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**HAWAII COMMUNITY
DEVELOPMENT
AUTHORITY**

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Association of Unit Owners of 988 Halekauwila

**BEFORE THE HAWAI'I COMMUNITY DEVELOPMENT AUTHORITY
OF THE STATE OF HAWAI'I**

In re the Petition of

**ASSOCIATION OF UNIT OWNERS
OF 988 HALEKAUWILA**

**PETITION FOR DECLARATORY
RELIEF AND FOR HEARING;
EXHIBITS "1" – "4"**

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PETITION FOR DECLARATORY RELIEF AND FOR HEARING

I. INTRODUCTION

Petitioner Association of Unit Owners of 988 Halekauwila (“Petitioner” or “Association”) hereby files this Petition for Declaratory Relief, seeking an official determination that Victoria Ward, Limited (“Victoria”) and its affiliated companies Howard Hughes Corporation (“Howard Hughes”) and 988 Halekauwila, LLC (collectively “Developers”) are in violation of the conditions imposed by the Hawai‘i Community Development Authority (the “Authority” or “HCDA”) in permits granted to Developers for the development of Ward Village in Kaka‘ako. The Authority conditioned the master plan permit for Ward Village on the requirement that Developers provide affordable housing to twenty percent of its purchasers. Likewise, the Authority conditioned its approval of permits for specific projects within Ward Village—specifically Ke Kilohana, Anaha, and Waiea—on the condition that Developers provide affordable housing at Ke Kilohana, a 43-story high-rise.

The Ward Neighborhood Master Plan governs the development of certain lands in Kakaako under the authority of the Hawaii Revised Statutes, Chapter 206E, as amended, and Chapter 22, Title 15, Hawaii Administrative Rules, in effect on January 14, 2009. The Ward MP and Development Agreement specify conditions the Developer must satisfy to obtain a development permit.

Land Block 5 as described and defined in the Ward MP is 17.84 acres and pursuant to the Developer's plan would constitute approximately 2,835,404 square feet of development as proposed by the Master Plan Permit and subject to the vested rules and conditions set forth by the HCDA. Land Block 5 is one Development Lot comprised of several individual lots, is bound by a joint development agreement, and encompasses the Petitioner's building, Ke Kilohana, as well as all other projects proposed by the Developer including Ulana Ward Village.

Petitioner seeks declaratory relief that the developers are in violation of these governing orders and approvals insofar as they were conditioned on the provision of affordable housing. The developers grossly understated the monthly payments that each homeowner would need to make in maintenance fees to upkeep the project. As a result, the Petitioner has a significant operating deficit and the homeowners must pay over 50% more in monthly fees required by the condominium's by-laws. Moreover, the Developers violated various requirements for affordability at Ke Kilohana, including requiring some homeowners to put more than 10% down to purchase reserved housing units. The Developers also violated HCDA rules regarding adequate provision of off-street parking.

Petitioner seeks declaratory relief for an official determination that: the Ke Kilohana Reserved Housing units do not satisfy the criteria set for affordability by

the HCDA. Petitioner further seeks declaratory relief as to the corrective action that the developers must take to address their violations of the applicable affordable housing permit conditions and a declaration as to a reasonable deadline for corrective action (*i.e.*, 30 days). The HCDA has the power to enforce compliance with its administrative rules and orders, and can on its own authority require developers to take corrective action to address violations of the affordable housing requirements for the Ward Village development.

Petitioner requests a hearing on this immediate Petition to provide a full evidentiary record for the purpose of seeking agency interpretation on whether Developers have violated applicable rules and conditions regarding Ke Kilohana's affordable housing requirements and parking requirements; and to secure Developers' corrective actions. Petitioner respectfully requests that the HCDA rule that: (1) the Ke Kilohana units do not satisfy the criteria set for affordability by the HCDA; (2) Developers are responsible for ensuring that affordable housing units already sold are currently in compliance with the governing affordability criteria within thirty days of an HCDA's finding of a violation; (3) condition the approval of any future planned development permits under the Ward Master Plan, including but not limited to the pending permit applications for Ulana Ward Village and Park Village projects, on the Developers' compliance with the permit conditions for Ke Kilohana by making the Reserved Housing units affordable

under the HCDA's criteria; (4) condition the approval of any future planned development permits under the Ward Master Plan, including but not limited to the pending permit applications for Ulana Ward Village and Park Village projects, on the Developers' compliance with the permit conditions for Ke Kilohana by providing one standard-sized parking stall per Reserved Housing unit in compliance with the HCDA's rules; and (5) impose a moratorium by suspending the approval of any future planned development permits under the Ward Master Plan, including but not limited to the pending permit applications for Ulana Ward Village and Park Village projects, until the Developers have complied with the permit conditions for Ke Kilohana as the HCDA did when it held in abeyance the issuance of a superstructure permit for projects in Phase 1 of the Ward Master Plan.

II. PETITIONER'S NAME, ADDRESS, TELEPHONE NUMBER

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c/o
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III. DESIGNATION OF SPECIFIC STATUTE, RULE, OR ORDER IN QUESTION

A. Statutes

The following statutes are implicated by this Petition: Hawai'i Revised Statutes ("HRS") §§ 206E-3, 206E-4, 206E-31, and §206E-101.

B. Rules

This Petition is filed pursuant to Hawai'i Administrative Rule ("HAR") § 15-219-83. This Petition primarily concerns interpretation and application of HAR §15-22-185.1(a)(2) of the Vested Rules regarding affordability criteria. Section 15-22-206 of the Vested Rules is also at issue, as Petitioner asks that the HCDA issue declaratory relief pursuant to its power to review compliance with the master plan for Ward Village.

C. Orders

The following orders are at issue in this Petition:

1. Amended and Restated Hearing Officer's Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit, dated May 6, 2009
2. Order of the Hawai'i Community Development Authority of the State of Hawaii In Re Motion of Victoria Ward, Limited, Applicant for an Order of Amendment to Development Permit Nos. KAK 13-06, KAK 13-037, KAK 13-038 and to Extend the Time of Effective Period of Permit KAK 13-038, dated July 15, 2015
3. Planned Development Permit No.: KAK 13-036, Development Permit for Ward Village Land Block 2, Project 1 Approved by the Hawai'i Community Development Authority on August 21, 2013
4. Planned Development Permit No.: KAK 13-037, Development Permit for Ward Village Land Block 3, Project 1 Approved by the Hawai'i Community Development Authority on August 21, 2013

5. Planned Development Permit No.: KAK 13-038, Development Permit for Ward Village Land Block 5, Project 1 Approved by the Hawai'i Community Development Authority on July 17, 2013

IV. STATEMENT OF PETITIONER'S INTEREST IN SUBJECT MATTER, INCLUDING REASONS FOR SUBMITTING PETITION

Petitioner and its members are injured by Developers' failure to provide affordable housing as contemplated by the foregoing orders and applicable statutes and administrative regulations. Petitioner is the Association of Unit Owners ("AOUO") of Ke Kilohana, a 43-floor, high-rise, mixed-use building, consisting of commercial space and residential units located in the Kaka'ako district of Honolulu, Hawai'i. Ke Kilohana has 424 individual residential units, 375 or approximately 88.4% of which are reserved for affordable housing (*i.e.*, "Reserved Housing" units). Petitioner seeks appropriate declaratory relief to ensure that Developers comply with the permit conditions and the HCDA affordability criteria.

The Association has the right and duty to manage, operate, and control Ke Kilohana. The Association has all of the powers necessary to carry out its rights and obligations, including the right, duty, and power to contract for legal services to prosecute any action affecting the Association when such action is deemed by it necessary to enforce its powers, rights, and obligations, including filing this petition. Developers' failure to comply with affordable housing conditions for approval of the Ward Master Plan Permit, as well as the project-specific

development permits pursuant to that master plan, affects two or more unit owners at Ke Kilohana.

The public's need for affordable housing is weighty. Petitioner brings the claims herein on its own behalf and on behalf of its members. Petitioner's members consist of citizens for whose benefit the affordable housing statutes and administrative regulations were adopted and who have an interest in seeing the laws relating to affordable housing executed and that the public duty to provide for affordable housing is enforced.

V. STATEMENT OF PETITIONER'S POSITION OR CONTENTION

Developers failed to accurately disclose and account for the true cost of maintenance fees for Ke Kilohana. This failure forced the Association to increase monthly assessments by over fifty percent. As a result of this increase, monthly dues payments for units at Ke Kilohana are no longer affordable, as defined by the HCDA's rules. Developers' understated maintenance fees violates explicit requirements in the Authority's orders approving the master plan permit for Ward Village and specific projects in Ward Village. These orders required Developers to provide a specific number of affordable housing to the public within the Ke Kilohana development. Developers have breached and/or violated these governing orders by failing to provide Reserved Housing units that meet the affordability criteria established by the HCDA.

Developers also failed to provide reserved housing units that complied with the HCDA's requirements in other ways. For example, several homeowners were required to put more than ten percent (10% down) in violation of HAR §15-22-185.1(a)(2).

These violations necessitate Authority action to define Developers' current obligation to rectify its failure to provide affordable housing within 30 days of the issuance of the declaratory relief order sought by the Petitioner.

VI. MEMORANDUM OF AUTHORITIES CONTAINING FULL DISCUSSION OF REASONS AND LEGAL AUTHORITIES IN SUPPORT OF PETITIONER'S CONTENTION

The Ke Kilohana project is governed by HRS Chapter 206E and HAR Title 15, Chapter 22. The HCDA prescribes specific requirements for Developers' pricing of units based upon income level of applicants for Reserved Housing units. These income-based requirements motivate developers, such as Howard Hughes, to substantially underestimate maintenance fees. Here, the Developers grossly underfunded the Association, based on a woefully inadequate budget that did not accurately account for costs of maintaining the building. The Association was forced to impose a steep hike in maintenance fees assessed to its members, the majority of whom purchased individual units which were purportedly affordable under the HCDA's requirements. Developers cannot demonstrate that Ke Kilohana in fact brought to market housing that complies with the Reserved

Housing unit quota established by the HCDA.

A. FACTUAL AND PROCEDURAL BACKGROUND

1. The HCDA Is Charged with Regulating Development in Kaka‘ako to Meet the State’s Need for Affordable Housing

The legislature charged the HCDA with creating rules that would result in an integrated residential community “of residents of varying incomes, ages and family groups” and to increase the “supply of housing for residents of low- or moderate-income” in Kaka‘ako. HRS § 206E-33. HCDA was therefore charged with adopting eligibility requirement rules for “housing designated for residents in the low- or moderate-income ranges” (“Reserved Housing” or affordable housing). HRS § 206E-101.

To accomplish the affordable housing goals set by the legislature in HRS Chapter 206E, HCDA adopted a set of rules for the Kaka‘ako district entitled “Kaka‘ako Community Development District Rules for the Mauka Area,” promulgated as Chapter 22 of Title 15. HAR § 15-22-1 *et seq.* to 15-22-280. This set of rules was in effect when the HCDA considered and approved the master plan (hereafter the “Vested Rules”). The Vested Rules were incorporated by reference in each project-specific development permit at issue in this petition. The Developers were required to set aside 20% of the total number of dwelling units in a development lot for affordable housing. HAR § 15-22-115 of the Vested Rules.

2. Under Its Prior Orders Concerning Development In Ward Village In Kaka'ako, the HCDA Approved the Developers' Luxury Projects on the Condition that They Provide Affordable Housing at Ke Kilohana

The HCDA conditioned approval of the Master Plan Development of Ward Village on the provision of affordable housing. The HCDA has jurisdiction to issue master plan permits. *See* HRS § 206E-33. In 2009, the HCDA issued a master plan permit allowing Victoria Ward, Limited (“Victoria”) to develop approximately 60 acres of land in Ward Village. *See* Nunc Pro Tunc Order Re: Hearing Officer’s Proposed Findings of Fact, Conclusions of Law and Decision and Order for A Master Plan Permit; Exhibit A Amended and Restated Hearing Officer’s Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit dated May 6, 2009 (“Ward Master Plan Permit”) found at https://dbedt.hawaii.gov/hcda/files/2021/03/Exhibit-C-Ward-MP-Nunc-Pro-Tunc-FOF-COL-D_O-1.pdf. The approval in the Ward Master Plan Permit was subject to sixteen conditions. Under Condition No. 9 of the Ward Master Plan Permit, the HCDA required Developer to provide affordable housing as follows:

Petitioner shall satisfy its reserved housing requirement for the Master Plan Area, which shall be equal to twenty-percent of the total number of residential units proposed for the Master Plan Area, as permitted by the Mauka Area Rules.

Ward Master Plan Permit, p. 46, ¶ 9. The HCDA made the following findings concerning the affordable housing requirement as follows:

Reserved Housing. One of the goals of HRS Chapter 206E is to “join the strengths of private enterprise, public development and regulation into a new form capable of long-range planning and implementation of improved community development” addressing, among other things, “a lack of suitable affordable housing.” See HRS § 206E-1. Along these lines, HRS § 206E-33 outlines development guideline policies which include the “integration both vertically and horizontally of residents of varying incomes, ages, and family groups; and an increased supply of housing for residents of low or moderate-income” The Mauka Rules require that a developer “provide at least twenty per cent of the total number of dwelling units in the development for sale or rental to qualified persons” See HAR § 15-22-115(a). . . . The Mauka rules establish that the development of at least the 20% requirement fulfills the reserved housing policy. See HAR § 15-22-115(c).

Id. at p. 22, FOF ¶73.

Pursuant to the Ward Master Plan Permit, Developers obtained Planned Development permits from the HCDA for the following projects as part of first phase of the development: Waiea (KAK 13-036); Anaha (KAK 13-037); and Ke Kilohana (KAK 13-038). In April 2013, Victoria applied for development permits for Waiea (KAK 13-036), Anaha (KAK 13-037), and Ke Kilohana (KAK 13-038). When it applied for development permits for these projects, Victoria sought HCDA approval of its proposal to provide 375 units in Ke Kilohana to satisfy affordable housing requirements generated by the projects slated for Land Blocks 2 and 3, which included Anaha and Waiea.¹ The HCDA approved the development permits

¹ See Exhibit “1”, Order of the Hawaii Community Development Authority of the State of Hawaii In Re Motion of Victoria Ward, Limited, Applicant for an Order of

for three projects (Waiea, Anaha, and Ke Kilohana) based upon the condition that Victoria live up to its proposal of providing 375 units as reserved housing in Ke Kilohana.²

3. On July 17, 2013, The HCDA Approved The Ke Kilohana Project On The Condition That The Developers Provide 375 Reserved Housing Units In Compliance With The Authority's Vested Rules

On July 17, 2013, the HCDA approved the original development permit for Ke Kilohana on the condition that Developers provide 375 units as reserved housing and comply with the affordable housing requirements in the Vested Rules:

The Applicant shall comply with the provisions of the Reserved Housing subsection in the [Vested Rules] The Applicant shall provide 375 units as reserved housing for sale.³

See Part III of Development Permit for Ward Village Land Block 5, Project 1 (Master Plan Permit No.: PL MASP 13.1.3), Planned Development Permit No.: KAK 13-038, page 3 of 6. Also, Condition F of the original development permit for Ke Kilohana required Developers to “comply with all applicable requirements of Subchapter 7 (Sale and Rental of Reserved Housing Units) of the Vested Rules.” *See* Condition F of Development Permit for Ward Village Land Block 5,

Amendment to Development Permit Nos. KAK 13-06, KAK 13-037, KAK 13-038 and to Extend the Time of Effective Period of Permit KAK 13-038, dated July 22, 2015.

² *Id.*

³ *Id.*

Project 1 (Master Plan Permit No.: PL MASP 13.1.3), Planned Development
Permit No.: KAK 13-038.

The terms and conditions of the Planned Development Permit No.: KAK 13-038 for Ke Kilohana is binding on all successors and assigns of Victoria by way of the development agreement for Land Block 5 of the Ward Master Plan, which is itself required by the permit. *See* Joint Development Agreement for Land Block 5 of the Ward Master Plan⁴, page 2, paragraph 2 (“VWL shall comply with all terms and conditions of the Development Permit, the Master Plan, and all applicable vested zoning regulations”). The development agreement for Ke Kilohana provides that failure to develop the Project in accordance with the development agreement “shall constitute grounds for HCDA to revoke or suspend any development permits issued for the Project in addition to other remedies available to HCDA.” *See* Joint Development Agreement for Land Block 5 of the Ward Master Plan, page 2, paragraph 4.

4. On August 21, 2013, The HCDA Approved The Waiea Project On The Condition That The Developers Provide 45 Reserved Housing Units At Ke Kilohana In Compliance With The Authority’s Vested Rules

⁴ The Joint Development Agreement for Land Block 5 of the Ward Master Plan can be found at <https://dbedt.hawaii.gov/hcda/files/2021/03/Exhibit-K-Land-Block-5-JDA.pdf>.

On August 21, 2013, the HCDA also approved the original development permit for Waiea (KAK 13-036) which required that Developers provide 45 units of reserved affordable housing in accordance with the Vested Rules, as follows:

The Applicant shall comply with the provisions of the Reserved Housing subsection in [the Vested Rules]. The Project consists of 177 residential units. Twenty percent (20%) of the total residential units, which translates to a total of forty-five (45) units, shall be required to meet the reserved housing provisions of the Vested Rules. The Applicant shall provide forty-five (45) units as reserved housing for sale. The Applicant is proposing to provide all the reserved housing units required for this Project in a separate project that has already received a Planned Development Permit and is proposed to be located on Land Block 5 of the Ward MP area.

Part III of Development Permit for Ward Village Land Block 2, Project 1, Planned Development Permit No.: KAK 13-036, page 3 of 6. Compliance with Part III of the Development Permit, as well as with the Reserved Housing subchapter in the Vested Rules, were set forth as explicit conditions on the permit. *See* Conditions F and G of Development Permit for Ward Village Land Block 2, Project 1, Planned Development Permit No.: KAK 13-036 (Master Plan Permit No.: PL MASP 13.1.3), page 6 of 6. The terms and conditions of the Planned Development Permit No.: KAK 13-036 is binding on all successors and assigns of Victoria by way of the development agreement, which is itself required by the permit. Condition A of Development Permit for Ward Village Land Block 2, Project 1, Planned Development Permit No.: KAK 13-036, page 5 of 6.

5. On August 21, 2013, The HCDA Approved The Anaha Project On The Condition That The Developers Provide 80 Reserved

Housing Units At Ke Kilohana In Compliance With The Authority's Vested Rules

On August 21, 2013, the HCDA approved the original development permit for Anaha (KAK 13-037), on the condition that Developers provide eighty (80) units as affordable reserved housing in accordance with the Vested Rules, as follows:

The Applicant shall comply with the provisions of the Reserved Housing subsection in [the Vested Rules]. The Project consists of 318 residential units. Twenty percent (20%) of the total residential units, which translates to a total of eighty (80) units, shall be required to meet the reserved housing provisions [of] the Vested Rules. The Applicant shall provide eighty (80) units as reserved housing for sale. The Applicant is proposing to provide all the reserved housing units required for this Project in a separate project that has already received a Planned Development Permit and is proposed to be located on Land Block 5 of the Ward MP area.

Part III of Development Permit for Ward Village Land Block 3, Project 1, Planned Development Permit No.: KAK 13-037, page 3 of 5. This reserved housing requirement was incorporated into Conditions F and G of the development permit for Anaha. *See* Conditions F and G of Development Permit for Ward Village Land Block 3, Project 1, Planned Development Permit No.: KAK 13-037, page 5 of 5. The terms and conditions of the Planned Development Permit No.: KAK 13-037 for Anaha is binding on all successors and assigns of Victoria by way of the development agreement, which is itself required by the permit. Condition A of Development Permit for Ward Village Land Block 3, Project 1, Planned Development Permit No.: KAK 13-037, page 5 of 5.

6. On July 22, 2015, The HCDA Issued An Order Ruling That The Developers Must Administer A Program For Selling Reserved Housing Units At Ke Kilohana As A Condition Of Developing Anaha, Waiea, and Ke Kilohana

In 2015, Victoria asked for a modification of the Reserved Housing unit requirements, requesting permission to rent, rather than sell, affordable housing. The HCDA ruled that it had the authority and jurisdiction to review, consider, and take action on Victoria's request to satisfy the reserved housing requirements by renting, rather than selling, affordable housing units. Findings of Fact, Conclusions of Law, and Decision and Order Granting In Part and Denying In Part Victoria Ward, Limited's Motion to Amend Development Permit Nos. KAK 13-036, 13-037, AND 13-038 To Allow Sale and/or Rental of Reserved Housing Units And to Extend Time of Effective Period of Permit KAK 13-038, page 17, COL ¶8. On July 22, 2015, the HCDA confirmed, by way of an order concerning whether the development permits for Waiea, Anaha and Ke Kilohana could be amended, that Victoria was required to prepare a program for administering its sales of reserved affordable housing before it could obtain certificates of occupancy for Anaha and Waiea. Findings of Fact, Conclusions of Law, and Decision and Order Granting In Part and Denying In Part Victoria Ward, Limited's Motion to Amend Development Permit Nos. KAK 13-036, 13-037, AND 13-038 To Allow Sale and/or Rental of Reserved Housing Units And to Extend Time of Effective Period of Permit KAK 13-038, page 24, COL ¶¶ 39-41.

7. Howard Hughes Understated The Required Operating Budget for the Ke Kilohana Project And Artificially Deflated The Estimates For Association Fees/Dues

Pursuant to the July 22, 2015 Order confirming that Developers must sell affordable units to satisfy the conditions of the permits for Ke Kilohana, Waiea and Anaha, the Developers established a program, on or about March 16, 2016, for its reserved affordable housing sales program. Under this program, Developers set forth their calculations of the maximum affordable prices that could be charged for reserved affordable housing units, under the Vested Rules. In these calculations, Developers assumed that the reserved housing homeowners would pay the following amounts for association dues (i.e. maintenance fees):

Unit Size	Monthly Association Dues
One bedroom	\$292
Two bedroom	\$442
Three bedroom	\$590

These assumed association dues were set forth in the Developers' public report regarding the Project.

The Vested Rules set requirements to limit the individuals that would qualify for Reserved Housing units. To ensure Reserved Housing units would benefit low-to moderate-income individuals, the adjusted household income of a purchaser could not exceed 140% of the median annual income, as adjusted for household

size, for households in the City and County of Honolulu, as established by the United States Department of Housing and Urban Development for the Section 8 Housing Assistance Payments Program (“HUD”) for 2015. HAR§ 15-22-182. And to ensure that the purchasers could afford the Reserved Housing units, the Vested Rules required that all monthly payments made on the Reserved Housing units be limited to 33% of the purchaser’s monthly income. *See* HAR §15-22-185.1(a)(2).

Because HAR §15-22-185.1(a)(2) prescribes that an applicant’s monthly payments (including association fees/dues) could not exceed 33% of the applicant’s gross monthly income, the Maintenance Fees directly affected the maximum price at which the Developers could sell the units. The grossly underestimated line items within the Estimated Budget make the units appear affordable under the HCDA’s Reserved Housing rules. With the artificially deflated Estimated Budget and resulting erroneous association fees/dues, Developers could sell units at a higher price since prospective home buyers could justify higher mortgage payments. Under this program, the sales prices for these units were to range from \$323,475 through \$560,774. Had Developers properly estimated the association fees/dues, the price of the units would have been significantly lower in order to satisfy the HCDA’s affordability requirements.

The Petitioner's board of residential directors was formed in August 2019. After months of study and evaluation, the board of residential directors discovered that on average, the actual monthly association dues necessary to cover the expenses required by the Association's by-laws greatly exceeded the amounts set forth in the Developers' program for reserved housing submitted to the HCDA. One-bedroom units required monthly dues in the range of \$450-499 per month. Two-bedroom units required monthly dues in the range of \$650-699 per month. Three-bedroom units required monthly dues in the range of \$850-890.

The estimated budget prepared by the developer Howard Hughes Corporation ("HHC") when it was in control of the building grossly underestimated the actual costs of nearly all major expenses required by the bylaws of the condominium property regime for Ke Kilohana (referred to hereafter as "the 2019 Approved Budget from HHC"). The categories of the Estimated Budget, which Developers undervalued include, but are not limited to: electricity reimbursements; payroll expenses for vital services to the upkeep and safety of the building such as maintenance, housekeeping, and security. These services are reasonably necessary for the standard upkeep of a building such as the Project.

As a result of this underestimation, the AOOU experienced a deficiency in operating expenses and struggled to maintain reserve funds. The cash flow summary for the Project reveals that while \$210,000 a month was being collected

from the Association's members, the Association was expending around \$260,000 a month. In sum, the Association is operating with a monthly deficit of \$50,000 with no funds going to reserves. Ultimately, the AOUO was forced to increase total assessments by 53.44% for the combined residential and commercial unit classes, beginning in March 2020.

The Developer also improperly represented that its estimated budget was based on generally accepted accounting principles (GAAP). HRS §514B-83(a)(3) provides that a developer's public report shall contain "a breakdown of the annual maintenance fees and the monthly estimated cost for each unit, **certified to have been based on generally accepted accounting principles[.]**" GAAP require that the accrual basis method be used. Cash basis accounting is not compliant with GAAP. The Developer prepared its budget based on cash basis accounting, which obscured the true financial position, and more importantly, did not comply with GAAP (Exhibit H, page 2 of 10). The Developer's Public Report, consequently, violates HRS §514B-83(a)(3).

8. Howard Hughes Understated The Required Reserves for the Ke Kilohana Project And Artificially Deflated The Association Fees/Dues

The Developers grossly understated the reserve contribution which would be necessary for Ke Kilohana. The Developers had an obligation to provide a good faith estimate of the reserve contribution. HRS §514B-9. The Developers'

estimate of the required reserve contribution, which was set forth as Exhibit H of the Public Report,⁵ states the reserve contribution would be \$14,478 a month, or \$173,736 annually, which is 79% lower than the reserve contributions made by comparable projects set forth below.

Other Associations	Total Units	Annual Reserve Contribution	Average Per Unit
Makaha Valley Towers	586	\$722,436	\$102.74
Marco Polo	572	\$1,200,000	\$174.83
Country Club Village Phase II	469	\$1,100,004	\$195.45
Capitol Place	399	\$1,138,068	\$237.69
Pearl Regency	368	\$925,000	\$209.47
Fairway Villa	364	\$659,436	\$150.97
Century West	352	\$511,992	\$121.21
1717 Ala Wai	283	\$428,313	\$126.12
Country Club Plaza	279	\$630,012	\$188.18
Colonnade on the Greens	274	\$563,764	\$171.46
Holiday Manor	225	\$244,968	\$90.73
Ke Kilohana	424	\$173,740	\$34.15

The Developers should have and could have learned of the reserve contributions for the above-listed projects through its property manager. The average reserve contribution for the above-listed projects is \$160.80/unit. The Developer also knew or should have known that the reserve contribution disclosed for Ke Kilohana in the Public Report was 68% lower than the reserve contribution for its other projects in Kaka‘ako.

Howard Hughes Association Name	Floors	Total Units	Annual Reserve Contribution	Average Per Unit
A‘ali‘i	42	752	\$407,280	\$45.13
Waiea	36	178	\$454,956	\$212.99

⁵ This exhibit is attached as Exhibit “3” to this Petition.

Anaha	39	320	\$349,980	\$87.23
A'eo	42	471	\$298,488	\$52.81
Victoria Place	40	350	\$553,368	\$131.75
Ke Kilohana	42	424	\$173,740	\$34.15

Given that the Developers could have or should have known that the reserve contribution was gravely understated, the Developers did not provide its estimated budget in good faith as required by HRS §514B-9. Likewise, the Developer's failure to disclose accurately the required reserve contribution runs afoul of HRS §514B-83(a)(8) which requires the disclosure of any "facts, documents or information that would have a material impact on the use or value of a unit." Finally, the Developer's failure to provide a reserve contribution estimate that is proportional to their prior projects and/or to other condominium projects that should have been known to their property manager violated HRS §514B-60 which prohibits the inclusion of false or misleading information in public reports.⁶

⁶ HRS §514B-60 states: "It shall be unlawful for any person or person's agent to testify falsely or make a material misstatement of fact before the commission or to file with the commission any document required by this chapter that is false, contains a material misstatement of fact, or that contains forgery. All documents shall be true, complete, and accurate in all respects, including the developer's public report, prepared by or for the developer and submitted to the commission in connection with the developer's registration of the project, and all information contained in the documents, and shall not contain any misleading information, or omit any pertinent change in the information or documents submitted to the commission."

The increases in the 2020 budget were due to the fact that the Developer had lowballed the expenses so as to meet its objective of assessing a certain amount per square foot in maintenance fees and the Developer made inaccurate statements in the Public Report. Developer has since filed a Third-Party Complaint against Hawaiiana Management Company, the entity reportedly preparing and certifying the budget alleging in effect that the submitted budget was all based on information and or reports prepared by Hawaiiana and that if Hawaiiana's information or reports were incorrect and or contained intentional and negligent misrepresentations that misrepresentation occurred. The Association has not made such claims against Hawaiiana, only 988 Halekauwila LLC, the Hughes controlled development entity. The Third-Party Complaint is attached to this Petition as Exhibit "4."

9. The Developers Have Also Failed To Provide Adequate Parking For The Reserved Housing Units At Ke Kilohana

Under Section 15-22-67 of the Vested Rules, developers must provide off-street parking. All required parking spaces must be standard-sized, as defined by the Vested Rules, except that up to fifty percent (50%) of those parking stalls for dwelling units may be compact spaces. Haw. Admin. Rules 15-22-67(b)(4).

At Ke Kilohana, Developers built a parking structure for residents and visitors with 589 parking stalls in a manner that maximized the number of parking spaces by minimizing parking space size to the point that many stalls do not in fact

meet HCDA requirements. So far, the Petitioner has identified approximately forty (40) parking spaces that fail to meet the minimum standards under Section 15-22-67 of the Hawai'i Administrative Rules which govern development under Ward Master Plan.

The parking spaces at Ke Kilohana are unreasonably narrow and contain excessive, problematic obstructions, including columns, and pipes, that impede into the parking spaces and residents' ability to park and open doors. Residents do not have enough space to pull in or out of parking spaces and cannot reasonably load or unload their vehicles. Due to the minimal parking space width and maneuverability, numerous residents have reported damage to cars from hitting obstructions or adjacent parked cars. Residents also report being unable to reasonably get in or out of their car; drivers and passengers have had to climb out of other car doors or the trunk in order to exit their vehicles. Due to the inadequately sized parking spaces, residents are required to load and unload their vehicles in the driveways—including groceries and child seats—creating traffic congestion and significant safety hazards for themselves and their children.

The buyers were not aware of the parking stall dimensions and obstructions until they moved in. Perhaps given that they were aware of the inadequacy of the parking spaces, Developers prevented prospective homeowners from viewing their unit's assigned parking space prior to purchasing their home. In fact, buyers were

blocked from even having access to the parking lot during their home inspections. The condominium map for the project, even if it were shared with prospective buyers prior to closing escrow, would not have disclosed the extent to which the parking stalls were inadequate. The condominium map does not specify the parking stall dimensions and does not show the number and type of intrusions and obstructions in the parking stalls. Once multiple residents discovered the pervasive inadequate parking issues, the Petitioner sought relief from the Developers to no avail.

Developers retained 34 parking spaces at the time they transferred units to residents. Developers could have provided these spaces to the Ke Kilohana

homeowners to help alleviate some of the parking issues. Instead, Developers chose to sell off the remaining parking spaces it owned last year.

Currently, the Petitioner is seeking 225 additional parking spaces near the building in order to correct the Developers' failure to provide minimally suitable parking.

10. The Developers Are Seeking HCDA Approval Of Two Permit Applications As Phase 3 Under the Ward Master Plan

The second phase of the Ward Master Plan consisted of following projects which have all been approved by the HCDA: Aeo; Aalii; Koula; and Victoria Place. All approvals for the second phase of the Ward Master Plan were granted without consideration of the Developers' continuing failure to actually provide affordable housing as part of the Ke Kilohana project.

This year, as part of the third phase of the Ward Master Plan, Developers are seeking HCDA approval for two permit applications in a set of consolidated hearings. The first permit application is for a project called Ulana Ward Village within in Land Block 5, the same land block as Ke Kilohana. Ulana is purportedly a multi-family project dedicated exclusively to Reserved Housing consisting of 679 Reserved Housing units along with commercial and light industrial space and associated off-street parking with 1,235 parking stalls . The Developers say that Ulana is designed to meet the requirements for reserved housing to date and to

provide reserved housing credits for future developments under the Ward Master Plan. Park Village is a mixed-use high-rise development proposed for Land Block 1 consisting of 546 residential units, ground floor retail space, expansion of Victoria Ward Park and off-street parking. 960 off-street parking stalls are planned for residential, guest and retail use.

The staff report on the Park Village project assumes that the Developers “have provided 375 reserved housing units in the Ke Kilohana project” and will have a surplus credit of “approximately 362 reserved housing units” that will be “available to offset the reserved housing requirements for future projects.”

Development Permit KAK 21-002 Presentation Hearing Staff Report page 15 of 17. The same assumption is made in the staff report on the Ulana project.

As set forth in this Petition, the units designated as Reserved Housing at Ke Kilohana are not in fact affordable under the HCDA’s criteria and thus, these units should not be deemed eligible for reserved housing credits that can offset the

requirements for these pending projects or for future projects, unless and until the Developer takes corrective action.

Further, either one of the new proposed projects could provide the parking spaces that the Petitioner requires to address the Developers' failure to provide adequate parking at Ke Kilohana.

11. The Petitioner, An Association Of Homeowners, Will Be Injured If This Violation Is Not Addressed By The HCDA

As explained above, Developers—by hiding the true costs of the maintenance of the building—have violated the Authority's rules for Reserved Housing by ensuring that low- to moderate-income purchasers (including those who qualified and purchased units in Ke Kilohana) are actually unable to afford such units.

The Petitioner will be injured if Developers do not take corrective action. Many unit owners may default on their payments and the Petitioner will incur negative consequences as a result. In addition, the Petitioner's members who purchased reserved affordable housing units are bound by restrictions on their ability to sell their units. *See* Section 15-22-186 of the Vested Rules.

B. THE HCDA HAS THE POWER TO ACT UPON THIS PETITION

The HCDA has the authority and jurisdiction to act upon this declaratory relief petition. HRS §§ 91-8, 206E-4, 206E-5, 206E-5.6, 206E-7, and 206E-33.

See Hawai‘i Administrative Rule §§ 15-219-83, 15-219-84.

1. The HCDA Has The Power To Issue Declaratory Relief Orders

Under HRS §91-8 and Hawai‘i Administrative Rules §§ 15-219-83 and 15-219-84, the HCDA may issue declaratory relief. HRS § 91-8 sets forth a declaratory ruling procedure available to “secure from an agency its interpretation of relevant statutes, rules and the agency’s orders” or “resolv[e] interparty disputes.” *Fasi v. State Public Emp’t Relations Bd.*, 60 Haw. 436, 444, 591 P.2d 113, 118 (1979); *see also* HAR § 15-219-83(a) (“Any interested person or governmental agency may petition the authority for a declaratory order as to the applicability of any statutory provision or rule or other of the authority”). Section 91-8 is meant to provide a means of seeking a determination of whether, and in what way, a statute, agency rule, or order applies to the factual situation raised by an interested person. “[I]nterested persons are those ‘affected’ by, or ‘involved’ with, the applicability of ‘any statutory provision or of any rule or order of the agency.’” *AlohaCare v. Ito*, 126 Hawai‘i 326, 360, 271 P.3d 621, 655 (2012) (internal citations and footnote omitted).

The Association brings this declaratory relief petition as an “interested person”⁷ pursuant to HRS § 91-8 and HAR § 15-219-83(a). The Association and

⁷ “Persons” is defined broadly to include “individuals, partnerships,

its members are affected by the relevant statutes, rules, and HCDA's prior orders governing Reserved Housing Requirements in Ke Kilohana. If the HCDA does not ensure Developers compliance with relevant statutes, rules, and prior orders concerning affordable housing requirements, then the Association and its members will suffer an actual and threatened injury as a result.

The Association would be relieved of its injury if HCDA were to find that (1) its prior orders were violated by Developers' failure to comply with the permit conditions and the HCDA's affordability criteria; (2) the Developers did not comply with Section 15-22-67 of the Vested Rules in providing parking for Ke Kilohana, and (2) Developers are responsible for ensuring that these violations are corrected.

2. The HCDA Has Broad Powers To Enforce The Conditions That It Imposes Upon Permits And Its Administrative Rules

The HCDA's powers are not limited to providing declaratory relief. In fact, the HCDA has the general authority to enforce its administrative rules for community development districts under its jurisdiction. HAR § 15-219-97; HRS §§ 91-2, 206E-4, 206E-22. The HCDA has the power to issue a notice of violation that requires the violator to:

- (1) Cease and desist from the violation;

corporations, associations, or public or private organizations of any character other than agencies." HRS § 91-1.

- (2) Correct the violation at the violator's own expense on or before a date specified in the citation;
- (3) Pay a fine as determined in accordance with section 15-219-101 in the manner, place, and date specified in the notice if the violation persists after the date specified to correct the violation;
- (4) Pay a fine as determined in accordance with section 15-219-101 for each day in which the violation persists after the date specified to correct the violation; and
- (5) Pay for administrative costs incurred by the authority in the preparation of the notice of violation and citation and the collection of fines.

HAR § 15-219-99.

Where a permit condition has been violated, the HCDA's rules provide that, 30 days is the standard amount of time given to take corrective action to address a violation of a permit condition. HAR § 15-219-100.

Furthermore, the HCDA has the right to employ "other remedies available to HCDA" under the development agreement for Ke Kilohana where Developers have failed to develop the Project as agreed. *See* Joint Development Agreement for Land Block 5 of the Ward Master Plan, page 2, paragraph 4. New permit approvals should be suspended until the Developers take corrective action as to Ke Kilohana.

3. The HCDA Has The Power to Enforce Compliance with the Ward Master Plan Permit

The Ward Master Plan Permit, and all of the aforementioned Development Permits obtained under the master plan permit, are governed by the Vested Rules. Under Section 15-22-206 of the Vested Rules, the HCDA has the power to enforce

the terms and conditions of the approval of the Ward Master Plan. Section 15-22-206 of the Vested Rules states:

(a) The authority may *at any time conduct a review of compliance with the terms and conditions of a master plan approval*, provided that such a review shall be required upon petition by the landowner for an extension of the effective period of the master plan approval.

(b) If, as a result of a review, the executive director finds and determines that the terms and conditions of approval have not or are not being met, the executive director shall, within ten days of this finding, *notify the landowner in writing*, setting forth the specific default and the evidence supporting the finding and determination, and provide the landowner a *reasonable time period within which to correct the default*.

C. THE HCDA SHOULD DECLARE THAT MAINTENANCE FEES FOR COMMON EXPENSES AND ADEQUATE RESERVES CONSTITUTE ONE COMPONENT OF “MONTHLY PAYMENTS” FOR PURPOSES OF HAR §15-22-185.1(A)(2)

Petitioner seeks a declaratory order confirming that maintenance fees sufficient to cover common expenses and reserve funds must be considered when evaluating whether a developer has in fact provided reserved housing that meets the HCDA’s affordability requirements. In other words, a declaration is sought confirming that the maintenance fees are included within the term “monthly payments” in HAR §15-22-185.1(a)(2) of the Vested Rules concerning affordability criteria.

In order to ensure that applicants can afford to purchase Reserved Housing units,⁸ the HCDA's administrative rule concerning affordability states: "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 percent of gross monthly income." HAR §15-22-185.1(a)(2).

The bylaws of the condominium property regime for Ke Kilohana require certain fees and costs such as common area expenses;⁹ as well as assessments for reserve funds such as replacement reserves for capital upgrades and operating reserves.¹⁰ Moreover, a recent February 2021 report prepared by PBR Hawaii & Associates, Inc. and submitted to the HCDA to support the permit application for

⁸ The HCDA prescribes specific requirements for Developers pricing of the units based upon income level of the Reserved Housing units of the applicants. The HCDA created eligibility requirements for Reserved Housing applicants to ensure that Reserved Housing would be awarded to applicants who are deserving of the Reserved Housing units (based on income and intent to reside in the unit) and are also based on the ability to afford the unit (which requires a determination of how much the applicant's income would be allocated toward the housing cost). To qualify to purchase a Reserved Housing Unit, an applicant's adjusted household income cannot exceed 140% of the medium income and the applicant's assets cannot exceed 125% of the applicable income limit. HAR § 15-22-184.

⁹ Bylaws of the Association of Unit Owners of 988 Halekauwila, article V, Section 1(I), attached to this Petition as Exhibit "2".

¹⁰ Bylaws of the Association of Unit Owners of 988 Halekauwila, article VI, Section 2(B) attached to this Petition as Exhibit "2".

Ulana Ward Village confirms that maintenance fees must be considered as part of the affordability mix as follows:

In the reserved housing market, housing expenses are capped in relation to household income. **Thus, every dollar spent on monthly maintenance fees is one that cannot be put toward a mortgage.** Amenities directly affect the quality and amount of housing one can purchase, and therefore the equity that will be accumulated.¹¹

Given that the bylaws for this condominium property regime require that fees and costs for common area expenses and reserve funds be assessed to the homeowners in the association, the HCDA should declare that the monthly maintenance fees sufficient to pay for common expenses and reserves at the Ke Kilohana project constitute “monthly payments” under HAR §15-22-185.1(a)(2).

D. THE HCDA SHOULD DECLARE THAT THE DEVELOPERS ARE IN VIOLATION OF PERMIT CONDITIONS

The Developers are in violation of the reserved housing permit conditions in the permits and Master Plan. Developers grossly underestimated the monthly payments necessary to pay for common expenses and to provide for adequate reserves at Ke Kilohana. The Developers’ estimated budget informed the cost requirements for the reserved affordable housing units and inherently the price at

¹¹ Page 9 of “Ulana Ward Village: Select Reserved Housing Market Issues” Prepared By PBR Hawaii & Associates, Inc., Exhibit U-16 found at <https://dbedt.hawaii.gov/hcda/files/2021/03/FINAL-EXHIBIT-U-16-Ann-Bouslog-Ph.D.-Report-Ulana-Ward-Village919227.1.pdf>

which Developers could sell the units. Developers' estimated budget contained grossly underestimated line items resulting in the Association's inability to cover basic common expenses, let alone maintain any reserve funds. For example, Developers undervalued the budget necessary to cover electricity reimbursements; payroll expenses for services vital to the upkeep and safety of the building such as maintenance, housekeeping, and security. These services are reasonably necessary for the standard upkeep of a building such as Ke Kilohana. Importantly, although Developers estimated that the reserves would be funded at a rate of approximately \$14,000 per month, no funds were in fact diverted to the reserve because basic operating expenses were not covered. As a result, the Association was forced to increase total monthly assessment payments by 53.44% for the all unit owners, including those who purchased the 375 reserved affordable housing units in the building. Developers' failure to account for the true cost of the common expenses and to adequately maintain reserve funds has resulted in a sharp increase in monthly payments owed by the Petitioner's members, far in excess of the affordability criteria set by the HCDA. Given that applicants cannot pay more than 33% of their gross monthly income on monthly payments including Maintenance Fees, the Reserved Housing Units are not affordable as that term is defined by the rules.

In addition, the Developers also violated HAR §15-22-185.1(a)(2). Section 15-22-185.1(a)(2) provides that the sales price for the reserved housing units

should be set based on the assumption that the down payment shall not exceed ten (10%) percent. Several homeowners were required to put more than ten percent (10% down) in contravention of HAR §15-22-185.1(a)(2).

Finally, the Developers violated the aspect of the Vested Rules which require adequate off-street parking. The parking structure for the Ke Kilohana project contains many parking stalls that are too small, under the standards set by the Vested Rules. The parking structure does not have enough room to create the required amount of parking stalls if the stalls are re-striped so as to comply with the standards set by the Vested Rules. The Petition asks that the HCDA take corrective action so as to provide at least one standard sized parking stall per unit designated as Reserved Housing.

E. THE HCDA SHOULD DETERMINE THE PROPER CORRECTIVE ACTION FOR THE VIOLATIONS OF THE RESERVED HOUSING AND PARKING REQUIREMENTS AND ESTABLISH A DEADLINE FOR ACHIEVING COMPLIANCE

Petitioners seeks a finding by the HCDA that Developers are responsible for taking corrective action to ensure that Reserved Housing units are in compliance with the HCDA's affordability guidelines. As the Authority has the power to ensure Developers' compliance with its rules on affordable housing, the Authority should order Developers to take specific corrective actions in this matter. The HCDA should also set a reasonable deadline for compliance with its orders

concerning the permit conditions requiring the provision of Reserved Housing units at Ke Kilohana. Under the HCDA's rules, violators are typically given 30 days to cure violations of permit conditions. *See* HAR § 15-219-100(a). Under Section 15-219-100(a), the HCDA should require Developers to take corrective action: (a) so as to make the Reserved Housing units at Ke Kilohana affordable under the rules for at least the Regulated Terms applicable to the Reserved Housing units at issue in this petition; and (b) to provide adequate parking for Ke Kilohana residents.

VII. WHETHER A HEARING IS REQUESTED AND IF SO, REASONS WHY MATTERS ALLEGED IN THE PETITION, TOGETHER WITH SUPPORTING LEGAL MEMORANDA, WILL NOT PERMIT THE FAIR AND EXPEDITIOUS DISPOSITION OF PETITION

Petitioner requests a hearing. A hearing is necessary to: (1) allow Petitioner to set forth a full and complete record of the evidence supporting a determination that Developers have violated the affordable housing permit conditions; (2) to provide evidence concerning the corrective action necessary; and (3) to develop a full and complete record to allow for the relief requested by the Petitioner. The fair and expeditious disposition of the petition cannot be resolved based on the matters set forth in this petition alone.

The Petitioner has a due process right to a hearing on this petition. Where, as here, an interested party seeks administrative review of permit conditions of importance to the interested party, the interested party is entitled to heightened

procedural protections including notice and an opportunity to be heard. *See Unite Here! Local 5 v. Dep't of Planning & Permitting/Zoning Bd. Of Appeals*, 145 Haw. 453, 467 (2019) (union had a due process right to a hearing on modifications to conditions set forth in a permit). The permit conditions requiring the provision of Reserved Housing are of importance to the Association and its members, as a majority of the members purchased Reserved Housing units. In addition, to the Petitioner has an interest in ensuring that adequate off-street parking is provided to its members.

VIII. CONCLUSION

Developers obtained approval of several Ward Village projects including Ke Kilohana, Anaha and Waiea, based on the representation that Ke Kilohana would satisfy the quota for Reserved Housing units for all of Developers' Kaka'ako developments pending approval at the time. As a result, Howard Hughes was allowed to develop separate, more expensive developments such as Anaha and Waiea in Kaka'ako without Reserved Housing units ("Luxury Projects"). Now, Developers seek approval of two more projects – Ulana Ward Village and Park Village – based on the representation that they provided a number of Reserved Housing units at Ke Kilohana and will be delivering a surplus of Reserved Housing units with the completion of Ulana. This Petition seeks redress for the fact that the

owners of the units designated as Reserved Housing have not received homes that are affordable under the HCDA's guidelines, for all the reasons set forth above.

This Petition seeks decisive action from the HCDA, consistent with its mandate to adopt and enforce rules that will increase affordable housing supply for moderate-income and low-income Hawai'i residents and to ensure that Kaka'ako realizes its potential as a neighborhood that alleviates, rather than exacerbates, the community need for affordable housing. HRS §§ 206E-3, 206E-31, 206E-33. The HCDA's duty has never been more critical than now where our housing prices have skyrocketed and economic opportunities have plummeted in the wake of a once-in-a-century global pandemic. The Developers should be ordered to take all steps necessary to make Ke Kilohana "affordable" as set forth in the Vested Rules before they obtain permitting and approval to build further units.

DATED: Honolulu, Hawai'i, May 4, 2021.



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Association of Unit Owners of 988
Halekauwila



HAWAII COMMUNITY
DEVELOPMENT AUTHORITY



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Ref. Nos.: KAK 13-036/
KAK 13-037/KAK 13-038

August 17, 2015

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Douglas Ing, Esq.
Emi Kaimulua, Esq.
Watanabe Ing LLP
First Hawaiian Center
999 Bishop Street, 23rd Floor
Honolulu, Hawaii 96813

Dear Mr. Ing and Ms. Kaimulua:

Re: In re Motion of Victoria Ward, Limited, Applicant, for an
Order of Amendment to Development Permit Nos. KAK
13-036, KAK 13-037 and KAK 13-038 and to Extend
Time of Effective Period of Permit KAK 13-038

Enclosed is a certified copy of the Order of the Hawaii Community
Development Authority ("HCDA") of the State of Hawaii Findings of Fact,
Conclusions of Law, and Decision and Order Granting in Part and Denying in Part
Victoria Ward, Limited's ("VWL") Motion to Amend Development Permit Nos.
KAK 13-036, 13-037, and 13-038 to Allow Sale and/or Rental of Reserved
Housing Units and to Extend Time of Effective Period for Permit KAK 13-038 on
file at the HCDA. Pursuant to Hawaii Revised Statutes ("HRS") Section
206E-5.6(h), VWL has thirty (30) days to seek judicial review of this decision in
accordance with HRS Section 91-14.

If you should have any questions regarding this matter, please contact
Mr. Deepak Neupane, P.E., AIA, Director of Planning and Development, at
594-0338.

Sincerely,

Aedward Los Banos
Acting Executive Director

ALB/DN:ak
Enc.

EXHIBIT "1"

AUG 19 2015

RECEIVED

2015 AUG 17 AM 11 16

ORDER

OF THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY
OF THE STATE OF HAWAII

HAWAII COMMUNITY
DEVELOPMENT
AUTHORITY

In re Motion of

Victoria Ward, Limited,

Applicant,

For an Order of Amendment to Development
Permit No. KAK 13-036

File No.: PL MASP 13.1.3
PD Permit No. KAK 13-036
[Consolidated with PD Permit Nos. KAK
13-037 and KAK 13-038]

FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND DECISION AND ORDER
GRANTING IN PART AND DENYING IN
PART VICTORIA WARD, LIMITED'S
MOTION TO AMEND DEVELOPMENT
PERMIT NOS. KAK 13-036, 13-037, AND
13-038 TO ALLOW SALE AND/OR
RENTAL OF RESERVED HOUSING UNITS
AND TO EXTEND TIME OF EFFECTIVE
PERIOD OF PERMIT KAK 13-038

In re Motion of

Victoria Ward, Limited,

Applicant,

For an Order of Amendment to Development
Permit No. KAK 13-037

PD Permit No. KAK 13-037

In re Motion of

Victoria Ward, Limited,

Applicant,

For an Order of Amendment to Development
Permit No. KAK 13-038 and to Extend Time
of Effective Period of Permit KAK 13-038

PD Permit No. KAK 13-038

*I do hereby certify that this is a full, true, and
correct copy of the original on file in this office.*



Secretary, Hawaii Community
Development Authority

AUG 19 2015

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION
AND ORDER GRANTING IN PART AND DENYING IN PART VICTORIA WARD,
LIMITED'S MOTION TO AMEND DEVELOPMENT PERMIT NOS. KAK 13-036,
13-037, AND 13-038 TO ALLOW SALE AND/OR RENTAL OF RESERVED HOUSING
UNITS AND TO EXTEND TIME OF EFFECTIVE PERIOD OF PERMIT KAK 13-038**

On February 23, 2015, Victoria Ward, Limited ("VWL") filed a Motion to Amend Development Permit Nos. KAK 13-036, 13-037, and 13-038 to Allow Sale and/or Rental of Reserved Housing Units and to Extend Time of Effective Period of Permit KAK 13-038 ("Motion"), pursuant to Hawaii Administrative Rules ("HAR") §§15-219-32 and 15-22-118(c). In the Motion, VWL requested: (1) an amendment to Planned Development Permit Nos. KAK 13-036, KAK 13-037, and KAK 13-038 (collectively, the "Development Permits") to allow the satisfaction of reserved housing requirements through the sale and/or rental of reserved housing units to be developed as part of Development Permit No. KAK 13-038; and (2) a two-year extension of the effective period of Development Permit No. KAK 13-038 to allow construction on the 988 Halekauwila Project ("Halekauwila Project").

The Hawaii Community Development Authority ("HCDA" or the "Authority"), having heard and examined the testimony, evidence, and argument of counsel, which were presented during the hearings, and having taken judicial notice of the records and files of the respective dockets for the Master Plan Permit (PL MASP 13.1.3) and Development Permits, hereby makes the following Findings of Fact, Conclusions of Law, and Decision and Order.

FINDINGS OF FACT

Any Findings of Fact submitted by VWL not ruled upon by the Authority by adoption herein or rejected by clearly contrary findings of fact are hereby denied and rejected.

BACKGROUND

1. On January 14, 2009, the Authority approved the Nunc Pro Tunc Order Re: Hearing Officer's Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit for the Ward Neighborhood Master Plan area ("WNMP Permit"), which is owned and controlled by VWL. See WNMP Permit.

2. The properties subject to the WNMP Permit are located within the Mauka Area of the Kakaako Community Development District ("KCDD"). See WNMP Permit.

3. Finding of Fact No. 74 of the WNMP Permit provides in pertinent part:

Under the Master Plan, Petitioner has proposed to meet the 20% reserved housing requirement by providing the units on- or off-site within Kakaako, or elsewhere as permitted. While the current requirement is to build reserved housing for families whose incomes are no more than 140% of the annual median household income, Petitioner has offered to provide 10% (or one-tenth) of the units that will fulfill the reserved housing requirement for families at 100% of the annual median household income.

See WNMP Permit.

4. Finding of Fact No. 75 of the WNMP Permit provides, "[t]he reserved housing unit mix, as well as the provision for delivery of the reserved housing, need not be determined at the master planning stage; instead, these issues are more appropriately determined at the project development stage." See WNMP Permit.

5. Pursuant to Condition No. 9 of the WNMP Permit, VWL was required to "satisfy its reserved housing requirement for the Master Plan area, which shall be equal to twenty-percent of the total number of residential units proposed for the Master Plan area, as permitted by the Mauka Area Rules." See WNMP Permit.

6. At no time did VWL appeal from or otherwise object to the terms and conditions of the WNMP Permit.

7. The WNMP Permit and all planned development permits obtained thereunder are vested under HAR Chapter 15-22, Mauka Area Rules of the KCDD (hereinafter, "Vested Rules"). See WNMP Permit.

8. On April 18, 2013, VWL submitted its Development Permit Application numbered KAK 13-038 ("KAK 13-038 Application") for the Halekauwila Project, located at 988 Halekauwila on Land Block 5, Project 1 under the WNMP Permit. See KAK 13-038 Application.

9. In the KAK 13-038 Application, VWL requested that the Authority approve, among other things, VWL's proposal to provide a total of 375 units as reserved housing in the Halekauwila Project, 106 units of which would be used to satisfy the Halekauwila Project's reserved housing requirement. See KAK 13-038 Application, Exhibit C-5, p. 1.

10. In the KAK 13-038 Application, VWL noted that the remaining 269 reserved housing units are intended to satisfy the reserved housing requirements generated by other WNMP projects, including VWL's anticipated projects on Land Blocks 2 and 3. See KAK 13-038 Application, Exhibit A-2, p. 4 and Exhibit C-5, pp. 6-7.

11. VWL did not request the ability to provide 375 reserved housing units for "rental and/or sale" in the Halekauwila Project. See KAK 13-038 Application.

12. In the KAK 13-038 Application, VWL represented that sales of the units in the Halekauwila Project were expected to commence in the second half of 2013. See KAK 13-038 Application, Exhibit C-1, p. 1.

13. On July 17, 2013, the Authority adopted the HCDA Staff Report, Findings, and Recommendation (“Staff Report”) and approved Development Permit No. KAK 13-038, subject to certain terms and conditions (hereinafter, “988 Halekauwila Permit”). See 988 Halekauwila Permit.

14. The Staff Report, which was incorporated in the 988 Halekauwila Permit, provides in relevant part:

Staff finds that the Project consists of 424 residential units and therefore the reserved housing requirement for the Project is to provide 106 residential units as reserved housing units. The Applicant is proposing to set aside 375 residential units as reserved housing units in the Project. The Project will generate a reserved housing credit of 269 units for the Applicant that could be utilized to fulfill the reserved housing requirements for other planned developments proposed by the Applicant within the KCDD.

See 988 Halekauwila Permit.

15. The 988 Halekauwila Permit further provides:

III. RESERVED HOUSING: The Applicant shall comply with the provisions of the Reserved Housing subsection in the Chapter 22, Kakaako Mauka Area Rules (“Vested Rules”). The Project consists of 424 residential units. Twenty percent (20%) of the total residential units, which translates to a total of 106 units, shall be required to meet the reserved housing provisions of the Vested Rules. **The Applicant shall provide 375 units as reserved housing for sale.** A credit of 269 reserved housing units in excess of the required 106 reserved housing units for the Project is hereby acknowledged. The Applicant shall have the right to utilize excess reserved housing credit to fulfill reserved housing requirements for

other planned development projects containing multi-family dwelling units.

Reserved housing shall be designated for residents in the low-income or moderate-income ranges who meet eligibility requirements. The regulated term for reserved housing units for sale shall be established based on unit affordability as set forth in §15-22-186(b) of the Vested Rules and shall begin on the date of issuance of Certificate of Occupancy.

In accordance with the provisions of §15-22-183 of the Vested Rules, the Applicant or its designated representative is permitted to be responsible for advertising, qualifying, and selecting prospective reserved housing buyers subject to Subchapter 7 of the Vested Rules.

Within ninety (90) days from the date of this Development Permit, the Applicant shall prepare and submit to the HCDA Executive Director a program for sale of reserved housing for approval. Such sale of reserved housing shall be consistent with the provisions of §15-22-183 of the Vested Rules.

Delivery of reserved housing shall be required prior to the issuance of the initial Certificate of Occupancy for the Project and shall be secured by the Applicant with a financial guaranty bond from a surety company authorized to do business in Hawaii, an acceptable construction set-aside letter, or other financial instruments acceptable to the Authority prior to approval of the initial Building Permit by the Authority.

(Emphasis added).

16. At no time did VWL appeal from or otherwise object to the terms and conditions of the 988 Halekauwila Permit.

17. On April 18, 2013, VWL submitted its Development Permit Application numbered KAK 13-037 (“KAK 13-037 Application”) to the HCDA for Land Block 3, Project 1 (“Land Block 3 Project”) under the WNMP Permit. See KAK 13-037 Application.

18. In the KAK 13-037 Application, VWL noted that it intended to satisfy the reserved housing requirement generated by the Land Block 3 Project by providing an estimated 80 units as reserved housing in the Halekauwila Project. See KAK 13-037 Application, Exhibit A-2, p. 5.

19. On April 19, 2013, VWL submitted its Development Permit Application numbered KAK 13-036 (“KAK 13-036 Application”) for its Land Block 2, Project 1 (“Land Block 2 Project”) under the WNMP Permit. See KAK 13-036 Application.

20. In the KAK 13-036 Application, VWL noted that it intended to satisfy the reserved housing requirement generated by the Land Block 2 Project by providing an estimated 45 units as reserved housing in the Halekauwila Project. See KAK 13-036 Application, p. 5.

21. On August 21, 2013, the HCDA approved Development Permit No. KAK 13-037, subject to certain terms and conditions (hereinafter, “Land Block 3 Permit”). See Land Block 3 Permit.

22. The Land Block 3 Permit requires the provision of “eighty (80) units as reserved housing for sale.” See Land Block 3 Permit.

23. The Land Block 3 Permit further provides:

Within ninety (90) days from the date of this Development Permit, the Applicant shall prepare and submit to the HCDA Executive Director a program for sale of reserved housing for approval. Such sale of reserved housing shall be consistent with the provisions of §15-22-183 of the Vested Rules.

Delivery of reserved housing shall be required prior to the issuance of the initial Certificate of Occupancy for the Project and shall be secured by the Applicant with a financial guaranty bond from a surety company authorized to do business in Hawaii, an acceptable

construction set-aside letter, or other financial instruments acceptable to the Authority prior to approval of the initial Building Permit by the Authority.

See Land Block 3 Permit.

24. At no time did VWL appeal from or otherwise object to the terms and conditions of the Land Block 3 Permit.

25. On August 21, 2013, the HCDA approved Development Permit No. KAK 13-036, subject to certain terms and conditions (hereinafter, "Land Block 2 Permit"). See Land Block 2 Permit.

26. The Land Block 2 Permit requires the provision of "forty-five (45) units as reserved housing for sale." See Land Block 2 Permit.

27. The Land Block 2 Permit further provides in pertinent part:

Within ninety (90) days from the date of this Development Permit, the Applicant shall prepare and submit to the HCDA Executive Director a program for sale of reserved housing for approval. Such sale of reserved housing shall be consistent with the provisions of §15-22-183 of the Vested Rules.

Delivery of reserved housing shall be required prior to the issuance of the initial Certificate of Occupancy for the Project and shall be secured by the Applicant with a financial guaranty bond from a surety company authorized to do business in Hawaii, an acceptable construction set-aside letter, or other financial instruments acceptable to the Authority prior to approval of the initial Building Permit by the Authority.

See Land Block 2 Permit.

28. At no time did VWL appeal from or otherwise object to the terms and conditions of the Land Block 2 Permit.

29. On October 16, 2013, VWL submitted to HCDA a program for the sale of reserved housing units for its review and approval.

30. As of this date, the Authority is not aware of any violations of the terms and conditions of the Development Permits.

PROCEDURAL HISTORY

31. On February 23, 2015, VWL submitted its Motion.

32. On March 7, 2015, the HCDA posted the Motion on its website.

33. On March 7, 2015, the Notice of Public Hearings was published in the Star-Advertiser.

34. The President of the Senate and Speaker of the House of Representatives were notified upon the posting of the hearing notice. Associations of apartment owners of residential buildings in the KCDD adjacent to each of the three projects, surrounding landowners and businesses, the Ala Moana/Kakaako Neighborhood Board, and the Kakaako Improvement Association were notified of the public hearings. Various elected officials and State and County agencies were also notified of the public hearings. Hearing notice was also provided to approximately 393 individuals and organizations that have shown interest in development activities in the KCDD.

35. On March 7, 2015, VWL sent a notification by first class United States mail, postage prepaid, to the owners and lessees of record of real property located within a 300-foot radius of the perimeter of each of the three of the projects that are associated with the Development Permits identified from the most current list available from the Real Property

Assessment Division of the Department of Budget and Fiscal Services in the City and County of Honolulu. See Victoria Ward, Limited's Certification Re: Notification To Owners and Lessees of Record of Real Property Located Within a Three Hundred Foot Radius Pursuant to HRS 206E-5.5, filed March 23, 2015.

36. As set forth in the Notice of Public Hearings, the deadline to intervene was March 30, 2015. No motion for intervention was filed.

37. On April 2, 2015, a pre-hearing conference was held at HCDA's office at 547 Queen Street, Honolulu, Hawaii 96813.

38. On April 2, 2015, a Pre-Hearing Order was issued, requiring the submission of witness lists, exhibits lists, and exhibits by no later than April 6, 2015.

39. On April 6, 2015, VWL submitted its witness list, exhibit list, and exhibits pursuant to the Pre-Hearing Order.

40. On April 6, 2015, the Authority posted notice on its website that the Supplemental Public Comment Sessions would occur on Saturday, April 11, 2015 at 10:00 a.m. and Tuesday, April 14, 2015 at 5:30 p.m.

41. On April 8, 2015, a public hearing was held at the HCDA's office at 547 Queen Street, Honolulu, Hawaii 96813, to allow VWL to present the Motion and to afford the public with the opportunity to present written or oral testimony on the Motion ("April 8, 2015 hearing").

42. At the April 8, 2015 hearing, the Authority admitted into evidence the following exhibits: Exhibit 1 – Concord Group Chart; and Exhibit 2 - Slide Presentation.

43. At the April 8, 2015 hearing, VWL presented the testimony of Race Randle, Vice President of Development for The Howard Hughes Corporation.

44. For the April 8, 2015 hearing, HCDA received 8 written public testimonies: 7 in support of granting the Motion and 1 providing comments only.

45. At the April 8, 2015 hearing, 8 members of the public provided oral testimony: 7 in support of granting the Motion and 1 in opposition.

46. On April 9, 2015, VWL filed its Proposed Findings of Fact, Conclusions of Law, and Decision and Order re: Victoria Ward, Limited's Motion to Amend Development Permit Nos. KAK 13-036, 13-037, 13-038 to Allow Sale and/or Rental of Reserved Housing Units and to Extend Time of Effective Period of Permit KAK 13-038.

47. On April 11, 2015 and April 14, 2015, the Supplemental Public Comment Sessions were held at HCDA's office at 547 Queen Street, Honolulu, Hawaii 96813.

48. On April 22, 2015, a second public hearing on the Motion was held at HCDA's office at 547 Queen Street, Honolulu, Hawaii 96813, to afford the public an opportunity to present written or oral testimony on the Motion prior to the Authority engaging in decision-making ("April 22, 2015 hearing").

49. At the April 22, 2015 hearing, VWL requested and was granted leave by the Authority to present additional evidence pursuant to HAR §15-219-52(c). The Authority admitted into evidence Exhibit 3 – Slide Presentation.

50. At the April 22, 2015 hearing, VWL presented the testimony of Race Randle, Vice President of Development for The Howard Hughes Corporation, and David Striph, Senior Vice President – Hawaii for The Howard Hughes Corporation.

51. For the April 22, 2015 hearing, HCDA received 279 written public testimonies: 278 in support of granting the Motion and 1 in opposition.

52. At the April 22, 2015 hearing, 14 members of the public provided oral testimony: 13 in support of granting the Motion and 1 in opposition.

53. At the request of VWL to continue decision-making, the Authority continued decision-making on the Motion to May 13, 2015.

54. On April 29, 2015, VWL filed its First Amended Proposed Findings of Fact, Conclusions of Law, and Decision and Order re: Victoria Ward, Limited's Motion to Amend Development Permit Nos. KAK 13-036, 13-037, 13-038 to Allow Sale and/or Rental of Reserved Housing Units and to Extend Time of Effective Period of Permit KAK 13-038.

55. On May 13, 2015, the Authority convened the continued decision-making hearing on the Motion ("May 13, 2015 hearing").

56. For the May 13, 2015 hearing, HCDA received 5 written public testimonies: 2 in support of granting the Motion, 1 in opposition, and 2 providing comments only.

57. At the May 13, 2015 hearing, 8 members of the public provided oral testimony: 7 in support of granting the Motion and 1 in opposition.

58. At the May 13, 2015 hearing, the Authority continued decision-making on the Motion to May 27, 2015 ("May 27, 2015 hearing").

*Order of the Hawaii Community Development Authority of the State of Hawaii
In re Motion of Victoria Ward, Limited, Applicant, for an Order of Amendment to
Development Permit Nos. KAK 13-036, KAK 13-037, KAK 13-038 and to Extend
Time of Effective Period of Permit KAK 13-038
Application Nos. KAK 13-036, KAK 13-037, and KAK 13-038*

59. On May 20, 2015, VWL filed its Second Amended Proposed Findings of Fact, Conclusions of Law, and Decision and Order re: Victoria Ward, Limited's Motion to Amend Development Permit Nos. KAK 13-036, 13-037, 13-038 to Allow Sale and/or Rental of Reserved Housing Units and to Extend Time of Effective Period of Permit KAK 13-038.

60. For the May 27, 2015 hearing, HCDA received 13 written public testimonies: 7 in support of granting the Motion, 5 in opposition, and 1 providing comments only.

61. At the May 27, 2015 hearing, 14 members of the public provided oral testimony: 13 in support of granting the Motion and 1 in opposition.

62. At the May 27, 2015 hearing, the Authority unanimously voted to adopt Proposed Findings of Fact, Conclusions of Law, and Decision and Order Granting in Part and Denying in Part Victoria Ward, Limited's Motion to Amend Development Permit Nos. KAK 13-036, 13-037, and 13-038 to Allow Sale and/or Rental of Reserved Housing Units and to Extend Time of Effective Period of Permit KAK 13-038 ("Proposed Order").

63. Under the Proposed Order, the Authority granted VWL's request for a two-year extension of 988 Halekauwila Permit, subject to certain conditions, but denied VWL's request to satisfy its reserved housing requirement under the Development Permits with the provision of rental reserved housing in addition to for-sale reserved housing.

64. Condition 1A of the Proposed Order provided, "Prior to VWL obtaining its superstructure permit for the Halekauwila Project, VWL shall submit to the HCDA Executive Director for his review and written approval its proposed program for administering its for-sale reserved housing units in the Halekauwila Project" (hereinafter, "Condition 1A").

65. Condition 1B of the Proposed Order provided, "Prior to VWL obtaining a Certificate of Occupancy for its Land Block 3 Project or Land Block 2 Project, whichever occurs later, VWL shall obtain a Certificate of Occupancy for the 375 reserved housing units in the Halekauwila Project" (hereinafter, "Condition 1B").

66. On June 10, 2015, VWL submitted its Exceptions to the Proposed Order (hereinafter, "Exceptions").

67. On June 16, 2015, VWL requested leave to file a third amended proposed order to address Conditions 1A and 1B, and a continuance of the final decision-making hearing previously scheduled for June 24, 2015 ("VWL's Request for Leave").

68. On June 17, 2015, the Authority granted VWL's Request for Leave, provided VWL filed its third amended proposed order by no later than noon on June 19, 2015.

69. On June 19, 2015, VWL filed its Third Amended Proposed Findings of Fact, Conclusions of Law, and Decision and Order Re: Victoria Ward, Limited's Motion to Amend Development Permit Nos. KAK 13-036, 13-037, and 13-038 to Allow Sale and/or Rental of Reserved Housing Units and to Extend Time of Effective Period of Permit KAK 13-038 ("Third Amended Proposed Order").

70. At the June 24, 2015 hearing, VWL submitted a document which amended paragraph 1 in the Decision and Order section in VWL's Third Amended Proposed Order (hereinafter, "June 24, 2015 VWL Document").

71. At the June 24, 2015 hearing, the Authority solicited additional written and/or oral testimony from members of the public.

72. At the June 24, 2015 hearing, the Authority voted to adopt a Second Proposed Findings of Fact, Conclusions of Law, and Decision and Order, which granted in part and denied in part the Motion, subject to certain terms and conditions (hereinafter, "Second Proposed Order").

CONCLUSIONS OF LAW

Any Conclusions of Law herein improperly designated as Findings of Fact should be deemed or construed as Conclusions of Law; any findings of fact herein improperly designated as Conclusions of Law should be deemed or construed as Findings of Fact.

1. HCDA is an agency created by statute to implement HRS Chapter 206E. See HRS §206E-3(a).

2. As set forth in HRS §206E-1:

The legislature finds that many areas of the State are substantially undeveloped, blighted, or economically depressed, and are or are potentially in need of renewal, renovation, or improvement to alleviate such conditions as dilapidation, deterioration, age, and other such factors or conditions which make such areas an economic or social liability.

The legislature further finds that there exists within the State vast, unmet community development needs. These include, but are not limited to, a lack of suitable affordable housing; insufficient commercial and industrial facilities for rent; residential areas which do not have facilities necessary for basic liveability, such as parks and open space; and areas which are planned for extensive land allocation to one, rather than mixed uses.

It is further determined that the lack of planning and coordination in such areas has given rise to these community development needs and that existing laws and public and private mechanisms have either proven incapable or inadequate to facilitate timely redevelopment and renewal.

The legislature finds that a new and comprehensive authority for community development must be created to join the strengths of private enterprise, public development and regulation into a new form capable of long-range planning and implementation of improved community development. The purpose of this chapter is to establish such a mechanism in the Hawaii community development authority, a public entity which shall determine community development programs and cooperate with private enterprise and the various components of federal, state, and county governments in bringing plans to fruition. For such areas designated as community development districts, the legislature believes that the planning and implementation program of the Hawaii community development authority will result in communities which serve the highest needs and aspirations of Hawaii's people.

The legislature finds that the creation of the Hawaii community development authority, the establishment of community development districts, and the issuance of bonds pursuant to this chapter to finance public facilities serve the public interest and are matters of statewide concern.

3. Pursuant to HRS §206E-5, the Legislature “may designate an area as a community development district if it determines that there is a need for replanning, or redevelopment of that area.”
4. Pursuant to HRS §206E-32, the Legislature designated the KCDD.
5. The Legislature authorized and empowered HCDA to develop a community development plan for the KCDD, including but not limited to, community development rules.

See HRS §206E-5.

6. HRS §206E-7(a) provides in relevant part that HCDA:

shall establish community development rules under chapter 91 on health, safety, building, planning, zoning, and land use which, upon final adoption of a community development plan, shall supersede all other inconsistent ordinances and rules relating to the use, zoning, planning, and development of the land and construction thereon.

7. The Legislature identified development guidance policies generally governing the KCDD, including but not limited to:

Residential development may require a mixture of densities, building types, and configurations in accordance with appropriate urban design guidelines; integration both vertically and horizontally of residents of varying incomes, ages, and family groups; and an increased supply of housing for residents of low-or-moderate-income may be required as a condition of redevelopment in residential use.

See HRS §206E-33(8).

8. HCDA has the authority and jurisdiction to review, consider, and take action on this Motion. See HRS §§206E-4, 206E-5, 206E-5.6, 206E-7, and 206E-33.

REQUEST FOR RENTAL AND/OR SALE OF RESERVED HOUSING

9. HAR §15-22-111(a) of the Vested Rules provides:

The authority may grant a planned development permit for a development within any of the three mixed-use zones which it finds meets the requirements of this chapter. The authority may impose conditions and requirements upon a planned development permit as it finds are reasonable and necessary to carry out the purpose and requirements of this subchapter.

10. HAR §15-22-86 of the Vested Rules provides in pertinent part:

In reaching its determination on an application for a planned development or base zone development permit, the authority or

executive director, as the case may be, shall consider the following:

- (1) The nature of the proposed site and development, including its size and shape, and the proposed size, shape, and height, arrangement and design of structures;
- ...
- (7) The appropriateness of the proposed mixtures of uses, and the adequacy of the provisions for the construction of affordable housing units;
- (8) The staging program and schedule of development;
- ...
- (19) Any other matter on relating to the development or its impact on affected properties or public facilities.

11. HAR §15-22-115(a) of the Vested Rules provides:

Every applicant for a planned development containing multi-family dwelling units on a development lot of at least 20,000 square feet shall provide at least twenty per cent of the total number of dwelling units in the development for sale or rental to qualified persons **as determined by the authority.**

Emphasis added.

12. Pursuant to HAR §15-22-115(a), the Authority has the discretion to determine how an applicant for a planned development permit satisfies its reserved housing requirement, to wit, whether the reserved housing is to be offered for rental, for-sale, or a combination of both.

13. After having duly considered the KAK 13-038 Application and all proceedings thereto, the Authority already determined that VWL could satisfy its reserved housing requirement by providing reserved housing units for-sale. See 988 Halekauwila Permit.

14. The Authority further determined that VWL's provision of additional for-sale reserved housing units in the Halekauwila Project would generate a credit which VWL could use

to satisfy its reserved housing requirement for other planned development projects. See 988 Halekauwila Permit.

15. After having duly considered the KAK 13-037 Application and all proceedings thereto, the Authority already determined that VWL could satisfy its reserved housing requirement generated by the Land Block 3 Project by providing reserved housing units for-sale. See Land Block 3 Permit.

16. At the time the Authority approved the Land Block 3 Permit, the Authority relied upon VWL's representation that it intended to satisfy its reserved housing requirement by providing reserved housing units in the Halekauwila Project. See Land Block 3 Permit.

17. After having duly considered the KAK 13-036 Application and all proceedings thereto, the Authority already determined that VWL could satisfy its reserved housing requirement generated by the Land Block 2 Project by providing reserved housing units for-sale. See Land Block 2 Permit.

18. At the time the Authority approved the Land Block 2 Permit, the Authority relied upon VWL's representation that it intended satisfy its reserved housing requirement by providing reserved housing units in the Halekauwila Project. See Land Block 2 Permit.

19. Accordingly, the Authority already determined that VWL could satisfy its reserved housing requirements for the Development Permits by the provision of for-sale reserved housing units in the Halekauwila Project. See Development Permits.

20. VWL now seeks the ability to satisfy its reserved housing requirements for the Development Permits with the provision of rental reserved housing units regulated for a 15-year term in addition to for-sale reserved housing units. See Motion.

21. The Authority, however, is not convinced that VWL's proposal to provide rental reserved housing regulated for a 15-year term is an adequate substitute for the for-sale reserved housing that the Authority already approved.

22. Although VWL's proposal to provide reserved housing rental units for a 15-year regulated term in the Halekauwila Project would help provide temporary relief to the lack of suitable affordable housing in the KCDD, for-sale reserved housing units offer a longer-term solution as well as the opportunity for home ownership.

23. In addition, should purchasers of the for-sale reserved housing units sell their units, the sale will result in a shared equity payment to the Authority pursuant to HAR §15-22-187 which the Authority can use to develop additional low- or moderate income housing.

24. VWL contends that reserved housing rental units regulated for a 15-year term benefit more families than for-sale reserved housing units, but there is no evidence that the statistics cited by VWL in its estimate of a 4-year turn over rate for rental reserved housing units is an accurate reflection of the actual turn over rate for reserved housing unit renters who qualify under the Vested Rules.

25. In terms of VWL's ability to provide reserved housing units at the Halekauwila Project, VWL confirmed that the project costs and subsidy from its market rate projects are

virtually the same whether the reserved housing units constructed are rental or for-sale. See
Exhibit 2.

26. Denying VWL's proposal to provide reserved housing rental units for a 15-year regulated term in the Halekauwila Project does not affect VWL's current ability to provide for-sale reserved housing units as contemplated in the Development Permits.

REQUEST FOR EXTENSION TO DEVELOPMENT PERMIT NO. KAK 13-038

27. Pursuant to HAR §15-22-118(a),

any planned development permit granted under the provisions of this subchapter shall automatically lapse if the initial building permit authorizing construction of the foundation or superstructure of the project shall not have been issued within two years from the date of the permit[.]

28. Under HAR §15-22-118(c), the Authority:

may grant an extension to the effective period of a planned development permit, not to exceed two years, upon the applicant's request and justification in writing for an extension, provided the request and justification are received by the authority at least one hundred days in advance of the automatic termination date...and there are no material changes in circumstances which may be cause for denial of the extension.

29. VWL's request for extension of the 988 Halekauwila Permit was timely filed because the Authority received it at least one hundred (100) days in advance of the July 15, 2015 automatic termination.

30. One of the factors which contributed to the need for an extension to the 988 Halekauwila Permit was VWL's coordination with the Honolulu Authority for Rapid

Transportation (“HART”) regarding the rail guideway, which is intended to pass over a portion of the Project site. See Exhibit 2; April 8, 2015 Testimony.

31. There appear to be no material changes in circumstances of the Project which may be cause for denial of the requested extension.

32. Accordingly, VWL satisfied the requirements of HAR §15-22-118(c).

TIMING OF DELIVERY OF RESERVED HOUSING

33. HAR §15-22-203 provides in pertinent part:

(b) As part of a master plan approval, the authority may grant exceptions to the applicable rules set forth in subsection (a) above. Said exceptions shall be applicable to any development permit processed within the effective date of the master plan approval, and shall be limited to the following:

- (1) The floor area of land uses, including reserved housing units, required by the base zone or planned development provisions of this chapter may be transferred from one development lot to one or more development lots within the master planned area, provided that:
 - (A) The development lots are under the same ownership;
 - (B) The maximum floor area ratio (FAR) for any lot to which floor area has been transferred shall not be increased by more than twenty-five per cent of the FAR otherwise allowed for the size of the development lot;
 - (C) Development on any lot involved in the transfer shall not exceed its maximum allowable tower footprint and height;
 - (D) The FAR remaining on a development lot from which floor area has been transferred shall not be less than 1.5, unless the development lot is developed in conjunction with development on the lot to which the floor area has been transferred;
 - (E) Development on the development lot to which reserved housing units are transferred shall commence within two years after the development is completed on the development lot from which the reserved housing units were transferred, unless the first development project on

any of the development lots involved in the transfer contains fifty per cent of the reserved housing units required for development of all lots involved in the transfer, provided the allocation of unit types for the reserved housing units shall constitute a proportionate representation of all the nonreserved unit types to be provided with regard to factors of square footage and number of bedrooms;

- (F) The authority shall obtain written assurance from the landowner that the requirements of this section will be satisfied and such assurance shall be binding upon the landowner and the landowner's heirs or successors in interest and shall be filed as a covenant running with the land in the bureau of conveyances or in the office of the assistant registrar of the land court; and
- (G) Failure to satisfy the requirements of this subsection shall be cause for denial of any development permit for the lots involved in the transfer.

(c) In granting any of the exceptions provided in this section, the authority may impose standards and conditions in addition to or in place of the standards and conditions specified in this section as it finds are reasonable and necessary to carry out the purpose and requirements of this chapter and the mauka area plan.

34. Pursuant to HAR §15-22-203(b)(1), the Authority may permit the transfer of reserved housing units from one development lot to another development lot within the master planned area as part of a master plan approval.

35. Pursuant to HAR §15-22-203(c), the Authority has the discretion to impose standards and conditions "in place of the standards and conditions specified in [HAR §15-22-203]," which includes, but is not limited to, HAR §15-22-203(b)(1)(E).

36. At the time the WNMP Permit was approved, the exact number, location, and type of reserved housing units to be developed within the master planned area was unknown

inasmuch as VWL's mixed-used development was dependent upon the changing market and social conditions. See WNMP Permit, FOF No. 46; see also Exceptions p. 19.

37. Accordingly, the WNMP Permit acknowledged that, "[t]he reserved housing unit mix, as well as the provision for delivery of the reserved housing, need not be determined at the master planning stage; instead, these issues are more appropriately determined at the project development stage." See WNMP Permit, FOF No. 75.

38. Pursuant to HAR §15-22-203(c), the Authority has the discretion to defer its determination regarding the reserved housing unit mix, as well as the provision for delivery of reserved housing to the project development stage.

39. Both the Land Block 2 and 3 Permits expressly provide that:

Delivery of reserved housing shall be required prior to the issuance of the initial Certificate of Occupancy for the Project and shall be secured by the Applicant with a financial guaranty bond from a surety company authorized to do business in Hawaii, an acceptable construction set-aside letter, or other financial instruments acceptable to the Authority prior to approval of the initial Building Permit by the Authority.

See Land Block 2 and 3 Permits.

40. Thus, VWL is obligated to provide financial assurances acceptable to the Authority prior to the approval of the initial Building Permit for both the Land Block 2 Project and Land Block 3 Project. See Land Block 2 and 3 Permits.

41. VWL is further obligated to deliver the reserved housing generated by the respective Land Block 2 and 3 Projects "prior to the issuance of the initial Certificate of Occupancy" for each respective project. See Land Block 2 and 3 Permits.

42. If VWL had an objection to the timing of delivery of reserved housing as specified in the Land Block 2 and 3 Permits issued on August 21, 2013, VWL could have sought timely review of such permits, but failed to do so.

JUNE 24, 2015 VWL DOCUMENT

43. VWL did not obtain leave to submit the June 24, 2015 VWL Document.

44. Pursuant to HAR §15-219-7, the Authority may strike any papers which have not been filed in compliance with the applicable rules or orders.

45. Because VWL did not obtain leave to submit the June 24, 2015 VWL Document, the Authority strikes such document as defective pursuant to HAR §15-219-7.

DECISION AND ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, and the records and files herein, the Authority GRANTS IN PART and DENIES IN PART the Motion as follows:

1. VWL's request for a two-year extension of the 988 Halekauwila Permit is GRANTED, provided that:
 - a. Prior to VWL obtaining its superstructure permit for the Halekauwila Project, VWL shall submit to the HCDA Executive Director for his review and written approval any updates, if applicable, to its proposed program for administering its for-sale reserved housing units in the Halekauwila Project; and
 - b. Prior to VWL obtaining a Certificate of Occupancy for its Land Block 3 Project or Land Block 2 Project, whichever occurs first, VWL shall

*Order of the Hawaii Community Development Authority of the State of Hawaii
In re Motion of Victoria Ward, Limited, Applicant, for an Order of Amendment to
Development Permit Nos. KAK 13-036, KAK 13-037, KAK 13-038 and to Extend
Time of Effective Period of Permit KAK 13-038
Application Nos. KAK 13-036, KAK 13-037, and KAK 13-038*

furnish to HCDA copies of the following: (i) an executed construction contract between VWL and a licensed general contractor for the construction of the for-sale reserved housing units required under the Development Permits (“RH Construction Contract”); (ii) a notice to proceed issued by VWL to such contractor for the RH Construction Contract; (iii) a performance bond for the RH Construction Contract from a surety licensed to do business in the State of Hawaii; and (iv) a payment bond from a surety licensed to do business in the State of Hawaii for 100% of the RH Construction Contract amount.

2. The effective period of Development Permit No. KAK 13-038 shall be extended for a period of two (2) years expiring on July 16, 2017.
3. The Motion is DENIED in remaining part.
4. Except as provided herein, all other provisions and conditions of the Development Permits shall remain in full force and effect.

IT IS SO ORDERED.

ADOPTION OF ORDER

The undersigned Members, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 22nd day of July, 2015. This ORDER and its ADOPTION shall take effect upon the date this ORDER is approved by the Authority.

Hawaii Community Development Authority
(Kakaako Members)

Beau J. K. Bassett

David Rodriguez, Designated Representative
of Director of Department of Transportation

Scott Kami, Designated Representative of
Director of Department of Budget and Finance

Tom McLaughlin

William Oh

Jason Okuhama

Steven Scott, Vice Chairperson

Mary Pat Waterhouse

John Whalen, Chairperson

APPROVED AS TO FORM:

Lori N. Tanigawa, Deputy Attorney General

THE ORIGINAL OF THE DOCUMENT
RECORDED AS FOLLOWS
STATE OF HAWAII

BUREAU OF CONVEYANCES

DATE _____ TIME _____

Doc A - 59140772 _____

March 11, 2016 3:29 PM

LAND COURT SYSTEM

REGULAR SYSTEM

AFTER RECORDATION: RETURN BY MAIL () PICK-UP (X)

Imanaka Asato LLC
745 Fort Street, 17th Floor
Honolulu, Hawaii 96813
(808) 521-9500 (SDJ)

Tax Map Key Nos. (1) 2-1-050: 001, 061, and 062

Total Pages: 44

**BYLAWS OF THE ASSOCIATION
OF UNIT OWNERS OF
988 HALEKAUWILA**

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BYLAWS OF THE ASSOCIATION

OF UNIT OWNERS OF

988 HALEKAUWILA

WHEREAS, 988 Halekauwila, LLC, a Delaware limited liability company (“Developer”), is the developer of the “988 Halekauwila” condominium project (the “Project”);

WHEREAS, the Developer owns in fee simple those certain parcels of real property described in Exhibit “A” (the “Land”), to the Declaration of Condominium Property Regime of 988 Halekauwila of even date herewith (the “Declaration”), recorded in the Bureau of Conveyances of the State of Hawaii (“Bureau”), and shown on Condominium Map No. 5514 (the “Condominium Map”) recorded in said Bureau concurrently therewith;

WHEREAS, Developer has undertaken to develop the Land and Improvements to be constructed thereon as a condominium project, as described in the Declaration and in accordance with plans referred to in the Declaration as the Condominium Map;

WHEREAS, pursuant to that certain Community Covenant for Ward Village dated September 13, 2013 and recorded in said Bureau as Document No. A-50040794, as amended (the “Master Declaration”), the Land is part of an urban, mixed-use master planned community called “Ward Village” in the City and County of Honolulu in the State of Hawaii;

WHEREAS, pursuant to that certain Bylaws of Ward Village Owners Association dated September 13, 2013 and recorded in said Bureau as Exhibit “E” to the Master Declaration, as may be amended and supplemented from time to time (the “Master Bylaws”), the Association of Unit Owners of 988 Halekauwila (the “Association”) is a member of the Ward Village Owners Association (“Master Association”); and

NOW, THEREFORE, each Owner shall be a member of the Association, and Developer declares that all of the property described above is held and shall be held, conveyed, hypothecated, encumbered, used, occupied, and improved subject to the following Bylaws, all of which are declared to be in furtherance of the plan set forth in the Declaration, and are established for the purpose of enhancing and perfecting the value, desirability, and attractiveness of such property. These Bylaws shall constitute covenants running with the Land and the Units established thereon, and equitable servitudes, and shall be binding upon all parties having or acquiring any right, title, or interest therein.

ARTICLE I

INTRODUCTORY PROVISIONS

Section 1. **AUTHORITY FOR BYLAWS.** Developer, acting as the present Association, hereby approves and adopts these Bylaws pursuant to the Act. These Bylaws are subject to the laws of the State of Hawaii, including but not limited to, the Act and Hawaii Administrative Rules, Title 16, Chapter 107 (the “HAR”), as amended from time to time.

Section 2. **PURPOSE OF BYLAWS; COVENANTS TO RUN WITH THE LAND.** The Land and the Improvements are held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the following Bylaws, all of which are declared and agreed to be in furtherance of the plan set forth in the Declaration, to constitute a condominium property regime under the Act and for the purposes of enhancing and perfecting the value, desirability, and attractiveness of the Project. These Bylaws shall run with the Land and Units, shall constitute equitable servitudes and liens, and shall be binding upon all parties having or acquiring any right, title or interest therein.

Section 3. **DEFINITIONS.** The terms used herein with initial capital letters shall have the meanings given to them in Section I.B. of the Declaration, except as otherwise expressly provided herein.

Section 4. **CONFLICTS.** These Bylaws are set forth to comply with the requirements of the Act and the HAR. In any case where any of these Bylaws conflict with the provisions of the Act, the HAR, or the Declaration, the provisions of the Act, the HAR, or the Declaration, as the case may be, shall control. If there is a conflict between these Bylaws and the Master Bylaws and/or Master Declaration, the Master Bylaws and/or Master Declaration shall control.

Section 5. **BINDING EFFECT OF BYLAWS ON OWNERS, MORTGAGEES AND LESSEES.** All present and future Owners, mortgagees, vendors, and vendees under Agreements of Sale, tenants and Occupants of Units and their employees, business invitees, and any other Persons who may use any part of the Project in any manner are subject to these Bylaws, the Declaration, and the House Rules. The acceptance of a Unit Deed, conveyance, mortgage, Agreement of Sale, or the entering into of a lease or the act of occupancy of a Unit shall constitute an acceptance, ratification, and agreement to comply with the provisions of these Bylaws, the Declaration, and the House Rules, as the same may be amended from time to time.

ARTICLE II

ASSOCIATION OF OWNERS

Section 1. **MEMBERSHIP.** All Owners of the Project together shall constitute the Association. The Owner of any Unit, upon acquiring title thereto, shall automatically become a member of the Association and shall remain a member until such time as his or her ownership of such Unit ceases for any reason. In the event that the Project is terminated, the Association shall consist of all former Owners who owned Units at the time of termination and who are entitled to distributions of proceeds under Section 514B-47 of the Act, or such Owners' heirs, successors or assigns. Notwithstanding anything to the contrary provided herein, during the Developer Control Period, Developer shall operate the Project in accordance with the Declaration and these Bylaws and, where necessary, take all actions on behalf of the Association upon such terms and conditions as they shall agree upon which are consistent with the terms of the Declaration and these Bylaws. For the duration of the Developer Control Period, Developer shall have the right to appoint and remove the Officers and the Directors of the Association's Board. Following termination of the Developer Control Period and the first election of a replacement Board in accordance with Section III.1 below, Developer shall be entitled to vote the interest of each Unit that it owns.

Section 2. **CLASSES.** The Association shall be comprised of a Residential Unit Class and a Commercial Unit Class. The Owner of any Unit, upon acquiring title thereto, shall automatically become a member of the Unit Class to which such Owner's Unit belongs. Each Residential Unit Owner shall be a member of, and all Residential Unit Owners shall comprise, the Residential Unit Class. Each Commercial Unit Owner shall be a member of, and all Commercial Unit Owners shall comprise, the Commercial Unit Class. Each class shall vote on and determine issues affecting their Unit Class. The Commercial Unit Class, for instance, may vote on and determine issues pertaining to only the Commercial Unit Class, subject to any approval rights of Developer or the Commercial Director, and the Residential Unit Class may vote on and determine issues only pertaining to the Residential Unit Class, subject to any approval rights of Developer. The number of Units comprising the Residential Unit Class and/or the Commercial Unit Class may increase or decrease if Residential Units and Commercial Units are consolidated and/or subdivided.

Section 3. **PURPOSE.** The Association shall be organized and operated for the purposes of administrative and fiscal management of the Project and for managing, maintaining, acquiring, constructing, and caring for the Association property, which includes the General Common Elements, any real property which is not part of the General Common Elements but which the Association either owns or leases, any personal or moveable property owned or leased by the Association, and any fixtures owned or leased by the Association; provided, however, that unless otherwise provided in the Declaration or these Bylaws: (i) Unit Limited Common Elements shall be managed and maintained by the Owner of the Unit to which such Unit Limited Common Element is appurtenant; (ii) Residential Limited Common Elements shall be managed and maintained by the Residential Unit Class; and (iii) Commercial Limited Common Elements shall be managed and maintained by the Commercial Unit Class.

Section 4. **VOTING.** Except with respect to those matters requiring voting by the Unit Classes set forth above, each Owner shall be entitled to that percentage of the total vote of all of the Owners which equals the

percentage of the Common Interest appurtenant to such Unit as set forth in the Declaration. With respect to those matters requiring voting by a Unit Class, each Owner shall have a vote equal to his or her Class Common Interest as set forth in the Declaration. The respective Owners may cast votes in person or by proxy; provided voting by acclamation is permitted for items where formal voting is not necessary. The vendee of a Unit pursuant to an Agreement of Sale shall have the right to vote unless the vote is retained by the vendor as may be provided in said Agreement of Sale pursuant to Section 514B-124 of the Act. An executor, administrator, personal representative, guardian, or trustee may vote in person or by proxy at any meeting of the Association the percentage of vote for any Unit owned or controlled by him or her in such capacity, provided that he or she shall first present evidence satisfactory to the Secretary that he or she owns or controls such Unit in such capacity not later than the commencement of the meeting. The vote for any Unit owned of record by two (2) or more Persons may be exercised by any one of them present at any meeting in the absence of protest by the other or others. If more than one (1) Owner is present, the votes allocated to that Unit may be cast only in accordance with the agreement of the majority in interest of the Owners. There is a majority agreement if any one (1) of the Owners casts the votes allocated to that Unit without protest being made by any of the other Owners of the Unit to the person presiding over the meeting before the polls are closed. If co-Owners do not agree in their vote, then the entire vote allocated to that Unit will not be counted. Corporations, general partnerships, limited partnerships, limited liability partnerships, and limited liability companies which are Owners shall designate a general partner, officer, member, or manager, as appropriate, for the purpose of exercising the vote; and such representative of an Owner which is a corporation, general partnership, limited partnership, or limited liability company shall present satisfactory written evidence to the Secretary of his or her designation as representative not later than the commencement of the meeting.

Section 5. **QUORUM.** The term “quorum” refers to the number or percentage of Owners who must be present at a meeting to conduct business for all Owners, the Residential Unit Class Owners and the Commercial Unit Class Owners as follows:

A. **ALL OWNERS.** For all meetings of the Association with respect to all matters which may be voted on by all Owners, thirty-three percent (33%) of the Owners must be present to have a quorum unless a different number is required by law, the Declaration, or another part of these Bylaws.

B. **RESIDENTIAL UNIT OWNERS.** With respect to those matters which may only be voted on by or which require a vote of only the Residential Unit Class Owners, thirty-three percent (33%) of the Residential Unit Class Owners must be present to have a quorum unless a different number is required by law, the Declaration, or another part of these Bylaws.

C. **COMMERCIAL UNIT OWNERS.** With respect to those matters which affect the Commercial Unit Owners, Commercial Units, and the Commercial Limited Common Elements which may only be voted on by or which require a vote of only the Commercial Unit Class Owners, fifty percent (50%) of the Commercial Unit Class Owners must be present to have a quorum unless a different number is required by law, the Declaration, or another part of these Bylaws.

D. **WHEN A MEMBER IS “PRESENT”.** Members are “present” at a meeting if: (i) they attend it in person, or (ii) their proxy holder attends it for them, or (iii) someone else permitted by these Bylaws attends it for them.

Section 6. **MAJORITY VOTE.** The vote of a majority of the Common Interest, Residential Unit Class Common Interest, and/or Commercial Unit Class Common Interest present or represented at a meeting at which a quorum is present shall be binding upon all Owners, Residential Unit Class Owners, and/or Commercial Unit Class Owners, respectively, for all purposes, except where a higher percentage vote is required in the Declaration, these Bylaws, or by law. Notwithstanding the preceding sentence: (i) where a vote requires a Majority of Unit Owners, the term “Majority of Unit Owners” shall mean the Owners to which are appurtenant more than fifty percent (50%) of the total Common Interest or Class Common Interest with respect to the Residential Unit Class and Commercial Unit Class; and (ii) where a vote requires a specific percentage of Owners, the specified percentage of the Owners means Owners to which are appurtenant such percentage of the Common Interest (or Class Common Interest with respect to the Residential Unit Class and Commercial Unit Class).

Section 7. **PROXIES.** An Owner may appoint in writing a proxy to represent the Owner at meetings of the Association. An Owner may vote by mail or electronic transmission through a duly executed proxy.

A. A proxy, to be valid, must: (i) be delivered to the Secretary or the Managing Agent no later than 4:30 p.m. on the second business day prior to the date of the meeting to which it pertains; (ii) contain at least the name of the Association, the date of the meeting of the Association, the printed name(s) and signature(s) of the Person(s) giving the proxy, the Unit number for which the proxy is given, the name of the person to whom the proxy is given, and the date that the proxy is given; (iii) if it is a standard proxy form authorized by the Association, contain boxes wherein the Owner has indicated that the proxy is given: (a) for quorum purposes only; (b) to the individual whose name is printed on a line next to this box; (c) to the Board as a whole and that the vote be made on the basis of the preference of the majority of the Directors present at the meeting; or (d) to those Directors present at the meeting with the vote to be shared with each Director receiving an equal percentage. The proxy form shall also contain a box wherein the Owner may indicate that the Owner wishes to obtain a copy of the annual audit report.

B. A proxy shall only be valid for the meeting to which the proxy pertains and its adjournments, may designate any person as proxy, and may be limited as the Owner indicates; provided that no proxy shall be irrevocable unless coupled with a financial interest in the Unit.

C. A copy, facsimile telecommunication, or other reliable reproduction of a proxy may be used in lieu of the original proxy for any and all purposes for which the original proxy could be used; provided that any copy, facsimile telecommunication, or other reproduction shall be a complete reproduction of the entire original proxy.

D. Nothing in this Section shall affect the holder of any proxy under a first Mortgage of record or under an Agreement of Sale.

E. With respect to the use of Association funds to distribute proxies:

(i) If the Board intends to use Association funds to distribute proxies, including the standard proxy form referred to in this Section II.7, the Board shall first post notice of its intent to distribute proxies in prominent locations within the Project at least twenty-one (21) calendar days before its distribution of proxies. If the Board receives within seven (7) calendar days of the posted notice a request by any Owner for use of Association funds to solicit proxies accompanied by a statement, the Board shall mail to all Owners either: (a) a proxy form containing the names of all Owners who have requested the use of Association funds for soliciting proxies accompanied by their statements; or (b) a proxy form containing no names, but accompanied by a list of names of all Owners who have requested the use of Association funds for soliciting proxies and their statements. The statement, which shall be limited to black text on white paper, shall not exceed one single-sided 8-1/2" x 11" page and indicate the Owner's qualifications to serve on the Board or reasons for wanting to receive proxies.

(ii) The Board or member of the Board may use Association funds to solicit proxies as part of the distribution of proxies. If a member of the Board, as an individual, seeks to solicit proxies using Association funds, the Board member shall proceed as an Owner under subpart (i) of this Subsection.

F. No Managing Agent or Resident Manager, if any, or their employees, shall solicit, for use by the Managing Agent or the Resident Manager, if any, any proxies from any Owner of the Association that retains the Managing Agent or Resident Manager, nor shall the Managing Agent or the Resident Manager, if any, cast any proxy vote at any Association meeting except for the purpose of establishing a quorum.

G. The Board shall not adopt any rule prohibiting the solicitation of proxies or distribution of materials relating to Association matters on the Common Elements by Owners; provided that subject to applicable approval rights of Developer, the Board may adopt rules regulating reasonable time, place, and manner of the solicitations or distributions, or both.

Section 8. **PLACE OF MEETINGS.** All meetings of the Association shall be held at such place within the Project, or elsewhere within the State of Hawaii, as may be designated by the Board; provided that in the event of a natural disaster, such as a hurricane, an Association meeting may be held outside the State of Hawaii.

Section 9. **ANNUAL MEETINGS.** The first annual meeting of the Association shall be held upon the earlier of: (a) one hundred eighty (180) calendar days from the recordation of the first Unit Deed conveying a Unit in the Project, provided that not less than forty percent (40%) of the Units in the Project have been sold and recorded in said Bureau (or if less than forty percent (40%) of the Units in the Project have been sold and recorded, then within one (1) year of the recordation of the first Unit Deed, provided that ten percent (10%) of the Owners request, in writing, that the first annual meeting be held), (b) four (4) months after seventy-five percent (75%) of the Units of the Project have been conveyed by Developer to other Owners, or (c) five (5) years after the recordation of the first Unit Deed conveying a Unit in the Project. The terms “recorded” and “recordation” shall mean and refer to the recordation of a Unit Deed transferring a Unit to an Owner in said Bureau. Subject to the rights of Developer to designate Directors contained in the Declaration and these Bylaws, at such meeting, the Owners shall elect a Board. Thereafter, the annual meetings of the Association shall be held on a date that is selected by the Board. If the Board does not choose a meeting date by the 15th of February of each year, then the meeting will be held at the Project at 6:30 p.m. on the third (3rd) Wednesday in March of each year, or at such other time the Board may determine from time to time. Developer may set the date and time for the first annual meeting. Owners may transact other business at such meeting as may properly come before the Association.

Section 10. **SPECIAL MEETINGS.** A special meeting of the Association may be called at any time for any one (1) or more purposes. It may be called by (a) the President, (b) a majority of the Directors, or (c) a petition signed by not less than twenty-five percent (25%) of the Owners and presented to the Secretary or to the Managing Agent. The Owners may transact only that business the general nature of which is stated in the notice of the special meeting. Upon receipt of such call or petition, the Secretary or the Managing Agent shall send written notice of the meeting to all Owners in the manner provided in Section II.11, below. In the event that the Secretary or the Managing Agent shall fail to send out notices within fourteen (14) calendar days of receipt of any petition to have such meeting, or such other period as may be required by Section 514B-121 of the Act, the petitioners calling for the meeting may send the notice in accordance with the provisions for such notice contained in these Bylaws. The meeting shall be held at the time and place specified in such call, or if unspecified, at any reasonable time within forty-five (45) calendar days from the date the call was received.

Section 11. **NOTICE OF MEETINGS AND OTHER NOTICES.** The Secretary shall cause written notice of all meetings, annual or special, stating the date, time, and place of the meeting and whether it is annual or special, together with a standard proxy form authorized by the Association, if any, and any other notices permitted or required to be delivered by these Bylaws, to be given by hand delivering such notice(s) and form, by mailing, postage prepaid to the mailing address of each Unit or any other address designated in writing by the Owner, or, at the option of the Owner, expressed in writing, by facsimile or electronic mail to the electronic mailing address designated in writing by the Owner, at least fourteen (14) calendar days before the date assigned for the meeting. The notice must state the authority for holding the meeting, the items on the agenda, including the general nature and rationale of any proposed amendment to the Declaration or these Bylaws, and any proposal to remove a Director; provided that nothing herein shall preclude an Owner from proposing an amendment to the Declaration or these Bylaws or to remove a Director at any annual meeting. Upon written request for notices delivered to the Board, the holder of any duly recorded Mortgage or deed of trust from any Owner may obtain a copy of any and all notices permitted or required to be given to the Owner, whose interest is subject to said Mortgage or deed of trust. Notice can be considered waived as follows:

A. Anyone who attends a meeting, in person or by proxy, waives any right to claim that notice was not given properly unless, when the meeting begins, he or she objects to holding it because notice was not given properly.

B. An Owner may waive notice of any Association meeting by signing a document (i) that waives notice, or (ii) that consents to or approves the action taken at the meeting, or (iii) that approves the minutes of the meeting. All such documents must be filed with the Association records and made a part of the minutes of the meeting.

C. An Owner automatically waives notice of any Association meeting if he or she does not file a written objection with the Secretary or the Managing Agent within fifteen (15) calendar days after he or she receives written notice of any action taken at an Association meeting. A copy of the minutes, among other things, will be treated as written notice.

Upon notice being given in accordance with the provisions hereof, the failure of any Owner to receive actual notice of any meeting shall not in any way invalidate the meeting or proceedings thereat. Each Owner shall keep the Association informed of any changes in address.

Section 12. RECORD DATE FOR NOTICES AND VOTING.

A. PURPOSE OF THE RECORD DATE. The "Record Date" is the date used to determine who is entitled to receive notice and to vote at Association meetings or on any action to be taken without a meeting. The Record Date is also used to determine who may object to and waive failure to receive notice and exercise other such rights for or as an Owner.

B. SETTING THE RECORD DATE. The Board may choose the Record Date. The Record Date for a meeting may not be more than ninety (90) calendar days before the meeting date. The Record Date for action without a meeting may not be more than thirty (30) calendar days before the ballot or request for consent or approval is sent. Unless the Board chooses another date, the Record Date will be the date and time when the mailing list is prepared, or, if notice is waived, then two (2) business days before the day of the meeting. If a meeting is adjourned and a new notice must be given, then a new Record Date must be set.

C. EFFECT OF SETTING RECORD DATE. When a Record Date is set, only the Owners of Record, as hereinafter defined, on that date (or someone authorized to act for them) have the right to notice and to vote at a meeting or on a ballot or other request for consent or approval. This rule applies despite any issuance or transfer of a Unit in the records of the Association after the Record Date. A Person who is the Owner of a Unit as of the Record Date is considered to be the "Owner of Record". A Person who becomes an Owner after the Record Date may act for the Owner of Record by obtaining a Proxy from the Owner of Record. When these Bylaws refer to the "Owner" with respect to notice (including waivers of notice) and voting, it means the Owner of Record or someone authorized to act for the Owner of Record.

Section 13. ADJOURNMENT OF MEETINGS. If any meeting of the Association cannot be held because a quorum is not present, a majority of the Owners who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than thirty (30) calendar days from the time the original meeting was called, as may be determined by majority vote of the Owners present, without notice other than the announcement at such meeting. If the meeting is adjourned for thirty (30) calendar days or more, or if the law requires a new notice, then a new notice must be given pursuant to Section II.11 herein. At any such adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted by a quorum at the meeting as originally called.

Section 14. CONDUCT OF MEETINGS AND ORDER OF BUSINESS. All meetings of the Association shall be conducted in accordance with the most current edition of Robert's Rules of Order, Newly Revised.

Section 15. INSPECTORS FOR VOTING AND PROXIES.

A. APPOINTMENT. At least ten (10) business days before any meeting of the Association or before any ballot is sent to the Owners, the Board may appoint inspectors of the voting at the meeting, including voting for the election of Directors. The Board may appoint either one (1) or three (3) inspectors of voting. If the Board fails or chooses not to do so, then the Managing Agent will be the inspector of the voting.

B. DUTIES. The voting inspectors will: (i) determine the authenticity, validity, and effect of proxies, pledges, and other documents purporting to give any person the right to represent, act, and vote for an Owner; (ii) receive votes, ballots, and consents; (iii) hear and determine all challenges, questions, and conflicts relating in any way to the right to cast votes; (iv) count and tabulate all votes and consents; (v) decide when the polls will close; (vi) determine the results of all votes and elections; and (vii) do anything else appropriate to conduct the vote or election fairly as to all Owners. The decision, act, or certificate of a majority of inspectors, if there are three (3), or of a single inspector, if there is only one (1), will be effective. Any facts stated in any effective report or certificate is presumed to be accurate.

Section 16. **MINUTES OF ASSOCIATION MEETINGS.** Minutes of meetings of the Association shall be approved at the next succeeding regular meeting or by the Board, within sixty (60) calendar days after the meeting, if authorized by the Owners at an annual meeting. Minutes of all meetings of the Association shall be available within seven (7) calendar days after approval and unapproved final drafts of minutes shall be available within sixty (60) calendar days after the meeting. If approved by the Board, Owners shall be given a copy of the approved minutes or notified of the availability of the minutes within thirty (30) calendar days after approval. An Owner shall be allowed to offer corrections to the minutes at an Association meeting.

Section 17. **ASSOCIATION POWERS.** Except as otherwise provided herein, and subject to the provisions of the Declaration and these Bylaws, the Association, even if unincorporated, shall have those powers set forth in Section 514B-104 of the Act, as limited by Section 514B-105 of the Act. The Association delegates its powers to the Board, unless such delegation is prohibited by the Act.

ARTICLE III

BOARD OF DIRECTORS

Section 1. **NUMBER AND QUALIFICATION.** The affairs of the Association shall be governed by the Board. During the Developer Control Period, one (1) Commercial Director and two (2) Residential Directors shall be appointed from time to time by Developer. Upon the termination of the Developer Control Period, the Board shall be comprised of eight (8) Residential Directors and one (1) Commercial Director, who shall be elected as set forth in Section III.3 below. In the event the Owners decrease the number of Directors as permitted by the Act, the Board shall contain at least one (1) Commercial Director. Each Director shall be an Owner, co-Owner, a vendee under Agreement of Sale, a trustee or beneficiary of a trust that owns a Unit, or an officer of any corporate owner or a representative of any entity which owns a Unit. The partners of a general partnership and the general partners of a limited partnership or limited liability partnership shall be deemed to be Owners for purposes of serving on the Board. There shall not be more than one (1) Director from any one (1) Unit. No Resident Manager or employee of the Association shall serve on the Board. Any Director who is an employee of a Managing Agent shall not participate in any discussions regarding the Condominium Management Agreement with such Managing Agent and shall be excluded from any executive session where such Managing Agent or Condominium Management Agreement will be discussed.

Section 2. **POWERS AND DUTIES.** The Board shall have all the powers and duties necessary for the administration of the affairs of the Project in compliance with all governmental requirements and the Declaration, and for the maintenance, upkeep, and repair of the Project in good order and condition in accordance with the Project Quality Standard, and the Association may delegate, all rights, powers, and duties to the Board, except those rights, powers, and duties that cannot be delegated to the Board by law, the Declaration, or these Bylaws. The Board shall have all rights, powers, and duties to act on behalf of the Association other than those requiring the vote of the Association set forth in the Act and subject to all rights and approval requirements set forth in the Declaration and these Bylaws, including without limitation, Developer's Reserved Rights or any approval rights of Developer or the Commercial Director.

The Commercial Director has certain consent and approval rights set forth in these Bylaws and the Declaration ("**Commercial Director Consent Rights**"). Any consent and approval rights of the Commercial Director granted in the Declaration and these Bylaws shall automatically terminate when (a) Developer or Developer Affiliate no longer owns any Commercial Units in the Project or (b) the Commercial Director terminates all such consent and approval rights in writing, whichever is first to occur. The termination of such rights shall not affect the rights of the Commercial Unit Class to appoint a Commercial Director to represent the rights and interests of the Commercial Unit Owners, as set forth in the Declaration and these Bylaws.

Section 3. **ELECTION AND TERM OF OFFICE.** During the Developer Control Period, the Board shall be appointed as set forth in Section III.1, and the Directors so appointed shall serve until removed by Developer. Upon the termination of the Developer Control Period, each Residential Director shall be elected and removed only by Residential Unit Class Owners, and the Commercial Director shall be elected and removed only by the Commercial Unit Class Owners; provided that for so long as Developer or Developer Affiliate owns a Commercial Unit in the Project, the Commercial Director shall be Developer or Developer Affiliate. Election of

Directors may be by secret ballot at each annual meeting and each special meeting called for that purpose. Other than for the initial term set forth below, Directors shall hold office for a period not to exceed three (3) years and until their respective successors have been elected, subject to removal as herein provided. The term of office for the initial Directors shall be as follows: (a) the four (4) Residential Directors with the highest number of votes shall serve for three (3) years; (b) the remaining four (4) Residential Directors with the highest number of votes shall serve for two (2) years; and (c) the Commercial Director shall initially serve for three (3) years; provided that so long as Developer shall own a Commercial Unit, the term of the Commercial Director shall not be limited. Directors shall be elected at each annual meeting to fill the vacancy in the office of Directors occurring as of the time of such meeting. An Owner shall provide notice of the Owner's intent to cumulatively vote before voting commences. The term "cumulative voting" as used herein means that each Owner may cast for any one (1) or more nominees to the Board a vote equivalent to the vote which such Owner is entitled to multiplied by the number of Director positions to be elected and for whom the Owner is entitled to vote, and each Owner shall be entitled to cumulate his or her votes and give all thereof to one nominee or to distribute his or her votes in such manner as he or she shall determine among any or all of the nominees for whom such Owner is entitled to vote, and the nominees receiving the highest number of votes on the foregoing basis, up to the total number of Directors to be elected, shall be deemed elected. A vote to fill Director positions may be done through a motion passed by acclamation in situations where a formal vote is not necessary (i.e., where there are four (4) vacant Director seats and there are only four (4) candidates).

Section 4. **REMOVAL OF MEMBERS OF THE BOARD.** At any annual or special meeting of the Association duly called, Directors may be removed and successors shall then and there be elected for the remainder of the term to fill the vacancies thus created as follows:

A. During the Developer Control Period, Developer may remove and replace the Residential Directors and Commercial Director.

B. After the Developer Control Period, the removal and replacement of a Residential Director shall be by a vote of a majority of the Residential Unit Class Owners and, otherwise, in accordance with all applicable requirements and procedures in these Bylaws for the removal and replacement of Directors. Any Residential Director whose removal has been proposed by the Residential Unit Class Owners shall be given an opportunity to be heard at such meeting. Any Residential Director who shall miss three (3) consecutive meetings of the Board may be removed by vote of a majority of the remaining Residential Directors, even though they may constitute less than a quorum; provided, however, that this right of removal shall be without prejudice to the Residential Unit Class Owners' right to remove Residential Directors as provided in this Section. The replacement of the Director so removed shall be in accordance with all applicable requirements and procedures in these Bylaws for the replacement of Directors. Any Director removed by the Board shall not be eligible for reelection to the Board for a period of one (1) year after such Director's removal.

C. After the Developer Control Period, the removal and replacement of a Commercial Director shall be by the vote of a majority of the Commercial Unit Class Owners, in accordance with all applicable requirements and procedures in these Bylaws for the removal and replacement of Directors; provided that for as long as Developer or Developer Affiliate owns a Commercial Unit in the Project, the Commercial Director shall be Developer or Developer Affiliate.

Section 5. **VACANCIES.**

A. A Director's office shall become vacant in the event of such Director's death, incapacity, or resignation or if such Director shall cease to be an Owner or co-Owner of record of a Unit, a vendee of a Unit under an Agreement of Sale, a trustee or beneficiary of a trust which owns a Unit, or an officer, partner, member, or other Person authorized to act on behalf of any other legal entity which owns a Unit.

B. Any vacancies during the Developer Control Period shall be filled by Developer.

C. Any vacancies of a Residential Director after the end of the Developer Control Period, other than a vacancy caused by the natural expiration of the term of such Director or the removal of such Director, shall be filled by the vote of a majority of the remaining Residential Directors, even though they may

constitute less than a quorum, and each person so elected shall serve until his or her successor is elected at the next annual meeting of the Association. The successor elected at such annual meeting serves until the expiration of the term of the Residential Director whose seat is vacated.

D. Any vacancies for the Commercial Director after the end of the Developer Control Period and after Developer or Developer Affiliate no longer owns a Commercial Unit in the Project, other than a vacancy caused by the natural expiration of the term of such Director or the removal of such Director, shall be filled by vote of a majority of the Commercial Unit Class Owners at a special meeting of the Commercial Unit Class Owners and each person so elected shall serve until his or her successor is elected at the next annual meeting of the Association.

Section 6. **ORGANIZATIONAL MEETING.** The first meeting of the Board shall be held immediately after the first annual meeting of the Association and no notice shall be necessary to the newly elected Directors in order legally to constitute such meeting, provided that a majority of the Board, which must include the Commercial Director, shall be present thereat. At such meeting, the Board shall elect the Officers for the ensuing year.

Section 7. **REGULAR MEETINGS.** Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the Directors, but at least one (1) such meeting shall be held during each calendar year.

Section 8. **EXECUTIVE SESSION.** The Board, with the approval of a majority of a quorum of the Directors, may adjourn a meeting and reconvene in private in executive session to discuss and vote upon matters: (a) concerning personnel; (b) concerning litigation in which the Association is or may become involved; (c) necessary to protect the attorney-client privilege of the Association; or (d) necessary to protect the interests of the Association while negotiating contracts, leases, and other commercial transactions. The nature of any and all business to be considered in executive session shall first be announced in open session.

Section 9. **SPECIAL MEETINGS.** Special meetings of the Board may be called by the President on three (3) business days' notice to each Director, given personally or by mail, facsimile transmission, or electronic mail transmission (which notice shall state the time, place and purpose of the meeting), and on posting of notice, if practicable, as provided in Section III.11; provided, however, that in the case of emergency situations, as determined by the President, a special meeting of the Board may be called by the President on eight (8) hours' notice to each Director. Special meetings of the Board shall be called by the President or Secretary in like manner and on like notice, if practicable, on the written request of at least two (2) Directors.

Section 10. **CONDUCT OF MEETING.** All meetings of the Board, other than executive sessions, shall be open to all members of the Association, and Association members who are not on the Board may participate in any deliberation or discussion, other than executive sessions, unless a majority of a quorum of the Board votes otherwise. All meetings of the Board (whether organizational, regular or special) shall be conducted in accordance with the most current edition of Robert's Rules of Order, Newly Revised.

Section 11. **NOTICES; WAIVER OF NOTICE.** Notice of all Board meetings and other notices to the Directors shall be given to each Director by the Secretary or the person or persons calling the meeting. Notice of regular meetings of the Board shall be given to each Director personally or by first class mail, facsimile, or electronic mail at least seven (7) calendar days, if practicable, prior to the day named for such meeting. Notice of all Board meetings shall also be posted by the Managing Agent or Resident Manager, if any, or a member of the Board, in prominent locations within the Project seventy-two (72) hours prior to the meeting or simultaneously with notice to the Board. Before or at any meeting of the Board, any Director may in writing waive notice of such meeting, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice to him or her of such meeting. If all the Directors are present at any meeting of the Board, no notice thereof shall be required, and any business may be transacted at such meeting.

Section 12. **COMPENSATION.** No Director shall receive any compensation from the Association for travel expenses, Directors' fees and *per diem* expenses; provided that, with the approval of the Board, Directors may be reimbursed for actual expenditures incurred on behalf of the Association. The minutes of the meeting shall

reflect in detail the items and the amounts of the reimbursements. The Directors may expend Association funds, which shall not be deemed to be compensation to the Directors, to educate and train themselves in subject areas directly related to their duties and responsibilities as Directors; provided that the approved annual operating budget shall include these expenses as separate line items. These expenses include registration fees, books, videos, tapes, other educational materials, and economy travel expenses. Except for travel expenses on the island of Oahu, all reimbursement for other travel expenses shall be subject to pre-approval by the Board and shall be reflected in the minutes as discussed above.

Section 13. **QUORUM OF BOARD.** At all meetings of the Board, a majority of the total number of Directors established by these Bylaws shall constitute a quorum for the transaction of business, and action by a majority of the Directors present at any meeting at which a quorum is present shall constitute action by the Board; provided that, any action shall be subject to any applicable approval rights of the Commercial Director or Developer. If less than a quorum shall be present at any meeting of the Board, or the Commercial Director is unavailable for a meeting in which a matter involving the Commercial Unit Owners, Commercial Unit and/or the Commercial Limited Common Elements is being discussed, a majority of those Directors present may adjourn the meeting and call an additional meeting at which a majority of the total number of Directors and the Commercial Director can attend.

Section 14. **NO PROXY VOTE; CONFLICT OF INTEREST.** A Director shall not cast any proxy vote at any Board meeting, nor shall a Director vote at any Board meeting on any issue in which the Director has a conflict of interest; provided, however, that nothing herein shall limit the right of the Commercial Director to vote or to exercise any approval rights under the Declaration and these Bylaws. In the event of a conflict of interest, the Director shall disclose the nature of such conflict prior to a vote at the Board meeting, and the minutes of the meeting shall record the fact that a disclosure was made. For the purposes of this Section, "conflict of interest" means an issue in which a Director has a direct personal or pecuniary interest not common to other members of the Association. Ownership and use of a Unit by a Director for the purposes permitted by the Declaration and these Bylaws do not, by themselves, create a conflict of interest. If abstentions for such a reason would result in less than a majority being able to vote, the Directors who do not abstain shall appoint one or more persons as temporary Directors to vote on the matter in question. If the Commercial Director has a conflict of interest, the Commercial Director shall appoint another Owner of a Commercial Unit to temporarily act as the Commercial Director.

Section 15. **EMPLOYEES; BACKGROUND CHECK.** Upon written authorization of an applicant for employment as a security guard, Resident Manager, or a position that would allow the employee access to the keys of or entry into Units or access to Association funds, the Board and the Managing Agent are empowered to conduct a background check or direct another responsible party to conduct the check as provided in Section 514B-133 of the Act. This information shall be used only for the purpose of conducting the criminal history check authorized by this Section and the Act. The failure of the Association, the Board, and the Managing Agent to conduct or verify a background check shall not give rise to a private cause of action against the Board or the Managing Agent for acts and omissions of the employee or vendor hired.

Section 16. **MINUTES OF BOARD MEETINGS.** The minutes of the meetings of the Board shall: (a) shall include the recorded vote of each Director on all motions except motions voted on in executive session; (b) be approved no later than the second succeeding regular meeting; (c) be available within seven (7) calendar days after approval, and unapproved final drafts of the minutes of a meeting shall be available within sixty (60) calendar days after the meeting; provided that the minutes of any executive session may be withheld if their publication would defeat the lawful purpose of the executive session.

Section 17. **ACTION BY DIRECTORS WITHOUT MEETING.** Any action required or permitted to be taken at any meeting of the Board or of a committee of the Board may be taken without a meeting if all of the Directors authorized to vote on such matter or all of the members of the committee, as the case may be, sign a written consent setting forth the action taken or to be taken at any time before or after the intended effective date of such action. Such consent shall be filed with the minutes of the Board meetings or committee meetings as the case may be and shall have the same effect as a unanimous vote.

Section 18. **REMOTE MEETINGS.** Subject to the notice requirements contained in these Bylaws, members of the Board or any committee designated thereby may participate in a meeting of such Board or

committee by means of a conference telephone or similar communication equipment through which all Directors participating may simultaneously hear each other during the meeting. A Director participating in a meeting by this means is deemed to be present in person at the meeting. If permitted by the Board, any Owner may participate in a meeting conducted by a means of communication through which all participants may simultaneously hear each other during the meeting, provided that the Board may require that the Owner pay for the costs associated with the participation.

Section 19. **DUTY OF DIRECTORS.** In the performance of their duties, each Director shall owe the Association a fiduciary duty and exercise the degree of care and loyalty required of a director of a nonprofit corporation organized under Chapter 414D of the Hawaii Revised Statutes, as amended.

Section 20. **COPIES OF DOCUMENTS.** The Association at its expense shall provide all Directors with a current copy of the Declaration, Bylaws, House Rules and, annually, a copy of the Act, with amendments, and the HAR.

ARTICLE IV

OFFICERS

Section 1. **DESIGNATION.** The principal Officers of the Association shall be a President, a Vice President, a Secretary, and a Treasurer, all of whom shall be elected by the Board. The Board may appoint an assistant treasurer, an assistant secretary, and such other Officers as in its judgment may be necessary. All Officers shall be members of the Board. Except as specifically authorized by the Association at an annual or special meeting, no Officer shall receive any compensation from the Association for acting as such, but may be reimbursed for actual expenses incurred in the course of acting as such Officer. An Owner shall not act as both an Officer of the Association and an employee of the Managing Agent.

Section 2. **ELECTION AND TERM.** The Officers of the Association shall be elected annually by the Board at its organizational meeting or any special meeting called for such purpose and shall hold office at the pleasure of the Board.

Section 3. **DUTY OF OFFICERS.** In the performance of their duties, each Officer of the Association shall owe to the Association a fiduciary duty and exercise the degree of care and loyalty required of an officer of a corporation organized under Chapter 414D of the Hawaii Revised Statutes.

Section 4. **REMOVAL.** Any Officer may be removed either with or without cause by vote of a majority of the members of the Board, and his or her successor shall be elected at any regular meeting of the Board or any special meeting called for such purpose.

Section 5. **PRESIDENT.** The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board. He or she shall exercise general supervision and direction over the management and conduct of the business and affairs of the Association. He or she shall also have such other powers and duties as may be provided by these Bylaws or assigned to him or her from time to time by the Board.

Section 6. **VICE PRESIDENT.** The Vice President shall perform all of the duties and exercise all of the powers and rights of the President provided by these Bylaws or otherwise during the absence or disability of the President, or whenever the office of President is vacant, and shall perform all other duties assigned by the Board.

Section 7. **SECRETARY.** The Secretary shall attend and keep the minutes of all meetings of the Association and of the Board, give all notices thereof as provided by these Bylaws, maintain and keep a continuous and accurate record of ownership of all Units, maintain and keep the minute book wherein resolutions shall be recorded, have charge of such books, documents and records of the Association as the Board may direct, and in general perform all the duties incident to the office of Secretary and all other duties assigned by the Board.

Section 8. **TREASURER.** The Treasurer shall maintain and keep the financial records and books of account of the Association, prepare regular reports thereof and be responsible for the proper deposit and custody in the name of the Association of all its funds and securities. The Treasurer shall, in general, perform all of the duties incident to the office of Treasurer and all other duties assigned by the Board.

Section 9. **EXECUTION OF AGREEMENTS, CONTRACTS, DEEDS, CHECKS, ETC.** After the first annual meeting of the Association, all agreements, contracts, deeds, leases, checks, and other instruments of the Association, including any amendments to the Declaration or these Bylaws, shall be executed by any two (2) of the President, Vice President, Secretary or Treasurer, or by such other person or persons (including the Managing Agent) as may be designated in writing by the Board.

Section 10. **LIABILITY AND INDEMNITY OF THE BOARD AND OFFICERS.** The Directors and Officers shall not be liable to the Association for any mistake of judgment or otherwise except for their own individual gross negligence or willful misconduct. The Association shall obtain and maintain at the Association's expense a policy of Directors' and Officers' liability insurance covering the Directors and Officers as provided in Section V.1.N.

The Association shall defend and indemnify each Director and Officer against all costs, expenses, and liabilities, including the amount of judgments, amounts paid in compromise settlements, and amounts paid for reasonable attorneys' fees, and other related expenses which may be incurred by or imposed on the Directors and Officers in connection with any claim, action, suit, proceeding, investigation, or inquiry hereafter made, instituted, or threatened in which he or she may be involved as a party or otherwise by reason of his or her being or having been a Director or Officer, or by reason of any past or future action taken or authorized or approved by him or her, or any omission to act as a Director or Officer, whether or not he or she continues to be a Director or Officer at the time of the incurring or imposition of such costs, expenses, or liabilities. The Association shall not defend and indemnify the Directors or Officers for such costs, expenses, or liabilities as shall relate to matters as to which he or she is liable by reason of his or her gross negligence or willful misconduct toward the Association in the performance of his or her duties as a Director or Officer. As to whether or not a Director or Officer was liable by reason of gross negligence or willful misconduct toward the Association in the performance of his or her duties as a Director or Officer, in the absence of final adjudication of the existence of such liability, each Director and Officer may conclusively rely upon an opinion obtained by the Association's attorney. The foregoing right of indemnification shall not be exclusive of other rights to which a Director or Officer may be entitled as a matter of law or otherwise, and shall inure to the benefit of the heirs, executors, administrators, and assigns of each Director or Officer.

ARTICLE V

MANAGEMENT

Section 1. **MANAGEMENT AND OPERATION OF THE PROJECT.** Subject to the limits described in Section III.2, the Board shall manage and operate the Project, and shall be delegated to it by the Association the powers and duties to do so, which include, but are limited to, the following:

A. **OPERATION AND MAINTENANCE OF THE COMMON ELEMENTS.** Subject to limitations in the Declaration and these Bylaws, the Board will operate, maintain, repair, replace, and make Improvements to the Common Elements.

B. **MAINTENANCE AND REPAIR OF UNITS.** The Board may perform maintenance and repairs on any Unit or Limited Common Element in the Project if;

- 1) It is necessary to protect the Common Elements or any other Unit, and
- 2) The Owner of the Unit fails or refuses to perform the maintenance or repair within a reasonable time after the Board delivers written notice to him or her describing the maintenance and repairs needed.

The Board will charge a special assessment to that Unit for the cost of the maintenance or repair and any attorneys' fees and other expenses incurred in charging and collecting the special assessment. Notwithstanding the foregoing, any such maintenance and repairs to be performed upon any Commercial Unit, Commercial Unit Limited Common Element, or Commercial Limited Common Elements shall be subject to the approval of the Commercial Director, which consent shall not be unreasonably withheld or delayed.

C. **RESTORATION OF PROJECT.** The Board will rebuild, repair, and restore the Project in accordance with the provisions of the Declaration and these Bylaws after it is damaged or destroyed by a fire or other casualty or as a result of a condemnation.

D. **EMPLOYMENT OF PERSONNEL.** The Board may hire employees, including a Resident Manager and operational and maintenance staff, and may designate, employ, train, supervise, and dismiss any personnel necessary or useful to maintain, repair, replace, rebuild, or restore the Common Elements or to operate the Project.

E. **DELEGATION OF POWERS.** The Board may delegate its powers to committees, agents, officers, representatives, and employees at the Board's discretion.

F. **ENFORCEMENT OF CONDOMINIUM DOCUMENTS; LAW.** The Board will enforce the Condominium Documents, the Act, the HAR, and any other laws applicable to the operation of the Project.

G. **PENALTIES AND FINES.** The Board may set penalties and fines, and charge interest on them if they are not paid, as it deems appropriate to enforce the Condominium Documents, the Act, the HAR, and any other laws applicable to the operation of the Project. This includes, for example, penalties and fines, and any interest on them, for failure or refusal to pay to the Association on demand all costs, expenses, Common Expenses and Assessments (special or otherwise) required to be paid by law or under the Condominium Documents. Any penalties and fines must not be inconsistent with law or the Condominium Documents. The Board may, to the extent permitted by Section VI.8.B.5 and applicable law, also terminate an Owner's access to the Common Elements and stop supplying such Unit with any and all services normally supplied or paid for by the Association.

1) **MONETARY FINE.** A monetary fine may be charged for any violation of the Condominium Documents, the Act, the HAR, and any other laws applicable to the operation of the Project. The fine will be deducted from an Owner's assessment in accordance with the priority of payment set forth in Section VI.7.C herein.

2) **HEARING.** If requested by the Owner, the Board must hold a meeting and permit any Owner that receives a warning to present his or her case before it fines such Owner or imposes a penalty or takes any other disciplinary action. This provision does not apply, however, when an Owner is fined or penalized for failing to pay any Assessment on time. An Owner must submit an appeal to the Board within twenty (20) business days after the date of delivery or mailing to the Owner of the written warning. The delivery of notice to appeal shall not halt the accrual of any ongoing fine imposed for the violation, which is the subject of the appeal. The Board may waive or rescind all or a part of such fine for good cause at any time after the hearing.

All appeals shall be reviewed by the Board either by electronic mail, conference call, or at a physical meeting of the Board within ninety (90) calendar days after the notice of appeal has been delivered to the Board. A statement of facts upon which the fine and/or penalty was based should be delivered or mailed to the Owner at least ten (10) business days before the meeting. The Owner has the right to appear and to explain why the fine or penalty should not be imposed or why access and services should not be terminated. The Board and Owner may ask other persons to attend and present testimony at the hearing. A majority of the Directors present will decide whether to impose the fine or penalty or to terminate access and services, if permitted pursuant to Section V.1.G above. The Directors, however, cannot act unless a quorum is present and the meeting is held as provided in these Bylaws and such actions against a Commercial Unit Owner shall be subject to the approval of the Commercial Director.

3) **WHEN THE FINE OR SUSPENSION TAKES EFFECT.** The Board must give the Owner written notice of any disciplinary action taken and the reasons for such action. Any disciplinary action will take effect within twenty (20) business days of the date that the notice is delivered to the Owner.

4) **WHEN SERVICES WILL BE RESTORED.** The Board will restore an Owner's access and services when the Owner pays all amounts due.

5) **THE MANAGING AGENT'S ROLE.** The Board may delegate to the Managing Agent the power to carry out any disciplinary actions imposed by the Board.

H. **BUDGET.** Each year, the Board must prepare and adopt a budget of Common Expenses of the Association and determine the amounts of Assessments.

I. **ASSESSMENTS.** The Board must charge and collect Assessments of the Common Expenses and other charges payable by the Owners.

J. **BANK ACCOUNTS.** The Board must open bank accounts on behalf of the Association; it must also designate who must sign checks and other documents relating to the accounts.

K. **ASSOCIATION FUNDS.** The Board has custody and control of all funds of the Association. It must keep full and accurate books of account and records of the Association's funds. It must also prepare regular financial reports.

L. **BORROWING MONEY.** Subject to the notice and Owner approval requirements of Section 514B-105 of the Act and any approval requirements and spending limitations contained in these Bylaws or in the Declaration, the Association may authorize the Board to borrow money to be used for the repair, replacement, maintenance, operation, or administration of the Common Elements of the Project, or to make any additions, alterations, and Improvements to them. The cost of borrowing including, without limitation, all principal, interest, commitment fees, and other expenses payable with respect to this borrowing, with respect to the Common Elements will be a Common Expense, with respect to the Commercial Limited Common Elements will be a Commercial Unit Class Expense, subject to the approval of the Commercial Director, and with respect to the Residential Limited Common Elements shall be a Residential Unit Class Expense. The Association may also borrow money for the purchase of the Resident Manager Unit and/or any Guest Unit or other Unit; provided that any loan for such purchase is approved by a Majority of the Residential Unit Class. To the extent permitted by law, such loan payment shall be a responsibility of the Residential Unit Owners and a Residential Unit Class Expense. The Commercial Unit Owners shall not be responsible for the payment of any such loan for the acquisition of the Resident Manager Unit or any other Residential Unit in the Project.

M. **PAYMENT OF COMMON EXPENSES.** As agent of the Owners, the Board will pay all Common Expenses authorized by the Board.

N. **INSURANCE AND BONDS.** The Board will buy and keep in effect any insurance and bonds required or permitted by the Declaration or these Bylaws.

O. **SERVICES.** The Board will obtain any legal, accounting, and consulting services necessary or proper for the administration and operation of the Project or to interpret, enforce, or implement the Act, the HAR, the Condominium Documents, and any other material documents or decisions affecting the Project.

P. **PURCHASE OF GOODS.** Subject to any limitations contained within the Condominium Documents or by law, and if required by the Condominium Documents or by law, or if it is necessary or proper, in the Board's opinion, to operate the Project or to enforce the Condominium Documents, the Board may:

- 1) Buy, lease, or otherwise procure any other materials, equipment, supplies, furniture, labor and services,
- 2) Make repairs and structural alterations, and
- 3) Pay taxes and assessments and other Common Expenses.

If any materials, equipment, supplies, furniture, labor, services, repairs, structural alterations, insurance, taxes, or assessments are required because of the acts, misuse, or negligence of the Owners or Occupants of a particular Unit, the Board will charge the costs of it as a special assessment to that Unit to the extent permitted by Section VI.3.B.

Q. MASTER ASSOCIATION. Subject to any limitations in the Declaration, the Bylaws, or law, the Board may vote on all matters for and on behalf of the Association and the Owners set forth in the Master Declaration and Master Bylaws, unless otherwise prohibited by law or set forth in the Master Declaration or Master Bylaws.

R. DISCHARGE OF LIENS. The Board may pay any amount necessary to discharge, directly or by bond, any item or encumbrance levied against the entire Project or any part of it that may, in the Board's opinion, constitute a lien against the Project or against the Common Elements rather than merely against the interest of particular Owners. If one (1) or more Owners is/are responsible for the existence of any such lien, they will be jointly and severally liable for the cost of discharging it or bonding against it, and the costs incurred by the Board by reason of such lien.

S. PURCHASING UNITS. Except as otherwise caused by the exercise of a Developer's reserved right to transfer Units to the Association, with the affirmative vote of sixty seven percent (67%) of the Association, the Board may buy, lease, or otherwise acquire any Unit on behalf of the Association, the cost of which shall be a Residential Unit Class Expense; provided that the purchase of a Unit for the Resident Manager may be done by the Board without the vote of the Association pursuant to the Act. It may take title in the name of the Association or the Board may have someone else, such as a trustee, hold title.

T. LEGAL PROCEEDINGS. The Board may begin, defend, settle, or intervene on behalf of the Association in litigation, arbitration, mediation, or administrative proceedings in matters relating to (i) enforcement of the Condominium Documents; (ii) damage to the Common Elements to the extent that the Association is obligated to maintain and repair them; (iii) damage to any part of any Unit to the extent that the Association is obligated to maintain and repair it; or (iv) damage to the Units which arises out of, or is integrally related to, damage to any of the Common Elements or to any part of any Unit to the extent that the Association is obligated to maintain and repair them. Except as otherwise provided in Section 514B-161(b) of the Act, if the Board or an Owner requests mediation of a dispute, the other party in the dispute shall be required to participate in mediation. Each party shall be wholly responsible for its own costs of participating in mediation, unless at the end of the mediation process, both parties agree that one (1) party shall pay all or a specified portion of the mediation costs. If the Board or an Owner refuses to participate in the mediation of a particular dispute, a court may take this refusal into consideration when awarding costs and attorneys' fees. Notwithstanding the foregoing, all claims regarding the design or construction of any part of the Project shall be resolved pursuant to Section XLI of the Declaration, and in no event may the Association begin, defend, settle, or intervene on behalf of any one (1) or more Owners in litigation, arbitration, mediation, or administrative proceedings in matters for which only the Owner(s) has (have) standing to assert.

Section 2. **MANAGING AGENT; COMMERCIAL MANAGER.**

A. MANAGING AGENT. No later than after the termination of the Developer Control Period: (i) the Association shall hire and at all times have a Managing Agent to perform the fiscal and administrative management of the Project and physical management of the Residential Units, Residential Unit Limited Common Elements, and Residential Limited Common Elements, the cost of which shall be a Residential

Unit Class Expense; and (ii) subject to the right of the Commercial Unit Owners to self-manage, or to select a qualified managing agent to perform physical management of the Commercial Units, Commercial Limited Common Elements, and Commercial Unit Limited Common Elements, the Commercial Unit Owners may appoint the Managing Agent to also be the Commercial Manager ("**Commercial Manager**"), the cost of the Commercial Manager shall be a Commercial Unit Class Expense.

B. **QUALIFICATIONS.** The Managing Agent or Commercial Manager must be properly registered with the Real Estate Commission of the State of Hawaii and meet all of the requirements specified in Section 514B-132 of the Act. The Managing Agent or Commercial Manager may be Developer or a Developer Affiliate.

C. **SELECTION.** The Commercial Director shall have the sole discretion and right to choose and employ the Commercial Manager for the Project, or if it elects, the Commercial Director or one of its affiliates may perform physical management of the Commercial Units, Commercial Limited Common Elements, and Commercial Unit Limited Common Elements by written contract with the Association. Developer shall have the right to choose, and employ the first Managing Agent and Commercial Manager for the Project. Upon the expiration of the Developer Control Period, the Board may retain the Managing Agent or choose a replacement Managing Agent. The Board must use its best efforts to hire and keep a reputable, qualified, corporate company as the Managing Agent.

D. **MANAGEMENT AGREEMENTS.** The Managing Agent must enter into a Condominium Management Agreement with the Association. The Commercial Manager must enter into a management agreement with the Association, through the Commercial Director ("**Commercial Management Agreement**"), unless Developer is the Commercial Manager or the Commercial Units, Commercial Limited Common Elements, and Commercial Unit Limited Common Elements will be self-managed. Subject to the requirements of the Act:

1) **POWERS AND DUTIES.** The Condominium Management Agreement or Commercial Management Agreement may delegate to the Managing Agent or the Commercial Manager, as applicable, any of the Board's powers and/or Officers' duties, except those that, by law or under the Condominium Documents, cannot be delegated. In all cases, the Managing Agent and the Commercial Manager will be subject to the direction of the Board; provided that the Commercial Manager's actions shall also be subject to the approval of the Commercial Director.

2) **TERM.** The Condominium Management Agreement and Commercial Management Agreement (if the Commercial Units, Commercial Limited Common Elements, and Commercial Unit Limited Common Elements are not self-managed):

(a) Shall provide for an initial term of not more than one (1) year from the date on which the Commercial Manager and Managing Agent must begin its performance.

(b) Shall provide that the contract will be renewed automatically unless a written notice canceling the Condominium Management Agreement or the Commercial Management Agreement is sent by either party to the contract at least sixty (60) calendar days before its expiration.

E. **CANCELLATION OF THE CONDOMINIUM MANAGEMENT AGREEMENT BY THE ASSOCIATION.** If applicable, the Condominium Management Agreement must give the Association the right to cancel in each of the following situations:

1) **FOR CAUSE.** The Association must have the right to cancel the Condominium Management Agreement whenever the Managing Agent breaches or fails to observe or perform a material part of the Condominium Management Agreement and fails to cure its breach or default within the time permitted by the Condominium Management Agreement;

2) **WITHOUT CAUSE.** The Association must have the right to cancel the Condominium Management Agreement without cause on not more than sixty (60) calendar days' written notice;

3) **STATUTORY RIGHT.** The Association must have the right to cancel as provided in Section 514B-135(a) of the Act;

4) **APPROVAL BY COMMERCIAL DIRECTOR.** Notwithstanding the above, cancellation of the Commercial Management Agreement by the Association shall be subject to the consent of the Commercial Director.

F. **CANCELLATION BY THE MANAGING AGENT.** The Condominium Management Agreement and Commercial Management Agreement must provide that the Managing Agent and Commercial Manager have the right to cancel the Condominium Management Agreement or Commercial Management Agreement on not more than sixty (60) calendar days' written notice.

G. **BOND.** From time to time, the Managing Agent and Commercial Manager, as applicable, must provide evidence satisfactory to the Board that they are bonded under a fidelity bond in the minimum amount required by the Act or any higher amount as the Board may reasonably require.

H. **PROJECT QUALITY STANDARD.** The Condominium Management Agreement shall contain a requirement that the Managing Agent operate the Project at a Project Quality Standard and further provide for the right of the Board to terminate the Condominium Management Agreement if the Project is not operated or maintained at such standard by the Managing Agent.

Section 3. **EMPLOYMENT OF RESIDENT MANAGER.** The Board may also contract with or employ a Resident Manager who may or may not be the Managing Agent. The Board will set the compensation of any Resident Manager. The Board may delegate to the Resident Manager any of its powers and duties except those that, by law or under the Condominium Documents, it cannot delegate. The Resident Manager shall be held to the same standard as the Managing Agent and shall operate the Project at the Project Quality Standard and further provide for the right of the Board to terminate any agreement with the Resident Manager if the Project is not operated or maintained at such standard by the Resident Manager. The cost of the Resident Manager and any employees which may be hired by such Resident Manager shall be a Residential Unit Class Expense.

Section 4. **LIMITATIONS ON AUTHORITY TO ENTER INTO CONTRACTS.** Neither the Association nor the Managing Agent may enter into a contract to furnish goods or services for the Common Elements or to the Association for a period longer than one (1) year unless authorized by the vote or written consent of a Majority of the Owners voting, subject to any applicable approval rights of the Commercial Director. This rule does not apply, however, to:

A. The Condominium Management Agreement or Commercial Management Agreement.

B. A contract with a public utility company if the rates charged by it are regulated by the Public Utilities Commission. The term of the contract, however, must be the shortest term the supplier will accept at the regulated rate.

C. Prepaid casualty and/or liability insurance policies not lasting more than three (3) years, provided that the policy permits "short-rate cancellation" by the insured.

D. Agreements for cable or satellite television, internet, elevator and refuse services and equipment for ten (10) years or less provided that neither Developer, nor Managing Agent or Commercial Manager owns, directly or indirectly, ten percent (10%) or more of the provider or supplier.

E. Agreements for sale or lease of burglar alarm and fire alarm equipment. Installation, and services for ten (10) years or less provided that neither Developer, nor Managing Agent or Commercial Manager owns, directly or indirectly, ten percent (10%) or more of the supplier.

F. Any other contract for three (3) years or less so long as the Association can cancel it after no more than one (1) year without cause, penalty or other obligation upon not more than ninety (90) calendar days written notice of termination to the other party.

Section 5. **LIMITS ON ASSOCIATION AUTHORITY.** The Association shall not:

A. Incur expenditures for Capital Upgrades (discussed in Article VIII of the Declaration) without following the requirements set forth in Section VIII.C and VIII.D of the Declaration; or

B. Sell during any fiscal year property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

C. Take any action which is inconsistent with any and all limitations imposed upon the Association by the Condominium Documents.

D. Exercise its authority herein without the approval of the Commercial Director and/or Developer, as applicable, if any of the associated actions impact the Commercial Units, Commercial Unit Owners, and/or the Commercial Limited Common Elements.

Section 6. **RESTRICTIONS ON RENTING OR SELLING UNITS BY ASSOCIATION EMPLOYEES.** An employee of the Association may not engage in renting or selling Units in the Project except for Units owned by the Association, unless such activity is approved by vote of the Owners as required by the Act.

Section 7. **HOUSE RULES.** The Board may adopt, publish, and enforce fair and reasonable House Rules governing the operation and use of the General Common Elements, Residential Limited Common Elements, Residential Unit Limited Common Elements, and the Residential Units. Developer may adopt the initial House Rules. The Board may revise the House Rules from time to time. The House Rules must be consistent with the Declaration, these Bylaws, the Act, and the HAR. As set forth in Section VII.N of the Declaration, the House Rules shall not regulate use or behavior in any Commercial Unit or Commercial Limited Common Element and may only regulate use or behavior in the General Common Elements, Residential Units, the Residential Unit Limited Common Elements, and the Residential Limited Common Elements to the extent permitted by Section 514B-105 of the Act, and any House Rules governing the General Common Elements may only be adopted with the approval of the Commercial Director. The Board shall enforce the House Rules in accordance with the Declaration and these Bylaws.

Section 8. **STOPPING VIOLATIONS BY OWNERS.**

A. **THE BOARD MAY STOP CERTAIN ACTIVITIES.** In addition to any other rights they may have, the Board and the Managing Agent may take action to stop any activity or condition that violates the law or the Condominium Documents or which poses an Emergency, as defined in Section V.E of the Declaration.

B. **THE BOARD MAY ENTER A UNIT.** The rights of the Board and the Managing Agent under Section V.8.A include the right and power, with reasonable notice, to enter any Unit at any time and to use any reasonable means under the circumstances in an Emergency, as defined in Section V.E of the Declaration, and neither the Board nor the Managing Agent will be liable to the Owner for trespass for such entry.

C. **THE BOARD MAY FILE A LAWSUIT.** The rights of the Board and the Managing Agents under Section V.8.A also include the right and power to file a lawsuit or other legal proceedings. For example, the Board may obtain a court order ordering the Owner to stop its activity or to abate any unsafe

condition. The Owner must pay to the Association on demand all costs of any such lawsuit or other legal proceedings, including attorneys' fees.

D. **ABANDONED PROPERTY.** If anyone abandons any personal property in or on the General Common Elements or Residential Limited Common Elements of the Project, the Board may sell it in a commercially reasonable manner, store it at the expense of its Owner, donate it to a charitable organization, or otherwise dispose of it as the Board chooses. However, the Board must do so in keeping with any legal requirements in the Act. The Association may keep any money from sale of the personal property except as otherwise provided by law.

ARTICLE VI

COMMON EXPENSES

Section 1. **DESIGNATION OF COMMON EXPENSES.** "Common Expenses" means all charges, costs and expenses as described in Section XII.B of the Declaration.

Section 2. **BUDGET AND RESERVES.** The Board must prepare and adopt an annual operating budget and provide copies of such budget to the Owners. The budget must contain any information required by the Act and the HAR. The Commercial Manager and/or Commercial Director must submit the proposed budget for the Commercial Units, Commercial Limited Common Elements, and Commercial Unit Limited Common Elements, including replacement reserves, at least thirty (30) calendar days prior to the date the Association shall present the budget to the Owners as required by the Act.

A. **BUDGET.** The annual operating budget shall be prepared in accordance with the requirements set forth in Section 514B-148 of the Act and the HAR.

B. **RESERVE FUNDS.**

1) **REPLACEMENT RESERVES.** The Association must establish replacement reserve funds for capital upgrades, as required by law. The Association may set up any additional replacement reserve funds that the Board determines to be necessary or prudent. As required by the Act and the HAR, the Board shall calculate the Association's estimated replacement reserves based on a reserve study developed in compliance with the Act. The term, "Association Property" as used in the HAR governing the reserve study shall refer to all Common Elements with the responsibility for the Common Elements divided according to whether the Common Element is a General Common Element, a Residential Limited Common Element, a Commercial Limited Common Element, or a Unit Limited Common Element. The Association must compute the estimated replacement reserves in the manner required by the Act and the HAR and shall set up separate replacement reserves. The annual operating budget must include all sums required to fund the replacement reserves funds in accordance with the Declaration, the Act, and the HAR. It may also include any greater amounts that the Board chooses in the exercise of its reasonable business judgment. Reserves may be used for those purposes required by the Act and the HAR. Neither the Association, nor any Owner, Director, Officer, Managing Agent, Commercial Manager, or employee of the Association who makes a good faith effort to calculate the estimated replacement reserves for the Association will be liable if that estimate later proves incorrect. The Residential Directors shall assume the responsibility of the Board to establish replacement reserves for Residential Limited Common Elements as a Residential Unit Class Expense, and the Commercial Director, shall assume the responsibility of the Board to establish replacement reserves for Commercial Limited Common Elements as a Commercial Unit Class Expense; provided that any replacement reserves budget for any shared areas that serve the entire Project, if any, shall be coordinated by the Board to ensure consistency and efficient use of Association funds. Replacement reserves for the General Common Elements shall be assessed as a Common Expense. As permitted by Section 514B-148 of the Act, the requirements of Section 514B-148 of the Act shall override any requirements in the Declaration or these Bylaws with the exception of: (a) any provision in the Declaration, these Bylaws, or any other Condominium Documents that require the Association to collect more reserves than are required under Section 514B-148 of the Act; or (b) any provisions in the Declaration, these Bylaws, or any other Association documents that relate to upgrading the Common Elements, such as additions, Improvements, and alterations to the Common Elements.

2) **BUDGET LIMITATION.** The Board may not exceed its total adopted annual operating budget by more than twenty percent (20%) during the fiscal year to which the budget relates, except in emergency situations, as set forth in Section 514B-148(e) of the Act or with the approval of a Majority of the Unit Class affected. Prior to the imposition or collection of an assessment under this Section that has not been approved by a Majority of the affected Unit Class, the Board shall adopt a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the Owners with the notice of assessment.

3) **OPERATING RESERVES.** Subject to Section VI.4.B.4 of these Bylaws, the Board may establish and maintain an operating reserve by monthly assessment against (and payment by) all Owners for operating expenses in proportion to their respective Common Interests, Class Common Interests, Alternative Allocation (as set forth in Section XII of the Declaration), or as may be required by sub-metering pursuant to Section XII.E of the Declaration; provided that, the Residential Directors shall assume the responsibility of the Board to establish operating reserves for Residential Limited Common Elements as a Residential Unit Class Expense, and the Commercial Director, shall assume the responsibility of the Board to establish operating reserves for Commercial Limited Common Elements as a Commercial Unit Class Expense. Neither the Association, nor any Owner, Director, Officer, Managing Agent, or employee of the Association who makes a good faith effort to calculate the estimated operating reserves for the Association will be liable if that estimate later proves incorrect. The reserves shall be set forth in the Association budget.

4) **OTHER RESERVES.** The Association may establish working capital reserve Improvement funds and other reserve funds that the Board deems necessary; provided that, any funds established that impact the Commercial Units shall be subject to the approval of the Commercial Director, or after the expiration of the Commercial Director Consent Rights, the consent of a Majority of the Commercial Unit Class.

5) **LIMITATION.** Operating reserves collected for Commercial Unit Class Expenses may not be expended for any other purpose and are subject to the approval of the Commercial Director, or after the expiration of the Commercial Director Consent Rights, the consent of a majority of the Commercial Unit Class.

6) **OWNERS' INTEREST IN RESERVES.** Except upon termination of the condominium property regime created by the Declaration, the interest of any Owner in the reserves of the Association:

(a) Cannot be withdrawn or assigned separately, and

(b) Will be transferred automatically with each transfer of the Unit, whether or not the deed or other transfer document expressly says so.

Section 3. **ALLOCATION OF COMMON EXPENSES.**

A. **COMMON EXPENSES.** All Common Expenses shall be set forth in the Association budget in accordance with the Declaration and shall include the following:

1) **UNIT AND LIMITED COMMON ELEMENT EXPENSES.** All charges, costs, and expenses incurred by the Association directly attributable to one (1) or more designated Units or any Unit Limited Common Elements appurtenant thereto, including but not limited to, utility costs, all costs of maintenance, repair, replacement, additions, and Improvements to the Unit(s) or the Unit Limited Common Elements appurtenant thereto and reserves therefor, (other than Commercial Unit Class Expenses and Residential Unit Class Expenses), shall constitute Unit Limited Common Element Expenses of the Project for which only the Owners of the designated Unit or Units shall be liable. The share of Unit Limited Common Element Expenses attributable to each designated Unit will be in proportion to each Unit's relative Common Interest set forth in the Declaration. The Board may arrange to handle the maintenance and upkeep of any Residential Unit Limited Common Element and may require the Owner pay for such cost.

2) **COMMERCIAL UNIT CLASS EXPENSES.** All charges, costs, and expenses incurred by the Association directly attributable to the Commercial Limited Common Elements including but not limited to, utility costs, all costs of maintenance, repair, replacement, additions, and Improvements to the Commercial Limited Common Elements and reserves therefor, cost of the Commercial Manager, if any, as well as any other items designated as Commercial Unit Class Expenses by the Declaration or these Bylaws shall constitute Commercial Unit Class Expenses of the Project for which only the Commercial Unit Class shall be liable, unless otherwise designated as a Special Cost and an Alternative Allocation under the Declaration. The share of Commercial Unit Class Expenses attributable to each Commercial Unit will be equal to the Commercial Class Common Interest of that Unit.

3) **RESIDENTIAL UNIT CLASS EXPENSES.** All charges, costs, and expenses incurred by the Association directly attributable to the Residential Limited Common Elements including but not limited to, utility costs, all costs of maintenance, repair, replacement, additions, and Improvements to the Residential Limited Common Elements and reserves therefor, cost of the Managing Agent, the Resident Manager, as well as any other items designated as Residential Unit Class Expenses by the Declaration or these Bylaws shall constitute Residential Unit Class Expenses of the Project for which only the Residential Unit Class shall be liable, unless otherwise designated as a Special Cost and an Alternative Allocation under the Declaration. The share of Residential Unit Class Expenses attributable to each Residential Unit will be equal to the Residential Class Common Interest of that Unit.

4) **COMMON EXPENSES; SPECIAL COSTS AND ALTERNATIVE ALLOCATIONS.** Certain Common Expenses are designated as Special Costs to be shared according to an Alternative Allocation. The Special Costs identified in the Declaration shall not be allocated by Common Interests, unless specified, but shall be allocated between the Commercial Unit Class and the Residential Unit Class as set forth in the Declaration. Such Alternative Allocation is a fair and equitable apportionment of Special Costs pursuant to the provisions of Section 514B-41 of the Act. Special Costs allocated pursuant to an Alternative Allocation in turn, shall be shared among the Residential Unit Class Owners subject to such Special Cost as a Residential Unit Class Expense as set forth in Section VI.3.A.3 above and shared among the Commercial Unit Class Owners subject to such Special Cost as a Commercial Unit Class Expense as set forth in Section VI.3.A.2 above. There may be certain Commercial Unit Class Expenses that may be passed on to the Residential Unit Class and certain Residential Unit Class Expenses that may be passed on to the Commercial Unit Class based on sharing the use of certain areas. These will also be Special Costs allocated as Alternative Allocations as set forth in the Declaration.

B. SPECIAL ASSESSMENTS AGAINST OWNERS AT FAULT. The Association will charge a special assessment to a Unit to pay for all charges, costs, and expenses incurred by the Association due to the negligence, misuse, or neglect of the Owner or his or her tenants, guests, invitees, or licensees. The Association will not charge a special assessment if the cost and expense is reimbursed or paid by insurance proceeds but may charge as a special assessment the deductible amount, subject to the notice and hearing requirements of Section 514B-143 of the Act. Any special assessment charged under this Section will be secured by the lien of the Association described in Section VI.8.A. Special assessments may be included in Common Expenses if the special assessment is for the purchase or lease of any Unit by the Association, as permitted under the Act or the Bylaws.

Section 4. **ASSESSMENTS.**

A. WHEN ASSESSMENTS BEGIN. Assessments for Common Expenses shall be made based on a budget initially prepared by Developer and adopted by the Board during the Developer Control Period. The budget shall be distributed or made available to each Owner at least annually by the Board. Each Owner, including Developer, shall become obligated for the payment of the share of Common Expenses allocated to the Owner's Unit from and after a specified date to be set forth in a written notice from Developer as permitted by Section 514B-41(b) of the Act. Developer shall mail the written notice to the Owners, the Association, and the Managing Agent, if any, at least thirty (30) calendar days before the specified date. Prior to the specified date, Developer shall assume all the actual expenses in the Project pursuant to the provisions of Section 514B-41(b) of the Act and state in Developer's public report for the Project that the Owners shall not be obligated for the payment of the Common Expenses assessable against the Units until such time as Developer sends the Owners written notice, that after a specified date, the Owners shall be obligated to pay for the portion of the Common Expenses that is

allocated to their respective Units. After the specified date, Assessments will be payable in advance in monthly installments on the first day of each month, or at any other time that the Board chooses.

B. AMOUNT OF ASSESSMENTS.

1) **REGULAR ASSESSMENT.** Each year the Board will set the amount of the "Regular Assessments" based on the Common Expenses for each Unit based on the budget and the requirements of the Condominium Documents. The Board may increase the amount of the Regular Assessments during the year. The Regular Assessments shall include the Master Assessments.

2) **SPECIAL ASSESSMENTS.** If for any reason the Regular Assessments are or will be inadequate to pay the expenses for which such Regular Assessment is designated, the Board must estimate the shortfall. The Board must then (i) increase the next year's budget, or (ii) charge a "special assessment". The Board may also charge a special assessment in any other circumstances permitted by law or by these Bylaws or the Declaration.

3) **NOTICE OF ASSESSMENTS.** Any time that the Board increases the Regular Assessment or charges a special assessment, it must give written notice of the increase or special assessment to each Owner. The notice must state the amount of the increase or of the special assessment for the Owner or the Owner's Unit. The Board must send the notice at least thirty (30) calendar days before the increase or special assessment takes effect.

4) **LIMITS ON ASSESSMENTS.**

(i) Assessments are limited by the budget limitation set forth in Section VI.2.B.2 herein.

(ii) Assessments related to capital upgrades are governed by Section VIII.C and VIII.D of the Declaration and Assessments related to Extraordinary Actions are governed by Section VIII.E of the Declaration.

(iii) Any Assessments for Special Costs and any Alternative Allocations shall be allocated equitably and fairly based on use between the Commercial Units and Residential Units, and any change in such Special Cost and Alternative Allocation is subject to the approval of the Commercial Director.

C. TREATMENT OF ASSESSMENTS. Any part of Assessments used or to be used by the Association for any capital expense or major repairs or remodeling, including, but not limited to replacement of the roof, exterior painting of the building, and resurfacing of parking areas, will be treated as a capital contribution by the Owner that was assessed and paid for such items. It will be credited by the Association on its books as paid in surplus. It will not be treated as income to the Association or to the Owners.

Section 5. HANDLING AND PAYMENT OF ASSOCIATION FUNDS.

A. The funds in the general operating account of the Association must not be commingled with funds of other activities such as lease rent collections and rental operations (except to the extent permitted by Section 514B-149 of the Act). The Managing Agent must not commingle any Association funds with the Managing Agent's own funds.

B. All funds collected by the Association or by the Managing Agent, must be deposited, held, transferred, invested, and paid out in accordance with the requirements of the Act.

Section 6. PAYMENT AS AGENT. Each Owner, as principal, is liable for and must pay his or her share of the Common Expenses. The amount an Owner must pay will be set in accordance with the Declaration and

these Bylaws. Except as otherwise provided in these Bylaws or in the Declaration, on behalf of the Owners the Board may pay all Common Expenses or cause them to be paid. The Board may require the Managing Agent to assist in these duties. The Board and the Managing Agent will transmit the payments made by the Owners to third persons to whom the payments must be made by the Owner. Neither the Board nor the Managing Agent, however, is liable for payment of the Common Expenses of any Owner.

Section 7. DUTY TO PAY; INTEREST AND LATE CHARGES.

A. PERSONAL OBLIGATION TO PAY. Each Owner is personally obligated to pay, on time, all applicable Assessments charged to the Owner or to his or her Unit. If a Unit is owned by more than one Person, each of them will be jointly and severally liable for the Assessments. The amount of an Assessment will become the personal debt of the Owner as of the date when it is assessed. By acquiring a Unit, an Owner promises to pay all applicable Assessments charged to him or her, or to his or her Unit.

B. INTEREST AND LATE CHARGES. All sums not paid within fifteen (15) calendar days after the due date may be subject to (i) interest at a rate set by the Board or, if no rate is set, then at one percent (1%) per month from the due date until paid; and (ii) a late charge equal to the greater of Fifty Dollars (\$50.00) or ten percent (10%) of the amount due, as may be determined by the Board in its reasonable discretion. An Owner must also pay all costs of collection, including reasonable attorneys' fees.

C. HOW PAYMENTS WILL BE APPLIED. Payments will be applied first to legal fees, costs and expenses, then to late charges, then to interest, then to the principal amount of the Assessment.

Section 8. ENFORCEMENT.

A. ASSOCIATION LIEN. The Association has a lien on each Unit for all Assessments charged to that Unit or to its Owner, including late charges, interest, costs of collection and reasonable attorneys' fees. If the Owner fails to pay these amounts, the Association may foreclose its lien in accordance with applicable law and the Condominium Documents. The Association's lien is prior to all other liens, except only:

- 1) Liens for taxes and assessments lawfully imposed by governmental authorities against the Unit and which, by law, have priority over the Association's lien,
- 2) The lien for sums unpaid (plus costs and expenses including attorneys' fees provided in the Mortgage) on any Mortgage that is recorded before the Association records a Notice of Lien, and
- 3) The CVS Lease (defined in the Declaration), which shall not be terminated in any action by the Association to foreclose on an Association's lien on the Commercial Unit.

B. ASSOCIATION REMEDIES. If an Owner fails to pay any amount assessed to him or her, or to his or her Unit, then in addition to any other remedies the Board may have, the Board may enforce the obligation to pay those amounts as follows:

- 1) **NOTICE OF LIEN.** At any time after an Owner defaults, the Board or the Managing Agent may give a notice to the defaulting Owner. The notice must state the amount owed and the date when it became due. If this amount is not paid within ten (10) business days after the notice is delivered, the Board or the Managing Agent may record a "Notice of Lien" against the Owner's Unit. The Notice of Lien must be signed and acknowledged by any two (2) or more Directors or Officers of the Association, the attorney for the Association, or the Managing Agent. Whether or not a Notice of Lien is recorded, the Board will have all remedies provided in these Bylaws, the Declaration and the Act on account of the default. Each default will be a separate basis for a Notice of Lien. But a single Notice of Lien may cover more than one default, and may include defaults between the date of the Notice of Lien and the date of the sale.

2) **FORECLOSURE OF LIEN.** The Board or the Managing Agent, acting on behalf of the Association, may foreclose the Association's lien in a manner like a Mortgage foreclosure. They may do so by filing a lawsuit for foreclosure. They may also foreclose using the non-judicial or power of sale foreclosure procedures authorized by law. The Owner shall be required to pay a reasonable rental for the Unit and the plaintiff in the foreclosure shall be entitled to the appointment of a receiver to collect the rental owed. The Board or the Managing Agent must give to an Owner at least ten (10) business days prior written notice of the Association's intent to foreclose. It must send this notice by registered mail. The Managing Agent, acting on behalf of the Association and as directed by the Board, may bid on the Unit at the foreclosure sale and may acquire, hold, lease, Mortgage, and convey the Unit. The Association may offset the Owner's debt against the amount bid at the sale. The Association may also accept a deed of the Unit to the Association (or to a trustee holding title for the Association) in place of foreclosure.

3) **LAWSUIT.** The Association may file one or more lawsuits to enforce an Owner's obligation to pay Assessments. The Association may file a lawsuit to recover a money judgment for the unpaid Common Expenses without foreclosing or waiving its lien for those expenses. The Association may not file a lawsuit unless a majority of the Board authorizes it at a regular or special Board meeting. The Board may file the suit on behalf of the Association. The Managing Agent may file the suit on behalf of the Association if the Board authorizes it to do so in writing.

4) **CANCELLATION OF NOTICE OF LIEN.** On behalf of the Board, any two (2) Directors or Officers of the Association or the Managing Agent, will sign, acknowledge, and deliver to the Owner a document canceling a Notice of Lien if the Board receives payment in full of the amount claimed to be due and owing (including interest, late fees, and any costs of enforcement and attorneys' fees) and the Owner asks for the cancellation document and pays a reasonable fee for such document.

5) **TERMINATION OF RIGHT TO USE COMMON ELEMENTS.** Pursuant to the procedures, requirements and rights specified in Section 514B-146(e) and (f) of the Act, the Association may terminate a defaulting Residential Unit Owner's right of access to and use of the Common Elements other than as may be strictly required for access to the Unit and may also stop supplying any defaulting Owner with any and all services normally supplied or paid for by the Association.

Section 9. **WAIVER.** In one or more cases, the Board may not insist on strict performance of or compliance with the covenants of an Owner under the Condominium Documents, or may not use some or all of the rights and powers that the Board has to enforce compliance. This does not mean, however, that the Board has waived the right to do so. Instead, the covenants of each Owner will remain in full force and effect and the Board will continue to have all of its rights and powers to enforce them despite any failure to do so in the past. Whether or not the Board knows that an Owner has violated the Condominium Documents, it may receive and accept any money paid by the Owner without waiving the Owner's breach. The Board will not be deemed to have waived any provision of the Condominium Documents, expressly or by implication, unless the Board expressly states the same in a document that is signed by an Officer pursuant to authority contained in a resolution of the Board.

Section 10. **ASSESSMENT DISPUTES.**

A. **STATEMENT OF UNPAID AMOUNTS.** No Owner may withhold any Assessment claimed by the Association. An Owner who disputes the amount of an Assessment may request a written statement clearly indicating (1) the amount of Common Expenses included in the Assessment, including the due date of each amount claimed; (2) the amount of any penalty, late fee, lien filing fee, and any other charge included in the Assessment; (3) the amount of attorneys' fees and costs, if any, included in the Assessment and (4) other such matters as provided in Section 514B-146(c) of the Act. Upon receipt of such a request, the Association, or the Managing Agent on behalf of the Association, must provide a written statement disclosing this information and anything else required by the Act or the HAR.

B. **ASSESSMENT DISPUTES.** An Owner who pays the Association the full amount claimed by the Association may still contest the Assessment in the manner provided in the Act.

Section 11. **LIABILITY OF ANYONE WHO ACQUIRES TITLE THROUGH FORECLOSURE.** In this Section, "New Owner" means a Lender or anyone else who obtains title to a Unit as a result of the foreclosure of a Mortgage. A New Owner and its successors and assigns are not liable for the share of the Common Expenses or Assessments charged to the Unit and which became due before the New Owner took title. Instead, those unpaid amounts will be Common Expenses collectible from the Owners, including the New Owner and his or her successors and assigns, and will be allocated in accordance with Section XII.B of the Declaration. A New Owner will be deemed to acquire title and is required to pay the Unit's share of Common Expenses and Assessments beginning at the time stated in the Act or, if not stated, then, the earlier of: (1) thirty-six (36) calendar days after the order confirming the sale to the purchaser has been filed with the court; (2) sixty (60) calendar days after the hearing at which the court grants the motion to confirm the sale to the purchaser; (3) thirty (30) calendar days after the public sale in a nonjudicial power of sale foreclosure, pursuant to Chapter 667 of the Hawaii Revised Statutes; or (4) the date when the deed is recorded.

Section 12. **LIABILITY FOR UNPAID COMMON EXPENSES.**

A. In this Section, "Existing Owner" means the Owner who transfers a Unit, and "New Owner" means the Person to whom the Unit is transferred. If a Unit is transferred voluntarily and not as a result of foreclosure, the New Owner will be jointly and severally liable with the Existing Owner for all unpaid Assessments against the Existing Owner for his or her share of the Common Expenses up to the time of the transfer subject to any limitations in Section 514B-146(h) of the Act. This does not limit the New Owner's right to recover from the Existing Owner the amounts paid by the New Owner for these unpaid Assessments.

B. Both the Existing Owner and the New Owner have the right to ask the Managing Agent or the Board for a letter listing any unpaid Assessments against the Existing Owner or his or her Unit. Within twenty (20) business days after receiving the request, the Board or the Managing Agent must provide the letter. The letter will state the amount of the unpaid Assessments against the Existing Owner. The New Owner is not liable for, and the Unit will not be transferred subject to a lien for, any unpaid Assessments against the Existing Owner in excess of the amount stated in the letter except for the amount of any check that is later dishonored and that is mentioned in the letter as having been received within the thirty (30) day period immediately preceding the date of the letter.

Section 13. **ABANDONMENT OF UNIT; DEED TO BOARD.** An Owner cannot avoid liability for Assessments by not using or by abandoning his or her Unit or by waiving his or her rights to use or enjoy the Common Elements. With the unanimous consent of the Board, any Owner may deed his or her Unit and its Common Interest to the Association on behalf of all other Owners. The Owner will not be liable for any Common Expenses charged after the deed is accepted by the Association and is recorded.

Section 14. **TAXES AND ASSESSMENTS.**

A. Each Owner (i) must take reasonable steps to see that the government assesses any taxes on his or her Unit and its Common Interest and on any personal property or any other interest of the Owner separately from taxes on other Units or other Owners, and (ii) must pay those taxes.

B. If, in the opinion of the Board, any taxes or assessments may be a lien on all or any part of the Common Elements, the Board may pay those taxes or assessments as part of the Common Expenses. Any such taxes or assessments which may be a lien on the General Common Elements shall be Common Expense, any such taxes or assessments which may be a lien on the Residential Limited Common Elements shall be a Residential Unit Class Expense and any such taxes or assessments which may be a lien on the Commercial Limited Common Elements shall be a Commercial Unit Class Expense. Each Owner must pay to the Board his or her proportionate share of any Assessment by the Board for any such taxes or assessments paid by the Board. The Owners must make these payments at the time and in the manner that the Board directs. Any Assessments charged by the Board under this Section will be secured by the Association's lien under Section VI.8.A and the non-paying Owner shall be required to reimburse the Board for any amount paid by the Board in connection therewith, including, without limitation, attorneys' fees and other expenses incurred in charging and collecting the amount owed.

Each Owner must sign any documents and take any action that the Board reasonably requires to facilitate dealing with the proper governmental authority regarding taxes and assessments.

Section 15. UTILITY EXPENSES. All utilities serving the Residential Units or Residential Limited Common Elements shall be separately metered from the Commercial Units and Commercial Limited Common Elements and the General Common Elements whenever possible. If not possible, then calculations shall be made pursuant to the provisions of the Declaration. The cost of utility services for the General Common Elements is a Common Expense, unless otherwise set forth in a Special Cost or Alternative Allocation in the Declaration. The cost of utility services for Commercial Limited Common Elements is a Commercial Unit Class Common Expense and the cost of utility services for Residential Limited Common Elements is a Residential Unit Class Common Expense.

A. The cost of utility services to any Unit or Limited Common Elements that are separately metered, sub-metered or check metered shall be calculated based upon actual usage and shall be payable by the Owner of such Unit or the Owner(s) of the Unit(s) to which such Limited Common Element is appurtenant, payable directly to the service provider if a separate bill is rendered (in which case the amounts owed and payable to the service provider shall not be or be deemed to be Common Expenses), or otherwise payable to the Association on demand (in which case the amounts owed and payable to the Association shall be and be deemed to be Common Expenses). If utility services are separately metered, sub-metered or check metered to a group of Units (for example, to all Commercial Units or to all Residential Units, or to the Commercial and Residential Units as a group, etc.), the share of the costs and expenses allocated to and payable by each Unit in the metered group shall be based upon each Unit's actual usage of the group metered utilities; provided, however, that if it is not reasonably possible to determine accurately each Unit's actual usage of the metered utilities relative to the other Units in the group, then each Unit's share of the group metered utility costs and expenses shall be calculated based upon relative Class Common Interest if metered solely within a Unit Class or by relative Common Interest if metered to one or more Units in the Residential Unit Class and Commercial Unit Class. Unless otherwise permitted or required by the utility service provider(s), the Owners of Units that are separately metered, sub-metered or check metered shall be responsible for all costs and expenses of the maintenance, repair, and replacement of all metering equipment installed in or for their Units.

B. If utility or other services (including, by way of example but not limitation, television cable, internet, and digital telephone service) are purchased by the Association as a bundled utility package at a negotiated but adjustable flat rate and provided to some or all of the Units, each Unit that is designated to receive such utilities or services shall be assessed separately, an equal share of the flat rate charged by the provider to the Association. This Section VI.15.B shall not apply to the Commercial Unit if the CVS Lease is still in effect.

C. For all utility and other service expenses billed to the Association for Commercial Limited Common Elements and Residential Limited Common Elements and not separately metered, sub-metered or check metered, or not provided as part of a bundled utility package for which the Association pays a flat rate, the Board shall allocate a share of such utility or service expenses as provided in the Declaration.

D. If any Owner fails to pay his or her share of all such costs and expenses that are payable to the Association, the Association shall have all of the rights and remedies against the Owner available to the Association for an Owner's failure to pay his or her share of Common Expenses.

Section 16. COLLECTION FROM TENANT. An Owner may rent or lease his or her Unit. If an Owner does so and if the Owner is in default for thirty (30) calendar days or more in paying the Unit's share of the Common Expenses, then for so long as the default continues, the Board may demand in writing and receive from the Owner's tenant any rent due up to the full amount owed by the Owner to the Association, including interest, if any. Any such demand or acceptance of rent from any tenant shall not be deemed to be a consent to or approval of any lease by the Owner or a release or discharge of any of the obligations of the Owner under the Condominium Documents, or an acknowledgement or surrender of any rights or duties under the Condominium Documents. If the Board makes such a demand upon the tenant, the tenant shall be obligated to make the payments to the Board as demanded; provided, however, that the Board may not exercise this right if a receiver has been appointed to take charge of the Unit pending a Mortgage foreclosure, if a mortgagee is in possession pending a Mortgage foreclosure,

or if Developer is the Owner; provided, that for Commercial Units, any right for collection of a tenant shall be subject to any lease and shall be subject to the approval of the Commercial Director which consent shall not be unreasonably withheld or delayed. The Association may not demand that the tenant pay more than the amount of rent due from the tenant to the Owner under the lease or rental arrangement. Any amount paid by the tenant under this Section will discharge that amount of payment from the tenant's rent obligation. Even if the Board demands and receives any rent from a tenant, this will not release or discharge (i) any obligations of the Owner remaining unpaid or unperformed, (ii) any other duties of the Owner, or (iii) any rights of the Association under the Condominium Documents. The Board must comply with the requirements of the Act when exercising its rights under this Section.

Section 17. **AUDITS.** Except as otherwise permitted by the Act, each year the Association must have a public accountant or accounting firm conduct an audit of the Association's financial accounts and at least one (1) unannounced verification of the Association's cash balance. The Association will furnish to the Owners copies of the audit and any other financial statements at the times and in the manner stated in the Act.

Section 18. **FINANCIAL REPORTS.**

A. **FINANCIAL STATEMENTS.** The Association must prepare and send the following statements to each Owner:

1) **THE BUDGET.** At least thirty (30) calendar days before the fiscal year starts the Association must send to the Owners the approved budget for that year.

2) **THE ANNUAL REPORT.** The Association must send an annual report to each owner within ninety (90) days after the end of each fiscal year. The Commercial Director and/or the Commercial Manager must submit its annual report to the Association at least sixty (60) calendar days after the end of the fiscal year to incorporate into the Project annual report. The annual report must include:

(a) A balance sheet showing the assets, liabilities and net worth of the Association at the end of the fiscal year;

(b) An operating (income) statement for the fiscal year;

(c) A statement of the net changes in the financial condition of the Association for the fiscal year; and

(d) Any other information required by the law of any jurisdiction (for example, another state) where the Project is registered for public sale.

B. **REPORTS.** The Association will provide information and reports as required by Section 514B-154 of the Act and may utilize an internet site as permitted by such law.

ARTICLE VII

MAINTENANCE AND REPAIR AND USE

Section 1. **MAINTENANCE AND REPAIR OF UNITS.** Except as otherwise provided by law or in these Bylaws or in the Declaration:

A. **OWNERS' RESPONSIBILITIES.** At his or her own expense, the Owner must maintain and repair his or her Unit, and the Unit Limited Common Elements appurtenant thereto, and keep them in good order and condition at all times.

1) This duty includes, for example, the obligation to repair and maintain and keep in good order and condition:

(a) The interior decorated or finished surfaces of all walls, floors, and ceilings of a Residential Unit or a Commercial Unit and any lanai and Improvements thereon, and

(b) All installations for water, electricity, gas, telephone, sewer, sanitation, air conditioning, lights, and all other fixtures and accessories. This applies only to installations, fixtures and accessories that are part of the Owner's Unit.

(c) All mechanical, electrical, and plumbing components of his or her Unit and the Improvements therein in strict accordance with all applicable maintenance requirements, operating standards and guidelines (i) of or promulgated by any governmental agency, (ii) set forth in any manufacturer's or supplier's operating manuals or maintenance and care documents for said fixtures and equipment, and (iii) as may be set forth from time to time in the Condominium Documents.

2) Each Owner of a Residential Unit or Commercial Unit shall be responsible for performing the following with respect to the Owner's Residential Unit or Commercial Unit and any Unit Limited Common Elements appurtenant thereto in order to prevent or eliminate the occurrence of mold growth in the Unit and at the Project:

(a) Maintain and properly service the Owner's air conditioning system and keep it in full working condition.

(b) Promptly clean up spills, condensation and other sources of moisture. Thoroughly dry any wet surfaces or material. Do not let water pool or stand in the Residential Unit or Commercial Unit or any Unit Limited Common Element lanai or patio appurtenant thereto. Promptly replace any materials that cannot be thoroughly dried, such as drywall or insulation.

(c) Inspect for leaks on a regular basis. Look for discoloration or wet spots. Repair any leaks promptly. Inspect condensation pans (refrigerators and air conditions) for mold growth. Take notice of musty odors and any visible signs of mold.

(d) Should mold develop, thoroughly clean the affected area with a mild solution of bleach or other appropriate mold-killing agent. Discard affected porous materials, such as fabric, upholstery or carpet. Should the mold growth be severe, call on the services of a qualified professional cleaner.

3) Each Owner is liable for all loss or damage caused by his or her failure to perform any such work diligently. If the Owner fails to perform such work after reasonable notice from the Association, (and with respect to Commercial Unit Owners, upon an affirmative vote of a least a majority of the Board, subject to the approval of Developer), the Association may undertake and charge the cost of performing such work to the Owner pursuant to Section XII.F of the Declaration.

4) Each Owner will take such steps as may be required to prevent excessive oil spills upon the parking stall that is a Unit Limited Common Element appurtenant to such Owner's Unit.

5) Each Owner will take such steps as may be required to prevent pests, such as roaches and ants, from infesting such Owner's Unit.

B. DAMAGE TO COMMON PROPERTY. Every Owner:

1) Must reimburse the Association promptly on demand all expenses incurred by it in repairing or replacing any uninsured loss or damage to the Common Elements or any furniture, furnishings, and equipment owned by the Association caused by that Owner or by any person under either of them to the extent permitted under Section XII.F of the Declaration, and

2) Must give to the Commercial Manager or the Managing Agent, as appropriate, notice of any such loss or damage or other defect in the Project promptly after discovering it.

Section 2. **COMMON ELEMENTS.**

A. **BOARD.** Subject to any approvals required under the Declaration, the Board may arrange for painting or repair of the Residential Limited Common Elements, including but not limited to, any walls or ceilings surrounding any lanai, outside doors, windows, trim, walls, railings, and other parts of the Residential Limited Common Elements and may also choose the type and color of paint to be used. The Board shall assess each Residential Unit Owner for his or her proportionate share of the painting and repairs or the Board may pay for it using the reserve funds designated for such purpose. However, the cost of painting and repairs due to negligence, misuse, or neglect of an Owner or other Occupant, or someone under either of them, may be charged as a special assessment pursuant to Section XII.F of the Declaration.

B. **COMMERCIAL DIRECTOR.** The Commercial Limited Common Elements shall be maintained, repaired and replaced through the Commercial Director as and to the extent set forth in Section VIII.B of the Declaration until the Commercial Director notifies the Board in writing to the contrary and upon such notice the Board shall be responsible for such maintenance, repair, and replacement of such Project components designated by the Commercial Director in such notice; provided that any costs or expenses associated with such maintenance, repair and/or replacement shall be a Commercial Class Expenses, unless otherwise determined to be a Special Cost and Alternative Allocation or such areas are redesignated as Common Element or Residential Limited Common Elements.

Section 3. **MOLD PREVENTION.** The Board shall be responsible for doing the following with respect to the General Common Elements and Residential Limited Common Elements in order to prevent or eliminate the occurrence of mold growth at the Project: the Association shall regularly clean and repair roof gutters and correct any grading which does not slope away from the building foundation; maintain and properly service General Common Element and Residential Limited Common Element air conditioning systems, if any, and keep them in proper working condition; promptly clean up spills, condensation and other sources of moisture; thoroughly dry any wet surfaces or material and replace any materials that cannot be thoroughly dried, such as drywall or insulation; inspect for leaks on a regular basis; repair any leaks promptly; inspect condensation pans (refrigerators and air conditions) for mold growth; should mold develop, thoroughly clean the affected area with a mild solution of bleach or other appropriate mold-killing agent; discard affected porous materials, such as fabric, upholstery or carpet and; should the mold growth be severe, call on the services of a qualified professional cleaner. The Board and the Association, however, shall not be liable for mold growth at the Project or any efforts to clean and repair areas of the Project to reduce or eliminate mold or moisture.

Section 4. **ALTERATIONS AND ADDITIONS BY OWNERS.**

A. **PERMITTED ALTERATIONS.** A Residential Unit Owner may make additions, alterations or Improvements solely within the Owner's Residential Unit or within the Limited Common Element appurtenant to and for the exclusive use of the Owner's Residential Unit as set forth in Section XI.B of the Declaration.

B. **PROHIBITED ALTERATIONS.** Subject to the provisions of the Declaration and the Act, no Owner of a Residential Unit may make any alteration or addition to: (i) the Owner's Residential Unit that adversely affects the Common Elements or; or (ii) any of the General Common Elements including, without limitation, General Common Elements within, encompassing or adjacent to the Owner's Residential Unit.

C. **BOARD APPROVAL.** An Owner of a Residential Unit must not begin work on any alterations, additions, or Improvements that require Board approval as set forth in Section XI.E of the Declaration until such approval has been obtained.

Section 5. **ALTERATION OF THE PROJECT.** Except for Limited Common Elements to be maintained by the Owners of Units to which they are appurtenant, whenever in the judgment of the Board, the Common Elements need additions or alterations, the Board can make the additions or alterations, provided that alterations to the Commercial Limited Common Elements and the Commercial Unit Limited Common Elements are subject to the approval of the Commercial Director, and provided further, that any consents required by Section XI.E of the Declaration are obtained, in writing, in advance. The cost will be a Common Expense, except that the cost of

any such work performed on any Unit Limited Common Elements will be charged to the Owner(s) of the Unit(s) to which the Limited Common Elements are appurtenant, the cost of work performed on the Residential Limited Common Elements be charged as a Residential Unit Class Expense and the cost of work performed on the Commercial Limited Common Elements be charged as a Commercial Unit Class Expense, unless otherwise set forth in the Declaration. Notwithstanding anything to the contrary herein, but subject to the provisions of Section XI.E of the Declaration, the Board shall have the authority to install or cause the installation of antennas, conduits, chases, cables, wires, and other television signal distribution and telecommunications equipment upon the Common Elements; provided that the same shall not be installed upon any Unit Limited Common Element without the consent of the Owner(s) for the use of which the Unit Limited Common Element is reserved or the Commercial Limited Common Elements without the consent of the Commercial Director pursuant to any approval rights of Developer. The installation of antennas, conduits, chases, cables, wires, and other television and telecommunications equipment upon the Common Elements by the Board shall not be deemed to alter, impair, or diminish the Common Interest and Common Elements appurtenant to each Unit or be a structural alteration or addition to any building different in any material respect from the Condominium Map; provided that no such installation shall directly affect any non-consenting Owner. Further, the Board shall be authorized to abandon or change the use of any television signal distribution and telecommunications equipment due to technological or economic obsolescence (which determination shall be within the Board's sole discretion) or to provide an equivalent function by different means or methods; and the abandonment or change of use of any television signal distribution or telecommunications equipment by the Board due to technological or economic obsolescence or to provide an equivalent function by different means or methods shall not be deemed to alter, impair, or diminish the Common Interest, Common Elements, and easements appurtenant to each Unit or to be a structural alteration to any building different in any material respect from the Condominium Map. For the purposes of this Section: (a) "directly affects" means the installation of television signal distribution and telecommunications equipment in a manner which would specifically, personally, and adversely affect an Owner in a manner not common to the Owners as a whole, and (b) "television signal distribution" and "telecommunications equipment" shall include all present and future forms of communications technology.

Section 6. **OWNER APPROVAL.** Maintenance, repair or replacement of any portion of the Project for which the Association is responsible costing in excess of TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00) in any one instance may be made by the Board only after obtaining approval of a majority of the Residential Unit Owners (and all Commercial Unit Owners if the Commercial Unit Owners are to be charged Assessments for all or any portion of such maintenance, repair or replacement). This rule does not apply to Capital Upgrades which are governed by Sections VIII.C and VIII.D of the Declaration and shall not apply to maintenance, repairs or replacements:

- A. Required by law or by the Declaration or these Bylaws;
- B. Required due to an emergency threatening immediate and substantial damage to person or property;
- C. Required to maintain or repair the Project as originally designed or constructed, or in accordance with any duly authorized changes to the Project or required by law;
- D. For which replacement reserve funds have been established and substantially funded to cover at least ninety percent (90%) of the cost; or
- E. Made by Developer when exercising Developer's Reserved Rights.

ARTICLE VIII

ASSOCIATION RECORDS

Section 1. **CONDOMINIUM DOCUMENTS.** The Association must keep at the Resident Manager's or Managing Agent's office an accurate copy of the Declaration, these Bylaws, the House Rules, a sample original Residential Unit Deed, and all public reports and any amendments to them. The Managing Agent must provide copies of those documents to Owners, prospective purchasers, and their prospective agents during

normal business hours, upon payment to the Managing Agent of a reasonable charge to defray any administrative or duplicating costs.

Section 2. MEMBERSHIP LIST.

A. THE ASSOCIATION MUST KEEP A LIST. The Resident Manager or Managing Agent or Board must keep an accurate and current list of names, addresses, mobile phone numbers, and email addresses of the Owners and of any other party or person that has managerial control of the Unit, or who serves as the point of contact for such Unit. The list must include, among others, anyone who is buying a Unit under any Agreement of Sale. It must also include the names and addresses of each Lender whose name and address is furnished to the Association. The list will be maintained at a place designated by the Board. The Managing Agent or Resident Manager shall not use or distribute any membership list, including for commercial or political purposes, without the prior written consent of the Board. All membership lists are the property of the Association and any membership lists contained in the Managing Agent's or Resident Manager's records are subject to this Section. The Managing Agent, Resident Manager, or the Board may not use the information contained in the membership lists to create any separate list for the purpose of evading this Section.

B. RELEASE OF LIST. The Association will make the list of Owners available, at cost, to any Owner who asks for it; provided that despite anything else stated in the Condominium Documents, the Association will not furnish the list of Owners or any copy of it, or any other documents from which a membership list may be compiled, nor allow anyone to inspect or make copies or extracts of the list or any other documents from which a list may be compiled, until after each of these conditions is satisfied:

- 1) The Owner requesting the list must furnish to the Resident Manager or Managing Agent or Board a duly executed and acknowledged affidavit stating that (i) the list will be used by that Owner personally and only for the purpose of soliciting votes or proxies or providing information to other Owners with respect to Association matters, and (ii) the list will not be used by that Owner or furnished to anyone else for any other purpose.
- 2) The Owner requesting the list satisfies any other conditions to obtaining the list contained in the Act.
- 3) All other lawful conditions adopted by the Board pursuant to Section VIII.7.F have been fully satisfied.

Section 3. NOTICE TO BOARD OF DIRECTORS/LENDERS. An Owner who mortgages his or her interest in a Unit shall notify the Board of the name and address of his or her Lender and within ten (10) business days after the recordation of the Mortgage shall provide the Board with a true copy of the Mortgage as recorded in the Bureau. The Board shall maintain such documents in a file entitled "Mortgages of Units." All notices permitted or required to be given to an Owner pursuant to these Bylaws or the Declaration shall also be given to the Lender of such Unit if such Lender has delivered to the Board written request for such notices.

Section 4. LENDER PROTECTION. Notwithstanding any provisions to the contrary contained herein:

A. At all times, all taxes, assessments, and charges which may become liens under the laws of the State of Hawaii shall relate only to the individual Units and their appurtenant Common Interest in and to the Common Elements and the rights of the individual Units to the exclusive use of appurtenant Limited Common Elements, but not to the Common Elements in themselves as a whole.

B. The Declaration and these Bylaws shall not give an Owner or any other party priority over any rights of Lenders pursuant to their Mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards.

C. No amendment to this Section shall affect the rights of any Lender whose Mortgage is recorded prior to the recordation of such amendment and who does not consent thereto.

D. Any holder, insurer, or guarantor of the Mortgage on any Unit in the Project shall be provided with written notice of the following: (i) any proposed termination of the Project; (ii) any actual or threatened condemnation or eminent domain proceeding or any casualty loss affecting a material portion of the Project or any portion thereof; (iii) any delinquency of sixty (60) calendar days in the payment of assessments or charges owned by Owner whose Unit is subject to such Mortgage; (iv) any significant damage or destruction to the Common Elements or to a Unit covered by the first Mortgage held or insured by such party; (v) other than in connection with the express rights reserved in the Declaration, any proposal to subdivide, encumber, sell, or transfer the Common Elements or any part thereof; provided, however, that the granting of easements for public or private utilities or for public purposes consistent with the intended use of the Common Elements of the Project and the relocation of any easements appurtenant to the Project over other lands, pursuant to the exercise of any right to relocate such easements by the owner of such other lands, shall not be deemed a transfer within the meaning of this clause; (vi) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; and (vii) any proposed action that requires the consent of a specified percentage of Lenders.

E. Upon written request to the Association, any holder, insurer or guarantor of a duly recorded first Mortgage of a Unit, whose request states the requesting party's name and address and the number of the mortgaged Unit, shall also be entitled to a copy of all pleadings filed in any lawsuit, administrative proceeding, or other action affecting the Project or any portion thereof, at such party's expense for reproduction costs.

Section 5. **RELEASE OF INFORMATION.** The Board may provide any information available to it pertaining to a Unit or the Project to the Lender of a first Mortgage of such Unit and such Lender may provide any information to the Board regarding the mortgagor, the mortgagor's loan and the status of such loan, without liability to the Owner of the mortgaged Unit.

Section 6. **UNIT DEEDS.**

A. Each Owner shall promptly record the Unit Deed or other conveyance to him or her of his or her Unit, and any Mortgage of his or her interest in his or her Unit, and file with the Board, through the Managing Agent, a recorded copy of the Unit Deed or other conveyance document. Each vendor of a Unit under an Agreement of Sale shall promptly record the Agreement of Sale or a memorandum thereof and file a copy of such document with the Board. Each Owner, vendor, vendee and Unit mortgagee shall promptly notify the Board of any changes in his or her or its address.

B. During the Development Period, the Board must provide to Developer a clear and readable copy of all documents and information that it receives pursuant to Section VIII.2 within seven (7) calendar days after the Board receives it.

Section 7. **MINUTES AND RECORDS; EXAMINATION.**

A. **CURRENT FINANCIALS AND BOARD MINUTES.** The Association's most current financial statements and minutes of the Board meetings, once approved, will be available to any Owner at no cost on twenty-four (24) hour loan, at a convenient location designated by the Board.

B. **MINUTES.** Minutes of all meetings will be available within seven (7) calendar days after approval by the Board, and unapproved final drafts of the minutes of a meeting will be available within sixty (60) calendar days after the meeting; provided that the minutes of any executive session may be withheld if their publication would defeat the lawful purpose of the executive session. Minutes of meetings of the Board and the Association for the current and prior year will be available for examination by Owners at convenient hours at a place designated by the Board. Minutes of meetings must include the recorded vote of each Director on all motions except motions voted on in executive session. If notice of a Board meeting was properly given but a Director is absent, the minutes must say so. Copies of meeting minutes will be provided to any Owner upon the Owner's

request provided that the Owner pays a reasonable fee for duplicating, postage, stationery, and other administrative costs associated with handling the request.

C. FINANCIAL RECORDS. Financial statements, general ledgers, the accounts receivable ledger, accounts payable ledgers, check ledgers (or other comparable lists or schedules), insurance policies, contracts, and invoices of the Association for the current and prior year and delinquencies of ninety (90) calendar days or more will be available for examination by Owners at convenient hours at a place designated by the Board; provided that:

1) The Board must require Owners to furnish to the Association a duly executed and acknowledged affidavit stating that the information is requested in good faith for the protection of the interest of the Association or Owners or both; and

2) Owners pay for administrative costs in excess of eight (8) hours per year. Copies of these items will be provided to any Owner upon such Owner's request, provided that the Owner pays a reasonable fee for duplicating, postage, stationery, and other administrative costs associated with handling the request.

In addition to the foregoing, until the expiration or earlier termination of the CVS Lease (defined in the Declaration), the Association shall:

1) Certify, as necessary, the Certified Insurance Cost Statement (defined in the CVS Lease) to be provided to CVS (defined in the Declaration);

2) Maintain and make available for examination by CVS the Insurance Costs (defined in the CVS Lease) for a period of at least three (3) years after delivery of the Certified Insurance Cost Statement to CVS; and

3) Upon ten (10) business days' written notice, provide CVS the opportunity to audit, at CVS's sole cost and expense, the Insurance Costs, on one (1) occasion, for the period covered by the Certified Insurance Cost Statement.

D. VOTING RECORDS. Owners have the right to view proxies, tally sheets, ballots, Owners' check-in lists, and the certificate of election for a period of thirty (30) calendar days following any meeting of the Association; provided that:

1) The Board must require Owners to furnish the Association a duly executed and acknowledged affidavit stating that the information is requested in good faith for the protection of the interest of the Association or Owners or both; and

2) Owners pay for administrative costs in excess of eight (8) hours per year.

Proxies and ballots may be destroyed following the thirty (30) calendar day period. Copies of tally sheets, Owners' check-in lists, and the certificate of election from the most recent meeting of the Association will be provided to any Owner upon such Owner's request, provided that the Owner pays a reasonable fee for duplicating, postage, stationery, and other administrative costs associated with handling such request.

E. OTHER RECORDS. Owners may file a written request with the Board to examine other documents. The Board must give written authorization or written refusal with an explanation of the refusal within thirty (30) calendar days of receipt of the request.

F. PROTECTION OF ASSOCIATION INFORMATION. To the extent permitted by law, the Board may establish reasonable additional requirements and conditions to the inspection by Owners (including Directors) of the list of Owners or to furnishing information from the register or other books,

papers or records of the Association especially when that information might be used to compile a list of Owners. For example, the Board may set rules governing (1) when notice must be given to the Association or Managing Agent by the person desiring to inspect the Association's records, (2) hours and days of the week when an inspection may be made, (3) payment of the cost of reproducing copies requested by the party making the inspection, to the extent not specified elsewhere in these Bylaws, and (4) the posting of a bond.

Section 8. RECORDS; EXAMINATION; DISPOSAL.

A. RECEIPTS, EXPENDITURES, AND DELINQUENCIES. The Managing Agent or Board must keep detailed, accurate records in chronological order, of the receipts and expenditures affecting the Common Elements, specifying and itemizing the maintenance and repair expenses of the Common Elements and any other expenses incurred. The Managing Agent or Board must also keep monthly statements indicating the total current delinquent dollar amount of any unpaid Assessments for Common Expenses.

B. LOCATION OF RECORDS. All records and the vouchers authorizing the payments and statements will be kept and maintained at the address of the Project, or elsewhere within the State of Hawaii as the Board chooses. The records may be kept and maintained on paper or in electronic, magnetic, or other form accessible using electronic data processing equipment.

C. DISPOSAL OF RECORDS. The Managing Agent may dispose of records of the Association at the times and under the conditions stated in the Act or, if it does not address it, then at the times and under the conditions that the Board chooses.

ARTICLE IX

GENERAL PROVISIONS

Section 1. WHO CAN SIGN CHECKS. All checks, drafts or other orders for payment of money, notes, or similar documents issued by or payable to the Association must be signed or endorsed as stated in a resolution adopted by the Board. If no resolution is adopted, the Board may authorize any Officer or Officers, agent or agents, to sign or endorse the same. The same rule applies to signing and delivering other documents authorized by the Condominium Documents or by action of the Board or the Association.

Section 2. WHO CAN SIGN CONTRACTS AND OTHER DOCUMENTS. Except as otherwise provided in these Bylaws, the Board may authorize any Officer or Officers, agent or agents, to enter into any contract or sign any document for the Association. This authority may be general or it may be limited to specific things. Unless authorized by the Board, no Officer, agent, or employee has any power or authority to bind the Association or to pledge its credit or to make it liable for any purpose or for any amount.

Section 3. AMENDMENT.

A. AMENDMENT BY VOTE OR WRITTEN CONSENT. The Bylaws may be amended at any time by the vote or written consent of sixty-seven percent (67%) of all Owners, provided that:

1) For any amendment that affects the Commercial Units, Commercial Unit Owners, or Commercial Limited Common Elements, such vote or written consent of sixty-seven percent (67%) of all Owners shall include the vote or written consent of all Commercial Unit Owners;

2) Each item required by the Act to be set forth in these Bylaws must always be included in these Bylaws; and

3) Such amendment shall be subject to all limitations and requirements regarding amendments to the Condominium Documents contained in the Declaration, including, but not limited to Sections XVI.D and E of the Declaration.

B. **DEVELOPER'S RESERVED RIGHTS TO AMEND.** Notwithstanding anything set forth in this Section to the contrary, Developer (pursuant to its Developer's Reserved Rights) has the right to amend these Bylaws to the extent set forth in the Declaration.

C. **RECORDING.** A duly authorized amendment to these Bylaws will take effect only after it is signed by the proper Officers of the Association and it is recorded at the Bureau.

D. **PROPOSAL OF AMENDMENTS.** Any proposed amendment to these Bylaws with the rationale for such proposal may be submitted by the Board or by a volunteer Owners' committee. If submitted by the volunteer Owners' committee, it must be accompanied by a petition signed by not less than twenty-five percent (25%) of the Owners as shown in the Association's records of ownership maintained by the Board as provided in Section VIII.2.A. The proposed amendment, the rationale, and the ballots for voting on the amendment must be mailed by the Board to the Owners at the expense of the Association for vote or written consent without change within thirty (30) calendar days after the Board receives the petition. The vote or written consent required to adopt the proposed amendment to these Bylaws will be as set forth in Section IX.3.A, above; provided that the vote or written consent must be obtained within three hundred sixty-five (365) calendar days after mailing for a proposed bylaw submitted by either the Board or a volunteer Owners' committee; and provided further than any such amendment shall be subject to the limitations set forth in Section XVI.D of the Declaration. If the proposed amendment is duly adopted, then the Board must record the amendment. The volunteer Owners' committee cannot submit a petition for a proposed amendment to these Bylaws that is substantially similar to the amendment previously mailed to the Owners within one (1) year after the original petition was submitted to the Board. This Section does not preclude any Owner or voluntary Owners' committee from proposing any amendment to these Bylaws at any annual meeting of the Association.

E. **RESTATEMENT OF BYLAWS.** Notwithstanding anything set forth in the Condominium Documents to the contrary, the Association has the authority under the Act:

- 1) To restate these Bylaws to set forth all amendments to them; and
- 2) To amend these Bylaws as required to conform to the provisions of the Act or any other law or regulation adopted by a governmental authority.

The Association may amend or restate these Bylaws if the Board adopts a resolution authorizing it. No restated or amended Bylaws will be effective unless they are recorded at the Bureau.

Section 4. **NOTICE.** Except as otherwise expressly provided in these Bylaws, all notices must be given as follows:

A. Notice to the Association must be given to each Director. The notice may be given personally or by mail or messenger service. The notice must be mailed or delivered to the Board members at their addresses as shown on the membership list, or to any other address that the Board designates by notice to all Owners and Lenders.

B. Notice to an Owner may be given by delivering such notice in person, by messenger service or by mail to his or her address as it is shown on the membership list or by electronic mail or facsimile if such Owner has authorized transmission to the electronic mail address or facsimile number designated by the Owner for delivery of notices of meetings pursuant to Section II.11 of these Bylaws.

C. Notice to an Eligible Mortgage Holder or Lender may be given by delivering such notice in person or by mail or messenger service. The notice must be mailed or delivered to the Eligible Mortgage Holder's or Lender's address as it is shown on the membership list, or to any other addresses that the Eligible Mortgage Holder or Lender designates by notice to the Board.

D. All notices must be in writing. If the notice is mailed, it will be deemed given and received seventy-two (72) hours after it is put in the United States mail. If sent by electronic mail or facsimile

to the electronic mail address or facsimile number designated by the Owner for notices of meetings pursuant to Section II.11 of these Bylaws the notice will be deemed given upon electronic confirmation of delivery. Notwithstanding the prior sentence to the contrary, notices of addresses and changes of addresses will be deemed given only when they are actually received.

Section 5. **WARD VILLAGE MASTER PLANNED COMMUNITY.** The Project is one of multiple high-rise condominium projects anticipated to be developed as part of a master planned community called "Ward Village." The Project will be part of this urban, mixed-use master development located in central Kaka'ako, Honolulu. Capitalized terms used in this section not otherwise defined in these Bylaws or the Declaration shall be defined as set forth in the Master Declaration and Master Bylaws.

Being a part of "Ward Village," the Project is subject to the Master Declaration and Master Bylaws and the Ward Village Rules ("**Master Rules**"), as the same may be amended and/or supplemented from time to time, and all rules and regulations promulgated thereunder, including, without limitation, any assessments, voting rights, design restrictions, and the design review process set forth therein, if applicable. By acquiring an interest in the Project, each Owner agrees to carefully review, observe and comply with all covenants, conditions, restrictions, and other requirements to which the Project is subject under the Master Declaration and Master Bylaws, including memberships in the Master Association and the payment of such sums as may be assessed pursuant to such Master Declaration or Master Bylaws ("**Master Assessments**") for the Project's share of common expenses for Ward Village. Further, Developer shall have the reserved right, without the consent of any Owners or such Owners' mortgagees, to amend these Bylaws and to enter into any agreements and to grant easements and to do all things necessary and convenient to effect and implement the purposes of the Master Declaration, Master Bylaws, and Master Rules, and to execute, file and deliver any and all documents necessary to effect the same, including, but not limited to, any amendments to these Bylaws, the Declaration, and the Condominium Map.

Owners will not become members of the Master Association. The Association will be the member of the Master Association for the Project and will have voting rights, as well as be responsible for certain shared costs for the maintenance and upkeep of any master development common areas and other services shared among the parcels and projects in Ward Village. The Project and each Unit will be allocated the number or weight of votes assigned in accordance with the formula set forth in the Master Declaration, subject to any limitations set forth in the Master Declaration and Master Bylaws. On any Master Association matter calling for a vote, the Board shall cast votes as a block for the Owners of each Land Use Classification within the Project (e.g., votes will be cast separately for the Residential Unit Class and the Commercial Unit Class). Such block vote shall be cast in accordance with process and procedure for casting Residential Unit Class votes and Commercial Unit Class votes, as set forth in the Declaration and these Bylaws.

When a vote is called for concerning the assignment, use, repair, reconstruction, or continued operation of Limited Benefit Area, if the Limited Benefit Area is assigned to less than all of the Units within the Project, then the vote for such Project shall be cast by the Owners of the Units within the Project to which the Limited Benefit Area is assigned. In such case, the votes shall be tallied individually for each Unit and not as a block vote for the Project.

The Master Association has the right to lien a Unit in the event of nonpayment of any Master Assessments. The Master Declaration sets forth a "Declarant Control Period," during which the Master Declarant may appoint a majority of the members of the Master Association's board of directors, and a "Development and Sale Period," during which the Master Declarant may exercise additional rights relating to the development and sale of properties comprising or to comprise Ward Village.

In addition to any design restrictions and/or rules and regulations in the Condominium Documents, Owners will be subject to the additional design restrictions and/or rules and regulations promulgated by the Master Declarant or the Master Association pertaining to use of Ward Villages. The Master Declaration and Master Bylaws set forth sanctions for noncompliance within the provisions in the master documents.

Section 6. **CAPTIONS.** The captions describing each Section are for convenience only and are not intended in any way to limit or enlarge the terms and provisions of these Bylaws.

Section 7. **PRONOUNS.** Pronouns (for example, "his" or "her") used in these Bylaws include the male, female, and neuter genders and include the singular and plural numbers, as the case may be.

Section 8. **INTERPRETATION.** The provisions of these Bylaws will be interpreted to carry out the purpose of creating a mixed use condominium in accordance with the Declaration and the Act.

Section 9. **EFFECT OF INVALID PROVISIONS.** The provisions of these Bylaws are severable. Invalidation of any part of these Bylaws by judgment, decree, or order shall in no way affect any other provisions of these Bylaws, each of which shall remain in full force and effect.

(The remainder of this page is intentionally left blank)

IN WITNESS WHEREOF, Developer, acting as the initial Association, hereby adopts the foregoing Bylaws as the Bylaws of the Association of Unit Owners of 988 Halekauwila on behalf of the Association this 18th day of February, 2016.

988 HALEKAUWILA, LLC
a Delaware limited liability company

By 
Name: David Striph
Title: Vice president

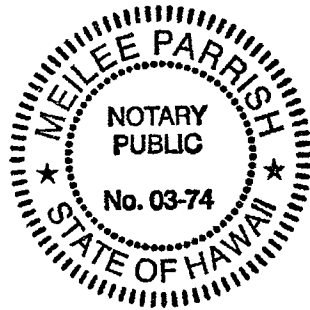
“Developer”

STATE OF HAWAII

SS:

CITY AND COUNTY OF HONOLULU

On this 18th day of February, 2016, before me appeared David Striph, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.



Meilee Parrish

Print Name: _____
Notary Public, in and for said State: Meilee Parrish
Notary Public, First Judicial Circuit
My commission expires: State of Hawaii
My Commission Expires: 02/09/19

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: BYLAWS OF THE ASSOCIATION OF UNIT OWNERS OF 988 HALEKAUWILA

Document Date: _____ or Undated at time of notarization.

No. of Pages: 2 Jurisdiction: First Circuit
(in which notarial act is performed)

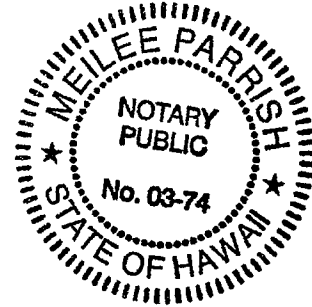
Meilee Parrish

2-18-16

Signature of Notary
Meilee Parrish
Notary Public, First Judicial Circuit
State of Hawaii

Date of Notarization and
Certification Statement

Printed Name of Notary
My Commission Expires: 02/09/19



(Official Stamp or Seal)

EXHIBIT "H"

ESTIMATED BUDGET AND INITIAL MAINTENANCE FEES

THE AMOUNTS SET FORTH IN THE ATTACHED ARE ESTIMATES ONLY AND MAY CHANGE FOR REASONS BEYOND THE CONTROL OF THE DEVELOPER.

INSURANCE, ENERGY AND LABOR COSTS ARE CURRENTLY IN FLUX AND CAN SUBSTANTIALLY INCREASE OVER A SHORT PERIOD OF TIME. THE DEVELOPER CANNOT PREDICT HOW CHANGES IN THE ECONOMIC, SOCIAL AND POLITICAL CONDITIONS IN HAWAII, THE U.S. AND/OR GLOBALLY MAY IMPACT SUCH COSTS. PURCHASERS ARE AWARE AND ACKNOWLEDGE THAT THE BUDGET, AND, AS A RESULT, EACH PURCHASER'S MAINTENANCE FEE, MAY INCREASE SUBSTANTIALLY DUE TO INCREASING COSTS, INCLUDING COSTS ATTRIBUTED TO THE INSURANCE COVERAGE, LABOR AND ENERGY.

PURCHASER RECOGNIZES AND ACKNOWLEDGES THAT SUCH COMMON INTERESTS AND MAINTENANCE FEES ARE SUBJECT TO CHANGE AS THE PROJECT EVOLVES. SUCH ESTIMATES ARE NOT INTENDED TO BE AND DO NOT CONSTITUTE ANY REPRESENTATION OR WARRANTY BY THE DEVELOPER OR CONDOMINIUM MANAGER, INCLUDING BUT NOT LIMITED TO ANY REPRESENTATION OR WARRANTY AS TO THE ACCURACY OF SUCH ESTIMATES.

Maintenance fees shall commence for the Residential Unit Owners as set forth in Section 6, item 1 of the public report.

EXHIBIT "3"

CERTIFICATE

I, the undersigned, duly sworn on oath, depose and affirm as follows:

1. I am the President for Hawaii Management Company, Ltd., a Hawaii corporation, designated by the Developer of the 988 Halekauwila condominium project (the "Project") to act as the Managing Agent for the management and administration of the Project.

2. Attached hereto is a true and correct copy of the projected budget for the Project. The estimates contained therein, including the maintenance fee assessments and disbursements, are based upon and in reliance on the assumptions, expense and income data provided by the Developer along with information gathered by the Managing Agent from projects of comparable size and character. The estimated figures do not account for inflation, market adjustments, future utility rate changes, future insurance premium rate changes or other unanticipated events, including but not limited to, acts of government, acts of God, terrorism or war. In addition, the projected budget is based upon and in reliance on discussions with the Developer.

3. I hereby certify that the breakdown of the annual maintenance charges and the monthly estimated cost for each unit in the Project, as attached hereto and hereby incorporated herein by reference, were determined in accordance with Section 514B-148 of the Hawaii Revised Statutes and Chapter 107 of the Hawaii Administrative Rules, and that the Managing Agent made a good faith effort to calculate such estimates for the one-year period commencing February 2016, based on generally accepted accounting principles; provided that in calculating the annual maintenance charges and the monthly estimated cost for each unit in the Project, there may be some instances where dollars and cents amounts may not be exact due to rounding.

4. As permitted pursuant to Section 514B-148(b), new associations need not collect estimated reserves until the fiscal year which begins after the association's first annual meeting. The Developer has not conducted a reserve study for the Project. The budget amount for Reserves is an estimate only.

5. The Budget has been prepared on a cash basis.

DATED: Honolulu, Hawaii, this 22nd day of February, 2016.

J. Michael Hartley
Name: J. MICHAEL HARTLEY
Title: PRESIDENT

Subscribed and sworn to before me
this 22nd day of February, 2016.

State of Hawaii
City & County of Honolulu

Date: February 22, 2016 # of Pages: 13

Doc. Description: Certificate of Managing Agent & Estimated
Annual Disbursements for: 988 Halekauwila

Stephanie M. Angle 2/22/2016
Notary Signature
Name: Stephanie M. Angle

No. & Expiration: 10-134
6/13/2018

First Circuit, State of Hawaii



NOTARY CERTIFICATION

1474789.1
225948/745978.2

02/22/16

Estimated Fee Disbursement

988 Halekaiwila
(424-Res)
(1-Com)

Description	Monthly Residential	Annual Residential	Monthly Commercial	Annual Commercial
Utilities and Services				
Electricity Common Areas Only	\$14,840.00	\$178,080.00		
Electricity - Unit usage	\$78,290.00	\$939,480.00	\$210.00	\$2,520.00
Electricity reimbursement (*)	-\$78,500.00	-\$942,000.00		
Cable/Internet (Common Areas Only)				
COMMUNICATIONS: Entertainers, Office				
Phones, 2-Way Radios & repeater	\$600.00	\$7,200.00		
Refuse	\$1,350.00	\$16,200.00		
Sewer	\$32,870.00	\$394,440.00		
Water	\$8,380.00	\$100,560.00	\$100.00	\$1,200.00
Gas (Common Areas Only)	\$200.00	\$2,400.00		
Oil Water separator			\$100.00	\$1,200.00
Maintenance, Repair, Supplies for Amenity areas				
Fitness Center / Other amenities	\$250.00	\$3,000.00		
Media Room	\$100.00	\$1,200.00		
Maintenance, Repair, Supplies				
Building/Supplies/Repairs	\$1,750.00	\$21,000.00	\$250.00	\$3,000.00
Equipment Maintenance	\$2,000.00	\$24,000.00		
Landscaping Service	\$2,250.00	\$27,000.00	\$250.00	\$3,000.00
Tree Trimming	\$80.00	\$960.00		
Coconut Tree Trimming	\$40.00	\$480.00	\$35.00	\$420.00
Elevators	\$3,420.00	\$41,040.00		
Fire and Security Systems	\$3,050.00	\$36,600.00		
Window washing	\$1,840.00	\$22,080.00		
Pest Control	\$500.00	\$6,000.00		
Plumbing	\$600.00	\$7,200.00		
Payroll and Benefits				
Resident Manager Salary	\$8,000.00	\$96,000.00		
Maintenance personnel	\$10,000.00	\$120,000.00		
Housekeeping/Janitor	\$9,500.00	\$114,000.00	\$500.00	\$6,000.00
Worker's Comp	\$1,170.00	\$14,040.00		
TDI	\$130.00	\$1,560.00		
Health Insurance	\$3,725.00	\$44,700.00		

02/22/16

Estimated Fee Disbursement

988 Halekauwila
(424-Res)
(1-Com)

Description	Monthly Residential	Annual Residential	Monthly Commercial	Annual Commercial
Payroll Taxes	\$1,620.00	\$19,440.00		
Payroll Preparation	\$175.00	\$2,100.00		
Other				
Guard Service	\$10,000.00	\$120,000.00		
Management Fees	\$2,350.00	\$28,200.00		
Audit/Tax Fees	\$300.00	\$3,600.00		
Legal Fees	\$500.00	\$6,000.00		
Admin. Services/Supplies	\$3,000.00	\$36,000.00		
Petty Cash	\$400.00	\$4,800.00		
Submetering Expenses	\$2,800.00	\$33,600.00		
Meeting Expense	\$100.00	\$1,200.00		
GET/Other	\$225.00	\$2,700.00		
Condo Registration	\$370.00	\$4,440.00		
Ward Village Master Association Dues (*)				
Insurance				
Property	\$9,042.00	\$108,504.00	\$125.00	\$1,500.00
Flood	\$5,632.00	\$67,584.00		
Comp. General Liability	\$1,083.00	\$12,996.00		
Umbrella	\$667.00	\$8,004.00		
Directors and Officers	\$334.00	\$4,008.00		
Bond	\$50.00	\$600.00		
Misc Receipts and Deposits	-\$300.00	-\$3,600.00		
Subtotal	\$144,783.00	\$1,737,396.00	\$1,570.00	\$18,840.00
Reserve	\$14,478.30	\$173,739.60	\$157.00	\$1,884.00
TOTAL	\$159,261.30	\$1,911,135.60	\$1,727.00	\$20,724.00
(*) electricity (actual unit use) to be added to each owner's monthly bill				
(**) Ward Village Master dues estimated at \$25 per month to be added to each unit owner's monthly bill	\$10,600.00	\$127,200.00	\$25.00	\$300.00
GRAND TOTAL	\$169,861.30	\$2,038,335.60	\$1,752.00	\$21,024.00

Estimate of Initial Maintenance Fee

Residential Unit Number	Residential Unit Type	Residential Common Interest	Residential Monthly Maintenance Fee	Residential Master Association Dues (**)	Residential Monthly Total	Residential Annual Fee
801	RM UNIT	0.306256%	\$486.15	\$25.00	\$511.15	\$6,133.86
901	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
902	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
903	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
904	1B-C	0.170408%	\$271.39	\$25.00	\$296.39	\$3,556.73
905	1B-C2	0.156179%	\$248.73	\$25.00	\$273.73	\$3,284.79
906	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
907	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
908	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
909	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
910	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
911	1B-D	0.161938%	\$257.90	\$25.00	\$282.90	\$3,394.85
912	1B-E	0.159906%	\$254.67	\$25.00	\$279.67	\$3,356.02
913	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
914	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
1001	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
1002	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
1003	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
1004	1B-C	0.170408%	\$271.39	\$25.00	\$296.39	\$3,556.73
1005	1B-C2	0.156179%	\$248.73	\$25.00	\$273.73	\$3,284.79
1006	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
1007	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
1008	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
1009	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
1010	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
1011	1B-D	0.161938%	\$257.90	\$25.00	\$282.90	\$3,394.85
1012	1B-E	0.159906%	\$254.67	\$25.00	\$279.67	\$3,356.02
1013	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
1014	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
1101	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
1102	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
1103	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
1104	1B-C	0.170408%	\$271.39	\$25.00	\$296.39	\$3,556.73
1105	1B-C2	0.156179%	\$248.73	\$25.00	\$273.73	\$3,284.79
1106	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
1107	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
1108	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
1109	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
1110	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
1111	1B-D	0.161938%	\$257.90	\$25.00	\$282.90	\$3,394.85
1112	1B-E	0.159906%	\$254.67	\$25.00	\$279.67	\$3,356.02
1113	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
1114	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
1201	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
1202	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
1203	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
1204	1B-C	0.170408%	\$271.39	\$25.00	\$296.39	\$3,556.73
1205	1B-C2	0.156179%	\$248.73	\$25.00	\$273.73	\$3,284.79
1206	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16

Estimate of Initial Maintenance Fee

988 Halekauwila
(424 residential units)

Residential Unit Number	Residential Unit Type	Residential Common Interest	Residential Monthly Maintenance Fee	Residential Master Association Dues (**)	Residential Monthly Total	Residential Annual Fee
1207	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
1208	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
1209	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
1210	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
1211	1B-D	0.161938%	\$257.90	\$25.00	\$282.90	\$3,394.85
1212	1B-E	0.159908%	\$254.67	\$25.00	\$279.67	\$3,356.02
1213	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
1214	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
1301	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
1302	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
1303	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
1304	1B-C	0.170408%	\$271.39	\$25.00	\$296.39	\$3,556.73
1305	1B-C2	0.156179%	\$248.73	\$25.00	\$273.73	\$3,284.79
1306	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
1307	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
1308	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
1309	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
1310	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
1311	1B-D	0.161938%	\$257.90	\$25.00	\$282.90	\$3,394.85
1312	1B-E	0.159908%	\$254.67	\$25.00	\$279.67	\$3,356.02
1313	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
1314	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
1401	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
1402	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
1403	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
1404	1B-C	0.170408%	\$271.39	\$25.00	\$296.39	\$3,556.73
1405	1B-C2	0.156179%	\$248.73	\$25.00	\$273.73	\$3,284.79
1406	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
1407	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
1408	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
1409	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
1410	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
1411	1B-D	0.161938%	\$257.90	\$25.00	\$282.90	\$3,394.85
1412	1B-E	0.159908%	\$254.67	\$25.00	\$279.67	\$3,356.02
1413	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
1414	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
1501	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
1502	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
1503	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
1504	1B-C	0.170408%	\$271.39	\$25.00	\$296.39	\$3,556.73
1505	1B-C2	0.156179%	\$248.73	\$25.00	\$273.73	\$3,284.79
1506	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
1507	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
1508	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
1509	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
1510	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
1511	1B-D	0.161938%	\$257.90	\$25.00	\$282.90	\$3,394.85
1512	1B-E	0.159908%	\$254.67	\$25.00	\$279.67	\$3,356.02
1513	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88

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Estimate of Initial Maintenance Fee

988 Halekauwila
(424 residential units)

Residential Unit Number	Residential Unit Type	Residential Common Interest	Residential Monthly Maintenance Fee	Residential Master Association Dues (**)	Residential Monthly Total	Residential Annual Fee
1514	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
1601	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
1602	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
1603	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
1604	1B-C	0.170408%	\$271.39	\$25.00	\$296.39	\$3,556.73
1605	1B-C2	0.156179%	\$248.73	\$25.00	\$273.73	\$3,284.79
1606	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
1607	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
1608	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
1609	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
1610	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
1611	1B-D	0.161938%	\$257.90	\$25.00	\$282.90	\$3,394.85
1612	1B-E	0.159906%	\$254.67	\$25.00	\$279.67	\$3,356.02
1613	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
1614	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
1701	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
1702	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
1703	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
1704	1B-C	0.170408%	\$271.39	\$25.00	\$296.39	\$3,556.73
1705	1B-C2	0.156179%	\$248.73	\$25.00	\$273.73	\$3,284.79
1706	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
1707	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
1708	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
1709	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
1710	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
1711	1B-D	0.161938%	\$257.90	\$25.00	\$282.90	\$3,394.85
1712	1B-E	0.159906%	\$254.67	\$25.00	\$279.67	\$3,356.02
1713	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
1714	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
1801	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
1802	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
1803	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
1804	1B-C	0.170408%	\$271.39	\$25.00	\$296.39	\$3,556.73
1805	1B-C2	0.156179%	\$248.73	\$25.00	\$273.73	\$3,284.79
1806	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
1807	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
1808	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
1809	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
1810	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
1811	1B-D	0.161938%	\$257.90	\$25.00	\$282.90	\$3,394.85
1812	1B-E	0.159906%	\$254.67	\$25.00	\$279.67	\$3,356.02
1813	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
1814	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
1901	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
1902	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
1903	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
1904	1B-C	0.170408%	\$271.39	\$25.00	\$296.39	\$3,556.73
1905	1B-C2	0.156179%	\$248.73	\$25.00	\$273.73	\$3,284.79
1906	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16

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Estimate of Initial Maintenance Fee

988 Halekauwila
(424 residential units)

Residential Unit Number	Residential Unit Type	Residential Common Interest	Residential Monthly Maintenance Fee	Residential Master Association Dues (**)	Residential Monthly Total	Residential Annual Fee
1907	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
1908	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
1909	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
1910	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
1911	1B-D	0.161938%	\$257.90	\$25.00	\$282.90	\$3,394.85
1912	1B-E	0.159906%	\$254.67	\$25.00	\$279.67	\$3,356.02
1913	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
1914	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
2001	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
2002	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
2003	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
2004	1B-C	0.170408%	\$271.39	\$25.00	\$296.39	\$3,556.73
2005	1B-C2	0.156179%	\$248.73	\$25.00	\$273.73	\$3,284.79
2006	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
2007	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
2008	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
2009	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
2010	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
2011	1B-D	0.161938%	\$257.90	\$25.00	\$282.90	\$3,394.85
2012	1B-E	0.159906%	\$254.67	\$25.00	\$279.67	\$3,356.02
2013	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
2014	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
2101	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
2102	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
2103	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
2104	1B-C	0.170408%	\$271.39	\$25.00	\$296.39	\$3,556.73
2105	1B-C2	0.156179%	\$248.73	\$25.00	\$273.73	\$3,284.79
2106	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
2107	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
2108	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
2109	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
2110	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
2111	3B-C	0.331330%	\$527.68	\$25.00	\$552.68	\$6,632.17
2112	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
2113	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
2201	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
2202	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
2203	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
2204	3B-B	0.334718%	\$533.08	\$25.00	\$558.08	\$6,696.91
2205	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
2206	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
2207	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
2208	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
2209	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
2210	3B-C	0.331330%	\$527.68	\$25.00	\$552.68	\$6,632.17
2211	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
2212	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
2301	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
2302	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77

Estimate of Initial Maintenance Fee

988 Halekauwila
(424 residential units)

Residential Unit Number	Residential Unit Type	Residential Common Interest	Residential Monthly Maintenance Fee	Residential Master Association Dues (**)	Residential Monthly Total	Residential Annual Fee
2303	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
2304	3B-B	0.334718%	\$533.08	\$25.00	\$558.08	\$6,696.91
2306	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
2306	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
2307	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
2308	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
2309	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
2310	3B-C	0.331330%	\$527.68	\$25.00	\$552.68	\$6,632.17
2311	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
2312	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
2401	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
2402	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
2403	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
2404	3B-B	0.334718%	\$533.08	\$25.00	\$558.08	\$6,696.91
2405	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
2406	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
2407	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
2408	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
2409	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
2410	3B-C	0.331330%	\$527.68	\$25.00	\$552.68	\$6,632.17
2411	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
2412	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
2501	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
2502	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
2503	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
2504	3B-B	0.334718%	\$533.08	\$25.00	\$558.08	\$6,696.91
2505	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
2506	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
2507	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
2508	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
2509	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
2510	3B-C	0.331330%	\$527.68	\$25.00	\$552.68	\$6,632.17
2511	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
2512	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
2601	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
2602	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
2603	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
2604	3B-B	0.334718%	\$533.08	\$25.00	\$558.08	\$6,696.91
2605	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
2606	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
2607	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
2608	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
2609	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
2610	3B-C	0.331330%	\$527.68	\$25.00	\$552.68	\$6,632.17
2611	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
2612	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
2701	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
2702	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
2703	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77

Estimate of Initial Maintenance Fee

Residential Unit Number	Residential Unit Type	Residential Common Interest	Residential Monthly Maintenance Fee	Residential Master Association Dues (**)	Residential Monthly Total	Residential Annual Fee
2704	3B-B	0.334718%	\$533.08	\$25.00	\$558.08	\$6,696.91
2705	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
2706	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
2707	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
2708	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
2709	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
2710	3B-C	0.331330%	\$527.68	\$25.00	\$552.68	\$6,632.17
2711	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
2712	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
2801	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
2802	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
2803	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
2804	3B-B	0.334718%	\$533.08	\$25.00	\$558.08	\$6,696.91
2805	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
2806	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
2807	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
2808	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
2809	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
2810	3B-C	0.331330%	\$527.68	\$25.00	\$552.68	\$6,632.17
2811	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
2812	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
2901	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
2902	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
2903	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
2904	3B-B	0.334718%	\$533.08	\$25.00	\$558.08	\$6,696.91
2905	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
2906	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
2907	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
2908	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
2909	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
2910	3B-C	0.331330%	\$527.68	\$25.00	\$552.68	\$6,632.17
2911	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
2912	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
3001	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
3002	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
3003	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
3004	3B-B	0.334718%	\$533.08	\$25.00	\$558.08	\$6,696.91
3005	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
3006	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
3007	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
3008	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
3009	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
3010	3B-C	0.331330%	\$527.68	\$25.00	\$552.68	\$6,632.17
3011	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
3012	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
3101	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
3102	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
3103	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
3104	3B-B	0.334718%	\$533.08	\$25.00	\$558.08	\$6,696.91

Estimate of Initial Maintenance Fee

Residential Unit Number	Residential Unit Type	Residential Common Interest	Residential Monthly Maintenance Fee	Residential Master Association Dues (**)	Residential Monthly Total	Residential Annual Fee
3105	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
3106	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
3107	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
3108	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
3109	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
3110	1B-D	0.161938%	\$257.90	\$25.00	\$282.90	\$3,394.85
3111	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
3112	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
3201	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
3202	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
3203	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
3204	3B-B	0.334718%	\$533.08	\$25.00	\$558.08	\$6,696.91
3205	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
3206	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
3207	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
3208	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
3209	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
3210	1B-D	0.161938%	\$257.90	\$25.00	\$282.90	\$3,394.85
3211	2B-D2	0.271027%	\$431.64	\$25.00	\$456.64	\$5,479.69
3212	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
3301	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
3302	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
3303	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
3304	3B-B	0.334718%	\$533.08	\$25.00	\$558.08	\$6,696.91
3305	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
3306	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
3307	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
3308	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
3309	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
3310	1B-D	0.161938%	\$257.90	\$25.00	\$282.90	\$3,394.85
3311	2B-D2	0.271027%	\$431.64	\$25.00	\$456.64	\$5,479.69
3312	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
3401	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
3402	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
3403	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
3404	3B-B	0.334718%	\$533.08	\$25.00	\$558.08	\$6,696.91
3405	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
3406	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
3407	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
3408	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
3409	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
3410	1B-D	0.161938%	\$257.90	\$25.00	\$282.90	\$3,394.85
3411	2B-D2	0.271027%	\$431.64	\$25.00	\$456.64	\$5,479.69
3412	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
3501	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
3502	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
3503	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
3504	3B-B	0.334718%	\$533.08	\$25.00	\$558.08	\$6,696.91
3505	2B-A	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16

02/22/16

Estimate of Initial Maintenance Fee

988 Halekauwila
(424 residential units)

Residential Unit Number	Residential Unit Type	Residential Common Interest	Residential Monthly Maintenance Fee	Residential Master Association Dues (**)	Residential Monthly Total	Residential Annual Fee
3606	2B-B	0.247889%	\$394.85	\$25.00	\$419.85	\$5,039.41
3607	3B-D	0.397393%	\$632.89	\$25.00	\$657.89	\$7,894.72
3608	1B-FR	0.163294%	\$280.06	\$25.00	\$285.06	\$3,420.77
3609	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
3610	3B-C	0.331330%	\$527.68	\$25.00	\$552.68	\$6,632.17
3611	2B-D2	0.271027%	\$431.64	\$25.00	\$456.64	\$5,479.69
3612	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
3601	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
3602	1B-B	0.163294%	\$280.06	\$25.00	\$285.06	\$3,420.77
3603	1B-BR	0.163294%	\$280.06	\$25.00	\$285.06	\$3,420.77
3604	3B-B	0.334718%	\$533.08	\$25.00	\$558.08	\$6,696.91
3605	1B-F	0.163294%	\$280.06	\$25.00	\$285.06	\$3,420.77
3606	3B-D	0.397393%	\$632.89	\$25.00	\$657.89	\$7,894.72
3607	1B-FR	0.163294%	\$280.06	\$25.00	\$285.06	\$3,420.77
3608	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
3609	3B-C	0.331330%	\$527.68	\$25.00	\$552.68	\$6,632.17
3610	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
3611	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
3701	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
3702	1B-B	0.163294%	\$280.06	\$25.00	\$285.06	\$3,420.77
3703	1B-BR	0.163294%	\$280.06	\$25.00	\$285.06	\$3,420.77
3704	3B-B	0.334718%	\$533.08	\$25.00	\$558.08	\$6,696.91
3705	1B-F	0.163294%	\$280.06	\$25.00	\$285.06	\$3,420.77
3706	3B-D	0.397393%	\$632.89	\$25.00	\$657.89	\$7,894.72
3707	1B-FR	0.163294%	\$280.06	\$25.00	\$285.06	\$3,420.77
3708	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
3709	3B-C	0.331330%	\$527.68	\$25.00	\$552.68	\$6,632.17
3710	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
3711	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
3801	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
3802	1B-B	0.163294%	\$280.06	\$25.00	\$285.06	\$3,420.77
3803	1B-BR	0.163294%	\$280.06	\$25.00	\$285.06	\$3,420.77
3804	3B-B	0.334718%	\$533.08	\$25.00	\$558.08	\$6,696.91
3805	1B-F	0.163294%	\$280.06	\$25.00	\$285.06	\$3,420.77
3806	3B-D	0.397393%	\$632.89	\$25.00	\$657.89	\$7,894.72
3807	1B-FR	0.163294%	\$280.06	\$25.00	\$285.06	\$3,420.77
3808	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
3809	3B-C	0.331330%	\$527.68	\$25.00	\$552.68	\$6,632.17
3810	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
3811	2B-C	0.246634%	\$392.79	\$25.00	\$417.79	\$5,013.51
3901	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
3902	1B-B	0.163294%	\$280.06	\$25.00	\$285.06	\$3,420.77
3903	1B-BR	0.163294%	\$280.06	\$25.00	\$285.06	\$3,420.77
3904	3B-B	0.334718%	\$533.08	\$25.00	\$558.08	\$6,696.91
3905	1B-F	0.163294%	\$280.06	\$25.00	\$285.06	\$3,420.77
3906	2B-BR	0.247889%	\$394.85	\$25.00	\$419.85	\$5,039.41
3907	2B-AR	0.251377%	\$400.35	\$25.00	\$425.35	\$5,104.16
3908	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
3909	3B-C	0.331330%	\$527.68	\$25.00	\$552.68	\$6,632.17

02/22/18

Estimate of Initial Maintenance Fee

988 Halekauwila
(424 residential units)

Residential Unit Number	Residential Unit Type	Residential Common Interest	Residential Monthly Maintenance Fee	Residential Master Association Dues (**)	Residential Monthly Total	Residential Annual Fee
3910	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
3911	2B-C	0.248634%	\$392.79	\$25.00	\$417.79	\$5,013.51
4001	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
4002	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
4003	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
4004	3B-B	0.334718%	\$633.08	\$25.00	\$658.08	\$6,696.91
4005	2B-A	0.261377%	\$400.35	\$25.00	\$425.35	\$5,104.16
4006	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
4007	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
4008	2B-AR	0.261377%	\$400.35	\$25.00	\$425.35	\$5,104.16
4009	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
4010	3B-C	0.331330%	\$527.68	\$25.00	\$552.68	\$6,632.17
4011	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
4012	2B-C	0.248634%	\$392.79	\$25.00	\$417.79	\$5,013.51
4101	1B-A	0.173118%	\$275.71	\$25.00	\$300.71	\$3,608.52
4102	1B-B	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
4103	1B-BR	0.163294%	\$260.06	\$25.00	\$285.06	\$3,420.77
4104	3B-B	0.334718%	\$633.08	\$25.00	\$658.08	\$6,696.91
4106	2B-A	0.261377%	\$400.35	\$25.00	\$425.35	\$5,104.16
4106	2B-B	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
4107	2B-BR	0.247989%	\$394.95	\$25.00	\$419.95	\$5,039.41
4108	2B-AR	0.261377%	\$400.35	\$25.00	\$425.35	\$5,104.16
4109	3B-A	0.330991%	\$527.14	\$25.00	\$552.14	\$6,625.69
4110	3B-C	0.331330%	\$527.68	\$25.00	\$552.68	\$6,632.17
4111	2B-D	0.248328%	\$395.49	\$25.00	\$420.49	\$5,045.88
4112	2B-C	0.248634%	\$392.79	\$25.00	\$417.79	\$5,013.51
4207	PH-2B-Br	0.343528%	\$547.10	\$25.00	\$572.10	\$6,865.26
4208	PH-2B-A	0.335734%	\$534.69	\$25.00	\$559.69	\$6,718.33
4209	PH-3B-A	0.442790%	\$705.19	\$25.00	\$730.19	\$8,762.32
4210	PH-1	0.713477%	\$1,136.29	\$25.00	\$1,161.29	\$13,935.51
4211	PH-2	0.539004%	\$858.42	\$25.00	\$883.42	\$10,601.10
4212	PH-3	0.541037%	\$861.88	\$25.00	\$886.88	\$10,639.95
TOTAL		100.0000%	\$159,261.30	\$10,600.00	\$169,861.30	\$2,038,335.80

02/22/16

Estimate of Initial Maintenance Fee

988 Halekauwila
(1 commercial unit)

Commercial Unit Number	Commercial Unit Type	Commercial Common Interest	Commercial Monthly Maintenance Fee	Commercial Master Association Dues- (**)	Commercial Monthly Total	Commercial Annual Fee
Commercial Unit C-1	Commercial	100%	\$1,727.00	\$25.00	\$1,752.00	\$21,024.00
TOTAL		100%	\$1,727.00	\$25.00	\$1,752.00	\$21,024.00

DEFENDANT/THIRD-PARTY PLAINTIFF 988 HALEKAUWILA, LLC'S THIRD-PARTY COMPLAINT AGAINST HAWAIIANA MANAGEMENT COMPANY, LTD.

Comes Now Defendant/Third-Party Plaintiff 988 HALEKAUWILA, LLC ("Third-Party Plaintiff) by and through its attorneys, McCorriston Miller Mukai MacKinnon LLP, for its Third-Party Complaint against Third-Party Defendant HAWAIIANA MANAGEMENT COMPANY, LTD. ("Hawaiiiana").

THE PARTIES

1. Defendant/Third-Party Plaintiff 988 Halekauwila, LLC (Third-Party Plaintiff") is a developer of the Project and is a Delaware corporation doing business in Hawai'i.
2. Upon information and belief, Hawaiiiana is a domestic limited liability company organized under the laws of the State of Hawaii, doing business in the States of Hawai'i with its principal place of business in the City and County of Honolulu.

JURISDICTION AND VENUE

3. Jurisdiction is proper in this court pursuant to Hawaii Revised Statutes ("HRS") section 603-21.5(a).
4. Venue is proper in the First Circuit Court of the State of Hawai'i pursuant to HRS section 603-35(5).

PERTINENT FACTS

5. On March 2, 2020, Plaintiff ASSOCIATION OF UNIT OWNERS OF 988 HALEKAUWILA ("AOUO") filed its Complaint alleging various budgetary and fees claims against Third-Party Plaintiff and affiliated entities related largely to the maintenance of the condominium project, including but not limited to necessary and required reserves, located at

988 Halekauwila Street, located in the Kaka‘ako District of the City and County of Honolulu (“Project”).

6. On or about December 12, 2013, as the Project Developer Third-Party Plaintiff entered into a Property Management and Agency Agreement (“Management Agreement”) with Hawaiiiana whereby Hawaiiiana was responsible for the property management and reserve account analysis of the Project.

7. Third-Party Plaintiff retained Hawaiiiana, because it is the largest association management company in Hawai‘i with over 750 properties under contract now including the AOOU.

8. Hawaiiiana claims that it provides state-of-the-art resources and technology for its clients because of its 90+ management executives, 50+ administrative assistants, and 75+ accounting professionals.

COUNT I
(Breach of Contract)

9. Third-Party Plaintiff re-alleges and hereby incorporates by reference Paragraphs 1-8, inclusive, as though fully set forth herein.

10. If the AOOU suffered any damages as alleged in the AOOU’s Complaint, Hawaiiiana has breached its obligations to Third-Party Plaintiff under the terms and conditions of the Management Agreement.

11. Third-Party Plaintiff has therefore been damaged as a direct result of Hawaiiiana’s breach of contract in an amount which will be proven at trial.

COUNT II
(Misrepresentation)

12. Third-Party Plaintiff re-alleges and hereby incorporates by reference Paragraphs 1-11, inclusive, as though fully set forth herein.

13. The maintenance budget and related reserves were all based on information and/or reports prepared by Hawaiiiana, and Third-Party Plaintiff relied on that information and those reports given Hawaiiiana's purported expertise in this area.

14. If Hawaiiiana's information and/or reports were incorrect and/or contained intentional and negligent misrepresentations, Hawaiiiana should be liable for all damages proximately caused by these misrepresentations.

15. Third-Party Plaintiff has therefore been damaged as a result of Hawaiiiana's intentional and/or negligent misrepresentations in an amount which will be proven at trial.

COUNT III
(Contribution and Indemnity)

16. Third-Party Plaintiff re-alleges and hereby incorporates by reference Paragraphs 1-15, inclusive, as though fully set forth herein.

17. Third-Party Plaintiff is not liable for the acts, errors, and/or omissions alleged to have caused and/or contributed to the damages, if any, sustained by the AOOU.

18. If the AOOU suffered any damages as alleged in the AOOU's Complaint, such damages were the proximate cause of the wrongful acts or omissions of Hawaiiiana.

19. Third-Party Plaintiff denies that it was in any way responsible for the damages alleged in the AOOU's Complaint. If Third-Party Plaintiff is determined to be liable for any portion of the damages alleged, Third-Party Plaintiff's liability is passive and secondary, whereas the negligence, liability, and breach of contract by Hawaiiiana is active and primary.

20. If Third-Party Plaintiff is held responsible in whole or in part to any party in this action for the damages alleged by the AOOU, then Third-Party Plaintiff is entitled to contribution and indemnity from Hawaiiiana for any damages that it may sustain in this matter,

including but not limited to all costs and attorneys' fees and/or judgments that may be rendered against it individually or collectively.

PRAYER FOR RELIEF

WHEREFORE, Third-Party Plaintiff prays for judgment on the Third-Party Complaint as follows:

A. That if it be determined that the AOOU is entitled to judgment, that the judgment be against Hawaiiiana, and not against Third-Party Plaintiff;

B. That, if judgment is entered herein in favor of the AOOU and against Third-Party Plaintiff, Third-Party Plaintiff be given judgment for contribution and/or indemnity over and against Hawaiiiana;

C. That if it be determined that Third-Party Plaintiff and Hawaiiiana are joint tortfeasors with respect to the allegations of the AOOU, the relative degree of fault of each joint tortfeasor be determined and that Third-Party Plaintiff have judgment over and against Hawaiiiana for any excess which may be paid by Third-Party Plaintiff over and above its pro rata share of any judgment in favor of the AOOU.

D. That the Court award Third-Party Plaintiff its attorneys' fees and costs; and



E. That the Court award such other and further relief as it deems just and equitable.

DATED: Honolulu, Hawai'i, March 12, 2021.

/s/ David J. Minkin

DAVID J. MINKIN
RANDALL K. SCHMITT
JORDAN K. INAFUKU

Attorneys for Defendant/Third-Party
Plaintiff 988 HALEKAUWILA, LLC

<p align="center">STATE OF HAWAI'I CIRCUIT COURT OF THE FIRST CIRCUIT</p>	<p align="center">SUMMONS TO ANSWER THIRD-PARTY COMPLAINT</p>	<p>CASE NUMBER 1CCV-20-0000342</p>
<p>PLAINTIFF Association of Unit Owners of 988 Halekauwila,</p> <hr/> <p>THIRD-PARTY PLAINTIFF, 988 Halekauwila, LLC</p>	<p align="center">VS.</p>	<p>DEFENDANT(S) Howard Hughes Corporation; 988 Halekauwila, LLC; Victoria Ward, Limited; Hughes Corporation; Howard Research and Development Corporation.</p> <hr/> <p>THIRD-PARTY DEFENDANT Hawaiiana Management Company, Ltd.</p>
<p>PLAINTIFF'S NAME & ADDRESS, TEL. NO. David J. Minkin minkin@m4law.com Randall K. Schmitt schmitt@m4law.com Jordan K. Inafuku jinafuku@m4law.com McCorriston Miller Mukai MacKinnon LLP Five Waterfront Plaza, 4th Floor 500 Ala Moana Boulevard, Honolulu, Hawaii 96813 Telephone: (808) 529-7300</p>		
<p>TO THE ABOVE-NAMED THIRD-PARTY DEFENDANT(S)</p> <p>You are hereby summoned and required to file with the court and serve upon McCorriston Miller Mukai MacKinnon LLP Five Waterfront Plaza, 4th Floor, 500 Ala Moana Boulevard Honolulu, Hawaii 96813 plaintiff's attorney, whose address is stated above, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the date of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.</p> <p>THIS SUMMONS SHALL NOT BE PERSONALLY DELIVERED BETWEEN 10:00 P.M. AND 6:00 A.M. ON PREMISES NOT OPEN TO THE GENERAL PUBLIC, UNLESS A JUDGE OF THE ABOVE-ENTITLED COURT PERMITS, IN WRITING ON THIS SUMMONS, PERSONAL DELIVERY DURING THOSE HOURS.</p> <p>A FAILURE TO OBEY THIS SUMMONS MAY RESULT IN AN ENTRY OF DEFAULT AND DEFAULT JUDGMENT AGAINST THE DISOBEYING PERSON OR PARTY.</p>		
<p>The original document is filed in the Judiciary's electronic case management system which is accessible via eCourt Kokua at: http://www.courts.state.hi.us</p>	<p align="center">Effective Date of 28-Oct-2019 Signed by: /s/ Patsy Nakamoto Clerk, 1st Circuit, State of Hawai'i</p> 	
 <p>In accordance with the Americans with Disabilities Act, and other applicable state and federal laws, if you require a reasonable accommodation for a disability, please contact the ADA Coordinator at the Circuit Court Administration Office on OAHU- Phone No. 808-539-4400, TTY 808-539-4853, FAX 539-4402, at least ten (10) working days prior to your hearing or appointment date.</p>		

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

ASSOCIATION OF UNIT OWNERS OF)	CIVIL NO. 1CCV-20-0000342
988 HALEKAUWILA,)	
)	CERTIFICATE OF SERVICE
Plaintiff,)	
vs.)	
)	
HOWARD HUGHES CORPORATION;)	
988 HALEKAUWILA, LLC; VICTORIA)	
WARD, LIMITED; HUGHES CORPORATION;)	
HOWARD RESEARCH AND)	
DEVELOPMENT CORPORATION;)	
DOES 1-10,)	
)	
Defendants.)	
_____)	
988 HALEKAUWILA, LLC,)	
)	
Third-Party Plaintiff,)	
vs.)	
)	
HAWAIIANA MANAGEMENT COMPANY,)	
LTD.,)	
)	
Third-Party Defendant.)	
_____)	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date noted below, a true and correct copy of the foregoing document will be duly served upon the following parties via the Judiciary Electronic Filing and Service System (JEFS), addressed as set forth below:

KASDAN LIPPSMITH LLLC
KENNETH S. KASDAN 10710
BRITTANY L. GRUNAU 10706
SHARLA MANLEY 8868
CHRISTOPHER K. HIKIDA 10935
1003 Bishop Street, Suite 1180
Honolulu, Hawai'i 96813

-and-

LAW OFFICES OF MELVIN Y. AGENA
MELVIN Y. AGENA 2632
55 MERCHANT, SUITE 1850
Honolulu, Hawai'i 96813

Attorneys for Plaintiff

DATED: Honolulu, Hawai'i, March 12, 2021.

/s/ David J. Minkin _____

DAVID J. MINKIN
RANDALL K. SCHMITT
JORDAN K. INAFUKU

Attorneys for Defendant/Third-Party
Plaintiff 988 HALEKAUWILA, LLC