUNA, INCREMENT 3

NOW, THEREFORE, Lessor, Developer and The Heights at Wailuna, Increment 1 Association, The Heights at Wailuna, Increment 2 Association and The Heights at Wailuna, Increment 3 Association do hereby revoke that certain Declaration of Merger for The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2 and The Heights at Wailuna, Increment 3

19882, page 311, only to the extent that same is in conflict with the Declaration of Merger of The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, The Heights at Wailuna, Increment 3, and The Heights at Wailuna, Increment 4, hereinafter set forth, said partial revocation being effective as of the effective date of the merger herein set forth.

DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
THE HEIGHTS AT WAILUNA, INCREMENT 3,
AND THE HEIGHTS AT WAILUNA, INCREMENT 4

NOW, THEREFORE, pursuant to the aforesaid Declarations of Horizontal Property Regime, Lessor, Developer, and the Boards of Directors of The Heights at Wailuna, Increments 1, 2 and 3 do hereby declare that The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, The Heights at Wailuna, Increment 3, and The Heights at Wailuna, Increment 4 are hereby merged on the following terms and conditions:

1. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 1 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 2, THE HEIGHTS AT WAILUNA, INCREMENT 3, and THE HEIGHTS AT WAILUNA, INCREMENT 4, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 2 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 3, and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 4, as though the four projects had been developed as a single condominium project.

2. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 2 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 1, THE HEIGHTS AT WAILUNA, INCREMENT 3, and THE HEIGHTS AT WAILUNA, INCREMENT 4, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment in THE HEIGHTS AT WAILUNA, INCREMENT 1 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 3, and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 4, as though the four projects had been developed as a single condominium project.

3. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 3 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 1 and THE HEIGHTS AT WAILUNA, INCREMENT 2, and THE HEIGHTS AT WAILUNA, INCREMENT 4, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 1 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 2, and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 4, as though the four projects had been developed as a single condominium project.

common elements in The Heights at Wailuna, Increment 1 and The Heights at Wailuna, Increment 2 and The Heights at Wailuna, Increment 3 to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within The Heights at Wailuna, Increment 1 and upon an owner of an apartment within The Heights at Wailuna, Increment 2 and upon an owner of an apartment within The Heights at Wailuna, Increment 3, as though the four projects had been developed as a single condominium project.

5. THE HEIGHTS AT WAILUNA, INCREMENT 1 shall bear 24.2188 percent, THE HEIGHTS AT WAILUNA, INCREMENT 2 shall bear 24.2188 percent, THE HEIGHTS AT WAILUNA, INCREMENT 3 shall bear 23.4375 percent, and THE HEIGHTS AT WAILUNA, INCREMENT 4 shall bear 28.1249 percent of the total common expenses of the merged project as the term "common expenses" is defined by the Horizontal Property Act, the Declarations of Horizontal Property Regimes, and the Bylaws for each project, treating the projects as a single project, and each individual apartment owner's share of the total common expenses shall be his percentage share of ownership of the common expenses as set forth in the Declaration of Horizontal Property Regimes for said project in which his condominium apartment is located times the percentage allocated in this paragraph 5 to the project in which his apartment is located; Provided, However, notwithstanding the provisions in this paragraph, the apartment owners of each project shall not be assessed for nor shall they have any obligation with respect to the debts, deficits or obligations of the other projects existing prior to this merger.

6. The apartment owners shall be entitled to vote in the same proportion of the total vote as set forth above in paragraph 5 for the sharing of common expenses, and each individual apartment owner's share of the total vote shall be his percentage vote as set forth in the Declaration of Horizontal Property Regime for said project in which his condominium apartment is located times the percentage allocated above in paragraph 5 to the project in which his apartment is located.

7. There shall be one Board of Directors for the merged projects composed of not less than three (3) persons and not more than nine (9) persons. At the annual meeting of the owners of the condominium apartments next following this merger and at all subsequent such meetings, the Board of Directors to be elected shall govern the merged projects pursuant to the terms of the respective Declarations of Horizontal Property Regime and By-Laws. At a special meeting called for the purpose after the merger, the owners may remove the existing Board and elect a Board to govern the merged project until the next annual meeting.

8. Each of the projects shall be treated as part of a single project developed as a whole from the beginning and the respective Declarations of Horizontal Property Regime and By-Laws applicable to each shall be construed as one document applicable to the entire project as merged hereunder except to the extent expressly otherwise provided.

merger all of the property subject hereto shall be treated as though it had been developed, divided into condominium apartments, held, occupied and used by the owners thereof as a single condominium project.

9. Additional merger or mergers may occur as set forth in the aforesaid Declarations of Horizontal Property Regime and as permitted and allowed by the Horizontal Property Act, and this Declaration of Merger may be amended, modified, cancelled or superseded by any such additional merger or mergers.

10. The projects shall henceforth be known as THE HEIGHTS AT WAILUNA.

1987.

The effective date of this merger is July 1.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

Myron B Thompson

THE LUSK COMPANY

[Signature]

By Ernest A. Lusk
Its Vice President

Richard Lyman

"Developer"

Trustees of the Estate of
Bernice Pauahi Bishop

"Lessor"

APPROVED AS TO FORM
CONTENTS AND AUTHORIZATION

Elizabeth L. Omer
Documentary Department

ASSOCIATION OF APARTMENT OWNERS
OF THE HEIGHTS AT WAILUNA,
INCREMENTS 1, 2 AND 3

By Robert B. Behrend
Its President

By Ernest A. Lusk
Its Secretary

STATE OF HAWAII
CITY AND
COUNTY OF HONOLULU

)
) SS:
)

On this 11th day of August, 1987,
before me personally appeared Henry H. Peters and Richard L. ... Jr.,
three of the Trustees of the Estate of Bernice Pauahi Bishop,
to me known to be the persons who severally executed the
foregoing instrument and acknowledged that they executed the
same as their free act and deed.

W

Laurie M. L. ...
Notary Public, State of Hawaii

My commission expires:

STATE OF HAWAII
CITY AND COUNTY OF HONOLULU

)
) SS.
)

On this 5th day of May, 1987,
before me appeared ERNEST A. HARRIS, to me personally known,
who being by me duly sworn, did say that he is the Vice
President of THE LUSK COMPANY, a California corporation
authorized to do business in the State of Hawaii; that the seal
affixed to the foregoing instrument is the corporate seal of
said corporation, and that said instrument was signed and
sealed in behalf of said corporation by authority of its Board
of Directors, and the said ERNEST A. HARRIS acknowledged said
instrument to be the free act and deed of said corporation.

X.S.

Mary R. ...
Notary Public, State Hawaii

My commission expires: 10-12-89

STATE OF HAWAII
CITY AND
COUNTY OF HONOLULU

)
) SS:
)

On this 7th day of July, 1987, before me appeared Diane A. [unclear] and [unclear], to me personally known, who, being by me duly sworn, did say that ^{she} they are the Secretary and [unclear] respectively of the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, INCREMENTS 1, 2 AND 3, an unincorporated association; that the association has no seal; and that said instrument was signed in behalf of said association by authority of its Board of Directors, and the said Secretary and [unclear] acknowledged said instrument to be the free act and deed of said corporation.
association.

[Signature]
Notary Public, State of Hawaii

My commission expires: 10/15/88

STATE OF HAWAII
CITY AND COUNTY OF HONOLULU)
ss.

On this 25TH day of JUNE, 1987, before me appeared ROBERT M. BEHREND, to me known, who being duly sworn, did say that he is the President of the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, INCREMENTS 1, 2, and 3, an unincorporated association; that the association has no seal; and that said instrument was signed in behalf of said association by authority of its Board of Directors, and the said President acknowledged said instrument to be the free act and deed of said corporation.
association.

[Signature]
KEVIN F. SHIPLETT, Notary Public
First Judicial Circuit, State of Hawaii

My commission expires: 27 JULY 1990

THE HEIGHTS AT WAILUNA, INCREMENT 2
LEASEHOLD CONDOMINIUM
DEVELOPER'S DISCLOSURE ABSTRACT
(EXHIBIT A - NEW HOME LIMITED WARRANTY;
EXHIBIT B - PROPOSED OPERATING BUDGET FOR THE PROJECT)
(AMENDED)

Name of Project: THE HEIGHTS AT WAILUNA, INCREMENT 2
At the Mauka End of Kaahumanu Street
Pearl City, Hawaii 96782

Developer and LUSK-HAWAII, a Division of The Lusk Company,
formerly known as John D. Lusk & Son

Project Manager: Suite 1618, Davies Pacific Center
841 Bishop Street
Honolulu, Hawaii 96813
Telephone No. 537-4972

Number of Apartments and Use:

There are twenty-eight (28) residential apartments in the project. The residential apartments shall be occupied and used only for residential purposes by the respective owners thereof, their tenants, families, domestic servants and personal guests and shall not be used for transient or hotel purposes.

Warranties:

The Developer's warranty policy is attached hereto as Exhibit "A". THE DEVELOPER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY OR ANY COMMON ELEMENT OR ANYTHING INSTALLED THEREIN.

Breakdown of Annual Maintenance Fees and Monthly Estimated Costs of the Project Payable by Each Apartment:

Attached hereto as Exhibit "B" is a copy of the revised estimated operating budget for the Association of Owners of the Project dated April 24, 1986, and the breakdown of annual maintenance fees and monthly estimated costs of each apartment, which was prepared by Certified Management, a division of AR Corporation.

Payment of Maintenance Fees by Apartment Owners:

The Developer shall pay all of the actual common expenses of the project until August 31, 1986. The apartment owner shall be obligated for the payment of his respective share of the common expenses per the attached budget from and after September 1, 1986. This Amended Disclosure Abstract shall be filed with the Real Estate Commission prior to August 1, 1986, and after the filing a copy of the Amended Disclosure Abstract shall be delivered either by mail or personal delivery to each of the apartment owners in the project.

Please note that the Developer never did assume the obligation to pay the monthly maintenance fee payable to Wailuna Recreation Association. The payment of this fee has always been the responsibility of each apartment owner.

Breakdown of the Annual Maintenance Fees and Monthly Estimated Costs of the Project and WAILUNA RECREATION ASSOCIATION Payable by Each Residential Apartment:

	<u>Monthly</u>	<u>Annually</u>
The Heights at Wailuna	\$69.38	\$832.56
Wailuna Recreation Association	<u>19.00</u>	<u>228.00</u>
TOTALS	<u>\$88.38</u>	<u>\$1,060.56</u>

DATED: Honolulu, Hawaii, July 14, 1986.

WAILUNA

New Home Limited Warranty

IMPORTANT: Sales representatives are not authorized to modify or add to the terms of this warranty policy. The Builders standard New Home Limited Warranty Policy is as follows:

1. Subject to the provisions of this policy, we will correct any defect in the structural components of your home due to faulty materials or workmanship of which we receive written notice during the one-year period following the date of close of escrow, or the date you take possession, whichever occurs earlier (the "warranty year"). The foregoing shall only apply to the structural components of your home which include the walls, wall covering, floors, ceilings, roof, doors, cabinets, shelves, closets, patios, balconies, bathroom fixtures, railings, shingles, gutters and windows. The foregoing shall also apply to the structural components of the plumbing, electrical, heating and air conditioning systems (if any) which include such things as ducting, wiring and pipes. This warranty shall not extend to any portion of the plumbing, electrical, heating and air conditioning systems which are not a part of the structural component of your home or which carry an express warranty by the manufacturer thereof. The structural component does not include any appliances, equipment or other "consumer" items which may be attached to the structural component, such as a smoke alarm installed in a bearing wall or the water heater attached to the hot water pipes. These consumer items are not a part of the structural component for the purposes of the Warranty, but they are generally warranted by the manufacturers thereof and you should look directly to the manufacturers for service on these items. Obviously, any item can be a "consumer" item depending on how it is sold, but we consider an item to be part of the structural component of your home if it has no separate function other than as part of the house. If a defect appears which the owner thinks is covered by the Limited Warranty, he must notify us in writing of the defect within a reasonable time following its discovery, but in no event later than one (1) week after the end of the applicable warranty period. Upon receipt of a written report of a defect, if the defective item is covered by this Limited Warranty, we will repair or replace it at no charge to the homeowner, within sixty (60) days (longer if weather conditions, labor problems or material shortages cause delays). The work will be done by us, or by a subcontractor of our choice. The choice between repair or replacement is also ours. Our sole responsibility under this warranty shall be to restore your home to the condition existing at the time the defect occurred. We do not take responsibility for any secondary damage caused by the defect, including, without limitation, damage to your personal property.

2. We will warrant all concrete, brick, stone and other masonry against substantial defects for a period of one (1) year. However, we will repair only those cracks in house slabs, basement floor and walls, garage slabs, walks and other masonry which substantially interrupt the plane of surface or affect its structural value and integrity. We will not assume responsibility for hairline cracks in concrete, plaster,

drywall, masonry, ceramic tile and other rigid materials which occur due to normal expansion, contraction and settlement; the foregoing shall, without limitation, apply to hairline cracks in walls, driveways, garage floors, patios, and balconies, and to ceramic tile in the kitchen, shower, bathroom and entryway areas. We will not be responsible for and will not repair minor separation of ceramic tile grout at the tub line or at the intersection of a wall and floor where it is adjoined with other material resulting in loose grout.

3. We will make minor repairs such as doors sticking, cabinet drawer adjustments, failure of electrical plugs and operating fixtures, leaking faucets, tile caulking and the like only if brought to our attention in writing during the thirty (30) day period following the close of escrow or the date you take possession, whichever occurs first.

4. We will only correct defects or smudges of painted surfaces, counter tops, chipping of porcelain or tile in the kitchen, sinks, bathtub or elsewhere, chipped or otherwise defective surfaces of plumbing fixtures, torn or defective screens, defects in cabinet surface or finish, broken window or mirrored glass or similar defects readily visible to the human eye which go beyond industry standards or normal production tolerances and which are noted at the time of your Pre-move-in Inspection. The foregoing does not apply to hairline cracks in rigid materials which are covered above.

We will not be responsible for normal fading, chalking, or checking or paint or stucco which is not in excess of industry standards, which may occur due to sunlight or exposure to the elements. Where we do engage in paint and stucco repairs or patching, we do not warrant that the new paint or stucco will match perfectly with the old.

5. Plumbing drains are tested for proper operating before occupancy and we will only take responsibility for stoppages which are reported to us in writing within thirty (30) days after you take possession of your home. We will warrant the structural components of the plumbing system to be in proper working order and free from defective materials and workmanship for a period of one (1) year; provided, however, that normal maintenance items such as toilet adjustments and repair of dripping faucets are limited to a thirty (30) day warranty period. This warranty does not extend to the water heater or external plumbing fixtures, or any other portion of the plumbing system which is not a part of the structural component of your home or which carries an express warranty by the manufacturer of that part. Nor does this Warranty include the system or any of its parts which became defective through faulty operation, lack of routine maintenance, or alteration by the homeowner or his agents. Any costs we incur to eliminate a stoppage, whether or not reported within the thirty (30) day period, resulting solely from your use of the home will be billed to you.

6. We will warrant the electrical system for a period of one (1) year as follows: that the electrical system has been installed in accordance with good electrical practice and meets inspection agency standards. This warranty does not extend to the electrical system which is not a part of the structural

component of your home, including light bulbs and light fixtures, or which carries an express warranty by the manufacturer of that part. Nor does this warranty include the system or any of its parts which become defective through faulty operation, lack of routine maintenance, or alteration by the homeowner or his agents.

7. We will warrant proper operation of the heating system, in the original finished room areas, for a period of one (1) year as follows: that the heating system has been installed in accordance with good heating practice and meets inspection agency standards. This warranty does not extend to the furnace or any other portion of the heating system which is not a part of the structural component of your home or which carries an express warranty by the manufacturer of that part. Nor does this warranty include the system or any of its parts which become defective through faulty operation, lack of routine maintenance, or alteration by the homeowner or his agents.

8. We will warrant the air conditioning system, if included in the sale of the dwelling, for a period of one (1) year as follows: that the air conditioning system has been installed in accordance with good air conditioning practice and meets inspection agency standards. This warranty does not extend to the air conditioning system which is not a part of the structural component of your home or which carries an express warranty by the manufacturer of that part. Nor does this warranty include the system or its parts which become defective through faulty operation, lack of routine maintenance, or alteration by the homeowner or his agents.

9. The provisions of this policy are not transferable and only extend to the original buyer of each home if such original buyer occupies the home as his principal residence or purchases with the intent to occupy as his principal residence. In any event, the warranty herein provided shall automatically terminate as to the home when the original buyer ceases to occupy the home, upon the sale (by grant deed, installment land sales contract or otherwise) or lease of the home by the original buyer, or upon the expiration of the warranty year, whichever first occurs. Steps taken by the Builder to correct any defects shall not extend the warranty year beyond its initial one (1) year term.

10. Except as provided herein, the Builder makes no express warranty as to materials or workmanship. Without limiting the generality of the foregoing, we make no express warranties as to any appliances, fixtures, carpeting or other consumer items installed in your home and which are not part of the structural component thereof, nor do we adopt any express or implied warranties made by the manufacturers of such items. Any warranty claims on such consumer items should be made directly to the manufacturer of a defective item and not to the Builder. Rights under these manufacturers' warranties flow directly from the manufacturer to you, and you should consult these warranties for the terms and periods of coverage. The following are examples of such warranties, though not every home includes all of these items and some homes may include appliances or equipment not in this list:

Refrigerator
Furnace
Dryer
Ventilating Fans
Heat Pump
Thermostat
Central Vacuum System
Fire Extinguisher
Water Pump
Electric Meter
Barbeque Grill
Water Softener
Oven (and hood)

Range
Washing Machine
Dishwasher
Air Conditioner
Exhaust Fan
Sump Pump
Smoke Detector
Chimes
Intercom
Water Meter
Whirlpool Bath
Freezer
Ice Maker

Space Heater
Hot Water Heater
Garbage Disposal
Boiler
Electric Air Cleaner
Humidifier
Fire Alarm
Garage Door Opener
Burglar Alarm
Gas Meter
Water Heater
Trash Compactor

11. The provisions of this policy shall not extend to, and we shall not be responsible to repair any portion of your home, structural or otherwise, which you or your employees or contractors have modified or added to in any way, including without limitation attempted repairs.

The provisions of this policy also do not extend to damage due to ordinary wear and tear, damage due to lack of proper maintenance, or damage due to abusive or unwarranted use.

I (We) have received a copy of this policy.

BUYER:

PROPOSED OPERATING BUDGET
THE HEIGHTS AT WAILUNA
INCREMENT II

<u>ACCOUNT</u>	<u>MONTHLY</u>	<u>ANNUALLY</u>
Office & Admin Expense	\$ 20	\$ 240
Management Fee	250	3,000
Accounting/Audit Preparation	8	96
Electricity	150	1,800
Water	205	2,460
Sewer	225	2,700
Grounds Maintenance	800	9,600
Portable Equip Maint & Rpr	20	240
Custodial Svc & Supplies	15	180
General Maintenance	50	600
Fire Safety	3	36
General Excise Tax	5	60
SMP/Fire Insurance	350	4,200
Member Dues/Assessments	589	7,068
Eqp Prch/Impr/Major Proj	50	600
TOTAL DISBURSEMENTS	\$2,740	\$32,880

THE HEIGHTS AT WAILUNA EXPENSES, INCREMENT II

<u>MAINTENANCE FEES</u>	<u>MONTHLY</u>	<u>ANNUALLY</u>
PER UNIT:		
	\$88.38	\$1,060.56
Includes recreation association dues		

The undersigned certifies that the above schedule of annual maintenance fees and monthly estimated costs for The Heights at Wailuna, Increment 2 is based on generally accepted accounting principles.

CERTIFIED MANAGEMENT
A Division of A R Corporation

Date: April 24, 1986

By: Robley W Smith
Its President

EXHIBIT "B"



FIRST HAWAII TITLE CORPORATION

EXCLUSIVE AGENT FOR CHICAGO TITLE INSURANCE COMPANY

201 Merchant Street, Suite 2000
Honolulu, Hawaii 96813
Ph: (808) 521-3411

March 21, 1993

CERTIFIED MANAGEMENT, INC.
3179 KOAPAKA STREET
HONOLULU, HAWAII 96819

Attention: M. J. Andres

Re: Order No. 46203
TMK: 9-8-02-45 (1)
"THE HEIGHTS AT WAILUNA, INC. 2"

Dear M. J. Andres,

First Hawaii Title Corporation hereby certifies that we have examined the records of the Bureau of Conveyances of the State of Hawaii as they pertain to the above referenced Condominium and we find that as of March 16, 1993 at 8:00 A.M., said Condominium is encumbered by the Items shown on Exhibit "A" attached hereto.

Yours truly,

CONNIE GLEASON
Title Officer

CG:cl

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. Easement 4-A for roadway and utilities purposes more fully described as follows:

EASEMENT 4-A

For Road and Utility Purposes

Land Situated at Waiiau, Ewa, Oahu, Hawaii

Being a portion of Royal Patent 4475,

Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Northeast corner of this easement, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 7008.56 feet North and 11,780.53 feet East and running by azimuths measured clockwise from true South:

- 1) 340° 00' 30.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
- 2) 70° 00' 144.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
- 3) Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 215.00 feet, the chord azimuth and distance being 92° 00' 161.08 feet;
- 4) 114° 00' 261.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
- 5) 204° 00' 4.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
- 6) 114° 00' 15.04 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;

- 7) 159° 00' 5.66 feet along remainder of R. P. 4475, L. C. 7713, Apana 35 to V. Kamamalu;
- 8) 294° 00' 38.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
- 9) 204° 00' 22.50 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
- 10) Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being 242° 33' 24" 24.93 feet;
- 11) 294° 00' 36.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
- 12) Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being 339° 00' 28.28 feet;
- 13) 294° 00' 170.50 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
- 14) Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 185.00 feet, the chord azimuth and distance being 272° 00' 138.60 feet;
- 15) 250° 00' 144.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, to the point of beginning and containing an area of 17,302 square feet, more or less.

3. Easement 8-A for access purposes more fully described as follows:

EASEMENT 8-A

For Access Purposes

Land Situated at Waiau, Ewa, Oahu, Hawaii

Being a portion of Royal Patent 4475,

Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Northwest corner of this easement, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 7080.90 feet North and 11,244.47 feet East and running by azimuths measured clockwise from true South:

- 1) 294° 00' 40.54 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
- 2) Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being 287° 33' 24" 4.49 feet;
- 3) 24° 00' 22.50 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
- 4) 114° 00' 38.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
- 5) 159° 00' 9.90 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
- 6) 204° 00' 15.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, to the point of beginning and containing an area of 966 square feet, more or less.

4. DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR WAILUNA RECREATION ASSOCIATION

Dated: February 9, 1979
Recorded: September 28, 1979
Book: 14026
Page: 566, as amended
to which reference is hereby made.

DECLARATION OF ANNEXATION

Dated: September 29, 1986
Recorded: October 15, 1986
Book: 19948
Page: 244
to which reference is hereby made.

5. Agreement For Issuance Of Special Use Permit Under Section 21-2.71 Of The Comprehensive Zoning Code Of The City And County Of Honolulu (AM. Ord. 3234), dated December 17, 1981, recorded on March 11, 1982 in the Bureau of Conveyances of the State of Hawaii in Book 16210 Page 16, as amended.
6. The terms, provisions, covenants, easements and reservations as contained in the following:

LEASE NO. 27,480

Lessor: TRUSTEES OF THE ESTATE OF BERNICE PAUHI
BISHOP
Lessee: LEAR SIEGLER, INC. and LEAR SIEGLER
PROPERTIES, INC., both Delaware corporations
authorized to do business in the State of
Hawaii
Dated: December 13, 1984
Recorded: January 4, 1985
Book: 18370
Page: 281
Term: 27 years commencing from January 1, 1985

The foregoing instrument was amended by the following:

AMENDMENT OF LEASE

Dated: December 18, 1986
Recorded: December 9, 1986
Book: 20209
Page: 558

The foregoing Lease was assigned by the following:

ASSIGNMENT OF LEASE

Assignor: ROYAL-CLARK DEVELOPMENT CO., a Hawaii general partnership, consisting of Royal Contracting Co., Ltd., a Hawaii corporation, and SMA DEVELOPMENT CORP., a Hawaii corporation
Assignee: HALAWA BUSINESS PARK, a Hawaii limited partnership
Dated: September 20, 1988
Recorded: March 21, 1989
Book: 22972
Page: 298

7. The covenants, agreements, obligations, conditions, easements and other provisions as contained in the following:

DECLARATION OF HORIZONTAL PROPERTY REGIME OF "THE HEIGHTS AT WAILUNA, INCREMENT NO. 2"

Dated: January 27, 1986
Recorded: February 11, 1986
Book: 19285
Page: 693

Condominium Map No. 990, as amended, and the By-Laws attached thereto, to which reference is hereby made.

The foregoing Declaration of Horizontal Property Regime was amended by the following:

<u>Book</u>	<u>Page</u>	<u>Dated</u>	<u>Recorded</u>
19714	45	06/23/86	07/29/86
21119	13	07/13/87	09/11/87

8. By-Laws dated January 27, 1986, recorded on February 11, 1986 in said Bureau of Conveyances in Book 19285 Page 725, to which reference is hereby made.
9. Supplemental Confirmation of Assignment of Assets dated March 24, 1987, recorded on September 11, 1987 in said Bureau of Conveyances in Book 21119 Page 1. Consent thereto by THE TRUSTEES OF THE ESTATE OF BERNICE PAUAAHI BISHOP, for the benefit of Lear Siegler Diversified Holdings Corp., a Delaware corporation authorized to do business in the State of Hawaii, recorded in Book 21119 Page 9.

10. PARTIAL REVOCATION OF DECLARATION OF MERGER FOR THE HEIGHTS AT WAILUNA, INCREMENT 1, 2 AND 3, AND DECLARATION OF MERGER FOR THE HEIGHTS AT WAILUNA, INCREMENTS 1, 2, 3 AND 4

Dated: March 5, 1987
Effective: July 1, 1987
Recorded: August 19, 1987
Book: 21036
Page: 688

to which reference is hereby made.

11. Any and all Apartment Leases and the encumbrances affecting same, if any.

SCHEDULE C

The land(s) upon which said Condominium Project is located is described as follows:

WAILUNA

LOT IIC

Land Situated At Waiau, Ewa, Oahu, State of Hawaii

Being a portion of Royal Patent 4475,

Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Southwest corner of this parcel of land, on the Northwesterly side of Kaahumanu Street, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 6723.35 feet North and 11,536.62 feet East and running by azimuths measured clockwise from true South:

1. 146° 15' 36.79 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
2. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 215.00 feet, the chord azimuth and distance being 130° 07' 30" 119.43 feet;

3. 114° 00' 156.58 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
4. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu, on a curve
to the right with a radius of
185.00 feet, the chord
azimuth and distance being
140° 07' 30" 162.92 feet;
5. 166° 15' 32.32 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
6. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu, on a curve
to the right with a radius of
185.00 feet, the chord
azimuth and distance being
179° 12' 30" 82.97 feet;
7. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu, on a curve
to the right with a radius of
75.00 feet, the chord azimuth
and distance being 237° 27'
30" 106.60 feet;
8. 282° 45' 132.18 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
9. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana
335 to V. Kamamalu, on a
curve to the left with a
radius of 215.00 feet, the
chord azimuth and distance
being 277° 07' 15" 42.18
feet;
10. 298° 53' 10" 35.58 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
11. 322° 26' 30" 44.84 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;

SCHEDULE C (continued)

12.	294°	00'	56.53	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
13.	280°	40'	21.64	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
14.	309°	12' 30"	5.86	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
15.	280°	40'	31.62	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
16.	250°	00'	7.86	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
17.	271°	42' 30"	3.94	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
18.	250°	00'	34.63	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
19.	265°	24'	4.61	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
20.	250°	00'	35.43	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
21.	266°	55' 30"	4.87	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
22.	250°	00'	36.63	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
23.	265°	42' 30"	7.77	feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;

SCHEDULE C (continued)

24. 250° 00' 18.21 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
25. 340° 00' 142.36 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
26. 70° 00' 17.50 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
27. 340° 00' 1091.61 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
28. Thence along the Northwesterly side of Kaahumanu Street, on
a curve to the left with a
radius of 2030.00 feet, the
chord azimuth and distance
being 61° 43' 28" 312.50
feet to the point of
beginning and containing an
area of 4.130 acres, more or
less.

SCHEDULE C (continued)

TOGETHER WITH Easements 2 and 3 for roadway and utility purposes, described as follows:

EASEMENT 2

Thirty (30.00) Feet Wide For Roadway And Utility Purposes

Land Situated at Waiau, Ewa, Oahu, State of Hawaii

Being a portion of Royal Patent 4475,

Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Southwest corner of this easement, on the Northwestern side of Kaahumanu Street, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 6961.12 feet North and 12,044.90 feet East and running by azimuths measured clockwise from true South:

1. 160° 00' 101.32 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
2. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 185.00 feet, the chord azimuth and distance being 133° 33' 30" 164.76 feet;
3. 107° 07' 161.87 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
4. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 185.00 feet, the chord azimuth and distance being 87° 26' 124.62 feet;

SCHEDULE C (continued)

5. 67° 45' 103.14 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
6. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu, on a curve
to the right with a radius of
215.00 feet, the chord
azimuth and distance being
79° 37' 15" 88.45 feet;
7. 181° 29' 30" 30.00 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
8. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu, on a curve
to the left with a radius of
185.00 feet, the chord
azimuth and distance being
259° 37' 15" 76.11 feet;
9. 247° 45' 103.14 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
10. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu, on a curve
to the right with a radius of
215.00 feet, the chord
azimuth and distance being
267° 26' 144.83 feet;
11. 287° 07' 161.87 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
12. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu, on a curve
to the right with a radius of
215.00 feet, the chord
azimuth and distance being
313° 33' 30" 191.47 feet;

SCHEDULE C (continued)

13. 340° 00' 101.32 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
14. 70° 00' 30.00 feet along the Northwesterly side
of Kaahumanu Street, to the
point of beginning and
containing an area of 23,137
square feet, more or less.

EASEMENT 3

For Roadway and Utility Purposes

Land Situated at Waiau, Ewa, Oahu, Hawaii

Being a portion of Royal Patent 4475,

Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Northwest corner of this easement, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 7008.56 feet North and 11,780.53 feet East and running by azimuths measured clockwise from true South:

1. 250° 00' 203.22 feet along remainder of R. P.
4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu;
2. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana
35 to V. Kamamalu, on a curve
to the left with a radius of
20.00 feet, the chord azimuth
and distance being 195° 30'
28" 32.56 feet;

SCHEDULE C (continued)

3. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 185.00 feet, the chord azimuth and distance being 330° 30' 28" 61.02 feet;
4. 340° 00' 16.32 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
5. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being 115° 00' 28.28 feet;
6. 70° 00' 212.19 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
7. 160° 00' 30.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, to the point of beginning and containing an area of 7,178 square feet, more or less.

RECORDATION REQUESTED BY:

AFTER RECORDATION RETURN TO:

RETURN BY: MAIL ☒ PICKUP ☐

PARTIAL REVOCATION OF DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
AND
THE HEIGHTS AT WAILUNA, INCREMENT 3
AND
DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
THE HEIGHTS AT WAILUNA, INCREMENT 3,
AND
THE HEIGHTS AT WAILUNA, INCREMENT 4

THIS PARTIAL REVOCATION OF DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1, THE HEIGHTS AT WAILUNA,
INCREMENT 2, AND THE HEIGHTS AT WAILUNA, INCREMENT 3, AND THIS
DECLARATION OF MERGER FOR THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2, THE HEIGHTS AT WAILUNA,
INCREMENT 3, AND THE HEIGHTS AT WAILUNA, INCREMENT 4, executed
and entered into this 5th day of May, 1987, by the
TRUSTEES OF THE ESTATE OF BERNICE PAUAAHI BISHOP, herein called
"Lessor", THE LUSK COMPANY, a California corporation authorized
to do business in the State of Hawaii, herein called
"Developer", and the ASSOCIATION OF APARTMENT OWNERS OF THE
HEIGHTS AT WAILUNA, INCREMENT 1, herein called "The Heights at
Wailuna, Increment 1 Association" and the ASSOCIATION OF
APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, INCREMENT 2, herein
called "The Heights at Wailuna, Increment 2 Association", and
the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHT AT WAILUNA,
INCREMENT 3, herein called "The Heights at Wailuna, Increment 3
Association,

WITNESSETH THAT:

WHEREAS, The Heights at Wailuna, Increment 1 is a
condominium project established by Declaration of Horizontal
Property Regime recorded in the Bureau of Conveyances of the
State of Hawaii in Liber 18981, page 617; and

WHEREAS, The Heights at Wailuna, Increment 2 is a
condominium project established by Declaration of Horizontal
Property Regime recorded in said Bureau in Liber 19285, page
693; and

WHEREAS,, The Heights at Wailuna, Increment 3 is a condominium project established by Declaration of Horizontal Property Regime recorded in said Bureau in Liber 19486, page 487; and

WHEREAS,, The Heights at Wailuna, Increment 4 is a condominium project established by Declaration of Horizontal Property Regime recorded in said Bureau in Liber 19771, page 448; and

WHEREAS, paragraph 15.1 of said Declarations for said The Heights at Wailuna, Increments 1, 2 and 3 read as follows:

(15.1) One or more condominium projects, whether or not adjacent to the Project, but which are part of the same incremental plan of development and in the same vicinity, may be merged together with the Project from time to time so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for sharing of the common expenses of the projects among all the owners of the apartments in the merged projects. Any such merger or mergers does not require the approval of the apartment owners, and shall be effective upon approval by the Board and the Lessor and the Developer and upon execution of the merger documents by two (2) officers of the Project and the Lessor and the Developer and recordation of same in the Bureau of Conveyances.

and

WHEREAS, paragraphs 15.1 and 15.2 of the Declaration of Horizontal Property Regime for The Heights at Wailuna, Increment 4, reads as follows:

(15.1) One or more condominium projects, whether or not adjacent to the Project, but which are part of the same incremental plan of development and in the same vicinity, may be merged together with the Project from time to time so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for sharing of the common expenses of the projects among all the owners of the apartments in the merged projects. Any such merger or mergers does not require the approval of the apartment owners, and shall be effective upon approval by the Board and the Lessor and the Developer and upon execution of the merger documents by two (2) officers of the Project and the Lessor and the Developer and recordation of same in the Bureau of Conveyances.

(15.2) Notwithstanding any provision to the contrary herein contained, Developer expressly reserves the right without the consent or joinder of persons then owning or leasing apartments in the Project to merge this Project with any and all of the following condominium projects to permit the joint use of the common elements of the merged projects by all the apartment owners of the projects:

(i) That certain project known as "The Heights at Wailuna, Increment 1", established by that certain Declaration of Horizontal Property Regime dated September 17, 1985, recorded in said Bureau of Conveyances in Liber 18981, at page 617;

(ii) That certain project known as "The Heights at Wailuna, Increment 2", established by that certain Declaration of Horizontal Property Regime dated January 27, 1986, recorded in said Bureau of Conveyances in Liber 19285 at page 693; and

(iii) That certain project known as "The Heights at Wailuna, Increment 3", established by that certain Declaration of Horizontal Property Regime dated April 17, 1986, recorded in said Bureau of Conveyances in Liber 19486 at page 487; and

WHEREAS, THE HEIGHTS AT WAILUNA, INCREMENT 1, THE HEIGHTS AT WAILUNA, INCREMENT 2, and THE HEIGHTS AT WAILUNA, INCREMENT 3 were merged by that certain Declaration of Merger for The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, and The Heights at Wailuna, Increment 3, dated August 13, 1986, and recorded in said Bureau in Liber 19882, page 311; and

WHEREAS, at a meeting of the Boards of Directors of the Associations of Apartment Owners of The Heights at Wailuna, Increments 1, 2 and 3 held on May 6, 1987, said Boards of Directors did unanimously vote for and approve a merger of The Heights at Wailuna, Increment 4 into and with The Heights at Wailuna, Increments 1, 2 and 3 in accordance with the terms and conditions of this document; and

WHEREAS, pursuant to paragraphs 15.2 of said Declaration of Horizontal Property Regime of The Heights at Wailuna, Increment 4, the Developer reserved the right to merge The Heights at Wailuna, Increment 4 into and with The Heights at Wailuna, Increments 1, 2 and 3; and

WHEREAS, all four projects are adjacent projects which are part of the same incremental plan of development; and

WHEREAS, the merger contemplated hereby is permitted by the Horizontal Property Regimes Act;

PARTIAL REVOCATION OF DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
AND
THE HEIGHTS AT WAILUNA, INCREMENT 3

NOW, THEREFORE, Lessor, Developer and The Heights at Wailuna, Increment 1 Association, The Heights at Wailuna, Increment 2 Association and The Heights at Wailuna, Increment 3 Association do hereby revoke that certain Declaration of Merger for The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2 and The Heights at Wailuna, Increment 3, dated August 13, 1986, and recorded in said Bureau in Liber

19882, page 311, only to the extent that same is in conflict with the Declaration of Merger of The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, The Heights at Wailuna, Increment 3, and The Heights at Wailuna, Increment 4, hereinafter set forth, said partial revocation being effective as of the effective date of the merger herein set forth.

DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
THE HEIGHTS AT WAILUNA, INCREMENT 3,
AND THE HEIGHTS AT WAILUNA, INCREMENT 4

NOW, THEREFORE, pursuant to the aforesaid Declarations of Horizontal Property Regime, Lessor, Developer, and the Boards of Directors of The Heights at Wailuna, Increments 1, 2 and 3 do hereby declare that The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, The Heights at Wailuna, Increment 3, and The Heights at Wailuna, Increment 4 are hereby merged on the following terms and conditions:

1. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 1 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 2, THE HEIGHTS AT WAILUNA, INCREMENT 3, and THE HEIGHTS AT WAILUNA, INCREMENT 4, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 2 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 3, and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 4, as though the four projects had been developed as a single condominium project.

2. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 2 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 1, THE HEIGHTS AT WAILUNA, INCREMENT 3, and THE HEIGHTS AT WAILUNA, INCREMENT 4, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment in THE HEIGHTS AT WAILUNA, INCREMENT 1 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 3, and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 4, as though the four projects had been developed as a single condominium project.

3. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 3 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 1 and THE HEIGHTS AT WAILUNA, INCREMENT 2, and THE HEIGHTS AT WAILUNA, INCREMENT 4, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 1 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 2, and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 4, as though the four projects had been developed as a single condominium project.

4. The owners of apartments in The Heights at Wailuna, Increment 4, shall have nonexclusive rights to use the

common elements in The Heights at Wailuna, Increment 1 and The Heights at Wailuna, Increment 2 and The Heights at Wailuna, Increment 3 to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within The Heights at Wailuna, Increment 1 and upon an owner of an apartment within The Heights at Wailuna, Increment 2 and upon an owner of an apartment within The Heights at Wailuna, Increment 3, as though the four projects had been developed as a single condominium project.

5. THE HEIGHTS AT WAILUNA, INCREMENT 1 shall bear 24.2188 percent, THE HEIGHTS AT WAILUNA, INCREMENT 2 shall bear 24.2188 percent, THE HEIGHTS AT WAILUNA, INCREMENT 3 shall bear 23.4375 percent, and THE HEIGHTS AT WAILUNA, INCREMENT 4 shall bear 28.1249 percent of the total common expenses of the merged project as the term "common expenses" is defined by the Horizontal Property Act, the Declarations of Horizontal Property Regimes, and the Bylaws for each project, treating the projects as a single project, and each individual apartment owner's share of the total common expenses shall be his percentage share of ownership of the common expenses as set forth in the Declaration of Horizontal Property Regimes for said project in which his condominium apartment is located times the percentage allocated in this paragraph 5 to the project in which his apartment is located; Provided, However, notwithstanding the provisions in this paragraph, the apartment owners of each project shall not be assessed for nor shall they have any obligation with respect to the debts, deficits or obligations of the other projects existing prior to this merger.

6. The apartment owners shall be entitled to vote in the same proportion of the total vote as set forth above in paragraph 5 for the sharing of common expenses, and each individual apartment owner's share of the total vote shall be his percentage vote as set forth in the Declaration of Horizontal Property Regime for said project in which his condominium apartment is located times the percentage allocated above in paragraph 5 to the project in which his apartment is located.

7. There shall be one Board of Directors for the merged projects composed of not less than three (3) persons and not more than nine (9) persons. At the annual meeting of the owners of the condominium apartments next following this merger and at all subsequent such meetings, the Board of Directors to be elected shall govern the merged projects pursuant to the terms of the respective Declarations of Horizontal Property Regime and By-Laws. At a special meeting called for the purpose after the merger, the owners may remove the existing Board and elect a Board to govern the merged project until the next annual meeting.

8. Each of the projects shall be treated as part of a single project developed as a whole from the beginning and the respective Declarations of Horizontal Property Regime and By-Laws applicable to each shall be construed as one document applicable to the entire project as merged hereunder except to the extent expressly otherwise provided for therein. It is the purpose hereof to provide that from and after the date of

merger all of the property subject hereto shall be treated as though it had been developed, divided into condominium apartments, held, occupied and used by the owners thereof as a single condominium project.

9. Additional merger or mergers may occur as set forth in the aforesaid Declarations of Horizontal Property Regime and as permitted and allowed by the Horizontal Property Act, and this Declaration of Merger may be amended, modified, cancelled or superseded by any such additional merger or mergers.

10. The projects shall henceforth be known as THE HEIGHTS AT WAILUNA.

The effective date of this merger is July 1, 1987.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

Dyrol B. Thompson

THE LUSK COMPANY

[Signature]

By

Charles A. Lewis
Its Vice President

Richard Lyman

"Developer"

Trustees of the Estate of
Bernice Pauahi Bishop

"Lessor"

APPROVED AS TO FORM
CONTENTS AND AUTHORIZATION

Elizabeth L. Z. Omer
Documentary Department

ASSOCIATION OF APARTMENT OWNERS
OF THE HEIGHTS AT WAILUNA,
INCREMENTS 1, 2 AND 3

By Robertur Behrend
Its President

By Vianna A. Ferris
Its Secretary

STATE OF HAWAII
CITY AND
COUNTY OF HONOLULU

)
) SS:
)

On this 11th day of August, 1987,
before me personally appeared Henry A. Peters and Richard L. ... Jr.,
three of the Trustees of the Estate of Bernice Pauahi Bishop,
to me known to be the persons who severally executed the
foregoing instrument and acknowledged that they executed the
same as their free act and deed.

W

Laeli M. Hammond
Notary Public, State of Hawaii

My commission expires:

STATE OF HAWAII
CITY AND COUNTY OF HONOLULU

)
) SS.
)

On this 5th day of May, 1987,
before me appeared ERNEST A. HARRIS, to me personally known,
who being by me duly sworn, did say that he is the Vice
President of THE LUSK COMPANY, a California corporation
authorized to do business in the State of Hawaii; that the seal
affixed to the foregoing instrument is the corporate seal of
said corporation, and that said instrument was signed and
sealed in behalf of said corporation by authority of its Board
of Directors, and the said ERNEST A. HARRIS acknowledged said
instrument to be the free act and deed of said corporation.

K.S.

Mary R. Rush
Notary Public, State Hawaii

My commission expires: 10-12-89

STATE OF HAWAII
CITY AND
COUNTY OF HONOLULU

)
) SS:
)

On this 7th day of July, 1987, before me
appeared Diane A. [unclear] and [unclear], to
me personally known, who, being by me duly sworn, did say that
She they are the Secretary and [unclear] respect-
ively of the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT
WAILUNA, INCREMENTS 1, 2 AND 3, an unincorporated association;
that the association has no seal; and that said instrument was
signed in behalf of said association by authority of its Board
of Directors, and the said Secretary
and [unclear] acknowledged said instrument
to be the free act and deed of said corporation.

L.S.

[Signature]
Notary Public, State of Hawaii

My commission expires: 10/15/88

STATE OF HAWAII)
CITY AND COUNTY OF HONOLULU) ss.

On this 25TH day of JUNE, 1987, before me appeared ROBERT M. BEHREND, to
me known, who being duly sworn, did say that he is the President of the ASSOCIATION
OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, INCREMENTS 1, 2, and 3, an
unincorporated association; that the association has no seal; and that said
instrument was signed behalf of said association by authority of its Board of
Directors, and the said President acknowledged said instrument to be the free act
and deed of said corporation.

L.S.

[Signature]
KEVIN F. SHIPLETT, Notary Public
First Judicial Circuit, State of Hawaii

My commission expires: 27 JULY 1990

RECORDATION REQUESTED BY:

We hereby certify that this is a true copy of the original
filed as Land Court Document No. _____ and/or
recorded in Liber 21119 Page 013
on SEP 11 1987 at 8:01 o'clock A.M.

AFTER RECORDATION RETURN TO:

TITLE GUARANTEE OF HAWAII, INCORPORATED

By C. Kurasaki

RETURN BY: MAIL ☐ PICKUP ☐

AMENDMENT TO
DECLARATION OF HORIZONTAL PROPERTY REGIME
OF
THE HEIGHTS AT WAILUNA, INCREMENT 2

WHEREAS, the TRUSTEES OF THE ESTATE OF BERNICE PAUAAHI BISHOP, whose place of business is 567 South King Street, Suite 200, Honolulu, Hawaii 96813, herein called the "Lessor", LEAR SIEGLER DIVERSIFIED HOLDINGS, CORP., formerly known as Lear Siegler, Inc., and LEAR SIEGLER PROPERTIES, INC., both Delaware corporations authorized to do business in the State of Hawaii, both of whose principal place of business is 700 Bishop Street, Suite 1112, Honolulu, Hawaii, and whose post office address is P. O. Box 3230, Honolulu, Hawaii, herein called the "Sub-lessor", and THE LUSK COMPANY, a California corporation authorized to do business in the State of Hawaii, whose principal place of business and post office address is Suite 1618, Davies Pacific Center, 841 Bishop Street, Honolulu, Hawaii 96813, herein called the "Developer", did submit certain real property to the Horizontal Property Regime established by the Horizontal Property Act, Chapter 514A, Hawaii Revised Statutes, by that certain Declaration of Horizontal Property Regime of The Heights at Wailuna, Increment 2, dated January 27, 1986, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 19285, Page 693, as amended by that certain First Amendment to Declaration of Horizontal Property Regime of The Heights at Wailuna, Increment 2, dated June 23, 1986, recorded in said Bureau in Liber 19714, Page 45, the land submitted to the Horizontal Property Regime being more particularly described in said Declaration; and

WHEREAS, paragraph 21 of said Declaration reads as follows:

"21. Disclosures and Reservations. Notwithstanding any of the other terms and conditions of this Declaration or the By-Laws, Developer may use any and all apartments for sales purposes, and Developer hereby discloses that Developer intends on constructing and selling additional housing on lands adjoining the Project, and that the construction activity of Developer shall continue on the site of the Project and on adjacent land after apartment owners occupy their apartments and that this activity may

result in noise, dust or other annoyances to the apartment owners, and Developer further hereby makes the following disclosures and reservations:

(a) Apartment 90 has land areas 88, 89, 90 and 95 as appurtenant limited common elements. Developer reserves the right, with the consent of the Lessor, at any time and from time to time prior to December 31, 1991 (said date may be extended by the Lessor) to withdraw land areas 88, 89 and 95 from Apartment 90 and to convert Apartment 90 into four (4) separate apartments by constructing and/or reconstructing residential units and other improvements on land areas 88, 89, 90 and 95; and

Developer intends to retain ownership of apartments 90, 91, 92, 93 and 94 for use and occupancy in connection with Developer's sales activities concerning apartments within the Project and with respect to sales activities of other housing projects under the Developer in the vicinity of the Project; and

Developer reserves the right to construct and reconstruct improvements within land areas 88, 89, 90, 91, 92, 93, 94, and 95 or to change and modify and renovate said improvements from time to time; and in the event Developer should do so and/or should convert land areas 88, 89, 90 and 95 into separate apartments by constructing and/or reconstructing and/or renovating residential units and other improvements thereon, Developer reserves the right from time to time to amend the Declaration and the Condo Map and the By-Laws to appropriately reflect same without the consent or joinder of those persons then owning apartments so long as the ownership of common elements appurtenant to said separate apartments created from the separate land areas now constituting Apartment 90 shall always be equal to one-fourth (1/4) of the ownership now appurtenant to Apartment 90 as herein set forth on Exhibit "B";

(b) Developer reserves the right for itself and its employees, subcontractors, vendors and suppliers to use the common elements for access to construction areas within the Project and on adjacent land;

(c) Developer reserves the right to conduct sales activities, including the use of model dwelling units, signs and extensive sales displays and activities in the Project until Developer ceases development of additional housing in the vicinity of the Project; and

(c) Developer reserves the right for itself, its sales representatives and prospective purchasers to utilize the common elements for ingress and egress to unsold apartments within the Project and within land

areas in the vicinity of the Project in order to show apartments to prospective buyers.

All the rights hereinabove reserved unto the Developer in this Section 21 shall terminate and end on December 31, 1991, unless extended in writing by the Lessor.

This Section 21 cannot be amended without the Developer's prior written consent."

WHEREAS, with the consent of the Lessor, Developer hereby desires to withdraw land areas 88, 89 and 95 from Apartment 90 and convert Apartment 90 into four separate apartments by constructing thereon residential units and other improvements on land areas 88, 89 and 95, said land area 90 already having a residential unit constructed thereon;

NOW, THEREFORE, pursuant to the provisions contained in paragraph 21 of said Declaration, the Developer and Lessor do hereby amend the Declaration of Horizontal Property Regime for The Heights at Wailuna, Increment 2, in the following manner:

1. Paragraph 1 and subparagraph (1.1) are deleted in their entirety and the following is inserted in lieu thereof:

"1. Apartments. There are hereby established thirty-one (31) freehold estates (herein called "apartments"), consisting of thirty-one (31) separate dwelling units numbers "86" through "116", as shown in Column 1 of AMENDED EXHIBIT "B" attached hereto and made a part hereof, each located within and situated upon certain specific delineated land areas shown on said Condo Map. Each apartment consists of all improvements comprising the dwelling unit within each of said land areas, and said apartment further consists of all other improvements within each of said land areas that do not service any other apartment.

(1.1) The various separate land areas numbered "86" through "116" as shown on said Condo Map are limited common elements and each of the apartments has appurtenant thereto, as a limited common element, the land area having the same number as said apartment."

2. Subparagraph (1.2) is deleted in its entirety, and the following is inserted in lieu thereof:

"(1.2) The terms and conditions of this subparagraph are hereby deleted."

3. Subparagraph (1.4) is deleted in its entirety and the following is inserted in lieu thereof:

"(1.4) There are seven types of dwelling units shown on said Condo Map. These seven types of dwelling units are designated by 1, 4, 5, 5M, 7, 7M or 7rev (revised model), and the type of dwelling unit comprising each apartment is

set forth on AMENDED EXHIBIT "B" attached hereto and made a part hereof."

4. Subparagraph (1.5) is deleted in its entirety and the following is inserted in lieu thereof:

"(1.5) The number of rooms and stories of each type of dwelling unit is set forth below:

	<u>1</u>	<u>4</u>	<u>5</u>	<u>5M</u>	<u>7</u>	<u>7M</u>	<u>7rev</u>
Number of Rooms	7	9	8	8	8	8	8
Number of Stories	1	2	2	2	2	2	2"

5. Subparagraph (1.6) is deleted in its entirety and the following is inserted in lieu thereof:

"(1.6) The approximate net living area of each type of dwelling unit consisting of the enclosed portion of the dwelling unit measured from the interior surface of the dwelling unit perimeter walls and the garage is set forth below in square feet:

	<u>1</u>	<u>4</u>	<u>5</u>	<u>5M</u>	<u>7</u>	<u>7M</u>	<u>7rev</u>
Net living area:	1,135	1,448	1,302	1,302	1,344	1,344	1,490
Garage:	<u>435</u>	<u>423</u>	<u>467</u>	<u>467</u>	<u>415</u>	<u>415</u>	<u>438</u>
TOTAL	<u>1,570</u>	<u>1,871</u>	<u>1,769</u>	<u>1,769</u>	<u>1,759</u>	<u>1,759</u>	<u>1,928"</u>

6. Subparagraph (3.1) is deleted in its entirety and the following is inserted in lieu thereof:

"(3.1) The various separate land areas numbered "86" through "116" as shown on said Condo Map are limited common elements. Each of the apartments has appurtenant thereto as a limited common element the land area having the same number as said apartment."

7. EXHIBIT "B" is amended to reflect the conversion of Apartment 90 into Apartments 88, 89, 90 and 95, and said AMENDED EXHIBIT "B" is attached hereto and made a part hereof by this reference.

8. Said Declaration of Horizontal Property Regime is further amended pursuant to the provisions contained in paragraph 21 of said Declaration for the purpose of filing an amendment to the Condominium Map No. 990 by filing herewith the attached verified statement of James K. Tsugawa to be attached to plans filed concurrently herewith showing the location of the dwelling units and fencing and other improvements on Condo Lots 88, 89, 90 and 95 and the floor plan for dwelling type 7rev (revised model).

The Developer and Lessor do further reserve the right to further amend said Declaration as necessary in accordance with the provisions contained in paragraph 21 of said Declaration.

IN WITNESS WHEREOF, the Lessor, Sublessor and Developer have executed these presents this 13th day of July, 1987.

Myron B. Thompson

LEAR SIEGLER DIVERSIFIED
HOLDINGS, CORP.

Richard Symant
Madrid Felleman

By Penny D. Glueck
Its Vice President

Trustees of the Estate of
Bernice Pauahi Bishop

LEAR SIEGLER PROPERTIES, INC.

"Lessor"

By Penny D. Glueck
Its Vice President

"Sublessor"

THE LUSK COMPANY

By [Signature]
Its Vice President

"Developer"

APPROVED AS TO FORM
CONTENT AND AUTHORIZATION

[Signature]
County Clerk

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 30th day of SEP 1 1987, 1987,
before me personally appeared Richard Lyman, Jr. and Alfred J. Thompson,
three of the Trustees of the Estate of Bernice Pauahi Bishop,
to me known to be the persons who severally executed the fore-
going instrument and acknowledged that they severally executed
the same as their free act and deed.

[Signature]
Notary Public, State of Hawaii

My Commission Expires: 11-20-90

NOTARY PUBLIC - STATE OF HAWAII
My Commission Expires: November 29, 1987

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 20th day of July, 1987,
before me appeared HENRY F. ALVES, to me personally known, who,
being by me duly sworn, did say that he is the Vice President
of LEAR SIEGLER DIVERSIFIED HOLDINGS, CORP., a Delaware
Corporation authorized to do business in Hawaii; and that the
seal affixed to the foregoing instrument is the corporate seal
of said corporation and that said instrument was signed and
sealed in behalf of said corporation by authority of its Board
of Directors, and the said HENRY F. ALVES acknowledged said
instrument to be the free act and deed of said corporation.

Carol A. [Signature]
Notary Public, State of Hawaii

My Commission Expires: 11-20-90

THE HEIGHTS AT WAILUNA, INCREMENT 2
(a Leasehold Condominium)

<u>Apartment Number</u>	<u>Type of Dwelling Unit</u>	<u>Percentage Ownership of Common Elements</u>
86	7R	3.2%
87	5R	3.2%
88	7R rev.	3.2%
89	1R	3.2%
90	5R	3.2%
91	4R	3.2%
92	5R	3.2%
93	1R	3.2%
94	7R	3.2%
95	7R rev.	3.2%
96	5R	3.2%
97	7R	3.2%
98	1R	3.2%
99	5R	3.2%
100	7R	3.2%
101	5MR	3.2%
102	7M	4.0%
103	5	3.2%
104	1	3.2%
105	7	3.2%
106	5	3.2%
107	1	3.2%
108	7	3.2%
109	5	3.2%
110	7	3.2%
111	1	3.2%
112	4	3.2%
113	5	3.2%
114	7	3.2%
115	5	3.2%
116	4	3.2%
	TOTAL	100.0%

Where an "R" is set forth in the middle column entitled "Type of Dwelling Unit", this reflects that the floor plan of the particular dwelling unit is a mirror image of the type of designated unit. Where an "M" is set forth in the middle column entitled "Type of Dwelling Unit" this reflects a modified location of the garage. Where an "rev." is set forth in the middle column entitled "Type of Dwelling Unit", this reflects a revised model and constitutes an addition to the original Condo Map.

0460E
8/5/87

AMENDED EXHIBIT "B"

AMENDMENT TO CONDOMINIUM MAP NO. 990

JAMES K. TSUGAWA
Registered Professional
Architect No. 5094

JAMES K. TSUGAWA

Angela D. Dyer
Notary Public, State of Hawaii

0512E
7/8/87

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 20th day of July, 1987,
before me appeared HENRY F. ALVES, to me personally known, who,
being by me duly sworn, did say that he is the Vice President
of LEAR SIEGLER PROPERTIES, INC., a Delaware corporation
authorized to do business in Hawaii; and that the seal affixed
to the foregoing instrument is the corporate seal of said cor-
poration and that said instrument was signed and sealed in
behalf of said corporation by authority of its Board of
Directors, and the said HENRY F. ALVES acknowledged said
instrument to be the free act and deed of said corporation.

Maria A. Co
Notary Public, State of Hawaii

My Commission Expires: 11-30-90

STATE OF CALIFORNIA)
) SS.
COUNTY OF Orange)

On this 13th day of July, 1987,
before me appeared Harry O. Merrill, to me
personally known, who, being by me duly sworn, did say that he
is Vice President of THE LUSK COMPANY, a
California corporation authorized to do business in the State
of Hawaii, and that the seal affixed to the foregoing
instrument is the corporate seal of said corporation and that
said instrument was signed and sealed in behalf of said
corporation by authority of its Board of Directors, and the
said Vice President acknowledged said
instrument to be the free act and deed of said corporation.



Melanie French
Notary Public, State of California

My Commission Expires: _____

RECEIVED
DEC 19 1997

METROPOLITAN MANAGEMENT

NEELEY & ANDERSON
ATTORNEYS AT LAW
733 BISHOP STREET, SUITE 2301
GROSVENOR CENTER, MAKAI TOWER
HONOLULU, HAWAII 96813

JOYCE Y. NEELEY
M. ANNE ANDERSON
PHILIP L. LAHNE
GISELA IGLESIAS
LANCE S. FUJISAKI

TRANSMITTAL MEMORANDUM

TELEPHONE
(808) 536-8177
FACSIMILE
(808) 536-4977

DONNA H. YAMAMOTO
MELINA DE LEON

TO: Ms. Mary Lou Nagi
Metropolitan Management
Suite 2100, Hawaii Tower
745 Fort Street Mall
Honolulu, Hawaii 96813

DATE: December 18, 1997

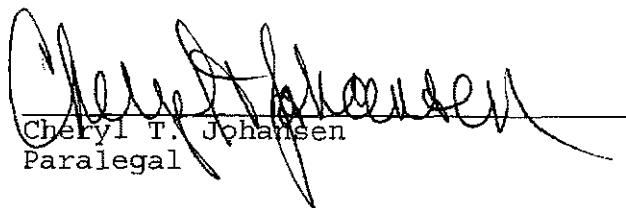
RE: The Heights at Wailuna

(XXX) Mailed () Hand Delivered () Court Jacket

Enclosed please find the following:

Copies	Date	Description
1	02/11/86	Declaration of Horizontal Property Regime of The Heights at Wailuna, Increment 2
()	For your information	() For necessary action
()	For signature and return	(XXX) Per your request
()	For signature, forwarding as noted below and return	() Per our conversation
		() For your approval

Remarks:


Cheryl T. Johansen
Paralegal

Enclosure(s)

RECORDATION REQUESTED BY:

we hereby certify that this is a true copy of the original
filed as Land Court Document No. _____ and /or
recorded in Liber 19486 on Page 487
on MAY 7 1985 @ 2:10 PM

AFTER RECORDATION RETURN TO:

TITLE GUARANTY OF HAWAII, INCORPORATED
By [Signature]

RETURN BY: MAIL ☐ PICKUP ☐

DECLARATION OF HORIZONTAL PROPERTY REGIME
OF
THE HEIGHTS AT WAILUNA, INCREMENT 3

EXHIBITS "A" and "B"
(Exhibit "A" - The Land)
(Exhibit "B" - Common Interests)

DAMON, KEY, CHAR & BOCKEN
(CHARLES W. KEY)
1500 Pauahi Tower
1001 Bishop Street
Honolulu, Hawaii 96813
Tel. No. 531-8031

3420C
1/13/86

DECLARATION OF HORIZONTAL PROPERTY REGIME

OF

THE HEIGHTS AT WAILUNA, INCREMENT 3

WHEREAS, THE TRUSTEES OF THE ESTATE OF BERNICE PAUAI BISHOP, herein called the "Lessor", own in fee simple that certain parcel of land described in EXHIBIT "A" attached hereto and made a part hereof by this reference, the land described in EXHIBIT "A" being herein referred to as "said land"; and

WHEREAS, LEAR SIEGLER, INC. a Delaware corporation authorized to do business in Hawaii, and LEAR SIEGLER PROPERTIES, INC., a Delaware corporation authorized to do business in Hawaii, whose places of business is 700 Bishop Street, Suite 1112, Honolulu, Hawaii, and whose post office address is P.O. Box 3230, Honolulu, Hawaii, herein called "Sublessor", are the holders of that certain Bishop Estate Lease No. 27,480 dated December 13, 1984, recorded in the Bureau of Conveyances of Hawaii in Liber 18370 at Page 272, demising said land; and

WHEREAS, Lessor and Sublessor did lease said land to THE LUSK COMPANY, formerly known as John D. Lusk & Son, a California corporation authorized to do business in the State of Hawaii, whose principal place of business and post office address in Hawaii is Suite 1618, Davies Pacific Center, 841 Bishop Street, Honolulu, Hawaii 96813, herein called "Developer", by that certain Bishop Estate Lease No. 27,480A, dated April 3, 1985, recorded in said Bureau in Liber 18561 at Page 710; and

WHEREAS, Developer has undertaken to improve said land pursuant to the terms of said Lease and in accordance with plans incorporated herein by reference and filed simultaneously herewith in said Bureau of Conveyances as Condominium Map No. 100-3 ("said Condo Map");

NOW, THEREFORE, in order to create a condominium project consisting of said land and improvements (herein called the "Project") and to be known as

"THE HEIGHTS AT WAILUNA, INCREMENT 3"

the Lessor, Sublessor and Developer hereby submit said land described in EXHIBIT "A" and improvements thereon to the Horizontal Property Regime established by the Horizontal Property Act, Chapter 514A, Hawaii Revised Statutes, as amended (herein called "the Act"), and in furtherance thereof make the hereinafter stated declarations as to divisions, limitations, restrictions, covenants and conditions and hereby declare and agree that said property is held and shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied and improved subject to said declarations, which declarations shall constitute covenants running with the land and shall be binding on and be for the benefit of the parties hereto, their respective successors and assigns, and all subsequent owners and lessees of all or any part of the Project and their respective successors, heirs, personal representatives and assigns:

1. Apartments. There are hereby established thirty (30) freehold estates (herein called "apartments") consisting of thirty (30) separate dwelling units numbers "1" through "30", as shown in Column 1 of EXHIBIT "B" attached hereto and made a part hereof, each located within and situated upon certain specific delineated land areas shown on said Condo Map. (NOTE: the exact location of the dwelling unit can vary somewhat from that shown on the Condo Map.) Each apartment consists of all improvements comprising the dwelling unit within each of said land areas, and said apartment further consists of all other improvements within each of said land areas that do not service any other apartment.

(1.1) The various separate land areas numbered "1" through "30" as shown on said Condo Map are limited common elements, and each of the apartments has appurtenant thereto as a limited common element the land area having the same number as said apartment.

(1.2) The dwelling units are of double wall wood frame construction on concrete slab with a composition roof, and are principally constructed of wood, interior drywall partitions, exterior masonite siding, glass, aluminum and appropriate trim. There are no basements.

(1.3) There are five types of dwelling units shown on said Condo Map. These five types of dwelling units are designated by 1, 4, 5, 7 or 7M, and the type of dwelling unit comprising each apartment is set forth on EXHIBIT "B" attached hereto and made a part hereof.

(1.4) The number of rooms and stories of each type of dwelling unit is set forth below:

	<u>1</u>	<u>4</u>	<u>5</u>	<u>7</u>	<u>7M</u>
Number of Rooms	7	9	8	8	8
Number of Stories	1	2	2	2	2

(1.5) The approximate net living area of each type of dwelling unit consisting of the enclosed portion of the dwelling unit measured from the interior surface of the dwelling unit perimeter walls and the garage is set forth below in square feet:

	<u>1</u>	<u>4</u>	<u>5</u>	<u>7</u>	<u>7M</u>
Net living area:	1,135	1,448	1,302	1,344	1,344
Garage:	<u>435</u>	<u>423</u>	<u>467</u>	<u>415</u>	<u>415</u>
TOTAL	<u>1,570</u>	<u>1,871</u>	<u>1,769</u>	<u>1,759</u>	<u>1,759</u>

(1.6) Each of the apartments has immediate access to driveways on the grounds of the Project and to a public street.

2. Common Elements. One freehold estate is hereby designated in all of the remaining portions and appurtenances of the Project, herein called the "common elements", including specifically, but not limited to:

(2.1) The land described in EXHIBIT "A" in fee simple;

(2.2) All yards, grounds and landscaping, loading zone, roads, the sidewalks within the road areas, walls, fences, and driveways. (NOTE: all the foregoing is as shown on said Condo Map except for the landscaping. The fences and walls and also the sidewalks within the road that are common elements are shown on the Site Plan which is a part of said Condo Map. The location of the fences and the walls may vary somewhat from location shown on the Condo Map);

(2.3) All ducts, electrical equipment, wiring, pipes and other central and appurtenant transmission facilities, installations over, under and across the land of the project which serve more than one apartment for services such as power, light, water, gas, drainage, sewer, telephone and radio and television signal distribution (NOTE: There are conduits within the Condo lots that are common elements, and there are conduits and a low voltage power source in the utility closets within the garage of each apartment that are also common elements); and

(2.4) The following easement areas that affect and are within the following separate land areas, as shown on said Condo Map:

<u>EASEMENT AREAS</u>	<u>SEPARATE LAND AREAS</u>
A	9
A-1	8 and 9

(2.5) The rain gutters and downspouts on the roof of each apartment adjacent to the common boundary line and the water drainage patterns on the surface of each condo lot; and

(2.6) Any and all apparatus and installations of common use and all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

3. Limited Common Elements. Certain parts of the common elements, herein called and designated "limited common elements", are hereby set aside and reserved for the exclusive use of certain apartments and such apartments shall have appurtenant thereto exclusive easements for the use of such limited common elements. The limited common elements so set aside and reserved are as follows:

(3.1) The various separate land areas numbered "1" through "30" as shown on said Condo Map are limited common elements. Each of the apartments has appurtenant thereto as a limited common element the land area having the same number as said apartment. (NOTE: The limited common area designated as land areas "1" through "30" are sometimes herein referred to as a Condo lot. The square footage of a Condo lot may vary somewhat from that shown on the Condo map.)

(3.2) The driveway extending from the road within the project to the garage of each dwelling unit is a limited common element on said apartment.

(3.3) All other common elements of the Project which are rationally related to less than all of said apartments shall be limited to the use of such apartments.

All limited common elements, costs and expenses, including but not limited to, maintenance, repair, replacement, additions and improvements, shall be charged to the owner of the apartment to which the limited common elements are appurtenant, and all such charges shall be collected in the same manner as common expenses and the Association shall have a lien against apartments for any unpaid charges in accordance with paragraph 9 of this Declaration.

4. Other Easements. In addition to the exclusive easements established in the limited common elements, the apartments shall also have and be subject to the following easements and license:

(4.1) Each apartment shall have appurtenant thereto nonexclusive easements in the common elements designed for such purpose for ingress to, egress from, utility services for and support and repair of such apartment; in the other common elements for use according to their respective purposes, subject always to the exclusive or limited use of the limited common elements as herein provided, and in all of the common elements for support.

Note: It will be necessary to enter each Condo lot adjoining each apartment for the repair and maintenance of the dwelling unit.

(4.2) If any part of the common elements now or hereafter encroaches upon any apartment or limited common elements, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall and does exist. In the event any buildings of the Project shall be partially or totally destroyed and then rebuilt, minor encroachments of any parts of the common elements due to construction shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist.

(4.3) Each apartment and all limited common elements shall be subject to an easement in favor of the owners of all other apartments for access to any common elements located within or adjoining such apartment or limited common element.

5. Common Interest. Each of the apartments has appurtenant thereto the undivided percentage interest in all the common elements of the Project as shown in EXHIBIT "B", such interest being defined and referred to herein as the "common interest" and the same proportionate share in all common profits and expenses of the Project and for all other purposes, including voting.

6. Purposes and Restrictions. The purposes for which said buildings and other improvements and each of the

apartments are intended and shall be restricted as to use are as follows:

(6.1) The common interest and easements appurtenant to each apartment shall have a permanent character, shall not be altered without the consent of all owners of apartments affected thereby and Lessor as expressed in an amendment to this Declaration duly recorded, and shall not be separated from such apartment and shall be deemed to be conveyed or encumbered with such apartment even though not expressly mentioned or described in the conveyance or other instrument.

(6.2) The common elements shall remain undivided, and no right shall exist to partition or divide any part thereof except as provided by said Horizontal Property Act.

(6.3) The apartments shall be occupied and used only for residential purposes and no apartment shall be used as a tenement or rooming house or for or in connection with the carrying on of any business, trade or profession whatsoever. The apartments shall not be rented for transient or hotel purposes, which are defined as: (1) rental for any period less than thirty (30) days; or (2) any rental in which the occupants of the apartments are provided customary hotel services such as room service for food and beverages, maid service, laundry and linen or bellboy service. The apartments in the Project or any interest therein shall not be sold, transferred, conveyed, leased, occupied, rented or used for or in connection with any time-sharing purpose or under any time-sharing plan, arrangement or program, including without limitation any so-called "vacation license", "travel club membership" or "time interval ownership" arrangement. The term "time-sharing" as used herein shall be deemed to include, but is not limited to, any plan, program or arrangement under which the right to use, occupy, own or possess an apartment or apartments in the Project rotates among various persons on a periodically recurring basis according to a fixed or floating interval or period of time, whether by way of deed, lease, association or club membership, license, rental or use agreement, co-tenancy agreement, partnership or otherwise. Except for the foregoing, the owners of the apartments shall have the absolute right to lease such apartments.

(6.4) The owner of each apartment upon acquiring title thereto automatically shall become a member of the Association of Apartment Owners, herein called the "Association", and shall remain a member thereof until such time as his ownership of such apartment ceases for any reason, at which time his membership in the Association automatically shall cease; provided, however, that if and to the extent a lease of any apartment filed with the Board of Directors of the Association so provides, the lessee of such apartment shall be deemed to be the owner thereof.

7. Administration. Administration of the Project shall be vested in the Association, consisting of all apartment owners of the Project in accordance with the By-Laws of the Association (the "Bylaws") to be recorded contemporaneously herewith. Operation of the Project and maintenance, repair, replacement and restoration of the common elements, and any additions and alterations thereto, shall be in accordance with the provisions of said Horizontal Property Act, this Declaration

provided that thirty (30) days' prior written notice of intention to foreclose shall be mailed, postage prepaid, to the Lessor and all other persons having any interest in such apartment as shown in the Association's record of ownership.

(9.2) Notwithstanding any of the other terms and conditions contained herein, all limited common elements, costs and expenses, including but not limited to, maintenance, repair, replacement, additions and improvements, shall be charged to the owner of the apartment to which the limited common elements are appurtenant, and all such charges shall be collected in the same manner as common expenses and the Association shall have a lien against apartments for any unpaid charges in accordance with paragraph 9 of this Declaration.

(9.3) No apartment owner may exempt himself from liability for his contribution toward the common expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of his apartment.

(9.4) All sums chargeable as common expenses to any apartment but unpaid shall constitute a lien on such apartment prior to all other liens, except only (1) liens for taxes and assessments lawfully imposed by governmental authority against such apartment, and (2) liens for sums unpaid on mortgages of record. Such lien may be foreclosed by suit by the Association or the Managing Agent on its behalf, in like manner as a mortgage of real property, provided that thirty (30) days' prior written notice of intention to foreclose shall be mailed by registered mail to Lessor, mortgagees of record, and all other persons having any interest in such apartment as shown by the Association's records. The Managing Agent, acting on behalf of the Association and as directed by the Board of Directors, shall be entitled to bid on such apartment at foreclosure sale and to acquire, hold, lease, mortgage, and convey such apartment. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing such expenses.

(9.5) When the mortgagee of a mortgage of record or other purchaser of any apartment acquires title to such apartment as a result of a forfeiture or as a result of foreclosure of the mortgage, they and their respective heirs, successors, legal representatives and assigns shall not be liable for the share of the common expenses or assessments chargeable to such apartment which became due prior to such acquisition of title. Such unpaid share shall be deemed common expenses collectible from all apartment owners, including such mortgagee or such other purchaser and their respective heirs, successors, legal representatives, and assigns.

10. Compliance With Declaration and By-Laws. All apartment owners, their tenants, families, servants and guests, and any other persons who may in any manner use the Project, shall be bound by and comply strictly with the provisions of this Declaration, the By-Laws of the Association, and all agreements, decisions and determinations of the Association as lawfully made or amended from time to time, and failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief, or both, maintainable by the Board or Managing Agent on behalf of the

Association or, in a proper case, by any aggrieved apartment owners.

11. Insurance - Casualty, Liability and Other.

(11.1) The Board, on behalf of the Association at its common expense, shall purchase and at all times keep all buildings, improvements and fixtures of this Project, including the common elements and, whether or not part of the common elements, all exterior and interior walls, floors and ceilings, in accordance with the as-built condominium plans and specifications, insured against loss or damage by fire and such other hazards with extended coverage (including flood insurance under the provisions of the federal Flood Disaster Protection Act, if the property is located in an identified flood hazard area as designated by the federal Department of Housing and Urban Development) in an insurance company authorized to do business in Hawaii in an amount sufficient to provide for the full repair or full replacement thereof without deduction for depreciation in the event of such loss of apartments and appurtenant common interests. Exterior glass may be insured at the option of the Board. The insurance shall be in the name of the Association and naming Lessor as additional assured, and payable in case of loss to such bank or trust company authorized to do business in Hawaii as the Board shall designate for the custody and disposition as herein provided of all proceeds of such insurance, and from time to time cause to be deposited promptly with the Lessor true copies of such insurance policies or current certificates thereof, without prejudice to the right of each apartment owner to insure his apartment for his own benefit. Except as otherwise provided for herein or by the Act, in every case of such loss or damage, all insurance proceeds shall be used as soon as reasonably possible by the Association for rebuilding, repairing or otherwise reinstating the same buildings in a good and substantial manner according to the original plan and elevation thereof or such modified plans conforming to laws and ordinances then in effect as shall be first approved as herein provided. If the destruction is to an apartment, the owner of the apartment shall be required to make up any deficiency in the insurance proceeds, and if the destruction is of a common element the Association at its common expense shall make up any deficiency in the insurance proceeds. Every such policy of insurance shall, if available at reasonable rates:

(1) Provide that the liability of the insurer thereunder shall not be affected by, and that the insurer shall not claim any right of setoff, counterclaim, apportionment, proration, or contribution by reason of any other insurance obtained by or for any apartment owner;

(2) Contain no provision relieving the insurer from liability for loss occurring while the hazard to such buildings is increased, whether or not within the knowledge or control of the Board, or because of any breach of warranty or condition or any other act or neglect by the Board or any apartment owner or any other persons under either of them;

(3) Provide that such policy may not be cancelled (whether or not requested by the Board) except by

the insurer giving at least sixty (60) days' prior written notice thereof to the Board, Lessor, any mortgagee, and every other person in interest who shall have requested such notice of the insurer;

(4) Contain a waiver by the insurer of any right of subrogation to any right of the Board, Lessor or apartment owners against any of them or any other persons under them;

(5) Contain a waiver by the insurer of any right to deny liability because of vacancy of any apartment or apartments;

(6) Contain a provision requiring the insurance carrier, at the inception of the policy and on each anniversary date thereof, to provide the Board of Directors with a written summary in layman's terms of the policy. The summary shall include the type of policy, a description of the coverage and limits thereof, amount of annual premium, and renewal dates. The Board shall provide this information to each apartment owner.

(7) Contain a standard mortgage clause which shall:

(a) provide that any reference to a mortgagee in such policy shall mean and include all holders of mortgages of any apartment or apartment lease of the Project, in their respective order and preference, whether or not named therein;

(b) provide that such insurance as to the interest of any mortgagee shall not be invalidated by any act or neglect of the Board, Lessor, or apartment owners or any persons under any of them;

(c) waive any provision invalidating such mortgagee clause by reason of the failure of any mortgagee to notify the insurer of any hazardous use or vacancy, any requirement that the mortgagee pay any premium thereon, any contribution clause; and

(d) provide that, without affecting any protection afforded by such mortgagee clause, any proceeds payable under such policy shall be payable to said bank or trust company designated by the Board.

(11.2) In the event the Act should hereafter be amended to provide that the Association is not required to provide the insurance coverage set forth in paragraph (11.1) immediately above and the Act requires or permits the individual apartment owners to obtain on their individual dwelling units the insurance coverage required thereon by the provisions of paragraph (11.1) immediately above, then and notwithstanding any of the provisions of this Declaration or the By-Laws, the Board of Directors, with the prior written approval of the Lessor, may require that the individual apartment owners obtain and pay all premiums for said insurance coverage on their individual apartments.

(11.3) The Board, on behalf of the Association at its common expense, shall also effect and maintain at all times comprehensive general liability insurance covering all apartment owners with respect to the Project and naming the Lessor as additional insured in a responsible insurance company authorized to do business in Hawaii with minimum limits of not less than \$1,000,000.00 for injury to one or more persons in any one accident or occurrence and \$300,000.00 for property damage, or such higher limits as the Lessor may from time to time establish with due regard to then prevailing prudent business practice in the State of Hawaii as reasonably adequate for Lessor's protection, and from time to time upon receipt thereof deposit promptly with the Lessor current certificates of such insurance, without prejudice to the right of any apartment owners to maintain additional liability insurance for their respective apartments.

(11.4) The Board may obtain other insurance coverage that it deems necessary or desirable.

(11.5) The Board shall review not less frequently than annually the adequacy of its insurance program and shall report in writing the Board's conclusions and any action taken on such review to the owner of each apartment and to the holder of any mortgage on any apartment who shall have requested a copy of such report.

12. Condemnation. In case at any time or times the Project or any part thereof shall be taken or condemned by any authority having the power of eminent domain, or shall be sold to such authority under threat of condemnation, all compensation and damages for or on account of any land shall be payable to and be the sole property of Lessor, and all compensation and damages for or on account of any improvements of the Project shall be payable to such bank or trust company (the "Condemnation Trustee") authorized to do business in Hawaii as the Board shall designate as trustee for all apartment owners and mortgagees according to the loss or damage to their respective apartments and appurtenant common interests.

In the event all or any of the apartments are taken and there is no final judicial determination of the amount of condemnation proceeds allocable to each apartment so taken, the amount of the condemnation proceeds allocable to each apartment (including the apartment's appurtenant interest in the common elements exclusive of the land) shall be determined by a real estate appraiser ("appraiser") who shall be a member of the American Institute of Real Estate Appraisers, or any successor organization and who shall have acted on behalf of the apartment owners in the condemnation proceedings; or, if no such appraiser shall have acted on behalf of the apartment owners or if more than one appraiser shall have acted on behalf of the apartment owners, then an appraiser with such qualifications shall be selected by the Board to determine the amount of condemnation proceeds allocable to each apartment.

If the entire Project is taken, the Condemnation Trustee shall pay to each apartment owner and mortgagee, as their interests may appear, the portion of the condemnation proceeds determined in the above manner.

In the event of a partial taking of the Project in which (i) any apartment is physically eliminated, or (ii) a portion thereof is eliminated and the remaining portion cannot be repaired or rebuilt in a manner satisfactory to the owner of the apartment, the Board and to the Lessor, then such apartment shall be removed from the Project and the Condemnation Trustee shall disburse to the owner and any mortgagee of such apartment, as their interests may appear, in full satisfaction of their interests in the apartment, the portion of the proceeds of such award allocable to such eliminated or removed apartment after deducting the proportionate share of such apartment in the cost of debris removal, and the apartment owners shall amend this declaration to reflect the removal of said apartment(s) and the appropriate adjustment in the ownership of the common elements.

In the event of any partial taking of any of the common elements of the Project, the Board shall arrange for any necessary repair and restoration of the improvements remaining after the taking in accordance with the design thereof immediately prior to such condemnation or, if repair and restoration in accordance with such design are not permissible under applicable laws and regulations then in force, in accordance with such modified plan as shall be first approved by the Lessor, the Board, and the mortgagee of record of each apartment in the Project remaining after such taking. If the sums held by the Condemnation Trustee are insufficient to pay the cost for such repair and restoration, the Board shall pay such excess as a common expense, and if necessary shall bring a special assessment against the apartment owners.

If the sums received as a result of a partial condemnation exceed the total of any amounts payable to the owner and any mortgagee of a removed apartment and the amount of costs for debris removal and for repair and restoration of the remaining buildings and improvements, such excess shall be divided among the apartment owners including the owners of any eliminated apartments in accordance with their interest in the common elements prior to the condemnation.

Unless restoration or replacement is undertaken within a reasonable time after such taking, condemnation or sale, the Association at its common expense shall remove all remains of such improvements on the remaining land and restore the site thereof to good orderly condition and even grade.

13. Insured Casualty and Uninsured Casualty.

(13.1) Insured Casualty. In case at any time or times any improvements of the Project shall be damaged or destroyed by any casualty herein required to be insured against, such improvements shall be rebuilt, repaired or restored unless (a) 80% or more of the apartments and (b) apartments to which are appurtenant 80% or more of the common interest shall vote against rebuilding, repairing or otherwise reinstating the buildings as aforesaid, which vote shall be taken at a meeting of the Association held prior to commencement of the rebuilding, repair or other reinstatement of the buildings and within 90 days after such loss or damage or such later date which is within 30 days after the insurance loss has been finally adjusted, and Lessor and all mortgagees shall consent thereto

in writing, then and in such event the provisions of Section 514A-21 shall apply and the Association, within a reasonable time thereafter, at its common expense, shall remove all remains of improvements so damaged or destroyed and restore the site thereof to good orderly condition and grade. Any such restoration of the common elements shall be completed diligently by the Association at its common expense and the apartment owners shall be solely responsible for any restoration of their respective apartments so damaged or destroyed, according to the original plans and elevation thereof, or such other plan first approved as provided herein.

(13.2) Uninsured Casualty. In case at any time or times any improvements of the Project shall be damaged or destroyed by any casualty not herein required to be insured against, such improvements shall be rebuilt, repaired or restored unless seventy-five percent (75%) of the apartment owners vote against such rebuilding, repairing or restoration. Any such approved restoration of the common elements shall be completed diligently by the Association at its common expense and the apartment owners shall be solely responsible for any restoration of their respective apartments so damaged or destroyed, according to the original plans and elevation thereof, or such other plan first approved as provided herein. Unless such restoration is undertaken within a reasonable time after such casualty, the Association at its common expense shall remove all remains of improvements so damaged or destroyed and restore the site thereof to good orderly condition and even grade.

14. Alteration of Project. Restoration or replacement of the Project or of any building, or construction of any additional building or structural alteration or addition to any structure, different in any material respect from said Condominium Map of the Project, shall be undertaken by the Association or any apartment owners only pursuant to an amendment of this Declaration, duly executed by or pursuant to the affirmative vote of seventy-five percent (75%) of the apartment owners and accompanied by the written consent of the holders of all liens affecting said apartments, and in accordance with complete plans and specifications therefor first approved in writing by Lessor and the Board, and promptly upon completion of such restoration, replacement or construction, the Association shall duly record or file of record such amendment together with a complete set of floor plans of the Project as so altered, certified as built by a registered architect or professional engineer, provided, however, that any alterations or additions within an apartment or within a limited common element appurtenant to and for the exclusive use of such apartment shall require only the prior written approval of the Lessor and the Board, and may be undertaken without an amendment to this Declaration or filing of a set of floor plans of the Project as so altered.

15. Merger of Increments.

(15.1) One or more condominium projects, whether or not adjacent to the Project, but which are part of the same incremental plan of development and in the same vicinity, may be merged together with the Project from time to time so as to permit the joint use of the common elements of the projects by

all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for sharing of the common expenses of the projects among all the owners of the apartments in the merged projects. Any such merger or mergers does not require the approval of the apartment owners, and shall be effective upon approval by the Board and the Lessor and the Developer and upon execution of the merger documents by two (2) officers of the Project and the Lessor and the Developer and recordation of same in the Bureau of Conveyances.

(15.2) Notwithstanding any provision to the contrary herein contained, Developer expressly reserves the right without the consent or joinder of persons then owning or leasing apartments in the Project to merge this Project with the two condominium project known as "The Heights at Wailuna, Increment 1", established by Declaration of Horizontal Property Regime dated September 17, 1985, recorded in said Bureau of Conveyances in Liber 18981 at Page 660, and known as "The Heights at Wailuna, Increment 2", established by Declaration of Horizontal Property Regime dated January 27, 1986 and recorded in said Bureau of Conveyances in Liber 19285 at Page 693, to permit the joint use of the common elements of the merged projects by all the apartment owners of the projects.

(15.3) Each and every conveyance, lease and mortgage or other lien given for or on any apartment created by this Declaration and all common interests and other appurtenances thereto shall be subject to the merger provisions herein set forth, even though not expressly mentioned in such conveyance or other instrument.

16. Maintenance Reserve Fund. The Board of Directors of the Association shall establish and maintain a Maintenance Reserve Fund by the monthly assessment against and payment by all the apartment owners in proportion to their respective common interests, of such annual amount as the Board determines to be adequate to provide for the common utilities, insurance, maintenance, repair, restoration, and replacement of the common elements and other expenses of administration of the Project, and the furniture, fixtures, and mechanical equipment thereof, and for such other purposes as the Board deems necessary, all of which shall be deemed conclusively to be a common expense of the Project. The Board may include reserves for contingencies in such assessment, and such assessment may from time to time be increased or decreased at the discretion of the Board. The amount of the common expenses allocated, used or to be used for capital improvements, or any other capital expenditure, shall not be deemed income to the Association but shall be credited upon the books of the Association to the paid-in-surplus account as a capital contribution by the apartment owner. The proportionate interest of each apartment owner in said Fund shall not be withdrawn or assigned separately but shall be deemed to be transferred with such apartment even though not mentioned or described expressly in the instrument of transfer. If the Horizontal Property Regime established hereby is terminated or waived, said Fund remaining after full payment of all common expenses of the Association shall be distributed to all apartment owners, except for the owners of apartments

reconstituted as a new Horizontal Property Regime, in proportion to their respective common interest.

17. Amendment of Declaration. Except as otherwise provided herein or in said Horizontal Property Act, this Declaration may be amended by affirmative vote or written consent of seventy-five percent (75%) of the apartment owners and the written consent of Lessor and shall be effective only upon the recording of an instrument setting forth such amendment and vote duly executed by such owners or by any two officers of the Association, provided, however, that the Lessor and Developer expressly reserves the right to successively amend this Declaration without the consent or joinder of persons then owning or leasing the apartments by filing amendment(s) to this Declaration pursuant to the provisions of Section 514A-12, Hawaii Revised Statutes, after completion of the buildings described herein, by attaching to such amendment(s) the proper verified statement of a registered architect or professional engineer certifying that the final plans theretofore filed or being filed simultaneously with such amendment fully and accurately depict the layout, location, apartment numbers and dimensions of the apartments as built.

18. Definitions. The terms "majority" or "majority of apartment owners" herein mean the owners of apartments to which are appurtenant more than fifty percent (50%) of the common interests, and any specified percentage of the apartment owners means the owners of apartments to which are appurtenant such percentage of the common interest.

19. Invalidity. The invalidity of any provision of this Declaration shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such provision had never been included herein.

20. Wailuna Recreation Association. Each residential apartment owner of this Project is a member of Wailuna Recreation Association, a Hawaii nonprofit corporation, and each residential apartment owner shall remain a member thereof until such time as his ownership of such apartment ceases for any reason, at which time his membership in said corporation shall automatically cease. Such membership shall be appurtenant to and may not be separate from ownership of a residential apartment and shall be deemed to be conveyed or encumbered with such apartment even though such membership is not expressly mentioned or described in the conveyance or other instrument.

21. Disclosures and Reservations. Notwithstanding any of the other terms and conditions of this Declaration or the By-Laws, Developer may use any and all apartments for sales purposes, and Developer hereby discloses that Developer intends on constructing and selling additional housing on lands adjoining the Project, and that the construction activity of Developer shall continue on the site of the Project and on adjacent land after apartment owners occupy their apartments and that this activity may result in noise, dust or other annoyances to the apartment owners, and Developer further hereby makes the following disclosures and reservations:

(a) Developer reserves the right for itself and its employees, subcontractors, vendors and suppliers to use the common elements for access to construction areas within the Project and on adjacent land;

(b) Developer reserves the right to conduct sales activities, including the use of model dwelling units, signs and extensive sales displays and activities in the Project until Developer ceases development of additional housing in the vicinity of the Project; and

(c) Developer reserves the right for itself, its sales representatives and prospective purchasers to utilize the common elements for ingress and egress to unsold apartments within the Project and within land areas in the vicinity of the Project in order to show apartments to prospective buyers.

All the rights hereinabove reserved unto the Developer in this Section 21 shall terminate and end on December 31, 1991, unless extended in writing by the Lessor.

This Section 21 cannot be amended without the Developer's prior written consent.

IN WITNESS WHEREOF, the Lessor, Sublessor and Developer have executed these presents this 19th day of April, 1986.

Dyren R. Thompson

LEAR SIEGLER, INC.

William F. Richards

By

Henry T. Glass
Its Vice President

Richard Lynn J.
Trustees of the Estate of
Bernice Pauahi Bishop

LEAR SIEGLER PROPERTIES, INC.

"Lessor"

By Henry T. Glass
Its Vice President

"Sublessor"

THE LISK COMPANY

By Ernest A. Harris
Its Vice President

"Developer"

APPROVED AS TO FORM
CONTENTS AND AUTHORIZATION

Donald M. Allen
Documentary Department

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 10th day of April, 1986, before me appeared HENRY F. ALVES, to me personally known, who, being by me duly sworn, did say that he is the Vice President of LEAR SIEGLER PROPERTIES, INC., a Delaware corporation authorized to do business in Hawaii; and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and the said HENRY F. ALVES acknowledged said instrument to be the free act and deed of said corporation.

Carol A. Cho
Notary Public, State of Hawaii

My Commission Expires: NOVEMBER 20, 1984

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 17th day of April, 1988, before me appeared ERNEST A. HARRIS, to me personally known, who, being by me duly sworn, did say that he is Vice President of THE LUSK COMPANY, a California corporation authorized to do business in the State of Hawaii, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and the said ERNEST A. HARRIS acknowledged said instrument to be the free act and deed of said corporation.

Mary R. Rush
Notary Public, State of Hawaii

My Commission Expires: 10-12-87

AD

THE HEIGHTS AT WAILUNA, INCREMENT 3

WAILUNA

LOT IID

LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,

Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Southeast corner of this parcel of land, on the Northwesterly side of Kaahumanu Street, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 6723.35 feet North and 11,536.62 feet East and running by azimuths measured clockwise from true South:

1. Along the Northwest side of Kaahumanu Street, on a curve to the left with a radius of 2030.00 feet, the chord azimuth and distance being 55° 06' 30" 155.97 feet;
2. 142° 40' 80.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
3. 120° 00' 68.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
4. 111° 06' 100.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
5. 95° 10' 80.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
6. 185° 10' 95.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;

EXHIBIT "A"

7. 95° 10' 442.53 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
8. 203° 18' 30" 227.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
9. 137° 43' 30" 94.04 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
10. Thence along Waimano Home, Executive Order No. 1020, following up
along the middle of Waiau Stream,
the direct azimuth and distance
being 193° 14' 401.85 feet;
11. 292° 20' 30" 601.93 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
12. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 140.00 feet,
the chord azimuth and distance
being 263° 41' 09" 134.27 feet;
13. 337° 45' 151.74 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
14. 67° 45' 62.14 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
15. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
right with a radius of 185.00
feet, the chord azimuth and
distance being 79° 37' 15"
76.11 feet;
16. 1° 29' 30" 30.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
17. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
right with a radius of 215.00
feet, the chord azimuth and
distance being 97° 07' 15"
42.18 feet;
18. 102° 45' 132.18 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;

19. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 75.00 feet, the chord azimuth and distance being 57° 27' 30" 106.60 feet;
20. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 185.00 feet, the chord azimuth and distance being 359° 12' 30" 82.97 feet;
21. 346° 15' 32.32 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
22. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 185.00 feet, the chord azimuth and distance being 320° 07' 30" 162.92 feet;
23. 294° 00' 156.58 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
24. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 215.00 feet, the chord azimuth and distance being 310° 07' 30" 119.43 feet;
25. 326° 15' 36.79 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, to the point of beginning and containing an area of 8.929 Acres.

TOGETHER WITH Easement 2 for roadway and utility purposes
described as follows:

THIRTY (30.00) FEET WIDE FOR ROADWAY AND UTILITY PURPOSES

Being a portion of Royal Patent 4475,
Land Commission Award 7713, Apana 35 to V. Kamamalu

1. 160° 00' 101.32 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
2. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 185.00 feet,
the chord azimuth and distance
being 133° 33' 30" 164.76 feet;
3. 107° 07' 161.87 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
4. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 185.00 feet,
the chord azimuth and distance
being 87° 26' 124.62 feet;
5. 67° 45' 103.14 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;

6. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 215.00 feet, the chord azimuth and distance being $79^{\circ} 37' 15''$ 88.45 feet;
7. $181^{\circ} 29' 30''$ 30.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
8. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 185.00 feet, the chord azimuth and distance being $259^{\circ} 37' 15''$ 76.11 feet;
9. $247^{\circ} 45'$ 103.14 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
10. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 215.00 feet, the chord azimuth and distance being $267^{\circ} 26'$ 144.83 feet;
11. $287^{\circ} 07'$ 161.87 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
12. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 215.00 feet, the chord azimuth and distance being $313^{\circ} 33' 30''$ 191.47 feet;
13. $340^{\circ} 00'$ 101.32 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
14. $70^{\circ} 00'$ 30.00 feet along the Northwesterly side of Kaahumanu Street, to the point of beginning and containing an area of 23,137 Square Feet.

SUBJECT, HOWEVER, to Easement 1 for roadway and utility purposes and Easement 7 for access purposes, described as follows:

EASEMENT 1

FOR ROADWAY AND UTILITY PURPOSES

LAND SITUATED AT WAI'IAU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,
Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Southeast corner of this easement, on the Northwestern side of Kaahumanu Street, the coordinates of which referred to Government Survey Triangulation Station "EWA CHURCH" being 6723.35 feet North and 11,536.62 feet East and running by azimuths measured clockwise from true South:

1. Along the Northwestern side of Kaahumanu Street, on a curve to the left with a radius of 2030.00 feet, the chord azimuth and distance being $56^{\circ} 53' 12''$ 30.00 feet;
2. $146^{\circ} 15'$ 36.46 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
3. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 185.00 feet, the chord azimuth and distance being $130^{\circ} 07' 30''$ 102.76 feet;
4. $114^{\circ} 00'$ 156.58 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;

5. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 215.00 feet, the chord azimuth and distance being 140° 07' 30" 189.34 feet;
6. 166° 15' 32.32 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
7. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 215.00 feet, the chord azimuth and distance being 179° 12' 30" 96.42 feet;
8. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 105.00 feet, the chord azimuth and distance being 204° 24' 20" 44.52 feet;
9. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 25.00 feet, the chord azimuth and distance being 191° 41' 54" 21.09 feet;
10. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 25.00 feet, the chord azimuth and distance being 182° 00' 04" 13.15 feet;
11. 197° 15' 103.34 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
12. 287° 15' 20.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
13. 17° 15' 68.70 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
14. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 10.00 feet, the chord azimuth and distance being 336° 21' 24" 13.09 feet;

15. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 25.00 feet, the chord azimuth and distance being 302° 21' 32" 6.00 feet;
16. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 25.00 feet, the chord azimuth and distance being 284° 18' 30" 21.09 feet;
17. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 105.00 feet, the chord azimuth and distance being 271° 03' 22" 42.56 feet;
18. 282° 45' 132.18 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
19. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 185.00 feet, the chord azimuth and distance being 277° 07' 15" 36.29 feet;
20. 1° 29' 30" 30.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
21. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the right with a radius of 215.00 feet, the chord azimuth and distance being 97° 07' 15" 42.18 feet;
22. 102° 45' 132.18 feet along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu;
23. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 75.00 feet, the chord azimuth and distance being 57° 27' 30" 106.60 feet;
24. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to V. Kamamalu, on a curve to the left with a radius of 185.00 feet, the chord azimuth and distance being 359° 12' 30" 82.97 feet;

25. 346° 15' 32.32 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
26. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
left with a radius of 185.00 feet,
the chord azimuth and distance
being 320° 07' 30" 162.92 feet;
27. 294° 00' 156.58 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
28. Thence along remainder of R. P. 4475, L. C. Aw. 7713, Apana 35 to
V. Kamamalu, on a curve to the
right with a radius of 215.00
feet, the chord azimuth and
distance being 310° 07' 30"
119.43 feet;
29. 326° 15' 36.79 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu, to the point of
beginning and containing an area
of 30,554 Square Feet.

EASEMENT 7

FOR ACCESS PURPOSES

LAND SITUATED AT WAI'AU, EWA, OAHU, HAWAII

Being a portion of Royal Patent 4475,

Land Commission Award 7713, Apana 35 to V. Kamamalu

Beginning at the Southwest corner of this easement, the
coordinates of which referred to Government Survey Triangulation
Station "EWA CHURCH" being 7313.33 feet North and 11,192.99 feet East
and running by azimuths measured clockwise from true South:

1. 197° 15' 50.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;

2. 297° 44' 20.34 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
3. 17° 15' 46.30 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu;
4. 107° 15' 20.00 feet along remainder of R. P. 4475,
L. C. Aw. 7713, Apana 35 to
V. Kamamalu, to the point of
beginning and containing an area
of 963 Square Feet.

SUBJECT FURTHER, HOWEVER, to the following:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.

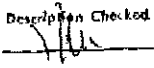
2. Agreement for Issuance of Special Use Permit under Section 21-2.71 of the Comprehensive Zoning Code of the City and County of Honolulu (Am. Ord. 3234) dated December 17, 1981, recorded in Liber 16210 at Page 16, by the Trustees of the Estate of Bernice Pauahi Bishop, "Declarant", as amended by instruments dated June 15, 1982, recorded in Liber 16546 at Page 182, and dated June 15, 1982, recorded in Liber 16609 at Page 600.

3. Declaration of Covenants, Conditions and Restrictions for the Wailuna Recreation Association, dated February 9, 1979, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 14026, page 566, as heretofore amended and as may hereafter be amended from time to time; and

SUBJECT ALSO, to, and excepting and reserving all rights-of-way and easements shown on the map (if any) attached hereto or shown on said Condominium Map or heretofore or hereafter granted, leased or required by Lessor to construct, install, operate, maintain, repair and

replace lines and other transmission facilities and appurtenances for electricity, gas, telephone, water, sewer, drainage, radio and television signal distribution and other services and utilities over, across and under said easements according to the respective designations thereof, the right to enter for such purposes, and to trim any trees in the way of such lines and the right to grant or lease to any public utility, governmental authority, the Association, State of Hawaii, City and County of Honolulu, Board of Water Supply, or in favor of land in the general vicinity of the land being hereby submitted to the Horizontal Property Regime, or other corporation or entity such easements, rights and rights-of way under the terms and conditions required by the grantee or lessee for such easement rights; provided, however, that such easements, rights and rights-of-way must be exercised in such manner as to not unreasonably interfere with the use of the land being hereby submitted to the Horizontal Property Regime, and in connection with the installation, maintenance or repair of any facilities pursuant to any of said easements, rights and rights-of-way, the premises shall be promptly restored by and at the expense of the person owning and exercising such easement rights to the condition of the premises immediately prior to the exercise thereof.

SUBJECT ALSO, to and excepting and reserving unto adjoining land utility easements and right-of-way easements for vehicular and pedestrian ingress and egress to and from said adjoining land over and across the roadways shown on said Condominium Map.

Description Checked


END OF EXHIBIT "A"

THE HEIGHTS AT WAILUNA, INCREMENT 3
(a Leasehold Condominium)

<u>Apartment Number</u>	<u>Type of Dwelling Unit</u>	<u>Percentage Ownership of Common Elements</u>
1	4	3.3%
2	1	3.3%
3	5	3.3%
4	7	3.3%
5	4	3.3%
6	7	3.3%
7	5	3.3%
8	4	3.3%
9	7M	3.3%
10	5	3.3%
11	1	3.3%
12	5	3.3%
13	7	3.3%
14	5	3.3%
15	1	3.3%
16	5	3.3%
17	7	3.3%
18	5	3.3%
19	7	3.3%
20	1	3.3%
21	4	4.3%
22	7	3.3%
23	5	3.3%
24	7	3.3%
25	5	3.3%
26	7	3.3%
27	1	3.3%
28	4	3.3%
29	5	3.3%
30	7	3.3%
TOTAL		100.00%

Where an "M" is set forth in the middle column entitled "Type of Dwelling Unit" this reflects a modified location of the garage.

RECORDATION REQUESTED BY:

AFTER RECORDATION RETURN TO:

RETURN BY: MAIL ☐ PICKUP ☐

PARTIAL REVOCATION OF DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
AND
THE HEIGHTS AT WAILUNA, INCREMENT 3
AND
DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
THE HEIGHTS AT WAILUNA, INCREMENT 3,
AND
THE HEIGHTS AT WAILUNA, INCREMENT 4

THIS PARTIAL REVOCATION OF DECLARATION OF MERGER FOR THE HEIGHTS AT WAILUNA, INCREMENT 1, THE HEIGHTS AT WAILUNA, INCREMENT 2, AND THE HEIGHTS AT WAILUNA, INCREMENT 3, AND THIS DECLARATION OF MERGER FOR THE HEIGHTS AT WAILUNA, INCREMENT 1, THE HEIGHTS AT WAILUNA, INCREMENT 2, THE HEIGHTS AT WAILUNA, INCREMENT 3, AND THE HEIGHTS AT WAILUNA, INCREMENT 4, executed and entered into this 5th day of May, 1987, by the TRUSTEES OF THE ESTATE OF BERNICE PAUHAH/BISHOP, herein called "Lessor", THE LUSK COMPANY, a California corporation authorized to do business in the State of Hawaii, herein called "Developer", and the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, INCREMENT 1, herein called "The Heights at Wailuna, Increment 1 Association" and the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, INCREMENT 2, herein called "The Heights at Wailuna, Increment 2 Association", and the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHT AT WAILUNA, INCREMENT 3, herein called "The Heights at Wailuna, Increment 3 Association,

WITNESSETH THAT:

WHEREAS, The Heights at Wailuna, Increment 1 is a condominium project established by Declaration of Horizontal Property Regime recorded in the Bureau of Conveyances of the State of Hawaii in Liber 18981, page 617; and

WHEREAS, The Heights at Wailuna, Increment 2 is a condominium project established by Declaration of Horizontal Property Regime recorded in said Bureau in Liber 19285, page 693; and

WHEREAS,, The Heights at Wailuna, Increment 3 is a condominium project established by Declaration of Horizontal Property Regime recorded in said Bureau in Liber 19486, page 487; and

WHEREAS,, The Heights at Wailuna, Increment 4 is a condominium project established by Declaration of Horizontal Property Regime recorded in said Bureau in Liber 19771, page 448; and

WHEREAS, paragraph 15.1 of said Declarations for said The Heights at Wailuna, Increments 1, 2 and 3 read as follows:

(15.1) One or more condominium projects, whether or not adjacent to the Project, but which are part of the same incremental plan of development and in the same vicinity, may be merged together with the Project from time to time so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for sharing of the common expenses of the projects among all the owners of the apartments in the merged projects. Any such merger or mergers does not require the approval of the apartment owners, and shall be effective upon approval by the Board and the Lessor and the Developer and upon execution of the merger documents by two (2) officers of the Project and the Lessor and the Developer and recordation of same in the Bureau of Conveyances.

and

WHEREAS, paragraphs 15.1 and 15.2 of the Declaration of Horizontal Property Regime for The Heights at Wailuna, Increment 4, reads as follows:

(15.1) One or more condominium projects, whether or not adjacent to the Project, but which are part of the same incremental plan of development and in the same vicinity, may be merged together with the Project from time to time so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for sharing of the common expenses of the projects among all the owners of the apartments in the merged projects. Any such merger or mergers does not require the approval of the apartment owners, and shall be effective upon approval by the Board and the Lessor and the Developer and upon execution of the merger documents by two (2) officers of the Project and the Lessor and the Developer and recordation of same in the Bureau of Conveyances.

(15.2) Notwithstanding any provision to the contrary herein contained, Developer expressly reserves the right without the consent or joinder of persons then owning or leasing apartments in the Project to merge this Project with any and all of the following condominium projects to permit the joint use of the common elements of the merged projects by all the apartment owners of the projects:

(i) That certain project known as "The Heights at Wailuna, Increment 1", established by that certain Declaration of Horizontal Property Regime dated September 17, 1985, recorded in said Bureau of Conveyances in Liber 18981, at page 617;

(ii) That certain project known as "The Heights at Wailuna, Increment 2", established by that certain Declaration of Horizontal Property Regime dated January 27, 1986, recorded in said Bureau of Conveyances in Liber 19285 at page 693; and

(iii) That certain project known as "The Heights at Wailuna, Increment 3", established by that certain Declaration of Horizontal Property Regime dated April 17, 1986, recorded in said Bureau of Conveyances in Liber 19486 at page 487; and

WHEREAS, THE HEIGHTS AT WAILUNA, INCREMENT 1, THE HEIGHTS AT WAILUNA, INCREMENT 2, and THE HEIGHTS AT WAILUNA, INCREMENT 3 were merged by that certain Declaration of Merger for The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, and The Heights at Wailuna, Increment 3, dated August 13, 1986, and recorded in said Bureau in Liber 19882, page 311; and

WHEREAS, at a meeting of the Boards of Directors of the Associations of Apartment Owners of The Heights at Wailuna, Increments 1, 2 and 3 held on May 6, 1987, said Boards of Directors did unanimously vote for and approve a merger of The Heights at Wailuna, Increment 4 into and with The Heights at Wailuna, Increments 1, 2 and 3 in accordance with the terms and conditions of this document; and

WHEREAS, pursuant to paragraphs 15.2 of said Declaration of Horizontal Property Regime of The Heights at Wailuna, Increment 4, the Developer reserved the right to merge The Heights at Wailuna, Increment 4 into and with The Heights at Wailuna, Increments 1, 2 and 3; and

WHEREAS, all four projects are adjacent projects which are part of the same incremental plan of development; and

WHEREAS, the merger contemplated hereby is permitted by the Horizontal Property Regimes Act;

PARTIAL REVOCATION OF DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
AND
THE HEIGHTS AT WAILUNA, INCREMENT 3

NOW, THEREFORE, Lessor, Developer and The Heights at Wailuna, Increment 1 Association, The Heights at Wailuna, Increment 2 Association and The Heights at Wailuna, Increment 3 Association do hereby revoke that certain Declaration of Merger for The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2 and The Heights at Wailuna, Increment 3, dated August 13, 1986, and recorded in said Bureau in Liber

19882, page 311, only to the extent that same is in conflict with the Declaration of Merger of The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, The Heights at Wailuna, Increment 3, and The Heights at Wailuna, Increment 4, hereinafter set forth, said partial revocation being effective as of the effective date of the merger herein set forth.

DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
THE HEIGHTS AT WAILUNA, INCREMENT 3,
AND THE HEIGHTS AT WAILUNA, INCREMENT 4

NOW, THEREFORE, pursuant to the aforesaid Declarations of Horizontal Property Regime, Lessor, Developer, and the Boards of Directors of The Heights at Wailuna, Increments 1, 2 and 3 do hereby declare that The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, The Heights at Wailuna, Increment 3, and The Heights at Wailuna, Increment 4 are hereby merged on the following terms and conditions:

1. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 1 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 2, THE HEIGHTS AT WAILUNA, INCREMENT 3, and THE HEIGHTS AT WAILUNA, INCREMENT 4, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 2 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 3, and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 4, as though the four projects had been developed as a single condominium project.

2. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 2 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 1, THE HEIGHTS AT WAILUNA, INCREMENT 3, and THE HEIGHTS AT WAILUNA, INCREMENT 4, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment in THE HEIGHTS AT WAILUNA, INCREMENT 1 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 3, and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 4, as though the four projects had been developed as a single condominium project.

3. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 3 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 1 and THE HEIGHTS AT WAILUNA, INCREMENT 2, and THE HEIGHTS AT WAILUNA, INCREMENT 4, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 1 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 2, and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 4, as though the four projects had been developed as a single condominium project.

4. The owners of apartments in The Heights at Wailuna, Increment 4, shall have nonexclusive rights to use the

common elements in The Heights at Wailuna, Increment 1 and The Heights at Wailuna, Increment 2 and The Heights at Wailuna, Increment 3 to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within The Heights at Wailuna, Increment 1 and upon an owner of an apartment within The Heights at Wailuna, Increment 2 and upon an owner of an apartment within The Heights at Wailuna, Increment 3, as though the four projects had been developed as a single condominium project.

5. THE HEIGHTS AT WAILUNA, INCREMENT 1 shall bear 24.2188 percent, THE HEIGHTS AT WAILUNA, INCREMENT 2 shall bear 24.2188 percent, THE HEIGHTS AT WAILUNA, INCREMENT 3 shall bear 23.4375 percent, and THE HEIGHTS AT WAILUNA, INCREMENT 4 shall bear 28.1249 percent of the total common expenses of the merged project as the term "common expenses" is defined by the Horizontal Property Act, the Declarations of Horizontal Property Regimes, and the Bylaws for each project, treating the projects as a single project, and each individual apartment owner's share of the total common expenses shall be his percentage share of ownership of the common expenses as set forth in the Declaration of Horizontal Property Regimes for said project in which his condominium apartment is located times the percentage allocated in this paragraph 5 to the project in which his apartment is located; Provided, However, notwithstanding the provisions in this paragraph, the apartment owners of each project shall not be assessed for nor shall they have any obligation with respect to the debts, deficits or obligations of the other projects existing prior to this merger.

6. The apartment owners shall be entitled to vote in the same proportion of the total vote as set forth above in paragraph 5 for the sharing of common expenses, and each individual apartment owner's share of the total vote shall be his percentage vote as set forth in the Declaration of Horizontal Property Regime for said project in which his condominium apartment is located times the percentage allocated above in paragraph 5 to the project in which his apartment is located.

7. There shall be one Board of Directors for the merged projects composed of not less than three (3) persons and not more than nine (9) persons. At the annual meeting of the owners of the condominium apartments next following this merger and at all subsequent such meetings, the Board of Directors to be elected shall govern the merged projects pursuant to the terms of the respective Declarations of Horizontal Property Regime and By-Laws. At a special meeting called for the purpose after the merger, the owners may remove the existing Board and elect a Board to govern the merged project until the next annual meeting.

8. Each of the projects shall be treated as part of a single project developed as a whole from the beginning and the respective Declarations of Horizontal Property Regime and By-Laws applicable to each shall be construed as one document applicable to the entire project as merged hereunder except to the extent expressly otherwise provided for therein. It is the purpose hereof to provide that from and after the date of

merger all of the property subject hereto shall be treated as though it had been developed, divided into condominium apartments, held, occupied and used by the owners thereof as a single condominium project.

9. Additional merger or mergers may occur as set forth in the aforesaid Declarations of Horizontal Property Regime and as permitted and allowed by the Horizontal Property Act, and this Declaration of Merger may be amended, modified, cancelled or superseded by any such additional merger or mergers.

10. The projects shall henceforth be known as THE HEIGHTS AT WAILUNA.

The effective date of this merger is July 1, 1987.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

Myron B. Thompson

THE LUSK COMPANY

[Signature]

By Donald A. Lusk
Its Vice President

Richard Lyman

"Developer"

Trustees of the Estate of
Bernice Pauahi Bishop

"Lessor"

APPROVED AS TO FORM
CONTENTS AND AUTHORIZATION

Elizabeth L. J. Omer
Documentary Department

ASSOCIATION OF APARTMENT OWNERS
OF THE HEIGHTS AT WAILUNA,
INCREMENTS 1, 2 AND 3

By Robert B. Behrend
Its President

By Diane A. Lusk
Its Secretary

STATE OF HAWAII
CITY AND
COUNTY OF HONOLULU

)
) SS:
)

On this 11th day of August, 1987,
before me personally appeared Henry H. Peters and Richard L. ... Jr.,
three of the Trustees of the Estate of Bernice Pauahi Bishop,
to me known to be the persons who severally executed the
foregoing instrument and acknowledged that they executed the
same as their free act and deed.

W

Lucien M. ...
Notary Public, State of Hawaii

My commission expires:

STATE OF HAWAII
CITY AND COUNTY OF HONOLULU

)
) SS.
)

On this 5th day of May, 1987,
before me appeared ERNEST A. HARRIS, to me personally known,
who being by me duly sworn, did say that he is the Vice
President of THE LUSK COMPANY, a California corporation
authorized to do business in the State of Hawaii; that the seal
affixed to the foregoing instrument is the corporate seal of
said corporation, and that said instrument was signed and
sealed in behalf of said corporation by authority of its Board
of Directors, and the said ERNEST A. HARRIS acknowledged said
instrument to be the free act and deed of said corporation.

X.A.

Mary R. ...
Notary Public, State Hawaii

My commission expires: 10-12-89

STATE OF HAWAII
CITY AND
COUNTY OF HONOLULU

)
) SS:
)

On this 7th day of July, 1987, before me appeared Diane A. [unclear] and [unclear], to me personally known, who, being by me duly sworn, did say that *she* they are the Secretary and [unclear] respectively of the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, INCREMENTS 1, 2 AND 3, an unincorporated association; that the association has no seal; and that said instrument was signed in behalf of said association by authority of its Board of Directors, and the said [unclear] and [unclear] acknowledged said instrument to be the free act and deed of said corporation.

[Signature]
Notary Public, State of Hawaii

My commission expires: 10/15/88

STATE OF HAWAII
CITY AND COUNTY OF HONOLULU) ss.

On this 25TH day of JUNE, 1987, before me appeared ROBERT M. BEHREND, to me known, who being duly sworn, did say that he is the President of the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, INCREMENTS 1, 2, and 3, an unincorporated association; that the association has no seal; and that said instrument was signed behalf of said association by authority of its Board of Directors, and the said President acknowledged said instrument to be the free act and deed of said corporation.

[Signature]
KEVIN F. SHIPLETT, Notary Public
First Judicial Circuit, State of Hawaii

My commission expires: 27 JULY 1990

THE HEIGHTS AT WAILUNA, INCREMENT 3
LEASEHOLD CONDOMINIUM
DEVELOPER'S DISCLOSURE ABSTRACT
(EXHIBIT A - NEW HOME LIMITED WARRANTY;
EXHIBIT B - PROPOSED OPERATING BUDGET FOR THE PROJECT)
(AMENDED)

Name of Project: THE HEIGHTS AT WAILUNA, INCREMENT 3
At the Mauka End of Kaahumanu Street
Pearl City, Hawaii 96782

Developer and LUSK-HAWAII, a Division of The Lusk Company,
formerly known as John D. Lusk & Son

Project Manager: Suite 1618, Davies Pacific Center
841 Bishop Street
Honolulu, Hawaii 96813
Telephone No. 537-4972

Number of Apartments and Use:

There are thirty (30) residential apartments in the project. The residential apartments shall be occupied and used only for residential purposes by the respective owners thereof, their tenants, families, domestic servants and personal guests and shall not be used for transient or hotel purposes.

Warranties:

The Developer's warranty policy is attached hereto as Exhibit "A". THE DEVELOPER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY OR ANY COMMON ELEMENT OR ANYTHING INSTALLED THEREIN.

Breakdown of Annual Maintenance Fees and Monthly Estimated Costs of the Project Payable by Each Apartment:

Attached hereto as Exhibit "B" is a copy of the revised estimated operating budget for the Association of Owners of the Project dated April 24, 1986, and the breakdown of annual maintenance fees and monthly estimated costs of each apartment, which was prepared by Certified Management, a division of AR Corporation.

Payment of Maintenance Fees by Apartment Owners:

The Developer shall pay all of the actual common expenses of the project until August 31, 1986. The apartment owner shall be obligated for the payment of his respective share of the common expenses per the attached budget from and after September 1, 1986. This Amended Disclosure Abstract shall be filed with the Real Estate Commission prior to August 1, 1986, and after the filing a copy of the Amended Disclosure Abstract shall be delivered either by mail or personal delivery to each of the apartment owners in the project.

Please note that the Developer never did assume the obligation to pay the monthly maintenance fee payable to Wailuna Recreation Association. The payment of this fee has always been the responsibility of each apartment owner.

Breakdown of the Annual Maintenance Fees and Monthly Estimated Costs of the Project and WAILUNA RECREATION ASSOCIATION Payable by Each Residential Apartment:

	Monthly	Annually
The Heights at Wailuna	\$69.38	\$ 832.56
Wailuna Recreation Association	19.00	228.00
TOTALS	<u>\$88.38</u>	<u>\$1,060.56</u>

DATED: Honolulu, Hawaii, July 14, 1986.

WAILUNA

New Home Limited Warranty

IMPORTANT: Sales representatives are not authorized to modify or add to the terms of this warranty policy. The Builders standard New Home Limited Warranty Policy is as follows:

1. Subject to the provisions of this policy, we will correct any defect in the structural components of your home due to faulty materials or workmanship of which we receive written notice during the one-year period following the date of close of escrow, or the date you take possession, whichever occurs earlier (the "warranty year"). The foregoing shall only apply to the structural components of your home which include the walls, wall covering, floors, ceilings, roof, doors, cabinets, shelves, closets, patios, balconies, bathroom fixtures, railings, shingles, gutters and windows. The foregoing shall also apply to the structural components of the plumbing, electrical, heating and air conditioning systems (if any) which include such things as ducting, wiring and pipes. This warranty shall not extend to any portion of the plumbing, electrical, heating and air conditioning systems which are not a part of the structural component of your home or which carry an express warranty by the manufacturer thereof. The structural component does not include any appliances, equipment or other "consumer" items which may be attached to the structural component, such as a smoke alarm installed in a bearing wall or the water heater attached to the hot water pipes. These consumer items are not a part of the structural component for the purposes of the Warranty, but they are generally warranted by the manufacturers thereof and you should look directly to the manufacturers for service on these items. Obviously, any item can be a "consumer" item depending on how it is sold, but we consider an item to be part of the structural component of your home if it has no separate function other than as part of the house. If a defect appears which the owner thinks is covered by the Limited Warranty, he must notify us in writing of the defect within a reasonable time following its discovery, but in no event later than one (1) week after the end of the applicable warranty period. Upon receipt of a written report of a defect, if the defective item is covered by this Limited Warranty, we will repair or replace it at no charge to the homeowner, within sixty (60) days (longer if weather conditions, labor problems or material shortages cause delays). The work will be done by us, or by a subcontractor of our choice. The choice between repair or replacement is also ours. Our sole responsibility under this warranty shall be to restore your home to the condition existing at the time the defect occurred. We do not take responsibility for any secondary damage caused by the defect, including, without limitation, damage to your personal property.

2. We will warrant all concrete, brick, stone and other masonry against substantial defects for a period of one (1) year. However, we will repair only those cracks in house slabs, basement floor and walls, garage slabs, walks and other masonry which substantially interrupt the plane of surface or affect its structural value and integrity. We will not assume responsibility for hairline cracks in concrete, plaster,

drywall, masonry, ceramic tile and other rigid materials which occur due to normal expansion, contraction and settlement; the foregoing shall, without limitation, apply to hairline cracks in walls, driveways, garage floors, patios, and balconies, and to ceramic tile in the kitchen, shower, bathroom and entryway areas. We will not be responsible for and will not repair minor separation of ceramic tile grout at the tub line or at the intersection of a wall and floor where it is adjoined with other material resulting in loose grout.

3. We will make minor repairs such as doors sticking, cabinet drawer adjustments, failure of electrical plugs and operating fixtures, leaking faucets, tile caulking and the like only if brought to our attention in writing during the thirty (30) day period following the close of escrow or the date you take possession, whichever occurs first.

4. We will only correct defects or smudges of painted surfaces, counter tops, chipping of porcelain or tile in the kitchen, sinks, bathtub or elsewhere, chipped or otherwise defective surfaces of plumbing fixtures, torn or defective screens, defects in cabinet surface or finish, broken window or mirrored glass or similar defects readily visible to the human eye which go beyond industry standards or normal production tolerances and which are noted at the time of your Pre-move-in Inspection. The foregoing does not apply to hairline cracks in rigid materials which are covered above.

We will not be responsible for normal fading, chalking, or checking or paint or stucco which is not in excess of industry standards, which may occur due to sunlight or exposure to the elements. Where we do engage in paint and stucco repairs or patching, we do not warrant that the new paint or stucco will match perfectly with the old.

5. Plumbing drains are tested for proper operating before occupancy and we will only take responsibility for stoppages which are reported to us in writing within thirty (30) days after you take possession of your home. We will warrant the structural components of the plumbing system to be in proper working order and free from defective materials and workmanship for a period of one (1) year; provided, however, that normal maintenance items such as toilet adjustments and repair of dripping faucets are limited to a thirty (30) day warranty period. This warranty does not extend to the water heater or external plumbing fixtures, or any other portion of the plumbing system which is not a part of the structural component of your home or which carries an express warranty by the manufacturer of that part. Nor does this Warranty include the system or any of its parts which became defective through faulty operation, lack of routine maintenance, or alteration by the homeowner or his agents. Any costs we incur to eliminate a stoppage, whether or not reported within the thirty (30) day period, resulting solely from your use of the home will be billed to you.

6. We will warrant the electrical system for a period of one (1) year as follows: that the electrical system has been installed in accordance with good electrical practice and meets inspection agency standards. This warranty does not extend to the electrical system which is not a part of the structural

component of your home, including light bulbs and light fixtures, or which carries an express warranty by the manufacturer of that part. Nor does this warranty include the system or any of its parts which become defective through faulty operation, lack of routine maintenance, or alteration by the homeowner or his agents.

7. We will warrant proper operation of the heating system, in the original finished room areas, for a period of one (1) year as follows: that the heating system has been installed in accordance with good heating practice and meets inspection agency standards. This warranty does not extend to the furnace or any other portion of the heating system which is not a part of the structural component of your home or which carries an express warranty by the manufacturer of that part. Nor does this warranty include the system or any of its parts which become defective through faulty operation, lack of routine maintenance, or alteration by the homeowner or his agents.

8. We will warrant the air conditioning system, if included in the sale of the dwelling, for a period of one (1) year as follows: that the air conditioning system has been installed in accordance with good air conditioning practice and meets inspection agency standards. This warranty does not extend to the air conditioning system which is not a part of the structural component of your home or which carries an express warranty by the manufacturer of that part. Nor does this warranty include the system or its parts which become defective through faulty operation, lack of routine maintenance, or alteration by the homeowner or his agents.

9. The provisions of this policy are not transferable and only extend to the original buyer of each home if such original buyer occupies the home as his principal residence or purchases with the intent to occupy as his principal residence. In any event, the warranty herein provided shall automatically terminate as to the home when the original buyer ceases to occupy the home, upon the sale (by grant deed, installment land sales contract or otherwise) or lease of the home by the original buyer, or upon the expiration of the warranty year, whichever first occurs. Steps taken by the Builder to correct any defects shall not extend the warranty year beyond its initial one (1) year term.

10. Except as provided herein, the Builder makes no express warranty as to materials or workmanship. Without limiting the generality of the foregoing, we make no express warranties as to any appliances, fixtures, carpeting or other consumer items installed in your home and which are not part of the structural component thereof, nor do we adopt any express or implied warranties made by the manufacturers of such items. Any warranty claims on such consumer items should be made directly to the manufacturer of a defective item and not to the Builder. Rights under these manufacturers' warranties flow directly from the manufacturer to you, and you should consult these warranties for the terms and periods of coverage. The following are examples of such warranties, though not every home includes all of these items and some homes may include appliances or equipment not in this list:

Refrigerator
Furnace
Dryer
Ventilating Fans
Heat Pump
Thermostat
Central Vacuum System
Fire Extinguisher
Water Pump
Electric Meter
Barbeque Grill
Water Softener
Oven (and hood)

Range
Washing Machine
Dishwasher
Air Conditioner
Exhaust Fan
Sump Pump
Smoke Detector
Chimes
Intercom
Water Meter
Whirlpool Bath
Freezer
Ice Maker

Space Heater
Hot Water Heater
Garbage Disposal
Boiler
Electric Air Cleaner
Humidifier
Fire Alarm
Garage Door Opener
Burglar Alarm
Gas Meter
Water Heater
Trash Compactor

11. The provisions of this policy shall not extend to, and we shall not be responsible to repair any portion of your home, structural or otherwise, which you or your employees or contractors have modified or added to in any way, including without limitation attempted repairs.

The provisions of this policy also do not extend to damage due to ordinary wear and tear, damage due to lack of proper maintenance, or damage due to abusive or unwarranted use.

I (We) have received a copy of this policy.

BUYER:

PROPOSED OPERATING BUDGET
THE HEIGHTS AT WAILUNA
INCREMENT III

<u>ACCOUNT</u>	<u>MONTHLY</u>	<u>ANNUALLY</u>
Office & Admin Expense	\$ 20	\$ 240
Management Fee	250	3,000
Accounting/Audit Preparation	8	96
Electricity	150	1,800
Water	205	2,460
Sewer	225	2,700
Grounds Maintenance	730	8,760
Portable Equip Maint & Rpr	20	240
Custodial Svc & Supplies	15	180
General Maintenance	50	600
Fire Safety	3	36
General Excise Tax	5	60
SMP/Fire Insurance	350	4,200
Member Dues/Assessments	570	6,840
Eqp Prch/Impr/Major Proj	50	600
TOTAL DISBURSEMENTS	\$ 2,651	\$31,812

THE HEIGHTS AT WAILUNA EXPENSES, INCREMENT III

<u>MAINTENANCE FEES</u>	<u>MONTHLY</u>	<u>ANNUALLY</u>
PER UNIT:	\$88.38	\$1,060.56

Includes recreation association dues

The undersigned certifies that the above schedule of annual maintenance fees and monthly estimated costs for The Heights at Wailuna, Increment 3 is based on generally accepted accounting principles.

CERTIFIED MANAGEMENT
A Division of A R Corporation

Date: April 24, 1986

By: Robert J. Smith

EXHIBIT "B"

RECORDATION REQUESTED BY:

We hereby certify that this is a true copy of the original
filed as Land Court Document No. _____ and /or
recorded in Liber 19882 on Page 311,
on SEP 24 1986 08:01a

AFTER RECORDATION RETURN TO:

TITLE GUARANTY OF HAWAII, INCORPORATED
By Holly M. Wight

RETURN BY: MAIL ☐ PICKUP ☐

DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
AND
THE HEIGHTS AT WAILUNA, INCREMENT 3

THIS DECLARATION OF MERGER FOR THE HEIGHTS AT WAILUNA, INCREMENT 1, THE HEIGHTS AT WAILUNA, INCREMENT 2, AND THE HEIGHTS AT WAILUNA, INCREMENT 3, executed and entered into this 18th day of August, 1986, by and between the TRUSTEES OF THE ESTATE OF BERNICE PAUHI BISHOP, herein called "Lessor", THE LUSK COMPANY, a California corporation authorized to do business in the State of Hawaii, herein called "Developer", and the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, INCREMENT 1, herein called "The Heights at Wailuna, Increment 1 Association",

WITNESSETH THAT

WHEREAS, The Heights at Wailuna, Increment 1 is a condominium project established by Declaration of Horizontal Property Regime recorded in the Bureau of Conveyances of the State of Hawaii in Liber 18981, page 617; and

WHEREAS, paragraph 15.1 of said The Heights at Wailuna, Increment 1 Declaration reads as follows:

(15.1) One or more condominium projects, whether or not adjacent to the Project, but which are part of the same incremental plan of development and in the same vicinity, may be merged together with the Project from time to time so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for sharing of the common expenses of the projects among all the owners of the apartments in the merged projects.

require the approval of the apartment owners, and shall be effective upon approval by the Board and the Lessor and the Developer and upon execution of the merger documents by two (2) officers of the Project and the Lessor and the Developer and recordation of same in the Bureau of Conveyances.

and

WHEREAS, The Heights at Wailuna, Increment 2 is a condominium project established by Declaration of Horizontal Property Regime recorded in said Bureau in Liber 19285, page 693; and

WHEREAS,, The Heights at Wailuna, Increment 3 is a condominium project established by Declaration of Horizontal Property Regime recorded in said Bureau in Liber 19486, page 487; and

WHEREAS, paragraphs 15.1 and 15.2 of the Declarations of Horizontal Property Regime for The Heights at Wailuna, Increment 2, and for The Heights at Wailuna, Increment 3, read as follows:

(15.1) One or more condominium projects, whether or not adjacent to the Project, but which are part of the same incremental plan of development and in the same vicinity, may be merged together with the Project from time to time so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for sharing of the common expenses of the projects among all the owners of the apartments in the merged projects. Any such merger or mergers does not require the approval of the apartment owners, and shall be effective upon approval by the Board and the Lessor and the Developer and upon execution of the merger documents by two (2) officers of the Project and the Lessor and the Developer and recordation of same in the Bureau of Conveyances.

(15.2) Notwithstanding any provision to the contrary herein contained, Developer expressly reserves the right without the consent or joinder of persons then owning or leasing apartments in the Project to merge this Project with the condominium project known as "The Heights at Wailuna, Increment 1", established by Declaration of Horizontal Property Regime dated September 17, 1985, recorded in said Bureau of Conveyances in Liber 18981 at Page 617, to permit the joint use of the common elements of the merged projects by all the apartment owners of both projects.

and

WHEREAS, at a meeting of the Board of Directors of Association of Apartment Owners of The Heights at Wailuna

Increment 1 held on August 6, 1986, said Board of Directors did unanimously vote for and approve a merger of The Heights at Wailuna, Increment 2, and The Heights at Wailuna, Increment 3 into and with The Heights at Wailuna, Increment 1 in accordance with the terms and conditions of this document; and

WHEREAS, pursuant to paragraphs 15.2 of said Declarations of Horizontal Property Regime of The Heights at Wailuna, Increment 2 and The Heights at Wailuna, Increment 3, the Developer reserved the right to merge The Heights at Wailuna, Increment 2 and The Heights at Wailuna, Increment 3 into and with The Heights at Wailuna, Increment 1; and

WHEREAS, all three projects are adjacent projects which are part of the same incremental plan of development; and

WHEREAS, the merger contemplated hereby is permitted by the Horizontal Property Regimes Act;

NOW, THEREFORE, pursuant to the aforesaid Declarations of Horizontal Property Regime, Lessor, Developer, and the Board of Directors of The Heights at Wailuna, Increment 1 Association do hereby declare that The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, and The Heights at Wailuna, Increment 3 are hereby merged on the following terms and conditions:

1. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 1 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 2 and THE HEIGHTS AT WAILUNA, INCREMENT 3, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 2 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 3, as though the three projects had been developed as a single condominium project.

2. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 2 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 1 and THE HEIGHTS AT WAILUNA, INCREMENT 3, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment in THE HEIGHTS AT WAILUNA, INCREMENT 1 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 3, as though the three projects had been developed as a single condominium project.

3. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 3 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 1 and THE HEIGHTS AT WAILUNA, INCREMENT 2, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 1 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 2, as though the three projects had been developed as a single condominium project.

4. THE HEIGHTS AT WAILUNA, INCREMENT 1 shall bear 33.7 percent, THE HEIGHTS AT WAILUNA, INCREMENT 2 shall bear 33.7 percent, and THE HEIGHTS AT WAILUNA, INCREMENT 3 shall bear 32.6 percent of the total common expenses of the merged project as the term "common expenses" is defined by the Horizontal Property Act, the Declarations of Horizontal Property Regimes, and the Bylaws for each project, treating the projects as a single project, and each individual apartment owner's share of the total common expenses shall be his percentage share of ownership of the common expenses as set forth in the Declaration of Horizontal Property Regimes for said project in which his condominium apartment is located times the percentage allocated in this paragraph 4 to the project in which his apartment is located; Provided, However, notwithstanding the provisions in this paragraph, the apartment owners of each project shall not be assessed for nor shall they have any obligation with respect to the debts, deficits or obligations of the other project existing prior to this merger.

5. The apartment owners shall be entitled to vote in the same proportion of the total vote as set forth above in paragraph 4 for the sharing of common expenses, and each individual apartment owner's share of the total vote shall be his percentage vote as set forth in the Declaration of Horizontal Property Regime for said project in which his condominium apartment is located times the percentage allocated above in paragraph 4 to the project in which is apartment is located.

6. There shall be one Board of Directors for the merged projects composed of not less than three (3) persons and not more than nine (9) persons. At the annual meeting of the owners of the condominium apartments next following this merger and at all subsequent such meetings, the Board of Directors to be elected shall govern the merged projects pursuant to the terms of the respective Declarations of Horizontal Property Regime and By-Laws. At a special meeting called for the purpose after the merger, the owners may remove the existing Board and elect a Board to govern the merged project until the next annual meeting.

7. Each of the projects shall be treated as part of a single project developed as a whole from the beginning and the respective Declarations of Horizontal Property Regime and By-Laws applicable to each shall be construed as one document applicable to the entire project as merged hereunder except to the extent expressly otherwise provided for therein. It is the purpose hereof to provide that from and after the date of merger all of the property subject hereto shall be treated as though it had been developed, divided into condominium apartments, held, occupied and used by the owners thereof as a single condominium project.

8. Additional merger or mergers may occur as set forth in the aforesaid Declarations of Horizontal Property Regime and as permitted and allowed by the Horizontal Property Act, and this Declaration of Mergers may be amended, modified

cancelled or superseded by any such additional merger or mergers.

9. The projects shall henceforth be known as THE HEIGHTS AT WAILUNA.

The effective date of this merger is September 1, 1986.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

[Signature]
[Signature]
[Signature]
THE LUSK COMPANY
Its VICE-PRESIDENT
"Developer"
Trustees of the Estate of
Bernice Pauahi Bishop

"Lessor"

ASSOCIATION OF APARTMENT OWNERS
OF THE HEIGHTS AT WAILUNA,
INCREMENT 1

APPROVED AS TO FORM
CONTENTS AND AUTHORIZATION

[Signature]
Documentary Department

By *[Signature]*
Its President
By *[Signature]*
Its Secretary

STATE OF HAWAII)
CITY AND COUNTY OF HONOLULU)

On this 11th day of August, 1986, before me personally appeared ROBERT M. BEHREND, known to me to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

[Signature]
Notary Public, First Judicial
Circuit, State of Hawaii

My commission expires: 24 July 1990

STATE OF HAWAII
CITY AND
COUNTY OF HONOLULU

)
) SS:
)

On this 8th day of September, 1986,
before me personally appeared Matsuo Takabuki,
William S. Richardson and Richard Lyman, Jr.,
three of the Trustees of the Estate of Bernice Pauahi Bishop,
to me known to be the persons who severally executed the
foregoing instrument and acknowledged that they executed the
same as their free act and deed.

W
LESLIE M. YAMASHITA
Notary Public, State of Hawaii
My commission expires Sept. 27, 1988

Leslie M. Yamashita
Notary Public, State of Hawaii

My commission expires:

STATE OF Hawaii
COUNTY OF Honolulu

)
) SS.
)

On this 18th day of August, 1986,
before me appeared Ernest A. Harrison, to me
personally known, who being by me duly sworn, did say that he
is the Vice-President of THE LUSK COMPANY, a California
corporation authorized to do business in the State of Hawaii;
that the seal affixed to the foregoing instrument is the
corporate seal of said corporation, and that said instrument
was signed and sealed in behalf of said corporation by
authority of its Board of Directors, and the said
Ernest A. Harrison acknowledged said instrument to
be the free act and deed of said corporation.

Mary R. Lusk
Notary Public, State of Hawaii

My commission expires: 10-12-87

STATE OF HAWAII
CITY AND
COUNTY OF HONOLULU

)
) SS:
)

On this 13th day of August, 1986,
before me appeared ~~x~~ Robert B. [unclear] ~~x~~ and ~~x~~ Diane A. Ferrera ~~x~~ DMG

Diane A. Ferrera, to me personally known, who,
being by me duly sworn, did say that they are the
~~x~~ President ~~x~~ and Secretary

DMG
respectively of ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS
AT WAILUNA, INCREMENT 1, an unincorporated association; that
the association has no seal; and that said instrument was
signed in behalf of said association by authority of its Board
of Directors, and the said ~~x~~ Secretary ~~x~~ DMG
and Secretary acknowledged said instrument
to be the free act and deed of said corporation.

Danielle Marie Jensen
Notary Public, State of Hawaii

My commission expires: 7/9/89

15

RECORDATION REQUESTED BY:

We hereby certify that this is a true copy of the original
filed as Land Court Document No. _____ and/or
recorded in Liber 21036 on Page 618
on Aug. 17, 1987 @ 2:01 p.m.

AFTER RECORDATION RETURN TO:

TITLE GUARANTY OF HAWAII, INCORPORATED

By James P. Nakai

RETURN BY: MAIL ☐ PICKUP ☐

PARTIAL REVOCATION OF DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
AND
THE HEIGHTS AT WAILUNA, INCREMENT 3
AND
DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
THE HEIGHTS AT WAILUNA, INCREMENT 3,
AND
THE HEIGHTS AT WAILUNA, INCREMENT 4

THIS PARTIAL REVOCATION OF DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1, THE HEIGHTS AT WAILUNA,
INCREMENT 2, AND THE HEIGHTS AT WAILUNA, INCREMENT 3, AND THIS
DECLARATION OF MERGER FOR THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2, THE HEIGHTS AT WAILUNA,
INCREMENT 3, AND THE HEIGHTS AT WAILUNA, INCREMENT 4, executed
and entered into this 5th day of May, 1987, by the
TRUSTEES OF THE ESTATE OF BERNICE PAUAAH/BISHOP, herein called
"Lessor", THE LUSK COMPANY, a California corporation authorized
to do business in the State of Hawaii, herein called
"Developer", and the ASSOCIATION OF APARTMENT OWNERS OF THE
HEIGHTS AT WAILUNA, INCREMENT 1, herein called "The Heights at
Wailuna, Increment 1 Association" and the ASSOCIATION OF
APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, INCREMENT 2, herein
called "The Heights at Wailuna, Increment 2 Association", and
the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHT AT WAILUNA,
INCREMENT 3, herein called "The Heights at Wailuna, Increment 3
Association,

WITNESSETH THAT:

WHEREAS, The Heights at Wailuna, Increment 1 is a
condominium project established by Declaration of Horizontal
Property Regime recorded in the Bureau of Conveyances of the
State of Hawaii in Liber 18981, page 617; and

WHEREAS, The Heights at Wailuna, Increment 2 is a
condominium project established by Declaration of Horizontal
Property Regime recorded in said Bureau in Liber 19285, page
693; and

WHEREAS,, The Heights at Wailuna, Increment 3 is a condominium project established by Declaration of Horizontal Property Regime recorded in said Bureau in Liber 19486, page 487; and

WHEREAS,, The Heights at Wailuna, Increment 4 is a condominium project established by Declaration of Horizontal Property Regime recorded in said Bureau in Liber 19771, page 448; and

WHEREAS, paragraph 15.1 of said Declarations for said The Heights at Wailuna, Increments 1, 2 and 3 read as follows:

(15.1) One or more condominium projects, whether or not adjacent to the Project, but which are part of the same incremental plan of development and in the same vicinity, may be merged together with the Project from time to time so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for sharing of the common expenses of the projects among all the owners of the apartments in the merged projects. Any such merger or mergers does not require the approval of the apartment owners, and shall be effective upon approval by the Board and the Lessor and the Developer and upon execution of the merger documents by two (2) officers of the Project and the Lessor and the Developer and recordation of same in the Bureau of Conveyances.

and

WHEREAS, paragraphs 15.1 and 15.2 of the Declaration of Horizontal Property Regime for The Heights at Wailuna, Increment 4, reads as follows:

(15.1) One or more condominium projects, whether or not adjacent to the Project, but which are part of the same incremental plan of development and in the same vicinity, may be merged together with the Project from time to time so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for sharing of the common expenses of the projects among all the owners of the apartments in the merged projects. Any such merger or mergers does not require the approval of the apartment owners, and shall be effective upon approval by the Board and the Lessor and the Developer and upon execution of the merger documents by two (2) officers of the Project and the Lessor and the Developer and recordation of same in the Bureau of Conveyances.

(15.2) Notwithstanding any provision to the contrary herein contained, Developer expressly reserves the right without the consent or joinder of persons then owning or leasing apartments in the Project to merge this Project

(i) That certain project known as "The Heights at Wailuna, Increment 1", established by that certain Declaration of Horizontal Property Regime dated September 17, 1985, recorded in said Bureau of Conveyances in Liber 18981, at page 617;

(ii) That certain project known as "The Heights at Wailuna, Increment 2", established by that certain Declaration of Horizontal Property Regime dated January 27, 1986, recorded in said Bureau of Conveyances in Liber 19285 at page 693; and

(iii) That certain project known as "The Heights at Wailuna, Increment 3", established by that certain Declaration of Horizontal Property Regime dated April 17, 1986, recorded in said Bureau of Conveyances in Liber 19486 at page 487; and

WHEREAS, THE HEIGHTS AT WAILUNA, INCREMENT 1, THE HEIGHTS AT WAILUNA, INCREMENT 2, and THE HEIGHTS AT WAILUNA, INCREMENT 3 were merged by that certain Declaration of Merger for The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, and The Heights at Wailuna, Increment 3, dated August 13, 1986, and recorded in said Bureau in Liber 19882, page 311; and

WHEREAS, at a meeting of the Boards of Directors of the Associations of Apartment Owners of The Heights at Wailuna, Increments 1, 2 and 3 held on May 6, 1987, said Boards of Directors did unanimously vote for and approve a merger of The Heights at Wailuna, Increment 4 into and with The Heights at Wailuna, Increments 1, 2 and 3 in accordance with the terms and conditions of this document; and

WHEREAS, pursuant to paragraphs 15.2 of said Declaration of Horizontal Property Regime of The Heights at Wailuna, Increment 4, the Developer reserved the right to merge The Heights at Wailuna, Increment 4 into and with The Heights at Wailuna, Increments 1, 2 and 3; and

WHEREAS, all four projects are adjacent projects which are part of the same incremental plan of development; and

WHEREAS, the merger contemplated hereby is permitted by the Horizontal Property Regimes Act;

PARTIAL REVOCATION OF DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
AND
THE HEIGHTS AT WAILUNA, INCREMENT 3

NOW, THEREFORE, Lessor, Developer and The Heights at Wailuna, Increment 1 Association, The Heights at Wailuna, Increment 2 Association and The Heights at Wailuna, Increment 3 Association do hereby revoke that certain Declaration of Merger for The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2 and The Heights at Wailuna, Increment 3.

19882, page 311, only to the extent that same is in conflict with the Declaration of Merger of The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, The Heights at Wailuna, Increment 3, and The Heights at Wailuna, Increment 4, hereinafter set forth, said partial revocation being effective as of the effective date of the merger herein set forth.

DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
THE HEIGHTS AT WAILUNA, INCREMENT 3,
AND THE HEIGHTS AT WAILUNA, INCREMENT 4

NOW, THEREFORE, pursuant to the aforesaid Declarations of Horizontal Property Regime, Lessor, Developer, and the Boards of Directors of The Heights at Wailuna, Increments 1, 2 and 3 do hereby declare that The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, The Heights at Wailuna, Increment 3, and The Heights at Wailuna, Increment 4 are hereby merged on the following terms and conditions:

1. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 1 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 2, THE HEIGHTS AT WAILUNA, INCREMENT 3, and THE HEIGHTS AT WAILUNA, INCREMENT 4, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 2 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 3, and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 4, as though the four projects had been developed as a single condominium project.

2. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 2 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 1, THE HEIGHTS AT WAILUNA, INCREMENT 3, and THE HEIGHTS AT WAILUNA, INCREMENT 4, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment in THE HEIGHTS AT WAILUNA, INCREMENT 1 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 3, and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 4, as though the four projects had been developed as a single condominium project.

3. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 3 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 1 and THE HEIGHTS AT WAILUNA, INCREMENT 2, and THE HEIGHTS AT WAILUNA, INCREMENT 4, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 1 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 2, and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 4, as though the four projects had been developed as a single condominium project.

common elements in The Heights at Wailuna, Increment 1 and The Heights at Wailuna, Increment 2 and The Heights at Wailuna, Increment 3 to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within The Heights at Wailuna, Increment 1 and upon an owner of an apartment within The Heights at Wailuna, Increment 2 and upon an owner of an apartment within The Heights at Wailuna, Increment 3, as though the four projects had been developed as a single condominium project.

5. THE HEIGHTS AT WAILUNA, INCREMENT 1 shall bear 24.2188 percent, THE HEIGHTS AT WAILUNA, INCREMENT 2 shall bear 24.2188 percent, THE HEIGHTS AT WAILUNA, INCREMENT 3 shall bear 23.4375 percent, and THE HEIGHTS AT WAILUNA, INCREMENT 4 shall bear 28.1249 percent of the total common expenses of the merged project as the term "common expenses" is defined by the Horizontal Property Act, the Declarations of Horizontal Property Regimes, and the Bylaws for each project, treating the projects as a single project, and each individual apartment owner's share of the total common expenses shall be his percentage share of ownership of the common expenses as set forth in the Declaration of Horizontal Property Regimes for said project in which his condominium apartment is located times the percentage allocated in this paragraph 5 to the project in which his apartment is located; Provided, However, notwithstanding the provisions in this paragraph, the apartment owners of each project shall not be assessed for nor shall they have any obligation with respect to the debts, deficits or obligations of the other projects existing prior to this merger.

6. The apartment owners shall be entitled to vote in the same proportion of the total vote as set forth above in paragraph 5 for the sharing of common expenses, and each individual apartment owner's share of the total vote shall be his percentage vote as set forth in the Declaration of Horizontal Property Regime for said project in which his condominium apartment is located times the percentage allocated above in paragraph 5 to the project in which his apartment is located.

7. There shall be one Board of Directors for the merged projects composed of not less than three (3) persons and not more than nine (9) persons. At the annual meeting of the owners of the condominium apartments next following this merger and at all subsequent such meetings, the Board of Directors to be elected shall govern the merged projects pursuant to the terms of the respective Declarations of Horizontal Property Regime and By-Laws. At a special meeting called for the purpose after the merger, the owners may remove the existing Board and elect a Board to govern the merged project until the next annual meeting.

8. Each of the projects shall be treated as part of a single project developed as a whole from the beginning and the respective Declarations of Horizontal Property Regime and By-Laws applicable to each shall be construed as one document applicable to the entire project as merged hereunder except to the extent expressly otherwise provided.

merger all of the property subject hereto shall be treated as though it had been developed, divided into condominium apartments, held, occupied and used by the owners thereof as a single condominium project.

9. Additional merger or mergers may occur as set forth in the aforesaid Declarations of Horizontal Property Regime and as permitted and allowed by the Horizontal Property Act, and this Declaration of Merger may be amended, modified, cancelled or superseded by any such additional merger or mergers.

10. The projects shall henceforth be known as THE HEIGHTS AT WAILUNA.

1987.

The effective date of this merger is July 1.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

Depon B Thompson

THE LUSK COMPANY

[Signature]

By

Robert P. Lusk
Its Vice President

"Developer"

Richard Lyman

Trustees of the Estate of
Bernice Pauahi Bishop

"Lessor"

APPROVED AS TO FORM
CONTENTS AND AUTHORIZATION

Elizabeth L. Omer
Documentary Department

ASSOCIATION OF APARTMENT OWNERS
OF THE HEIGHTS AT WAILUNA,
INCREMENTS 1, 2 AND 3

By

Robert R. Behrend
Its President

By

Robert A. Lusk
Its Secretary

STATE OF HAWAII
CITY AND
COUNTY OF HONOLULU

)
) SS:
)

On this 11th day of August, 1987,
before me personally appeared James H. Bishop and Richard A. Bishop, Jr.,
three of the Trustees of the Estate of Bernice Pauahi Bishop,
to me known to be the persons who severally executed the
foregoing instrument and acknowledged that they executed the
same as their free act and deed.

W

Lois M. L. Lameride
Notary Public, State of Hawaii

My commission expires:

STATE OF HAWAII
CITY AND COUNTY OF HONOLULU

)
) SS.
)

On this 5th day of May, 1987,
before me appeared ERNEST A. HARRIS, to me personally known,
who being by me duly sworn, did say that he is the Vice
President of THE LUSK COMPANY, a California corporation
authorized to do business in the State of Hawaii; that the seal
affixed to the foregoing instrument is the corporate seal of
said corporation, and that said instrument was signed and
sealed in behalf of said corporation by authority of its Board
of Directors, and the said ERNEST A. HARRIS acknowledged said
instrument to be the free act and deed of said corporation.

X.S.

Mary R. Rush
Notary Public, State Hawaii

My commission expires: 10-12-89

STATE OF HAWAII
CITY AND
COUNTY OF HONOLULU

)
) SS:
)

On this 7th day of July, 1987, before me appeared Diane A. [unclear] and [unclear], to me personally known, who, being by me duly sworn, did say that they are the Secretary and [unclear] respectively of the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, INCREMENTS 1, 2 AND 3, an unincorporated association; that the association has no seal; and that said instrument was signed in behalf of said association by authority of its Board of Directors, and the said Secretary ~~and~~ [unclear] acknowledged said instrument to be the free act and deed of said ~~corporation.~~
association.

[Signature]
Notary Public, State of Hawaii

My commission expires: 10/15/88

STATE OF HAWAII
CITY AND COUNTY OF HONOLULU)
SS.

On this 25TH day of JUNE, 1987, before me appeared ROBERT M. BEHREND, to me known, who being duly sworn, did say that he is the President of the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, INCREMENTS 1, 2, and 3, an unincorporated association; that the association has no seal; and that said instrument was signed in behalf of said association by authority of its Board of Directors, and the said President acknowledged said instrument to be the free act and deed of said ~~corporation.~~
association.

[Signature]
KEVIN F. SHIPLETT, Notary Public
First Judicial Circuit, State of Hawaii

My commission expires: 27 JULY 1990

RECORDATION REQUESTED BY:

We hereby certify that this is a true copy of the original
filed as Land Court Document No. _____ and /or
recorded in Liber 19882 on Page 311
on SEP 24 1986 (2801a)

AFTER RECORDATION RETURN TO:

TITLE GUARANTY OF HAWAII, INCORPORATED

By Holly m. W. Jett

RETURN BY: MAIL ☐ PICKUP ☐

DECLARATION OF MERGER FOR
THE HEIGHTS AT WAILUNA, INCREMENT 1,
THE HEIGHTS AT WAILUNA, INCREMENT 2,
AND
THE HEIGHTS AT WAILUNA, INCREMENT 3

THIS DECLARATION OF MERGER FOR THE HEIGHTS AT WAILUNA, INCREMENT 1, THE HEIGHTS AT WAILUNA, INCREMENT 2, AND THE HEIGHTS AT WAILUNA, INCREMENT 3, executed and entered into this 19th day of August, 1986, by and between the TRUSTEES OF THE ESTATE OF BERNICE PAUAI BISHOP, herein called "Lessor", THE LUSK COMPANY, a California corporation authorized to do business in the State of Hawaii, herein called "Developer", and the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, INCREMENT 1, herein called "The Heights at Wailuna, Increment 1 Association",

WITNESSETH THAT

WHEREAS, The Heights at Wailuna, Increment 1 is a condominium project established by Declaration of Horizontal Property Regime recorded in the Bureau of Conveyances of the State of Hawaii in Liber 18981, page 617; and

WHEREAS, paragraph 15.1 of said The Heights at Wailuna, Increment 1 Declaration reads as follows:

(15.1) One or more condominium projects, whether or not adjacent to the Project, but which are part of the same incremental plan of development and in the same vicinity, may be merged together with the Project from time to time so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for sharing of the common expenses of the projects among all the owners of the apartments in the merged projects. Any such merger or mergers does not

require the approval of the apartment owners, and shall be effective upon approval by the Board and the Lessor and the Developer and upon execution of the merger documents by two (2) officers of the Project and the Lessor and the Developer and recordation of same in the Bureau of Conveyances.

and

WHEREAS, The Heights at Wailuna, Increment 2 is a condominium project established by Declaration of Horizontal Property Regime recorded in said Bureau in Liber 19285, page 693; and

WHEREAS,, The Heights at Wailuna, Increment 3 is a condominium project established by Declaration of Horizontal Property Regime recorded in said Bureau in Liber 19486, page 487; and

WHEREAS, paragraphs 15.1 and 15.2 of the Declarations of Horizontal Property Regime for The Heights at Wailuna, Increment 2, and for The Heights at Wailuna, Increment 3, read as follows:

(15.1) One or more condominium projects, whether or not adjacent to the Project, but which are part of the same incremental plan of development and in the same vicinity, may be merged together with the Project from time to time so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for sharing of the common expenses of the projects among all the owners of the apartments in the merged projects. Any such merger or mergers does not require the approval of the apartment owners, and shall be effective upon approval by the Board and the Lessor and the Developer and upon execution of the merger documents by two (2) officers of the Project and the Lessor and the Developer and recordation of same in the Bureau of Conveyances.

(15.2) Notwithstanding any provision to the contrary herein contained, Developer expressly reserves the right without the consent or joinder of persons then owning or leasing apartments in the Project to merge this Project with the condominium project known as "The Heights at Wailuna, Increment 1", established by Declaration of Horizontal Property Regime dated September 17, 1985, recorded in said Bureau of Conveyances in Liber 18981 at Page 617, to permit the joint use of the common elements of the merged projects by all the apartment owners of both projects.

and

WHEREAS, at a meeting of the Board of Directors of Association of Apartment Owners of The Heights at Wailuna,

Increment 1 held on August 6, 1986, said Board of Directors did unanimously vote for and approve a merger of The Heights at Wailuna, Increment 2, and The Heights at Wailuna, Increment 3 into and with The Heights at Wailuna, Increment 1 in accordance with the terms and conditions of this document; and

WHEREAS, pursuant to paragraphs 15.2 of said Declarations of Horizontal Property Regime of The Heights at Wailuna, Increment 2 and The Heights at Wailuna, Increment 3, the Developer reserved the right to merge The Heights at Wailuna, Increment 2 and The Heights at Wailuna, Increment 3 into and with The Heights at Wailuna, Increment 1; and

WHEREAS, all three projects are adjacent projects which are part of the same incremental plan of development; and

WHEREAS, the merger contemplated hereby is permitted by the Horizontal Property Regimes Act;

NOW, THEREFORE, pursuant to the aforesaid Declarations of Horizontal Property Regime, Lessor, Developer, and the Board of Directors of The Heights at Wailuna, Increment 1 Association do hereby declare that The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, and The Heights at Wailuna, Increment 3 are hereby merged on the following terms and conditions:

1. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 1 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 2 and THE HEIGHTS AT WAILUNA, INCREMENT 3, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 2 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 3, as though the three projects had been developed as a single condominium project.

2. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 2 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 1 and THE HEIGHTS AT WAILUNA, INCREMENT 3, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment in THE HEIGHTS AT WAILUNA, INCREMENT 1 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 3, as though the three projects had been developed as a single condominium project.

3. The owners of apartments in THE HEIGHTS AT WAILUNA, INCREMENT 3 shall have non-exclusive rights to use the common elements in THE HEIGHTS AT WAILUNA, INCREMENT 1 and THE HEIGHTS AT WAILUNA, INCREMENT 2, to the same extent and subject to the same limitations as are imposed upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 1 and upon an owner of an apartment within THE HEIGHTS AT WAILUNA, INCREMENT 2, as though the three projects had been developed as a single condominium project.

4. THE HEIGHTS AT WAILUNA, INCREMENT 1 shall bear 33.7 percent, THE HEIGHTS AT WAILUNA, INCREMENT 2 shall bear 33.7 percent, and THE HEIGHTS AT WAILUNA, INCREMENT 3 shall bear 32.6 percent of the total common expenses of the merged project as the term "common expenses" is defined by the Horizontal Property Act, the Declarations of Horizontal Property Regimes, and the Bylaws for each project, treating the projects as a single project, and each individual apartment owner's share of the total common expenses shall be his percentage share of ownership of the common expenses as set forth in the Declaration of Horizontal Property Regimes for said project in which his condominium apartment is located times the percentage allocated in this paragraph 4 to the project in which his apartment is located; Provided, However, notwithstanding the provisions in this paragraph, the apartment owners of each project shall not be assessed for nor shall they have any obligation with respect to the debts, deficits or obligations of the other project existing prior to this merger.

5. The apartment owners shall be entitled to vote in the same proportion of the total vote as set forth above in paragraph 4 for the sharing of common expenses, and each individual apartment owner's share of the total vote shall be his percentage vote as set forth in the Declaration of Horizontal Property Regime for said project in which his condominium apartment is located times the percentage allocated above in paragraph 4 to the project in which is apartment is located.

6. There shall be one Board of Directors for the merged projects composed of not less than three (3) persons and not more than nine (9) persons. At the annual meeting of the owners of the condominium apartments next following this merger and at all subsequent such meetings, the Board of Directors to be elected shall govern the merged projects pursuant to the terms of the respective Declarations of Horizontal Property Regime and By-Laws. At a special meeting called for the purpose after the merger, the owners may remove the existing Board and elect a Board to govern the merged project until the next annual meeting.

7. Each of the projects shall be treated as part of a single project developed as a whole from the beginning and the respective Declarations of Horizontal Property Regime and By-Laws applicable to each shall be construed as one document applicable to the entire project as merged hereunder except to the extent expressly otherwise provided for therein. It is the purpose hereof to provide that from and after the date of merger all of the property subject hereto shall be treated as though it had been developed, divided into condominium apartments, held, occupied and used by the owners thereof as a single condominium project.

8. Additional merger or mergers may occur as set forth in the aforesaid Declarations of Horizontal Property Regime and as permitted and allowed by the Horizontal Property Act, and this Declaration of Mercer may be amended, modified.

cancelled or superseded by any such additional merger or mergers.

9. The projects shall henceforth be known as THE HEIGHTS AT WAILUNA.

The effective date of this merger is September 1, 19 86.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

[Signature]
William P. [Signature]
Richard [Signature]
THE LUSK COMPANY
Its VICE-PRESIDENT
"Developer"
Trustees of the Estate of
Bernice Pauahi Bishop

"Lessor"

ASSOCIATION OF APARTMENT OWNERS
OF THE HEIGHTS AT WAILUNA,
INCREMENT 1

APPROVED AS TO FORM
CONTENTS AND AUTHORIZATION

[Signature]
Documentary Commission

By *[Signature]*
Its President
By *[Signature]*
Its Secretary

STATE OF HAWAII)

CITY AND COUNTY OF HONOLULU)

On this 11th day of August, 1986, before me personally appeared ROBERT M. BEHREND, known to me to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

[Signature]
Notary Public, First Judicial
Circuit, State of Hawaii

My commission expires: 24 July 1990

STATE OF HAWAII
CITY AND
COUNTY OF HONOLULU

)
) SS:
)

On this 8th day of September, 1986,
before me personally appeared Matsuo Takabuki,
William S. Richardson and Richard Lyman, Jr.,
three of the Trustees of the Estate of Bernice Pauahi Bishop,
to me known to be the persons who severally executed the
foregoing instrument and acknowledged that they executed the
same as their free act and deed.

W
LESLIE M. YAMASHITA
Notary Public, State of Hawaii
My commission expires Sept. 27, 1988

Leslie M. Yamashita
Notary Public, State of Hawaii

My commission expires:

STATE OF Hawaii)
COUNTY OF Honolulu) SS.

On this 18th day of August, 1986,
before me appeared Ernest A. Harrison, to me
personally known, who being by me duly sworn, did say that he
is the Vice-President of THE LUSK COMPANY, a California
corporation authorized to do business in the State of Hawaii;
that the seal affixed to the foregoing instrument is the
corporate seal of said corporation, and that said instrument
was signed and sealed in behalf of said corporation by
authority of its Board of Directors, and the said
Ernest A. Harrison acknowledged said instrument to
be the free act and deed of said corporation.

Mary R. Rusk
Notary Public, State of Hawaii

My commission expires: 10-12-87

STATE OF HAWAII
CITY AND
COUNTY OF HONOLULU

)
) SS:
)

On this 13th day of August, 1986,
before me appeared ~~X~~ ~~E. Bert~~ ~~Richard~~ and Diane A. Ferreira ^{DMG}
being by me duly sworn, did say that they are the
X President X and Secretary
respectively of ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS
AT WAILUNA, INCREMENT 1, an unincorporated association; that
the association has no seal; and that said instrument was
signed in behalf of said association by authority of its Board
of Directors, and the said X Secretary ^{DMG}
and Secretary acknowledged said instrument
to be the free act and deed of said corporation.

Danile Marie Jensen
Notary Public, State of Hawaii.

My commission expires: 7/9/89

15

The Heights at Wailuna

Architectural-Modification Guidelines



Approved by the Board of Directors: September 18, 2008

Original - 080918

**Heights at Wailuna
Architectural-Modification Guidelines**

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**Heights at Wailuna
Architectural-Modification Guidelines**

1.0 GENERAL PROVISIONS AND ADMINISTRATION

1.1 Purpose. These guidelines have been approved and promulgated by the Association's Board of Directors to implement its responsibility to homeowners to administer the architectural and landscape requirements as authorized by the By-Laws (Article VI, Section 1) and Rules and Regulations (Sections 2.0 and 5.1). The primary objectives for these guidelines are to:

- a. Provide helpful information to assist and facilitate homeowners in their responsibility to repair, maintain, and keep their units in good order and condition.
- b. Establish a clearly defined process and set of standards to maintain the current esthetics of the development, promote uniformity and preserve property values in the Heights at Wailuna.

1.2 Limitations.

- a. These Architectural/Modification Guidelines supplement the Heights at Wailuna Association's Declaration of Horizontal Property Regime (hereafter referred to as the Declaration), By-Laws, and Rules and Regulations. To the extent of any conflict, the provisions of the Declaration and By-Laws shall control.
- b. Approval of homeowner modification requests by the Architectural Committee and/or Board does not in any way indicate an opinion of structural quality, safety, or soundness of the design by the Architectural Committee, Board or any their individual members.

1.3 Compliance. Homeowners, as a condition of ownership in the Heights, must abide by the By-Laws and Rules and Regulations, including, but not limited to those restrictions on modifications and improvements, as well as *prior* approval requirements from the Architectural Committee and/or Board

- a. These guidelines are not all inclusive. Homeowners should submit any proposed modifications and improvements to the Architectural Committee and/or Board for review and approval prior to commencement of work even if not specifically referenced in these Guidelines.
- b. Failure to obtain prior written approval and/or adhere to these Guidelines is a violation of the By-Laws (subject to fine) and, in addition to any applicable fines and/or legal expenses, will result in the removal of all non-conforming structures or un-approved improvements at the Homeowner's sole expense.

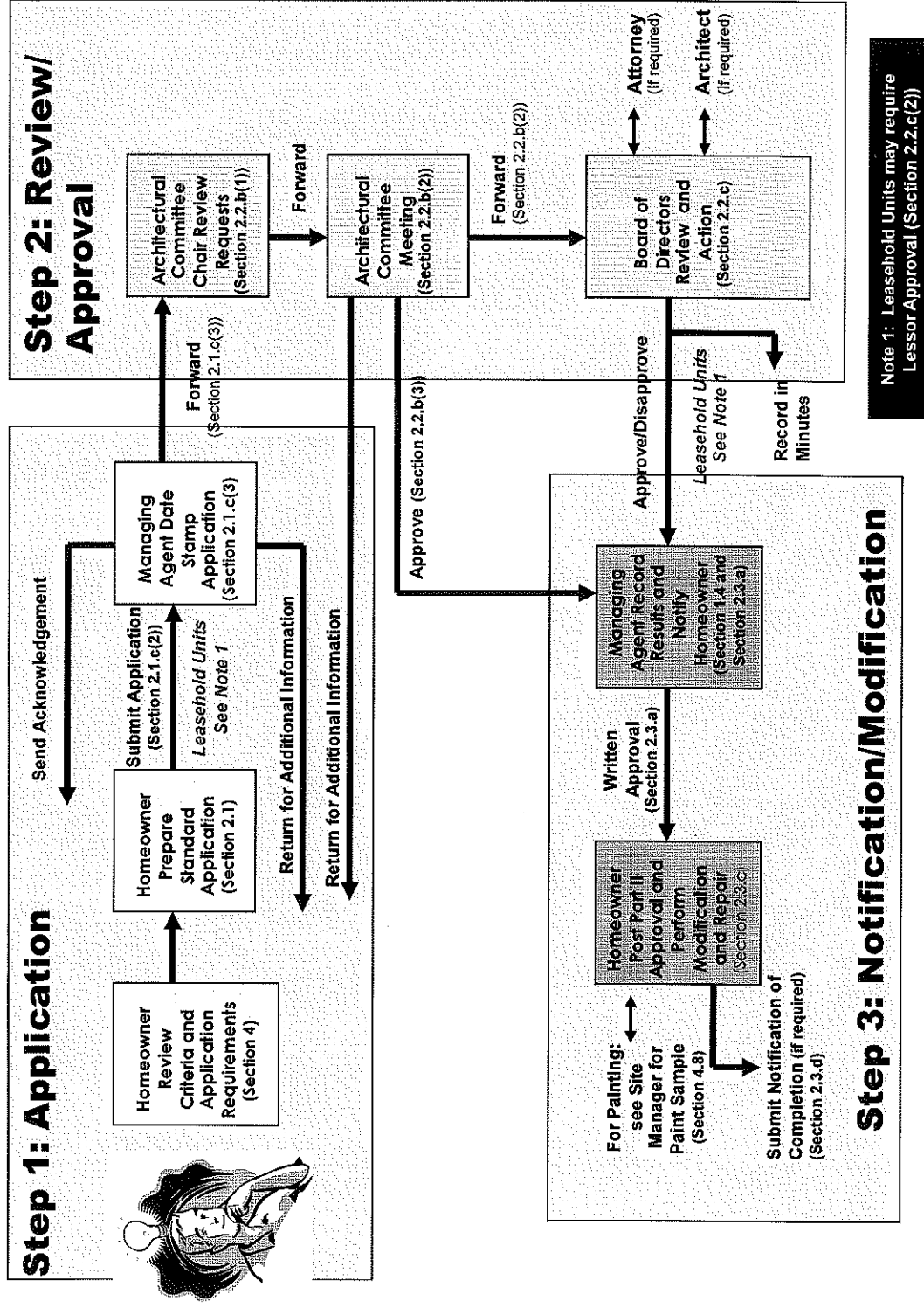
1.4 Records. The Managing Agent will maintain records and a copy of all homeowner modification and repair applications submitted, track their processing, and keep a record of all actions taken on such applications. A copy of applicable documents will be placed in the homeowner's file.

2.0 ARCHITECTURAL MODIFICATION PROCESS

Figure 1 describes the architectural modification process that is explained in this section.

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Figure 1: ARCHITECTURAL MODIFICATION PROCESS



**Heights at Wailuna
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2.1 Step 1: Preparation and Submission of Application

a. Modification and Improvements Requiring Approval

(1) **Architectural and Landscape Applications.** Articles V and VI of the By-Laws and Sections 3, 4, and 5 of the Rules and Regulations outline architectural and landscape restrictions and identify conditions for which homeowners must submit proposed modifications and improvements to the Architectural Committee and/or the Board for review and approval. The table in EXHIBIT A contains a consolidated listing of topics with cross reference information.

(2) Although not all inclusive, the following are examples of alterations and additions that require Architectural Committee and/or Board approval: structural additions, extensions, or enclosures such as storage sheds and decks; roof shingle replacements/changes in roof color; repainting/changes in exterior house colors; fence extensions, replacements, and relocations; retaining walls; landscaping, garage door replacement; air conditioner installation; swimming pools, spas, and hot tubs; lighting replacement; installation of slabs and walkways; vents and attic fans, skylights, and; patio covers, trellis, gazebos, pergolas and other unattached structures.

(3) Written approval from the Architectural Committee and/or Board is required before commencing installation of any proposed modification or improvement.

b. Preparation of the Standard Application. Homeowners must complete Part I of the standard application (see EXHIBIT B) to request approval to perform landscape and architectural modifications. The standard application is intended to be utilized as a coversheet that identifies key demographic information, forwards all critical plans and information required to be attached thereto, and documents the review and approval process. Homeowners must be diligent to include the information below in every application. Attach as many addendum sheets as necessary to provide complete information to the Architectural Committee and/or Board.

(1) **Complete and Accurate.** It is important to submit a clear and complete application that contains all plans and information in compliance with the applicable criteria set forth in Section 4.0 below. The application should also address, as may be applicable, any side yard, setback, Environmental Protective Corridor (EPC) considerations and any potential for the proposed modification or improvement to alter drainage patterns.

(2) **Plans, Product Material, and Amplifying Information.** For each type of modification or repair listed in Section 4.0, specific requirements for submission of plans, product material, or amplifying information are outlined. If a proposed modification or repair is not listed in Section 4.0, the homeowner must still submit plans and materials in sufficient detail to assist the Architectural Committee and Board in the review and approval of the proposal.

(3) **Construction Schedule.** Homeowners must submit a proposed construction schedule (if applicable) or, for other types of modifications/alterations, the estimated start and completion dates. These dates should allow for the full period of review by the Architectural Committee and Board prior to commencing work.

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(4) **Contractor/Installer.** The homeowner must identify the name (and the license number) of the contractor or other professional who will perform the proposed modification and/or alteration, as well as the identity of the entity responsible for preparation of the plans and other documents submitted with the application.

(5) **Mutual Consent.** Article VI, Section 3 of the By-laws (Section 5.4 of the Rules and Regulations) identify specific conditions (e.g. walls and fences) whereby the requesting homeowner is required to obtain the written consent of the adjacent homeowner. However, under some other circumstances, the Architectural Committee and/or Board may require written consent of adjacent homeowner(s) be obtained as a condition of approval; e.g. certain locations of external air conditioning compressors, structures that abut zero lot lines or fences, etc. In such cases, it is recommended the requesting homeowner include the written mutual consent of the adjacent homeowner in the submitted application.

c. Submission of the Application

(1) **Architectural/Modification Review Fees.** The Association may charge a reasonable fee for the administrative costs associated with accepting, preparing copies, reviewing, obtaining legal or licensed architect review, and notifying homeowners of Architectural Committee and/or Board's action on submitted applications. Specific fees will be determined on a case by case basis consistent with the level of review required. The fee must be received by the Association at the time the request is made and will cover the costs of any external review. Any excess funds will be refunded to the homeowner.

(2) **Submit in Writing.** Applications, all required supporting documentation and materials, and any applicable fee must be submitted to the Managing Agent at Hawaiian Properties, P.O. Box 38078, Honolulu, HI 96813. All applications must be completely filled out and signed by the homeowner of the unit in question. When appropriate, applications and supporting documents may be faxed to the Managing Agent; otherwise, they should be mailed. Unreadable documents or supporting materials will be returned for re-submission.

(3) **Acknowledgement.** Upon receipt, the Managing Agent will date stamp the request and will notify the homeowner to confirm receipt. The Managing Agent will advise the homeowner if any required information is missing in the application. Any missing information must be submitted prior to consideration of the application by the Architectural Committee. Upon receipt of a properly completed application, the Managing Agent will forward it to the Chairperson of the Architectural Committee in accordance with Part II of the standard application.

2.2 Step 2: Review and Approval

a. Time Period for Review

(1) **Sixty (60) Day Review Period.** The Architectural Committee and/or Board will generally act within sixty (60) days of receipt from the Managing Agent of a completed and signed application (Article VI, Section 7 of the By-Laws; Section 5.8 of the Rules and Regulations). The

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sixty (60) day period shall commence upon receipt of a properly completed application by the Architectural Committee from the Managing Agent.

(2) Delays. The homeowner will be advised whether there will be any potential delays in Architectural Committee and/or Board action due to legal or licensed architect review. The Board is not responsible for any delays in homeowners of leasehold units obtaining Lessor approval when so required (see Section 2.2.c(2)). Homeowners should plan accordingly for this processing time, when scheduling the start times for modifications or improvements.

b. Architectural Committee Review and Action

(1) Architectural Committee Meetings. The Architectural Committee will meet at least once each calendar month on such date(s) as shall be determined by its members. Scheduled meeting dates will be announced in the newsletter and posted on the Heights of Wailuna Bulletin Board near the second entrance. Written applications must be received by the Managing Agent in advance of the Committee meetings to allow for administrative review and preparation by the Architectural Committee chairperson. Illegible and/or incomplete applications will be returned to homeowners for correction before consideration by the Architectural Committee. Because of the number of applications considered at each meeting, homeowners wishing to personally address the Architectural Committee must make arrangements with the Managing Agent/Committee Chair in advance of the meeting to have their matter placed on the agenda.

(2) Architectural Committee Review. The Architectural Committee will review the application for compliance with Association Rules, By-Laws, the Declaration, published Board policies, past Board decisions and practices, and these Guidelines. Except as noted in the next paragraph, upon completion of its review, the Architectural Committee will submit the application with recommendations to the Board for its review and action at the next regularly scheduled Board Meeting. Except in bona fide emergencies, applications must be considered by the Architectural Committee before submission to the Board.

(3) Architectural Committee Approval (On behalf of the Board). The Board of Directors has authorized the Architectural Committee to approve certain types of alterations and improvements provided the procedures outlined in these Guidelines are followed exactly and the alterations and additions comply strictly with the plans, specifications, and/or standards previously adopted and approved by the Association and/or Board.

(a) These are limited to the following: a) house painting with no change in color; b) garage door replacement; c) roofing shingle replacement; d) flush mount window unit air conditioners; e) solar attic ventilators; f) house lighting; g) installation of screen/utility/garage side doors; h) installation of gutters; i) window tinting, and j) rear yard lawn sprinklers.

(b) Should the Architectural Committee have any concerns about the proposed alteration/improvement or application for these types of alterations, it will refer the application to the full Board for review and action. Otherwise, the Architectural Committee chairperson will inform the Board at the next regularly scheduled Board meeting of the applications (meeting the conditions of this

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section) that were approved by the Architectural Committee. These actions will be entered in the minutes.

c. Board of Directors Review and Approval. Upon receipt of an application with the Architectural Committee's recommendation, the Board will review that application at its next scheduled meeting. The Board may approve/disapprove the request, defer a decision pending additional information from the homeowner, or submit the request for review/action by legal counsel/ licensed architect.

(1) Action by Legal Counsel/Professional Architect. When required or appropriate, the Board will forward the application to the Association's legal counsel and/or a licensed architect for review, the cost of which will be covered by the application fee submitted by the homeowner.

(2) Action by Lessor. Article V, Section 5(p) and Article VI, Section 2 of the Association's By-Laws outline situations where homeowners of Leasehold units must also obtain the approval of the Lessor for proposed modifications and improvements. In those situations, the Board letter will advise the homeowner of this requirement and remind him to obtain written approval from the Lessor. The homeowner will be responsible to obtain this approval directly from the Lessor.

2.3 Step 3: Notification and Performance of Modification

a. Approval in Writing. The Board's decision on an application will be provided in writing (usually by signing Part II of the standard application), which will be returned to the homeowner under cover letter from the Managing Agent. The homeowner may not commence the modification or improvement until receipt of written approval by the Board.

b. Approval Effective for One Year. Any written approval by the Architectural Committee and/or Board shall be effective for a period of one (1) year at which time it shall expire with no notice to homeowner. If the homeowner does not commence the construction within the one (1) year period and/or thereafter fails to complete same with reasonable diligence, the approval given shall be deemed revoked. If the homeowner fails to commence construction within the one (1) year period, the homeowner shall be required to resubmit final plans and specifications to the Architectural Committee and/or Board.

c. Posting of Repair/Modification Approval. Part II of the standard application doubles as onsite verification that a repair or modification in progress has in fact been approved by the Board. This form should be prominently displayed at the work site so it is visible from the street to assure the site manager, Board members, and other residents that the repair or modification has been authorized.

d. Inspection upon Completion of Modification or Alteration. When so indicated on the application, upon completion of construction of approved improvements or other work, the homeowner is required to give written notice to the Architectural Committee via the Managing Agent.

(1) The Architectural Committee shall inspect the improvements or other work within sixty (60) days, unless the time period for inspection is extended.

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(2) If the Architectural Committee finds that the improvements or other work are not constructed in substantial compliance with the approved plans and specifications, the Architectural Committee shall notify the Board who will notify the homeowner of such noncompliance and require the homeowner to remedy such noncompliance within sixty (60) days from the date of notice. If the homeowner fails to remedy the noncompliance within the sixty (60) day period or, in instances in which a longer time to remedy is reasonably required, if the homeowner fails in good faith to commence a remedy within the sixty (60) day period and to thereafter diligently pursue the remedy, the Board may take any reasonable steps to remedy the noncompliance or to restore the lot to its pre-modification condition and assess the homeowner for all expenses incurred in connection therewith.

3.0 PLAN AND INFORMATION REQUIREMENTS

3.1 General. Applications should include plans and specifications (including material samples, photographs, brochures, as may be applicable) in sufficient detail as necessary to assist the Architectural Committee and Board in fully understanding the proposed alteration/modification and its compliance with these Guidelines.

3.2 Plans and Specifications. When directed in Section 4, homeowners must submit two (2) sets or copies of plans and specifications with their applications which fully describe and identify the proposed modification/alteration to include all exterior materials, finishes, and colors to be used. Incomplete or illegible plans and specifications may be returned to the applicant for re-submittal.

a. Plot Plan. A plot or site plan may be required by the Architectural Committee. The plan should be scaled at a minimum of one (1) inch per 20 feet (1 inch=20 feet) and show all easements, the location of all existing and proposed improvements, the property lines, the lot area, set back and contour lines, drainage patterns and proposed drainage plans, the location of all existing trees having a height in excess of six-feet or a trunk measuring six-inches or more in any diameter at ground level and indicating which trees (if any) are to be removed, and the location of all proposed utility installations. The existing and proposed improvements which must be shown include the perimeter of the original residence including all extensions, additions, walkways, slabs, driveway, fences, retaining walls, gates, air conditioning condensers, gas tanks, swimming pools, spas, and equipment.

b. Floor Plan. Floor plans may be required. If requested by the Architectural Committee and/or Board, the minimum scale is 1 inch per 8 feet. The floor plan must clearly show both the existing and proposed improvements. Dimensions must be provided for the proposed improvement.

c. Sections. Sections may be required. If requested by the Architectural Committee and/or Board, the minimum scale is 1 inch per 8 feet. Sections shall show foundations, construction, the relationship to the adjacent grade, and the height of all existing and proposed rooflines.

d. Exterior Elevations. Exterior elevations may be required. If requested by the Architectural Committee and/or Board, the minimum scale is 1 inch per 8 feet. Exterior elevations shall describe all existing and proposed windows, doors, siding, trim, roof material, and unit air conditioning equipment.

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e. Roof Plan. A roof plan may be required. If requested by the Architectural Committee and/or Board, the minimum scale is 1 inch per 8 feet. The roof plan shall show all existing and proposed ridges, valleys, crickets, skylights, and conventional or solar attic locations.

3.3 Samples, Brochures and Photographs. Many proposed alterations/modifications can be best explained by the homeowner providing samples or brochures of the proposed material or replacement item and/or photographs of the intended location or existing conditions. Samples and brochures of the materials proposed for use in any improvements and photographs submitted with applications become property of the Architectural Committee and will be filed in the homeowners file with the Managing Agent.

4.0 APPROVAL CRITERIA FOR SPECIFIC MODIFICATIONS. The Architectural Committee and Board will use the following criteria when considering homeowner requests for improvements or modifications. Homeowners should include sufficient information in their applications to detail how the proposed modification or repair complies with these criteria and forward all necessary information specified for each repair or modification.

4.1 Air Conditioning.

a. Criteria. The following criteria shall apply to air conditioning:

(1) Split units. External equipment shall be contained entirely within the existing fenced area (side or rear yard) of the requesting lot. Compressor units or outside equipment must be placed at ground level to reduce visibility from street. Air conditioning equipment is not permitted in the front yards of units. Applications submitted for installation of new air conditioning equipment and its proposed location will be considered for the noise that will be generated and the potential for disturbing adjacent residences. Condensation from compressor units may not drain onto adjacent properties. Wiring and piping runs should follow house lines and may not be placed over roof surfaces. Covers over wiring and refrigerant piping should be painted to match either house or trim colors as appropriate. The Association is not responsible for water damage to equipment caused by homeowner installed sprinkler systems.

(2) Window units. All window units must be flush mounted.

(3) Central air. Same considerations as for split air units.

b. What to Submit with Application. The following information and documentation must be submitted with the standard application:

(1) Split Systems. Submit plot plan showing intended locations of external equipment (e.g. compressor units) and all external runs of cables and refrigerant lines. Plan should be clear on proximity to adjacent properties, where condensate will drain, and indicate painting on piping run/cabling covers. Brochures or specification sheets on equipment to be installed should be submitted. Photographs of intended locations are encouraged but not required.

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(2) Window Unit Systems. All window units must be flush mounted. Brochures or specification sheets on equipment to be installed should be submitted.

(3) Central Systems. Same as for split systems.

4.2 Extensions/Enclosures.

a. Criteria. The following criteria shall apply to extensions/enclosures:

(1) Drawing Preparation. Plans for improvements exceeding \$25,000 must be prepared, stamped, and signed by a licensed Hawaii architect or registered professional engineer.

(2) Form and Mass. Extensions and enclosures should be designed so that they do not have the visual profile of additions. Instead, they should be integrated into the original design of the residence. Roof form, slope, massing, and details must match the original home design for the particular unit. Use of roof crickets should be limited. Lath shall not be used horizontally.

(3) Standard Conditions. The following conditions apply:

(a) Construction of improvements shall be limited to such that they do not increase the square footage of the dwelling by more than 350 square feet as it appears in the initial Condominium Map, and no improvement shall be added above the roofline of the dwelling unit. (By-Laws Article V, Section 5(h)).

(b) Exterior materials such as siding, trim details, colors, roofing, windows, and doors for the extensions/enclosures must match existing ones. No used or second-hand building material may be used. Samples of siding must be submitted with any application.

(c) Areas beneath concrete slabs are to be treated for ground termites by a licensed professional. Evidence of treatment must be available when requested by the Architectural Committee.

(d) Eaves must be consistent with existing house dimensions.

(e) All work must conform to all applicable laws and codes. Homeowner must obtain all building permits from the City & County of Honolulu, when required by local code and/or ordinance.

(f) Homeowners must submit to the Architectural Committee a proposed construction schedule (including the start and completion dates).

(g) Drainage pattern, setback, side yard and Environmental Protective Corridor (EPC) restrictions apply.

(4) The Architectural Committee/Board and if required a licensed architect must approve the plans (including dimensions and setback) prior to commencement of any work.

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b. What to Submit with Application. The following information and documentation must be submitted with the standard application:

(1) The homeowner must submit plans and specifications, in duplicate, for all extensions and enclosures prior to construction. Plans for improvements or modifications that exceed \$25,000 must be prepared by a licensed Hawaii architect or registered professional engineer showing the extension/enclosure in detail with dimensions.

(2) The plans shall include, but shall not be limited to, a plot plan, floor plans, roof plans, and exterior elevation plans, and at least one section through the proposed extension or enclosure. The plans must clearly show the connection of the proposed extension to the existing structure.

(3) The plans must indicate the lot size, existing ground floor footprint area, and the proposed ground floor footprint area of the extension or enclosure.

(4) The plans and specifications shall indicate all exterior materials, finishes and colors to be used.

(5) The application must also indicate the proposed construction schedule.

(6) The application must address all other relevant criteria outlined above (e.g. setback, side yard, drainage, and EPC).

4.3 Grading.

a. Criteria. Existing site drainage patterns must be maintained. Surface runoff water shall not be altered from its natural or designed course, nor shall it be redirected in a manner that results in erosion or damage to the lot or any adjoining lot.

b. What to Submit with Application. A plot plan showing the extent of the proposed grading is required. If any change to the existing drainage pattern is contemplated or is likely to occur, it must be clearly indicated on the plot plan and what measures to mitigate any impact on adjacent homeowners must be clearly stated.

4.4 Gutters.

a. Criteria. All gutters shall be white or painted to match exterior trim color. An exception is copper gutters, which need not be painted. Downspouts must be positioned so as not to cause runoff onto adjacent lot(s). The Association will be responsible for maintaining gutters located on a unit's zero lot side. The homeowner is responsible for all other gutters.

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b. What to Submit with Application. A drawing or plot plan should identify the location, material, and color of gutters and downspouts. Impact on existing drainage patterns and measures to mitigate impact on adjacent homeowners must be addressed.

4.5 Irrigation/Sprinkler Systems.

a. Criteria. Irrigation/sprinkler heads shall be directed away from spraying into adjacent properties or wetting the sides of the adjacent house.

b. What to Submit with Application. A plot plan showing the extent of the irrigation/sprinkler work and spray patterns are required.

4.6 Landscaping.

a. Criteria.

(1) New or replacement landscaping must preserve the natural view and esthetic beauty of the development (Article VI, Section 4 of the By-Laws). Plant height, location, Side yard and Environmental Protective Corridor (EPC) restrictions apply per the Articles V and VI of the By-Laws and Sections 3, 4, and 5 of the Rules and Regulations. Additional landscaping guidelines are summarized in EXHIBIT C.

(2) Homeowners are responsible for maintaining the wooden borders or edging material on the zero lot side of their house. Pressure treated lumber or other suitable termite resistant edging materials (e.g. black plastic edging or earth tone border material) are permitted.

b. What to Submit with Application.

(1) A plot plan showing the extent of the area to be landscaped is required. The common or botanical names of the proposed shrubbery, ground cover, plants, and trees should be labeled on the plan. The location of the proposed planting and any accessories should be clearly defined.

(2) Homeowners are not required to submit an application to replace the preexisting borders on the zero (0) lot side of the house, if using pressure treated lumber or other suitable materials.

4.7 Lighting.

a. Criteria.

(1) **Exterior Lighting.** Exterior lighting shall be directed away from shining onto adjacent properties. Additional lighting in Side yards other than low voltage or solar walkway lighting is not permitted. All fixtures visible from the street should be the same. Colonial or cape-cod styles

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are acceptable (see pictures in EXHIBIT D) and may be brass, pewter, black, or bronze in color. Glass panels should be clear. For rear yards, other styles (floods, etc) with motion sensors may be installed for security reasons. Manufacturer's brochure and fixture specifications should be submitted with the application.

(2) Landscape Lighting. Landscape lighting fixtures shall be mounted at a height not exceeding 18 inches above grade. Landscape lighting fixtures are not permitted within front yards. The fixture style should be simple in shape and design. The fixture color should be black, neutral or earth tone.

b. What to Submit with Application.

(1) Exterior Lighting. A drawing or plot plan showing the location of the proposed exterior lighting (ground, wall, pole or eaves mounted) is required. Also required is a description (color, size, output power and material) in the form of a photograph, picture, or brochure of the proposed lighting.

(2) Landscaping Lighting. Homeowner need not submit an application for landscape lighting that conforms to the above criteria. For landscape lighting of any other type, application should include same information required for exterior lighting and include manufacturer's brochure and fixture specifications.

4.8 Painting.

a. Criteria.

(1) The Board desires to maintain the color uniformity (and where feasible a close proximity to the original project color palette) within the neighborhood and will readily approve repainting with the current authorized color (or its authorized substitute) for the unit's existing exterior house color. Colors other than the unit's existing authorized color will be approved on a case by case basis when the homeowner can demonstrate the new color is not the same color as that of either adjacent house.

(2) The Board has approved the following house colors that approximate or serve as the authorized substitute for the color palette of the original project. No other house colors are authorized. These are Sherwin Williams semi gloss colors:

Wailuna Blue,
Wailuna Green,
Wailuna Grey,
Wailuna Yellow,
Wailuna Toast (~tan color)
Wailuna Homewood (~peach color)

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(3) No homeowner shall use any reflective finishes on exterior surfaces (other than non-mirrored glass). Exterior paint shall be semi-gloss. No gloss or reflective paint will be permitted on any exterior surfaces.

(4) House trim will be painted with white semi-gloss paint.

(5) Upon receiving Architectural Committee/Board approval to repaint with an authorized color, the homeowner will adhere to the following steps:

(a) Obtain a paint sample of the approved color from the site manager prior to purchasing paint.

(b) Ensure the site manager inspects the paint color prior to application to ensure its conformance with the Board approved color. This is particularly important when the contractor or individual performing the painting uses a paint manufacturer other than Sherwin Williams.

(6) If there are preexisting rust stains at the time of repainting, homeowners are responsible to countersink, caulk and prime all nail heads to prevent recurrence of rust stains. More extensive additional repairs that the homeowner may want to do coincident with the repainting may also require Board approval.

(7) Homeowners who fail to obtain prior Architectural Committee/Board approval to repaint and/or fail to follow the above procedures will be required to re-paint at their own expense as necessary to bring the paint job into compliance.

b. What to Submit with Application. Drawings are not required. In addition to the standard application, fill out the Paint Request Addendum on the reverse of the standard application to clearly indicate the proposed authorized paint color and whether it is a change from the existing house color.

4.9 Roof/Attic Attachment.

a. Criteria. Attachments may not exceed the height of the roof's ridgeline for that portion of the house. Attachments must be parallel with the roof and not exceed a height of twelve (12) inches above the plane of the roof. Flat natural convection, electric powered or solar powered attic ventilators are permitted. Skylights and attic ventilators frames should be dark bronze or black in color; however, grey or aluminum colored attic ventilators will be approved on a case-by-case basis. Skylight panels should be smoke or clear in color. See the Board policy 2006-1, Solar Energy Devices, for specific information on solar water system guidelines and placement restrictions.

b. What to Submit with Application. A roof and exterior elevation plan is required. Detailed drawings to show number/location/orientation are needed for accessories such as skylights, solar and non-solar attic ventilators. Also required is a description (color and size) in the form of a photograph, picture, brochure, or other product information sheets depicting the proposed item.

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4.10 Screen, Side, and Utility Doors.

a. Criteria.

(1) **Screen Doors.** Steel, aluminum and wood doors are acceptable. The allowable colors are white, aluminum color, or matching the existing color of a home's front door. Doors that are visible from street must have a simple, traditional pattern. There are no restrictions on screen doors on the internal access from the garage into the house.

(2) **Side Garage Door.** Side doors into the garage should be replaced with a glass paneled door similar to the original design. A solid door (no windows) is an acceptable substitute. Replacement doors should be painted to match existing house color.

(3) **Utility Door.** Doors into the small utility space beside the garage should be replaced with a slatted door similar to the original design in order to vent the utility space. Two other alternatives are available to homeowners that will provide adequate ventilation. One alternative is a solid door with 4 vent holes installed. The second is a solid core door with a rectangular vent installed on the lower half. See EXHIBIT E for pictures of these alternatives. Replacement doors must be painted to match existing house color.

b. What to Submit with Application. Specify the type, material, location, intended color, and description of the door (which design if a utility door) on the application. Pictures or brochures may be helpful, and should be submitted if available.

4.11 Swimming Pool/Hot Tub.

a. Criteria. Care must be taken to ensure that the design and location of swimming pools and/or hot tubs do not adversely affect other lots. Swimming pools, hot tubs, and all related equipment should be visually screened. Applicable current City and Code of Honolulu Code and/or Ordinances regulating swimming pools and hot tubs must be complied with. For example, current City and County regulations do not permit installation of for swimming pools, hot tubs, and/or related equipment that exceed 30 inches in height from the grade. In addition, the height of the equipment and accessories shall not extend above the property's wall or fence. Side yard, EPC, setback, and draining pattern restrictions apply. Due to the larger than normal water requirement for swimming pools and hot tubs, the Board may require the homeowner to pay an annual fee to compensate the Association (and other homeowners) for the additional cost incurred for water and sewer usage.

b. What to Submit with Application. The location of any proposed swimming pool or hot tub must be shown along with all existing improvements. Associated equipment such as decking must also be shown on the plot plan. The location, base dimensions, and height of accessories such as diving boards, pool covers, and pump equipment must be included. A report from a soils engineer or other expert may be required.

4.12 Unattached Structures.

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a. Criteria. Freestanding structures (e.g. covered gazebos, lanais, sun shades, pergolas and trellis) which are open on all sides are permitted. Also, freestanding storage sheds/structures in rear and some side yards are permitted when they meet setback requirements. Structures made of metal are not permitted. Trellis/pergola members should stand on edge, as a solid flat roof appearance is not acceptable. See also Section 4.2 on extensions/enclosures.

(1) The design of Lanai structures, sun shades and gazebos must continue or complement the architectural features of the unit. This includes the appearance as well as finish materials and color. (By-Laws Article VI, Section 5; Rules and Regulations, Section 5.6).

(2) Homeowner built storage sheds are permitted when they meet setback requirements. The roof and paint color must be compatible with the existing structure. Moreover, the roof and siding materials must be of the same composition of the existing structure. Storage sheds installed against the side of the house must fit under the eaves.

(3) Pre-fabricated vinyl storage sheds must be of earth tone color(s) and meet the setback requirement from property line within the fenced yard, and must be screened from neighboring streets with trees or palms.

(4) Side yard and EPC restrictions apply.

(5) Requests for unattached structures on lots with unusual house orientations or visibility from multiple streets will be considered on a case-by-case basis.

(6) See Board Policy memo 2007-1 for specific requirements on pergolas.

(7) Pop-up canvas canopies or similar temporary sunshade structures are not considered unattached structures and should be taken down no later than 72 hours after set up. However, picnic table umbrellas are not included in this restriction.

b. What to Submit with Application. A plot plan is required showing design, materials, color, proposed locations, dimensions, and distance of the freestanding structure from the property lines to adjacent property/structures. An application and/or prior approval to install a pre-fabricated vinyl storage shed in compliance with the above guidelines are not required.

4.13 Walkways/Slabs.

a. Criteria.

(1) **General Concrete Work.** Existing drainage patterns must be maintained. Surface runoff or the water drainage patterns may not be altered from its natural or designed path. Additionally, runoff or drainage patterns may not be redirected in a manner that results in erosion or damage to the lot or any adjoining lot(s). Areas beneath the concrete work must be treated for ground termites by a licensed professional. Evidence of treatment must be submitted upon request. Concrete work in side

Heights at Wailuna
Architectural-Modification Guidelines

yards should not be closer than one (1) foot from the adjacent property (zero lot) line. Dimensions of existing (as built) concrete/slab items shall not be changed without the approval of the Architectural Committee.

(2) Front Yards. Additional slabs or walkways are not permitted. When utility or other repairs result in necessary repairs to existing driveways and walkways, homeowner must return the design and appearance of driveways and walkways to as close as original as feasible. Deviations require specific approval of the Architectural Committee and/or Board.

(3) Side and Rear yards. Changes to original walkway and slab design/dimensions require approval of the Architectural Committee and/or the Board. Changes to existing walkway or slab finish/covering material are allowed with prior approval of the Architectural Committee and/or the Board. Brochures or samples should be submitted with the application. Side yard and EPC restrictions apply.

b. What to Submit with Application. A plot plan is required. Dimensions of the proposed concrete work, paver tiles, or gravel and the distance from the property lines of the existing unit and the adjacent property shall be clearly shown on the plan. The size and shape of stepping-stones and the walkway or slab finish/covering material shall be stated on the drawings. Impact on existing drainage patterns and measures to mitigate impact on adjacent homeowners must be addressed.

4.14 Fences/Gates/Walls.

a. Criteria.

(1) Fences. Side yard and EPC restrictions apply. The Association will be responsible for maintaining the condition of the white picket fences and gates fronting the street, the wrought iron fences at the rear of some units, and designated white privacy fences. Written consent signed by the adjacent homeowners will be required for relocation of existing fences or installation of new fences situated on or within two (2) feet of property lines (Article VI, Section 3 of the By-Laws and Section 5.4 of the Rules & Regulations). New fences must be similar in design to existing, white in color, and not exceed 6 feet above the finished dwelling slab. Where pet or child safety and/or security requires, homeowners may request to install dark color lattice material in wrought iron fences at the rear of their property.

(2) Gates. Gates constructed for existing fences must match the appearance (i.e. color and design) of the fence. The Association is responsible for the gates on the front picket fences.

(3) Walls. Side yard, EPC, and drainage pattern restrictions apply. As with fences, changes to common walls situated on property lines require the written approval of the adjacent lot homeowner(s). Split-face CMU (concrete masonry unit) walls or retaining walls are permitted, but must be finished or topped in a manner consistent with the general esthetics of the neighborhood. The application should explain or include pictures of the proposed finishing method.

b. What to Submit with Application. A plot plan showing the location, dimensions, setbacks, and materials to be used is required. If a retaining wall is proposed, a detailed section must be

**Heights at Wailuna
Architectural-Modification Guidelines**

submitted. Changes to common walls and fences (those situated on or within two (2) feet of property lines) require a letter of approval from the adjacent lot homeowner(s).

4.15 Window Tint.

a. Criteria. Non-reflective tinting, bronze or smoke in color, will be permitted, but must be professionally installed.. A maximum of 20% solar reflectance is permissible. Provide a sample of the proposed tinting material. Reflective window tinting of any kind will not be approved.

b. What to Submit with Application. A sample of the proposed window tint and brochure with specifications shall be submitted. The solar reflectance value of the window tint must be indicated in the specifications. Identify by sketch or other description the location and number of windows to be tinted.

4.16 Replacement Windows.

a. Criteria. Replacement windows must have same general design, look (type) and grid pattern to the existing windows being replaced. The color of window frames must be white. Upon completion, the basic appearance and symmetry of existing windows must be preserved.

b. What to Submit with Application. A drawing or plot plan showing the location of the replacement windows is required. A brochure or product information sheets of the proposed window construction and grid pattern as well as the local vendor must be submitted with the application.

4.17 Garage Door Replacement.

a. Criteria. The Board has approved the Martin garage door, Ranch or Woodline models, as the authorized "replacement standard." Models from other manufacturers will be approved if the homeowner demonstrates they are visually equivalent to the Martin model. The doors listed in the columns below the respective Ranch garage door model have been judged to be equivalent garage doors. Brochures and specifications will be required to show the specific details of any proposed substitute. Replacement garage doors must not have windows or decorative hardware and hinges. White is the only authorized color, and the homeowner must paint the replacement per either of the paint schemes in EXHIBIT F using existing house and trim colors.

Vendor	Style	Other details	Vendor	Style	Other details
Martin	Ranch		Martin	Woodline	
Wayne Dalton	Model 9600	Ranch	Wayne Dalton	Model 9600	Colonial
Clopay	Model M4053, Premium Series	Long Elegant Panels	Clopay	Model 4050, Premium Series	Short Elegant Panels
Raynor	Decade II	Ranch	Raynor	Decade II	Colonial

Heights at Wailuna Architectural-Modification Guidelines

b. What to Submit with Application. The manufacturer, model and series number, color (white), panel features and local vendor must be provided to allow for comparison to the standard. A brochure or other printed materials should be included.

4.18 Antennae.

a. Criteria. The Board has outlined requirements and guidelines on antenna installation (including satellite reception dishes) in a separate policy document.

b. What to Submit with Application. Submit information as specified in the separate policy document.

4.19 Roofing Shingle Replacement.

a. Criteria. The only authorized roofing material is asphalt shingles. Because of their high quality wind and fade resistance, the Board has approved Malarkey Roofing Products as the only authorized roofing shingle replacement. Some of the longer warranty lines also carry algae resistance warranties. When re-roofing, homeowners may also want to consider the installation of drip edges (white, 1 ½ inch) to better protect against potential moisture damage. The following are the authorized Malarkey shingle colors. No other colors or styles are authorized.

Antique Brown
Midnight Black
Sienna Blend
Silverwood
Storm Grey
Weathered Wood

b. What to Submit with Application. Drawings are not required. In addition to the standard application, fill out the Roof Replacement addendum section on the reverse of the standard application to clearly indicate that Malarkey Roofing Products will be used and the desired authorized color.

4.20 Siding Replacement.

a. Criteria.

(1) **Vinyl Siding.** Vinyl siding colors must match the current palette of authorized paint colors. The color requested should match as close as possible the current house color or one of the other authorized house colors described under painting [Section 4.8]. The same rules apply for color changes as outlined in that section. Upon installation of siding, garage doors and side and utility doors should be painted to match color of the siding.

(2) **Wood siding.** The Board currently has not identified specific substitutes for existing installed siding types.

**Heights at Wailuna
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(a). If replacing siding on the entire house, submit a sample of the proposed replacement siding material.

(b). When replacing partial sections due to damage, replacement wood siding should match existing. The overarching requirement is that “patching” with dissimilar materials is not permitted on a given house section. If original siding or materials that match the original are not available, homeowner must replace that section of the house siding that will provide for a uniform and symmetrical appearance. Hardie makes siding with both smooth and textured appearances. Additionally, TruWood makes 4” and 5” lap siding in a textured finish that is a reasonable match to existing design. A sample of the proposed replacement siding should be provided and the specific location and dimensions of the section being replaced should be identified.

(c). See Section 4.21 regarding chimney siding repairs.

b. What to Submit with Application.

(1) For replacement with vinyl siding, homeowner should submit brochures or other product material that will explain the product and show color, general appearance, and finish of the proposed vinyl product. Homeowners should submit the name of the vendor and a statement that the desired siding color that will preserve the requirement that no two adjacent houses have the same color.

(2) For replacement of wood siding, the homeowner should provide a drawing or plot plan that identifies the specific section of the house that will have siding replaced. The name of the siding, the manufacturer, and a sample or product material for the replacement siding should be provided. Homeowner should clearly state whether the siding matches existing. In those cases where existing siding or materials to match existing are not available, homeowner should clearly identify the location and dimensions of the partial replacement. All replaced siding must be painted to match existing authorized house color (see Section 4.8 on painting).

4.21 Chimney Repairs/Chimney Cap Replacement.

a. Criteria.

(1) **Chimney siding repairs.** Repairs to the chimney must preserve the existing design, siding and house paint colors and scheme. Siding used to repair partial sections of the chimney should match existing. The Board has approved other siding options for total chimney siding replacement: Hardie-board panel (stucco), other Hardie siding products, and TruWood lap siding in a textured finish [The site manager has samples of some of these materials].

(2) **Chimney Cap Replacement.** A specific replacement standard for chimney caps has not yet been identified. Some homeowners have found suitable chimney caps online from mainland vendors. Homeowner should submit brochure with specifications and dimensions of the proposed replacement.

Heights at Wailuna
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b. What to Submit with Application. Drawings are not required for chimney repair since design must be identical to existing. However, the application must identify and provide a sample of materials to be used and a statement of whether the replacement siding matches existing house siding. Application must also specify the color that chimney siding/trim will be painted. For replacement chimney caps, a brochure showing the style and/or other description of the proposed replacement and its dimensions should be included with the application.

4.22 Decks.

a. Criteria. Wood decks may be authorized for rear yards to serve the same purpose as the existing cement lanais. Application must show that the proposed design, dimensions, setback, construction, and height comply with the applicable requirements for unattached structures [Section 4.12] and walkways/slabs [Section 4.13]. Natural or earth tone colors are acceptable as colors.

b. What to Submit with Application. A plot plan is required showing the proposed design, dimensions, height, location, and distance from the property lines of the adjacent property/structures. Type of materials and intended color of the finished product must also be submitted. Owner should provide brochures or specifications to illustrate materials to be used.

4.23 Clotheslines.

a. Criteria. Clotheslines or other outside drying facilities shall be located within fenced areas of the rear yard and shall not be visible from a neighboring lot or street. If a clothesline is desired by a homeowner, a single pole, rotary type clothesline device is both neat in appearance and practical. In addition to the foregoing, the top of the clotheslines must be lower than the height of the fence or wall.

b. What to Submit with Application. Submitting an application for clotheslines or other drying facilities that comply with the above criteria is not required.

4.24 Security Bars.

a. Criteria. External security bars are not allowed. Security bars, which are fully contained within the residence's interior, do not require Architectural Committee and/or Board approval.

b. What to Submit with Application. Submitting an application for internal security bars is not required.

**Architectural-Modification Guidelines
EXHIBIT A**

Applicable Restrictions and Cross-References

ITEM	Rules and Regulations	By-Laws
General Permissions	3.1; 3.20.d; 5.2; 5.5.a; 5.6; 5.7	Art V, Sec 5(p) Art VI, Sec 2; Sec 4
Air Conditioning	3.1	Art V, Sec 5(o)
Clothes Lines	3.2	Art V, Sec 5(v)
Drainage Patterns	3.12	Art V, Sec 5(z)
Environmental Protection Corridors (EPC)	2.0; 3.20.f; 4.2.b; 5.3	Art V, Sec 4; Art V, Sec 5(f); Art VI, Sec 3
External wiring	3.1	Art V, Sec 5(o)
Fences	3.20.f; 4.2.a(2); 5.4	Art V, Sec 5(f); Art VI, Sec 3
Landscape	3.20.c; 3.20.f; 3.20.g; 4.2.a(1); 4.2.a(2); 5.5	Art V, Sec 4 Art V, Sec 5c; Art V, Sec 5(f); Art VI, Sec 4
Leasehold		Art V, Sec 5(p) Art VI, Sec 2
Lighting	4.2.a(2)	
Mutual Consent	5.4	Art VI, Sec 3
New Structures (additions, lanais, sun shades, etc.)	3.20.e; 3.20.h; 4.2.b; 5.2; 5.6	Art V, Sec 5(e); Art V, Sec 5(f) Art V, Sec 5(h); Art VI, Sec 3; Art VI, Sec 5
Paint	5.7	Art VI, Sec 6
Roof restrictions (types and height of attachments)	3.1; 3.20.h	Art V, Sec 5(h); Art V, Sec 5(o); Art V, Sec 5(p)
Security Bars	3.22	
Setback	3.20.e	Art V, Sec 5(e)
Screen Doors	3.15	
Tree/Plant Height	3.20.g; 5.5	Art V, Sec 5(g); Art VI, Sec 4
TV Antennas	3.18	Art V, Sec 5(p) Art VI, Sec 2
Window Tinting	3.23	
Yards, Front	3.7; 3.20.c; 4.2.a(1)	Art V, Sec 2; Art V, Sec 4; Art V, Sec 5c
Yards, Rear	3.20.f; 3.20.g; 4.2.a(3); 5.5	Art V, Sec 2; Art V, Sec 4; Art V, Sec 5.g
Yards, Side (lighting, structures, landscape, fences)	3.20.g; 4.2.a(2); 5.5	Art V, Sec 4; Art V, Sec 5.g

This listing is a summary and cross reference of where the By-Laws and House Rules mention specific requirements or restrictions. It is not all inclusive of repairs for which Board approval may be required.

EXHIBIT B
Heights at Wailuna

Application for Modifications, Additions or Improvements
(PART I)

Legal Homeowner(s) _____ **FS** **LH** _____

Mailing Address _____ **Lot Number** _____ **EPC: YES** _____ **NO** _____

Day Phone _____ **Alternate Phone** _____ **Email** _____

Description of modification, addition or improvement:

☐ Air Conditioning	☐ Irrigation/Sprinklers	☐ Extension/Enclosure	☐ Walkway/Slabs
☐ Painting	☐ Landscaping	☐ Hot tubs/Swimming Pools	☐ Lighting
☐ Roof Replacement	☐ Walls/Fences/Gates	☐ Roof/Attic Accessories	☐ Gutters
☐ Garage Door	☐ Utility/Side Doors	☐ Siding/Chimney Repair	☐ Other

Please describe in detail what you wish to do (attach additional sheets if necessary). Address the specific requirements of Section 4.0. For Painting and Roof replacement requests, also fill out the reverse side.

Modification, addition, or improvement will be done by:

Contractor Name: _____ **License Number:** _____

Self: _____ **Other:** _____

Estimated Start Date: _____ **Estimated Completion Date:** _____

Fee Enclosed (if required): _____

Submit completed application with two (2) sets of drawings, blueprints, sketches, or product brochures clearly showing the intent and extent of the proposed work to the Architectural Committee via the Managing Agent at Hawaiian Properties, P.O. Box 38078, Honolulu, HI 96813.

Homeowner's Signature _____ **Date** _____

Notifications:

Approval of this application by the Architectural Committee and/or Board of Directors is required before any improvement is permitted under the Heights of Wailuna Declaration of Horizontal Property Regime, By-Laws, and Rules and Regulations. Failure to obtain the required approval in violation of the By-Laws can result in the removal of all nonconforming structures or said improvements at the Owner's expense. For some improvements, homeowners of Leasehold units may require approval by the Lessor and must obtain any necessary approval directly from the Lessor.

In accordance with the By-Laws and Rules and Regulations, the Architectural Committee and Board of Directors are allowed up to sixty (60) days following receipt of an accurate and complete application to review and render a decision.

Approval or disapproval of this application is for esthetic purposes only, and does not in any way indicate an opinion of safety, structural quality or soundness of the building plan or other proposed improvement by the Architectural Committee and Board of Directors. The Homeowner is responsible for obtaining and posting a permit that is required by the City and County of Honolulu. Any modification required by the City and County Building Department to plans previously approved by the Architectural Committee and Board of Directors, must be re-submitted for review and approval.

EXHIBIT B
Heights at Wailuna

Application for Modifications, Additions or Improvements
(PART I Cont)

Paint Request Addendum:

1. We are requesting to repaint our unit:

_____ With the same color (or current approved substitute) as the existing color.

Authorized Paint Colors	Existing House Color	Repaint Color
Wailuna Blue		
Wailuna Green		
Wailuna Grey		
Wailuna Yellow		
Wailuna Toast		
Wailuna Homewood		

_____ With a different authorized color as indicated.

2. We understand that we are to use semi-gloss paint for both house and trim (white only). The approved paint colors and manufacturers are on file with the Managing Agent.
3. We understand that we are to obtain a paint sample of the approved house color from the site manager prior to purchasing paint.
4. We understand that, if there are existing rust stains, we may need to countersink, caulk and prime nail heads to prevent recurrence of rust stains. Other repairs incident to painting may also require specific Board approval.

Homeowner's Signature _____ Date _____

Roof Shingle Replacement Addendum:

_____ We will be replacing our roof shingles with Malarkey Roofing Products using the following authorized color and manufacturer on file at the Managing Agent.

Authorized Malarkey Roofing Color	Re-roof Color
Antique Brown	
Midnight Black	
Sienna Blend	
Silverwood	
Storm Grey	
Weathered Wood	

Homeowner's Signature _____ Date _____

For Managing Agent: Date received: _____ Sequence No. _____ Fee Amount \$ _____ Check # _____

EXHIBIT B
Heights at Wailuna

Application for Modifications, Additions or Improvements
(PART II)

LOT #: _____ **ADDRESS:** _____ **HOMEOWNER:** _____

Short Title of Request: _____

Sequence No: _____

Architectural Committee Action/Recommendation:

Date Received: _____ Action Due Date: _____

☐ **APPROVED / RECOMMEND APPROVAL** (circle as applicable)

☐ **DISAPPROVED / RECOMMEND DISAPPROVAL** (circle as applicable)

☐ **Forward to Board for review and action.**

Comments: _____

Authorized Signature: _____ Date: _____

For the Architectural Committee

Board of Directors:

☐ **APPROVED.** Approval is effective for a period of one (1) year from approval date indicated herein and is deemed revoked if the Homeowner has not commenced with the approved work within that period. If construction is delayed for any reason, please notify the Managing Agent at the Hawaiian Properties Office (539-9777). Homeowner is responsible for obtaining any required City and County of Honolulu building permits. **Approval is subject to the following conditions and/or modifications as indicated:**

Completion inspection required: ☐ YES ☐ NO

☐ **LEASEHOLD Homeowner: Submit to Lessor for Approval:** ☐ YES ☐ NO

☐ **DISAPPROVED.**

Reasons: _____

Authorized Signature: _____ Date: _____

For the Board of Directors

POST OR HAVE THIS FORM AVAILABLE AT JOB SITE TO PROVE BOARD APPROVAL

**Architectural-Modification Guidelines
EXHIBIT C**

LANDSCAPE DESIGN GUIDELINES

A. GENERAL CONSIDERATIONS

The original landscaping design for the Heights at Wailuna was based upon these three objectives: to establish an overall identity and character; to provide continuity; and to create an attractive and esthetically pleasing environment.

Homeowner proposals for improvements and landscaping of their individual lots will be evaluated in the context of these objectives as well as their compliance with the restrictions in the By-Laws and Rules and Regulations. See Section 4.6 and the table in EXHIBIT A.

B. FRONT YARD LANDSCAPING

The Association is responsible for the landscaping and maintenance of the front yards of all properties.

Homeowners are not permitted to modify or add to the front yard landscaping. Additionally placement of planter boxes, potted plants, statues, etc on driveways and on the street side of the picket fences is not permitted.

The homeowner is responsible for maintaining the small rock area/border associated with the access to the utility closet external to the garage.

C. SIDE YARD LANDSCAPING

The Board is required to approve the proposed types and locations of trees, shrubs, and palms to be used in side yards to ensure compliance with the height limits, light/ventilation, and natural view restrictions as stated in the By-Laws and Rules and Regulations. It is the homeowner's responsibility to ensure that trees and shrubs are trimmed to remain clear of the adjacent homeowner's house and roof. Additionally, the homeowner must keep his ground covers and invasive landscaping clear of the portion of the adjacent homeowner's property between the zero lot line and his house.

Potted plants and planter boxes contained wholly within the fenced area of the side yard do not require Architectural Committee approval.

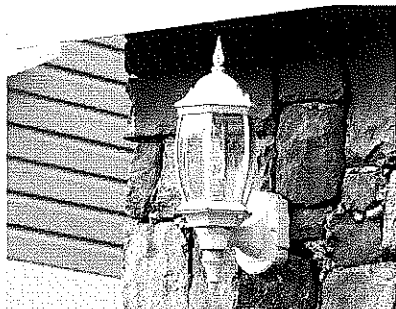
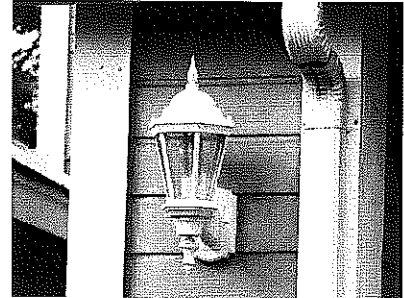
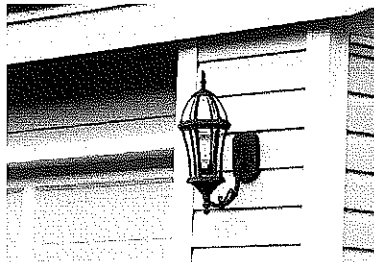
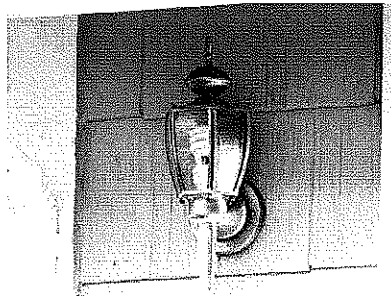
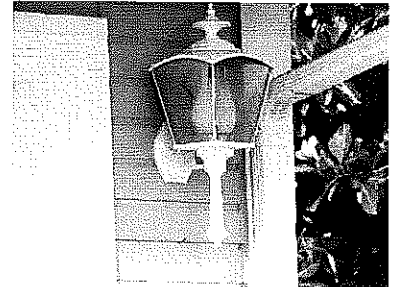
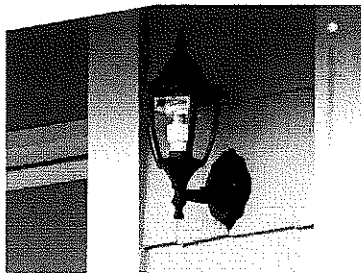
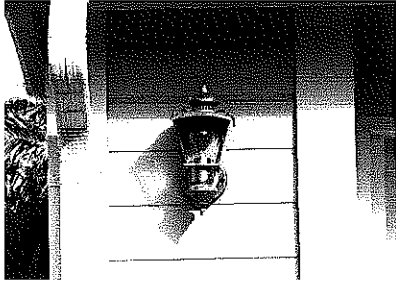
Unless written consent of the adjacent homeowner in whose yard the bed and border exist, the homeowner is responsible for maintaining the bed and border material at his zero lot line. Either landscape timber, black vinyl edging or other suitable border material is permitted. See Section 4.6.

D. REAR YARD LANDSCAPING

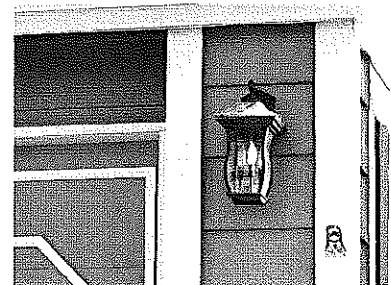
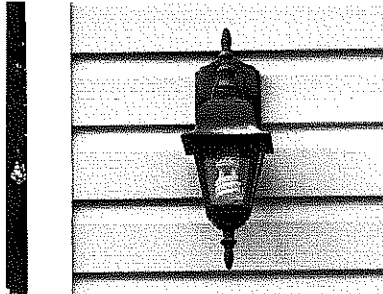
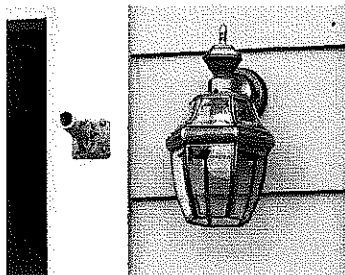
Approval by the Board is required of the types and locations of trees, shrubs, and palms to be used in rear yards to ensure compliance with applicable height limits, natural view, and EPC restrictions. It is the homeowner's responsibility to ensure that trees, shrubs, invasive ground covers, etc. and any plant debris remain clear of the adjacent homeowner's property and /or common areas.

**Architectural-Modification Guidelines
EXHIBIT D**

SAMPLE EXTERNAL LIGHTING STYLES

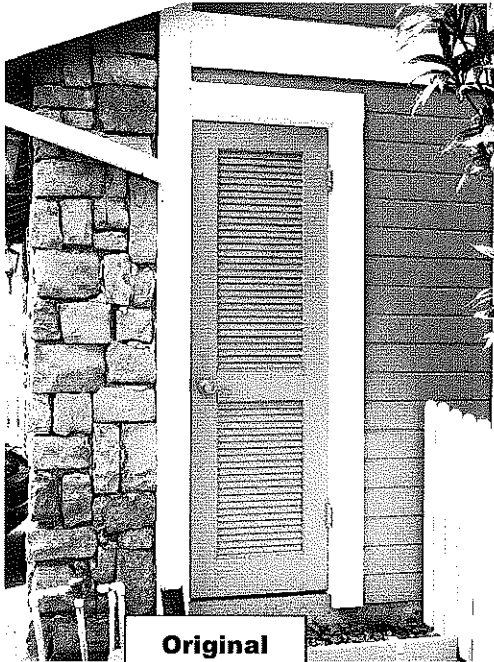


- Style: Colonial or Cape Cod
- Color: White, Black, Brass, Pewter, Bronze
- Upright or hanging
- Must have clear glass panels



**Architectural-Modification Guidelines
EXHIBIT E**

UTILITY DOOR REPLACEMENT OPTIONS



**Original
Design**



**Authorized
Substitute**



**Authorized
Substitute**

- **Option 1: Solid Core Door with 4 vent holes (2 inch vents) to allow venting of utility closet**
- **Option 2: Solid Core Door with rectangular vent installed to allow venting of utility closet**
- **Paint door same color as House color**

REPLACEMENT GARAGE DOOR PAINT SCHEMES



OPTION "A"



OPTION "B"

THE HEIGHTS AT WAILUNA ANTENNA INSTALLATION POLICY

- A. This Antenna Installation Policy is adopted in conformance with the recently adopted rule of the Federal Communications Commission (47 C.F.R. Part 1, Subpart S, §1.4000 et seq.) [hereinafter "FCC Rule"] governing installation of direct broadcast satellite antennas, multi-point distribution system ("wireless cable") antennas, and over-the-air broadcast antennas.

The Association's By-Laws provide:

No apartment owner or occupant shall without the prior written approval of the Board of Directors and Lessor, erect, place or maintain any television or other antennas, or solar energy systems or any other types of objects or equipment on any building visible from any point outside of his apartment.

...

No building, fence, wall or other structure shall be commenced, erected or maintained upon the project, nor shall any exterior addition to or change or alteration therein, including patio covers and antennas, be made until the plans and specification showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Committee and Lessor.

Other provisions of the governing documents of the project and of Chapter 514A, Hawaii Revised Statutes, also restrict installation of antennas. These restrictions will continue to apply to all installations of antennas except to the extent modified by the Rule.

The only antennas which are covered by the FCC Rule are:

- (1) Antennas designed to receive direct broadcast satellite service, including direct-to-home satellite services, one meter or less in diameter; or
- (2) Antennas designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, otherwise known as "wireless cable" services, one meter or less in diameter or diagonal measurement; or
- (3) Antennas designed to receive over-the-air television broadcast signals.

Furthermore, the FCC Rule only covers antennas installed "on property within the exclusive use or control of the antenna user where the user has a direct or indirect ownership interest in the property." Antennas installed on property that is not within the exclusive use or control of the antenna user or property in which the antenna user does not have a direct or indirect ownership interest are not covered by the FCC Rule.

B. Antennas covered by the FCC Rule may be installed only in accordance with the following restrictions:

- (1) Any owner proposing to install an antenna shall provide the Board of Directors and the Architectural Committee with written notice at least seven (7) days prior to installation. The notice shall include: a) the type of antenna including dimensions and other specifications; b) the name of the television service provider; c) plans showing the location of installation and the manner in which the antenna will be installed and cables will be run into the unit.
- (2) Except as provided herein with respect to limited common elements, antennas shall not be installed, used, or maintained on or in the common elements of the project.
- (3) Except as otherwise provided herein and subject to the other provisions herein, antennas covered by the FCC Rule may be installed, used, and maintained on or in limited common elements (as defined in the Declaration), provided, however, that:
 - a. No antenna shall be installed, used, or maintained on or in a limited common element that is not within the exclusive use or control of the antenna user;
 - b. No antenna shall be installed, used, or maintained, without the prior written consent of the Board and the Architectural Committee, on or in any limited common element if the installation, use, or maintenance will involve a penetration through, alteration of, addition to, or modification of any limited common element that is not within the exclusive use or control of the antenna user and/or any common element (general or limited) that the Association is required to repair and/or maintain.
- (4) Subject to the provisions herein, antennas may be installed, used, and maintained in the apartments (as defined in the Declaration), provided, however, that no antenna shall be installed, used, or maintained in any apartment, without the prior written consent of the Board of Directors, if the installation, use, or maintenance will involve a penetration through, alteration of, addition to, or modification of any limited common element that is not within the exclusive use

or control of the antenna user and/or any common element (general or limited) that the Association is required or permitted to repair and/or maintain.

- (5) Antennas shall be placed in locations which are not visible from the exterior of the project, the Condo Lot or the apartment unless such placement would impair the installation, maintenance, or use of the antennas, in which case the following requirements shall apply:
- a. The antennas shall be placed in the least visually obtrusive location which would not preclude reception of an acceptable quality signal.
 - b. The antennas shall be painted to blend in with the surrounding background surfaces to the extent that this will not preclude reception of an acceptable quality signal. No bare metal may be exposed.
 - c. If painting the antennas will not adequately cause the antennas to blend in with the background surfaces or minimize visibility of the antennas, as determined by the Board and the Architectural Committee, the Board and the Architectural Committee may require that the antennas be screened or enclosed in such a manner as to blend in with the surrounding background surfaces or to minimize visibility of the antennas, so long as such screening or enclosure will not preclude reception of an acceptable quality signal or unreasonably increase the cost of installation.

As used in this Antenna Installation Policy, "preclude reception of an acceptable quality signal" means that reception would be impossible or would be substantially degraded.

- (6) In the event that the Board of Directors reasonably determines that it needs to perform maintenance on the project which will require removal of any antenna, the owner shall remove the antenna. The Board of Directors shall give the owner at least thirty (30) working days prior written notice, where practical to do so, in order that the owner may coordinate with his/her service provider. Any removal or relocation of an antenna required under this provision shall be performed by the owner at his/her sole cost and expense, and the Association shall not be liable for loss or inconvenience to the owner arising from the removal or relocation.
- (7) Antenna installations shall not present any safety concerns and shall comply with all applicable statutes, ordinances, rules, and regulations promulgated by any governmental authority, including, without limitation, the obtaining of any permits required by such authorities unless those statutes, ordinances, rules or regulations have been preempted by the FCC Rule. The FCC has recognized

that safety concerns are presented by masts higher than 12 feet. Safety concerns will also be presented by installation of any mast whose height exceeds the distance to neighboring property or public rights of way measured from the point of installation.

- (8) Pursuant to the FCC Rule, the Association reserves the right to petition the Federal Communications Commission for a waiver allowing the adoption of restrictions on antennas which would otherwise be preempted. In the event that such a waiver is granted, antenna installations which are not in compliance with such restrictions may be required to be brought into compliance within a reasonable time as determined by the Association, acting through its Board.

Heights at Wailuna Clothesline Policy

1. Purpose. To update HaW Clothesline policy to comply with Hawaii Senate Bill 1338.

2. Background.

a. SB 1338 will prohibit Associations from precluding or rendering ineffective the use of clotheslines devices in single family units.

b. Associations may adopt rules that reasonably restrict the placement and use of clotheslines.

3. Impact. The approved revision below will both modify and clarify House Rules.

Current House Rules:

3.2 CLOTHES DRYING

Outside clothes lines or other outside clothes drying or airing facilities shall be permitted only when are not visible from neighboring Condo lot(s) and/or streets.

Current Architectural Guidelines

4.23 Clotheslines.

a. **Criteria.** Clotheslines or other outside drying facilities shall be located within fenced areas of the rear yard and shall not be visible from a neighboring lot or street. If a clothesline is desired by a homeowner, a single pole, rotary type clothesline device is both neat in appearance and practical. In addition to the foregoing, the top of the clotheslines must be lower than the height of the fence or wall.

b. **What to Submit with Application.** Submitting an application for clotheslines or other drying facilities that comply with the above criteria is not required.

Approved Revision to Clothesline Policy

4.23 Clotheslines.

a. **Criteria.** One single-pole, rotary clothesline is permissible under the following conditions:

(1) Clothesline shall be located within the fenced area of the rear yard and shall not be visible from the street (the one to which your driveway connects).

(2) Clotheslines shall not exceed a height of 7 feet when in use (unfolded).

(3) There are no restrictions on rotary clothesline diameter, but the unit must be neat in appearance and in good repair.

(4) Clothes should be taken down when dry.

b. **What to Submit with Application.** Submitting an application for clotheslines or other drying facilities that comply with the above criteria is not required.

Approved: Lecia Ortiz Date: July 16, 2009
For the Board of Directors

**ASSOCIATION OF APARTMENT OWNERS
THE HEIGHTS AT WAILUNA
COLLECTION POLICY STATEMENT**

References:

1. The Heights at Wailuna Rules and Regulations, Section 6.0
2. The 2007 Director's Guide to Hawaii Community Association Law (pg 57-58)
3. Memo on Collection Procedures (1/09) – Christopher Shea Goodwin, Attorney at Law
4. Hawaiian Properties Handout (1/09)
5. Delinquency Collection Procedures - approved at Heights at Wailuna Annual Meeting on March 19, 2009

1. Background.

- a. The Board of Directors of the Association is charged with the responsibility of collecting regular (monthly) and special assessments for common expenses from Association Members pursuant to the governing documents of the Association.
- b. From time to time, Association Members become delinquent in the payments of these assessments and fail to respond to the demands from the Board to bring their accounts current.
- c. The Board deems it be in the best interests of the Association to summarize a uniform and systematic procedure for dealing with delinquent accounts in a timely manner, and further believes it be in the best interests of the Association to refer these accounts promptly to an attorney for collection so as to minimize the Association's loss of assessment revenue.
- d. The Board has retained as the Association's Collection Attorney: Christopher Shea Goodwin to represent the Association on the terms outlined in this policy statement.

2. Policy.

- a. Maintenance fees are due on the first day of the month.
- b. Any account that is not paid in full as of the 15th day of the month is delinquent and the Managing Agent is authorized and directed to charge to and collect from this account/Association Member a Late Fee in the amount of \$15.00.
- c. The Managing Agent is directed to send any Association Member who is delinquent in the payment of regular or special assessments of an amount less than \$100, a monthly statement each month until the amount owing is paid in full.
- d. The Managing Agent is directed to mail any Association Member who is delinquent in the amount of \$100 or more a written friendly reminder notice (hereafter referred to as the "First Notice"). This will normally be sent after the 15th of the month.
- e. If the account is not paid in full within thirty (30) days of the First Notice and the amount owed is still \$100.00 or more, the Managing Agent will send a second written notice (hereafter referred to as the "Final Notice") to the Association Member.

Collection Statement

f. If the account is not paid in full within thirty (30) days of the Final Notice and the amount owed still exceeds \$100.00, the Managing Agent will turn the matter over to the Association's Collection Attorney for collection. The Association Member will be liable for payment of all charges imposed by the Association's Collection Attorney to cover fees and costs which are charged to the Association.

NOTE: The Managing Agent is directed to consult with the Association's Collection Attorney and turn over for collection immediately any account where the Owner(s) files or is subject of a petition for relief in bankruptcy or a lender has commenced any action for foreclosure or lien against the Unit.

g. Upon receipt of a delinquent account from the Managing Agent, the Association's Collection Attorney is directed to send any Association Member who is delinquent in the payment of regular or special assessments, a written notice (hereafter referred to as the "Demand Letter") that will advise the Association Member that if the account is not paid in full within thirty (30) days, the Association will record a Notice of Lien against the unit.

h. The Association's Collection Attorney will inform the Board of any account that has not been paid in full by the due date specified in the Demand Letter. The Board must specifically authorize the attorney to proceed with any of the following actions either individually or in combination until said delinquent account is paid in full:

(1) Recording of a Notice of Lien against the delinquent unit. NOTE: The Board must approve any attorney recommendation for recording a Notice of Lien; however, the Board has authorized the attorney to automatically file a Notice of Lien when a delinquent account reaches an amount owed of \$2000.00 or more.

(2) Collection of Rents from Tenants or Rental Agents. In accordance with Association approved procedures and Hawaii Revised Statutes (H.R.S.), Section 514B-145.

(3) Discontinuance of Commons Services. In accordance with Association approved procedures and H.R.S., Section 514B-146(e) and (f).

(4) Non-judicial Foreclosure. In accordance with Association approved procedures and H.R.S., Section 514B-146(a).

(5) Judicial Foreclosure. In accordance with Association approved procedures and H.R.S., Section 514B-146(a).

3. Additional Instructions.

a. The Association's Collection Attorney shall pursue all collection matters which the Board, acting through the Managing Agent, may from time to time refer to him and will provide any collection advice and counsel which the Board may from time to time require.

b. Once referred to the attorney, all contacts with a delinquent Association Member shall be handled through the Association's Collection Attorney. Neither the Managing Agent nor any

Collection Statement

Association Officer or Director shall discuss the collection of the account directly with Association Member after it has been turned over to the Association's Collection Attorney unless the Association's Collection Attorney is present or has consented to contact.

c. All sums collected on a delinquent account shall be remitted to the Association in care of the Association's Collection Attorney until the account has been brought current.

d. When any account is turned over to the Association's Collection Attorney for collection, the account shall be so marked by the Managing Agent and no quotation on the account shall be released to any party, including the Owner and /or Escrow Agent, except with the consent of the Association's Collection attorney. All Legal Fees and costs incurred in connection with the collection of any delinquent account shall be assessed against the Unit and its Owner(s), and recoverable in accordance with applicable provisions of the Associations By-laws and Hawaii law.

e. The Association's Collection Attorney shall give notice to the delinquent Association Member that, if the delinquent account is not brought current within the time stated, or a satisfactory agreement has not been reached to accomplish this, foreclosure proceedings may be initiated.

f. To the extent the Association's Collection Attorney, in his/her discretion, consider it to be appropriate in the circumstances, he/she is authorized to enter into an installment payment plan with the delinquent Association Member. However, the Board must approve any payment plan which provides for a) a down payment of less than the greater of one-third (1/3) of the delinquent balance or twice the current monthly assessment amount, or b) a repayment duration in excess of six (6) months. Monthly Late Fees will continue to accrue on the account until the account is brought current (payment is made in full), including all associated Legal Fees and costs.

g. Outstanding and unpaid fees will be handled as follows: At any time there are unpaid Legal Fees, Late Fees, Fines, Bad Check Charges, Agreement of Sale Payments or Special Assessment Fees on an Association Member's account ledger, the next Association /Maintenance Fee payment received from that Association Member will be first applied to liquidating these fees in the order as stated above. After these fees are paid, the remaining amount, if any, will be credited to the Association/ Maintenance Fee assessment account. This procedure is sometimes referred to as "Priority of Payments."

4. Distribution. Following confirmation by the Board that this is a valid statement of its collection policy, a copy of this policy statement will be sent to all Association Members.

Signed: Lecia Ortiz Date: August 20, 2009
For the Board of Directors

**Heights at Wailuna
Policy on Service Line Repairs**

1. Background:

a. Homes in the Heights are aging and various service lines for which the homeowner is responsible are beginning to fail (water, gas, and sewer).

b. Many of these lines are buried in the concrete slab or under the driveway; hence, there is no easy access or fix, when these lines leak or burst.

c. There is currently no Association policy nor any Board approved guidance in the Architectural Guidelines about repairs to these service lines.

d. According to the Association's By-Laws (Article V, Section 5.o), written approval of the Board is required to install equipment or appurtenances on the exterior of the unit.

e. Past practices have permitted the installation of split air conditioning units, which require electrical, Freon lines, and PVC drain lines to be run external to the house. The Architectural Guidelines specify service wires/piping should be covered and follow house lines.

f. There is no record of past Board approval to allow installation of water and gas lines external to the house as a permanent repair.

2. Statement of Board Position:

a. Water, gas, and sewer lines are original installation and are not in the same category as split air conditioning service lines.

b. As the general rule, water, gas and sewer lines should be repaired or replaced in existing configuration. This is for safety and esthetic considerations.

c. Requests to deviate from the general rule will require written Board approval in accordance with the By-Laws.

d. In reviewing any request to deviate from the general rule and run replacement water and/or gas lines external to the house as a permanent repair, the Board will consider the individual circumstances involved and whether the proposal:

(1) Meets safety concerns.

(2) Meets esthetics concerns. In addressing esthetic concerns, the homeowner's request must detail how the proposed configuration would install the replacement piping in a hidden or unobtrusive manner, would follow house lines, and/or cover the external piping with molding or other such materials to present a neat and inconspicuous appearance.

Approved: Lecia Ortiz Date: July 16, 2009
For the Board of Directors

April 20, 2006

**ASSOCIATION OF THE HEIGHTS AT WAILUNA
BOARD OF DIRECTORS**

Policy Memo: 2006 – 1

Subject: Solar Energy Devices

Purpose: To specify Association rules governing the placement of solar energy devices (e.g. solar water heater systems, etc) as required by Hawaii Revised Statutes ("HRS") Section 196-7, which became effective on September 1, 2005. The primary objectives of these rules are to ensure safety and a continued uniform and aesthetic appearance within the Heights at Wailuna. This policy memo does not apply to skylights and solar/conventional attic ventilators.

Owner responsibilities:

1. Homeowners of units in the HEIGHTS will submit the normal written request for modification in accordance with the standing Association rules. In the request, homeowners will submit the following information:

a. Detailed drawings showing the number and proposed location and footprint for installation of the solar panels that identifies compliance with the installation/placement rules in the next section and illustrates the devices orientation relative to existing roof structures.

b. Available product information on the system. Also required is a description (color and size) in the form of a photograph, picture or brochure of the proposed device.

c. Name of the licensed contractor who will perform the installation and certify that the device has been installed in compliance with all required building codes.

2. Homeowners (and each successive owner) will sign and place on file with the property manager a written acknowledgement that he understands that he is responsible for the safety of the devices and all damages to common elements or any adjacent units caused from the installation, maintenance, repair, removal or replacement of the device.

3. Homeowners (and each successive owner) will be required to have a policy of insurance covering the above obligations and name the Association as an additional insured.

4. If a warranty (material or labor) is provided at the time the device is installed, the homeowner is required to obtain confirmation in writing from the entity issuing the

warranty that the installation of the solar energy device will not void the roof warranty. The homeowner must provide the property manager with a copy of this confirmation within 14 days of installation.

Installation / Placement of Solar Energy Devices:

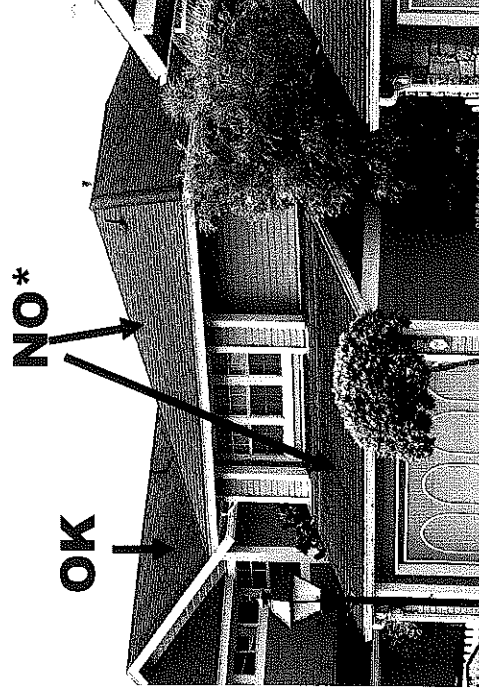
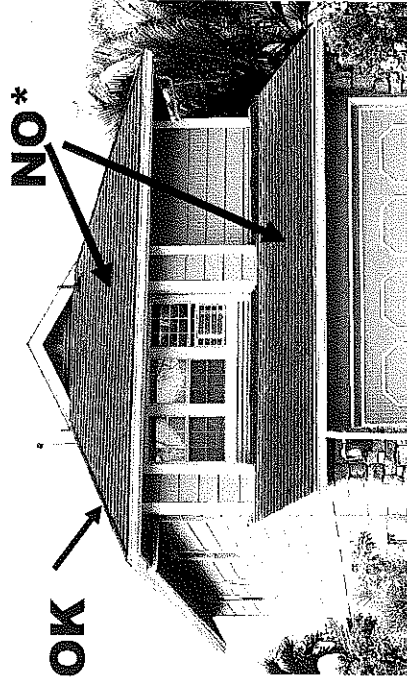
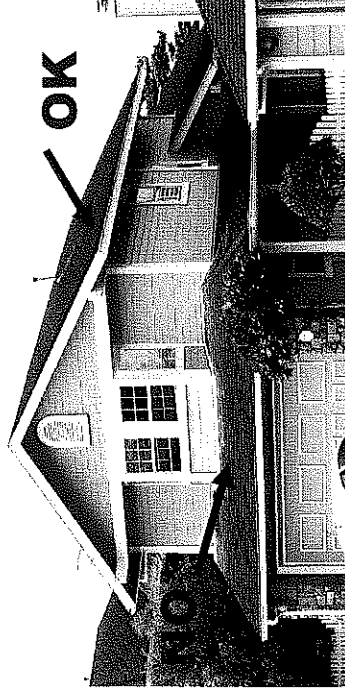
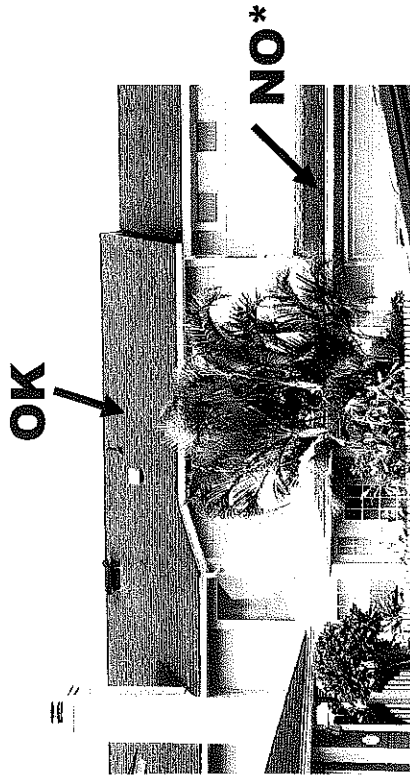
1. Solar water heater panels will be installed on the main section of the unit's roof (see pictures that show unauthorized roof sections). Additionally, attachments will:
 - a. Not exceed the height of the roof's ridgeline (on which it is installed).
 - b. Be placed parallel with the roof and not exceed a height of six (6) inches.
 - c. Must be setback from all edges of the roof; i.e. cannot extend over the edge of the roof.
2. No exposed pipes (or piping runs across the roof) are permitted.
3. No exterior mounted storage tanks are permitted.
4. Solar panels (and frames and pipes) must be dark bronze or black in color. The reflective value must not exceed twenty (20) percent.
5. Request for modification should provide justification for greater than 2 panels or the need for oversize panels.

Association Considerations:

1. The Association is not responsible for any existing or future conditions of trees or structures that may block available sunlight to solar energy devices installed to comply with these rules.
2. Potential degradation in the performance of solar energy devices resulting from a unit's existing physical orientation relative to the sun or its architectural design are not sufficient grounds to justify deviation from these rules.
3. These rules are not intended to unduly or unreasonable restrict the placement of solar energy devices so as to render the device more than twenty-five per cent less efficient or to increase the cost of the device by more than fifteen per cent.

Approved:: Approved at Board Meeting 4/20/06
For the Board of Directors Date

Authorized Roof Areas for Solar Energy Device Placement



NO* - PANELS UNLIKELY TO FIT WITHIN ROOF FOOTPRINT

RESOLUTION
Of the Board of Directors
AOAO THE HEIGHTS AT WAILUNA
For Mandatory
COVENANTS COMPLIANCE INSPECTIONS

WHEREAS, the Board of Directors of **AOAO THE HEIGHTS AT WAILUNA** ("Association") hereby establishes a covenant compliance policy in conjunction with the conveyance of units to new owners;

WHEREAS, the Declaration and Bylaws grants the Board of Directors authority to adopt policies, procedures and rules for the operation and management of the Association;

WHEREAS, the Association and its Board of Directors has a general responsibility to ensure that owners comply with its governing documents;

WHEREAS, the Association is frequently requested provide written disclosure of covenant compliance to a prospective purchasers;

WHEREAS, it is in the best interests of the Association to ensure that prior to conveyance of any unit, existing covenant violations be identified and disclosed to prospective purchasers;

NOW THEREFORE, BE IT RESOLVED THAT at the time of, and in connection with the conveyance of any unit, the Association shall require a Covenant Compliance Inspection of the exterior of the unit as part of disclosures made by the Association to prospective purchasers. Such inspections will be coordinated through and conducted by the Association's Managing Agent and/or its designated agents or representatives, which may charge a reasonable fee for such inspection and the providing of written report or certification in connection therewith. All fees incurred in connection with such inspection shall solely be the joint responsibility of the parties to the conveyance, not the Association;

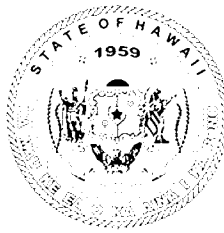
IT IS FURTHER RESOLVED that the herein described COVENANTS COMPLIANCE INSPECTION requirement is effective upon adoption hereof, and shall remain in force and effective until revoked, modified or amended;

This is to certify that the foregoing Resolution was adopted by the Board of Directors at a duly called meeting held on July 23, 2013, and has not been modified, rescinded or revoked.

Date:

President, Betty Yrizarry Betty Yrizarry
Its

Treasurer, Robert Gardiner Robert Gardiner
Its



STATE OF HAWAII
BUREAU OF CONVEYANCES
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March 16, 2022 8:11 AM
Doc No(s) A - 81100486

Doc 1 of 1
Pkg 11984191 CGG

/s/ LESLIE T KOBATA
REGISTRAR

LAND COURT

REGULAR SYSTEM

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CHRISTOPHER SHEA GOODWIN
ATTORNEY AT LAW LLLC
737 BISHOP STREET, SUITE1640
HONOLULU, HAWAII 96813
TELEPHONE: (808) 531-6465

**AMENDMENT TO BY-LAWS OF THE ASSOCIATION OF APARTMENT OWNERS OF
THE HEIGHTS AT WAILUNA**

WHEREAS, The Heights at Wailuna, Increment 1 was a condominium project established by Declaration of Horizontal Property Regime recorded on October 3, 1985 in the Bureau of Conveyances of the State of Hawaii in Liber 18981, page 617, and organized pursuant to those certain By-laws of the Association of Apartment Owners of The Heights at Wailuna, Increment 1, recorded in said Bureau on October 3, 1985, in Liber 18981, page 660; and

WHEREAS, The Heights at Wailuna, Increment 2 was a condominium project established by Declaration of Horizontal Property Regime recorded on February 11, 1986 in said Bureau in Liber 19285, page 693, and organized pursuant to those certain By-laws of the Association of Apartment Owners of The Heights at Wailuna, Increment 2, recorded in said Bureau on February 11, 1986, in Liber 19285, page 725; and

WHEREAS, The Heights at Wailuna, Increment 3 was a condominium project established by Declaration of Horizontal Property Regime recorded on May 7, 1986 in said Bureau in Liber 19486, page 487, and as Document No. 86-52067, and organized pursuant to those certain By-laws of the Association of Apartment Owners of The Heights at Wailuna, Increment 3, recorded in said Bureau on May 7, 1986, in Liber 19486, page 518, and as Document No. 86-52068; and

WHEREAS, The Heights at Wailuna, Increment 4 was a condominium project established by Declaration of Horizontal Property recorded on August 19, 1986, in said Bureau in Liber 19771, page 448, and organized pursuant to those certain By-laws of the Association of Apartment Owners of The Heights at Wailuna, Increment 4, dated July 29, 1986, recorded in said Bureau on August 19, 1986, in Liber 19771, page 484; and

WHEREAS, the four condominium projects established in the aforementioned Declarations (herein referred to jointly as the, "Declarations"), and organized pursuant to the aforementioned By-laws, were merged by that certain Partial Revocation of Declaration of Merger for The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, and The Heights at Wailuna, Increment 3 and Declaration of Merger for The

Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, The Heights at Wailuna, Increment 3 and The Heights at Wailuna, Increment 4, recorded on August 19, 1987 in said Bureau in Liber 21036, page 688 (herein referred to as, "Declaration of Merger"); and

WHEREAS, the Declaration of Merger provided each of the four projects described therein shall be treated as part of a single project developed as a whole from the beginning and the respective Declarations of Horizontal Property Regime and By-laws (hereinafter referred to as, "By-laws") applicable to each shall be construed as one document applicable to the entire as merged except as specifically set forth in the Declaration of Merger; and

WHEREAS, the Declaration of Merger further provided the four projects shall henceforth be known as, "The Heights at Wailuna";

WHEREAS, H. R. S. §514B-108(e) provides the By-laws may be amended at any time by the vote or written consent of at least sixty-seven percent (67%) of all apartment owners;

WHEREAS, on November 1, 2021, more than sixty-seven percent (67%) of all apartment owners granted their written consent to amend the By-laws as set forth herein;

NOW, THEREFORE, the By-laws are hereby amended as follows:

Article II, Section 1 of the By-laws, entitled, "Board of Directors – Number and Qualifications" shall be amended add the following new language:

"No apartment owner who is delinquent for more than ninety (90) days in the payment of any assessments for common expenses due

to the Association, as certified by the Managing Agent, shall be eligible for nomination, appointment and/or election to the Board.”

Further, Article II, Section 5 of the By-laws, entitled, “Board of Directors – Removal of Directors” shall be amended to add the following new language:

“Any Director who fails to attend three (3) or more Regular meetings of the Board during any consecutive twelve (12) month period commencing from the beginning of the Director's term on the Board, may be removed at any Regular or Special meeting of the Board upon a majority vote of all Directors then in office, whereby such vacancy shall then be filled by the Board in accordance with Article II, Section 4 of these By-laws.”

This Amendment does not affect any of the Developer's reserved rights under the Declarations and/or By-laws, if any, that may still exist as of the date of recording of this Amendment;

In all other respects, the respective By-laws, as amended, are hereby ratified and confirmed, shall be binding upon and inure to the benefit of the parties to them and their respective successors and permitted assigns, and shall remain unchanged by reason of this amendment except as specifically set forth herein. The undersigned officers of the Association hereby certify the Amendment described herein was adopted by obtaining the written consent of more than sixty-seven percent (67%) of all apartment owners on November 1, 2021.

[Signature lines appear on next page]

Signed this 10 day of January, 2022 ¹⁶
2021.

ASSOCIATION OF APARTMENT OWNERS
OF THE HEIGHTS AT WAILUNA, an
unincorporated Hawaii condominium
association

By: 
Printed Name LILLIAN PORTIZ
Its President

By: 
Printed Name SUZANNE CARLOS
Its Secretary

STATE OF HAWAII

)

) SS.

CITY AND COUNTY OF HONOLULU)

On this 10th day of January, 2022, before me personally appeared LUCIA P. ORTIZ to me known to be the person described in and who executed the foregoing instrument, and did say that [s]he is the President of the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, an unincorporated Hawaii condominium association, and acknowledged that [s]he executed the same as his/her free act and deed of and by authority of the Board of Directors of ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA.

****NOTARY PUBLIC CERTIFICATION****

WAILANI WONG-LONZANIDA
Name of Notary: _____

Notary Public, State of Hawaii, First
Judicial Circuit

Title of Doc: AMENDMENT TO
BY-LAWS OF ASSOCIATION OF
APARTMENT OWNERS OF THE
HEIGHTS AT WAILUNA

No of Pages: 1 (plus Exhibit)

Date of Doc: Undated

Wailani Wong-Lonzanida JAN 10 2022
Notary Signature Date

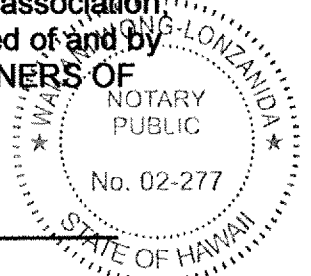
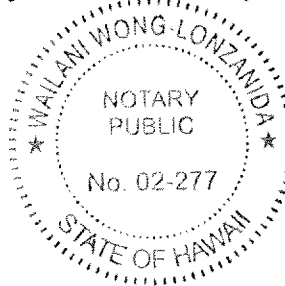
Notary Public, State of Hawaii

WAILANI WONG-LONZANIDA

Notary Public

Printed Name of Notary My commission expires 6/9/2022

My commission expires: _____



STATE OF HAWAII)

)

) SS.

CITY AND COUNTY OF HONOLULU)

On this 10th day of January, 2022, before me personally appeared Suzanne Carter to me known to be the person described in and who executed the foregoing instrument, and did say that [s]he is the Secretary of the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, an unincorporated Hawaii condominium association, and acknowledged that [s]he executed the same as his/her free act and deed of and by authority of the Board of Directors of ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA.

****NOTARY PUBLIC CERTIFICATION****

WAILANI WONG-LONZANIDA

Name of Notary: _____

Notary Public, State of Hawaii, First
Judicial Circuit

Title of Doc: AMENDMENT TO
BY-LAWS OF ASSOCIATION OF
APARTMENT OWNERS OF THE
HEIGHTS AT WAILUNA

No of Pages: 7 (plus Exhibit)

Date of Doc: undated

WLP JAN 10 2022
Notary Signature Date

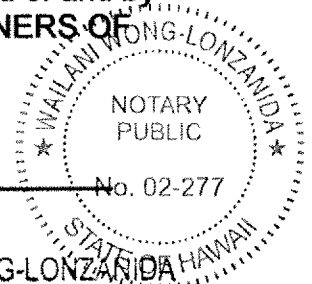
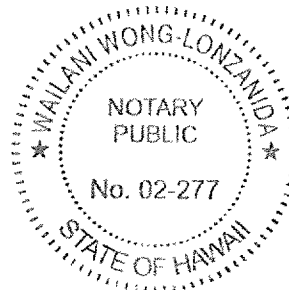
WLP
Notary Public, State of Hawaii

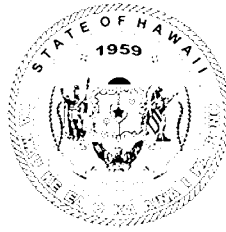
WAILANI WONG-LONZANIDA

Printed Name of Notary

Notary Public
My commission expires 6/9/2022

My commission expires: _____





STATE OF HAWAII
BUREAU OF CONVEYANCES
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Doc 1 of 1
Pkg 12463917 TAW

/s/ BESS PALMA (ACTING)
REGISTRAR

LAND COURT

REGULAR SYSTEM

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CHRISTOPHER SHEA GOODWIN
ATTORNEY AT LAW LLLC
737 BISHOP STREET, SUITE1640
HONOLULU, HAWAII 96813
TELEPHONE: (808) 531-6465

**SECOND AMENDMENT TO BY-LAWS OF THE
ASSOCIATION OF APARTMENT OWNERS OF
THE HEIGHTS AT WAILUNA**

WHEREAS, The Heights at Wailuna, Increment 1 was a condominium project established by Declaration of Horizontal Property Regime dated September 17, 1985, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 18981, page 617, and as Document No. 85-111172, and organized pursuant to those certain By-laws of the Association of Apartment Owners of The Heights at Wailuna, Increment 1, dated September 17, 1985, recorded in said Bureau in Liber 18981, page 660, and as Document No. 85-111173; and

WHEREAS, The Heights at Wailuna, Increment 2 was a condominium project established by Declaration of Horizontal Property Regime dated January 27, 1986, and recorded in said Bureau in Liber 19285, page 693, and organized pursuant to those certain By-laws of the Association of Apartment Owners of The Heights at Wailuna, Increment 2, dated January 27, 1986, and recorded in said Bureau on, in Liber 19285, page 725; and

WHEREAS, The Heights at Wailuna, Increment 3 was a condominium project established by Declaration of Horizontal Property Regime dated April 17, 1986, and recorded in said Bureau in Liber 19486, page 487, and as Document No. 86-52067, and organized pursuant to those certain By-laws of the Association of Apartment Owners of The Heights at Wailuna, Increment 3, dated April 17, 1986, recorded in said Bureau in Liber 19486, page 518, and as Document No. 86-52068; and

WHEREAS, The Heights at Wailuna, Increment 4 was a condominium project established by Declaration of Horizontal Property dated July 29, 1986, and recorded in said Bureau in Liber 19771, page 448, and as Document No. 86-100390, and organized pursuant to those certain By-laws of the Association of Apartment Owners of The Heights at Wailuna, Increment 4, dated July 29, 1986, recorded in said Bureau in Liber 19771, page 484, and as Document No. 86-100391; and

WHEREAS, the four condominium projects established in the aforementioned Declarations (herein referred to jointly as the, "Declarations"), and organized pursuant to the aforementioned By-laws, were merged by that certain Partial Revocation of Declaration of Merger for The Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, and The Heights at Wailuna, Increment 3 and Declaration of Merger for The

Heights at Wailuna, Increment 1, The Heights at Wailuna, Increment 2, The Heights at Wailuna, Increment 3 and The Heights at Wailuna, Increment 4, (now jointly known as, "The Heights at Wailuna") dated May 5, 1987, and recorded in said Bureau in Liber 21036, page 688 (herein referred to as, "Declaration of Merger"), and as Document Nos. 87-127004 and 87-127005; and

WHEREAS, the Declaration of Merger provided each of the four projects described therein shall be treated as part of a single project developed as a whole from the beginning and the respective Declarations of Horizontal Property Regime and By-laws (hereinafter referred to as, "By-laws") applicable to each shall be construed as one document applicable to the entire as merged except as specifically set forth in the Declaration of Merger; and

WHEREAS, the Declaration of Merger further provided the four projects shall henceforth be known as, "The Heights at Wailuna"; and

WHEREAS, the By-laws of the Association of Apartment Owners of The Heights at Wailuna were amended by that certain Amendment to the By-laws of the Association of Apartment Owners of The Heights at Wailuna, dated January 10, 2022, recorded in said Bureau as Document No. A-81100486; and

WHEREAS, H. R. S. §514B-108(e) provides the By-laws may be amended at any time by the vote or written consent of at least sixty-seven percent (67%) of all apartment owners; and

WHEREAS, on September 24, 2024, more than sixty-seven percent (67%) of all apartment owners granted their written consent to amend the By-laws as set forth herein;

NOW, THEREFORE, the By-laws are hereby amended as follows:

Article V, Section 5, Subsection (h) of the By-Laws is hereby amended to state as follows:

(h) All improvements and/or additions to any dwelling unit shall be subject to the prior written approval by the Board and the approval by such percentage, group or number of owners as may be required under the Declaration or by law, if any, provided that no improvements or additions to a dwelling unit shall be permitted to be constructed on a Condo lot that shall increase the dwelling unit's footprint by more than 350 square feet as it appears in the initial Condominium Map, which means (a) for a one-story dwelling unit, the improvement or addition may add up to 350 square feet of additional floor area to the dwelling unit; and (b) for a two-story dwelling unit, infill of two-story spaces is allowed, and the improvement or addition may add up to 700 square feet of additional floor area to the dwelling unit. See Exhibits "A-1" through "A-3" attached hereto and made a part hereof for illustrations of "floor area" vs. "footprint".

This Amendment does not affect any of the Developer's reserved rights under the Declarations and/or By-laws, if any, that may still exist as of the date of recording of this Amendment; and

In all other respects, the respective By-laws, as amended, are hereby ratified and confirmed, shall be binding upon and inure to the benefit of the parties to them and their respective successors and permitted assigns, and shall remain unchanged by reason of this amendment except as specifically set forth herein. The undersigned officers of the Association hereby certify the Amendment described herein was adopted by obtaining the written consent of more than sixty-seven percent (67%) of all apartment owners on September 24, 2024.

[Signature lines appear on next page]

Signed this 9th day of November, 2024.

ASSOCIATION OF APARTMENT OWNERS
OF THE HEIGHTS AT WAILUNA, an
unincorporated Hawaii condominium
association

By: Donna Y. Kishi
Printed Name Donna Y. Kishi
Its Vice President

By: Jennifer J. Jungel
Printed Name Jennifer J. Jungel
Its Secretary

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 9th day of November, 2024, before me personally appeared Donna Y Kishi to me known to be the person described in and who executed the foregoing instrument, and did say that [s]he is the Vice President of the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, an unincorporated Hawaii condominium association, and acknowledged that [s]he executed the same as his/her free act and deed of and by authority of the Board of Directors of the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA.

****NOTARY PUBLIC CERTIFICATION****

Name of Notary: Rachel Tanoue
Notary Public, State of Hawaii, First
Judicial Circuit
Title of Doc: SECOND AMENDMENT
TO BY-LAWS OF THE ASSOCIATION OF
APARTMENT OWNERS OF
THE HEIGHTS AT WAILUNA
No of Pages: 7 (plus Exhibits)
Date of Doc: 11/09/2024

Rachel Tanoue

Notary Signature

11/09/2024

Date

Rachel Tanoue

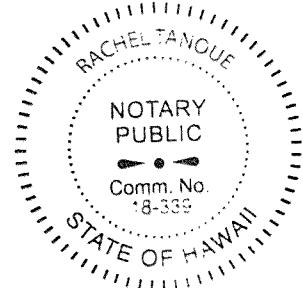
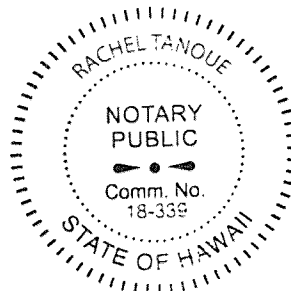
Notary Public, State of Hawaii

Rachel Tanoue

Printed Name of Notary

Rachel Tanoue
My commission expires
06/24/2026

My commission expires:



STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 9th day of November, 2024, before me personally appeared Jennifer J Jungel to me known to be the person described in and who executed the foregoing instrument, and did say that [s]he is the Secretary of the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA, an unincorporated Hawaii condominium association, and acknowledged that [s]he executed the same as his/her free act and deed of and by authority of the Board of Directors of the ASSOCIATION OF APARTMENT OWNERS OF THE HEIGHTS AT WAILUNA.

****NOTARY PUBLIC CERTIFICATION****

Name of Notary: Rachel Tanoue
Notary Public, State of Hawaii, First
Judicial Circuit
Title of Doc: SECOND AMENDMENT
TO BY-LAWS OF THE ASSOCIATION OF
APARTMENT OWNERS OF
THE HEIGHTS AT WAILUNA
No of Pages: 7 (plus Exhibits)
Date of Doc: 11/09/2024

Rachel Tanoue 11/09/2024
Notary Signature Date

Rachel Tanoue

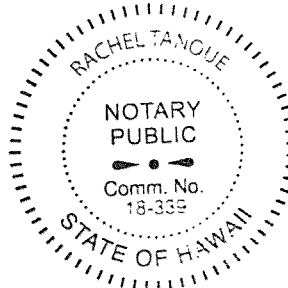
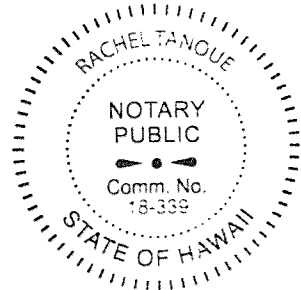
Notary Public, State of Hawaii

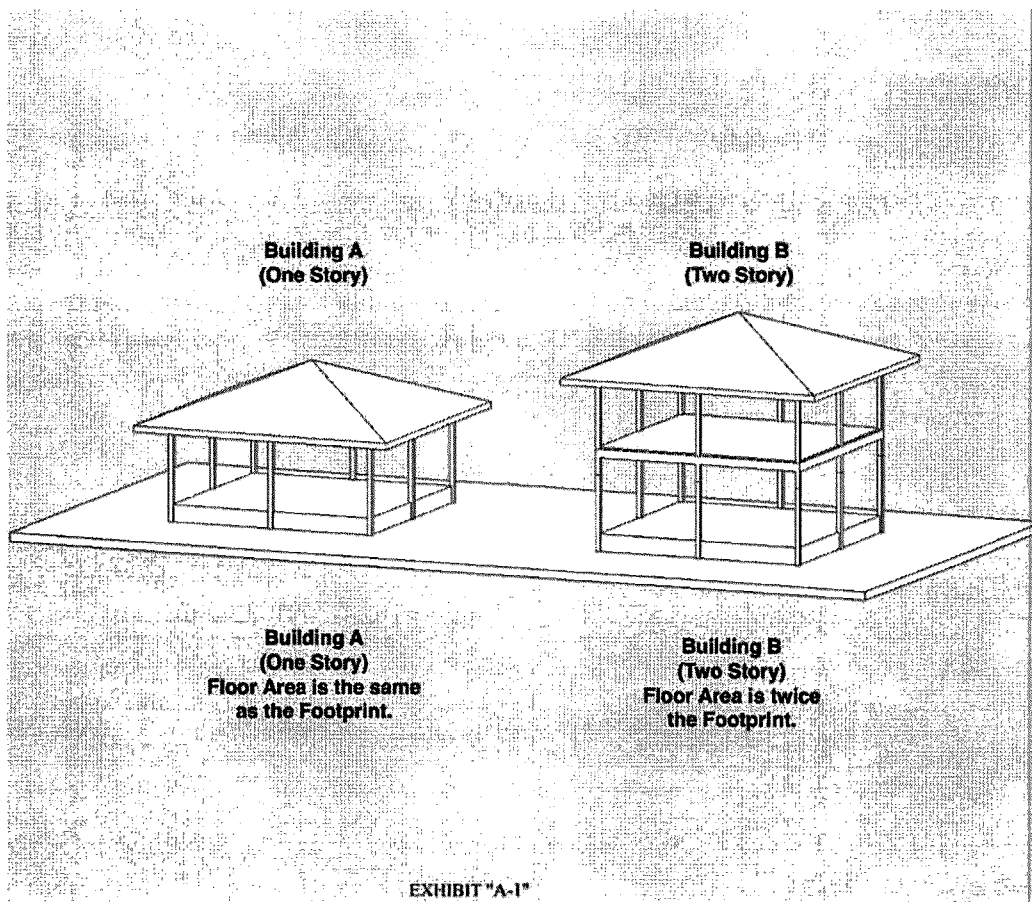
Rachel Tanoue

Printed Name of Notary

Rachel Tanoue
My commission expires
06/24/2026

My commission expires:





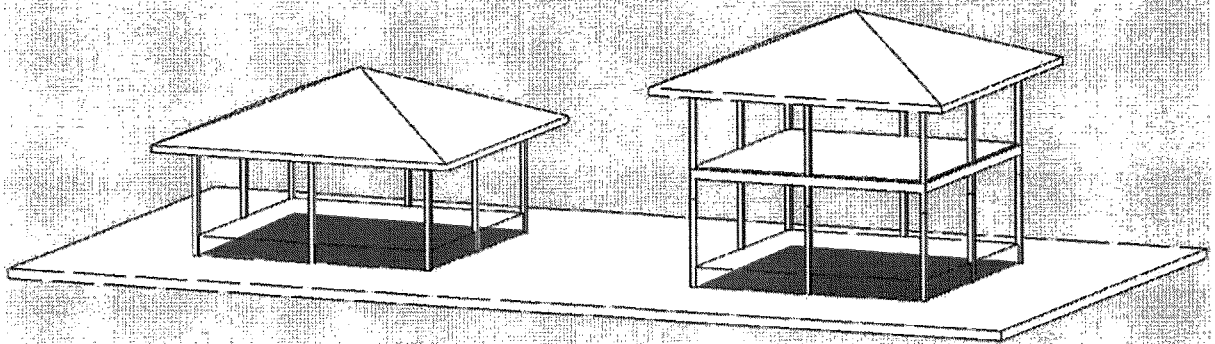


EXHIBIT "A-2" (FOOTPRINT)

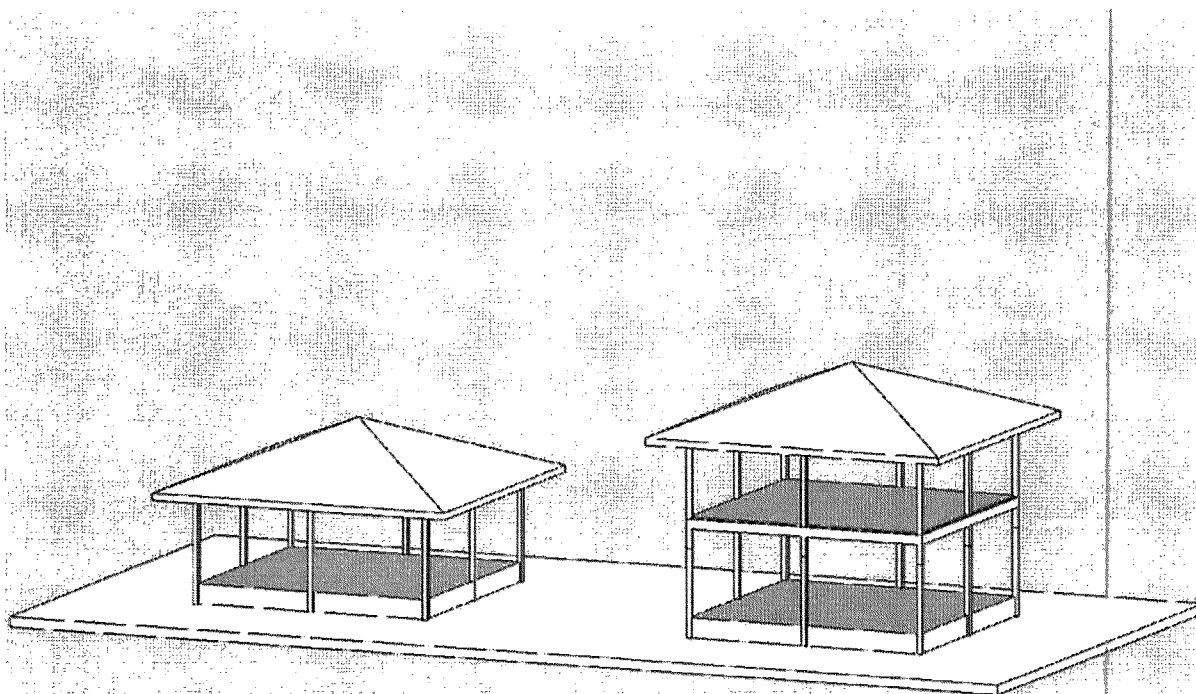


EXHIBIT "A-3" (FLOOR AREA)