

Declaration of Horizontal Property Regime (HPR)
Amendments (if any)

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECEIVED FOR RECORD

105 JUN 30 PM 2:52

[Signature]
INDEXED REGISTRAR

Certified to be a true and correct copy
of the original presented for record.
MUCHIKI ADACHI, Registrar.
Clerk

RECORDATION REQUESTED BY:

VERNON T. TASHIMA
Attorney-at-Law

AFTER RECORDATION, RETURN TO:

VERNON T. TASHIMA
Attorney-at-Law
Rm. 412, 235 S. Queen St.
Honolulu, Hawaii

59732 - 59901

RETURN BY: MAIL () PICKUP (✓)

REQUESTOR TO FILL ABOVE.

SPACE ABOVE THIS LINE FOR REGISTRAR'S USE

DECLARATION SUBMITTING PROPERTY TO
THE HORIZONTAL PROPERTY REGIME
(MAUI SANDS CONDOMINIUM PROJECT)

KNOW ALL MEN BY THESE PRESENTS:

That WHEREAS, by Lease dated March 18, 1963, and filed in the Land Court of the State of Hawaii as Document No. 307429, and also recorded in Liber 4504 at Page 180, ELIZABETH COCKETT ROBINSON, hereinafter referred to as "LESSOR", wife of Arnett Gordon Matthew Robinson, did demise and lease unto PENINSULA DEVELOPMENT-HAWAII, INCORPORATED, a Washington corporation, authorized to do business in the State of Hawaii, hereinafter referred to as "LESSEE", that certain property hereinafter described firstly herein, and

WHEREAS, by amendment of said lease dated DECEMBER 11, 1964, filed as Document No. 354 328, and also recorded in Liber 4968 at Page 23, said Lessor agreed, among other things, to submit said property firstly described to the Horizontal Property Regime, and

WHEREAS, by Lease dated July 24, 1962, and recorded in the Bureau of Conveyances, Honolulu, Hawaii, in Liber 4800

5076 213

at Page 140, PIONEER MILL COMPANY, LIMITED, hereinafter referred to as "Pioneer" did demise and lease unto the Lessee herein that certain property described secondly herein, and

WHEREAS, by amendment of said latter lease dated AUGUST 19, 1964, recorded in Liber 4968 at Page 15, Pioneer, among other things, agreed to submit said property described secondly to the Horizontal Property Regime, and

WHEREAS, said Leases are hereinafter referred to as "Master Leases".

NOW, THEREFORE, the Lessee, pursuant to the foregoing Leases, hereby declares and by this declaration submits the following described lands and buildings to the Horizontal Property Regime.

1. Description of land:

FIRST:

(A) LOTS 2-A, area 9,050.0 square feet; 2-B, area 12,150.0 square feet; and 2-C, area 47,870.0 square feet, as shown on Map 2, on file in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1791 of Elizabeth Cockett Robinson;

Together with Easement "A" forty (40.0) feet wide for road and utility purposes, as shown on Maps 1 and 2 of said Land Court Application No. 1791.

Being portions of the lands described in Transfer Certificate of Title No. 82,624, issued to Elizabeth Cockett Robinson.

SUBJECT, HOWEVER, to the following:

1. As to Easement "A" only, to a right in the nature of an easement, in favor of The County of Maui, for a pipe line over, under and across said Easement "A".

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2. As to Lots 2-A and 2-C only, Easement B, in favor of Lot 3, as shown on Maps 1 and 2 of Land Court Application No. 1791.

3. As to Lot 2-B only, designation of Easement C, as shown on Map 2 of said Application No. 1791.

The foregoing encumbrances are mentioned in said Transfer Certificate of Title No. 82,624.

(B) All that certain piece or parcel of land being a portion of the Ili of Moomuku, Lele 1 of Land Commission Award 11216, Apana 28 to M. Kekauonohi, situate at Moomuku, Honokowai, Kaanapali, Maui, State of Hawaii.

Beginning at the East corner of this parcel of land and on the Southerly side of R. P. 636 and 4565, L. C. Aw. 4552, Apana 5 to Aumai, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MANINI" being 8,448.31 feet North and 13,224.60 feet West and thence running by azimuths measured clockwise from true South:

1. $109^{\circ} 19' 30''$ 11.83 feet along the remainder of L. C. Aw. 11216, Apana 28 to M. Kekauonohi;

Thence on a curve to the left with a radius of 135.00 feet along the remainder of L. C. Aw. 11216, Apana 28 to M. Kekauonohi, the chord azimuth and distance being

2. $103^{\circ} 58' 55''$ 25.14 feet;
3. $129^{\circ} 38' 30''$ 152.33 feet along the remainder of L. C. Aw. 11216, Apana 28 to M. Kekauonohi;
4. $305^{\circ} 02'$ 186.69 feet along R. P. 636 and 4565, L. C. Aw. 4552, Apana 5 to Aumai to the point of beginning and containing an area of 1,118 square feet.

SECOND:

All of that certain parcel of land being a portion of Lele 1 of the Ili of Moomuku, L. C. Aw. 11216 Apana 28 to M. Kekauonohi, situate in Honokowai, Kaanapali, County of Maui, State of Hawaii, and more particularly described as follows:

Beginning at an iron pipe set in concrete at the northeast corner of this parcel of land and on the west side of Honoapiilani Highway, and the coordinates of said

point of beginning referred to Government Survey
Triangulation Station "PUU KOLII" (Manini), being
8,563.98 feet north and 12,855.17 feet west, thence
running by azimuths running clockwise from true South:

1. 17° 48' 210.94 feet along the west side of
Honoapiilani Highway;

Thence along a curve to the
right with a radius of 20.00
feet, the chord azimuth and
distance being:
2. 63° 33' 45" 28.66 feet;
3. 109° 19' 30" 207.15 feet along the northerly side
of a roadway, known as
"Honokowai Place";
4. 205° 56' 248.53 feet along L. C. Aw. 4552
Apana 5 to Aumai;
5. 293° 54' 193.54 feet along Lot 1 of Honokowai
Subdivision No. 3 to the
point of beginning and
containing an area of 50,282
square feet (1.154 acres)
more or less.

TOGETHER with an easement of right of way to be
used in common with the Lessor, its successors and
assigns, and all others thereto entitled over, across,
upon and along the following:

ALL of that certain parcel of land (portions of
L. C. Aw. 11216, Ap. 28 to M. Kekauonohi, R. P. 636 and
R. P. 4565, L. C. Aw. 4552, Ap. 5 to Aumai and School
Grant 16, Ap. 2) situate at Moomuku, Honokowai, Kaanapali,
County of Maui, said State, and thus bounded and described
per survey of Walter P. Thompson, Surveyor, dated
December 18, 1958:

Beginning at a concrete monument at the southeast
corner of this parcel of land, being also the northeast
corner of Honokowai School Lot, the coordinates of said
point of beginning referred to Government Survey Trig.
Station "Manini" being 8,305.42 feet north and 12,937.99
feet west and thence running by azimuths measured clock-
wise from true south:

1. 109° 19' 30" 329.57 feet along Honokowai School
Lot along the remainders
of L. C. Aw. 11216 Ap. 28
to M. Kekauonohi and School
Grant 16, Ap. 2;

Thence on a curve to the left with a radius of 95.00 feet along the remainder of L. C. Aw. 11216, Ap. 28 to M. Kekauonohi, the chord azimuth and distance being:

2. 103° 58' 55" 17.69 feet;
3. 188° 38' 20" 40.00 feet over a proposed 40 foot roadway along the remainder of L. C. Aw. 11216, Ap. 28 to M. Kekauonohi;

Thence on a curve to the right with a radius of 135.00 feet along the remainder of L. C. Aw. 11216, Ap. 28 to M. Kekauonohi, the chord azimuth and distance being:

4. 283° 58' 55" 25.14 feet;
5. 289° 19' 30" 307.83 feet along the remainder of L. C. Aw. 11216, Ap. 28 to M. Kekauonohi, along the remainder of R. P. 636 and 4565, L. C. Aw. 4552, Ap. 5 to Aumai; and along the remainder of L. C. Aw. 11216, Ap. 28 to M. Kekauonohi;

Thence on a curve to the left with a radius of 20.00 feet along the remainder of L. C. Aw. 11216, Ap. 28 to M. Kekauonohi, the chord azimuth and distance being:

6. 243° 33' 45" 28.66 feet;
7. 17° 48' 48.56 feet along the west side of Honoapiilani Highway to a concrete monument;
8. 17° 04' 12.00 feet along the west side of said Highway to the point of beginning.

Containing an area of 14,107 square feet.

The foregoing easement to include also an easement for utility purposes, and said easement subject to termination upon dedication to any governmental authority,

2. Description of building:

That certain improvement or improvements as shown on plans and specifications dated December 10, 1963, prepared by ERNEST R. HARA, AIA, to be filed with the Bureau of Conveyances and the Land Court, as the case may be, more particularly described as follows:

There will be six buildings designated as buildings I, II, III, IV, V, and VI, each building will be two stories and of wood frame construction.

Buildings numbered I and III will each contain twelve apartments with six apartments on each floor.

Buildings numbered II, IV, V, and VI will contain eight apartments with four on each floor.

3. Description of apartments:

The apartments will be numbered thusly:

Buildings I and III will have apartments A and F (one bedroom), B, C, D, and E (two bedrooms) on the first floors and apartments G and M (one bedroom), H, J, K, and L (two bedrooms) on the second floors.

Buildings numbered II and VI will have apartments A and D (one bedroom), B and C (two bedrooms) on the first floors and apartments E and H (one bedroom), F and G (two bedrooms) on the second floors.

Buildings numbered IV and V will have apartments A, B, C, and D on the first floors, and apartments E, F, G, and H on the second floors; all of the foregoing being two-bedroom apartments.

Apartments A, F, G, and M in buildings I and III are approximately 616 square feet together with 42 square feet of lanai and will contain one bedroom, one bathroom, kitchen, and living and dining area. The immediate common element to which these apartments have access are the corridors or hallways on the ground level or such corridors or hallways on the second floor leading to the stairways.

All of the other apartments are approximately 920 square feet together with 96 square feet of lanai and will contain two bedrooms, one bathroom, kitchen, and

living and dining area. The immediate common element to which these apartments have access are the corridors or hallways on the ground level or such corridors or hallways on the second floor leading to the stairways.

4. Common elements:

- a) The lands herein described.
- b) The foundations, columns, girders, beams, supports, main walls, roofs, halls, stairs, stairways, fire escapes and entrances and exits of the Apartment Buildings.
- c) Yards, parking area and driveways, gardens, recreational facilities, including swimming pool, and storage spaces.
- d) All central and appurtenant installations of electrical, gas, plumbing, air conditioning and like utilities.
- e) Laundry and service area, cabana, managers office, lockers, aeration tank and all improvements erected or installed for sanitary sewer purposes.

5. Limited common elements:

Parking stalls and lockers specifically reserved for the exclusive use of a certain apartment.

6. Percentage of undivided interest in common elements:

Each owner of an apartment, whether owned jointly or singly, shall have a one-fifty sixth (1/56) undivided interest in and to the buildings, similar undivided leasehold interest in the land, and the common elements herein described. For purposes of voting on all matters requiring action by the apartment owners, there shall be 56 votes; the number of votes being determined by the number of apartments. There shall be one vote for each such apartment, whether owned jointly or singly.

7. Restrictions as to use of apartment:

Each apartment shall be used only as a place of dwelling and for no other purpose in accordance with the terms of the master leases, the apartment lease, by-laws of the association of apartment owners and the house rules, as they exist or as they may be amended from time to time, and each owner shall observe, comply with,

and perform all rules, regulations, ordinances and laws made by the Board of Health and any other governmental authority of the municipal, state and federal government applicable to the premises.

8. Service of process:

Service of process in cases provided in the Horizontal Property Act shall be made upon DR. HARRY J. TIEDEMAN, whose residence address is ROUTE 1, BOX 354-B, LAHAINA, MAUI, HAWAII, or in the event such person cannot be served, then upon any officer of the association of apartment owners, provided that such officer has a residence or place of business within the county or the city and county in which the project is located.

9. Provision as to rebuilding, repairing, or restoration of building:

If the Apartment Building is substantially damaged or destroyed, the owners shall determine whether said building shall be rebuilt, repaired or restored by a vote of not less than seventy-five per cent (75%) of all of the apartment owners, based on number of apartments as defined in paragraph 6 above and not per capita.

10. Partition of premises:

The owner of an apartment shall not seek a judicial partition of the premises so long as the building shall be used for apartment purposes.

11. Removal of land and buildings from the provisions of the Horizontal Property Regime:

The dedication of the property to the Horizontal Property Regime may be removed from the provisions of the Horizontal Property Act by duly recorded instruments in compliance with the applicable provisions of said Act.

12. Assessments, charges and taxes:

Any owner shall pay all assessment, charges and outgoings of every kind and nature in the manner provided in this declaration or in the apartment sublease or in the by-laws of the association of apartment owners; provided, that each owner or occupant of any unit shall bear the charges, whether for taxes, utilities and other

outgoings as may be separately charged or assessed against each such owner or occupant as by law provided.

13. Amendment of declaration:

This declaration may be amended by a vote of the apartment owners owning not less than eighty per cent (80%) of the apartments and the mortgagees thereof; provided, however, that no amendment hereof affecting any of the common or limited common elements shall be effective without the consent of the owner or all of the owners of apartments affected by the proposed amendment.

14. By-Laws:

The By-Laws of the association of apartment owners of Maui Sands, condominium project, dated NOVEMBER 16, 1964, are attached hereto as Exhibit "A" and made a part hereof.

15. Definition:

"Owner", shall mean the purchaser of an apartment whether singly or jointly, his or its successors, heirs, administrators, executors, and assigns, or the heirs and assigns of the survivor as the case may be.

IN WITNESS WHEREOF, PENINSULA DEVELOPMENT-HAWAII, INCORPORATED, has executed this Declaration this 1 day of December, 1964.

PENINSULA DEVELOPMENT-HAWAII,
INCORPORATED

By Harry J. Friedman
Its President

By Margaret B. Friedman
Its Vice President



STATE OF HAWAII)
COUNTY OF MAUI) ss.

On this 16th day of November, 1964, before me appeared HARRY J. TIEDEMAN and MARJORIE B. TIEDEMAN to me personally known, who, being by me duly sworn, did say that they are the President and Vice President respectively of PENINSULA DEVELOPMENT-HAWAII, INCORPORATED, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors and the said HARRY J. TIEDEMAN and MARJORIE B. TIEDEMAN acknowledged said instrument to be the free act and deed of said corporation.



Notary Public, Second Judicial
Circuit
State of Hawaii

My commission expires: July 26, 1967

Lessees address.
40 H.J. Tiedeman
Route 1, Box 354-13
Lahaina, Maui

66- 6621

RECORDATION REQUESTED BY:

STATE OF HAWAII
BUREAU OF CONVEYANCES
HONOLULU, HAWAII

5267 PAGE 438
'66 FEB 25 PM 3:54

AFTER RECORDATION, RETURN TO:

BANK OF HAWAII - H.O.

HATTIE CERSCH
ATTORNEY AT LAW

RETURN BY: MAIL () PICKUP (✓)
REQUESTOR TO FILL ABOVE.

SPACE ABOVE THIS LINE FOR REGISTRAR'S USE.

Certified to be a true and correct copy
of the original presented for record
by
MACHIKI ADACHI, Registrar.

Clerk

AMENDED DECLARATION SUBMITTING PROPERTY TO
THE HORIZONTAL PROPERTY REGIME
(MAUI SANDS CONDOMINIUM PROJECT)

KNOW ALL MEN BY THESE PRESENTS:

THAT, WHEREAS, PENINSULA DEVELOPMENT-HAWAII, INCORPORATED, a Washington corporation, did record a Declaration Submitting Property to the Horizontal Property Regime dated November 16, 1964 in the Bureau of Conveyances, Honolulu, Hawaii, in Liber 5076 at Page 212, together with Condominium Map No. 35, said Map being designated as Condominium Map No. 14 in the Land Court of the State of Hawaii; said Declaration being filed in the Land Court as Document No. 364363, and noted on Transfer Certificate of Title No. 82624 issued to Elizabeth Cockett Robinson; and

WHEREAS, due to a slight change in description of the apartments and the numbering system thereof, Peninsula Development-Hawaii, Incorporated herewith amends said Declaration.

NOW, THEREFORE, PENINSULA DEVELOPMENT-HAWAII, INCORPORATED, a Washington corporation, whose principal place of business in the

State of Hawaii being Wailuku, Maui, said State, and its post office address being c/o P. O. Box C, Wailuku aforesaid, does hereby amend said Declaration in the following particulars:

1. By amending paragraph numbered 3 entitled "Description of Apartments" on page 6 in its entirety, and as amended to read as follows:

"The apartments will be numbered thusly:

"Buildings I and III will have apartments A and F (one bedroom), B, C, D, and E (two bedrooms) on the first floors and apartments G and M (one bedroom), H, J, K, and L (two bedrooms) on the second floors.

"Buildings numbered II and VI will have apartments A and D (one bedroom), B and C (two bedrooms) on the first floors and apartments E and H (one bedroom), F and G (two bedrooms) on the second floors.

"Buildings numbered IV and V will have apartments A, B, C, and D on the first floors, and apartments E, F, G, and H on the second floors; all of the foregoing being two-bedroom apartments.

"In each case, the Roman numeral preceding the alphabetical designation of each apartment denotes the number of the building; for example, apartment "I-A" is the apartment designated as "A" in building number "I".

"Apartments A, F, G, and M in the buildings I and III are approximately 741 square feet, including lanai, and will contain one bedroom, one bathroom, kitchen, and living and dining area. The immediate common element to which these apartments have access are the corridors or hallways on the ground level or such corridors or hallways on the second floor leading to the stairways.

"All of the other apartments are approximately 1066 square feet, including lanai, and will contain two bedrooms, one bathroom, kitchen, and living and dining area. The immediate common element to which these apartments have access are the corridors or hallways on the ground level or such corridors or hallways on the second floor leading to the stairways."

2. By amending said Condominium Maps Numbered 35 and 14 to reflect the amendments herein noted; said amended maps to be filed simultaneously herewith.

IN WITNESS WHEREOF, PENINSULA DEVELOPMENT-HAWAII, INCORPORATED has executed this Amended Declaration this 24th day of February, 1966.



PENINSULA DEVELOPMENT-HAWAII, INCORPORATED, a Washington corporation

By Harry J. Friedman
Its Pres.

By Margaret B. Friedman
Its Vice Pres.

State of Hawaii)
City & County of Honolulu) ss.

On this 24th day of February, 1966, before me appeared Harry J. Friedman and Margaret B. Friedman to me personally known, who, being by me duly sworn, did say that they are the President and Vice President respectively of PENINSULA DEVELOPMENT-HAWAII, INCORPORATED, a Washington corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors and the said Harry J. Friedman and Margaret B. Friedman acknowledged said instrument to be the free act and deed of said corporation.

William M. Graham
Notary Public, 1st Circuit
State of Hawaii

My commission expires:



1737059

DOUBLE SYSTEM 90-086580

STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

'90 JUN 8 PM 12 54

S. Furukawa
 ASSISTANT REGISTRAR
 ON CERTIFICATE 338,739, 338,740 &
 340,516

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

'90 JUN 8 PM 1 10

S. FURUKAWA, REGISTRAR *am*

LAND COURT SYSTEM	<i>(x)</i>	REGULAR SYSTEM
Return By Mail (x) Pickup () To:		
Law Offices		
CROCKETT AND NAKAMURA		
P. O. Box NNN		
Weiluku, Maui, HI 96793		
Transfer Certificate Of Title Nos.: 338,739, 338,740		
and 340,516		

AMENDMENT OF MAUI SANDS DECLARATION
OF HORIZONTAL PROPERTY REGIME
TO PROHIBIT THE CREATION OF ANY TIME SHARE PLAN

1. A Declaration Of Horizontal Property Regime (the "Maui Sands Declaration"), dated November 16, 1964, recorded with the Bureau of Conveyances of the State of Hawaii at Liber 5076, Page 212, and filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 364363, submitted the property therein more particularly described to a condominium property regime under the Hawaii Condominium Property Regime Act (the "Maui Sands Condominium Property Regime").

2. The Maui Sands Declaration is noted upon Transfer Certificates Of Title 338,739, 338,740, and 340,516 issued by the Land Court of the State of Hawaii.

3. The Maui Sands Association Of Apartment Owners (the "Association"), an unincorporated association established by the Maui Sands Declaration, and organized under the Hawaii Condominium Property Act, consists of the owners of the apartments of the Maui Sands Condominium Property Regime.

4. At a meeting of the Association duly called and held April 28, 1990, the owners of apartments of the Maui Sands Condominium Property Regime to which appertained in the aggregate "common interests" exceeding seventy-five percent (75%) of the entire common interests appertaining to all the apartments of the Maui Sands Condominium Property Regime, voted to further amend the Maui Sands Declaration by the addition of the following:

"(1) The phrase 'time share plan' shall have the meaning given by HAW. REV. STAT. Chapter 514E.

(2) After April 28, 1990 no time share plan can be created for or in respect of any apartment, and no apartment shall be the subject of any time share plan created after such date.

(3) The Association shall have the right and power, to be exercised by the board of

directors, to deny any person entry to, or the possession of, any apartment for which a time share plan has been created in violation of this section, so long as such violation shall continue.

(4) The Association may bring an action, by the board of directors, to obtain appropriate injunctive relief to prevent any violation of this section, or to require the observance of this section, without being required to post a bond as a condition to obtaining such injunctive relief, whether temporary, preliminary, or permanent. The Association shall not be required to show in any such action that other relief is inadequate or that the damages suffered by the Association or by any apartment owner is or may be irreparable."

CERTIFICATE

Joel Jessier and
Shirley Clark, President and Secretary,
respectively, of the Maui Sands Association Of Apartment
Owners, an unincorporated association established by the
Maui Sands Declaration and organized under the Hawaii
Condominium Property Act, do hereby certify that the
foregoing amendments to the Maui Sands Declaration were duly
adopted and enacted by the apartment owners of the Maui
Sands Condominium Property Regime and by the Maui Sands
Association Of Apartment Owners, at a meeting duly called
and held April 28, 1990, and that they have been duly
authorized and directed by the apartment owners of the Maui
Sands Condominium Property Regime and by the Maui Sands
Association Of Apartment Owners to cause the same to be
recorded with the Bureau of Conveyances of the State of
Hawaii, and to be filed with the Assistant Registrar of the

Land Court of the State of Hawaii and shown on Transfer
Certificates Of Title 338,739, 338, 740 and 340,516.

DATED: May 17, 1990

MAUI SANDS ASSOCIATION OF
APARTMENT OWNERS

By Jael Tessier
Its President

By Shirley Clark
Its Secretary

State of Hawaii)
County of Maui) ss:

On this 31st day of May, 1990,
before me appeared Joel Tessier,
to me personally known, who, being by me duly sworn did say
that Le is President of the MAUI SANDS ASSOCIATION OF
APARTMENT OWNERS, an unincorporated association established
under the Maui Sands Declaration Of Horizontal Property
Regime, dated November 16, 1964, recorded with the Bureau of
Conveyances of the State of Hawaii at Liber 5076, Page 212,
and filed in the Office of the Assistant Registrar of the
Land Court as Document No. 364363, and organized under the
Hawaii Condominium Property Act, that said instrument was
signed in behalf of the said MAUI SANDS ASSOCIATION OF
APARTMENT OWNERS by authority of its members and said
Joel Tessier acknowledged said instrument
to be the free act and deed of the said MAUI SANDS
ASSOCIATION OF APARTMENT OWNERS, and that the said MAUI
SANDS ASSOCIATION has no seal.

Jean M. St. John
Notary Public, State of Hawaii
My commission expires 9-20-93

State of Hawaii)
County of Maui) ss:

On this 17th day of May, 1990,
before me appeared Shirley Clark,
to me personally known, who, being by me duly sworn did say
that she is Secretary of the MAUI SANDS ASSOCIATION OF
APARTMENT OWNERS, an unincorporated association established
under the Maui Sands Declaration Of Horizontal Property
Regime, dated November 16, 1964, recorded with the Bureau of
Conveyances of the State of Hawaii at Liber 5076, Page 212,
and filed in the Office of the Assistant Registrar of the
Land Court as Document No. 364363, and organized under the
Hawaii Condominium Property Act, that said instrument was
signed in behalf of the said MAUI SANDS ASSOCIATION OF
APARTMENT OWNERS by authority of its members and said
Shirley Clark acknowledged said instrument
to be the free act and deed of the said MAUI SANDS
ASSOCIATION OF APARTMENT OWNERS, and that the said MAUI
SANDS ASSOCIATION has no seal.

Jean M. Stephens
Notary Public, State of Hawaii
My commission expires 8-20-93

LAND COURT SYSTEM REGULAR SYSTEM
AFTER RECORDATION, RETURN TO: BY: MAIL ☐ PICKUP ☒

Ekimoto & Morris
Attn: John A. Morris, Esq./alt
American Savings Bank Tower Suite 780
1001 Bishop Street
Honolulu, Hawai'i 96813-3410

Total pages:

G:\CLIENT\M\MAUI SANDS (I) and II - JM\GM\OPT IN TO 514B (MAUI SANDS)\Amendment re opt in (Maui Sands).doc

Tax Map Key: (2) 4-4-1-52

Condominium Map No. 35
Land Court Condominium Map No. 14

**AMENDMENT TO DECLARATION SUBMITTING PROPERTY TO THE HORIZONTAL
PROPERTY REGIME (MAUI SANDS CONDOMINIUM PROJECT)**

This AMENDMENT TO DECLARATION SUBMITTING PROPERTY TO THE
HORIZONTAL PROPERTY REGIME (MAUI SANDS CONDOMINIUM PROJECT)
("Amendment") is made as of the 23rd day of October, 2008 by the
ASSOCIATION OF APARTMENT OWNERS OF MAUI SANDS, whose address is
% Destination Maui, Inc., 841 Alua Street, Suite 102, Wailuku, HI 96793 ("Association"),

W I T N E S S E T H T H A T :

WHEREAS, by Declaration Submitting Property to the Horizontal Property Regime (Maui Sands Condominium Project) dated November 16, 1964 (the "Declaration") recorded in the Bureau of Conveyances of the State of Hawai'i in Liber 5076 at Page 212, and filed in the Office of the Assistant Registrar of the Land Court of the State of Hawai'i as Land Court Document No. 364363, as amended, and noted on the Certificates of Title shown on the attached Exhibit "1", the property described in the Declaration was submitted to a Horizontal Property Regime established by Chapter 170A of the Hawai'i Revised Statutes, as amended (now governed by the Condominium Property Act, Chapters 514A and 514B, Hawai'i Revised Statutes); and

WHEREAS, simultaneously with the recording of the Declaration and By-Laws, Declarant also recorded in the Bureau of Conveyances of the State of Hawai'i as Condominium

Map No. 35 and filed in the Office of the Assistant Registrar of the Land Court of the State of Hawai'i as Land Court Condominium Map No. 14 plans describing the improvements to the project; and

WHEREAS, the By-Laws attached to the Declaration provided for the organization and operation of the ASSOCIATION OF APARTMENT OWNERS OF MAUI SANDS (the "Association") to operate and manage the Project in accordance with the By-Laws; and

WHEREAS, the Declaration was amended by instruments dated February 24, 1966, filed as Land Court Document No. 383481, recorded in Liber 5267 at Page 435; dated May 15, 1984, filed as Land Court Document No. 1242318, recorded in Liber 17955 at Page 655; dated May 17, 1990, filed as Land Court Document No. 1737059, recorded as Document No. 90-086580; and dated April 26, 1997, recorded as Document No. 97-057435; and

WHEREAS, Section 514B-23, Hawai'i Revised Statutes ("HRS"), empowers the Association to generally amend the Project documents, with the vote or written consent of a majority of the owners, to achieve any results permitted by HRS Chapter 514B; and

WHEREAS, a majority of the Association's owners have given their written consent in favor of "opting in" to the provisions of HRS Chapter 514B;

NOW THEREFORE, the Declaration is hereby amended to "opt-in" to HRS Chapter 514B, as set forth below. To the extent that there is any conflict between the provisions of the Declaration and HRS Chapter 514B, the provisions of the Declaration shall be subordinate to HRS Chapter 514B, including all approval requirements in HRS Chapter 514B. This amended version of the Declaration shall supersede the original Declaration and all prior amendments thereto.

AMENDMENT

A new Section 16. is added to the Declaration, to generally amend the Project documents to achieve any results permitted by HRS Chapter 514B, to read as follows:

16. Governing Law. Notwithstanding anything to the contrary in the Project governing documents, including but not limited to the Declaration, Bylaws, House Rules, and Condominium Map:

a) This Project shall be governed by the provisions of Hawai'i Revised Statutes, Chapter 514B, as amended;

b) Any apartment deed, and the Project's Declaration, Bylaws, House Rules, and Condominium Map shall be liberally construed to facilitate the operation of the Project under the law;

c) Amendments to the Declaration and Bylaws, including but not limited to amendments relating to the alteration of the Project, shall require approval of 67% of the owners;

d) Approval requirements of 75% for alterations to the common elements shall be reduced to 67%;

e) Punitive damages may not be awarded except as provided in Hawai'i Revised Statutes, Section 514B-10; and


f) Approval requirements for leases or uses of the common elements shall be governed by Hawai'i Revised Statutes, Section 514B-38.


In all other respects, the Declaration, as amended, is hereby ratified and confirmed and shall be binding upon and inure to the benefit of the parties to them and their respective successors and permitted assigns. The undersigned officers of the Association of Apartment Owners of Maui Sands hereby certify that the above amendment was made by the written consent of more than a majority of the members of the Association.

Each of the undersigned officers of the Association warrants and represents that he or she is legally authorized to sign this Amendment on behalf of the Association. The officers of the Association agree that this Amendment may be executed in counterparts, each of which shall be deemed an original, and those counterparts shall together constitute one and the same instrument, binding all the Parties thereto, notwithstanding that all the Parties are not signatories to the original or the same counterpart.

23 IN WITNESS WHEREOF, the undersigned have executed this instrument on this day of Oct, 2008.

ASSOCIATION OF APARTMENT OWNERS
OF MAUI SANDS

By: 
(Print name: LAWRENCE LAVALLEY)
Its: Maui Sands I AOA president

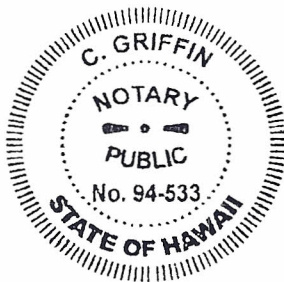
By: 
(Print name: ROBERT E. JENKS)
Its: M.S.I BOARD MEMBER

STATE OF HAWAII

COUNTY OF MAUI

)
) ss.
)

On this 23rd day of October, 2008, before me personally appeared Lawrence Lavalle, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



C. Griffin
Print Name: C. Griffin
Notary Public, State of Hawaii
2nd circuit court
My Commission Expires: September 13, 2010

STATE OF HAWAII

COUNTY OF MAUI

)
)
)
ss.

On this 24th day of November, 2008, before me personally appeared ROBERT E. TRANKS, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

ROCEPHINE KOYAMA
Print Name: R.
Notary Public, State of Hawaii

My Commission Expires: _____

ROCEPHINE KOYAMA, NOTARY PUBLIC
MY COMMISSION EXPIRES: 2-6-2012

Document Date:	<u>11/24/08</u>	# Pages:	<u>8</u>
Notary Name:	ROCEPHINE G. KOYAMA Second Circuit		
Doc. Description:	<u>Amendment to Declaration</u>		
	<u>Submitting Property to the Horizontal</u>		
Notary Signature	<u>ROCEPHINE KOYAMA</u>	Date	<u>11/24/08</u>

MAUI SANDS

Apt # TCT#

***[EKIMOTO & MORRIS WILL ADD UPDATED
EXHIBIT "1" TO DOCUMENT WHEN IT IS
RETURNED FOR RECORDING IN LAND COURT]***

MAUI SANDS

Apt # **TCT#**

MAUI SANDS

Apt # **TCT#**