

**WAILEA
GOLF ESTATES**

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**HOMEOWNERS ASSOCIATION
Condominium Documentation**

Wailea, Maui, Hawaii 96753

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/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

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RESTATED AND AMENDED
DECLARATION FOR WAILEA GOLF ESTATES I
ASSOCIATION AND COMMON AREAS

WHEREAS, by Declaration for Wailea Golf Estates I Association and Common Areas (hereinafter referred to as "Declaration") dated May 25, 1982 and filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1118065, Wailea Land Corporation, a Hawaii corporation, and The Northwestern Mutual Life Insurance Company, a Wisconsin corporation, doing business as Wailea Development Company, a joint venture registered to do business in Hawaii, did encumber the property described in the Declaration with the terms and conditions of the Declaration; and

WHEREAS, Wailea Resort Company, Ltd. is the assignee of the interest of Wailea Development Company as Declarant under the Declaration, Wailea Resort Company, Ltd. being hereinafter referred to as the "Declarant"; and

WHEREAS, the Declaration provides that it may be amended from time to time through the filing in the Land Court of an amendment duly executed by two officers of the Wailea Golf Estates I Association, with the approval of at least seventy-five

percent (75%) of all members of the Association, together with written approval and consent of the Declarant; and

WHEREAS, at least seventy-five percent (75%) of all members of the Association have given their approval to the restatement and amendment of the Declaration as hereinafter set forth; and

WHEREAS, Transfer Certificates of Title issued for Lots within the Wailea Golf Estates I as of June 15, 1999, are listed on Exhibit "B" attached hereto and by this reference incorporated herein.

NOW, THEREFORE, the Declaration is hereby restated in its entirety and amended as follows:

1. Definitions.

a. "Association": The Wailea Golf Estates I Association, a Hawaii non-profit corporation, and its successors and assigns.

b. "Board" or "Board of Directors": The Board of Directors of the Association.

c. "Bylaws": The Bylaws of the Association, as the same may be from time to time duly amended.

d. "Charter": The Charter of Incorporation of the Association, as the same may be from time to time duly amended.

e. "Committee": The Design Committee established under the Master Declaration.

f. "Common Areas": The Common Areas described in paragraph 3(a).

g. "Declarant": Wailea Development Company, Inc., a Hawaii corporation ("WDCI"), and its successors and assigns, and such other persons to whom WDCI, or its successors or assigns, may assign its rights as Declarant. (For purposes of this definition of "Declarant", WDCI's "successors and assigns" shall not include any person to whom WDCI conveys or leases a Lot, unless the rights of "Declarant" expressly have been assigned to such person.)

h. "Designated Areas": The Designated Areas described in paragraph 3(b).

- 12(a).
- i. "Enforcing Persons": The Enforcing Persons described in paragraph
 - j. "HRS": Hawaii Revised Statutes, as amended.
 - k. "Improvements and Facilities": The Improvements and Facilities described in paragraph 3(c).
 - l. "Lot": Each single-family residential lot in the Subdivision.
 - m. "lot in the Subdivision": Each lot in the Subdivision, including all single-family residential lots, roadway lots, utility lots and all other lots.
 - n. "Master Association": The Wailea Community Association, a Hawaii non-profit corporation, more particularly described in the Master Declaration, and its successors and assigns.
 - o. "Master Declaration": That certain Wailea Community Association Declaration of Covenants and Restrictions dated December 19, 1986, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1427923, as such Declaration may be amended from time to time in accordance with the provisions thereof.
 - p. "owner": The record owner of fee simple title to each Lot.
 - q. "Paramount Liens": The Paramount Liens described in paragraph 9(k).
 - r. "person": Any person, individual or entity (including, without limitation, any trustee, mortgagee, personal representative, corporation (profit or non-profit), partnership (general or limited), association, joint venture or trust).
 - s. "Plot Plan": The individual plot plan given to the initial purchaser of each Lot. Each Lot has its own Plot Plan.
 - t. "structure": All buildings, fences, walls and improvements of every description, whether above, on or below ground.
 - u. "Subdivision": The property described in Exhibit "A" attached hereto, to be known as the "Wailea Golf Estates I Subdivision".
 - v. "Transfer Certificate of Title": The Transfer Certificate of Title issued by the Land Court of the State of Hawaii to each owner, evidencing such owner's ownership of the owner's Lot.

2. Property Subject to Declaration.

a. Property Initially Subject to Declaration. The property initially subject to this Declaration shall be all of the property described in Exhibit "A" attached hereto and made a part hereof (and all subdivided portions thereof). Such property, together with such other Annexation Property as may hereafter be made subject to this Declaration, as provided below, shall be part of the Subdivision.

b. Annexation of Additional Property. Declarant may hereafter, in its sole discretion, add real property, improvements, and other interests, rights, licenses, interests and estates in real property, personal property and improvements (hereafter "property" or "Annexation Property") to this Declaration, thereby subjecting such additional property to this Declaration and making the same as part of the Subdivision.

(i) The annexation of such additional property shall be accomplished by Declarant's having filed in the Land Court of the State of Hawaii, a Supplemental Declaration (a) describing the property to be annexed; (b) setting forth such additional or different limitations, restrictions, covenants and conditions as are applicable to such property; (c) declaring that the property is to be used, held, sold, conveyed, encumbered, leased, occupied, improved, and otherwise enjoyed subject to this Declaration; and (d) stating whether such property is a residential lot or Common Area and any restrictions on the use of such lot.

(ii) When the annexation becomes effective, the property annexed shall become a part of the Subdivision; provided, however, that the property so annexed shall not be or become liable to assessments for the debts or obligations of the Association incurred prior to the date of annexation.

(iii) The Supplemental Declaration described in (b)(i) above may provide for such additional or different limitations, restrictions, covenants, and conditions with respect to such property as Declarant may deem to be appropriate.

(iv) The owner(s) of each and every Lot which may hereafter be annexed and become part of the Subdivision shall be a member of the Association.

(v) No property, except that described in Exhibit "A" and except that specifically hereafter annexed as above provided shall be deemed to be subject to this Declaration. Nothing herein or in any amendment hereto shall be deemed to be a representation, warranty or commitment that the Declarant will commit or subject to this Declaration any property it may now own or hereafter acquire other than that property described in Exhibit "A".

(vi) After annexation, owners of annexed residential lots shall have the right to use all Common Areas. Declarant's right and power to annex

property includes the right to annex additional Common Areas (such as roadways) and require the Association to maintain such additional Common Areas.

3. Administration of Common Areas, Designated Areas and Improvements and Facilities.

(a) Common Areas. "Common Areas" shall mean all property, real and personal, in which the Association owns an interest or which is the Association obligated to maintain or elects to maintain for the use and/or enjoyment of all or part of the owners or occupants of the Lots and others so entitled, and may include, without limitation, estates in fee, estates for a term of years, easements, leases, licenses, permits, and may include public areas. The Association shall accept any property and interest therein which is conveyed or transferred to it, whether as a Common Area or otherwise, by Declarant or which is conveyed or transferred to it by any other person or entity and such conveyance or transfer has been approved by Declarant. Common Areas which are real property shall not be consolidated, subdivided, nor rezoned, except with the written approval and consent of the Declarant. Common Areas and any interest therein shall not be conveyed, assigned, dedicated or in any way transferred, except as provided herein.

Residences or other structures for habitation shall not be constructed or placed upon any Common Area nor shall the Common Areas be used for commercial purposes.

The Association shall be at all times operate and maintain, irrigate, fertilize, landscape, replant and replace plantings in the Common Areas and maintain all improvements in the Common Areas and do all things as are reasonably necessary to insure the fullest possible use and/or enjoyment of the Common Areas by the owners and occupants of the Lots and others so entitled and, except as otherwise provided herein, shall be solely responsible for the care, maintenance and preservation of the Common Areas. The Common Areas shall be maintained at a superior level and standard of maintenance and appearance which is consistent with that of a first-class luxury resort and residential development.

(b) Designated Areas. The Association shall also maintain, irrigate, fertilize, landscape, replant and replace plantings in the areas (public or private) which border, are adjacent to, nearby, and/or within the Subdivision including the areas within the right-of-way adjacent to the Subdivision between the property line and the back of curb of all public or private roadways (the "Designated Areas"). The Designated Areas shall be maintained at a superior level and standard of maintenance and appearance which is consistent with that of a first-class luxury resort and residential development and the Association shall do all things reasonably necessary to so maintain the Designated Areas.

(c) Improvements and Facilities. The Association shall also maintain, repair and replace any improvements and facilities which are transferred to or owned by the Association, or which are located within the Common Areas or Designated Areas or which are located within easements across, over or upon lots within the Subdivision. "Improvements and Facilities" shall include but shall not be limited to roadways, pavement, curbs, gutters, sidewalks, sewer systems, storm drain systems, drainage systems, trash enclosures, walls, signs, equipment, street lighting systems (other than those granted by Declarant to, or owned by a utility company) and landscape irrigation systems (including the cost of electricity and water to operate the electrical and the landscape irrigation systems) and other similar systems, facilities and improvements. "Improvements and Facilities" shall not include improvements or systems which Declarant has conveyed or dedicated to or is owned by the County of Maui (or any department thereof) or a private or public utility such as Maui Electric Company, Hawaiian Telephone Company or a private cablevision company; provided however, the Association shall maintain, plant and irrigate all grass, plants and landscaping in the areas in which such improvements are located.

In the event an owner of a Lot places any driveway or other improvement within or over any Common Area or Designated Area, any removal, repair or replacement of such improvement shall be at the cost of and be the responsibility of the owner and not the Association.

(d) Rules and Regulations. The Board of Directors shall have the right to adopt, amend, modify or revoke such rules and regulations as it deems necessary or desirable for the proper maintenance and operation of the Common Areas, Designated Areas, and Improvements and Facilities, including without limitation suitable regulations for and restrictions on the use of Common Areas, Designated Areas, and Improvements and Facilities, and penalties for the violation thereof. The Board of Directors may enforce such rules and regulations by any legal means, provided, however, there shall be no rule and/or regulation which may in any manner adversely affect or limit the Declarant's use and enjoyment of the Common Areas, Designated Areas, and Improvements and Facilities and the Declarant's rights, privileges, powers and interests with regard to the Common Areas, Designated Areas, and Improvements and Facilities as such rights may have been reserved to Declarant in any deed, declaration or other document relating to the Common Areas, Designated Areas, and Improvements and Facilities.

(e) No Delegation of Duties. The obligations of the Association set forth in this Declaration shall not be assigned, delegated or transferred by the Association either in whole or in part; however, the Board may enter into contracts or other similar arrangements with any person for the performance of duties to be undertaken by the Association pursuant hereto.

4. Powers of the Association. The Association (acting by and through the Board) and the Board shall have all the powers set forth in the Charter and the Bylaws, together with all legal general powers permitted a nonprofit corporation and to do any and all things which may be authorized, required or permitted to be done by the Association or the Board under or by virtue of this Declaration, including the power to levy and collect assessments as hereinafter provided. Without in any way limiting the generality of the foregoing, the Association (acting through the Board) and the Board shall have the following powers:

a. Powers of Enforcement. The Association shall have the power and authority, from time to time in its own name, on its own behalf, or in the name and behalf of any owner or owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration, or to enforce by mandatory injunction, declaratory judgment or otherwise any provision of this Declaration, or to recover damages or obtain any other relief available at law or in equity as a result of any breach of this Declaration.

b. Powers of Administration and Management. In fulfilling any of its duties under this Declaration, including its duties for administering and managing the Association, for the maintenance, repair, operation or administration of the Common Areas, Designated Areas and Improvements and Facilities, the Association shall have the following power and authority:

(i) To obtain, maintain and pay for such insurance policies or bonds as the Association may deem to be appropriate for the protection or benefit of the Association, Declarant, the members of the Board or the owners;

(ii) To contract and pay for, or otherwise provide for, such utility and other services including, without limitation, water, sewer, trash, electrical, telephone and gas services as the Association may from time to time deem desirable;

(iii) To contract for and pay for, or otherwise provide for, the services of architects, engineers, attorneys and certified public accountants or such other professional or nonprofessional services as the Association may deem desirable;

(iv) To contract and pay for, or otherwise provide for, fire, police, security, sanitary, communications, transportation and such other services as the Association deems desirable; and

(v) To contract for and pay for, or otherwise provide for, such materials, supplies, furniture, equipment, services and labor as and to the extent the Association deems desirable, and to pay and discharge any and all liens placed upon any Common Areas or Improvements and Facilities on account of any work performed by the Association.

c. Employment of Manager. The Association may, from time to time, employ the services of a manager to manage the affairs of the Association and employees and agents; provided, however, the Association cannot delegate to such manager the power to execute any contract binding on the Association for a sum in excess of Ten Thousand Dollars (\$10,000.00) for any one job or service; nor for the performance of any work or services which cannot be completed within sixty (60) days; nor the power to sell, convey, transfer, mortgage or encumber any Common Areas, Designated Areas or Improvements and Facilities.

d. Taxes and Assessments. The Association shall have the right to pay, compromise or contest any or all taxes and assessments levied against all or any part of the Common Areas, Designated Areas and Improvements and Facilities.

5. Limitation of Liability. No member of the Board or officer of the Association shall be personally liable to any owner or any other person for any act, error or omission of such Board member or Association officer, or for any act, error or omission of the Association or the Board, or their representatives, employees, agents and contractors, the Committee or the manager; provided that such member or officer has not acted in bad faith.

6. Association Membership.

(a) Members of Association. Membership in the Association shall always consist of and be limited to the record owners of the fee simple title to each Lot (each such owner being referred to in this Declaration as "owner"); provided, however, that an owner may, to the extent provided for in any recorded agreement of sale, assign such owner's membership rights (including voting rights) to the vendee under the agreement of sale, but in no event shall such assignment serve to (i) release the owner of any of the owner's obligations and liabilities under this Declaration (including the owner's personal liability for the payment of all assessments levied by the Association), (ii) diminish or impair any liens created by this Declaration upon the owner's fee simple title to the owner's Lot or the priority of such liens, or (iii) diminish or impair any of the Association's rights under this Declaration (including the right to foreclose its lien upon the owner's fee simple title to the Lot). Any such assignment shall not become effective unless and until a true and correct copy of the recorded agreement of sale has been delivered to the Board.

(b) Corporate or Partnership Members. For purposes of voting, directorships, officerships and the exercise of membership privileges, a corporate or partnership owner may act through or be represented by an officer, director, partner, employee or other designated representative.

(c) No Avoidance of Obligations. No owner may avoid the obligations of membership by non-use of the Common Areas, Designated Areas or Improvements

and Facilities, renunciation or abandonment of the owner's Lot, or any other act of abandonment or renunciation.

(d) Termination of Membership. No membership shall be terminated, forfeited or transferred and no member shall be expelled, except upon transfer of the owner's entire interest in the owner's Lot.

(e) Charter and Bylaws. The membership status, rights, duties, privileges and obligations of an owner as a member of the Association shall be as set forth in this Declaration and the Charter and Bylaws. Each owner of a Lot shall at all times comply with and observe all of the provisions of the Charter and the Bylaws.

(f) Suspension of Voting Rights. The voting rights of any owner may be suspended by action of the Board of Directors during the period when the owner shall be in default in (i) the payment of any assessment owed under this Declaration, or (ii) the observance of any provision of this Declaration; provided, however, that (A) upon the curing of such default, such owner's voting rights automatically shall be restored, and (B) prior to suspending such owner's voting rights, the Board shall give the owner not less than fifteen (15) days written notice of the Board's proposed action and the reasons therefor, and an opportunity to be heard by the Board, orally or in writing, not less than five (5) days before the effective date of the suspension.

7. Use of Common Areas. Every Lot shall have appurtenant thereto non-exclusive easements for the owners and occupants of each Lot and their agents, servants, guests and invitees, in common with the Declarant and all others so entitled and subject to all rules and regulations applicable thereto and all limitations and reservations, as herein provided, to use and enjoy the Common Areas, restricted, however, for the purposes and use for which such Common Areas were established or established from time to time by the Board of Directors. Due to the location of the Common Areas and the layout of the Subdivision, the Common Areas will be closer to and more easily accessible to certain Lots than to others.

8. Limitations and Reservations. The Declarant specifically reserves unto itself, its successors and assigns, the right at any time and from time to time, in its sole determination and discretion:

(a) To designate and/or grant to any person or entity, and/or reserve unto Declarant easements, licenses, permits and rights-of-way for public or private access and/or utility purposes, sewer, drainage, gas distribution systems, pedestrian walkways, roadways, electrical, telephone and television cables and other or similar purposes and uses in, over, across, through and under any Lot, the Common Areas and the Designated Areas as Declarant deems appropriate and/or necessary. In connection with the foregoing reservations each owner irrevocably appoints Declarant as his or its attorney-in-fact to file petitions designating such easements and to grant

such easements and rights and to do all things necessary or convenient in connection therewith.

(b) To enter on any Lot, the Common Areas, and the Designated Areas for the purpose of selling Lots and/or constructing any improvements or changes in or appurtenant to the Common Areas and the Designated Areas as it may deem appropriate and/or necessary, and for performing other proper functions in connection with the sale of Lots or the care, maintenance and operation of such areas, provided that such Lot or area shall be promptly restored as nearly as practicable to the condition thereof prior to such work.

(c) To assign and transfer all or any of its rights, privileges, powers, reservations, interests and obligations hereunder to any other person, group, or entity including without limitation, the Association, or any successor designated by the Declarant.

(d) To approve or disapprove any proposed amendment to this Declaration.

(e) To approve or disapprove any change in use of the Common Areas and such other Designated Areas and further to approve or disapprove any and all improvements, alterations, and other work performed to, in, on, over, under and across the Common Areas and the Designated Areas.

(f) In the event that the Lots in the Subdivision have not been sold by deed or agreement of sale by the Declarant, to use the Common Areas and the Designated Areas in a reasonable manner for the purpose of selling such unsold Lots.

(g) To now and hereafter annex residential lots and Common Areas to the Subdivision and to transfer to the Association ownership, possession, and the obligation to maintain, repair, and replace Improvements and Facilities, Common Areas, and other real and personal property and interests. Provided, However, that when Declarant shall transfer Improvements and Facilities and/or Common Areas to the Association, such items shall be transferred in reasonable condition and repair.

9. Assessments.

(a) Responsibility. Each owner of a Lot, by acceptance of a deed or agreement of sale therefore, whether or not it shall be expressed in any such deed, agreement of sale or any other conveyance, shall be deemed to covenant and agree to pay his proportionate share of maintenance assessments and other assessments, such assessments to be established, allocated and collected from time to time as provided herein.

(b) General Assessments. At least thirty (30) days prior to the commencement of the calendar year, the Board shall prepare or cause to be prepared a budget for the Association and the operation and maintenance of the Common Areas and the Designated Areas, as provided herein, the payment of any taxes or other outgoings or expenses, and the performance of all necessary and required services. Assessments based on such budget shall be allocated equally among the Lots. Written notice of each assessment due shall be sent out at least twenty (20) days before the due date or at such other times as may be determined by the Board. Each owner shall pay assessments so levied against his Lot to the Association, in advance, in quarterly installments or in such other reasonable manner and installments as the Board shall designate. If for any reason the Board should fail to adopt a budget for the upcoming fiscal year, then the assessments to be paid by the owners automatically shall continue on the basis of the last budget in effect; provided, however, that the Board shall have the right to levy supplemental assessments as provided below.

(c) Supplemental Assessments. In the event that the general assessments prove inadequate for any reason, including nonpayment of any owner's share thereof, the Board may prepare or cause to be prepared a supplemental budget and levy further assessments in the amount of such actual or estimated inadequacy, allocating such supplemental assessments equally among the Lots. Such assessments shall be due and payable by the owners within twenty (20) days after the date of levy, or on such installment basis as may be determined by the Board.

(d) Special Assessments. In addition to the assessments authorized above, the Board may also levy an assessment against any owner for monies expended by the Association in performing any act, function or duty directly or indirectly caused by such owner's act, or failure or refusal to act, or failure to comply with this Declaration, the Charter, the Bylaws or the rules and regulations of the Association. Such assessment shall be in the amount so expended plus an amount to cover the Association's overhead equal to ten percent (10%) of the amount so expended (or such other amount for overhead as may be determined by the Board), and shall be due and payable to the Association within ten (10) days after the date of levy. Monies so expended shall include, without limitation, reasonable engineers', architects', attorneys' and accountants' fees incurred by the Association.

(e) Interest and Late Charges. All sums not paid when due from an owner shall bear interest from the due date until paid in full at the rate of 1% per month, or at such other interest rate as may be set from time to time by the Board. In addition, each owner shall be subject to a late charge of five percent (5%) of the unpaid amount if not paid within fifteen (15) days of its due date, or such other late charge as may be set from time to time by the Board. The failure by the Association to collect such interest or late charge shall not constitute a waiver of the right to do so at any time thereafter.

(f) Purpose. The assessments levied by the Association shall be used exclusively for the purposes provided for in this Declaration, the Charter and Bylaws and shall not be refunded under any circumstances.

(g) Lien and Default. Each assessment (whether regular, supplemental or Special) and all other sums owed by an owner under this Declaration shall be a separate, distinct and personal debt and obligation of such owner. Each assessment or any installment thereof when due, all other sums owed under this Declaration, together with all costs and expenses of collection, including all reasonable attorneys' fees, shall also be and are a continuing and perpetual lien and charge upon the fee simple title to such owner's Lot and upon the owner's interest in such Lot. Upon an owner's failure to pay any such assessment (or installment thereof) or other sums due under this Declaration, the Association may, but need not, record a Notice of Default in the Office of the Assistant Registrar of the Land Court or the Bureau of Conveyances. The Association's lien shall be subject and subordinate to the lien of the Paramount Liens as more particularly set out in subparagraph (k) below, but shall be prior to all other liens, encumbrances and interests upon or in the Lot or the owner's interest in the Lot, including any leases and agreements of sale. The Association's lien may be foreclosed through suit in like manner as a mortgage on real property (including by foreclosure pursuant to Chapter 667, HRS), and the Association shall have power to bid on the Lot at foreclosure sale and to acquire and hold, lease, mortgage or convey the same. A suit to recover a money judgment for damages or for unpaid assessments and other sums shall also be maintainable without foreclosing or waiving the lien securing the same. The foregoing remedies shall be in addition to any other remedies provided by law or in equity for the enforcement of each owner's obligations.

(h) Voluntary Conveyances; Co-Owners. In a voluntary conveyance of any Lot, the transferee of the Lot shall be jointly and severally liable with the transferor for all unpaid assessments and other sums, interest, late charges and costs of collection, without prejudice to the transferee's right to recover from the transferor the amounts paid therefor by the transferee. If more than one person owns a Lot or interest therein, all such persons shall be jointly and severally liable for the payment of all assessments, sums, interest, late charges and costs of collection.

(i) Exemption. The Common Areas and the Designated Areas shall be exempt from assessments of the Association.

(j) Estoppel Certificate. When requested by an owner, the Association shall execute a certificate stating the amount of any delinquent or unpaid assessment owed by the owner. Such certificate shall, except as to the amount of any unpaid assessments which such certificate failed to reflect due to any checks which, within thirty (30) days before or after the date of the certificate, have been or are dishonored or not otherwise paid, be conclusive upon the Association in favor of all persons who

may in good faith rely thereon, as to the amount of such delinquency as of the date of the certificate. The Association shall be entitled to a reasonable servicing charge as a condition to issuing the certificate. No such certificate, however, shall constitute any representation or agreement by the Association that the owner is in compliance with any other provision of this Declaration.

(k) Paramount Liens. Notwithstanding all other provisions of this Section:

(i) A lien created hereunder upon any Lot shall be subject and subordinate to the following liens and indebtedness secured by such liens (such liens being herein called "Paramount Liens"):

(A) the lien of any recorded first mortgage in favor of any person or entity (meaning a mortgage having first priority over other mortgages) upon the fee simple interest in the Lot made in good faith and for value. If a Lot should be conveyed pursuant to a foreclosure of a Paramount Lien encumbering such Lot, the purchaser at such foreclosure sale shall not be liable for any assessments or other sums payable under this Declaration and accruing prior to the date of conveyance, but shall be liable for all assessments and other sums accruing thereafter. No such conveyance shall relieve the prior owner of personal liability for the payment of all such assessments and sums accruing prior to such conveyance, and

(B) the lien created by the Master Declaration in favor of the Master Association to secure the assessments and other sums payable by the owner to the Master Association.

(ii) No amendment to this subparagraph (k) shall affect the rights of the holder of any Paramount Lien who does not join in the execution thereof.

(iii) By written subordination agreement authorized by the Board, the benefits of (i) and (ii) above may be extended by the Board to mortgages and other liens not otherwise entitled thereto.

10. Indemnity. The Association and all owners and occupants of Lots shall indemnify and hold the Declarant harmless against all claims and demands for loss or damage, including property damage, personal injury and wrongful death, arising out of or in connection with the exercise by them or their agents, servants, guests and invitees of any easements and rights hereby created and shall use and permit the use of the Common Areas and the Designated Areas at their sole risk without any obligation or responsibility whatsoever of the Declarant for the condition, control or other use thereof and shall jointly and severally reimburse the Declarant for any and all costs and expenses, including reasonable attorneys' fees, incurred in connection with the defense of any such claim or demands, or incurred in connection with any act

or failure to act by the Association or its agents, or in case the Declarant, without any fault on its part, shall be made a party to any litigation commenced by or against the Association or its agents. The Association shall effect and maintain at all times comprehensive general liability insurance covering itself, the Declarant, and all owners of Lots with respect to the Common Areas, with minimum limits of not less than \$500,000 for injury to one person and \$1,000,000 for injury to more than one person in any one accident or occurrence and \$1,000,000 for property damage, and from time to time deposit promptly with the Declarant current certificates of such insurance.

11. Use of Owner's Lot: Compliance with Master Declaration and Laws. Each owner and occupant of a lot in the Subdivision shall at all times comply with all applicable laws, and with all of the provisions of the Master Declaration. In addition, each owner and occupant shall at all times comply with and observe each of the following provisions; provided, however, that in the event of any conflict between or among the provisions set forth below, the provisions of the Master Declaration and applicable laws, the most restrictive provision or law shall control:

(a) Use and Site Development Restrictions and Requirements

(i) Land Use and Building Type

Each Lot shall be used only for single-family residential purposes, regardless of whether the applicable zoning or laws permit a more intensive or different use. No Lot or residence or other building constructed on any Lot may: (a) be leased or rented by the owner thereof for any term of less than six (6) consecutive months, it being the intent of this provision that any tenant of the owner must be obligated to lease or rent the owner's Lot or residence or other building thereon for a term of not less than six (6) consecutive months, without any option or right to cancel such lease or rental agreement at any time prior to the expiration of said 6-month period; or to 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 a Lot or residence or other building upon the Lot 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. Promptly upon the request of Declarant or the Association, each owner shall submit true and correct copies of all leases, rental agreements and documents pertaining to the occupancy of the owner's Lot or residence or other building thereon, so as to enable Declarant and the Association to verify whether or not such owner is complying with the foregoing provisions.

No building shall be placed, altered or permitted to remain on any Lot other than one single family dwelling and a private garage. No accessory dwellings, guest cottages, servants' quarters or second kitchens may be constructed or placed on any Lot.

(ii) Further Rezoning

No Lot shall be rezoned without Declarant's consent.

(iii) Utilities

Except for propane gas and trash collection, utility services will be provided to the boundary of each Lot in a completely underground distribution and/or collection system. Propane gas must be kept underground or within an enclosure approved by the Committee. Trash receptacles shall be screened from view of adjacent properties and roadways. Garbage cans, recycle containers, landscape debris and/or plastic refuse bags shall not be placed in front of a Lot more than 24 hours in advance of the regularly scheduled garbage pickup. All garbage, refuse, or recycle containers shall be removed after garbage collection on the same day as emptied by the garbage collectors.

(iv) Individual Lot Plot Plans

(A) Plot Plans for individual Lots will be furnished to the owners designating utility locations, contours and buildable area size and configuration and whether single or two story dwellings may be built. All grades and contours indicated thereon are approximate and subject to verification by the owner.

(B) The Plot Plans also indicate which Lots contain filled areas. It shall be the owner's responsibility to examine the Plot Plans, to arrange for subsurface soil investigation and to design and construct the owner's structure accordingly.

(v) Easements

Easements for the installation and maintenance of utilities and drainage facilities are as set forth or are as reserved as shown on the Land Court Map(s) and documents applicable to the Subdivision and the Lot(s). Major plantings and other improvements shall not be placed on, below or above these easements except as permitted by law or ordinance and by the restrictions and standards contained within these documents.

(vi) Grading

The owner shall accept the condition of the Lot in "as is" condition, as of the date of completion of all contracts for the grading, roadway and utility improvements for the Subdivision. All subsequent site work performed by the owner shall be in strict accordance with plans as approved by the Committee.

(vii) Lot Drainage

(A) The flow of surface and/or subsurface drainage onto, across or from each Lot, shall not be obstructed. Such run-off shall be dispersed or channeled by surface swales or other facilities in such a manner as to prevent erosion and damage to property. The design for Lot drainage facilities shall be subject to the prior approval of the Committee. Designs which, in the Committee's opinion, are impractical or do not adequately consider the possible adverse effects on adjoining property, will be disapproved.

The owner shall be responsible for the design of all drainage facilities for the owner's Lot and will be liable for all claims for damages resulting therefrom.

The Committee shall not review the drainage plan for adequacy of engineering technical data or computation, and shall not be responsible for damages to adjacent property resulting from inadequate drainage and grading. Drainage design shall require an architect's or engineer's recommendation.

(B) Certain Lots must accept and/or discharge drainage at specific locations along the Lot boundaries. A master drainage plan designating these specific drainage locations will be available to the owners for inspection. In addition, the Plot Plans for the Lots indicate the drainage locations.

(viii) Temporary Structures and Surplus Materials

Temporary structures, trailers and construction materials shall be placed on a Lot only at the commencement of construction and are to be completely removed from the Lot no later than thirty (30) days from the "date of completion", as that term is defined in Section 507-43, HRS. A refuse disposal bin shall be placed on site and shall be serviced on a weekly basis.

(ix) Condition of Lot

Each Lot shall at all times be maintained in a strictly clean, sanitary, debris free, and orderly condition. All Lots shall be cleared of any tall weeds or tall grass on a quarterly basis, that is, the clearing of Lots of any tall weeds and tall grass shall occur between the first and fifteenth of the months of February, May, August, and November of each year.

(x) Dogs on Leash

Dogs shall be kept on a leash or fenced within an owner's Lot; and when taken into the common areas shall be leashed at all times, shall not be allowed to roam freely about the common areas of the Subdivision, and all excrement shall be picked up and properly disposed of by the dog's owner.

(b) Construction and Architectural Standards

(i) Prior Notice to Committee

The owner shall give the Committee two (2) weeks' advance written notice of the owner's intent to commence any construction or site improvements whatsoever. Prior to commencement of construction, the owner will deposit a copy of the County building permit with the Committee. For additional items, see subparagraph (e) below.

(ii) General Contractor

All work to or upon a Lot shall be performed and vigorously prosecuted to completion by a contractor duly licensed as a General Contractor under the laws of the State of Hawaii.

(iii) Materials and Quality

The materials used for structures shall be new and of a quality consistently associated with that used on superior quality custom-designed homes. No used materials are permissible except where specifically approved by the Committee to achieve a desired aesthetic effect (e.g., used brick).

All lumber shall be treated against termite infestation and shall be guaranteed in writing for a period of five (5) years.

Structures with "A-frame" rooflines and factory-built structures which have been preassembled or pre-cut for assembly shall not be placed on any Lot.

(iv) Buildable Area

The buildable area shall consist of all the area within the designated setbacks. Buildable areas have been established to protect view corridors and to respond to existing topography. The buildable area and setbacks are indicated on the individual Plot Plans for each Lot. All improvements must be confined solely to the buildable areas of each Lot, and may not be located or encroach upon any setback areas.

(v) Minimum and Maximum Dwelling Size

(a) Minimum Dwelling Size

The dwelling, exclusive of garages and attached or detached lanai(s), shall have a minimum of 1,700 square feet and shall contain a minimum of two (2) bedrooms and one and a half (1-1/2 baths).

(b) Maximum Dwelling Size

(i) Single Story Structure

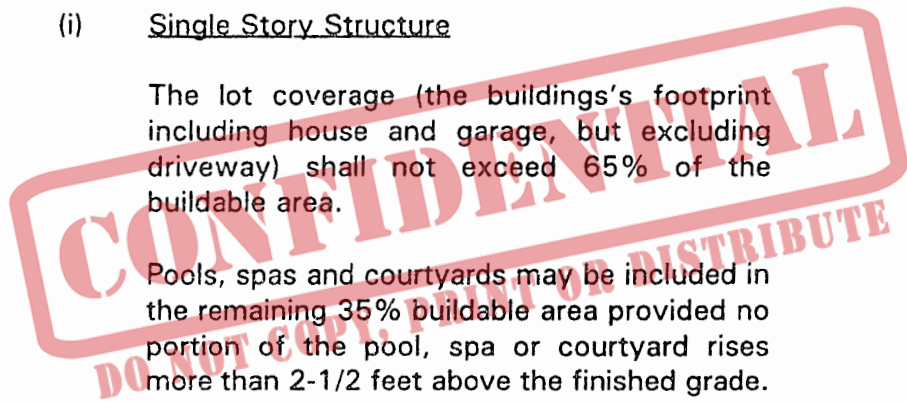
The lot coverage (the buildings's footprint including house and garage, but excluding driveway) shall not exceed 65% of the buildable area.

Pools, spas and courtyards may be included in the remaining 35% buildable area provided no portion of the pool, spa or courtyard rises more than 2-1/2 feet above the finished grade. Pools, spas and courtyards may not extend into the building setbacks.

Roof eaves and overhangs may extend beyond the buildable area into the building setbacks. Roof eaves and overhangs shall not extend into easement areas.

Some Lots with smaller buildable areas have been designated to have an allowable building footprint of 75% of the buildable area. The restrictions on the remaining 25% of unenclosed buildable area shall be the same as the restrictions for the 65/35% footprint/unenclosed area configured lots as discussed above.

The Plot Plans will indicate whether the Lot is restricted to a dwelling size of 65% or 75% of the buildable area.



(ii) Two Story Structures

Two story homes are allowed only on certain Lots. For Lots so designated refer to the Plot Plans. Two story structures shall have their ground floor limited to 65% of the buildable area. However, a single story structure on the same Lot can cover 75% of the buildable area.

The second floor square footage shall not exceed 60% of the first floor square footage. The second floor may overhang the lower floor on the east and west elevations but shall not overhang the lower floor on the north and south elevations.

(vi) Building Height

On Lots where one story residences are permitted, the maximum building height from the pre-established maximum building pad elevation (as designated on the Plot Plans) to the highest point on the exterior roof shall not exceed 20'-0".

On Lots where two story residences are permitted, the maximum building height from the pre-established maximum pad elevation to the highest point on the exterior roof shall not exceed 30'-0".

(vii) Lot Coverage

The lot coverage ("Footprint") of the dwelling is the sum of the gross horizontal areas included within the exterior walls of a building and any area within the exterior posts supporting a solid overhead structure or trellis. For a two story building, the first or main story shall be used to calculate lot coverage.

(viii) Garage

A garage for at least two (2) cars containing not less than 400 square feet of parking area under roof shall be attached to the dwelling provided, however, that such garage may be

detached in cases where an attached garage is not feasible in the opinion of the Committee, which opinion must be in writing. All garages shall have doors. Every garage, whether attached or detached, shall contain not less than an additional 100 square feet of covered floor area for service and storage facilities. Such additional area shall be adequately screened from view from the street. Carports shall not be permitted. A drive-through porte-cochere may be constructed provided the design and construction is approved by the Committee, in writing, and provided further that no porte-cochere shall be approved nor constructed unless an additional 100 square feet of floor area is constructed for storage and service uses. Such storage and service areas shall have outside access and need not be located within the porte-cochere.

(ix) Ground Termite Treatment

(A) Soil under all concrete slabs on the ground and under all building floors, whether on ground or over air space, and under all footings and masonry foundation walls, shall be treated against subterranean termites by a reliable, established and duly licensed termite control company.

(B) Treatment shall be guaranteed in writing by said company against termite infestation for a period of five (5) years. The guarantee shall include annual inspection and retreatment of infested areas. A copy of this guarantee shall be delivered to the Committee.

(C) Chemicals used outside of the buildings or in accessible spaces under the buildings, shall be nonpoisonous to humans, plants and pets.

(x) Foundations

Portions of the Subdivision have been filled. Ground settlement of the filled areas is possible. The owner and owner's architect, engineer and contractor shall give due consideration to the design of the foundation systems of all structures (home, walls, swimming pools, etc.). It is the

owner's responsibility to conduct an independent investigation of all the soil.

(xi) Finished Floor Elevations

To avoid massive retaining walls on street and golf elevations and to control the height of improvements to protect view corridors, grading and cutting shall be limited as follows:

(A) Grading and finished pad elevations shall be limited as shown on the individual Plot Plans for each Lot. Cuts of greater than 3'-0" or fills of greater than 2'-0" shall require a plan by a civil engineer duly registered as such by the State of Hawaii.

(B) Cutting and filling shall be kept to a minimum. Grading shall be contoured, with no cut or fill banks greater than thirty percent (30%), unless specifically approved by the Committee to meet unusual site conditions. Pads for homes shall utilize stepped foundations to avoid massive cuts or fills. Cut or fill greater than 1,000 cubic yards shall require special Committee approval, and will not be permitted except under unusual circumstances.

(xii) Antennas

No satellite dishes, antennas, or similar facilities for the reception or transmission of radio or television signals and no exterior antenna of any sort shall be installed or maintained on any Lot except as may be permitted under the Master Declaration.

(xiii) Driveways

(A) Driveways of a slope of sixteen percent (16%) or more shall be paved with concrete.

(B) Driveways and drop curbs shall be constructed by the owner following County standards prior to any other work being done, and shall be used during construction to prevent damage to existing concrete gutters, curbs, sidewalks, common area sprinkler

(xvii) Utility Lines

Power, water, telephone, sewer, and television hookup service must be underground. Electrical service lines and meters shall be enclosed in such a manner as to be hidden from public view.

(xviii) Swimming Pools, Spas and Ponds

Swimming pools and ponds shall be kept operable in accordance with the rules and regulations of the State Department of Health. If abandoned or if a pool or pond becomes a nuisance, the owner shall demolish, remove the pool or pond, and, insofar as is practicable, restore the land to a condition approximating that which existed prior to the construction of the pool or pond, and properly landscape and maintain the restored area. The method of demolishing the pool or pond shall be subject to prior Committee approval. Pool equipment rooms shall be sound treated to prevent noise nuisance.

(xix) Air-Conditioning System

Prior to the installation of air-conditioning systems, the owner shall secure the approval of the Committee as to the location and type of system. Such air-conditioning system shall be sound treated to prevent noise nuisance.

(xx) Solar Energy and Heat Pumps

All structures shall, at all times, use solar energy or heat Pumps as the primary source to heat water. Solar energy installations shall be, as much as practicable, hidden from view by recessing them into the roof or incorporating them into a flat roof section, and shall be installed at the same angle of slope and plane as the roof. The intent is to create an architecturally pleasing integration of the solar panels into the roofline. Roof mounted composite solar collector and water storage tank systems are not allowed. The design of all installations shall require the prior approval of the Committee.

(xxi) Vehicles, Trailers and Boats

Cars and vehicles shall not be parked continuously or regularly on roadway lots within the Subdivision. Only occasional parking by guests or by vehicles servicing a Lot shall be permitted on such roadway lots. Boats or trailers shall not be parked on any Lot to be visible from any adjacent property or roadway, nor parked on any roadway. When cars and vehicles are parked within the driveway of a Lot, they shall not be parked so as to obstruct any portion of an adjoining sidewalk. Cars and vehicles shall not be parked at any time on a vacant Lot and/or vacant flag lot driveways.

(xxii) Vehicle Repair

No automobile or other vehicle, boat or other equipment, may be dismantled, repaired or serviced on any Lot so as to be visible from adjoining or neighboring lots or from any roadway.

(xxiii) Abandoned Construction

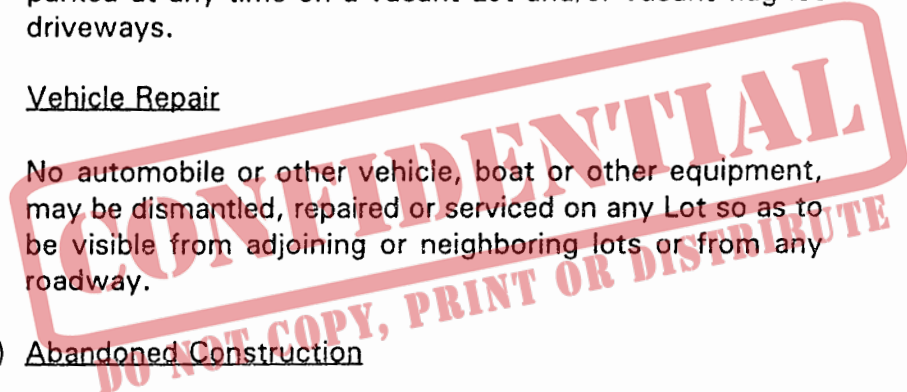
If construction of a dwelling is at any time abandoned, the Lot owner shall cause the Lot to be cleared and landscaped so as to present a neat appearance, and shall thereafter so maintain the Lot until the recommencement of construction.

(xxiv) Pavements and Play Areas

The aggregate surface area of all paved surfaces on a Lot shall not exceed thirty percent (30%) of the land area of the Lot not covered by building structures. Paved play areas shall not be permitted within setback areas, and all play areas must be adequately screened by landscaping or other acceptable architectural means.

(xxv) Roof Materials, Pitch and Overhang

Built up tar and gravel roofing is discouraged, and in any case will be permitted only for flat roof construction. Only flat roofs of exceptional design and quality will be



considered for approval. Pitch roofs shall use shake, shingle or tile material. The following roof materials are not permitted: rolled roofing, fiberglass or plastic, corrugated metal, steel or aluminum. A tile sample shall be submitted for Committee approval as to color, style and texture. Roof overhangs, as measured horizontally, shall not exceed six (6) feet.

(xxvi) Exterior Walls/Other Materials/Colors

No garish, reflective or stark white colors shall be allowed. Earth tone stains or paints are permitted, but color chips must be submitted to the Committee for review and written approval.

No vinyl or prefinished metal siding is permitted. No plain surfaced plywood panels may be used as siding. Pre-grooved plywood siding or plywood siding with board and batten treatment are permitted. However, all plywood siding is to be back primed to prevent warping or cupping, due to differential weathering.

(xxvii) Fences, Walls and Hedges

Retaining walls and foundations of more than three (3) feet in height or where placed upon embankments or filled areas, shall be designed by a duly registered architect or civil/structural engineer. The maximum height of any exposed face of any retaining wall shall be six (6) feet as measured from the finished grade at the wall's base.

All fences, walls and incidental garden structures shall be designed so as to be attractive from all viewable sides with a height limit of six (6) feet as measured from finished grade level.

All walls exceeding four (4) feet in height shall be constructed of lava rock, lava rock fascia or concrete block with stucco face. If a wall is located at the street frontage, the area between the wall and the property line shall be adequately landscaped. No hard walls that fronts a street shall be higher than six (6) feet. No wall, fence, hedge or continuous type planting shall be planted or placed closer

than ten (10) feet to a street front right-of-way property line nor within twenty (20) feet of property line abutting the golf course. Landscaping shall flow from the Lot in a natural manner to the edge of the golf fairway.

A 40-foot sight line setback for fences, walls and hedges is required on corner lots from the point where the curbs form the tip of an equilateral triangle, all as is more particularly set forth on the individual Plot Plan for such Lots.

Property line fences shall be developed in common with adjacent property owners to eliminate double fencing.

Underhouse kneebracing, posts and framing must be concealed. Landscaping shall be placed to screen all poles and skirting.

(xxviii) Signs

No signs whatsoever shall be erected or maintained upon any Lot; except:

- a) Such signs as may be required by legal proceedings;
- b) Such signs as required for house numbers and name signs in accordance with item (xiv) above provided that such signs shall not exceed one square foot maximum.
- c) Any sign which does not comply with the above, but has been allowed by written permission of the Committee, provided such sign complies with the permit granted by the Committee.

(xxix) Laundry Facilities

Laundry facilities and any service or utility area, including any area for hanging clothes, must be screened from view from adjacent property and roadways.

(c) Construction Requirements.

(i) Blasting

(A) Limitation on Construction Noise and Blasting

There shall be no mechanical rock breaking, hoe-ramming, blasting, or the operation of any other machinery on any Lot (lawnmowers, weed eaters, and other equipment typically used by landscape maintenance contractors excepted) which causes loud noises on Saturdays or Sundays.

(B) Mechanical Landscape Equipment

Mechanical landscape equipment such as lawnmowers, weed-eaters, and other equipment typically used by landscape maintenance contractors may not be used on Sundays.

(ii) Construction Signs

No construction signs (i.e., signs identifying the name of the contractor, architect, construction lender, etc.) are permitted on any Lot except with the Committee's prior approval.

(iii) Dumpsters

No Dumpsters or construction materials and debris may be left in the streets, Common Areas or Designated Areas or adjacent property without the prior approval of the Committee.

(iv) Site Preparation

Driveway curb cuts must be made, and the driveway to the property line must be completed, prior to the start of construction. All irrigation lines within the medial strip must be sleeved and reburied, and all associated irrigation leads moved as necessary.

(v) Portable Toilets

A portable toilet in fully operating condition must be maintained on the construction site at all times during construction, and serviced in accordance with applicable State and County Department of Health standards.

(vi) Contractor's Acknowledgment

Each owner shall be required to have his or her contractor contact the Committee prior to commencing any construction or work upon the owner's Lot. The contractor shall be provided with a copy of the applicable design and construction requirements and shall be required, prior to commencing any construction or work, to acknowledge in writing the contractor's receipt of, and agreement to comply with, such requirements.

(vii) Construction or Remodeling Deposit

(A) Prior to commencing construction of a new building on a Lot or remodeling an existing building on a Lot, the owner shall deposit, or cause to be deposited, with the Board in the form of a cashier's check made payable to the Association the following deposit: For the construction of a new building a deposit equal to one percent (1%) of the estimated cost to complete the building but not more than SEVEN THOUSAND DOLLARS (\$7,000); and for the remodeling of an existing building the sum of TWO THOUSAND DOLLARS (\$2,000). If requested by the owner, and upon receipt of the owner's Federal taxpayer identification number, the Association shall place the deposit into an interest bearing account of the Association's choice, with all accrued interest to be for the owner's benefit.

(B) For purposes of this section the phrase, "commencement of construction", shall mean the date on which site work is commenced for the construction of a new building, (for example, and not by way of limitation, weed clearing or excavation) or

the date on which the first work is commenced with respect to the remodeling of an existing building.

- (C) The construction of a new building must be completed within eighteen (18) months from the commencement of construction. Remodeling of an existing building must be completed within twelve (12) months from the commencement of construction. Construction shall be deemed completed when everything related to the project shall be completed including but not limited to finished landscaping, exterior work, irrigation, inside finish work including finish carpentry, painting, floor coverings, etc. Provided, however, an owner may apply to the Board for an extension of time beyond the eighteen or twelve month period to complete construction in the event the owner feels the owner's construction has been delayed because of acts of God, strikes, material shortages, unusual site work, or other circumstances which could not be reasonably anticipated by the owner. The Board shall consider the owner's request for such an extension and notify the owner within ten (10) business days of the owner's request whether the extension will be granted. However, the Board's decision on whether the extension should or should not be granted shall be final and binding upon the owner.
- (D) Should construction of a new building or the remodeling of an existing building fail to be completed within the eighteen (18) or twelve (12) month period, or any extension period granted by the Board, the Board shall have the option to impose upon the owner a penalty of ONE HUNDRED FIFTY DOLLARS (\$150) per business day until construction is completed and all construction materials are removed from the Lot and all exterior landscaping is complete. In the event a penalty is imposed, the amount of the penalty will be deducted from the owner's deposit and all accrued interest thereon, if any, described above in subparagraph (A).

(ii) Required Landscaping

Landscaping work shall be done, as much as is practical, concurrently with building construction and substantially completed no later than the "date of completion", as that term is defined in Section 507-43, HRS.

(iii) Top Soil

Top or fill soil material brought to the site by the owner shall be free of clay, termites and/or other deleterious matter.

(e) Approvals, Procedures and Requirements

(i) Consultation Services: Approval of Owner's Architect

Before the preparation of preliminary drawings, the owner's architect may arrange for consultation with a representative of the Committee for suggestions as to the location and design of the improvements to be constructed on, and the landscaping of, the Lot, and assistance in interpretation of the requirements imposed under this Declaration and the Master Declaration. The owner will use a reputable architect duly registered as an architect by the State of Hawaii. The architect's general qualifications will be subject to the prior approval of the Committee, and the past performance and credentials of the architect and the architect's general concept for the residence will be taken into consideration in evaluating the acceptability of the architect. Owner's architect will rely on such written approval to proceed to preliminary working drawings.

(ii) Architectural Controls

No structure shall be erected, placed or altered on any Lot until (A) the preliminary and final construction plans and specifications referred to in subparagraph (iii) below, prepared under the immediate and direct supervision and stamped by an architect with a current license to practice in the State of Hawaii, have been submitted to and approved by the Committee, and (B) the owner submits to the Committee a written acknowledgment (the form of

which shall be prepared or approved by the Committee) from both the owner and the owner's General Contractor, that they have received a copy of, and agree to abide by, this Declaration and the Master Declaration. Committee approval shall also be required of landscaping plans before any landscaping or planting is permitted. It is recommended that the Approvals described above be obtained before any materials are ordered or purchased for such structure or the Lot.

In the event the proposed improvement or alteration is for repainting (decorating the exterior of any structure in a manner affecting only the exterior color thereof), it shall only be necessary to obtain Committee approval of the color scheme prior to the commencement of such work.

The approval of the Committee may be withheld, without limitation, upon any of the following grounds:

- (A) The work of construction or alteration shown on the plans and specifications and other materials submitted, fails to comply with the conditions, covenants and restrictions set forth herein or in the Master Declaration or in any other applicable document which is administered by the Committee.
- (B) The improvements shown on the plans and specifications and other materials submitted, are deemed unsatisfactory in location, design, exterior design or color, or would not be in harmony with the other improvements located within Wailea or the Subdivision.

Approval of any plans and specifications shall not be deemed to waive the right of the Committee to object to the same or similar plans or specifications or any feature or element embodied therein, if and when the same or similar plans, specifications, features or elements are submitted for approval for use on other Lots in the Subdivision.

(iii) Procedures for Submitting Plans

Each owner shall be required to have the owner's architect submit to the Committee not less than the following items for the Committee's review and approval prior to commencing any construction or other work upon the owner's Lot:

(A) Preliminary Plans

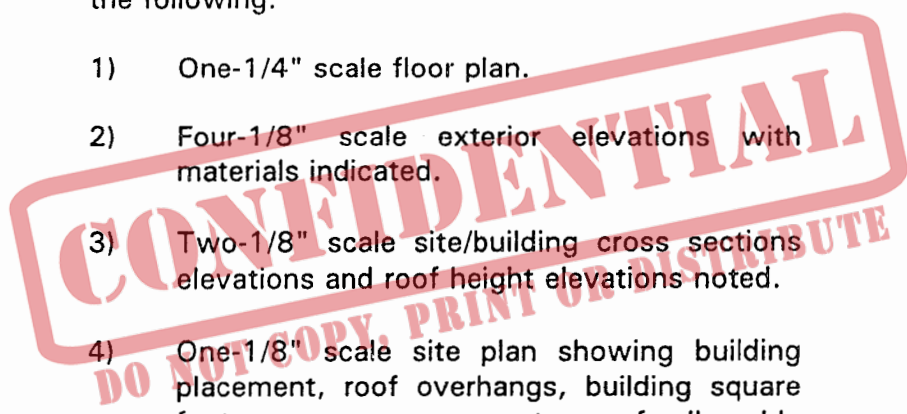
Preliminary plans must include but are not limited to the following:

- 1) One-1/4" scale floor plan.
- 2) Four-1/8" scale exterior elevations with materials indicated.
- 3) Two-1/8" scale site/building cross sections elevations and roof height elevations noted.
- 4) One-1/8" scale site plan showing building placement, roof overhangs, building square footage, access, percentage of allowable buildable area covered, finish floor elevations with adjacent exterior corner grade elevations, drainage design, preliminary grades, conceptual landscape plan, compass, tradewind and solar orientations, driveway, retaining walls, fences, lanais, decks, patios, easements and building setbacks, existing street tree locations, utility hook ups, all site dimensions and lot number.

(B) Final Plans

Final plans must include but are not limited to the following:

- 1) Final working drawings.
- 2) Landscape and irrigation plans.
- 3) Specifications.



Upon securing the Committee's approval for all of the above, the owner shall submit a copy of the building permit and a letter of intent to begin construction two (2) weeks prior to beginning any work whatsoever.

(iv) Applicable Laws

The owners or their respective architects, engineers or other professionals, shall be responsible for all submissions to the appropriate state and county agencies and for complying with all applicable laws, regulations, ordinances and codes, and shall acquire all permits necessary before commencement of any construction.

(f) Reservations and Limitations

(i) Variances and Amendments

The Committee reserves the right at any time in its sole discretion to amend, modify, waive, grant variances to or not enforce any requirements herein specified with respect to any Lot or Lots without any liability whatsoever to the owners or occupants of any other Lots or to any other person and without impairing or otherwise affecting such requirements with respect to all other Lots.

(ii) Delegation of Authority

The Committee shall have the right to delegate the administration (including the right to approve or reject designs, colors, plans and specifications) and/or enforcement of part of all of those standards and restrictions to any other person, including Declarant. The written decision or disposition of any such delegatee shall be binding upon the Committee.

(iii) Nonliability

Neither Declarant nor the Committee nor any director, officer, employee, agent or member of Declarant or the Committee, shall be liable to the Association, or to any owner, or to any other person, for any damage, loss or prejudice suffered or claimed on account of (i) the approval

or rejection of, or the failure to approve or reject, any plans, drawings and specifications, or other request submitted by an owner pursuant to this Declaration or the Master Declaration, whether or not defective, (ii) the construction of any improvement or performance of any work, whether or not such construction or performance complies with this Declaration, the Master Declaration or the terms of any approval of the Committee, (iii) the development or manner of development of any property within the Subdivision or Wailea, (iv) the erroneous execution of an estoppel certificate, (v) the failure of any plans, drawings, specification or other item approved by the Committee to comply with any or all applicable laws, regulations, ordinances or codes, or (vi) any other matter, decision, act or omission; provided that such director, officer, employee, agent or member shall not have acted in bad faith.

(iv) Consents

No consents or approval of the Committee shall be deemed given unless given in writing.

12. Enforcement of this Declaration.

(a) Enforcing Persons. The following persons (the "Enforcing Persons") shall have the right to exercise any remedy in law or in equity for the enforcement of this Declaration:

(i) The Association (acting through the Board or the Association's Managing Agent).

(ii) The Master Association.

(iii) Any owner of a Lot.

(iv) Declarant.

(b) Remedies. If any owner or other person subject to this Declaration shall breach or fail to comply with any provision of this Declaration, and such breach or non-compliance shall not be fully remedied within fifteen (15) days after notice of the breach or non-compliance is sent to or received by the owner or, if such breach or non-compliance cannot reasonably be remedied within said 15-day period, such owner shall have failed to begin to remedy such non-compliance within said 15-day period and shall have failed to exercise good faith and due diligence to

remedy such breach or non-compliance as soon as reasonably possible, then each Enforcing Person shall have the following rights and remedies:

(i) Without liability to the owner or any other person for trespass, damage or otherwise, and upon not less than five (5) days prior written notice to the owner, to enter upon the Lot and any improvements upon the Lot, and to perform, or require the owner to perform immediately, in either case at the owner's cost and expense, all work (including the planting, watering, fertilizing, cutting and trimming of trees, shrubbery and other vegetation) necessary or desirable to remedy such breach or noncompliance, and/or to summarily abate and remove all improvements or anything else or any condition which is not in compliance, and/or

(ii) To commence and maintain actions and suits to require the owner to remedy such breach or non-compliance or for specific performance, or to enforce by mandatory injunction or otherwise all of the provisions of this Declaration, or to restrain or enjoin any breach or threatened breach of this Declaration, or to recover damages, and/or

(iii) To pursue all other rights and remedies available at law or in equity.

In any action for the enforcement of the provisions of this Declaration or for damages or any other form of relief, the prevailing party in such action shall be entitled to recover from the losing party all of the prevailing party's costs, expenses and reasonable attorneys' fees.

No remedy herein reserved is intended to be exclusive of any other remedy, but each remedy shall be cumulative and in addition to any remedy given hereunder or now or hereafter existing at law or in equity. The Enforcing Person shall have the right to hire contractors and agents in performing any work to be performed by the Enforcing Person.

No Enforcing Person nor any other person shall have any duty or obligation whatsoever to enforce the provisions of this Declaration and no Enforcing Person nor any other person shall have any liability whatsoever if any Enforcing Person elects not to enforce such provisions or if any Enforcing Person undertakes such enforcement and terminates enforcement activities or does not succeed in such enforcement activities.

(c) Arbitration. In addition to the remedies described above in Section 12(b), each Enforcing Person shall have the right to submit an alleged breach or failure to comply with any provision of this Declaration to arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitration award shall be final and binding and judgment may be entered upon it in any court of

competent jurisdiction to the fullest extent permitted under the laws of the State of Hawaii. The arbitration award shall also determine who is the prevailing party and the prevailing party shall be awarded their costs and attorney's fees incurred in the arbitration proceeding, however, the charges imposed by the arbitrator shall be borne equally by the parties.

(d) Fines. In addition to the remedies afforded the Association described above in subsection (b), the Association shall be entitled to adopt a schedule of fines to be imposed upon any owner who shall breach or fail to comply with any provision of this declaration, if such breach or non-compliance shall not be fully remedied within 15 days after the notice of the breach or non-compliance is sent to or received by the owner or, if such breach or non-compliance cannot reasonably be remedied within said 15-day period, such owner shall have failed to begin to remedy such non-compliance within said 15-day period and shall have failed to exercise good faith and due diligence to remedy such breach or non-compliance as soon as reasonably possible. Any fine imposed by the Association pursuant to this subsection (d) shall be construed as a sum owed by an owner under this Declaration and as a continuing and perpetual lien and charge upon the fee simple title to such owner's Lot and upon the owner's interest in such Lot subject to foreclosure as provided in Section 7(h) of this Declaration.

13. Binding Effect. All restrictions, covenants, conditions and provisions hereof shall constitute covenants and servitudes running with the land and the lots in the Subdivision, and shall be binding on the inure to the benefit of the parties hereto, their respective successors and assigns, and all subsequent owners and occupants of the Lots and their respective successors, personal representatives, heirs, executors, administrators and assigns. Every owner and occupant of any Lot shall be deemed conclusively to have accepted such Lot upon and subject to all the restrictions, covenants, conditions and provisions hereof, and to have agreed to be bound thereby, whether or not the same are set forth or referred to in any instrument by which such person acquired title or possession of such Lot.

14. Amendment. Any restrictions, covenants, conditions, and provisions hereof may, from time to time, be amended, or modified by filing of record in the Office of the Assistant Registrar of the Land Court of the State of Hawaii, of a supplemental declaration or amendment thereof, duly executed by two (2) officers of the Association, with the approval of at least fifty-one percent (51%) of all members of the Association, together with written approval and consent of the Declarant.

15. Separability. Invalidation of any restriction, covenant, condition or provision hereof by final judgment, order or decree of any court or governmental commission, board or agency having jurisdiction thereof shall in no way affect the

other restrictions, covenants, conditions and provisions hereof, which shall remain in full force and effect according to their terms.

16. Duration. The provisions of this Declaration shall be valid and shall run with and bind the land for a term of fifty-five (55) years from the date this Declaration is recorded. After such 55-year period, they shall automatically be extended for successive period of ten (10) years each unless an instrument signed by not less than eighty-five percent (85%) of the Lot owners agreeing to terminate them shall be filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii; provided, however, that in the event that any of the provisions would violate the rule against perpetuities or any other limitation on the duration of the provisions of this Declaration imposed by law, then the provisions of this Declaration shall be deemed to remain in effect only for the maximum period permitted by law.

17. Estoppel Certificate. Upon request of a lot owner and the payment of such reasonable fee as the Association may set, the Association shall issue an estoppel certificate stating whether or not such owner and/or the improvements on such owner's Lot are in compliance with or are in default of the Charter, the Bylaws, this Declaration or any other deed, declaration or document applicable to such owner and Lot. If such owner or the improvements are not in such compliance, the certificate shall specify the areas of noncompliance or default.

18. Golf Course Risks. The Subdivision is adjacent to a golf course. Using or occupying a Lot or residence near a golf course involves risks from such things as golf balls, golf carts, and spraying of chemicals. Any purchaser or user of any such Lot shall assume all such risks and shall release and indemnify Declarant from claims, damages, or injuries relating thereto and agrees not to interfere with the operations and maintenance of the golf course.

19. Project Name. Declarant reserves the right to use the name "Wailea Golf Estates I" and any name which is a variation thereof.

20. Original Subdivision, Construction and Development Activities. Nothing herein contained shall be deemed to limit or restrict the right of Declarant, or its designated successors, their contractors, employees, materialmen or assigns from entering upon all or any portion of the Subdivision for the purpose of conducting therein and thereon such work of subdivision, improvement, construction and development as Declarant may deem necessary or desirable; provided, however, that all such work shall be performed without cost or expense to any owner other than Declarant or Declarant's designated successor, except in such instances where another owner or owners have expressly contracted for the performance of said work, or is otherwise responsible for such work pursuant to the provisions hereof.

The undersigned, Robert E. Lloyd and Judy Atkinson, being the President and Secretary of the Wailea Golf Estates I Association hereby certify that the foregoing restatement and amendment to the Declaration was adopted with the approval of at least seventy-five percent (75%) of the members of the Association.

And the Declarant by signing this document where indicated below signifies its approval and consent to the foregoing restatement and amendment of the Declaration.

IN WITNESS WHEREOF, the parties have executed this document on the dates opposite their respective signatures.

ASSOCIATION:

WAILEA GOLF ESTATES I ASSOCIATION

Dated: May 5, 1999

By Robert E. Lloyd
Print Name Robert E. Lloyd
Its President

By Judy Atkinson
Print Name Judy Atkinson
Its Secretary

DECLARANT:

WAILEA RESORT COMPANY, LTD.

Dated: February 1, 1999

By Howard K. Nakagawa
Print Name HOWARD K. NAKAGAWA
Its President

By Clyde Murashige
Print Name CLYDE MURASHIGE
Its Vice President

STATE OF Hawaii)
) SS:
COUNTY OF Maui)

On this 5th day of May, 1999, before me appeared Robert E. Lloyd, to me personally known, who, being by me duly sworn, did say that he is the President of the WAILEA GOLF ESTATES I ASSOCIATION, a Hawaii nonprofit corporation, and that said instrument was signed in behalf of said corporation by authority of its Board of Directors, and said officer acknowledged said instrument to be the free act and deed of said corporation.

ZS

Michele Bagdas
Notary Public, in and for said County and State

Print Name: Michele Bagdas
My commission expires: 3/25/03



STATE OF Hawaii)
) SS:
COUNTY OF Maui)

On this 5th day of May, 1999, before me appeared Judy Atkisson, to me personally known, who, being by me duly sworn, did say that he is the Secretary of the WAILEA GOLF ESTATES I ASSOCIATION, a Hawaii nonprofit corporation, and that said instrument was signed in behalf of said corporation by authority of its Board of Directors, and said officer acknowledged said instrument to be the free act and deed of said corporation.

S

Michele Bagdas
Notary Public, in and for said County and State

Print Name: Michele Bagdas
My commission expires: 3/25/03

STATE OF HAWAII)
) SS:
COUNTY OF Maui)

On this 2nd day of February, 1999, before me personally appeared Howard K. Nakamura and Clyde Murashige, to me personally known, who, being by me duly sworn, did say that they are the President and SR. VICE President, respectively, of WAILEA RESORT COMPANY, LTD., a Hawaii corporation, and that said instrument was signed in behalf of said corporation by authority of its Board of Directors, and said officers acknowledged said instrument to be the free act and deed of said corporation.

LS



Notary Public, State of Hawaii
Print Name: Sandra Higa
My commission expires: 10/14/01

EXHIBIT "A"

The following described property owned by Wailea Land Corporation, a Hawaii corporation, and The Northwestern Mutual Life Insurance Company, a Wisconsin corporation, doing business as Wailea Development Company, a registered Hawaii joint venture, hereafter referred to as "Owner":

All of those certain parcels of land situate at Honuaula, Island and County of Maui, State of Hawaii, described as Lots 224 through 294, inclusive, as shown on Map 33, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1804, being a portion of the land covered by Transfer Certificate of Title No. 156,986 issued to the Owner, as such property may now exist and as the same may be subdivided hereafter.

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EXHIBIT "B"

TRANSFER CERTIFICATE OF TITLE

| <u>Lot No.</u> | <u>TCT No.</u> | <u>Lot No.</u> | <u>TCT No.</u> |
|----------------|----------------|----------------|----------------|
| 225 | 274087 | 259 | 508486 |
| 226 | 347299 | 260 | 339142 |
| 227 | 388903 | 261 | 520716 |
| 228 | 471148 | 262 | 492094 |
| 229 | 498591 | 263 | 337953 |
| 230 | 506407 | 264 | 353416 |
| 231 | 455336 | 266 | 511683 |
| 232 | 532406 | 267 | 517540 |
| 233 | 471537 | 268 | 376291 |
| 234 | 435301 | 269 | 504819 |
| 235 | 510913 | 270 | 521514 |
| 236 | 493085 | 271 | 390129 |
| 237 | 331343 | 272 | 467087 |
| 239 | 322141 | 273 | 471136 |
| 240 | 451209 | 274 | 420820 |
| 241 | 476608 | 275 | 469891 |
| 243 | 307895 | 276 | 296567 |
| 244 | 370371 | 277 | 522818 |
| 245 | 349132 | 278 | 400684 |
| 246 | 409921 | 279 | 305342 |
| 247 | 448363 | 280 | 344918 |
| 248 | 295582 | 281 | 534270 |
| 249 | 403896 | 282 | 328077 |
| | 382959 | 283 | 343768 |
| | 382960 | 284 | 506227 |
| | 382961 | 285 | 458630 |
| | 382962 | 291 | 511333 |
| | 403894 | 292 | 464384 |
| 250 | 288846 | 294 | 321386 |
| 251 | 269075 | | |
| 252 | 418140 | | |
| 253 | 534585 | | |
| 254 | 453158 | | |
| 255 | 505722 | | |
| 256 | 310527 | | |
| 257 | 276639 | | |
| 258 | 475913 | | |

25
59 add'l p.



L-140 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED
JUL 25, 2007 08:01 AM
Doc No(s) 3633381
on Cert(s) AS LISTED HEREIN



20 1/1 210

/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

82 LAND COURT SYSTEM

REGULAR SYSTEM

Total Number of Pages: _____
After Recordation, Return by Mail (X) Pickup () To:

ROBERT E. ROWLAND, AAL ALC
P.O. BOX 780
KAHULUI, HAWAII 96790-0780

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**AMENDMENTS TO THE AMENDED AND RESTATED
DECLARATION FOR WAILEA GOLF ESTATES I ASSOCIATION
AND COMMON AREAS**

WHEREAS, by Declaration for Wailea Golf Estates I Association and Common Areas (hereinafter referred to as "Declaration") dated May 25, 1982 and filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1118065, Wailea Land Corporation, a Hawaii corporation, and The Northwestern Mutual Life Insurance Company, a Wisconsin corporation, doing business as Wailea Development Company, a joint venture registered to do business in Hawaii, did encumber the property described in the Declaration with the terms and conditions of the Declaration; and

WHEREAS, the Declaration was restated and amended by instrument entitled "Restated and Amended Declaration for Wailea Golf Estates I Association and Common Areas" filed July 14, 1999 in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 2560066 (herein the "Restated and Amended Declaration"); and

WHEREAS, A & B Wailea LLC is the assignee of the interest of Wailea Development Company as Declarant under the Declaration, Wailea Resort Company, Ltd. being hereinafter referred to as the "Declarant"; and

WHEREAS, the Restated and Amended Declaration provides that it may be amended from time to time through the filing in the Land Court of an amendment duly executed by two officers of the Wailea Golf Estates I Association, with the approval of at least fifty-one percent (51%) of all members of the Association, together with written approval and consent of the Declarant; and

WHEREAS, at least fifty-one percent (51%) of all members of the Association have given their approval to the amendments of the Restated and Amended Declaration as hereinafter set forth; and

WHEREAS, Transfer Certificates of Title issued for Lots within the Wailea Golf Estates I as of 11/3, 2007, are listed on Exhibit "A" attached hereto and by this reference incorporated herein.

NOW, THEREFORE, the Declaration is hereby amended as follows:

A new Section 11(d)(iv) shall be added to the Restated and Amended Declaration to read as follows:

(iv) Landscaping Limitations and Views

Declaration of Purpose Regarding Views

The Wailea Golf Estates I Association and its members wish to preserve and protect the principal views from Wailea Golf Estates Lots as reflected in the individual Plot Plans specifying the maximum height above sea level for all structures placed or constructed upon each Lot within Wailea Golf Estates. With the passage of time, trees and foliage have grown up within Wailea Golf Estates to an extent that the principal views from Wailea Golf Estates Lots have been placed in jeopardy. It is the intent of this amendment to the Restated and Amended Declaration to place reasonable restrictions on landscaping within Wailea Golf Estates in order to open and protect such principal views, as well as to establish a fair and efficient procedure for owners'

compliance with this subsection (iv). The Wailea Golf Estates I Association and its members, through this amendment, express their intent to preserve and protect the principal views from Wailea Golf Estates Lots, whenever reasonably possible, in order to allow for the additional enjoyment of one's home and property that is provided by such principal views.

Definition of "View"

A panoramic or uninterrupted view may exist but is not an entitlement appurtenant to any Lot. The direction of a Lot's principal view is established on a Lot's Plot Plan and is generally self evident since each Lot has been developed with a Plot Plan. For the purposes of this Section 11d.(iv), the term "view" refers to a Lot's principal view as described in this paragraph.

General Landscaping Guidelines

The following guidelines apply to landscaping within Wailea Golf Estates and are for the purpose of assisting homeowners in choosing and maintaining trees and foliage consistent with the Declaration of Purpose Concerning Views set forth above.

Landscaping Maintenance

Lot owners shall maintain the landscaping on their property in a neat, clean, and well kept manner that is consistent with the high quality of the landscaping throughout the Wailea Golf Estates neighborhood.

Ultimate Tree and/or Shrub Size for Single Family Lots

Except as provided hereinafter in this paragraph, all trees and shrubs located on any Lot shall not exceed the height of the allowable roof ridge line for the Lot on which it is located. Provided, however, where the height of the roof ridge line for the

residence constructed on a Lot is equal to or lower than the level of the roadway providing access to the Lot, shrubs may be planted along the Lot's boundary with the roadway to provide privacy for the residence, provided the shrubs shall not exceed a height of four (4) feet or unreasonably interfere with the view from another Lot.

Restrictions Regarding Palm Trees

No more than three single trunk palm trees may be clustered together on any Lot, and any three palm trees clustered together on any Lot shall not be located any closer than twenty feet to any other tree or palm. The foregoing limitations with respect to palm trees shall not apply to "Manila" palm trees.

Owners' compliance with Landscaping Limitations.

Except for compliance with Landscaping Maintenance set forth above, and except as provided below in this paragraph, no owner shall be required to comply with the provisions of this Section 11(d)(iv). Provided, however, if the owner of a Lot believes his principal view has been impaired because the trees and shrubs on an adjacent owner's Lot are not in compliance with the provisions of Ultimate Tree and/or Shrub Size for Single Family Lots and/or Restrictions Regarding Palm Trees, then the owner may make a written request to the adjacent owner to bring the adjacent owner's trees and shrubs into compliance. If within thirty days after making the written request for compliance, the owners fail to resolve their differences, the complaining owner shall give written notice to the adjacent owner, (at the owner's Wailea Golf Estates address and any other address of the adjacent owner on file with the Association), of a description of the desired work and an undertaking by the complaining owner to accept financial responsibility for all costs incurred. Costs may include retention of a reputable

landscape architect chosen by the adjacent owner whose trees and shrubs are alleged to be out of compliance as well as the replacement with palms, trees or shrubs of similar, yet compliant, maturity as well as other aesthetics in the overall landscaping plan on the Lot which may be compromised through the adjacent owner bringing his trees and shrubs into compliance. The complaining owner will provide financial surety to the satisfaction of the adjacent owner whose trees and shrubs are alleged to be out of compliance before any work commences. After ninety days, if the work to bring the trees and shrub into compliance has not commenced or the owners cannot resolve their differences, either owner may refer the matter to the Landscape Resolution Committee, (the "LRC"), described below. Within thirty days of its receipt of the notice of disagreement, the LRC shall meet with the owners involved in the disagreement, and after due deliberation and consultation with the owners, recommend to the owners how the disagreement could be resolved. If the owners fail to give their written acceptance of the LRC's recommendation within five days of receiving the LRC'S recommendation, the LRC shall notify the Board of the owners' failure to accept the LRC's recommendation. Upon receipt of such notice from the LRC, the Board shall take whatever action it deems appropriate, (including, but not limited to, meeting with the owners and/or the LRC), to review the circumstances of the adjacent owner's request and the LRC's recommendation. Upon completing its review, and within thirty days of its receipt of the notification from the LRC, the Board shall render a written decision on the circumstances and deliver same to the owners involved and the LRC. The Board's decision shall be final and binding upon the owners involved. If either or both of the

owners fail to comply with the Board's decision, the Board shall initiate the fining procedures established pursuant to Section 12(d) of this Declaration.

Landscape Resolution Committee.

The Landscape Resolution Committee shall have a minimum of four members, at least one member representing each of the roughly four elevation levels in Wailea Golf Estates. The LRC shall operate as a committee of the Board. The purpose of the LRC is to attempt to convince owners to reach a compromise; however, if a compromise cannot be achieved, then to recommend a course of action to the Board. The LRC will balance the need to enforce reasonable principal views with all owners' right to the quiet enjoyment of their Lots.

The undersigned Kay Lloyd, and Don Atkinson, being the President and Board of Directors of the Wailea Golf Estates I Association hereby certify that the foregoing amendments to the Restated and Amended Declaration were adopted by the vote or written consent of owners of at least fifty-one percent (51%) of the total Lots located within the Wailea Golf Estates I Association.

And the Declarant by signing this document where indicated below signifies its approval of the foregoing amendments to the Declaration.

IN WITNESS WHEREOF, the parties have executed this Amendment on the dates opposite their respective signatures.

WAILEA GOLF ESTATES I ASSOCIATION

Dated: 4/13/07

By Kay Lloyd
Print Name Kay Lloyd
Its President

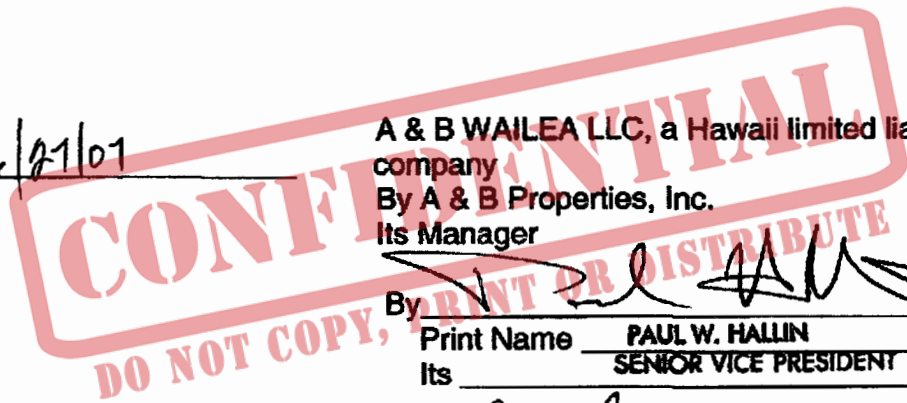
By Don R. Atkinson
Print Name DON R. ATKINSON
Its BOARD MEMBER

Dated: 6/21/07

A & B WAILEA LLC, a Hawaii limited liability
company
By A & B Properties, Inc.
Its Manager


By Paul W. Hallin
Print Name PAUL W. HALLIN
Its SENIOR VICE PRESIDENT

By Charles W. Loomis
Print Name CHARLES W. LOOMIS
Its ASST. SECRETARY



STATE OF Hawaii)
) SS:
COUNTY OF Maui)

On this 13th day of April, 2007, before me personally appeared Kay Lloyd, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.


15
Susan K. Krumwiede
Print Name: Susan K. Krumwiede
Notary Public, in and for said
State and County.

My commission expires: Sept. 28, 2007

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STATE OF Hawaii)
) SS:
COUNTY OF Maui)

On this 13th day of April, 2007, before me personally appeared Don R. Atkinson, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

15
Susan K. Krumwiede
Print Name: Susan K. Krumwiede
Notary Public, in and for said
State and County.

My commission expires: Sept. 28, 2007

STATE OF HAWAII)
CITY OF)
COUNTY OF HONOLULU) SS:

On this 21 day of June, 2007, before me personally appeared PAUL W. HALLIN, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.



Suzanne K. McGuigan
Print Name: SUZANNE K. MCGUIGAN
Notary Public, in and for said
State and County.

My commission expires: 2/18/09

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STATE OF HAWAII)
CITY OF)
COUNTY OF HONOLULU) SS:

On this 27 day of June, 2007, before me personally appeared CHARLES W. LOOMIS, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.



Suzanne K. McGuigan
Print Name: SUZANNE K. MCGUIGAN
Notary Public, in and for said
State and County.

My commission expires: 2/18/09

EXHIBIT "A"

[TRANSFER CERTIFICATES OF TITLE]

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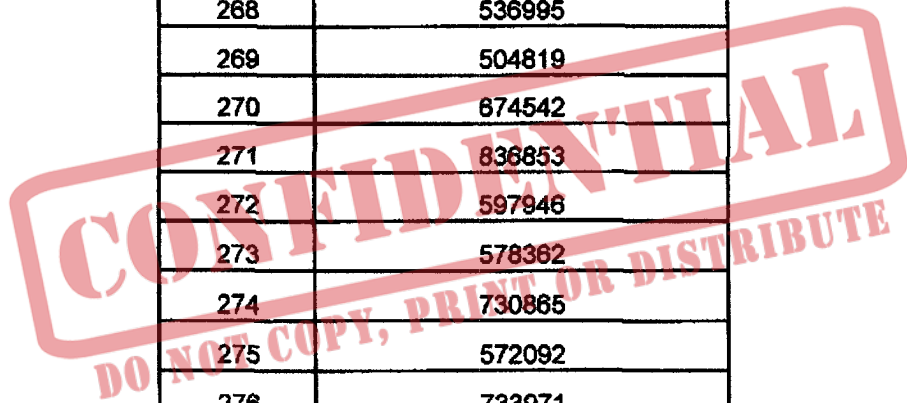
Wailea Golf Estates
Land Court Application No. 1804

| Lot | Transfer Certificate of Title No. |
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| 226 | 823074 |
| 227 | 388903 |
| 228 | 810148 |
| 229 | 733100 |
| 230 | 800367 |
| 231 | 732427 |
| 232 | 750196 |
| 233 | 680037 |
| 234 | 858007 |
| 235 | 725046 |
| 236 | 493085 |
| 237 | 331343 |
| 239 | 322141 |
| 240 | 638136 |
| 241 | 782566 |
| 243 | 691087 |
| 244 | 748486 |
| 245 | 611457 |
| 246 | 825800 |
| 247 | 448363 |
| 248 | 779810 |
| 249 | 729756 |
| 250 | 796681 |
| 251 | 269075 |
| 252 | 637337 |
| 253 | 843590 |
| 254 | 707847 |
| 255 | 616815 |
| 256 | 843773 |
| 257 | 790257 |
| 258 | 754506 |

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Wailea Golf Estates
Land Court Application No. 1804

| Lot | Transfer Certificate of Title No. |
|-----|-----------------------------------|
| 259 | 774578 |
| 260 | 772511 |
| 261 | 639050 |
| 262 | 842177 |
| 263 | 629258 |
| 264 | 744818 |
| 266 | 585894 |
| 267 | 517540 |
| 268 | 536995 |
| 269 | 504819 |
| 270 | 674542 |
| 271 | 836853 |
| 272 | 597946 |
| 273 | 578362 |
| 274 | 730865 |
| 275 | 572092 |
| 276 | 733971 |
| 277 | 522818 |
| 278 | 400684 |
| 279 | 584611 |
| 280 | 344918 |
| 281 | 664240 |
| 282 | 690457 |
| 283 | 860225 |
| 284 | 506227 |
| 285 | 851682 |
| 291 | 693420 |
| 292 | 579317 |
| 294 | 321386 |



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L-369 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED
JUN 25, 2010 08:01 AM
Doc No(s) 3974068
on Cert(s) AS LISTED HEREIN



/s/ NICKI ANN THOMPSON
ASSISTANT REGISTRAR

20 1/1 25

LAND COURT SYSTEM

REGULAR SYSTEM

Total Number of Pages: _____
After Recordation, Return by Mail (X) Pickup () To:

Wailea Golf Estates Association
c/o Hawaiiana Management Company, Ltd
140 Hoohana Street, Suite 210
Kihei, HI 96753

IGA: 4143639

4/0

CAC Total Pgs. 14

AMENDMENTS TO THE RESTATED AND AMENDED
DECLARATION FOR WAILEA GOLF ESTATES I ASSOCIATION
AND COMMON AREAS

WHEREAS, by Declaration for Wailea Golf Estates I Association and Common Areas (hereinafter referred to as "Declaration") dated May 25, 1982 and filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1118065, Wailea Land Corporation, a Hawaii corporation, and The Northwestern Mutual Life Insurance Company, a Wisconsin corporation, doing business as Wailea Development Company, a joint venture registered to do business in Hawaii, did encumber the property described in the Declaration with the terms and conditions of the Declaration; and

WHEREAS, the Declaration was restated and amended by instrument entitled "Restated and Amended Declaration for Wailea Golf Estates I Association and Common Areas" filed July 14, 1999 in the Office of the Assistant Registrar of the Land Court of

the State of Hawaii as Document No. 2560066 (herein the "Restated and Amended Declaration"); and

WHEREAS, the Restated and Amended Declaration was further amended by instrument entitled "Amendments to the Amended and Restated Declaration for Wailea Golf Estates I Association and Common Areas" filed July 25, 2007 in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3633381; and

WHEREAS, A&B Wailea LLC is the assignee of the interest of Wailea Development Company as Declarant under the Declaration, Wailea Resort Company, Ltd. being hereinafter referred to as the "Declarant"; and

WHEREAS, the Restated and Amended Declaration provides that it may be amended from time to time through the filing in the Land Court of an amendment duly executed by two officers of the Wailea Golf Estates I Association, with the approval of at least fifty-one percent (51%) of all members of the Association, together with written approval and consent of the Declarant; and

WHEREAS, at least fifty-one percent (51%) of all members of the Association have given their approval to the further amendment of the Restated and Amended Declaration as hereinafter set forth; and

WHEREAS, Transfer Certificates of Title issued for Lots within the Wailea Golf Estates I as of March 8, 2010, are listed on Exhibit "A" attached hereto and by this reference incorporated herein.

NOW, THEREFORE, the Restated and Amended Declaration is hereby amended as follows:

1. Section 11(a)(i) shall be amended in its entirety to read as follows:

(i) Land Use and Building Type

Each Lot shall be used only for single-family residential purposes, regardless of whether the applicable zoning or laws permit a more intensive or different use. No Lot or residence or other building constructed on any Lot may:

(a) be leased, sub-leased, or rented, or offered for lease, sub-lease or rent, by the owner thereof, an owner's agent, or anyone entitled to occupy the Lot for any term of less than six (6) consecutive months, it being the intent of this provision that any tenant of the owner must be obligated to lease or rent the owner's Lot or residence or other building thereon for a term of not less than six (6) consecutive months, without any option or right to cancel or sub-lease such lease or rental agreement at any time

prior to the expiration of said 6-month period;

(b) be occupied by any person or persons with the owner not also occupying the Lot at the same time, without the prior written consent of the Board, which consent may be withheld by the Board if the Board determines, in its sole discretion, that such occupancy is not in compliance with this subsection (i);

(c) be sold, transferred, conveyed, leased, sub-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 a Lot or residence or other building upon the Lot 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. Promptly upon the request of Declarant or the Association, each owner shall submit true and correct copies of all leases, rental agreements and documents pertaining to the occupancy of the owner's Lot or residence or other building thereon, so as to enable Declarant and the Association to verify whether or not such owner is complying with the foregoing provisions.

(d) may be offered or advertised for rent, lease, or sub-lease for any period of time of less than six consecutive months; and any owner, lease holder, or occupant, who offers or advertises any Lot or residence for rent or lease, shall include a clear disclosure as part of any offer or advertisement that any rental or lease term must be for a period of time of at least six (6) consecutive months. In the event that an owner, lease holder, or occupant advertises or offers any Lot or residence for rent, lease, or sub-lease for a period of less than six months, or fails to include a clear disclosure in any advertisement or offer to rent, lease, or sub-lease, that any rental or lease shall be for a period of time of at least six (6) consecutive months, said owner, lease holder, and/or occupant shall be fined for each day said Lot or residence is advertised or offered for rent, lease, or sub-lease in violation of this provision in the same amount that applies to rentals for periods of time of less than six (6) consecutive months in violation of this provision. The amount of the fine shall be determined according to the schedule of fines in effect at the time of any violation.

Any provision in this Declaration to the contrary notwithstanding, the

Board shall be entitled to adopt such other rules and regulations as it deems necessary, in its sole discretion, to further implement and enforce the terms and conditions of this subsection (i)

No building shall be placed, altered or permitted to remain on any Lot other than one single family dwelling and a private garage. No accessory dwellings, guest cottages, servants' quarters or second kitchens may be constructed or placed on any Lot.

2. Section 11(a)(ix) shall be amended in its entirety to read as follows:

(ix) Condition of Lot and Structures

In addition to the landscaping requirements describe in Section 11(d)(iv), Each owner at his own expense shall at all times keep his Lot, including the landscaping and all structures located on the Lot, in a strictly clean and sanitary condition and in good order, repair and condition free of any debris. With respect to any structure on the Lot, the owner shall undertake painting, re-roofing, decorating and such other refurbishment and renovations as may be necessary to maintain the good appearance and condition of the structure. Without limiting the generality of the foregoing, each owner will - (A) maintain the external appearance of all structures on the owner's Lot in a reasonable manner and (B) undertake at all times the necessary planting, watering, fertilizing, cutting and trimming of trees, shrubbery and other vegetation on the owner's Lot in a reasonable manner - consistent with the level of appearance, maintenance and quality generally found on Lots within the Subdivision. In the event an owner shall disagree with the Board's determination that the landscaping or structure(s) on the owner's Lot are not in compliance with the provisions of this subsection (ix), the Board and the owner shall tender the dispute to an independent professional, (for example an architect, engineer or landscape architect) who's written decision shall be final and binding upon both the Board and the owner. The decision of the independent professional shall set forth what remedial action, if any, is required by the owner and a reasonable time period for completing such work. If the independent professional's decision requires the owner to take action to remedy some or all of the deficiencies asserted by the Board, then the owner shall cure such deficiencies within the time period set forth in the independent professional's decision. The charges of the independent professional shall be paid by that party determined to be the prevailing party, if any, by the independent professional, or if neither party is determined to be the prevailing party, then the independent professional's fees shall be shared equally by the parties. If the owner fails to cure the deficiencies within the specified time period, or such longer period as may be agreed to by the Board in its sole discretion, the Board shall be entitled to exercise any of the remedies

described in Section 12 of this Declaration.

3. The introductory language of Section 11(e)(iii) would be amended to read as follows:

Each owner, or the owner's architect on behalf of the owner, must submit to the Board concurrent with his presentation to the Master Association, at least 30 days before any construction or other work upon the owner's lot, the following items for the Board's review and approval:

4. The first sentence of Section 11(c)(vii)(A) shall be amended in its entirety to read as follows:

Prior to commencing construction of a new building on a Lot; remodeling an existing building on a Lot; undertaking alterations to existing improvements on a Lot; or making additions or other changes to a Lot the owner shall deposit, or cause to be deposited, with the Board in the form of a cashier's check made payable to the Association the following deposits: (1) Where the estimated cost of construction is \$250,000 or less, no deposit is required; provided, however, a \$10,000 deposit will be required where the type of construction to be undertaken involves: (i) the use of heavy equipment which exceeds 10 tons in capacity or weight; (ii) the construction of a new swimming pool, the removal of a swimming pool or the remodeling of an existing pool; (iii) major landscaping projects involving the importation of soil, sod, or plantings considered to be of such a volume as might cause damage to the Common Areas and/or Designated Areas, (iv) the demolition or construction of new driveways, sidewalks, patios and decks; (v) re-roofing of a residence; and (vi) any work on a Lot which includes intrusion into the Common Areas and/or Designated Areas; provided, however, any unused balance of the \$10,000 deposit will be refunded to the owner after the Board determines, in its sole discretion, how much of the deposit is necessary, if any, to repair any damage to the Common Areas and/or Designated Areas as a result of the circumstances described in this item (1); (2) Where the estimated cost of construction is more than 250,000 but \$500,000 or less, a deposit of \$10,000 to cover wear and tear and/or needed repairs on and to the Common Areas and/or Designated Areas resulting from the construction and the balance to be refunded to the extent the Board determines, in its sole discretion, what amount is sufficient to reimburse the Association for needed repairs on and to the Common Areas and/or Designated Areas resulting from the construction; and (3) Where the estimated cost of construction is more than \$500,000, a deposit of \$20,000 is required of which \$10,000 is non-refundable, and the balance of \$10,000 to be refunded to the extent the Board determines, in its sole discretion, what amount in excess of the non-refundable deposit of \$10,000 is sufficient to reimburse the Association for needed repairs on and to the Common Areas and/or Designated Areas

resulting from the construction.

5. A new Section 11(c)(viii) shall be added to read as follows:

(viii) Restrictions on Hours of Construction

Construction work on any Lot shall only occur during the hours between 7:30 a.m. to 5:00 p.m., Monday through Friday, and 7:30 a.m. to 12:00 p.m. on Saturdays. No construction work is allowed on Sundays and on the holidays recognized by the Master Association.

6. Section 11(c)(vii)(D), the first sentence thereof, shall be amended to read as follows:

Should construction of a new building or the remodeling of an existing building fail to be completed within the eighteen (18) or twelve (12) month period, or any extension period granted by the Board, the Board shall have the option to impose upon the owner a penalty of FIVE HUNDRED DOLLARS (\$500.00) per business day until construction is completed and all construction materials are removed from the Lot and all exterior landscaping is complete.

7. The first sentence of Section 11(c)(iv) shall be deleted.

8. The following language shall be added to the present end of Section 11(d) (iv) under the heading "Landscaping Maintenance," and shall replace the language at Section 11(c)(i)(B):

Yard maintenance on any Lot shall only occur during the hours between 7:30 a.m. to 5:00 p.m., Monday through Friday, and 7:30 a.m. to 12:00 p.m. on Saturdays. No yard maintenance is allowed on Sundays and on the holidays recognized the Master Association. Yard maintenance by the Owner is permitted after hours so long as any significant noise generated by mechanical equipment, such as lawnmowers, hedge trimmers, chain saws and leaf blowers, is avoided.

9. The language of Section 11(c)(iii) shall be amended in its entirety to read as follows:

An owner upon whose Lot construction is ongoing is required to provide a trash dumpster for construction debris and store it on his Lot. All construction equipment, materials, temporary structures, dumpsters, toilets, or similar items, must be located within the boundaries of the owner's Lot on which the construction is taking place. No construction debris, dirt, trash or similar items, dumpsters or construction materials and debris may be stored

or left in the streets, Common Areas or Designated Areas or adjacent Lots without the prior approval of the Board, which approval may be withheld in the sole discretion of the Board.

10. A new Section 11(c)(ix) shall be added to read as follows:

(ix) Construction Parking

Construction workers vehicles are limited to four (4) and must be parked in front of the Lot on which the construction is taking place. Other vehicles can be parked in the owner's driveway or in the garage. Other vehicle parking shall be arranged by the Owner so that additional workers can be bused or car pooled to the work site. Any special parking needs must be arranged with the Board.

11. A new Section 11(c)(x) shall be added to read as follows:

(x) Dust Control

Owners must undertake dust control measures to minimize the spreading of dust, dirt and debris on to neighboring Lots, Common Areas, Designated Areas or streets. Watering the Lot on which construction is taking place at frequent intervals and/or the placement of mulch on exposed soil areas is required. A dust fence of a minimum of 10 feet in height must be installed on Lot property lines. The dust fence must remain in place and in good condition until all grading and landscape irrigation has been completed.

12. The language of Section 11(c)(i)(A) shall be revised in its entirety to read as follows:

(A) Limitation on Construction Noise and Blasting

There shall be no blasting or discharge of explosives on any Lot except as provided in this subsection (A). Consideration of blasting will be limited to those situations where other rock excavation methods are not practical and must be approved by the Board which may withhold its approval in its sole discretion.

13. A new Section 11(c)(xi) shall be added to read as follows:

(xi) Condition of Lot During Construction

All construction on any Lot must be maintained in a clean and orderly fashion throughout the construction process and must be cleaned up and left in an orderly manner each day during the construction process. The Board in

the exercise of its sole discretion shall be the judge of whether the daily clean up required under this subparagraph (xi) is being properly carried out.

14. A new Section 11(d)(v) shall be added to read as follows:

(v) Maintenance of Lots

Lots without any building shall be maintained at all times. Lots may not be used for storage or dumping of construction debris, dirt, trash or similar items, without the written consent of the Board, which consent may be withheld in the sole discretion of the Board.

15. A new Section 11(c)(xii) shall be added to read as follows:

(xii) Construction

All contractors or any other agents or persons participating in construction on any Lot shall observe posted speed limits. Reckless driving will not be tolerated.

16. A new Section 11(c)(xiii) shall be added to read as follows:

(xiii) Owner Contact During Construction

An owner upon whose Lot construction is ongoing is required to post on the Lot, provide the Board with, and keep a 24 hour emergency phone number where the owner or the owner's agent can be reached.

17. The following language shall be added to the present end of Section 11(c)(v):

The portable toilet must be positioned on the Lot, to the extent reasonably possible, so that it cannot be seen from the road which the Lot abuts.

18. Section 11(b)(xxviii) shall be re-designated, "Signs, Banners and Flags," and a new subsection (d) to Section 11(b)(xxviii) shall be added to read as follows:

(d) Except for the American Flag, no flags or banners of any kind will be permitted, except as approved by the Board which approval may be withheld in the sole discretion of the Board.

19. A new Section 11(c)(xiv) shall be added to read as follows:

(xiv) No Hazardous Materials

No hazardous materials or liquids shall be stored or drained on any Lot except materials placed in safety containers. No hazardous materials shall be allowed to drain into any Lot, street, Common Area or Designated Area, including water originating from the cleaning of equipment.

20. A new Section 11(c)(xv) shall be added to read as follows:

(xv) Owner Responsible for Common Area Landscaping

The Owner shall be responsible for any required restoration or repair of existing Common Area landscaping and irrigation systems throughout the period of construction on the owner's Lot. Prior to beginning construction, an owner shall contact the landscape contractor under contract with the Board for the maintenance of the Common Areas to install an irrigation sleeve under any proposed driveway location. The cost of installing the sleeve shall be billed to, and paid by, the Owner.

21. A new Section 11(c)(xvi) shall be added to read as follows:

(xvi) Noise Control, No Pets and No Socializing

The noise level originating from a Lot during construction shall be closely monitored to ensure the peace and quiet of the Subdivision. Extra care shall be taken to avoid excessive noise from radios. Except for pets of the owner upon whose Lot construction is ongoing, no pets of any kind shall be allowed on the Lot or within any vehicle parked by a construction worker within the Subdivision or other parking area. Socializing by construction workers, such as, but not limited to "pau hana parties" upon a Lot where construction is ongoing, or any other place within the Subdivision is strictly prohibited.

22. A new Section 11(c)(xvii) would be added to read as follows:

(xvii) Board Access to Lot

Members of the Board and any other personnel appointed by the Board to oversee enforcement of this Declaration are allowed access at all times to any Lot upon which construction is ongoing. A copy of the final approved plans must be kept at a Lot upon which construction is ongoing at all times until the construction is completed.

23. A new Section 11(e)(iii)(C) shall be added to read as follows:

(C) Revisions to Approved Final Plans

Any revisions to the approved final plans (including, but not limited to, changing the house exterior, the landscaping materials and placement, the placement of the building or any ancillary structures, the locations or design of hard surface use elements or the visible construction detailing) must be brought to the attention of the Board and approved by the Board in writing prior to implementation.

The undersigned being the President and Secretary of the Wailea Golf Estates I Association hereby certify that the foregoing amendments to the Restated and Amended Declaration were adopted by the vote or written consent of owners of at least fifty-one percent (51%) of the total lots located within the Wailea Golf Estates I Association.

And the Declarant by signing this document where indicated below signifies its approval of the foregoing amendments to the Declaration.

IN WITNESS WHEREOF, the parties have executed this Amendment on the dates opposite their respective signatures.

WAILEA GOLF ESTATES I ASSOCIATION

Dated: Apr 5, 2010

By: Boyd Deel
Its President, Boyd Deel

By: Carol A. Burdick
Its Secretary, Carol A. Burdick

A&B Wailea LLC, a Hawaii limited liability company

By: A & B Properties, Inc.
Its: Manager

Dated: March 23, 2010

By: [Signature]
Its: PAUL W. HALLIN EXEC. VICE PRESIDENT

By: [Signature]
Its: CHARLES W. LOOMIS ASST. SECRETARY

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STATE OF HAWAII)
COUNTY OF MAUI) SS.

On this 5th day of April, 2010, in the Second Circuit, State of Hawaii, before me personally appeared Boyd Deel, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the forgoing instrument identified or described as, AMENDMENTS TO THE RESTATED AND AMENDED DECLARATION FOR WAILEA GOLF ESTATES I ASSOCIATION AND COMMON AREAS, as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities. The foregoing instrument is dated March 23, 2010 and contained 14 pages at the time of this acknowledgment/certification.



[Signature]
Notary Public, State of Hawaii
Printed Name: Susan K. Krumwiede
My Commission Expires: Sept. 28, 2011
2nd Judicial Circuit

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 10th day of April, 2010, in the Second Circuit, State of Hawaii, before me personally appeared Carol A. Burdick, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the forgoing instrument identified or described as, AMENDMENTS TO THE RESTATED AND AMENDED DECLARATION FOR WAILEA GOLF ESTATES I ASSOCIATION AND COMMON AREAS, as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities. The foregoing instrument is dated March 23, 2010 and contained 14 pages at the time of this acknowledgment/certification.



Susan K. Krumwiede
Notary Public, State of Hawaii
Printed Name: Susan K. Krumwiede
My Commission Expires: Sept. 28, 2011
2nd Judicial Circuit

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STATE OF HAWAII)
) SS.
COUNTY OF MAUI)
CITY & COUNTY OF HONOLULU)

ASW/NP

On this 23rd day of March, 2010, in the ~~Second~~ ^{First} Circuit, State of Hawaii, before me personally appeared PAUL W. HALLIN, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the forgoing instrument identified or described as, AMENDMENTS TO THE RESTATED AND AMENDED DECLARATION FOR WAILEA GOLF ESTATES I ASSOCIATION AND COMMON AREAS, as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities. The foregoing instrument is dated (Undated at time of notarization) and contained 14 pages at the time of this acknowledgment/certification.

ASW/NP

ASW/NP



Aileen S. Miyahara
Notary Public, State of Hawaii
Printed Name: AILEEN S. MIYAHARA
My Commission Expires: 7/15/10

ASW/NP

STATE OF HAWAII)
)
) SS.
~~COUNTY OF MAUI~~)
CITY & COUNTY OF HONOLULU)

KOM/NP

KOM/NP

On this 23rd day of March, 2010, in the ^{First}~~Second~~ Circuit, State of Hawaii, before me personally appeared CHARLES W. LOOMIS, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the forgoing instrument identified or described as, AMENDMENTS TO THE RESTATED AND AMENDED DECLARATION FOR WAILEA GOLF ESTATES I ASSOCIATION AND COMMON AREAS, as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities. The foregoing instrument is dated (Undated at time of and contained 14 pages at the time of this acknowledgment/certification. notarization)

KOM/NP

KOM/NP



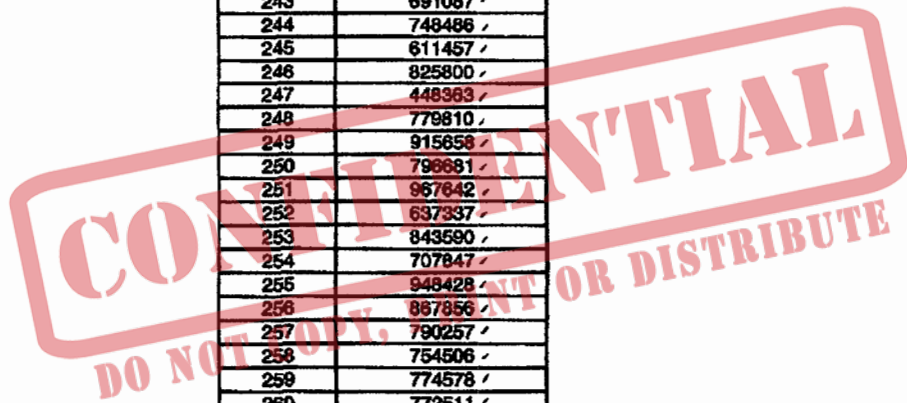
Aileen S. Miyahara
Notary Public, State of Hawaii
Printed Name: AILEEN S. MIYAHARA
My Commission Expires: 7/15/10

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Exhibit "A"

Wailea Golf Estates
Land Court Application No. 1804

| Lot No. | Transfer Certificate of Title No. |
|---------|-----------------------------------|
| 225 | 583722 / |
| 226 | 941200 / |
| 227 | 388903 / |
| 228 | 810148 / |
| 229 | 903592 / |
| 230 | 885709 / |
| 231 | 966340 / |
| 232 | 750196 / |
| 233 | 680037 / |
| 234 | 858007 / |
| 235 | 938834 / |
| 236 | 493085 / |
| 237 | 331343 / |
| 239 | 322141 / |
| 240 | 638136 / |
| 241 | 782566 / |
| 243 | 691087 / |
| 244 | 748486 / |
| 245 | 611457 / |
| 246 | 825800 / |
| 247 | 448363 / |
| 248 | 779810 / |
| 249 | 915656 / |
| 250 | 796681 / |
| 251 | 967642 / |
| 252 | 637337 / |
| 253 | 843590 / |
| 254 | 707847 / |
| 255 | 948428 / |
| 256 | 867856 / |
| 257 | 790257 / |
| 258 | 754506 / |
| 259 | 774578 / |
| 260 | 772511 / |
| 261 | 639050 / |
| 262 | 842177 / |
| 263 | 629258 / |
| 264 | 744818 / |
| 266 | 585894 / |
| 267 | 517540 / |
| 268 | 536995 / |
| 269 | 504819 / |
| 270 | 674542 / |
| 271 | 836853 / |
| 272 | 909610 / |
| 273 | 578362 / |
| 274 | 730665 / |
| 275 | 572092 / |
| 276 | 932004 / |
| 277 | 522818 / |
| 278 | 400684 / |
| 279 | 584611 / |
| 280 | 344818 / |
| 281 | 684240 / |
| 282 | 690467 / |
| 283 | 860228 / |
| 284 | 506227 / |
| 285 | 851682 / |
| 291 | 683420 / |
| 292 | 890789 / |
| 294 | 321886 / |



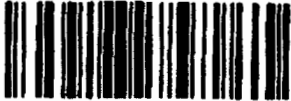
SAM
57 KOOL CES



STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

February 27, 2013 8:01 AM

Doc No(s) T-8458235
on Cert(s) AS LISTED HEREIN
Issuance of Cert(s)



/s/ NICKI ANN THOMPSON
ASSISTANT REGISTRAR

1 1/1 KLA
B-32220288

LAND COURT SYSTEM

REGULAR SYSTEM

KA

Return by: Mail Pickup

Shannon Imlay, Esq.
McKeon Imlay Mehling
A Limited Liability Law Company
2145 Kaohu Street, Suite 203
Wailuku, Hawaii 96793

CONFIDENTIAL
COPY, PRINT

TEA 4467280
TITLE GUARANTY OF HAWAII HAS
FILED THIS DOCUMENT FOR RECORD
AS AN ACCOMMODATION ONLY. THIS
DOCUMENT HAS NOT BEEN
REVIEWED OR IN ANY WAY EXAMINED
AS TO ITS EFFECT ON REAL PROPERTY.

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ca Total Pages: 10-11

**AMENDMENT TO THE AMENDED AND RESTATED DECLARATION FOR WAILEA
GOLF ESTATES I ASSOCIATION AND COMMON AREAS**

This AMENDMENT TO THE AMENDED AND RESTATED DECLARATION
FOR WAILEA GOLF ESTATES I ASSOCIATION AND COMMON AREAS (this
"Amendment") is made by the WAILEA GOLF ESTATES I ASSOCIATION (the
"Association"), a Hawaii non-profit corporation.

RECITALS:

WHEREAS, by Declaration for Wailea Golf Estates I Association and Common Areas
("Declaration") dated May 25, 1982 and filed in the Office of the Assistant Registrar of the Land
Court of the State of Hawaii ("Registrar") as Document No. 1118065, Wailea Land Corporation,
a Hawaii corporation, and The Northwestern Mutual Life Insurance Company, as Wisconsin
corporation, doing business as Wailea Development Company, a joint venture registered to do
business in Hawaii, did encumber the property described in the Declaration with the terms and
conditions of the Declaration; and

WHEREAS, A & B Wailea LLC, a Hawaii limited liability company, is the assignee of interest of Wailea Development Company as Declarant under the Declaration (hereinafter "Declarant"); and

WHEREAS, the Declaration was restated and amended by instrument entitled Restated and Amended Declaration for Wailea Golf Estates I Association and Common Areas, filed July 14, 1999 in said Registrar as Document No. 2560066 ("Restated Declaration"); and

WHEREAS, the Restated Declaration provides that it may be amended from time to time through the filing of the Registrar of an amendment duly executed by two officers of the Association, with approval of at least fifty-one percent of all members of the Association, together with written approval and consent of the Declarant; and

WHEREAS, at least fifty-one percent of all members of the Association have given their approval to the amendments of the Restated Declaration as hereinafter set forth; and

WHEREAS, Transfer Certificates of Title issued for Lots within the Wailea Golf Estates I as of Feb. 20, 2013 are identified on Exhibit "A" attached hereto and by this reference incorporated herein.

NOW, THEREFORE, the Declaration is hereby amended as follows:

1. The individual paragraphs of Section 11(d)(iv) entitled Definition of "View", General Landscaping Guidelines, Landscaping Maintenance, Ultimate Tree and/or Shrub Size for Single Family Lots, Restrictions Regarding Palm Trees, Owners' Compliance with Landscaping Limitations and Landscape Resolution Committee shall be deleted in their entirety and the following is hereby substituted therefor:

Definition of "Principal View"

A panoramic or uninterrupted view may exist but is not an entitlement appurtenant to any Lot. The direction of a Lot's principal view is established on the Lot's Plot Plan and generally includes the direction of the arrow or arrows on a Lot's Plot Plan along with an additional degree of angle, not to exceed 45 degrees to the right and to the left of the Lot's Plot Plan arrow or arrows. Provided, however, ultimately, and if necessary, the extent of a Lot's principal view shall be determined by the Landscape Review Committee (LRC) in its sole discretion taking into consideration the parameters set forth in this paragraph.

General Landscaping Guidelines

The following guidelines apply to landscaping within Wailea Golf Estates and are for the purpose of assisting homeowners in choosing and maintaining trees and foliage consistent with the Declaration of Purpose Regarding Views set forth above.

Landscaping Maintenance

Lot owners shall maintain the landscaping on their property in a neat, clean, and well-kept manner that is consistent with the high quality of the landscaping throughout the Wailea Golf Estates neighborhood. All trees and shrubs shall be maintained in accordance with the height limitations described in the following paragraphs. All landscaping and yard maintenance on any lot is the sole responsibility of the homeowner (including all costs) and shall occur only during the hours between 7:30 a.m. to 5:00 p.m., Monday through Friday, and 7:30 a.m. to 12:00 p.m. on Saturdays. No yard maintenance is allowed on Sundays and on the holidays recognized by the Master Association. Yard maintenance by an owner, other than during the above described days and hours, is permitted as long as mechanical equipment generating significant noise, such as lawnmowers, hedge trimmers, chain saws and leaf blowers, is not used.

Ultimate Tree and Shrub Size

No tree or shrub (including Areca Palms, which shall not be considered a palm tree for purposes of this restriction) located on any Lot, with the exception of palm trees, shall exceed the height of the roof ridge line of the residence on the Lot. Where the height of the roof ridge line of the residence on the Lot is equal to or lower than the level of the roadway providing access to the Lot, however, shrubs may be planted along the Lot's boundary with the roadway to provide privacy for the residence, provided the shrubs shall not exceed a height of four (4) feet or unreasonably interfere with the principal view from another Lot.

Restrictions Regarding Palm Trees

On any Lot, no more than seven (7) palm trees may exceed the roof ridge line of the residence on the Lot and no more than one grouping of three (3) single trunk palm trees may be clustered together on the Lot. Furthermore, any three (3) palm trees clustered together shall not be located any closer than twenty feet to any other palm tree on the Lot. These limitations with respect to palm trees shall not apply to "Manila" palm trees, unless in the sole discretion of the LRC, the Manila palm trees on a particular Lot are unreasonably and excessively blocking another Lot's principal view.

Owners' Compliance with Landscaping Limitations

Each homeowner is responsible for compliance, at their own cost, with these Landscaping Restrictions.

It is not the intent or desire of the Board or the LRC to police the neighborhood looking for possible compliance infractions. The Board and the LRC will only get involved if there is a reasonable complaint from an owner or if an owner's landscaping is clearly not being maintained to the landscaping standards set forth in this Declaration.

If the owner of a Lot believes his principal view is being impaired because the landscaping on an adjacent owner's Lot is not in compliance with the landscaping standards set forth in this Declaration, then the owner may make a written request for the Board to review the situation.

If the Board, in its sole discretion agrees the request is reasonable, it will ask the LCR to review the situation with the owners involved and to make a recommendation to the Board regarding a resolution. The Board will notify the complaining owner of its findings and recommendations within 30 days after receipt of the LRC's recommendation.

If action is necessary, the Board will authorize the LRC to notify the owner that the owner's landscaping is out of compliance and also provide its recommendations as to how best achieve compliance.

An owner who is out of compliance with the landscaping standards set forth in this Declaration will have 30 days from notification from the LRC to commence work on remedying the situation. The work shall be completed in a timely manner. If after 30 days from notification, the work to bring the trees and shrubs into compliance has not commenced, or the work has not been completed in a timely manner, the LRC shall notify the Board of the out-of-compliance owner's failure to comply with the LRC's recommendation. Upon receipt of such notice from the LRC, the Board is authorized to take whatever action it deems appropriate. The Board's decision shall be final and binding upon the owners involved. If the out-of-compliance owner fails to comply with the Board's decision, the Board shall initiate the fining procedures established pursuant to Section 12 (d) and/or any other remedy permitted by this Declaration or applicable law.

There may be isolated instances where an owner's landscaping, although in compliance with the landscaping standards set forth in this Declaration, may be unreasonably and excessively blocking a neighbor's principal view. In these rare cases, the Board, at the recommendation of the LRC, may require the complaining owner to assist in paying for all or part of the costs to remedy the situation.

Landscape Review Committee

The Landscape Review Committee (LRC) shall have a minimum of five voting members, at least one member representing each of the roughly five elevation levels in Wailea Golf Estates and one non-voting member who also shall be a member of the Board and who shall serve as chairperson of the LRC. The non-voting member may cast a vote in the case of a tie vote among the voting members. The LRC shall operate as a committee of the Board. The purpose of the LRC is to review landscaping issues, owners' principal views, and complaints of noncompliance with regard to WGE Landscape Limitations.

The Landscape Review Committee will attempt to resolve issues between owners in a friendly manner; however, if a friendly agreement cannot be achieved then the LRC is required to recommend an appropriate course of action to the Board. The LRC, in its sole discretion, will balance the need to enforce reasonable principal views with all owners' rights to the quiet enjoyment of their Lots.

2. New language shall be added after the introductory sentence of Section 11(a)(i), (which reads: "Each Lot shall be used only for single-family residential purposes, regardless of

whether the applicable zoning or laws permit a more intensive or different use.”) to read as follows:

For purposes of this Section 11(a)(i) the term “single-family” shall mean (A) an individual living alone or a group of two or more persons related by blood or marriage and their legal issue living together as a single housekeeping unit in a residence on a Lot, or (B) no more than three (3) unrelated persons living together as a single housekeeping unit in a residence on a Lot.

This Amendment shall be construed in accordance with and governed by the laws of the State of Hawaii. To the extent that there is any conflict between this Amendment and the applicable State of Hawaii statutes, such statutes shall control.

To the extent that there is any conflict between the provisions of the Restated Declaration and the applicable State of Hawaii statutes, such statutes shall control.

In all other respects, the Restated Declaration, as amended, is hereby ratified and confirmed and shall be binding upon and inure to the benefit of the parties to them and their respective successors and permitted assigns.

Each of the undersigned officers of the Association hereby warrants and represents that he or she is legally authorized to sign this Amendment on behalf of the Association and that the foregoing amendments to the Restated Declaration were adopted by the vote or written consent of owners of at least fifty-one percent of the total lots located within the Wailea Golf Estates I Association.

The Declarant by signing this document where indicated below signifies its approval of the foregoing amendments to the Declaration.

The officers of the Association agree that this Amendment may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same instrument, binding the parties thereto, notwithstanding that all the parties are not signatories to the original or the same counterpart. For all purposes, including without limitation, recordation, filing and delivery of this Amendment, duplicate, unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

IN WITNESS WHEREOF, the undersigned have executed this Amendment this
20th day of February, 2013.

WAILEA GOLF ESTATES I ASSOCIATION

By [Signature]
Printed Name: BOYD DEEL
Its: PRESIDENT

By [Signature]
Printed Name: CAROL BURDICK
Its: Secy.

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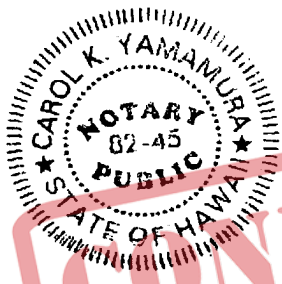
A & B WAILEA LLC, a Hawaii limited liability company
By A & B Properties, Inc.
Its Manager

By [Signature]
Printed Name: PAUL W. HALLIN
Its: EXECUTIVE VICE PRESIDENT

By [Signature]
Printed Name: CHARLES W. LOOMIS
Its: ASST. SECRETARY

STATE OF Hawaii)
) ss.
COUNTY OF Mau)

On this 10th day of February, 2013, before me personally appeared Carol Elaine Deek to me personally, who, being by me duly sworn or affirmed, did say that he is the president of the Wailea Golf Estates I Association, and the foregoing instrument was executed as the free act and deed of said association, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity. Said association has no seal.



Carol K. Yamamura
Signature:

Carol K. Yamamura
Print Name:
Notary Public, State of Hawaii
My commission expires: 1/2014

Doc. Date: 2/20/13 # Pages: 10

Notary Name: Carol K. Yamamura Second Circuit

Doc. Description:
AMENDMENT TO THE AMENDED AND RESTATED DECLARATION FOR
WAILEA GOLF ESTATES I ASSOCIATION AND COMMON AREAS

Carol K. Yamamura 2/20/13
Notary Signature Date

NOTARY CERTIFICATION (Stamp or Seal)

STATE OF Hawaii)
) ss.
COUNTY OF Mauai)

On this 20th day of February, 2013, before me personally appeared Carol Ann Burdick to me personally, who, being by me duly sworn or affirmed, did say that she is the Secretary of the Wailea Golf Estates I Association, and the foregoing instrument was executed as the free act and deed of said association, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity. Said association has no seal.



Carol K. Yamamura
Signature:
Carol K. Yamamura
Print Name:
Notary Public, State of Hawaii
My commission expires: 1/26/14

Doc. Date: 2/20/13 # Pages: 10

Notary Name: Carol K. Yamamura Second Circuit

Doc. Description:
AMENDMENT TO THE AMENDED AND RESTATED DECLARATION FOR
WAILEA GOLF ESTATES I ASSOCIATION AND COMMON AREAS

Carol K. Yamamura 2/20/13
Notary Signature Date

NOTARY CERTIFICATION

(Stamp or Seal)

STATE OF HAWAII)
) ss.
ADMP CITY COUNTY OF HONOLULU)

On this 14th day of February, 2013, before me personally appeared PAUL W. HALLIN to me personally, who, being by me duly sworn or affirmed, did say that he is the Executive Vice President of A & B Wailea, LLC, and the foregoing instrument was executed as the free act and deed of said association, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity. Said association has no seal.



Cheryl A. Onishi
Signature:

CHERYL A. ONISHI

Print Name:
Notary Public, State of Hawaii
My commission expires: APR 17 2013

Doc. Date: Undated at time of Notary filing # Pages: 10

Notary Name: CHERYL A. ONISHI First Circuit

Doc. Description:

AMENDMENT TO THE AMENDED AND RESTATED DECLARATION FOR WAILEA GOLF ESTATES I ASSOCIATION AND COMMON AREAS

Cheryl A. Onishi 2/14/13
Notary Signature Date

NOTARY CERTIFICATION



STATE OF HAWAII)
) ss.
CHY COUNTY OF HONOLULU)

2/21/13

On this 14th day of February, 2013, before me personally appeared CHARLES W. LOOMIS to me personally, who, being by me duly sworn or affirmed, did say that he is the ASST. SECRETARY of A & B Wailea, LLC, and the foregoing instrument was executed as the free act and deed of said association, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity. Said association has no seal.



Cheryl A. Onishi
Signature:
CHERYL A. ONISHI
Print Name:
Notary Public, State of Hawaii
My commission expires: APR 17 2013

Doc. Date: *Added at time of notary filing* # Pages: 10
Notary Name: CHERYL A. ONISHI *11st* Circuit
Doc. Description:
AMENDMENT TO THE AMENDED AND RESTATED DECLARATION FOR WAILEA GOLF ESTATES I ASSOCIATION AND COMMON AREAS
Cheryl A. Onishi *2/14/13*
Notary Signature Date
NOTARY CERTIFICATION



Exhibit "A"

Wailea Golf Estates
Land Court Application No. 1804

| <u>Lot</u> | <u>Transfer Certificate of Title No.</u> | <u>Lot</u> | <u>Transfer Certificate of Title No.</u> |
|------------|--|------------|--|
| 225 | 583,722 | 268 | 536,995 |
| 226 | 941,200 | 269 | 504,819 |
| 227 | 388,903 | 270 | 1,053,800 |
| 228 | 810,148 | 271 | 836,853 |
| 229 | 903,592 | 272 | 909,610 |
| 230 | 885,709 | 273 | 578,362 |
| 231 | 1,052,397 | 274 | 730,865 |
| 232 | 1,036,254 | 275 | 572,092 |
| 233 | 680,037 | 276 | 932,004 |
| 234 | 858,007 | 277 | 522,818 |
| 235 | 1,007,140 | 278 | 400,684 |
| 236 | 493,085 | 279 | 584,611 |
| 237 | 331,343 | 280 | 344,918 |
| 239 | 322,141 | 281 | 1,055,128 |
| 240 | 638,136 | 282 | 690,457 |
| 241 | 1,028,012 | 283 | 1,008,514 |
| 243 | 691,087 | 284 | 506,227 |
| 244 | 748,486 | 285 | 851,682 |
| 245 | 1,043,898 | 291 | 693,420 |
| 246 | 825,800 | 292 | 890,769 |
| 247 | 1,027,509 | 294 | 321,386 |
| 248 | 1,004,344 | | |
| 249 | 1,051,782 | | |
| 250 | 796,681 | | |
| 251 | 967,642 | | |
| 252 | 637,337 | | |
| 253 | 843,590 | | |
| 254 | 707,847 | | |
| 255 | 948,428 | | |
| 256 | 1,004,742 | | |
| 257 | 790,257 | | |
| 258 | 754,506 | | |
| 259 | 774,578 | | |
| 260 | 772,511 | | |
| 261 | 639,050 | | |
| 262 | 842,177 | | |
| 263 | 629,258 | | |
| 264 | 744,818 | | |
| 266 | 1,042,791 | | |
| 267 | 517,540 | | |

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By-Laws of the Homeowners Association
Amendments (if any)

BYLAWS
OF

WALLEA GOLF ESTATES I ASSOCIATION

ARTICLE I
DEFINITIONS

Section 1. "Association" shall mean Wailea Golf Estates I Association, a Hawaii nonprofit corporation.

Section 2. "Charter" shall mean the Charter of Incorporation of the Association.

Section 3. "Declaration" shall mean that certain Declaration for Wailea Golf Estates I Association and Common Areas executed by Wailea Development Company ("Declarant"), on May 25, 1982, and filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1118066.

Section 4. All other terms shall have the meanings given them in the Declaration unless expressly otherwise provided herein.

ARTICLE II
MEMBERSHIP, VOTING RIGHTS AND MEETINGS

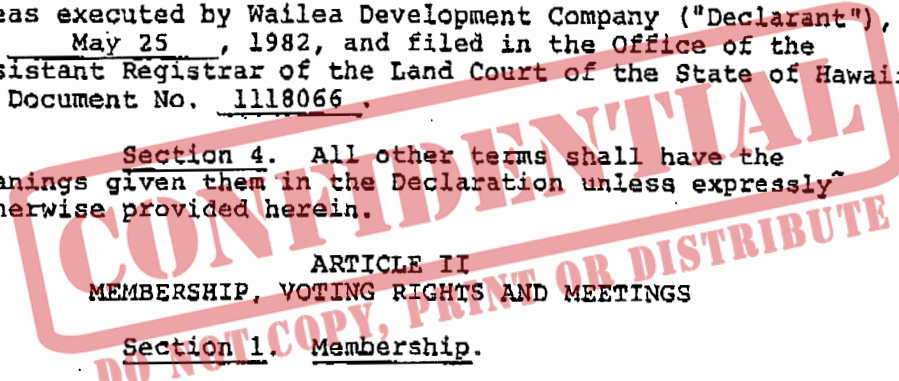
Section 1. Membership.

a. Qualifications for membership and the incidents thereof are set forth in the Declaration and are incorporated herein by reference.

b. Except as expressly provided otherwise in the Declaration or Charter, the rights of membership are subject to the payment of assessments levied by the Association. Such obligation to pay such assessments is imposed against each Owner of a residential lot (hereafter the "Lot") and becomes a lien upon the Lot against which such assessments are made as provided in the Declaration.

c. The membership rights, including voting rights, of any person shall automatically be suspended during the period when the Owner shall be in default in the payment of any assessments levied by the Association; but, upon payment of such assessments, his rights and privileges shall be automatically restored. Also, such rights of membership may be suspended by the Board for violation of any of the provisions of the Declaration, Bylaws or Rules of the Association. Any such suspension shall continue until such violation ceases.

d. No membership shall be terminated except upon the conveyance of a Lot by a deed in which event the membership of the Grantor ceases and the membership of the



Grantee commences. Upon the execution and delivery of a valid Agreement of Sale of any Lot, the Seller's membership (including Declarant's when Declarant has sold a Lot under an Agreement of Sale), including voting rights adhering thereunto, unless otherwise provided in the Agreement of Sale or unless Seller shall have transferred such voting rights by written proxy, shall be considered as having been retained by the Seller.

Section 2. Voting Rights.

a. Class A members shall have one vote for each Lot owned and Class B members shall have three votes for each Lot owned all as is more particularly set forth in the Charter. When more than one person owns an interest in a Lot, the vote shall be exercised as the Owners thereof determine, but the vote attributable to the Lot shall be cast only in the form of one (1) full vote. No fractional votes may be cast or counted. In the event that more than one person holds an interest in a Lot and such Owners cannot agree among themselves as to how to cast the vote attributable to the Lot, such vote shall not be cast nor counted, whether in person or by proxy, until such Owners have agreed how such vote shall be cast.

b. Any Owner may attend and vote, as provided herein, at meetings in person, or by a proxy holder duly appointed by a written proxy signed by the Owner and filed with the Secretary of the Association. Where two or more persons constitute an Owner, any proxy with respect to the vote of such Owners shall be signed by all such persons or the person designated to represent them all, as evidenced by a writing previously filed with the Association or if there is no protest from the other Owners at that time, one of the Co-Owners may cast the vote for all other Co-Owners.

Section 3. Meetings; Notice; Quorum.

a. An annual meeting of the Owners shall be held each year on the first Monday of April in each year, or on such other date as the Board may determine, and at such time and at such place in the County of Maui, State of Hawaii, as may be designated in the notice of annual meeting, for the purpose of electing directors and for the transaction of such other business as may be brought before the meeting. The first annual meeting for the election of directors shall be held on the earlier of (a) the sale and closing of forty-five (45) residential Lots or (b) one (1) year from the date of commencement of assessments levied by the Association.

b. Special meetings of the members of the Association may be held at such time and at such place in the County of Maui, State of Hawaii, and for such purposes as shall be specified in a call for any such meeting made by resolution of the Board or by a writing filed with the secretary signed by the president, or by a majority of the

directors, or by the holders of fifteen percent (15%) in voting interest of the entire membership of the Association.

c. Except where and to the extent otherwise required by law, the Charter, or the Declaration, notice of each meeting by the Owners, specifying the day and time and place of the meeting and the purposes for which the meeting is called, and specifying whether it is an annual or special meeting, shall be given by or under the direction of the secretary to each Owner or one designated Owner in the event there are more than one Owners of the Lot, at least fifteen (15) days before the date fixed for such meeting, by mailing written notice of the meeting, postage prepaid, addressed to such Owner at the residence or business address as it appears on the books of the Association. In case of death, absence, incapacity or refusal of the secretary, such notice may be given by a person designated by the Board. If notice is given pursuant to the provisions of these Bylaws, nonreceipt of actual notice of any meeting by any Owner shall in no way invalidate the meeting or any proceedings taken or any business done at the meeting. Any Owner may waive notice of any meeting either prior to or at or after the meeting, with the same effect as though notice of the meeting had been given to him. The presence of any Owner at a meeting shall be a waiver by him of notice of the meeting.

d. The presence at the meeting of Owners entitled to cast, or of holders of proxies entitled to cast, one-half (1/2) of the votes of the entire membership of the Association shall constitute a quorum for any action except as otherwise provided in the Charter, the Declaration or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the Owners entitled to vote thereat shall have the power to adjourn the meeting without notice, other than announcement at the meeting, to a date no less than forty-eight (48) hours nor more than thirty (30) days thereafter. At such reconvened meeting, the presence of Owners entitled to cast at least twenty-five percent (25%) of the votes of the entire membership of the Association, in person or by proxy, shall constitute a quorum. A meeting may only be reconvened once; thereafter, a new meeting must be called and the original quorum requirements shall be applicable. When a quorum is present at any meeting, the concurring vote of Owners having a majority of the votes of the Owners constituting a quorum shall be valid and binding upon the Association except as otherwise provided by law, the Charter, the Declaration or these Bylaws.

ARTICLE III BOARD OF DIRECTORS

Section 1. Number and Term of Officers. The affairs of the Association shall be managed by a Board of Directors of not less than three (3) directors who shall be Owners or directors, officers or employees of an Owner.

Section 2. Election. At the first annual meeting and at each annual meeting thereafter the Owners, following cumulative voting, shall (1) set the number of directors and (2) elect not less than three (3) directors for a term of one (1) year or until their successors are elected, whichever is later. The Owners or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration and these Bylaws. The candidate(s) receiving the largest number of votes, up to the total number of vacancies, shall be elected. Each Owner shall have the right to give one candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which he is entitled, or distribute such votes, after the multiplication, on the same principle among as many candidates as he thinks fit. Fractions of a vote shall not be cast nor counted.

Section 3. Nomination. Nomination for election to the Board shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board, and two or more Owners. The Nominating Committee shall be appointed by the Board prior to each annual meeting of the Owners, to serve from the close of such annual meeting until the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine but not less than the number of directors to be elected. Such nominations shall be made from among Owners or directors, officers or employees of an Owner. There shall be no limit on the number of terms a person may serve.

Section 4. Vacancy. In the event of a vacancy by death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor or until another successor is elected, whichever is later.

Section 5. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties provided such expenses were previously approved by a majority of the Directors.

Section 6. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall be filed in the minute book and shall have the same effect as though taken at a meeting of the directors.

ARTICLE IV
MEETINGS OF DIRECTORS

Section 1. Meetings. Meetings of the Board shall be held whenever and at such place and hour as may be fixed from time to time by resolution of the Board or as called by the President of the Association, with at least two (2) days advance notice given to each director. An annual meeting of the Board shall be held each year immediately after the annual meeting of the Owners and at the place of such annual meeting.

Section 2. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE V
POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers and Duties. The Board shall have the powers and duties necessary for the administration of the affairs of the Association and may do all acts in exercise thereof consistent with the purposes and objects as set forth in the Charter, Declaration and Bylaws. Without prejudice to the generality of the foregoing, the Board shall have power and duty to:

- a. Exercise for the Association all powers, duties and authority vested in or delegated to this Association not reserved to the membership by other provisions of these Bylaws, the Charter or the Declaration;
- b. In its discretion, to declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive meetings of the Board;
- c. Employ and remove at its pleasure a manager, agents, a managing agent, employees, independent contractors, or such other persons as they deem necessary, prescribe their duties and fix their compensation;
- d. Cause to be kept a complete record of all its acts and corporate affairs, to present a statement thereof to the Owners at the annual meeting of the Owners, and to make such records available for inspection by the Owners at all reasonable times;
- e. Supervise all officers, agents and employees of the Association and to see that their duties are properly performed.
- f. With respect to the assessments provided for in the Declaration:

(1) to set the annual budget and allocate the assessment against each Lot.

(2) to send written notice of each assessment to every Owner subject thereto; and

(3) to foreclose the lien against any Lot for which assessments have not been paid and/or to bring an action at law against the Owner personally obligated to pay such assessment(s).

g. To cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate.

h. Adopt, amend, modify, revoke, and publish rules and regulations governing the use of the Common Areas and the personal conduct of the member and their guests thereon and to establish penalties for the infraction thereof;

i. Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not assessments have been paid and/or whether or not a member is otherwise in compliance with the Charter, Bylaws and Declaration. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

j. Procure and maintain adequate liability insurance with limits of not less than \$500,000.00 for injury to or death of one person and \$1,000,000.00 for injury or death per occurrence and \$1,000,000.00 for property damage and to cover all claims with respect to the Common Areas, naming as insureds the Owners, the Association, its directors, officers, employees and agents and Wailea Development Company.

k. Cause the Common Areas, the Designated Areas and Improvements to be properly maintained.

l. Provide such other services and maintain such other areas as the Board of Directors or the membership may decide.

Section 2. Nonprofit Purpose. In order to preserve the nonprofit, income tax-exempt status of the Association, neither the Board nor any member thereof shall do any act, or authorize or suffer the doing of any act by an officer or employee of the Association, on behalf of the Association which is inconsistent with the Charter or Bylaws or the nonprofit purpose of the Association. Any such act or acts shall be ultra vires and void.

ARTICLE VI
COMMITTEES

The Board may, by resolution or resolutions passed by a majority of the Board, create and appoint one or more committees which, to the extent provided in said resolution or resolutions or in other provisions of these Bylaws and subject at all times to the direction, approval and order of the Board, shall manage the business and affairs of the Association. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board.

ARTICLE VII
OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of the Association shall be a president and vice-president, who each shall at all times be members of the Board, a secretary and a treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board following each annual meeting of the Owners.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year or until his successor is elected, whichever is later, unless he shall sooner resign, or shall be removed or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, having such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled in the manner prescribed for regular election. The officer elected to such vacancy shall serve for the remainder of the term of the officer he replaces or until his successor is elected, whichever is later.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No other person shall simultaneously hold more than one of any

of the other offices except in the case of special offices created pursuant to Section 4 of this article.

Section 8. Execution of Instruments. All checks, drafts, notes, acceptances, conveyances, contracts, and other instruments shall be signed on behalf of the Association, by such person, persons, agents or managing agents as are designated by general or special resolution of the Board or, in the absence of any such resolution applicable to any such instrument, by the President or Vice President and by the Treasurer or Secretary or by the Assistant Treasurer or Assistant Secretary. The officers may adopt and use facsimile signatures.

Section 9. Duties. The duties of the officers are as follows:

a. President. The president shall preside at all meetings of the Board and the Association; and shall see that orders and resolutions of the Board are carried out.

b. Vice-President. The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act and shall exercise and discharge such other duties as may be required of him by the Board.

c. Secretary. The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Owners; serve notice of meetings of the Board and of the Owners; keep appropriate current records showing the Owners together with their addresses, and shall perform such other duties as required by the Board.

d. Treasurer. The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board; keep proper books of account; if requested by the Board, cause an annual audit of the Association books to be made at the completion of each calendar year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting.

ARTICLE VIII BOOKS AND RECORDS

The books, records and papers of the Association shall at all times during reasonable business hours be subject to inspection by any Owner. If decided by the Board or by a majority of the Owners present at a meeting, there shall be an annual audit of the books and records of the Association by a public accountant or certified public accountant and such audit shall be subject to inspection by any Owner.

ARTICLE IX
AMENDMENTS

Section 1. Necessary Vote. These Bylaws may be amended at a regular or special meeting of the members by a vote of seventy-five percent (75%) of all of the members of the Association at the meeting, provided that notice of the proposed amendments has been given to the membership prior to such meeting and further, provided that, until all the residential Lots in the Wailea Golf Estates I (including residential Lots added by annexation pursuant to the Declaration) have been sold and deeded by Wailea Development Company, the written consent and approval of Wailea Development Company shall be required to amend these Bylaws.

Section 2. Reconciliation of Conflicts. In the case of any conflict between the Charter and these Bylaws, the Charter shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

ARTICLE X
CUSTODY OF OWNER'S TRANSFER CERTIFICATE OF TITLE

Each Owner of a Lot shall deposit his Owner's Transfer Certificate of Title for his Lot with the Board of Directors of the Wailea Golf Estates I Association through the Managing Agent of the Association which shall retain and keep all such Transfer Certificates of Title in a safe place; PROVIDED that (A) the Board of Directors and the Managing Agent shall surrender or make available any Transfer Certificate of Title upon request from the Owner thereof for the purpose of having any conveyance or encumbrance noted thereon, on condition that such Transfer Certificate of Title, or any Transfer Certificate of Title issued in place thereof, shall be redelivered to the Board of Directors promptly after any necessary processing in the Land Court of the State of Hawaii, (B) the Board of Directors, without further authorization from the Owner, may (and shall at the request of the Wailea Development Company) present such Transfer Certificate of Title to the Assistant Registrar of the Land Court of the State of Hawaii whenever it may be appropriate to note thereon the filing of any document affecting title, the bylaws or any designation or grant of easement authorized under the Declaration or under the deeds to the Owners of Lots or the filing of any other document incident to the exercise of any reserved right of Wailea Development Company under any document, and (C) the Board of Directors may deliver any Transfer Certificate of Title covering the Lot to any first mortgagee of such Lot which may require that it have possession of the Transfer Certificate of Title on condition that such mortgagee shall promptly surrender such Transfer Certificate of Title to the Board of Directors, without further instruction or authorization from the Owner, if presentation of such Transfer Certificate of Title shall be needed for the purposes stated in (B) above.

At Wailea Development Company's option, Buyer's Transfer Certificate of Title shall be deposited with Wailea Development Company or the Agent of Wailea Development Company in which event all provisions and requirements of this Section shall apply to Wailea Development Company or its Agent who shall be responsible for the safekeeping of the Transfer Certificate of Title.


The cost, if any, for such custodianship shall be paid by the Association.

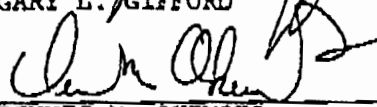
ARTICLE XI
MEMBERSHIP IN OTHER ASSOCIATIONS

In the event members of this Wailea Golf Estates I Association also become members of another Association of Owners, such as the Wailea Property Owners Association, and regardless of whether such other membership is direct or indirect through this Wailea Golf Estates I Association, the Board of Directors of this Association shall, if requested to do so by such other Association, (a) assist in the collection of assessments imposed by such other Association and/or (b) designate a person to act as proxy for the members of this Association in casting their votes in the other Association and if no such person is designated such votes in the other Association shall be cast by the President of this Wailea Golf Estates I Association.

IN WITNESS WHEREOF, we, being all of the Petitioners of WAILEA GOLF ESTATES I ASSOCIATION, hereby certify that the foregoing Bylaws were duly adopted on

May 28


GARY L. GIFFORD


DENNIS M. OKIMOTO


GEORGE MITCHAM

CERTIFICATE OF ADOPTION (BY PETITIONERS)

I hereby certify that the foregoing Bylaws were
duly adopted on May 24, 1982.

Gary L. Gifford

GARY L. GIFFORD, Petitioner

Dennis M. Okimoto

DENNIS M. OKIMOTO Petitioner

George Mitcham

GEORGE MITCHAM, Petitioner

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