

STATE OF HAWAII
HAWAII COMMUNITY DEVELOPMENT AUTHORITY
KAKAAKO
Honolulu, Hawaii, 96813

June 6, 2018

Chairperson and Members
Hawaii Community Development Authority
State of Hawaii
Honolulu, Hawaii

HCDA Board Members:

SUBJECT: Shall the Authority Waive Its Option to Buy Back Symphony Honolulu Reserved Housing Unit 2502?

SUMMARY:

Ms. Yuri Miura, owner of Symphony Honolulu Reserved Housing Unit 2502, is requesting permission to sell her unit which has a 5-year regulated term that expires May 11, 2021. Ms. Miura has indicated she is unable to occupy the unit due to unforeseen family circumstances; therefore, is currently renting her unit. Renting a reserved housing unit during the regulated term is a violation of the Unit Deed and Unilateral Declaration of Restrictive Covenants.

AUTHORITIES:

Paragraph E, subsection (c) of the Symphony Honolulu Unit Deed with Reservations and Conditions (Reserved Housing), dated March 14, 2016 states, "Grantee shall occupy the Unit as Grantee's primary residence and shall otherwise occupy and use the Unit in accordance with all applicable requirements of the Kakaako Reserved Housing Rules and as more particularly described in Exhibit B." The Unit Deed for Symphony Honolulu Unit 2502 is attached hereto as Exhibit C.

Section II. C of the Unilateral Declaration of Restrictive Covenants for Unit Designated as Reserved Housing Unit, dated March 14, 2016, states, "As specified in Paragraph E and Exhibit B of the Deed, Declarant shall personally occupy the Unit during the Regulated Term as Declarant's primary residence." The Unilateral Declaration for Symphony Honolulu Unit 2502 is attached hereto as Exhibit D.

The above requirements are further described in Hawaii Administrative Rules (HAR) § 15-218. HAR § 15-218-36 notes the Hawaii Community Development Authority (HCDA) has the first option to purchase any Reserved Housing Unit if a reserved housing unit owner wishes to sell that unit during the regulated term. The relevant rules are attached hereto as Exhibit E.

BACKGROUND:

In March 2018, the HCDA received an anonymous complaint about renters occupying Symphony Honolulu Reserved Housing Unit 2502, a two bedroom/ two bath unit. On March 23, 2018, HCDA staff sent a letter to the unit owner, Ms. Yuri Miura, advising her of the Reserved Housing rules and requesting a signed affidavit certifying that Ms. Miura is the owner occupant of Unit 2502. This letter is attached as Exhibit A.

Upon receipt of the letter, Ms. Miura called HCDA Asset Manager, Lindsey Doi, to inform her that a rental tenant is currently occupying Unit 2502 due to extenuating family circumstances. Ms. Doi requested confirmation in writing, and Ms. Miura subsequently submitted a letter to the Interim Executive Director to inform him of the situation and requested the HCDA waive its option to buyback Unit 2502. Ms. Miura's letter dated May 4, 2018 is attached hereto as Exhibit B.

Due to her mother's health, Ms. Miura says she is unable to occupy Unit 2502 as her primary residence in the foreseeable future. Ms. Miura is requesting permission to sell the unit at market value or continue renting the unit. Under the Reserved Housing Rules governing Unit 2502, sale or rentals of the reserved housing unit are only allowed after the regulated term expires on May 11, 2021, unless a waiver is granted.

ANALYSIS:

Pursuant to HAR § 15-218-36, the HCDA has the first option to buy back Symphony Honolulu Reserved Housing Unit 2502 until May 11, 2021. Prior Board action has consistently exercised this first option to buy back all reserved housing units during the regulated term. A board action on September 7, 2016, authorized the HCDA Executive Director to buy back all such units at the price determined and stipulated by HAR § 15-218-36. The staff report is attached hereto as Exhibit F.

If the HCDA exercised its option to buy back Symphony Honolulu Reserved Housing Unit 2502, the purchase price would be the LOWER of the below formulas:

- 1) The current fair market price of the unit as determined by the authority, less the shared equity due to the HCDA*; or
- 2) The reserved housing unit price calculated based on the AMI at the time of sale of the unit.

The below values apply to Symphony Honolulu Reserved Housing Unit 2502:

Original Fair Market Value: \$620,000

Original Purchase Price: \$530,400

*Equity Sharing Amount: \$89,600

In order to determine the current fair market price used in Formula #1, the HCDA would need to procure and pay for an appraisal of the subject Unit. The estimated Formula #2 price is \$567,929 based on Ms. Miura purchasing the unit priced at 131% AMI at the time of sale. It is

likely that Formula #2 would be the "lower of" these formulas, and thus would be the purchase price for HCDA to buy back Unit 2502.

Pursuant to HAR § 15-218-37, the HCDA must inform Ms. Miura of its decision regarding Unit 2502 no later than July 3, 2018 (within sixty days of receipt of Ms. Miura's letter). The HCDA has three options:

- 1) Waive its option to purchase the unit,
- 2) Agree to buy back the unit, or
- 3) Designate another buyer for the unit.

Respectfully submitted,



Lindsey Doi
Asset Manager

APPROVED FOR SUBMITTAL:



Garrett Kamemoto, Interim Executive Director
Hawaii Community Development Authority

Attachments:

- Exhibit A – March 23, 2018 HCDA Letter to Ms. Miura
- Exhibit B – May 4, 2018 Ms. Miura Letter to HCDA
- Exhibit C – Symphony Honolulu #2502 Unit Deed
- Exhibit D - Symphony Honolulu #2502 Unilateral Declaration
- Exhibit E – Reserved Housing Rules
- Exhibit F - Reserved Housing Action Item September 7, 2016



HAWAII COMMUNITY
DEVELOPMENT AUTHORITY



David Y. Ige
Governor

John Whalen
Chairperson

Garett Kamemoto
Interim Executive Director

547 Queen Street
Honolulu, Hawaii
96813

Telephone
(808) 594-0300

Facsimile
(808) 587-0299

E-Mail
contact@hcdaweb.org

Website
www.hcdaweb.org

March 23, 2018

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Ms. Yuri Nicole Miura
888 Kapiolani Blvd. #2502
Honolulu, Hawaii 96813

Dear Ms. Miura:

Re: Symphony Honolulu Reserved Housing Unit 2502

It has come to the attention of the Hawaii Community Development Authority (HCDA) that you may be in violation of the owner occupancy requirement stipulated by your Unit Deed and Unilateral Declaration of Restrictive Covenants.

Paragraph E, subsection (c) of the Symphony Honolulu Unit Deed with Reservations and Conditions (Reserved Housing), dated March 14, 2016 (hereinafter, "Deed"), states, "Grantee [you] shall occupy the Unit as Grantee's primary residence and shall otherwise occupy and use the Unit in accordance with all applicable requirements of the Kakaako Reserved Housing Rules and as more particularly described in Exhibit B."

Section II. C of the Unilateral Declaration of Restrictive Covenants for Unit Designated as Reserved Housing Unit, dated March 14, 2016, states, "As specified in Paragraph E and Exhibit B of the Deed, Declarant shall personally occupy the Unit during the Regulated Term as Declarant's primary residence."

Per the Unit Deed, the Regulated Term for Symphony Honolulu Reserved Housing Unit 2502 is five (5) years from the date of recordation in the State of Hawaii Bureau of Conveyances. The date of recordation was May 11, 2016; therefore, the Regulated Term for Symphony Honolulu Reserved Housing Unit 2502 will expire on May 11, 2021.

Your Unit Deed and Unilateral Declaration of Restrictive Covenants are attached for reference.

To verify the owner occupancy status of Symphony Honolulu Reserved Housing Unit 2502, please submit a notarized affidavit certifying that the subject unit is your primary residence and there is no rental tenant. Verification of occupancy requirements shall be submitted to the Hawaii Community Development Authority at 547 Queen Street, Honolulu, Hawaii 96813 or via email at contact@hcdaweb.org no later than April 23, 2018.

Ms. Miura
Page Two
March 23, 2018

If the violation is not corrected within 45 days of the date of this letter, a notice of violation and fine will be issued, pursuant to the Rules of Practice and Procedure, Hawaii Administrative Rules (HAR) § 15-219-99 Issuance of Notice of Violation and Intent to Impose a Citation and HAR § 15-219-101 Administrative Fines.

Should you have any questions regarding this matter, please contact Lindsey Doi, Asset Manager, at (808) 594-0328.

Sincerely,



Garett Kamemoto
Interim Executive Director

GK/LD:cf

Attachments (2):

1. Symphony Honolulu Unit Deed with Reservations and Conditions (Reserved Housing)
2. Unilateral Declaration of Restrictive Covenants for Unit Designated as Reserved Housing Unit



STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

May 11, 2016 8:01 AM

Doc No(a) T-9827010
on Cert(a) 1101487
Issuance of Cert(c) 1116302



1 11/24 ZMA
8-32001289

/s/ NICKI ANN THOMPSON
ASSISTANT REGISTRAR

Conveyance Tax: \$530.40

LAND COURT
AFTER RECORDATION, RETURN BY MAIL ☒ PICK-UP []

REGULAR SYSTEM

American Savings Bank, F.S.B.
P.O. Box 2300
Honolulu, HI 96804-2300

TG: 201516077 P
TGE: T3-191-0015-0531-0
Kristy N. Hasegawa

This Document Contains 22 Pages

UNIT NO. 2502
UNDIVIDED INTEREST: 0.184300%

TMK NO. (1) 2-1-044: 049
CPR NO. 0168

SYMPHONY HONOLULU
UNIT DEED WITH RESERVATIONS AND CONDITIONS (RESERVED HOUSING)

THIS INDENTURE, made this day of MAR 14 2016, 201 , by and between
OLIVER McMILLAN PACIFIC RIM, LLC, a Hawaii limited liability company (hereinafter called the "Grantor"),
and YURI NICOLE MIURA, single; whose post office address is 415 South Street, Apt. 704, Honolulu, Hawaii
96813 (hereinafter called the "Grantee").

WITNESSETH:

That the Grantor, in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable
consideration, receipt of which are hereby acknowledged, and of the promises and covenants hereinafter set
forth and on the part of the Grantee to be faithfully observed and performed, does hereby grant, bargain, sell,
and convey, forever, unto the Grantee, as TENANT IN SEVERALTY, the following:

That certain unit and common interest comprising a portion of the SYMPHONY
HONOLULU Condominium Property Regime (hereinafter called the "Project"), which Project
consists of those certain parcels of land and improvements thereon situate at Honolulu, City
and County of Honolulu, State of Hawaii, and more particularly described in Exhibit A
attached hereto and expressly made a part hereof, and in the Declaration of Condominium
Property Regime dated as of March 4, 2013, filed in the Office of the Assistant Registrar of
the Land Court of the State of Hawaii (hereinafter called the "Land Court") as Land Court
Document No. T-8463373, as the same may be amended from time to time, and duly noted

on Transfer Certificate of Title No. 1,101,487 (hereinafter referred to as the "**Declaration**"), as established by the Declaration and described as follows:

FIRST: Unit No. 2502 (hereinafter called the "**Unit**") of the Project as more fully described in and established by the Declaration and as shown on Condominium Map No. 2195 filed in the Land Court as aforesaid and any amendments thereto (hereinafter called the "**Condominium Map**"), together with the limited common elements and rights and easements appurtenant to the Unit as established by and described in the Declaration; subject, however, to the rights and easements excepted and reserved in the Declaration.

SECOND: An undivided 0.154300% interest as tenant in common with the Grantor, its successors and assigns, and the holders from time to time of other undivided interests in and to the common elements of the Project, including the land of the Project (hereinafter called the "**Land**"), as more fully described in the Declaration and in said Exhibit A.

SUBJECT, as to said undivided interest in the common elements of the Project, to the restriction that it may not be transferred or assigned separately and apart from the Unit.

SUBJECT, FURTHER, to the encumbrances set forth in said Exhibit A.

And the reversions, remainders, rents, issues, and profits thereof and all of the estate, right, title, and interest of the Grantor, both at law and in equity, therein and thereto.

TO HAVE AND TO HOLD the same, as to the Unit and said undivided interest, together with all rights, easements, privileges, and appurtenances thereunto belonging or appertaining or held and enjoyed therewith unto the Grantee, absolutely and in fee simple, and as to the personal property described in said Exhibit A, if any, absolutely and forever.

The Grantor hereby covenants that the Grantor is lawfully seized in fee simple of said property and rights and has good right to sell and convey the same as aforesaid and that the same is free and clear of and from all encumbrances except as herein mentioned; that the Grantor is the sole and absolute owner of said personal property, if any, described in said Exhibit A and that the Grantor's title thereto is free and clear of and from all encumbrances; and that the Grantor will WARRANT and DEFEND the same unto the Grantee and the Grantee's heirs, personal representatives, successors, and assigns against the lawful claims and demands of all persons except as herein mentioned.

The Grantee does hereby covenant and agree for the benefit of the owners from time to time of all other condominium units in the Project, to at all times observe, perform, comply with, and abide by all of the covenants, agreements, obligations, conditions, and other provisions set forth in the Declaration and the By-Laws of the Association of Unit Owners of Symphony Honolulu dated as of March 4, 2013, filed in the Land Court as Land Court Document No. T-8463374, as the same exist or may hereafter be amended in

accordance with law and does hereby accept and approve the Declaration and said By-Laws. The covenants of the Grantee herein contained shall run with the Land.

AND IT IS HEREBY AGREED BY AND AMONG THE PARTIES HERETO AS FOLLOWS:

A. DEVELOPMENT PERMIT AGREEMENT AND HAWAII COMMUNITY DEVELOPMENT AUTHORITY'S DISTRICT-WIDE IMPROVEMENT DISTRICT ASSESSMENT PROGRAM. The terms and conditions imposed by the Development Permit Agreement dated as of June 4, 2013, filed in the Land Court as Land Court Document No. T-8555438 (as the same may be amended in the future pursuant to the Kaka'ako Community Development District Rules for the Mauka Area, Chapter 217 of Title 15 of the Hawaii Administrative Rules, hereinafter called the "*Development Permit Agreement*"), in favor of the Hawaii Community Development Authority, State of Hawaii, body corporate and public instrumentality of the State of Hawaii (the "*Hawaii Community Development Authority*"), shall run with the Land and shall bind and constitute notice to all subsequent lessees, grantees, assignees, mortgagees, lienors, and any other persons who shall claim an interest in the Land, and the Hawaii Community Development Authority shall have the right to enforce the Development Permit Agreement by appropriate action at law or suit in equity against all such persons.

The Project is subject to the Hawaii Community Development Authority's District-Wide Improvement District Assessment Program and may be assessed for the cost of improvements made in the vicinity of the Project. If any such assessments are made, the Grantee shall be responsible for and shall pay its prorated share of any such Improvement District Assessment based on the Grantee's common interest in the Project.

B. THE GRANTOR'S RESERVED RIGHTS REGARDING EASEMENTS. The Grantee understands and agrees that, pursuant to the Declaration, the Grantor has the right for any reasonable purpose to designate, grant, convey, transfer, cancel, relocate, and otherwise deal with any easements over, under, across, or through the common elements of the Project, has the right to accept any easements for ingress to and egress from the Project over, under, across, or through portions of the Land subject to withdrawal from the Project pursuant to the Declaration and to incorporate such easements into the common elements of the Project, and has the right for any reasonable purpose to transfer, cancel, relocate, or otherwise deal with any easement over, under, across, or through any lands adjacent to or across the street from the Project, which may be appurtenant to the Land. The Grantee consents to the foregoing rights and

undertakes and agrees to join in any such act or thing done pursuant to the foregoing reserved rights and to execute any document or instrument necessary or appropriate, as determined in the sole and absolute discretion of the Grantor, to effect the same, and the Grantee hereby irrevocably appoints the Grantor the true and lawful attorney of the Grantee, in the Grantee's name, place, and stead, to execute, acknowledge, deliver, and record such documents and instruments. Said power of attorney, being coupled with an interest, is irrevocable for the term of said reserved rights.

C. SPECIAL POWER OF ATTORNEY. To enable the Grantor to exercise the rights reserved to the Grantor herein and as the Developer in the Declaration, THE GRANTEE HEREBY IRREVOCABLY APPOINTS THE GRANTOR AS THE GRANTEE'S SPECIAL ATTORNEY-IN-FACT WITH FULL POWER OF SUBSTITUTION TO EXECUTE ALL SUCH DOCUMENTS AND DO ALL SUCH OTHER THINGS ON THE GRANTEE'S BEHALF AS MAY BE DONE BY THE GRANTOR IN THE REASONABLE EXERCISE OF THE RIGHTS RESERVED TO THE GRANTOR HEREIN AND IN THE DECLARATION, WHICH GRANT OF SUCH POWER, BEING COUPLED WITH AN INTEREST, IS IRREVOCABLE AND SHALL NOT BE AFFECTED BY THE DISABILITY OF THE GRANTEE OR ANY ONE OF THEM IF THERE BE MORE THAN ONE. AND THE GRANTEE HEREBY FURTHER AGREES UPON THE REQUEST OF THE GRANTOR TO EXECUTE SUCH OTHER DOCUMENTS AND DO SUCH OTHER THINGS AS MAY BE REASONABLY NECESSARY OR CONVENIENT TO EFFECT THE SAME.

D. LIMITATION ON WARRANTIES, EXPRESS OR IMPLIED. Except for the agreements expressly set forth in the Condominium Purchase Agreement by and between Grantor, as Seller, and Grantee, as Buyer, GRANTOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE UNIT, THE PROJECT, ANY CONSUMER PRODUCTS OR ANYTHING ELSE INSTALLED IN THE UNIT OR IN THE PROJECT, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY, HABITABILITY, WORKMANLIKE CONSTRUCTION OR FITNESS OF THE UNIT FOR A PARTICULAR PURPOSE.

E. RESERVED HOUSING UNIT. The Unit described in and conveyed by this Deed is designated as a "*Reserved Housing Unit*" in accordance with the terms, conditions and requirements of the Development Permit Agreement and the reserved housing rules for the Kaka'ako Community Development District established pursuant to Section 208E of the Hawaii Revised Statutes (Title 15, Department of

Business, Economic Development & Tourism; Subtitle 4, Hawaii Community Development Authority (HCDA); Chapter 218 of the Hawaii Administrative Rules) and administered by HCDA (the "*Kaka'ako Reserved Housing Rules*"). Grantee understands and fully accepts that the Unit is hereby being transferred to Grantee subject to certain restrictions, conditions, and requirements pertaining to Reserved Housing Units under the Kaka'ako Reserved Housing Rules. Without limiting the generality of the foregoing, Grantee does hereby covenant, agree, and accept that:

(a) The Unit is subject to a "*Regulated Term*" of five (5) years, as more particularly described in Exhibit B attached hereto and made a part hereof;

(b) The Unit is subject to certain "*Equity Sharing Requirements*" as more particularly described in Exhibit B;

(c) Grantee shall occupy the Unit as Grantee's primary residence and shall otherwise occupy and use the Unit in accordance with all applicable requirements of the Kaka'ako Reserved Housing Rules and as more particularly described in Exhibit B; and

(d) Grantee shall execute a "*Unilateral Declaration*" of restrictive covenants for the Unit with respect to its status as a Reserved Housing Unit.

By signing and accepting this Deed for the Unit, Grantee expressly covenants and agrees that Grantee shall observe, perform, and comply with all of the covenants, conditions, and restrictions pertaining to the ownership, use, occupancy and transfer of the Unit as set forth in the Kaka'ako Reserved Housing Rules and in Exhibit B. Upon release of the Unilateral Declaration by the HCDA, the terms of this Paragraph E and Exhibit B shall be of no further force or effect and shall no longer bind or encumber the Unit or Grantee or Grantee's successors in interest and assigns. Following such release, all further transfers of title to the Unit or any interest therein shall be made free and clear of the terms, conditions, and restrictions set forth in this Paragraph E and in Exhibit B.

The term "Grantor" herein or any other pronoun used in place thereof shall mean and include OLIVERMcMILLAN PACIFIC RIM, LLC, a Hawaii limited liability company and its successors and assigns. The term "Grantee" herein or any pronoun used in place thereof shall mean and include the masculine, feminine, or neuter, the singular or plural number, and jointly and severally individuals, firms, or corporations, and their respective heirs, executors, administrators, successors, and assigns, according to the context

hereof. If these presents shall be signed by two (2) or more Grantees, all covenants of such Grantees shall for all purposes be joint and several.

This Unit Deed may be executed in two or more counterparts, and shall be deemed to have become effective when and only when one or more of such counterparts shall have been signed by or on behalf of the Grantor and the Grantee, although it shall not be necessary that any single counterpart is signed by or on behalf of each. All such counterparts shall be deemed to constitute but one and the same instrument. Duplicate unexecuted pages of the counterparts may be discarded and the remaining pages assembled as one document.

[Signatures Appear on Following Pages]

IN WITNESS WHEREOF, the Grantor and Grantee have executed these presents the day and year first above written.

GRANTOR:

OLIVERMCMILLAN PACIFIC RIM, LLC
a Hawaii limited liability company

By: **OMB V, LLC**
a Delaware limited liability company
Its sole Member

By: **OM-OMB V GROUP, LLC**
a Delaware limited liability company
Its sole Manager

By 
Name: **ALAN ONG**
Its Authorized Signatory

IN WITNESS WHEREOF, the Grantor and Grantee have executed these presents the day and year first above written.

GRANTEE:

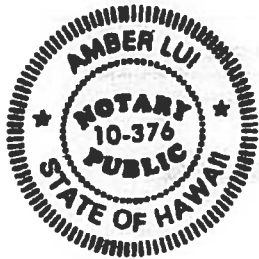

YURI NICOLE MIURA

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

)
: SS.
)


On this day of MAR 03 2016, 201 , before me personally appeared
/ ALAN ONG to me personally known, who, being by me duly affirmed, did say
that such person executed the forgoing instrument as the free act and deed of such person, and in the
capacity shown, having been duly authorized to execute such instrument in such capacity.



Amber Lui
Name: _____
Notary Public, State of Hawaii

My commission expires: _____ **Amber Lui**
Expiration Date: November 7, 2018

Date of Doc: <u>MAR 14 2016</u>	# Pages: <u>22</u>
Name of Notary: <u>Amber Lui</u>	Notes: _____
Doc. Description: <u>Symphony Honolulu Unit Deed With Reservations and Conditions (Reserved Housing)</u>	
<u>Amber Lui</u> <u>MAR 03 2016</u> Notary Signature Date	
First Circuit, State of Hawaii	
NOTARY CERTIFICATION	

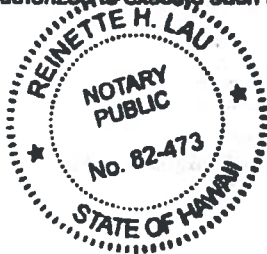


STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

)
: SS.
)

On this 14th day of March, 2016, before me personally appeared YURI NICOLE MIURA, to me personally known, who, being by me duly affirmed, did say that such person executed the forgoing instrument as the free act and deed of such person, and in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Reinette H. Lau
Name: _____
Notary Public, State of Hawaii

My commission expires: 7-6-2018

Date of Doc:	<u>undated</u>	# Pages:	<u>22</u>
Name of Notary:	<u>REINETTE H. LAU</u>	Notes:	
Doc. Description:	<u>Symphony Honolulu Unit Deed With Reservations and Conditions (Reserved Housing)</u>		
<u>Reinette H. Lau</u>		<u>3/14/16</u>	
Notary Signature		Date	
First Circuit, State of Hawaii			
NOTARY CERTIFICATION			

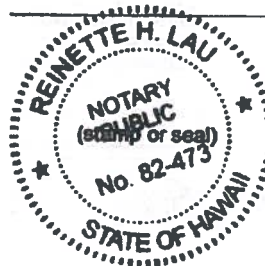


EXHIBIT A

-ITEM I:-

All of those certain parcels of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOTS: B-5-C-1, area 18,455 square feet,
B-5-C-2, area 16,043 square feet, and
B-5-C-3, area 16,556 square feet, more or less,

as shown on Map 9, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 670 of Victoria Ward.

-ITEM II:-

All of those certain parcels of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOTS: 8, area 6,000 square feet, and
9, area 6,874 square feet, more or less, as shown on Map 12;
10, area 6,226 square feet,
11, area 4,716 square feet,
12, area 4,716 square feet, and
13, area 4,716 square feet, more or less, as shown on Map 13;

filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 781 (amended) of Honolulu Construction and Draying Company, Limited.

-AS TO LOTS 8, 10, 11, 12 and 13:-

Together with access over Lot 34, as shown on Map 17, to Kapiolani Boulevard, as set forth by Land Court Order No. 103264, filed August 1, 1991.

-ITEM III:-

All of that certain parcel of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 34, area 20,145 square feet, more or less, as shown on Map 17, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 781 (amended) of Honolulu Construction and Draying Company, Limited.

-AS TO ITEMS I, II AND III:-

Being land(s) described in Transfer Certificate of Title No. 1,101,487 issued to OLIVERMCMILLAN PACIFIC RIM, LLC, a Hawaii limited liability company.

BEING THE PREMISES ACQUIRED BY WARRANTY DEED AND ASSIGNMENT OF GRANTOR'S RIGHTS AND RESERVATIONS

GRANTOR : JN GROUP, INC., a Hawaii corporation, and CASTI FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership

GRANTEE : OLIVERMCMILLAN PACIFIC RIM, LLC, a Hawaii limited liability company

DATED : July 30, 2015
FILED : Land Court Document No. T-9341174

SUBJECT, HOWEVER, TO THE FOLLOWING:

1. Mineral and water rights of any nature.

2. -AS TO ITEM I:-

(A) -AS TO LOT B-5-C-3:-

(1) A perpetual easement for a pedestrian right of way acquired by THE CITY AND COUNTY OF HONOLULU, a municipal corporation, by FINAL ORDER OF CONDEMNATION dated December 27, 1962, filed in the Circuit Court of the First Circuit, State of Hawaii, Civil No. 11074, on November 27, 1962, filed as Land Court Document No. 304401 on March 7, 1963.

(2) Delineation of easement for pedestrian walk, as shown on Map 18, as set forth by Land Court Order No. 21122, filed April 2, 1963.

(3) Corner Rounding Subdivision pursuant to DPP File No. 2014/Sub-166, tentative approval date of March 6, 2015, shown on map prepared by James R. Thompson, Land Surveyor, with Walter P. Thompson, Inc., dated October 3, 2014, last revised January 28, 2015.

(4) SETBACK (5 feet wide)

PURPOSE : building
ALONG : Kapiolani Boulevard
SHOWN : on survey map prepared by James R. Thompson, Land Surveyor, with Walter P. Thompson, Inc., dated October 25, 2012, last revised September 26, 2013

(B) The terms and provisions contained in the following:

INSTRUMENT : AGREEMENT REGARDING RIGHTS AND EASEMENTS

DATED : December 18, 1997

FILED : Land Court Document No. 2438469

PARTIES : MYERS/DAIICHI MIDTOWN PARTNERS, a Hawaii joint venture ("MDMP"), and HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii corporation ("HECO")

FIRST AMENDMENT TO AGREEMENT REGARDING RIGHTS AND EASEMENTS dated June 15, 2015, filed as Land Court Document No. T-9310413.

(C) SETBACK (15 feet wide)

PURPOSE : building
ALONG : Ward Avenue
SHOWN : on survey map prepared by James R. Thompson, Land Surveyor, with Walter P. Thompson, Inc., dated October 25, 2012, last revised September 26, 2013

3. -AS TO ITEM II:-

(A) The terms and provisions contained in the following:

INSTRUMENT : AGREEMENT REGARDING RIGHTS AND EASEMENTS
DATED : December 18, 1997
FILED : Land Court Document No. 2438489
PARTIES : MYERS/DAIICHI MIDTOWN PARTNERS, a Hawaii joint venture ("MDMP"), and HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii corporation ("HECO")

FIRST AMENDMENT TO AGREEMENT REGARDING RIGHTS AND EASEMENTS dated June 15, 2015, filed as Land Court Document No. T-9310413.

(B) -AS TO LOTS 8 AND 9:-

SETBACK (5 feet wide)

PURPOSE : building
ALONG : Kapiolani Boulevard
SHOWN : on survey map prepared by James R. Thompson, Land Surveyor, with Walter P. Thompson, Inc., dated October 25, 2012, last revised September 28, 2013

4. -AS TO ITEM III:-

- (A) Rights-of-way in favor of various owners as contained in DEEDS as noted on Transfer Certificates of Title Nos. 17,593, 47,439 and 223,154.
- (B) Right-of-way for all road purposes in favor of THE HAWAIIAN ELECTRIC COMPANY, LIMITED, now known as HAWAIIAN ELECTRIC COMPANY, INC., dated September 28, 1944, filed as Land Court Document No. 75232, appurtenant to Lots 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23, as shown on Map 13 of Land Court Application No. 781 (amended).
- (C) GRANT in favor of the CITY AND COUNTY OF HONOLULU, dated May 25, 1965, filed as Land Court Document No. 366723; granting an easement for sewer purposes through, under and across the "easement area" more particularly described therein.
- (D) GRANT in favor of the CITY AND COUNTY OF HONOLULU, dated June 7, 1965, filed as Land Court Document No. 367875; granting an easement for sewer purposes through, under and across the "easement area" more particularly described therein.
- (E) GRANT in favor of the CITY AND COUNTY OF HONOLULU, dated June 2, 1965, filed as Land Court Document No. 369047; granting an easement for sewer purposes through, under and across the "easement area" more particularly described therein.
- (F) GRANT in favor of the CITY AND COUNTY OF HONOLULU, dated July 19, 1965, filed as Land Court Document No. 369050; granting an easement for sewer purposes through, under and across the "easement area" more particularly described therein.
- (G) GRANT in favor of the CITY AND COUNTY OF HONOLULU, dated June 2, 1965, filed as Land Court Document No. 369332; granting an easement for sewer purposes through, under and across the "easement area" more particularly described therein.

- (H) GRANT in favor of the CITY AND COUNTY OF HONOLULU, dated September 24, 1985, filed as Land Court Document No. 375511; granting an easement for sewer purposes through, under and across the "easement area" more particularly described therein.
- (I) Access in favor of Lots 8, 10, 11, 12, 13, 28, 30 and 32, as shown on Map 17 of Land Court Application No. 781 (amended), as set forth by Land Court Order No. 103284, filed August 1, 1991.
- (J) GRANT OF NONEXCLUSIVE EASEMENT FOR UTILITY, ROADWAY AND SETBACK PURPOSES in favor of THEODAVIES EUROMOTORS, LTD., a Hawaii corporation, dated February 16, 1995, filed as Land Court Document No. 2219246, as amended by Amendment of Nonexclusive Easement dated April 13, 2016, filed as Land Court Document No. T-9604182; granting a nonexclusive easement for utility, roadway and setback purposes.
- (K) The terms and provisions contained in AGREEMENT dated October 19, 1995, filed as Land Court Document No. 2267754, by and among the HAWAII COMMUNITY DEVELOPMENT AUTHORITY, STATE OF HAWAII ("HCDA"), MYERS/DAIICHI MIDTOWN PARTNERS, a Hawaii joint venture ("Midtown Partners"), and THEO DAVIES EUROMOTORS, LTD., a Hawaii corporation ("Davies").
- (L) GRANT in favor of the CITY AND COUNTY OF HONOLULU and the BOARD OF WATER SUPPLY, City and County of Honolulu, dated July 31, 1996, filed as Land Court Document No. 2328696, recorded as Document No. 96-113638; granting an easement for utility purposes.
- (M) The terms and provisions contained in MAINTENANCE AGREEMENT dated July 31, 1996, filed as Land Court Document No. 2328697, recorded as Document No. 96-113639, by and among MYERS/DAIICHI MIDTOWN PARTNERS, a Hawaii joint venture ("M/DMP"), THEODAVIES EUROMOTORS, LTD., a Hawaii corporation ("TheoDavies"), and the BOARD OF WATER SUPPLY, City and County of Honolulu ("Board").
- (N) The terms and provisions contained in the following:
- INSTRUMENT : AGREEMENT REGARDING RIGHTS AND EASEMENTS
- DATED : December 18, 1997
- FILED : Land Court Document No. 2438469
- PARTIES : MYERS/DAIICHI MIDTOWN PARTNERS, a Hawaii joint venture ("M/DMP"), and HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii corporation ("HECO")
- FIRST AMENDMENT TO AGREEMENT REGARDING RIGHTS AND EASEMENTS dated June 15, 2015, filed as Land Court Document No. T-9310413.
- (O) SETBACK (5 feet wide)
- PURPOSE : building
- ALONG : Kapiolani Boulevard
- SHOWN : on survey map prepared by James R. Thompson, Land Surveyor, with Walter P. Thompson, Inc., dated October 25, 2012, last revised September 26, 2013
- (P) Rights of others who may have easement or access rights in the land described herein as ITEM III.

(Q) The terms and provisions contained in the following:

INSTRUMENT : ENCROACHMENT AGREEMENT AND LICENSE

DATED : October 20, 2010

FILED : Land Court Document No. 4013684

PARTIES : JONES HAWAII PROPERTY HOLDINGS, LLC, a Hawaii limited liability company, "Jones", and CASTI FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership, "Casti"

RE : overhang and supporting columns encroaching from Lot 32, TMK (1) 2-1-044-023, into Lot 34, TMK (1) 2-1-044-048

CONSENT TO ENCROACHMENT AGREEMENT AND LICENSE dated September 28, 2010, filed as Land Court Document No. 4013685, by HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii corporation.

5. The terms and provisions contained in the following:

INSTRUMENT : DECLARATION OF DEVELOPMENT COVENANTS FOR SYMPHONY PARK PROJECT

DATED : February 16, 1995

FILED : Land Court Document No. 2219244

Said above Declaration was amended by instrument dated May 1, 2012, filed as Land Court Document No. T-8215518.

6. The terms and provisions contained in the following:

INSTRUMENT : AGREEMENT CONFIRMING FLOOR AREA TRANSFER PURSUANT TO HAR SECTION 15-217-84

DATED : May 1, 2012

FILED : Land Court Document No. T-8215519

PARTIES : JN GROUP, INC., a Hawaii corporation, CASTI FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership, and JONES HAWAII PROPERTY HOLDINGS, LLC, a Hawaii limited liability company

Said Agreement was amended by First Amendment to Agreement Confirming Floor Area Transfer Pursuant to HAR §15-217-84 dated April 1, 2016, filed as Land Court Document Nos. T-9604184A thru T-9604184B.

7. The terms and provisions contained in the following:

INSTRUMENT : DECLARATION OF CONDOMINIUM PROPERTY REGIME OF SYMPHONY HONOLULU

DATED : March 4, 2013

FILED : Land Court Document No. T-8463373

MAP : 2195 and any amendments thereto

Said Declaration was amended by instruments dated April 18, 2013, filed as Land Court Document No. T-8513346, and dated as of January 21, 2016, filed as Land Court Document No. T-9522225, and as the same may now or hereafter be amended pursuant to its terms.

The foregoing includes, but is not limited to, matters relating to the Shared Access Driveway with the Mercedes Dealership Facility and Hawaiian Electric Company, Ltd., and developer's reserved right and option to buy-back unit to resolve a dispute impasse.

8. The terms and provisions contained in the following:

INSTRUMENT : BY-LAWS OF THE ASSOCIATION OF UNIT OWNERS OF SYMPHONY HONOLULU

DATE : March 4, 2013
FILED : Land Court Document No. T-8483374

Said By-Laws was amended by instrument dated as of January 21, 2016, filed as Land Court Document No. T-9523234, and as the same may now or hereafter be amended pursuant to its terms.

9. The terms and provisions contained in the following:

INSTRUMENT : DEVELOPMENT PERMIT AGREEMENT

DATED : June 4, 2013
FILED : Land Court Document No. T-8555438

By and among HAWAII COMMUNITY DEVELOPMENT AUTHORITY STATE OF HAWAII, a body corporate and a public instrumentality of the State of Hawaii, JN GROUP, INC., a Hawaii corporation, CASTI FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership, and OLIVERMcMILLAN PACIFIC RIM, LLC, a Hawaii limited liability company, as the same may now or hereafter be amended.

The foregoing includes, but is not limited to, matters relating to public facilities dedication fee, reserved housing, floor area purchase, HCDA District wide improvement program.

10. Encroachments and other matters as shown on survey map prepared by James R. Thompson, Land Surveyor, with Walter P. Thompson, Inc. dated October 25, 2012, last revised September 26, 2013.
11. Encroachments or any other matters which a survey prepared after October 25, 2012, last revised September 26, 2013 would disclose.
12. The terms and provisions contained in the following:

INSTRUMENT : WARRANTY DEED AND ASSIGNMENT OF GRANTOR'S RIGHTS AND RESERVATIONS

DATED : July 30, 2015
FILED : Land Court Document No. T-9341174

By and between JN GROUP, INC., a Hawaii corporation, CASTI FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership, and OLIVERMcMILLAN PACIFIC RIM, LLC, a Hawaii limited liability company.

The foregoing includes, but is not limited to, matters relating to HCDA District-Wide Improvement Program, Development Permit for OM Kapiolani (Symphony Honolulu), issued by the HCDA on June 6, 2012 (Development Permit No. KAK 12-075), assessments for pro rata share of the cost improvements which may, in the future, be necessary.

EXHIBIT B

RESERVED HOUSING UNIT REQUIREMENTS AND RULES UNDER KAKA'AKO RESERVED HOUSING RULES

I. KAKA'AKO RESERVED HOUSING RULES AND REVISED PLANNED DEVELOPMENT PERMIT:

The Project is located within the Kaka'ako Community Development District and is subject to the jurisdiction of the Hawaii Community Development Authority, an agency of the State of Hawaii ("HCDA") and the terms of the reserved housing rules for the Kaka'ako Community Development District established pursuant to Section 206E of the Hawaii Revised Statutes (Title 15, Department of Business, Economic Development & Tourism; Subtitle 4, Hawaii Community Development Authority (HCDA); Chapter 218 of the Hawaii Administrative Rules) and administered by HCDA (the "*Kaka'ako-Reserved Housing Rules*"). The Project was developed subject to and in accordance with the terms of various permits and agreements, including that certain Development Permit No. KAK 12-075 for OM Kapiolani (Symphony Honolulu) issued on June 6, 2012 by HCDA, as amended by Amendment to Development Permit No. KAK 12-075 issued on September 18, 2015 and by Administrative Amendment No. 1 to Development Permit No. KAK 12-075 issued on September 28, 2015 (collectively the "*Development Permit*").

II. DESIGNATION AS RESERVED HOUSING UNIT:

The Unit described in this Deed and being transferred hereby has been designated as a "Reserved Housing Unit" in accordance with the terms, conditions and requirements set forth in Chapter 218 of the Kaka'ako Reserved Housing Rules which govern the sale and rental of Reserved Housing Units. As a consequence your ownership, occupancy, use, and future transfer of the Unit is subject to certain requirements and rules which are summarized in this Exhibit B. However, please note that in the event of a conflict between the summary set forth in this Exhibit B and the Kaka'ako Reserved Housing Rules, the terms of the Kaka'ako Reserved Housing Rules shall prevail.

III. APPLICABLE REQUIREMENTS AND RULES TO THE UNIT:

A. Regulated Term. The Unit is subject to a "*Regulated Term*" of five (5) years commencing on the date of filing in the Land Court and recordation in the Bureau of the Deed transferring title to the Unit to the Grantee. The sale or transfer of a Reserved Housing Unit by the Grantee to a third party shall be regulated during this Regulated Term.

(1) If during the Regulated Term, the Grantee wishes to sell the Unit, the HCDA or a governmental agency approved by the HCDA shall have the first option to purchase the Unit from the Declaration at a purchase price calculated in accordance with the Kaka'ako Reserved Housing Rules.

(2) If during the Regulated Term, the Grantee wishes to purchase a larger Reserved Housing Unit, the Grantee shall sell the Unit to the HCDA at a purchase price calculated in accordance with the Kaka'ako Reserved Housing Rules.

(3) After the end of the Regulated Term, the Grantee may sell the Unit without transfer or sales price restrictions, but shall make a payment to the HCDA for Equity Sharing as set forth in the Kaka'ako Reserved Housing Rules and described in Paragraph III.B below. The Grantee may also rent the Unit in accordance with the Kaka'ako Reserved Housing Rules pertaining to the rental of Reserved Housing Units as described further in Paragraph III.C below.

B. Equity Sharing Requirements. The Grantee and the Unit are subject to the "*Equity Sharing Requirements*" of the Kaka'ako Reserved Housing Rules that requires the Grantee to make a payment to HCDA upon a transfer of the Unit to a third party. The calculation of the payment is determined by the Unit's original market value and the original sales contract price, among other factors. For purposes of determining

the Grantee's payment of Equity Sharing to HCDA, the Unit's equity sharing payment shall be based upon the following factors:

Original Fair Market Value	= \$620,000.00
Original Sales Contract Price	= \$530,400.00
Equity Sharing Amount	= \$89,600.00

The Grantee's Equity Sharing payment to HCDA shall become due:

(a) During the Regulated Term, if HCDA waives its right of first option to purchase the Unit (as described in Paragraph III.A.(1) above) and the Grantee sells the Unit; or

(b) After the end of the Regulated Term, if the Grantee sells or rents the Unit (as described in Paragraph III.A.(3) above).

C. Occupancy by Grantee: Future Rental to Qualified Households. The Unit is subject to "Occupancy Requirements" that require the Grantee to personally occupy the Unit as the Grantee's primary residence during the Regulated Term.

(1) After the end of the Regulated Term, but before the Grantee has paid the Equity Sharing Amount to the HCDA, the Grantee may rent the Unit to "**Qualified Households**" at "**Monthly Rents**". The Grantee shall select Qualified Households to occupy the Unit and establish Monthly Rents in accordance with the Kaka'ako Reserved Housing Rules. The Grantee shall certify that the Qualified Household and Monthly Rent are in compliance with the Kaka'ako Reserved Housing Rules and submit such certification to the HCDA for each Qualified Household that occupies the Unit.

(2) After the end of the Regulated Term and the Grantee's payment to the HCDA of the Equity Sharing Amount as determined by the Equity Sharing Requirements the Grantee may rent the Unit to any household at any rent.

IV. MAUKA AREA RULE REFERENCES:

The Kaka'ako Reserved Housing Rules include (but are not limited to) the following terms, conditions, provisions, and restrictions:

A. The Unit is subject to the terms of §15-218-32 ("**Income**") of the Kaka'ako Reserved Housing Rules, which section is hereby expressly incorporated into this Deed by this reference. §15-218-32 of the Kaka'ako Reserved Housing Rules provides, in its entirety, as follows:

§15-218-32 Income.

(a) *The household income of the applicant shall not exceed one hundred forty per cent of the area median income (AMI) as determined by the United States Department of Housing and Urban Development.*

(b) *The adjusted household income shall be the income earned during the most current calendar year preceding the date of application to purchase or rent a reserved housing unit and shall be verified by submittal of most current state or federal tax returns.*

(c) *The assets of the applicant shall not exceed one hundred thirty-five per cent of the applicable income limit set forth in subsection (a) above. As used herein, assets include, all cash, securities and real and personal property at current fair market value, less any outstanding liabilities secured by such assets.*

B. The Unit is subject to the terms of §15-218-33 ("Occupancy Requirements") of the Kaka'ako Reserved Housing Rules, which section is hereby expressly incorporated into this Deed by this reference. §15-218-33 of the Kaka'ako Reserved Housing Rules provides, in its entirety, as follows:

§15-218-33 Occupancy requirements.

(a) The following are occupancy requirements for reserved housing units:

(1) Applicants for reserved housing shall certify that, if selected, all applicants will be occupants of the reserved unit;

(2) The purchaser or lessee shall physically occupy the reserved unit; and

(3) The City and County of Honolulu maximum occupancy limits for residential dwelling units shall apply.

(b) Violation of subsection (a) shall be sufficient reason for the authority, at its option, to purchase the unit as provided in §15-218-36 of this chapter or evict the renter from the unit, as applicable.

(c) Any deed, lease, agreement of sale, mortgage, or other instrument of conveyance issued by the authority shall expressly contain the restrictions on use prescribed in this section.

(d) The restrictions prescribed in subsection (a) above shall not apply if the authority waives its option to purchase the reserved housing unit or subsequent to the expiration of the option to purchase period.

C. The Unit is subject to the terms of §15-218-34 ("Affordability Criteria") of the Kaka'ako Reserved Housing Rules, which section is hereby expressly incorporated into this Deed by this reference. §15-218-34 of the Kaka'ako Reserved Housing Rules provides, in its entirety, as follows:

§15-218-34 Affordability criteria.

(a) The following criteria shall be utilized in determining price and income equivalencies of units for sale:

(1) Down payment amount shall not exceed ten per cent of the purchase price;

(2) Monthly payments, which consist of principal and interest, real property taxes, insurance, and fees and costs required by the bylaws of a condominium property regime, shall not exceed thirty-three per cent of gross monthly income or some other percentage approved by the United States Department of Housing and Urban Development; and

(3) Interest rate shall be derived by taking the past six-months average of the interest rate on thirty year fixed rate mortgages posted for major Honolulu banks in the first week of each of the preceding six months.

(b) The following criteria shall be utilized in determining price and income equivalencies of units for rent: monthly rent and all utilities and other building operating costs (excluding telephone, cable television service, and internet service) shall not exceed thirty-three per cent of the renter's gross monthly income.

D. The Unit is subject to the terms of §15-218-35 ("**Term of Reserved Housing Requirements**") of the Kaka'ako Reserved Housing Rules, which section is hereby expressly incorporated into this Deed by this reference. §15-218-35 of the Kaka'ako Reserved Housing Rules provides, in its entirety, as follows:

§15-218-35 Term of reserved housing requirements.

(a) *The regulated term for reserved housing units that are for sale shall be five years from the date of issuance of certificate of occupancy. Reserved housing rental units shall be regulated for fifteen years. The authority may suspend or modify regulated term and qualifying income requirements on a project by project basis, if, in its sole judgment, it determines that these requirements are negatively impacting the sale or rental of reserved housing units as the primary objective of the authority to promote redevelopment within the Kaka'ako community development district.*

(b) *During the regulated term, a reserved unit owner shall not purchase additional limited common elements or personal property.*

(c) *During the regulated term, the executive director shall approve any initial or subsequent mortgage placed on a reserved unit which does not exceed eighty per cent of the original purchase price of the unit.*

(d) *After the end of the regulated term, the owner may sell the unit or assign the property free from any transfer or price restrictions except for applicable equity sharing requirements set forth in section 15-218-41.*

E. The Unit is subject to the terms of §15-218-36 ("**First Option to Purchase**") of the Kaka'ako Reserved Housing Rules, which section is hereby expressly incorporated into this Deed by this reference. §15-218-36 of the Kaka'ako Reserved Housing Rules provides, in its entirety, as follows:

§15-218-36 First option to purchase.

If the owner of a reserved housing unit wishes to sell the unit during the regulated term, the authority or an entity approved by the authority shall have the first option to purchase the unit. The purchase price shall be based on the lower of:

(1) *The current fair market price of the reserved housing unit as determined by the authority less the authority's share of equity in the unit as determined by section 15-218-41; or*

(2) *The reserved housing unit price calculated based on the AMI at the time of sale of the unit.*

F. The Unit is subject to the terms of §15-218-37 ("**Sale or Transfer of Reserved Housing Units**") of the Kaka'ako Reserved Housing Rules, which section is hereby expressly incorporated into this Deed by this reference. §15-218-37 of the Kaka'ako Reserved Housing Rules provides, in its entirety, as follows:

§15-218-37 Sale or transfer of reserved housing units.

Sale or transfer of reserved housing units during the regulated term shall be as follows:

(1) *The authority or an entity approved by the authority shall have the first option to purchase the unit in the manner indicated in section 15-218-36;*

(2) *The owner shall notify the authority in writing of the intent to sell the reserved housing unit;*

(3) The authority shall notify the owner of its decision within sixty days of receipt of the owner's notification required in subsection (a)(2) above. The authority may:

- (A) Waive its option to purchase the unit,
- (B) Agree to purchase the unit, or
- (C) Designate another buyer for the unit;

(4) If the authority fails to notify the owner of a decision in the manner prescribed in subsection (a)(3), the authority shall have waived its first option to purchase the unit;

(5) The authority may purchase the unit either outright, free and clear of all liens and encumbrances; or by transfer subject to an existing mortgage. If by outright purchase, the authority shall ensure that all existing mortgages, liens, and encumbrances are satisfactorily paid by the owner, and

(6) In any purchase by transfer subject to an existing mortgage, the authority shall agree to assume and to pay the balance on any first mortgage created for the purpose of enabling the owner to obtain funds for the purchase of the unit and any other mortgages which were created with the approval and consent of the authority. In these cases, the amount to be paid to the owner by the authority shall be the difference between the price as determined in section 15-218-36 (1) or (2) and the principal balance of all mortgages outstanding and assumed at the time of transfer of title to the authority.

G. The Unit is subject to the terms of §15-218-40 ("Incorporation in Deed") of the Kaka'ako Reserved Housing Rules, which section is hereby expressly incorporated into this Deed by this reference. §15-218-40 of the Kaka'ako Reserved Housing Rules provides, in its entirety, as follows:

§15-218-40 Incorporation in deed.

The provisions of sections 15-218-35 through 15-218-37 and section 15-218-41 shall be incorporated in any deed, lease, agreement of sale, or other instrument of conveyance for reserved housing units.

H. The Unit is subject to the terms of §15-218-41 ("Equity Sharing Requirements") of the Kaka'ako Reserved Housing Rules, which section is hereby expressly incorporated into this Deed by this reference. §15-218-41 of the Kaka'ako Reserved Housing Rules provides, in its entirety, as follows:

§15-218-41 Equity sharing requirements.

(a) The authority's share of the equity in the reserved housing unit shall become due upon resale of the reserved housing unit.

(b) The authority's share of the equity in the reserved housing unit shall be the higher of:

(1) An amount equivalent to the difference between the original fair market price of the unit as determined by the authority and its original sales contract price; or

(2) An amount equivalent to the percentage of net appreciation calculated as the difference between the original fair market price of the unit as determined by the authority and its original contract price, divided by the original fair market price of the unit.

(c) *At its sole discretion, the authority may allow the project developer to buy out the shared appreciation provisions for all or a portion of the reserved housing units by making a cash payment to the authority of an amount equal to the amount for equity sharing calculated in subsection (b) above.*

(d) *The owner of the reserved housing unit shall provide financial documents acceptable to the authority for before the cost of improvements made by the owner can be deducted from the sale price.*

(e) *The authority shall determine the fair market value of the reserved housing unit at the time of original sale and also at the time of resale.*

(f) *The resale price and terms shall be approved by the authority.*

I. The Unit is subject to the terms of §15-218-42 ("**Deferral of Equity Sharing**") of the Kaka'ako Reserved Housing Rules, which section is hereby expressly incorporated into this Deed by this reference. §15-218-42 of the Kaka'ako Reserved Housing Rules provides, in its entirety, as follows:

§15-218-42 Deferral of equity sharing.

The authority may consider deferring the equity sharing in case an owner of a reserved housing unit wishes to transfer title to the unit by devise or through the laws of descent to a family member who would otherwise qualify for purchase of a reserved housing unit under this chapter.

J. The Unit is subject to the terms of §15-218-43 ("**Effects of Subsequent Rule Amendments**") of the Kaka'ako Reserved Housing Rules, which section is hereby expressly incorporated into this Deed by this reference. §15-218-43 of the Kaka'ako Reserved Housing Rules provides, in its entirety, as follows:

§15-218-43 Effects of subsequent rule amendments.

(a) *In the case of subsequent rule amendments, reserved housing owners shall be permitted at their election to:*

(1) *Remain subject to the rules in effect at the time of the purchase of the unit, or*

(2) *Be governed by the amended rules.*

(b) *The authority, or any other entity that the authority transfers the reserved housing to shall notify all reserved housing owners of any change made by law, ordinance, rule or regulation within one hundred eighty days of such changes. Such notice shall clearly state the enacted or proposed new provisions, the date upon which they are to be effective and offer to each owner of reserved housing units constructed and sold prior to the effective date, an opportunity to be governed by such new provision.*

(c) *No reserved housing unit owner shall be entitled to modify the restrictions or conditions on use, transfer, or sale of the reserved housing unit, without the written permission of the holder of a duly-recorded first mortgage on the unit and the owner of the fee simple or leasehold interest in the land underlying the unit.*

(d) *This section shall apply to all reserved housing units developed, constructed and sold pursuant to this chapter.*

2502

ADDCN



STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

May 11, 2016 8:01 AM

Doc No(s) T-9627011
on Cert(s) 1116302
Issuance of Cert(s)



1 12/24 ZMA
B-32001209

/s/ NICKI ANN THOMPSON
ASSISTANT REGISTRAR

LAND COURT	REGULAR SYSTEM	LC/12
AFTER RECORDATION, RETURN BY MAIL <input checked="" type="checkbox"/> PICK-UP []		
American Savings Bank, F.S.B. P.O. Box 2300 Honolulu, HI 96804 - 2300		
UNIT NO. 2502	TG: 201516077P TGE: T3-191-0015-0531-0 Kristy N. Hasegawa	This Document Contains 12 Pages
UNDIVIDED INTEREST: 0.184300%	TMK NO. (1) 2-1-044: 049	CPR NO. 0168

UNILATERAL DECLARATION OF RESTRICTIVE COVENANTS
FOR
UNIT DESIGNATED AS RESERVED HOUSING UNIT

THIS UNILATERAL DECLARATION OF RESTRICTIVE COVENANTS FOR UNIT DESIGNATED AS RESERVED HOUSING UNIT (the "Declaration") is made this 14 day of MAR 14 2016 2016, by YURI NICOLE MIURA, single, whose post office address is 415 South Street, Apt. 704, Honolulu, Hawaii 96813 (the "Declarant"), to confirm that Declarant's ownership and use of the real property described herein is restricted for the duration of this Declaration as more particularly set forth hereinbelow.

I. BACKGROUND:

A. Declarant is the current owner of that certain residential condominium unit (the "Unit") described in Exhibit A attached hereto and made a part hereof in the Symphony Honolulu condominium project (the "Project") established by that certain Declaration of Condominium Property Regime of Symphony Honolulu dated March 4, 2013, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii (the "Land Court") as Land Court Document No. T-8463373, as now or hereafter amended (hereinafter called the "Declaration"), and as shown on Condominium Map No. 2195 filed in the Land Court, as now or hereafter amended (collectively, the "Condominium Map").

B. The Project is located within the Kaka'ako Community Development District and is subject to the jurisdiction of the Hawaii Community Development Authority, an agency of the State of Hawaii ("HCDA") and the terms of (i) the Kaka'ako Reserved Housing Rules for the Kaka'ako Community Development District established pursuant to Section 206E of the Hawaii Revised Statutes (Title 15, Department of Business, Economic Development & Tourism; Subtitle 4, Hawaii Community Development Authority (HCDA); Chapter 217 of the Hawaii Administrative Rules) and administered by HCDA (the "Maui Area Rules"), and (ii) the Kaka'ako Reserved Housing Rules for the Kaka'ako Community Development District established pursuant to Section 206E of the Hawaii Revised Statutes (Title 15,

Department of Business, Economic Development & Tourism; Subtitle 4, Hawaii Community Development Authority (HCDA); Chapter 218 of the Hawaii Administrative Rules) and administered by HCDA (the "Kaka'ako Reserved Housing Rules"). The Project was developed subject to and in accordance with the terms of various permits and agreements, including that certain Development Permit for OM Kapiolani (Symphony Honolulu) (KAK 12-075, fka DP 1-11) dated June 6, 2012, as amended by Amendment to Development Permit (KAK 12-075) dated September 16, 2015, and Administrative Amendment No. 1 to Development Permit (KAK 12-075) dated September 28, 2015 (collectively, the "Development Permit").

C. In accordance with the terms of the Development Permit, OliverMcMillan Pacific Rim, LLC, a Hawaii limited liability company (the "Developer") has designated certain of the residential units in the Project as "Reserved Housing Units" available to persons or families who met certain eligibility, income and asset requirements and limitations as set forth in the Kaka'ako Reserved Housing Rules.

D. The Unit was designated by the Developer as a Reserved Housing Unit in the Project.

E. Each Reserved Housing Unit, including the Unit, is subject to certain restrictions, including but not limited to, transfer and "Equity Sharing" restrictions more particularly set forth in the Kaka'ako Reserved Housing Rules, the Development Permit, and the Condominium Unit Deed for the Unit (the "Deed").

F. Pursuant to the Deed, Declarant now makes the following declarations to confirm certain restrictions affecting the Unit as more particularly set forth hereinbelow, and declares that such restrictions are encumbrances on title to the Unit for so long as this Declaration remains in full force and effect.

II. DECLARATIONS:

Declarant hereby unilaterally declares, acknowledges and agrees as follows:

A. **Regulated Term.** As specified in Paragraph E and Exhibit B of the Deed, the Unit is subject to a "Regulated Term" of five (5) years commencing on the date of filing in the Land Court and recordation in the Bureau of the Deed transferring title to the Unit to Declarant.

(1) If during the Regulated Term, Declarant wishes to sell the Unit, HCDA or a governmental agency approved by HCDA shall have the first option to purchase the Unit from Declarant at a purchase price calculated in accordance with the Kaka'ako Reserved Housing Rules.

(2) If during the Regulated Term, Declarant wishes to purchase a larger Reserved Housing Unit, Declarant shall sell the Unit to HCDA at a purchase price calculated in accordance with the Kaka'ako Reserved Housing Rules.

(3) After the end of the Regulated Term, Declarant may sell the Unit without transfer or price restrictions but shall make a payment to the HCDA for Equity Sharing as set forth in the Kaka'ako Reserved Housing Rules. Declarant may also elect to rent the Unit in accordance with the Kaka'ako Reserved Housing Rules pertaining to the rental of Reserved Housing Units as described further in Paragraph II.C below.

B. **Equity Sharing Requirements.** As specified in Paragraph E and Exhibit B of the Deed, Declarant and the Unit are subject to Equity Sharing requirements of the Kaka'ako Reserved Housing Rules. For purposes of determining Declarant's payment of Equity Sharing to HCDA, the original fair market value of the Unit and the original sales contract price of the Unit are as follows:

Original Fair Market Value	= \$620,000.00
Original Sales Contract Price	= \$530,400.00
Equity Sharing Amount	= \$89,600.00

(1) Declarant's Equity Sharing payment to HCDA shall become due:

(a) During the Regulated Term, if HCDA waives its right of first option to purchase the Unit (as described in Subparagraph II.A(1) above) and Declarant sells the Unit; or

(b) After the end of the Regulated Term, if Declarant sells the Unit (as described in Subparagraph II.A(3) above).

(2) The amount of Declarant's Equity Sharing payment to HCDA shall be determined in accordance with the Kaka'ako Reserved Housing Rules. The price and terms of the sale of the Unit shall first be approved by HCDA.

C. Occupancy During Regulated Period: Future Rental to Qualified Households. As specified in Paragraph E and Exhibit B of the Deed, Declarant shall personally occupy the Unit during the Regulated Term as Declarant's primary residence.

(1) After the end of the Regulated Term, but before Declarant has paid the Equity Sharing amount to HCDA, Declarant may elect, subject to the prior review and approval of HCDA, to convert the Unit to a rental Unit to "Qualified Households" at "Monthly Rents". If Declarant elects to convert the Unit to a rental Unit, Declarant may only rent the Unit to "Qualified Households" and charge "Monthly Rents" therefor in accordance with the Kaka'ako Reserved Housing Rules. Declarant shall be required to certify to HCDA that the Qualified Household and Monthly Rent are in compliance with the Kaka'ako Reserved Housing Rules and submit such certification to the HCDA for each Qualified Household that so rents and occupies the Unit.

(2) After the end of the Regulated Term and Declarant's payment to the HCDA of the Equity Sharing amount as determined by the Equity Sharing Requirements, Declarant may rent the Unit to any household at any rent that Declarant so determines.


D. Compliance with All Reserved Housing Requirements. As specified in Paragraph E and Exhibit B of the Deed, Declarant is subject to the Reserved Housing Requirements of the Kaka'ako Reserved Housing Rules, including all requirements not specifically covered in this Declaration.

E. Mortgagee Protection. As specified in Paragraph E and Exhibit B of the Deed HAR §15-218-37, §15-218-38 and §15-218-39 of the Kaka'ako Reserved Housing Rules provides certain protections to mortgagees holding mortgages secured by a Reserved Housing Unit. Reference is made to this Subsection of the Kaka'ako Reserved Housing Rules which includes, among other provisions, (1) an obligation on the part of HCDA if exercising its first option to purchase during the Regulated Term to either assume any existing mortgage created for the purpose of enabling the owner to purchase the Reserved Housing Unit or otherwise consented to by HCDA or to arrange to pay-off such mortgage(s), or (2) subject to certain prior notice and other conditions the extinguishment of the conditions on transfer upon subsequent transfers when a mortgage holder becomes the owner of a reserved housing unit pursuant to a mortgage foreclosure, foreclosure under power of sale, or a conveyance in lieu of foreclosure after a foreclosure action is commenced.

F. Release. The Unit is a Reserved Housing Unit until this Declaration is released. This Declaration shall be released only by written instrument executed by HCDA and filed in the Land Court and recorded in the Bureau. Upon release of this Declaration, Paragraph E and Exhibit B to the Deed will be of no further force or effect and will no longer bind or encumber the Unit or Declarant or Declarant's successor's in interest and assigns, and following such release, all further transfers of title to the Unit or any interest therein shall be made free and clear of this Declaration and the terms, conditions, and restrictions set forth in Paragraph E and Exhibit B to the Deed.

IN WITNESS WHEREOF, Declarant has caused these presents to be duly executed effective as of the date and year first above written.

Declarant:


/ YURI NICOLE MIURA

STATE OF HAWAII

)
: SS.

CITY AND COUNTY OF HONOLULU

)

On this 14th day of March, 2016, before me personally appeared YURI NICOLE MIURA, to me personally known, who, being by me duly affirmed, did say that such person executed the forgoing instrument as the free act and deed of such person, and in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Reinette H. Lau

Name:
Notary Public, State of Hawaii

My commission expires: 7-6-2018

Date of Doc: <u>March 14, 2016</u>	# Pages: <u>12</u>
Name of Notary: _____	Notes: _____
Doc. Description: <u>Unilateral Declaration of Restrictive Covenants for Unit Designated as Reserved Housing Unit</u>	
<div style="display: flex; justify-content: space-between;"><div><u>Reinette H. Lau</u> 3/14/16 Notary Signature Date First Circuit, State of Hawaii</div><div>A circular notary seal for Reinette H. Lau, Notary Public, No. 82-473, State of Hawaii. The seal features a star on the left and right sides.</div></div>	
NOTARY CERTIFICATION	

EXHIBIT A

That certain unit and common interest comprising a portion of the SYMPHONY HONOLULU Condominium Property Regime (hereinafter called the "**Project**"), which Project consists of those certain parcels of land and improvements thereon situate at Honolulu, City and County of Honolulu, State of Hawaii, and more particularly described below and in the Declaration of Condominium Property Regime dated as of March 4, 2013, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii (hereinafter called the "**Land Court**") as Land Court Document No. T-8463373, as the same may be amended from time to time (hereinafter referred to as the "**Declaration**"), as established by the Declaration and described as follows:

FIRST: Unit No. 2502 (hereinafter called the "**Unit**") of the Project as more fully described in and established by the Declaration and as shown on Condominium Map No. 2195 filed in the Land Court as aforesaid and any amendments thereto (hereinafter collectively, called the "**Condominium Map**"), together with the limited common elements and rights and easements appurtenant to the as established by and described in the Declaration; subject, however, to the rights and easements excepted and reserved in the Declaration.

SECOND: An undivided 0.184300% interest as tenant in common with the Grantor, its successors and assigns, and the holders from time to time of other undivided interests in and to the common elements of the Project, including the land of the Project (hereinafter called the "**Land**"), as more fully described below and in the Declaration.

SUBJECT, as to said undivided interest in the common elements of the Project, to the restriction that it may not be transferred or assigned separately and apart from the Unit.

THE LAND UPON WHICH SAID SYMPHONY HONOLULU CONDOMINIUM PROJECT IS LOCATED IS DESCRIBED AS FOLLOWS:

-ITEM I:-

All of those certain parcels of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOTS: B-5-C-1, area 18,455 square feet,
B-5-C-2, area 16,043 square feet, and
B-5-C-3, area 16,556 square feet, more or less,

as shown on Map 9, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 670 of Victoria Ward.

-ITEM II:-

All of those certain parcels of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOTS: 8, area 6,000 square feet, and
9, area 6,874 square feet, more or less, as shown on Map 12;
10, area 6,226 square feet,
11, area 4,716 square feet,
12, area 4,716 square feet, and
13, area 4,716 square feet, more or less, as shown on Map 13;

filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 781 (amended) of Honolulu Construction and Draying Company, Limited.

-AS TO LOTS 8, 10, 11, 12 and 13:-

Together with access over Lot 34, as shown on Map 17, to Kapiolani Boulevard, as set forth by Land Court Order No. 103264, filed August 1, 1991.

-ITEM III:-

All of that certain parcel of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 34, area 20,145 square feet, more or less, as shown on Map 17, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 781 (amended) of Honolulu Construction and Draying Company, Limited.

-AS TO ITEMS I, II AND III:-

Being land(s) described in Transfer Certificate of Title No. CT 1116302 issued to Declarant.

BEING THE PREMISES ACQUIRED BY SYMPHONY HONOLULU UNIT DEED WITH RESERVATIONS AND CONDITIONS (RESERVED HOUSING)

GRANTOR	:	OLIVERMCMILLAN PACIFIC RIM, LLC, a Hawaii limited liability company
GRANTEE	:	YURI NICOLE MIURA, single
DATED	:	<u>March 14</u> , 2016
FILED	:	Land Court Document No. <u>Des T-9627010</u>

SUBJECT, HOWEVER, TO THE FOLLOWING:

1. Mineral and water rights of any nature.

2. -AS TO ITEM I:-

(A) -AS TO LOT B-5-C-3:-

- (1) A perpetual easement for a pedestrian right of way acquired by THE CITY AND COUNTY OF HONOLULU, a municipal corporation, by FINAL ORDER OF CONDEMNATION dated December 27, 1962, filed in the Circuit Court of the First Circuit, State of Hawaii, Civil No. 11074, on November 27, 1962, filed as Land Court Document No. 304401 on March 7, 1963.
- (2) Delineation of easement for pedestrian walk, as shown on Map 18, as set forth by Land Court Order No. 21122, filed April 2, 1963.
- (3) Corner Rounding Subdivision pursuant to DPP File No. 2014/Sub-166, tentative approval date of March 6, 2015, shown on map prepared by James R. Thompson, Land Surveyor, with Walter P. Thompson, Inc., dated October 3, 2014, last revised January 26, 2015.
- (4) SETBACK (5 feet wide)

PURPOSE : building
ALONG : Kapiolani Boulevard
SHOWN : on survey map prepared by James R. Thompson, Land Surveyor, with Walter P. Thompson, Inc., dated October 25, 2012, last revised September 26, 2013

(B) The terms and provisions contained in the following:

INSTRUMENT : AGREEMENT REGARDING RIGHTS AND EASEMENTS

DATED : December 18, 1997
FILED : Land Court Document No. 2438469
PARTIES : MYERS/DAIICHI MIDTOWN PARTNERS, a Hawaii joint venture ("M/DMP"), and HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii corporation ("HECO")

FIRST AMENDMENT TO AGREEMENT REGARDING RIGHTS AND EASEMENTS dated June 15, 2015, filed as Land Court Document No. T-9310413.

(C) SETBACK (15 feet wide)

PURPOSE : building
ALONG : Ward Avenue
SHOWN : on survey map prepared by James R. Thompson, Land Surveyor, with Walter P. Thompson, Inc., dated October 25, 2012, last revised September 26, 2013

3. -AS TO ITEM II:-

(A) The terms and provisions contained in the following:

INSTRUMENT : AGREEMENT REGARDING RIGHTS AND EASEMENTS

DATED : December 18, 1997
FILED : Land Court Document No. 2438469
PARTIES : MYERS/DAIICHI MIDTOWN PARTNERS, a Hawaii joint venture ("M/DMP"), and HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii corporation ("HECO")

FIRST AMENDMENT TO AGREEMENT REGARDING RIGHTS AND EASEMENTS dated June 15, 2015, filed as Land Court Document No. T-9310413.

(B) -AS TO LOTS 8 AND 9:-

SETBACK (5 feet wide)

PURPOSE : building
ALONG : Kapiolani Boulevard
SHOWN : on survey map prepared by James R. Thompson, Land Surveyor, with Walter P. Thompson, Inc., dated October 25, 2012, last revised September 26, 2013

4. -AS TO ITEM III:-

(A) Rights-of-way in favor of various owners as contained in DEEDS as noted on Transfer Certificates of Title Nos. 17,593, 47,439 and 223,154.

- (B) Right-of-way for all road purposes in favor of THE HAWAIIAN ELECTRIC COMPANY, LIMITED, now known as HAWAIIAN ELECTRIC COMPANY, INC., dated September 26, 1944, filed as Land Court Document No. 75232, appurtenant to Lots 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23, as shown on Map 13 of Land Court Application No. 781 (amended).
- (C) GRANT in favor of the CITY AND COUNTY OF HONOLULU, dated May 25, 1965, filed as Land Court Document No. 368723; granting an easement for sewer purposes through, under and across the "easement area" more particularly described therein.
- (D) GRANT in favor of the CITY AND COUNTY OF HONOLULU, dated June 7, 1965, filed as Land Court Document No. 36875; granting an easement for sewer purposes through, under and across the "easement area" more particularly described therein.
- (E) GRANT in favor of the CITY AND COUNTY OF HONOLULU, dated June 2, 1965, filed as Land Court Document No. 369047; granting an easement for sewer purposes through, under and across the "easement area" more particularly described therein.
- (F) GRANT in favor of the CITY AND COUNTY OF HONOLULU, dated July 19, 1965, filed as Land Court Document No. 369050; granting an easement for sewer purposes through, under and across the "easement area" more particularly described therein.
- (G) GRANT in favor of the CITY AND COUNTY OF HONOLULU, dated June 2, 1965, filed as Land Court Document No. 369332; granting an easement for sewer purposes through, under and across the "easement area" more particularly described therein.
- (H) GRANT in favor of the CITY AND COUNTY OF HONOLULU, dated September 24, 1965, filed as Land Court Document No. 375511; granting an easement for sewer purposes through, under and across the "easement area" more particularly described therein.
- (I) Access in favor of Lots 8, 10, 11, 12, 13, 28, 30 and 32, as shown on Map 17 of Land Court Application No. 781 (amended), as set forth by Land Court Order No. 103264, filed August 1, 1991.
- (J) GRANT OF NONEXCLUSIVE EASEMENT FOR UTILITY, ROADWAY AND SETBACK PURPOSES in favor of THEODAVIES EUROMOTORS, LTD., a Hawaii corporation, dated February 16, 1995, filed as Land Court Document No. 2218246, as amended by Amendment of Nonexclusive Easement dated April 13, 2016, filed as Land Court Document No. T-9604182; granting a nonexclusive easement for utility, roadway and setback purposes.
- (K) The terms and provisions contained in AGREEMENT dated October 19, 1995, filed as Land Court Document No. 2267754, by and among the HAWAII COMMUNITY DEVELOPMENT AUTHORITY, STATE OF HAWAII ("HCDA"), MYERS/DAIICHI MIDTOWN PARTNERS, a Hawaii joint venture ("Midtown Partners"), and THEO DAVIES EUROMOTORS, LTD., a Hawaii corporation ("Davies").
- (L) GRANT in favor of the CITY AND COUNTY OF HONOLULU and the BOARD OF WATER SUPPLY, City and County of Honolulu, dated July 31, 1996, filed as Land Court Document No. 2328696, recorded as Document No. 96-113638; granting an easement for utility purposes.
- (M) The terms and provisions contained in MAINTENANCE AGREEMENT dated July 31, 1996, filed as Land Court Document No. 2328697, recorded as Document No. 96-113639, by and among MYERS/DAIICHI MIDTOWN PARTNERS, a Hawaii joint venture

("M/DMP"), THEODAVIES EUROMOTORS, LTD., a Hawaii corporation ("TheoDavies"), and the BOARD OF WATER SUPPLY, City and County of Honolulu ("Board").

(N) The terms and provisions contained in the following:

INSTRUMENT : AGREEMENT REGARDING RIGHTS AND EASEMENTS

DATED : December 18, 1997

FILED : Land Court Document No. 2438469

PARTIES : MYERS/DAIICHI MIDTOWN PARTNERS, a Hawaii joint venture ("M/DMP"), and HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii corporation ("HECO")

FIRST AMENDMENT TO AGREEMENT REGARDING RIGHTS AND EASEMENTS
dated June 15, 2015, filed as Land Court Document No. T-9310413.

(O) **SETBACK (5 feet wide)**

PURPOSE : building

ALONG : Kapitolani Boulevard

SHOWN : on survey map prepared by James R. Thompson, Land Surveyor, with Walter P. Thompson, Inc., dated October 25, 2012, last revised September 26, 2013

(P) Rights of others who may have easement or access rights in the land described herein as ITEM III.

(Q) The terms and provisions contained in the following:

INSTRUMENT : ENCROACHMENT AGREEMENT AND LICENSE

DATED : October 20, 2010

FILED : Land Court Document No. 4013684

PARTIES : JONES HAWAII PROPERTY HOLDINGS, LLC, a Hawaii limited liability company, "Jones", and CASTI FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership, "Casti"

RE : overhang and supporting columns encroaching from Lot 32, TMK (1) 2-1-044-023, into Lot 34, TMK (1) 2-1-044-048

CONSENT TO ENCROACHMENT AGREEMENT AND LICENSE dated September 28, 2010, filed as Land Court Document No. 4013685, by HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii corporation.

5. The terms and provisions contained in the following:

INSTRUMENT : DECLARATION OF DEVELOPMENT COVENANTS FOR SYMPHONY PARK PROJECT

DATED : February 16, 1995

FILED : Land Court Document No. 2218244

Said above Declaration was amended by instrument dated May 1, 2012, filed as Land Court Document No. T-8215518.

6. The terms and provisions contained in the following:

INSTRUMENT : AGREEMENT CONFIRMING FLOOR AREA TRANSFER PURSUANT TO HAR SECTION 15-217-84

DATED : May 1, 2012
FILED : Land Court Document No. T-8215519
PARTIES : JN GROUP, INC., a Hawaii corporation, CASTI FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership, and JONES HAWAII PROPERTY HOLDINGS, LLC, a Hawaii limited liability company

Said Agreement was amended by First Amendment to Agreement Confirming Floor Area Transfer Pursuant to HAR §15-217-84 dated April 1, 2016, filed as Land Court Document Nos. T-9804184A thru T-9804184B.

7. The terms and provisions contained in the following:

INSTRUMENT : DECLARATION OF CONDOMINIUM PROPERTY REGIME OF SYMPHONY HONOLULU

DATED : March 4, 2013
FILED : Land Court Document No. T-8463373
MAP : 2195 and any amendments thereto

Said Declaration was amended by instruments dated April 18, 2013, filed as Land Court Document No. T-8513348, and dated as of January 21, 2016, filed as Land Court Document No. T-9522225, and as the same may now or hereafter be amended pursuant to its terms.

The foregoing includes, but is not limited to, matters relating to the Shared Access Driveway with the Mercedes Dealership Facility and Hawaiian Electric Company, Ltd., and developer's reserved right and option to buy-back unit to resolve a dispute impasse.

8. The terms and provisions contained in the following:

INSTRUMENT : BY-LAWS OF THE ASSOCIATION OF UNIT OWNERS OF SYMPHONY HONOLULU

DATE : March 4, 2013
FILED : Land Court Document No. T-8463374

Said By-Laws was amended by instrument dated as of January 21, 2016, filed as Land Court Document No. T-9523234, and as the same may now or hereafter be amended pursuant to its terms.

9. The terms and provisions contained in the following:

INSTRUMENT : DEVELOPMENT PERMIT AGREEMENT

DATED : June 4, 2013
FILED : Land Court Document No. T-8555438

By and among HAWAII COMMUNITY DEVELOPMENT AUTHORITY STATE OF HAWAII, a body corporate and a public instrumentality of the State of Hawaii, JN GROUP, INC., a Hawaii corporation, CASTI FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership, and OLVERMcMILLAN PACIFIC RIM, LLC, a Hawaii limited liability company, as the same may now or hereafter be amended.

The foregoing includes, but is not limited to, matters relating to public facilities dedication fee, reserved housing, floor area purchase, HCDA District wide improvement program.

10. Encroachments and other matters as shown on survey map prepared by James R. Thompson, Land Surveyor, with Walter P. Thompson, Inc. dated October 25, 2012, last revised September 26, 2013.
11. Encroachments or any other matters which a survey prepared after October 25, 2012, last revised September 26, 2013 would disclose.
12. The terms and provisions contained in the following:

INSTRUMENT : **WARRANTY DEED AND ASSIGNMENT OF GRANTOR'S RIGHTS AND RESERVATIONS**

DATED : **July 30, 2015**

FILED : **Land Court Document No. T-9341174**

By and between JN GROUP, INC., a Hawaii corporation, CASTI FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership, and OLIVERMCMILLAN PACIFIC RIM, LLC, a Hawaii limited liability company.

The foregoing includes, but is not limited to, matters relating to HCDA District-Wide Improvement Program, Development Permit for OM Kapiolani (Symphony Honolulu), issued by the HCDA on June 6, 2012 (Development Permit No. KAK 12-075), assessments for pro rata share of the cost improvements which may, in the future, be necessary.

B

RECEIVED

Dear Mr. Kamemoto:

2018 MAY 4 PM 3 43

HAWAII COMMUNITY
DEVELOPMENT
AUTHORITY

First and foremost, I would like to sincerely apologize for not occupying my residence at this time as per the Unit Deed. It was my misunderstanding that the agreement was in regard to selling the unit before the 5-year term. Due to unforeseen circumstances with my mother's health, I am unable to physically reside in my unit because I am currently acting as her caregiver. She has been diagnosed with depression and anxiety which have been exacerbated due to various stressors including two attempted burglaries where she resides.

Due to the severity of her situation, I decided to move in with my mother to provide her relief. I found a friend who could occupy my unit in the meantime. I do not anticipate returning to Symphony to live in the near future, so I cannot fulfill the provision of Section II. C of the Unilateral Declaration of Restrictive Covenants for Unit Designated as Reserved Housing Unit, to occupy the unit as my primary residence.

I would like to explore the methods to sell my unit under the Reserved Housing Conditions of the Deed. Respectfully, I request the HCDA to consider waiving the Buy Back provision and allowing me to sell the Symphony unit on the open market. At the time of sale, I will pay back the \$89,600 reserve amount to the HCDA.

I intend to call Lindsey Doi to discuss my situation further.

Sincerely,



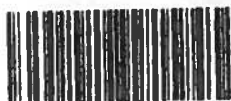
Yuri Miura



STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

May 11, 2016 8:01 AM

Doc No(s) T-9627010
on Cert(s) 1101487
Issuance of Cert(s) 1116302



/s/ NICKI ANN THOMPSON
ASSISTANT REGISTRAR

1 11/24 ZMA
B-32801289

Conveyance Tax: \$530.40

LAND COURT

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL ☒ PICK-UP []

American Savings Bank, F.S.B.
P.O. Box 2300
Honolulu, HI 96804-2300

TG: 201516077 P
TGE: T3-191-0015-0531-0
Kristy N. Hasegawa

This Document Contains 22 Pages

UNIT NO. 2502

UNDIVIDED INTEREST: 0.184300%

TMK NO. (1) 2-1-044: 049
CPR NO. 0168

SYMPHONY HONOLULU
UNIT DEED WITH RESERVATIONS AND CONDITIONS (RESERVED HOUSING)

THIS INDENTURE, made this ____ day of MAR 14 2016, 201__, by and between
OLIVERMcMILLAN PACIFIC RIM, LLC, a Hawaii limited liability company (hereinafter called the "Grantor"),
and YURI NICOLE MIURA, single, whose post office address is 415 South Street, Apt. 704, Honolulu, Hawaii
96813 (hereinafter called the "Grantee").

WITNESSETH:

That the Grantor, in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable
consideration, receipt of which are hereby acknowledged, and of the promises and covenants hereinafter set
forth and on the part of the Grantee to be faithfully observed and performed, does hereby grant, bargain, sell,
and convey, forever, unto the Grantee, as TENANT IN SEVERALTY, the following:

That certain unit and common interest comprising a portion of the SYMPHONY
HONOLULU Condominium Property Regime (hereinafter called the "**Project**"), which Project
consists of those certain parcels of land and improvements thereon situate at Honolulu, City
and County of Honolulu, State of Hawaii, and more particularly described in Exhibit A
attached hereto and expressly made a part hereof, and in the Declaration of Condominium
Property Regime dated as of March 4, 2013, filed in the Office of the Assistant Registrar of
the Land Court of the State of Hawaii (hereinafter called the "**Land Court**") as Land Court
Document No. T-8463373, as the same may be amended from time to time, and duly noted

on Transfer Certificate of Title No. 1,101,487 (hereinafter referred to as the "**Declaration**"), as established by the Declaration and described as follows:

FIRST: Unit No. **2502** (hereinafter called the "**Unit**") of the Project as more fully described in and established by the Declaration and as shown on Condominium Map No. 2195 filed in the Land Court as aforesaid and any amendments thereto (hereinafter called the "**Condominium Map**"), together with the limited common elements and rights and easements appurtenant to the Unit as established by and described in the Declaration; subject, however, to the rights and easements excepted and reserved in the Declaration.

SECOND: An undivided **0.184300%** interest as tenant in common with the Grantor, its successors and assigns, and the holders from time to time of other undivided interests in and to the common elements of the Project, including the land of the Project (hereinafter called the "**Land**"), as more fully described in the Declaration and in said Exhibit A.

SUBJECT, as to said undivided interest in the common elements of the Project, to the restriction that it may not be transferred or assigned separately and apart from the Unit.

SUBJECT, FURTHER, to the encumbrances set forth in said Exhibit A.

And the reversions, remainders, rents, issues, and profits thereof and all of the estate, right, title, and interest of the Grantor, both at law and in equity, therein and thereto.

TO HAVE AND TO HOLD the same, as to the Unit and said undivided interest, together with all rights, easements, privileges, and appurtenances thereunto belonging or appertaining or held and enjoyed therewith unto the Grantee, absolutely and in fee simple, and as to the personal property described in said Exhibit A, if any, absolutely and forever.

The Grantor hereby covenants that the Grantor is lawfully seized in fee simple of said property and rights and has good right to sell and convey the same as aforesaid and that the same is free and clear of and from all encumbrances except as herein mentioned; that the Grantor is the sole and absolute owner of said personal property, if any, described in said Exhibit A and that the Grantor's title thereto is free and clear of and from all encumbrances; and that the Grantor will WARRANT and DEFEND the same unto the Grantee and the Grantee's heirs, personal representatives, successors, and assigns against the lawful claims and demands of all persons except as herein mentioned.

The Grantee does hereby covenant and agree for the benefit of the owners from time to time of all other condominium units in the Project, to at all times observe, perform, comply with, and abide by all of the covenants, agreements, obligations, conditions, and other provisions set forth in the Declaration and the By-Laws of the Association of Unit Owners of Symphony Honolulu dated as of March 4, 2013, filed in the Land Court as Land Court Document No. T-8463374, as the same exist or may hereafter be amended in

accordance with law and does hereby accept and approve the Declaration and said By-Laws. The covenants of the Grantee herein contained shall run with the Land.

AND IT IS HEREBY AGREED BY AND AMONG THE PARTIES HERETO AS FOLLOWS:

A. DEVELOPMENT PERMIT AGREEMENT AND HAWAII COMMUNITY DEVELOPMENT AUTHORITY'S DISTRICT-WIDE IMPROVEMENT DISTRICT ASSESSMENT PROGRAM. The terms and conditions imposed by the Development Permit Agreement dated as of June 4, 2013, filed in the Land Court as Land Court Document No. T-8555438 (as the same may be amended in the future pursuant to the Kaka'ako Community Development District Rules for the Mauka Area, Chapter 217 of Title 15 of the Hawaii Administrative Rules, hereinafter called the "*Development Permit Agreement*"), in favor of the Hawaii Community Development Authority, State of Hawaii, body corporate and public instrumentality of the State of Hawaii (the "*Hawaii Community Development Authority*"), shall run with the Land and shall bind and constitute notice to all subsequent lessees, grantees, assignees, mortgagees, lienors, and any other persons who shall claim an interest in the Land, and the Hawaii Community Development Authority shall have the right to enforce the Development Permit Agreement by appropriate action at law or suit in equity against all such persons.

The Project is subject to the Hawaii Community Development Authority's District-Wide Improvement District Assessment Program and may be assessed for the cost of improvements made in the vicinity of the Project. If any such assessments are made, the Grantee shall be responsible for and shall pay its prorated share of any such Improvement District Assessment based on the Grantee's common interest in the Project.

B. THE GRANTOR'S RESERVED RIGHTS REGARDING EASEMENTS. The Grantee understands and agrees that, pursuant to the Declaration, the Grantor has the right for any reasonable purpose to designate, grant, convey, transfer, cancel, relocate, and otherwise deal with any easements over, under, across, or through the common elements of the Project, has the right to accept any easements for ingress to and egress from the Project over, under, across, or through portions of the Land subject to withdrawal from the Project pursuant to the Declaration and to incorporate such easements into the common elements of the Project, and has the right for any reasonable purpose to transfer, cancel, relocate, or otherwise deal with any easement over, under, across, or through any lands adjacent to or across the street from the Project, which may be appurtenant to the Land. The Grantee consents to the foregoing rights and

undertakes and agrees to join in any such act or thing done pursuant to the foregoing reserved rights and to execute any document or instrument necessary or appropriate, as determined in the sole and absolute discretion of the Grantor, to effect the same, and the Grantee hereby irrevocably appoints the Grantor the true and lawful attorney of the Grantee, in the Grantee's name, place, and stead, to execute, acknowledge, deliver, and record such documents and instruments. Said power of attorney, being coupled with an interest, is irrevocable for the term of said reserved rights.

C. SPECIAL POWER OF ATTORNEY. To enable the Grantor to exercise the rights reserved to the Grantor herein and as the Developer in the Declaration, THE GRANTEE HEREBY IRREVOCABLY APPOINTS THE GRANTOR AS THE GRANTEE'S SPECIAL ATTORNEY-IN-FACT WITH FULL POWER OF SUBSTITUTION TO EXECUTE ALL SUCH DOCUMENTS AND DO ALL SUCH OTHER THINGS ON THE GRANTEE'S BEHALF AS MAY BE DONE BY THE GRANTOR IN THE REASONABLE EXERCISE OF THE RIGHTS RESERVED TO THE GRANTOR HEREIN AND IN THE DECLARATION, WHICH GRANT OF SUCH POWER, BEING COUPLED WITH AN INTEREST, IS IRREVOCABLE AND SHALL NOT BE AFFECTED BY THE DISABILITY OF THE GRANTEE OR ANY ONE OF THEM IF THERE BE MORE THAN ONE. AND THE GRANTEE HEREBY FURTHER AGREES UPON THE REQUEST OF THE GRANTOR TO EXECUTE SUCH OTHER DOCUMENTS AND DO SUCH OTHER THINGS AS MAY BE REASONABLY NECESSARY OR CONVENIENT TO EFFECT THE SAME.

D. LIMITATION ON WARRANTIES, EXPRESS OR IMPLIED. Except for the agreements expressly set forth in the Condominium Purchase Agreement by and between Grantor, as Seller, and Grantee, as Buyer, GRANTOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE UNIT, THE PROJECT, ANY CONSUMER PRODUCTS OR ANYTHING ELSE INSTALLED IN THE UNIT OR IN THE PROJECT, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY, HABITABILITY, WORKMANLIKE CONSTRUCTION OR FITNESS OF THE UNIT FOR A PARTICULAR PURPOSE.

E. RESERVED HOUSING UNIT. The Unit described in and conveyed by this Deed is designated as a "**Reserved Housing Unit**" in accordance with the terms, conditions and requirements of the Development Permit Agreement and the reserved housing rules for the Kaka'ako Community Development District established pursuant to Section 206E of the Hawaii Revised Statutes (Title 15, Department of

Business, Economic Development & Tourism; Subtitle 4, Hawaii Community Development Authority (HCDA); Chapter 218 of the Hawaii Administrative Rules) and administered by HCDA (the "**Kaka'ako Reserved Housing Rules**"). Grantee understands and fully accepts that the Unit is hereby being transferred to Grantee subject to certain restrictions, conditions, and requirements pertaining to Reserved Housing Units under the Kaka'ako Reserved Housing Rules. Without limiting the generality of the foregoing, Grantee does hereby covenant, agree, and accept that:

(a) The Unit is subject to a "**Regulated Term**" of five (5) years, as more particularly described in Exhibit B attached hereto and made a part hereof;

(b) The Unit is subject to certain "**Equity Sharing Requirements**" as more particularly described in Exhibit B;

(c) Grantee shall occupy the Unit as Grantee's primary residence and shall otherwise occupy and use the Unit in accordance with all applicable requirements of the Kaka'ako Reserved Housing Rules and as more particularly described in Exhibit B; and

(d) Grantee shall execute a "**Unilateral Declaration**" of restrictive covenants for the Unit with respect to its status as a Reserved Housing Unit.

By signing and accepting this Deed for the Unit, Grantee expressly covenants and agrees that Grantee shall observe, perform, and comply with all of the covenants, conditions, and restrictions pertaining to the ownership, use, occupancy and transfer of the Unit as set forth in the Kaka'ako Reserved Housing Rules and in Exhibit B. Upon release of the Unilateral Declaration by the HCDA, the terms of this Paragraph E and Exhibit B shall be of no further force or effect and shall no longer bind or encumber the Unit or Grantee or Grantee's successors in interest and assigns. Following such release, all further transfers of title to the Unit or any interest therein shall be made free and clear of the terms, conditions, and restrictions set forth in this Paragraph E and in Exhibit B.

The term "Grantor" herein or any other pronoun used in place thereof shall mean and include **OLIVERMcMILLAN PACIFIC RIM, LLC**, a Hawaii limited liability company and its successors and assigns. The term "Grantee" herein or any pronoun used in place thereof shall mean and include the masculine, feminine, or neuter, the singular or plural number, and jointly and severally individuals, firms, or corporations, and their respective heirs, executors, administrators, successors, and assigns, according to the context

hereof. If these presents shall be signed by two (2) or more Grantees, all covenants of such Grantees shall for all purposes be joint and several.

This Unit Deed may be executed in two or more counterparts, and shall be deemed to have become effective when and only when one or more of such counterparts shall have been signed by or on behalf of the Grantor and the Grantee, although it shall not be necessary that any single counterpart is signed by or on behalf of each. All such counterparts shall be deemed to constitute but one and the same instrument. Duplicate unexecuted pages of the counterparts may be discarded and the remaining pages assembled as one document.

[Signatures Appear on Following Pages]

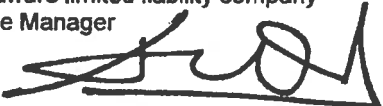
IN WITNESS WHEREOF, the Grantor and Grantee have executed these presents the day and year first above written.

GRANTOR:

OLIVERMCMILLAN PACIFIC RIM, LLC
a Hawaii limited liability company

By: **OMB V, LLC**
a Delaware limited liability company
Its sole Member

By: **OM-OMB V GROUP, LLC**
a Delaware limited liability company
Its sole Manager

By: 
Name: **ALAN ONG**
Its Authorized Signatory

IN WITNESS WHEREOF, the Grantor and Grantee have executed these presents the day and year first above written.

GRANTEE:


/ YURI NICOLE MIURA

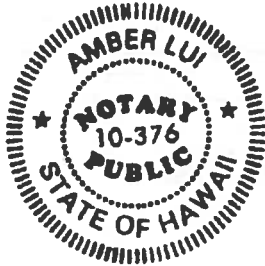
STATE OF HAWAII

)
: SS.

CITY AND COUNTY OF HONOLULU

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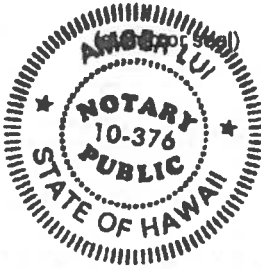
On this day of MAR 03 2016, 201 , before me personally appeared
/ ALAN ONG, to me personally known, who, being by me duly affirmed, did say
that such person executed the forgoing instrument as the free act and deed of such person, and in the
capacity shown, having been duly authorized to execute such instrument in such capacity.



Amber Lui
Name: _____
Notary Public, State of Hawaii

My commission expires: _____ **Amber Lui**
Expiration Date: November 7, 2018

Date of Doc: <u>MAR 14 2016</u>	# Pages: <u>22</u>
Name of Notary: <u>Amber Lui</u>	Notes: _____
Doc. Description: <u>Symphony Honolulu Unit Deed With Reservations and Conditions (Reserved Housing)</u>	
<u>Amber Lui</u> <u>MAR 03 2016</u> Notary Signature Date	
First Circuit, State of Hawaii	
NOTARY CERTIFICATION	

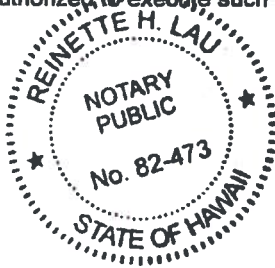


STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

)
: SS.
)

On this 14th day of March, 2016, before me personally appeared YURI NICOLE MIURA, to me personally known, who, being by me duly affirmed, did say that such person executed the forgoing instrument as the free act and deed of such person, and in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Reinette H. Lau
Name: _____
Notary Public, State of Hawaii

My commission expires: 7-6-2018

Date of Doc:	<u>undated</u>	# Pages:	<u>22</u>
Name of Notary:	<u>REINETTE H. LAU</u>	Notes:	
Doc. Description:	<u>Symphony Honolulu Unit Deed With Reservations and Conditions (Reserved Housing)</u>		
<u>Reinette H. Lau</u>		<u>3/14/16</u>	
Notary Signature		Date	
First Circuit, State of Hawaii			
NOTARY CERTIFICATION			

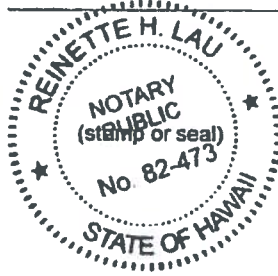
A circular notary seal for Reinette H. Lau, Notary Public, No. 82-473, State of Hawaii. The seal features a star on the left and right sides.

EXHIBIT A

-ITEM I:-

All of those certain parcels of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOTS: B-5-C-1, area 18,455 square feet,
B-5-C-2, area 16,043 square feet, and
B-5-C-3, area 16,556 square feet, more or less,

as shown on Map 9, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 670 of Victoria Ward.

-ITEM II:-

All of those certain parcels of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOTS: 8, area 6,000 square feet, and
9, area 6,874 square feet, more or less, as shown on Map 12;
10, area 6,226 square feet,
11, area 4,716 square feet,
12, area 4,716 square feet, and
13, area 4,716 square feet, more or less, as shown on Map 13;

filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 781 (amended) of Honolulu Construction and Draying Company, Limited.

-AS TO LOTS 8, 10, 11, 12 and 13:-

Together with access over Lot 34, as shown on Map 17, to Kapiolani Boulevard, as set forth by Land Court Order No. 103264, filed August 1, 1991.

-ITEM III:-

All of that certain parcel of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 34, area 20,145 square feet, more or less, as shown on Map 17, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 781 (amended) of Honolulu Construction and Draying Company, Limited.

-AS TO ITEMS I, II AND III:-

Being land(s) described in Transfer Certificate of Title No. 1,101,487 issued to OLIVERMCMILLAN PACIFIC RIM, LLC, a Hawaii limited liability company.

BEING THE PREMISES ACQUIRED BY WARRANTY DEED AND ASSIGNMENT OF GRANTOR'S RIGHTS AND RESERVATIONS

GRANTOR : JN GROUP, INC., a Hawaii corporation, and CASTI FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership

GRANTEE : OLIVERMCMILLAN PACIFIC RIM, LLC, a Hawaii limited liability company

DATED : July 30, 2015
FILED : Land Court Document No. T-9341174

SUBJECT, HOWEVER, TO THE FOLLOWING:

1. Mineral and water rights of any nature.

2. -AS TO ITEM I:-

(A) -AS TO LOT B-5-C-3:-

(1) A perpetual easement for a pedestrian right of way acquired by THE CITY AND COUNTY OF HONOLULU, a municipal corporation, by FINAL ORDER OF CONDEMNATION dated December 27, 1962, filed in the Circuit Court of the First Circuit, State of Hawaii, Civil No. 11074, on November 27, 1962, filed as Land Court Document No. 304401 on March 7, 1963.

(2) Delineation of easement for pedestrian walk, as shown on Map 18, as set forth by Land Court Order No. 21122, filed April 2, 1963.

(3) Corner Rounding Subdivision pursuant to DPP File No. 2014/Sub-166, tentative approval date of March 6, 2015, shown on map prepared by James R. Thompson, Land Surveyor, with Walter P. Thompson, Inc., dated October 3, 2014, last revised January 26, 2015.

(4) SETBACK (5 feet wide)

PURPOSE : building
ALONG : Kapiolani Boulevard
SHOWN : on survey map prepared by James R. Thompson, Land Surveyor, with Walter P. Thompson, Inc., dated October 25, 2012, last revised September 26, 2013

(B) The terms and provisions contained in the following:

INSTRUMENT : AGREEMENT REGARDING RIGHTS AND EASEMENTS

DATED : December 18, 1997
FILED : Land Court Document No. 2438469
PARTIES : MYERS/DAIICHI MIDTOWN PARTNERS, a Hawaii joint venture ("M/DMP"), and HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii corporation ("HECO")

FIRST AMENDMENT TO AGREEMENT REGARDING RIGHTS AND EASEMENTS dated June 15, 2015, filed as Land Court Document No. T-9310413.

(C) SETBACK (15 feet wide)

PURPOSE : building
ALONG : Ward Avenue
SHOWN : on survey map prepared by James R. Thompson, Land Surveyor, with Walter P. Thompson, Inc., dated October 25, 2012, last revised September 26, 2013

3. -AS TO ITEM II:-

- (A) The terms and provisions contained in the following:

INSTRUMENT : AGREEMENT REGARDING RIGHTS AND EASEMENTS
DATED : December 18, 1997
FILED : Land Court Document No. 2438469
PARTIES : MYERS/DAIICHI MIDTOWN PARTNERS, a Hawaii joint venture ("M/DMP"), and HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii corporation ("HECO")

FIRST AMENDMENT TO AGREEMENT REGARDING RIGHTS AND EASEMENTS dated June 15, 2015, filed as Land Court Document No. T-9310413.

- (B) -AS TO LOTS 8 AND 9:-

SETBACK (5 feet wide)

PURPOSE : building
ALONG : Kapiolani Boulevard
SHOWN : on survey map prepared by James R. Thompson, Land Surveyor, with Walter P. Thompson, Inc., dated October 25, 2012, last revised September 26, 2013

4. -AS TO ITEM III:-

- (A) Rights-of-way in favor of various owners as contained in DEEDS as noted on Transfer Certificates of Title Nos. 17,593, 47,439 and 223,154.
- (B) Right-of-way for all road purposes in favor of THE HAWAIIAN ELECTRIC COMPANY, LIMITED, now known as HAWAIIAN ELECTRIC COMPANY, INC., dated September 26, 1944, filed as Land Court Document No. 75232, appurtenant to Lots 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23, as shown on Map 13 of Land Court Application No. 781 (amended).
- (C) GRANT in favor of the CITY AND COUNTY OF HONOLULU, dated May 25, 1965, filed as Land Court Document No. 366723; granting an easement for sewer purposes through, under and across the "easement area" more particularly described therein.
- (D) GRANT in favor of the CITY AND COUNTY OF HONOLULU, dated June 7, 1965, filed as Land Court Document No. 367875; granting an easement for sewer purposes through, under and across the "easement area" more particularly described therein.
- (E) GRANT in favor of the CITY AND COUNTY OF HONOLULU, dated June 2, 1965, filed as Land Court Document No. 369047; granting an easement for sewer purposes through, under and across the "easement area" more particularly described therein.
- (F) GRANT in favor of the CITY AND COUNTY OF HONOLULU, dated July 19, 1965, filed as Land Court Document No. 369050; granting an easement for sewer purposes through, under and across the "easement area" more particularly described therein.
- (G) GRANT in favor of the CITY AND COUNTY OF HONOLULU, dated June 2, 1965, filed as Land Court Document No. 369332; granting an easement for sewer purposes through, under and across the "easement area" more particularly described therein.

- (H) GRANT in favor of the CITY AND COUNTY OF HONOLULU, dated September 24, 1965, filed as Land Court Document No. 375511; granting an easement for sewer purposes through, under and across the "easement area" more particularly described therein.
- (I) Access in favor of Lots 8, 10, 11, 12, 13, 28, 30 and 32, as shown on Map 17 of Land Court Application No. 781 (amended), as set forth by Land Court Order No. 103264, filed August 1, 1991.
- (J) GRANT OF NONEXCLUSIVE EASEMENT FOR UTILITY, ROADWAY AND SETBACK PURPOSES in favor of THEODAVIES EUROMOTORS, LTD., a Hawaii corporation, dated February 16, 1995, filed as Land Court Document No. 2219246, as amended by Amendment of Nonexclusive Easement dated April 13, 2016, filed as Land Court Document No. T-9604182; granting a nonexclusive easement for utility, roadway and setback purposes.
- (K) The terms and provisions contained in AGREEMENT dated October 19, 1995, filed as Land Court Document No. 2267754, by and among the HAWAII COMMUNITY DEVELOPMENT AUTHORITY, STATE OF HAWAII ("HCDA"), MYERS/DAIICHI MIDTOWN PARTNERS, a Hawaii joint venture ("Midtown Partners"), and THEO DAVIES EUROMOTORS, LTD., a Hawaii corporation ("Davies").
- (L) GRANT in favor of the CITY AND COUNTY OF HONOLULU and the BOARD OF WATER SUPPLY, City and County of Honolulu, dated July 31, 1996, filed as Land Court Document No. 2328696, recorded as Document No. 96-113638; granting an easement for utility purposes.
- (M) The terms and provisions contained in MAINTENANCE AGREEMENT dated July 31, 1996, filed as Land Court Document No. 2328697, recorded as Document No. 96-113639, by and among MYERS/DAIICHI MIDTOWN PARTNERS, a Hawaii joint venture ("M/DMP"), THEODAVIES EUROMOTORS, LTD., a Hawaii corporation ("TheoDavies"), and the BOARD OF WATER SUPPLY, City and County of Honolulu ("Board").
- (N) The terms and provisions contained in the following:
- INSTRUMENT : AGREEMENT REGARDING RIGHTS AND EASEMENTS
- DATED : December 18, 1997
- FILED : Land Court Document No. 2438469
- PARTIES : MYERS/DAIICHI MIDTOWN PARTNERS, a Hawaii joint venture ("M/DMP"), and HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii corporation ("HECO")
- FIRST AMENDMENT TO AGREEMENT REGARDING RIGHTS AND EASEMENTS dated June 15, 2015, filed as Land Court Document No. T-9310413.
- (O) SETBACK (5 feet wide)
- PURPOSE : building
- ALONG : Kapiolani Boulevard
- SHOWN : on survey map prepared by James R. Thompson, Land Surveyor, with Walter P. Thompson, Inc., dated October 25, 2012, last revised September 26, 2013
- (P) Rights of others who may have easement or access rights in the land described herein as ITEM III.

(Q) The terms and provisions contained in the following:

INSTRUMENT : ENCROACHMENT AGREEMENT AND LICENSE

DATED : October 20, 2010
FILED : Land Court Document No. 4013684
PARTIES : JONES HAWAII PROPERTY HOLDINGS, LLC, a Hawaii limited liability company, "Jones", and CASTI FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership, "Casti"

RE : overhang and supporting columns encroaching from Lot 32, TMK (1) 2-1-044-023, into Lot 34, TMK (1) 2-1-044-048

CONSENT TO ENCROACHMENT AGREEMENT AND LICENSE dated September 28, 2010, filed as Land Court Document No. 4013685, by HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii corporation.

5. The terms and provisions contained in the following:

INSTRUMENT : DECLARATION OF DEVELOPMENT COVENANTS FOR SYMPHONY PARK PROJECT

DATED : February 16, 1995
FILED : Land Court Document No. 2219244

Said above Declaration was amended by instrument dated May 1, 2012, filed as Land Court Document No. T-8215518.

6. The terms and provisions contained in the following:

INSTRUMENT : AGREEMENT CONFIRMING FLOOR AREA TRANSFER PURSUANT TO HAR SECTION 15-217-84

DATED : May 1, 2012
FILED : Land Court Document No. T-8215519
PARTIES : JN GROUP, INC., a Hawaii corporation, CASTI FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership, and JONES HAWAII PROPERTY HOLDINGS, LLC, a Hawaii limited liability company

Said Agreement was amended by First Amendment to Agreement Confirming Floor Area Transfer Pursuant to HAR §15-217-84 dated April 1, 2016, filed as Land Court Document Nos. T-9604184A thru T-9604184B.

7. The terms and provisions contained in the following:

INSTRUMENT : DECLARATION OF CONDOMINIUM PROPERTY REGIME OF SYMPHONY HONOLULU

DATED : March 4, 2013
FILED : Land Court Document No. T-8463373
MAP : 2195 and any amendments thereto

Said Declaration was amended by instruments dated April 18, 2013, filed as Land Court Document No. T-8513346, and dated as of January 21, 2016, filed as Land Court Document No. T-9522225, and as the same may now or hereafter be amended pursuant to its terms.

The foregoing includes, but is not limited to, matters relating to the Shared Access Driveway with the Mercedes Dealership Facility and Hawaiian Electric Company, Ltd., and developer's reserved right and option to buy-back unit to resolve a dispute impasse.

8. The terms and provisions contained in the following:

INSTRUMENT : BY-LAWS OF THE ASSOCIATION OF UNIT OWNERS OF SYMPHONY HONOLULU

DATE : March 4, 2013

FILED : Land Court Document No. T-8463374

Said By-Laws was amended by instrument dated as of January 21, 2016, filed as Land Court Document No. T-9523234, and as the same may now or hereafter be amended pursuant to its terms.

9. The terms and provisions contained in the following:

INSTRUMENT : DEVELOPMENT PERMIT AGREEMENT

DATED : June 4, 2013

FILED : Land Court Document No. T-8555438

By and among HAWAII COMMUNITY DEVELOPMENT AUTHORITY STATE OF HAWAII, a body corporate and a public instrumentality of the State of Hawaii, JN GROUP, INC., a Hawaii corporation, CASTI FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership, and OLIVERMcMILLAN PACIFIC RIM, LLC, a Hawaii limited liability company, as the same may now or hereafter be amended.

The foregoing includes, but is not limited to, matters relating to public facilities dedication fee, reserved housing, floor area purchase, HCDA District wide improvement program.

10. Encroachments and other matters as shown on survey map prepared by James R. Thompson, Land Surveyor, with Walter P. Thompson, Inc. dated October 25, 2012, last revised September 26, 2013.
11. Encroachments or any other matters which a survey prepared after October 25, 2012, last revised September 26, 2013 would disclose.
12. The terms and provisions contained in the following:

INSTRUMENT : WARRANTY DEED AND ASSIGNMENT OF GRANTOR'S RIGHTS AND RESERVATIONS

DATED : July 30, 2015

FILED : Land Court Document No. T-9341174

By and between JN GROUP, INC., a Hawaii corporation, CASTI FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership, and OLIVERMcMILLAN PACIFIC RIM, LLC, a Hawaii limited liability company.

The foregoing includes, but is not limited to, matters relating to HCDA District-Wide Improvement Program, Development Permit for OM Kapiolani (Symphony Honolulu), issued by the HCDA on June 6, 2012 (Development Permit No. KAK 12-075), assessments for pro rata share of the cost improvements which may, in the future, be necessary.

EXHIBIT B

RESERVED HOUSING UNIT REQUIREMENTS AND RULES UNDER KAKA'AKO RESERVED HOUSING RULES

I. KAKA'AKO RESERVED HOUSING RULES AND REVISED PLANNED DEVELOPMENT PERMIT:

The Project is located within the Kaka'ako Community Development District and is subject to the jurisdiction of the Hawaii Community Development Authority, an agency of the State of Hawaii ("HCDA") and the terms of the reserved housing rules for the Kaka'ako Community Development District established pursuant to Section 206E of the Hawaii Revised Statutes (Title 15, Department of Business, Economic Development & Tourism; Subtitle 4, Hawaii Community Development Authority (HCDA); Chapter 218 of the Hawaii Administrative Rules) and administered by HCDA (the "*Kaka'ako Reserved Housing Rules*"). The Project was developed subject to and in accordance with the terms of various permits and agreements, including that certain Development Permit No. KAK 12-075 for OM Kapiolani (Symphony Honolulu) issued on June 6, 2012 by HCDA, as amended by Amendment to Development Permit No. KAK 12-075 issued on September 16, 2015 and by Administrative Amendment No. 1 to Development Permit No. KAK 12-075 issued on September 28, 2015 (collectively the "*Development Permit*").

II. DESIGNATION AS RESERVED HOUSING UNIT:

The Unit described in this Deed and being transferred hereby has been designated as a "Reserved Housing Unit" in accordance with the terms, conditions and requirements set forth in Chapter 218 of the Kaka'ako Reserved Housing Rules which govern the sale and rental of Reserved Housing Units. As a consequence your ownership, occupancy, use, and future transfer of the Unit is subject to certain requirements and rules which are summarized in this Exhibit B. However, please note that in the event of a conflict between the summary set forth in this Exhibit B and the Kaka'ako Reserved Housing Rules, the terms of the Kaka'ako Reserved Housing Rules shall prevail.

III. APPLICABLE REQUIREMENTS AND RULES TO THE UNIT:

A. Regulated Term. The Unit is subject to a "*Regulated Term*" of five (5) years commencing on the date of filing in the Land Court and recordation in the Bureau of the Deed transferring title to the Unit to the Grantee. The sale or transfer of a Reserved Housing Unit by the Grantee to a third party shall be regulated during this Regulated Term.

(1) If during the Regulated Term, the Grantee wishes to sell the Unit, the HCDA or a governmental agency approved by the HCDA shall have the first option to purchase the Unit from the Declaration at a purchase price calculated in accordance with the Kaka'ako Reserved Housing Rules.

(2) If during the Regulated Term, the Grantee wishes to purchase a larger Reserved Housing Unit, the Grantee shall sell the Unit to the HCDA at a purchase price calculated in accordance with the Kaka'ako Reserved Housing Rules.

(3) After the end of the Regulated Term, the Grantee may sell the Unit without transfer or sales price restrictions, but shall make a payment to the HCDA for Equity Sharing as set forth in the Kaka'ako Reserved Housing Rules and described in Paragraph III.B below. The Grantee may also rent the Unit in accordance with the Kaka'ako Reserved Housing Rules pertaining to the rental of Reserved Housing Units as described further in Paragraph III.C below.

B. Equity Sharing Requirements. The Grantee and the Unit are subject to the "*Equity Sharing Requirements*" of the Kaka'ako Reserved Housing Rules that requires the Grantee to make a payment to HCDA upon a transfer of the Unit to a third party. The calculation of the payment is determined by the Unit's original market value and the original sales contract price, among other factors. For purposes of determining

the Grantee's payment of Equity Sharing to HCDA, the Unit's equity sharing payment shall be based upon the following factors:

Original Fair Market Value	= \$620,000.00
Original Sales Contract Price	= \$530,400.00
Equity Sharing Amount	= \$89,600.00

The Grantee's Equity Sharing payment to HCDA shall become due:

(a) During the Regulated Term, if HCDA waives its right of first option to purchase the Unit (as described in Paragraph III.A.(1) above) and the Grantee sells the Unit; or

(b) After the end of the Regulated Term, if the Grantee sells or rents the Unit (as described in Paragraph III.A.(3) above).

C. Occupancy by Grantee; Future Rental to Qualified Households. The Unit is subject to "Occupancy Requirements" that require the Grantee to personally occupy the Unit as the Grantee's primary residence during the Regulated Term.

(1) After the end of the Regulated Term, but before the Grantee has paid the Equity Sharing Amount to the HCDA, the Grantee may rent the Unit to "**Qualified Households**" at "**Monthly Rents**". The Grantee shall select Qualified Households to occupy the Unit and establish Monthly Rents in accordance with the Kaka'ako Reserved Housing Rules. The Grantee shall certify that the Qualified Household and Monthly Rent are in compliance with the Kaka'ako Reserved Housing Rules and submit such certification to the HCDA for each Qualified Household that occupies the Unit.

(2) After the end of the Regulated Term and the Grantee's payment to the HCDA of the Equity Sharing Amount as determined by the Equity Sharing Requirements the Grantee may rent the Unit to any household at any rent.

IV. MAUKA AREA RULE REFERENCES:

The Kaka'ako Reserved Housing Rules include (but are not limited to) the following terms, conditions, provisions, and restrictions:

A. The Unit is subject to the terms of §15-218-32 ("**Income**") of the Kaka'ako Reserved Housing Rules, which section is hereby expressly incorporated into this Deed by this reference. §15-218-32 of the Kaka'ako Reserved Housing Rules provides, in its entirety, as follows:

§15-218-32 Income.

(a) *The household income of the applicant shall not exceed one hundred forty per cent of the area median income (AMI) as determined by the United States Department of Housing and Urban Development.*

(b) *The adjusted household income shall be the income earned during the most current calendar year preceding the date of application to purchase or rent a reserved housing unit and shall be verified by submittal of most current state or federal tax returns.*

(c) *The assets of the applicant shall not exceed one hundred thirty-five per cent of the applicable income limit set forth in subsection (a) above. As used herein, assets include, all cash, securities and real and personal property at current fair market value, less any outstanding liabilities secured by such assets.*

B. The Unit is subject to the terms of §15-218-33 ("**Occupancy Requirements**") of the Kaka'ako Reserved Housing Rules, which section is hereby expressly incorporated into this Deed by this reference. §15-218-33 of the Kaka'ako Reserved Housing Rules provides, in its entirety, as follows:

§15-218-33 Occupancy requirements.

(a) *The following are occupancy requirements for reserved housing units:*

(1) *Applicants for reserved housing shall certify that, if selected, all applicants will be occupants of the reserved unit;*

(2) *The purchaser or lessee shall physically occupy the reserved unit; and*

(3) *The City and County of Honolulu maximum occupancy limits for residential dwelling units shall apply.*

(b) *Violation of subsection (a) shall be sufficient reason for the authority, at its option, to purchase the unit as provided in §15-218-36 of this chapter or evict the renter from the unit, as applicable.*

(c) *Any deed, lease, agreement of sale, mortgage, or other instrument of conveyance issued by the authority shall expressly contain the restrictions on use prescribed in this section.*

(d) *The restrictions prescribed in subsection (a) above shall not apply if the authority waives its option to purchase the reserved housing unit or subsequent to the expiration of the option to purchase period.*

C. The Unit is subject to the terms of §15-218-34 ("**Affordability Criteria**") of the Kaka'ako Reserved Housing Rules, which section is hereby expressly incorporated into this Deed by this reference. §15-218-34 of the Kaka'ako Reserved Housing Rules provides, in its entirety, as follows:

§15-218-34 Affordability criteria.

(a) *The following criteria shall be utilized in determining price and income equivalencies of units for sale:*

(1) *Down payment amount shall not exceed ten per cent of the purchase price;*

(2) *Monthly payments, which consist of principal and interest, real property taxes, insurance, and fees and costs required by the bylaws of a condominium property regime, shall not exceed thirty-three per cent of gross monthly income or some other percentage approved by the United States Department of Housing and Urban Development; and*

(3) *Interest rate shall be derived by taking the past six-months average of the interest rate on thirty year fixed rate mortgages posted for major Honolulu banks in the first week of each of the preceding six months.*

(b) *The following criteria shall be utilized in determining price and income equivalencies of units for rent: monthly rent and all utilities and other building operating costs (excluding telephone, cable television service, and internet service) shall not exceed thirty-three per cent of the renter's gross monthly income.*

D. The Unit is subject to the terms of §15-218-35 ("**Term of Reserved Housing Requirements**") of the Kaka'ako Reserved Housing Rules, which section is hereby expressly incorporated into this Deed by this reference. §15-218-35 of the Kaka'ako Reserved Housing Rules provides, in its entirety, as follows:

§15-218-35 Term of reserved housing requirements.

(a) *The regulated term for reserved housing units that are for sale shall be five years from the date of issuance of certificate of occupancy. Reserved housing rental units shall be regulated for fifteen years. The authority may suspend or modify regulated term and qualifying income requirements on a project by project basis, if, in its sole judgment, it determines that these requirements are negatively impacting the sale or rental of reserved housing units as the primary objective of the authority to promote redevelopment within the Kaka'ako community development district.*

(b) *During the regulated term, a reserved unit owner shall not purchase additional limited common elements or personal property.*

(c) *During the regulated term, the executive director shall approve any initial or subsequent mortgage placed on a reserved unit which does not exceed eighty per cent of the original purchase price of the unit.*

(d) *After the end of the regulated term, the owner may sell the unit or assign the property free from any transfer or price restrictions except for applicable equity sharing requirements set forth in section 15-218-41.*

E. The Unit is subject to the terms of §15-218-36 ("**First Option to Purchase**") of the Kaka'ako Reserved Housing Rules, which section is hereby expressly incorporated into this Deed by this reference. §15-218-36 of the Kaka'ako Reserved Housing Rules provides, in its entirety, as follows:

§15-218-36 First option to purchase.

If the owner of a reserved housing unit wishes to sell the unit during the regulated term, the authority or an entity approved by the authority shall have the first option to purchase the unit. The purchase price shall be based on the lower of:

(1) *The current fair market price of the reserved housing unit as determined by the authority less the authority's share of equity in the unit as determined by section 15-218-41; or*

(2) *The reserved housing unit price calculated based on the AMI at the time of sale of the unit.*

F. The Unit is subject to the terms of §15-218-37 ("**Sale or Transfer of Reserved Housing Units**") of the Kaka'ako Reserved Housing Rules, which section is hereby expressly incorporated into this Deed by this reference. §15-218-37 of the Kaka'ako Reserved Housing Rules provides, in its entirety, as follows:

§15-218-37 Sale or transfer of reserved housing units.

Sale or transfer of reserved housing units during the regulated term shall be as follows:

(1) *The authority or an entity approved by the authority shall have the first option to purchase the unit in the manner indicated in section 15-218-36;*

(2) *The owner shall notify the authority in writing of the intent to sell the reserved housing unit;*

(3) The authority shall notify the owner of its decision within sixty days of receipt of the owner's notification required in subsection (a)(2) above. The authority may:

- (A) Waive its option to purchase the unit,
- (B) Agree to purchase the unit, or
- (C) Designate another buyer for the unit;

(4) If the authority fails to notify the owner of a decision in the manner prescribed in subsection (a)(3), the authority shall have waived its first option to purchase the unit;

(5) The authority may purchase the unit either outright, free and clear of all liens and encumbrances; or by transfer subject to an existing mortgage. If by outright purchase, the authority shall ensure that all existing mortgages, liens, and encumbrances are satisfactorily paid by the owner, and

(6) In any purchase by transfer subject to an existing mortgage, the authority shall agree to assume and to pay the balance on any first mortgage created for the purpose of enabling the owner to obtain funds for the purchase of the unit and any other mortgages which were created with the approval and consent of the authority. In these cases, the amount to be paid to the owner by the authority shall be the difference between the price as determined in section 15-218-36 (1) or (2) and the principal balance of all mortgages outstanding and assumed at the time of transfer of title to the authority.

G. The Unit is subject to the terms of §15-218-40 ("***Incorporation in Deed***") of the Kaka'ako Reserved Housing Rules, which section is hereby expressly incorporated into this Deed by this reference. §15-218-40 of the Kaka'ako Reserved Housing Rules provides, in its entirety, as follows:

§15-218-40 Incorporation in deed.

The provisions of sections 15-218-35 through 15-218-37 and section 15-218-41 shall be incorporated in any deed, lease, agreement of sale, or other instrument of conveyance for reserved housing units.

H. The Unit is subject to the terms of §15-218-41 ("***Equity Sharing Requirements***") of the Kaka'ako Reserved Housing Rules, which section is hereby expressly incorporated into this Deed by this reference. §15-218-41 of the Kaka'ako Reserved Housing Rules provides, in its entirety, as follows:

§15-218-41 Equity sharing requirements.

(a) The authority's share of the equity in the reserved housing unit shall become due upon resale of the reserved housing unit.

(b) The authority's share of the equity in the reserved housing unit shall be the higher of:

(1) An amount equivalent to the difference between the original fair market price of the unit as determined by the authority and its original sales contract price; or

(2) An amount equivalent to the percentage of net appreciation calculated as the difference between the original fair market price of the unit as determined by the authority and its original contract price, divided by the original fair market price of the unit.

(c) At its sole discretion, the authority may allow the project developer to buy out the shared appreciation provisions for all or a portion of the reserved housing units by making a cash payment to the authority of an amount equal to the amount for equity sharing calculated in subsection (b) above.

(d) The owner of the reserved housing unit shall provide financial documents acceptable to the authority for before the cost of improvements made by the owner can be deducted from the sale price.

(e) The authority shall determine the fair market value of the reserved housing unit at the time of original sale and also at the time of resale.

(f) The resale price and terms shall be approved by the authority.

I. The Unit is subject to the terms of §15-218-42 ("**Deferral of Equity Sharing**") of the Kaka'ako Reserved Housing Rules, which section is hereby expressly incorporated into this Deed by this reference. §15-218-42 of the Kaka'ako Reserved Housing Rules provides, in its entirety, as follows:

§15-218-42 Deferral of equity sharing.

The authority may consider deferring the equity sharing in case an owner of a reserved housing unit wishes to transfer title to the unit by devise or through the laws of descent to a family member who would otherwise qualify for purchase of a reserved housing unit under this chapter.

J. The Unit is subject to the terms of §15-218-43 ("**Effects of Subsequent Rule Amendments**") of the Kaka'ako Reserved Housing Rules, which section is hereby expressly incorporated into this Deed by this reference. §15-218-43 of the Kaka'ako Reserved Housing Rules provides, in its entirety, as follows:

§15-218-43 Effects of subsequent rule amendments.

(a) In the case of subsequent rule amendments, reserved housing owners shall be permitted at their election to:

(1) Remain subject to the rules in effect at the time of the purchase of the unit, or

(2) Be governed by the amended rules.

(b) The authority, or any other entity that the authority transfers the reserved housing to shall notify all reserved housing owners of any change made by law, ordinance, rule or regulation within one hundred eighty days of such changes. Such notice shall clearly state the enacted or proposed new provisions, the date upon which they are to be effective and offer to each owner of reserved housing units constructed and sold prior to the effective date, an opportunity to be governed by such new provision.

(c) No reserved housing unit owner shall be entitled to modify the restrictions or conditions on use, transfer, or sale of the reserved housing unit, without the written permission of the holder of a duly-recorded first mortgage on the unit and the owner of the fee simple or leasehold interest in the land underlying the unit.

(d) This section shall apply to all reserved housing units developed, constructed and sold pursuant to this chapter.

2502

ADDCN



STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

May 11, 2016 8:01 AM

Doc No(s) T-9627011
on Cert(s) 1116302
Issuance of Cert(s)



1 12/24 ZMA
B-32801289

/s/ NICKI ANN THOMPSON
ASSISTANT REGISTRAR

LAND COURT	REGULAR SYSTEM	LC/12
AFTER RECORDATION, RETURN BY MAIL <input checked="" type="checkbox"/> PICK-UP []		
American Savings Bank, F.S.B. P.O. Box 2300 Honolulu, HI 96804 - 2300		
UNIT NO. 2502	TMK NO. (1) 2-1-044: 049	CPR NO. 0168
UNDIVIDED INTEREST: 0.184300%	This Document Contains 12 Pages	

UNILATERAL DECLARATION OF RESTRICTIVE COVENANTS
FOR
UNIT DESIGNATED AS RESERVED HOUSING UNIT

THIS UNILATERAL DECLARATION OF RESTRICTIVE COVENANTS FOR UNIT DESIGNATED AS RESERVED HOUSING UNIT (the "**Declaration**") is made this 14 day of MAR 2016 2016, by YURI NICOLE MIURA, single, whose post office address is 415 South Street, Apt. 704, Honolulu, Hawaii 96813 (the "**Declarant**"), to confirm that Declarant's ownership and use of the real property described herein is restricted for the duration of this Declaration as more particularly set forth hereinbelow.

I. **BACKGROUND:**

A. Declarant is the current owner of that certain residential condominium unit (the "**Unit**") described in Exhibit A attached hereto and made a part hereof in the Symphony Honolulu condominium project (the "**Project**") established by that certain Declaration of Condominium Property Regime of Symphony Honolulu dated March 4, 2013, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii (the "**Land Court**") as Land Court Document No. T-8463373, as now or hereafter amended (hereinafter called the "**Declaration**"), and as shown on Condominium Map No. 2195 filed in the Land Court, as now or hereafter amended (collectively, the "**Condominium Map**").

B. The Project is located within the Kaka'ako Community Development District and is subject to the jurisdiction of the Hawaii Community Development Authority, an agency of the State of Hawaii ("**HCDA**") and the terms of (i) the Kaka'ako Reserved Housing Rules for the Kaka'ako Community Development District established pursuant to Section 206E of the Hawaii Revised Statutes (Title 15, Department of Business, Economic Development & Tourism; Subtitle 4, Hawaii Community Development Authority (HCDA); Chapter 217 of the Hawaii Administrative Rules) and administered by HCDA (the "**Mauka Area Rules**"), and (ii) the Kaka'ako Reserved Housing Rules for the Kaka'ako Community Development District established pursuant to Section 206E of the Hawaii Revised Statutes (Title 15,

Department of Business, Economic Development & Tourism; Subtitle 4, Hawaii Community Development Authority (HCDA); Chapter 218 of the Hawaii Administrative Rules) and administered by HCDA (the "**Kaka'ako Reserved Housing Rules**"). The Project was developed subject to and in accordance with the terms of various permits and agreements, including that certain Development Permit for OM Kapiolani (Symphony Honolulu) (KAK 12-075, fka DP 1-11) dated June 6, 2012, as amended by Amendment to Development Permit (KAK 12-075) dated September 16, 2015, and Administrative Amendment No. 1 to Development Permit (KAK 12-075) dated September 28, 2015 (collectively, the "**Development Permit**").

C. In accordance with the terms of the Development Permit, OliverMcMillan Pacific Rim, LLC, a Hawaii limited liability company (the "**Developer**") has designated certain of the residential units in the Project as "Reserved Housing Units" available to persons or families who met certain eligibility, income and asset requirements and limitations as set forth in the Kaka'ako Reserved Housing Rules.

D. The Unit was designated by the Developer as a Reserved Housing Unit in the Project.

E. Each Reserved Housing Unit, including the Unit, is subject to certain restrictions, including but not limited to, transfer and "Equity Sharing" restrictions more particularly set forth in the Kaka'ako Reserved Housing Rules, the Development Permit, and the Condominium Unit Deed for the Unit (the "**Deed**").

F. Pursuant to the Deed, Declarant now makes the following declarations to confirm certain restrictions affecting the Unit as more particularly set forth hereinbelow, and declares that such restrictions are encumbrances on title to the Unit for so long as this Declaration remains in full force and effect.

II. DECLARATIONS:

Declarant hereby unilaterally declares, acknowledges and agrees as follows:

A. Regulated Term. As specified in Paragraph E and Exhibit B of the Deed, the Unit is subject to a "Regulated Term" of five (5) years commencing on the date of filing in the Land Court and recordation in the Bureau of the Deed transferring title to the Unit to Declarant.

(1) If during the Regulated Term, Declarant wishes to sell the Unit, HCDA or a governmental agency approved by HCDA shall have the first option to purchase the Unit from Declarant at a purchase price calculated in accordance with the Kaka'ako Reserved Housing Rules.

(2) If during the Regulated Term, Declarant wishes to purchase a larger Reserved Housing Unit, Declarant shall sell the Unit to HCDA at a purchase price calculated in accordance with the Kaka'ako Reserved Housing Rules.

(3) After the end of the Regulated Term, Declarant may sell the Unit without transfer or price restrictions but shall make a payment to the HCDA for Equity Sharing as set forth in the Kaka'ako Reserved Housing Rules. Declarant may also elect to rent the Unit in accordance with the Kaka'ako Reserved Housing Rules pertaining to the rental of Reserved Housing Units as described further in Paragraph II.C below.

B. Equity Sharing Requirements. As specified in Paragraph E and Exhibit B of the Deed, Declarant and the Unit are subject to Equity Sharing requirements of the Kaka'ako Reserved Housing Rules. For purposes of determining Declarant's payment of Equity Sharing to HCDA, the original fair market value of the Unit and the original sales contract price of the Unit are as follows:

Original Fair Market Value	= \$620,000.00
Original Sales Contract Price	= \$530,400.00
Equity Sharing Amount	= \$89,600.00

(1) Declarant's Equity Sharing payment to HCDA shall become due:

(a) During the Regulated Term, if HCDA waives its right of first option to purchase the Unit (as described in Subparagraph II.A(1) above) and Declarant sells the Unit; or

(b) After the end of the Regulated Term, if Declarant sells the Unit (as described in Subparagraph II.A(3) above).

(2) The amount of Declarant's Equity Sharing payment to HCDA shall be determined in accordance with the Kaka'ako Reserved Housing Rules. The price and terms of the sale of the Unit shall first be approved by HCDA.

C. Occupancy During Regulated Period; Future Rental to Qualified Households. As specified in Paragraph E and Exhibit B of the Deed, Declarant shall personally occupy the Unit during the Regulated Term as Declarant's primary residence.

(1) After the end of the Regulated Term, but before Declarant has paid the Equity Sharing amount to HCDA, Declarant may elect, subject to the prior review and approval of HCDA, to convert the Unit to a rental Unit to "Qualified Households" at "Monthly Rents". If Declarant elects to convert the Unit to a rental Unit, Declarant may only rent the Unit to "Qualified Households" and charge "Monthly Rents" therefor in accordance with the Kaka'ako Reserved Housing Rules. Declarant shall be required to certify to HCDA that the Qualified Household and Monthly Rent are in compliance with the Kaka'ako Reserved Housing Rules and submit such certification to the HCDA for each Qualified Household that so rents and occupies the Unit.

(2) After the end of the Regulated Term and Declarant's payment to the HCDA of the Equity Sharing amount as determined by the Equity Sharing Requirements, Declarant may rent the Unit to any household at any rent that Declarant so determines.

D. Compliance with All Reserved Housing Requirements. As specified in Paragraph E and Exhibit B of the Deed, Declarant is subject to the Reserved Housing Requirements of the Kaka'ako Reserved Housing Rules, including all requirements not specifically covered in this Declaration.

E. Mortgagee Protection. As specified in Paragraph E and Exhibit B of the Deed HAR §15-218-37, §15-218-38 and §15-218-39 of the Kaka'ako Reserved Housing Rules provides certain protections to mortgagees holding mortgages secured by a Reserved Housing Unit. Reference is made to this Subsection of the Kaka'ako Reserved Housing Rules which includes, among other provisions, (1) an obligation on the part of HCDA if exercising its first option to purchase during the Regulated Term to either assume any existing mortgage created for the purpose of enabling the owner to purchase the Reserved Housing Unit or otherwise consented to by HCDA or to arrange to pay-off such mortgage(s), or (2) subject to certain prior notice and other conditions the extinguishment of the conditions on transfer upon subsequent transfers when a mortgage holder becomes the owner of a reserved housing unit pursuant to a mortgage foreclosure, foreclosure under power of sale, or a conveyance in lieu of foreclosure after a foreclosure action is commenced.

F. Release. The Unit is a Reserved Housing Unit until this Declaration is released. This Declaration shall be released only by written instrument executed by HCDA and filed in the Land Court and recorded in the Bureau. Upon release of this Declaration, Paragraph E and Exhibit B to the Deed will be of no further force or effect and will no longer bind or encumber the Unit or Declarant or Declarant's successor's in interest and assigns, and following such release, all further transfers of title to the Unit or any interest therein shall be made free and clear of this Declaration and the terms, conditions, and restrictions set forth in Paragraph E and Exhibit B to the Deed.

IN WITNESS WHEREOF, Declarant has caused these presents to be duly executed effective as of the date and year first above written.

Declarant:

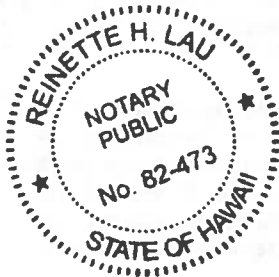

YURI NICOLE MIURA

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

)
: SS.
)

On this 14th day of March, 2016, before me personally appeared YURI NICOLE MIURA, to me personally known, who, being by me duly affirmed, did say that such person executed the forgoing instrument as the free act and deed of such person, and in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Reinette H. Lau
Name: _____
Notary Public, State of Hawaii

My commission expires: 7-6-2018

Date of Doc: <u>March 14, 2016</u>	# Pages: <u>12</u>
Name of Notary: _____	Notes: _____
Doc. Description: <u>Unilateral Declaration of Restrictive Covenants for Unit Designated as Reserved Housing Unit</u>	
<u>Reinette H. Lau</u> 3/14/16 Notary Signature Date	
First Circuit, State of Hawaii	
NOTARY CERTIFICATION	

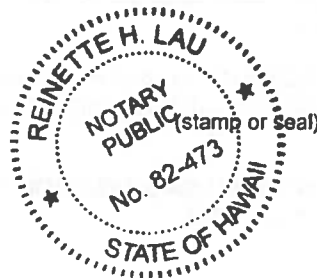


EXHIBIT A

That certain unit and common interest comprising a portion of the SYMPHONY HONOLULU Condominium Property Regime (hereinafter called the "**Project**"), which Project consists of those certain parcels of land and improvements thereon situate at Honolulu, City and County of Honolulu, State of Hawaii, and more particularly described below and in the Declaration of Condominium Property Regime dated as of March 4, 2013, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii (hereinafter called the "**Land Court**") as Land Court Document No. T-8463373, as the same may be amended from time to time (hereinafter referred to as the "**Declaration**"), as established by the Declaration and described as follows:

FIRST: Unit No. **2502** (hereinafter called the "**Unit**") of the Project as more fully described in and established by the Declaration and as shown on Condominium Map No. 2195 filed in the Land Court as aforesaid and any amendments thereto (hereinafter collectively, called the "**Condominium Map**"), together with the limited common elements and rights and easements appurtenant to the as established by and described in the Declaration; subject, however, to the rights and easements excepted and reserved in the Declaration.

SECOND: An undivided **0.184300%** interest as tenant in common with the Grantor, its successors and assigns, and the holders from time to time of other undivided interests in and to the common elements of the Project, including the land of the Project (hereinafter called the "**Land**"), as more fully described below and in the Declaration.

SUBJECT, as to said undivided interest in the common elements of the Project, to the restriction that it may not be transferred or assigned separately and apart from the Unit.

THE LAND UPON WHICH SAID SYMPHONY HONOLULU CONDOMINIUM PROJECT IS LOCATED IS DESCRIBED AS FOLLOWS:

-ITEM I:-

All of those certain parcels of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOTS: B-5-C-1, area 18,455 square feet,
B-5-C-2, area 16,043 square feet, and
B-5-C-3, area 16,556 square feet, more or less,

as shown on Map 9, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 670 of Victoria Ward.

-ITEM II:-

All of those certain parcels of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOTS: 8, area 6,000 square feet, and
9, area 6,874 square feet, more or less, as shown on Map 12;
10, area 6,226 square feet,
11, area 4,716 square feet,
12, area 4,716 square feet, and
13, area 4,716 square feet, more or less, as shown on Map 13;

filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 781 (amended) of Honolulu Construction and Draying Company, Limited.

-AS TO LOTS 8, 10, 11, 12 and 13:-

Together with access over Lot 34, as shown on Map 17, to Kapiolani Boulevard, as set forth by Land Court Order No. 103264, filed August 1, 1991.

-ITEM III:-

All of that certain parcel of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 34, area 20,145 square feet, more or less, as shown on Map 17, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 781 (amended) of Honolulu Construction and Draying Company, Limited.

-AS TO ITEMS I, II AND III:-

Being land(s) described in Transfer Certificate of Title No. CT 1116302 issued to Declarant.

BEING THE PREMISES ACQUIRED BY SYMPHONY HONOLULU UNIT DEED WITH RESERVATIONS AND CONDITIONS (RESERVED HOUSING)

GRANTOR	:	OLIVERMCMILLAN PACIFIC RIM, LLC, a Hawaii limited liability company
GRANTEE	:	YURI NICOLE MIURA, single
DATED	:	<u>March 14</u> , 2016
FILED	:	Land Court Document No. <u>Dec T-9827010</u>

SUBJECT, HOWEVER, TO THE FOLLOWING:

1. Mineral and water rights of any nature.

2. -AS TO ITEM I:-

(A) -AS TO LOT B-5-C-3:-

- (1) A perpetual easement for a pedestrian right of way acquired by THE CITY AND COUNTY OF HONOLULU, a municipal corporation, by FINAL ORDER OF CONDEMNATION dated December 27, 1962, filed in the Circuit Court of the First Circuit, State of Hawaii, Civil No. 11074, on November 27, 1962, filed as Land Court Document No. 304401 on March 7, 1963.
- (2) Delineation of easement for pedestrian walk, as shown on Map 18, as set forth by Land Court Order No. 21122, filed April 2, 1963.
- (3) Corner Rounding Subdivision pursuant to DPP File No. 2014/Sub-166, tentative approval date of March 6, 2015, shown on map prepared by James R. Thompson, Land Surveyor, with Walter P. Thompson, Inc., dated October 3, 2014, last revised January 26, 2015.
- (4) SETBACK (5 feet wide)

PURPOSE : building
ALONG : Kapiolani Boulevard
SHOWN : on survey map prepared by James R. Thompson, Land
Surveyor, with Walter P. Thompson, Inc., dated October
25, 2012, last revised September 26, 2013

(B) The terms and provisions contained in the following:

INSTRUMENT : AGREEMENT REGARDING RIGHTS AND EASEMENTS

DATED : December 18, 1997
FILED : Land Court Document No. 2438469
PARTIES : MYERS/DAIICHI MIDTOWN PARTNERS, a Hawaii joint venture
("M/DMP"), and HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii
corporation ("HECO")

FIRST AMENDMENT TO AGREEMENT REGARDING RIGHTS AND EASEMENTS
dated June 15, 2015, filed as Land Court Document No. T-9310413.

(C) SETBACK (15 feet wide)

PURPOSE : building
ALONG : Ward Avenue
SHOWN : on survey map prepared by James R. Thompson, Land Surveyor,
with Walter P. Thompson, Inc., dated October 25, 2012, last
revised September 26, 2013

3. -AS TO ITEM II:-

(A) The terms and provisions contained in the following:

INSTRUMENT : AGREEMENT REGARDING RIGHTS AND EASEMENTS

DATED : December 18, 1997
FILED : Land Court Document No. 2438469
PARTIES : MYERS/DAIICHI MIDTOWN PARTNERS, a Hawaii joint venture
("M/DMP"), and HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii
corporation ("HECO")

FIRST AMENDMENT TO AGREEMENT REGARDING RIGHTS AND EASEMENTS
dated June 15, 2015, filed as Land Court Document No. T-9310413.

(B) -AS TO LOTS 8 AND 9:-

SETBACK (5 feet wide)

PURPOSE : building
ALONG : Kapiolani Boulevard
SHOWN : on survey map prepared by James R. Thompson, Land Surveyor,
with Walter P. Thompson, Inc., dated October 25, 2012, last
revised September 26, 2013

4. -AS TO ITEM III:-

(A) Rights-of-way in favor of various owners as contained in DEEDS as noted on Transfer
Certificates of Title Nos. 17,593, 47,439 and 223,154.

- (B) Right-of-way for all road purposes in favor of THE HAWAIIAN ELECTRIC COMPANY, LIMITED, now known as HAWAIIAN ELECTRIC COMPANY, INC., dated September 26, 1944, filed as Land Court Document No. 75232, appurtenant to Lots 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23, as shown on Map 13 of Land Court Application No. 781 (amended).
- (C) GRANT in favor of the CITY AND COUNTY OF HONOLULU, dated May 25, 1965, filed as Land Court Document No. 366723; granting an easement for sewer purposes through, under and across the "easement area" more particularly described therein.
- (D) GRANT in favor of the CITY AND COUNTY OF HONOLULU, dated June 7, 1965, filed as Land Court Document No. 367875; granting an easement for sewer purposes through, under and across the "easement area" more particularly described therein.
- (E) GRANT in favor of the CITY AND COUNTY OF HONOLULU, dated June 2, 1965, filed as Land Court Document No. 369047; granting an easement for sewer purposes through, under and across the "easement area" more particularly described therein.
- (F) GRANT in favor of the CITY AND COUNTY OF HONOLULU, dated July 19, 1965, filed as Land Court Document No. 369050; granting an easement for sewer purposes through, under and across the "easement area" more particularly described therein.
- (G) GRANT in favor of the CITY AND COUNTY OF HONOLULU, dated June 2, 1965, filed as Land Court Document No. 369332; granting an easement for sewer purposes through, under and across the "easement area" more particularly described therein.
- (H) GRANT in favor of the CITY AND COUNTY OF HONOLULU, dated September 24, 1965, filed as Land Court Document No. 375511; granting an easement for sewer purposes through, under and across the "easement area" more particularly described therein.
- (I) Access in favor of Lots 8, 10, 11, 12, 13, 28, 30 and 32, as shown on Map 17 of Land Court Application No. 781 (amended), as set forth by Land Court Order No. 103264, filed August 1, 1991.
- (J) GRANT OF NONEXCLUSIVE EASEMENT FOR UTILITY, ROADWAY AND SETBACK PURPOSES in favor of THEODAVIES EUROMOTORS, LTD., a Hawaii corporation, dated February 16, 1995, filed as Land Court Document No. 2219246, as amended by Amendment of Nonexclusive Easement dated April 13, 2016, filed as Land Court Document No. T-9604182; granting a nonexclusive easement for utility, roadway and setback purposes.
- (K) The terms and provisions contained in AGREEMENT dated October 19, 1995, filed as Land Court Document No. 2267754, by and among the HAWAII COMMUNITY DEVELOPMENT AUTHORITY, STATE OF HAWAII ("HCDA"), MYERS/DAIICHI MIDTOWN PARTNERS, a Hawaii joint venture ("Midtown Partners"), and THEO DAVIES EUROMOTORS, LTD., a Hawaii corporation ("Davies").
- (L) GRANT in favor of the CITY AND COUNTY OF HONOLULU and the BOARD OF WATER SUPPLY, City and County of Honolulu, dated July 31, 1996, filed as Land Court Document No. 2328696, recorded as Document No. 96-113638; granting an easement for utility purposes.
- (M) The terms and provisions contained in MAINTENANCE AGREEMENT dated July 31, 1996, filed as Land Court Document No. 2328697, recorded as Document No. 96-113639, by and among MYERS/DAIICHI MIDTOWN PARTNERS, a Hawaii joint venture

("M/DMP"), THEODAVIES EUROMOTORS, LTD., a Hawaii corporation ("TheoDavies"), and the BOARD OF WATER SUPPLY, City and County of Honolulu ("Board").

(N) The terms and provisions contained in the following:

INSTRUMENT : AGREEMENT REGARDING RIGHTS AND EASEMENTS

DATED : December 18, 1997
FILED : Land Court Document No. 2438469
PARTIES : MYERS/DAIICHI MIDTOWN PARTNERS, a Hawaii joint venture ("M/DMP"), and HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii corporation ("HECO")

FIRST AMENDMENT TO AGREEMENT REGARDING RIGHTS AND EASEMENTS
dated June 15, 2015, filed as Land Court Document No. T-9310413.

(O) **SETBACK (5 feet wide)**

PURPOSE : building
ALONG : Kapiolani Boulevard
SHOWN : on survey map prepared by James R. Thompson, Land Surveyor, with Walter P. Thompson, Inc., dated October 25, 2012, last revised September 26, 2013

(P) Rights of others who may have easement or access rights in the land described herein as **ITEM III.**

(Q) The terms and provisions contained in the following:

INSTRUMENT : ENCROACHMENT AGREEMENT AND LICENSE

DATED : October 20, 2010
FILED : Land Court Document No. 4013684
PARTIES : JONES HAWAII PROPERTY HOLDINGS, LLC, a Hawaii limited liability company, "Jones", and CASTI FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership, "Casti"
RE : overhang and supporting columns encroaching from Lot 32, TMK (1) 2-1-044-023, into Lot 34, TMK (1) 2-1-044-048

CONSENT TO ENCROACHMENT AGREEMENT AND LICENSE dated September 28, 2010, filed as Land Court Document No. 4013685, by HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii corporation.

5. The terms and provisions contained in the following:

INSTRUMENT : DECLARATION OF DEVELOPMENT COVENANTS FOR SYMPHONY PARK PROJECT

DATED : February 16, 1995
FILED : Land Court Document No. 2219244

Said above Declaration was amended by instrument dated May 1, 2012, filed as Land Court Document No. T-8215518.

6. The terms and provisions contained in the following:

INSTRUMENT : AGREEMENT CONFIRMING FLOOR AREA TRANSFER PURSUANT TO HAR SECTION 15-217-84

DATED : May 1, 2012

FILED : Land Court Document No. T-8215519

PARTIES : JN GROUP, INC., a Hawaii corporation, CASTI FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership, and JONES HAWAII PROPERTY HOLDINGS, LLC, a Hawaii limited liability company

Said Agreement was amended by First Amendment to Agreement Confirming Floor Area Transfer Pursuant to HAR §15-217-84 dated April 1, 2016, filed as Land Court Document Nos. T-9604184A thru T-9604184B.

7. The terms and provisions contained in the following:

INSTRUMENT : DECLARATION OF CONDOMINIUM PROPERTY REGIME OF SYMPHONY HONOLULU

DATED : March 4, 2013

FILED : Land Court Document No. T-8463373

MAP : 2195 and any amendments thereto

Said Declaration was amended by instruments dated April 18, 2013, filed as Land Court Document No. T-8513346, and dated as of January 21, 2016, filed as Land Court Document No. T-9522225, and as the same may now or hereafter be amended pursuant to its terms.

The foregoing includes, but is not limited to, matters relating to the Shared Access Driveway with the Mercedes Dealership Facility and Hawaiian Electric Company, Ltd., and developer's reserved right and option to buy-back unit to resolve a dispute impasse.

8. The terms and provisions contained in the following:

INSTRUMENT : BY-LAWS OF THE ASSOCIATION OF UNIT OWNERS OF SYMPHONY HONOLULU

DATE : March 4, 2013

FILED : Land Court Document No. T-8463374

Said By-Laws was amended by instrument dated as of January 21, 2016, filed as Land Court Document No. T-9523234, and as the same may now or hereafter be amended pursuant to its terms.

9. The terms and provisions contained in the following:

INSTRUMENT : DEVELOPMENT PERMIT AGREEMENT

DATED : June 4, 2013

FILED : Land Court Document No. T-8555438

By and among HAWAII COMMUNITY DEVELOPMENT AUTHORITY STATE OF HAWAII, a body corporate and a public instrumentality of the State of Hawaii, JN GROUP, INC., a Hawaii corporation, CASTI FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership, and OLIVERMcMILLAN PACIFIC RIM, LLC, a Hawaii limited liability company, as the same may now or hereafter be amended.

The foregoing includes, but is not limited to, matters relating to public facilities dedication fee, reserved housing, floor area purchase, HCDA District wide improvement program.

10. Encroachments and other matters as shown on survey map prepared by James R. Thompson, Land Surveyor, with Walter P. Thompson, Inc. dated October 25, 2012, last revised September 26, 2013.
11. Encroachments or any other matters which a survey prepared after October 25, 2012, last revised September 26, 2013 would disclose.
12. The terms and provisions contained in the following:

INSTRUMENT : WARRANTY DEED AND ASSIGNMENT OF GRANTOR'S RIGHTS AND RESERVATIONS

DATED : July 30, 2015

FILED : Land Court Document No. T-9341174

By and between JN GROUP, INC., a Hawaii corporation, CASTI FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership, and OLIVERMCMILLAN PACIFIC RIM, LLC, a Hawaii limited liability company.

The foregoing includes, but is not limited to, matters relating to HCDA District-Wide Improvement Program, Development Permit for OM Kapiolani (Symphony Honolulu), issued by the HCDA on June 6, 2012 (Development Permit No. KAK 12-075), assessments for pro rata share of the cost improvements which may, in the future, be necessary.

Decision Making: Shall the Authority Delegate to the Executive Director the Following Limited Actions Relating to the Administration of the HCDA's Reserved Housing Program –

- 1) Sale or Transfer After the Regulated Term, 2) Sale or Transfer During the Regulated Term, and 3) Owners' Refinancing Request and Subordination of Shared Equity Interest?**

Staff Report

September 7, 2016

Background: As prefaced at the July 6, 2016 and August 3, 2016 General Meetings, in the interest of streamlining future meetings of the Authority, staff recommends the delegation of certain decisions relating to HCDA Reserved Housing to the Executive Director. Such decisions are currently subject to Board approval and represent multiple agenda items at nearly every monthly Board meeting. The request for delegation only pertains to those decisions that the Board has *consistently* taken in the past year.

While staff does believe these decisions are significant for the agency, the consistency to which they have been historically reviewed and applied could be administered directly by staff. Doing so would expedite responses to Reserved Housing Unit owners and would also lessen the agenda for future Board meetings.

If approved by the Board, any decisions identified above will be included in the Executive Director Report at the next regularly scheduled Board meeting. Any request on which the Board has *not* previously taken a position will be brought to the Board for approval.

Discussion: The Interim Executive Director recommends the following limited actions relating to the administration of the HCDA's Reserved Housing Unit Program be delegated to the Executive Director as follows:

1. **Sale or Transfer After the Regulated Term** – acceptance of Shared Equity Payment and execution of a release of the HCDA's Shared Equity Encumbrance for sale of the reserved housing unit after the regulated term has expired, excluding sales and transfers where the value of Shared Equity Interest is calculated pursuant to Hawaii Administrative Rules (HAR) §15-218-41(b)(2) (HAR §15-22-187(b)(2) of the vested Mauka Area Rules) and HAR §15-216-41(b)(2) (for Kalaeloa).

2. **Sale or Transfer During the Regulated Term** – exercise the HCDA’s option to “buy-back” a reserved housing unit during the regulated term, where specific enumerated conditions have been met.
3. **Owner’s Refinancing Request and Subordination of Shared Equity Interest** – approve refinancing of owner’s primary mortgage up to the value of the original acquisition loan amount, provided that such that approval would not adversely impact recovery of the HCDA’s Shared Equity Interest and subordination of HCDA Shared Equity Interest as second lien holder.

Any transaction that does not meet the criteria specified in the conditions set forth below that further details each request, shall continue to be brought for Board action. Also any appeal of a decision issued under this delegation would also be brought for Board action.

1. Sale or Transfer After the Regulated Term

By a Board decision at its November 7, 2012 meeting, the Executive Director is already authorized to execute and deliver documents for the release of the shared equity encumbrance of a reserved housing unit, upon receipt of shared equity payment for the sale or transfer of a reserved housing unit, outside of the regulated term.

Currently, this process entails a staff review of the sales price for consistency with recent market sales and scrutiny of the transaction to the extent the sales price affects HCDA’s calculation of shared equity. Market values have not yet risen to a point where the calculation described in HAR §15-218-41(b)(2) (HAR §15-22-187(b)(2) of the vested Mauka Area Rules) or HAR §15-216-41(b)(2) (for Kalaeloa) has been triggered.

Staff proposes to modify the previous Board action to **exclude** from delegation, any sale or transfer where the Shared Equity Interest value as calculated under HAR §15-218-41(b)(2) (HAR §15-22-187(b)(2) of the vested Mauka Area Rules) or HAR §15-216-41(b)(2) for Kalaeloa, would prevail. The HCDA does not have a history that can be applied under this circumstance and the underlying “market price” could prove to be subjective.

2. Sale or Transfer During the Regulated Term

Since the buy-back provisions were made “operational” by Act 71, Session Laws of Hawaii 2014, the Authority has consistently voted to

buy-back all units within the regulated term to retain them as reserved housing units, as provided for under HAR §15-218-36 (HAR §15-22-186(c)(1) of the vested Mauka Area Rules) or HAR §15-216-36 for Kalaeloa.

To the extent there are funds available in the Hawaii Community Development Revolving Fund, Reserved Housing subaccount, the Board delegates to the Executive Director the ability to execute buy-back at the price determined and stipulated by HAR §15-218-36 (HAR §15-22-186(c)(1) of the vested Mauka Area Rules) or HAR §15-216-36 for Kalaeloa. If there are inadequate funds in the Reserved Housing sub-account, and adequate funds elsewhere, staff may propose the buy-back using other funding sources.

3. *Owner's Refinancing Request and Subordination of Shared Equity Interest*

Unless previously released by the HCDA, HCDA's shared equity interest is second only to a primary mortgage on a reserved housing unit at the time of the original sale. Lower interest rates or other personal circumstances may require an owner to re-finance their unit to access earned equity or realize savings in monthly payments.

To safeguard the value and collection of HCDA's shared equity interest at the first point of sale, staff has historically recommended and the Board has historically taken action to:

1. Approve requests to refinance the primary mortgage up to the value of the original acquisition loan amount, provided that market conditions have not deteriorated to adversely impact recovery of the HCDA's shared equity interest.
2. Deny all requests subordinating the HCDA's shared equity interest to a 2nd mortgage (such as a Home Equity Line of Credit - HELOC) or similar financing tool that would demote the HCDA's "second position" on the property.

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND
TOURISM

Repeal of Chapter 15-22 and Adoption of Chapter 15-218
Hawaii Administrative Rules

September 14, 2011

SUMMARY

Chapter 218 of Title 15, Hawaii Administrative Rules, entitled "Kakaako Reserved Housing Rules" is adopted.

§15-218-33 Occupancy requirements. (a) The following are occupancy requirements for reserved housing units:

- (1) Applicants for reserved housing shall certify that, if selected, all applicants will be occupants of the reserved unit;
- (2) The purchaser or lessee shall physically occupy the reserved unit; and
- (3) The city and county of Honolulu maximum occupancy limits for a residential dwelling unit shall apply.

(b) Violation of subsection (a) shall be sufficient reason for the authority, at its option, to purchase the unit as provided in section 15-218-36 or evict the renter from the unit, as applicable.

(c) Any deed, lease, agreement of sale, mortgage, or other instrument of conveyance issued by the authority shall expressly contain the restrictions on use prescribed in this section.

(d) The restriction prescribed in subsection (a) above shall not apply if the authority waives its option to purchase the reserved housing unit or subsequent to the expiration of the option to purchase period. [Eff NOV 11 2011] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-34 Affordability criteria. (a) The following criteria shall be used in determining price and income equivalencies of units for sale:

- (1) Down payment amount shall not exceed ten per cent of the purchase price;
- (2) Monthly payments, which consist of principal and interest, real property taxes, insurance, and fees and costs required by the bylaws of a condominium property regime, shall not exceed thirty-three per cent of gross monthly income or some other percentage approved by the United States Department of Housing and Urban Development; and

- (3) Interest rate shall be derived by taking the average of the interest rate on thirty year fixed rate mortgages posted for major Honolulu banks in the first week of each of the preceding six months.

(b) The following criteria shall be used in determining price and income equivalencies of units for rent: monthly rent and all utilities and other building operating costs (excluding telephone, cable television and internet service) shall not exceed thirty-three per cent of the renter's gross monthly income. [Eff NOV 11 2011] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-35 Term of reserved housing requirements. (a) The regulated term for reserved housing units that are for sale shall be five years from the date of issuance of certificate of occupancy. Reserved housing rental units shall be regulated for fifteen years. The authority may suspend or modify regulated term and qualifying income requirements on a project by project basis, if, in its sole judgment, it determines that these requirements are negatively impacting the sale or rental of reserved housing units as the primary objective of the authority to promote redevelopment within the Kakaako community development district.

(b) During the regulated term, a reserved unit owner shall not purchase additional limited common elements or personal property.

(c) During the regulated term, the executive director shall approve any initial or subsequent mortgage placed on a reserved unit which does not exceed eighty per cent of the original purchase price of the unit.

(d) After the end of the regulated term, the owner may sell the unit or assign the property free from any transfer or price restrictions except for applicable equity sharing requirements set forth in

section 15-218-41. [Eff NOV 11 2011] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-36 First option to purchase. If the owner of a reserved housing unit wishes to sell the unit during the regulated term, the authority or an entity approved by the authority shall have the first option to purchase the unit. The purchase price shall be based on the lower of:

- (1) The current fair market price of the reserved housing unit as determined by the authority less the authority's share of equity in the unit as determined by section 15-218-42; or
- (2) The reserved housing unit price calculated based on the AMI at the time of sale of the unit. [Eff NOV 11 2011] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-37 Sale or transfer of reserved housing units. Sale or transfer of reserved housing units during the regulated term shall be as follows:

- (1) The authority or an entity approved by the authority shall have the first option to purchase the unit in the manner indicated in section 15-218-36;
- (2) The owner shall notify the authority in writing of the intent to sell the reserved housing unit;
- (3) The authority shall notify the owner of its decision within sixty days of receipt of the owner's notification required in subsection (a) (2) above. The authority may:
 - (A) Wave its option to purchase the unit,
 - (B) Agree to purchase the unit, or
 - (C) Designate another buyer for the unit;
- (4) If the authority fails to notify the owner of a decision in the manner prescribed in

subsection (a)(3), the authority shall have waived its first option to purchase the unit;

- (5) The authority may purchase the unit either outright, free and clear of all liens and encumbrances; or by transfer subject to an existing mortgage. If by outright purchase, the authority shall ensure that all existing mortgages, liens, and encumbrances are satisfactorily paid by the owner; and
 - (6) In any purchase by transfer subject to an existing mortgage, the authority shall agree to assume and to pay the balance on any first mortgage created for the purpose of enabling the owner to obtain funds for the purchase of the unit and any other mortgages which were created with the approval and consent of the authority. In these cases, the amount to be paid to the owner by the authority shall be the difference between the price as determined in section 15-218-36 (1) or (2) and the principal balance of all mortgages outstanding and assumed at the time of transfer of title to the authority.
- [Eff NOV 11 2011] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-38 Foreclosure. In the event of a foreclosure, any law to the contrary notwithstanding, a mortgagee under a mortgage covering a reserved housing unit and land or leasehold interest subject to the restrictions of sections 15-218-35, 15-218-36, and 15-218-37, shall, prior to commencing mortgage foreclosure proceedings, notify the authority of (1) any default of the mortgagor under the mortgage within ninety days after the occurrence of the default; and (2) any intention of the mortgagee to foreclose the mortgage under chapter 667, HRS. The authority shall be a party to any foreclosure action, and shall be entitled to all proceeds remaining in excess of all