Housing and Land Use Committee (2025-2027) on 2026-07-01 10:30 AM

Meeting Time: 07-01-26 10:30

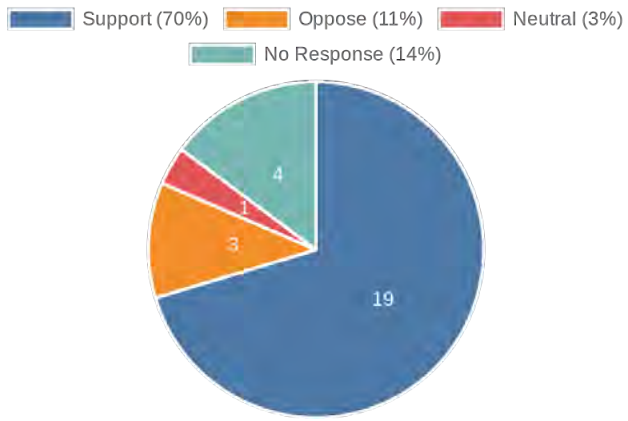
eComments Report

Meetings	Meeting Time	Agenda Items	Comments	Support	Oppose	Neutral
Housing and Land Use Committee (2025-2027) on 2026-07-01 10:30 AM	07-01-26 10:30	3	27	19	3	1

Sentiments for All Meetings

The following graphs display sentiments for comments that have location data. Only locations of users who have commented will be shown.

Overall Sentiment



Housing and Land Use Committee (2025-2027) on 2026-07-01 10:30 AM

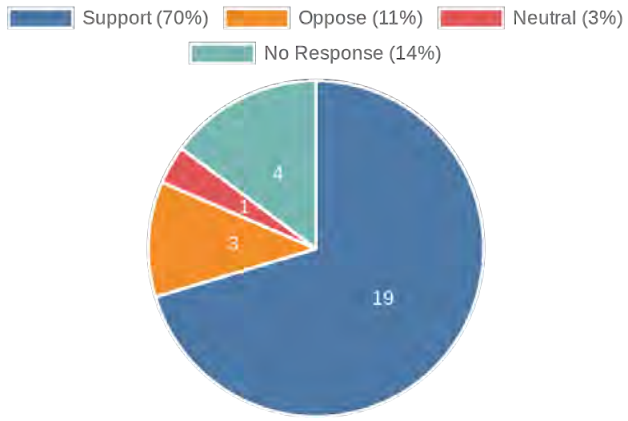
07-01-26 10:30

Agenda Name	Comments	Support	Oppose	Neutral
A G E N D A	4	0	1	1
HLU-18 Reso 26-110 RESOLUTION 26-110, REFERRING TO THE MAUI PLANNING COMMISSION PROPOSED BILLS TO AMEND THE KIHEI-MAKENA COMMUNITY PLAN AND WEST MAUI COMMUNITY PLAN, AND TO CHANGE THE ZONING FOR CERTAIN TIMESHARE, LEASEHOLD, AND OTHER PROPERTIES IN THE A-1 AND A-2 APARTMENT DISTRICTS (HLU-18)	6	4	1	0
HLU-19 Reso 26-111 RESOLUTION 26-111, REFERRING TO THE MAUI PLANNING COMMISSION PROPOSED BILLS TO AMEND THE KIHEI-MAKENA COMMUNITY PLAN AND WEST MAUI COMMUNITY PLAN, AND TO CHANGE THE ZONING FOR PROPERTIES OPERATING LIKE HOTELS IN THE A-1 AND A-2 APARTMENT DISTRICTS (HLU-19)	17	15	1	0

Sentiments for All Agenda Items

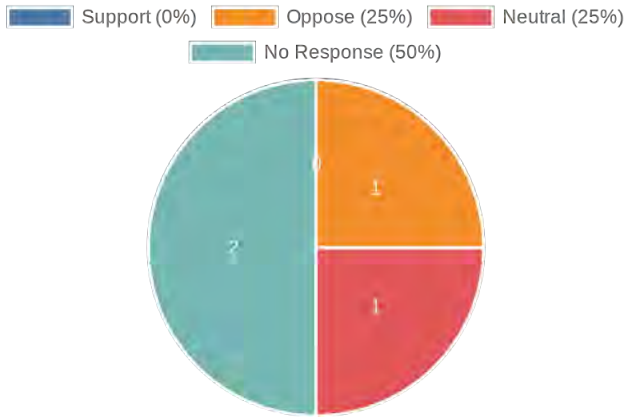
The following graphs display sentiments for comments that have location data. Only locations of users who have commented will be shown.

Overall Sentiment



Agenda Item: eComments for A G E N D A

Overall Sentiment



HLU Committee
Location:
Submitted At: 7:45am 07-02-26

Testimonies received from HLU Committee

Guest User
Location:
Submitted At: 10:57am 07-01-26

Aloha, I_m submitting a link to Fannie Mae_s national Selling Guide: https://selling-guide.fanniemae.com/sel/b2-3-03/special-property-eligibility-and-underwriting-considerations-leasehold-estates

This outlines requirements for mortgages given on leasehold properties and I will reference this guide in my testimony.
Mahalo,
Autumn Ness

Guest User
Location:
Submitted At: 9:47am 07-01-26

Please add Maui Kamaole (all Phases) to one of the two resolutions being considered on the agenda. This resort complex looks similar and functions in the same manner.

Thank you

Edward Codelia
Location:
Submitted At: 6:23pm 06-30-26

Chair and Members of the Housing and Land Use Committee

I respectfully submit this testimony in opposition to HLU-18, HLU-19, and related agenda items.

This testimony is not directed toward any individual property owner or condominium association. It is directed toward the legislative process.

Today's agenda proposes permanent Community Plan and zoning changes affecting hundreds of millions, if not billions, of dollars in property rights. Decisions of this magnitude require objective standards, transparency, accountability, equal treatment, and public confidence. Unfortunately, this agenda does not demonstrate those principles.

On June 30, 2026, the Government Relations, Ethics and Transparency (GREAT) Committee devoted its meeting to ethics, accountability, transparency, fraud prevention, conflicts of interest, and restoring public trust. Those principles should not end with committee discussion. They should govern every legislative action before this Council.

The issue is not whether selected properties deserve relief. The issue is whether every citizen can clearly see that the process was objective, impartial, transparent, evidence-based, and applied equally to everyone.

Resolutions 26-110 and 26-111 select certain properties for extraordinary legislative relief, yet the public has not been shown objective, measurable criteria explaining why these properties were selected while thousands of similarly situated apartment-zoned properties were not. Resolution 26-111 relies on the phrase "operate like hotels," but provides no measurable legal standard defining what that means.

Even more concerning, Corporation Counsel approved both resolutions as to form and legality but added the same handwritten comment:

"Bills will need to establish evidence supporting determination criteria."

If the determination criteria still require supporting evidence, why is the Committee proceeding before that evidence has been presented to the public?

Likewise, the Committee requested written analyses from the Departments of Planning and Finance, yet those responses are due after today's meeting.

Good government requires analysis before action, not afterward.

The public deserves answers:

Who developed the selection criteria?
Who selected these properties?
What evidence supports each selection?
Were all similarly situated properties evaluated equally?
Where are the written findings?

Government must show its work.

In light of yesterday's GREAT Committee discussion, the public also deserves complete transparency regarding this legislative process, including:

Meetings between Councilmembers, staff, lobbyists, attorneys, consultants, condominium associations, industry representatives, and affected property owners.
Emails, texts, memoranda, draft proposals, and other communications related to these resolutions.
Campaign contributions, fundraising support, endorsements, independent expenditures, or other political support provided by individuals or organizations that may benefit from these legislative actions.
Any meetings held outside the public process, including private meetings, campaign events, fundraisers, or residences.

Any financial, business, professional, or organizational relationships that could create either an actual conflict of interest or the appearance of preferential treatment.

These are not accusations. They are legitimate questions whenever government exercises extraordinary discretion affecting substantial private economic interests.

Transparency protects the public and honest public officials alike. If these decisions were based solely on objective planning principles, complete disclosure should strengthen public confidence.

Yesterday, the GREAT Committee asked how Maui County prevents fraud, favoritism, manipulation of governmental processes, conflicts of interest, and the erosion of public trust. Those questions are answered not by policy discussions, but by how this Council conducts its business.

Before granting extraordinary legislative relief to selected private properties, the public deserves complete transparency regarding the process that produced these proposals.

I respectfully request that the Committee defer HLU-18, HLU-19, and related agenda items until:

Objective selection criteria are publicly adopted.
Supporting evidence is released.
Planning and Finance complete their written analyses.
Relevant communications are disclosed to the fullest extent permitted by law.
The record demonstrates these decisions were reached through a transparent, impartial, and evidence-based process.

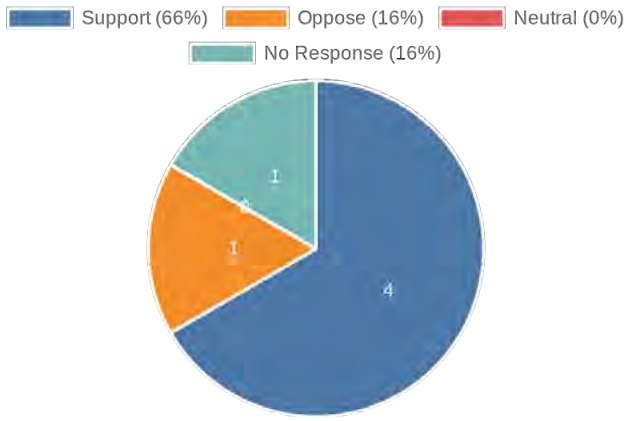
Government should never ask citizens to trust a process that has not shown its work.

Respectfully submitted,

Edward Codelia
Maui Resident

Agenda Item: eComments for HLU-18 Reso 26-110 RESOLUTION 26-110, REFERRING TO THE MAUI PLANNING COMMISSION PROPOSED BILLS TO AMEND THE KIHEI-MAKENA COMMUNITY PLAN AND WEST MAUI COMMUNITY PLAN, AND TO CHANGE THE ZONING FOR CERTAIN TIMESHARE, LEASEHOLD, AND OTHER PROPERTIES IN THE A-1 AND A-2 APARTMENT DISTRICTS (HLU-18)

Overall Sentiment



HLU Committee
Location:
Submitted At: 7:45am 07-02-26

Testimonies received from HLU Committee

Edward Codelia
Location:
Submitted At: 6:01pm 06-30-26

TESTIMONY IN OPPOSITION TO RESOLUTION 26-110 (HLU-18)

Housing and Land Use Committee
July 1, 2026

Chair, Vice Chair Batangan, and Members of the Housing and Land Use Committee:

I have been a Maui Realtor for more than 30 years and have spent decades working with homeowners, buyers, investors, residents, and our local communities. I respectfully submit this testimony in opposition to Resolution 26-110.

This testimony is not directed against any individual property owner or condominium association. It is directed at the process being used to determine which private properties receive extraordinary legislative relief while others do not.

The issue before you is larger than transient vacation rentals. It is whether the County of Maui is making land use decisions through an objective, transparent, legally defensible process or through a process that appears arbitrary, subjective, and susceptible to political influence.

The answer matters because the Council is about to make decisions affecting billions of dollars in private property rights, housing policy, and public confidence in government.

The County Has Not Demonstrated Objective Selection Criteria

Resolution 26-110 proposes to change Community Plan designations and zoning for selected Apartment District properties so they may continue operating transient vacation rentals.

However, nowhere in the Resolution is there a comprehensive explanation of how these particular properties were selected while thousands of others were excluded.

The stated categories include:

mixed timeshare and vacation rental properties,
leasehold properties,
and smaller properties considered difficult for the average resident to purchase.

Those are policy judgments—not objective standards.

Where is the evidence?

Where is the analysis?

Where is the scoring methodology?

Where are the findings demonstrating that every property was evaluated equally?

Without those answers, this process appears arbitrary.

Corporation Counsel Appears to Recognize This Problem

Perhaps the most revealing document submitted for this agenda is the June 29 review from Corporation Counsel.

While approving the Resolution as to form and legality, Corporation Counsel specifically noted:

"Bills will need to establish evidence supporting determination criteria."

That statement speaks volumes.

Even the County's own attorneys recognize that the legislation ultimately must establish evidence supporting why these properties qualify while others do not.

If the evidence has not yet been established, why is the Council moving forward today?

Shouldn't the evidence come before the legislative action rather than afterward?

Planning and Finance Have Not Completed Their Reviews

Equally concerning are the requests sent by the Committee Chair to the Departments of Planning and Finance.

Those departments were asked to review the proposal and provide written comments after this committee meeting.

Why is the Committee considering these resolutions before receiving the formal analyses from the very departments responsible for planning, implementation, fiscal impacts, and long-range policy?

Good government requires informed decision-making—not decisions first and analysis later.

Reliance Upon an Informational List Is Not a Substitute for Findings

The Committee has attached the June 27, 2024 list entitled "Apartment District Properties Allowed to be Used for Short-Term Occupancy."

Yet that same document contains an important disclaimer.

It expressly states that:

the list grants no entitlement,
it is subject to error,
and confirmation should always be obtained from the Department of Planning.

If the County itself acknowledges the list may contain errors, how can it now serve as the foundation for deciding which properties receive permanent zoning changes?

This raises obvious questions:

Were all properties independently verified?
Were errors corrected?
Were all owners afforded equal consideration?
Were properties omitted?
If so, why?
Equal Protection and Fairness Matter

Government cannot simply choose winners and losers without explaining why.

Every owner affected by Ordinance 5909 deserves equal treatment under the law.

If one condominium receives hotel zoning while another similarly situated property does not, the County must be able to explain that distinction through objective evidence—not political preference.

Anything less invites litigation and undermines confidence in government.

Public Trust Is Already Fragile

Today's earlier Council discussions regarding ethics, accountability, transparency, and public confidence underscore why this Committee must proceed carefully.

Whether discussing ethics, conflicts of interest, procurement, public records, or other governance concerns, the consistent theme is restoring public trust.

That trust cannot be restored by asking the public to simply assume decisions are being made fairly.

Trust is earned through transparency.

Trust is earned through documentation.

Trust is earned through equal treatment.

When government exercises extraordinary discretion over valuable private property rights, every decision must withstand public scrutiny.

Questions That Have Not Been Answered

Before moving forward, the Committee should publicly answer the following:

Who developed the selection criteria?
When were those criteria adopted?
Were they adopted in a public meeting?
Were Planning staff involved?

Were all 7,167 apartment district vacation rental units evaluated?
Was every property evaluated using identical standards?
What evidence supports inclusion of each selected property?
Why were certain properties excluded?
Has every communication regarding these selections been preserved as a public record?
Have all potential conflicts of interest been disclosed?

The public deserves these answers before—not after—zoning decisions are made.

This Process Should Be Paused

Land use decisions are among the most significant powers exercised by government.

They should never be rushed.

They should never rely upon incomplete findings.

They should never depend upon undocumented policy judgments.

And they should never leave the public wondering whether everyone received equal treatment.

This Committee should postpone further action until:

Planning and Finance complete their written analyses;
objective selection criteria are published;
supporting evidence is made available for public review;
and every property owner has confidence that this process is fair, transparent, and legally defensible.

Anything less risks further eroding public trust in County government.

I respectfully urge the Committee to reject or defer Resolution 26-110 until these fundamental issues have been addressed.

Thank you for the opportunity to testify.

Edward Codelia
Maui County Resident

Pamela Tumpap
Location:
Submitted At: 4:53pm 06-30-26

Please see attached testimony in support.

Peter Horovitz
Location:
Submitted At: 2:36pm 06-30-26

Support - Please see the attached letter and enclosures.

Guest User
Location:
Submitted At: 9:01am 06-30-26

Aloha Chair U_u-Hodgins, Vice Chair Batangan, and members of the Housing and Land Use Committee. My name is Bonnie Pauli; I am a Wailea Ekahi property owner and chair of Ekahi's Board appointed Ad Hoc STR Committee. I am speaking with the support of other Ekahi owners. As individual property owners we support Resolution 26-111 as written.

We appreciate the hours of effort that you have put into this process and are gratified to see you agree that

Wailea Ekahi, when created in the 1970's, legally provided short term rentals as well as personal residences and our A1 zoned areas more appropriately belong in the new H3 zoning category.

Units at Ekahi have been used as short term rentals from day one on the property and, initial sales advertised them as such in San Francisco and other market newspapers. Those uses continue through today. Adoption of Resolution 26-111 will help to maintain zoning at Ekahi consistent with the original intended uses by transitioning A-1 properties to H-3. The resolution also will modify the land use designations for the entire property to be consistent with the purposes for which it was developed.

I am happy to provide any additional documentation you might need to move Council Initiated zoning for this property forward.

Additional Info/Materials In support of that decision:
Ekahi currently is a mix of units with H1 zoning and A1 zoning. Upon development of Ekahi in the 1970s, the zoning code provisions for both H1 and apartment zoning allowed use of all units as temporary or short term rentals. Ekahi's original applications, its governing documents and State real estate commission filings clearly anticipated hotel use as well as permanent or temporary residences throughout the entire property.

Ekahi is part of Wailea Resort which was developed in the 1970's to provide a place for travelers to enjoy the beauties of Maui away from residential areas for locals. There was a recognized need for a stream of income for the island and Tourism was chosen. It was further recognized that locals did not want Tourists in their neighborhoods as part of their family's daily lives and thus Wailea Resort was conceived. To this day there are no schools in Wailea Resort, no major grocery stores, post office, local public transportation etc. WCA has testified to this use in the past and has consistently supported vacation rental use at the A1 zoned multi family properties in Wailea created while that use was allowed by Maui Code.

Thank you for moving Ekahi along in the Council Initiated Zoning change process.

Bonnie Pauli
Wailea Ekahi Property owner

Guest User
Location:
Submitted At: 12:15pm 06-28-26

June 27, 2026

To the Council of Maui County,

We respectfully request that Kana'i A Nalu be added to Exhibit 1 or 2, whichever is deemed appropriate, for H-3/H-4 zoning. We make this request based on the details, facts, and photos we have shared within this letter.

We also sincerely thank you for all the onerous, time-consuming hard work you have put in to get us Bill 88 and the creation of H3-H4 zoning for the county. What you have accomplished will give Condo owners, their vendors, managers, cleaners, support staff, and Maui County the long-term stability needed to grow, prosper, and flourish in the future. Mahalo.
Reviewing the initial Council resolutions, we see that leasehold properties have been declared inappropriate for local families.

Kana'i A Nalu, 250 Hauoli Road in Ma'alaea, an 80-unit building, is a leasehold property but isn't included in the resolutions.
Our lease was signed into effect on December 1, 1976. It is a 90-year lease term, with negotiations every 30 years. Our current lease rate is $1004.23 per unit per month, with the next increase in December 2026 to $1255.29. It will be renegotiated again in 2036, with expected 25% increase every ten years throughout the entire lease.
Individual owners, through our association, per our lease, are required to pay for items our landlord won't cover:
• Maui County property taxes on the land and buildings.
• Repairs, maintenance, and improvements to the land, buildings, and seawall.

• Insurance for the land, buildings, and seawall, including liability.
As examples, currently Kanai A Nalu condo owners are facing increases to monthly maintenance fees for a new roof because the existing roof is failing, as well as a separate assessment for our shoreline adaptation, a 2.4-million-dollar sea-level-rise plan for a burrito structure with a dune and public beach access, is in the final stages of County approval, and will be paid for by the owners of Kana'i A Nalu. The expenses for operating this property are immense and will continue to be ongoing.

Our condo buildings also have a staffed front office that handles a variety of property-related functions as well as registration to include check-in/check-out dates and times.

In closing, once again please accept this letter and the explanations herein to support our request to be included on the final list for the proposed bill to change the zoning for our property Kanai A Nalu.

Please see attached copy of our original lease.

Mahalo for your time and consideration.

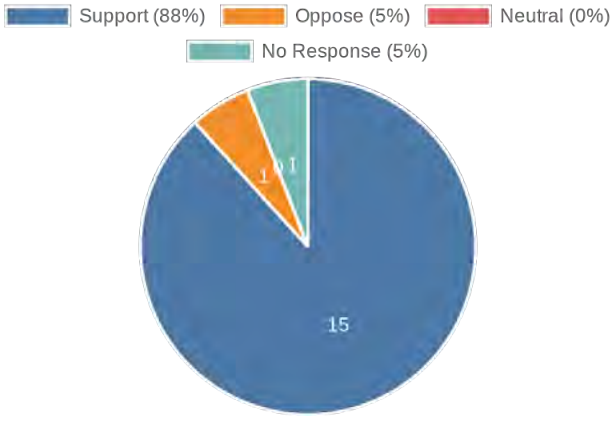
Sincerely, Kana'i A Nalu AOAO Representatives

_____Jim Walters_____ _____ Mary Pedretti_____
Jim Walters, Vice President AOAO Board of Directors Mary Pedretti Secretary AOAO Board of Directors

Photos include:
1) Check-in registration area, 2) Office for onsite manager , 3) Brochures for local activities

Agenda Item: eComments for HLU-19 Reso 26-111 RESOLUTION 26-111, REFERRING TO THE MAUI PLANNING COMMISSION PROPOSED BILLS TO AMEND THE KIHEI-MAKENA COMMUNITY PLAN AND WEST MAUI COMMUNITY PLAN, AND TO CHANGE THE ZONING FOR PROPERTIES OPERATING LIKE HOTELS IN THE A-1 AND A-2 APARTMENT DISTRICTS (HLU-19)

Overall Sentiment



HLU Committee
Location:
Submitted At: 8:12am 07-02-26

Testimonies received from HLU Committee

Guest User
Location:
Submitted At: 8:00pm 07-01-26

Dear Chair U_u-Hodgins, Vice Chair Batangan, and members of the Housing and Land Use Committee:

As an owner at the Papakea Oceanfront Resort, I am writing to express my strong support for passing Resolution 26-111 as written.
This resolution validates the Maui County Planning Commission's previous recognition of Papakea's A2/H2 zoning and its recommendation that the Council exclude the resort from Bill 9's short-term rental phase-out. Furthermore, Resolution 26-111 aligns perfectly with the extensive, well-researched recommendations of the Temporary Investigative Group.
Thank you, Chair U_u-Hodgins, for introducing this resolution.
I respectfully urge the entire Council to support and pass Resolution 26-111 as written.

Lynn Peabody
Location:
Submitted At: 2:35pm 07-01-26

My name is Lynn Peabody. I am a property owner in Wailea Ekahi, and I am the immediate past president of Ekahi's Board of Directors. I am speaking with the support of other Ekahi property owners who together strongly support Resolution 26-111 as written.
I want to extend our appreciation to each of you for the many hours you have dedicated to reaching this important point. Adoption of Resolution 26-111 will help maintain zoning at Ekahi consistent with its original intended uses by transitioning A-1 properties to H-3. The Resolution will also modify the land use designations for the entire property to be consistent with the purposes for which it was intended.
Any additional documentation needed to move Council initiated zoning for this property forward will be readily provided.
Mahalo for all that you have done!

Guest User
Location:
Submitted At: 6:07am 07-01-26

I am a property owner at Wailea Ekahi and have been for 25 years.
I can easily obtain my Hawaii State TAT records which show I have been paying tax for
short term renting legally since 2008. TAT is not collected on LongTerm Rentals, so proves STR.
I believe the Planning Department could obtain State TAT records from each property under consideration back to beginning of TAT.(1986).
That would prove history of how long that property had legal STRs, and eliminate the need for each unit/property to prove it individually.
Just a thought....
Linda Manry

Edward Codelia
Location:
Submitted At: 6:09pm 06-30-26

TESTIMONY IN STRONG OPPOSITION TO RESOLUTION 26-111 (HLU-19)

Housing and Land Use Committee
July 1, 2026

Chair and Members of the Housing and Land Use Committee

I submit this testimony in strong opposition to Resolution 26-111.

Today, this Council is not simply considering another zoning change.

You are deciding whether Maui County government will continue down a path where land use decisions affecting hundreds of millions, if not billions, of dollars in property values are made through an objective, transparent process—or through a process that increasingly appears to benefit a select few while leaving the public without answers.

Earlier today, this Council devoted considerable time discussing ethics, accountability, public trust, fraud prevention, conflicts of interest, transparency, and restoring confidence in government. Those discussions are meaningless if they are not reflected in your actions on land use decisions such as this one.

Public trust is not restored by speeches.

It is restored by process.

It is restored through transparency.

It is restored when every citizen is treated equally under the law.

Unfortunately, Resolution 26-111 does not meet that standard.

An Undefined Standard

The resolution proposes changing Apartment District properties into Hotel District properties because they supposedly "operate like hotels."

The ordinance offers examples such as providing front desk services, employing groundskeepers, or having staff.

Those are examples.

They are not legal standards.

What exactly is "operating like a hotel?"

How many employees qualify?

Does every condominium with an on-site manager qualify?

Does every association with landscaping crews qualify?

Does every property with security qualify?

What measurable standard separates one condominium from another?

The legislation never says.

Without objective standards, the determination becomes subjective.

Subjective decisions invite unequal treatment.

Unequal treatment destroys public confidence.

Where Is the Evidence?

The most revealing document in today's agenda is not the resolution.

It is Corporation Counsel's review.

Corporation Counsel approved the resolution as to form and legality, but added a significant comment:

"Bills will need to establish evidence supporting determination criteria."

That statement should stop this process.

If the bills still need evidence supporting the criteria, then the Committee has not yet demonstrated why these particular properties deserve Hotel zoning while others do not.

Evidence should come before legislative action—not after it.

Government Must Show Its Work

The public deserves answers to simple questions.

Who developed the criteria?

Who decided which condominiums qualified?

Who reviewed the evidence?

What evidence was reviewed?

Were all apartment-zoned vacation rental properties evaluated using identical standards?

If not, why not?

If only certain properties were evaluated, who selected them?

Those answers are missing.

Government cannot simply announce winners and losers.

Government must explain why.

Selective Government Is Dangerous Government

One of the fundamental principles of good government is that similarly situated people should be treated similarly.

Instead, this resolution identifies only selected properties for extraordinary relief while thousands of other apartment-zoned properties remain subject to different treatment.

That raises legitimate questions.

Were political relationships considered?

Were lobbying efforts considered?

Were campaign contributors given greater access?

Were influential organizations consulted while others were excluded?

I am not accusing anyone of wrongdoing.

I am asking why the public has been given no documentation proving that these decisions were made through an objective, transparent, and impartial process.

When government refuses to explain its decisions, public suspicion naturally follows.

Transparency exists to eliminate suspicion.

The Process Continues Before the Analysis

The Committee requested written comments from both the Department of Planning and the Department of Finance.

Yet those written comments are not due until after this committee meeting.

That means you are considering legislation before receiving the formal analyses from the departments responsible for implementing it.

Why?

Why is the public hearing occurring before Planning has completed its written review?

Why is Finance still preparing its comments?

Why is the Committee moving faster than its own professional staff?

That is not how transparent government should function.

The Appearance Matters

Government ethics are not limited to avoiding actual misconduct.

Ethics also require avoiding the appearance that government decisions are influenced by favoritism, unequal access, or political influence.

Today's earlier discussions about ethics and accountability should remind every Councilmember that public confidence is fragile.

When government creates special classifications for selected private properties without publishing objective criteria, supporting evidence, or completed departmental analyses, the appearance of favoritism becomes unavoidable.

That appearance alone damages public trust.

Land Use Should Never Be Subjective

Land use decisions should be based on adopted plans, objective standards, measurable findings, and consistent application of the law.

They should never depend upon undefined phrases such as "operates like a hotel."

They should never rely upon unpublished criteria.

They should never require the public to guess why one property qualifies while another does not.

My Request

I respectfully ask this Committee to reject or defer Resolution 26-111 until:

objective criteria are publicly adopted;
supporting evidence is released for every selected property;
Planning and Finance complete their written analyses;
the public has adequate time to review those analyses; and
every property owner can be assured that the process is fair, transparent, and uniformly applied.

Government earns trust through openness.

Government earns legitimacy through equal treatment.

Government earns respect by demonstrating that no person, no organization, and no property receives special treatment unavailable to everyone else.

The citizens of Maui deserve nothing less.

Thank you for the opportunity to testify.

Edward Codelia

Guest User
Location:
Submitted At: 5:47pm 06-30-26

Aloha Chair U‘u-Hodgins, Vice Chair Batangan and Members of the Housing and Land Use Committee:

Mahalo to Chair U‘u-Hodgins for your leadership on Resolution 26-110 and for moving this process forward. As recognized in this resolution, Ma‘alaea Kai is well suited for council-initiated rezoning from A-2 Apartment District to the H-4 Hotel District. The property is on Exhibit 2 of the TIG report and has long functioned as a well-known visitor accommodation on Maui for short term rentals. It is located in a sea_level rise exposure area, has high costs of ownership and maintenance, and is not suited for affordable housing.

We have historical materials from decades ago showing the property was publicly advertised and described in condo newsletters as a hotel condominium with features such as a front desk, daily rates, and weekly maid service. All of this evidence is available upon request.

Mahalo for your consideration and for continuing to move this matter forward as expeditiously as appropriate.

Respectfully,
Sonny Cave & Stefanie Workman
Owners, Unit 408, Ma‘alaea Kai

Don Miller
Location:
Submitted At: 5:29pm 06-30-26

Our names are Yolanda and Don Miller and we have owned a small condo at Kahana Reef since 2012. We live there for about six months of every year. We are not wealthy by the way. Yolanda is a retired teacher and Don is a working journalist and he serves on the Kahana Reef Board of Directors (since 2017). But we scraped and saved for many years to afford a unit at Kahana Reef where we had been coming since the early 1990s. The past year or so has been very difficult with decisions and political pressure creating a sense of alarm at the prospect of losing our place. Kahana Reef, however, was left off the list of properties grandfathered in to the new H3-H4 zoning, which caught us by surprise. Kahana Reef is right on the ocean and, as are all such properties, attempting to stave off seawater rise. Our condo is small (1 BR, approximately 650 sq. ft.) and parking is very limited at our property. In addition, we have a resident manager on site and a front desk. Our live-in employees also do the landscaping and maintenance. We employ a local family for cleaning and inside the condo maintenance. Going back to the early 1970s when Kahana Reef was built, the property from the outset was intended for short term rental use (and we have the documents that show this; some of these documents we believe have already been submitted to your committee). By far, most of the owners at Kahana Reef are seniors,

many on limited incomes and many of whom depend on having the freedom to rent out their properties for short term uses. Kahana Reef was for many years on the Minatoya list, which again makes the decision to leave us off the H3-H4 designation appear to be an oversight. We respectfully ask you to put Kahana Reef into the newly created hotel zoning. Thank you for reading this correspondence and we trust you will make the right decision. -- Yolanda and Don Miller

Pamela Tumpap
Location:
Submitted At: 4:56pm 06-30-26

Please find the attached testimony in support.

Peter Horovitz
Location:
Submitted At: 2:37pm 06-30-26

Support - Please see the attached letter and enclosures.

Guest User
Location:
Submitted At: 1:35pm 06-30-26

Aloha Chair U_u-Hodgins, Vice Chair Batangan, and members of the Housing and Land Use Committee. My name is Bonnie Pauli, I am a Wailea Ekahi property owner and chair of Ekahi's Board appointed Ad Hoc STR Committee. I am speaking with the support of other Ekahi owners. As individual property owners we support Resolution 26-111 as written. (my original was mistakenly posted under 26-110)

We appreciate the hours of effort that you have put into this process and are gratified to see you agree that Wailea Ekahi, when created in the 1970's, legally provided short term rentals as well as personal residences and our A1 zoned areas more appropriately belong in the new H3 zoning category.

Units at Ekahi have been used as short term rentals from day one on the property and, initial sales advertised them as such in San Francisco and other market newspapers. Those uses continue through today. Adoption of Resolution 26-111 will help to maintain zoning at Ekahi consistent with the original intended uses by transitioning A-1 properties to H-3. The resolution also will modify the land use designations for the entire property to be consistent with the purposes for which it was developed.

I am happy to provide any additional documentation you might need to move Council Initiated zoning for this property forward.

Additional Info/Materials In support of that decision:
Ekahi currently is a mix of units with H1 zoning and A1 zoning. Upon development of Ekahi in the 1970s, the zoning code provisions for both H1 and apartment zoning allowed use of all units as temporary or short term rentals. Ekahi's original applications, its governing documents and State real estate commission filings clearly anticipated hotel use as well as permanent or temporary residences throughout the entire property.

Ekahi is part of Wailea Resort which was developed in the 1970's to provide a place for travelers to enjoy the beauties of Maui away from residential areas for locals. There was a recognized need for a stream of income for the island and Tourism was chosen. It was further recognized that locals did not want Tourists in their neighborhoods as part of their family's daily lives and thus Wailea Resort was conceived. To this day there are no schools in Wailea Resort, no major grocery stores, post office, local public transportation etc. WCA has testified to this use in the past and has consistently supported vacation rental use at the A1 zoned multi family properties in Wailea created while that use was allowed by Maui Code.

Thank you for moving Ekahi along in the Council Initiated Zoning change process.

Bonnie Pauli
Wailea Ekahi Property owner

Guest User
Location:
Submitted At: 2:30pm 06-29-26

Aloha ia Housing and Land Use Committee,

Noi au e 'ae ana ia Resolution 26-111, ke olu'olu.

My uncle works as a maintenance manager for Papakea. He has been working with this resort complex for a numbeer of years now and we have "staycation" there as well. The complex works as a hotel, it has a front desk for checking in and out, has 24 hour security and maintenance staff. It is only reasonable to re-zone Papakea to full H4 (right now it is A2 and H2).

We ask for your kind consideration in changing the zone to H4 for Papakea.
Mahalo piha!

Guest User
Location:
Submitted At: 1:45pm 06-29-26

Dear Chair U_u-Hodgins, Vice Chair Batangan, and members of the Housing and Land Use Committee:
As an owner at Papakea Oceanfront Resort, I strongly support passage of Resolution 26-111 as written. Papakea has A2/H2 zoning and as such the Maui County Planning Commission recommended that Council consider excluding Papakea from the scope of Bill 9's short-term rental phase out. Resolution 26-111 also aligns with the recommendations of the Temporary Investigative Group which a spent significant time and effort developing those recommendations.
Thank you to Member U_u-Hodgins for introducing Resolution 26-111 and we ask for all councilmembers to support passage of this resolution as written.

Guest User
Location:
Submitted At: 1:28pm 06-29-26

Dear Chair U_u-Hodgins, Vice Chair Batangan, and members of the Housing and Land Use Committee:

I own a condominium at Papakea Oceanfront Resort and support passage of Resolution 26-111 as written.

Resolution 26-111 acknowledges the Maui County Planning Commission's prior recognition that Papakea has A2/H2 zoning and its recommendation that the Council consider excluding Papakea from the scope of Bill 9's short-term rental phase-out. The resolution is also consistent with the recommendations of the Temporary Investigative Group, which devoted significant time and effort to developing those recommendations.

Thank you, Chair U_u-Hodgins, for introducing Resolution 26-111. I respectfully ask all Council members to support passage of the resolution as written.

Thank you for your consideration.

Koichi Yoshimura

Guest User
Location:
Submitted At: 1:04pm 06-29-26

Dear Chair U_u-Hodgins, Vice Chair Batangan, and members of the Housing and Land Use Committee:

We are owners of a condominium at Papakea Oceanfront Resort and support passage of Resolution 26-111 as written. Resolution 26-111 acknowledges the foresight of the Temporary Investigative Group and its recommendation that Maui County exclude Papakea from the scope of Bill 9's short-term rental phase out, given the way Papakea has operated over decades in its A2/H2 zoning.

Mahalo for your consideration,

Ben & Lisa Davoren

Guest User
Location:
Submitted At: 12:01pm 06-29-26

Dear Chair U_u-Hodgins, Vice Chair Batangan, and members of the Housing and Land Use Committee:
I own a condo at Papakea Oceanfront Resort and support passage of Resolution 26-111 as written. Resolution 26-111 represents an important acknowledgement of the Maui County Planning Commission's prior recognition of Papakea as having A2/H2 zoning and its recommendation that Council consider excluding Papakea from the scope of Bill 9's short-term rental phase out. Resolution 26-111 also aligns with the recommendations of the Temporary Investigative Group which a spent significant time and effort developing those recommendations. Thank you to Member U_u-Hodgins for introducing Resolution 26-111 and we ask for all councilmembers to support passage of this resolution as written.
Respectfully,
Melanie Hyde

Gina Calvelli
Location:
Submitted At: 10:57am 06-29-26

Aloha Members of the HLU Committee,

I write on behalf of the Board of Directors of the Wailea Ekolu AOAO in support of Resolution 26-111.

Ekolu is a complex of 148 one and two bedroom apartments and two bedroom townhomes on 17 acres in Wailea. The complex also has two pools, an office, and a large pavilion. We have 10 full time employees, including a General Manager, an Office Assistant, Maintenance Workers, and Gardeners.

Units at Ekolu have been used as transient vacation rentals since the property first opened. Currently, 129 out of the 148 total units are used as transient vacation rentals, either full time or part time.

With the cost to purchase units in Ekolu, along with monthly HOA fees ranging from $1,137 to $2,074 per unit plus property taxes, it would be financially infeasible to convert them to long-term rentals that would be affordable to most Maui residents. For example, the current monthly carrying costs for a one bedroom unit purchased in 2016 would require a monthly rent of at least $3,500. (Carrying costs are based upon purchase price, mortgage rate at time of purchase, and current HOA fees, approximate insurance cost and property taxes.) For a one bedroom unit purchased in 2026, the monthly rent would have to be at least $6,400 to cover just the carrying costs. (For a one bedroom purchased in 2023, when the purchase price and mortgage rates were at their peak, the monthly rent necessary to cover carrying costs would have to be more than $9,000.)

In addition to the costs, the restrictions on parking (one vehicle per unit) and pets, as well as limited storage space in the units, make them unsuitable for housing families on a long-term basis.

For these reasons, we believe Wailea Ekolu is appropriate for H-3 or H-4 zoning. Accordingly, we strongly support Resolution 26-111

Sincerely,
Gina Calvelli, Vice President
Wailea Ekolu AOAO Board of Directors

Guest User
Location:
Submitted At: 12:15pm 06-28-26

June 27, 2026

To the Council of Maui County,

We respectfully request that Kana'i A Nalu be added to Exhibit 1 or 2, whichever is deemed appropriate, for H-3/H-4 zoning. We make this request based on the details, facts, and photos we have shared within this letter.

We also sincerely thank you for all the onerous, time-consuming hard work you have put in to get us Bill 88 and the creation of H3-H4 zoning for the county. What you have accomplished will give Condo owners, their vendors, managers, cleaners, support staff, and Maui County the long-term stability needed to grow, prosper, and flourish in the future. Mahalo.
Reviewing the initial Council resolutions, we see that leasehold properties have been declared inappropriate for local families.

Kana'i A Nalu, 250 Hauoli Road in Ma'alaea, an 80-unit building, is a leasehold property but isn't included in the resolutions.
Our lease was signed into effect on December 1, 1976. It is a 90-year lease term, with negotiations every 30 years. Our current lease rate is $1004.23 per unit per month, with the next increase in December 2026 to $1255.29. It will be renegotiated again in 2036, with expected 25% increase every ten years throughout the entire lease.
Individual owners, through our association, per our lease, are required to pay for items our landlord won't cover:
• Maui County property taxes on the land and buildings.
• Repairs, maintenance, and improvements to the land, buildings, and seawall.
• Insurance for the land, buildings, and seawall, including liability.
As examples, currently Kanai A Nalu condo owners are facing increases to monthly maintenance fees for a new roof because the existing roof is failing, as well as a separate assessment for our shoreline adaptation, a 2.4-million-dollar sea-level-rise plan for a burrito structure with a dune and public beach access, is in the final stages of County approval, and will be paid for by the owners of Kana'i A Nalu. The expenses for operating this property are immense and will continue to be ongoing.

Our condo buildings also have a staffed front office that handles a variety of property-related functions as well as registration to include check-in/check-out dates and times.

In closing, once again please accept this letter and the explanations herein to support our request to be included on the final list for the proposed bill to change the zoning for our property Kanai A Nalu.

Please see attached copy of our original lease.

Mahalo for your time and consideration.

Sincerely, Kana'i A Nalu AOAO Representatives

_____Jim Walters_____ _____ Mary Pedretti_____
Jim Walters, Vice President AOAO Board of Directors Mary Pedretti Secretary AOAO Board of Directors

Photos include:
1) Check-in registration area, 2) Office for onsite manager , 3) Brochures for local activities

Horovitz Tilley LLLC

2073 Wells Street, Suite 101
Wailuku, Hawaii 96793
Phone 808.242.5700
Fax 808.442.1255

June 30, 2026

Via electronic submission:

Maui County Council
Housing and Land Use Committee
Kalan O Maui Building, 8th Floor
200 S. High Street
Wailuku, HI 96793

Attn: Hon Nohelani U'u-Hodgins, Committee Chair
Hon. Kauanoe Batangan, Committee Vice-Chair

RE: Resolution 26-110 and Resolution 26-111; Kapalua Ridge Villas, 100 Ridge Road, Lahaina, HI 96761; (2) 4-2-001-003-0001 through 0161

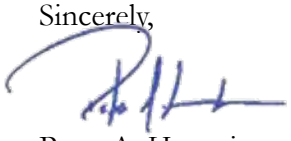
Dear Committee Chair U'u-Hodgins, Vice-Chair Batangan, and members of the HLU Committee,

On behalf of the Association of Apartment Owners of Kapalua Ridge Villas (the "Ridge Villas"), we write (1) in support of Resolutions 26-110 and 26-111 that will come before the committee on July 1, 2026, and (2) to respectfully request that the Ridge Villas be added to the list of properties to be rezoned H3 or H4 pursuant to either of the above resolutions, or included in a similar resolution that may be introduced and referred to your committee.

For your consideration, I enclose a letter dated June 18, 2026, from the Ridge Villas Board that explains in detail how the Ridge Villas meet the criteria set out by the County Council through this Committee's Temporary Investigative Group on Transient Vacation Rentals in Apartment Districts Final Report (HLU-4(1))(PAF 25-226) submitted October 14, 2025 (the "TIG Report"). I also enclose a list of recent sales and listed properties within the Ridge Villas that further documents the assertions in my client's letter of June 18, 2026.

We remain available to provide the Committee and its members with further information as needed. We further thank you all for your hard work on the current resolutions, the entire process that led to this point, and the work yet to come.

Sincerely,



Peter A. Horovitz

Enclosures

Kapalua Ridge Villas

June 18, 2026

The Honorable Richard T. Bissen, Jr.
Mayors.Office@co.maui.hi.us
200 S. High Street
Kalana O Maui Building
Wailuku, HI 96793

Jacky Takakura
planning@mauicounty.gov
Maui Planning Director
2200 Main Street
One Main Plaza
Suite 315
Wailuku, HI 96793

Brian Ward (Chair)
Andrea Kealoha (Vice Chair)
Joshua Circle-Woodburn
Virgilio Agcolicol
Mark Deakos
Christopher Elizares
Crichton Lind
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Yuki Lei Sugimura
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Nohelani U'u-Hodgins
nohe.uu-hodgins@mauicounty.us

Dear Mayor Bissen, Maui County Council Members, and Maui Planning Commission:

The homeowners of **Kapalua Ridge** are seeking inclusion in the H3/H4 category and continue TVR use. Kapalua Ridge meets all criteria required for inclusion as noted in Bill 88:

1. Kapalua Ridge was built in 1979, having a valid building permit and planned development approval.
2. The homeowners at Kapalua Ridge have conducted legal TVR use since 1979, as confirmed by real property tax classification and payment of GET and TAT.
3. Kapalua Ridge consists of 161 units and will not increase or add any additional TVR units.
4. To the best of our knowledge, Kapalua Ridge homeowners hold current GET and TAT licenses and are current on all state and county taxes, fines, and penalties related to the TVR.

The Kapalua Resort is a master planned destination resort established by the Maui Land & Pineapple Company in the 1970s. Among the Kapalua Resort communities are the Kapalua Bay, Ridge, and Golf Villas. Kapalua Ridge was built in 1979 and is comprised of 161 units. The Villas are an integral part of the Kapalua Resort with the Kapalua Ridge Villas, originally available for short-term rental through the Kapalua Bay Hotel and Villas. Further history of the Resort is available at Kapalua Maui Hawaii (uli.org).

State and County records establish that the original Kapalua Resort plan included short-term rental use at Kapalua. Refer to the "Purpose of Use" section of Developers Reports attached below. Maui County approved Kapalua Ridge as an integral component of the original Kapalua Resort Master Plan and it was subsequently designed and developed. The project was never intended to function as workforce housing or long-term residential housing. Rather, it was developed as a visitor accommodation property within the Kapalua Resort and historically operated in conjunction with the Kapalua Bay Hotel. Ridge units were regularly utilized as overflow accommodations for hotel guests, reinforcing their intended role as part of the resort's visitor lodging inventory. For decades, Maui County recognized Kapalua Ridge as a Hotel/Resort property. It was not until 2021 following the passage of Bill 130 on December 5, 2020, that the County reclassified these units as Short-Term Vacation Rentals (STVRs). While the tax classification changed, the property's physical characteristics, resort-oriented design, and visitor accommodation use remained unchanged.

Therefore, Hawaii State and Maui County records show that, while the Kapalua Resort was not intended or built as attainable or workforce housing, Maui Land & Pineapple did build other affordable and workforce housing as a condition for approval of the Kapalua Resort master plan 50 years ago. A December 2002 Planning Department environmental impact statement (on page 7) reported Maui Land & Pineapple had developed 450 affordable housing units on Maui and "also has complied with all requirements for affordable or employee housing previously imposed as conditions of developing the existing Kapalua Resort". 2002-11-DD-MA-FEIS-Kapalua-Mauka-Resort-Expansion.pdf (hawaii.gov). Reportedly, Maui Land & Pineapple's affordable and workforce housing initiatives included projects in Napilihau as well as Pailolo Views, Kapua Views, and Pulelehua.

Kapalua Ridge also has home market values that are not financially attainable housing for most Maui residents and homeowners should be allowed to continue TVR use. Using actual home sales data as a method to determine attainability, over the past 12 months, the average selling price of Kapalua Ridge properties was $1.048M for one bedroom units, and $1.945M for two bedroom units. The average list prices for units that are currently for sale are $1.28M for the 7 one bedroom units, $2.13M for the 3 two bedroom units for sale, and $2.60M for the 2 rare three bedroom units for sale.

Additionally, annual AOAO dues and property insurance coverage has averaged over $30,000 per owner these past three years. Mortgages, personal insurance, taxes, and unit upkeep and maintenance are similarly expensive. As an example, if an individual desires to purchase a two bedroom home at $1.945M, and places a 20% deposit of $389,000, the monthly mortgage payment for the remaining 80% loan balance would range between $11,835 to $12,355 at current interest rates. AOAO monthly dues and the other previously noted expenses add further to this required financial burden and would place monthly home ownership costs at approximately $15,000 per month. Kapalua Ridge AOAO rules also prohibit pets, limit occupancy, restrict common area activities, and exclude work vehicles. In all respects, the Kapalua Ridge Villas were planned, built, sold, and continuously used since 1979 as destination resort properties. They are not now, nor have they ever been feasible workforce housing.

Owners and our guests of the Kapalua Ridge Villas provide enormous economic support for hundreds of local Maui residents who work for property management companies, for our association, for the local premiere Kapalua golf course, for restaurants, for local shops and stores, for local artists and craftsman, for furniture and appliance stores across the island, for home remodelers and repair specialists, and for many other Maui-based businesses. Eliminating our privilege to rent our homes will have a devastating impact on so many Maui people who depend on a healthy Kapalua Resort community for their economic welfare as they have now done for over 45 years.

Respectfully,

Kapalua Ridge AOAO Board on behalf of Kapalua Ridge Homeowners

100 Ridge Rd, Lahaina, HI 96761 — Kapalua Ridge Villas | Sales & Active Listings (Last 12 Months)

Unit #	Beds	Baths	Sq Ft	Status	Sale Date	Price	$/Sq Ft	Source
2923	1	2	1150	**Sold**	11/18/2025	**$890,000**	$774	https://www.zillow.com/homedetails/100-Ridge-Rd-APT-2923-Lahaina-HI-96761/71764272_zpid/
2915	1	2	1162	**Sold**	3/11/2026	**$1,350,000**	$1,162	https://www.zillow.com/homedetails/100-Ridge-Rd-APT-2915-Lahaina-HI-96761/71764271_zpid/
2712	1	2	1125	**Sold**	3/19/2026	**$840,000**	$747	https://www.zillow.com/homedetails/100-Ridge-Rd-APT-2712-Lahaina-HI-96761/80329599_zpid/
211-13	2	3	1778	**Sold**	3/9/2026	**$1,500,000**	$844	https://www.zillow.com/homedetails/100-Ridge-Rd-APT-211-13-Lahaina-HI-96761/80329524_zpid/
1022-24	2	3	1778	**Sold**	4/6/2026	**$2,085,000**	$1,173	https://www.zillow.com/homedetails/100-Ridge-Rd-APT-1022-24-Lahaina-HI-96761/756418_zpid/
723	1	2	1150	**Sold**	4/7/2026	**$850,000**	$739	https://www.zillow.com/homedetails/100-Ridge-Rd-APT-723-Lahaina-HI-96761/80329540_zpid/
1722	1	2	1150	**Sold**	5/14/2025	**$1,375,000**	$1,196	https://www.zillow.com/homedetails/100-Ridge-Rd-APT-1722-Lahaina-HI-96761/71764247_zpid/
815	1	2	1162	**Sold**	5/30/2025	**$1,100,000**	$947	https://www.zillow.com/homedetails/100-Ridge-Rd-APT-815-Lahaina-HI-96761/80329542_zpid/
612	1	2	1125	**Sold**	9/22/2025	**$840,000**	$747	https://www.zillow.com/homedetails/100-Ridge-Rd-APT-612-Lahaina-HI-96761/80329536_zpid/
2721	1	2	1125	**Sold**	9/4/2025	**$1,140,000**	$1,013	https://www.zillow.com/homedetails/100-Ridge-Rd-APT-2721-Lahaina-HI-96761/80329600_zpid/
1723-24	3	3	1900	**For Sale**		**$2,950,000**	$1,553	https://www.zillow.com/homedetails/100-Ridge-Rd-172324-Lahaina-HI-96761/71764248_zpid/
2911-13	2	3	1778	**For Sale**		**$2,495,000**	$1,403	https://www.zillow.com/homedetails/100-Ridge-Rd-291113-Lahaina-HI-96761/71764269_zpid/
2023-24	3	3	1806	**For Sale**		**$2,300,000**	$1,274	https://www.zillow.com/homedetails/100-Ridge-Rd-UNIT-2023-24-Lahaina-HI-96761/71764259_zpid/
1911-13	2	3	2114	**For Sale**		**$2,049,000**	$969	https://www.zillow.com/homedetails/100-Ridge-Rd-UNIT-1911-13-Lahaina-HI-96761/71764254_zpid/
1223-24	2	3	1756	**For Sale**		**$1,980,000**	$1,128	https://www.zillow.com/homedetails/100-Ridge-Rd-UNIT-1223-24-Lahaina-HI-96761/80329555_zpid/
1413-15	2	3	1778	**For Sale**		**$1,900,000**	$1,069	https://www.zillow.com/homedetails/100-Ridge-Rd-UNIT-1413-15-Lahaina-HI-96761/80329558_zpid/
2612	1	2	1229	**For Sale**		**$1,545,000**	$1,257	https://www.zillow.com/homedetails/100-Ridge-Rd-APT-2612-Lahaina-HI-96761/80329593_zpid/
514	1	2	1125	**For Sale**		**$1,250,000**	$1,111	https://www.zillow.com/homedetails/100-Ridge-Rd-APT-514-Lahaina-HI-96761/756412_zpid/
2022	1	2	1150	**For Sale**		**$1,250,000**	$1,087	https://www.zillow.com/homedetails/100-Ridge-Rd-APT-2022-Lahaina-HI-96761/71764258_zpid/
2622	1	2	1150	**For Sale**		**$1,250,000**	$1,087	https://www.zillow.com/homedetails/100-Ridge-Rd-APT-2622-Lahaina-HI-96761/80329596_zpid/
1614	1	2	1125	**For Sale**		**$1,219,000**	$1,084	https://www.zillow.com/homedetails/100-Ridge-Rd-APT-1614-Lahaina-HI-96761/80329564_zpid/
1624	1	2	1125	**For Sale**		**$1,195,000**	$1,062	https://www.zillow.com/homedetails/100-Ridge-Rd-APT-1624-Lahaina-HI-96761/80329566_zpid/
2914	1	2	1125	**For Sale**		**$1,189,000**	$1,057	https://www.zillow.com/homedetails/100-Ridge-Rd-APT-2914-Lahaina-HI-96761/71764270_zpid/

MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

June 30, 2026

Housing & Land Use Committee
Nohe U'u-Hodgins, Chair
Kauanoe Batangan, Vice-Chair
Members of the Housing & Land Use Committee

RESOLUTION 26-110, REFERRING TO THE MAUI PLANNING COMMISSION PROPOSED BILLS TO AMEND THE KIHEI-MAKENA COMMUNITY PLAN AND WEST MAUI COMMUNITY PLAN, AND TO CHANGE THE ZONING FOR CERTAIN TIMESHARE, LEASHOLD, AND OTHER PROPERTIES IN THE A-1 AND A-2 APARTMENT DISTRICTS

Aloha Chair Lee, Vice Chair Sugimura and members of the Maui County Council,

The Maui Chamber of Commerce supports Resolution 26-110, referring bills to the Maui Planning Commission to amend the Kihei-Makena Community Plan and West Maui Community Plan and to change the zoning for certain timeshare, leasehold, and other properties in the A-1 and A-2 Apartment Districts.

We appreciate the Council's efforts to move forward with the Temporary Investigative Group's recommendations and to clearly identify the properties that should be allowed to continue transient vacation rental use based on the parameters outlined in the resolution. Providing this clarity is an important step in addressing the issues raised by Bill 9's broad scope.

We would appreciate the Committee's and Council's strong support of this measure and respectfully request that Resolution 26-110 be forwarded to the Maui Planning Commission for its review and consideration.

Mahalo for the opportunity to provide testimony.

Sincerely,

Pamela Tumpap

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

HLU Committee

From: Kai Nishiki <kai.nishiki@gmail.com>
Sent: Wednesday, July 1, 2026 2:29 PM
To: HLU Committee
Subject: HLU Reso 26-110/111
Attachments: H3H4 Upzoning Proposal testimony.pdf

[You don't often get email from kai.nishiki@gmail.com. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification]

Written testimony:

Paki Maui 20 ft wide sinkholes:

Hale Mahina failing seawall and multiple sinkholes:

Maui Eldorado beach club:

Testimony to Maui County Council HLU Committee 7/1/2026

Aloha Chair and Councilmembers,

My name is Kai Nishiki. I'm testifying in my personal capacity, but I've also served as a resource to the Bill 9 Temporary Investigative Group, am the former Chair of the West Maui Community Plan Advisory Committee, a member of a working group during the Maui Planning Commission review of the new shoreline and SMA rules, and I've worked with the County on hazard mitigation planning. I offer this testimony in that spirit, as a resource.

As the Council considers what may be the largest County-initiated zoning change/community plan amendment in Maui's history, it's important to recall *why* H3H4 zoning was adopted.

The TIG explicitly cited concerns about long-term impacts to County revenue, including RPT, GET, TAT, and tourism - and discussed ways to mitigate potential financial losses. The TIG also noted that properties located in the Sea Level Rise Exposure Area, or SLR-XA, would *not* produce long-term housing for residents.

That statement alone should give us pause.

If one of the Council's goal is to protect the County's long-term revenue stream, which is fundamentally tied to a healthy coastal ecosystem, then we must evaluate properties being proposed into the H3H4 zoning holistically, with climate risk front and center - because we all understand here on Maui, our environment is our economy.

Without amendments or safeguards, this proposal risks increasing property values, mostly for offshore owners, without addressing the very real and escalating risk of aging structures on eroding shorelines. It also incentivizes continued investment in failing, end of useful life structures and seawalls that contribute to beach loss and coastal ecosystem degradation.

And that raises a fundamental fiscal question:

Who is left holding the bag when investors bail out on risky end-of-life shoreline properties built in the 1970s?

Investors always look to maximize profits when they exit and sell.

It's reckless and irresponsible to encourage increased investment in known hazard areas, all while expecting FEMA and U.S. taxpayers to bail them out when the inevitable happens.

As former FEMA Administrator Craig Fugate has said, "…maybe it will start a more meaningful discussion on the policy side. What is the proper balance between you as a federal taxpayer subsidizing states that are building in high hazard coastal areas, that are profiting from that development, but you're basically their insurance policy."

The County's own 2025 Hazard Mitigation Plan warns that coastal erosion leads to declining property values, impacts the tax base, and increases public costs as shorelines move inland. West Maui already leads the County in buildings located within coastal erosion hazard areas.

What is the ultimate real estate mantra?

Location, location, location - which emphasizes that where a property is situated is the most crucial factor for its value, investment potential, and desirability, outweighing even the unit's condition or features because you can change the unit but not the land it's on.

What factors drive value up? Permanence - A great location offers stability and slower depreciation. Prime spots attract more buyers commanding higher prices and pricier rentals yield more value.

Let's look a bit closer at the location of a number of proposed properties looking to transition into H3H4 zoning.

Per the May 22, 2025 planning dept memo, 43 project properties on the Minatoya list, with a total of 2440 units appear to be affected by the 3.2 sea level rise exposure area.

From the County of Maui 2025 Hazard Mitigation Plan, "Coastal erosion may cause beachfront property values to decline, as the beach is lost and the building becomes at risk of flooding or structural damage. Declining property values may impact the county's tax base." "Additionally, the County may need to allocate increasing amounts of funding… as the shoreline moves inland."

The County of Maui has an estimated $1.2 Billion in replacement cost value of buildings in the Coastal erosion hazard area, and West Maui leads with 162 out of 366 buildings by Community plan area. West Maui also has the highest number of residential and commercial buildings in this hazard zone.

Coastal erosion and sea level rise are already impacting most of these aging properties and within one generation, by 2100 we will likely experience the full catastrophic impacts. This is an existential problem, not to be ignored.

Sea level rise is not a distant forecast, it is happening now. Within the lifespan of this zoning, many of these properties will face increased coastal erosion, repeated emergency repairs, insurance challenges, and pressure for shoreline hardening.

But there *is* good news.

Maui has an opportunity to learn from and correct mistakes and put guardrails in place by aligning zoning with adaptation pathways, planning for strategic relocation, creating funding opportunities, and requiring shoreline property owners to partner with our community and take responsibility for stewarding public trust resources.

With great privilege comes great kuleana.

Dr. Chip Fletcher, during his presentation to the Maui County Council, " It's almost a scientific law at this point, that we need to get away for the shoreline, that we need to back away for the shoreline, for the safety of our people, for the safety of our infrastructure and our investments, and to allow the shoreline environment to recover."

In 1972, the U.S. Congress adopted the Coastal Zone Management Act which instituted national policies regarding the preservation, protection and restoration of the natural resources within the coastal zone and required states to establish Coastal Zone Management Plans.

The Hawaii State Legislature implemented a state coastal zone management regime with the objective that state actions within the coastal zone give
"full consideration to ecological, cultural, historic, esthetic, recreational, scenic, and open space values, and coastal hazards, as well as to needs for economic development." (Hawaii Revised Statutes {205A-4)

In addition to the Coastal Zone Management framework, the Hawaii State Legislature established "special management areas" within the shoreline of the coastal zone "to avoid permanent losses of valuable resources and the foreclosure of management options, and to ensure that adequate access, by dedication or other means, to public owned or used beaches, recreation areas, and natural reserves is provided." (Hawaii Revised Statutes {205A-21)

In Maui County, the Planning Commissions are the designated authority for the special management areas. The Commission is a volunteer board.

So, my request today is simple and constructive:

Carefully consider that the proposed Council initiated Change In Zoning(CIZ), which also includes a Community Plan Amendment(CPA) component, could circumvent important environmental review, coastal protections, Ka Pa'akai analysis, and stringent thresholds for approval that should be required, given the coastal location of over 2000 units and that many of these structures were built prior to enacting our coastal zone management laws and significant impacts of climate collapse, sea level rise, and increasing frequency and intensity of storms and hazards. Properties within the SMA and shoreline should be required to comply with all the studies, standards and processes for an applicant initiated CIZ/CPA including doing a EIS, Ka Pa'akai analysis, shoreline survey and certification, and be required to provide shoreline access and parking. We must, as many members of this council have stated, "correct mistakes of the past" and this includes prioritizing and protecting our coastlines over private property.

This Council initiated process also puts an incredible amount of added responsibility upon our already understaffed County of Maui Planning Department to do the work usually required of applicants. Primarily the benefits of this proposal are for the private property owners and they should be required to do the work and prove that they are worthy of stewarding our priceless coastal public trust resources.

In addition, the Maui Planning Commission, tasked with Coastal Zone Management authority for the County of Maui, who are all volunteers, should be provided adequate and complete information regarding the current state of the property, including extensive history of environmental impacts, assessments, repairs, sinkholes and background on all the properties located within the shoreline and SMA area.

The plans, policies and management actions we take today will decide whether we have a healthy coastal ecosystem and beaches for our keiki or our shorelines become fields of sandbags, broken seawalls, and collapsed buildings.

I've submitted detailed written testimony with proposed questions and policy considerations for your review, and I'm available to work collaboratively on solutions.

Mahalo for the opportunity to testify.

~Kai Nishiki

Proposed Questions for County of Maui Departments

County of Maui CZM presentations regarding our shorelines often lead with the question, “What do we want our shorelines to look like in the future?” as State and County policies, land use, etc should then support what we want our shorelines to look like. Should the County Council and planning commissions contemplate this as part of the discussions on H3H4 and any accompanying legislation regarding properties located within the SLRXA?

Provide thoughts on proposed H3H4 - SLRXA/SMA/Flood zone/shoreline parcels required to:

- provide shoreline access
- shoreline access parking
- structural integrity assessments,
- a hazard mitigation plan,
- require shoreline certification to determine accurate property lines as shoreline has likely migrated landward significantly(which requires submittal of proposed shoreline AND ALSO resolving any encroachments)

First right of refusal for County or State to purchase SLRXA properties with the idea that County own units with some financial potential left until demise?

Restrictions on H3H4 rebuilding in SLRXA to support landward migration of our beaches

Finance and Planning should:

- provide the Council a list of proposed properties based on legally defensible criteria and with consistent application.
- provide financials on the upzoning benefits to public and private property owners.
- Provide comments on how policy or actions taken by the County that significantly increases property values and entitlements must have corresponding public benefit (must be long term and reliable)

Dept of Planning and CZM - please provide a detailed and comprehensive analysis and history on each SLRXA/flood zone affected shoreline properties including history of development approvals, year approved, environmental review(if any), history of shoreline protection(was a permitted and professionally designed seawall installed or was it a retaining wall/landscape feature that was later repaired etc)

What can the County and property owners expect now and into the future, with estimated timelines on these parcels?

Long-Term Viability & Risk Disclosure

Based on best available science (SLR-XA, erosion rates, storm surge, groundwater rise), **what is the estimated remaining functional lifespan** of shoreline properties located in SLRXA:

- Full exposure
- Very significant exposure
- Significant exposure zones?

At what **sea level rise thresholds** do these parcels:

- Lose shoreline access?
- Request emergency shoreline protection?
- Become unsafe for habitation?
- Trigger abandonment or demolition?

Has the County evaluated whether incentivizing long-term residential investment in shoreline parcels **conflicts with the County's Hazard Mitigation Plan, Floodplain Management Program, and post-disaster recovery policies and programs such as Hookumu hou which provides up to $600K to folks to purchase non flood zone properties.**

Has the County evaluated whether encouraging long-term residential or vacation rental investment in these parcels **conflicts with the County's Hazard Mitigation Plan, Floodplain Management Program, and post-disaster recovery policies**?

Dept of Public Works, Department of Water Supply and Dept Environmental Management:

Given the increased water usage by short term rentals:

Should installations of potable water submeters for each unit, as discussed in a recent Council committee, be required for H3H4 properties?

Does the County intend to provide offsite infrastructure for recycled water to H3H4 properties, and if so, which ones and when? Should H3H4 properties be required to upgrade their onsite recycled water infrastructure as part of approval process in order to facilitate reduction in potable water use and conservation measures. Since the offsite recycled water infrastructure is paid for by taxpayers and adds value to properties, what is the community benefit or land value capture component?

Dept of O'iwi Resources : Shoreline properties - What impacts to natural and cultural resources? What impacts to traditional and customary practices? Should a Kapa'akai analysis be required of all H3/H4 properties and what mitigation measures are acceptable?

Fiscal Responsibility & County Liability

What is the **projected trajectory of County tax revenue** from SLR-XA shoreline properties over the next:

- 10 years
- 25 years
- 50 years
  when adjusted for SLR-driven devaluation, insurance loss, infrastructure damage, and disaster response costs?

At what point do these properties transition from being **revenue generators to unfunded liabilities** for the County?

What is the County's **financial exposure** if:

- Emergency cleanups are required,
- Roads, utilities, or shoreline access must be repeatedly repaired,
- FEMA coverage or federal climate funding is reduced or eliminated?

Will the proposed action provide property owners yet additional government approvals of development in hazard prone areas and be used as justification for repairs to existing and new applications for shoreline hardening?

Environmental Review & Public Trust Obligations

Should **environmental review (EA/EIS)** be waived for Council-initiated zoning changes that also require community plan amendments on shoreline parcels originally developed **before the Hawai‘i Coastal Zone Management Act (1977)**? Why or why not? Should it be required on SLRXA/Flood zone properties as a requirement for H3H4 zoning?

How does waiving environmental review align with the County’s obligation to:

- Protect public trust resources,
- Support natural shoreline processes,
- Avoid incremental shoreline hardening?

What are the **cumulative impacts** of allowing/encouraging redevelopment or reinvestment in multiple SLR-XA shoreline parcels under H3/H4 zoning?

Shoreline Management & Adaptation Pathways

What is the County’s **intended objective** for shoreline parcels:

- Continued occupation?
- Eventual retreat?
- Public acquisition and restoration?

If retreat is the eventual outcome, **who pays**, and **when does planning begin**?

Has CZM evaluated whether H3/H4 zoning will:

- Increase reliance on seawalls, revetments, sandbags, groins, or offshore sand mining?
- Undermine the intention of Act 16’s prohibition on shoreline hardening for private property?

- Encourage investment, provide false sense of security and increase expectations of investors

Equity, Housing, and Consumer Protection

How does H3H4 proposal assist the County in protecting **local families** from:

- Purchasing units that cannot be insured,
- Facing massive deferred maintenance and special assessments,
- Being financially trapped in properties with declining habitability?

Could this proposal negatively affect the ability of a buyback program by County, State or land trust of imperiled shoreline property at a hazard adjusted residual value and then utilized for interim/mid-term residential housing for a limited time occupancy?

Does incentivizing **resident investment in hazard zones** as a default housing strategy encourage continued investment into hazard prone areas?

Does H3H4 upzoning encourage more investment by the vacation rental industry and investors into risky hazard zones? Is this wise?

Should the County consider **full hazard and retreat disclosure** to prospective buyers and lenders for H3/H4 properties(and others) located in the SLRXA?

Process, Transparency & Governance

What would be some suggested bills and or requirements for inclusion in H3H4 to address SLRXA affected shoreline parcels to support the landward migration of our shorelines, protect and support a healthy coastal ecosystem, responsible long term planning and long term impacts to County revenue?

What legislation is **being contemplated but not yet disclosed** that may later apply to H3/H4 properties (e.g., Coastal Kuleana Fee, retreat mandates)?

Please have **coastal science and CZM experts formally present** to the Council in committee as former Planning Director Blystone committed to during previous discussions.

Additionally, Dept of Oiwi Resources should evaluate impacts

“ The health of natural landscapes is closely tied to Native Hawaiian cultural identity and heritage, and changes to these landscapes can disrupt cultural connections and practices.” - COM2025 HMP

Shoreline access and parking for shoreline access should be evaluated as conduits for cultural practices. Should a Ka Pa’akai analysis be required?

Should all related legislation be vetted **together**, with full disclosure to potential applicants for H3H4 zoning rather than in a piecemeal fashion that risks unintended consequences similar to the Minatoya Opinion?

HLU Committee

From: County Clerk
Sent: Wednesday, July 1, 2026 10:13 AM
To: HLU Committee
Subject: Fw: Add Maui Kamaole (all phases) to HLU-19 Reso 26-111 RESOLUTION 26-111 or Resolution 26-110

From: Brandon Harris <bharris3880@gmail.com>
Sent: Wednesday, July 1, 2026 10:04 AM
To: County Clerk <County.Clerk@mauicounty.us>
Cc: Alice L. Lee <Alice.Lee@mauicounty.us>; Yukilei Sugimura <Yukilei.Sugimura@mauicounty.us>; Thomas M. Cook <Thomas.Cook@mauicounty.us>; Gabe Johnson <Gabe.Johnson@mauicounty.us>; Tamara A. Paltin <Tamara.Paltin@mauicounty.us>; Keani N. Rawlins <Keani.Rawlins@mauicounty.us>; Shane M. Sinenci <Shane.Sinenci@mauicounty.us>; Nohe M. Uu-Hodgins <Nohe.Uu-Hodgins@mauicounty.us>; K. Kauanoe Batangan <k.kauanoe.batangan@mauicounty.us>
Subject: Add Maui Kamaole (all phases) to HLU-19 Reso 26-111 RESOLUTION 26-111 or Resolution 26-110

[You don't often get email from bharris3880@gmail.com. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification]

I support the two resolutions . I respectfully request that you add all phases of Maui Kamaole to one of the resolutions. Maui Kamaole is right next door to Maui Hill. In addition, Maui Kamaole operates much like other properties on the list for these resolutions (registration/front desk, on site full time maintenance, landscape, general manager and assistants).

Thank you

Brandon Harris
Sent from my iPhone

HLU Committee

From: David Denecke <davidrdenecke@gmail.com>
Sent: Wednesday, July 1, 2026 9:48 AM
To: HLU Committee
Subject: Ke Nani Kai, Molokai: Resolution 26-110 and 26-111 to amend Kehei MaKena Community Plan

You don't often get email from davidrdenecke@gmail.com. Learn why this is important

To Chariperson Nohelani U'u Hodgkins.

I am a resident of Ke Nani Kai, Island of Molokai. I am writing to provide some important information to you about Ke Nani Kai; specifically why Ke Nani Kai is and always has been operated as a Condominium Resort Hotel and therefore should be included in your list of A-1 zoned properties on Molokai to be re-zoned H-3. Some important back ground about Ke Nani Kai is as follows:

1. Origins: Ke Nani Kai was built in about 1981 as part of the Kalua Koi Resort master plan development on the West end of Molokai. It consists of 120 condominiums, 1 and 2 bedrooms, in 7 two story buildings sitting on about 14.4 acres. The resort includes a swimming pool, tennis and pickleball courts, BBQs and is connected with the beach front by both private road and pathways.

2. Rental Operations: KNK is operated as a rental resort. All 120 units are allowed to rent, though there is no central rental front desk (it was discontinued recently when electronic reservations, electronic access keys and online check-in became the norm) ..KNK sits next door to Kepuhi Beach Resort and Paniolo Hale, the only other two Condominium resorts in West Molokai. Both Kepuhi Beach Resort and Paniolo Hale are zoned H-1 and operate in essentially the same way as KNK: Owners individually rent their units as they choose through word of mouth, online hotel and vacation rental sites and social media.
KNK rental guests must check in with the manager and receive an access amenity code for swimming pool and tennis court access. Unit keys are handled by the owners or by owners' on-island representatives. All owners must have a designated on-island representatives.

3. Governing Documents: Ke Nani Kai has continuously operated as a vacation rental resort since the beginning. In fact the Declaration Of Condominium Property Regime forming KNK states that owners have the absolute right to rent their units "on a daily, weekly , monthly or other basis".

4. Maui County recognition of KNK status: Since the beginning Maui County has recognized KNK as a rental resort. Even before the Minatoya list Maui County always treated and referred to KNK as a resort rental property. Maui County has always levied and collected property taxes on Ke Nani Kai units as short term rentals. All KNK units are classified as " SVR-STRH (short term rental)". The only exception is for owner's who have received from Maui County "OWNER OCCUPIED" tax classification. Only about 10% of KNK units have the "OWNER OCCUPIED" tax classification. About 90 % are SVR-STRH (short term rental).

5. Management. Ke Nani Kai is managed by an onsite manager, hired by the Board. The manager reports to the Board of Directors and the Board is elected from among the owners of KNK. KNK employs

anywhere from 4-7 other employees who take care of the grounds, landscaping and building and common area maintenance. KNK does not contract for any facility services other than garbage.

6. Time Share: At the moment KNK has 6 units owned as time share units: owned collectively by one time share entity. There are approximately 350 time share owners involved. Time share units are also rented on the same general terms as other KNK units. .

7. KNK Unit Costs . KNK does not keep a running list of how much owners' units buy and sell for. Generally, in the last several years it appears from some records that Ke Nani Kai units sell for an average of about $300,000. In addition, the cost of ownership is significant: monthly fees are in the range of over $1000/month and Maui taxes as SVR-STRH are $13 per $1000 of valuation.

Respectfully;
David Denecke

HLU Committee

From: Richard Smith <smith5744@outlook.com>
Sent: Wednesday, July 1, 2026 9:12 AM
To: HLU Committee
Cc: Richard Smith
Subject: Written Testimony in Favor of Bill 88 and Resolutions 110 and 111

[You don't often get email from smith5744@outlook.com. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification]

Dear HLU Committee Members,

We're very supportive of Resolutions 110 and 111! Our property at Maalaea Kai, like many others built in the 1970s, has always been designed for transient vacation rentals. From the beginning, our complex has served as a Transient Vacation Rental, both owner-occupied and HUI (multi-owner) occupied, as well as vacation homes and long-term rentals. As ownership and use evolve, we believe our entire complex should continue to include Transient Vacation Rental as one of its uses, regardless of its current purpose. Visitors to our Transient Vacation Rentals know they're renting from homeowners in a home setting and understand the nature of these properties which provides options and opportunities for a segment of travelers who might otherwise miss out on visiting a paradise like Maui.

Thank you for considering Maui's housing challenges thoughtfully and recognizing the positive that Transient Vacation Rentals offer.

Respectfully,
Richard Smith
Maalaea Kai

HLU Committee

From: walter smith <wrsbmrs@gmail.com>
Sent: Wednesday, July 1, 2026 8:38 AM
To: HLU Committee
Subject: Support Bill 88 and Resolution 26-110 as written

You don't often get email from wrsbmrs@gmail.com. Learn why this is important

HLU Committee

From: Rosanne Bell <rosanneb4@yahoo.com>
Sent: Wednesday, July 1, 2026 7:35 AM
To: HLU Committee
Subject: Support for Bill 88 / Resolution 26-110 — HLU-18 Hearing

You don't often get email from rosanneb4@yahoo.com. Learn why this is important

Rosanne & Paul Bell

July 1, 2026

Housing and Land Use Committee
Maui County Council

Re: Support for Bill 88 / Resolution 26-110 — HLU-18 Hearing, July 1, 2026
Amending the Kihei-Makena Community Plan and West Maui Community Plan; Change of Zoning for Timeshare, Leasehold, and Other Properties in the A-1 and A-2 Apartment Districts

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Dear Committee Chair U‘u-Hodgins, Vice-Chair Batangan, and Members of the Housing and Land Use Committee:

As a condo owner at Maui Sunset, we respectfully submit this letter in support of Bill 88 and Resolution 26-110, which are scheduled for hearing before this Committee on July 1, 2026. Maui Sunset is a 225-unit beachfront condominium community located at 1032 South Kihei Road in Kihei, within the Kihei-Makena Community Plan area. We write to offer our perspective with a long-established mixed-use residential property that reflects precisely the kind of diverse apartment district operation that this legislation is intended to address.

Our Property Reflects the Diversity of Apartment District Use

Maui Sunset encompasses a wide range of residential and visitor accommodation uses operating within this community. The 225 units include timeshare owners, short-term vacation rental operators, long-term rental units, and full-time owner-occupants. This diversity of use is not incidental, it has been the operational reality of our community for decades, and it reflects the broader character of the Kihei beachfront apartment district. We are, in every meaningful sense, a mixed residential and visitor accommodation community whose operational model does not fit neatly into a single-use zoning category.

We Operate as a Full-Service Hospitality and Residential Community

Unlike a passive rental complex, Maui Sunset maintains a robust, professional operational infrastructure that serves both our resident owners and our visiting guests seven days a week. Specifically:

- We employ **full-time maintenance, grounds and landscaping, and pool maintenance staff** who maintain the property to the standard expected of a beachfront visitor destination and a quality residential community.
- We are staffed by a **full-time Resident Manager** who oversees daily operations, owner relations, contractor coordination, and regulatory compliance.
- We maintain a **reservation desk operating seven days a week**, providing the guest services infrastructure consistent with the visitor accommodation uses that have long been permitted on this property.
- We employ **security staff** who handle off-hours check-ins and provide around-the-clock coverage for the safety and security of our guests, owners, and residents.

This level of staffing and operational commitment reflects the reality that Maui Sunset functions as more than a standard apartment complex. It is a professionally managed community that supports local employment and provides essential visitor infrastructure along one of South Maui's most valued beachfront corridors.

Bill 88 and Resolution 26-110 Provide a Necessary and Equitable Path Forward

Bill 88 establishes the H-3 and H-4 hotel zoning districts to provide a transition pathway for properties that have operated with transient vacation rentals as a grandfathered permitted use. Resolution 26-110 specifically targets timeshare, leasehold, and other properties in the A-1 and A-2 apartment districts, the precise categories represented within our community.

We support this legislation because it recognizes the operational and economic realities of properties like Maui Sunset. A blanket phase-out of visitor accommodation uses, without a viable rezoning pathway, would cause significant harm, not only to individual unit owners who have invested in good faith, but to the full-time employees whose livelihoods depend on continued operations, and to the broader South Maui visitor economy.

The TIG identified properties with high concentrations of timeshare units, leasehold interests, and units priced beyond the reach of local residents as prime candidates for the H-3/H-4 zoning pathway, criteria directly applicable to a beachfront property of Maui Sunset's nature and location.

Conclusion

We urge this Committee and the full Maui County Council to support Bill 88 and advance Resolution 26-110 through the Maui Planning Commission. We stand ready to participate constructively in the rezoning process and to provide any additional documentation regarding our operations, staffing, and mixed-use profile that would assist the Planning Commission in its review.

Thank you for your consideration of our position and for your continued commitment to finding workable solutions for the communities most directly affected by this transition.

Respectfully submitted,

Rosanne & Paul Bell

Maui Sunset 1032 South Kihei Road
Kihei, Maui, Hawaii 96753

HLU Committee

From: Mary Donlevy <marydonlevy@gmail.com>
Sent: Wednesday, July 1, 2026 6:28 AM
To: HLU Committee
Subject: Hotel Zoning resolutions

> You don't often get email from marydonlevy@gmail.com. Learn why this is important

Aloha Commission Members:

I write to support passage of both resolutions in order to allow Hotel Zones to be created.

I firmly believe that this is in the best economic interest of Maui County. Having only large and very expensive hotels allowed for tourists in Maui will result in many small businesses closing. Restaurants, tourist attractions and souvenir shops will have great difficulty surviving if only the very rich are allowed to stay on Maui . Many jobs will be lost .

Mahalo for your attention to this matter
Mary Donlevy
Kihei

HLU Committee

From: David Denecke <davidrdenecke@gmail.com>
Sent: Wednesday, July 1, 2026 5:32 AM
To: HLU Committee
Subject: Resolution 26-110 and 26-111 to amend Kehei MaKena Community Plan

You don't often get email from davidrdenecke@gmail.com. Learn why this is important

To Chariperson Nohelani U'u Hodgkins.

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Respectfully;
David Denecke

HLU Committee

From: Vicki Lerner <vjlerner@gmail.com>
Sent: Tuesday, June 30, 2026 8:53 PM
To: HLU Committee
Subject: information pertaining to resolution 26-110; Luana Kai residential condominium 940 S. Kihei Road
Attachments: Luana Kai declarations.pdf

You don't often get email from vjlerner@gmail.com. Learn why this is important

Aloha Housing and Land Use Committee members,

Thank you for your discussion on this important matter.

I have attached copies of the cover of Luana Kai's Declaration and page 8 paragraph 13 entitled "Purpose and Use" within. This paragraph has never been amended to my knowledge. I purchased unit A-106 in 1994, continue to own it, and make long-term residential use of my apartment.

I share this because while I recognize that Luana Kai is not included on the initial list of South Maui properties for consideration for this rezoning, there have been individuals associated with Luana Kai who lobbied at previous council meetings in favor of continued short-term transient accommodations at this property, even though the property was always intended to be for residential use. There may be exceptions of which I am unaware, but as long as I have owned A-106, the Directors have been out of state residents.

Thank you,
Vicki Lerner

LUANA KAI

"Living in comfort and ease by the sea," on the white sand beach at Kihei

CONDOMINIUM DOCUMENTS

Declaration and the By-Laws.

10.0 Managing Agent; Service of Process. Operation of the Project shall be conducted for the Association by a responsible corporate Managing Agent who shall be appointed by the Association in accordance with the By-Laws. The Managing Agent is hereby authorized to receive service of legal process in all cases provided in said Horizontal Property Act. Until the Managing Agent shall be appointed, Aaron M. Chaney, Inc., whose mailing address is Suite 127, 666 Front Street, Lahaina, Maui, Hawaii, 16761, is hereby authorized to receive said service of legal process.

11.0 Compliance with Declaration and By-Laws. All apartment owners, their tenants, families, servants and guests, and any other persons who may in any manner use the Project, shall be bound by and comply strictly with the provisions of this Declaration, the By-Laws, the House Rules, and all agreements, decisions and determinations of the Association lawfully made or amended from time to time, and failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief, or both, maintainable by the Board of Directors, or Managing Agent on behalf of the Association of Directors, or Managing Agent on behalf of the Association or, in a proper case, by an aggravated apartment owner, or by the Fee Owner.

12.0 Invalidity. The invalidity of any provision of this Declaration shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such provisions had never been included therein.

13.0 Purpose and Use. The apartments shall be occupied and used only as residence dwellings by the respective owners thereof, their tenants, families, guests and domestic servants and for no other purpose. In addition to and without limitation of the foregoing:

(a) Spaces designated for the parking of motor vehicles shall be used solely for such purposes, in accordance with such reasonable regulations as shall be established by the Board of Directors from time to time.

(b) No owner of an apartment shall do, or suffer or permit to be done, anything in any apartment which would impair the soundness or safety of the Project, or which would increase the rate or result in the cancellation of insurance applicable to the Project, or which would be noxious or offensive or an intereference with the peaceful possession and proper use of other apartments, or which would require any alteration of or addition to any of the common elements which would fail to comply with any applicable law or regualtion, or which would otherwise be in violation of law.

HLU Committee

From: Brian Noble <mkmanager@icloud.com>
Sent: Tuesday, June 30, 2026 7:43 PM
To: HLU Committee
Subject: Maui Kamaole submission to Housing and Land Use Committee
Attachments: Maui Kamaole Submission to Housing and Land Use Committee.pdf

You don't often get email from mkmanager@icloud.com. Learn why this is important

Aloha,
Please see the attached letter for the HLU Committee.
Thank you very much for all of your hard work!

ASSOCIATION OF APARTMENT OWNERS OF MAUI KAMAOLE
2777 South Kihei Road
Kīhei, Hawai‘i 96753

Via electronic submission

Maui County Council
Housing and Land Use Committee
Kalan O Maui Building, 8th Floor
200 S. High Street
Wailuku, HI 96793

Attn: Hon Nohelani U‘u-Hodgins, Committee Chair
Hon. Kauanoe Batangan, Committee Vice-Chair

RE: Resolution 26-110 and Resolution 26-111; Maui Kamaole, 2777 South Kihei Road, Kīhei, Hawai‘i

Dear Committee Chair U‘u-Hodgins, Vice-Chair Batangan, and members of the Housing and Land Use Committee,

The Association of Apartment Owners of Maui Kamaole ("Maui Kamaole") writes in support of Resolutions 26-110 and 26-111 that will come before the committee on July 1, 2026 and respectfully requests that Maui Kamaole be added to the list of properties to be rezoned H3 or H4 pursuant to either of the above resolutions, or included in a similar resolution that may be introduced and referred to your committee.

Maui Kamaole has traditionally operated as a hotel resort property since its inception. We have two full time employees operating our front desk that is monitored 24 hours a day. We have 5 full time building maintenance employees, 8 full time landscapers, a security team, and a general manager to oversee all operations. We offer our employees a very competitive wage and benefits package. The average length of employment is 10 years or more. Our property is a 23-acre resort with 316 condominiums designed to mimic a Wailea resort. Each unit is equipped with a washer/dryer and comes with a single deeded parking stall. Our property offers 2 swimming pools, 2 spas, 2 tennis courts, and BBQ areas at each building. For these reasons and qualifications, we feel that Maui Kamaole should be included in the H3/H4 re-zoning.

Thank you very much for your time and consideration. Please feel free to contact me if you have any questions or need additional information.

Sincerely,

Joseph Guy Demers

Board of Directors President, Maui Kamaole

mkmanager@icloud.com

HLU Committee

From: King Family <kingfamily2062@yahoo.com>
Sent: Tuesday, June 30, 2026 6:45 PM
To: HLU Committee
Subject: Amendment 26-110

[You don't often get email from kingfamily2062@yahoo.com. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification]

Aloha Chair and Members of the Council,

As owners a unit at Noelani, we join our Board of Directors and respectfully ask for your support in including Noelani in Amendment 26-110.

Since 1974 Noelani has not simply been a vacation rental property. It is a long-established part of the West Maui community; we feel it every time we are on island. It has welcomed visitors for over 50 years, supporting local restaurants, shops, small businesses, and the families who depend on Maui's visitor industry.

Noelani is special, it has made us feel so connected to the island in many ways. It's a small, direct oceanfront community that has always taken pride in being a good neighbor. We invest not only in maintaining the property but also in supporting the surrounding community.

My wife and I were on island when the fires broke out, when Noelani was without power for a couple hours we drove to the other side of the island to shop and get some lunch. When driving back we got stuck on the bypass where we watched in disbelief as the fire jumped the road. We spent the next 3 nights in our 4Runner in the Target parking lot desperately trying to contact Lori (property manager at Noelani whom we feel is like our extended family) praying for her and her family's safety. When Lori finally got a signal, she asked us to bring any supplies we could. We immediately went to Costco loaded up and headed to the back route hoping to be let through. We and others we were met and guided along by the incredible residents that live off Kahekili Hwy. Ultimately, we made it back and Lori directed us where to go drop off the supplies.

Noelani reflects the values that have helped make West Maui a special place. Many of our guests return year after year, creating lasting relationships with local businesses and becoming part of the fabric of our community.

Including Noelani in Amendment 26-110 recognizes these contributions. We have on site staff, a full-time maintenance crew and a stand-alone front office. In addition, our maintenance fees are as much as $3,200 a month and assessed values have reached over $2,000,000. We understand the importance of addressing Maui's housing needs, and we support thoughtful solutions that strengthen our community. We respectfully believe those solutions can coexist with preserving properties like Noelani.

Thank you,
Todd and Shareen King.

HLU Committee

From: Michael Krupnick <moweemike808@icloud.com>
Sent: Tuesday, June 30, 2026 5:09 PM
To: HLU Committee
Subject: Noelani 26-110
Attachments: Aloha Chair and Members of the Council.docx

[You don't often get email from moweemike808@icloud.com. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification]

Sent from my iPhone

Aloha Chair and Members of the Council,

As an owner at Noelani, we join our Board of Directors and respectfully ask for your support in including Noelani in Amendment 26-110.

Noelani is not simply a vacation rental property. It is a long-established part of the West Maui community. For decades, it has welcomed visitors who return year after year, supporting local restaurants, shops, activity providers, small businesses, and the families who depend on Maui's visitor industry.

What makes Noelani unique is its character. It is a small, well-maintained oceanfront community that has always taken pride in being a respectful neighbor. Our owners invest not only in maintaining the property but also in supporting the surrounding community. We hire local employees, work with local contractors and vendors, contribute to charitable and community efforts, and take seriously our responsibility to be good stewards of both our property and our neighborhood.

Noelani reflects the values that have helped make West Maui a special place. Many of our guests return year after year, creating lasting relationships with local businesses and becoming part of the fabric of our community.

Including Noelani in Amendment 26-110 recognizes these contributions. We have on site staff, a full-time maintenance crew and a welcoming front desk. In addition, our maintenance fees are as much as $3,200 a month and assessed values have reached over $2,000,000. We understand the importance of addressing Maui's housing needs, and we support thoughtful solutions that strengthen our community. We respectfully believe those solutions can coexist with preserving properties like Noelani.

For these reasons, we respectfully ask that Noelani be included in Amendment 26-110. We believe its history of vacation rental; it's character and its responsible stewardship to the West Maui community make it deserving of inclusion.

HLU Committee

From: Eve Hogan <eve.hogan@icloud.com>
Sent: Tuesday, June 30, 2026 3:00 PM
To: Nohe M. Uu-Hodgins
Cc: Thomas M. Cook; HLU Committee; Leslie Mackenzie Smith
Subject: Testimony for Reso 26-110

You don't often get email from eve.hogan@icloud.com. Learn why this is important

Aloha Chair and Council Members,

We respectfully submit this testimony in support of Resolution 26-110 on our own behalf as owners in Ma‘alaea and members of the Ma‘alaea Village Association.

First, thank you for your hard work and for following through on your commitment to create appropriate "like-for-like" zoning for these long-established uses. We urge you to support Resolution 26-110 as proposed. We understand that this is the first step, that in the next Resolution to be drafted by the LUC, other properties in Ma’alaea, including Island Sands, will be included.

The Temporary Investigative Group already devoted months to researching these properties and identifying those appropriate for H-3/H-4 "like-for-like" zoning. We ask that you trust that thoughtful and deliberate process.

Ma‘alaea Village was not developed as a traditional residential community. It has no schools, grocery store, post office, police station, neighborhood commercial center, or other infrastructure typically associated with permanent residential neighborhoods.

Visitor accommodations have been part of Ma‘alaea's history for well over a century, dating back to the late 1800s. These condominium properties themselves have served visitors for approximately half a century.

H-3/H-4 zoning simply recognizes long-established land use. It does not create new hotels or expand visitor accommodations. It provides appropriate "like-for-like" zoning for properties that have functioned as visitor accommodations for generations.

We respectfully ask you to adopt Resolution 26-110 as presented so the committee can continue its work to address the harmful impacts created by Bill 9.

Mahalo for your thoughtful consideration.

Eve Hogan, Steve Hogan, Leslie Mackenzie-Smith

HLU Committee

From: Laurie <noelanisitemanager@gmail.com>
Sent: Tuesday, June 30, 2026 1:57 PM
To: HLU Committee
Subject: Noelani Amendment 26-110
Attachments: 26-110.docx

You don't often get email from noelanisitemanager@gmail.com. Learn why this is important

Please see attached document

Re: Support for Amendment 26-11-0 – Inclusion of Noelani on the Master List

Aloha Chair and Honorable Council Members,

My name is Laurie Fifita, Site manager Noelani, and I respectfully submit this testimony in strong support of **Amendment 26-11-0**, specifically requesting that **Noelani** be included on the master list of properties covered under this amendment.

Noelani has operated as a visitor accommodation for decades and has long been an important part of Maui's visitor industry. Our owners purchased their units with the understanding that short-term vacation rental use was lawful and supported by County policy. Many have invested their life savings and retirement funds into these properties, relying on the ability to continue operating legally.

The uncertainty surrounding the future of Noelani has created significant financial and emotional hardship. Owners are faced with difficult questions every day: Will we still have the ability to rent our units? Will we lose the income needed to pay mortgages, insurance, maintenance fees, and property taxes? Some are even questioning whether they will have to leave Maui or seek employment elsewhere simply to support their families.

The impacts extend beyond individual owners. Noelani supports housekeepers, maintenance workers, landscapers, contractors, property managers, local restaurants, activity providers, retail businesses, and countless other small businesses that depend on visitor spending. Removing Noelani from the eligible list would have consequences that ripple throughout the West Maui economy.

Including Noelani in Amendment 26-11-0 provides fairness and consistency with other similarly situated properties. It recognizes the property's long-standing history as visitor accommodations while preserving jobs, protecting investments, and supporting Maui's economic recovery.

I respectfully ask the Council to approve Amendment 26-11-0 and include Noelani on the master list. This action will provide much-needed certainty for owners, employees, local businesses, and the families whose livelihoods depend on responsible visitor accommodations.

Thank you for your time, your thoughtful consideration, and your continued service to the people of Maui.

Respectfully,

Laurie Fifita
Noelani – Site Manger

Re: Support for Amendment 26-11-0 – Inclusion of Noelani on the Master List

Aloha Chair and Honorable Council Members,

My name is Laurie Fifita, Site manager Noelani, and I respectfully submit this testimony in strong support of **Amendment 26-11-0**, specifically requesting that **Noelani** be included on the master list of properties covered under this amendment.

Noelani has operated as a visitor accommodation for decades and has long been an important part of Maui's visitor industry. Our owners purchased their units with the understanding that short-term vacation rental use was lawful and supported by County policy. Many have invested their life savings and retirement funds into these properties, relying on the ability to continue operating legally.

The uncertainty surrounding the future of Noelani has created significant financial and emotional hardship. Owners are faced with difficult questions every day: Will we still have the ability to rent our units? Will we lose the income needed to pay mortgages, insurance, maintenance fees, and property taxes? Some are even questioning whether they will have to leave Maui or seek employment elsewhere simply to support their families.

The impacts extend beyond individual owners. Noelani supports housekeepers, maintenance workers, landscapers, contractors, property managers, local restaurants, activity providers, retail businesses, and countless other small businesses that depend on visitor spending. Removing Noelani from the eligible list would have consequences that ripple throughout the West Maui economy.

Including Noelani in Amendment 26-11-0 provides fairness and consistency with other similarly situated properties. It recognizes the property's long-standing history as visitor accommodations while preserving jobs, protecting investments, and supporting Maui's economic recovery.

I respectfully ask the Council to approve Amendment 26-11-0 and include Noelani on the master list. This action will provide much-needed certainty for owners, employees, local businesses, and the families whose livelihoods depend on responsible visitor accommodations.

Thank you for your time, your thoughtful consideration, and your continued service to the people of Maui.

Respectfully,

Laurie Fifita
Noelani – Site Manger

HLU Committee

From: Laurie <noelanisitemanager@gmail.com>
Sent: Tuesday, June 30, 2026 1:39 PM
To: HLU Committee
Subject: Noelani
Attachments: Letter to Housing and Land Use Committee_06.30.2026.pdf

You don't often get email from noelanisitemanager@gmail.com. Learn why this is important

Mahalo For Your Time

Why Noelani Oceanfront Resort should be added to Resolution 26-110 Section a)

Aloha Housing and Land Use Committee,

We, the owners at the Noelani Oceanfront Resort, believe that Noelani should be re-zoned to the new H3/H4 classification and here is why:

1. **Hotel-like operations with direct AOAO employees**: Operations are maintained by three W-2 employees directly employed by the Association.
    a. **Front office**: We employ a long-time West Maui resident as a Guest Services Manager, who runs our front desk (Appendix A) assisting guests and owners, open 8:00am - 4:00pm Monday through Saturday with an emergency number to call off hours.
    b. **Landscaping and maintenance**: We employ two additional long-time West Maui residents; a full time Property Manager who manages the landscape and maintenance of the grounds at the Noelani, as well as a part time assistant.
2. **Purpose-built for transient use:** Noelani has operated as an oceanfront resort condo-hotel for short-term vacation rentals since its inception and incorporation in 1974 (over 50 years) and has never been workforce housing. Historically, Noelani was a AAA listed and marketed resort property with a 3-star rating (Appendix B). Rentals were historically managed by a centralized Noelani Rental Association. Noelani has 1 parking stall per unit (per bylaws); shared laundry in most buildings; no pets; no individually metered utilities; and AOAO-allocated utilities costs. These are condo-hotel attributes that do not function as long-term family housing.
3. **Not workforce housing by any metric:** Maui County FY2025 assessments for Noelani units (studios through 3BRs) ranged from $710K-$2.05M and are well above Maui workforce affordability; island medians (SFH ≈ $1.29M, condo $655k). Converting Noelani would not create affordable supply.
4. **Plan-consistent location:** Noelani sits within the Honokōwai-Kahana-Napili visitor/resort corridor, long recognized in County planning; keeping it in resort use, aligns with that framework.
5. **Objective shoreline criteria, applied consistently:** Decisions should rest on uniform SLR/erosion metrics (not ad-hoc "walk-through" impressions). Where those metrics placed peers on Exhibit 2, Noelani should be treated the same.
6. **Equal treatment:** Lokelani (3833 Lower Honoapiilani Rd), ½ mile down the same shoreline corridor, with indistinguishable resort/shoreline attributes, appears on Exhibit 2. There are no apparent criteria to indicate Noelani should be classified differently.

We respectfully ask to be included in Resolution 26-110 section a.

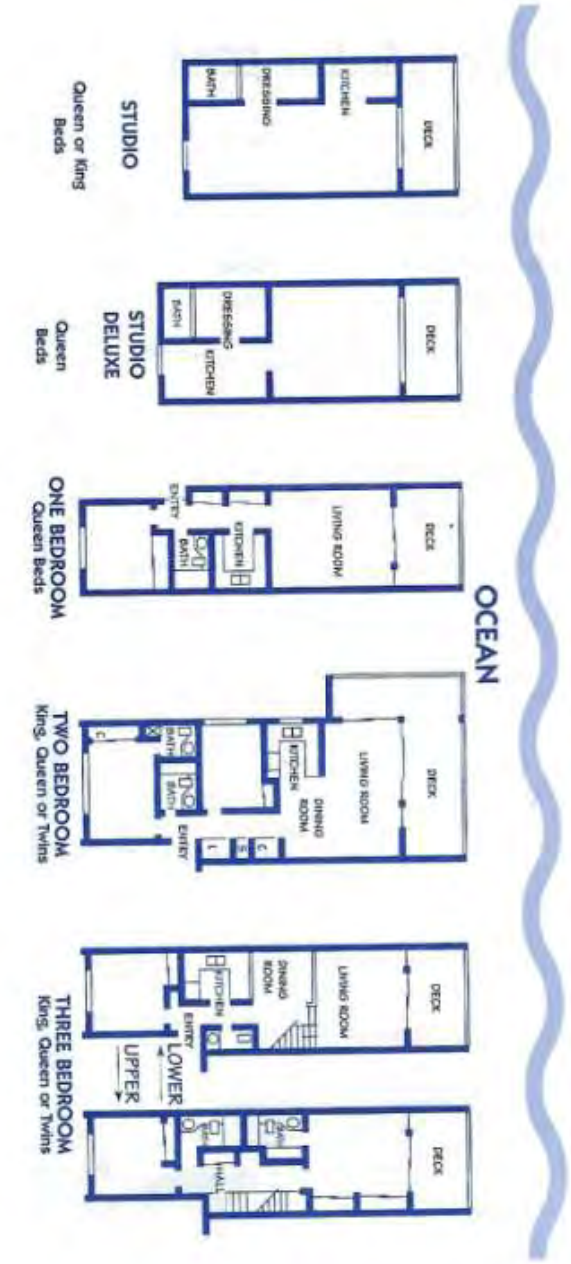
Respectfully,

AOAO Noelani (Board of Directors)
4095 Lower Honoapi'ilani Rd, Lahaina, HI 96761
Reggie Golden
AOAO Board President
reggieg@dgmllc.com
303-588-9229

[ENCLOSURES]
[Appendix A: 2025 photo of purpose built Noelani front desk and guest reception area]
[Appendix B: Noelani marketing materials]

Appendix A: 2025 Photo of Purpose-Built and Staffed Noelani Front Desk / Guest Reception Area

Appendix B: AAA Marketing Materials Describing Noelani Condominium Resort



Noelani Condominium Resort

Phone: (808) 669-8374
Fax: (808) 669-7904
USA and Canada: 1-800-367-6030
4095 L. Honoapiilani Road
Lahaina, Maui, Hawaii 96761
http://www.noelani-condo-resort.com
E-mail: noelani@maui.net

CHO 98

Amenities

Oceanfront Low Rise Condominium Resort.

Two heated Pools, Sandy Cove, Jacuzzi Spa.

BBQ Picnic Area, Fitness Center Wet Bar Cabana.

Poolside Island Breakfast Orientation with Staff Concierges.

Weekly Mai Tai parties, Hula and Lei-making classes.

Near Kapalua and Kaanapali Golf Resorts; Five miles from Lahaina Town.

All Condominiums are Oceanfront with Panoramic views.

Deluxe Interiors feature: Complete Kitchens, CCTV, VCR/DVD, Ceiling Fans Maid Service, High Speed Cable Internet

One, Two and Three Bedroom Condos include washer, dryer and dishwasher. Laundry Center for Studios.

Call Today!
Car/Condo Special Rates
Low Season Specials:
Seniors, AAA, Honeymoon

Rate Schedule 2011

	High Season 12/20/10 - 04/14/11	Value Season 04/15/11 - 12/19/11
Studio (2 persons) 2 max.	$157	$125
Studio Deluxe (2 persons) 3 max.	$175	$145
1 Bedroom (1-3 persons) 4 max.	$197	$175
2 Bedroom, 2 bath (4 persons) 6 max	$290	$245
3 Bedroom, 2-1/2 Bath (6 persons) 8 max	$357	$330

Extra persons - $20 per person per day
Under 18 - FREE!

Rates subject to 13.42% State/Hotel Tax
Rates subject to change

Reservations: Reservations may be made by calling 800-367-6030 or int'l 808-669-8374. Online reservations may be made at www.noelani-condo-resort.com. Online reservations will be reconfirmed by phone within 24 hours. Holiday reservations: 7 night minimum 12/20 to 1/8. The remainder of the year is a 3 night minimum.

Deposits: After making a tentative reservation, a deposit will be due in 14 days or the tentative reservation will be automatically cancelled. A 3 night tax inclusive deposit will be required to confirm. Deposit confirms all nights booked.

Final Payment: April 15th to Dec. 19th – Value Season – payment due on arrival
Dec. 20th to Jan 14th – final payment due 60 days prior to arrival
January 9th to – April 14th – High Season – final payment due 30 days prior to arrival.

Cancellation Policy: Jan 9th to Dec 19th – 30 days prior to arrival for any refund.
Dec. 20th to Jan 8th – 60 days prior to arrival for any refund.

We Accept

VISA MasterCard AMERICAN EXPRESS

Conditions Apply.

AAA Approved

Touch

Minutes away from Kaanapali, Kapalua and championship golf courses. Enjoy a short drive to picturesque Lahaina for shopping, dining and entertainment.

Taste

Amenities:

- Studio, 1, 2, & 3 bedroom ocean front condominiums
- Modern kitchens
- Private Lanais
- 2 ocean front pools and a Jacuzzi tub
- Fully equipped exercise room
- Concierge service
- Weekly Mai Tai Party
- Intimate poolside barbeque and picnic area
- High Speed Cable Internet
- Housekeeping service
- In-room safes

For Reservations write or call
NOELANI CONDOMINIUM RESORT
4095-L Honoapiilani Road
Lahaina, Maui, HI 96761
Phone: 808.669.8374
Fax: 808.669.7904
US- Canada Call Toll Free
800.367.6030
www.noelani-condo-resort.com

The Noelani

Maui Condominium Resort

Awaken Your Senses

Noelani

Awaken Your Senses

A stay at Noelani Resort Condominium is a dream come true. See the breathtaking scenery, smell the sweet scent of plumeria in the air, listen to peaceful sounds of the rolling surf, feel ocean breezes blowing across sandy beaches and taste delicious Hawaiian cuisine. Enjoy days filled with the excitement of sailing, snorkeling and watching the beauty and grace of the humpback whale. All this from the comfort of your own private oasis. The "Aloha Spirit" abounds at Noelani. Dreams do come true when you make our world yours.

Sight

Smell

Sound

Noelani is a AAA 3-diamond resort ensuring quality accommodations in each of our 50 privately owned ocean front condominiums. Every unit is fully equipped with complete kitchens and entertainment centers. All accommodations are tastefully furnished for Maui-style vacation living at its best.

4095 L. Honoapiilani Road, Lahaina, Maui, HI 96761
808-669-8374 toll free: 1-800-367-6030

4095 L. Honoapiilani Road, Lahaina, Maui, HI 96761
808-669-8374 toll free: 1-800-367-6030

HLU Committee

From: T Jinks <tj95037@yahoo.com>
Sent: Tuesday, June 30, 2026 11:11 AM
To: HLU Committee
Subject: Resolutions 26-110 and 26-111-Bill 88

You don't often get email from tj95037@yahoo.com. Learn why this is important

Aloha Chair U'u-Hodgins and HLU Committee Members

My name is Tom Jinks and I am the President of the AOAO of The Kapalua Golf Villas. I am submitting testimony on behalf of the AOAO of The Kapalua Golf Villas.

First off, I would like to say thank you for adding the properties listed in Resolutions 26-110 and 26-111 to the agenda for July 1, 2026. While our property, Kapalua Golf Villas, is not on the list in these initial resolutions, I firmly believe and feel this process of approving specific properties for the new H3/H4 zone class is very important phase of Bill 88 and needs to start somewhere and somehow. These two resolutions will give everyone; all committee members, planning commissioners, council members, county administration and staff, property owners, property managers, employees and businesses, etc., an opportunity to see how this process moves forward.

As the properties in these two resolutions do move forward, I formally request that the HLU Committee continue to carefully, fairly, and equally assess all properties listed in the agenda's Exhibit 1 to determine which properties should be included, ultimately, for council-initiated approval to the new H3/H4 zoning class.

Mahalo to all for the work you are doing.

Sincerely and respectfully,

Tom Jinks
President, Kapalua Golf Villas AOAO

HLU Committee

From: Kendall Hamilton <kenham9@gmail.com>
Sent: Tuesday, June 30, 2026 10:25 AM
To: HLU Committee
Subject: TESTIMONY - Resolution 26-110 - HLU Hearing July 1, 2026 - [Hale Ono Loa]
Attachments: Hale Ono Loa Bill 88 Resolution 26-110 Testimony.pdf; Hale Ono Loa Metes and Bounds.pdf

You don't often get email from kenham9@gmail.com. Learn why this is important

Aloha,

Please see attached testimony and support materials (2 PDFs) on behalf of Hale Ono Loa to be considered by the HLU Committee on Wednesday, July 1.

Also, Phillip Mills, Hale Ono Loa Board President, will attend virtually and give testimony via Zoom so please include him on the agenda.

Mahalo.

July 1, 2026

TO: Chair U'u-Hodgins, Vice-Chair Batangan, and Committee Members

RE: Statement of Support for Resolution 26-110

FROM: Hale Ono Loa Board of Directors

We are writing in support of the request to rezone Hale Ono Loa, an oceanfront complex on West Maui, from the Apartment A-2 District to the H-4 Hotel District. Hale Ono Loa has long operated with hotel-like characteristics and has historically served visitors to Maui in a manner consistent with short-term and extended-stay vacation accommodations.

Hale Ono Loa's History and Hotel-Like Characteristics

Hale Ono Loa is a 68-unit oceanfront complex constructed in 1969. For decades, it has operated as a legal short-term vacation rental property and has functioned in many ways like a small hotel or visitor accommodation. Originally, Hale Ono Loa was a leasehold property. The property was also previously identified as hotel-zoned in 2017 tax records, further supporting its longstanding relationship to visitor use.

Our Metes and Bounds legal description is attached to this email.

We have also attached copies of some of the original marketing information for the property.

The physical design and practical use of Hale Ono Loa are more consistent with transient accommodations than traditional long-term residential housing.

Hale Ono Loa was designed and operates with resort-like functionality, even promoted in it's original brochure as a 'quietly, secluded resort'. The property originally included a front desk, and visitors driving along Lower Honoapiilani Road could identify whether there was availability by means of a vacancy sign. Guests could stop at the property and rent accommodations in a manner similar to a traditional hotel, motel or small resort. In one of the original brochures (attached), there was an 800 number for reservations. Inquiries were to be made directly to travel agents, not real estate agents.

Today, Hale Ono Loa continues to provide guest-oriented services and facilities. The property includes an office for an on-duty resident manager who greets guests, answers questions, assists with their stay, and helps ensure a positive visitor experience.

The property also maintains a lobby area where guests may check in, register their vehicles, and receive information related to their unit and stay. These operational features are consistent with visitor accommodations and distinguish Hale Ono Loa from a conventional apartment complex.

Hale Ono Loa further supports guest use through a range of shared amenities, including a pool, barbecue areas, a shuffleboard court, kayaks, surfboards, a community sun deck, a newly renovated elevator, and convenient luggage carts. These amenities are commonly associated with vacation properties and help create the visitor experience that Hale Ono Loa has provided for many years.

Additional guest-focused features include courtyard gazebos and the nightly blowing of the conch, a meaningful tradition that honors the Maui sunset and invites guests to gather and experience the island's culture and natural beauty.

The grounds themselves also contribute to Hale Ono Loa's visitor-serving character. The property is landscaped with tropical plants native to Hawaii, offering guests an opportunity to learn about and enjoy the natural environment during their stay.

For these reasons, Hale Ono Loa's history, design, amenities, services, and longstanding short-term rental operations align closely with hotel and visitor accommodation uses.

We respectfully request that the Committee recognize these hotel-like characteristics and support the rezoning of Hale Ono Loa from the Apartment A-2 District to the H-4 Hotel District. We strongly support the Committee forwarding Resolution 26-110 in its current form, which includes Hale Ono Loa, to the Planning Commissions for their consideration.

Thank you for your time, consideration, and service to the Maui community.

Sincerely,

J. Kendall Hamilton

Vice President, Board of Directors

Hale Ono Loa

3823 Lower Honoapiilani Road

Lahaina, HI. 96761-8906

GENERAL INFORMATION

HALE ONO LOA, Maui's newest condominium vacation resort, is only 1½ miles from Kaanapali's resort hotel complex and golf course, and the Kaanapali airstrip for inter-island commuter plane traffic. Picturesque Lahaina Town, former winter capital of Pacific whalers, is 10 minutes away. The Island of Maui is famous for Haleakala (House of the Sun), the world's largest extinct volcano, the spire-like Iao Needle mountain, the Old Hawaii splendor of its Hana-Keanae coast and the rugged but beautiful Napili ocean-bound cliffs and gorges. HALE ONO LOA's vacation apartments are completely equipped and furnished for carefree vacation living. Linen and maid service are provided, and a resident manager and staff assist with your special needs. Daily (3-day minimum), Weekly and Monthly rates for double occupancy on request.

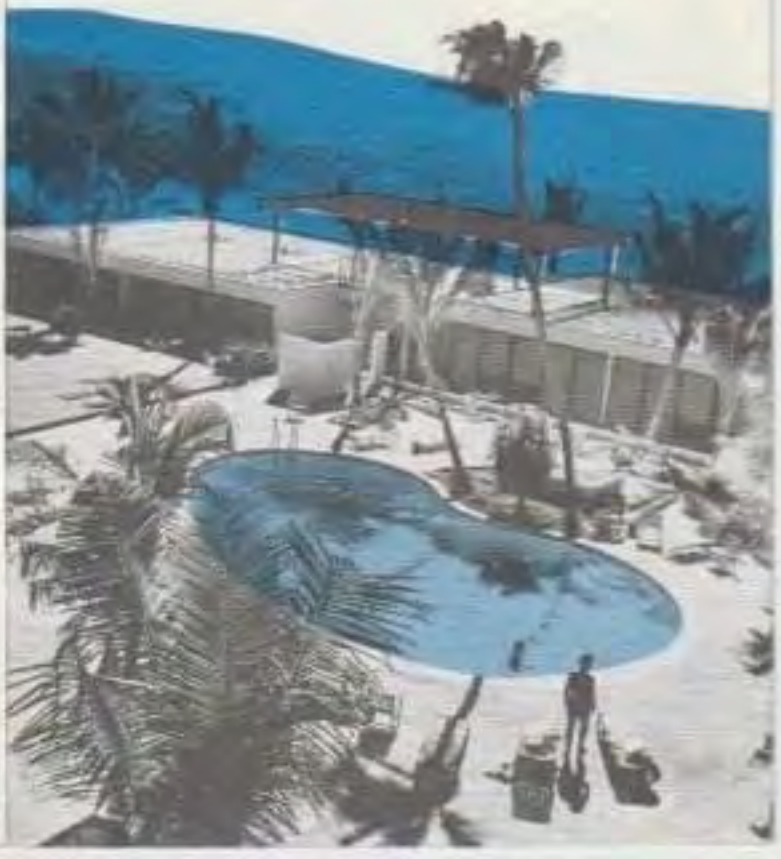
FOR INFORMATION, WRITE:

Resident Manager
Route No. 1, Box 300, Lahaina, Maui, Hawaii 96761
Telephone: Maui 669-6362

OR SEE YOUR TRAVEL AGENT:

MAUI'S NEWEST VACATION RESORT

HALE ONO LOA



HALE ONO LOA

Vacationers who enjoy sunset-watching after a day's sight seeing or sportive beach and ocean fun will appreciate HALE ONO LOA's vantage point location on Maui's famous Kaanapali vacation resort coastline, in Hawaii. To the left and right, the nearby islands of Lanai and Molokai form a perfect picture frame setting for the spectacular Hawaiian sunsets that color the tropic sky and blue Pacific out to their merged horizon at dusk. Day's end, in flaming beauty, in a tropical paradise! HALE ONO LOA offers more than breathtaking sunsets, however. This quiet, secluded vacation resort offers sixty-four 1 bedroom/1 bath and 2 bedrooms/2 baths apartments with spacious ocean-facing lanais in a view designed main building equipped with elevator. Four luxury 2 bedrooms/2 baths apartments are located in two beachfront duplex cottage buildings with shaded rooftop lawn lanais. All units are completely furnished for carefree live in vacationing, and have home like conveniences of fully equipped all-electric kitchens and full baths. Tropical trees and lush island foliage, a fresh water swimming pool with lounging deck, green lawn areas, an off-beach sand area for private sunbathing, Hawaiian rock walls and paved walkways complete the 1.77 acres of resort property. A white sand beach with the finest of ocean swimming, water sports and fishing opportunities extends along its ocean front! HALE ONO LOA, the perfect "Hawaiian vacation" home away from home!

LOCATION

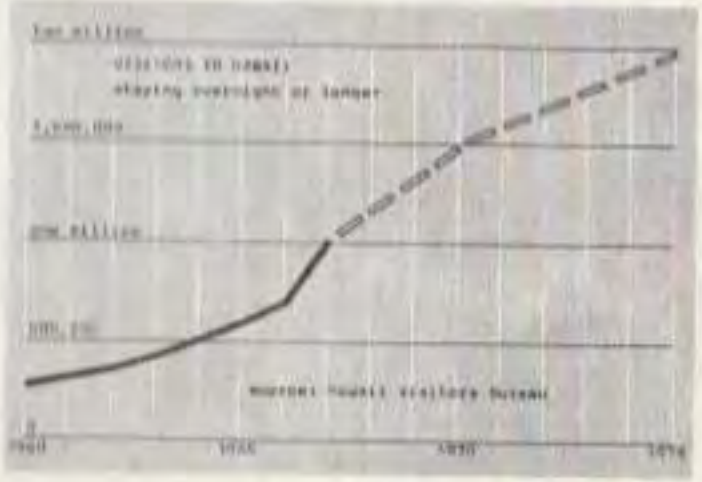
HALE ONO LOA is close to the Kaanapali resort complex which is along the shoreline and around an 18 hole championship golf course. Travel time to the picturesque town of Lahaina, capital of the Hawaiian monarchy, is 8 to 10 minutes, and beyond to the Kahului-Wailuku urban center of Maui is another 30 minutes. Though the principal airport for Maui is at Kahului, there is an airfield at Kaanapali, 4 to 5 minutes from the site with frequent charter, schedule and taxi plane service to Honolulu and other resort areas, and most visitors to the Lahaina district use this means of travel.

DESCRIPTION OF THE SITE

The site is comprised of 1.77 acres of leasehold land situated between the main road, Honoapiilani Highway, and the shoreline. It is 1.5 miles north of the Kaanapali resort complex. The land has a very gentle, even slope of approximately 3% from the road toward the ocean. The shoreline has a white sand beach varying from 10 to 30 feet wide. Along the beach is a rock retaining wall averaging 8 feet in height above the beach, so that the "makai," or oceanside boundary is approximately 11 feet above mean sea level.

The lot averages 230 feet in width, and is 350 feet from the road to the sea wall.

Soil conditions are ideal for construction, being a sandy loam with few rocks or boulders. When irrigated this rich alluvium, plus the high proportion of sunshine characteristic of Kaanapali produces vigorous plant and tree growth, and this is a vital factor in resort development.



VISITOR INDUSTRY GROWTH PROJECTIONS

The visitor industry growth projections presented by the H.V.B. indicate a growth from 1,000,000 visitors in 1967 to 1,500,000 visitors per year by 1970 and 2,000,000 per year by 1975. These projections are considered reasonable by hotel and tour operators, developers, economists and financiers knowledgeable of the industry in Hawaii.

A recent research report on tourism by the Chamber of Commerce of Hawaii projected 2,500,000 visitors annually by 1975, an average length-of-stay of 9.0 days compared to 11.2 days at present, and a need for 48,000 hotel rooms.

Projections by the State Department of Planning Economic Development have placed the volume at 3,000,000 by 1975.

There is general concurrence that the industry can grow as fast as proper expansion of the visitor "plant" can be accomplished, and that there will continue to be strong pressures for plant expansion.

Endless activities are nearby: Parasailing, snorkeling, tennis, shopping, dining, and championship golf courses.

Amenities include an elevator, laundry room, comfortable lobby, and an outdoor patio.

Hale Ono Loa is conveniently located in Kahana on the West side of Maui, a scenic 30-mile drive from Kahului airport. Just minutes from the oceanfront condominium is the historic town of Lahaina and Kapalua and Kaanapali resorts.

Relax and refresh yourself... Maui style... at Hale Ono Loa.

For reservations call

1-800-300-5399

3823 Lower Honoapiilani Hwy.
Lahaina, Maui, Hawaii 96761
(808) 669-0529

Hale Ono Loa

Experience all Maui has to offer...

Cooled by gentle breezes and warmed by the Maui sun, Hale Ono Loa offers something for everyone.

Stroll the tropical landscaped grounds. Enjoy spectacular views of the islands of Molokai and Lanai from your oceanview lanai. Take a refreshing dip in our outdoor swimming pool.

Relax on the sun deck. Picnic with friends. Or play a game of shuffle board.

Choose from spacious 1 bedroom / 1 bath and 2 bedroom / 2 bath units complete with electric kitchen, TV and telephone.

WITH OUR COMPLIMENTS

CONTACT US FOR INFORMATION OR RESERVATIONS

Hale Ono Loa

CONDOMINIUM APARTMENTS
MAUI, HAWAII

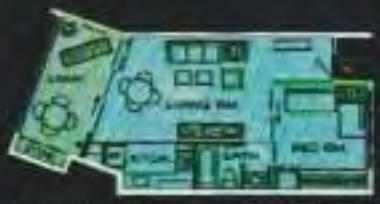
Hale Ono Loa

IS RIGHT HERE

A SIMPLIFIED MAP OF MAUI

Your plane will bring you to Kahului on the windward side of Maui, and then it is only 33 scenic miles to Hale Ono Loa, a tropical paradise. The easiest way to get there and to tour the island is to hire a small car. It's best to reserve one in advance—your travel agent can make the arrangements.

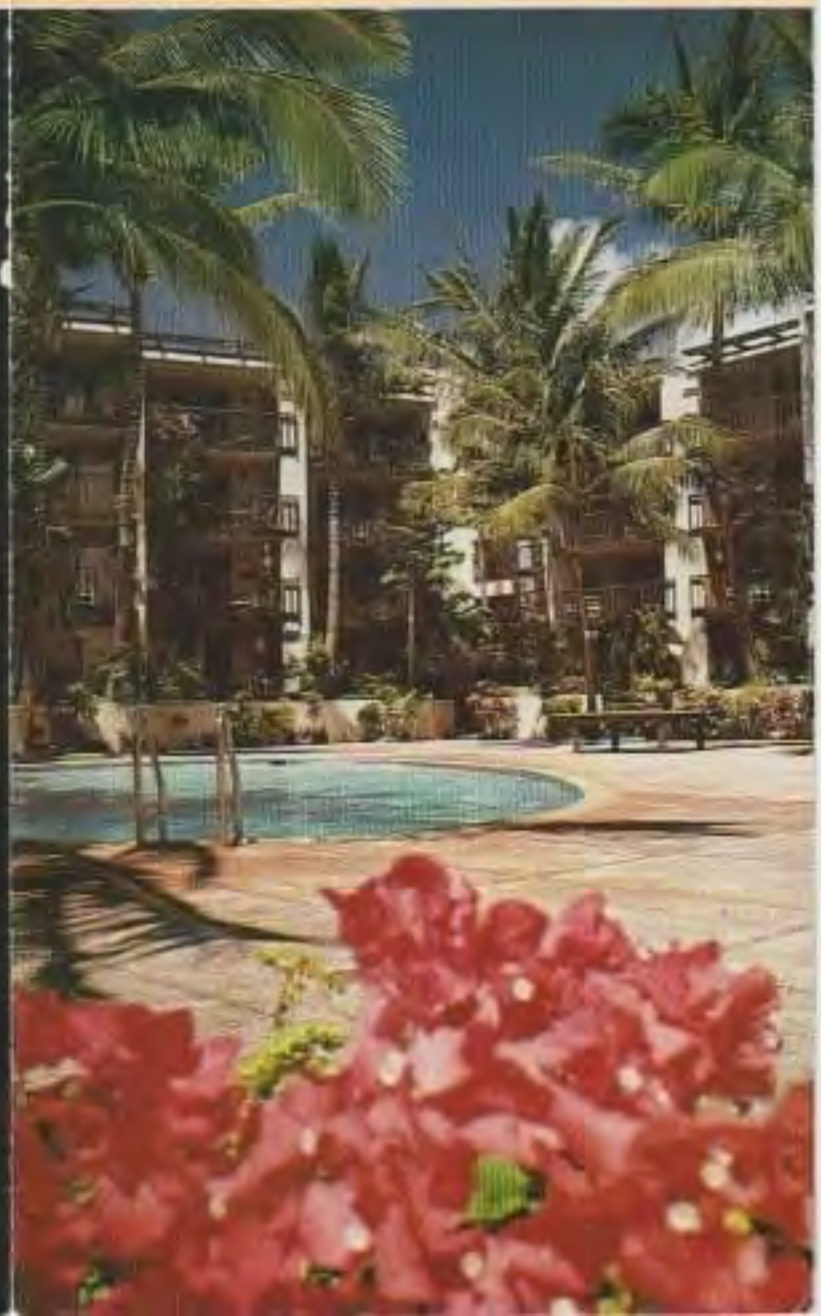
HERE ARE TYPICAL APARTMENTS. 1-BEDROOM AND 2-BEDROOM

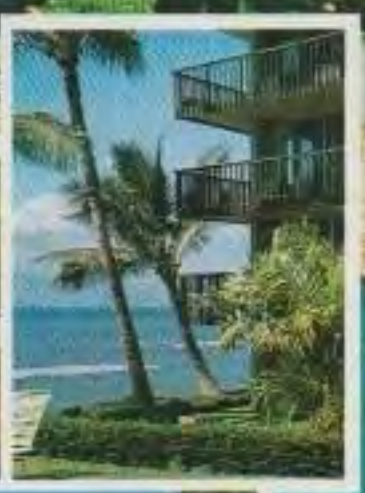


Elegant—spacious—individually decorated. All apartments have a large ocean view lanai, are cool, airy and oriented to the trade winds.

For further information, write:

Resident Rental Manager
HALE ONO LOA
3823 Honoapiilani Road
Honokowai, Lahaina, Maui, HI 96761
(808) 669-6362





HALE ONO LOA ... the House of Good Living. This quiet, secluded resort offers 67 apartments, all with spacious, ocean-front lanais in a view oriented building with elevator.

All units designed for carefree resort living with fully equipped kitchens and full baths. Maid service is provided.

Just minutes away to the south is the Kaanapali Resort featuring two golf courses and the fabulous Whaler's Village shopping area. Minutes beyond is picturesque Lahaina, onetime whaling capital of the world. To the north is the challenging golf course at Kapalua Resort.

Here is Hale Ono Loa, on the enchanted isle of Maui ... far removed from city life. Across the sapphire waters of Auau Channel are the islands of Lanai and Molokai, the perfect picture frame setting for marvelous Hawaiian sunsets. Come and experience.

CONDOMINIUM MAP NO. 145

DECLARATION OF HORIZONTAL PROPERTY REGIME

WHEREAS, C-C-C-W DEVELOPMENT CORPORATION, a Hawaii corporation, whose principal place of business and post office address is at Lahaina, County of Maui, State of Hawaii, hereinafter called "LESSEE-OWNER", is the lessee of those certain parcels of land situate at Mahinahina 1, 2 and 3, Kaanapali, Lahaina, Island and County of Maui, State of Hawaii, under that certain lease, dated July 30 1968, recorded with the Bureau of Conveyances of the Sate of Hawaii at Liber 6165, Page 310, for a term of sixty-five (65) years, commencing August 1, 1968, under the terms and conditions therein more particularly described;

NOW THEREFORE, Lessee-Owner, it being the sole lessee of the said leasehold, expressly declares it desires to, and does hereby, submit the said leasehold to a horizontal property regime under and pursuant to the provisions of Haw. Rev. Stat., Chapter 514, and as, from time to time, the same may be amended and reenacted.

1. Description of Land. The land submitted to the said horizontal property regime is described as follows:

FIRST: ALL of that certain parcel of land (portion of the land described in Royal Patent Grant Number 1166 to D. Baldwin et al) situate, lying and being at Mahinahina 1, 2 and 3, Kaanapali, District of Lahaina, Island and County of Maui, State of Hawaii, and thus bounded and described as per survey of M. R. Souza, Surveyor, dated March 18th A.D. 1955, to wit:-

Beginning at a pipe on the northeast corner of this parcel of land, west side of Honoapiilani Highway, the coordinates of which point referred to Triangulation Station "Kekaa" are 11,527.95 feet north and 2,028.55 feet east and running by azimuths measured clockwise from true South:-

1.	24° 06'	100.00 feet along Honoapiilani Highway to a pipe;
2.	105° 03'	351.70 feet along land owned by Myrtle J. S. Finamore, Bettimae W. S. Johansen and Ralph E. Sanborn;
3.	194° 35'	100.00 feet along sea, along Highway mark;
4.	265° 03'	366.62 feet along land owned by Lucy Furtado the point of beginning.

Containing an Area of 35,471 Square Feet, or 0.814 Acre, or thereabouts.

SECOND: ALL of that certain parcel of land (portion of the land described in Royal Patent Grant Number 1166 to D. Baldwin, et al) situate, lying and being at Mahinahina 1, 2 and 3, Kaanapali, District of Lahaina, Island and County of Maui, State of Hawaii, and thus bounded and described:-

Beginning at a pipe on the southwest corner of this lot, southeast corner of Lot 2, the coordinates of which point referred to Triangulation Station "Kekaa" are 11,368.96 feet north and 3,742.87 feet east and running by azimuths measured clockwise from true south:-

1.	191° 53'	109.13 feet along Lot 2 to a pipe;
2.	250° 23'	17.55 feet along Lot 5 to a pipe;
3.	285° 03'	97.01 feet along Lot 5 to a pipe;

[1] Original Declaration dated July 22, 1969 and recorded with State of Hawaii, Office of the Bureau of Conveyances July 24, 1969, Liber 6610, pages 352 through 363

4.	17 ° 37'	120.80 feet along Lot 4 to a pipe;
5.	105 ° 59'	100.00 feet along Lot 1 to the point of beginning, containing an Area of 12, 629 square feet, or 0.290 Acre, or thereabouts.

THIRD: ALL of that certain parcel of land (portion of the land described in Royal Patent Grant Number 1166 to D. Baldwin et al) situate, lying and being at Mahinahina 1, 2 and 3, Kaanapali, District of Lahaina, Island and County of Maui, State of Hawaii, and thus bounded and described:-

Beginning at a pipe on the southeast corner of this lot, west side of Honoapiilani Highway, the coordinates of which point referred to Triangulation Station "Kekaa" are 11,313.89 feet north and 3,935.14 feet East and running by azimuths measured clockwise from true south:-

1.	105 ° 59'	100.00 feet along Lot 1 to a pipe;
2.	197 ° 37'	120.80 feet along Lot 3 to a pipe;
3.	285 ° 03'	112.00 feet along Lot 5 to a pipe;
4.	23 ° 11'	123.46 feet along Honoapiilani Highway to the point of beginning, containing an Area of 12, 878 square feet, or 0.296 Acre, or thereabouts.

FOURTH: ALL of that certain parcel of land (portion of the land described in Royal Patent Grant Number 1166 to D. Baldwin et al) situate, lying and being at Mahinahina 1, 2 and 3, Kaanapali, District of Lahaina, Island and County of Maui, State of Hawaii, and thus bounded and described:-

Beginning at a pipe on the southeast corner of this lot, southwest corner of Lot 3, the coordinates of which point referred to Triangulation Station "Kekaa" are 11,368.96 feet North and 3,742.87 feet East and running by azimuths measured clock-wise from true South:-

1.	105 ° 59'	100.53 feet along Lot 1 to a pipe;
2.	185 ° 14'	124.14 feet along seashore to a pipe;
3.	285 ° 03'	114.82 feet along Lot 5 to a pipe;
4.	11 ° 53'	124.14 feet along Lots 5 and 3 to the point of beginning, containing an area of 13,245 square feet, or 0.304 acre, or thereabouts.

FIFTH: ALL of that certain parcel of land being a portion of the Ahupuaa of Mahinahina 1, 2 and 3, situate at Kaanapali, County of Maui, State of Hawaii, and more particularly described as follows:

Beginning at a ¾ inch pipe on the northeast corner of this lot, west side of Honoapiilani Highway, the coordinates of which point referred to Triangulation Station "Kekaa" are 11,436.67 feet north and 3,987.72 feet east and running by azimuths measured clockwise from true south:-

1.	23 ° 11'	10.10 feet along Honoapiilani Highway to a pipe;
2.	105 ° 03'	209.01 feet along Lots 4 and 3 to a pipe;
3.	70 ° 23'	17.55 feet along Lot 3 to a pipe;
4.	191 ° 53'	15.01 feet along Lot 2 to a pipe;
5.	105 ° 03'	114.82 feet along Lot 2 to a pipe;
6.	185 ° 14'	5.07 feet along seashore to a pipe;
7.	285 ° 03'	341.40 feet along property of Winnifred K. Sanborn K. Sanborn to the point of beginning, containing an area of 2,901 square feet, or 0.066 Acre, or thereabouts.

The leasehold estate in said land held by C-C-C-W Development Corporation under that certain lease dated July 30, 1968, recorded with the Bureau of Conveyances of the State of Hawaii at Liber 6165, Page 310, for a term of sixty-five (65) years, commencing August 1, 1968, under the terms and conditions

HLU Committee

From: Maui Vacation Rental Association <ED@mauivacationrentalassociation.org>
Sent: Tuesday, June 30, 2026 9:31 AM
To: HLU Committee
Subject: Testimony - Reso 26-110 & 26-111
Attachments: Reso 26-110 & 26-111 Testimony .pdf

Aloha,

Please see the attached testimony on behalf of Maui Vacation Rental Association regarding Resolutions 26-110 and 26-111.

Mahalo Nui Loa,

Caitlin Miller
Executive Director
MVRA/HIMAST

MAUI VACATION RENTAL ASSOCIATION

Maui County Council
Kalana O Maui Building, 8th Floor
200 South High Street
Wailuku, HI 96793

Aloha Chair, Vice Chair and Members of the Housing and Land Use Committee,

My name is Caitlin Miller, Executive Director of the Maui Vacation Rental Association (MVRA). Mahalo for the opportunity to provide comments on Resolution Nos. 26-110 and 26-111.

First, we would like to thank the Committee for continuing the important work that began through the Temporary Investigative Group and culminated in the adoption of Ordinance 6008. We recognize these resolutions as an important continuation of that effort and appreciate the Council's commitment to thoughtfully implementing the principles developed over the past year.

As we understand it, these resolutions represent one phase of a broader implementation effort, and additional resolutions or amendments may still be forthcoming. Because that work is still evolving, we believe these actions should be viewed as part of the larger implementation process rather than as standalone decisions. MVRA views these resolutions as an important step forward, not a final determination of the properties that may ultimately warrant consideration. As the Council continues this effort, we encourage the consistent application of the principles embodied in Ordinance 6008 so that similarly situated lawful visitor accommodations are evaluated under the same objective standards.

Consistency is essential as implementation moves forward. Ordinance 6008 established the Council's path for H-3 and H-4 rezonings, and we encourage those same objective principles to continue guiding future Council-initiated zoning decisions. Applying those standards consistently will help ensure the zoning framework remains clear, predictable, and equitable for property owners, resident managers, on-island employees, local service providers, neighboring businesses, and the broader community.

The Council should also recognize that the operational characteristics of visitor accommodations have naturally evolved alongside advances in technology and changing guest expectations. Across the broader hospitality industry—not just within visitor accommodations—mobile check-in, digital guest communications, contactless services, and technology-driven hospitality have become commonplace. The absence of a traditional front desk or other historical operating model does not mean a property is unmanaged, unsupervised, or unavailable to guests. Rather, it

reflects the continued evolution of how hospitality is delivered and how guests interact with their accommodations.

For that reason, MVRA respectfully encourages the Council to avoid introducing operational distinctions that were not part of the principles embodied in Ordinance 6008. Whether a property utilizes a front desk, mobile check-in, on-site staff, or other guest service models should not become the determining factor for land use decisions. Operational practices will continue to evolve as technology advances and guest expectations change, but the underlying land use of a property does not. **Land use classifications should be durable enough to withstand changes in technology, business practices, and evolving guest expectations. Operational models will continue to evolve, but the underlying land use remains the same.**

As the Council continues this important work, we respectfully encourage an approach that remains focused on the principles established through Ordinance 6008. Our hope is that the remaining Council-initiated zoning changes build upon those principles through a consistent and objective process that evaluates similarly situated lawful visitor accommodations under the same standards. By maintaining that consistency, the Council can continue modernizing Maui County's zoning framework while providing greater clarity and certainty for property owners, resident managers, employees, businesses, guests, and the communities that have been impacted throughout this process.

Mahalo for your time and consideration.

Caitlin Miller
Executive Director
Maui Vacation Rental Association / Hawai‘i Mid and Short-Term Rental Alliance

HLU Committee

From: Allan Harris <aharris@telus.net>
Sent: Tuesday, June 30, 2026 9:14 AM
To: HLU Committee
Subject: Resolution 26-110 MAUI SUNSET

You don't often get email from aharris@telus.net. Learn why this is important

Attention: The Housing and Land Use Committee July 1, 2026
Aloha,
I write as the principal of a condo at the Maui Sunset mentioned in Resolution 26-110
I fully support the resolution as written
Mahalo

--
R. Allan Harris

HLU Committee

From: County Clerk
Sent: Tuesday, June 30, 2026 8:47 AM
To: HLU Committee
Subject: Fw: HLU Resolution 26-110 Testimony and Analysis attached
Attachments: LB testimony HLU July 1, 2026 .docx; Maalaea analysis revised.xlsx

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From: blb@maui.net <blb@maui.net>
Sent: Tuesday, June 30, 2026 8:40 AM
To: Keani N. Rawlins <Keani.Rawlins@mauicounty.us>; Yukilei Sugimura <Yukilei.Sugimura@mauicounty.us>; Gabe Johnson <Gabe.Johnson@mauicounty.us>; Alice L. Lee <Alice.Lee@mauicounty.us>; Shane M. Sinenci <Shane.Sinenci@mauicounty.us>; K. Kauanoe Batangan <k.kauanoe.batangan@mauicounty.us>; Tamara A. Paltin <Tamara.Paltin@mauicounty.us>; Thomas M. Cook <Thomas.Cook@mauicounty.us>; Nohe-Uu-Hodgins <nohe-uu-hodgins@mauicounty.us>; County Clerk <County.Clerk@mauicounty.us>
Cc: Lynn Britton <blb@maui.net>; Mickey Felipe <yachtmarinamgr@gmail.com>; John Uhl <johnuhl.banyans@gmail.com>; Paul Gammie <pgmaui1@outlook.com>; Satti Brown <sbrown8262004@yahoo.com>; Robert Vafaie <rvafaie@hotmail.com>; Nikta Houston <unikta@gmail.com>; Tanci Mintz <mintztanci@gmail.com>; Tapani Vuori <tvuori@mauioceancenter.com>
Subject: HLU Resolution 26-110 Testimony and Analysis attached

Aloha Maui County Councilmembers and HLU Committee,
I am submitting testimony on tomorrow's agenda item HLU Resolution 26-110. I have included an analysis of all Ma'alaea properties for your review.
Please consider including all eight (8) Maalaea properties on this resolution, as they all meet the criteria you set for the conversion from A-1 and A-2 zoning to the new classification H-3 and H-4. With the upcoming review of the draft South Maui Community Plan, this will save the committee's time and facilitate a smooth transition to the new zoning.
Mahalo for your review and consideration.
With Aloha,
Lynn Britton

June 30, 2026

RE: HLU RESOLUTION 26-110 TO CHANGE THE ZONING FOR CERTAIN TIME SHARE, LEASEHOLD AND OTHER PROPERTIES IN THE A-1 and A-2 APARTMENT DISTRICTS

Aloha HLU Chair U-u Hodgins and Maui County Councilmembers,

Thank you for your past efforts and for moving forward to request the Maui Planning Commission make the necessary changes to zoning to accommodate the apartment-zoned properties that can comfortably be converted to the new H-3 and H-4 classifications in the South Maui and West Maui community plans.

I am concerned that only four (4) Ma'alaea properties area included in the resolution you are submitting to the Planning Commission. My property, Island Sands, was initially included in the TIG report, it is NOT included in the Resolution before you. There are actually eight (8) A-1 and A-2 properties that should be included in this resolution – Maalaea Banyans, Kanai A Nalu and Makani A Kai were left off of the TIG report, and also are not included in this resolution. All eight properties meet the criteria previously set by the committee to justify the change from A-1 and A-2 to H-3 and H-4. **Please refer to the attached analysis of all associated costs for each of the Ma'alaea properties.**

I have offered testimony previously RE Bill 9 and its impact on me personally, a Maui resident since 1973 and owner of a one-bedroom Island Sands Ma'alaea condominium since 1985.

Ma'alaea condominiums are unique - all situated on Haouli St. with one road in and out, on the ocean surrounded by ag. and conservation districts, and have spent over six years pursuing a regional wastewater reclamation system. The benefits of the Ma'alaea regional wastewater system include eliminating the impact of injection wells on Ma'alaea Bay and the ability to produce R-1 water to relieve the ten condominium properties and Maui Harbor Shops and Maui Ocean Center of using the County's precious water resources.

Thank you for your continued efforts to address this important issue. Timing is crucial in moving forward. Because of the confusion caused by Bill 9, all Maui apartment-zoned condominium owners with short term rental incomes have been severely impacted by reduced rental income which affects Maui's tax base, individuals and small businesses. It is prudent to send a complete resolution to the Maui Planning Commission that includes all eight Ma'alaea properties.

Mahalo and Aloha,

Lynn Britton

Lynn Britton
Founder and Past President, Ma'alaea Village Association
P.O. Box 2241, Wailuku, HI 96793

Attachment

Ma`alaea Condominums at a Glance

Condo and TMK		Zoning Matters			Environmental		Financial					
	No Units	Zoning	Minatoya List	Parking deficit to code	SLRXA?	Seawall/ Revet.?	Ave. Sales Price/Unit[1]	Monthly Mortgage Estimate[2]	Leasehold per month per unit	AOAO Fees per month/unit	Estimated Monthly[3]	**Special Assessments per unit[4]**
Mermaid 38014026	39	M-1	No	not analyzed	YES	NO	$532,333				not analyzed	
Yacht Marina 38014024	46	M-1	No	not analyzed	YES	NO	$480,241				not analyzed	
Milowai 38014022	42	A-2	Yes	-42	YES	YES	$572,875	$2,859	$857	$1,912	$5,628	$1,198
Maalaea Kai 380140210000	55	A-2	Yes	-79	YES	YES	$1,044,750	$5,214		$911	$6,125	$1,191
Lauloa 38014016	30	A-2	Yes	-47	YES	YES	$1,029,143	$5,136	some units are leasehold	$1,041	$6,177	
Island Sands 38014015	47	A-2	Yes	-84	YES	YES	$822,444	$4,105		$927	$5,032	$198
Maalaea Banyans 38014011	60	A-2	Yes	-79	YES	YES	$808,526	$4,035		$753	$4,788	$14,395
Kanai A Nalu 38014004	60	A-2	Yes	-81	YES	YES	$645,589	$3,222	$1,235	$1,100	$5,557	$2,880
Hono Kai 38014002	35	A-2	Yes	-46	YES	YES	$479,750	$2,394	$1,289	$1,509	$5,192	
Makani A Kai 38014001	23	A-2	Yes	-24	YES	NO	$966,000	$4,828		$1,198	$6,025	$251

[1] Sales per RPT dating to 2022

[2] Calculated using average sales price with FHB mortgate calculator, 30 yr fixed, 20% down, 3.675%

[3] Does NOT include special assessments, though

[4] Special Assessments are levied on a per/unit basis, either collected monthly or in a lump sum

HLU Committee

From: Steve Cawley <cawley500@yahoo.ca>
Sent: Tuesday, June 30, 2026 7:47 AM
To: HLU Committee
Subject: Resolution 26-110: Kahana Outrigger and Building #4
Attachments: KO Attach 2.png; KO Attach 4.jpg; KO Attach 5.png; KO Attach 1.png; KO Attach 3.png

You don't often get email from cawley500@yahoo.ca. Learn why this is important

Council Members,

I am the AOAO President of Kahana Outrigger. We **very** much appreciate the inclusion of twelve of our sixteen units (three of our four buildings) in Resolution 26-110. However, our Building #4 (TMK 4-3-005:021) was not included, albeit listed in Exhibit I of the public meeting notice. I am hopeful that this email can result in adding Building #4 to the list of properties that will hopefully be zoned H-3 this year.

Kahana Outrigger is a Leasehold Property

- 80% of our land is owned by the Naleieha Family LLC. We renegotiated the lease in the Fall of 2024 with lease payments set until 2041;
- Our monthly AOAO leasehold rent + fees are high; $4,400 per owner *(see KO Attachment 1);*
- Every unit pays roughly the same monthly amount ($20 difference between upper and lower units); Building #4 owners pay the same as the owners of the other buildings.

Kahana Outrigger Recent Sales

- The last sale was in Building #4, unit 4A2, in 2024, and sold for roughly $900,000;
- Unit 3A2 is the only unit for sale today at $1,595,000;
- The tax assessed value of our unit, 1B1, was $1,094,000 for 2026 *(see KO Attachment 2).*

A Significant Special Assessment is Pending

- The heavy rain earlier this year revealed considerable roof wear and tear to each building. Roof repair will approximately cost $200,000 per building;
- Dry rot and building repairs are ongoing and required prior to repainting our buildings. All four buildings need to be repainted (this is necessary every 7-8 years). Significant dry rot and building repairs will begin in August 2026 at a cost of $40,000 per building. The cost of painting will be approximately $60,000 per building and will be completed in 2027 and 2028;
- While we have some reserves set aside, a meaningful portion of the $75,000 per owner (for dry rot, roof and painting expenses) will need to be covered through a special assessment.

•

Other Important Kahana Outrigger information

- Built in 1981, Kahana Outrigger's approved original bylaws and declarations stated that owners "may rent or lease their apartments on any long-term or short-term (including daily) basis…" *(see KO Attachment 3);*
- Up until 2018, all Kahana Outrigger units were tax classified as Hotel/Resort. After 2018, they were classified as TVR-STRH *(see KO Attachment 2);*
- All four Kahana Outrigger buildings each contain four units and are located on the ocean side of Lower Honoapiilani Road, tightly grouped together on 1.3 acres (Building #4 TMK 4-3-005:021 is circled in *KO Attachment 4);*
- All four Kahana Outrigger buildings are vulnerable to sea level rise *(KO Attachment 5)*.

I hope this email is helpful. Please contact me if you'd like any other information regarding Kahana Outrigger. We are appreciative of our partial inclusion and hopeful that all four buildings can be categorized as H-3.

Thank you for your time,

Tracy Tremble
President, Kahana Outrigger AOAO
(250) 212-6561

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Assessment Information

Hide Historical Assessment

Columns

Year	Tax Class	Market Land Value	Agricultural Land Value	Assessed Land	Building Value	Total Assessed Value	Total Exemption Value	Total Net Taxable Value
2026	TVR-STRH	$455,300	$0	$455,300	$639,200	$1,094,500	$0	$1,094,500
2025	TVR-STRH	$455,300	$0	$455,300	$760,800	$1,216,100	$0	$1,216,100
2024	TVR-STRH	$455,300	$0	$455,300	$935,300	$1,390,600	$0	$1,390,600
2023	TVR-STRH	$455,300	$0	$455,300	$728,400	$1,183,700	$0	$1,183,700
2022	TVR-STRH	$229,100	$0	$229,100	$706,400	$935,500	$0	$935,500
2021	TVR-STRH	$208,300	$0	$208,300	$711,700	$920,000	$0	$920,000
2020	TVR-STRH	$208,300	$0	$208,300	$544,800	$753,100	$0	$753,100
2019	TVR-STRH	$189,400	$0	$189,400	$567,900	$757,300	$0	$757,300
2018	TVR-STRH	$172,200	$0	$172,200	$536,300	$708,500	$0	$708,500
2017	HOTEL / RESORT	$311,400	$0	$311,400	$286,300	$597,700	$0	$597,700

How to calculate real property taxes

Historical Tax Information

Columns

Year	Tax	Payments and Credits	Penalty	Interest	Other	Amount Due
⊞ 2026	$14,617.50	$0.00	$0.00	$0.00	$0.00	$14,617.50
⊞ 2025	$15,525.40	($15,525.40)	$0.00	$0.00	$0.00	$0.00
⊞ 2024	$17,773.10	($17,773.10)	$0.00	$0.00	$0.00	$0.00
⊞ 2023	$14,026.85	($14,026.85)	$0.00	$0.00	$0.00	$0.00
⊞ 2022	$11,085.68	($11,085.68)	$0.00	$0.00	$0.00	$0.00
⊞ 2021	$10,226.00	($10,226.00)	$0.00	$0.00	$0.00	$0.00
⊞ 2020	$8,344.35	($8,344.35)	($8.34)	($87.03)	$0.00	$0.00
⊞ 2019	$8,140.98	($8,140.98)	$0.00	$0.00	$0.00	$0.00
⊞ 2018	$6,574.88	($6,574.88)	$0.00	$0.00	$0.00	$0.00
⊞ 2017	$5,600.45	($5,600.45)	$0.00	$0.00	$0.00	$0.00

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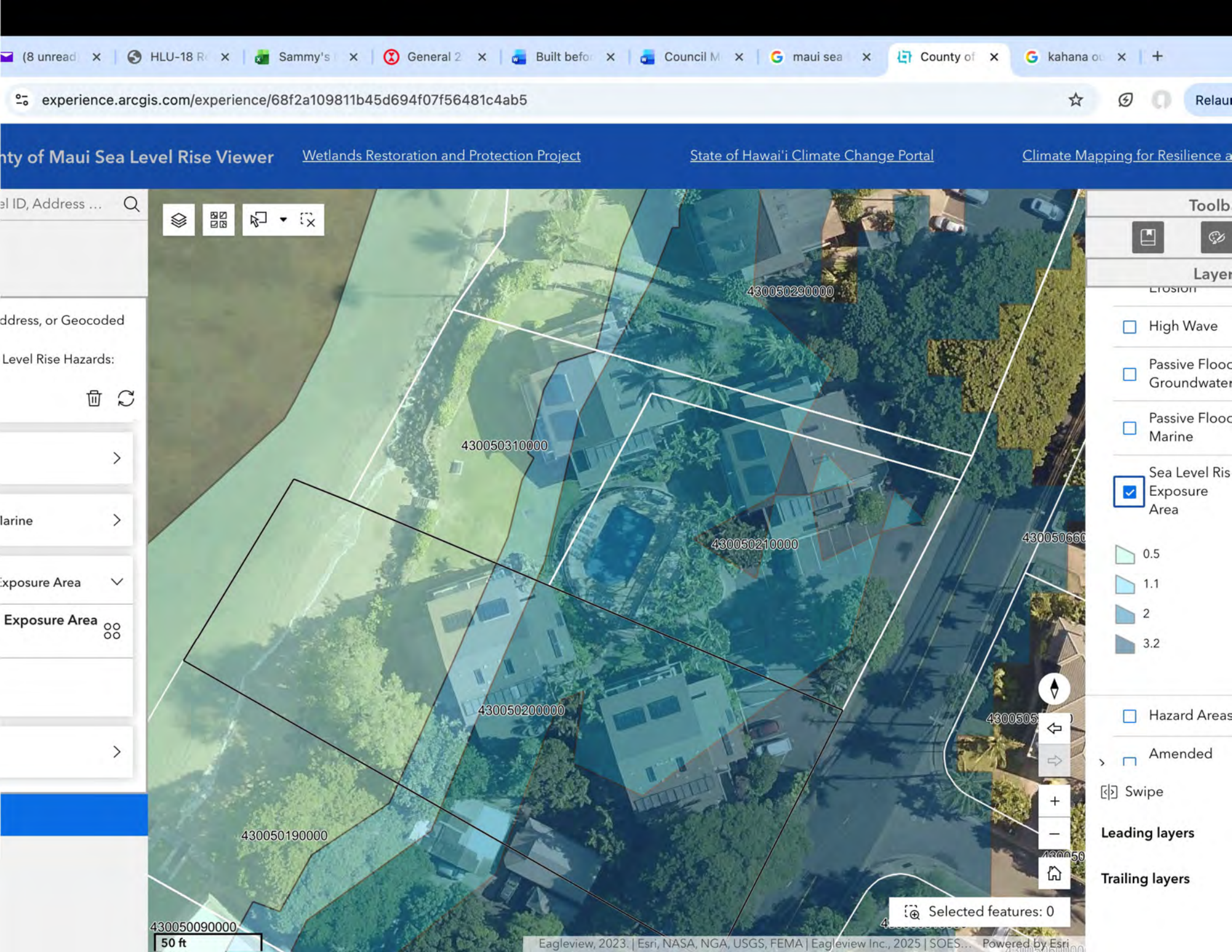
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Tracy Tremble
Kahana Outrigger

billing statement or coupon book. For most current amounts, please contact your management company.

Kahana Outrigger
Address 4521 LOWER HONOAPIILANI ROAD #3B1 (LOT 3B1)
CURRENT BALANCE 0

ACCOUNT	LAST PAYMENT OF	RECEIVED ON
2375458	$ 4414.8	6/4/2026

Jul 2026

	USER_ACCOUNTSTYPE	REFERENCE	COMMENTS	
1st	01	Maint Fees	Recurring Charges: 07/01/2026	$21
1st	03	Lease Rent	Recurring Charges: 07/01/2026	$15
1st	RESERVE	Reserve Fee	Recurring Charges: 07/01/2026	$7

Jun 2026

	USER_ACCOUNTSTYPE	REFERENCE	COMMENTS	
4th	ECHECK	py_3TerskEllAyt1QGl1	Online ACH Payment	-$4
1st	01	Maint Fees	Recurring Charges: 06/01/2026	$21
1st	RESERVE	Reserve Fee	Recurring Charges: 06/01/2026	$7
1st	03	Lease Rent	Recurring Charges: 06/01/2026	$15

May 2026

	USER_ACCOUNTSTYPE	REFERENCE	COMMENTS	
4th	ECHECK	py_3TTd6iEllAyt1QGl0	Online ACH Payment	-$4
1st	RESERVE	Reserve Fee	Recurring Charges: 05/01/2026	$7
1st	03	Lease Rent	Recurring Charges: 05/01/2026	$15
1st	01	Maint Fees	Recurring Charges: 05/01/2026	$21

even though such interest or easements are not expressly mentioned or described in the conveyance or other instrument.

10. Purposes.

(a) The apartments hereinabove described shall at all times be used only as a private dwelling for the owner, his family, tenants and social guests, and for such other purposes which are compatible with the applicable zoning ordinances. The owners of the respective apartments may rent or lease their apartments on any long-term or short-term (including daily) basis for such residential use. The apartments shall not be used as an office or for any other commercial purpose.

(b) The owner of an apartment shall not use or permit to be used the same for any purpose which will injure the reputation of the Project. Such owner shall not suffer

HLU Committee

From: Theresa Boyle <tmb1406@gmail.com>
Sent: Tuesday, June 30, 2026 5:33 AM
To: HLU Committee
Subject: Resolution 110

You don't often get email from tmb1406@gmail.com. Learn why this is important

Dear Committee Members:

I am an owner of a unit within the Maui Sunset resort and am writing today to advocate for the passage of Resolution 110 which would amend our zoning status to H4. It is clear that Maui Sunset will meet the requirements of this zoning because we provide diverse uses including timeshare, short term rentals, long term rentals and full time owners. We also have full time operations staff including a full-time Resident Manager, property maintenance, groundskeeping, security staff and pool maintenance. We also operate a reservation desk 7 days per week with security staff handling off-hour check-ins. This zoning change is an important step in clarifying the zoning regulations for Maui County. Thank you for your work on behalf of the County of Maui and for your consideration of this critical Resolution. Sincerely, Theresa Boyle

HLU Committee

From: mike watson <riomike@pacbell.net>
Sent: Tuesday, June 30, 2026 5:13 AM
To: HLU Committee
Subject: Resolution 110

You don't often get email from riomike@pacbell.net. Learn why this is important

Dear Council Members,
Below is the “extended version” of my comments about the fact that Kanai a Nalu in Maalaea is not included among the properties recommended for the new STR zoning. Three buildings on our street are included in Resolution 110 but Kanai a Nalu is not mentioned yet we meet the same criteria perhaps to a greater degree than the properties included:

1) We are leasehold

2) We are severely impacted by sea level rise (We have just been approved by Maui County
for an almost $3,000,000 oceanfront project paid for by owners to save our condo complex.) This is an expense and risk to long term housing that the study committee
was specifically concerned about.

3) With HOA expenses, leasehold rent, mortgage, cost to repair/maintain oceanfront land Kanai a Nalu would not be
affordable to your constituents
that the legislation is meant to address.

I have owned a condo at Kanai a Nalu in Maalaea for over 30 years. Our family has enjoyed Maui over that time and consider it our second home. In order to afford the expense of owning on Maui (particularly as a “non resident”) we have used it as a short term rental during the times we are not there.
I did read the recent TIG report and believe the recommendations are well thought out and make sense. Our primary residence is Santa Cruz, California and we share some of the same problems as Maui in terms of affordable housing. Santa Cruz is making substantial progress in incentivizing construction of hundreds of units mandated to be “affordable”. I do hope Maui can do the same.

The TIG report identified Apartment District Properties where continuing TVR use may be appropriate. I was surprised that Kanai a Nalu was not on “Exhibit 2” of the report. I believe it must be an oversight. We clearly exhibit the two primary characteristics of the properties on that list.

PROPERTIES WITH MARKET VALUES NOT ATTAINABLE BY MOST MAUI RESIDENTS

Kanai a Nalu is leasehold therefore we pay $1,005/month land lease which will increase $250 this next June
HOA and electric come to about $1,300 per month
Our Board calculates that there will be additional assessments in order to cover building protection due to seawall failure, elevator and roof replacement, spalling, painting. Projected cost of over $3,500,000 to be shared by owners.
The above does not include mortgage, insurance (I pay over $12,000/yr), property taxes (my new bill is over $12,000/yr)
All of these expenses would have to be paid by the renter/new owner. Rent would not be affordable.
This is for 900 square feet 2 bedroom with no storage area, parking for only 1 car, no community infrastructure (stores, schools, close by employment) and on land that is owned by someone else.

PROPERTIES WHERE ANY PORTION OF THE PROPERTY IS LOCATED IN THE FULL SLR-XA OR IS ALREADY IMPACTED BY SEA LEVEL RISE WOULD NOT PRODUCE LONG TERM HOUSING OPTIONS FOR RESIDENTS AND WOULD THEREFORE BE APPROPRIATE FOR CONTINUED TVR USE.

This is particularly where Kanai a Nalu meets the TIG recommendation requirements for inclusion on “Exhibit 2”. We are already “SEVERELY IMPACTED” by sea level rise. Kanai a Nalu is clearly in the worst of the impact areas on the State of Hawaii Sea Level Rise study and mapping. All of Maalaea is in the worst area but we happen to have the most damage to date and are losing land to the ocean as I write. We are currently working with Maui County to on plans to save our property/buildings and expect it will cost well over 1.5 million. Properties on both sides of us are on “Exhibit 2” yet we actually have ongoing damage while they are better protected from ocean damage. This is why I think we were “left off” by oversight.

Thank you for reading this far. I have a couple more points.

LOSS OF COUNTY REVENUE

I will pay over $12,000 property taxes this year. A friend who owns a unit in Kanai a Nalu as a RESIDENT will pay less than $2,000 - a loss to the County of $10,000 per year.
I pay over $7,000 per year in Excise and Transient tax. As you know, Maui now gets paid a portion of that directly.
Think of the tourist revenue lost. How many travelers would be able to afford expensive hotels and 3 meals a day for their families? We STR owners provide a major service to the tourist industry but, of course, the hotels would be happy to have fewer and less expensive options available.

INCENTIVIZING OWNERSHIP/LONG TERM RENTALS

Part of the TIG study postulated extra fees, a lottery, or other additional costs to owners who wish to continue short term rentals. This “stick” as opposed to a “carrot” is shortsighted. We already have the “stick” applied in terms of our substantial property tax differential on the other tourist taxes we pay.

Again, thank you for your attention and work to make Maui more affordable for locals.
I do hope you seriously consider the zoning changes recommended by the TIG study and also include Kanai a Nalu where it belongs among the properties on “Exhibit 2”

Mahalo,
Mike Watson
Owner Kanai a Nalu
250 Hauoli Street, Maalaea

Sent from AT&T Yahoo Mail for iPhone

HLU Committee

From: theshoresofmaui@gmail.com
Sent: Monday, June 29, 2026 4:17 PM
To: HLU Committee
Cc: treasurershoresofmaui@gmail.com
Subject: Testimony on Resolutions 26-110 and 26-111; Request to Include The Shores of Maui (TMK 390170030000) in Council-Initiated Rezoning and Community Plan Amendments
Attachments: Shores of Maui Letter re Rezoning 20260629.pdf

You don't often get email from theshoresofmaui@gmail.com. Learn why this is important

Dear Chair U'u-Hodgins, Vice-Chair Batangan, and Members of the HLU Committee,

The email is sent regarding resolutions 26-110 and 26-111 which the Committee will consider later this week. On behalf of the Shores of Maui AOAO, I am submitting the attached letter addressing the resolutions and our request to be included in Council-initiated rezoning and community plan amendments.

Thank you in advance for your consideration of this information and request.
Sincerely,

Jamie Hollingbery
President
Shores of Maui AOAO

The Shores of Maui

AOAO 2075 South Kihei Kihei, Hawai'i

June 29, 2026

VIA EMAIL TO: HLU.committee@mauicounty.us

RE: Testimony on Resolutions 26-110 and 26-111; Request to Include The Shores of Maui (TMK 390170030000) in Council-Initiated Rezoning and Community Plan Amendments

Dear Chair U'u-Hodgins, Vice-Chair Batangan, and Members of the Committee:

On behalf of the Board of Directors of the Association of Apartment Owners of The Shores of Maui, we respectfully submit this testimony in connection with the Committee's consideration of Resolutions 26-110 and 26-111. We note that the HLU Agenda indicates that the Committee may consider revising the resolutions to add properties from Exhibit 1 attached to the HLU agenda. The Shores of Maui is one of the properties on that list, and we request that the Committee revise the resolutions to include The Shores of Maui in the council-initiated rezoning process.

I. Property Background and Historical Information.

The Shores of Maui is a 50-unit condominium complex located at 2075 South Kihei Road, directly across from the Cove in the heart of Kihei. It was built in 1975 and has operated continuously as a vacation rental property for its entire fifty-one year existence.

The property was developed and marketed as a vacation rental property from the outset. We have included with this submission two letters from individuals who purchased units at The Shores of Maui shortly after it was built, along with documentation establishing vacation rental use. These letters were originally sent to Councilmember Tom Cook and the individuals have approved of the Board including their letters with this request (See Attachments 1 and 2 enclosed with this letter). Both owners testify that the The Shores of Maui originally operated like a hotel with an on-site manager and an office where guests checked in. Jim Seaver originally purchased a unit in 1976 and still owns the same unit today. He describes how units came fully furnished with everything needed to rent them to guests, including towels, silverware, etc. When he purchased his unit in 1976, it was already in use as a vacation rental and the contract he signed required him to honor existing bookings. Notably, he was able to provide a copy of that contract, which is enclosed with his letter (see page 5 which states "Buyer agrees to honor rental commitments made prior to 11/11/76" and "Tourist Rentals to be pro-rated outside of escrow."). Mr. Seaver also recounts how the on-site manager hosted a weekly Mai Tai party for guests down by the pool, which the owners paid for as part of the management fee. The Shores of Maui was clearly built for vacation use and not workforce housing or long-term residential use.

The property's physical design reflects its vacation rental purpose. The complex has only fifty units and dedicates a substantial amount of the property to amenities oriented toward vacationers—a swimming pool, hot tub, tennis and pickleball courts, barbecue areas,

and tropical landscaping—rather than the storage, multi-vehicle parking, and utilitarian spaces that long-term residents require. A majority of units are one-bedroom with a single parking space. The property was built for tourists visiting Kihei, and it has served that purpose for over half a century.

II. Eligibility Under Ordinance 6008.

Ordinance 6008 establishes that the H-3 Hotel District is "reserved for units or structures that had been in the A-1 ... districts ... and where transient vacation rentals had been permitted uses." The Shores of Maui satisfies both elements. The property is zoned A-1, as confirmed by County records and its inclusion on the County's list titled "Apartment District Properties Allowed to be Used for Short-Term Occupancy." Furthermore, TVR use has been conducted at The Shores of Maui since its construction in 1975, well before the April 20, 1989, cutoff date. The property appears on the Minotoya List and has continuously been used for short-term vacation rentals.

III. Consistency with the Stated Purpose of the Resolutions.

A. Resolution 26-111: Properties Operating Like Hotels. Resolution 26-111 provides that a hotel land use designation is appropriate for properties "that operate like hotels—for example, by providing front-desk or similar services or employing groundskeepers and other staff." The stated purpose of Resolution 26-111 is to "change community plan land use designations and approve related community plan amendments to allow Transient Vacation Rental uses to continue at these properties." We note that the requirements stated in the Resolution are disjunctive, requiring either front desk services *or* employing groundskeepers and other staff. The Shores of Maui meets the criteria. The Association employs a full-time on-site property manager who serves as a groundskeeper and maintenance professional, e.g., cleaning the grills each morning for guest use, tidying and arranging the pool area, ensuring guests comply with property rules, and supervising other service providers and contractors on the premises. For years after it was built, The Shores of Maui's on-site manager also checked-in guests (as indicated in the enclosed letters from owners). Today, although the management model has changed as technology has evolved, the Association continues to employ a full-time on-site property manager who is critical to the operation of the property for vacation rental use.

B. Resolution 26-110: Timeshare, Leasehold, and Other Properties. Resolution 26-110 identifies three categories of properties appropriate for H-3/H-4 zoning. Although The Shores of Maui's 50 units exceed the "less than five units" threshold in the third category, it squarely satisfies the underlying policy rationale of that category and of the resolution as a whole—namely, that continued TVR use is appropriate where property values are "difficult for the average potential homeowner to afford" and where the properties will not realistically function as long-term housing. We request that the Committee exercise its discretion to revise "Resolution 26-110 to add properties consistent with the Resolution's purpose" by reconsidering the arbitrary criteria of "less than five units." If the average Maui resident cannot afford units at a property, it makes no difference whether the property has four units or more than four units. As discussed below, The Shores of Maui is not affordable for most Maui residents and was not designed for long-term housing.

IV. Consistency with the Recommendations of the TIG Report.

We are encouraged that the Council appears to be moving forward with implementing the recommendations set forth in the TIG Report. The Shores of Maui was not originally included on Exhibit 2 to the TIG Report and we wish to address that oversight here, either in support of including The Shores of Maui in the resolutions discussed above or in subsequent H-3 rezoning and community plan resolutions proposed by the Council.

A. Properties with Market Values Not Attainable by Most Maui County Residents.

The Shores of Maui does not meet any metric of affordability. Maui County's published 2026 Affordable Sales Price Guidelines establish affordable sales prices for homes based on HUD Median Family Income. For Maui County, the median income is $131,500. Based on the report, even for those earning 100% of Maui's median income, the highest affordable sales price for a one-bedroom unit is $321,930 (at current interest rates of 6.5%) and $412,080 for a two-bedroom unit (See Attachment 3 enclosed with this letter). In 2026, there were two one-bedroom units sold at The Shores of Maui for a price of $610,000 (unit 207) and $599,999 (unit 214). There are currently two units listed for sale, one of which is listed at $659,000 (unit 208, currently shown as "pending") and another listed at $611,000 (unit 114). The Shores of Maui also has eleven two-bedroom units, although none have sold in the past few years. Based on Redfin estimates, the two-bedroom units have an estimated value generally ranging from $700,000 to $1,000,000—far in excess of the $412,080 sales price established by the County's guidelines for two-bedroom units. For your reference, we have included Redfin documentation for the units that sold this year and the two units currently for sale (Attachments 4 and 5).

The sales price is only part of the picture. With an aging property like The Shores of Maui, with only 50 units, assessments are significant. As of May 2026, assessments ranged from $1,613 to $2,241 per month, with an average of $1,910 per month (See Attachment 6). In addition to ongoing expenses, owners are responsible for special assessments and currently there are capital projects that add additional costs to owners, including a large retaining wall repair project (for instance, a monthly expenditure of roughly $500 for owners is included in the figures above which ends this month) and upcoming repairs and replacements to decks. Considering the high sales price and the substantial monthly costs, The Shores of Maui is well out of the affordability range for most Maui residents.

Notably, data compiled by the County bears this out. The Maui Department of Finance transmitted sales data to the Committee showing that since Ordinance 5909 took effect, only 25% of property sales (in areas impacted by the ordinance) have been to local residents, whereas 65% of buyers are out-of-state residents, and 10% are from out of the country. Perhaps the most telling data from the report is that the average sales price for properties purchased by local residents is $451,694. The data confirms what the TIG anticipated: phasing out TVR use does not produce housing for local residents; it produces discounted investment opportunities for mainland and foreign buyers. The Shores of Maui is unfortunately not an affordable option for local residents. It was designed and built for vacation rental use and is not suitable for long-term housing.

B. **Sea Level Rise Exposure Area.**

The TIG Report also concluded that "Properties where any portion of the property is located in the full SLR-XA or would already be impacted by sea-level rise would not produce long-term housing options for residents and would therefore be appropriate to continue TVR uses." The Shores of Maui meets this criteria as well. In connection with a 2025 SMA permit for retaining wall repairs, the Maui County Department of Planning itself determined that The Shores of Maui "is located within the 3.2-foot Sea Level Rise Exposure Area (SLR-XA)." The SMA permit approval (April 30, 2025) is included with this letter as Attachment 7. The property sits directly across South Kihei Road from the Cove, within a FEMA flood zone. The Shores of Maui is unique in this way, because even though it sits mauka of South Kihei Road, there is essentially nothing standing between the ocean and the property other than the roadway itself. The TIG Report correctly determined that properties with this sort of environmental risk profile are not suitable as long-term housing for residents.

V. Request.

Under Ordinance 5909, all TVR operations in A-1 Apartment Districts must cease by July 1, 2028, unless operating under "a separate lawful authority." H-3 rezoning provides that authority. Without inclusion in the Council-initiated process, The Shores of Maui faces a complex-initiated rezoning application which we have been advised will cost hundreds of thousands of dollars and will extend years, likely well beyond the phase-out deadline. It is not a realistic alternative.

We respectfully urge the Committee to add The Shores of Maui to Resolution 26-110 or Resolution 26-111 before it is referred to the Planning Commissions. Once referral occurs, adding properties becomes procedurally far more difficult. As such, we respectfully request that the Committee:

1. Amend Resolution 26-111 or 26-110 to include The Shores of Maui as one of the included properties, adding it to both the proposed Community Plan Amendment bill and the proposed Change in Zoning bill;
2. Alternatively, we request that the Committee (and the full Council) introduce a subsequent resolution carrying out the goals of the TIG Report and specifically including The Shores of Maui in the council-initiated rezoning and community plan amendment process on a timeline allowing completion before the July 1, 2028 phase-out deadline.

We have obtained the property's metes and bounds legal description, which is enclosed as Attachment 8 and available for inclusion in the proposed bills.

Mahalo for your consideration of this request. We are grateful for the Committee's leadership in implementing the TIG's recommendations and creating an efficient pathway for eligible properties.

Respectfully submitted,

BOARD OF DIRECTORS Association of Apartment Owners of The Shores of Maui

By: _____ Jamie Hollingbery, President

By: _____ Renotta Place, Treasurer

Attachments:

1. Letter from Jim Seaver, dated November 23, 2025 (with attachments: Collection Contract, Inventory List)
2. Letter from Robert G. Roddie, K.C., dated November 23, 2025
3. Maui Affordable Housing Guidlines
4. Property Sales Data (Sold)
5. Property Sales Data (Listings)
6. 2025/2026 SOM Assessment Information
7. SMA Permit Approval (April 30, 2025) confirming SLR-XA status
8. Metes and Bounds Legal Description

Attachment 1

November 23, 2025

Councilmember Tom Cook

Via Email: Thomas.cook@mauicounty.us

RE: The Shores of Maui

Dear Mr. Cook,

I am writing in response to the recent report issued by the Temporary Investigative Group on Policies and Procedures for Transient Vacation Rental Uses in Apartment Districts (the "TIG Report"), and in particular the recommendation to continue allowing short-term vacation rental use at certain properties identified in Exhibit 2. I believe that based on the criteria the TIG members used to identify those properties, the Shores of Maui should have been included. I am providing information you may not have had available previously and respectfully request that the Council include The Shores of Maui on the list of properties subject to Council-initiated rezoning as described in the TIG Report. The Shores of Maui has been used for short-term vacation rentals since it was first built in 1975. Banning that use now will impose an unreasonable hardship on owners who purchased units in reliance on rental income, but just as importantly, it will not serve the stated goals of the County to produce more housing for local residents.

For background, I first brought my family to Maui in 1973. We stayed at the Maui Lu in Kihei, one of the few places to stay in the area at that time. We loved Maui and returned to Kihei a few years later in 1976, when we stayed at a brand-new vacation rental property—The Shores of Maui. During that trip, we learned that a unit was for sale (I believe it had previously been used as one of the model units) and eventually my wife and I, together with another couple, were able to purchase it. We would not have been able to purchase the unit but for the fact that it was a vacation rental generating some modest income to offset ownership costs.

At the time we purchased our unit, The Shores of Maui had an on-site manager who handled bookings, checked-in guests, and managed the cleaning and restocking of the units after guests departed. The complex was designed to accommodate short-term vacation rentals and that is how it was represented to us and other owners from the outset. The units came fully furnished with everything needed to rent the unit to guests, including furniture, bedding, towels, silverware, and kitchen supplies. In fact, when we purchased our unit, we were required to honor existing bookings and prorate the rental payments for those bookings at closing. For reference, I am enclosing a copy of the Collection Contract from when we purchased our unit in December 1976, as well as the original inventory list showing that the unit came stocked with linens, housewares, etc. The Collection Contract established the escrow account to collect our payments to the seller, and it states, on page 5: "Buyer agrees to honor rental commitments made prior to 11/11/76" and "Tourist Rentals to be pro-rated outside of escrow." In other words, when we purchased our unit at The Shores of Maui, we purchased an operating vacation rental.

We have owned unit 120 for nearly fifty years. During that entire time, most units at The Shores of Maui have been vacation rentals. The property was never used or intended for workforce housing, and that would not have made sense. The Shores of Maui is relatively small (50 units) and a substantial portion of the property consists of amenities like a tennis court, bbq area, landscaping, and a swimming pool and hot tub. In fact, for many years, the on-site manager hosted a weekly Mai Tai party on Thursday evenings down by the pool to welcome new guests (funded by owners as part of the management fee). The Shores of Maui has always been a place for families and others to vacation in the heart of Kihei, near shops and restaurants that depend on tourism.

Not only has The Shores of Maui been used for short-term rentals its entire existence, but discontinuing that use will not meet the objectives of adding housing stock to Maui. The units are simply not suited for long-term housing. A majority have only one bedroom, and all of the units lack the space and storage that families or long-term occupants typically require. They also have only one parking space, when many families on Maui have more than one vehicle. I ask you to consider the following:

Expenses: The cost of ownership at The Shores of Maui is high. Current assessments (maintenance fees and reserves) are $1,613 to $2,241 per month. The average assessment, including electricity costs, is $1,910 per month. That is *before* factoring in the cost of a mortgage, taxes and condo unit insurance. Unfortunately, the monthly assessments are likely to increase. The Shores of Maui is an aging complex (and not built particularly well to begin with), and already work is underway on a large failing retaining wall that owners must pay for. Owners will also be responsible for anticipated future projects, including asphalt sealing and repair, fence replacement, pool heating system replacement, and significant railing and deck repairs—and that is just some of what has already been identified. The reality is that when shared among only 50 units, the capital repairs and improvements associated with an aging building are costly.

Market Pricing and Attainability: Currently, the least expensive one-bedroom unit available for sale at The Shores of Maui is priced at $699,000 (another is $799,000, and a two-bedroom unit is in excess of $1 million). The monthly cost to purchase the cheapest unit (assuming 10% down and 6% interest), would be between $4,000 to $5,000 a month, resulting in a monthly expenditure, when factoring in assessments, of approximately $6,000 to $7,000. Again, that is currently the *least expensive* one-bedroom unit. The TIG Report identified that "Properties with market values not attainable by most Maui County residents would be appropriate to continue TVR uses." Even if property values decrease significantly, units at The Shores of Maui will not be attainable—or desirable—for most Maui County residents. This is true with respect to purchasing a unit, and perhaps even more so if these units are converted to long-term rentals, as typically the rental rate would exceed the cost of ownership. The prospect of renting a one-bedroom unit with no storage for $7,000 a month (or even thousands less than that) is not attainable for most people.

Environmental Risk: The TIG Report also recognized that "Properties where any portion of the property is located in the full SLR-XA or would already be impacted by sea-level rise would not produce long-term housing options for residents and would therefore be appropriate to continue TVR uses." The Shores of Maui falls into that category. In connection with the ongoing retaining wall repairs, the Maui County Planning Department determined that: "The proposed project is located within the 3.2-foot Sea Level Rise Exposure Area (SLRXA) . . . ." *See enclosed SMA permit approval.* The Shores of Maui is at particular risk considering its unique location across the street from the Cove. Unlike most properties in Kihei, only South Kihei Road separates The Shores of Maui from the ocean, exposing it to the risk of flooding or other catastrophic events. It is very likely that the complex could not be rebuilt as it exists, given Hawaii's Special Management Area requirements and the property's location within the FEMA flood zone. Properties with this sort of environmental risk profile are not suitable for long-term housing, and many other similar South Kihei Road facing properties that are mauka of the roadway are already included on Exhibit 2, including Maui Kamaole, Maui Vista, Kiehi Bay Vista, Hale Kamaole, Kamaole Sands, and Maui Hill. The Shores of Maui is substantially similar these properties and arguably more at risk.

Taxes: The economic impact of banning short-term rentals at The Shores of Maui is also notable. Currently, 86% of units are classified as TVR by the County Assessor. In 2025, those units are paying a total of $444,695 in taxes (an average of $10,342/unit), whereas the remaining non-TVR units pay a total of $4,953 (an average of $708/unit). Just from The Shores of Maui alone, the County is at risk of losing roughly $415,000 in annual tax revenue, money that could be used to meet other pressing needs.

I appreciate your ongoing service to the County as well as that of the other Councilmembers. I understand that the Council must juggle many different priorities and needs in connection with Maui's housing shortage, and no solution is easy. The TIG Report endeavored to bring some coherence to the selection of properties where short-term vacation rental use would be allowed to continue. Based on the criteria specified in the TIG Report, The Shores of Maui should be one of those properties. If the Council proceeds with the recommendations in the TIG Report, The Shores of Maui should be included among the properties subject to Council-initiated rezoning and related land use procedures that will allow TVR uses to continue outright.

Thank you for your time and consideration.

Sincerely,

Jim Seaver

jpseaver@frontier.com

Collection Contract
1976

Retain for your file

COLLECTION CONTRACT

Honolulu, Hawaii

DATE: 12/17/76

James M. Seaver, Pamela L. Seaver, Frederick Joseph Schmidt, Peggy Anne Schmidt, hereinafter "Obligor", and
PAYOR

Tom William Street and Kathleen Marie Street, hereinafter "Obligee", hereby
PAYEE

authorize and direct HOnolulu Computer, hereinafter "Agent", to collect from Obligor on behalf of Obligee, the account hereinafter specified, in the manner hereinafter set forth.

A Apartment Deed is being held in escrow for Obligee by

Hawaii Escrow and Title, Inc.

Agent is hereby authorized and directed to give written notice to said escrow depository upon full payment of all sums due from Obligor to Obligee. Upon demand, Agent is authorized and directed to provide those figures necessary to facilitate satisfaction of the instrument upon which this contract is based.

Obligor and Obligee acknowledge and agree to pay the agent, in addition to the initial service fee, a monthly charge as outlined below.

By acceptance of this Collection Contract, Agent agrees to use ordinary diligence in the collection and disbursement of the installment payments herein provided for; to provide monthly statements to the appropriate parties and to provide annual consolidated accountings of monies received, relating to Obligor. In the event of default in the installment payments herein provided for, Agent agrees to give written notice, as soon as practicable after such default, to Obligor and Obligee, that an installment payment has not been made when due. All parties hereto acknowledge and agree that shall such default occur, the Agent shall have neither responsibility nor authority to enforce collection of the installment payments herein provided for.

This contract may be terminated at any time by any party providing 30 days written notice to the other parties, such notice to be deemed given when posted in the U.S. mail, postage prepaid. Agent, in accepting this contract and in receiving installment payments pursuant hereto assumes no responsibility for the procurement, execution or delivery of any documents to which Obligor may become entitled upon full compliance with the instrument upon which this contract is based, unless such documents have been deposited with Agent for delivery upon satisfaction. Agent will deposit all installment payments received in a federally insured depository until disbursement is made in accordance with the provisions of this contract. Obligor and Obligee understand and agree that in the event that any interest is earned on such deposit, shall accrue to the account of and on the behalf of Agent only. Obligor and Obligee understand and agree that Agent shall act herein only as servicing agent for Obligor and Obligee and, as such, assumes no responsibility for any representations made in the negotiations giving rise to the execution of this contract or in the execution of the instrument upon which this contract is based.

We have read and understand the terms and conditions found in this contract and agree that the information contained in the reverse side of this agreement is a true and factual summary of our requirements of Agent.

OBLIGOR: SIGNATURE: X James M. Seaver X Pamela L. Seaver DATE:
James M. Seaver, Pamela L. Seaver

X Frederick J. Schmidt X Peggy Anne Schmidt DATE:
Frederick J. Schmidt Peggy Anne Schmidt

OBLIGEE: SIGNATURE: X X DATE:
Tom William Street Kathleen Marie Street

DATE:

AGENT ACCEPTANCE: SIGNATURE: DATE:

COLLECTION CONTRACT

TYPE OF ACCOUNT: Agreement of Sale Collection

OBLIGOR: James. M. Seaver, Pamela L. Seaver, Frederick Joseph Schmidt, and Peggy Anne Schmidt
ADDRESS: 7007 58th Drive N. E. , Marysville, Washington 98270
TELEPHONE: Business: _____ Residence: _____

OBLIGEE: Tom William Street and Kathleen Marie Street
ADDRESS: P.O. 1227, Lahaina, Hawaii 96761
TELEPHONE: Business: _____ Residence: _____

AGENT: Honolulu Computer
ADDRESS: _____
TELEPHONE: _____

PROPERTY ADDRESS: apt 120 Shores of Maui TAX KEY: (2) 3/9/17/3,5,&19
SELLING PRICE: $ 59,500.00 DOWN PAYMENT: $ 5,000.00 BALANCE: $ 54,500.00
INTEREST RATE: 9 3/4 % 1ST PAYMENT DUE AGENT: Feb. 1, 1977
INTEREST BEGINS: Jan. 1, 1977 SATISFACTION DATE: five years from Janl, 1977

TOTAL PAYMENT: $ 590.60 INCLUDES:
lease rent: $ _____ RP tax: $ 33.00 Other: $ 2.00 collection fee
maint.: $ 89.40 Insur.: $ _____ Other: $ _____

DISBURSMENTS TO BE MADE BY AGENT:

$ 361.00 MORTGAGE TO: Pacific Savings and Loan NBR: _____
ADDRESS: _____ NEXT DUE: _____
DELIQUENT: _____

$ 89.40 MAINTENANCE TO: Pacific Island Management
ADDRESS: _____ NEXT DUE: _____
DELIQUENT: _____

$ 40.95 OTHER: The Shores of Maui Inc.--2nd Mtg.
ADDRESS: _____ NEXT DUE: _____
DELIQUENT: _____

$ 4.00 AGENT FEE: Honolulu Computer

$ _____ IF DEFICIT ACCOUNT, DUE FROM OBLIGEE: _____

$ 95.25 BALANCE TO: Tom Street
CHECKING SAVINGS AT: _____ NBR: _____
ADDRESS: P.O. Box 1227 Lahiana, Hi. 96761

INITIATION FEE: OBLIGOR: $ 19.50 OBLIGEE: $ 19.50

MONTHLY CHARGE: OBLIGOR: $ 2.00 OBLIGEE: $ 2.00

SPECIAL CONDITIONS: _____
ACCOUNT NUMBER FOR THIS COLLECTION IS: _____. RETURNED CHECKS WILL INCUR A $2.50 PROCESSING FEE PAYABLE TO AGENT. MAKE ALL CHECKS PAYABLE TO: _____

hawaii ESCROW & title inc.
SUITE 1[illegible]2, 700 BISHOP STREET
HONOLULU, HAWAII 96813
PHONE ☐ 521-2977 ☐ 536-0091

Retain for your file

BUYER AND SELLER ESCROW INSTRUCTIONS

Escrow # K-196 Office _____
Date 11/18/76

Deposit Now in Escrow	$ 1,000.00
Paid Outside of Escrow	$
Balance of Down Payment Due Through Escrow	$ 4,000.00
Mortgage Assumed	$
New Mortgage	$
Agreement of Sale	$ 54,900.00
	$
	$
Total Consideration	$ 59,500.00

GENTLEMEN:

Prior to recordation, 19___, I as BUYER WILL hand you $ 5,000.00, plus closing costs (Cashiers or Certified Check payable to Hawaii Escrow & Title, Inc.), and any documents necessary on my part to enable you to comply with these instructions, which you are to use, providing you hold the documents and money, if any, deliverable to me under these instructions and documents have been filed for record entitling you to obtain an evidence of title in the amount of $ 59,500.00, issued by or through Hawaii Escrow and Title, Inc., in the form indicated below;

( ) _____ form of Title Insurance Policy.
(X) Certificate of Title, ( ) Lien Letter,

You are instructed to order title search immediately (Cost of the evidence of title to be paid by seller) title vested in: Tom William Street and Kathleen Marie Street

TITLE TO BE VESTED IN James M. Seaver and Pamela L. Seaver

COVERING PROPERTY described as apt 120 Shores of Maui Condominium, being a one bedroom, one bath apartment located on the ground Floor.

Tax Key (2) 3/ 9/17/3,5,&19,

SUBJECT ONLY TO: 1976 - 1977 Real Property taxes and assessments not delinquent, covenants, conditions, restrictions, rights, rights of way, easements and reservations now of record or in the documents to be recorded and Evidence of clear title furnished by seller

Mortgage securing an indebtedness, now of record (Lenders' statements to show unpaid balances of principal of $ _____, however if same should show to be more or less than said amount, then you are to keep the total consideration the same as shown above, by accordingly adjusting the Buyers' downpayment which the Buyers assume and agree to pay, and the conveyancing document may so recite, _____,

First mortgage to record executed by Buyer(s) in favor of _____ in the amount of $ _____,

Second mortgage to record executed by Buyer(s) in favor of _____ in the amount of $ _____. Payable in monthly installments of $ _____, or more, including interest at the rate of _____% per annum. Interest to begin _____, first payment due _____. Said mortgage to be all due and payable on or before _____.

Agreement of Sale & Consent to record, executed by Buyer(s) in favor of Seller(s), in the amount of $ 54,500.00
Payable in monthly installments of $ 468.20, or more, including interest at the rate of 9 3/4 % per annum
Interest to begin date of recordation, first payment due 30 days after recordation
Said Agreement of Sale to be all due and payable on or before 5 years from date of recordation
~~pre-payment can be made without penalty so long as they do not exceed 20% of seller's first mortgage in any one year. If buyer wishes to pre-pay more than 20% in any one year he must pay seller's prepayment penalty.~~

SPECIAL CONDITIONS: ~~If Buyer withdraws this offer before close of Escrow he will get his deposit back less escrow fees.~~
This sale includes all built-in furniture, fixtures, and equipment and appliances, washer/dryer and furniture viewed by buyer per inventory to be furnished by seller prior to closing.
Maintenance and taxes to be paid by buyer, prorated from date of closing of escrow.
Seller to be frunished copy of full liability, ~~fire and glass insurance~~ and to be notifies b y insurance company of cancellation.
Buyer agrees to honor rental committments made prior to 11/11/76.

Buyer and Seller shall perform all their obligations set forth herein on or before Jan 5, 1976, 19___. Buyer and Seller both agree that this time may be extended for a period of 30 days at the discretion of the Seller's Broker. All documents shall be recorded within a reasonable time thereafter, and upon such recordation, the net proceeds shall be disbursed to Seller.

Buyer shall be given occupancy of the property (on the date of recording of the conveyance to Buyer or) on recordation.

Prorate or adjust the following as of recordation:

(XXXX) Real Property Taxes ( ) Existing Fire Insurance ( ) Lease Rent
( ) Sewer Service Fee (XXXX) Maintenance (XXXX) rentals

( ) Charge the Buyer(s) and credit the Seller(s) with the amount of any funds shown on Mortgage's statement held in Customer Trust Account.
( ) Rents as per Statement Attached
( ) Prorate interest on Mortgage of record, based on statement of Mortgagee.

Buyer and Seller will pay their escrow charges and such other charges as are advanced for them regardless of consummation of this Escrow. Buyer will pay ½ Escrow Fee, costs of recording deed, assignment of lease and consent thereto, mortgage or other documents necessary to complete this Escrow, any notary fees as to Buyers' signatures, if required, and attorneys' fees for drafting the necessary documents other than deed or assignment of lease and consent thereto.

GENERAL PROVISIONS

75. The Buyer and Seller each appoint you as their agent to execute and file any necessary State of Hawaii Conveyance Tax Certificate reporting the consideration for tax purposes in accordance with the applicable statute and regulations thereunder.

If the conditions of this escrow have not been complied with prior to the date set out above, or any extension thereof, you are nevertheless to complete the escrow as soon as the conditions, except as to time, have been complied with, unless written demand shall have been made upon you not to complete it, in which case you may, at your option, retain the money or instruments deposited with you pending the giving of a five day notice to the other parties hereto by ordinary mail at the addresses given below, or may return all money, instruments, or other documents to the parties depositing them in escrow at the addresses indicated below, and such return shall completely discharge and release you from any further obligation and from all liability whatsoever hereunder.

Make prorations on the basis of a 30-day month, based on the latest available tax bills. "Close of escrow", unless otherwise stated herein, shall mean the day papers are filed for record. Funds received in escrow shall be deposited and held with other escrow funds in any general escrow account or accounts maintained by you. It is understood that you shall have no liability for disbursement of any sums above and beyond those furnished pursuant to these escrow instructions. You shall hold said funds and disburse the same until they shall be exhausted unless all of the undersigned parties hereto shall otherwise direct in a writing accepted by you.

You shall be under no obligation or liability for failure to inform the parties hereto regarding any sale, loan, exchange, or other transaction, or facts within your knowledge, even though same concern the property described herein, provided they do not prevent your compliance with these instructions, nor shall you be liable or responsible for the due authorization, sufficiency or correctness as to form, manner of execution, genuineness or validity of any instrument ordered as my agent or deposited by me or on my behalf or otherwise deposited in escrow, nor as to the identity, authority, or rights of any person executing the same, nor as to the due authorization thereunto of any person purporting to have signed the same in any capacity, nor for failure to comply with any of the provisions of any agreement, contract or other instrument filed herein or referred to herein, and your duties hereunder shall be limited to the safekeeping of such money, instruments, or other documents received by you as escrow holder, and for the disposition of same in accordance with the instructions contained in this escrow agreement. You shall act in this transaction solely as escrow agent and shall have no duties or responsibilities of any kind or nature whatsoever, save and except as expressly set forth herein, and your liability as escrow holder shall be confined to the things specifically provided for in the written instructions in this escrow.

If any dispute or difference shall arise between the parties hereto, or with any third person, or if any conflicting demand shall be made upon you or should you before or after close of escrow receive or become aware of any conflicting demands or claims with respect to this escrow or the rights of any of the parties hereto, or any money or property deposited herein or affected hereby, you shall have the right to discontinue any or all further acts on your part until such conflict is resolved to your satisfaction, and you shall have the further rights, but are not required, to commence or defend any action or proceedings for the determination of such conflict. The parties hereto jointly and severally undertake and agree to pay on demand all costs, claims, demands, liabilities, obligations, damages, judgments, costs and expenses, including reasonable attorneys' fees, of any kind and nature which in good faith may be suffered, incurred or sustained by you in connection with, or arising out of or charged by you in this escrow, including but without limiting the generality of the foregoing, any action or proceeding mentioned in the immediately preceding sentence or a suit in interpleader brought by you, or any costs and expenses incurred by you for the interpretation of these instructions. You are hereby given a first lien upon all the rights, title and interest of each of the parties in all papers and other property or moneys deposited in this escrow, to protect your rights and to indemnify and reimburse you under this agreement. In the event you file a suit in interpleader, you may, after deducting your charges for acting hereunder and all of your costs, expenses and reasonable attorneys' fees incurred in connection therewith, or otherwise previously incurred, suffered or sustained by you, deposit the balance of the escrow funds and any documents deposited in escrow in any court of competent jurisdiction for determination by that court of the party or parties entitled to receive the same, and the receipt of the Clerk of the Court therefor shall constitute your full release and discharge from any and all liability to the parties hereto or any other persons arising from or incurred in connection with this escrow agreement and you shall be fully released and discharged from all obligations further to perform any and all duties or obligations imposed upon you in this escrow. You shall not be liable for any act you or your agents, employees or servants may do or omit to do hereunder as escrow agent while acting in good faith and in the exercise of your best judgment, and any act done or omitted by you pursuant to the advice of your attorneys shall be conclusive evidence of such good faith.

It is understood and agreed by Buyer and Seller that you may deposit any funds held in escrow by you pursuant hereto, in an interest bearing account, and that any interest earned on such funds shall accrue in your behalf and for your account only.

Unless otherwise instructed herein, you are hereby authorized to order all required documents to be prepared by an attorney of your choice. Any additional costs occasioned by changes to documents after preparation shall be charged to the party requesting such changes.

These instructions may be executed in counterparts, each of which shall be deemed an original regardless of the date of its execution and delivery. All of such counterparts together shall constitute one and the same document. Any such counterpart when executed by either the Buyer or the Seller shall be fully executed and binding upon the signing party, whether such counterpart shall be executed by the other party or parties hereto. In these instructions whenever the context so requires the masculine gender includes the feminine and neuter, the singular number includes the plural, and the plural includes the singular. The word "record" includes register. It is mutually agreed by the parties to this escrow that all papers, instructions, documents, memorandums, records, and other items pertaining to this escrow which may have been retained by you may be destroyed at the expiration of six years from the date of the last transaction made hereunder.

Any amended, supplemental, or additional instructions given you shall be in writing and shall be subject to the foregoing conditions. To be effective, any such instructions must at least be accepted by you.

THE FOREGOING TERMS, CONDITIONS, PROVISIONS AND INSTRUCTIONS HAVE BEEN READ AND ARE UNDERSTOOD AND AGREED TO BY EACH OF THE UNDERSIGNED AND SHALL BECOME EFFECTIVE UPON YOUR ACCEPTANCE THEREOF.

76. Buyer's Signature(s) X James M. Seaver X Pamela L. Seaver

Street Address 7007 58th Dr. N.E. Zip

Marysville, Washington 98270 Telephone

James M. Seaver Pamela L. Seaver Peggy Schmidt Peggy Schmidt Fred J. Schmidt Fred J. Schmidt

SELLER

Date 19

77. **I HEREBY APPROVE AND AGREE TO THE TERMS, CONDITIONS, INSTRUCTIONS BELOW AND ON THE REVERSE SIDE**
78. **HEREOF AND THE GENERAL PROVISIONS ABOVE.** On or before the Closing Date Seller agrees to hand you the necessary conveyancing document or documents which you will deliver when you hold for Seller's account the sum of $ from
79. which you will deduct and pay the following:
80. Commission of $ 3,570 to Blue Water Properites,
81. Commission of $ to ,
82. State of Hawaii Conveyance Tax, if applicable, ½ Escrow Fee, unless otherwise stated herein, Notary Fee, if applicable, Attorney Fee
83. for drawing documents, Consent Fee, if applicable, Demand of Mortgagee of existing encumbrance of record, if applicable.
84.
85.
86.
87. You will, as my escrow agent, assign any fire insurance policies of mine to the buyer, if prorated, and forward such policies to the parties
88. entitled thereto. In case of loss or damage to the property covered by these instructions subsequent to transfer of title before assignment of
89. policies, the undersigned will pay the proceeds of such policies to Buyer and Buyer's mortgagee, if any, as their respective interests shall
90. appear. Credit my entire sales proceeds, $ to Checking/Savings Account No. ,
91. at Branch and balance to:
92.
93.
94. Seller's Signature(s) X X

Street Address Tom William Street P.O. Box 1227 Lahaina, Hawaii 96761 Kathleen Marie Street Zip Telephone

Retain for your file

hawaii ESCROW & title inc.
SUITE 112, 700 BISHOP STREET
HONOLULU, HAWAII 96813
PHONE ☐ 521-2977 ☐ 536-0091

BUYER AND SELLER ESCROW INSTRUCTIONS

Escrow # K-196 Office _____
Date 11/18/76

Deposit Now in Escrow	$ 1,000.00
Paid Outside of Escrow	$
Balance of Down Payment Due Through Escrow	$ 4,000.00
Mortgage Assumed	$
New Mortgage	$
Agreement of Sale	$ 54,500.00
	$
	$
Total Consideration	$ 59,500.00

GENTLEMEN:

Prior to recordation, 19___, I as BUYER WILL hand you $ 5,000.00 plus closing costs (Cashiers or Certified Check payable to Hawaii Escrow & Title, Inc.), and any documents necessary on my part to enable you to comply with these instructions, which you are to use, providing you hold the documents and money, if any, deliverable to me under these instructions and documents have been filed for record entitling you to obtain an evidence of title in the amount of $ 59,500.00, issued by or through Hawaii Escrow and Title, Inc., in the form indicated below;

( ) _____ form of Title Insurance Policy.

(X) Certificate of Title, ( ) Lien Letter,

You are instructed to order title search immediately (Cost of the evidence of title to be paid by seller) title vested in: Tom William Street and Kathleen Marie Street

TITLE TO BE VESTED IN James M. Seaver and Pamela L. Seaver Frederick Joseph Schmidt Peggy Anne Schmidt

COVERING PROPERTY described as apt 120 Shores of Maui Condominium, being a one bedroom, one bath apartment located on the ground Floor.

Tax Key (2) 3/ 9/17/3,5,&19,

SUBJECT ONLY TO: 1976 - 1977 Real Property taxes and assessments not delinquent, covenants, conditions, restrictions, rights, rights of way, easements and reservations now of record or in the documents to be recorded and Evidence of clear title furnished by seller

Mortgage securing an indebtedness, now of record (Lenders' statements to show unpaid balances of principal of $ _____, however if same should show to be more or less than said amount, then you are to keep the total consideration the same as shown above, by accordingly adjusting the Buyers' downpayment which the Buyers assume and agree to pay, and the conveyancing document may so recite, _____.

First mortgage to record executed by Buyer(s) in favor of _____ in the amount of $ _____.

Second mortgage to record executed by Buyer(s) in favor of _____ in the amount of $ _____. Payable in monthly installments of $ _____, or more, including interest at the rate of _____% per annum. Interest to begin _____, first payment due _____. Said mortgage to be all due and payable on or before _____.

Agreement of Sale & Consent to record, executed by Buyer(s) in favor of Seller(s), in the amount of $ 54,500.00 Payable in monthly installments of $ 468.20, or more, including interest at the rate of 9 3/4 % per annum

Interest to begin date of recordation, first payment due 30 days after recordation

Said Agreement of Sale to be all due and payable on or before 5 years from date of recordation

~~pre-payment can be made without penalty so long as they do not exceed 20% of seller's first mortgage in any one year. If buyer wishes to pre-pay more than 20% in any one year he must pay seller's prepayment penalty.~~

SPECIAL CONDITIONS: ~~If Buyer withdraws this offer before close of Escrow he will get his~~ deposit back less escrow fees.

This sale includes all built-in furniture, fixtures, and equipment and appliances, washer/dryer and furniture viewed by buyer per inventory to be furnished by seller prior to closing.

Maintenance and taxes to be paid by buyer, prorated from date of ~~closing of escrow.~~

Seller to be frunished copy of full liability, ~~fire and glass insurance~~ and to be notifies b y insurance company of cancellation.

Buyer agrees to honor rental committments made prior to 11/11/76.

Tourist Rentals to be pro-rated out side of escrow.

Buyer and Seller shall perform all their obligations set forth herein on or before Jan 5, 1976, 19___. Buyer and Seller both agree that this time may be extended for a period of 30 days at the discretion of the Seller's Broker. All documents shall be recorded within a reasonable time thereafter, and upon such recordation, the net proceeds shall be disbursed to Seller.

Buyer shall be given occupancy of the property (on the date of recording of the conveyance to Buyer or) on recordation

Prorate or adjust the following as of recordation;

(XXXX) Real Property Taxes	( ) Existing Fire Insurance	( ) Lease Rent
( ) Sewer Service Fee	(XXXX) Maintenance	(XXXX) rentals

( ) Charge the Buyer(s) and credit the Seller(s) with the amount of any funds shown on Mortgage's statement held in Customer Trust Account.

( ) Rents as per Statement Attached

( ) Prorate interest on Mortgage of record, based on statement of Mortgagee.

Buyer and Seller will pay their escrow charges and such other charges as are advanced for them regardless of consummation of this Escrow. Buyer will pay ½ Escrow Fee, costs of recording deed, assignment of lease and consent thereto, mortgage or other documents necessary to complete this Escrow, any notary fees as to Buyers' signatures, if required, and attorneys' fees for drafting the necessary documents other than deed or assignment of lease and consent thereto.

GENERAL PROVISIONS

The Buyer and Seller each appoint you as their agent to execute and file any necessary State of Hawaii Conveyance Tax Certificate reporting the consideration for tax purposes in accordance with the applicable statute and regulations thereunder.

If the conditions of this escrow have not been complied with prior to the date set out above, or any extension thereof, you are nevertheless to complete the escrow as soon as the conditions, except as to time, have been complied with, unless written demand shall have been made upon you not to complete it, in which case you may, at your option, retain the money or instruments deposited with you pending the giving of a five day notice to the other parties hereto by ordinary mail at the addresses given below, or may return all money, instruments, or other documents to the parties depositing them in escrow at the addresses indicated below, and such return shall completely discharge and release you from any further obligation and from all liability whatsoever hereunder.

Make prorations on the basis of a 30-day month, based on the latest available tax bills. "Close of escrow", unless otherwise stated herein, shall mean the day papers are filed for record. Funds received in escrow shall be deposited and held with other escrow funds in any general escrow account or accounts maintained by you. It is understood that you shall have no liability for disbursement of any sums above and beyond those furnished pursuant to these escrow instructions. You shall hold said funds and disburse the same until they shall be exhausted unless all of the undersigned parties hereto shall otherwise direct in a writing accepted by you.

You shall be under no obligation or liability for failure to inform the parties hereto regarding any sale, loan, exchange, or other transaction, or facts within your knowledge, even though same concern the property described herein, provided they do not prevent your compliance with these instructions, nor shall you be liable or responsible for the due authorization, sufficiency or correctness as to form, manner of execution, genuineness or validity of any instrument ordered as my agent or deposited by me or on my behalf or otherwise deposited in escrow, nor as to the identity, authority, or rights of any person executing the same, nor as to the due authorization thereunto of any person purporting to have signed the same in any capacity, nor for failure to comply with any of the provisions of any agreement, contract or other instrument filed herein or referred to herein, and your duties hereunder shall be limited to the safekeeping of such money, instruments, or other documents received by you as escrow holder, and for the disposition of same in accordance with the instructions contained in this escrow agreement. You shall act in this transaction solely as escrow agent and shall have no duties or responsibilities of any kind or nature whatsoever, save and except as expressly set forth herein, and your liability as escrow holder shall be confined to the things specifically provided for in the written instructions in this escrow.

If any dispute or difference shall arise between the parties hereto, or with any third person, or if any conflicting demand shall be made upon you or should you before or after close of escrow receive or become aware of any conflicting demands or claims with respect to this escrow or the rights of any of the parties hereto, or any money or property deposited herein or affected hereby, you shall have the right to discontinue any or all further acts on your part until such conflict is resolved to your satisfaction, and you shall have the further rights, but are not required, to commence or defend any action or proceedings for the determination of such conflict. The parties hereto jointly and severally undertake and agree to pay on demand all costs, claims, demands, liabilities, obligations, damages, judgments, costs and expenses, including reasonable attorneys' fees, of any kind and nature which in good faith may be suffered, incurred or sustained by you in connection with, or arising out of or charged by you in this escrow, including but without limiting the generality of the foregoing, any action or proceeding mentioned in the immediately preceding sentence or a suit in interpleader brought by you, or any costs and expenses incurred by you for the interpretation of these instructions. You are hereby given a first lien upon all the rights, title and interest of each of the parties in all papers and other property or moneys deposited in this escrow, to protect your rights and to indemnify and reimburse you under this agreement. In the event you file a suit in interpleader, you may, after deducting your charges for acting hereunder and all of your costs, expenses and reasonable attorneys' fees incurred in connection therewith, or otherwise previously incurred, suffered or sustained by you, deposit the balance of the escrow funds and any documents deposited in escrow in any court of competent jurisdiction for determination by that court of the party or parties entitled to receive the same, and the receipt of the Clerk of the Court therefor shall constitute your full release and discharge from any and all liability to the parties hereto or any other persons arising from or incurred in connection with this escrow agreement and you shall be fully released and discharged from all obligations further to perform any and all duties or obligations imposed upon you in this escrow. You shall not be liable for any act you or your agents, employees or servants may do or omit to do hereunder as escrow agent while acting in good faith and in the exercise of your best judgment, and any act done or omitted by you pursuant to the advice of your attorneys shall be conclusive evidence of such good faith.

It is understood and agreed by Buyer and Seller that you may deposit any funds held in escrow by you pursuant hereto, in an interest bearing account, and that any interest earned on such funds shall accrue in your behalf and for your account only.

Unless otherwise instructed herein, you are hereby authorized to order all required documents to be prepared by an attorney of your choice. Any additional costs occasioned by changes to documents after preparation shall be charged to the party requesting such changes.

These instructions may be executed in counterparts, each of which shall be deemed an original regardless of the date of its execution and delivery. All of such counterparts together shall constitute one and the same document. Any such counterpart when executed by either the Buyer or the Seller shall be fully executed and binding upon the signing party, whether such counterpart shall be executed by the other party or parties hereto. In these instructions whenever the context so requires the masculine gender includes the feminine and neuter, the singular number includes the plural, and the plural includes the singular. The word "record" includes register. It is mutually agreed by the parties to this escrow that all papers, instructions, documents, memorandums, records, and other items pertaining to this escrow which may have been retained by you may be destroyed at the expiration of six years from the date of the last transaction made hereunder.

Any amended, supplemental, or additional instructions given you shall be in writing and shall be subject to the foregoing conditions. To be effective, any such instructions must at least be accepted by you.

THE FOREGOING TERMS, CONDITIONS, PROVISIONS AND INSTRUCTIONS HAVE BEEN READ AND ARE UNDERSTOOD AND AGREED TO BY EACH OF THE UNDERSIGNED AND SHALL BECOME EFFECTIVE UPON YOUR ACCEPTANCE THEREOF.

Buyer's Signature(s) X James M Seaver X Pamela L Seaver

Street Address James M. Seaver Pamela L. Seaver

1007 58th Dr. N.E. Zip

Marysville, Washington 98270 Telephone

Frederick Joseph Schmidt

SELLER

Date 19

I HEREBY APPROVE AND AGREE TO THE TERMS, CONDITIONS, INSTRUCTIONS BELOW AND ON THE REVERSE SIDE HEREOF AND THE GENERAL PROVISIONS ABOVE. On or before the Closing Date Seller agrees to hand you the necessary conveyancing document or documents which you will deliver when you hold for Seller's account the sum of $ from which you will deduct and pay the following:

Commission of $ 3,570 to Blue Water Properites,

Commission of $ to ,

State of Hawaii Conveyance Tax, if applicable, ½ Escrow Fee, unless otherwise stated herein, Notary Fee, if applicable, Attorney Fee for drawing documents, Consent Fee, if applicable, Demand of Mortgagee of existing encumbrance of record, if applicable.

You will, as my escrow agent, assign any fire insurance policies of mine to the buyer, if prorated, and forward such policies to the parties entitled thereto. In case of loss or damage to the property covered by these instructions subsequent to transfer of title before assignment of policies, the undersigned will pay the proceeds of such policies to Buyer and Buyer's mortgagee, if any, as their respective interests shall appear. Credit my entire sales proceeds, $ to Checking/Savings Account No. ,

at Branch and balance to:

Seller's Signature(s) X X

Street Address Tom William Street Kathleen Marie Street

P.O. Box 1227 Zip

Lahaina, Hawaii 96761 Telephone

Inventory List
1976

Return for your file

C. S. Wo & Sons, Ltd. P. O. BOX 1417, HONOLULU, HAWAII 96806

Inventory of Apt #120

SHORES OF MAUI

ONE-BEDROOM UNIT

LIVING ROOM

- 1- Prestige 72" Sofa Bed with Grade E Fabric
- 2- #LCC-1 End Tables with Self-Edged Laminated Plastic Tops
- 2- #LCC-2 Bunching Tables with Self-Edged Laminated Plastic Tops
- 2- Table Lamps (End Table)
- 1- #448SD Desk
- 1- Desk Lamp
- 1- Symphony Chair with Grade E Fabric
- 1- Dining Table #1-CH839
- 4- Side Chairs #5-CH891

BEDROOM

- 1- #1972 Triple Dresser
- 1- #3001 Mirror
- 1- Table Lamp (Dresser)
- 1- #1222 Night Stand
- 1- Table Lamp (Night Stand)
- 2- #1040 Twin Size Headboards
- 2- Twin Size Imperial Quilt Beds with Frame
- 2- Twin Size Throw Style Bedspreads

Jan Hart
Pamela Lawer
Jan S. Mckeon
Peggy Schmidt

LINEN

8 3/3 Flat Sheets (Percale)

4 5/0 Flat Sheets

8 Pillow Cases

4 Pillows

~~2 3/3 Mattress Pads~~

~~1 5/0 Mattress Pad~~

2 3/3 Blankets

1 5/0 Blanket

8 Bath Towels - White (24 X 48)

8 Hand Towels - White (16 X 26)

8 Wash Cloths - White (12 X 16)

2 Bath Mats - White (20 X 30)

KITCHEN PACKAGE

34-pc. Flatware

36-pc. Tableware

1 Pitcher

7-pc. Stainless Cookware - teflon

1 Toaster

1 Coffee Pot

~~8~~ 6 Glasses

8 6 Juice Glasses

1 Cutting Board

3 Mixing Bowls

Tom Street

Pamela Lester

Jo S

James Maker

Peggy Schmidt

- 4- Ashtrays
- 1- Peeler - Corer
- 1- Can Opener
- 1- Spatula
- 1- Bottle Opener
- 1- Paring Knife
- 1- Masher
- 1- Wire Whip
- 1- Measuring Cup
- 1- set Measuring Spoons
- 1- Basting Spoon
- 1- Slotted Spoon
- 1- Fork
- 1- French Cook Knife
- 1- Dish Drainer & Tray
- 2- Kitchen Towels
- 4- Dish Cloths
- 2- Pot Holders
- 1- Wastebasket
- 2- Vanity Wastebaskets
- 1- 1 1/2 Qt. Dish w/ Cover
- 1- 10" Skillet
- 1- Ice Pick
- 1- Serving Tongs
- 4- Mugs
- 1- Set Storage Containers

TOTAL 250.00 plus tax

Tom Obert
Pamela Sewell
Jim Mclean
James Mclean
Peggy Schmidt

1 ice bucket
2 dish towels
1 spatula, rubber
1 funnel
1 loaf pan
1 silverware tray
1 shower curtain
4 16 oz plastic glasses
4 10 oz plastic glasses
1 tea kettle
1 utility knife
1 O.E. electric mixer
1 brownie pan
1 grater & shredder
1 drawer organizer
1 plastic colander
1 4 pc. mixing bowl set
1 bake pan
6 cork & plastic coasters
12 shower curtain hooks
2 straw stirrers
1 butter dish
1 salt & pepper set
1 Ironing Board
1 Iron

Tom Street

Paula Sevier

Jim McLean

Peggy Schmidt

SMA Exemption Approval
3/4/2025

RICHARD T. BISSEN, JR.
Mayor

KATE L. K. BLYSTONE
Director

ANA LILLIS
Deputy Director

DEPARTMENT OF PLANNING
COUNTY OF MAUI
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAI'I 96793

April 30, 2025

Mr. Aaron Hollingbery
11510 Quail Lane
Woodway, Washington 98020

Dear Mr. Hollingbery:

SUBJECT: SPECIAL MANAGEMENT AREA (SMA) ASSESSMENT, SHORELINE SETBACK ASSESSMENT (SSAD), AND ENVIRONMENTAL ASSESSMENT EXEMPTION (EAE) FOR REPAIR OF AN EXISTING RETAINING WALL LOCATED AT THE SHORES OF MAUI CONDOMINIUM, 2075 SOUTH KĪHEI ROAD, KĪHEI, MAUI, HAWAI'I; TMK: (2) 3-9-017:003 (SMX2025-00076) (SM52025-000054) (SSAD2025-00010) (EAE2025-00015)

In response to your application received on April 11, 2025, and in accordance with the SMA Rules for the Maui Planning Commission (Commission), Section 12-202-12, the Department of Planning (Department) has made a determination relative to the above project that:

1. The project is not a development, pursuant to Section 205A-22 and may be issued a SMA Exemption;

2. The project has a valuation not in excess of $500,000.00; (Valuation: $220,000.00)

3. The proposed scope of work consists of the following: Repair and maintain the existing retaining wall that fronts the property facing South Kīhei Road by installing 12 horizontal wall tiebacks to stabilize the wall. The entire parcel is located mauka of South Kīhei Road, but is within the Erosion Hazard Line. No ground disturbance is proposed for this project;

4. The project has no significant adverse environmental or ecological effects, provided Best Management Practices (BMPs) are implemented; and

5. The project is consistent with the objectives, policies, and SMA guidelines set forth in the Hawai'i Revised Statutes (HRS), Chapter 205A, and is consistent with the County General Plan and Zoning.

In consideration of the above determination, you are hereby granted an SMA Exemption (SM52025-000054).

Furthermore, in accordance with the *Shoreline Rules for the Commission*, Sections 12-203-3, 12-203-6, 12-203-10, 12-203-11, and 12-203-12, a determination has been made relative to the above-referenced project that:

1. The site is a shoreline property and is subject to the Commission Shoreline Rules;

2. The proposed action will occur within Flood Zone 'X'; therefore, a Flood Development Permit is not required for the project;

3. The proposed scope of work is allowed by the Shoreline Rules 12-203-12(a)(12) and is considered a permissible activity:

   "A structure or activity that has been determined by the director to be a minor structure or minor activity within the shoreline area that does not adversely affect beach processes, does not artificially fix the shoreline, and does not interfere with public access or public views to and along the shoreline and which meets the purpose of this chapter, the building code, flood hazard regulations, and special management area requirements;"

4. The proposed project is located within the 3.2-foot Sea Level Rise Exposure Area (SLRXA) as mapped by the Hawai'i Sea Level Rise Viewer (www.hawaiisealevelriseviewer.org). However, the action has been determined to be exempt pursuant to HRS 205A and the SMA rules of the planning commission. The property owner is aware that the proposed action occurs within the 3.2-foot SLRXA and acknowledges their awareness of the risks of sea level rise and the action's location within the 3.2-foot SLRXA, as described in their SLRXA acknowledgement document submitted to the Department on 4/25/2025.

Accordingly, you are hereby granted a Shoreline Setback Assessment Determination Approval (SSAD2025-00010), subject to the following conditions:

1. That repairs are made according to the plans titled, "The Shores of Maui Retaining Wall Repairs" prepared by JPB Engineering, Inc., dated September 26, 2024.

2. That BMPs shall be implemented to ensure water quality and marine resources are protected. No construction materials shall be stockpiled in the aquatic environment. All construction-related materials shall be free of pollutants and placed or stored in ways to avoid or minimize disturbance. No debris, petroleum products or deleterious materials or wastes shall be allowed to fall, flow, leach, or otherwise enter near shore waters. Any turbidity and siltation generated from activities proposed at the site shall be minimized and contained in the immediate vicinity of construction through the use of effective silt containment devices. Construction during adverse weather conditions shall be curtailed to minimize the potential for adverse water quality impacts. Appropriate measures to minimize dirt and water runoff, noise, and dust must be used.

3. That a building permit shall be obtained, as applicable, from the Department of Public Works, Development Services Administration.

4. That the proposed scope shall be initiated by **May 31, 2027,** and shall be completed within two years of said initiation.

5. That construction hours shall be limited to 8:00 a.m. to 5:00 p.m.

6. That in the event historic resources, including human skeletal remains, structural remains, cultural deposits, or lava tubes are identified during construction activities, all work shall cease in the immediate vicinity of the find, the find shall be protected from additional disturbance, and Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD), Maui Section, shall be contacted immediately at (808) 243-1285. Work shall not continue until cleared by DLNR-SHPD.

7. That full compliance with all other applicable governmental requirements shall be rendered.

ENVIRONMENTAL ASSESSMENT EXEMPTION

The project was reviewed in accordance with Chapter 343, HRS. The Department finds that the project triggers compliance with environmental review because it involves the "*Use within the shoreline area.*" However, the project qualifies for the following exemption in accordance with HAR Chapter 11-200.1-15(c):

(1) Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing;

Accordingly, you are hereby granted an Environmental Assessment Exemption (EAE2025-00015).

In summary, the Department grants a SMA Exemption (SM52025-000054), Shoreline Setback Approval (SSAD2025-00010) and Environmental Assessment Exemption (EAE2025-00015) for the work described in your SMA Assessment Application (SMX2025-00076). PLEASE NOTE THAT OTHER PERMITS OR APPROVALS MAY BE REQUIRED.

Thank you for your cooperation. If additional clarification is required, please contact Planner Brailey Gonsalves at Brailey.K.Gonsalves@mauicounty.gov or at (808)270-6297.

Sincerely,

DANNY A. DIAS
Planning Program Administrator

for KATE L. K. BLYSTONE
Director

Attachments: Approved Plans
cc: Carolyn Cortez, Interim Planning Program Administrator (PDF)
Kurt Wollenhaupt, Land Use Planning Supervisor (PDF)
Brailey Gonsalves, Planner (PDF)
Aaron Hollingbery, Applicant (PDF)
DAD:BKG:hlk
K:\WP_DOCS\Planning\SMX\2025\00076_SOMRetainingWallRepair\SM5_SSAD_EAE.pdf

Attachment 2

November 23, 2025

Councilmember Tom Cook
Via Email: Thomas.cook@mauicounty.us
RE: The Shores of Maui/Bill 9

Dear Councilmember Cook,

To introduce myself I am a 91 year old retired lawyer from Southern Alberta in Canada. Although I have no say in this matter feel that I might have something to add regarding the Minatoya matter.

Our family first visited Maui in about 1973 when we stayed at the Lahaina Roads Appts in Lahaina, which I am pleased to hear has been repaired after the fires and is now about ready for occupancy, and returned there for 3 more years. In December of 1975 we first went to Kihei and looked at a new complex being built across from Cove Park. We closed the purchase at the Shore of Maui in April 1976 and owned a unit in that complex for over 10 years when we decided to sell as we thought there might be somewhere better where we could spend our winter vacations. After trying Arizona and Florida for a couple of years decided there was nothing better and we have been returning to Maui annually ever since even during the Covid years. We have been renting the same unit at the Shores of Maui, not in the unit we had sold, for the past 22 years staying for over 5 months each year and consider Maui as our 2nd home.

For the first number of years after we purchased at the Shores of Maui it was run by the Board of Directors and was operated like a hotel with a manager and office where all guests checked in and were given their keys and arranged payment. I was on the Board for a number of years and after I left the board the property transitioned into having a resident manager and every owner either renting out their own units, renting through a rental agent or a few of them residing there full time, which is currently the case as we understand it.

From our prospective as a former owner and long time tenant, and having been regularly kept advised by other owners and full time residents, believe that to try to convert these units that have always been used on vacation rentals to long term rentals will create nothing but problems even if the units lose enough value to be affordable new local owners would not be able to afford the maintenance fees, insurance and taxes and the properties

would soon become derelict properties. Our understanding of the municipal tax rules would also cause a large loss of revenue for the County. We cannot envision residents willing to commute to the Lahaina side daily.

My considered opinion is that the County should not make any drastic changes to the zoning of the Shores of Maui property. Bill 9 will disrupt the use of owners and guests such as me and will not result in the desired housing. County efforts such as the current conversion of the Haggai Institute in Kihei are more likely to effectively provide affordable housing.

To conclude my wife and I are not sure how many more years we will physically be able to return to Maui but we very much love Maui and hopefully Maui Pono and others will enable Maui to become more self sufficient and its people not be so dependent upon tourism but until that time tourism is very important and too many tourists will stay away if all that is available for accommodation are hotels.

Respectively submitted,

ROBERT G. RODDIE K.C.

Box 1755
Nanton, Alberta
T0L 1R0

Attachment 3

Prepared by:
County Housing Programs Division
Department of Housing
COUNTY OF MAUI

2026
AFFORDABLE SALES PRICE GUIDELINES
MAUI (EXCEPT HANA)
MULTI-FAMILY

Effective: **June 1, 2026**

		Percent of Median Income											
		Very Low	Low Income			Below Moderate		Moderate		Above Moderate		Gap Income	
		50% & Below	(51% to 80%)			(81% to 100%)		(101% to 120%)		(121% to 140%)		(141% to 160%)	
Prevailing Int. Rate	No. of Bedroom	50%	60%	70%	80%	90%	100%	110%	120%	130%	140%	150%	160%
		$65,750	$78,900	$92,050	$105,200	$118,350	$131,500	$144,650	$157,800	$170,950	$184,100	$197,250	$210,400
6.375%	1	$163,100	$195,650	$228,340	$260,960	$293,510	$326,130	$358,820	$391,370	$423,990	$456,610	$489,230	$521,850
	2	$198,050	$237,575	$277,270	$316,880	$356,405	$396,015	$435,710	$475,235	$514,845	$554,455	$594,065	$633,675
	3	$233,000	$279,500	$326,200	$372,800	$419,300	$465,900	$512,600	$559,100	$605,700	$652,300	$698,900	$745,500
	4	$267,950	$321,425	$375,130	$428,720	$482,195	$535,785	$589,490	$642,965	$696,555	$750,145	$803,735	$857,325
6.500%	1	$161,000	$193,130	$225,330	$257,530	$289,730	$321,930	$354,130	$386,330	$418,530	$450,730	$482,930	$515,060
	2	$195,500	$234,515	$273,615	$312,715	$351,815	$390,915	$430,015	$469,115	$508,215	$547,315	$586,415	$625,430
	3	$230,000	$275,900	$321,900	$367,900	$413,900	$459,900	$505,900	$551,900	$597,900	$643,900	$689,900	$735,800
	4	$264,500	$317,285	$370,185	$423,085	$475,985	$528,885	$581,785	$634,685	$687,585	$740,485	$793,385	$846,170
6.625%	1	$158,900	$190,610	$222,460	$254,240	$286,020	$317,800	$349,580	$381,360	$413,070	$444,920	$476,630	$508,480
	2	$192,950	$231,455	$270,130	$308,720	$347,310	$385,900	$424,490	$463,080	$501,585	$540,260	$578,765	$617,440
	3	$227,000	$272,300	$317,800	$363,200	$408,600	$454,000	$499,400	$544,800	$590,100	$635,600	$680,900	$726,400
	4	$261,050	$313,145	$365,470	$417,680	$469,890	$522,100	$574,310	$626,520	$678,615	$730,940	$783,035	$835,360
6.750%	1	$156,870	$188,230	$219,590	$251,020	$282,380	$313,740	$345,100	$376,460	$407,890	$439,250	$470,610	$501,970
	2	$190,485	$228,565	$266,645	$304,810	$342,890	$380,970	$419,050	$457,130	$495,295	$533,375	$571,455	$609,535
	3	$224,100	$268,900	$313,700	$358,600	$403,400	$448,200	$493,000	$537,800	$582,700	$627,500	$672,300	$717,100
	4	$257,715	$309,235	$360,755	$412,390	$463,910	$515,430	$566,950	$618,470	$670,105	$721,625	$773,145	$824,665
6.875%	1	$154,840	$185,850	$216,860	$247,800	$278,810	$309,750	$340,690	$371,700	$402,710	$433,650	$464,660	$495,530
	2	$188,020	$225,675	$263,330	$300,900	$338,555	$376,125	$413,695	$451,350	$489,005	$526,575	$564,230	$601,715
	3	$221,200	$265,500	$309,800	$354,000	$398,300	$442,500	$486,700	$531,000	$575,300	$619,500	$663,800	$707,900
	4	$254,380	$305,325	$356,270	$407,100	$458,045	$508,875	$559,705	$610,650	$661,595	$712,425	$763,370	$814,085
7.000%	1	$152,880	$183,540	$214,060	$244,720	$275,240	$305,900	$336,420	$367,010	$397,600	$428,190	$458,780	$489,300
	2	$185,640	$222,870	$259,930	$297,160	$334,220	$371,450	$408,510	$445,655	$482,800	$519,945	$557,090	$594,150
	3	$218,400	$262,200	$305,800	$349,600	$393,200	$437,000	$480,600	$524,300	$568,000	$611,700	$655,400	$699,000
	4	$251,160	$301,530	$351,670	$402,040	$452,180	$502,550	$552,690	$602,945	$653,200	$703,455	$753,710	$803,850
7.125%	1	$150,990	$181,160	$211,400	$241,640	$271,880	$302,050	$332,220	$362,460	$392,630	$422,870	$453,040	$483,210
	2	$183,345	$219,980	$256,700	$293,420	$330,140	$366,775	$403,410	$440,130	$476,765	$513,485	$550,120	$586,755
	3	$215,700	$258,800	$302,000	$345,200	$388,400	$431,500	$474,600	$517,800	$560,900	$604,100	$647,200	$690,300
	4	$248,055	$297,620	$347,300	$396,980	$446,660	$496,225	$545,790	$595,470	$645,035	$694,715	$744,280	$793,845
7.250%	1	$149,100	$178,990	$208,810	$238,630	$268,450	$298,340	$328,090	$357,980	$387,800	$417,550	$447,440	$477,260
	2	$181,050	$217,345	$253,555	$289,765	$325,975	$362,270	$398,395	$434,690	$470,900	$507,025	$543,320	$579,530
	3	$213,000	$255,700	$298,300	$340,900	$383,500	$426,200	$468,700	$511,400	$554,000	$596,500	$639,200	$681,800
	4	$244,950	$294,055	$343,045	$392,035	$441,025	$490,130	$539,005	$588,110	$637,100	$685,975	$735,080	$784,070
7.375%	1	$147,280	$176,750	$206,220	$235,690	$265,160	$294,560	$324,100	$353,570	$382,970	$412,440	$441,910	$471,380
	2	$178,840	$214,625	$250,410	$286,195	$321,980	$357,680	$393,550	$429,335	$465,035	$500,820	$536,605	$572,390
	3	$210,400	$252,500	$294,600	$336,700	$378,800	$420,800	$463,000	$505,100	$547,100	$589,200	$631,300	$673,400
	4	$241,960	$290,375	$338,790	$387,205	$435,620	$483,920	$532,450	$580,865	$629,165	$677,580	$725,995	$774,410
7.500%	1	$145,530	$174,650	$203,700	$232,820	$261,870	$290,990	$320,110	$349,230	$378,350	$407,400	$436,520	$465,640
	2	$176,715	$212,075	$247,350	$282,710	$317,985	$353,345	$388,705	$424,065	$459,425	$494,700	$530,060	$565,420
	3	$207,900	$249,500	$291,000	$332,600	$374,100	$415,700	$457,300	$498,900	$540,500	$582,000	$623,600	$665,200
	4	$239,085	$286,925	$334,650	$382,490	$430,215	$478,055	$525,895	$573,735	$621,575	$669,300	$717,140	$764,980
7.625%	1	$143,780	$172,480	$201,250	$230,020	$258,720	$287,490	$316,260	$344,960	$373,730	$402,500	$431,270	$459,970
	2	$174,590	$209,440	$244,375	$279,310	$314,160	$349,095	$384,030	$418,880	$453,815	$488,750	$523,685	$558,535
	3	$205,400	$246,400	$287,500	$328,600	$369,600	$410,700	$451,800	$492,800	$533,900	$575,000	$616,100	$657,100
	4	$236,210	$283,360	$330,625	$377,890	$425,040	$472,305	$519,570	$566,720	$613,985	$661,250	$708,515	$755,665

Attachment 4

SOLD MAR 31, 2026
Video
Street View
Redesign

50 photos

SOLD ON MAR 2026

$599,999

1 bd • 1 ba • 751 sq ft

2075 S Kihei Rd #214, Kihei, HI 96753

Is this your home?

Track this home's value and nearby sales activity

I own 2075 S Kihei Rd #214

Estimated sale price

$667,000 – $807,000

Reach more buyers when you sell with Redfin. Plus, you'll save **$7,012** in fees.

Schedule a selling consultation

About this home

This stunning 1-bedroom, 1-bath condo at Shores of Maui offers one of the best views on the island! Watch surfers catch waves all day, with a direct view of the cove from the extra-large, private lanai. Beautifully remodeled throughout. Gorgeous travertine tile, and a spacious attic for extra storage. Currently vacation rentable, Shores of Maui also features a pool and tennis/pickelball courts, making this truly a special place to call home.

Condo Property Type	1975 Year Built	1.75 acres Lot Size
$799 Price/Sq.Ft.	$1,153/mo HOA Dues	

Listed by Tom Tezak • Hawaii Life (W)
Contact: Cell: 808-280-2055
Bought with Gary Mooers • Coldwell Banker Island Prop(S)

Redfin checked: a minute ago • Source: RAM MLS #406019

Redfin Estimate

$701,242

▲ **$101K** since sold in March 2026 ▲ **$22K** since May

Recently sold homes Estimate history Homes for sale

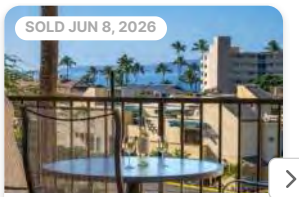
This home's estimate is **32.2%** higher than the average sale price ($531K) of 6 comparable homes.

$610,000 A

1 bed 1 bath 626 sq ft
2075 S Kihei Rd #207, Kihei, ...

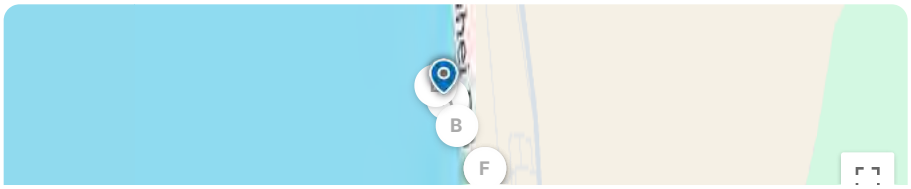
$179,500 B

1 bed 1 bath 588 sq ft
7 Kaiau Pl #4, Kihei, HI 96753



$640,000 C

1 bed 1 bath 700 sq ft
2387 S Kihei Rd Unit B303,...



Claim this home to receive a free report every month with insights on the changing estimate.

I own 2075 S Kihei Rd #214

Market trends in 96753, HI

Last updated May 2026

Buyer's Market

Seller's Market

Sale-to-List Price
95.4% ↑ +0.1% MoM

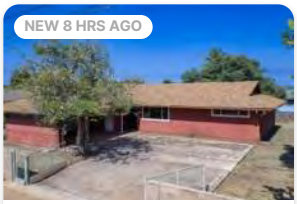
Median sale price
$1.0M ↓ $78K MoM

Avg. days on market
123d ↑ 2 days MoM

Recently sold homes
150 ↓ 2 MoM

New listings for sale

$1,095,000
3 beds 1 bath 864 sq ft
1937 Peke Pl, Kihei, HI 96753



$898,000
2 beds 2 baths 1,158 sq ft
217 Awa Pl, Kihei, HI 96753

$799,000
1 bed 2 baths 1,039 sq ft
2777 S Kihei Rd Unit D103, Kihei, ...

Homeowner tools

View owner dashboard
Track your estimate and nearby sale activity

Edit home facts
Review property details and add renovations

Manage photos
Update home photos or make them private

Rental estimate
Est. $2,562 per month, based on comparable rentals

Sale and tax history for 2075 S Kihei Rd #214

Sale History Tax History

Date	Event	Price
RAM MLS #406019		
Mar 31, 2026	Sold	$599,999

		$799/sq ft
Feb 18, 2026	Contingent	—
Aug 18, 2025	Price Changed	$699,000 $931/sq ft
May 19, 2025	Listed	$799,000 $1,064/sq ft

RAM MLS #404550

Mar 10, 2025	Listing Removed	—

Show more

Public record

Public record Zoning

Beds	1	Style	Condo/Co-op
Baths	1	County	Maui County
Stories	1	APN	390170030039
Lot width	—	Parking Spaces	—
Lot depth	—	Basement	—
Lot size	—	Accessible	—
Year renovated	—	HOA Dues	—
Sq. Ft.	751	Garage	—
Year built	1975	Features	—

Last updated by owner on May 26, 2026.

Property details

Interior

Virtual Tour Information

- Virtual Tour (Branded)
- Virtual Tour (Unbranded)

Bathroom Information

- # of Bathrooms (Total Integer): 1

Interior Features

- Appliances: Dishwasher, Disposal, Dryer, Microwave, Range, Refrigerator, Washer
- Flooring: Stone/Concrete
- Interior Features: Kitchen Ware, Linens, TV Cable

Exterior

Building Information

- Building Name: Shores of Maui
- Construction Materials: Hollow Tile

Property Information

- Property Type: Residential
- Property Attached: Yes

Exterior Features

- Roof: Aluminum/Steel
- Exterior Features: Tennis Court(s)

- Property Sub Type: Condominium
- Structure Type: Low-Rise 1-3 Stories
- Year Built: 1975
- Living Area: 751

Show all property details

About this building

Photo via 2075 S Kihei Rd #125

2 for sale

2075 S Kihei Rd, Kihei, HI 96753

See photos & sale trends

Units for sale

Unit	Price	Beds	Baths	Sq Ft
114	$611,000	1 bed	1 bath	626 sq ft
208	$659,000	1 bed	1 bath	626 sq ft

Around this home

75/100 Very Walkable 59/100 Bikeable

Schools Places Transit

Kamalii Elementary School
Public PreK-5 • Assigned • 0.8mi 7/10 >

Lokelani Intermediate School
Public 6-8 • Assigned • 1.2mi 3/10 >

Kulanihakoi High School
Public 9-11 • Assigned • 2.4mi >

Show nearby schools

Provided by GreatSchools

Climate risks

10/10 Flood Factor
Estimated 80%+ chance of a flood reaching the building in the next 30 years

Fire Factor
We're working on getting current and accurate fire risk information for this home.

Heat Factor
We're working on getting current and accurate heat risk information for this home.

Wind Factor
We're working on getting current and accurate wind risk information for this home.

1/10 Air Factor
Minimal risk of unhealthy air over next 30 years

View full report

Provided by First Street

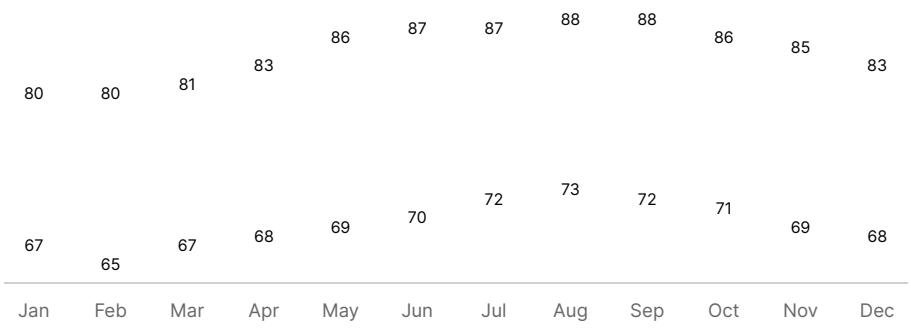
Historical weather

More on The Weather Channel

Kihei, HI • 96753

Temperature | Precipitation | Snowfall | UV index | Humidity

Average low and high temperatures (°F)



Sun exposure

In this area, properties receive around 8.9 hours in June and 6.4 hours in December, placing it above the U.S. average for solar exposure.

View sun simulation

Provided by Shadowmap

Recommended for you

Based on homes you've looked at.

$750,000
1 bed 2 baths 818 sq ft
2695 S Kihei Rd #9306, Kihei, HI 96753

$569,000
2 beds 2 baths 745 sq ft
2219 S Kihei Rd Unit B403, Kihei, HI 96753

$559,000
1 bed 1 bath 640 sq ft
1299 Uluniu Rd Unit 103A, Kihei, HI 96753

$650,000
2 beds 2 baths 745 sq ft
2219 S Kihei Rd Unit A204, Kihei, HI 96753

3D WALKTHROUGH

$949,000
2 beds 2 baths 1,052 sq ft
2777 S Kihei Rd Unit D208, Kihei, HI 96753

$939,000
2 beds 2 baths 921 sq ft
1993 S Kihei Rd #600, Kihei, HI 96753

View 4 more homes in your Feed

Nearby similar homes

NEW 32 HRS AGO 3D WALKTHROUGH

$1,790,000
2 beds 2 baths 1,831 sq ft
2491 Hihimanu St #114, Kihei, HI 96753

$639,000
1 bed 2 baths 817 sq ft
2881 S Kihei Rd #107, Kihei, HI 96753

$599,900
1 bed 2 baths 818 sq ft
2695 S Kihei Rd Unit 7-108, Kihei, HI 96753

$565,000

VIDEO TOUR

$750,000

$930,000

2 beds 2 baths 756 sq ft
160 Keonekai Rd Unit 27-102, Kihei, HI 96753

1 bed 2 baths 818 sq ft
2695 S Kihei Rd #9209, Kihei, HI 96753

2 beds 2 baths 1,052 sq ft
2777 S Kihei Rd Unit F209, Kihei, HI 96753

View more homes

New listings for sale in 96753

NEW 3 HRS AGO

$1,095,000

3 beds 1 bath 864 sq ft
1937 Peke Pl, Kihei, HI 96753

NEW 8 HRS AGO

$898,000

2 beds 2 baths 1,158 sq ft
217 Awa Pl, Kihei, HI 96753

NEW 8 HRS AGO

$799,000

1 bed 2 baths 1,039 sq ft
2777 S Kihei Rd Unit D103, Kihei, HI 96753

NEW 8 HRS AGO

$1,030,000

3 beds 2 baths 1,432 sq ft
2860 Ohina St, Kihei, HI 96753

NEW 9 HRS AGO

$3,600,000

5 beds 4 baths 3,064 sq ft
3435 Hookipa Pl Unit A, Kihei, HI 96753

NEW 25 HRS AGO

$420,000

2 beds 1 bath 781 sq ft
2065 Kanoe St Unit A, Kihei, HI 96753

LISTED BY REDFIN 29 HRS AGO

$1,195,000

3 beds 2 baths 1,344 sq ft
23 Kuapapa Pl, Kihei, HI 96753

NEW 32 HRS AGO

$1,790,000

2 beds 2 baths 1,831 sq ft
2491 Hihimanu St #114, Kihei, HI 96753

$1,495,000

5 beds 4 baths 1,876 sq ft
2735 Panepoo St, Kihei, HI 96753

Home values near 2075 S Kihei Rd #214

Data from public records.

Address	Redfin Estimate
2075 South Kihei Rd Apartment 204, Kihei, HI 2 Beds | 2 Baths | 976 Sq. Ft.	$717,615
2075 South Kihei Rd Apartment 216, Kihei, HI	$558,346

Address	Redfin Estimate
1 Beds | 1 Baths | 626 Sq. Ft.	

Address	Redfin Estimate
2075 South Kihei Rd Apartment 202, Kihei, HI 2 Beds | 2 Baths | 1048 Sq. Ft.	$1,067,508
2075 South Kihei Rd Apartment 111, Kihei, HI 1 Beds | 1 Baths | 626 Sq. Ft.	$547,346

Address	Redfin Estimate
2075 South Kihei Rd Apartment 206, Kihei, HI 3 Beds | 2 Baths | 1334 Sq. Ft.	$986,156
2075 South Kihei Rd Apartment 222, Kihei, HI 1 Beds | 1 Baths | 626 Sq. Ft.	$548,067

Property information provided by RAM MLS when last listed in 2025. This data may not match public records. Learn more.

More real estate resources

Redfin > Hawaii > Kihei > 2075 S Kihei Rd #214, Kihei, HI 96753

Neighborhoods | Zip Codes | Cities | Popular Searches

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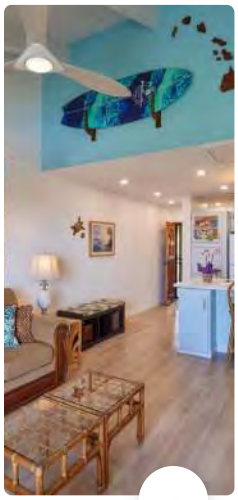
GreatSchools Ratings provided by **GreatSchools.org**.

SOLD JAN 22, 2026
Street View
Redesign



43 photos

SOLD ON JAN 2026

$610,000

1 bd • 1 ba • 626 sq ft

2075 S Kihei Rd #207, Kihei, HI 96753

Is this your home?

Track this home's value and nearby sales activity

I own 2075 S Kihei Rd #207

Estimated sale price

$587,000 – $710,000

Reach more buyers when you sell with Redfin. Plus, you'll save **$6,174** in fees.

Schedule a selling consultation

About this home

WHALE WATCHERS PARADISE: This 1-bed, 1-bath vacation condo offers a private lanai with an unobstructed ocean view of Charley Young Beach, Kihei Cove, and Molokini. Situated just across the street from the ocean, it is a favorite of vacationers and owners. Luxury vinyl plank flooring throughout. Fully furnished and ready to move in; just bring your clothes. Additional storage in the attic. Amenities include a tennis/pickleball court,

Show more

Condo Property Type	1975 Year Built	1.75 acres Lot Size
$974 Price/Sq.Ft.	$1,163/mo HOA Dues	1 space Parking

Listed by Judy Gray • Wailea Point Realty, Inc.
Contact: realty@waileapoint.com
Bought with Tim Hunter • Hawaii Life (W)

Redfin checked: 3 minutes ago • Source: RAM MLS #407035

Redfin Estimate

$617,376

▲ **$7,376** since sold in January 2026 ▼ **$14K** since May

Recently sold homes | Estimate history | Homes for sale

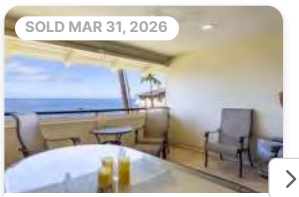
This home's estimate is **32.2%** higher than the average sale price ($467K) of 6 comparable homes.

$179,500 A

1 bed 1 bath 588 sq ft
7 Kaiau Pl #4, Kihei, HI 96753

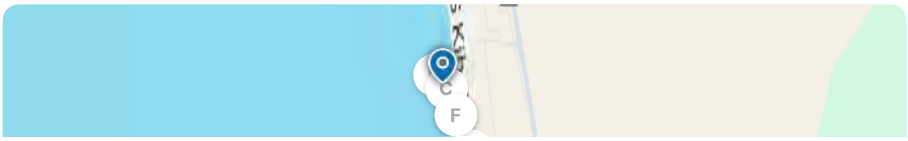
$615,000 B

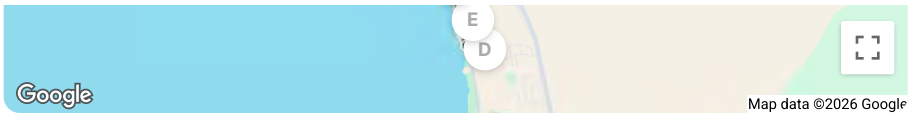
1 bed 1 bath 602 sq ft
1993 S Kihei Rd #503, Kihei, ...



$599,999 C

1 bed 1 bath 751 sq ft
2075 S Kihei Rd #214, Kihei, ...





Claim this home to receive a free report every month with insights on the changing estimate.

I own 2075 S Kihei Rd #207

Market trends in 96753, HI

Last updated May 2026

Buyer's Market

Seller's Market

Sale-to-List Price
95.4% ↑ +0.1% MoM

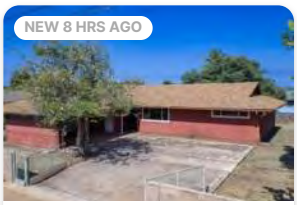
Median sale price
$1.0M ↓ $78K MoM

Avg. days on market
123d ↑ 2 days MoM

Recently sold homes
150 ↓ 2 MoM

New listings for sale

$1,095,000
3 beds 1 bath 864 sq ft
1937 Peke Pl, Kihei, HI 96753



$898,000
2 beds 2 baths 1,158 sq ft
217 Awa Pl, Kihei, HI 96753

$799,000
1 bed 2 baths 1,039 sq ft
2777 S Kihei Rd Unit D103, Kihei, ...

Homeowner tools

View owner dashboard
Track your estimate and nearby sale activity

Edit home facts
Review property details and add renovations

Manage photos
Update home photos or make them private

Rental estimate
Est. $2,466 per month, based on comparable rentals

Sale and tax history for 2075 S Kihei Rd #207

Sale History Tax History

Date	Event	Price

RAM MLS #407035

Jan 22, 2026	Sold	$610,000 $974/sq ft
Oct 20, 2025	Contingent	—
Sep 4, 2025	Listed	$659,000 $1,053/sq ft

RAM MLS #360287

Apr 10, 2014	Sold	$308,000 $492/sq ft
Feb 25, 2014	Listed	$308,000

Show more

Public record

Public record Zoning

Beds	1	Style	Condo/Co-op
Baths	1	County	Maui County
Stories	1	APN	390170030032
Lot width	—	Parking Spaces	—
Lot depth	—	Basement	—
Lot size	—	Accessible	—
Year renovated	—	HOA Dues	—
Sq. Ft.	626	Garage	—
Year built	1975	Features	—

Last updated by owner on May 22, 2026.

Property details

Parking

Parking Information

- Has Open Parking: Yes
- Open Parking Spaces: 1

Interior

Bathroom Information

- # of Bathrooms (Total Integer): 1

Interior Features

- Appliances: Dishwasher, Disposal, Dryer, Microwave, Range, Refrigerator, Washer
- Window Features: Blinds, Drapes
- Flooring: Wood, Tile

- Interior Features: Ceiling Fan(s), Furnished, Kitchen Ware, Linens, TV Cable

Exterior

Building Information **Property Information**

Show all property details

About this building

Photo via 2075 S Kihei Rd #125

2 for sale

2075 S Kihei Rd, Kihei, HI 96753

See photos & sale trends

Units for sale

Unit	Price	Beds	Baths	Sq Ft
114	$611,000	1 bed	1 bath	626 sq ft
208	$659,000	1 bed	1 bath	626 sq ft

Around this home

75/100 Very Walkable 59/100 Bikeable

Schools Places Transit

Kamalii Elementary School 7/10 >
Public PreK-5 • Assigned • 0.8mi

Lokelani Intermediate School 3/10 >
Public 6-8 • Assigned • 1.2mi

Kulanihakoi High School >
Public 9-11 • Assigned • 2.4mi

Show nearby schools

Provided by GreatSchools

Climate risks

10/10 Flood Factor
Estimated 80%+ chance of a flood reaching the building in the next 30 years

Fire Factor
We're working on getting current and accurate fire risk information for this home.

Heat Factor
We're working on getting current and accurate heat risk information for this home.

Wind Factor
We're working on getting current and accurate wind risk information for this home.

1/10 Air Factor
Minimal risk of unhealthy air over next 30 years

View full report

Provided by First Street

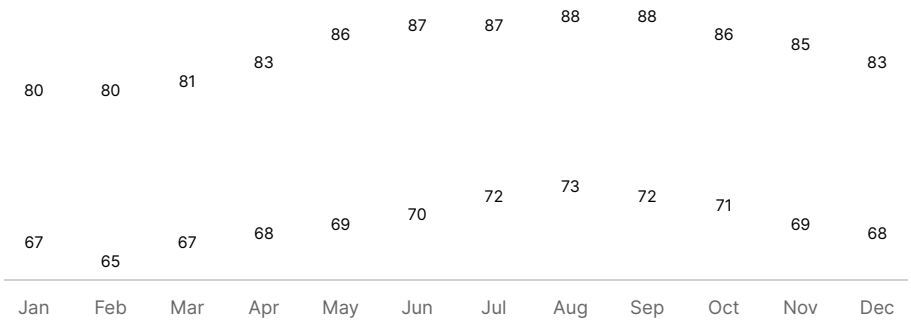
Historical weather

More on The Weather Channel

Kihei, HI • 96753

Temperature | Precipitation | Snowfall | UV index | Humidity

Average low and high temperatures (°F)



Sun exposure

In this area, properties receive around 8.9 hours in June and 6.4 hours in December, placing it above the U.S. average for solar exposure.

View sun simulation

Provided by Shadowmap

Recommended for you

Based on homes you've looked at.

$750,000
1 bed 2 baths 818 sq ft
2695 S Kihei Rd #9306, Kihei, HI 96753

$559,000
1 bed 1 bath 640 sq ft
1299 Uluniu Rd Unit 103A, Kihei, HI 96753

$650,000
2 beds 2 baths 745 sq ft
2219 S Kihei Rd Unit A204, Kihei, HI 96753

3D WALKTHROUGH

$949,000
2 beds 2 baths 1,052 sq ft
2777 S Kihei Rd Unit D208, Kihei, HI 96753

$939,000
2 beds 2 baths 921 sq ft
1993 S Kihei Rd #600, Kihei, HI 96753

3D WALKTHROUGH

$525,000
1 bed 1 bath 588 sq ft
2191 S Kihei Rd #1111, Kihei, HI 96753

View 3 more homes in your Feed

Nearby similar homes

NEW 32 HRS AGO 3D WALKTHROUGH

$1,790,000
2 beds 2 baths 1,831 sq ft
2491 Hihimanu St #114, Kihei, HI 96753

$930,000
2 beds 2 baths 1,052 sq ft
2777 S Kihei Rd Unit F209, Kihei, HI 96753

$799,000
1 bed 2 baths 1,039 sq ft
2777 S Kihei Rd Unit F103, Kihei, HI 96753

$639,000

VIDEO TOUR

$750,000

$599,900

1 bed 2 baths 817 sq ft
2881 S Kihei Rd #107, Kihei, HI 96753

1 bed 2 baths 818 sq ft
2695 S Kihei Rd #9209, Kihei, HI 96753

1 bed 2 baths 818 sq ft
2695 S Kihei Rd Unit 7-108, Kihei, HI 96753

View more homes

New listings for sale in 96753

NEW 3 HRS AGO

$1,095,000

3 beds 1 bath 864 sq ft
1937 Peke Pl, Kihei, HI 96753

NEW 8 HRS AGO

$898,000

2 beds 2 baths 1,158 sq ft
217 Awa Pl, Kihei, HI 96753

NEW 9 HRS AGO

$799,000

1 bed 2 baths 1,039 sq ft
2777 S Kihei Rd Unit D103, Kihei, HI 96753

NEW 9 HRS AGO

$1,030,000

3 beds 2 baths 1,432 sq ft
2860 Ohina St, Kihei, HI 96753

NEW 9 HRS AGO

$3,600,000

5 beds 4 baths 3,064 sq ft
3435 Hookipa Pl Unit A, Kihei, HI 96753

NEW 25 HRS AGO

$420,000

2 beds 1 bath 781 sq ft
2065 Kanoe St Unit A, Kihei, HI 96753

LISTED BY REDFIN 30 HRS AGO

$1,195,000

3 beds 2 baths 1,344 sq ft
23 Kuapapa Pl, Kihei, HI 96753

NEW 32 HRS AGO

$1,790,000

2 beds 2 baths 1,831 sq ft
2491 Hihimanu St #114, Kihei, HI 96753

$1,495,000

5 beds 4 baths 1,876 sq ft
2735 Panepoo St, Kihei, HI 96753

Home values near 2075 S Kihei Rd #207

Data from public records.

Address	Redfin Estimate
2075 South Kihei Rd Apt 203, Kihei, HI 2 Beds | 2 Baths | 1136 Sq. Ft.	$822,226
2075 South Kihei Rd Apt 208, Kihei, HI	—

Address	Redfin Estimate
1 Beds | 1 Baths | 626 Sq. Ft.	

Address	Redfin Estimate
2075 South Kihei Rd Apt 204, Kihei, HI 2 Beds | 2 Baths | 976 Sq. Ft.	$717,615
2075 South Kihei Rd Apt 103, Kihei, HI 2 Beds | 2 Baths | 976 Sq. Ft.	$760,863

Address	Redfin Estimate
2075 South Kihei Rd Apt 106, Kihei, HI 2 Beds | 2 Baths | 1168 Sq. Ft.	$848,032
2075 South Kihei Rd Apt 206, Kihei, HI 3 Beds | 2 Baths | 1334 Sq. Ft.	$986,156

Property information provided by RAM MLS when last listed in 2025. This data may not match public records. Learn more.

More real estate resources

Redfin > Hawaii > Kihei > 2075 S Kihei Rd #207, Kihei, HI 96753

Neighborhoods | Zip Codes | Cities | Popular Searches

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GreatSchools Ratings provided by **GreatSchools.org**.

Attachment 5

City, Address, School, Agent, ZIP

Buy Rent Sell Mortgage Real Estate Agents Feed Aaron

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Kihei Searches
- Homes for sale
- Condos for sale
- Land for sale
- Open houses
- Recently sold

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- Buy with Redfin
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- Home buying guide
- Free home buying classes
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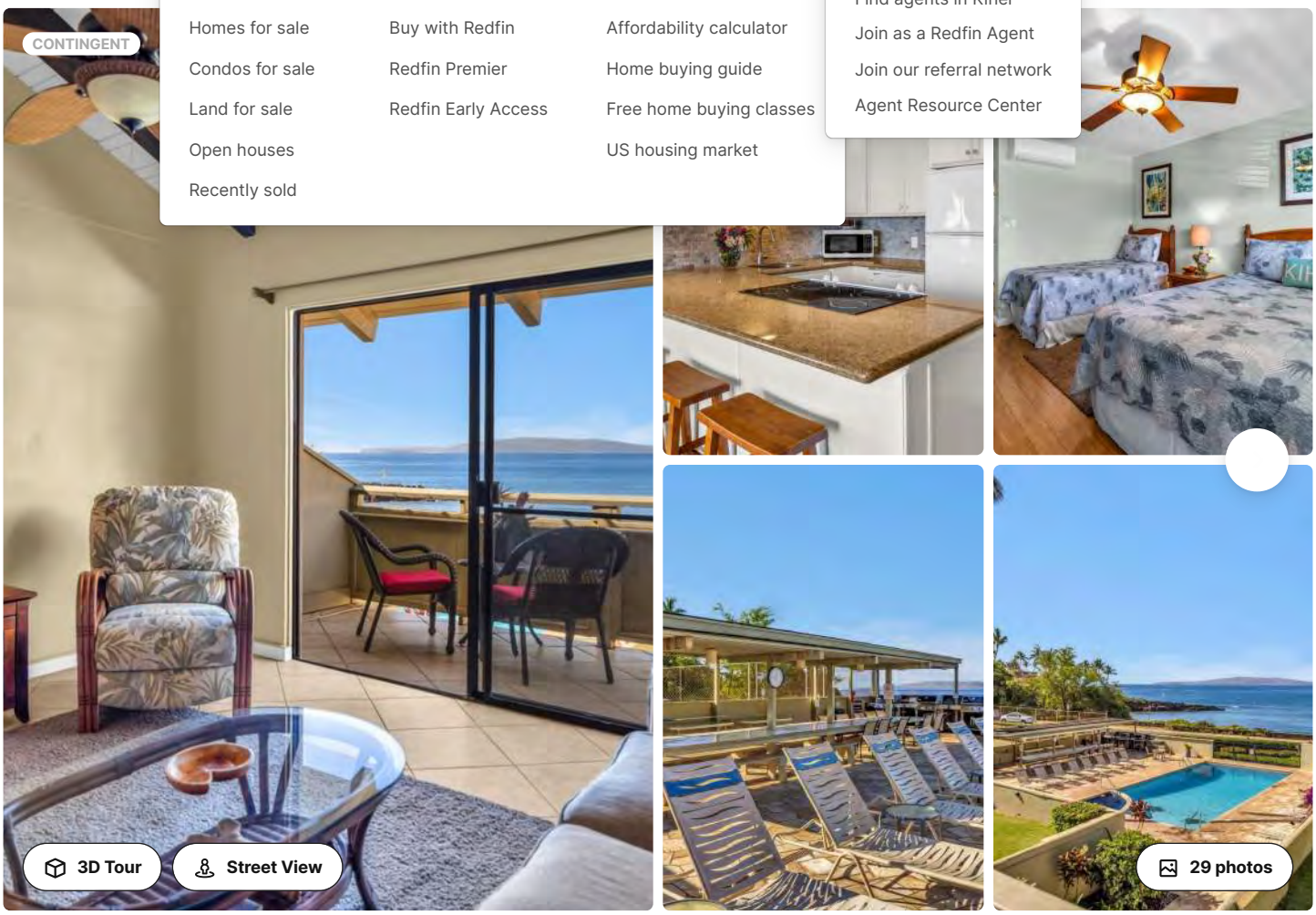


CONTINGENT

$659,000 Est. $5,518/mo — See my rate

1 bd • 1 ba • 626 sq ft

2075 S Kihei Rd #208, Kihei, HI 96753

About this home

Welcome to Shores of Maui, a boutique complex of just 50 units located directly across from Cove Park—one of Maui's most popular beginner surf and stand-up paddle spots. From this condo you can relax on your lanai and watch surfers and daily surf lessons with the Pacific as your backdrop. This well-situated condo offers easy island living with an open living area, full kitchen, and a comfortable bedroom retreat. Step outside and enjoy

Show more

Condo Property Type	1975 Year Built	1.75 acres Lot Size
$1,053 Price/Sq.Ft.	$1,163/mo HOA Dues	1 space Parking

Listed by Sam Utley • Island Sotheby's International Realty(M)
Contact: Cell: 808-205-5088

Listing updated: Jun 2, 2026 at 03:06pm
Redfin checked: a few seconds ago • Source: RAM MLS #408791

130 days on Redfin • **433** views • **26** favorites

Open houses

No upcoming open houses.

Nearby open houses (10)

Payment calculator

$5,518 per month Reset

Principal and interest	$3,376
Property taxes	$804
HOA dues	$1,163
Home insurance	$176
Utilities	Add

Down payment	Home price	Loan details
20% ($131,800)	**$659,000**	**30-yr fixed, 6.63%**

Takes about 5 minutes & won't affect your credit Get prequalified

This home may not be allowing tours right now

The seller has already accepted an offer. You can request a tour anyway or ask an agent about submitting a backup offer .

Request tour anyway

OR

Ask a question

Start an offer | (808) 431-3908

Takes about 3 minutes & won't affect your credit

Get prequalified

Discover your buying power
Find out if this home is within budget

Down payment assistance
View down payment assistance programs for this home

Around this home

Schools | Places | Transit

Kamalii Elementary School
Public PreK-5 • Assigned • 0.8mi
7/10

Lokelani Intermediate School
Public 6-8 • Assigned • 1.2mi
3/10

Kulanihakoi High School
Public 9-11 • Assigned • 2.4mi

Show nearby schools

Provided by GreatSchools

About Maui Island

Show more

7.5 /10
Very walkable
Most errands can be done on foot

5.9 /10
Bikeable
Some bike infrastructure

9.2 /10
Silent zone
Virtually no nearby noise

0.7 /10
Always calm
Calm at all hours

Provided by Walk Score and Local Logic

Property details

Interior | Exterior | Finance

Kitchen

Bathroom

Bedroom

Living

Interior features
- Ceiling fans
- Furnished unit
- Kitchenware included
- TV cable available
- Blinds and drapes on windows

Bathrooms
- 1 bathroom

Kitchen
- Dishwasher
- Disposal
- Microwave
- Range
- Refrigerator

Laundry & utility
- Washer
- Dryer

Flooring
- Tile flooring
- Laminate flooring

Heating & cooling
- No central air conditioning

See all details from MLS

Sale and tax history for 2075 S Kihei Rd #208

Sale History Tax History

Date	Event	Price
RAM MLS #408791		
Jun 2, 2026	Contingent	—
Feb 17, 2026	Listed	$659,000 $1,053/sq ft
RAM MLS #347244		
Jun 16, 2011	Sold	$255,000 $407/sq ft
Mar 4, 2011	Listed	$299,000 $478/sq ft

Show more

Public record

Public record Zoning

Beds	1	Year built	1975
Baths	1	Style	Condo/Co-op
Stories	1	County	Maui County
Lot width	—	APN	390170030033
Lot depth	—	Parking Spaces	—
Lot size	—	Basement	—
Year renovated	—	Accessible	—
Finished Sq. Ft.	626	HOA Dues	—
Unfinished Sq. Ft.	—	Garage	—
Total Sq. Ft.	626	Features	—

Last updated by owner on Dec 10, 2025.

About this building

Photo via 2075 S Kihei Rd #125

2 for sale

2075 S Kihei Rd, Kihei, HI 96753

See photos & sale trends

Units for sale

Unit	Price	Beds	Baths	Sq Ft
114	$611,000	1 bed	1 bath	626 sq ft
208	$659,000	1 bed	1 bath	626 sq ft

Climate risks

10/10 Flood Factor
Estimated 80%+ chance of a flood reaching the building in the next 30 years

Fire Factor
We're working on getting current and accurate fire risk information for this home.

Heat Factor
We're working on getting current and accurate heat risk information for this home.

Wind Factor
We're working on getting current and accurate wind risk information for this home.

1/10 Air Factor
Minimal risk of unhealthy air over next 30 years

View full report

Provided by First Street

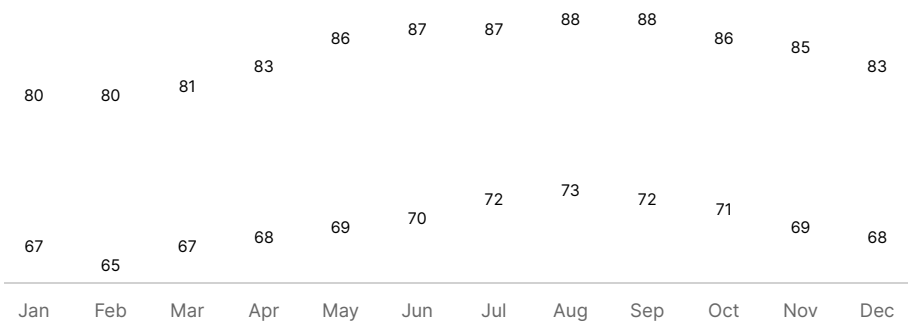
Historical weather

More on The Weather Channel

Kihei, HI • 96753

Temperature | Precipitation | Snowfall | UV index | Humidity

Average low and high temperatures (°F)



Sun exposure

93 / 100

Exceptional sunlight
Sunscore

There appears to be minimal shading by surrounding buildings, terrain, and vegetation.

View 3D sun simulation

Provided by Shadowmap

Offer insights

2075 S Kihei Rd #208 · $659,000

Not available
We are unable to calculate an offer price at this moment.

Market insights See all insights

DAYS ON MARKET
130 days
The average home goes pending in 102 days.

SALE-TO-LIST
95.1%
Most homes are selling 5% below list price.

About offer insights

Ask Redfin agent Travis a question

Travis Speck (R) B
Kihei Redfin Agent
Responds in **4 business hours**

Write a message...

I'd like more home details. | I'm interested in buying. | Is this home still available?

Ask a question

Text or call **(808) 431-3908**

Redfin Estimate for 2075 S Kihei Rd #208

We cannot show automated home-value estimates for this home.

Nearby homes have recently sold between **$420,000** and **$740,000**.

Nearby comparable homes

The Redfin Estimate uses 6 recent nearby sales, priced between $420K to $740K.

$640,000 Last sold price

1 bed 1 bath 700 sq ft
2387 S Kihei Rd Unit B303, Kihei, HI 96753

- $139/sq ft
- ↑ larger lot
- ↑ 4 years newer

$582,000 Last sold price

2 beds 1.5 baths 750 sq ft
160 Keonekai Rd Unit 8-103, Kihei, HI 96753

- $277/sq ft
- ↑ larger lot
- ↑ 17 years newer

View comparables on map

Recommended for you

Based on homes you've looked at.

$750,000
1 bed 2 baths 818 sq ft
2695 S Kihei Rd #9306, Kihei, HI 96753

$569,000
2 beds 2 baths 745 sq ft
2219 S Kihei Rd Unit B403, Kihei, HI 96753

$559,000
1 bed 1 bath 640 sq ft
1299 Uluniu Rd Unit 103A, Kihei, HI 96753

$585,000
1 bed 2 baths 818 sq ft
2695 S Kihei Rd Unit 8-101, Kihei, HI 96753

$650,000
2 beds 2 baths 745 sq ft
2219 S Kihei Rd Unit A204, Kihei, HI 96753

3D WALKTHROUGH

$949,000
2 beds 2 baths 1,052 sq ft
2777 S Kihei Rd Unit D208, Kihei, HI 96753

View 5 more homes in your Feed

Nearby similar homes

$899,000
1 bed 2 baths 1,039 sq ft
2777 S Kihei Rd Unit L105, Kihei, HI 96753

$1,125,000
2 beds 2 baths 1,052 sq ft
2777 S Kihei Rd Unit C210, Kihei, HI 96753

$345,000
2 beds 1 bath 685 sq ft
35 Walaka St Unit L210, Kihei, HI 96753

$650,000

VIDEO TOUR

$1,250,000

3D WALKTHROUGH

$850,000

1 bed 1 bath 602 sq ft
1993 S Kihei Rd #307, Kihei, HI 96753

2 beds 2 baths 890 sq ft
2575 S Kihei Rd Unit P310, Kihei, HI 96753

3 beds 2 baths 1,059 sq ft
44 Kanani Rd Unit 3-106, Kihei, HI 96753

View more homes

New listings for sale in 96753

NEW 22 HRS AGO

$499,000
2 beds 2 baths 1,024 sq ft
777 S Kihei Rd Apt 205, Kihei, HI 96753

$2,400,000
3 beds 2.5 baths 2,450 sq ft
2451 Umeke Cir, Kihei, HI 96753

$2,400,000
3 beds 2.5 baths 2,450 sq ft
2451 Umeke Cir #67, Kihei, HI 96753

$1,095,000
3 beds 1 bath 864 sq ft
1937 Peke Pl, Kihei, HI 96753

VIDEO TOUR

$898,000
2 beds 2 baths 1,158 sq ft
217 Awa Pl, Kihei, HI 96753

VIDEO TOUR

$799,000
1 bed 2 baths 1,039 sq ft
2777 S Kihei Rd Unit D103, Kihei, HI 96753

$1,030,000
3 beds 2 baths 1,432 sq ft
2860 Ohina St, Kihei, HI 96753

$3,600,000
5 beds 4 baths 3,064 sq ft
3435 Hookipa Pl Unit A, Kihei, HI 96753

$420,000
2 beds 1 bath 781 sq ft
2065 Kanoe St Unit A, Kihei, HI 96753

Details provided by RAM MLS and may not match the public record. Learn more.

More real estate resources

Redfin > Hawaii > Kihei > 2075 S Kihei Rd #208, Kihei, HI 96753

Neighborhoods Zip Codes Cities Popular Searches

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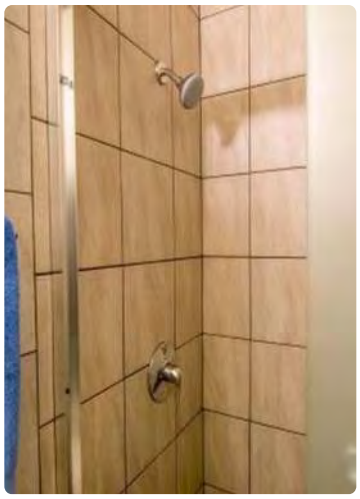
GreatSchools Ratings provided by **GreatSchools.org**.

Street View



14 photos

FOR SALE

$611,000 Est. $5,394/mo — See my rate

1 bd • 1 ba • 626 sq ft

2075 S Kihei Rd #114, Kihei, HI 96753

Request showing

Tour for free, no strings attached

Start an offer

Make a winning offer with the help of a local agent

Ask a question | (808) 431-3908

About this home

Welcome to Shores of Maui, located in the heart of sunny Kihei. This unit has a stunning **ocean view** and an **oversized lanai** so you can enjoy your coffee while watching surfers catch waves at the cove. Inside the unit features a functional layout with a **full kitchen**, **in-unit washer and dryer**, **air conditioning**, and **flexible living space** ideal for extended stays or a relaxing Maui retreat. Shores of Maui is a well-maintained community

Show more

Condo Property Type	1975 Year Built	1.75 acres Lot Size
$976 Price/Sq.Ft.	$1,292/mo HOA Dues	

Listed by Joey Musto • Coldwell Banker Island Prop(Ka)
Contact: Cell: 808-269-5219

Listing updated: Apr 7, 2026 at 12:48pm
Redfin checked: 2 minutes ago • Source: RAM MLS #408286

177 days on Redfin • **523** views • **13** favorites

See this home in person

SAT	SUN	MON	TUE
27 JUN	28 JUN	29 JUN	30 JUN

This home is unavailable to tour on this day.
Next available date: Monday, June 29

Open houses

No upcoming open houses.

Nearby open houses (10)

Payment calculator

$5,394 per month

Reset

Principal and interest	$3,130

Property taxes	$809
HOA dues	$1,292
Home insurance	$163
Utilities	Add

Down payment	Home price	Loan details
20% ($122,200)	$611,000	30-yr fixed, 6.63%

Takes about 5 minutes & won't affect your credit

Get prequalified

Discover your buying power
Find out if this home is within budget

Down payment assistance
View down payment assistance programs for this home

Around this home

Schools | Places | Transit

Kamalii Elementary School
Public PreK-5 • Assigned • 0.8mi — 7/10

Lokelani Intermediate School
Public 6-8 • Assigned • 1.2mi — 3/10

Kulanihakoi High School
Public 9-11 • Assigned • 2.4mi

Show nearby schools

Provided by GreatSchools

About Maui Island

Show more

7.5 /10	5.9 /10	9.2 /10
Very walkable	**Bikeable**	**Silent zone**
Most errands can be done on foot	Some bike infrastructure	Virtually no nearby noise

0.7 /10

Always calm
Calm at all hours

Provided by Walk Score and Local Logic

Property details

Interior Exterior Finance

Kitchen

Bathroom

Bedroom

Living

Interior features
Ceiling fan(s)
TV cable
Blinds

Bathrooms
1 bathroom

Kitchen
Range
Microwave
Refrigerator
Dishwasher

Laundry & utility
Washer
Dryer

Flooring
Tile

Heating & cooling
No central A/C

See all details from MLS

Sale and tax history for 2075 S Kihei Rd #114

Sale History Tax History

Date	Event	Price
RAM MLS #408286		
Apr 7, 2026	Price Changed	$611,000 $976/sq ft
Jan 1, 2026	Listed	$666,000 $1,064/sq ft
Public Records		
Feb 17, 2000	Sold	$135,000 $216/sq ft
RAM MLS #200898		
Sep 28, 1997	Listed	$150,000

Show more

Public record

Public record	Zoning		
Beds	1	Year built	1975
Baths	1	Style	Condo/Co-op
Stories	1	County	Maui County
Lot width	—	APN	390170030014
Lot depth	—	Parking Spaces	—
Lot size	—	Basement	—
Year renovated	—	Accessible	—
Finished Sq. Ft.	626	HOA Dues	—
Unfinished Sq. Ft.	—	Garage	—
Total Sq. Ft.	626	Features	—

Last updated by owner on May 22, 2026.

About this building

Photo via 2075 S Kihei Rd #125

2 for sale

2075 S Kihei Rd, Kihei, HI 96753

See photos & sale trends

Units for sale

Unit	Price	Beds	Baths	Sq Ft
114	$611,000	1 bed	1 bath	626 sq ft
208	$659,000	1 bed	1 bath	626 sq ft

Climate risks

Climate risks

10/10 Flood Factor
Estimated 80%+ chance of a flood reaching the building in the next 30 years

Fire Factor
We're working on getting current and accurate fire risk information for this home.

Heat Factor
We're working on getting current and accurate heat risk information for this home.

Wind Factor
We're working on getting current and accurate wind risk information for this home.

1/10 Air Factor
Minimal risk of unhealthy air over next 30 years

View full report

Provided by First Street

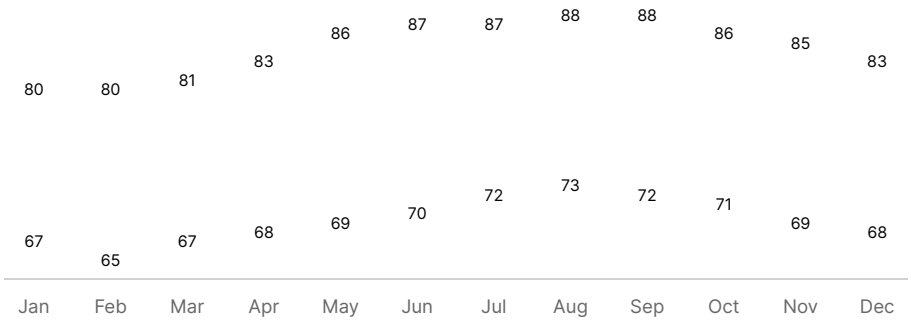
Historical weather

More on The Weather Channel

Kihei, HI • 96753

Temperature | Precipitation | Snowfall | UV index | Humidity

Average low and high temperatures (°F)



Sun exposure

93 / 100

Exceptional sunlight
Sunscore

There appears to be minimal shading by surrounding buildings, terrain, and vegetation.

View 3D sun simulation

Provided by Shadowmap

Offer insights

2075 S Kihei Rd #114 · $611,000

Strong offer

$606K and above

75% chance or better to win

Why $606K+ is a strong offer See all insights

DAYS ON MARKET

177 days

The average home goes pending in 102 days.

SALE-TO-LIST

95.1%

Most homes are selling 5% below list price.

About offer insights

Ask a local expert

Phone *

( ) -

Write a message

I'd like more home details | Any recent upgrades? | Is there an HOA?

Submit

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Redfin Estimate for 2075 S Kihei Rd #114

$592,329

▼ **$19K** under list price of $611K

Nearby comparable homes

The Redfin Estimate uses 6 recent nearby sales, priced between $283K to $710K.

$460,000 Last sold price

1 bed 1 bath 605 sq ft

2191 S Kihei Rd #2112, Kihei, HI 96753

— $216/sq ft

↑ larger lot

↑ 5 years newer

$525,000 Last sold price

2 beds 2 baths 745 sq ft

2219 S Kihei Rd Unit B312, Kihei, HI 96753

— $271/sq ft

↑ larger lot

↑ 14 years newer

View comparables on map

More resources

Rental earnings
Est. $2,477 per month, based on comparable rentals

Early Access listings

EARLY ACCESS COMPASS COMING SOON

$5,500,000
3 beds 3.5 baths 2,499 sq ft
5071 Opelu St Unit A, Hanalei, HI 96714

EARLY ACCESS COMPASS COMING SOON

$3,000,000
11 beds 5.5 baths 2,982 sq ft
1775 Lusitana St, Honolulu, HI 96813

EARLY ACCESS COMPASS COMING SOON

$665,000
3 beds 2.5 baths 1,245 sq ft
68-3935 Ehu Kai Loop #2903, Waikoloa, HI 96738

EARLY ACCESS COMPASS COMING SOON

$1,689,000
5 beds 3 baths — sq ft
528 Halela St Unit A, Kailua, HI 96734

EARLY ACCESS COMPASS COMING SOON

$1,150,000
4 beds 3 baths — sq ft
91-904 Opeapea St, Ewa Beach, HI 96706

EARLY ACCESS COMPASS COMING SOON

$620,000
2 beds 1.5 baths 884 sq ft
47-389 Hui Iwa St #2, Kaneohe, HI 96744

View more homes

Recommended for you

Based on homes you've looked at.

$750,000
1 bed 2 baths 818 sq ft
2695 S Kihei Rd #9306, Kihei, HI 96753

$569,000
2 beds 2 baths 745 sq ft
2219 S Kihei Rd Unit B403, Kihei, HI 96753

$559,000
1 bed 1 bath 640 sq ft
1299 Uluniu Rd Unit 103A, Kihei, HI 96753

$650,000
2 beds 2 baths 745 sq ft
2219 S Kihei Rd Unit A204, Kihei, HI 96753

3D WALKTHROUGH

$949,000
2 beds 2 baths 1,052 sq ft
2777 S Kihei Rd Unit D208, Kihei, HI 96753

3D WALKTHROUGH

$525,000
1 bed 1 bath 588 sq ft
2191 S Kihei Rd #1111, Kihei, HI 96753

View 3 more homes in your Feed

Nearby similar homes

$420,000
2 beds 1 bath 781 sq ft
2065 Kanoe St Unit A, Kihei, HI 96753

3D WALKTHROUGH

$850,000
3 beds 2 baths 1,059 sq ft
44 Kanani Rd Unit 3-106, Kihei, HI 96753

VIDEO TOUR

$3,878,000
3 beds 3 baths 1,742 sq ft
78 Kai Malu Dr #101, Kihei, HI 96753

$949,000
2 beds 2 baths 774 sq ft
2450 S Kihei Rd #301, Kihei, HI 96753

3D WALKTHROUGH

$1,840,000
1 bed 2 baths 885 sq ft
3300 Wailea Alanui Dr Unit 38A, Kihei, HI 96753

VIDEO TOUR

$869,000
1 bed 1.5 baths 693 sq ft
2381 S Kihei Rd Unit B107, Kihei, HI 96753

View more homes

New listings for sale in 96753

NEW 22 HRS AGO

$499,000
2 beds 2 baths 1,024 sq ft
777 S Kihei Rd Apt 205, Kihei, HI 96753

$2,400,000
3 beds 2.5 baths 2,450 sq ft
2451 Umeke Cir, Kihei, HI 96753

$2,400,000
3 beds 2.5 baths 2,450 sq ft
2451 Umeke Cir #67, Kihei, HI 96753

$1,095,000
3 beds 1 bath 864 sq ft
1937 Peke Pl, Kihei, HI 96753

VIDEO TOUR

$898,000
2 beds 2 baths 1,158 sq ft
217 Awa Pl, Kihei, HI 96753

VIDEO TOUR

$799,000
1 bed 2 baths 1,039 sq ft
2777 S Kihei Rd Unit D103, Kihei, HI 96753

$1,030,000
3 beds 2 baths 1,432 sq ft
2860 Ohina St, Kihei, HI 96753

$3,600,000
5 beds 4 baths 3,064 sq ft
3435 Hookipa Pl Unit A, Kihei, HI 96753

$420,000
2 beds 1 bath 781 sq ft
2065 Kanoe St Unit A, Kihei, HI 96753

Details provided by RAM MLS and may not match the public record. Learn more.

More real estate resources

Redfin > Hawaii > Kihei > 2075 S Kihei Rd #114, Kihei, HI 96753

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96753 homes for sale
96790 homes for sale

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GreatSchools Ratings provided by **GreatSchools.org**.

Attachment 6

Attachment A

The Shores of Maui

Fees for the year 2025-2026

Payment must be received by the first of the month (payable to your Association), or late fees may be incurred according to your Association's bylaws.

Units	CIP%	Maintenance & Reserve	Replacement Reserve	Total Payment
207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224	1.8%	$1,163.00	$450.00	$1,613.00
107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124	2.0%	$1,292.00	$500.00	$1,796.00
201, 202, 203, 204, 205, 206, 225	2.1%	$1,357.00	$525.00	$1,882.00
101, 103, 104, 105, 106, 125	2.4%	$1,552.00	$600.00	$2,151.00
102	2.5%	$1,616.00	$625.00	$2,241.00

Attachment 7

RICHARD T. BISSEN, JR.
Mayor

KATE L. K. BLYSTONE
Director

ANA LILLIS
Deputy Director

DEPARTMENT OF PLANNING
COUNTY OF MAUI
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAI'I 96793

April 30, 2025

Mr. Aaron Hollingbery
11510 Quail Lane
Woodway, Washington 98020

Dear Mr. Hollingbery:

SUBJECT: SPECIAL MANAGEMENT AREA (SMA) ASSESSMENT, SHORELINE SETBACK ASSESSMENT (SSAD), AND ENVIRONMENTAL ASSESSMENT EXEMPTION (EAE) FOR REPAIR OF AN EXISTING RETAINING WALL LOCATED AT THE SHORES OF MAUI CONDOMINIUM, 2075 SOUTH KĪHEI ROAD, KĪHEI, MAUI, HAWAI'I; TMK: (2) 3-9-017:003 (SMX2025-00076) (SM52025-000054) (SSAD2025-00010) (EAE2025-00015)

In response to your application received on April 11, 2025, and in accordance with the SMA Rules for the Maui Planning Commission (Commission), Section 12-202-12, the Department of Planning (Department) has made a determination relative to the above project that:

1. The project is not a development, pursuant to Section 205A-22 and may be issued a SMA Exemption;

2. The project has a valuation not in excess of $500,000.00; (Valuation: $220,000.00)

3. The proposed scope of work consists of the following: Repair and maintain the existing retaining wall that fronts the property facing South Kīhei Road by installing 12 horizontal wall tiebacks to stabilize the wall. The entire parcel is located mauka of South Kīhei Road, but is within the Erosion Hazard Line. No ground disturbance is proposed for this project;

4. The project has no significant adverse environmental or ecological effects, provided Best Management Practices (BMPs) are implemented; and

5. The project is consistent with the objectives, policies, and SMA guidelines set forth in the Hawai'i Revised Statutes (HRS), Chapter 205A, and is consistent with the County General Plan and Zoning.

In consideration of the above determination, you are hereby granted an SMA Exemption (SM52025-000054).

Furthermore, in accordance with the *Shoreline Rules for the Commission*, Sections 12-203-3, 12-203-6, 12-203-10, 12-203-11, and 12-203-12, a determination has been made relative to the above-referenced project that:

1. The site is a shoreline property and is subject to the Commission Shoreline Rules;

2. The proposed action will occur within Flood Zone 'X'; therefore, a Flood Development Permit is not required for the project;

3. The proposed scope of work is allowed by the Shoreline Rules 12-203-12(a)(12) and is considered a permissible activity:

   "A structure or activity that has been determined by the director to be a minor structure or minor activity within the shoreline area that does not adversely affect beach processes, does not artificially fix the shoreline, and does not interfere with public access or public views to and along the shoreline and which meets the purpose of this chapter, the building code, flood hazard regulations, and special management area requirements;"

4. The proposed project is located within the 3.2-foot Sea Level Rise Exposure Area (SLRXA) as mapped by the Hawai'i Sea Level Rise Viewer (www.hawaiisealevelriseviewer.org). However, the action has been determined to be exempt pursuant to HRS 205A and the SMA rules of the planning commission. The property owner is aware that the proposed action occurs within the 3.2-foot SLRXA and acknowledges their awareness of the risks of sea level rise and the action's location within the 3.2-foot SLRXA, as described in their SLRXA acknowledgement document submitted to the Department on 4/25/2025.

Accordingly, you are hereby granted a Shoreline Setback Assessment Determination Approval (SSAD2025-00010), subject to the following conditions:

1. That repairs are made according to the plans titled, "The Shores of Maui Retaining Wall Repairs" prepared by JPB Engineering, Inc., dated September 26, 2024.

2. That BMPs shall be implemented to ensure water quality and marine resources are protected. No construction materials shall be stockpiled in the aquatic environment. All construction-related materials shall be free of pollutants and placed or stored in ways to avoid or minimize disturbance. No debris, petroleum products or deleterious materials or wastes shall be allowed to fall, flow, leach, or otherwise enter near shore waters. Any turbidity and siltation generated from activities proposed at the site shall be minimized and contained in the immediate vicinity of construction through the use of effective silt containment devices. Construction during adverse weather conditions shall be curtailed to minimize the potential for adverse water quality impacts. Appropriate measures to minimize dirt and water runoff, noise, and dust must be used.

3. That a building permit shall be obtained, as applicable, from the Department of Public Works, Development Services Administration.

4. That the proposed scope shall be initiated by **May 31, 2027,** and shall be completed within two years of said initiation.

5. That construction hours shall be limited to 8:00 a.m. to 5:00 p.m.

6. That in the event historic resources, including human skeletal remains, structural remains, cultural deposits, or lava tubes are identified during construction activities, all work shall cease in the immediate vicinity of the find, the find shall be protected from additional disturbance, and Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD), Maui Section, shall be contacted immediately at (808) 243-1285. Work shall not continue until cleared by DLNR-SHPD.

7. That full compliance with all other applicable governmental requirements shall be rendered.

ENVIRONMENTAL ASSESSMENT EXEMPTION

The project was reviewed in accordance with Chapter 343, HRS. The Department finds that the project triggers compliance with environmental review because it involves the "*Use within the shoreline area.*" However, the project qualifies for the following exemption in accordance with HAR Chapter 11-200.1-15(c):

(1) Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing;

Accordingly, you are hereby granted an Environmental Assessment Exemption (EAE2025-00015).

In summary, the Department grants a SMA Exemption (SM52025-000054), Shoreline Setback Approval (SSAD2025-00010) and Environmental Assessment Exemption (EAE2025-00015) for the work described in your SMA Assessment Application (SMX2025-00076). PLEASE NOTE THAT OTHER PERMITS OR APPROVALS MAY BE REQUIRED.

Thank you for your cooperation. If additional clarification is required, please contact Planner Brailey Gonsalves at Brailey.K.Gonsalves@mauicounty.gov or at (808)270-6297.

Sincerely,

DANNY A. DIAS
Planning Program Administrator

for KATE L. K. BLYSTONE
Director

Attachments: Approved Plans
cc: Carolyn Cortez, Interim Planning Program Administrator (PDF)
Kurt Wollenhaupt, Land Use Planning Supervisor (PDF)
Brailey Gonsalves, Planner (PDF)
Aaron Hollingbery, Applicant (PDF)
DAD:BKG:hlk
K:\WP_DOCS\Planning\SMX\2025\00076_SOMRetainingWallRepair\SM5_SSAD_EAE.pdf

Attachment 8

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EXHIBIT "A"

PARCEL FIRST:

All of that certain parcel of land (being a portion of Grant to Akuna Akina and being also a portion of Lot 21, Kamaole Homesteads) situate on the west side of Kanoe Street at Kamaole, Kula, Island and County of Maui, State of Hawaii, being Lot 16 of the "Kaehukai Tract Lots", and being more particularly described as follows:

Being at a pipe at the northerly corner of this Lot, being also the easterly corner of Lot 15, Kaehukai Tract Lots, the coordinates of which referred to Government Survey Triangulation Station "Puu-O-Kali" being 621.00 feet south and 21,631.91 feet west and running by azimuths measured clockwise from true south:

1.	325°	55'	75.00	feet along Kanoe Street to a pipe (found);
2.	55°	55'	150.00	feet along lot 17, Kaehukai Tract Lots to a pipe (found);
3.	145°	55'	75.00	feet along lot 8, Kaehukai Tract Lots to a pipe (found);
4.	235°	55'	150.00	feet along lot 15, Kaehukai Tract Lots to the point of beginning and containing an area of 11,250 square feet.

PARCEL SECOND:

Lot 8

All of that certain parcel of land (being a portion of Lot 21, Grant to Akuna Akina, Kamaole Homesteads, and Grant 8763 to Sommerfeld), being LOT EIGHT (8) of KAEHUKAI TRACT LOTS, situate at Kamaole, District of Kula, Island and County of Maui, State of Hawaii, and more particularly described as follows:

Beginning at an iron pipe on the South corner of this lot, said corner being on the North boundary of the Kihei-Makena Road Unit B, the coordinates of said point of beginning referred to U.S.C. & G.S. Triangulation Station "Puu-O-Kali" are

823.30 feet South
21,704.46 feet West, and running by azimuths measured clockwise from true South:

1.	131°	51'	77.32	feet along the North Boundary of the Kihei-Makena Road Unit B, to an iron pipe;
2.	235°	55'	127.87	feet along Lot 7 of this tract to an iron pipe;
3.	325°	55'	75.00	feet along Lot 16 of this tract to an iron pipe;

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4.	55°	55'	109.08	feet along Lot 9 of this tract to the point of beginning and containing an area of 8886 square feet.

Lot 9

All of that certain parcel of land (being a portion of Lot 21, Grant to Akuna Akina, Kamaole Homesteads, and Grant 8763 to Sommerfeld), being LOT NINE (9) of KAEHUKAI TRACT LOTS, situate at Kamaole, District of Kula, Island and County of Maui, State of Hawaii and more particularly described as follows:

Beginning at an iron pipe on the West corner of this Lot, said corner being on the North boundary of the Kihei-Makena Road Unit B, the coordinates of said point of beginning referred to U.S.C. & G.S. Triangulation Station "Puu-O-Kali" are

828.30 feet South
21,704.46 feet West, and running by azimuths measured clockwise from true South:

1.	235°	55'	109.08	feet along Lot 8 of this tract to an iron pipe;
2.	325°	55'	75.00	feet along Lot 7 of this tract to an iron pipe;
3.	55°	55'	90.29	feet along Lot 10 of this tract to an iron pipe;
4.	131°	51'	77.32	feet along the North boundary of the Kihei-Makena Road Unit B, to the point of beginning and containing an area of 7476 square feet.

Lot 17

All of that certain parcel of land (being a portion of Lot 21, Grant to Akuna Akina, Kamaole Homesteads, and Grant 8763 to Sommerfeld), being LOT SEVENTEEN (17) of KAEHUKAI TRACT LOTS, situate at Kamaole, District of Kula, Island and County of Maui, State of Hawaii, and more particularly described as follows:

Beginning at an iron pipe on the East corner of this lot, said corner being on the South boundary of the 30 foot Homestead Road, the coordinates of said point of beginning referred to U.S.C. & G.S. Triangulation Station "Puu-O-Kali" are

745.23 feet South
21,447.85 feet West, and running by azimuths measured clockwise from true South:

1.	55°	55'	150.00	feet along Lot 18 of this tract to an iron pipe;
2.	145°	55'	75.00	feet along Lot 9 of this tract to an iron pipe;

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3.	235°	55'	150.00	feet along Lot 16 of this tract to an iron pipe;
4.	325°	55'	75.00	feet along the South boundary of the 30 foot Homestead Road to the point of beginning and containing an area of 11,250 square feet.

PARCEL THIRD:

All of those certain parcels of land (being portions of Lot 21, Grant to Akuna Akina, Kamaole Homesteads, and Grant 8763 to Sommerfeld), being LOTS NO. 10, 18 and 19 of the KAEHUKAI TRACT, situate at Kamaole, District of Kula, Island and County of Maui, State of Hawaii, and more particularly described as follows:

Beginning at an iron pipe on the North corner of Lot 18, said corner being on the South boundary of the 30 foot Homestead Road, the coordinates of said point of beginning referred to U.S.C. & G.S. Triangulation Station "Puu-O-Kali" are

745.23 feet South
21,447.85 feet West, and running by azimuths measured clockwise from true South:

1.	325°	55'		75.00	feet along the South Boundary of the 30 foot Homestead Road to an iron pipe;
2.					Along the South boundary of the 30 foot Homestead Road, along the arc of a circular curve to the right, having a central angle of 65° 33', the direct azimuth and distance being
	358°	41'	30"	162.38	feet;
3.	92°	09'		150.94	feet along the North boundary of the 80 foot Homestead Road to an iron pipe;
4.	131°	51'		126.10	feet along the North boundary of Kihei-Makena Road Unit B, to an iron pipe;
5.	235°	55'		240.29	feet along Lots 9 and 17 to the point of beginning and containing an area of 37,422 square feet.

SUBJECT, HOWEVER, to a County of Maui thirteen (13) foot wide designated set-back line from Kanoe Road.

HLU Committee

From: Diana Bray <diana@cwwalker.net>
Sent: Monday, June 29, 2026 12:25 PM
To: HLU Committee
Subject: Support Resolution 26-110
Attachments: First restatement of condo conveyance.pdf

You don't often get email from diana@cwwalker.net. Learn why this is important

June 29, 2026

Aloha HLU Committee Members:

My husband and I are owners at Hale Mahina Beach Resort, and I serve as Board Secretary of our properties' AOAO.

The testimony I am submitting today is on behalf of the Board of Directors and the Association as the chair of our Short-Term
Rental Committee.

We are writing to express our support for including Hale Mahina Beach Resort in Resolution 26-110 as written. We are a leasehold property which makes it difficult to finance and plan for long term housing. Additionally, our recent assessment to address the
pending sea wall repairs, coupled with the AOAO monthly dues and leasehold payment, would make it difficult for the average homeowner to afford; particularly after factoring in a monthly mortgage payment!

We have attached our First Restatement of the Declaration of Condominium Property Regime. Exhibit A, on page 29, lists the
description of the parcel.

We are happy to provide other documentation that you may find helpful.

Thank you for your diligent & tireless work. We support this resolution which would rezone Hale Mahina Beach Resort from
A-2 to H-4 and allow us to continue to operate as short-term rentals which helps to support the local tourism economy.

Diana Bray, Secretary AOAO, STR Chair
Hale Mahina Beach Resort

Diana Bray, Broker
C.W. Walker & Associates, Inc.
Commercial Real Estate Brokers & Consultants
Licensed in the State of Oregon
835 E. Park Ave. Suite 100 / Eugene / OR 97401

Phone 541.484.4422 / Cell 541.543.0207
diana@cwwalker.net
www.cwwalker.net

R-1038

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

MAY 21, 1999 01:00 PM

Doc No(s) 99-082129

/s/CARL T. WATANABE
ACTING
REGISTRAR OF CONVEYANCES

LAND COURT SYSTEM REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL ( ) PICKUP ( ) TO:

JOHN A. MORRIS/nbb
IWAI & MORRIS
820 MILILANI STREET, SUITE 502
HONOLULU, HAWAII 96813

Total pages:

FIRST RESTATEMENT OF THE DECLARATION OF CONDOMINIUM PROPERTY REGIME OF HALE MAHINA BEACH RESORT

WHEREAS, FIRST HAWAIIAN BANK, a Hawaii corporation, as Trustee under that certain trust agreement of Mitsuo Fujiwara dated January 27, 1978, as amended, and as Trustee under that certain trust agreement of June K. Fujiwara dated January 27, 1978, as amended, (the "Master Lessor") owns in fee simple certain real property described in Exhibit "A" attached and made a part of the Declaration refered to below; and

WHEREAS, by Indenture of Lease dated December 19, 1977, recorded as aforesaid in Liber 12624, Page 1, the land was demised to Inland Marine Builders Ltd., a Hawaii corporation (the "Lessor"); and

WHEREAS, Lessor improved the land by constructing thereon certain improvements described below, in accordance with plans incorporated by reference and filed in the Bureau of Conveyances of the State of Hawaii as Condominium File Plan No. 616.

WHEREAS, in order to create a condominium project consisting of the land and improvements, the Owner and the Lessor recorded a Declaration of Horizontal Property Regime in the Bureau of Conveyances of the State of Hawaii in Liber 13703, Page 375, to submit all of their interests in the property to a Horizontal Property Regime (now known as a Condominium Property Regime) established by the Horizontal Property Act, Chapter 514A, Hawaii Revised Statutes (now known as the Condominium Property Act, Chapter 514A, HRS), as amended and imposed on the project the division, limitations, restrictions, covenants and conditions stated in the Declaration, and declared and agreed that the property was to be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied and improved subject to the Declaration, the provisions of which constitute covenants running with the land, which are binding on and for the benefit of the parties to the Declaration, their respective successors and assigns, and all subsequent owners and lessees of all or any part of the project and their respective successors, heirs, executors, administrators and assigns; and

WHEREAS, By-Laws for the project were attached to and recorded contemporaneously with the Declaration as Exhibit "C", but are now being recorded separately, to bind all present and future owners, tenants and occupants of any

apartments of the project and all other persons who at any time use the project to the limitations, restrictions, covenants and conditions in the By-Laws; and

WHEREAS, the Declaration and By-Laws were amended by instruments dated August 2, 1979, recorded in Liber 13896, Page 493; September 14, 1979, recorded in Liber 14000, Page 150; November 26, 1979, recorded in Liber 14246, Page 137; January 20, 1981, recorded in Liber 15362, Page 519; August 29, 1986, recorded in Liber 19816, Page 711; and September 11, 1991, recorded as Document No. 91-133162; (See Endnote 1) and

WHEREAS, Section 514A-82.2, Hawaii Revised Statutes, empowers the Board of Directors of the Association established by the By-Laws to restate the Declaration to include in it any amendments and to conform its provisions to the provisions of Chapter 514A, Hawaii Revised Statutes, and any other statute, ordinance, rule, or regulation enacted by any governmental authority, by a resolution adopted by the Board of Directors; and

WHEREAS, at a meeting duly held on _____, 19____ said Board of Directors resolved to restate the Declaration, pursuant to Section 514A-82.2, Hawaii Revised Statutes, in the manner set forth herein;

NOW, THEREFORE, the Declaration is hereby restated to read as follows:

A. DIVISION OF PROPERTY. The project is hereby divided into the following separate freehold estates:

1. Apartments. Fifty-three (53) separate condominium apartments are designated in the spaces within the perimeter and party walls, floors and ceilings of each of the fifty-three (53) apartment units of the project, contained in two (2) four-

loft-story buildings and one (1) two-story building, without basements constructed principally of concrete, hollow tile masonry and wood, which spaces together with appurtenant lanai air spaces are referred to herein as "apartments",are designated on said condominium file plan and described as set forth in Exhibit "B" attached hereto and for every purpose made a part hereof.

(a) The apartments are constructed according to several different floor plans. A description of each of said floor plans, designating the layout, number of rooms and approximate area thereof is set forth in Exhibit "B".

(b) The apartments are numbered and located in the manner shown on said Condominium File Plan recorded in the Bureau of Conveyances of the State of Hawaii.

(c) The apartments have immediate access to the grounds of the project, or to an access balcony leading to stairways or elevators, each of which leads to the grounds of the project.

(d) The respective apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter or party walls or interior load-bearing walls, the floors and ceilings surrounding each apartment or any pipes, wires, conduits or other utility or service lines running through such apartment, which are utilized for or serve more than one apartment, the same being deemed common elements as hereinafter provided. Each apartment shall be deemed to include all the walls and partitions which are not load-bearing within its perimeter or party walls, doors and door frames, windows and window frames, the lanai air space, the inner

decorated or finished surfaces of all walls, floors and ceilings, and all fixtures originally installed therein.

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

(a) Said land in fee simple;

(b) All foundations, floor slabs, columns, girders, beams, supports, unfinished perimeter, party and load-bearing walls, roofs, entries, stairways, elevators, walkways, entrances and exits of said buildings;

(c) All yards, grounds and landscaping;

(d) All parking areas, including, without limitation, all of the parking stalls depicted on said Condominium File Plan;

(e) Cabana and pool;

(f) Private sewage treatment plant;

(g) All pipes, cables, conduits, ducts, electrical equipment, wiring and other central and appurtenant transmission facilities and installations over, under and across the project which serve more than one apartment for services such as power, light, gas, water, sewer, telephone and television signal distribution, if any;

(i) Any and all other apparatus and installations of common use and all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use. (See Endnote 2)

3. Limited Common Elements. No part of the common elements, herein called the "limited common elements", are designated or set aside for the exclusive use of certain apartments.

B. COMMON INTEREST. Each apartment shall have appurtenant thereto an undivided percentage interest in all common elements of the project (herein called the "common interest") and the same proportionate share in all common profits and expenses of the project and for all other purposes including voting, as set forth in said Exhibit B attached hereto and for every purpose made a part hereof.

C. EASEMENTS. In addition to any easements herein designated in the limited common elements, the apartments and common elements shall have and be subject to the following easements:

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

2. If any part of the common elements encroaches upon any apartment or limited common element or if any apartment or limited common element encroaches upon the common elements, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall and does exist. In the event any buildings of the project shall be partially or totally destroyed and then rebuilt or in the event of any shifting, settlement or movement of any portion of the project,

minor encroachments of any parts of the common elements or apartments or limited common elements due to such construction, shifting, settlement, or movement shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist.

3. The Association of Apartment Owners of the project shall have the right, to be exercised by its Board of Directors or Managing Agent, to enter any apartments and limited common elements, if any, from time to time during reasonable hours as may be necessary for the operation of the project or at any time for making emergency repairs therein required to prevent damage to any apartments or common elements or for the installation, repair or replacement of any common elements.

4. The right is granted unto MITSUO FUJIWARA and JUNE K. FUJIWARA, but not their successors or assigns, during their lives and the life of the survivor of them, to use with their immediate family all of the recreational common elements of the project.

D. ALTERATION AND TRANSFER OF INTERESTS. The common interest and easements appurtenant to each apartment shall have a permanent character, shall not be altered without the consent of all owners of apartments affected thereby as expressed in an amendment to this Declaration duly recorded, which amendment shall contain the consent thereto by the holders of any first mortgage on such apartments or of an apartment lease demising the same, as shown in the Association's record of ownership, or who have given the Board notice of their interest through the Secretary of the Association or the Managing Agent, shall not be separated from such apartment and shall be deemed to be conveyed or encumbered

with such apartment even though not expressly mentioned or described in the conveyance or other instrument. The common elements shall remain undivided, and no right shall exist to partition or divide any part thereof or the apartments except as provided by said Condominium Property Act; and, without limiting the provisions of Section 514A-21(a) of the Hawaii Revised Statutes, any such partition or division shall be subject to the prior written consent thereto by the holders of any first mortgage, filed of record, of any apartment or of any apartment lease demising the same.

E. USE. Except when the holder of the first mortgage on an apartment has entered into possession of an apartment following (i) a default under its first mortgage, (ii) a foreclosure proceeding, or (iii) a conveyance in lieu of foreclosure, the apartments shall be occupied and used only as private dwellings by the respective owners thereof, their tenants, families, domestic servants and social guests, and for no other purpose; except that the apartments may also be rented for transient or hotel purposes. The owners of the respective apartments shall have the absolute right to lease such apartments subject to all provisions of this Declaration and the By-Laws. (See Endnote 3)

F. ADMINISTRATION OF PROJECT. Administration of the project shall be vested in its Association of Apartment Owners, herein called the "Association", consisting of all apartment owners of the project in accordance with the By-Laws of the Association, originally attached hereto as Exhibit "C" and made a part hereof but now recorded separately. (See Endnote 3) Operation of the project and maintenance, repair, replacement and restoration of the common elements, and any additions and alterations thereto, shall be in accordance with the provisions of

said Condominium Property Act, this Declaration and the By-laws and specifically but without limitation the Association shall:

1. Make, build, maintain and repair all fences, sewers, drains, roads, curbs, sidewalks and parking areas which may be required by law to be made, built, maintained and repaired upon or adjoining or in connection with or for the use of the project or any part thereof.

2. Keep all common elements of the project in a strictly clean and sanitary condition, and observe and perform all laws, ordinances, rules and regulations now or hereafter made by any governmental authority for the time being applicable to the project or the use thereof.

3. Well and substantially repair, maintain, amend and keep all common elements of the project, including without limitation the buildings thereof, with all necessary reparations and amendments whatsoever in good order and condition except as otherwise provided herein, and maintain and keep said land and all adjacent land between any street boundary of the project and the established curb or street line in a neat and attractive condition and all trees, shrubs and grass thereon in good cultivation and replant the same as may be necessary, and repair and make good all defects in the common elements of the project herein required to be repaired by the Association, of which notice shall be given by any owner or his agent, within thirty (30) days after the giving of such notice.

4. Except as provided in Section N.1 of this Declaration, before commencing or permitting construction of any improvement on the project, obtain and deposit with the Lessor a bond or certificate thereof naming as obligees the Lessor

and collectively all other apartment owners as their interests may appear, in a penal sum not less than one hundred per cent (100%) of the cost of such construction and with a corporate surety authorized to do business in Hawaii, guaranteeing performance of such construction free and clear of all mechanics' and materialmen's liens, and all claims in lieu of mechanics' and materialmen's liens arising under Section 514A-16 of the Hawaii Revised Statutes, as amended. (See Endnote 4)

5. Observe any setback lines affecting the project and not erect, place or maintain any building or structure whatsoever except approved fences or walls between any street boundary of the project and the setback line along such boundary.

6. Except as provided in Section N.1 of this Declaration, not erect or place on the project any building or structure including fences and walls, nor make additions or structural alterations to or exterior changes of any common elements of the project, nor place or maintain thereon any signs, posters or bills whatsoever, except in accordance with plans and specifications, including detailed plot plan, prepared by a licensed architect if so required by the Master Lessor or Lessor, first approved in writing by the Master Lessor, Lessor and the Board, and also approved by a majority of apartment owners (or such larger percentage as required by law or this Declaration) including all owners of apartments thereby directly affected, and complete any such improvements diligently after the commencement thereof. (See Endnote 5)

7. Not make or suffer any strip or waste or unlawful, improper or offensive use of the project.

8. Have the right to be exercised by its Board of Directors or Managing Agent, to enter any apartments from time to time during reasonable hours as may be necessary for the operation of the project or at any time for making emergency repairs therein required to prevent damage to any apartments or common elements or for the installation, repair or replacement of any common elements.

G. MANAGING AGENT. Operation of the project shall be conducted for the Association by a responsible Hawaii corporate Managing Agent who shall be appointed by the Association in accordance with the By-laws. The Managing Agent is hereby authorized to receive service of legal process in all cases provided in said Condominium Property Act. The initial Managing Agent shall be Management Consultants of Hawaii, Inc., a Hawaii corporation, whose principal place of business is Lahaina, Maui, Hawaii, and whose post office address is P. O. Box 5186, Lahaina, Maui, Hawaii 96761.

H. COMMON EXPENSES. All charges, costs and expenses whatsoever incurred by the Association for or in connection with the administration of the project, including without limitation the operation thereof, any maintenance, repair, replacement and restoration of the common elements, including any limited common elements and any additions and alterations thereto, any labor, services, materials, supplies and equipment therefor, any liability whatsoever for loss or damage arising out of or in connection with the common elements or any accident, fire or nuisance thereon, and any premiums for hazard and liability insurance herein required with respect to the project shall constitute common expenses of the project for which all apartment owners shall be severally liable in proportion to their respective

common interests. Rent and real property taxes and special assessments referred to in Section 514A-6, Hawaii Revised Statutes, as amended, and charges, including those for utilities which are separately metered, shall not be common expenses of the condominium property regime hereby created and no payments thereof shall be payments of such common expenses. The Board of Directors of the Association (herein called the "Board") shall from time to time assess the common expenses against all the apartments in their respective proportionate shares, and the unpaid amount of such assessments against any apartment shall constitute a lien against such apartment prior to all other liens, except only (i) liens for taxes and assessments lawfully imposed by governmental authority against such apartment, and (ii) liens for sums unpaid on mortgages of record recorded prior to the Association's lien, and costs and expenses including attorney's fees provided in such mortgages. Such lien may be foreclosed by the Board or Managing Agent as provided by said Condominium Property Act, provided that thirty (30) days' prior written notice of intention to foreclose shall be mailed, postage prepaid, to the Master Lessor, Lessor and all other persons having any interest in such apartment as shown in the Association's record of ownership. Without limiting the provisions of Section 514A-90 of the Hawaii Revised Statutes, as amended, where the holder of a first mortgage of record of an apartment or of an apartment lease demising the same comes into possession of the apartment pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or conveyance in lieu of foreclosure of the mortgage, such mortgagee shall take such possession of the apartment free of any claims for unpaid assessments or charges chargeable to the apartment, which accrue prior to the time such mortgagee

comes into possession of the apartment (except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all apartments, including such apartment). (See Endnote 6)

In addition to the Board's right to foreclose on the lien described above, the Board or its Managing Agent may enforce collection of delinquent assessments by giving the delinquent owner sixty (60) days prior written notice of intent to sever utilities for delinquent assessments. Should the owner fail to cure the delinquency or make arrangements satisfactory to the Board prior to the expiration of the sixty (60) day period, then the utilities to the Apartment on which the assessment remains delinquent may be severed and disconnected in whole or part until the assessments are paid or otherwise provided for to the satisfaction of the Board. (See Endnote 7)

In the event that assessments received during any year are in excess of the actual expenditures for such year by the Association for common expenses of the project, the Board of Directors may, subject to approval by the apartment owners at the next annual meeting and subject to Section 514A-83.6, Hawaii Revised Statutes, (See Endnote 8) determine that such excess shall be:

(a) Applied in whole or in part to reduce the assessments for the immediately subsequent year:

(b) Designated in whole or in part as a capital contribution to the Association to be used for future capital improvements and replacements;

(c) Segregated and held in whole or in part as a Custodial Fund to be expended solely for specifically designated capital improvements and replacements; or

(d) Segregated and added in whole or in part to the Maintenance Reserve Fund established hereunder.

The proportionate interest of each apartment owner in said capital contributions, Custodial Fund or Maintenance Reserve Fund, cannot be withdrawn or separately assigned but shall be deemed to be transferred with such apartment even though not expressly mentioned or described in the conveyance thereof. In case the Condominium Property Regime hereby created shall be terminated or waived, such capital contributions, Custodial Fund or Maintenance Reserve Fund, remaining after full payment of all common expenses of the Association shall be distributed to all apartment owners in their respective proportionate shares except for the owners of any apartments then reconstituted as a new condominium property regime.

I. COMPLIANCE WITH DECLARATION AND BY-LAWS. All apartment owners, their tenants, families, servants and guests, and any other persons who may in any manner use the project, shall be bound by and comply strictly with the provisions of this Declaration and the By-Laws of the Association, and all agreements, decisions and determinations of the Association as lawfully made or amended from time to time, and failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief, or both, maintainable by the Board or Managing Agent on behalf of the Association or, in a proper case, by any aggrieved apartment owner; in the event of the failure of any apartment owner to comply fully with any of the same within thirty (30) days after written demand therefor by the Association, the Association shall promptly give written notice of such failure to the holder of any first mortgage of such apartment

or of the apartment lease demising the same, as shown in the Association's record of ownership or who has given the Board notice of its interest through the Secretary of the Association or the Managing Agent.

J. INSURANCE. The Association at its common expense shall at all times keep all buildings of the project, including the common elements and, whether or not part of the common elements, all exterior and interior walls, floors, and ceilings, in accordance with the as-built condominium plans and specifications, insured against loss or damage by fire with extended coverage in an insurance company authorized to do business in Hawaii having a financial rating by Best's Insurance Reports of Class VI or better in an amount sufficient to provide for the full repair or full replacement thereof without deduction for depreciation, in the name of the Association as trustee for all apartment owners and mortgagees according to the loss or damage to their respective apartments and appurtenant common interests and payable in case of loss to such bank or trust company authorized to do business in the State of Hawaii as the Board shall designate for the custody and disposition as herein provided of all proceeds of such insurance, and from time to time cause to be deposited promptly with the Master Lessor and Lessor true copies of such insurance policies or current certificates thereof, without prejudice to the right of each apartment owner to insure his apartment for his own benefit. Flood insurance shall also be provided under the provisions of the federal Flood Disaster Protection Act of 1973 if the property is located in an identified flood hazard area as designated by the Department of Housing and Urban Development with minimum limits equal to the aggregate of the outstanding principal balances of all mortgage loans on apartments in the project or

the maximum limit of coverage available under the National Flood Insurance Act of 1968, as amended, whichever is less. The members of the Association may by majority vote at any meeting of the Association require that the exterior glass of the project also be insured under such policy. Except as provided in paragraph K, in every case of such loss or damage all insurance proceeds shall be used as soon as reasonably possible by the Association for rebuilding, repairing or otherwise reinstating the buildings in a good and substantial manner according to the original plan and elevation thereof or such modified plans conforming to laws and ordinances then in effect as shall be first approved by the Master Lessor and Lessor and as herein provided, and the Association at its common expense shall make up any deficiency in such insurance proceeds. Every such policy of insurance shall:

1. Provide that the liability of the insurer thereunder shall not be affected by, and that the insurer shall not claim any right of set-off, counterclaim, apportionment, proration or contribution by reason of, any other insurance obtained by or for any apartment owner;

2. Contain no provision relieving the insurer from liability for loss occurring while the hazard to such buildings is increased, whether or not within the knowledge or control of the Board or the Master Lessor or Lessor, or because of any breach of warranty or condition or any other act or neglect by the Master Lessor or the Board, or the Lessor or any apartment owner or any other persons under any of them;

3. Provide that such policy and the coverage thereunder may not be canceled or substantially modified (whether or not requested by the Association)

except by the insurer giving at least sixty (60) days' prior written notice thereof to the Board, Master Lessor, Lessor, every first mortgagee of an apartment, and every other person in interest who shall have requested such notice of the insurer;

4. Contain a waiver by the insurer of any right of subrogation to any right of the Board, Master Lessor, Lessor or apartment owners against any of them or any other persons under them;

5. Contain a waiver by the insurer of any right of the insurer to repair, rebuild or restore the improvements of the project, if the apartment owners decide pursuant to paragraph K hereof not to repair, rebuild or restore the damaged or destroyed improvements;

6. Provide that the insurer, at the inception of the policy and on each anniversary date thereof, shall provide the Board with a written summary, in layman's terms, of the policy. This summary shall include, without limitation, a description of the type of policy, the coverage and limits thereof, the amount of the annual premium, and the renewal dates. Upon receipt of such summary from the insurer, the Board shall provide the summary to the apartment owners; and

7. Contain a standard mortgagee clause which shall:

(a) Provide that any reference to a mortgagee in such policy shall mean and include all holders of mortgages of any apartment or apartment lease of the project, in their respective order and preference, whether or not named therein;

(b) Provide that such insurance as to the interest of any mortgagee shall not be invalidated by any act or neglect of the Board, Master Lessor, Lessor or apartment owners or any persons under any of them;

(c) Waive any provision invalidating such mortgagee clause by reason of the failure of any mortgagee to notify the insurer of any hazardous use or vacancy, any requirement that the mortgagee pay any premium thereon, and any contribution clause; and

(d) Provide that, without affecting any protection afforded by such mortgagee clause, any proceeds payable under such policy shall be payable to said bank or trust company designated by the Board.

The Board on behalf of the Association at its common expense shall also effect and maintain all times comprehensive general liability insurance, covering all apartment owners with respect to the project and naming the Master Lessor and Lessor as additional insureds, in an insurance company authorized to do business in Hawaii with minimum limits of not less than ONE MILLION DOLLARS ($1,000,000.00) for injury to one or more persons in any one accident or occurrence and/or for property damage, and from time to time deposit promptly with the Master Lessor and Lessor current certificates of such insurance, without prejudice to the right of any apartment owners to maintain additional liability insurance for their respective apartments. Any such policy of insurance shall:

(i) Provide that the same shall not be invalidated by any act or neglect of the Board, Master Lessor, Lessor or apartment owners or any persons under any of them;

(ii) Contain a waiver by the insurer of any right of subrogation to any right of the Board, Master Lessor, Lessor or apartment owners against any of them or any other persons under them.

(iii) Contain a "severability of interest" endorsement precluding the insurer from denying the claim of an apartment owner because of negligent acts of the Master Lessor, Lessor, Association or other apartment owners; and,

(iv) Provide that the policy and the coverage thereunder may not be cancelled or substantially modified (whether or not requested by the Association), except by the insurer giving at least sixty (60) days' prior written notice thereof to the Board, Master Lessor, Lessor, every first mortgagee of an apartment and every other person in interest who shall have requested such notice of the insurer;

All premiums for insurance herein required to be obtained by the Board on behalf of the Association shall be a common expense to be paid by monthly assessments thereof, and such payments shall be held in a separate escrow account of the Association and used solely for the payment of such premiums as the same become due.

The Board shall review not less frequently than annually the adequacy of its entire insurance program and shall adjust its insurance program accordingly; the Board shall then report in writing its conclusions and action taken on such review to Master Lessor, Lessor, the owner of each apartment and to the holder of any first mortgage on any apartment who shall have requested a copy of such report or copies of all such reports.

K. INSURED DAMAGE OR DESTRUCTION. Notwithstanding the provisions of paragraph J, if any part of the improvements of the project shall be damaged by an insured casualty, the determination of whether or not to reconstruct or repair the same shall be made as follows:

1. Partial destruction, which shall be deemed to mean destruction which does not render one-half or more of the apartments untenantable, shall be reconstructed or repaired unless at a meeting of the Association of Apartment Owners, which shall be called prior to commencement of such reconstruction or repair, eighty percent (80%) or more of the apartment owners (exclusive of votes by the project's sponsor, developer or builder) vote against such reconstruction or repair, and this Declaration is terminated pursuant to the provisions of Section 514A-21(a)(1) of the Hawaii Revised Statutes.

2. Total destruction, which shall be deemed to mean destruction which does render one-half or more of the apartments untenantable, shall be reconstructed or repaired unless at a meeting of the Association of Apartment Owners, which shall be called within ninety (90) days after the occurrence of the casualty, or, if by such date the insurance loss has not been finally adjusted, then within 30 days thereafter, eighty percent (80%) or more of the apartment owners (exclusive of votes by the project's sponsor, developer or builder) vote against such reconstruction or repair. In the event the property shall not be reconstructed or repaired pursuant to such vote, the provisions of Sections 514A-21(a)(2) of the Hawaii Revised Statutes shall apply.

L. CONDEMNATION. In case at any time or times the project or any part thereof shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages for or on account of any land shall be payable to and be the sole property of the Master Lessor, and all compensation and damages for or on account of any improvements of the project shall be payable to

such bank or trust company authorized to do business in Hawaii as the Board shall designate as trustee for all apartment owners and mortgagees according to the loss or damage to their respective apartments and appurtenant common interests and shall be used promptly by the Association to the extent necessary for restoring or replacing such improvements on the remaining land according to plans therefor first approval as herein provided, unless such restoration or replacement is impractical in the circumstances. Unless such restoration or replacement is undertaken within a reasonable time after such condemnation the Association at its common expense shall remove all remains of such improvements so taken or condemned and restore the site thereof to good orderly condition and even grade.

M. UNINSURED CASUALTY. In case at any time or times any improvements of the project shall be damaged or destroyed by any casualty not herein required to be insured against, such improvements shall be rebuilt, repaired or restored unless eighty percent (80%) or more of the apartment owners (exclusive of votes by the project's sponsor, developer or builder) vote to the contrary. Any such restoration of the common elements shall be completed diligently by the Association at its common expense and the apartment owners shall be solely responsible for any restoration of their respective apartments so damaged or destroyed, according to the original plans and elevation thereof, or such other plan first approved as provided herein. Unless such restoration is undertaken within a reasonable time after such casualty, the Association at its common expense shall remove all remains of improvements so damaged or destroyed and restore the site thereof to good orderly condition and even grade.

N. ALTERATION OF PROJECT. Restoration or replacement of the project or any building or other structure thereof or construction of any additional building or other structure or structural alteration or additional thereto, different in any material respect from said condominium file plan of the project, shall be undertaken by the Association or any apartment owner only pursuant to an amendment of this Declaration, duly executed by or pursuant to a vote of at least eighty percent (80%) of the apartment owners and in accordance with complete plans and specifications therefor first approved in writing by the Master Lessor, Lessor and Board, and promptly upon completion of such restoration, replacement, construction, alteration or addition, the Association shall duly record or file of record such amendment together with a complete set of floor plans of the project as so altered, certified as built by a registered architect or professional engineer. Provided, however, that notwithstanding any provision in this Declaration to the contrary, any alterations or additions within an apartment or within a limited common element appurtenant to and for the exclusive use of an apartment, or of certain apartments, shall require only the written approval thereof, including the apartment owner's plans therefor, by the holder of a first lien affecting such apartment (if the lienholders require such approval), the Board, all other apartment owners thereby directly affected (as determined by said Board), and the Master Lessor and Lessor, and such alterations or additions may be undertaken without an amendment to this Declaration or filing of a complete set of floor plans of the project as so altered.

N.1. ALTERATIONS BY DISABLED OCCUPANTS. Regardless of anything to the contrary in this Declaration, the By-Laws, or the House Rules, disabled

occupants shall: (1) be permitted to make reasonable modifications to their apartments and/or the common elements, at their expense, if the modifications are necessary to enable them to use and enjoy their apartments and/or the common elements; provided that any disabled occupant wishing to make modifications or to obtain an exemption first submits a written request to the Board, and the Board consents in writing to the request. The request must state in detail the nature of the request and the reason that the disabled occupant needs to make modifications to be granted an exemption. The Board shall not unreasonably withhold or delay its consent to the request, and any request shall be deemed to be granted if the Board does not respond in writing, within forty-five (45) days of the Board's receipt of the request. The Board may condition its consent upon the disabled occupant complying with the following conditions:

1. The disabled occupant must provide plans and specifications, including detailed plot plans, if requested, at the disabled occupant's expense;

2. The disabled occupant must agree to, if necessary, submit the plans and specifications to an engineer or other expert selected by the board for review and approval, at the disabled occupant's expense;

3. The disabled occupant must agree to, if necessary, an inspection of the proposed additions or alterations during the course of construction and/or following completion of construction, by an engineer or other expert selected by the Board at the disabled occupant's expense;

4. The disabled occupant must strictly comply with all applicable laws, ordinances, and regulations of any governmental entity; and

5. The disabled occupant must obtain any necessary building permits, at the disabled occupant's expense. (See Endnote 9)

O. MAINTENANCE RESERVE FUND. In compliance with Chapter 514A, Hawaii Revised Statutes, the Board shall establish and maintain a Maintenance Reserve Fund by the assessment of and payment by all the apartment owners in equal monthly installments of their respective proportionate shares of such reasonable annual amount as the Board may determine in its sole discretion as adequate to cover each apartment owner's obligations to provide for utilities, insurance, maintenance and repair of the common elements and other expenses of administration of the project, which shall be deemed conclusively to be a common expense of the project. The Board may include reserves for contingencies in such Fund, and such Fund may from time to time be increased or reduced in the discretion of the Board. The proportionate interest of each apartment owner in said Fund cannot be withdrawn or separately assigned but shall be deemed to be transferred with such apartment even though not expressly mentioned or described in the conveyance thereof. In case the condominium property regime hereby created shall be terminated or waived, said Fund remaining after full payment of all common expenses of the Association shall be distributed to all apartment owners in their respective proportionate shares except for the owners of any apartments then reconstituted as a new condominium property regime. (See Endnote 10)

P. AMENDMENT OF DECLARATION. Except as otherwise provided herein or in said Condominium Property Act, this Declaration may be amended by vote of at least seventy-five per cent (75%) of the apartment owners, and shall be

effective only upon the recording of an instrument setting forth such amendment and vote duly executed by such owners or by the proper officers of the Association; provided, however, that any material amendment to this Declaration shall also require the prior written approval thereof by at least seventy-five percent (75%) of the institutional holders of a first mortgage on an apartment or of an apartment lease demising the same (based upon one vote for each first mortgage owned); and, further, provided, that the Master Lessor and Lessor reserve the right to amend this Declaration without the consent or joinder of the persons then owning or leasing the apartments by filling an amendment to this Declaration pursuant to the provisions of Section 514A-12, Hawaii Revised Statutes, as amended, after completion of the buildings described herein by attaching to such amendment a verified statement of a registered architect or professional engineer certifying that the final plans theretofore filed or being filed simultaneously with such amendment fully and accurately depict the layout, location, apartment numbers and dimensions of the apartments as built.

Q. DEFINITIONS. The terms "majority" or majority of apartment owners herein means the owners of apartments to which are appurtenant more than fifty percent (50%) of the common interests, and any specified percentage of the apartment owners means the owners of apartments to which are appurtenant such percentage of the common interests. The term "institutional lender" or "institutional holder" used herein and in the By-Laws means a mortgagee which is a bank or savings and loan association or established mortgage company, or other entity chartered under federal or state laws, any corporation, or insurance company, or any federal or state agency.

R. LATENT DEFECTS. Master Lessor hereby agrees to take no action which would adversely affect the rights of the Association or apartment owners with respect to assurances against latent defects in the property or other right assigned to the Association by reason of the establishment of this condominium property regime.

IN WITNESS WHEREOF, the undersigned have executed this Restated Declaration this 14 day of MAY, 1999.

ASSOCIATION OF APARTMENT OWNERS
OF HALE MAHINA BEACH RESORT

By _____
Print Name: FRANK PORCELLI Jr
Its President
(Please Print)

By _____
Print Name: RONALD G LARSON
Its Secretary
(Please Print)

STATE OF HAWAII)
) ss.
COUNTY OF MAUI)

On this 20 day of APRIL, 1999, before me appeared FRANK PORCELLI JR, to me personally known, who, being by me duly sworn, did say that he/~~she~~ is the President of the ASSOCIATION OF APARTMENT OWNERS OF HALE MAHINA BEACH RESORT, an unincorporated association, that said Association has no seal, and that said instrument was executed on behalf of said Association by authority of its Board of Directors and said President acknowledged that he/~~she~~ executed said instrument as the free act and deed of the ASSOCIATION OF APARTMENT OWNERS OF HALE MAHINA BEACH RESORT.

OFFICIAL SEAL
BARBARA L CLARK
NOTARY PUBLIC-OREGON
COMMISSION NO. 321427
MY COMMISSION EXPIRES APR 1, 2003

Barbara L. Clark
Print Name: _____
Notary Public, State of ~~Hawaii~~ Oregon

My Commission Expires:

STATE OF HAWAII)
) ss.
COUNTY OF MAUI)

On this 14th day of May, 1999, before me appeared RONALD G LARSON, to me personally known, who, being by me duly sworn, did say that he/she is the Secretary of the ASSOCIATION OF APARTMENT OWNERS OF HALE MAHINA BEACH RESORT, an unincorporated association, that said Association has no seal, and that said instrument was executed on behalf of said Association by authority of its Board of Directors and said RONALD G LARSON acknowledged that he/she executed said instrument as the free act and deed of the ASSOCIATION OF APARTMENT OWNERS OF HALE MAHINA BEACH RESORT.

Print Name: ANN M. ELLS
Notary Public, State of Hawaii

My Commission Expires: 4-23-2003

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EXHIBIT A

PARCEL I: That certain parcel of land situate at Mahinahina, Kaanapali, Island and County of Maui, State of Hawaii, being a portion of the Ahupuaa of Mahinahina 4 and described as follows:

Beginning at a 1-1/2 inch iron pipe on the makai edge of the Honolua-Lahaina Government Road, the same being the Southerly corner of this piece, the coordinates of which referred to Government Triangulation Station "Laina" are 23,000.5 feet North and 5,342.7 feet West, and running thence by azimuths measured clockwise from True South:

1.	162°	47′	508.30	feet along Lucy N. Furtado Lot to an iron pipe at the seashore; thence
2.	228°	55′	63.05	feet along seashore to an iron pipe; thence
3.	300°	56′	174.56	feet along remainder of Baldwin Packers, Ltd. property to an iron pipe on makai side of Government Road; thence
4.	357°	54′	71.55	feet to an iron pipe in concrete monument on the makai side of the Honolua-Lahaina Government Road; thence
5.	358°	40′	98.58	feet along the Honolua-Lahaina Government Road to an iron pipe; thence
6.	2°	08′	91.83	feet along the same to an iron pipe; thence
7.	4°	08′	59.61	feet along the same to an iron pipe; thence
8.	8°	57′	53.41	feet along the same to an iron pipe; thence
9.	29°	26′	72.50	feet along the same to the point of beginning, and containing an area of 1.336 acres, more or less.

PARCEL II: That certain parcel of land situate at Mahinahina, Kaanapali, Island and County of Maui, State of Hawaii, being a portion of the Ahupuaa of Mahinahina 1, 2 and 3, and described as follows:

Beginning at a pipe on the South corner of this lot, in the middle of Gulch, the coordinates of which point referred to Triangulation Station "Kekaa" are 11,795.60 feet North and 4051.86 feet West, the azimuth and distance from a pipe on the South corer of property belonging to Rowena K. Hose being 162° 47′ 157.90 feet and running by azimuths measured clockwise from true South:

1.	148° 38′	51.80	feet along Lucy N. K. Furtado to a pipe in middle of gulch;
2.	133° 20′	41.90	feet along Lucy N. K. Furtado to a pipe in middle of gulch;
3.	136° 45′	77.95	feet along Lucy N. K. Furtado to a pipe in middle of gulch;
4.	125° 12′	106.00	feet along Lucy N. K. Furtado to a pipe at seashore;
5.	221° 51′	154.07	feet along seashore to a pipe;
6.	342° 47′	244.00	feet along property belonging to Rowena K. Hose to a pipe;
7.	342° 47′	76.00	feet along same to the point of beginning, and containing an area of 20,441 square feet, more or less.

Excepting therefrom any right and/or interest of the State of Hawaii, in and to all land lying seaward of the seaward boundary line, as such boundary line is from time to time determined by law.

SUBJECT, HOWEVER, to the following:

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

2. The location of the seaward boundary of the above described property and shoreline setbacks and prohibitions on use as affected by the law of the State of Hawaii.

3. In the event that the County of Maui, State of Hawaii and/or the Federal government or any instrumentality or agency thereof, improves the stream bed shown ont he condominium map for the project in accordance with applicable law, then and in such event such authority, or instrumentality or agency thereof, shall have an easement of ingress and egress over, across and through lands of the project to and from the stream bed for the purpose of carrying out such improvement of the said stream bed and the maintenance and repair thereof; provided, however, that said easement shall not be located through or within any structures on the said land of the project and shall not be exercised in such a manner as to disturb unnecessarily the normal enjoyment and use of the said land or the improvements located thereon; and provided further, that after any such construction or repair work to the said stream bed, the said land of the project shall be restored by such authority, or instrumentality or agency thereof, to its condition existing prior to such construction or repair to the extent that such restoration is reasonably possible.

EXHIBIT "B"

1. Apartment No. C is located in Building "C".

2. Apartment Nos. A-101, A-102, A-103, A-104, A-105, A-106 and A-107 are located on the first floor of Building "A".

3. Apartment Nos. A-201, A-202, A-203, A-204, A-205, A-206 and A-207 are located on the second floor of Building "A".

4. Apartment Nos. A-301, A-302, A-303, A-304, A-305, A-306 and A-307 are located on the third floor of Building "A".

5. Apartment Nos. A-401, A-402, A-403, A-404, A-405, A-406 and A-407 are located on the fourth and loft floors of Building "A", the two floors of each of these apartments being connected by an internal stairway.

6. Apartment Nos. B-101, B-102, B-103, B-104, B-105 and B-106 are located on the first floor of Building "B".

7. Apartment Nos. B-201, B-202, B-203, B-204, B-205 and B-206 are located on the second floor of Building "B",

8. Apartment Nos. B-301, B-302, B-303, B-304, B-305 and B-306 are located on the third floor of Building "B".

9. Apartment Nos. B-401, B-402, B-403, B-404, B-405 and B-406 are located on the fourth and loft floors of Building "B", the two floors of each of these apartments being connected by an internal stairway.

10. Three (3) apartments, being Nos. A-101 A-201 and A-301, are built according to a floor plan consisting of six (6) rooms, including a living room, two (2) bedrooms, a kitchen, two (2) bathrooms and a lanai. Each of these apartments contains a floor area of approximately 1,510 square feet, including the lanai of approximately 169 square feet, and each such apartment shall have an appurtenant common interest of 2.7315%.

11. Three (3) apartments, being Nos. B-101, B-201 and B-301, are built according to a floor plan consisting of four (4) rooms, including a living/dining room, a bedroom, a kitchen, a bathroom and a lanai. Each of these apartments contains a floor area of approximately 828 square feet, including the lanai of approximately 124 square feet, and each such apartment shall have an appurtenant common interest of 1.4978%.

12. Six (6)-apartments, being Nos. A-102, A-103, A-202, A-203, A-302, and A-303, are built according to a floor plan consisting of four (4) rooms, including a living/dining room, a bedroom, a kitchen, a bathroom and a lanai. Each of these apartments contains a floor area of approximately 811 square feet, including the lanai of approximately, 121 square feet, and each such apartment shall have an appurtenant common interest of 1.4671%.

13. Twenty-one (21) apartments, being Nos. A-104, A-105, A-106, B-102, B-103, B-104, B-105, A-204, A-205, A-206, B-202, B-203, B-204, B-205, A-304, A-305, A-306, B-302, B-303, B-304, and B-305, are built according to a floor plan, or its mirror image, consisting of four (4) rooms, including a living/dining room, a bedroom, a kitchen, a bathroom and a lanai. Each of these apartments contains a floor area of approximately 936 square feet, including the lanai of approximately 137 square feet, and each such apartment shall have an appurtenant common interest of 1.6929%.

14. Six (6) apartments, being Nos. B-106, A-107, B-206, A-207, B-306 and A-307, are built according to a floor plan consisting of four (4) rooms, including a living/ dining room, a bedroom, a kitchen, a bathroom and a lanai. Each of these apartments contains a floor area of approximately 956 square feet, including the lanai of approximately 140 square feet, and each such apartment shall have an appurtenant common interest of 1.7293%.

15. One (1) apartment, being No. A-401; is built according to a floor plan consisting of eight (8) rooms,including a living room, two (2) bedrooms, a kitchen, two (2)bathrooms and a lanai located on the fourth floor of Building "A", and a bedroom and a bathroom located on the loft floor of Building "A". This apartment contains a floor area of approximately 1,952 square feet, including the lanai of approximately 169 square feet, and this apartment shall have an appurtenant common interest of 3.5311%.

16. One (1) apartment, being No. B-401, is built according to a floor plan consisting of six (6) rooms, including a living/dining room, a bedroom, a kitchen, a bathroom and a lanai located on the fourth floor of Building "B", and a bedroom and a bathroom located on the loft floor of Building "B". This apartment contains a floor area of approximately 1,096 square feet, including the lanai of approximately 124 square feet, and this apartment shall have an appurtenant common interest of 1.9808%.

17. Two (2) apartments, being Nos. A-402, and A-403, are built according to a floor plan consisting of six (6) rooms, including a living/dining room, a bedroom, a kitchen, a bathroom and a lanai located on the fourth floor of Building "A", and a bed-room and a bathroom located on the loft floor of Building "A". Each of these apartments contains a floor area of approximately 1,038 square feet, including the lanai of approximately 121 square feet, and each such apartment shall have an appurtenant common interest of 1.8885%.

18. Seven (7) apartments, being Nos. A-404, A-405, A-406, B-402, B-403, B-404 and B-405 , are built according to a floor plan, or its mirror image, consisting of six (6) rooms, including a living/dining room, a bedroom, a kitchen, a bathroom and a lanai located on the fourth floor of their respective buildings, and a bedroom and a bathroom located on the loft floor of their respective buildings. Each of these apartments contains a floor area of approximately 1,201 square feet, including the lanai of approximately 137 square feet, and each such apartment shall have an appurtenant common interest of 2.1707%.

19. One (1) apartment, being No. A-407 is built according to a floor plan consisting of six (6) rooms, including a living/dining room, a bedroom, a kitchen, a bathroom and a lanai located on the fourth floor of Building "A", and a bedroom and a bathroom located on the loft floor of Building "A". This apartment contains a floor area of approximately 1,262 square feet, including the lanai of approximately 140 square feet, and this apartment shall have an appurtenant common interest of 2.2888%.

20. One (1) apartment, being No. B-406, is built according to a floor plan consisting of six (6) rooms, including a living/dining room, a bedroom, a kitchen, a bathroom and a lanai located on the fourth floor of Building "B", and a bedroom and a bathroom located on the loft floor of Building "B". This apartment contains a floor area of approximately 1,260 square feet, including the lanai of approximately 140 square feet, and this apartment shall have an appurtenant common interest of 2.2791%.

21. One (1) apartment, being No. C is built according to a floor plan consisting of fourteen (14) rooms, including a studio, kitchen, two (2) bathrooms, a storage room, a utility room, a den, a carport, a porch and a lanai located on the first floor of Building "C", and three (3) bedrooms, two (2) bathrooms, a kitchen, a living/dining room, and two (2) lanais located on the second floor of Building "C". This apartment contains a floor area of approximately 3,513 square feet, including the carport of approximately 410 square feet and the lanais of approximately 885 square feet, and this apartment shall have an appurtenant common interest of 3.5311%. (See Endnote 11)

NOTE: IN ACCORDANCE WITH LOCAL PRACTICE, THE APPROXIMATE GROSS FLOOR AREA OF EACH APARTMENT AS SET FORTH ABOVE INCLUDES ALL OF THE WALLS AND PARTITIONS WITHIN ITS PERIMETER WALLS, THE ENTIRETY OF ITS PERIMETER NON-PARTY WALLS AND THE INTERIOR HALF OF ITS PERIMETER PARTY WALLS, WHETHER LOAD-BEARING OR NON-LOAD BEARING.

ENDNOTES

The following endnotes correspond to provisions in the Declaration of Horizontal Property Regime of Hale Mahina Beach Resort, as restated to conform to Chapter 514A, Hawaii Revised Statutes, and the Federal Fair Housing Act (42 U.S.C. Sections 3601 et seq.), and to integrate all amendments made to the project's declaration. This restatement was made solely for purposes of information and convenience. The restated declaration of condominium property regime correctly states without change the corresponding provisions of the original declaration, as amended, and supersedes the original declaration and all prior amendments to it. In the event of a conflict, the restated declaration shall be subordinate to the original declaration, amendments and cited statutes.

1. Note that condominium file plan no. 616, referred to in the preamble, was amended by the September 14, 1979; November 26, 1979; and February 20, 1981 amendments referred to above. Throughout this restatement, references to "horizontal" property regime and "horizontal" property act have been changed by substituting "condominium" for "horizontal" in accordance with Act 65 (SLH 1988).

2. Section A.2.(d) was amended by the Second Amendment to Declaration of Horizontal Property Regime of Hale Mahina Beach Resort, dated September 14, 1979 and recorded in Liber 14000, Page 150. Note that the original declaration omitted Section A.2.(h).

3. Sections E and F have been amended to reflect that the Bylaws are no longer attached to and recorded as part of the Declaration but are now recorded separately.

4. Section F.4. has been amended to include a reference to Paragraph N.1, which was added to conform to the requirements of the Fair Housing Amendments Act, as amended (42 U.S.C. Section 3601, et seq.) relating to alterations by disabled owners and residents.

5. Section F.6. has been amended for the same reason.

6. The first paragraph of Section H has been amended to reflect that under Section 514A-90, Hawaii Revised Statutes, mortgages are only prior to the Association's lien if the mortgages are recorded prior to the Association's lien.

7. This paragraph was added by the Certification of Amendment to Declaration of Horizontal Property Regime of Hale Mahina Beach Resort Owners of Hale Mahina Beach Resort dated August 29, 1986 and recorded in Liber 19816, Page 711.

8. Section H. has been amended by a reference to the budgeting and reserve requirements of Chapter 514A created by Section 514A-83.6, Hawaii Revised Statutes.

9. Paragraph N.1. has been added to provide a clear statement that disabled owners and residents will be permitted to make all alterations and additions to their apartment and the Project authorized by the Fair Housing Amendments Act and Chapter 515, Hawaii Revised Statutes.

10. Section P. has been amended by a reference to the budgeting and reserve requirements of Chapter 514A created by Section 514A-83.6, Hawaii Revised Statutes.

11. Paragraph 21 of Exhibit B was amended by the Second Amendment (see Endnote 2 above) to eliminate reference to an "office" in the description of apartment C.

HLU Committee

From: Rick Viebahn <rviebahn@gmail.com>
Sent: Monday, June 29, 2026 11:26 AM
To: HLU Committee; Rick Viebahn
Subject: Hlu-18 Resolution 26-110
Attachments: Bill 88.docx

You don't often get email from rviebahn@gmail.com. Learn why this is important

Please read my attachment bill 88. My property is section 3 in resolution 26-110

As a Kihei resident I strongly oppose the short-term rental bill. But need the Bill 88.

Maui County Council will consider Bill 88, proposed legislation that would create new Hotel-3 (H-3) and Hotel-4 (H-4) zones in Maui law,

I own a unit at the “Millowai “condominiums located in Maalaea. This condominium is on the Minatoya list. When it was built it was meant to be used as a vacation rental. This property is listed as a condo-hotel for property tax purposes. Zoned as A1-A2 Light industrial. Not for residential use!!!

My property is not designed for long-term residential use.

It would be very hard to rent it or even buy it.

Please read these reasons!!!!.

1) If a local resident wanted to buy my unit, they can't get a get a loan!!!. It must be a cash only transaction. How many residents have $600,000 available? The building is on a land lease hold and has only 12 years left on the lease. Therefore, no banks will finance a loan. You can't even get a home equity loan on it!!!!
2) There are way too many rules to live in this condominium and be happy. Due to a HOA rules.
3) No smoking anywhere on the property including outside or anywhere on the property.
4) No visitors after 10 PM
5) No pets of any kind allowed.
6) No surfboard, standup boards, kayaks, canoes storage allowed anywhere on the property
7) No moped storage anywhere on the property
8) Only one car parking spot
9) My unit has less than 500 ft.^{2}
10) No children allowed in the pool only with an adult
11) No swimming after 9 PM
12) Very strict quiet rules
13) Only one small closet for each unit inside the unit
14) Apartments are not handicap accessible
15) No bicycle storage parking available

16) No large plants on the lanai
17) 95% of the building is one bedroom and with a very small living room.
18) It's way too expensive to rent there.

My unit, a one-bedroom condominium has very large HOA fees $2,500 a month. My insurance is $3000 a year, my property taxes are high $4000 a year because I don't live in it. Plus, I have Utilities such as electricity, Cable bills etc. For me to make all my payments and break even I would have to charge $4000 rent. This is an ocean view condominium. Across the United States any property that has an ocean view on the beach is usually out of reach for local residences that have common jobs such as nursing, police officers, contractors, waiters etc. Those type of places in location- location in real estate and are never affordable to common citizens in any city unless you're rich. What local would ever want to spend that kind of money and live in those types of restrictive conditions.

If this bill goes through. I won't be able to rent my property to a local, too expensive. For me it's too small, too expensive, and too restricted for me to live in it. I would have to sell it. No local is going to buy it. Some wealthy mainlander will buy it as a vacation property. They will come here once a year. Not contributing to our local economy as tourists do. There will be no need for daily maid service, no need for painters, no need to buy new furniture, broken dishes, new towels, the list goes on. No 18% tourist fees to Maui. So much will be lost.

I honestly believe that the entire building will suffer due to lack of improvements because the new owners won't be living there. They don't want to invest any more money keeping up the property. When they're barely there. There is no need to keep it up nice for tourists to rent it

This short-term rental conversion is truly a mistake. And it's not well thought out and will hurt the county of Maui.

However, I am for converting homes in residential areas. They are not meant for vacationers. That situation could help our housing crisis.

It must be carefully examined which properties should be converted to long-term use. Again, not all these properties will be able to be used as long-term residences.

Please make some wise choices!! Maui County Council will consider Bill 88, proposed legislation that would create new Hotel-3 (H-3) and Hotel-4 (H-4) zones in Maui law,

Furthermore, my unit helps me pay for my home in Kihei. My family is in the cleaning business and will no longer get paid from me. I seriously think if this goes though, I will have sell my house in Kihei because of income loss.

Rick Viebahn

Resident

Kihei, HI

HLU Committee

From: Justin Spanko <justin.spanko@kaanapaliroyal.com>
Sent: Monday, June 29, 2026 9:10 AM
To: HLU Committee
Subject: Support for Resolution 26-110
Attachments: Kaanapali Royal HLU 070126.pdf

You don't often get email from justin.spanko@kaanapaliroyal.com. Learn why this is important

Aloha,

I am submitting the attached written testimony in support of Resolution 26-110.

Mahalo,

Justin Spanko
General Manager

Kaanapali Royal
2560 Kekaa Drive
Lahaina, HI 96761

C: 808.283.9821
O: 808.667.7200

www.kaanapaliroyal.com
justin.spanko@kaanapaliroyal.com

RE: Resolution 26-110 – Testimony in Support of Kaanapali Royal's Inclusion

Aloha Chair and Members of the Housing and Land Use Committee,

My name is Justin Spanko, and I am the General Manager of Kaanapali Royal.

I respectfully submit this testimony in support of Resolution 26-110 as written, including the proposed rezoning of Kaanapali Royal from the A-2 Apartment District to the H-4 Hotel District.

As General Manager, I work with the property's Board of Directors, owners, governing documents, and the broader Kaanapali Resort on a daily basis. The information below is intended to provide additional background about Kaanapali Royal as the Committee considers the proposed rezoning.

Kaanapali Royal and the Kaanapali Resort

Kaanapali Royal is a 105-unit condominium located on approximately 7.125 acres within the Kaanapali Resort. As shown in Appendix A, the property is surrounded by hotels, resort condominiums, the Royal Kaanapali Golf Course, Whalers Village, restaurants, retail businesses, and other resort amenities. It has operated in this setting for more than 45 years.

The property's relationship to the resort extends beyond its location. The property's governing documents require the Association to be a member of the Kaanapali Beach Operators' Association (now the Kaanapali Operations Association), with shared responsibilities for resort improvements and facilities. These requirements have been part of the property's operation since it was established.

Appendix B, Condominium Map No. 364, identifies the property boundaries.

Resolution 26-110

Resolution 26-110 references the West Maui Community Plan's objective to "support best practices for tourism management in West Maui to protect the residents' quality of life, and the area's environment, culture, and character." An important part of achieving that objective is recognizing where visitor accommodations are most appropriately located.

The Kaanapali Resort was developed to concentrate visitor accommodations in a designated resort area, helping support Maui's visitor industry while reducing pressure on surrounding residential communities.

The proposed rezoning does not change the character or location of Kaanapali Royal. Instead, it recognizes the way the property has functioned for decades and provides zoning that is consistent with that longstanding role.

Kaanapali Royal Governing Documents

The Restatement of the Declaration of Horizontal Property Regime (Appendix C) states that the apartments may be occupied as "permanent or temporary residences or lodgings." That language has been part of the property's governing documents since it was established and remains in effect today. It also provides owners with the right to rent or lease their apartments, subject to the Declaration.

The Declaration further references "Resort Rental Units" within the Master Declaration governing the Kaanapali Beach Resort Area. Together, these documents show that visitor accommodations were part of Kaanapali Royal's original design as part of the Kaanapali Resort.

The H-4 zoning category is consistent with historical operations and planned use.

Conclusion

Kaanapali Royal has been part of the Kaanapali Resort since it was developed more than forty-five years ago. Its location within the Kaanapali Resort, its governing documents, and its ongoing relationship with the broader resort continue to reflect that original design.

For these reasons, I respectfully support Kaanapali Royal's inclusion in Resolution 26-110 and ask the Housing and Land Use Committee to recommend approval of the resolution as written.

Mahalo for your consideration.

Respectfully submitted,

Justin Spanko
General Manager
Kaanapali Royal

Appendices

Appendix A – Kaanapali Beach Resort Map

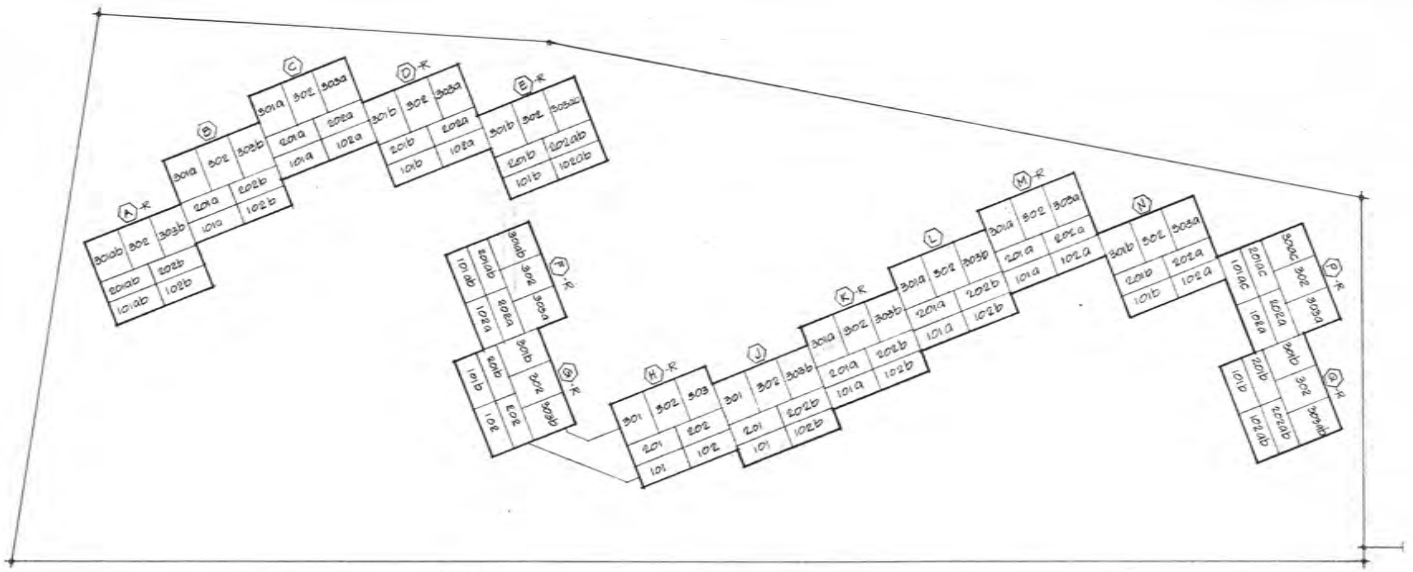
Appendix B – Condominium Map No. 364 (Property Boundaries)

Appendix C – Restatement of Declaration of Horizontal Property Regime (Recorded January 12, 1999)

Appendix A: Kaanapali Royal within the Kaanapali Beach Resort

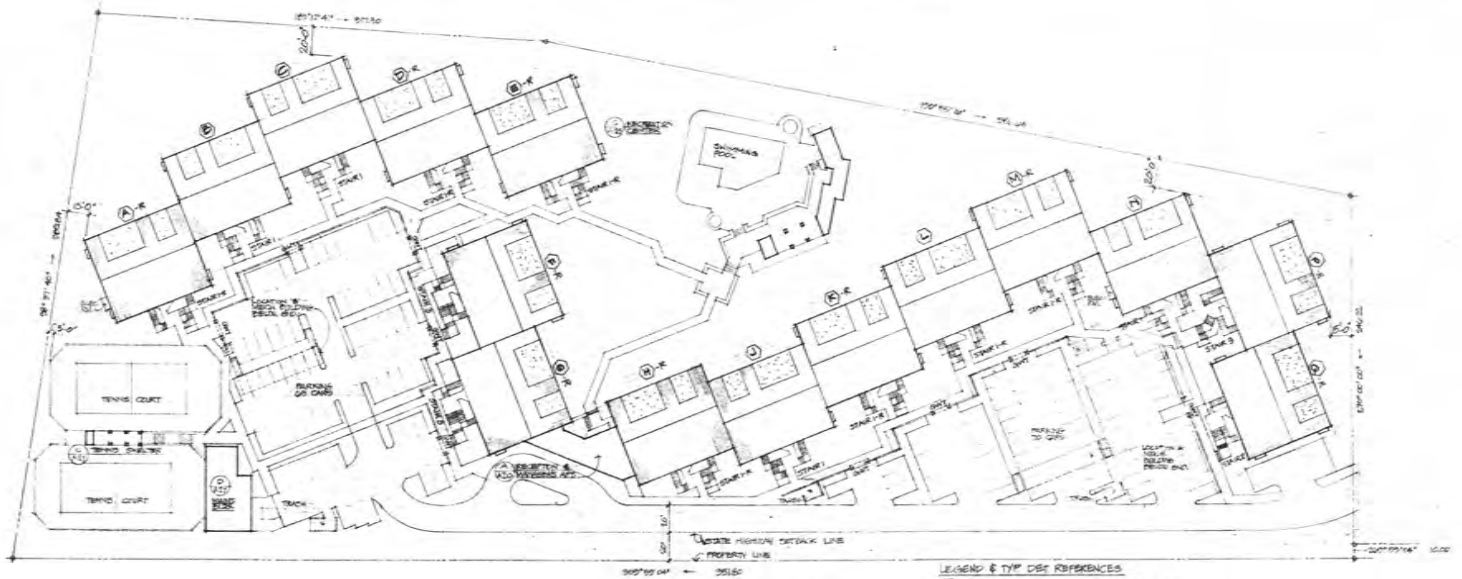
Source: Kaanapali Beach Resort Association. Arrow added to identify Kaanapali Royal.

Appendix B – Condominium Map 364



UNIT KEY PLAN
1" = 40'

NORTH



SITE PLAN & ROOF PLAN
1" = 40'
TMK: 4-4-08:20 LOT 47-A

NORTH

LEGEND & TYP DET REFERENCES

(A)-K- REVERSE APARTMENT BUILDING IDENTIFICATION

CANTILEVER WALL TRELLIS (SHT) DET A2/3

STAIR DET A2/2

STAIR 1-K SIM DET A2/1

STAIR E DET A2/2

STAIR 3 DET A2/3

Johnson-Reese & Associates

Architects

Suite 310
12 South King Street
Honolulu, Hawaii 96813
Telephone 524-1070

SITE PLAN & ROOF PLAN
UNIT KEY PLAN

This work was prepared by me or under my supervision and construction of this project will be under my supervision.

RICHARD E. LOWREY
REGISTERED PROFESSIONAL ARCHITECT
No. 2778
HAWAII, U.S.A.

Project number 7822

Date APRIL 10, 1979

A-1

Sheet A-1 of 10

Appendix C - Restatement of Declaration of Horizontal Property Regime of Kaanapali Royal

DOCUMENT NO. 2513169

JAN 12 1999

LAND COURT SYSTEM | REGULAR SYSTEM

Return by: Mail [ ] Pickup [ ] To:

NEELEY & ANDERSON
Attorneys at Law, A Law Partnership
Joyce Y. Neeley (3134-0)
733 Bishop Street, Suite 2301
Honolulu, Hawaii 96813 (808) 536-8177

RESTATEMENT OF DECLARATION OF HORIZONTAL PROPERTY REGIME OF KAANAPALI ROYAL

(Condominium Map NO. 364)

WHEREAS, Section 514A-82.2(a), Hawaii Revised Statutes, provides that associations of apartment owners may at any time restate the declaration of horizontal property regime ("declaration") of the condominium project to set forth all amendments thereof by resolution adopted by the board of directors;

WHEREAS, Section 514A-82.2(b), Hawaii Revised Statutes, provides that associations of apartment owners may at any time restate the declaration to amend the declaration as may be required in order to conform with the provisions of Chapter 514A, Hawaii Revised Statutes, or any other statute, ordinance, rule, or regulation enacted by any governmental authority, by resolution adopted by the board of directors, and the restated declaration shall be as fully effective for all purposes as if adopted by the vote or written consent of the apartment owners. Section 514A-82.2(b), Hawaii Revised Statutes, further provides that the declaration as restated pursuant to that Section shall: 1) identify each portion so restated; 2) contain a statement that those portions have been restated solely for the purposes of information and convenience; 3) identify the statute, ordinance, rule, or regulation implemented by the amendment; and 4) state that in the event of any conflict, the restated declaration shall be subordinate to the cited statute, ordinance, rule, or regulation;

WHEREAS, Section 514A-82.2(c), Hawaii Revised Statutes, provides that upon the adoption of a resolution pursuant to Section 514A-82.2(a) or (b), Hawaii Revised Statutes, the restated declaration shall set forth all of the operative provisions of the declaration, as amended, together with a statement that the restated declaration correctly sets forth, without change, the corresponding provisions of the declaration, as amended, and that the restated declaration supersedes the original declaration and all prior amendments thereto;

WHEREAS, the Board of Directors of the Association of Apartment Owners of Kaanapali Royal by adoption of a resolution on November 11, 1997, voted to record a restated version of the Declaration of Horizontal Property Regime of Kaanapali Royal which would set forth the provisions of the Declaration filed with the Assistant Registrar of the Land Court of the State of Hawaii on April 12, 1979 as Document No. 932343 and amended by instruments filed with the Assistant Registrar of the Land Court of the State of Hawaii, on June 18, 1986 as Document No. 1378941, on February 9, 1989 as Document No. 1612711, on September 1, 1994 as Document No. 2177129, and on September 1, 1994 as Document No. 2177130 and noted on the Certificates of Title as listed on Exhibit C attached hereto, and which would conform to Chapter 514A, Hawaii Revised Statutes and the Fair Housing Act, as amended.

NOW, THEREFORE, the Declaration of Horizontal Property Regime of Kaanapali Royal ("Declaration") is hereby restated as set forth below. Each Declaration provision that has been restated has been identified in the endnotes attached hereto. Said provisions have been restated solely for the purposes of information and convenience. To the extent that there is any conflict between the restated provisions of the Declaration and the statute or statutes being implemented, the provisions of the restated Declaration shall be subordinate to said statute or statutes. The restated version of the Declaration correctly sets forth, without change, the corresponding provisions of the Declaration, as amended. (Exhibit "B" to the Declaration, the By-Laws, has been separately restated and is not included in this Restatement.) This restated version of the Declaration shall supersede the original Declaration and all prior amendments thereto; provided, however, that in the event of any conflict, the restated version of the Declaration shall be subordinate to the original Declaration and all prior amendments thereto.

DECLARATION OF HORIZONTAL PROPERTY REGIME

OF

KAANAPALI ROYAL

WHEREAS, KAANAPALI ROYAL ASSOCIATES, a Hawaii partnership, whose principal place of business and post office address is Suite 200, 923 Nuuanu Avenue, Honolulu, Hawaii (hereinafter called the "Developer"), is the legal owner of that certain parcel of real property (the "Land") hereinafter more particularly described; and

WHEREAS, Developer intends to develop the Land as a condominium project as described herein, in accordance with plans and specifications therefor filed in the Office of the Assistant Registrar of the Land Court of Hawaii as Condominium Map No. 364 (hereinafter called the "Condominium Map"), which Condominium Map is hereby incorporated herein by reference.

NOW, THEREFORE, Developer hereby submits the Land and the improvements to be constructed thereon, to the Horizontal Property Regime established by Chapter 514A, Hawaii Revised Statutes, as amended (hereinafter called the "Act"), and in furtherance thereof, makes the following declarations as to divisions, limitations, restrictions, covenants and conditions and hereby declares that the Land and said condominium project are held and shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, and improved subject to the declarations, restrictions and conditions set forth herein and in the By-Laws (hereinafter called the "By-Laws"), filed herewith and made a part hereof, as the same may from time to time be amended in accordance with law, which declarations, restrictions and conditions shall constitute covenants running with the land and shall be binding on and for the benefit of the Developer, its successors and assigns, and all subsequent owners and lessees of all or any part of the Land and said condominium project, and their respective heirs, executors, administrators, successors and assigns.

1. NAME OF PROJECT. The Horizonal Property Regime established hereby shall be known as "KAANAPALI ROYAL" (hereinafter called the "Project").

2. DESCRIPTION OF LAND. The Land submitted to the Horizonal Property Regime is described in Exhibit A attached hereto and made a part hereof for all purposes.

3. DESCRIPTION OF BUILDINGS. There will be fifteen (15) attached residential buildings in the Project, containing a total of one hundred five (105) apartment units (hereinafter called "Apartments"). Said residential buildings are designated herein and on said Condominium Map as Buildings A through H, inclusive, J through N, inclusive, P and Q. Each of said residential buildings will have three stories and a mezzanine level and will contain two (2) Apartments on the ground floor, two (2) Apartments on the second floor and (3) two-level Apartments on the third and mezzanine levels.

In addition, there will be a reception building (including an apartment for use by the Managing Agent or other employee of the Association), a recreational center, a maintenance building, a tennis shelter adjacent to the tennis courts, and two (2) mechanical buildings as shown on the Condominium Map.

Each of the buildings will be principally of concrete, concrete block and wood construction, with tile and/or metal roofs, and said buildings shall also incorporate glass, steel, plastic laminate, aluminum and allied building materials.

In addition to or as part of said buildings, the Project will also contain a swimming pool, a spa, a sauna, two tennis courts, and a parking area with one hundred thirty-three (133) unassigned parking spaces.

4. DIVISION OF PROPERTY. The Project is hereby divided into the following freehold estates:

a. Apartments. Freehold estates are hereby designated in the spaces within the perimeter walls, floors and ceilings of each of the one hundred five (105) Apartments of the Project (exclusive of the apartment in the reception building which is set aside as a common element for use by the Managing Agent or other employee of the Association).

Apartment numbers have been determined and assigned to each Apartment as follows: the first capital letter of each apartment number denotes the Building in which the Apartment is located; the first numeral thereof denotes the floor on which the Apartment is located; the second numeral thereof is in each case the number "0"; and the third numeral denotes the location of the Apartment on the floor (with the numbering being from left to right as one looks from the parking area side of the Building).

Except for the end wall plans, which vary from Apartment to Apartment as hereinafter described, (i) all Apartments whose apartment numbers include the numerals 102 or 202 have a floor plan which is designated as "Ground & Second Floor Plans" on Sheet HPR-6 of the Condominium Map, (ii) all Apartments whose apartment numbers include the numerals 101 or 201 have a floor plan which is the reverse of said Ground & Second Floor Plans, (iii) all Apartments whose apartment numbers include the numerals 303 have a floor plan designated on Sheet HPR-6 of the Condominium Map as plans for the "Third Level" and "Mezzanine Level", (iv) all Apartments whose apartment numbers include the numerals 301 have a floor plan which is the reverse of the plans designated on the Condominium Map as plans for said "Third Level" and "Mezzanine Level", (v) Apartments A302, D302, E302, F302, G302, H302, K302, M302, P302 and Q302 have floor plans designated on Sheet HPR-6 of the Condominium Map as plans for the "Third Level" and "Mezzanine Level", and (vi) Apartments B302, C302, J302, L302, and N302 have floor plans which are the reverse of the plans designated on the Condominium Map as plans for said "Third Level" and Mezzanine Level". The various Apartments have been given different end wall plans depending on the location of the Apartments in the Project. Some Apartments have end wall plans which are as shown on the

basic floor plans for the Apartment in the Condominium Map. Other Apartments in the Project have incorporated one or more modified end wall plans, which end wall plans are shown and designated on Sheet HPR-5 of the Condominium Map as Condition "a", Condition "b" (Condition "b" varies slightly depending on whether the Apartment is a Ground Floor or Second Floor Apartment or whether it is a Third Floor Apartment, as shown on Sheet HPR-5 of the Condominium Map) and Condition "c" (Condition "c" varies slightly depending on whether the Apartment is a Ground Floor or Second Floor Apartment or whether it is a Third Floor Apartment, as shown on Sheet HPR-5 of the Condominium Map).

For example, the Apartment designated as apartment number B102 with end wall plan type "b" is located on the first floor of Building B and has a floor plan similar to said Ground & Second Floor Plans, except that the end wall plan has been modified to incorporate the Ground and Second Floor Condition "b". Similarly, the Apartment designated as apartment number Q303 with end wall plan "ab" is located on the third floor of Building Q and has a floor plan similar to said plans for the Third Level and Mezzanine Level as shown on the Condominium Map, except that the end wall plan has been modified to incorporate Condition "a" and the Third Floor Condition "b". Also, the Apartment designated as apartment number J201 with no specified end wall plan is located on the second floor of Building J and has a floor plan which is the reverse of said Ground & Second Floor Plans, without any modification in the end wall plans.

The apartment number, end wall plan, approximate gross living area in square feet, approximate gross lanai area in square feet, number of rooms, and undivided percentage interest in the common elements ("common interest") of said Apartments are as follows:

Apt No.	End Wall Plan	Approx. Living Area in Sq. Ft.	Approx. Lanai Area in Sq. Ft.	No. of Rooms	Common Interest(%)
A101	ab	1534	495	10	.9524
A102	b	1534	495	10	.9524
A201	ab	1534	495	10	.9524
A202	b	1534	495	10	.9524
A301	ab	1467	380	8	.9524
A302		1467	380	8	.9524
A303	b	1467	380	8	.9524
B101	a	1534	495	10	.9524
B102	b	1534	495	10	.9524
B201	a	1534	495	10	.9524
B202	b	1534	495	10	.9524
B301	a	1467	380	8	.9524
B302		1467	380	8	.9524
B303	b	1467	380	8	.9524

Apt No.	End Wall Plan	Approx. Living Area in Sq. Ft.	Approx. Lanai Area in Sq. Ft.	No. of Rooms	Common Interest(%)
C101	a	1534	495	10	.9524
C102	a	1534	495	10	.9524
C201	a	1534	495	10	.9524
C202	a	1534	495	10	.9524
C301	a	1467	380	8	.9524
C302		1467	380	8	.9524
C303	a	1467	380	8	.9524
D101	b	1534	495	10	.9524
D102	a	1534	495	10	.9524
D201	b	1534	495	10	.9524
D202	a	1534	495	10	.9524
D301	b	1467	380	8	.9524
D302		1467	380	8	.9524
D303	a	1467	380	8	.9524
E101	b	1534	495	10	.9524
E102	ab	1534	495	10	.9524
E201	b	1534	495	10	.9524
E202	ab	1534	495	10	.9524
E301	b	1467	380	8	.9524
E302		1467	380	8	.9524
E303	ab	1467	380	8	.9524
F101	ab	1534	495	10	.9524
F102	a	1534	495	10	.9524
F201	ab	1534	495	10	.9524
F202	a	1534	495	10	.9524
F301	ab	1467	380	8	.9524
F302		1467	380	8	.9524
F303	a	1467	380	8	.9524
G101	b	1534	495	10	.9524
G102		1534	495	10	.9524
G201	b	1534	495	10	.9524
G202		1534	495	10	.9524
G301	b	1467	380	8	.9524
G302		1467	380	8	.9524
G303	b	1467	380	8	.9524

Apt No.	End Wall Plan	Approx. Living Area in Sq. Ft.	Approx. Lanai Area in Sq. Ft.	No. of Rooms	Common Interest(%)
H101		1534	495	10	.9524
H102		1534	495	10	.9524
H201		1534	495	10	.9524
H202		1534	495	10	.9524
H301		1467	380	8	.9524
H302		1467	380	8	.9524
H303		1467	380	8	.9524
J101		1534	495	10	.9524
J102	b	1534	495	10	.9524
J201		1534	495	10	.9524
J202	b	1534	495	10	.9524
J301		1467	380	8	.9524
J302		1467	380	8	.9524
J303	b	1467	380	8	.9524
K101	a	1534	495	10	.9524
K102	b	1534	495	10	.9524
K201	a	1534	495	10	.9524
K202	b	1534	495	10	.9524
K301	a	1467	380	8	.9524
K302		1467	380	8	.9524
K303	b	1467	380	8	.9524
L101	a	1534	495	10	.9524
L102	b	1534	495	10	.9524
L201	a	1534	495	10	.9524
L202	b	1534	495	10	.9524
L301	a	1467	380	8	.9524
L302		1467	380	8	.9524
L303	b	1467	380	8	.9524
M101	a	1534	495	10	.9524
M102	a	1534	495	10	.9524
M201	a	1534	495	10	.9524
M202	a	1534	495	10	.9524
M301	a	1467	380	8	.9524
M302		1467	380	8	.9524
M303	a	1467	380	8	.9524
N101	b	1534	495	10	.9524
N102	a	1534	495	10	.9524
N201	b	1534	495	10	.9524
N202	a	1534	495	10	.9524

Apt No.	End Wall Plan	Approx. Living Area in Sq. Ft.	Approx. Lanai Area in Sq. Ft.	No. of Rooms	Common Interest(%)
N301	b	1467	380	8	.9524
N302		1467	380	8	.9524
N303	a	1467	380	8	.9524
P101	ac	1534	495	10	.9524
P102	a	1534	495	10	.9524
P201	ac	1534	495	10	.9524
P202	a	1534	495	10	.9524
P301	ac	1467	380	8	.9524
P302		1467	380	8	.9524
P303	a	1467	380	8	.9524
Q101	b	1534	495	10	.9524
Q102	ab	1534	495	10	.9524
Q201	b	1534	495	10	.9524
Q202	ab	1534	495	10	.9524
Q301	b	1467	380	8	.9524
Q302		1467	380	8	.9524
Q303	ab	1467	380	8	.9524

Notwithstanding the designation of the limits of Apartments in paragraph 4a(1) hereinbelow, all living areas set forth hereinabove are computed by measuring from the outside of exterior walls and from the centerline of interior party walls and no reduction has been made to account for interior walls, ducts, vent shafts, stairways, and the like located within the perimeter walls. All lanai areas set forth hereinabove are computed by measuring from the outside of exterior walls and from the centerline of interior party walls.

(1) Limits of Apartments. The respective Apartments, each being an "Apartment" within the meaning of that term as used in the Act, consist of (a) all of the areas of spaces enclosed by walls and ceilings or roofs within the apartment boundaries as delineated by perimeter boundaries upon the Condominium Map, and (b) the lanai areas (including the ledge areas) as shown on the Condominium Map, but shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls or interior load-bearing walls, the foundations, columns, girders, beams, supports, common entries, roofs, floors and ceilings surrounding each Apartment, or any pipes, wires, conduits or other utility or service lines running through such Apartment which are utilized for or serve more than one Apartment, the same being deemed common elements as hereinafter provided. Each Apartment shall include all of the walls and partitions which are not load-bearing within its perimeter walls, any doors, windows (including window ledges), shutters or panels within its perimeter, the inner decorated or finished surfaces of all walls, floors and ceilings, and any fixtures and appliances originally

installed therein, including carpet, drapes, refrigerator, dishwasher, drop-in range, range hood, disposal, trash compactor, air conditioning air handler, water heater, and washer-dryer.

(2) Types of Apartments.

(a) Each of the thirty (30) Apartments whose apartment number include the numerals 101 or 102 is located on the ground floor and will contain three (3) lanai areas (designated on the Condominium Map as Entry Lanai, Lanai #1 and Lanai #2, respectively) and ten (10) rooms consisting of two bedrooms, two bathrooms, a living room, a kitchen, a dining room, a dressing room, a laundry room and a storage room. Each of the thirty (30) Apartments whose apartment number includes the numerals 201 or 202 is located on the second floor and will contain three (3) lanai areas (designated on the Condominium Map as Entry Lanai, Lanai #1 and Lanai #2, respectively) and ten (10) rooms consisting of two bedrooms, two bathrooms, a living room, a kitchen, a dining room, a dressing room, a laundry room and a storage room.

(b) Each of the forty-five (45) Apartments whose apartment number includes the numerals 301, 302 or 303 is a two-level unit located on the third and fourth (mezzanine) levels and will contain eight (8) rooms consisting specifically of one bedroom, one bathroom, a living room, a kitchen, a dining room and a storage room on the third level and one bedroom and one bathroom on the fourth (mezzanine) level. Each Apartment shall also contain three lanai areas (Lanai #1 and Lanai #2 on the third level and Lanai #3 on the fourth level).

(3) Access. Each Apartment has immediate access to its entries and to the corridors, walkways and stairways, if any, appurtenant to such Apartment and connecting its Building to the parking areas, roads and recreational and other common areas of the Project.

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

(1) The Land in fee simple;

(2) All foundations, columns, girders, beams, floor slabs, supports, unfinished perimeter and load-bearing walls, roofs, stairways, walkways, corridors, ramps, fences, railings, entrances and exits of the buildings in the Project;

(3) All yards, grounds, walkways, landscaping, refuse facilities, gardens, the tennis courts and tennis shelter, the recreational center, including the swimming pool and its filtration equipment, the spa, the sauna and the restrooms, and all other recreational facilities and appurtenances;

(4) All driveways, ramps (if any), parking stalls and parking areas;

(5) All ducts, sewer lines, sewage treatment equipment and facilities, electrical equipment, pipes, wiring and other central and appurtenant transmission facilities and installations over, under and across the Project which serve more than one Apartment for services such as power, light, water, gas, air conditioning, sewer, refuse, telephone, and radio and television signal distribution;

(6) The reception building (including the apartment therein set aside for use by the Managing Agent or other employee of the Association) and appurtenances;

(7) The maintenance building and appurtenances;

(8) The mechanical buildings and their respective appurtenances; and

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

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

(1) The entries to each third and fourth (mezzanine) level Apartment shall be appurtenant to and for the exclusive use of the Apartments which they serve; and

(2) The stairways and landings serving each building of the Project shall be for the exclusive use of the Apartments in such building served thereby.

5. EASEMENTS. In addition to any easements herein designated in the limited common elements and the easements described in Exhibit A, the Apartments and common elements shall also have and be subject to the following easements:

a. Each Apartment shall have appurtenant thereto nonexclusive easements in the common elements designed for such purposes for ingress to and egress form, utility services for and support, maintenance and repair of such Apartment; in the other common elements for use according to their respective purposes, subject always to the exclusive use of the limited common elements are provided herein; and in all other Apartments and limited common elements of its building for support.

b. If any part of the common elements now or hereafter encroaches upon any Apartment or limited common element, or if any Apartment now or hereafter encroaches upon any other Apartment or upon any portion of the common elements, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall and does exist. In the

event any building of the Project shall be partially or totally destroyed and then rebuilt, minor encroachments of any parts of the common elements or of any Apartment due to construction shall be permitted and valid easements for such encroachments and maintenance thereof shall exist.

c. Each Apartment owner shall have an easement in common with the owners of all other Apartments to use all pipes, wires, ducts, cables, conduits, public utility lines and other common elements located in any of the other Apartments and serving his Apartment. Each Apartment shall be subject to an easement in favor of the owners of all other Apartments for access to any common elements located in such Apartment.

d. The Association of Apartment Owners of the Project shall have the right, to be exercised by its Board of Directors or the Managing Agent, to enter each Apartment and the limited common elements from time to time during reasonable hours as may be necessary for the operation of the Project or for making emergency repairs therein necessary to prevent damage to any Apartments or common elements or for the installation, repair or replacement of any common elements.

e. Subject to the prior written consent of the Developer as to any such easement, the Association of Apartment Owners of the Project, through its Board of Directors, is authorized to give, convey, transfer, cancel, relocate and otherwise deal with utility and other easements on or affecting the Project, provided that the easement rights appurtenant to the Apartments are not unreasonably interfered with.

6. COMMON INTEREST. Each Apartment shall have appurtenant thereto an undivided percentage interest (herein called the "common interest") in all common elements of the Project, as set forth in paragraph 4 above, and the same proportionate share in all common profits and expenses of the Project and for all other purposes including voting.

7. ALTERATION AND TRANSFER OF INTEREST. The common interest and easements appurtenant to each Apartment shall have a permanent character, shall not be altered without the consent of all owners of Apartments affected thereby as expressed in an amendment to this Declaration duly recorded shall not be separated from the Apartment to which they appertain, and shall be deemed to be conveyed, leased or encumbered with such Apartment even though such interest or easements are not expressly mentioned or described in the conveyance or other instrument. The common elements shall remain undivided, and no right shall exist to partition or divide any part thereof except as provided by said Act.

8. PURPOSE OF BUILDINGS AND RESTRICTIONS AS TO USE. The Apartments shall be occupied and used only as permanent or temporary residences or lodgings. The owners of the respective Apartments shall have the absolute right to rent or lease the same subject to the limitations, restrictions, covenants and conditions of this Declaration. The owner of an Apartment shall not use his Apartment for any purpose which will injure the reputation of the Project or suffer anything to be done or kept in his Apartment or elsewhere in the Project

which will (a) jeopardize the soundness of any building in the Project, (b) interfere with or unreasonably disturb the rights of other owners and occupants, (c) obstruct any balcony, stairway or corridor of any building, (d) increase the rate of fire and extended coverage insurance on any building or the contents thereof, or (e) reduce the value of the buildings.

An apartment owner shall not, without the prior written consent of the Board of Directors of the Association of Apartment Owners, make any structural alterations in or additions to the Apartment, make any interior alterations in or additions to the Apartment visible from the exterior of the Apartment, or make any alterations in or additions to the exterior of the Apartment or to any other portion or portions of the common elements unless otherwise provided in the By-Laws.

9. BY-LAWS. The By-Laws of the Association of Apartment Owners of the Project, attached hereto as Exhibit B, is hereby made a part of this Declaration.

10. ADMINISTRATION OF PROJECT. Administration of the Project shall be vested in its Association of Apartment Owners, herein called the "Association", comprised of all Apartment owners of the Project in accordance with the By-Laws of the Association. Operation of the Project and maintenance, repair, replacement and restoration of the common elements, and any additions and alterations thereto, shall be in accordance with the provisions of the Act, this Declaration and the By-Laws.

11. MANAGING AGENT AND PERSON TO RECEIVE SERVICE OF PROCESS. Operation of the Project shall be conducted for the Association by a responsible Managing Agent who shall be appointed by the Association in accordance with the By-Laws. The Managing Agent is hereby authorized to receive service of process in all cases provided in said Act. The initial Managing Agent shall be Management Consultants of Hawaii, Inc., whose business address is 2481 Kaanapali Parkway, Lahaina, Maui, Hawaii, and whose post office address is P.O. Box 5186, Lahaina, Maui, Hawaii 96761.

12. COMPLIANCE WITH DECLARATIONS AND BY-LAWS. All Apartment owners, their tenants, families, servants and guests, and any other persons who may in any manner use the Project, shall be bound by and comply strictly with the provisions of this Declaration, the By-Laws, and all agreements, decisions and determinations of the Association as lawfully made or amended from time to time. In addition, all Apartment owners, their tenants, families, servants and guests, and any other persons who in any manner use the Project, shall be subject to and comply strictly with the provisions of that certain Declaration of Restrictions dated December 23, 1977, filed in the Office of the Assistant Registrar of the Land Court of Hawaii as Document No. 853030 and noted on Certificates of Title Nos. 113347, 117131, 117423, 84106, 131205, and 206374, and also recorded in the Bureau of Conveyances of Hawaii in Liber 12641 at Page 179, as amended by instrument dated October 31*[sic]* 1978, filed and noted as aforesaid as Document No. 906095 and recorded in Liber 13244 at Page 299, and as further modified by Deed dated December 1, 1978, filed as Document No. 911189

(herein called the "Master Declaration"), which Master Declaration provides, among other things, the following:

(a) Each and every proposed improvement, construction or other alteration of the Project, or any part thereof, shall require the prior written approval of Amfac, Inc., a Hawaii corporation, its successors or assigns (hereinafter referred to as "Amfac"), all in accordance with the provisions and restrictions contained in said Master Declaration.

(b) Paved access roads and water and sewage lines and related facilities have been provided and are maintained by Amfac to the boundary of the Land, but Amfac may terminate its maintenance for any of such utilities for which any governmental, quasi-governmental or private utility company or authority or agency shall either (i) take over possession, title or operation of utility lines and facilities operated by Amfac or (ii) supply utility lines and facilities accessible from or on the Land as alternatives to Amfac's utility lines and facilities. If such take over or supply shall occur, each Apartment owner shall be required to pay the prorated share attributable to his Apartment of any hook-up or initial service charges or fees assessed by such company, authority or agency with respect to such take over or supply, such prorated share to be determined by multiplying the common interest appurtenant to such Apartment by a sum which is the product of the total charges and fees so assessed for the Kaanapali Beach Resort Area (as defined in said Master Declaration) times a fraction, the numerator of which is the number of completed or uncompleted but Amfac-approved Apartments in the Project at the time of assessment of such charges or fees and the denominator of which is the total number of completed or uncompleted but Amfac-approved Resort Rental Units, other Condominium Units and other residences in the Kaanapali Beach Resort Area (as each of said terms is defined in said Master Declaration) at the time of such assessment and which are subject to such take over or supply.

(c) Each Apartment owner is required to reimburse Amfac monthly for all expenses and costs to Amfac in providing sewage service and water for the Apartment owner's use.

(d) During the Term of the Master Declaration (as defined therein), each Apartment owner is obligated to pay a pro rata share of the net cost of constructing, operating, maintaining and administering improvements and facilities constructed or operated, as of the commencement of said Term or at any time during said Term, by Amfac in said Kaanapali Beach Resort Area; provided, however, that to the extent the Apartments are not treated as Resort Rental Units (as defined in the Master Declaration), the Apartment owners shall not be so obligated with respect only to the net costs of constructing, operating, maintaining and administering motorized transportation systems such as a jitney service and recreation facilities such as the golf course (which net costs referred to in this proviso are hereafter referred to as "Resort Facilities Costs"). Without limitation, such improvements and facilities shall include roadways, sewers, transportation systems, parking areas, walkways, utility lines and facilities, recreation facilities and landscaping. The Apartment owners are also required to grant to Amfac, without cost to Amfac, any easements in the Project required for the construction,

operation and maintenance of such improvements and facilities in locations to be designated by Amfac, The net cost of constructing, operating, maintaining and administering the improvements or facilities in said Kaanapali Beach Resort Area is defined to mean all costs properly attributable to such construction, operation, maintenance and administration, including without limitation, land acquisition costs, capital debt service charges and replacement reserve accruals for improvements and facilities existing at the commencement of said Term or constructed at any time during said Term, less Amfac's receipts from the operation of such improvements or facilities. The pro rata share to be paid by each Apartment owner shall be a proportionate share of such net costs for each particular improvement or facility based upon the proportion of the total benefit or use of such facility or improvement which the Apartment owner receives as determined according to generally accepted accounting principles and agreed to by Amfac and a majority of all Operators (as said term Operators is defined in said Master Declaration) from time to time. Amfac has reserved the option to bill the Association of Apartment Owners of the Project for the pro rata shares required to be paid by the Apartment owners, and if Amfac exercises its option to bill the Association, the Association shall be liable to pay such billings. Notwithstanding the terms of the Master Declaration, Amfac has agreed in its Deed of the Land to the Developer that if Apartments in the Project are operated as "Resort Rental Units", the maximum annual charge to be levied on each Apartment for Resort Facilities Costs shall be Fifty Dollars ($50.00) per annum from January 1, 1979 to December 31, 1983; for each five-year period thereafter during the Term of the Master Declaration the maximum annual assessment for Resort Facilities Costs per unit on the Land shall be increased to an amount equal to one hundred ten percent (110%) of the maximum annual assessment for Resort Facilities Costs during the preceding five-year period; and further, the requirement for survey for obsolescence and modernization as provided in paragraph 9(f) of the Master Declaration shall not be applicable to the Project even if the Apartments are operated as Resort Rental Units in such a manner that their operation could be construed as a "hotel" operation.

(e) The Land, all landscaping, all structural and non-structural portions of all buildings and other improvements existing thereon at any time during said Term, are required to be kept in good order, condition, maintenance and repair, including without limitation repainting the exterior of the buildings in the Project once every five (5) years or at such earlier interval as required to maintain the appearance thereof.

(f) Water use and conservation restrictions are imposed on all Apartments in the Project. Each Apartment owner is required to institute water conservation measures so as to keep the total consumption of water in the Project below 850 gallons per Apartment per day or such lesser rates as Amfac may establish during periods of drought or water shortage. If in any month during said Term, water is consumed at a rate in excess of the rate specified for such month as provided in the immediately preceding sentence, the normal monthly water charge payable by each Apartment owner for such month shall be substantially increased, as set forth in the Master Declaration.

(g) The Association is required to become a member of the Kaanapali Beach Operators' Association, and, as such member, the Association is required to comply with the

articles and by-laws of the Kaanapali Beach Operators' Association and to pay a pro rata portion of the annual budget thereof in monthly installments as provided in the articles and by-laws of the Kaanapali Beach Operators' Association.

(h) Each Apartment owner is precluded from holding or attempting to hold Amfac or Pioneer Mill Company, Limited, its successors or assigns responsible for the creation of smoke or soot or other nuisances, arising out of or in connection with sugar operations within the areas adjacent to the Kaanapali Beach Resort (as said term is defined in the Master Declaration), and each Apartment owner is required to indemnify and hold Amfac harmless from any liability or expenses, including attorneys' fees, resulting from claims by the Apartment owner or any guests or other persons using the Project arising from such nuisances.

(i) Each Apartment owner covenants that he shall assume all risks associated with the location of the Project adjacent to a golf course operated by Amfac, including but not limited to the risk of property damage or personal injury arising from stray golf balls or actions incidental to resort-related activities (including without limitation tournaments, luaus and concerts), and shall indemnify and hold harmless Amfac from any liability, claims or expenses, including attorneys' fees, arising from such property damage or personal injury. Each Apartment owner is also required to covenant that Amfac shall have the right, in the nature of an easement, to subject the Project to nuisances incidental to the maintenance, operation or use of the golf course, and to the carrying out of such resort-related activities.

(j) Each Apartment owner is required to indemnify and hold Amfac harmless from and against any and all claims and demands for loss or damage, including claims for property damage, personal injury or wrongful death, arising out of or in connection with the use or occupancy of the Project by the Apartment owner or any other person claiming by, through or under the Apartment owner, or any accidental fire on the Project, or any nuisance made or suffered thereon, or any failure of the Apartment owner to maintain the Project in a safe condition, and such Apartment owner is required to reimburse Amfac for all costs and expenses, including attorneys' fees, paid or incurred by Amfac in connection with the defense of any such claims, including but not limited to all costs of Amfac's defense to any such claim or in any such action, as well as all costs for research regarding settlement or other preventative measures which Amfac may take prior to the filing of such action or to attempt to prevent the filing of such action.

In the event of any discrepancy between a provision of the Master Declaration and this Declaration or the By-Laws, the provisions of the Master Declaration shall control. Any failure to comply with any of the provisions contained in this Declaration or in the Master Declaration shall be grounds for an action to recover sums due, for damages or injunctive relief, or both, maintainable by the Board or Managing Agent on behalf of the Association or, in a proper case, by any aggrieved *[sic]* Apartment owner.

The acceptance of a deed or conveyance or the entering into occupancy of any Apartment in the Project shall constitute an agreement that the provisions of the Master

Declaration, this Declaration and the accompanying By-Laws, as each may be amended from time to time, are accepted and ratified by such owner, tenant or occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Apartment as though such provisions were recited and stipulated at length in each and every deed or conveyance thereof.

13. PERCENTAGE OF VOTES REQUIRED FOR REBUILDING. Where an election is permissible under the terms of the By-Laws and condominium conveyance documents, the Project shall be rebuilt, repaired or restored in the event of damage or destruction to all or part of the buildings and common elements, unless the owners of at least 75% of the interests in the common elements execute an instrument expressing their decision not to rebuilt, repair or restore.

14. AMENDMENT OF DECLARATION. Except as otherwise provided herein or in the Act, this Declaration may be amended by a vote or written consent of the owners of 75% of the interests in the common elements effective only upon the recording of an instrument setting forth such amendment, duly executed by such owners or by the proper officers of the Association; provided, however, that at any time prior to the issuance of the Final Public Report, the Developer may amend this Declaration, the By-Laws and the Condominium Map in any manner. Notwithstanding the foregoing and notwithstanding the sale and conveyance of any of the Apartments, the Developer may amend this Declaration (including the By-Laws and, when applicable, the Condominium Map) to file the "as built" verified statement (with plans, if applicable) required by Section 514A-12 of the Act, (a) so long as such statement is merely a verified statement of a registered architect or professional engineer certifying that the final plans theretofore filed or being filed simultaneously with such amendment fully and accurately depict the layout, location, Apartment numbers, and dimensions of the Apartments as built, or (b) so long as any plans filed therewith involve only immaterial changes to the layout, location, Apartment numbers, or dimensions of the Apartments as built. In case of a modification or amendment to the By-Laws, this Declaration may be amended to set forth such modification or amendment pursuant to such percentage vote as is required by the By-Laws to render the modification or amendment thereof effective.

15. DEFINITIONS. The terms "majority" or "majority of Apartment owners" herein means the owners of Apartments to which are appurtenant more than fifty percent (50%) of the common interest, and any specified percentage of the Apartment owners means the owners of Apartments to which are appurtenant such percentage of the common interests.

16. INVALIDITY. The invalidity of any provision of this Declaration shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such provision had never been included therein.

17. WAIVER. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

18. CAPTIONS. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Declaration or the intent of any provision hereof.

19. MAINTENANCE RESERVE FUND. As required by Chapter 514A, Hawaii Revised Statutes, the Association shall assess the Apartment Owners to fund the estimated replacement reserves and shall compute the estimated replacement reserves by a formula which is based on the estimated life and the estimated capital expenditure or major maintenance expense of each part of the property for which the Association is responsible. The estimated replacement reserves shall include:

(1) Adjustments for revenues which will be received and expenditures which will be made before the beginning of the fiscal year to which the budget relates; and

(2) Separate, designated reserves for each part of the property for which capital expenditures or major maintenance will exceed $10,000. Parts of the property for which capital expenditures or major maintenance will not exceed $10,000 may be aggregated in a single designated reserve.[2]

IN WITNESS WHEREOF, the parties hereto have executed these presents this 13th day of October, 1998.

ASSOCIATION OF APARTMENT OWNERS OF KAANAPALI ROYAL

By: _____

Type Name: Joel M. Karlin

Type Title: President

By: _____

Type Name: Barbara J. Petersen

Type Title: Secretary

STATE OF Colorado)
) SS:
COUNTY OF Jefferson)

On this 13th day of October, 1998, before me personally appeared Joel M. Karlin, to me personally known, who being by me duly sworn, did say that he is the President of the Board of Directors of the Association of Apartment Owners of Kaanapali Royal and that said instrument was signed in behalf of said Association by authority of its Board of Directors, and that said officer acknowledged said instrument to be the free act and deed of said Association.

Jan Middleton
Notary Public
State of Colorado
My Commission Expires 12-26-98

Jan Middleton
Notary Public, State of Colorado

My commission expires: December 26, 1998

STATE OF Lake Illinois)
) SS:
COUNTY OF Lake)

On this 2nd day of October, 1998, before me personally appeared BARBARA J. PETERSEN, to me personally known, who being by me duly sworn, did say that 2nd is the _____ of the Board of Directors of the Association of Apartment Owners of Kaanapali Royal and that said instrument was signed in behalf of said Association by authority of its Board of Directors, and that said officer acknowledged said instrument to be the free act and deed of said Association.

"OFFICIAL SEAL"
PEARL A. MCDERMOTT
Notary Public, State of Illinois
My Commission Expires 06/17/02

Pearl A. McDermott
Notary Public, State of Ill.

My commission expires: 6-17-02

RESTATEMENT OF DECLARATION OF HORIZONTAL PROPERTY REGIME
OF KAANAPALI ROYAL

ENDNOTES

The following Declaration provisions have been restated for the reasons set forth below:

1. Paragraph 14 of the Declaration has been restated to conform with Section 514A-11, Hawaii Revised Statutes.

2. A new Paragraph 19 has been added to the Declaration to conform with Section 514A-83.6, Hawaii Revised Statutes.

EXHIBIT A

All of that certain parcel of land situate at Hanakaoo and Honokowai, Kaanapali, District of Lahaina, Island and County of Maui, State of Hawaii, described as Lot 70, area 7.125 acres, as shown on Map 31, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1744.

TOGETHER WITH a perpetual but nonexclusive easement for roadway purposes for access to Honoapiilani Highway over Roadway Lots 11, 12, 13 and 14, as shown on Map 2, and Lot 23, as shown on Map 3, and Easement 73 shown on Map 31; provided that such easement shall terminate with respect to any roadway lot which may become public highways, as set forth by Land Court Orders Nos. 26883, 27504 and 51831, filed March 21, 1967, September 11, 1967 and November 29, 1978, respectively.

Being the premises described in Transfer Certificate of Title No. 206374 issued to Kaanapali Royal Associates, a Hawaii general partnership.

SUBJECT, HOWEVER, to the following:

1. The reservation of all mineral or metallic mines of every description to the Hawaiian Government; said reservation, however, being subject to that certain covenant that neither the State of Hawaii nor persons authorized by it will enter, occupy or use the said land for the exercise of the reserved mineral and mining rights for a period of 75 years from January 1, 1960, as contained in that certain instrument dated January 29, 1960 and recorded in the Bureau of Conveyances in Liber 3822 at Pages 37-40.

2. Easement "3" for utility purposes over and across the southerly portion of Lot 70, as shown on Maps 2 and 31, as set forth by Land Court Order No. 18960, filed April 27, 1961.

3. As to said Easement "3", covenants, conditions and restrictions as set forth in Deed dated December 1, 1978, filed as Document No. 911189, to-wit:

> "Grantor hereby consents to Grantee's construction and placement of a building over and across a sewer line easement, being Easement "3", more fully described in encumbrance paragraph 2 of Exhibit "A"; provided that such consent to the placement of such building over Easement "3" is specifically conditioned upon Grantee's covenant and agreement, which is hereby made with Grantor, as to all of the following:
>
> (1) Prior to the construction of such building, Grantee shall place a concrete sheath around the portion of the sewer line over which the building is to be constructed; and

(2) Grantee has represented to Grantor that such concrete sheath will protect the sewer line such that the risk of rupture of the sewer line will be negligible, provided that if the portion of the sewer line covered by the building shall malfunction or rupture for any reason, the Grantee shall, at its sole cost and expense, repair such rupture or malfunction; provided, further, that if the repair of such rupture or malfunction is practically impossible or economically infeasible, then the Grantee, at absolutely no cost to the Grantor and with a minimum of disruption to the Grantor's use of the sewer line, shall have the right to relocate the portion of the sewer line covered by the building; provided that all plans of such relocation and construction shall be subject to Grantor's approval; and

(3) Grantee's construction, operation, use, maintenance and repairs of said building or any action or omission with respect to said building or the granted premises shall not interfere with Grantor's operation or use of the sewer line; and

(4) Grantee shall, at its own expense, obtain general liability insurance for an amount and with an insurer of Grantee's choice naming Grantor as the co-insured thereunder, which shall insure Grantor against any claims made by any person for damages arising out of the existence or rupture, for any reason, of the portion of the sewer line located under the building, and the Grantor shall also require in its documentation for the condominium development project (the "Project") to be constructed on the granted premises that the association of apartment owners formed with respect to such Project shall be required to maintain similar insurance for an amount and with an insured of the association's choice naming Grantor as co-insured thereunder with the same coverage as required by this paragraph (4); and

(5) Grantee shall indemnify and hold harmless Grantor from any injury or damage suffered by Grantor, including reasonable attorney's fees incurred by Grantor, arising out of (i) breach of any covenant set forth above, or (ii) any act or omission of Grantee with respect to or

in connection with the portion of sewer line covered by the building, or (iii) any actual rupture of the portion of the sewer line under such building, which indemnity obligation shall include any deductible portion of the insurance coverage referred to in paragraph (4) above, or any damage incurred in excess of such coverage.

The foregoing covenants shall run with the land and shall inure to the benefit and bind the successors and assigns of Grantor and Grantee respectively."

4. Restriction of access rights over and across the easterly boundary of Lot 70, as shown on Maps 2 and 31, of Application No. 1744.

5. Reservation contained in Deeds dated October 11, 1967, filed as Land Court Document No. 428919, and dated November 20, 1978, filed as Document No. 908843, made by Pioneer Mill Company, Limited, a Hawaii corporation, to Amfac, Inc., a Hawaii corporation, to-wit:

"Reserving and excepting to the Grantor, its successors and assigns forever, as appurtenant to the lands of the Grantor located in the District of Lahaina now owned and used or hereafter acquired and used by the Grantor in its sugar plantation operations, the perpetual right and easement over and upon the granted premises to discharge, emit, diffuse and inflict noise, smoke, soot, dust, lights, noxious vapors, odors and other minor nuisances of every description created by and resulting from the operations of the Grantor in burning sugar cane and bagasse, milling, generating power, trucking, hauling and all other activities incidental to the operation of a sugar plantation."

6. Easement 74 (15 feet wide) for utility purposes over and across the easterly portion of Lot 70, as shown on Map 31, as set forth by Land Court Order No. 51831, filed November 29, 1978.

7. Roadway setback line (20 feet wide) over and across the easterly portion of Lot 70, as shown on Map 31 of Land Court Application No. 1744.

8. The restrictive covenants and conditions set forth in that certain Declaration dated December 23, 1977, filed as Document No. 853030 and also recorded in Liber 12641 at Page 179, as amended by instrument dated October 31, 1978 filed as Document No. 906095 and also recorded in Liber 13244 at Page 299.

9. Covenants, conditions and restrictions as set forth in that certain deed from Amfac, Inc., a Hawaii corporation, to Kaanapali Royal Associates, a Hawaii general partnership, dated December 1, 1978, filed as Document No. 911189, to-wit:

"Grantee further covenants and agrees with Grantor that Grantee and Grantee's successors and assigns will abide by all of the obligations, covenants and restrictions set forth in the Declaration of Restrictions filed with the Land Court of the State of Hawaii as Land Court Document No. 853030, as amended by Land Court Document No. 906095, provided that:

(1) If apartment units in the Project to be constructed on the granted premises are operated as "Resort Rental Units" (as defined in the Declaration of Restrictions), the maximum annual charge to be levied on each such "apartment" (as defined in Section 514A-3(1) of the Hawaii Revised Statutes) on the granted premises for Resort Facilities Costs (as defined in paragraph 9(a)(5) of the Declaration of Restrictions) shall be Fifty Dollars ($50.00) per annum from January 1, 1979 to December 31, 1983; for each five-year period thereafter during the term of the Declaration of Restrictions the maximum annual assessment for Resort Facilities Costs per apartment on the granted premises shall be increased to an amount equal to one hundred ten percent (110%) of the maximum annual assessment for Resort Facilities Costs during the preceding five-year period;

(2) If the apartments to be constructed on the granted premises are operated as Resort Rental Units in such a manner that their operation could be construed as a "hotel" operation, the provisions of paragraph 9(f) of the Declaration of Restrictions shall nonetheless not apply to the granted premises;

(3) Paragraph 9(g)(3)(vi) of the Declaration of Restrictions shall be deemed to be modified so far as it is applicable to the granted premises so that the number "650" in the seventh line of paragraph 9(g)(3)(vi) shall be deemed to be "850" and so that all additional numerical references to "GCD" in the balance of paragraph 9(g)(3)(vi) shall be increased by 200."

10. Mortgage and Security Agreement and Financing Statement dated December 1, 1978, by and between Kaanapali Royal Associates, a Hawaii general partnership, as Mortgagor, and Amfac Financial Corp., a Hawaii corporation, as Mortgagee, filed as Document No. 911190.

EXHIBIT C

TRANSFER CERTIFICATE OF TITLE NOS.

ASSOCIATION OF APARTMENT OWNERS
OF KAANAPALI ROYAL

Condominium Map No. 364

105 Apts.

APT. #	CTC #	APT. #	CTC #	APT. #	CTC #
A-101	504,973	F-101	329,107	L-101	418,695
A-102	385,624	F-102	355,078	L-102	329,111
A-201	465,506	F-201	329,109	L-201	488,284
A-202	343,581	F-202	329,115	L-202	335,306
A-301	329,096	F-301	329,096	L-301	342,565
A-302	329,118	F-302	387,183	L-302	468,766
A-303	329,096	F-303	426,653	L-303	378,859
B-101	502,408	G-101	362,159	M-101	329,145
B-102	499,125	G-102	390,930	M-102	329,130
B-201	329,096	G-201	329,131	M-201	380,264
B-202	385,747	G-202	329,143	M-202	329,099
B-301	396,430	G-301	396,500	M-301	329,149
B-302	329,146	G-302	430,114	M-302	329,140
B-303	484,059	G-303	329,096	M-303	461,972
C-101	518,449	H-101	329,096	N-101	409,345
C-102	344,342	H-102	329,096	N-102	329,117
C-201	329,133	H-201	489,668	N-201	351,787
C-202	329,105	H-202	330,782	N-202	446,493
C-301	329,125	H-301	335,729	N-301	346,755
C-302	335,004	H-302	443,664	N-302	437,372
C-303	469,193	H-303	329,102	N-303	504,230
D-101	329,106	J-101	329,096	P-101	343,219
D-102	329,142	J-102	329,103	P-102	331,218
D-201	436,548	J-201	329,096	P-201	329,139
D-202	436,547	J-202	387,167	P-202	338,442
D-301	329,096	J-301	470,902	P-301	452,932
D-302	329,116	J-302	329,096	P-302	477,139
D-303	431,146	J-303	499,610	P-303	329,096
E-101	366,695	K-101	354,808	Q-101	329,096
E-102	440,269	K-102	329,096	Q-102	378,921
E-201	329,144	K-201	520,988	Q-201	495,805
E-202	436,549	K-202	329,148	Q-202	329,122
E-301	359,899	K-301	329,096	Q-301	329,120
E-302	490,103	K-302	329,112	Q-302	329,096
E-303	385,739	K-303	490,143	Q-303	493,837

HLU Committee

From: Greg Sheehan <gregsheehan100@gmail.com>
Sent: Sunday, June 28, 2026 4:52 PM
To: HLU Committee
Subject: Hono Kai Resort Testimony H3

[You don't often get email from gregsheehan100@gmail.com. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification]

Aloha Committee Chair and Members,

Please see attached testimony from Hono Kai regarding your deliberations on H3 zoning. Hono Kai is on your list for discussion on July 1.

Thank you for your support on this matter.

Mahalo,
Greg Sheehan
Hono Kai Board Vice President

Hono Kai

280 HAUʻOLI STREET, WAILUKU, HI 96793

June 30, 2026

Housing and Land Use Committee
Maui County Council

RE: Resolution 26-110 – Hono Kai Resort, 280 Hauoli Street, Māʻalaea

Chair Uʻu-Hodgins and Members of the Housing and Land Use Committee,

On behalf of the Association of Apartment Owners of Hono Kai, mahalo for including Hono Kai Resort in Resolution 26-110. We respectfully support the proposed Community Plan Amendment and zoning change and ask the Committee to adopt the resolution.

Hono Kai was constructed in 1970 as a visitor accommodation property specifically designed for nightly rentals. For more than five decades, the property has continuously operated in that capacity and remains one of Māʻalaea's longstanding visitor accommodations.

Today, more than 90 percent of the units are used as short-term vacation rentals. The property's physical design also reflects its intended purpose. Each unit has only one parking stall and limited storage, making it impractical for long-term residential use. Hono Kai was also built with a dedicated on-site check-in office, which continues to operate today with a full-time resident manager who welcomes guests, oversees daily operations, and has access to all units to respond to emergencies and guest needs.

We appreciate the Council's recognition of Hono Kai's historic and ongoing use by including our property in this Council-initiated resolution. The proposed H-3 zoning designation appropriately reflects the manner in which Hono Kai was originally developed and has continuously operated for more than fifty years.

The Association strongly supports adoption of Resolution 26-110. Should the Committee, Planning Commission, or Council require additional documentation regarding Hono Kai's history, governing documents, or longstanding visitor accommodation use, we would be pleased to provide it.

Mahalo for your thoughtful consideration and for your service to the people of Maui.

Respectfully submitted,

Peter Cannon
President
Association of Apartment Owners of Hono Kai

Greg Sheehan
Vice President

MAʻALAEA, MAUI

HLU Committee

From: Andrew Church <andychurchmaui@me.com>
Sent: Wednesday, July 1, 2026 1:42 PM
To: HLU Committee
Subject: SUPPORT FOR COUNCIL-INITIATED H-3/H-4 REZONING – KIHEI BAY VISTA

You don't often get email from andychurchmaui@me.com. Learn why this is important

Dear Chair U'u-Hodgins, Vice-Chair Batangan, and Committee Members,

My name is Andrew Church. I am a small business owner, father, and Maui resident of 27 years. I also own a condominium at Kihei Bay Vista.

I am writing in strong support of the Committee's continued work implementing the new H-3 and H-4 Hotel zoning districts and respectfully ask that Kihei Bay Vista remain included as the Council continues moving through the rezoning process.

I sincerely appreciate the thoughtful and methodical approach the Committee has taken by evaluating properties based on practical, property-specific factors, including sea level rise exposure, flood risk, long-term habitability, and each property's original intended use.

Kihei Bay Vista is a 60-unit condominium community located in North Kīhei. It was originally developed and sold as a visitor accommodation property, and for decades it has lawfully operated as a short-term vacation rental community. It also sits within a high-risk coastal flood area, making it less suitable for long-term residential housing than many other areas of Maui.

Kihei Bay Vista is immediately adjacent to the ocean and located at the mouth of Kūlanihāko'i Gulch in North Kīhei. It sits at the bottom of one of South Maui's major drainage basins, where stormwater flowing from the slopes of Haleakalā converges before reaching the ocean. During major Kona storms, runoff from the gulch combines with coastal flooding and high surf, making the property especially vulnerable to flooding.

Kihei Bay Vista and the surrounding North Kīhei area have experienced repeated major flooding in recent years, including:

- **December 2021:** A Kona low caused severe flooding throughout North Kīhei, leading to state and county emergency declarations.
- **January 2023:** Heavy flooding again impacted North Kīhei, resulting in significant damage and emergency response.
- **January 2024:** Floodwaters undermined South Kīhei Road, requiring emergency repairs after portions of the roadway failed.
- **January 2025:** Another major storm caused widespread flooding, road closures, and damage throughout North Kīhei.
- **March 2026:** Kona storms once again produced extensive flooding, road failures, and infrastructure damage in the North Kīhei area.

Kihei Bay Vista was never designed or intended to serve as long-term workforce housing. Its original design, location, and decades-long use have always been centered on visitor accommodations.

The Council has established practical criteria for these Council-initiated rezonings, and I believe Kihei Bay Vista is exactly the type of property those criteria were intended to recognize.

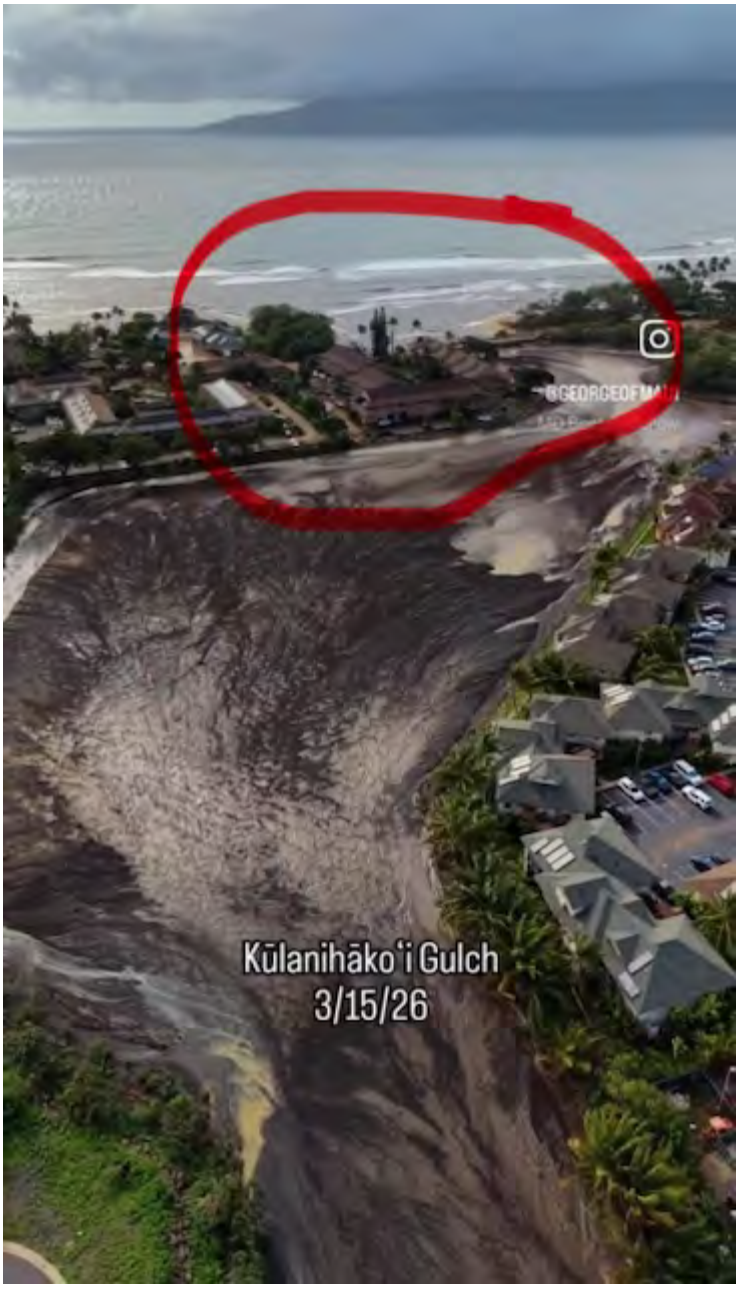
For these reasons, I believe Kihei Bay Vista clearly meets the practical criteria the Council has established for H-3/H-4 rezoning. Aligning its zoning with its longstanding lawful visitor accommodation use would provide greater clarity and certainty for property owners, residents, businesses, and Maui County while recognizing the unique physical characteristics of the property and its location.

I recognize the Committee still has substantial work ahead as it evaluates properties one by one, and I sincerely appreciate your willingness to undertake this important effort.

Mahalo for your leadership, your thoughtful consideration, and your continued work on Maui County's zoning modernization.

Respectfully,

Andrew G. Church
Makawao, Maui, Hawai‘i


Kūlanihāko'i Gulch
3/15/26

HLU Committee

From: Rob Maushardt <RobMaush@outlook.com>
Sent: Wednesday, July 1, 2026 1:28 PM
To: Rogerr86; HLU Committee
Cc: Ray Menor
Subject: Re: Kaleialoha zoning statis?

You don't often get email from robmaush@outlook.com. Learn why this is important

Thank you, Roger. Honorable HLU committee members, my fellow owners Dr. Ray Menor, Roger Ready and I represent a super-majority of Kaleialoha owners that have been legally operating as TVR units under the Minotoya list for decades, and our property is listed in Exhibit 1 to Bill 88. Ms. Philips, who emailed you earlier, speaks only for herself and does not speak for the majority of owners at Kaleialoha.

We apologize for the extra email volume for you on an already busy day, and we understand the topics of today's meeting are timeshare and leasehold uses. We look forward to making our formal request to the HLU committee for inclusion in a future round of Council-Initiated zoning changes to the H-3 or H-4 zone when the topics of a future resolution under consideration align with Kaleialoha's history and role in the Maui economy.

Until then, we remain respectfully yours,
Rob Maushardt, owner at Kaleialoha

From: Rogerr86 <rogerr86@yahoo.com>
Sent: Wednesday, July 1, 2026 12:43 PM
To: HLU.committee@mauicounty.us <HLU.committee@mauicounty.us>
Cc: HLU.committee@mauicounty.us <HLU.committee@mauicounty.us>; Rob Maushardt <robmaush@outlook.com>; Ray Menor <rmenor@yahoo.com>
Subject: Re: Kaleialoha zoning statis?

Aloha HLU Committee -
I want to respond to Linda's email. Linda does NOT represent the owners at Kaleialha. The owners have strongly voiced their desire to retain short term rental status (as we have been for over 50 years). I serve as an officer on our HOA Board, and I have our President (Rob Maushardt) and fellow Board member (Ray Menor) cc'd here.

We do have many of the qualifications to be rezoned in H3 H4 report. We do have a front desk that is in process of being renovated (was used for check ins years back). We also have had a full time manager since the 1970's (last resident manager left us a few months ago). We have outsourced all responsibilities to a landscape company, a cleaning service, pool cleaner, etc for the time being.

Kaleialoha has always been (since built in 1973) a transient vacation rental. Two thirds of the condos are used today as vacation rentals. There is a mix of "snow birds" who use their condo seasonally, and only a few long term rentals even exist.

For a number of reasons, the vast majority I75% plus) of owners at Kaleialoha strongly desire to be allowed to continue as short term rentals (as we have for over 50 years). Our condos are not practical for long term rental for many reasons (high HOA dues, expensive assessments on projects including seawall, elevator, swimming pool, etc...). We also don't have enough parking (one space for each condo), no garage or storage space, etc...a long

term rental would not be affordable.

We were built 50 years ago to be a vacation rental property, and we have always functioned in that capacity. Thank you for your consideration.

Roger F. Reedy
Kaleialoha
HOA Officer/Board of Directors

Sent from my iPad

> On Jul 1, 2026, at 1:27 PM, Linda Philips <lsp@hawaii.rr.com> wrote:
>
> Aloha... I'm confused and concerned. I am an owner @Kaleialoha currently an A2 zoning classification. Your qualifications for H3 and H4 zoning are clear. Full-time manager, association front desk, employees for landscaping and maintenance. Kaleialoha has NONE of these!! So WHY do these qualifications not apply to our property? By these standards, Kaleialoha should maintain its A2 status and should no longer allow short-term rental rentals! Please respond.
> Mahalo,
> Linda Philips Kaleialoha #417

HLU Committee

From: Rogerr86 <rogerr86@yahoo.com>
Sent: Wednesday, July 1, 2026 12:43 PM
To: HLU Committee
Cc: HLU Committee; Rob Maushardt; Ray Menor
Subject: Re: Kaleialoha zoning statis?

[You don't often get email from rogerr86@yahoo.com. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification]

Aloha HLU Committee -
I want to respond to Linda's email. Linda does NOT represent the owners at Kaleialha. The owners have strongly voiced their desire to retain short term rental status (as we have been for over 50 years). I serve as an officer on our HOA Board, and I have our President (Rob Maushardt) and fellow Board member (Ray Menor) cc'd here.

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We were built 50 years ago to be a vacation rental property, and we have always functioned in that capacity. Thank you for your consideration.

Roger F. Reedy
Kaleialoha
HOA Officer/Board of Directors

Sent from my iPad

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> Mahalo,
> Linda Philips Kaleialoha #417

HLU Committee

From: Linda Philips <lsp@hawaii.rr.com>
Sent: Wednesday, July 1, 2026 10:27 AM
To: HLU Committee
Cc: Kaleialoha AOAO
Subject: Kaleialoha zoning statis?

[You don't often get email from lsp@hawaii.rr.com. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification]

Aloha… I'm confused and concerned. I am an owner @Kaleialoha currently an A2 zoning classification. Your qualifications for H3 and H4 zoning are clear. Full-time manager, association front desk, employees for landscaping and maintenance. Kaleialoha has NONE of these!! So WHY do these qualifications not apply to our property? By these standards, Kaleialoha should maintain its A2 status and should no longer allow short-term rental rentals! Please respond.
Mahalo,
Linda Philips Kaleialoha #417

HLU Committee

From: Patrick Smith <patrickjudson@gmail.com>
Sent: Wednesday, July 1, 2026 10:09 AM
To: HLU Committee
Subject: Re: Support for Inclusion of Honokeana Cove in the H-3/H-4 Hotel Zoning Designation

You don't often get email from patrickjudson@gmail.com. Learn why this is important

Dear Chair and Members of the Housing and Land Use Committee,

I am an owner at Honokeana Cove in West Maui, and I respectfully request that Honokeana Cove be included in the H-3/H-4 hotel zoning designation.

Honokeana Cove has operated for decades as a visitor accommodation property and has become an established part of West Maui's tourism economy. Owners purchased these units with the understanding that transient vacation rental use was lawful and recognized by Maui County. Many owners have made significant long-term financial commitments based on those expectations.

Honokeana Cove is not a practical solution to Maui's housing shortage. The property's oceanfront location and market value place it well beyond the reach of the average Maui resident seeking workforce housing. Even if transient rental use were prohibited, these units would not become affordable housing. Instead, they would most likely become second homes or remain underutilized, producing little or no benefit toward the County's housing goals.

The property also functions much more like a hotel than a traditional apartment complex. It has professional on-site management, a staffed front desk, dedicated maintenance personnel, landscaped common areas, and operational systems specifically designed to serve short-term visitors. The infrastructure, management model, and long history of transient accommodations make Honokeana Cove an appropriate candidate for H-3/H-4 zoning.

Visitor accommodations at Honokeana Cove also support the broader West Maui economy. Guests patronize local restaurants, grocery stores, activity providers, retail businesses, and service companies, helping sustain jobs and generate tax revenue that benefits the community. Preserving lawful visitor accommodations at properties such as Honokeana Cove allows Maui to maintain this important economic activity while focusing housing efforts on locations that can realistically provide homes for local residents.

I respectfully ask the Committee to recognize Honokeana Cove's long-standing visitor use, hotel-like operations, and the economic realities of the property by including it in the H-3/H-4 zoning designation. Doing so would provide certainty for owners who relied on existing County regulations while continuing to support West Maui's economy without undermining the County's housing objectives.

Thank you for your time, your service to our community, and your thoughtful consideration of this important issue.

Respectfully,

Patrick Smith
Owner, Honokeana Cove

HLU Committee

From: Emmanuel Borromeo <emmanuelborromeo@gmail.com>
Sent: Wednesday, July 1, 2026 9:05 AM
To: HLU Committee
Subject: Hale Kai Hotel Zoning Consideration

You don't often get email from emmanuelborromeo@gmail.com. Learn why this is important

Hello Maui Planning Commission Members,

My name is Emmanuel Borromeo, and I was born and raised on Maui. After graduating from Lahainaluna High School, I joined the military and eventually settled in Alaska after leaving active duty because my wife is Alaska Native.

Purchasing a unit at Hale Kai gave our family the opportunity to maintain a home on Maui, allowing us to visit as often as possible with the hope of returning permanently once our children are grown. Without the ability to rent our unit to visitors while we are away, owning a home on Maui would simply not be financially feasible for us.

For the following reasons I respectfully request that Hale Kai be able to rezone to Hotel accommodations. Hale Kai has operated successfully as a transient vacation rental property for decades. The property includes a front desk staffed by association employees, along with dedicated groundskeeping and maintenance personnel who help ensure a safe, clean, and welcoming environment for visitors.

I would also like to respectfully point out that simply making these units available does not make them affordable. These oceanfront condominiums carry association dues of approximately $1,300 per month before accounting for a mortgage, property taxes, insurance, utilities, and maintenance. For our unit, the total monthly ownership costs approach $7,000.

If hotel zoning is not granted, my wife and I would lose hundreds of thousands of dollars in property value. Even in the unlikely event that a local family could purchase our unit at a significantly discounted price, the monthly cost of ownership would still likely range from $4,500 to $5,000 for a 600-square-foot condominium. That level of expense is simply not affordable for most local residents and demonstrates that the highest and best use of this property continues to be as a transient vacation rental.

In closing, I want to acknowledge and express my sincere understanding of the housing challenges facing local families. I experienced housing insecurity myself while growing up on Maui. My family moved frequently, and for a period of time my father lived out of his truck and a tent near Kanahā Beach Park and Kahului Harbor. Those experiences were a significant reason I chose to attend Lahainaluna as a boarding student.

I deeply understand the desire to do what is right for our local community. However, in this case, regardless of the significant financial impact on my own family, I do not believe converting Hale Kai to long-term housing will create meaningful affordable housing opportunities for local residents. Instead, I

believe it will reduce visitor accommodations, diminish property values, and ultimately provide little benefit to the people this policy is intended to help.

Thank you for your time, your thoughtful consideration, and your continued service to the people of Maui.

Respectfully,

Emmanuel Borromeo

RECEIVED OCS
'26 JUL 1 AM9:00

Aloha Honorable Maui County Council,

My name is john Chaisson and I am a long time resident of Maui Sands i. I am here today to give public testimony why Maui Sands I should be included on TIGs Exhibit 2 list.

Maui Sands I is a lease hold property built and operating since 1966 as a vacation rental property; which clears us for the Sept 24th 2020 deadline. Our 2 story building size and setbacks comply with what is needed. Maui Sands I lease holders are the Robinson and Weinberg Trusts.

Maui Sands I is not affordable housing. Our total monthly costs come in at $3000 a month a unit for the land lease and the HOA dues and maintenance.

Maui Sands I lease expires in 2037 with no current renewal in process. We are though in the process of negotiating a land purchase. There is no mortgage option to buy at Maui Sands I. For banks, they like to see a land lease extend 5 years past the leasehold. The VP of Banking and Mortgages at Bank of Hawaii told me we have 11 years left on the lease which gives us 6 years for a possible mortgage and Bank of Hawaii does not do 6 year mortgages. I checked with Loan Depot and was told the same thing. So in order to buy a property at Maui Sands I, it would have to be all cash or private financing.

Our sister property, Maui Sands 2, known as Seaside is on the Exhibit 2 list. Maui Sands 2 was built two years later by the same developers in the late 1960s and on the same parcel of land as Maui Sands I. Maui Sands 2 has the same design and construction as Maui Sands I. Maui Sands I and Maui Sands 2 share the same land lease holders; the Robinsons and the Weinbergs and the same utility infrastructure to provide water and sewer to its owners. Every issue Maui Sands 2 has that warranted it to be on the TIGs Exhibit 2 list, is the same as Maui Sands I. So it makes sense to me that Maui Sands I be included on Exhibit 2 like our sister property, Maui Sands 2, also known as Seaside. Mahalo for your time.

Lease documents included on backside.

RESIDENTIAL GROUND LEASE
DISCLOSURE AND SUMMARY

FOLLOWING IS A SUMMARY OF THE MAJOR PROVISIONS OF THE UNIT LEASE FOR THE PROJECT. THE PURPOSE OF THIS SUMMARY IS TO:

1.) ***Provide the Buyer with a basic understanding of the Lessee's (Buyer) obligations under the lease.***
2.) ***Partially satisfy the Seller's legal obligations to the Buyer as required by Hawaii Revised Statutes (HRS 516D-11 or HRS 516-71).***

IF THERE ARE ANY DISCREPANCIES BETWEEN THIS SUMMARY AND THE TERMS OF THE RECORDED LEASE, THE RECORDED LEASE PREVAILS.

MAJOR PROVISIONS OF THE UNIT LEASE

SUBJECT PROPERTY

CONDOMINIUM PROJECT: MAUI SANDS

UNIT #: 6 F **TMK: 2-4-4-1-52** **CPR:**

UNDIVIDED COMMON INTEREST: 1/56th

(Reference: Page 1 and 2. Also see Preliminary Title Report)

SELLER

DINKA

LESSORS

Robinson Maui Sands Partnership and the
Pioneer Mill Company, Limited

DATE OF ORIGINAL LEASE: December 30th, 1965

Note: The Lessors above are the original Lessors named in the original master leases. The Lessors' interest in the leases may have been assigned or otherwise transferred to another party at some time after the date of the leases. The above Lessors may not be the current Lessors. *This Leasehold Disclosure does not warrant the insurable interest of the Seller and Lessor.*

(Reference: Page 1 of the Apartment Sublease. To verify the insurable interest of the Seller and Lessor, refer to the Preliminary Title Report)

TERM OF LEASE

December 30th, 1965 through June 30th, 2037

(Reference "To Have and to Hold" page 5 of the Apartment sublease Modified by the Amendment of Sublease dated April 25th, 1968, page 3)

FIXED PERIODS OF LEASE RENT

December 30th, 1965 to December 31st, 1970 monthly rent is 1.9699% of $1022.48

January 1st, 1971 to June 30th, 1982 monthly rent is 1.9699% of $1897.40

July 1st, 1982 to June 30th, 1992 monthly rent is 2.95485% of 1/12 of the annual rent prescribed by the Robinson and Pioneer Mill Leases.

July 1st, 1992 to June 30th, 2002 monthly rent is 2.46238% of 1/12 of $30,169.20 plus 1/12 of the annual rent established under the Robinson lease.

January 1st, 1987 to June 30th, 2037 **monthly rent of $8.21 in addition to other** rents outlined in the sublease (See page 7, "fifth" and "sixth" items in Amendment to sublease dated 4/25/68)

July 1st, 2002 to June 30th, 2012 monthly rent is 2.46238% of 1/12 of the annual rent established for the Robinson and Pioneer Mill leases for the period **(Current lease rent is $632.59 monthly including GET tax)**

July 1st, 2012 to June 30th, 2017 monthly rent is 2.46238% of 1/12 of the annual rent established for the Robinson and Pioneer Mill leases for the period.

July 1st, 2017 to June 30th, 2027 monthly rent is 2.21614% of 1/12 of the annual rent established for the Robinson and Pioneer Mill leases for the period.

July 1st, 2027 to June 30th, 2037 monthly rent is 2.21614% of 1/12 of the annual rent established for the Robinson and Pioneer Mill leases for the period

(Reference Pages 4,5,6,7 Amendment to the Apartment Sublease dated 4/25/68 and effective 1/1/1987)

HLU Committee

From: Rory Frampton <rory@roryframpton.com>
Sent: Wednesday, July 1, 2026 8:06 AM
To: HLU Committee; Nohe M. Uu-Hodgins; Thomas M. Cook; Stacy Takahashi
Subject: Re: Makai Sunset Inn
Attachments: Makai Sunset Inn ltr-rqst rev 6.29.26.pdf

You don't often get email from rory@roryframpton.com. Learn why this is important

Aloha Chair U'u-Hodgins
I'm sending my letter in again as this is intended to be testimony for today's meeting.
Thank you,
Rory Frampton

On Mon, Jun 29, 2026 at 4:28 PM Rory Frampton <rory@roryframpton.com> wrote:

> Aloha
> See attached letter requesting that the Makai Sunsetn Inn properties be included in Resolution 26-111 because it operated as a hotel.
> Please let me know if there are any questions.
> Mahalo
> Rory Frampton

Rory Frampton Consulting Inc.

Land Use and Environmental Planning ▪ Consulting ▪ Project Management

340 Napoko Place
Kula, Hawaii 96790

cell 808 298 4956
rory@roryframpton.com

June 29, 2026

Chair Nohelani U`u-Hodgins
Housing and Land Use Committee
Maui County Council
Sent via email

Dear Chair U`u-Hodgins

RE: Makai Sunset Inn – Request to be included as Hotel type properties under Resolution HLU 26-111 for properties 1411 & 1415 Front Street, Lahaina TMKs (2) 4-5-013: 002 & 026

This letter is written on behalf of my clients Makai Cam LLC, owners of the Makai Sunset Inn located at 1411 & 1415 Front Street. Via this letter, Makai Cam LLC is requesting their properties to be as Hotel type properties under Resolution HLU 26-111, in order to maintain Transient Vacation Rental (TVR) use and included for Council initiated community plan and zoning amendments

Background. The properties are located on the makai side of the northern portion of Front Street, see attached location map. They are shoreline properties protected by a seawall.

Prior to the Lahaina fire, the Makai Sunset Inn was used as a 21 unit transient vacation rental property located in the A-2 Apartment District. The structure was originally constructed in 1964. The real property tax classification had been hotel/resort. And, the owners were up to date on all GET and TAT tax payments. See attached Real Property page for the properties. Based on these facts, the property qualified as a permitted use in the A-2 Apartment District under section 19.12.020.G, MCC. This section of the code has now been deleted with the passage of Bill 9. For some unknown reason, these properties were not identified on the Minatoya list.

The current owners purchased the properties in 2021 for $7.8 million. They spent approximately $2.1 million on refurbishments which were completed several months prior to the Lahaina fire.

Council Resolution 26-111. The purpose of Resolution 26-111 is to adopt zoning and community plan designations for properties that were operating as hotels. **The Makai Sunset Inn operated as a hotel, it had front desk and housekeeping staff.** See attached photographs of the lobby and front desk as well as web pages with guest reviews with positive comments regarding the staff.

TIG Recommendations. The Temporary Investigative Group (TIG) on Transient Vacation Rentals in the Apartment District, identified a number of properties

on the Minatoya list that would be appropriate to continue TVR use since they would not likely be converted to long-term residential housing for local residents. These properties were identified and attached to the TIG report as Exhibit "2". Criteria used to include properties on the Exhibit "2" list included the following:

- "*Properties with market values not attainable by most Maui County residents would be appropriate to continue TVR uses.*"

- "*Properties where any portion of the property is located in the full SLR-XA or would already be impacted by sea-level rise would not produce long-term housing options for residents and would therefore be appropriate to continue TVR uses.*"

The Makai Sunset Inn properties meet the TIG's criteria to continue TVR uses. The Makai Sunset Inn properties would not likely produce long-term housing options for Maui residents based on the following:

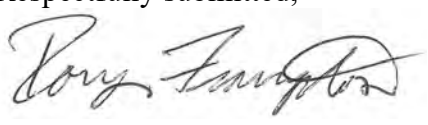
- **Property Value.** The properties are located on the shoreline and would be priced out of reach for most Maui residents. The current owners have invested around $10 million in land acquisition and refurbishments. Additionally, the seawall on the ocean side of the properties needs repair and will need to be continually repaired and maintained over time, adding additional costs to maintain the property.

- **Sea Level Rise Exposure Area (SLR-XA).** The entirety of both properties are located in the SLR-XA (3.2 ft sea level rise scenario). See attached figure. As such, the properties would not produce long-term housing options for Maui residents.

In summary, prior to the Lahaina Fire, the Makai Sunset Inn operating as a hotel. In addition, primarily due to their shoreline location, the Makai Sunset Inn properties would not produce long-term housing options for Maui residents. We respectfully request that the subject properties be included among the properties under consideration for Council initiated change in zoning and community plan designation.

Thank you for your review of this matter. Should you have any questions or comments, please feel free to contact me at 808-298-4956 or by email rory@roryframpton.com.

Respectfully submitted,



Rory Frampton

cc: Andrew Chang Jr., Makai CAM LLC

Parcel Information

Parcel Number 450130260000
Location Address 1411 FRONT ST
LAHAINA HI 96761
Neighborhood Code OFHOTEL
Legal Information LOT 4 MALA BEACH SUBD POR LCAW 477F:210,654 SF DES
Land Area 10654 Square Feet
Zoning A1 - A-1 Apartment
Parcel Note

View Map

Damage Destroyed 823
Reentry Zone 4A
Zone Color Green

Owner Information

Owner Names
MAKAI CAM LLC Fee Owner

Mailing Address
MAKAI CAM LLC
133 E SAINT JOSEPH ST
ARCADIA CA 91006

Assessment Notices

450130260000 (PDF)

Assessment Information

Hide Historical Assessments

Year	Tax Class	Market Land Value	Agricultural Land Value	Assessed Land	Building Value	Total Assessed Value	Total Exemption Value	Total Net Taxable Value
2026	TVR-STRH	$0	$0	$0	$0	$0	$0	$0
2025	TVR-STRH	$0	$0	$0	$0	$0	$0	$0
2024	TVR-STRH	$0	$0	$0	$0	$0	$0	$0
2023	TVR-STRH	$1,539,600	$0	$1,539,600	$778,000	$2,317,600	$0	$0
2022	TVR-STRH	$1,539,600	$0	$1,539,600	$688,100	$2,227,700	$0	$2,227,700
2021	TVR-STRH	$1,200,000	$0	$1,200,000	$535,800	$1,735,800	$0	$1,735,800
2020	TVR-STRH	$1,500,000	$0	$1,500,000	$686,900	$2,186,900	$0	$2,186,900
2019	TVR-STRH	$1,363,600	$0	$1,363,600	$676,300	$2,039,900	$0	$2,039,900
2018	TVR-STRH	$1,239,600	$0	$1,239,600	$816,500	$2,056,100	$0	$2,056,100
2017	HOTEL / RESORT	$1,177,700	$0	$1,177,700	$754,100	$1,931,800	$0	$1,931,800

How to calculate real property taxes

Commercial Improvement Information

Building Number 1
Building Type
Year Built 1964
Eff Year Built
% Complete 100%
Building Square Footage 8,768
Value $0

Section	Floor #	Area	Perimeter	Occupancy	Wall Height	Exterior Wall	Rank	Building Class
1	01	1592	178	Apartment	10		1.5	Masonry Bearing Walls s1 p7
1	02	1592	178	Apartment	10		1.5	Masonry Bearing Walls s1 p7
2	01	1200	146	Apartment	10		1.5	Masonry Bearing Walls s1 p7
2	02	1200	146	Apartment	10		1.5	Masonry Bearing Walls s1 p7
3	01	1592	178	Apartment	10		1.5	Masonry Bearing Walls s1 p7
3	02	1592	178	Apartment	10		1.5	Masonry Bearing Walls s1 p7

Other Features

Section	Structure	Measure 1	Measure 2	Stops
1	Patio, Concrete	780	1	0
2	BALCONY WD RAILING	716	1	0

Parcel Information

Parcel Number	450130020000
Location Address	1415 FRONT ST LAHAINA HI 96761
Neighborhood Code	OFHOTEL
Legal Information	LOT 5 MALA BEACH SUBD POR LCAW 477F:211,555 SF DES
Land Area	11555 Square Feet
Zoning	A1 - A-1 Apartment
Parcel Note	

View Map

Damage	Destroyed 823
Reentry Zone	4A
Zone Color	Green

Owner Information

Owner Names
MAKAI CAM LLC Fee Owner

Mailing Address
MAKAI CAM LLC
133 E SAINT JOSEPH ST
ARCADIA CA 91006

Assessment Notices

450130020000 (PDF)

Assessment Information

Hide Historical Assessments

Year	Tax Class	Market Land Value	Agricultural Land Value	Assessed Land	Building Value	Total Assessed Value	Total Exemption Value	Total Net Taxable Value
2026	TVR-STRH	$0	$0	$0	$0	$0	$0	$0
2025	TVR-STRH	$0	$0	$0	$0	$0	$0	$0
2024	TVR-STRH	$0	$0	$0	$0	$0	$0	$0
2023	TVR-STRH	$1,669,900	$0	$1,669,900	$0	$1,669,900	$0	$0
2022	TVR-STRH	$1,669,900	$0	$1,669,900	$0	$1,669,900	$0	$1,669,900
2021	TVR-STRH	$1,279,900	$0	$1,279,900	$0	$1,279,900	$0	$1,279,900
2020	TVR-STRH	$1,599,900	$0	$1,599,900	$0	$1,599,900	$0	$1,599,900
2019	TVR-STRH	$1,454,500	$0	$1,454,500	$0	$1,454,500	$0	$1,454,500
2018	TVR-STRH	$1,322,300	$0	$1,322,300	$0	$1,322,300	$0	$1,322,300
2017	HOTEL / RESORT	$1,256,100	$0	$1,256,100	$0	$1,256,100	$0	$1,256,100

How to calculate real property taxes

Sales Information

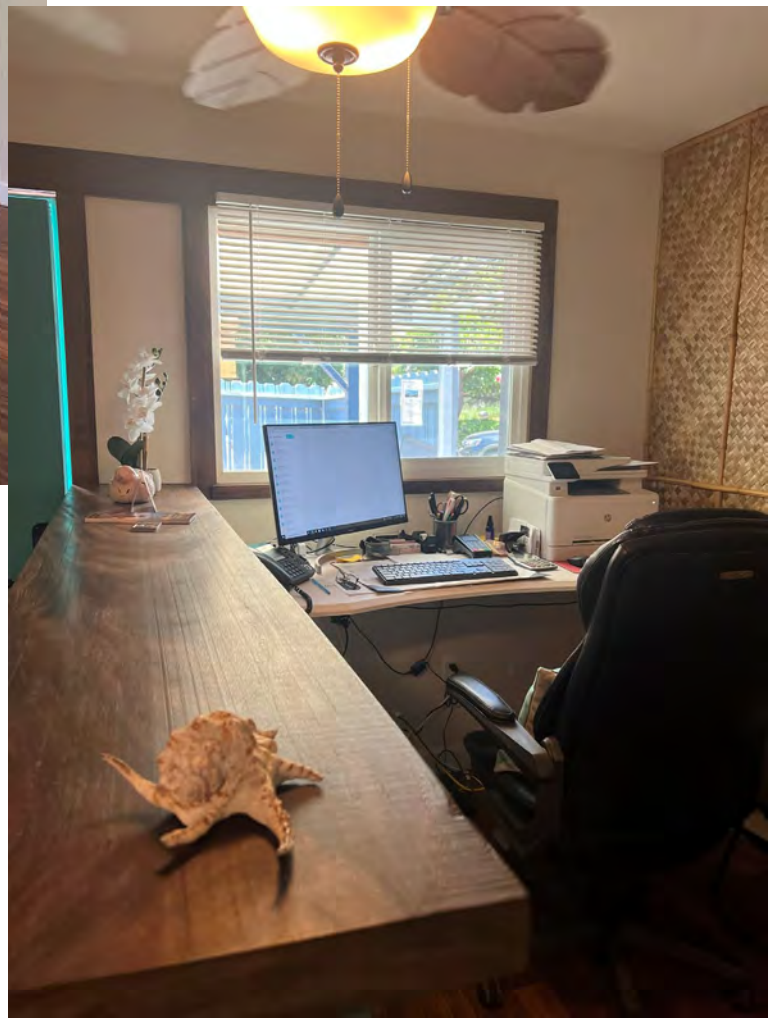
Sale Date	Price	Instrument Number	Instrument Type	Valid Sale or Other Reason	Document Type	Record Date	Land Court #	Land Court Cert
12/27/2021	$7,800,000	A80340726	Fee conveyance	Involved add'l parcels	Warranty deed	12/30/2021		
12/23/2021	$1,000	A80380204	Fee conveyance		Warranty deed	1/3/2022		
7/30/2002	$1,221,500	02-204737	Fee conveyance	Related individuals	Quitclaim deed	11/18/2002		
10/29/1987	$0	8700166306	Fee conveyance			11/2/1987		
10/5/1987	$0	8700166305	A/S on fee			11/2/1987		

Maui's Automated Planning & Permitting System

Click Here to View All Planning and Permitting Info Regarding This TMK

Lobby

Front Desk



Makai Sunset Inn
Lobby and Front Desk Photos
1411 and 1415 Front Street

makai sunset inn lahaina - Search

*** MAKAI SUNSET INN, LAHAINA

https://the-makai-inn.lahaina-hotels.com/en/

Chat

Makai Sunset Inn Lahaina

ex. Lahaina Ocean's Edge

1415 Front Street, Lahaina, United States

Booking.com 7.9
Based on 273 reviews

Tue 30 Jun | Wed 1 Jul | 2 Adults | 0 Children | Check availability

- **Check-in:** from 15:00 until 23:59
- **Check-out:** until 11:00
- **License number** W31438185-01
- **Children and extra beds** There are no cribs provided in a room.

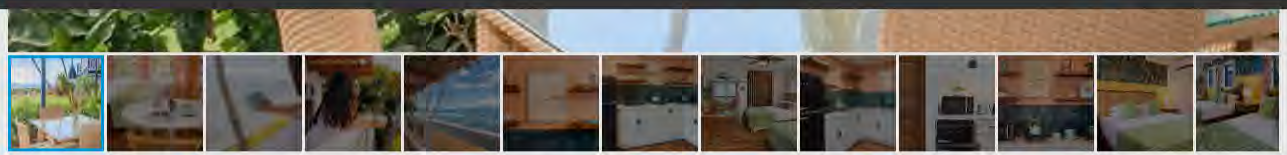
How to reach hotel

makai sunset inn lahaina - Search | *** MAKAI SUNSET INN, LAHAINA | Maui Beachfront Vacation Rentals

https://the-makai-inn.lahaina-hotels.com/en/#description

Chat

Tue 30 Jun | Wed 1 Jul | 2 Adults | 0 Children | Check availability



Overview | Location | Reviews | Amenities | Rooms

Makai Sunset Inn

Located only 0.7 miles from Puunoa Beach, Makai Sunset Inn Lahaina is in the immediate vicinity of Lahaina Jodo Mission Buddhist Cultural Park. Guests who stay at the comfortable 3-star inn can park their car on site.

Located in the Historic Lahaina Front Street district, the Lahaina hotel is approximately a 25-minute stroll from such business sites as Old Lahaina Courthouse. Natural attractions in the area include Kamehameha Iki Park, 1.7 miles from the Makai Sunset Inn Lahaina, and a beach is just 0.7 miles away. Guests might as well visit Wahikuli Park, which is merely 9 minutes' stroll away. Located 1.2 miles from the property, Maria Lanakila Catholic Church is open for visiting by worshippers and tourists. Well-connected to many sights, the Makai Sunset Inn is within reach of Lahaina Cannery Mall bus stop.

The 20 rooms feature air conditioning along with self-catering facilities such as tea/coffee making equipment. Offering a walk-in shower and a separate toilet, the bathrooms are also fitted with a hairdryer and bath sheets.

The nearby dining opportunities include Mala Ocean Tavern, which is a mere 6 minutes by foot from the hotel.

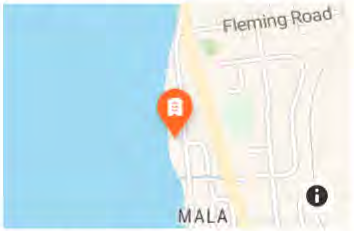
from 15:00 until 23:59

Check-out:
until 11:00

License number
W31438185-01

Children and extra beds
There are no cribs provided in a room.

How to reach hotel



Where is the Makai Sunset?

Makai Sunset Inn address: 1415 Front Street, Lahaina, United States

Attractions

makai sunset inn lahaina - Search
*** MAKAI SUNSET INN, LAHAINA
Maui Beachfront Vacation Rentals
https://the-makai-inn.lahaina-hotels.com/en/#form-review
Chat

Tue 30 Jun | Wed 1 Jul | 2 Adults | 0 Children | Check availability

Jack
2022-03-03
+ Generally, the place was special. I enjoyed the room, the bed was comfortable. The service was absolutely great. A nice beach, breathtaking view.
7

Tom
2021-07-23
+ Super location, outstanding staff, really good bed. The room was non-smoking and beautiful and the bathroom was luxurious. There was a good restaurant, shops and supermarket next door. A welcoming service and perfect breakfast.
− Wi-Fi signal was very weak, made me a little nervous.
9

James
2021-04-28
+ Staff and location were ideal here.
9

Lee
2021-10-28
+ Just perfect stay overall. Immaculate place with FABULOUSLY FRIENDLY staff. Room was fairly quiet and airy.
8

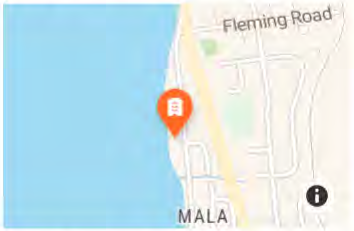
from 15:00 until 23:59

Check-out:
until 11:00

License number
W31438185-01

Children and extra beds
There are no cribs provided in a room.

How to reach hotel



Where is the Makai Sunset?

Makai Sunset Inn address: 1415 Front Street, Lahaina, United States

Attractions

HLU Committee

From: Rogerr86 <rogerr86@yahoo.com>
Sent: Wednesday, July 1, 2026 6:26 AM
To: HLU Committee
Cc: Roger r
Subject: TIG report consideration (Kaleialha)

[You don't often get email from rogerr86@yahoo.com. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification]

To whom it may concern -
My name is Roger Reedy, and I'm an owner of a condo (#213) at Kaleialoha (3785 Lower Honoapiilani Rd.) and I'm an officer on the HOA Board of Directors. On behalf of our Board, and the vast majority of the owners at Kaleialoha, we ask that you consider Kaleialoha for consideration of being on the TIG report and placed in H3 or H4 zoning.

I will provide background on Kaleialoha as to why we should be considered. We were built in 1977, as a 67 condo unit, primarily for transient vacation rentals. Two thirds of the units are utilized to this day as vacation rentals, while a few are used several months a year at owners discretion, and a few are ltr.

Someone looking to buy a home in Maui would almost certainly not consider Kaleialoha. Our HOA fees alone are very high, so adding a mortgage on top of that would make no sense (as well as additional costs for property taxes, home insurance, etc…)..it would be unaffordable as a home or a ltr (rent would be too high after owner covers above costs). In addition, parking is limited to only one space per owner - so no room for a second car, as well as no garage. All condos are either studios or one bedroom, so very small and zero storage space for owners.

Kaleialoha was built intentionally for short term vacation rentals, and we maintain a landscaping service, cleaning service, and a property management (Maui Lodging) to keep Kaleialoha in perfect condition. We maintain upkeep constantly of the Seawall as well as general maintenance projects on electrical and elevator service. Occasionally we have supplemental fees owners have to cover on maintenance or services, another cost a home owner would have difficulty covering.

We're happy to provide a tour of Kaleialoha and show you exactly why we should be considered for H3 or H4 zoning. We appreciate your consideration.

Sincerely -

Roger F. Reedy
Owner, #213 Kaleialha
Secretary - Kaleialha HOA Board of Directors
(408) 221-6349
Sent from my iPad

HLU Committee

From: Maria Russell <mariarussell367@gmail.com>
Sent: Wednesday, July 1, 2026 5:16 AM
To: HLU Committee
Subject: Housing and Land Use Committee Kahana Reef H3 H4 Zoning written testimony
Attachments: IMG_4431.jpeg; IMG_4429.jpeg; IMG_4430.jpeg; IMG_4417.jpeg

You don't often get email from mariarussell367@gmail.com. Learn why this is important

To members of the Housing and Land Use Committee

I, Maria Russell am submitting written testimony to the committee in support that Kahana Reef should be included in the proposed H3 and H4 zoning.

Kahana Reef has been operating as a legal transient vacation rental property for many years (decades even).

Kahana Reef when we originally purchased in 2014 was zoned condotel. It is listed on the Minatoya list and was and still should be considered a STR property. Hence deserving of the H3 H4 zoning.

In 1977 Fodor's travel to Hawaii book listed Kanaha Reef as a first class hotel property as noted on attached pages 283-287. These properties listed in these pages should all be included in H3-H4 zoning as they were originally earmarked as such in the late 1970's.

Kahana Reef is not well suited to become long-term workforce housing because of ii's size, design, limited storage space and parking. Truly Kahana Reef was envisioned as a hotel and transient vacation rental property.

Given the historical nature of this property. I do hope that committee members will recognize the value of this property with an H3-H4 zoning designation.

Respectfully,
Maria Russell
4471 Lower Honoapiilani Rd #320, 210, 222

RATON-MAUI. Built against a outcroppings of Black Rock anapali Beach. The hotel's swimming pool, cocktail and dining terrace overlook ch. The lobby is at the bottom cliff, with cottages around it. nt cuisine and a slick Polyne- orshow nightly in the *Discov- m*, and the tropical drinks in *centine Bar* match the superb ll 425 rooms have private *lanais* or terraces.

ONO LOA. 60 units at Ho- north of Kaanapali. All nts with kitchens and *lanais*. ay minimum.

KAI HALE has 38 units on at Kihei. A pool and 5-day .

KANE at Honokowai has 40 the beach. Minimum is 3 l.

ER, a 50-unit condominium apali, all air-conditioned, ol, close to the golf course, rts, three-day minimum.

MAUI, an 80-unit con- on the beach at i.

NA has 131 rooms near There is a three-day mini- nis court and swimming

A ROADS. 32 units on the le from Lahaina. There is ese condominium apart- with kitchens and *lanais*, have ocean views. Write 1403 Front Street, Lahaina, Maui, Hawaii 96761.

HALE KAMAOLE is a 60-unit condominium across the street from the beach at Kihei. There are swimming pools, a tennis court, all air-conditioned, all with kitchens.

KALEIALOHA RESORT is a 67-unit condominium on the beach at Honokowai. Three-day minimum, pool, all with kitchens.

MAALAEA KAI has 53 condominium units on the bay. There is a three-day minimum and a pool.

MAHANA is a 50-unit condominium at Kaanapali with a pool, tennis courts, all air-conditioned, all with kitchens and a three-day minimum. Located on the beach near the airstrip and Royal Lahaina Hotel.

MAHINA SURF. 56 luxury apartments on a bluff overlooking the ocean with views of Lanai and Molokai. All have kitchens and *lanais*. Pool. Four-day minimum.

MANA KAI MAUI has 180 rooms on the beach at Kihei. There is a restaurant, cocktail lounge, pool, shops and meeting rooms. Bedrooms, one-bedroom apartments, two-bedroom apartments (the rate for the two-bedroom apartment also gets you a six-passenger car).

ROYAL MAUIAN is a 6-story building on a slight point along the beach at Kihei. Air-conditioned. Swimming pool. 3-day minimum.

The Wailea Golf Course is not far away.

POLYNESIAN SHORES has 36 units at Mahinahina with a 3-day minimum. Pool. All apartments with kitchens.

NAPILI SHORES. Newest hotel in West Maui. Its 120 studio and air-conditioned 1-bedroom apartments are on Kaelelii Point overlooking Napili Bay. All apartments have kitchens, 2 swimming pools, putting green, cocktail lounge, and French restaurant, *Le Tournedos*. About 6 miles from Lahaina. Route 1, Box 920, Napili Bay, Maui, Hawaii 96761.

HANA KAI RESORT APARTMENTS on the water between the airport and village. 19 units, kitchens. Write manager, Box 38, Hana, Maui, Hawaii 96713.

THE MAUIAN is on beautiful Napili Bay beyond the Kaanapali area—8 miles from Lahaina. There are 44 units, all with kitchenettes, private *lanais*, and daily maid service; each unit will accommodate up to 4 people. The beach and ocean swimming are excellent, but there's also a fresh-water pool, shuffleboard, and croquet. 2 stores and a restaurant in walking distance. Write Mauian Hotel, Napili Beach, Maui, Hawaii 96761.

KAANAPALI BEACH is one of 8 hotels at the Kaanapali resort, and this one is on the water with the golf course across the access road. All rooms, in multi-storied buildings, have views of the ocean. In addition to golf, all manner of water sports activities are available. Rates are single, twin on European Plan. All air-conditioned. Hotel has *Plantation Dining Room, Shipwreck Bar,* and *Sugar Mill Lounge,* Kaanapali's only cabaret with nightly entertainment. An Island Holidays resort.

HALE KAI O KIHEI. 36 new units at Kihei Beach with a 1-week minimum. 1-bedroom apartments with kitchens. There is a pool. 1310 Uluniu Road.

KIHEI KAI NANI is one condominium under two managements, a short distrance from Kamaole Beach. One has 67 kitchen units at $26, P.O. Box 585, Kihei, Maui 96753. The other has 30 kitchens at $34 with a 7-day miminum, reservations through Hawaii Homes, 1615 Hudson St., Redwood City, Calif. 94061.

NAPILI SUNSET has 44 units at Napili Bay and with a swimming pool.

KIHEI SANDS has 20 air-conditioned rooms on the beach at Maalaea Bay and a pool. The minimum is 3 days.

NOELANI has 49 units near Honokowai Beach. 3-day minimum. Pools. All with kitchens.

KAHANA REEF. 88 units on the beach near Napili. There is a swimming pool. All rooms with kitchens.

LIHI KAI COTTAGES. 24 1-bedroom cottages at Kihei, just a block

the Highway 37 junction on Highway 377 is the Kula Botanical
lens, open daily 9 A.M. to 4 P.M., admission $1.25. The walk
gh is easy, and there are shaded rest spots. A taboo garden of
plants is something really different.
e Polipoli area, rich in quail, pheasant, and other game, is
tained by the Department of Land and Natural Resources as
of the Kula Game Reserve. A trail from the Springs leads to a
r's cabin that is available for rent.
e upper Kula Road (or Haleakala Road) rejoins the Lower Road
kalani Junction, just thirteen miles from Wailuku, ten from
lui. But you can also branch right at the junction and return by
f Makawao and Paia. These pineapple and sugar towns are cool
leasant, and this route will take you past many a purple
nda tree and many a rainbow shower. Makawao has a whole
ion of the latter in its appropriately named Rainbow Park.
er advantage of this longer route back is evident at almost every
n the sweeping views of West Maui and the fertile isthmus
ated by Puunene Mill in the center of America's biggest sugar
ion.

ther exciting side trip from Makawao is the twisting climb
n eucalyptus sentinels to Olinda, a former prison.
Makena-Kihei road goes along a beach strip of Maalaea Bay
s seen a tremendous building boom in the 1970s. Hotels have
d and many host an annual Canadian colony. These sunny
s are often shaded by feathery *kiawe* trees. The day we drove
his road motorists were stopping to watch whales spout and
the bay. United States Marines used this area as a training
during the feverish days after the attack on Pearl Harbor.
planners for Alexander and Baldwin, a Big Five organization,
ginally at Kihei was a billion-dollar resort. The size of the
later was whittled down though it remains the major growth
in the State. The first phase of Wailea Pua Kuleana, meaning
ity of Flowers," featured a fine golf course and the *Inter-*
ntal Maui Hotel. The 1,450-acre development is three times
of Waikiki and features low-density, low-profile, garden-type
g. Grosvenor International is planning to add the *Wailea*
lotel to the property.
a Pua Kuleana, when completed, one hopes, will not have
mised Maui's green beauty in the name of progress.

PRACTICAL INFORMATION FOR MAUI

HOW TO GET THERE. Maui is served by 49 flights a day and 8 airlines, including the air taxis. Hawaiian Airlines has 15 daily flights from Honolulu to Kahului. Aloha Airlines has 16. Sometimes you can island-hop by way of Molokai and Lanai, enjoying stopover privileges on those islands at no extra cost. Nonstop flying time between Honolulu and Kahului is 25 minutes. To reach Hana take an air taxi. For a more leisurely pace take the *SeaFlite* jetfoil that runs daily at 8 A.M. from pier 9 in Honolulu to Maalaea Bay. It takes 2½ hours and costs $20. Almost no ocean motion and the routing is close to Lanai and Molokai.

HOTELS. Maui's many hotels range in style from the charming old 19th century *Pioneer Inn* at historic Lahaina to the 7 modernistic, spectacular new hotels of Kaanapali Beach, a few miles from Lahaina. You can find clean simple accommodation for as little as $12 a day (at the *Pioneer Inn,* for example) or pay $300 a day in a 2-bedroom house with meals at one of the most beautiful and exclusive resort hotels in the world at heavenly Hana.

Resort growth on Maui continues apace. It is, in fact, taking on boom proportions, first at West Maui's Kaanapali, then the Napili districts north of Kaanapali. The biggest project of all is rapidly taking shape on the coast south of Kihei in East Maui. There is nightly entertainment at most of the major resort hotels, usually by Polynesian troupes.

Super deluxe
(Single: $66 up)

HANA MAUI. One of the world's superior resort hotels. Set in a lovely valley, full of exotic tropical blooms, the hotel, with its cottage-type accommodations and 7,000 acre ranch, is an integral part of the small village of Hana, whose residents, mostly Hawaiian, provide the staff. The delightfully landscaped grounds contain both swimming pool and pitch and putt golf course. Sailing, deep sea fishing, bicycle riding, haywagon rides are available. Guests have access to a secluded small beach, ideal for swimming, surf casting, and spearfishing. Horseback rides to untrampled picnic sites by the sea, with lunch available. The hotel provides excellent meals and delightful Polynesian entertainment. There are 57 rooms and suites with private *lanais.* You will almost certainly need a reservation. All rates ($66 up) *include* meals here.

Deluxe
(Single: $35 up)

INTERNATIONAL COLONY CLUB has 24 luxury, tasteful cottage units surrounded by flowers, tropical plants, and the golf course. Best view of Lanai and Molokai and Lahaina Roads. 2 pools, kitchens are electric.

KAANAPALI PLANTATION is a 9-unit *apartment* hotel a mile from he beach. The facility has a swim- ning pool and a tennis court. Three- ay minimum.

MAALAEA SURF is located on aalaea Bay north of Kihei. The 35 oms are air-conditioned. Tennis d swimming pools. 3-day nimum.

MAUI PARKSHORE has 50 con- ninium apartments across the d from Kihei Beach. One-week imum, pool. All with kitchens.

OLOLANI has 33 rooms on the h at Kahana. Pool, shop, and e-day minimum. All with ens.

OHONANI RESORT has 28 fur- d owner units on the beach at kowai. 3-day minimum, a pool, one-bedroom apartments; with edrooms, and a penthouse, all lectric kitchens.

UI SURF. This is Inter-Island's om hotel in a 12-story building e Kaanapali beach. All air- oned, with the *Quee Queg* res- , two other dining spots, a ar, two tennis courts, shops, pool. Has meeting accom- ons for 600. The hotel is on haina or south side of the ali complex close to the ex- golf course.

NA SUNSET has 79 rooms na Beach. Pool. All apart- ve kitchens.

LAHAINA SHORES has 100 rooms on the beach at Lahaina. Air conditioning and a pool. The Shores looks like an updated *Pioneer Inn* architecturally. Next door is the *Whaler's Market Place*, a step back in time.

MAUI KAI RESORT. A new Kaanapali entry, 80 units on the beach, all air-conditioned with kitchens and there is a pool.

MAUI ELDORADO RESORT. Another of the many new ones along the Kaanapali golf course. 135 units, all air-conditioned, 3 pools.

LOKELANI is a 30-unit condominium apartment at Honokowai Beach. A pool and 3-day minimum.

NAPILI KAI BEACH CLUB is another small apartment-type hotel on secluded Napili Bay. 133 units with kitchens and private *lanais*, each facing the beach. There are 56 one-bedroom apartments. In addition to 5 pools, the hotel also has facilities for assorted leisure-time games–shuffleboard, putting, and tennis. Full dining and bar service in the *Teahouse of the Maui Moon* and entertainment 6 nights a week. Write Napili Kai, RR 1, Lahaina, Maui, Hawaii 96761.

First Class
(Single: $25-$34)

HALE NAPILI is another retreat on the quiet bay. The accommodations are similar to the Mauian and Napili Kai. Write Hale Napili, RR 1, Lahaina, Maui, Hawaii 96761. There are 18 units.

VALLEY ISLE RESORT is a 119-unit condominium on the beach at Kahana. 3-day minimum. Pool and air-conditioning. The *Kahana Keyes* restaurant is part of the resort.

HALEAKALA SHORES has 50 rooms across the street from the beach at Kihei. There is a pool. 2-bedroom apartment with kitchen, available. The address is 2619 S. Kihei Road, Kihei, Maui 96753.

KIHEI BEACH has 30 units on the beach at Kihei. 3-day minimum. Air conditioned and a pool.

ROYAL LAHAINA RESORT and its 740 units overlook the fairways of the golf club as well as the ocean. The newest addition is a 12-story tower with 340 rooms. The great *halau* (main building) with its steeply pitched roof, lava rock walls, and torches effectively suggests South Seas elegance. A $500,000 Royal Court shopping arcade has been added to the grounds. *Brasserie by the Sea*, a French restaurant, and *Lokelani Steak House* also are on the grounds. *Moby Dick's* and *Don the Beachcomber* offer other choices. There are rooms and bedroom suites with kitchens. The resort today includes the 6-story building on the north side built originally by Hilton. Rates depend on view and location. Another Island Holidays resort. Write Kaanapali, Maui, Hawaii 96761 or Island Holidays Central Registration, P.O. Box 8519, Honolulu, Hawaii 96815.

INTER-CONTINENTAL MAUI, real beauty with 560 rooms at th Wailea Resort development next t the golf course. Low town house-typ buildings with restaurant, pools, large tennis complex, shops, and meeting rooms. This is Maui's newest and located near the beach at Makena's. Nearby is the Wailea Town Centers, a shopping arts and crafts complex.

KAMAOLE BEACH ROYALE has 40 units at Kihei Beach. There is a pool and three-day minimum. All with kitchens.

HALE KAI. A mile beyond the Kaanapali resort area is this new condominium apartment hotel. There are 40 units located in a very peaceful setting. There is a 3-day minimum.

KULEANA. 118 units on Mahinahina Beach between Kaanapali and Napili with swimming pools, tennis court, and meeting rooms. You can rent a bedroom apartment with a kitchen.

HALE PAU HANA. 56 condominium apartments with kitchens and *lanais* on the white sand beach at Kihei. Restaurant, bar, and pool.

HONOKEANA COVE. 37 units on a sheltered cove at Honokeana. Write RR 1, Box 200, Lahaina, Maui, Hawaii 96761. There is a swimming pool and three-day minimum.

MAKANI SANDS has 26 units on the beach at Honokowai. Pool and 3-day minimum.

FODOR'S
Hawaii 1977

by
WILLIAM W. DAVENPORT
and others

EUGENE FODOR
ROBERT C. FISHER
Editors

LESLIE BROWN
Associate Editor

LYLE NELSON
ALF PRATTE
Area Editors

Foreword by
JAMES A. MICHENER

DAVID McKAY COMPANY INC. - NEW YORK

HLU Committee

From: je graham <grahamthille@gmail.com>
Sent: Wednesday, July 1, 2026 5:02 AM
To: HLU Committee
Subject: Support for New Hotel Zoning (H-3/H-4) and Bill 88

[You don't often get email from grahamthille@gmail.com. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification]

To: Chair Nohelani U'u-Hodgins, Vice-Chair Kauanoe Batangan, and Members of the Housing and Land Use Committee
Re: Support for New Hotel Zoning (H-3/H-4) and Bill 88

Dear Chair U'u-Hodgins, Vice-Chair Batangan, and Committee Members,

We write in support of the Committee's continued work establishing new hotel zones and in support of Bill 88. Basing this zoning on practical, ground-truth factors — sea level rise exposure, flood risk, and long-term habitability — is a sound and necessary approach. We recognize the Committee has substantial work ahead as it moves through the rezoning pipeline, property by property, and we appreciate that effort.

We're encouraged to see the first wave of resolutions moving forward and look forward to future waves being considered on the same practical basis. We ask the Committee to continue factoring in real, on-the-ground conditions — including physical vulnerability and original intended use — as it works through the remaining properties on the list.

Mahalo for your work.
julie graham
Kihei Bay Vista

HLU Committee

From: Bud Daumen <bdaumen@hawaii.rr.com>
Sent: Tuesday, June 30, 2026 8:20 PM
To: HLU Committee
Subject: Kahana Reef Long Time Homeowner Request for H4 Zoning

You don't often get email from bdaumen@hawaii.rr.com. Learn why this is important

To the Members of the Maui County Council and Planning Commission:

I am writing to respectfully request that our property be approved for H-4 Hotel District zoning.

I have lived full-time at Kahana Reef since 2004. I have worked in the community since 2002. Kahana Reef has operated as a legally recognized transient vacation rental property for decades. Owners have purchased their units, invested in maintaining them, and paid General Excise Tax (GET), Transient Accommodations Tax (TAT), property taxes, and other county fees in reliance on the long-established legal status of the property.

The request for H-4 zoning is not an attempt to create a new hotel district or expand tourism into a residential neighborhood. Rather, it recognizes the historical and actual use of Kahana Reef as a visitor accommodation property for many years.

Several factors support approval of this request:

1. Long-standing legal use

Kahana Reef has operated as a lawful transient vacation rental property for decades. Owners made substantial financial investments based on the County's recognition of that use.

2. The property was designed for transient occupancy

Kahana Reef was developed, marketed, and operated as a visitor accommodation property. Its design, management, parking, and amenities reflect this purpose. Converting the property to long-term residential housing would not create affordable workforce housing and would significantly alter the expectations of owners who purchased under existing regulations.

3. Significant economic contribution

Visitors staying at Kahana Reef support Maui's economy every day by spending money at local restaurants, grocery stores, retail shops, activity providers, golf courses, transportation companies, and small businesses throughout West Maui. These visitors generate employment opportunities while contributing substantial tax revenue to Maui County and the State of Hawaii.

4. Financial stability and responsible management

Kahana Reef is professionally managed and financially stable. The Association maintains adequate reserve funding, invests in maintenance and repairs, complies with applicable regulations, and has consistently demonstrated responsible stewardship of the property.

5. Protection of property rights

Owners purchased their units in good faith under the rules and regulations that existed at the time. Many have invested their retirement savings and rely upon rental income to meet mortgage payments, association dues, insurance, taxes, and retirement expenses. Maintaining the property's long-recognized use promotes fairness and protects reasonable investment-backed expectations.

6. Limited impact on housing supply

Because of its configuration, size, location, and economics, Kahana Reef is unlikely to become meaningful workforce housing. Rezoning the property to H-4 would preserve an existing visitor accommodation rather than remove housing that has historically served local residents.

7. Consistency with the purpose of H-4 zoning

The H-4 designation was developed to provide an appropriate zoning classification for existing visitor accommodation properties that have historically operated as transient rentals. Kahana Reef fits that purpose. Granting H-4 zoning would recognize the property's long-established use while providing regulatory clarity for owners, the County, and future purchasers.

I understand the County's desire to increase housing opportunities for Maui residents. I share that goal. However, I respectfully submit that Kahana Reef is not a practical solution to the housing shortage. Instead, preserving its historical visitor accommodation use through H-4 zoning will continue to support Maui's economy, protect property rights, and provide certainty for both the County and property owners.

I respectfully ask the County to approve H-4 zoning for Kahana Reef and allow the property to continue operating in the manner for which it was designed and has legally functioned for many years.

Thank you for your thoughtful consideration and for your service to the people of Maui.

Respectfully submitted,

Bud Daumen

HLU Committee

From: flashgordon10t@aol.com
Sent: Tuesday, June 30, 2026 6:56 PM
To: HLU Committee
Subject: Fw: Testimony as to why Kahana Reef should be allowed to continue to be allowed provide Short Term Rentals.

You don't often get email from flashgordon10t@aol.com. Learn why this is important

To the Maui County Council

I have been on the board of directors at Kahana Reef for many years and President for more than half those years. Kahana Reef was designed, permitted by the county, and built as a Condo Hotel. It had a front desk and operated like a hotel for many years starting in 1973. After a number of years it evolved to the current primarily Short term rentals in a Condo format. To this day the United States Post Office still classifies us as a Condotel and delivers the mail to the front desk in our office and our resident manager has to put the mail into our individual mail boxes. This is despite years of us trying to get them to deliver directly they still insist in officially treating us as a hotel. The facts show that for 53 years Kahana Reef has primarily operated as and been property taxed as a short term rental property. In an attempt to be respectful of your time I will cut this short with only a few more highlighted facts. (The Board has already sent you 80 pages of Documentation showing why we should be allowed to continue as an STR). 1. We are in the floodplain. 2. We are on the ocean and directly affected by sea level rise and the increased damage potential from Tsunamis. 3. (Despite great management and concerted effort on our part) Our maintenance and reserve budgets are both high due to our close proximity to the ocean and the problems that it causes. 4. Approximately 10% of our units are studios and the remainder are small one bedroom units. 5. Lastly, despite some of the opinions that I have heard around the island, Our owners, even though some are from the mainland, none of them are rich as to where they can afford to be financially devastated by the direction Bill 9 has taken us. Most of the owners primarily bought here to be able to come and spend time on Maui and when they are not here they are willing to share that experience with some STRs to be able to pay the extensive expenses. In the end their goal is to be able to move here when they retire. After the Lahaina Fires in August of 2023 many of the owners made their units available to the fire victims at no charge even before FEMA came around. After 53 years of history if you no longer allow STRs to help offset the ownership costs at Kahana Reef, you will be destroying the lives of a vast majority of the owners here by forcing them to take at least 40%-50% losses on the sale of their units. You will leave them little or no alternative other than a Federal lawsuit to protect their hard earned retirement nestegg. As to your desire to help the displaced fire victims, something all of us here at Kahana Reef have supported from day one after the fire, you will not be providing housing that would be appropriate for the families needing affordable and functional housing. The units are small, very expensive to maintain and insure, only one parking place per unit (no extras at all) and many more negative factors, but I did promise to keep this short so I won't continue. If you are interested in more I am always available to you for further discussion
at flashgordon10t@aol.com

Gordon Langston, President of the Kahana Reef AOAO

HLU Committee

From: Bob Low <boblow21@gmail.com>
Sent: Tuesday, June 30, 2026 4:59 PM
To: HLU Committee
Cc: Ellie Young; Leilani Kai Resort; Elizabeth Serrao; sss@mhmaui.com; Bob Low
Subject: Written Testimony from Leilani Kai AOAO

You don't often get email from boblow21@gmail.com. Learn why this is important

Pursuant to the Public Meeting Notice for Council of the County of Maui for July 1, 2026

Leilani Kai is a nine-unit beachfront property located at 1226 Ulunui Road, Kihei. We have been operating in compliance with the laws of Hawaii for over 50 years serving well over 100 recorded fractional owners for 196 fractional interval deeds. We are currently zoned A-1 and are deeply concerned about how Bill 9 and/or Bill 88 might impact our ability to continue operating under our longstanding legal use.

We are included in the list of Apartment District Properties Allowed to be Used for Short-Term Occupancy, but we do not understand why we are not included in either resolution on tomorrow's agenda or what that omission means for our future.

Accordingly, our fundamental question is: Where does Leilani Kai fit within the County's overall plan?

From our perspective, Leilani Kai is not well suited to the County's apparent objective of converting visitor accommodation into long-term residential housing for the following reasons:

1. Leilani Kai is exactly the kind of long-established visiting owner accommodation these bills were intended to address. Built in 1974, it has operated continuously as lawful owner accommodation for more than five decades.
2. With only nine apartments, one of which is occupied by a full-time resident manager who is a longtime Maui resident, Leilani Kai offers minimal additional housing potential.
3. It is not a realistic resolution for increased residential housing. Unwinding more than 100 recorded fractional deeds and transferring the property to a condominium regime would require enormous legal complexity and expense with minimal public benefit. It would not create eight or nine affordable homes.
4. Leilani Kai is a fractional ownership resort, distinguishing it from traditional Minatoya properties. Fractional ownership resorts do not appear to be specifically addressed anywhere in the agenda materials. Unlike conventional condominiums, Leilani Kai consists of more than 196 separately deeded fractional ownership interests. Any conversion to another form of ownership would require resolving numerous independent property rights held by individual owners, making it fundamentally different and vastly more complex compared to the apartment properties that appear to be the primary focus of these bills.

5. The County has allowed this operation for decades. Owners purchased their interests in reliance upon that long standing legal framework. This is not simply an investment expectation; it is a reasonable reliance interest created by the County's own planning and regulatory history.

Leilani Kai appears on Exhibit 1 as a recognized Apartment District property historically allowed to operate as short-term owner accommodations. Yet it appears in neither Resolution 26-110 nor Resolution 26-111.

If that omission was intentional, we respectfully request clarification regarding the process by which Leilani Kai would be expected to seek H-3 zoning, and whether the County intends for long-established fractional ownership resorts such as Leilani Kai to remain lawful owner accommodations under the proposed regulatory framework.

Robert Low
Board Member and Secretary
Leilani Kai AOAO
Mobile 360-607-3747
On behalf of the Leilani Kai AOAO Board

HLU Committee

From: County Clerk
Sent: Tuesday, June 30, 2026 3:54 PM
To: HLU Committee
Subject: Fw: H-3 and H-4 Zoning Distrits
Attachments: PBE Letter in support of H3_H4 Zoning 20260630.docx

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From: Rathbun, Paula <paula.rathbun@puunoabeachestates.com>
Sent: Tuesday, June 30, 2026 3:52 PM
To: County Clerk <County.Clerk@mauicounty.us>
Subject: H-3 and H-4 Zoning Distrits

You don't often get email from paula.rathbun@puunoabeachestates.com. Learn why this is important

Here is a written testimony for the July 1st HLU Meeting. Thanks form all of us Owners at Puunoa Beach Estates .

PUUNOA
BEACH ESTATES

Paula Rathbun
General Manager

Phone: 808-667-5972
Mobile: 808-385-8400
45 Kai Pali Place • Lahaina, HI 96761
www.PuunoaBeachEstates.com
paula.rathbun@puunoabeachestates.com

Re: Strong Support for Bill 88 — Puunoa Beach Estates, 45 Kai Pali Place, Lahaina

Aloha Chair and Members of the Maui County Council,

On behalf of all the owners of the AOAO at Puunoa Beach Estates, located at 45 Kai Pali Place in Lahaina, we respectfully write in strong support of re-zoning Puunoa Beach Estates into the newly formed H3/H4 Zones.

First, mahalo to the Maui County Council for advancing Bill 88 through the public process and for passing the bill, which takes seriously the need to provide zoning clarity for properties that have long operated in reliance on historically permitted transient vacation rental use.

Puunoa Beach Estates is a ten-unit boutique luxury beachfront property built in the 1980s for the purpose of transient vacation rental use. Its location, design, operating structure, insurance obligations, salt-air exposure, reserve needs, and exceptionally high maintenance costs all reflect the reality that it was built and sustained as visitor accommodation.

A majority of the Puunoa Beach Estates homes operate as Transient Vacation Rental accommodations. Given the high carrying costs driven by property taxes and ongoing maintenance fees, these homes would be difficult for the average potential homeowner to afford without continued Transient Vacation Rental usage. Puunoa employs a full-time Property Manager and operates a full-time Front Desk operation which serves Owners as well as their Transient Rental Guests. Additionally, Puunoa employs full time maintenance and housekeeping staff, all of which indicates it should be zoned appropriately for Transient Vacation Rental, i.e. H3/H4.

We fully understand and respect Maui's urgent need for housing. But good policy must distinguish between properties that can realistically serve as housing and properties that cannot. Puunoa Beach Estates is not an apartment building, and it is not a dormant housing resource. It is a small, purpose-built, high-cost, beachfront visitor accommodation property whose continued operation supports jobs, tax revenue, and local economic activity.

For these reasons, we respectfully urge the Maui County Council to approve rezoning Puunoa Beach Estates.

Mahalo for your service and your consideration.

Respectfully,

All Owners of the AOAO at Puunoa Beach Estates
45 Kai Pali Place
Lahaina, Maui, Hawai‘i

HLU Committee

From: Sylvia Larson <larsonrs@sbcglobal.net>
Sent: Tuesday, June 30, 2026 12:12 PM
To: HLU Committee
Subject: Kahana Reef

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Please include Kahana Reef into Bill 88

We are on the Montoya list but didn't make council shortened list

Almost all our neighbors made your list

We fit many of the criteria for the new zoning

Ocean front
Unreasonably high fees
Only 1 bedrooms that sell for $750,000

We were built for hotel stays. We have an office in the font for such

Kahana Reef is on the ocean - we literally have the ocean feet away from the rooms.

Who knows what will happen with the ocean getting closer every year

Kahana Reef is not be reasonably priced

Our AOAO fees are over $1,200 a month which would have to be paid as well as rent

We only have one bedroom in each so a family would not be able to rent.

We do not allow pets

We only allow one parking space per unit

We have 'quiet ' hours every evening - no big 1st birthday parties here.

We are and have been always- operate as a hotel

People come and stay 1-10 nights is all

Please keep us in hotel zone as we have been since built

Mahalo
Sylvia larson
Sent from my iPhone

HLU Committee

From: tjohnson@maui.net
Sent: Tuesday, June 30, 2026 11:30 AM
To: HLU Committee
Subject: Testimony - Minatoya List Spinnaker

You don't often get email from tjohnson@maui.net. Learn why this is important

Aloha,

I would like to voice my concerns and testimony about the Minatoya list and placing The Spinnaker in Maui on this list, therefor not allowing short term rentals.

We purchased the condo after the fire, from a long-term resident, who could no longer wait for the rebuild, did not have the money nor the time. This put him in a serious financial situation, and his only option was to sell the unit for a fraction of the cost/value. We purchased with the intent to be able to have our children and grandchildren visit Maui. Two of our daughters were born and raised on Maui and they continue to go and visit. Since the cost for holding on to this condo is a huge unknown, we were willing to take that chance and be able to recoup some of our costs with being able to rent the condo as a short term rental. The HOA dues will not be able to be covered as a long term rental or sitting vacant.

Please take all of this information into consideration when making the final decision:

• Spinnaker has been a Minatoya List property with a long history of legally permitted transient vacation rental use.

• Owners purchased their units with the understanding that short-term rentals were a lawful use and have relied on that use for many years.

• Spinnaker had an on-site manager, 24/7 property presence, and an office on property, which distinguishes it from a typical residential condominium without on-site operations.

• The cost to rebuild after the Lahaina wildfire is already significant. The current assessment is approximately $180,000 per owner and may need to increase. That is before any mortgage, maintenance fees, insurance, or other carrying costs. This could make units financially unattainable for the average local homebuyer and may also affect a buyer’s ability to qualify for financing.

• Spinnaker will be rebuilt and financed with the longstanding understanding that transient vacation rentals have been a lawful and integral part of the property’s use. Removing that use now would fundamentally change the economic expectations of owners who relied on decades of this permitted use.

Thank you for your time.

Tonia M Gebers
808-870-5674

HLU Committee

From: Karen Grafe <karen.hsaoaodir@yahoo.com>
Sent: Tuesday, June 30, 2026 11:26 AM
To: HLU Committee
Subject: Testimony Regarding Haleakala Shores as a Candidate for H-3/H-4 Zoning
Attachments: Testimony to Maui County Housing and Land Use Committee June 30.2026 (F1).docx

You don't often get email from karen.hsaoaodir@yahoo.com. Learn why this is important

Aloha Members of the Housing and Land Use Committee,

Please find my written testimony attached.

Mahalo,

Karen Grafe
2619 S Kihei Rd unit A-202
Kihei HI 96753
(808)281-4458
kalenaanneg@gmail.com

Regarding Haleakala Shores
2619 S. Kihei Road, Kihei, HI
as a Candidate for H-3 or H-4 Zoning

Aloha Members of the Housing and Land Use Committee,

I am a 25-year resident of Haleakala Shores, a member of our AOAO Board of Directors, and Chair of our H-3/H-4 Zoning Committee. On behalf of our owners, I respectfully request that Haleakala Shores be included in the proposed H-3/H-4 zoning to allow the continuation of short-term rentals. Our ownership, including both resident owners and vacation rental owners, overwhelmingly supports inclusion in the new zoning. I would like to provide some background on our community and explain why this designation is essential to our future.

History

Haleakala Shores was developed in 1974–1975 by a small group of investors with the vision of creating vacation accommodations in what was then the relatively undeveloped south Kihei area. The complex consists of 76 identical two-bedroom, two-bath condominium units, each approximately 1,048 square feet.

From the beginning, every unit was furnished identically—including furniture, appliances, linens, and kitchenware—to provide guests with a consistent vacation experience. The units were specifically designed for short-term visitors, maximizing living space while providing minimal storage. There is no owner storage on lanais or in parking stalls. The property includes 75 parking stalls designed primarily for single vehicles, with only a few tandem spaces added over the years and three additional spaces near the office for trades contractors. Pets are prohibited, reflecting the property's original purpose as a visitor accommodation.

A rental pool was initially established with an on-site office and manager to assist guests. Participation, however, was never mandatory. The governing documents have always allowed owners to independently operate short-term rentals, whether through the rental pool, personal referrals, or other advertising methods. As technology evolved in the late 1990s and early 2000s, owners transitioned to online booking platforms and professional vacation rental management companies, making the rental pool unnecessary. It was eventually dissolved, but short-term rentals have continued uninterrupted throughout the property's history.

Haleakala Shores Today

Today, approximately ten units are occupied by resident owners, including several longtime residents, older widows, and one young couple whose family has owned at Haleakala Shores for three generations. A small number of units are leased as long-term rentals, while the overwhelming majority continue to operate as short-term vacation rentals, consistent with the property's original design and purpose.

Haleakala Shores is governed by a five-member Board of Directors with the support of a professional management company, Destination Maui, as well as a full-time Resident Manager and Maintenance Lead, both of whom live on the property. We also employ numerous local contractors—including plumbers, electricians, landscapers, arborists, pool specialists, and other trades—to maintain the complex.

As a property now more than 50 years old, maintenance demands are significant. Monthly maintenance fees are currently $1,421 per unit. We are in the process of replacing aging cast-iron plumbing throughout the property and anticipate additional major expenses, including exterior painting, fencing replacement, driveway resurfacing, structural beam repairs, replacement of corroded copper plumbing, and other capital improvements common to aging buildings. Insurance costs have also increased substantially in recent years to adequately insure the property's approximately $60 million replacement value.

Financial Impacts

Our owners have serious financial concerns. Many continue to carry mortgages and rely on vacation rental income to meet mortgage payments, maintenance fees, insurance, taxes, and ongoing operating expenses. The recent decline in visitor demand has already made it more difficult for many owners to cover these costs.

Resident owners are also affected as property values have declined. There are currently eight units listed for sale, with asking prices ranging from $575,000 to $849,000, all of which have been reduced. The lowest-priced unit reflects the owner's need to sell due to illness.

The most recent sale closed in July 2025 for $890,000. Prior sales included two transactions in 2024 at $820,000 and $1,070,000. Naturally, values vary depending on location within the complex, views, and the condition of individual units. Since 2021, sale prices have ranged from $575,000 to $1,070,000.

Summary

Haleakala Shores was designed, built, and has operated as a short-term vacation rental property for more than 50 years. The governing documents have always permitted short-term rentals, and they have remained the primary use of the property throughout its history.

Because of the age of the complex, owners face substantial and growing maintenance and insurance costs. The income generated by short-term rentals enables owners to meet these financial obligations and preserve the property. At the same time, our resident owners recognize that maintaining the property's historic use helps protect the value and long-term viability of the community.

For these reasons, the owners of Haleakala Shores respectfully request that our property be included in the H-3/H-4 zoning designation to allow the continued operation of short-term rentals.

Mahalo for your time and thoughtful consideration.

Sincerely,

Karen Grafe
2619 S Kihei Road, Unit A-202
Kihei, HI 96753
(808) 281-4458 kalenaanneg@gmail.com

HLU Committee

From: flashgordon10t@aol.com
Sent: Tuesday, June 30, 2026 11:10 AM
To: HLU Committee
Subject: Testimony as to why Kahana Reef should be allowed to continue to be allowed provide Short Term Rentals.

You don't often get email from flashgordon10t@aol.com. Learn why this is important

To the Maui County Council

I have been on the board of directors at Kahana Reef for many years and President for more than half those years. Kahana Reef was designed, permitted by the county, and built as a Condo Hotel. It had a front desk and operated like a hotel for many years starting in 1973. After a number of years it evolved to the current primarily Short term rentals in a Condo format. To this day the United States Post Office still classifies us as a Condotel and delivers the mail to the front desk in our office and our resident manager has to put the mail into our individual mail boxes. This is despite years of us trying to get them to deliver directly they still insist in officially treating us as a hotel. The facts show that for 53 years Kahana Reef has primarily operated as and been property taxed as a short term rental property. In an attempt to be respectful of your time I will cut this short with only a few more highlighted facts. (The Board has already sent you 80 pages of Documentation showing why we should be allowed to continue as an STR). 1. We are in the floodplain. 2. We are on the ocean and directly affected by sea level rise and the increased damage potential from Tsunamis. 3. (Despite great management and concerted effort on our part) Our maintenance and reserve budgets are both high due to our close proximity to the ocean and the problems that it causes. 4. Approximately 10% of our units are studios and the remainder are small one bedroom units. 5. Lastly, despite some of the opinions that I have heard around the island, Our owners, even though some are from the mainland, none of them are rich as to where they can afford to be financially devastated by the direction Bill 9 has taken us. Most of the owners primarily bought here to be able to come and spend time on Maui and when they are not here they are willing to share that experience with some STRs to be able to pay the extensive expenses. In the end their goal is to be able to move here when they retire. After the Lahaina Fires in August of 2023 many of the owners made their units available to the fire victims at no charge even before FEMA came around. After 53 years of history if you no longer allow STRs to help offset the ownership costs at Kahana Reef, you will be destroying the lives of a vast majority of the owners here by forcing them to take at least 40%-50% losses on the sale of their units. You will leave them little or no alternative other than a Federal lawsuit to protect their hard earned retirement nestegg. As to your desire to help the displaced fire victims, something all of us here at Kahana Reef have supported from day one after the fire, you will not be providing housing that would be appropriate for the families needing affordable and functional housing. The units are small, very expensive to maintain and insure, only one parking place per unit (no extras at all) and many more negative factors, but I did promise to keep this short so I won't continue. If you are interested in more I am always available to you for further discussion at flashgordon10t@aol.com

Gordon Langston, President of the Kahana Reef AOAO

HLU Committee

From: Brian Kline <brian@ghipaving.com>
Sent: Tuesday, June 30, 2026 8:26 AM
To: HLU Committee
Subject: Request for Inclusion of Pu'unoa Beach Estates (45 Kai Pali Place, Lahaina, Hawai'i) in the H-3/H-4 Hotel Zoning Classification
Attachments: Request for Inclusion of Pu'unoa Beach Estates 06.30.26.pdf

You don't often get email from brian@ghipaving.com. Learn why this is important

Please see attachment for consideration.

Thank You,

Brian Kline

June 30, 2026

Housing and Land Use Committee
Maui County Council
200 South High Street
Wailuku, Hawai‘i 96793

RE: Request for Inclusion of Pu‘unoa Beach Estates (45 Kai Pali Place, Lahaina, Hawai‘i) in the H-3/H-4 Hotel Zoning Classification

Dear Chair and Members of the Housing and Land Use Committee,

Our names are **Brian and Ann Kline**, and we are full-time Lahaina residents residing on Ulukoa Place. We respectfully submit this testimony in support of including **Pu‘unoa Beach Estates**, where we own our condominium at **45 Kai Pali Place, Lahaina, Hawai‘i**, in the proposed H-3 or H-4 Hotel zoning classification.

First, we want to express our appreciation for the difficult work the Council is undertaking to address Maui's housing needs while guiding Lahaina's recovery. As residents of Lahaina, we share the County's commitment to rebuilding our community and creating meaningful opportunities for attainable housing for local families.

At the same time, we respectfully believe that Pu‘unoa Beach Estates is not an appropriate candidate for conversion to long-term residential housing and instead clearly fits the purpose and intent of the proposed H-3/H-4 hotel classifications.

We purchased our condominium in 2009 when it was legally permitted to operate as a transient vacation rental. We made that investment in reliance upon the County's established land use regulations and the property's long-standing visitor accommodation use.

For the 2026–2027 tax year, Maui County has assessed our property at **$3,259,900**. In addition, our monthly Association assessments for maintenance and reserve contributions averaged approximately **$3,500 per month**, exclusive of property taxes, insurance, utilities, mortgage expenses, and other ownership costs. Since the Lahaina wildfire, insurance premiums and operating expenses have increased substantially.

These facts demonstrate that our condominium cannot realistically serve as attainable or workforce housing. The acquisition cost and ongoing carrying costs place the property well beyond the reach of the average Maui family. Including properties such as ours in the H-3/H-4 zoning classification allows the County to focus its housing initiatives on properties that can meaningfully contribute to attainable housing while preserving visitor accommodations that were designed, developed, and operated for that purpose.

Pu‘unoa Beach Estates possesses many of the characteristics the County has identified as appropriate for H-3/H-4 zoning. The Association employs a **full-time on-site property manager** who works from the on-site management office and provides **concierge services** for owners and guests, along with a **full-time maintenance employee** dedicated to the operation and upkeep of the property. Many owners, including us, engage professional vacation rental management companies to manage lawful transient

accommodations. Together, these services create the operational structure, staffing, and guest support commonly associated with a hotel or resort rather than a traditional apartment complex.

Visitor accommodations at Pu'unoa Beach Estates also support Maui's economy by sustaining employment for local residents in property management, maintenance, landscaping, housekeeping, construction, restaurants, transportation, retail, and numerous other businesses that depend upon tourism. Preserving these long-established accommodations continues to support local jobs while allowing the County to direct its housing efforts toward properties that can realistically meet the community's housing needs.

Our request is not to create a new visitor accommodation use, but rather to recognize and preserve one that has existed for decades and that continues to operate in a manner consistent with the proposed H-3/ H-4 hotel classifications. We believe this approach is fully consistent with the County's goal of expanding attainable housing where it is genuinely achievable while preserving appropriate visitor accommodations that support Maui's economy and community.

For these reasons, we respectfully request that **Pu'unoa Beach Estates**, including our condominium at **45 Kai Pali Place, Lahaina, Hawai'i**, be included in the H-3 or H-4 Hotel zoning designation as the County moves forward with implementation of this legislation.

Mahalo for your thoughtful consideration of our testimony and for your continued service to the people of Maui during this important time.

Respectfully,

Brian Kline
Ann Kline
Lahaina Residents
Owners, 45 Kai Pali Place
Pu'unoa Beach Estates
Lahaina, Hawai'i

HLU Committee

From: Dr. Marion Ceruti <ceruti@earthlink.net>
Sent: Monday, June 29, 2026 9:27 PM
To: HLU Committee
Subject: Testimony for 1 July 2026 meeting of HLU on Kahana Reef
Attachments: MGC Testimony Kahana Reef for H-4 Zoning.pdf

[You don't often get email from ceruti@earthlink.net. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification]

Aloha HLU Committee Members,

Please find attached my testimony regarding H-4 zoning request for Kahana Reef.

Mahalo for the opportunity to testify.

Aloha,
Dr. Marion Ceruti
Voting Resident

Maui County Housing, Land Use & Agriculture (HLU) Committee Hearing
1 July 2026
Testimony **Regarding the Request to Rezone Kahana Reef Resort to H-4**

by Dr. Marion Ceruti, Voting Resident of Kahana Reef

1. **Aloha to the HLU,** and mahalo for the opportunity to explain why Kahana Reef, located on the ocean at 4471 Lower Honoapi'ilani Road, Lahaina, should be placed on the fast-track list for H-4 rezoning.

2. **Kahana Reef, built in 1974, has functioned for decades as a resort-like de-facto hotel.** Mayor Bissen was reported in Dec. 2025 as having said, "Bill 9 corrects a long-standing zoning exemption that allowed transient vacation rentals (TVRs) to operate in apartment-zoned districts — areas originally intended to provide long-term housing for local families."

However, if Bill 9 were a fishnet, Kahana Reef would be considered bycatch. This is because Kahana Reef, according to an early resort brochure, originally was intended to provide ocean-front, resort-style TVR accommodations, not long-term housing for local, working families. In the case of Kahana Reef, TVRs were the correct usage all along. One of the most attractive features of Kahana Reef is its hotel-like resort atmosphere.

The majority of Kahana Reef owners operate or have operated STRs. Owners have paid general-excise taxes, transient-accommodation taxes, TVR-tiered (high) property taxes, and income taxes for decades. Owners have paid every tax and observed every applicable law. Now is the time to continue this tradition, reward those who cooperated, and reassign Kahana Reef a new H-4 zoning designation.

3. **Kahana Reef is too expensive for the average working family.** As a resident, I have watched insurance costs rise for a variety of reasons, including the Lahaina fires. Some insurance companies consider Hawai'i to be high risk and consequently, they are pau writing policies in Hawai'i. The remaining insurance companies increase their prices knowing that Kahana Reef owners have no choice except to pay the higher premium. Costs for utilities are increasing. Even with the ongoing resource-conservation program at Kahana Reef, owners can expect to pay higher maintenance costs. Built in the 1970s, the buildings are old and maintenance costs are unpredictable – not ideal for local families on a tight budget.

TVR owners have to cover their mortgage, pay maintenance fees, to include fire-

insurance costs. When the Federal Emergency Management Agency (FEMA) subsidies end, can long-term tenants afford to pay a monthly rent of several thousand dollars? This is why renting only on a TVR basis can generate enough income to pay all of these expenses.

Kahana Reef is financially stable and well managed, which is likely to continue with H-4 zoning.

4. **Kahana Reef is inadequate for the long-term housing needs of local families.** Kahana Reef is almost a total mismatch to the affordable long-term housing market needed for local, working families. This is because an average of about 700 square feet is an accommodation that works fine for visitors staying a week or two, but one that will not meet the needs of a growing family for months or years. Kahana Reef TVRs provide only one parking space per unit and the rules do not allow pets, whereas many local families have more than one vehicle and more than one dog or cat.

If more local workforce housing is needed, **build** more housing especially for that purpose – with multiple bedrooms, at least two parking places, and no rules against pets.

5. **Kahana Reef has an onsite resident manager employee and another employee** who focuses on cleaning, maintenance, and some landscaping work. Landscaping is not subcontracted. Our landscape primary contractor is a former employee and former resident manager of Kahana Reef, whose company provides support once every two weeks. He is an expert on many systems at Kahana Reef, owing to his many years of service as an employee. His wealth of knowledge about Kahana Reef's maintenance history underscores the importance of keeping his expertise available for consultations beyond landscaping.

6. **The United States Post Office treats Kahana Reef like a hotel.** Postal employees do not sort mail into the Kahana Reef mailboxes. Moreover, they repeatedly have refused to sort mail into Kahana Reef mailboxes. Mail is delivered to Kahana Reef in bulk format, just like any other hotel. Kahana Reef employees must sort the mail and put mail pieces into mailboxes every day as part of their duties, just like in any other hotel.

7. Whereas Kahana Reef has no **front desk** per se at the time of this writing, the counter in the resident manager's office previously has been used, and could be used in the future, as a front desk.

8. In summary, please rezone Kahana Reef from A-2 to H-4 as soon as possible.

HLU Committee

From: Debbie Vanderkemp <deb@pebblebeachdesign.com>
Sent: Monday, June 29, 2026 5:01 PM
To: HLU Committee; Mary Pedretti; JIm Walters
Subject: Re: Kanai A Nalu: Leasehold Property

You don't often get email from deb@pebblebeachdesign.com. Learn why this is important

Good evening. I
It has come to our attention that you should be aware that our AOA employs one on-site full-time manager, 2 full-time and one part-time maintenance/landscape employees.
The owners at Kanai A Nalu are committed to maintaining the buildings and properties for everyone to enjoy.
Mahalo!

On Mon, Jun 29, 2026 at 8:35 AM Debbie Vanderkemp <deb@pebblebeachdesign.com> wrote:

> June 27, 2026
> To the HLU Committee,
>
> We respectfully request that Kana'i A Nalu be added to Exhibit 1 or 2, whichever is deemed appropriate, for H-3/H-4 zoning. We make this request based on the details, facts, and photos we have shared within this letter.
>
> We also sincerely thank you for all the onerous, time-consuming hard work you have put into getting us Bill 88 and the creation of H3-H4 zoning for the county. What you have accomplished will give Condo owners, their vendors, managers, cleaners, support staff, and Maui County the long-term stability needed to grow, prosper, and flourish in the future. Mahalo.
>
> Reviewing the initial Council resolutions, we see that leasehold properties have been declared inappropriate for local families.
>
> Kana'i A Nalu, 250 Hauoli Road in Ma'alaea, an 80-unit building, is a leasehold property but isn't included in the resolutions.
>
> Our lease was signed into effect on December 1, 1976. It is a 90-year lease term, with negotiations every 30 years. Our current lease rate is $1004.23 per unit per month, with the next increase in December 2026 to $1255.29. It will be renegotiated again in 2036, with expected 25% increase every ten years throughout the entire lease.
>
> Individual owners, through our association, per our lease, are required to pay for items our landlord won't cover:
> • Maui County property taxes on the land and buildings.
> • Repairs, maintenance, and improvements to the land, buildings, and seawall.
> • Insurance for the land, buildings, and seawall, including liability.
>
> As examples, currently Kanai A Nalu condo owners are facing increases to monthly maintenance fees for a new roof because the existing roof is failing, as well as a separate assessment for our shoreline

adaptation, a 2.4-million-dollar sea-level-rise plan for a burrito structure with a dune and public beach access, is in the final stages of County approval, and will be paid for by the owners of Kana'i A Nalu.

The expenses for operating this property are immense and will continue to be ongoing.

Our condo buildings also have a staffed front office that handles a variety of property-related functions as well as registration to include check-in/check-out dates and times.

In closing, once again please accept this letter and the explanations herein to support our request to be included on the final list for the proposed bill to change the zoning for our property Kanai A Nalu.

Please see attached copy of our original lease, photos of our office and the current lease agreement.
Mahalo for your time and consideration.
Sincerely, Kana'i A Nalu AOAO Representatives

Jim Walters
Vice President AOAO Board of Directors

Mary Pedretti
Secretary AOAO Board of Directors

--
Deb Vanderkemp
Assistant to the STR team.

--
Deb Vanderkemp
Parker & Harlow Design Inc.

HLU Committee

From: Steven C Schultz <mauiboard2025@gmail.com>
Sent: Monday, June 29, 2026 11:33 AM
To: HLU Committee
Subject: Haleakal shores

You don't often get email from mauiboard2025@gmail.com. Learn why this is important

Why is haleakala shores not on the list for rezone when the two adjacent properties are? With an hoa of over 1,500 and rising a month this will never be affordable housing. The lower market value will simply mean more absent owners from the west coast. This seems arbitrary and opens up law suit potential.
Steve Schultz
Owner, B507 haleakala shores.

HLU Committee

From: Andrew Rinehart <andrew@andrewrinehart.us>
Sent: Sunday, June 28, 2026 4:33 AM
To: HLU Committee
Subject: H3/H4 Testimony

You don't often get email from andrew@andrewrinehart.us. Learn why this is important

Aloha HLU Committee,

I ask that you please submit this Wednesday to have **3711 Lower Honoapiilani Hwy, Lahaina** added to the list to convert to H3/H4. This is an operating STR/Hotel that has been operating that way for many decades. We also had extensive conversation with John Rapacz at the county prior to purchasing, where he ensured that STR use would continue given the history.

This is an 11 unit building that is currently listed on exhibit 2 of the TIG list. The units/rooms are NOT individually owned and would not add any supply to the affordable housing.

The building does not meet the parking space requirements to convert to long term housing, nor does it have the space.

The rooms do not have kitchens or the infrastructure to add kitchens which means they would not add supply to the local housing

The property has a check in desk on the lower level, a cleaning crew of 13, concierge and on island manager. They rely on their jobs and income for their livelihood. The local staff has been dedicated to taking care of guests for years.

The property was historically called Hale Maui and operated as a traditional hotel. It is still known as that today, or sometimes referred to as Lahaina Beach Club (which is it's name on the TIG report)

The property is located very close to Papakea which is listed on the current resolutions to be included in H3/H4

HLU Committee

From: vpd412@aol.com
Sent: Sunday, June 28, 2026 12:55 PM
To: HLU Committee
Subject: Bill 88 rezone letter
Attachments: Kanai A Nalu Request Letter to Council for July 1 2026 Meeting.pdf; Kanai A Nalu Lease Document.pdf

You don't often get email from vpd412@aol.com. Learn why this is important

Please see attached for our testimony for July 1 hearing.

Mahalo

Mary Pedretti

707 480 4121 cell

June 27, 2026

To the Council of Maui County,

We respectfully request that Kana'i A Nalu be added to Exhibit 1 or 2, whichever is deemed appropriate, for H-3/H-4 zoning. We make this request based on the details, facts, and photos we have shared within this letter.

We also sincerely thank you for all the onerous, time-consuming hard work you have put in to get us Bill 88 and the creation of H3-H4 zoning for the county. What you have accomplished will give Condo owners, their vendors, managers, cleaners, support staff, and Maui County the long-term stability needed to grow, prosper, and flourish in the future. Mahalo.

Reviewing the initial Council resolutions, we see that leasehold properties have been declared inappropriate for local families.

Kana'i A Nalu, 250 Hauoli Road in Ma'alaea, an 80-unit building, is a leasehold property but isn't included in the resolutions.

Our lease was signed into effect on December 1, 1976. It is a 90-year lease term, with negotiations every 30 years. Our current lease rate is $1004.23 per unit per month, with the next increase in December 2026 to $1255.29. It will be renegotiated again in 2036, with expected 25% increase every ten years throughout the entire lease.

Individual owners, through our association, per our lease, are required to pay for items our landlord won't cover:

- Maui County property taxes on the land and buildings.
- Repairs, maintenance, and improvements to the land, buildings, and seawall.
- Insurance for the land, buildings, and seawall, including liability.

As examples, currently Kanai A Nalu condo owners are facing increases to monthly maintenance fees for a new roof because the existing roof is failing, as well as a separate assessment for our shoreline adaptation, a 2.4-million-dollar sea-level-rise plan for a burrito structure with a dune and public beach access, is in the final stages of County approval, and will be paid for by the owners of Kana'i A Nalu. The expenses for operating this property are immense and will continue to be ongoing.

Our condo buildings also have a staffed front office that handles a variety of property-related functions as well as registration to include check-in/check-out dates and times.

In closing, once again please accept this letter and the explanations herein to support our request to be included on the final list for the proposed bill to change the zoning for our property Kanai A Nalu.

Please see attached copy of our original lease.

Mahalo for your time and consideration.

Sincerely, Kana'i A Nalu AOAO Representatives

_____Jim Walters_____ _____ Mary Pedretti_____

Jim Walters, Vice President AOAO Board of Directors Mary Pedretti Secretary AOAO Board of Directors

Photos include:

1) Check-in registration area, 2) Office for onsite manager , 3) Brochures for local activities

(TG) 167767

12

Recordation Requested By:
TITLE GUARANTY ESCROW SERVICES, INC.
235 Queen Street
Honolulu, Hawaii
After Recordation, Return To:
TITLE GUARANTY ESCROW SERVICES, INC.
235 Queen Street
Honolulu, Hawaii

77- 16272

LIBER 12036 PG 493
1977 FEB 25 AM 9:37

REGISTRAR

Return By: Mail ☐ Pick-Up ☒

Requestor To Fill Above — Space Above This Line For Registrar's Use

KANA'I A NALU

APARTMENT LEASE

Apartment No. 402

THIS INDENTURE made this December 1, 1976 by and between ROBERT P. BRUCE, Trustee, under Trust Deed dated May 16, 1974, and recorded at Liber 9916, Page 362, whose post office address is P. O. Box 3, Paia, Maui, Hawaii, 96779, and HAWAIIAN TRUST COMPANY, LIMITED, Trustee under that certain trust deed dated December 30, 1975, recorded at Liber 11642, Page 341, whose post office address is P. O. Box 3170, Honolulu, Hawaii, 96802, hereinafter called "LESSOR", and

CARTER MORSE WILSON, husband of Breda Wilson, whose residence and post office address is 50 Repulse Bay Road, Hong Kong,

hereinafter called "LESSEE",

W I T N E S S E T H:

1. Premises Leased. Lessor, in consideration of the rent hereinafter reserved and of the covenants by Lessee herein contained, hereby demises and leases to Lessee, his heirs and assigns,

and Lessee hereby accepts and rents:

CERTIFICATE FILED

STATE OF HAWAII
CONVEYANCE TAX
FEB 25 '77
$42.45

LAW OFFICES OF
LANGA & ARCHER
WAILUKU TOWNHOUSE BUILDING
WAILUKU, MAUI, HAWAII 96793
TELEPHONE (808) 244-9188

All the premises comprising a portion of the KANA'I A NALU condominium project (herein called the "Project"), consisting of that certain parcel of land, TMK: 3-8-14-4 and 5, containing 112,876 square feet, more or less, and the improvements thereon, situate at Maalaea, Maui, Hawaii, as described and established by the Declaration of Horizontal Property Regime, recorded in the Bureau of Conveyances, State of Hawaii, in Liber 11047, Page 274, as amended by instrument recorded in Liber 11194, Page 202 (hereinafter called the "Declaration"), described as follows:

FIRST: The apartment of the project, the number of which is noted on the first page hereof, as described in said Declaration and as shown on Condominium Map No. 437.

TOGETHER with appurtenant nonexclusive easements in the common elements designed for such purposes for ingress to, egress from, utility services for, and support of said apartments; and in the other common elements for use according to their respective purposes; and in all other apartments of said building for support.

SUBJECT to easements for encroachment of any part of the common elements of the project now or hereafter existing thereon and for entry as may be necessary for the operation of the project or for making repairs therein or the installation, repair or replacement of any common elements as provided in the Declaration.

SECOND: An undivided 1.25% interest in all common elements of the project as established for said apartment by the Declaration, or such other percentage or fractional interest as may hereafter be established for said apartment by any amendment of the Declaration, as tenant in common with the other owners and tenants thereof, subject to all easements appurtenant to any apartment of the project and to all encumbrances, exceptions and reservations noted in the Declaration and By-Laws and reserving and subject to all easements required for drainage, sewers and any utilities serving the project.

2. Term.
The term of this lease shall be 90 years, commencing on the date hereof.

3. Rent.
Lessee shall pay to Lessor in advance on the first day of each and every month during said term, net over and above all taxes, assessments and other charges hereunder payable by Lessee, rent as follows:

(a) $52 per month for and during the first 10 years of said term;

(b) $66 per month for and during the next 10 years of said term;

(c) $83 per month for and during the next 10 years of said term;

(d) For each month during the next six successive 10 year periods 1/12 of Lessee's proportionate share of the net annual rent for all of the apartments comprising the project as determined for each of said periods by written agreement of Lessor and the Association of Apartment Owners (hereinafter called

LAW OFFICES OF
LANGA & ARCHER
WAILUKU TOWNHOUSE BUILDING
WAILUKU, MAUI, HAWAII 96793
TELEPHONE (808) 244-8198

"Association") acting by and through its officers and directors, which is irrevocably appointed as Lessee's sole agent to negotiate with Lessor to determine and agree upon the net annual rental, or if they fail to reach such agreement at least 90 days prior to the commencement of any such period, the net annual rent shall be the product of the land value multiplied by the rate of return, each as hereinafter defined:

(1) The land value shall be the fair market value for the land, exclusive of all improvements thereon, comprising the site of the project.

(2) The rate of return shall be the prevailing rate of return for similar Maui properties whose rate of return has been determined by negotiation or appraisal within the three years next preceding the beginning of the period; provided, however, that the rate of return shall be not less than 7.5%.

Both the land value and the rate of return shall be determined by appraisal as provided in §25. In no event shall the net annual rent be less than the net annual rent payable during the immediately preceding period. If the appraisers shall render their decision after the commencement of the period for which the rent is being determined, rent shall be payable at the rate in effect for the previous period until their decision is rendered but the new rental established by the appraisal shall accrue from the commencement of the period for which rent is being determined. The unpaid rent shall bear interest at the rate of 7.5% per annum from the date of commencement of the period. The interest shall be paid with the first rental payment after the fixing of the new rental.

(e) Extension of Fixed Rent. From time to time during the regular term hereby demised, if the Lessee shall not then be in default, Lessee shall have the right to extend the period in which the rent is fixed to a term ending on the next reopening date under §3 (d) which is closest to, but not later than, 30 years from the beginning of the extended fixed rental period. Extended rental period shall commence on the first day of the calendar month following that in which Lessee gives written notice thereof to Lessor. If the unexpired term of the lease at the time of exercising said right shall be less than 30 years, the extended fixed rental period shall be the then unexpired term of the lease.

In every case of extension, the annual rent hereunder payable for and during the extended fixed rental period shall be determined as follows:

(1) The method for determining the annual rent for the successive ten year terms as provided in §3(d) shall be followed, insofar as applicable, except that the expenses and fees, if any, shall be borne by the Lessee, and the rental so determined shall be the annual rental for the first ten years of the extended fixed period; provided that the rent shall not be less than the rent in effect immediately prior to the extension.

(2) Said rental, increased by 25%, shall be the annual rental for the next ten years of said extended fixed rental period.

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(3) Said increased rental, increased by 25%, shall be the annual rental for the remaining years of said extended fixed rental period.

The annual rent for the first and last years of the extended fixed rental period shall be prorated to the beginning and ending dates of the extended fixed rental period.

§4. Excise Tax
In addition to the rent herein provided, the Lessee shall also pay over and reimburse unto the Lessor on each rental payment date during the term hereof that portion of the State excise or gross income tax assessed to the Lessor and attributable to the amounts paid to the Lessor under the terms of this lease, and Lessee will also pay all and any other taxes or duties levied or assessed by the State of Hawaii, the County of Maui, or any other political subdivision of the State of Hawaii now or hereafter having power to levy taxes or duties, which are attributable to the rent paid to the Lessor under the terms of this lease. It is the intent of this provision and of the other provisions of this lease to insure that the rent herein provided to be paid to Lessor by Lessee will be received by Lessor without diminution by any tax, assessment, charge or levy of any nature whatever, except United States and State net income taxes, and the terms and conditions of this lease, shall be liberally construed to effect such purpose.

§5. Quiet Enjoyment.
Lessor hereby covenants with Lessee that upon payment of the rent as aforesaid, and upon the observance and performance of the covenants by Lessee herein contained, Lessee shall peaceably hold and enjoy said premises for the term hereby demised without hindrance or interruption by Lessor or any other person or persons lawfully claiming by, through or under it except as herein expressly provided.

§6. Payment of Rent.
Lessee will pay or cause to be paid said rent in lawful money of the United States of America at the times and in the manner aforesaid, without any deduction and without any notice or demand at the office of the managing agent of the Association who shall be responsible for collecting the rents from all apartment units and transmitting the same to the Lessor.

§7. Taxes and Assessments.
Lessee shall pay or cause to be paid to Lessor at least 10 days before the same become delinquent all real property taxes and assessments of every description to which said premises, or Lessor or Lessee in respect thereof, are now or may during said term be assessed or become liable, whether assessed to or payable by Lessor or Lessee, except that such taxes shall be prorated as of the dates of commencement and expiration, respectively, of said term; provided, however, that with respect to any assessment made under any betterment or improvement law which may be payable in installments, Lessee shall be required to pay only such installments together with interest as shall become due and payable during said term.

§8. Rates and Other Charges.
Lessee shall pay before the same become delinquent, all assessments for his proportionate share of the common expenses of the project and all charges, duties, rates and other outgoings of every description to which said apartment or Lessor or Lessee in

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respect thereof may during said term be assessed or become liable, whether made by governmental authority or any public or community service company or by the Association of the project pursuant to the Declaration and whether assessed to or payable by Lessor or Lessee.

§9. Improvements Required by Law.
During the whole of said term Lessee, at his proportionate share of the expenses by the Association, shall make, build, maintain, and repair all fences, sewers, drains, curbs, roads, sidewalks and parking area which may be required by law to be made, built, maintained and repaired upon or adjoining or in connection with or for the use of the project.

§10. Observance of Laws.
At all times during said term Lessee shall keep said apartment, and by the Association keep all other common elements of the project, in a strictly clean and sanitary condition, and will observe and perform all laws, ordinances, rules and regulations now or hereafter made by any governmental authority and all by-laws, rules, regulations, agreements, decisions and determinations duly made by the Association for the time being applicable to the project or the use thereof and all restrictions, covenants, conditions and provisions of the Declaration and any amendments thereof duly made affecting the project, and shall indemnify Lessor against all actions, suits, damages and claims by whomsoever brought or made by reason of the nonobservance or nonperformance thereof by Lessee or any person under him.

§11. Repair and Maintenance.
Lessee, from time to time and at all times during said term at his own expense, shall well and substantially repair, maintain, amend and keep said apartment and at his proportionate share of the expenses by the Association shall well and substantially repair, maintain, amend and keep all common elements of the project including without limitation the buildings, seawalls and landscaping thereof, with all necessary reparations and amendments whatsoever in good order and condition except as otherwise provided herein, and at his proportionate share of the expense by the Association maintain and keep said land and all adjacent land between any street boundary of the project and the established curb or street line in a neat and attractive condition and all trees, shrubs and grass thereon in good cultivation and replant the same as may be necessary.

§12. Inspection.
Lessee shall permit Lessor and their agents at all reasonable times during said term to enter said premises and examine the state of repair and condition thereof, and shall at his own expense repair and make good all defects in said apartment and at his proportionate share of the expense by the Association repair and make good all defects in the common elements of the Project herein required to be repaired, of which notice shall be given by Lessor or its agents, within 30 days after the giving of such notice.

§13. Use.
Lessee may use and allow the use of the premises for residential purposes and for such other uses as may be permitted under the zoning ordinances, subject to such limitations and conditions as are set forth in the Declaration, By-Laws and House Rules.

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§14. Bond.
Lessee, before commencing construction or repair of any improvement on the project individually or by the Association, if required by Lessor, shall deposit with Lessor a bond or certificate thereof naming Lessor as an obligee, in a penal sum of 100% of the cost of such construction and with a corporate surety authorized to do business in Hawaii, guaranteeing the completion of such construction free and clear of all mechanics' and materialmen's liens.

§15. Insurance.
Lessee, at his proportionate share of the expense by the Association at all times during said term, shall keep all buildings of the project insured against loss or damage by fire with extended coverage, and war and flood risk insurance when the same is issued or subsidized by the United States Government, in an insurance company licensed to do business in Hawaii, approved by Lessor, in an amount as near as practicable to the full replacement cost thereof without deduction for depreciation, by blanket policy or policies written in accordance with the Declaration in the name of the Board of Directors of the Association as trustee for all apartment owners, Lessor and mortgagees according to the loss or damages to their respective apartments and appurtenant common interest and payable in case of loss to the Board of Directors of the Association for the custody and disposition as herein provided of all proceeds of such insurance, and from time to time upon receipt thereof cause to be deposited promptly with Lessor true copies of such insurance policies or current certificates thereof, without prejudice to the right of Lessee to insure said apartment for his own benefit. In every case of such loss or damage all insurance proceeds shall be used as soon as reasonably possible by the Association for rebuilding, repairing or otherwise reinstating said buildings in a good and substantial manner according to the original plan and elevation thereof or such modified plans conforming to laws and ordinances then in effect as shall be first approved as provided in this lease and the Declaration, and Lessee will at his proportionate share of the expense by the Association make up any deficiency in such insurance proceeds.

§16. Lessor's Costs and Expenses.
Lessee shall pay to Lessor on demand all costs and expenses including reasonable attorneys' fees incurred by Lessor in enforcing any of the covenants herein contained, in remedying any breach by Lessee of said covenants, in recovering possession of the premises, in collecting any delinquent rent, taxes and other charges hereunder payable by Lessee, or in connection with any litigation (other than condemnation proceedings) commenced by or against Lessee to which Lessor without any fault on its part shall be made a party.

§17. Indemnity.
Lessee shall indemnify and hold Lessor harmless against all claims and demands for loss or damage, including property damage, personal injury and wrongful death, arising out of or in connection with the use or occupancy of said apartment or the project by Lessee or any person claiming by, through or under Lessee, or any accident or fire in said apartment or any nuisance made or suffered therein, or any failure by Lessee to keep said apartment in a safe condition, or any other liability whatsoever on account of said apartment or appurtenant common interest for such loss or damage arising out of or in connection with any common elements of the project, and shall reimburse Lessor for their costs and

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expenses including reasonable attorneys' fees incurred in connection with the defense of any such claims. Lessee shall hold all goods, materials, furniture, fixtures, equipment, machinery, and other property whatsoever within said apartment or project at the sole risk of Lessee and hold Lessor harmless for any loss or damage thereto by any cause whatsoever.

§18. Liability Insurance.
Lessee, at his proportionate share of the expense by the Association, shall effect and maintain during the whole of said term, comprehensive general liability insurance with respect to said premises in an insurance company licensed to do business in the State of Hawaii, approved by the Lessor, in the joint names of Lessor and Lessee, with reasonable minimum limits reset by mutual agreement of the parties hereto not less frequently than every ten years during the term hereof, based on acceptable minimum limits used for similar properties at the time of such resetting, but initially not less than $300,000 for injury to one person and $1,000,000 for injury to more than one person in any one accident or occurrence and $100,000 for property damage, and from time to time upon receipt thereof cause to be deposited promptly with Lessor certificates of such insurance, without prejudice to the right of Lessee to maintain additional liability insurance for said apartment.

§19. Construction of Improvements.
Lessee, either individually or by the Association, shall not erect or place on the project any building or structure including fences and walls, nor make any additions or structural alterations to or exterior changes of any common elements of the project, nor place or maintain thereon any signs, posters or bills whatsoever, except in accordance with plans and specifications including detailed plot plan, prepared by a licensed architect if so required by Lessor, first approved in writing by Lessor and the Board of Directors of the Association and also approved by a majority of apartment owners (or such larger percentage required by law or the Declaration) including all owners of apartments thereby directly affected.

§20. Waste and Unlawful Use.
Lessee shall not make or suffer individually or by the Association any strip or waste or unlawful, improper or offensive use of said apartment or project.

§21. Liens.
Lessee shall not commit or suffer any act of neglect whereby said premises or any improvement thereon or the estate of Lessee therein shall at any time during said term become subject to any attachment, judgment, lien, charge, or encumbrance whatsoever, other than any authorized mortgages, and shall indemnify and hold Lessor harmless from all loss, cost and expense with respect thereto. Lessee shall indemnify and hold Lessor harmless against all liens, charges and encumbrances and all expenses in connection therewith including attorneys' fees, with respect to said premises which may result from any act or neglect of Lessee.

§22. Assignment and Subletting.
Lessee, without the consent of Lessor, may sell, assign, or sublet this lease by instrument containing the written undertaking of the purchaser, assignee or sublessee to perform all obligations of Lessee hereunder, provided, however, a true copy of such instrument shall be furnished the Lessor, and on further condition that the assignor not be relieved of any of his obligations hereunder.

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§23. Managing Agent.
Lessee, at his proportionate share of the expense, shall cause the Association to appoint, subject to written approval of Lessor, and at all times maintain a responsible managing agent of the project for the direct management and operation thereof, maintenance and repair of the common elements and collection, custody and payment for Lessee and all other Lessees of the project of all rents payable, taxes, assessments, common expenses and other charges hereunder payable by Lessee in accordance with the Declaration and By-Laws of the Association, provided that nothwithstanding such agency Lessee shall at all times remain liable directly to Lessor for the performance of all his obligations hereunder.

§24. Surrender.
At the end of said term or other sooner determination of this lease, Lessee shall peaceably deliver up to Lessor possession of said premises, together with all improvements upon or belonging to the same by whomsoever made, in good repair, order and condition except for reasonable wear and tear and as otherwise expressly provided herein.

§25. Appraisal.
Whenever this lease provides that the land value and rate of return shall be determined by appraisal for computation of any rent hereunder, said value and rate shall be determined by three impartial real estate appraisers, one to be appointed by the Lessor and one to be appointed by the Association, each giving written notice thereof to the other. In case of failure of either to do so within ten days after notice by the other, the party naming the first appraiser may apply to any person then sitting as judge of the Circuit Court of the Second Circuit of the State of Hawaii for appointment of a second appraiser. The two appraisers thus appointed in either manner shall appoint a third appraiser. In case of their failure to do so within ten days after appointment of the second appraiser, either party may have the third appraiser appointed by said judge. The three appraisers so appointed shall proceed to determine the matters in question, and the decision of said appraisers or a majority of them shall be final, conclusive and binding on both parties hereto. Lessor and Association shall each pay one-half of all proper costs and expenses of the appraisal, except that each shall pay its own appraiser's and attorney's fees.

§26. Condemnation.
In case at any time or times during said term said apartment or project or any part thereof shall be taken or condemned by any authority having the power of eminent domain, then and in every such case the estate and interest of Lessee in all land and improvements so taken or condemned shall at once cease and determine, and Lessee shall not by reason of such taking or condemnation be entitled to any claim against Lessor or others for compensation or indemnity for leasehold interest, and all compensation and damages for or on account of any land shall be payable to and be the sole property of the Lessor, and all compensation and damages for or on account of any improvements of the project shall be payable to such bank or trust company authorized to do business in Hawaii as the Board of Directors of the Association shall designate as trustee for Lessor and all apartment owners and mortgagees according to the loss or damage to their respective apartments and appurtenant common interests and shall be used promptly by the Association to the extent necessary for restoring or replacing such improvements on the remaining land according to plans therefor first approved as provided in this lease and the

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Declaration unless such restoration or replacement is impractical in the circumstances; provided, however, that in case (i) only part of the project shall be so taken or condemned thereby rendering the remaining land and improvements unsuitable for the multifamily residential purposes of the project, and the Association shall remove all remains of buildings and restore said land to good orderly condition and even grade and cause all subsisting leases of other apartments of the project to be surrendered to Lessor, or (ii) all or only part of said apartment shall be so taken or condemned thereby rendering any remaining part thereof unsuitable for residential purposes, and the Association shall remove all remains of such apartment and restore the remaining common elements to good orderly condition and by amendment of the Declaration cause the remaining part of the project to be reconstituted as a new or amended horizontal property regime without said apartment, Lessee in either case may surrender this lease and thereby be relieved of any further obligations hereunder subject to the payment to Lessor of all rent then accrued and taxes hereunder payable for the full current year, and upon such surrender Lessee and any mortgagee of this lease shall be entitled to the remaining sum of all compensation and damages payable for or on account of said apartment and appurtenant common interest in any improvements of the project, as provided in the next sentence, together with any other funds payable on account of said apartment pursuant to the Declaration. All compensation and damages for or on account of any building or other improvements of the project so taken or condemned and not used for repair, rebuilding and restoration, shall be divided between Lessor and all Lessees of apartments so damaged, the share of Lessor of such compensation and damages to be the same proportion as the expired portion of the demised term at the time possession is taken by the condemning authority bears to the entire original demised term of this lease, and the Lessee's and any mortgagee's share being the balance of such compensation and damages. Condemnation of any leasehold interest in the project shall not terminate this lease nor excuse Lessee from full performance of its covenants hereunder for the payment of money or other obligations hereunder capable of performance by Lessee, but in such case Lessee may claim and recover from the condemning authority all compensation and damages payable on account of Lessee's leasehold interest.

§27. Uninsured Casualty.
In case at any time during said term the buildings of the project shall be substantially damaged or destroyed by any casualty not herein required to be insured against, and the Association shall remove all remains of buildings and restore said land to good orderly condition and even grade and cause all subsisting leases of other apartments of the project to be surrendered to Lessor, Lessee may surrender this lease and thereby be relieved of any further obligations hereunder subject to the payment to Lessor of all rent then accrued and taxes hereunder payable for the full current year.

§28. Consent to Mortgage.
From time to time, without further consent, Lessee may assign this lease by way of mortgage to any bank, insurance company or other established lending institution as mortgagee, and the mortgagee may enforce such mortgage and acquire title to the leasehold estate in any lawful way, and pending foreclosure of such mortgage may take possession of and rent said premises, and upon foreclosure thereof may sell and assign the leasehold estate by assignment containing the written undertaking of the assignee to perform all obligations of Lessee hereunder, provided

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that upon execution of any such assignment or mortgage, a true copy thereof shall be delivered promptly to Lessor. Any person acquiring the leasehold estate in consideration of the extinguishment of the debt secured by such mortgage or through foreclosure sale, judicial or otherwise, shall be liable to perform the obligations imposed on Lessee by this lease only during the period that such person has possession or ownership of the leasehold estate. Nothing contained in such mortgage shall release or be deemed to relieve Lessee from the full and faithful observance and performance of its covenants herein contained or from any liability for the nonobservance or nonperformance thereof, nor be deemed to constitute a waiver of any rights of Lessor hereunder, and the terms, covenants and conditions of this lease shall control in case of any conflict with the provisions of such mortgage.

§29. Protection of Mortgage.
During the existence of any authorized mortgage of this lease, Lessor shall not terminate this lease because of any default by Lessee hereunder or other cause whatsoever if, within a period of 120 days after Lessor has mailed written notice of intention to terminate this lease for such cause to the mortgagee at its last known address, the mortgagee shall either cure such default or other cause or, if the same cannot be cured by the payment of money, shall undertake in writing to perform all covenants of this lease capable of performance by it until such time as this lease shall be sold upon foreclosure pursuant to such mortgage, and in case of such undertaking Lessor will not terminate this lease within such further time as may be required by the mortgagee to complete foreclosure of such mortgage or other remedy thereunder, provided (1) that such remedy is pursued promptly and completed with due diligence, and (2) that Lessor is paid all rent and other charges accruing hereunder as the same become due, and upon foreclosure sale of this lease the time for performance of any obligation of Lessee then in default hereunder other than payment of money shall be extended by the time reasonably necessary to complete such performance with due diligence. Ownership by or for the same person of both fee and leasehold estates in said apartment shall not affect the merger thereof without the prior written consent of any mortgagee to such merger.

§30. Defeasance.
This demise is upon the condition, that if Lessee shall fail to pay the rent or any part thereof within 10 days after the same becomes due, whether the same shall or shall not have been legally demanded, or shall fail to observe or perform faithfully any of the other covenants or agreements herein contained and on the part of the Lessee to be observed and performed and such default shall continue for 30 days after written notice thereof is given to Lessee or mailed to his last known address, or if Lessee then owning this lease shall become bankrupt and fail to perform any of the covenants of Lessee hereunder or shall abandon said premises, or if this lease or any estate or interest of Lessee hereunder shall be sold under any attachment or execution, Lessor may at once re-enter said premises or any part thereof in the name of the whole and, upon or without such entry, at their option terminate this lease, without service of notice or legal process and without prejudice to any other remedy or right of action for arrears of rent or for any preceding or other breach of contract, and in case of such termination Lessee's interest in said apartment and Project shall become and remain the property of Lessor; provided, however, that no failure of the Association to perform any covenant of Lessee herein provided to be performed by the Association shall

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constitute a default by Lessee hereunder so long as Lessee shall use his best efforts to cause such covenant to be performed by the Association and shall pay his proportionate share of all expense thereof within 30 days after the charges assessed by the Association in respect of said premises become due and payable by Lessee. If this lease is recorded or filed of record in the Bureau of Conveyances, State of Hawaii, such termination may be made effective by recording or filing an affidavit thereof by Lessor.

§31. Incidents of Apartment Ownership.
Except as otherwise provided herein, Lessee shall at all times during said term be deemed to be the owner of said apartment for all purposes of the Declaration and By-Laws of the Association and shall have all rights, privileges, duties and obligations of such owner, including, without limitation, membership and vote in the Association; provided, however, that any vote or other action of Lessee with respect to construction plans, partition of the Project, amendment of the Declaration or By-Laws, appointment of the managing agent, or any other matter as to which this lease requires the approval or consent of Lessor, shall be effective only upon such approval or consent in writing.

§32. Holdover Tenancy.
In the event the Lessee remains in possession of the herein leased premises after the expiration of this lease and without the execution of a new lease, in such manner as to create a valid holdover tenancy, the Lessee shall be deemed to be occupying said premises as a tenant from month-to-month, subject to all of the conditions, provisions and obligations of this lease insofar as the same are applicable to a month-to-month tenancy.

§33. Notices.
Any notice or demand to Lessor or Lessee provided for or permitted by this lease shall be in writing and may be given sufficiently for all purposes if mailed, addressed to the party at its post office address herein specified or the last such address designated by such party in writing to the other, or delivered personally within the State of Hawaii to Lessor or Lessee or any officer of Lessee if Lessee is a corporation, as the case may be, and shall be deemed conclusively to have been given on the date of such mailing or personal delivery.

§34. Non-Waiver.
Acceptance of rent by Lessor or their agents shall not be deemed to be a waiver by them of any breach by Lessee of any covenant herein contained or of Lessor's rights of re-entry for breach of condition. Lessor's waiver of any breach by Lessee shall not operate to extinguish the term, covenant or condition the breach whereof has been waived nor be deemed a waiver of Lessor's rights to declare a forfeiture for any other or further breach thereof.

§35. Approvals and Consents.
Any approval or consent by Lessor required by any provision hereof shall not be capriciously or unreasonably withheld.

§36. Definitions.
The terms "Lessor" and "Lessee" herein or any pronoun used in place thereof shall mean and include the masculine or feminine, the singular or plural number, and jointly and severally, individuals, firms or corporations, and their and each of their respective heirs, successors, executors, administrators and assigns, according to the context thereof.

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§37. Security Deposit.
Concurrently with the execution of this lease, Lessee shall deliver to Lessor the sum of $152 as security for the performance by Lessee of every covenant and condition of this lease. Said deposit may be commingled with other funds of Lessor and shall bear no interest. If Lessee shall default with respect to any covenant or condition of this lease, including but not limited to the payment of rent, Lessor may apply the whole or any part of such security deposit to the payment of any sum in default or any other sum which Lessor may be required to spend by reason of Lessee's default. In the event Lessor should so apply all or any part of said deposit, Lessee shall, within 15 days after receipt of notice from Lessor, deliver to Lessor the sum expended in order to replenish such deposit. Failure to do so shall be a default under this lease. Should Lessee comply with all of the covenants and conditions of this lease, the security deposit or any balance thereof shall be returned to Lessee at the expiration of the term hereof.

§38. Lessors' Agent.
Lessors shall jointly appoint and maintain a single individual, firm or corporation as their agent or trustee, authorized to collect on their behalf all money payable to them hereunder, and to grant on their behalf all approvals and consents required by this lease which it determines should be granted. If at any time there shall be no agent or trustee authorized to act for Lessors pursuant to this section, then during such time the managing agent appointed by the Association pursuant to §23 shall have and exercise on behalf of Lessors all of the powers set forth in this section.

§39. Reversionary Interests:
The land included in the project is composed of six parcels, four of which are property of the Maalaea Beach Trust Estate and consist of 54,489 square feet of land, and two of which are property of the Bruce Trust Estate and consist of 58,387 square feet of land. For and during the term of the said horizontal property regime and of the apartment leases of the project, the proportionate reversionary interests of the Lessors in the premises and in all rights and obligations hereunder and thereunder shall be as follows:

Bruce Trust	51.727%
Maalaea Beach Trust	48.273%

Upon the expiration or earlier termination of the apartment leases and the removal of the project from the provisions of HRS Chapter 514, each of said parcels shall revert to the Lessor thereof free of claims of the other Lessor.

IN WITNESS WHEREOF, the parties hereto have executed these presents as of the day and year first above written.

Robert P. Bruce, Trustee

HAWAIIAN TRUST COMPANY, LIMITED
Trustee

By _____
Its Vice President

By _____
ASST. VICE PRESIDENT

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LESSEE:

Carter Morse Wilson

STATE OF)
) ss
COUNTY OF)

On this _____ before me personally appeared _____, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that _____ executed the same as _____ free act and deed.

Notary Public in and for said County and State

My commission expires: _____

STATE OF HAWAII)
) ss
CITY AND COUNTY OF HONOLULU)

On this January 29, 1977 before me personally appeared CARTER MORSE WILSON, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Magdalena Caldwell

Notary Public, First Judicial Circuit, State of Hawaii

My commission expires: 9-29-78

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STATE OF HAWAII)
) ss
COUNTY OF MAUI)

On this OCT 4 1976 before me personally appeared ROBERT P. BRUCE, Trustee under Trust Agreement dated May 16, 1974, to me known to be the person described in and who executed the foregoing instrument, and he acknowledged that he executed the same as his free act and deed as said Trustee.

Betty L. Pan
Notary Public, Second Judicial Circuit, State of Hawaii

My commission expires: 12/2/79

STATE OF HAWAII)
) ss
COUNTY OF MAUI)

On this OCT 4 1976 before me appeared JOHN C. YEARWOOD, to me personally known, who being by me duly sworn did say that he the Vice President of HAWAIIAN TRUST COMPANY, LIMITED, a Hawaii corporation, Trustee under Trust Agreement dated December 30, 1975 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 JOHN C. YEARWOOD acknowledged said instrument to be the free act and deed of said corporation.

Lynne L. Ston
Notary Public, Second Judicial Circuit, State of Hawaii

My commission expires: JAN 4 1977

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

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On this 24th day of February, 1977 before me appeared JOHN R. ARMITAGE, to me personally known, who being by me duly sworn did say that he is the ASSISTANT VICE PRESIDENT of HAWAIIAN TRUST COMPANY, LIMITED A Hawaii Corporation, trustee under Trust Agreement dated December 30, 1975 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 JOHN R. ARMITAGE acknowledged said instrument to be the free act and deed of said corporation.

Notary Public, First Judicial Circuit
State of Hawaii

My Commission expires: 4-18-77

HLU Committee

From: Debbie Vanderkemp <deb@pebblebeachdesign.com>
Sent: Monday, June 29, 2026 5:35 AM
To: HLU Committee
Subject: Kanai A Nalu: Leasehold Property
Attachments: On site office @ Kanai A Nalu.pdf; Kanai lease 402.pdf

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June 27, 2026
To the HLU Committee,

We respectfully request that Kana'i A Nalu be added to Exhibit 1 or 2, whichever is deemed appropriate, for H-3/H-4 zoning. We make this request based on the details, facts, and photos we have shared within this letter.

We also sincerely thank you for all the onerous, time-consuming hard work you have put into getting us Bill 88 and the creation of H3-H4 zoning for the county. What you have accomplished will give Condo owners, their vendors, managers, cleaners, support staff, and Maui County the long-term stability needed to grow, prosper, and flourish in the future. Mahalo.

Reviewing the initial Council resolutions, we see that leasehold properties have been declared inappropriate for local families.

Kana'i A Nalu, 250 Hauoli Road in Ma'alaea, an 80-unit building, is a leasehold property but isn't included in the resolutions.

Our lease was signed into effect on December 1, 1976. It is a 90-year lease term, with negotiations every 30 years. Our current lease rate is $1004.23 per unit per month, with the next increase in December 2026 to $1255.29. It will be renegotiated again in 2036, with expected 25% increase every ten years throughout the entire lease.

Individual owners, through our association, per our lease, are required to pay for items our landlord won't cover:
- Maui County property taxes on the land and buildings.
- Repairs, maintenance, and improvements to the land, buildings, and seawall.
- Insurance for the land, buildings, and seawall, including liability.

As examples, currently Kanai A Nalu condo owners are facing increases to monthly maintenance fees for a new roof because the existing roof is failing, as well as a separate assessment for our shoreline adaptation, a 2.4-million-dollar sea-level-rise plan for a burrito structure with a dune and public beach access, is in the final stages of County approval, and will be paid for by the owners of Kana'i A Nalu.

The expenses for operating this property are immense and will continue to be ongoing.

Our condo buildings also have a staffed front office that handles a variety of property-related functions as well as registration to include check-in/check-out dates and times.

In closing, once again please accept this letter and the explanations herein to support our request to be included on the final list for the proposed bill to change the zoning for our property Kanai A Nalu.

Please see attached copy of our original lease, photos of our office and the current lease agreement.
Mahalo for your time and consideration.
Sincerely, Kana'i A Nalu AOAO Representatives

Jim Walters
Vice President AOAO Board of Directors

Mary Pedretti
Secretary AOAO Board of Directors

--
Deb Vanderkemp
Assistant to the STR team.

Photos include:

1) Check-in registration area, 2) Office for onsite manager , 3) Brochures for local activities

(TG) 167767

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Recordation Requested By:
TITLE GUARANTY ESCROW SERVICES, INC.
235 Queen Street
Honolulu, Hawaii
After Recordation, Return To:
TITLE GUARANTY ESCROW SERVICES, INC.
235 Queen Street
Honolulu, Hawaii

77- 16272

LIBER 12036 PG 493
1977 FEB 25 AM 9:37

REGISTRAR

Return By: Mail ☐ Pick-Up ☒

Requestor To Fill Above — Space Above This Line For Registrar's Use

KANA'I A NALU

APARTMENT LEASE

Apartment No. 402

THIS INDENTURE made this December 1, 1976 by and between ROBERT P. BRUCE, Trustee, under Trust Deed dated May 16, 1974, and recorded at Liber 9916, Page 362, whose post office address is P. O. Box 3, Paia, Maui, Hawaii, 96779, and HAWAIIAN TRUST COMPANY, LIMITED, Trustee under that certain trust deed dated December 30, 1975, recorded at Liber 11642, Page 341, whose post office address is P. O. Box 3170, Honolulu, Hawaii, 96802, hereinafter called "LESSOR", and

CARTER MORSE WILSON, husband of Breda Wilson, whose residence and post office address is 50 Repulse Bay Road, Hong Kong,

hereinafter called "LESSEE",

W I T N E S S E T H:

1. Premises Leased. Lessor, in consideration of the rent hereinafter reserved and of the covenants by Lessee herein contained, hereby demises and leases to Lessee, his heirs and assigns,

and Lessee hereby accepts and rents:

CERTIFICATE FILED

STATE OF HAWAII
CONVEYANCE TAX
FEB 25 '77
$42.45

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All the premises comprising a portion of the KANA'I A NALU condominium project (herein called the "Project"), consisting of that certain parcel of land, TMK: 3-8-14-4 and 5, containing 112,876 square feet, more or less, and the improvements thereon, situate at Maalaea, Maui, Hawaii, as described and established by the Declaration of Horizontal Property Regime, recorded in the Bureau of Conveyances, State of Hawaii, in Liber 11047, Page 274, as amended by instrument recorded in Liber 11194, Page 202 (hereinafter called the "Declaration"), described as follows:

FIRST: The apartment of the project, the number of which is noted on the first page hereof, as described in said Declaration and as shown on Condominium Map No. 437.

TOGETHER with appurtenant nonexclusive easements in the common elements designed for such purposes for ingress to, egress from, utility services for, and support of said apartments; and in the other common elements for use according to their respective purposes; and in all other apartments of said building for support.

SUBJECT to easements for encroachment of any part of the common elements of the project now or hereafter existing thereon and for entry as may be necessary for the operation of the project or for making repairs therein or the installation, repair or replacement of any common elements as provided in the Declaration.

SECOND: An undivided 1.25% interest in all common elements of the project as established for said apartment by the Declaration, or such other percentage or fractional interest as may hereafter be established for said apartment by any amendment of the Declaration, as tenant in common with the other owners and tenants thereof, subject to all easements appurtenant to any apartment of the project and to all encumbrances, exceptions and reservations noted in the Declaration and By-Laws and reserving and subject to all easements required for drainage, sewers and any utilities serving the project.

2. Term.
The term of this lease shall be 90 years, commencing on the date hereof.

3. Rent.
Lessee shall pay to Lessor in advance on the first day of each and every month during said term, net over and above all taxes, assessments and other charges hereunder payable by Lessee, rent as follows:

(a) $52 per month for and during the first 10 years of said term;

(b) $66 per month for and during the next 10 years of said term;

(c) $83 per month for and during the next 10 years of said term;

(d) For each month during the next six successive 10 year periods 1/12 of Lessee's proportionate share of the net annual rent for all of the apartments comprising the project as determined for each of said periods by written agreement of Lessor and the Association of Apartment Owners (hereinafter called

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"Association") acting by and through its officers and directors, which is irrevocably appointed as Lessee's sole agent to negotiate with Lessor to determine and agree upon the net annual rental, or if they fail to reach such agreement at least 90 days prior to the commencement of any such period, the net annual rent shall be the product of the land value multiplied by the rate of return, each as hereinafter defined:

(1) The land value shall be the fair market value for the land, exclusive of all improvements thereon, comprising the site of the project.

(2) The rate of return shall be the prevailing rate of return for similar Maui properties whose rate of return has been determined by negotiation or appraisal within the three years next preceding the beginning of the period; provided, however, that the rate of return shall be not less than 7.5%.

Both the land value and the rate of return shall be determined by appraisal as provided in §25. In no event shall the net annual rent be less than the net annual rent payable during the immediately preceding period. If the appraisers shall render their decision after the commencement of the period for which the rent is being determined, rent shall be payable at the rate in effect for the previous period until their decision is rendered but the new rental established by the appraisal shall accrue from the commencement of the period for which rent is being determined. The unpaid rent shall bear interest at the rate of 7.5% per annum from the date of commencement of the period. The interest shall be paid with the first rental payment after the fixing of the new rental.

(e) Extension of Fixed Rent. From time to time during the regular term hereby demised, if the Lessee shall not then be in default, Lessee shall have the right to extend the period in which the rent is fixed to a term ending on the next reopening date under §3 (d) which is closest to, but not later than, 30 years from the beginning of the extended fixed rental period. Extended rental period shall commence on the first day of the calendar month following that in which Lessee gives written notice thereof to Lessor. If the unexpired term of the lease at the time of exercising said right shall be less than 30 years, the extended fixed rental period shall be the then unexpired term of the lease.

In every case of extension, the annual rent hereunder payable for and during the extended fixed rental period shall be determined as follows:

(1) The method for determining the annual rent for the successive ten year terms as provided in §3(d) shall be followed, insofar as applicable, except that the expenses and fees, if any, shall be borne by the Lessee, and the rental so determined shall be the annual rental for the first ten years of the extended fixed period; provided that the rent shall not be less than the rent in effect immediately prior to the extension.

(2) Said rental, increased by 25%, shall be the annual rental for the next ten years of said extended fixed rental period.

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(3) Said increased rental, increased by 25%, shall be the annual rental for the remaining years of said extended fixed rental period.

The annual rent for the first and last years of the extended fixed rental period shall be prorated to the beginning and ending dates of the extended fixed rental period.

§4. Excise Tax
In addition to the rent herein provided, the Lessee shall also pay over and reimburse unto the Lessor on each rental payment date during the term hereof that portion of the State excise or gross income tax assessed to the Lessor and attributable to the amounts paid to the Lessor under the terms of this lease, and Lessee will also pay all and any other taxes or duties levied or assessed by the State of Hawaii, the County of Maui, or any other political subdivision of the State of Hawaii now or hereafter having power to levy taxes or duties, which are attributable to the rent paid to the Lessor under the terms of this lease. It is the intent of this provision and of the other provisions of this lease to insure that the rent herein provided to be paid to Lessor by Lessee will be received by Lessor without diminution by any tax, assessment, charge or levy of any nature whatever, except United States and State net income taxes, and the terms and conditions of this lease, shall be liberally construed to effect such purpose.

§5. Quiet Enjoyment.
Lessor hereby covenants with Lessee that upon payment of the rent as aforesaid, and upon the observance and performance of the covenants by Lessee herein contained, Lessee shall peaceably hold and enjoy said premises for the term hereby demised without hindrance or interruption by Lessor or any other person or persons lawfully claiming by, through or under it except as herein expressly provided.

§6. Payment of Rent.
Lessee will pay or cause to be paid said rent in lawful money of the United States of America at the times and in the manner aforesaid, without any deduction and without any notice or demand at the office of the managing agent of the Association who shall be responsible for collecting the rents from all apartment units and transmitting the same to the Lessor.

§7. Taxes and Assessments.
Lessee shall pay or cause to be paid to Lessor at least 10 days before the same become delinquent all real property taxes and assessments of every description to which said premises, or Lessor or Lessee in respect thereof, are now or may during said term be assessed or become liable, whether assessed to or payable by Lessor or Lessee, except that such taxes shall be prorated as of the dates of commencement and expiration, respectively, of said term; provided, however, that with respect to any assessment made under any betterment or improvement law which may be payable in installments, Lessee shall be required to pay only such installments together with interest as shall become due and payable during said term.

§8. Rates and Other Charges.
Lessee shall pay before the same become delinquent, all assessments for his proportionate share of the common expenses of the project and all charges, duties, rates and other outgoings of every description to which said apartment or Lessor or Lessee in

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respect thereof may during said term be assessed or become liable, whether made by governmental authority or any public or community service company or by the Association of the project pursuant to the Declaration and whether assessed to or payable by Lessor or Lessee.

§9. Improvements Required by Law.
During the whole of said term Lessee, at his proportionate share of the expenses by the Association, shall make, build, maintain, and repair all fences, sewers, drains, curbs, roads, sidewalks and parking area which may be required by law to be made, built, maintained and repaired upon or adjoining or in connection with or for the use of the project.

§10. Observance of Laws.
At all times during said term Lessee shall keep said apartment, and by the Association keep all other common elements of the project, in a strictly clean and sanitary condition, and will observe and perform all laws, ordinances, rules and regulations now or hereafter made by any governmental authority and all by-laws, rules, regulations, agreements, decisions and determinations duly made by the Association for the time being applicable to the project or the use thereof and all restrictions, covenants, conditions and provisions of the Declaration and any amendments thereof duly made affecting the project, and shall indemnify Lessor against all actions, suits, damages and claims by whomsoever brought or made by reason of the nonobservance or nonperformance thereof by Lessee or any person under him.

§11. Repair and Maintenance.
Lessee, from time to time and at all times during said term at his own expense, shall well and substantially repair, maintain, amend and keep said apartment and at his proportionate share of the expenses by the Association shall well and substantially repair, maintain, amend and keep all common elements of the project including without limitation the buildings, seawalls and landscaping thereof, with all necessary reparations and amendments whatsoever in good order and condition except as otherwise provided herein, and at his proportionate share of the expense by the Association maintain and keep said land and all adjacent land between any street boundary of the project and the established curb or street line in a neat and attractive condition and all trees, shrubs and grass thereon in good cultivation and replant the same as may be necessary.

§12. Inspection.
Lessee shall permit Lessor and their agents at all reasonable times during said term to enter said premises and examine the state of repair and condition thereof, and shall at his own expense repair and make good all defects in said apartment and at his proportionate share of the expense by the Association repair and make good all defects in the common elements of the Project herein required to be repaired, of which notice shall be given by Lessor or its agents, within 30 days after the giving of such notice.

§13. Use.
Lessee may use and allow the use of the premises for residential purposes and for such other uses as may be permitted under the zoning ordinances, subject to such limitations and conditions as are set forth in the Declaration, By-Laws and House Rules.

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§14. Bond.
Lessee, before commencing construction or repair of any improvement on the project individually or by the Association, if required by Lessor, shall deposit with Lessor a bond or certificate thereof naming Lessor as an obligee, in a penal sum of 100% of the cost of such construction and with a corporate surety authorized to do business in Hawaii, guaranteeing the completion of such construction free and clear of all mechanics' and materialmen's liens.

§15. Insurance.
Lessee, at his proportionate share of the expense by the Association at all times during said term, shall keep all buildings of the project insured against loss or damage by fire with extended coverage, and war and flood risk insurance when the same is issued or subsidized by the United States Government, in an insurance company licensed to do business in Hawaii, approved by Lessor, in an amount as near as practicable to the full replacement cost thereof without deduction for depreciation, by blanket policy or policies written in accordance with the Declaration in the name of the Board of Directors of the Association as trustee for all apartment owners, Lessor and mortgagees according to the loss or damages to their respective apartments and appurtenant common interest and payable in case of loss to the Board of Directors of the Association for the custody and disposition as herein provided of all proceeds of such insurance, and from time to time upon receipt thereof cause to be deposited promptly with Lessor true copies of such insurance policies or current certificates thereof, without prejudice to the right of Lessee to insure said apartment for his own benefit. In every case of such loss or damage all insurance proceeds shall be used as soon as reasonably possible by the Association for rebuilding, repairing or otherwise reinstating said buildings in a good and substantial manner according to the original plan and elevation thereof or such modified plans conforming to laws and ordinances then in effect as shall be first approved as provided in this lease and the Declaration, and Lessee will at his proportionate share of the expense by the Association make up any deficiency in such insurance proceeds.

§16. Lessor's Costs and Expenses.
Lessee shall pay to Lessor on demand all costs and expenses including reasonable attorneys' fees incurred by Lessor in enforcing any of the covenants herein contained, in remedying any breach by Lessee of said covenants, in recovering possession of the premises, in collecting any delinquent rent, taxes and other charges hereunder payable by Lessee, or in connection with any litigation (other than condemnation proceedings) commenced by or against Lessee to which Lessor without any fault on its part shall be made a party.

§17. Indemnity.
Lessee shall indemnify and hold Lessor harmless against all claims and demands for loss or damage, including property damage, personal injury and wrongful death, arising out of or in connection with the use or occupancy of said apartment or the project by Lessee or any person claiming by, through or under Lessee, or any accident or fire in said apartment or any nuisance made or suffered therein, or any failure by Lessee to keep said apartment in a safe condition, or any other liability whatsoever on account of said apartment or appurtenant common interest for such loss or damage arising out of or in connection with any common elements of the project, and shall reimburse Lessor for their costs and

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expenses including reasonable attorneys' fees incurred in connection with the defense of any such claims. Lessee shall hold all goods, materials, furniture, fixtures, equipment, machinery, and other property whatsoever within said apartment or project at the sole risk of Lessee and hold Lessor harmless for any loss or damage thereto by any cause whatsoever.

§18. Liability Insurance.
Lessee, at his proportionate share of the expense by the Association, shall effect and maintain during the whole of said term, comprehensive general liability insurance with respect to said premises in an insurance company licensed to do business in the State of Hawaii, approved by the Lessor, in the joint names of Lessor and Lessee, with reasonable minimum limits reset by mutual agreement of the parties hereto not less frequently than every ten years during the term hereof, based on acceptable minimum limits used for similar properties at the time of such resetting, but initially not less than $300,000 for injury to one person and $1,000,000 for injury to more than one person in any one accident or occurrence and $100,000 for property damage, and from time to time upon receipt thereof cause to be deposited promptly with Lessor certificates of such insurance, without prejudice to the right of Lessee to maintain additional liability insurance for said apartment.

§19. Construction of Improvements.
Lessee, either individually or by the Association, shall not erect or place on the project any building or structure including fences and walls, nor make any additions or structural alterations to or exterior changes of any common elements of the project, nor place or maintain thereon any signs, posters or bills whatsoever, except in accordance with plans and specifications including detailed plot plan, prepared by a licensed architect if so required by Lessor, first approved in writing by Lessor and the Board of Directors of the Association and also approved by a majority of apartment owners (or such larger percentage required by law or the Declaration) including all owners of apartments thereby directly affected.

§20. Waste and Unlawful Use.
Lessee shall not make or suffer individually or by the Association any strip or waste or unlawful, improper or offensive use of said apartment or project.

§21. Liens.
Lessee shall not commit or suffer any act of neglect whereby said premises or any improvement thereon or the estate of Lessee therein shall at any time during said term become subject to any attachment, judgment, lien, charge, or encumbrance whatsoever, other than any authorized mortgages, and shall indemnify and hold Lessor harmless from all loss, cost and expense with respect thereto. Lessee shall indemnify and hold Lessor harmless against all liens, charges and encumbrances and all expenses in connection therewith including attorneys' fees, with respect to said premises which may result from any act or neglect of Lessee.

§22. Assignment and Subletting.
Lessee, without the consent of Lessor, may sell, assign, or sublet this lease by instrument containing the written undertaking of the purchaser, assignee or sublessee to perform all obligations of Lessee hereunder, provided, however, a true copy of such instrument shall be furnished the Lessor, and on further condition that the assignor not be relieved of any of his obligations hereunder.

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§23. Managing Agent.
Lessee, at his proportionate share of the expense, shall cause the Association to appoint, subject to written approval of Lessor, and at all times maintain a responsible managing agent of the project for the direct management and operation thereof, maintenance and repair of the common elements and collection, custody and payment for Lessee and all other Lessees of the project of all rents payable, taxes, assessments, common expenses and other charges hereunder payable by Lessee in accordance with the Declaration and By-Laws of the Association, provided that nothwithstanding such agency Lessee shall at all times remain liable directly to Lessor for the performance of all his obligations hereunder.

§24. Surrender.
At the end of said term or other sooner determination of this lease, Lessee shall peaceably deliver up to Lessor possession of said premises, together with all improvements upon or belonging to the same by whomsoever made, in good repair, order and condition except for reasonable wear and tear and as otherwise expressly provided herein.

§25. Appraisal.
Whenever this lease provides that the land value and rate of return shall be determined by appraisal for computation of any rent hereunder, said value and rate shall be determined by three impartial real estate appraisers, one to be appointed by the Lessor and one to be appointed by the Association, each giving written notice thereof to the other. In case of failure of either to do so within ten days after notice by the other, the party naming the first appraiser may apply to any person then sitting as judge of the Circuit Court of the Second Circuit of the State of Hawaii for appointment of a second appraiser. The two appraisers thus appointed in either manner shall appoint a third appraiser. In case of their failure to do so within ten days after appointment of the second appraiser, either party may have the third appraiser appointed by said judge. The three appraisers so appointed shall proceed to determine the matters in question, and the decision of said appraisers or a majority of them shall be final, conclusive and binding on both parties hereto. Lessor and Association shall each pay one-half of all proper costs and expenses of the appraisal, except that each shall pay its own appraiser's and attorney's fees.

§26. Condemnation.
In case at any time or times during said term said apartment or project or any part thereof shall be taken or condemned by any authority having the power of eminent domain, then and in every such case the estate and interest of Lessee in all land and improvements so taken or condemned shall at once cease and determine, and Lessee shall not by reason of such taking or condemnation be entitled to any claim against Lessor or others for compensation or indemnity for leasehold interest, and all compensation and damages for or on account of any land shall be payable to and be the sole property of the Lessor, and all compensation and damages for or on account of any improvements of the project shall be payable to such bank or trust company authorized to do business in Hawaii as the Board of Directors of the Association shall designate as trustee for Lessor and all apartment owners and mortgagees according to the loss or damage to their respective apartments and appurtenant common interests and shall be used promptly by the Association to the extent necessary for restoring or replacing such improvements on the remaining land according to plans therefor first approved as provided in this lease and the

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Declaration unless such restoration or replacement is impractical in the circumstances; provided, however, that in case (i) only part of the project shall be so taken or condemned thereby rendering the remaining land and improvements unsuitable for the multifamily residential purposes of the project, and the Association shall remove all remains of buildings and restore said land to good orderly condition and even grade and cause all subsisting leases of other apartments of the project to be surrendered to Lessor, or (ii) all or only part of said apartment shall be so taken or condemned thereby rendering any remaining part thereof unsuitable for residential purposes, and the Association shall remove all remains of such apartment and restore the remaining common elements to good orderly condition and by amendment of the Declaration cause the remaining part of the project to be reconstituted as a new or amended horizontal property regime without said apartment, Lessee in either case may surrender this lease and thereby be relieved of any further obligations hereunder subject to the payment to Lessor of all rent then accrued and taxes hereunder payable for the full current year, and upon such surrender Lessee and any mortgagee of this lease shall be entitled to the remaining sum of all compensation and damages payable for or on account of said apartment and appurtenant common interest in any improvements of the project, as provided in the next sentence, together with any other funds payable on account of said apartment pursuant to the Declaration. All compensation and damages for or on account of any building or other improvements of the project so taken or condemned and not used for repair, rebuilding and restoration, shall be divided between Lessor and all Lessees of apartments so damaged, the share of Lessor of such compensation and damages to be the same proportion as the expired portion of the demised term at the time possession is taken by the condemning authority bears to the entire original demised term of this lease, and the Lessee's and any mortgagee's share being the balance of such compensation and damages. Condemnation of any leasehold interest in the project shall not terminate this lease nor excuse Lessee from full performance of its covenants hereunder for the payment of money or other obligations hereunder capable of performance by Lessee, but in such case Lessee may claim and recover from the condemning authority all compensation and damages payable on account of Lessee's leasehold interest.

§27. Uninsured Casualty.
In case at any time during said term the buildings of the project shall be substantially damaged or destroyed by any casualty not herein required to be insured against, and the Association shall remove all remains of buildings and restore said land to good orderly condition and even grade and cause all subsisting leases of other apartments of the project to be surrendered to Lessor, Lessee may surrender this lease and thereby be relieved of any further obligations hereunder subject to the payment to Lessor of all rent then accrued and taxes hereunder payable for the full current year.

§28. Consent to Mortgage.
From time to time, without further consent, Lessee may assign this lease by way of mortgage to any bank, insurance company or other established lending institution as mortgagee, and the mortgagee may enforce such mortgage and acquire title to the leasehold estate in any lawful way, and pending foreclosure of such mortgage may take possession of and rent said premises, and upon foreclosure thereof may sell and assign the leasehold estate by assignment containing the written undertaking of the assignee to perform all obligations of Lessee hereunder, provided

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that upon execution of any such assignment or mortgage, a true copy thereof shall be delivered promptly to Lessor. Any person acquiring the leasehold estate in consideration of the extinguishment of the debt secured by such mortgage or through foreclosure sale, judicial or otherwise, shall be liable to perform the obligations imposed on Lessee by this lease only during the period that such person has possession or ownership of the leasehold estate. Nothing contained in such mortgage shall release or be deemed to relieve Lessee from the full and faithful observance and performance of its covenants herein contained or from any liability for the nonobservance or nonperformance thereof, nor be deemed to constitute a waiver of any rights of Lessor hereunder, and the terms, covenants and conditions of this lease shall control in case of any conflict with the provisions of such mortgage.

§29. Protection of Mortgage.
During the existence of any authorized mortgage of this lease, Lessor shall not terminate this lease because of any default by Lessee hereunder or other cause whatsoever if, within a period of 120 days after Lessor has mailed written notice of intention to terminate this lease for such cause to the mortgagee at its last known address, the mortgagee shall either cure such default or other cause or, if the same cannot be cured by the payment of money, shall undertake in writing to perform all covenants of this lease capable of performance by it until such time as this lease shall be sold upon foreclosure pursuant to such mortgage, and in case of such undertaking Lessor will not terminate this lease within such further time as may be required by the mortgagee to complete foreclosure of such mortgage or other remedy thereunder, provided (1) that such remedy is pursued promptly and completed with due diligence, and (2) that Lessor is paid all rent and other charges accruing hereunder as the same become due, and upon foreclosure sale of this lease the time for performance of any obligation of Lessee then in default hereunder other than payment of money shall be extended by the time reasonably necessary to complete such performance with due diligence. Ownership by or for the same person of both fee and leasehold estates in said apartment shall not affect the merger thereof without the prior written consent of any mortgagee to such merger.

§30. Defeasance.
This demise is upon the condition, that if Lessee shall fail to pay the rent or any part thereof within 10 days after the same becomes due, whether the same shall or shall not have been legally demanded, or shall fail to observe or perform faithfully any of the other covenants or agreements herein contained and on the part of the Lessee to be observed and performed and such default shall continue for 30 days after written notice thereof is given to Lessee or mailed to his last known address, or if Lessee then owning this lease shall become bankrupt and fail to perform any of the covenants of Lessee hereunder or shall abandon said premises, or if this lease or any estate or interest of Lessee hereunder shall be sold under any attachment or execution, Lessor may at once re-enter said premises or any part thereof in the name of the whole and, upon or without such entry, at their option terminate this lease, without service of notice or legal process and without prejudice to any other remedy or right of action for arrears of rent or for any preceding or other breach of contract, and in case of such termination Lessee's interest in said apartment and Project shall become and remain the property of Lessor; provided, however, that no failure of the Association to perform any covenant of Lessee herein provided to be performed by the Association shall

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constitute a default by Lessee hereunder so long as Lessee shall use his best efforts to cause such covenant to be performed by the Association and shall pay his proportionate share of all expense thereof within 30 days after the charges assessed by the Association in respect of said premises become due and payable by Lessee. If this lease is recorded or filed of record in the Bureau of Conveyances, State of Hawaii, such termination may be made effective by recording or filing an affidavit thereof by Lessor.

§31. Incidents of Apartment Ownership.
Except as otherwise provided herein, Lessee shall at all times during said term be deemed to be the owner of said apartment for all purposes of the Declaration and By-Laws of the Association and shall have all rights, privileges, duties and obligations of such owner, including, without limitation, membership and vote in the Association; provided, however, that any vote or other action of Lessee with respect to construction plans, partition of the Project, amendment of the Declaration or By-Laws, appointment of the managing agent, or any other matter as to which this lease requires the approval or consent of Lessor, shall be effective only upon such approval or consent in writing.

§32. Holdover Tenancy.
In the event the Lessee remains in possession of the herein leased premises after the expiration of this lease and without the execution of a new lease, in such manner as to create a valid holdover tenancy, the Lessee shall be deemed to be occupying said premises as a tenant from month-to-month, subject to all of the conditions, provisions and obligations of this lease insofar as the same are applicable to a month-to-month tenancy.

§33. Notices.
Any notice or demand to Lessor or Lessee provided for or permitted by this lease shall be in writing and may be given sufficiently for all purposes if mailed, addressed to the party at its post office address herein specified or the last such address designated by such party in writing to the other, or delivered personally within the State of Hawaii to Lessor or Lessee or any officer of Lessee if Lessee is a corporation, as the case may be, and shall be deemed conclusively to have been given on the date of such mailing or personal delivery.

§34. Non-Waiver.
Acceptance of rent by Lessor or their agents shall not be deemed to be a waiver by them of any breach by Lessee of any covenant herein contained or of Lessor's rights of re-entry for breach of condition. Lessor's waiver of any breach by Lessee shall not operate to extinguish the term, covenant or condition the breach whereof has been waived nor be deemed a waiver of Lessor's rights to declare a forfeiture for any other or further breach thereof.

§35. Approvals and Consents.
Any approval or consent by Lessor required by any provision hereof shall not be capriciously or unreasonably withheld.

§36. Definitions.
The terms "Lessor" and "Lessee" herein or any pronoun used in place thereof shall mean and include the masculine or feminine, the singular or plural number, and jointly and severally, individuals, firms or corporations, and their and each of their respective heirs, successors, executors, administrators and assigns, according to the context thereof.

LAW OFFICES OF
LANGA & ARCHER
WAILUKU TOWNHOUSE BUILDING
WAILUKU, MAUI, HAWAII 96793
TELEPHONE (808) 244-9188

§37. Security Deposit.
Concurrently with the execution of this lease, Lessee shall deliver to Lessor the sum of $152 as security for the performance by Lessee of every covenant and condition of this lease. Said deposit may be commingled with other funds of Lessor and shall bear no interest. If Lessee shall default with respect to any covenant or condition of this lease, including but not limited to the payment of rent, Lessor may apply the whole or any part of such security deposit to the payment of any sum in default or any other sum which Lessor may be required to spend by reason of Lessee's default. In the event Lessor should so apply all or any part of said deposit, Lessee shall, within 15 days after receipt of notice from Lessor, deliver to Lessor the sum expended in order to replenish such deposit. Failure to do so shall be a default under this lease. Should Lessee comply with all of the covenants and conditions of this lease, the security deposit or any balance thereof shall be returned to Lessee at the expiration of the term hereof.

§38. Lessors' Agent.
Lessors shall jointly appoint and maintain a single individual, firm or corporation as their agent or trustee, authorized to collect on their behalf all money payable to them hereunder, and to grant on their behalf all approvals and consents required by this lease which it determines should be granted. If at any time there shall be no agent or trustee authorized to act for Lessors pursuant to this section, then during such time the managing agent appointed by the Association pursuant to §23 shall have and exercise on behalf of Lessors all of the powers set forth in this section.

§39. Reversionary Interests:
The land included in the project is composed of six parcels, four of which are property of the Maalaea Beach Trust Estate and consist of 54,489 square feet of land, and two of which are property of the Bruce Trust Estate and consist of 58,387 square feet of land. For and during the term of the said horizontal property regime and of the apartment leases of the project, the proportionate reversionary interests of the Lessors in the premises and in all rights and obligations hereunder and thereunder shall be as follows:

Bruce Trust	51.727%
Maalaea Beach Trust	48.273%

Upon the expiration or earlier termination of the apartment leases and the removal of the project from the provisions of HRS Chapter 514, each of said parcels shall revert to the Lessor thereof free of claims of the other Lessor.

IN WITNESS WHEREOF, the parties hereto have executed these presents as of the day and year first above written.

Robert P. Bruce, Trustee

HAWAIIAN TRUST COMPANY, LIMITED
Trustee

By _____
Its Vice President

By _____
ASST. VICE PRESIDENT

LAW OFFICES OF
LANGA & ARCHER
WAILUKU TOWNHOUSE BUILDING
WAILUKU, MAUI, HAWAII 96793
TELEPHONE (808) 244-8168

LESSEE:

Carter Morse Wilson

STATE OF)
) ss
COUNTY OF)

On this _____ before me personally appeared _____, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that _____ executed the same as _____ free act and deed.

Notary Public in and for said County and State

My commission expires: _____

STATE OF HAWAII)
) ss
CITY AND COUNTY OF HONOLULU)

On this January 29, 1977 before me personally appeared CARTER MORSE WILSON, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Magdalena Caldwell

Notary Public, First Judicial Circuit, State of Hawaii

My commission expires: 9-29-78

LAW OFFICES OF
LANGA & ARCHER
WAIJIGU TOWNHOUSE BUILDING
WAILUKU, MAUI, HAWAII 96793
TELEPHONE (808) 244-9188

STATE OF HAWAII)
) ss
COUNTY OF MAUI)

On this OCT 4 1976 before me personally appeared ROBERT P. BRUCE, Trustee under Trust Agreement dated May 16, 1974, to me known to be the person described in and who executed the foregoing instrument, and he acknowledged that he executed the same as his free act and deed as said Trustee.

Betty L. Pan
Notary Public, Second Judicial Circuit, State of Hawaii

My commission expires: 12/2/79

STATE OF HAWAII)
) ss
COUNTY OF MAUI)

On this OCT 4 1976 before me appeared JOHN C. YEARWOOD, to me personally known, who being by me duly sworn did say that he the Vice President of HAWAIIAN TRUST COMPANY, LIMITED, a Hawaii corporation, Trustee under Trust Agreement dated December 30, 1975 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 JOHN C. YEARWOOD acknowledged said instrument to be the free act and deed of said corporation.

Lynne L. Ston
Notary Public, Second Judicial Circuit, State of Hawaii

My commission expires: JAN 4 1977

LAW OFFICES OF
LANGA & ARCHER
WAILUKU TOWNHOUSE BUILDING
WAILUKU, MAUI, HAWAII 96793
TELEPHONE (808) 244-9168

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

liber 12036 page 507

On this 24th day of February, 1977 before me appeared JOHN R. ARMITAGE, to me personally known, who being by me duly sworn did say that he is the ASSISTANT VICE PRESIDENT of HAWAIIAN TRUST COMPANY, LIMITED A Hawaii Corporation, trustee under Trust Agreement dated December 30, 1975 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 JOHN R. ARMITAGE acknowledged said instrument to be the free act and deed of said corporation.

Notary Public, First Judicial Circuit
State of Hawaii

My Commission expires: 4-18-77

HLU Committee

From: Cheryl Vohaska <hkokstrcommittee@gmail.com>
Sent: Monday, June 29, 2026 8:37 AM
To: HLU Committee
Subject: Fwd: Notice of Error/Omission- Request to Include Hale Kai O'Kihei in H-3/4 Hotel Zoning
Attachments: List of Attchments and Source References.docx; Zoning Ord-0548 1968.pdf; Maui News First Condominium In Kihei Blessed May 31, 1969.pdf; Maui News HKOK Vacation Poperties Open House Advertisement December 20, 1969 .pdf; Hale Kai O'Kihei 35 Years of Aloha Published 2004.pdf; HKOK Postcard with Advertising & Postmark 1971.pdf; Ho'okumu Hou First Time Homebuyer Opportunuty Program.pdf; TIG on TVRs in Apartment Districtd Final Report (HLU-4(1)) (PAF 25-226).pdf; Amendments to Title MC-12, Chapter 203 Shoreline Rules for the Maui Planning Commission 2024.pdf; Flood Insurance Declarations Page.pdf; Bylaws July 20, 1967.pdf; Bylaws May 14, 1969.pdf; 1985 Merger Recombined Bylaws April 21, 1995.pdf; 2009 Amendment and First Restatement of DeclarationvJune 17, 2009 .pdf; 2009 Amendment and Third Restatement of Bylaws June 17, 2009.pdf

You don't often get email from hkokstrcommittee@gmail.com. Learn why this is important

If necessary, please click on the “cropped message / click here to view” if it appears in the body of the email in order to view in its entirety.

---------- Forwarded message ---------
From: Nicole Fox <hkokstrcommittee@gmail.com>
Date: Mon, Jun 29, 2026 at 12:32 PM
Subject: Notice of Error/Omission- Request to Include Hale Kai O'Kihei in H-3/4 Hotel Zoning
To: <Alice.Lee@mauicounty.us>, <Yukilei.Sugimura@mauicounty.us>, <K.Kauanoe.Batangan@mauicounty.us>, <Thomas.Cook@mauicounty.us>, <Gabe.Johnson@mauicounty.us>, <Tamara.Paltin@mauicounty.us>, <Keani.Rawlins@mauicounty.us>, <Shane.Sinenci@mauicounty.us>, <Nohe.Uu-Hodgins@mauicounty.us>
CC: county.council@mauicounty.us <county.council@mauicounty.us>, county.clerk@mauicounty.us <county.clerk@mauicounty.us>, <planning@mauicounty.gov>, <zoningdivision@mauicounty.gov>, <HLU.committee@mauicounty.us>

NOTICE OF ERROR / OMISSION
REQUEST TO INCLUDE HALE KAI O'KIHEI IN H-3/H-4 HOTEL ZONING

Advocacy Submission

June 26, 2026

To: Members of the Maui County Planning Commission and Maui County Council

Property: Hale Kai O'Kihei, 1310 Uluniu Road, Kihei, Hawai'i 96753

Current Zoning: Apartment 1 / A-1

RE: Schedule 2 of the 2025 TIG Report - Hale Kai O'Kihei would be stripped of all viable use if excluded from the hotel-zoning path despite 57 years of lawful reliance.

Time-sensitive record correction. This submission asks the County to correct the administrative record before releasing or relying on Bill 88 resolutions affecting Apartment-zoned properties. Hale Kai O'Kihei should be included in any Council-initiated H-3/H-4 hotel-zoning pathway, or the County should make objective, written, property-specific findings explaining any exclusion.

PRESERVATION OF RIGHTS / NO WAIVER

The request for inclusion in a Council-initiated hotel-zoning pathway is made expressly without waiver, concession, or admission that Hale Kai O'Kihei requires a conditional use permit, variance, special use permit, nonconforming-use determination, amortization period, or any other discretionary approval in order to continue its longstanding transient accommodation use. Hale Kai O'Kihei maintains that its transient accommodation use is a legally vested property right arising from the zoning and permitted uses in place when the project was created, sold, taxed, regulated, and continuously operated.

Inclusion in the hotel-zoning pathway should be understood as corrective zoning alignment recognizing the property's original and continuous use, its historic reliance interests, and the practical impossibility of converting this oceanfront, sea-level-rise-exposed condominium project into viable first-time-homebuyer or long-term workforce housing. Hale Kai O'Kihei reserves all rights, claims, defenses, and remedies relating to its lawful and vested use, including the right to object to any County action that would impair, extinguish, devalue, or condition that use without due process and just compensation.

EXECUTIVE SUMMARY

Hale Kai O'Kihei is not an interchangeable apartment-unit count. It is a specific 1969 oceanfront condominium project with a documented visitor-serving history, County-recognized short-term occupancy status, and decades of reliance on transient accommodation use.

Excluding Hale Kai O'Kihei from the H-3/H-4 hotel-zoning pathway would not create meaningful workforce housing. It would instead leave a high-risk, high-cost, aging shoreline property with no practical residential conversion path and no economically viable substitute use.

The County's own policy logic points in the same direction: properties exposed to 3.2-foot sea-level-rise hazards, flood risk, severe insurance limitations, high carrying costs, and pre-1978 construction should not be treated as stable, safe, insurable, financeable, or attainable workforce housing.

REQUESTED ACTION

- Add this testimony and all referenced supporting documents and images to the administrative record.
- Treat Hale Kai O'Kihei as a property-specific case, not as a generic Apartment-zoned unit count.
- Recognize Hale Kai O'Kihei as a historically visitor-serving A-1 property listed by the County as allowed for short-term occupancy.
- Include Hale Kai O'Kihei in any H-3/H-4, TIG, Exhibit 2, or Council-initiated rezoning pathway for historically recognized transient-use Apartment properties.
- Do not exclude Hale Kai O'Kihei from a corrective pathway without objective, written, property-specific findings.
- Reconcile the County's housing rationale with Hale Kai O'Kihei's FEMA Flood Zone AH status, 3.2-foot SLR-XA exposure, non-elevated slab-on-grade construction, insurance limitations, financing issues, and actual carrying costs.
- Recognize that no additional FEMA/NFIP dwelling-building coverage is available to solve the individual-owner structural flood gap once the master RCBAP is already at the NFIP per-unit cap.
- Preserve all vested rights, lawful use rights, defenses, claims, and remedies.
- Confirm that participation in this process does not waive any owner's legal position that Ordinance 5909 is unconstitutional, unlawful as applied, confiscatory, arbitrary, discriminatory, or otherwise subject to challenge.

KEY PROPERTY FACTS

Topic	Record fact / implication
Property	Hale Kai O'Kihei, 1310 Uluniu Road, Kihei, Hawai'i 96753
Project history	Built/opened in 1969; described in the draft as Kihei's first condominium project and the second condominium development in South Maui.
Units	59-unit residential condominium building.
Original zoning/use evidence	The attached zoning document identifies Apartment 1 / A-1 uses that included apartment houses, boarding/rooming/lodging houses, bungalow courts, court apartments, motels, and townhouses.
County recognition	Listed by Maui County as an Apartment District property allowed for short-term occupancy; taxed and regulated as TVR/STRH use for decades.
Physical construction	1969, non-elevated, slab-on-grade, three-story masonry building; first-floor height stated as 1.1 feet.
Flood/SLR exposure	FEMA Flood Zone AH; within the 3.2-foot Sea Level Rise Exposure Area (SLR-XA), with shoreline, flood, erosion, access, and habitability concerns.
Insurance structure	AOAO RCBAP flood coverage at $14,750,000 for 59 units, which equals $250,000 per unit which is the maximum NFIP building coverage available for the building.
Housing conversion problem	Small units, limited parking, age, flood/SLR exposure, insurance gaps, high AOAO costs, financing concerns, and high ownership costs make first-time-homebuyer or long-term workforce conversion unrealistic.

I. HALE KAI O'KIHEI'S SHORT-TERM RENTAL USE WAS LAWFUL FROM INCEPTION

Based on the attached zoning document, Hale Kai O'Kihei was built in 1969 under Zoning Ordinance 548 / Bill 9, and the Apartment 1 district allowed uses that expressly included visitor-serving or short-term lodging categories. Those allowed uses included:

- Any use permitted in residential and duplex districts;
- Apartment houses;
- Boarding, rooming, and lodging houses;
- Bungalow courts;
- Court apartments;
- Motels; and
- Townhouses under the provisions of a conditional permit.

Hale Kai O'Kihei's position is that short-term/transient accommodation use was legal at the time the project was established, was relied upon for 57 years, and was never extinguished by later zoning changes. The property has not operated under a conditional use, special use permit, zoning variance, or revocable framework. Instead, its use is consistent with the permitted uses and governing documents in place when the project was created, sold, taxed, and operated.

A. Rezoning history confirms Hale Kai O'Kihei was approved for a visitor-compatible Apartment use, not as ordinary workforce housing

The historical zoning record is important because Hale Kai O'Kihei was not inserted later into an exclusively residential neighborhood and then converted to transient use. The project was created after the property was rezoned from a more restrictive residential classification to Apartment zoning for this condominium development. By the time the condominium project was created in 1967 and completed/opened in 1969, the applicable Apartment zoning allowed

not only apartment houses, but also boarding, rooming, and lodging houses, bungalow courts, court apartments, and motels. That rezoning history confirms that Hale Kai O'Kihei's visitor-serving and short-term occupancy use was consistent with the land-use framework in place at inception. It also distinguishes Hale Kai O'Kihei from properties that may have been built or relied upon as ordinary long-term residential housing. The County should therefore treat Hale Kai O'Kihei as a property-specific historically visitor-serving project, not as a generic Apartment-zoned unit count.

B. The Minatoya/List designation confirmed a preexisting lawful use; it did not create the right

Before the 1989 zoning change, transient vacation rental use was permitted in Maui's Apartment Districts, and the County later acknowledged that Ordinance 1797's long-term residential occupancy requirement was not intended to apply to buildings and structures with valid pre-1989 approvals. For that reason, Hale Kai O'Kihei's visitor-accommodation use was already lawful, vested, and/or protected as a preexisting use before the Minatoya/List designation was ever created.

The original Minatoya Opinion and the County's Apartment District short-term occupancy list did not characterize Hale Kai O'Kihei or similar Apartment-zoned properties as operating merely under a nonconforming use. Those properties were treated as excluded from the later zoning change, exempt from the prohibition, protected, or otherwise allowed for short-term occupancy. Any later attempt to reframe those rights as merely 'nonconforming' would be a later characterization, not the original basis for the protection.

Maui County Ordinance 4167 further supports this point by recognizing that transient vacation rentals were a permitted use in the Apartment District before April 20, 1989, and that certain units continued operating as transient vacation rentals. Hale Kai O'Kihei therefore maintains that amortization principles applicable to nonconforming uses cannot be used to extinguish a legally vested and continuously relied-upon use.

C. Act 17 and later zoning changes should not be applied retroactively to extinguish vested rights

Hale Kai O'Kihei further maintains that Act 17 does not expressly authorize retroactive application to extinguish vested rights. Under HRS section 1-3 and ordinary rules of statutory interpretation, laws apply prospectively unless the Legislature clearly provides otherwise. New legislation should not be applied to destroy a legally vested use that existed under the original zoning and was recognized, taxed, and relied upon for decades.

II. HISTORICAL RECORD SHOWS VISITOR-SERVING USE AND RELIANCE

The administrative record should distinguish Hale Kai O'Kihei from properties that may have no project-specific visitor-accommodation history. Hale Kai O'Kihei has evidence of visitor-serving use from inception, including County recognition, State lodging inventory, governing documents, historic marketing, and owner testimony.

A. Historic marketing and sales evidence

Evidence	Why it matters
May 31, 1969 Maui News article	The blessing article described buyers from Anchorage, Alaska, and California, showing off-island ownership from inception.
December 20, 1969 Maui News open-house advertisement	The advertisement marketed Hale Kai O'Kihei as a 'peaceful hideaway' on Maui's western shores, emphasizing reservations, beaches, recreation, golf, tourist sites, visiting pleasures, private oceanfront lanais, furnished units, and directions from Kahului Airport.
Reservation language	The use of 'reservations and information' is lodging/transient-use language, not ordinary owner-occupied workforce-housing language.
1971 postcard	A postmarked 1971 postcard advertised one- and two-bedroom fully furnished apartments, electric kitchens, housekeeping services available on premises or by arrangement, beachfront location, putting green, and shuffleboard.
Visitor Plant Inventory	Hawai'i tourism records treated condominiums available for transient rental as part of visitor accommodation inventory;

Evidence	Why it matters
	Hale Kai O'Kihei appears in the draft record as visitor accommodation opened in 1969, including condo-hotel and later vacation-rental/IVU-condo inventory.

B. Governing documents are consistent with rental and leasing for profit

The governing documents are consistent with a right to rent the units for profit, with no blanket prohibition on transient or seasonal occupancy. They do not support any claim that Hale Kai O'Kihei was created as owner-occupied workforce housing.

- The 1967-1969 governing documents created privately owned apartment units governed by an Association of Apartment Owners, not a County-sponsored workforce-housing project.
- The documents distinguish using a unit as a place to reside from using it as a place to conduct a trade or business, and they recognize rental or lease use for profit so long as the occupant uses the unit residentially.
- Article X, Section 12 of the 1995 By-Laws stated that an owner may rent or lease the unit privately or through the official rental pool of Hale Kai O'Kihei.
- The 1995 By-Laws referenced parking for 'owners and guests.'
- The 1995 By-Laws limited County, State, or governmental-agency rentals or leases to one month, with possible extension for up to another month. That language shows that short durations were contemplated, with a special limit placed only on governmental entities.
- The 2009 By-Laws allowed private leasing or leasing through a rental agent, subject to duration limits.
- The 2009 Restated Declaration stated that units are intended for renting or leasing for profit, individually or otherwise, so long as the ultimate tenant uses the unit as a place to reside rather than a place to carry on trade or business. 'Reside' in this context refers to residential occupancy - eating, sleeping, and staying in the unit - not necessarily primary, long-term residence.

C. Original owner testimony confirms vacation-home and rental expectations

The historical owner accounts in Hale Kai O'Kihei: 35 Years of Aloha (2004) further support the visitor-serving and part-time-use history. The draft record includes accounts of mainland buyers purchasing sight unseen, off-island owners selecting units, and plans to furnish units for family vacation use or occasional rental.

> *"Jim and Thelma went home to Michigan with brochures in hand. A group of eight couples agreed to buy into the project, sight unseen."*
>
> *"The plan was for Ann to come back when unit 316 was finished and furnish it for family use as a vacation home or occasional rental."*
>
> *"In 1968, before Hale Kai was built, Mokie and I were one of the first couples to sign up for an apartment, and we chose 202. Eight couples from Michigan also purchased around the same time."*

III. EXCLUSION WOULD NOT CREATE MEANINGFUL WORKFORCE HOUSING

The relevant question is not whether Maui needs housing. Everyone agrees that Maui needs housing. The relevant question is whether Hale Kai O'Kihei can actually provide safe, insurable, financeable, attainable, resilient long-term workforce housing. Based on the property-specific record, the answer is no.

Hale Kai O'Kihei was privately funded and was not built, financed, insured, designed, or operated as affordable housing, subsidized housing, workforce housing, County-sponsored housing, or disaster-recovery housing. In 1968-1969, South Kihei was not being developed under any Maui County first-time-homebuyer or workforce-housing program; that legal framework did not exist. The County's own historical materials describe Kihei at that time as sparsely populated and planned for future resort growth, not deed-restricted workforce housing.

- Predominantly small studio/one-bedroom units, with many under approximately 600 square feet;
- One closet / limited storage in many units;
- Less than one parking space per unit;
- Limited electrical capacity and small water-heater capacity;

- Coin laundry and older infrastructure;
- 1969 construction and escalating reserve needs;
- Oceanfront salt-air exposure and chronic maintenance burden;
- Flood Zone AH, non-elevated slab-on-grade construction, and 3.2-foot SLR-XA exposure;
- Major insurance limitations and no practical dwelling-level FEMA flood solution; and
- Ownership costs far above ordinary Maui workforce affordability levels.

IV. SEA-LEVEL-RISE, FLOOD, EROSION, AND ACCESS RISKS MAKE FORCED CONVERSION UNSOUND

Hale Kai O'Kihei's shoreline location, FEMA Flood Zone AH status, non-elevated slab-on-grade construction, first-floor height of 1.1 feet, and 3.2-foot SLR-XA exposure create long-term concerns regarding safety, habitability, insurance, financing, infrastructure, access, reconstruction, reserves, and displacement risk.

- Hale Kai O'Kihei occurs within the 3.2-foot Sea Level Rise Exposure Area, commonly referred to as the 3.2-foot SLR-XA, as mapped in the Hawai'i Sea Level Rise Viewer.
- The 3.2-foot SLR-XA identifies exposure to chronic coastal hazards associated with sea-level rise, including active and passive flooding, annual high-wave flooding, and coastal erosion.
- Hale Kai O'Kihei's sea-level-rise exposure is not merely a parcel overlay concern; the draft record states that sea-level-rise exposure encroaches on the building structure itself.
- Hale Kai O'Kihei is constrained between the shoreline and Uluniu Road, creating a coastal pinch point where overwash, coastal flooding, storm debris, or erosion can impair access and egress.
- Access and egress concerns are not merely inconvenient; they implicate emergency medical response, evacuation timing, infrastructure reliability, and resident safety.

The County cannot use coastal vulnerability as a one-way ratchet. It cannot say Hale Kai O'Kihei is too vulnerable or inappropriate for continued visitor-accommodation protection while also treating the same property as suitable permanent housing for local residents. If flood risk and sea-level-rise exposure matter, they weigh against forced long-term residential conversion.

A. The County's own TIG criterion weighs against treating SLR-XA properties as long-term housing

The Bill 9 Temporary Investigative Group (TIG) made a directly relevant screening finding: properties where any portion of the property is located in the SLR-XA, or would already be impacted by sea-level rise, would not produce long-term housing options for residents and would therefore be appropriate to continue TVR uses. The County should not rely on this criterion to justify a hotel-zoning pathway for some shoreline properties while treating similarly exposed properties as if they can reliably produce long-term housing.

A long-term housing strategy that places residents in a known SLR-XA shoreline exposure area creates unstable habitability rather than stable homes. It predictably increases pressure for shoreline hardening, emergency intervention, and public-cost shifting as coastal impacts worsen.

V. INSURANCE LIMITATIONS CREATE A STRUCTURAL GAP THAT WORKFORCE BUYERS CANNOT SOLVE

The County should not count Hale Kai O'Kihei as safe, financeable, ordinary long-term housing unless it first addresses the actual insurance structure. The AOAO's flood insurance is association-level building coverage, not owner-controlled dwelling coverage comparable to a single-family home policy.

- $250,000 per unit multiplied by 59 units equals $14,750,000.
- The master RCBAP policy is written at the maximum NFIP building coverage available on a 59-unit condominium building.
- Once the RCBAP is maxed out at the NFIP per-unit building cap, an individual owner cannot simply buy additional FEMA/NFIP dwelling or building coverage to close a structural gap.
- An individual owner may be able to purchase contents coverage or limited supplemental coverage, but FEMA/NFIP cannot be used to increase total building coverage above the applicable federal cap.

- The RCBAP does not make each individual owner whole for gaps, deductibles, assessments, displacement, contents, improvements, financing problems, or reconstruction shortfalls.
- An HO-6 policy is not a solution to the flood-building gap.
- Private dwelling flood policies are reportedly not obtainable for this property at this time; if available later, the draft record indicates they may be unaffordable, with a placeholder estimate above $6,000 per year for a one-bedroom unit.

AOAO insurance profile from draft record

Insurance item	Amount / detail
Property insurance annual premium	$74,226.99
Building coverage, including pool and fences	$19,874,781
Business personal property including TIB	$80,000
Building Ordinance / Increased Cost of Construction	$2,000,000
All-other-perils deductible, excluding hurricane	$25,000
Hurricane deductible	3% of TIV of damaged structures; minimum $100,000; listed deductible $596,434
Earthquake sublimit	$5,000,000
Comprehensive general liability annual premium	$6,494
Equipment breakdown annual premium	$1,246
Commercial umbrella annual premium	$3,962
Directors and officers liability annual premium	$2,899
Workers compensation annual premium	$2,179
Flood insurance annual premium	$18,446
Flood deductible	$5,000

NFIP / RCBAP flood declaration details from draft record

Flood declaration item	Detail
NFIP policy number	0002051286
Insured	AOAO Hale Kai O Kihei Condo & the Unit Owners ATIMA
Property location	1310 Uluniu Road, Kihei, Hawai'i 96753
Policy form	RCBAP
Building occupancy / description	Entire Residential Condominium Building
Number of units	59
Date of construction	01/01/1969
Current flood zone	AH
Property description	Slab-on-grade, non-elevated, 3 floors, masonry construction
First-floor height	1.1 feet
Replacement cost value	$17,424,000
Building coverage	$14,750,000
Deductible	$5,000
Primary residence	No

Flood declaration item	Detail
Total annual premium	$18,446

The County should review the actual policy, declaration page, NFIP limits, RCBAP coverage form, coinsurance conditions, deductibles, unit-owner limitations, and private/excess flood availability before claiming Hale Kai O'Kihei is viable workforce housing.

VI. ACTUAL OWNERSHIP COSTS ARE FAR ABOVE AFFORDABLE OR WORKFORCE LEVELS

A long-term housing strategy cannot compare possible long-term rent to short-term gross revenue while ignoring actual ownership and operating costs. Taxes are collected and remitted. Maintenance is constant and increasing because Hale Kai O'Kihei is a 57-year-old oceanfront, salt-air-exposed building. AOAO costs, reserves, insurance, flood risk, financing, and special-assessment risk all ultimately pass through to owners or tenants.

Reserve-study expenses identified in draft record

Reserve item	Estimated amount
Roof membrane replacement	$501,000
Electrical bank replacement	$185,000
Plumbing stack riser replacement	$215,000
Stairs, walkway, and lanai rails replaced to code	$580,000
Wood entry door replacement	$348,000
Exterior painting	$145,000

One-bedroom affordability benchmark

Assumption / cost item	Amount
Purchase price	$749,000
20% down payment	$149,800
Mortgage amount	$599,200
Estimated P&I at approx. 6.52% for 30 years	$3,795 / month
Estimated owner-occupied Maui property tax	$103 / month
AOAO / maintenance fee shown for one-bedroom listing	$848 / month
HO-6 owner insurance	$160 / month
Private/excess flood placeholder if obtainable	

ATTACHMENTS AND SOURCE REFERENCES IDENTIFIED IN DOCUMENT

This revised draft preserves the supporting materials referenced in the original document. Attach copies or excerpts where available.

- 1969 zoning document identifying Apartment 1 / A-1 allowed uses.
- Maui News, May 31, 1969: 'Hale Kai O'Kihei First Condominium in Kihei Blessed.'
- Maui News, December 20, 1969 open-house advertisement for Hale Kai O'Kihei.
- 1971 postmarked Hale Kai O'Kihei postcard advertising furnished beachfront apartments and housekeeping services.
- 1967-1969 governing documents; 1995 By-Laws; 2009 By-Laws / Restated Declaration.
- Hale Kai O'Kihei: 35 Years of Aloha (2004) owner histories/testimonies.
- Maui County Apartment District Properties Allowed to be Used for Short-Term Occupancy list.
- Bill 9 TIG report and exhibit, including SLR-XA criterion.
- Hawai'i Sea Level Rise Viewer / SLR-XA mapping and related state or PacIOOS materials.
- Maui Island Shoreline Rule Update 2024 materials.
- AOAO insurance summary, NFIP/RCBAP flood declarations
- Ho'okumu Hou First-Time Homebuyer Program requirements and restrictions.

URLs referenced in original draft:

- https://mauirealestate.com/wp-content/uploads/2025/10/Report-and-Exhibit-Bill-9.pdf
- https://www.pacioos.hawaii.edu/shoreline/slr-hawaii/
- https://www.mauicounty.gov/2799/Maui-Island-Shoreline-Rule-Update-2024
- https://geoportal.hawaii.gov/datasets/HiStateGIS::slr-exposure-area-3-2-ft-scenario/about

ORDINANCE NO. 548

BILL NO. 9 (1968)

AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE, ARTICLE 1 OF CHAPTER 8 OF THE PERMANENT ORDINANCES OF THE COUNTY OF MAUI 1966, BY AMENDING SECTION 8-1.6 THEREOF, RELATING TO APARTMENT HOUSE DISTRICTS, IN ITS ENTIRETY.

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF MAUI, STATE OF HAWAII:

SECTION 1. The Comprehensive Zoning Ordinance, Article 1 of Chapter 8 of the Permanent Ordinances of the County of Maui 1966, is hereby amended by amending Section 8-1.6 thereof, relating to Apartment House Districts, in its entirety, to read as follows:

"Sec. 8-1.6. Apartment Districts.

Description and purpose. Multiple-family apartment districts are generally established outside of the high density core of the central portion of a town. It is applicable to areas where multiple-family units are indicated; yet, the areas have not reached a transitional stage wherein public, semi-public, institutional and other uses are desirable.

Apartment districts shall consist of two (2) types: A-1 apartment district and A-2 apartment district.

(a) Permitted uses. Within the A-1 and A-2 apartment districts, the following uses shall be permitted:

1. Any use permitted in the residential and duplex districts.
2. Apartment houses.
3. Boarding, rooming and lodging houses.

4. Bungalow courts.
5. Court apartments.
6. Motels.
7. Townhouses, under the provisions of conditional permit.

(b) Area regulations. Within the A-1 and A-2 apartment districts, the minimum lot area shall be 10,000 square feet and the minimum lot width shall be 70 feet.

(c) Height regulations. No building shall exceed two (2) stories or thirty (30) feet in height in the A-1 apartment district and four (4) stories in the A-2 apartment district.

(d) Lot coverage. Total ground area occupied by all buildings shall not exceed twenty-five per cent (25%) of the lot area in the A-1 apartment district and thirty-five per cent (35%) in the A-2 apartment district.

(e) Floor area-lot area ratio. The gross floor area of all buildings shall not exceed forty per cent (40%) of the lot area in the A-1 apartment district and ninety per cent (90%) in the A-2 apartment district.

(f) Yard spacing. Within the A-1 and A-2 apartment districts there shall be a front yard of fifteen (15) feet for one (1) and two (2) story buildings, and twenty (20) feet for three (3) and four (4) story buildings; side yards of ten (10) feet for one (1) and two (2) story buildings, and fifteen (15) feet for three (3) and four (4) story buildings; and a rear yard of fifteen (15) feet for one (1) and two (2) story buildings, and twenty (20) feet for three (3) and four (4) story buildings."

SECTION 2. All lands presently classified as A-2 duplex district shall hereafter be designated D-1 duplex district, and all lands presently classified as A-3 apartment house district shall hereafter be designated A-2 apartment district.

SECTION 3. Effective Date.

This ordinance shall take effect from and after its final passage by the Board of Supervisors.

THE BOARD OF SUPERVISORS OF THE
COUNTY OF MAUI, STATE OF HAWAII.

By _____
Its Chairman and Executive Officer

ATTEST:

_____
County Clerk

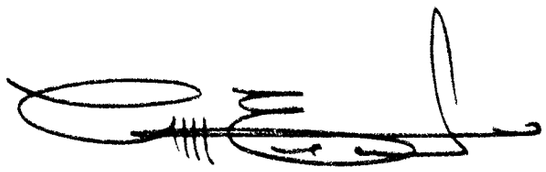
I, G. N. TOSHI ENOMOTO, County Clerk of the County of Maui, State of Hawaii, DO HEREBY CERTIFY that the foregoing BILL NO. 9 (1968) passed FIRST READING at the meeting of the Board of Supervisors of the County of Maui, State of Hawaii, held on the 1st day of March, 1968, by the following aye and no votes:

AYES: Supervisors Richard I. C. Caldito, Soon Oak Lee, Marco M. Meyer, Lanny H. Morisaki, Wilfred M. Tavares, Bernard H. Tokunaga, Yoneto Yamaguchi and Chairman Elmer F. Cravalho.

NOES: None.

EXCUSED: Supervisor Goro Hokama.

Dated at Wailuku, Maui, Hawaii, this 4th day of March, 1968.



G. N. TOSHI ENOMOTO, COUNTY CLERK,
COUNTY OF MAUI,
STATE OF HAWAII.

ORDINANCE NO. 548

BILL NO. 9 (1968)

AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE, ARTICLE 1 OF CHAPTER 8 OF THE PERMANENT ORDINANCES OF THE COUNTY OF MAUI 1966, BY AMENDING SECTION 8-1.6 THEREOF, RELATING TO APARTMENT HOUSE DISTRICTS, IN ITS ENTIRETY.

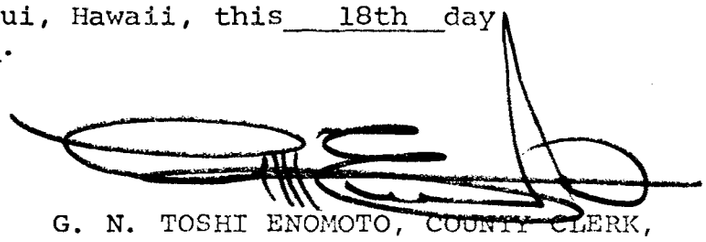
I, G. N. TOSHI ENOMOTO, County Clerk of the County of Maui, State of Hawaii, DO HEREBY CERTIFY that the foregoing Ordinance No. 548 (Bill No. 9 - 1968) passed SECOND AND FINAL READING at the meeting of the Board of Supervisors of the County of Maui, State of Hawaii, held on the 15th day of March, 1968, by the following aye and no votes:

Ayes: Supervisors Richard I. C. Caldito, Goro Hokama, Soon Oak Lee, Marco M. Meyer, Lanny H. Morisaki, Bernard H. Tokunaga, Yoneto Yamaguchi and Chairman Elmer F. Cravalho.

Noes: None.

Excused: Supervisor Wilfred M. Tavares.

Dated at Wailuku, Maui, Hawaii, this 18th day of March, 1968.



G. N. TOSHI ENOMOTO, COUNTY CLERK,
COUNTY OF MAUI,
STATE OF HAWAII.

Introduced and passed First Reading: Mar. 1, 1968

Effective Date: Mar. 15, 1968

Copies of the foregoing ordinance are on file in the Office of the County Clerk, County of Maui, for use and examination by the public.

HONOLULU STAR-BULLETIN

Issue of:

Hale Kai O Kihei

First Condominium In Kihei Blessed

As the sun set behind the Island of Lanai on Saturday, the Reverend Father Herman blessed the first phase of Hale Kai O Kihei, a three-story, 30-unit condominium. An estimated 500 persons were gathered together for the occasion.

Built by Developers Mr. and Mrs. David Ting and Mr. and Mrs. Allan Ting with interim financing by MDG Supply Inc., the Hale Kai O Kihei beach apartments are the first of several major apartment developments to be opened at Kihei.

Muneo Yamamoto was the general contractor for the project which was finished two months ahead of its July completion date, according to attorney Meyer M. Ueoka, who served as master of ceremonies.

All 30 units of the first phase of the Ting condominium have been sold.

The second phase of 30 additional units on the beach, already under construction, is scheduled for completion in November.

Mayor Elmer F. Cravalho in a brief speech said that Hale Kai O Kihei is "just the first of much more apartment and hotel development for Maui's South Shore.

David Ting told his guests that the development represents an investment of well over $1 million.

Buyers of condominiums in the Ting development who came the farthest distance to attend the blessing were Mrs. Edward Davis, wife of the presiding judge of the Anchorage, Alaska, Superior Court, and Mr. and Mrs. David Lemon of California

The maile lei was broken by Mayor Cravalho, Father Herman and the Ting Brothers

The guests were served a sumptuous buffet dinner around the swimming pool as an orchestra played Hawaiian music.

MISS YAMADA

Maui Girl In

GAINED HIGHEST RANK—These boys of Makawao PTA-sponsored Troop 6 and Post 1 received the Eagle Scout badge at a court of honor held recently at the Pukalani Community Center.

The newest recipients of the badge signifying attainment of the highest advancement award in Boy Scouting are, from left: Alvin Abe, Kenneth Sakai, Colbert Abe, Leslie Maeda, Guy Oshiro, Glenn Shishido, Dick Iwaishi, Eric Nakashima, and Michael Umetsu.

Not pictured is Burton Onikama.

Wailuku Senior YBA To Honor 33 Graduates

Thirty - three 1969 high school graduates affiliated with Buddhist church organizations will be honored at a banquet on Wednesday, June 4, by the Senior Young Buddhist Association of the Wailuku Hongwanji Mission.

The banquet will be held at the Wailuku Hotel, starting at 6:30 p.m., with Stanley G as general chairman

The guest speaker will Reverend Yoshiaki Fujitani Honpa Hongwanji Mission, nolulu. He was formerly a ciated with the Wailuku H wanji.

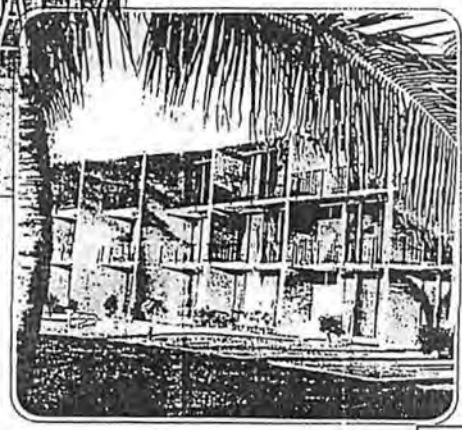
RONSON®
The people who keep improving flame.
Him to her,
him to him,
her to him,
you to you

OPEN HOUSE

HALE KAI O'KIHEI

FEE SIMPLE CONDOMINIUM

Kihei's Newest and Largest



A Pastoral Hideaway on the Western Shores of Maui offering you miles of secluded beaches of golden sand where swimming, surfing, skin diving, fishing, boating, sea shelling or "just plain beachcombing" are at your front door.

• GOLFING at 2 excellent courses! Waiehu in Wailuku, Maui Country Club in Spreckelsville and the Royal Kaanapali Golf Course near Lahaina. All within a scenic thirty minutes drive from Hale Kai O'Kihei.

• SCENIC SITES on the Island of Maui are here for your visiting pleasure: Haleakala Crater National Park, old Lahaina Town, Iao Needle State Park and many more.

• CONVENIENT TO: Stores, School, Church, Restaurants, Shopping.

60 spacious and tastefully designed one and two bedroom apartments with fully furnished, All-Electric Kitchens. Each unit with its own private ocean front lanai on a sandy, reef protected swimming beach overlooking the blue Pacific and the offshore islands of Kahoolawe and Molokini.

You're Invited

OPEN

FOR PUBLIC INSPECTION
SATURDAY and SUNDAY
December 20 & 21, 1969 — 10 a.m. to 5 p.m.

This beautiful 2 bedroom unit will be open for your inspection.
The unit is wall-carpeted and has two bedroom units with ALL ELECTRIC KITCHEN

Hotpoint

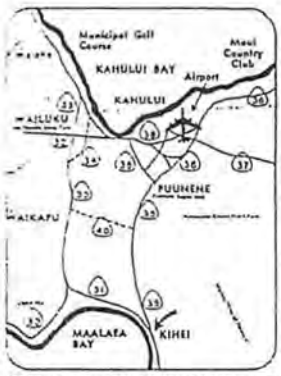
Refrigerator, stove & oven, disposal, hot water heater.
See the model apartment furnished by

MDG HOME FURNISHINGS

Coin operated WASH & DRY LAUNDRY facilities in the building.

Particularly designed for restful living. Clean, cool and quiet all CONCRETE CONSTRUCTION

Materials by CONCRETE PRODUCTS, MAUI



LOCATION: On the Beach at Kihei on the Island of Maui, Hawaii. Just 20 minutes drive from Kahului Airport.
Take Route No. 31 to Kihei, turn left onto Route No. 31 to HALE KAI O'KIHEI. Turn all Route No. 31 towards the ocean at the Kalua Theatre Church sign.

We are proud to have taken part in the construction of HALE KAI O'KIHEI CONDOMINIUM FOR THE DEVELOPERS
David & Alfie Fong

M. YAMAMOTO
PUTZ ELECTRIC SERVICE
HAWAII METAL FORMING, GLASS & GLAZING
PACIFIC CESSPOOL DIGGING & BLASTING
VALLEY ISLE PAINTING
MAUI ENGINEERS, INC.
M. SHIMIZU, CONTRACTOR
SPERRY & HANSON, LTD.
REDWELDERS, INC.
HAWAIIAN REINFORCING CO., LTD.
OKAZAKI & SUGAI PLASTERERS, INC.
HONOLULU ROOFING CO., LTD.
OAHU PLUMBING & SHEET METAL LTD.

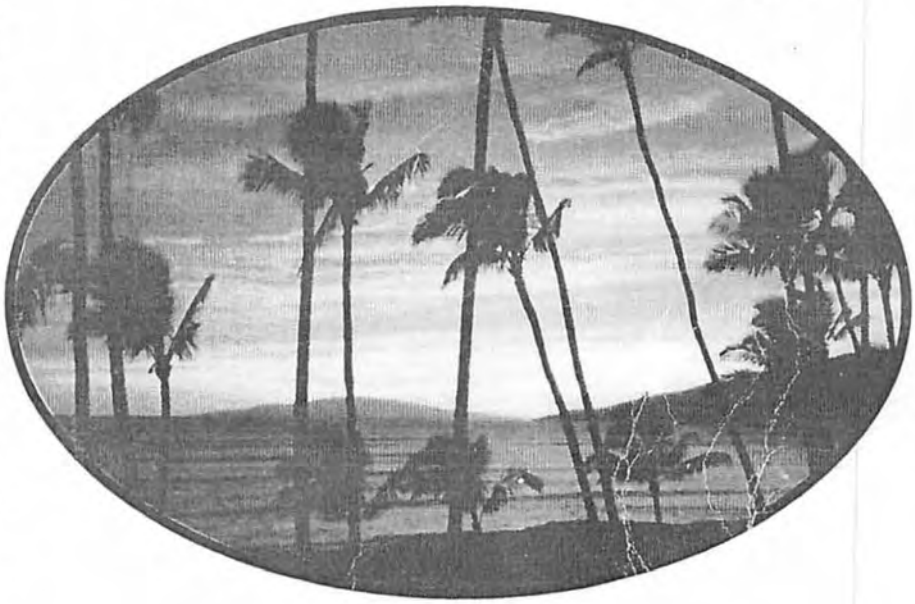
FOR RESERVATIONS & INFORMATION write or call

Hale Kai O'Kihei
1811 OLOWALU ROAD
KIHEI, MAUI, HAWAII 96753
PHONE 875-7877

R.119

HALE KAI O'KIHEI

"OUR HOUSE BY THE SEA IN KIHEI"



35 YEARS OF ALOHA!

1969 - 2004

IN THE BEGINNING . . .

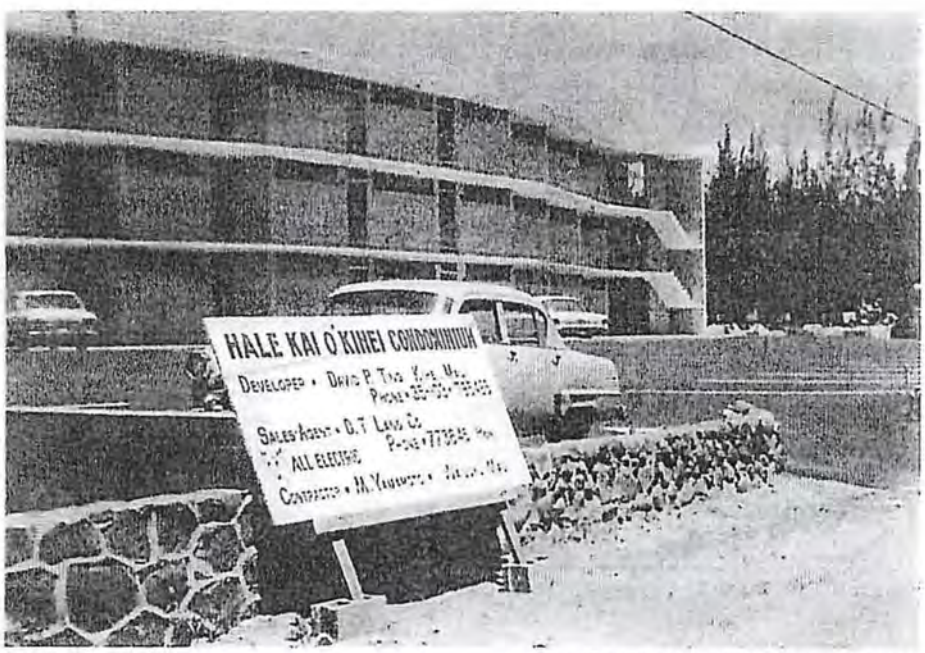
Tom & Rita Shanahan

Unit #206

The building of Hale Kai O'Kihei, Phase One, commenced in 1968, being completed in September, 1969 by David Ting Contractors. Hale Kai is built on the family plot of David Ting, a very successful contractor and well known family from this area. On this land, David Ting was raised.

Hale Kai O'Kihei was only the 2nd condominium to be built in south Maui. The other was the Hale Pau Hana. The *Maui Lu*, built by Gordon Gibson from British Columbia, Canada had also been built. The only grocery store in close proximity to HKOK was *Azeka's*, known for their delicious ribs! Another store down the road, *Suda's* had a few groceries and a small restaurant. South Kihei Road was a two lane dirt road at the time.

The tall coconut palm trees were 100 years old when HKOK was built in 1969.



The 'Big Development' Sign for Phase I

6-23-26
SCANNED

In the beginning, Jim O'Donnell, who worked for Ford Motor Company, saw the potential for this beautiful piece of land. He met with Irene Gentry, a realtor in Honolulu and a cousin of David Ting. Irene handled the initial sales of Hale Kai O'Kihei. A deposit of $1,000 was required to buy in to a single unit.

Jim and his wife Thelma went home to Michigan with brochures in hand. A group of eight couples agreed to buy in to the project, sight unseen. The cost of a single unit was $21,500 and $27,500 for a two bedroom unit! Wouldn't we love to purchase a unit for that price today!!

The O'Donnells were interested in a 3rd floor corner unit, and selected Unit #310. With the addition of phase two, this placed them square in the middle of the complex!

David Ting bought the lot north of the original site, where phase two was added on. We then had two separate entities, known as *Phase I*, the south end with 30 units and *Phase 2*, the north end with 29 units and an office and breezeway.

At an annual owner's meeting, a motion was made to combine the two phases into one association. One owner, a judge, said it was against the law. However, in preparation for his opposition, another owner presented documentation that showed adjoining properties could form a "Community Association", which was voted in.

At the time, the law stated that each phase had their own nine directors, As a result, we had to have an eighteen director board! Realizing this was cumbersome and expensive for almost all directors who live on the mainland, it was decided to combine the two phases. Later on, the law was changed permitting us to become one association with a nine person board. We continue with this procedure today.

Ruth Sluiter

Unit #105

My husband, Jack and I were on our first trip to the Islands. Ray Kooi mentioned to us that he was interested in seeing an area where this Condo complex was to be built. Jack asked if he could join them.

Upon returning, Jack reported he liked what he saw! A beautiful area tucked off a back road (Uluniu) with a wonderful view. A real estate representative came to our hotel. We sat on the edge of the bed and looked at the condo plans.

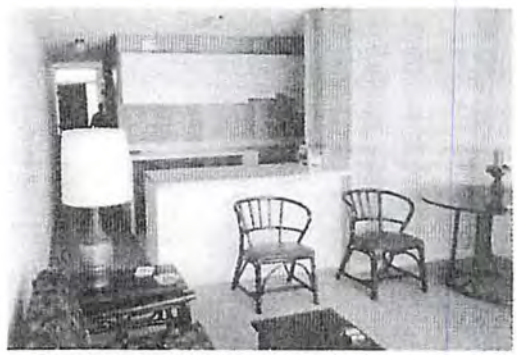
Jack pointed to #105 and said we'd like that one, or none. She questioned whether it was available, but later called back with "yes, we could have it! I believe Allen Ting had his name on it originally. Allen still owns #205 and #112.

To my knowledge, the only other original owners are Tom and Rita Shanahan #206, Myrna Hinton (owned originally by her parents) #117; Mabel Lawrence #203, and the late Ruth Snook #220.

Most of us purchased our furniture from a catalogue from a Honolulu store, and I must admit, many of us chose similar pieces!

Hale Kai is my second home, and I treasure the many friendships I have made.

Ruth Sluiter
Unit 105



The elaborately decorated 1 bedroom ~ circa 1969

Developer's

George Haine

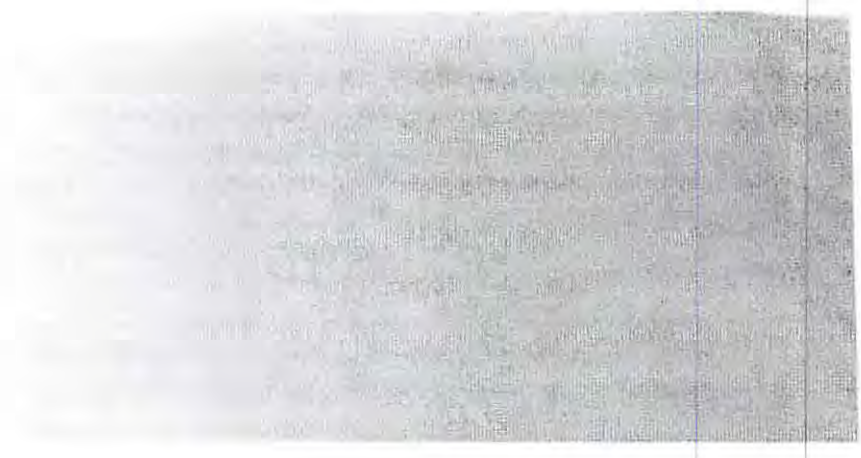
Units #101 & #316

From the Northern California foothills around Auburn, three ladies had become social friends and traveling companions over the years. Ruth Snook, Elizabeth Niegel and Ann Swann were on one of their many excursions, visiting the "islands" in December of 1969. The cool winters of Auburn were always a good reason to travel to warmer climates.

Ruth was on her first visit to Hawaii and Elizabeth and Ann, (who were my mother and grandmother), had visited Oahu several times. The adventurous thing to do in 1969 was rent a 'camper' on each island and visit and stay at the beach parks or wherever the day would take you. Their tour ended on Maui and Kihei afforded many quiet places to 'camp'. They took advantage of a church property at the end of Lipoa as a safe place and soon noticed the nice Hale Kai O'Kihei condos being built next door! And the beach was so flat and with calm water!

It only took a few strolls to HKOK before the talking and planning started like vacationers do, "lets come here every year". Ruth broke the ice by stating she was going to buy a one bedroom unit (#220). Elizabeth contacted the family for support and opted for the last remaining two bedroom unit (#316).

The 'PLAN' was for Ann to come back when Unit 316 was finished and furnish it for family use as a 'vacation home' or occasional rental. Ruth and Ann did return soon but both decided they would like to stay and make Maui their permanent homes.



Ethel Kaaihue

Unit #202

Maui No ka oi Maui the best! My husband Mokie and I were able to visit beautiful Maui frequently, as Mokie worked for the airlines. We were good friends with Irene Gentry, cousin David Ting and wife Elsie. David and Elsie Ting lived on the grounds of Hale Kai in a beach house. David Ting supplied fish from his own fishing fleet, to the hotels.

Through Irene, we became aware of the plan to build apartments on the Ting family lot. In 1968, before Hale Kai was built, Moke and I were one of the first couples to sign up for an apartment, and we chose Unit 202. Eight couples from Michigan also purchased units around the same time.

We have had every denomination stay in our apartment, including a very famous and world-renown clown, Mr. Emmet Kelly. I have always had a love for clowns! I met Mr. Kelly back in 1953, and when I had heard he was interested in a place to stay on Maui, we gave him our unit for no charge.

Maui, and Hale Kai in particular, surrounded by healing waters, lovely weather, majestic mountains, the abundance of fresh fish from the waters and the beautiful sunsets make this a magic place.

I have many wonderful memories of Hale Kai, with beautiful people, fabulous parties and peaceful, healing times. I have found it is time to say Aloha, to my piece of paradise in Kihei, and have recently sold my apartment to some lovely people from Arizona, William and Toni Elliot. I wish them everything beautiful, and may they find the magic that I have always felt for my beautiful *"home by the sea"*.

Aloha Ke Akua, May God Bless!

Auntie Ethel
Unit 202

Postmark
1974

HALE KAI O'KIHEI
CONDOMINIUM

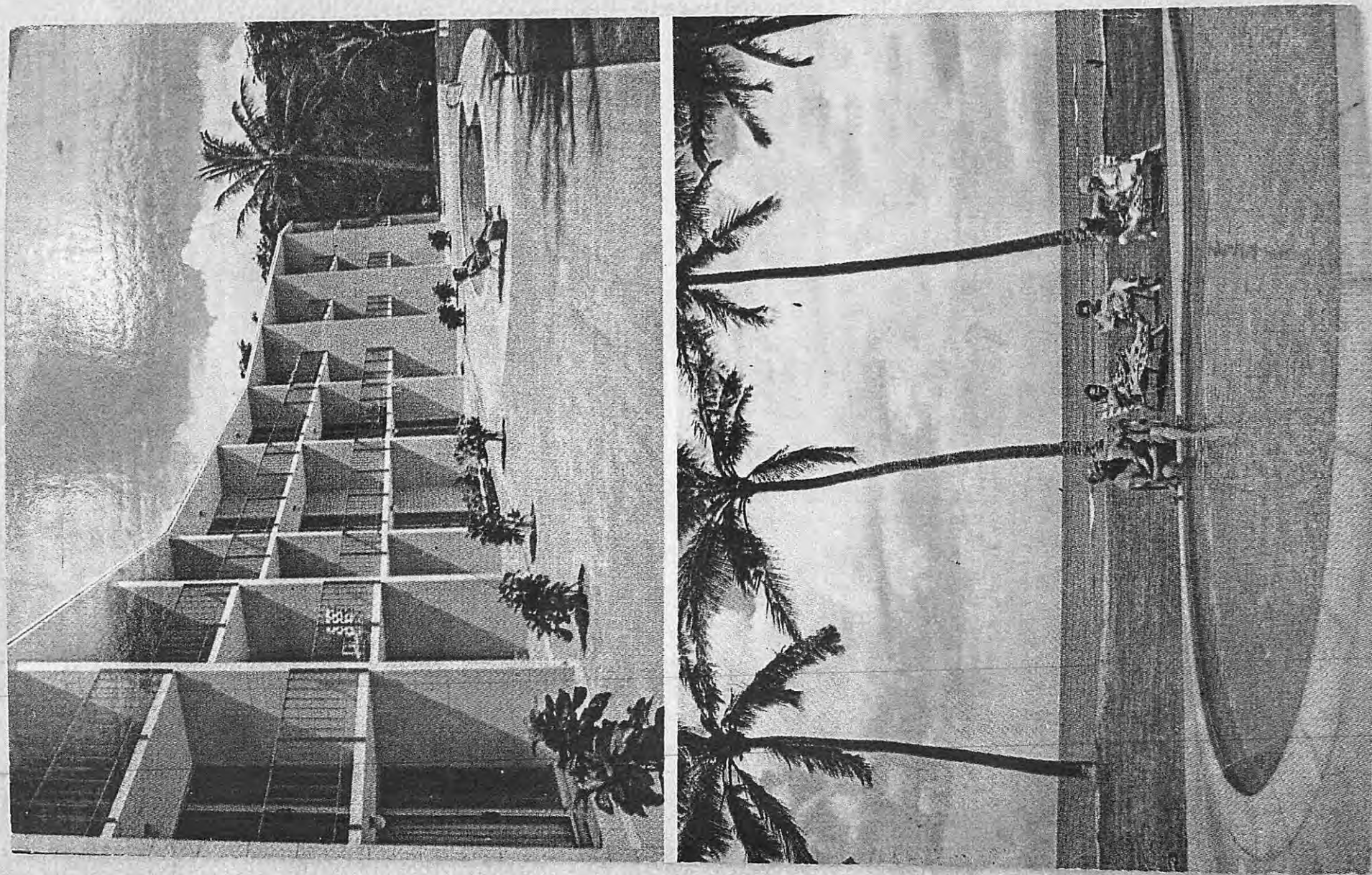
Apartments featuring one- and two-bedrooms fully furnished, with all electric kitchens. All other essential housekeeping services available on premises or by arrangement. All apartments are on the sandy beach front. Putting green and shuffle board are also available. Write: 1310 Uluniu Road, Kihei, Maui, Hawaii 96753.

Dear Louise -
Here we are in Hawaii on the island of Maui. This picture is the place we're at. It's beautiful the weather warm 80° & sunny with a cool trade wind. We leave on Sunday for the big island of Hawaii. I'll write again. Love Aunt Mildred

PUBLISHED BY ARE PRINTING CO.

Mrs Louise Lee
% Central Baptist Seminary
31st Mennister
Kansas City. Kansas
66102

1974 Front of Postcard

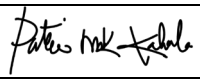
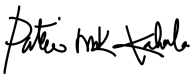


FIRST-TIME HOMEBUYER OPPORTUNITY PROGRAM POLICY

CDBG-DR

County of Maui, Office of Recovery
Email: cdbg-dr@mauicounty.gov
Phone: (808) 270-6267

Version History

Version	Date	Summary Description	Approved By
1.0	08/10/2025	Original Document	Patience Kahula
2.0	10/10/2025	Substantial Revisions and Clarifications	
3.0	05/21/2026	• Clarification of Eligible Counties • Clarification to the Minimizing Displacement Requirements • Clarifications regarding Exceptions to Award Caps • Clarification of reasonable closing costs include other reasonable and allowable costs • Clarifications to Timeliness • Clarification of Award Calculation and Underwriting • Removed state-issued driver's license that meet REAL ID Act standards as eligible documentation for Citizenship and Legal Status • Provided additional language and documentation requirements under Citizenship and Qualified Alien Resident section • Clarification of Required Applicant Certification Requirements • Clarification of Applicant Responsibilities – Pending Action Notice, Non-Responsive Notice • Clarification on number of allowable Environmental Reviews per application • The program's front-end housing cost ratio is revised to a range of 29%–31% of the household's gross monthly income • Clarification that the Program may request additional income documentation to sufficiently project household income • Clarification of the applicability date of the submission of eligibility documentation	

		• Inclusion of Income Documentation Table • Clarification of 1040 AGI Income under Definition Section. • "Proof of Funds" definition added in Definitions Section • Clarification of Homebuyer Education Course Requirement is applicable to Applicant and Co-Applicants. • Clarification of Program Compliance and Security Documents • Clarification and reorganization of Sale/Transfer/Default/Non-Occupancy Section • Updated treatment of One Ohana, Individual and Class Settlement Funds and Duplication of Benefits • Clarifications to Duplication of Benefits and Subrogation • Removed Environmental Review references to the Council on Environmental Quality (CEQ) • Additions to Policy Definitions • Added Program Integrity and Misconduct provisions authorizing suspension and ineligibility for attempted bribery, fraud, or undue influence • Minor formatting and document organization updates	

**Policy language highlighted in gray below indicates changes from the previous version*.

Version Policy

Version history is tracked in the Version History Table (page i), with notes regarding version changes. Dates of each publication are also tracked in this table. Substantive changes in this document that reflect a policy change will result in the issuance of a new version of the document. For example, a substantive policy change after the issuance of Version 1.0 would result in the issuance of Version 2.0, an increase in the primary version number. Non-substantive changes such as minor wording and editing or clarification of existing policy that do not affect interpretation or applicability of the policy will be included in minor version updates denoted by a sequential number increase behind the primary version number (i.e., Version 2.1, Version 2.2, etc.).

Policy Change Control

Policy clarifications, additions, or deletions may be needed during the course of the program to more precisely define the rules by which the Program will operate. Policy decisions will be documented and will result in the revision of the document in question. Unless otherwise noted, policy revisions are applied prospectively, made effective on the date of document approval

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1. Introduction

This document serves as the program policies and procedures for the County of Maui, Office of Recovery (County OOR) First-Time Homebuyer Opportunity Program (the Program). These policies and procedures were developed to serve as a basis for the County OOR's program and to provide guidance on program implementation that follows HUD standards and best practices. This document may also serve as a reference for homebuyers, applicants, participating lenders and other interested parties who want to understand how the program operates. Note that these policies and procedures are only intended to address the Program.

Each of the other recovery programs outlined in the County of Maui Action Plan for the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) Funding ("Action Plan") is governed by its own Program policies and procedures document.

In 2025, the County of Maui was awarded a Community Development Block Grant – Disaster Recovery (CDBG-DR) grant through the US Department of Housing and Urban Development (HUD) to address remaining unmet disaster recovery needs in areas impacted by the Maui Wildfires in 2023. Federal Register Vol. 90, No. 10, published January 16, 2025, allocated a total of $1,639,381,000 in disaster recovery funds to the County[1]. CDBG-DR funds have been allocated to housing, economic revitalization, infrastructure, public services, and mitigation programs. Program budgets were determined based on information gathered during the unmet needs assessment, as outlined in the Action Plan.

The County OOR has allocated $92,500,000 in CDBG-DR funding for the First-Time Homebuyer Opportunity Program.

The County OOR is the agency responsible and accountable to HUD for the administration of CDBG-DR funding.

2. Program Overview

A. Purpose and Objective

The Hoʻokumu Hou First-Time Homebuyer Opportunity Program provides eligible applicants the opportunity to become homeowners. The Program may assist households with incomes at or below 120% of the area median income, as published annually by HUD by providing soft second mortgages for closing costs, down payment assistance, mortgage rate buydown (discount points), principal buydown, and other reasonable allowed costs, as determined by the Program, necessary to acquire homes within the County of Maui.

[1] For full text of the Federal Register Notice, see: https://www.govinfo.gov/content/pkg/FR-2025-01-16/pdf/2025-00943.pdf

This program is designed to ensure that the housing needs of the most vulnerable populations in County of Maui are addressed through aiding them with the opportunity to achieve homeownership.

B. National Objective

All activities funded by the Program must meet the national objectives outlined in the Action Plan:

- Low- to Moderate-Income Housing (LMH)
- Urgent Need (UN)

The urgent need national objective may be used to address the widespread damage to the housing stock due to August 2023 Wildfires. The urgent need objective will be used to assist households that have incomes above 80% AMI to purchase homes outside of the special flood hazard areas of the County of Maui. The urgent need objective will only be utilized after the County OOR has allocated 70% of all CDBG-DR funds for low- to moderate-income households, or in the case of a waiver approved by HUD.

Due to funding limitations and eligibility factors, the Program cannot guarantee assistance to all interested homebuyers. The Program endeavors to serve as many residents as it can with available funds and prioritize assistance for applicants who are most vulnerable.

C. Mitigation Activities

The Program is designed with mitigation as a central and guiding objective. The program directly supports the Grantee's hazard mitigation and resilience strategy by reducing household exposure to current and future disaster risks, as identified in the Mitigation Needs Assessment included in the approved Action Plan. Through the provision of financial incentives, the program facilitates home purchase assistance — into safer, more resilient housing areas.

The Program serves as a complementary and proactive mitigation tool by shifting residential occupancy away from high-risk zones. This relocation reduces the concentration of populations exposed to risks and physical assets in hazard-prone areas, lessens the potential for future disaster-related damage, and supports long-term community resilience. Every home purchase supported by this program represents a permanent reduction in risk exposure, consistent with the Grantee's broader mitigation and recovery goals.

D. Tieback

The Program is designed in direct response to the already existing severe shortage of affordable housing worsened by the disaster. The disaster resulted in significant damage to the local housing stock, increasing displacement and reducing homeownership opportunities. This program supports recovery efforts by helping households, particularly those impacted by the disaster, access safe, affordable, and resilient homeownership options, contributing to the stabilization and rebuilding of the community's housing market.

E. Eligible Counties

The primary residence being purchased with funding from the Program must be located in the County of Maui, the HUD-identified MID, and is restricted to the purchase of eligible property types. (Also see Sections 7.c., 7.d., and 7.g. below).

F. Minimizing Displacement and Relocation

The County OOR will seek to minimize the direct and indirect displacement of individuals, families, businesses, farms, and nonprofit organizations, and persons with disabilities recognizing the significant challenges displacement can cause.

The County OOR will implement this policy in a manner consistent with, and in adherence to, the County OOR's Residential Anti Displacement and Relocation Assistance Plan (RARAP) and the County OOR's URA and Section 104(d) Plan, which together establish the County's CDBG-DR portfolio wide policies and procedures for minimizing displacement, providing relocation assistance, and delivering advisory services in connection with CDBG DR assisted activities.

Where activities funded under this policy may result in temporary relocation or permanent displacement, the County OOR will apply the requirements and protections set forth in the RARAP and the URA and Section 104(d) Plan, as applicable. Program specific provisions contained in this policy are intended to supplement, and not replace, those plans.

The County OOR's RARAP and URA and Section 104(d) Plan are publicly available on the County OOR's CDBG DR website and shall be consulted and applied for all CDBG DR assisted activities that may affect occupants or property interests. In the event of any inconsistency, the provision affording greater protection to affected persons shall apply.

Each project and activity will be evaluated on a case-by-case basis to determine the applicability in accordance with the URA and Section 104(d) Plan. The County OOR will complete the URA Plan Appendix II - URA & Section 104(d) Project Review & Assessment Checklist for each infrastructure, mitigation, housing, and economic development activity prior to execution of a written agreement and will update the assessment if project scope or conditions change.

Optional relocation assistance is not provided under this Program unless required based on the applicability determination described above. Any optional relocation assistance will be made based on an assessment of need and be made uniformly available across like classes of persons.

When providing relocation assistance, the County ORR will make appropriate accommodations to consider the needs of members of vulnerable populations, including but not limited to accounting for the needs of persons with disabilities

The Program activities consist of voluntary, arms-length transactions between willing buyers and sellers of either vacant or owner-occupied housing units. The County OOR strives to mitigate challenges experienced by displaced individuals, persons with disabilities, families, businesses, farms, and non-profit organizations.

The County OOR will take steps to the extent feasible to minimize displacement, such as support local efforts to enact tax assessment policies which reduce the impact of potentially increasing property tax assessments on lower-income owner-occupants or tenants in revitalizing areas; When applicable in accordance with activity type, i.e. purchasing of easements, etc., target only those properties deemed essential to the need or success of the project.

G. Award Caps

The maximum award per application is $600,000.

The Program will determine the amount of assistance per application based on applicant's unmet need. Depending on applicant's need, the assistance can be used for the following:

- Subsidize interest rates and mortgage principal amounts;
- Provide up to 100% of any down payment required from homebuyers; and/or
- Pay reasonable closing costs and/or other reasonable allowed costs (normally associated with the purchase of a home).

The Program may provide additional eligible assistance, evaluated on a case-by-case basis, to ensure an applicant's monthly housing payment is between 29% and 31% of the borrower(s)' gross monthly income amount, however, the maximum award of $600,000 per application will not be exceeded. As indicated in the Action Plan, the Program will make exceptions to the maximum award amounts, when necessary, to comply with Federal accessibility standards or to reasonably accommodate a person with disabilities. The process for exceptions is as follows:

1. Program applicants should submit a written request that includes documentation of need.
2. Program staff will review request with the Special Considerations Panel.
3. Program staff will provide applicant with written decision within thirty (30) calendar days.

All approved exceptions will be tracked for compliance purposes

There is no allotted minimum award for this program. The intent of the program is to provide applicants with the amount necessary, not to provide a standard subsidy for all applicants.

H. Award Calculation and Underwriting

Program assistance closes the gap between (a) the lesser of the purchase price or appraised value, plus reasonable closing/allowed costs, and (b) the maximum first mortgage amount the applicant qualifies for, less any Duplication of Benefits subject to the $600,000 award cap. Assistance may be applied to down payment, closing costs, mortgage rate buydown (discount points), or principal reduction, as determined by the Program. Assistance is intended to close the affordability gap and may only be applied after the borrower's mortgage has been maximized to their capacity; it shall not be used to reduce the borrower's qualifying loan below that capacity.

Affordability Standard: Monthly housing costs (principal, interest, taxes, insurance, and association fees) shall be between 29% and 31% of the borrower(s)' gross monthly qualifying income as determined by the first mortgage lender.

Lender Requirements: Participating lenders must underwrite borrowers to the maximum affordable mortgage amount in accordance with program policy before the Program assistance is applied. The Program will coordinate with lenders to verify compliance with these requirements and ensure consistent application of affordability standards.

The Program may allow applicants to pursue the purchase of a property where the total acquisition cost exceeds the combined amount of the applicant's maximum first mortgage pre-approval and the maximum Program award, provided that the property meets all Program eligibility requirements and the resulting housing costs remain within the Program's established affordability standards.

In such cases, the applicant must demonstrate the financial capacity to cover the gap between total acquisition costs and available financing. Applicants will be required to provide acceptable proof of funds for the required borrower contribution prior to the Program initiating an environmental review for the identified property. The Program will not proceed with environmental review activities for properties where sufficient proof of funds has not been verified.

	Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5
A. Purchase Price or Appraised Value (Which ever is less)	$ 650,000	$ 700,000	$ 800,000	$ 800,000	$ 1,200,000
B. Minus (-) Maximum First Mortgage Loan Amount	$ 175,000	$ 200,000	$ 200,000	$ 225,000	$ 325,000
C. Required Down Payment (a-b)	**$ 475,000**	**$ 500,000**	**$ 600,000**	**$ 575,000**	**$ 875,000**
D. Plus (+) Required Closing Costs and prepaids (assumes 5%)	*$ 32,500*	*$ 35,000*	*$ 40,000*	*$ 40,000*	*$ 60,000*
E. Cash Required for Closing (c+d)	$ 507,500	$ 535,000	$ 640,000	$ 615,000	$ 935,000
F. Minus (-) Duplication of Benefits (DOB)	$ 30,000	$ -	$ -	$ -	$ -
G. Amount Required for Closing (e-f)	**$ 477,500**	**$ 535,000**	**$ 640,000**	**$ 615,000**	**$ 935,000**
H. Maximum Award Amount (Lesser of G or $600,000)	**$ 477,500**	**$ 535,000**	**$ 600,000**	**$ 600,000**	**$ 600,000**
I. Required Borrower Contribution (e-h)	**$ 30,000**	**$ -**	**$ 40,000**	**$ 15,000**	**$ 335,000**

Table 1 Award Calculation Examples – For illustrative purposes only.

NOTE: In the event there is a Required Borrower Contribution (Row I, above), in which the Maximum Award Amount has already been applied (Scenarios 1, 3, 4, and 5), a Proof of Funds will be required (See Section 21, Definitions, Proof of Funds)

I. Timeliness

The County OOR will monitor both expenditures and outcomes against established quarterly projections throughout the life of the Program. Expenditure projections and outcome projections will be maintained in DRGR and compared at least quarterly against actual performance. Subrecipients and implementing entities will provide the data necessary for the County OOR to assess progress toward projected outputs and outcomes, identify variances, and make adjustments to implementation schedules, budgets, and projections as needed. Updated projections and performance information will be posted on the County OOR's disaster recovery website in accordance with applicable CDBG-DR requirements.

The County OOR's Program projections are as follows:

YEAR 1	Period	Target Home Purchases Completed	Target Funds Expended
Q1 2026	Jan-March	4	$2,312,500
Q2 2026	April-June	11	$6,937,500
Q3 2026	July-Sept	23	$13,875,000
Q4 2026	Oct-Dec	38	$23,125,000
YEAR 2	**Period**	**Target Home Purchases Completed**	**Target Funds Expended**
Q1 2027	Jan-March	38	$23,125,000
Q2 2027	April-June	23	$13,875,000
Q3 2027	July-Sept	11	$6,937,500
Q4 2027	Oct-Dec	4	$2,312,500

Table 2 Home Purchase Projections

3. Outreach and Engagement

The County OOR is committed to ensuring that the Program is implemented in a transparent, efficient, and consistent manner, and that all potentially eligible households are aware of and understand the opportunity to participate in the program. The program's marketing and outreach strategy is designed to reach households in the MID areas from the onset of the program throughout the application period through the program life cycle. To engage with residents and stakeholders, the County OOR has utilized and coordinated with the substantial network of community and social groups in Maui to support and encourage participation from disaster-impacted individuals. The County OOR's communication and outreach strategy was successfully implemented in the development of the Action Plan and will be replicated and expanded as necessary to provide the

whole community with information about the Program and how to participate. The County OOR's strategy includes:

- Engaging in community meetings open to the public.
- Consulting with disaster-impacted individuals, stakeholders, local governments, public housing authorities, and other parties in the community to ensure comprehensive and inclusive communication about CDBG-DR program participation.
- Coordinating with community groups, including the Mayor's advisory group.
- Providing information to the community in accessible formats through various local groups.
- Advancing community engagement and input through program surveys, website portals, email, and mailings, social media engagements, and creating vital program materials in accessible formats, including languages most spoken for communities most likely to be impacted by services of programs.
- Engaging in ongoing coordination with public service providers that work with disaster-impacted populations to ensure that any remaining or ongoing disaster-related impacts are brought to the County OOR's attention to enable a coordinated approach to recovery.

The County OOR will coordinate with local partners to provide hard copies of program documents at County of Maui facilities, public libraries and recovery resource centers with information available in accessible formats. The County OOR provided flyers for the public meetings and placed paper copies of the survey in local facilities and County buildings.

A. Social Media

The County OOR will also use official social media channels to provide timely, accessible updates regarding key program milestones, including the opening of the Program applications and the scheduling of public hearings related to the program.

Social media will serve as a real-time communication tool to:

- Notify residents when applications for the program are open;
- Announce dates, times, and locations (physical or virtual) of public hearings on proposed plans, amendments, or CDBG-DR-funded projects;
- Share links to online applications, Action Plan documents, comment forms, and registration details;
- Remind residents of upcoming deadlines for application submission or public comment periods;
- Provide summaries or video recordings of past public meetings and hearings.
- Primary platforms to be used may include:
    - **Facebook**: Public announcements, event invitations, and shareable graphics
    - **Instagram**: Visual promotion of program milestones, community engagement events, and success stories
    - **YouTube**: Hosting recordings of public hearings and outreach videos
    - **Website**: Updated application status (www.hookumuhou.mauicounty.gov)

B. Rapid Unsheltered Survivor Housing (RUSH) Alignment

The Program will be implemented in alignment with HUD's Rapid Unsheltered Survivor Housing (RUSH) policy framework, where applicable. RUSH provides guidance and flexibility to accelerate housing solutions for disaster-impacted individuals and households experiencing or at risk of unsheltered homelessness following a federally declared disaster.

To support HUD's RUSH objectives, the Program will:

- Coordinate with emergency shelter providers, local Continuums of Care (CoCs), and homeless service organizations to identify residents who may be unsheltered or displaced due to the disaster and who reside in areas eligible for the Program;
- Prioritize application processing and service referrals for applicants at risk of homelessness due to disaster-related housing instability, particularly in high-risk zones or repetitive loss areas targeted for the Program;
- Allow for strategic integration of other eligible assistance to support smooth transitions into safer, long-term housing options;
- Ensure that home purchase activities are impact-informed, with attention to those facing compounded housing stabilization challenges.

In addition, the program will align with RUSH goals by:

- Reducing displacement risks associated with the loss of naturally occurring affordable housing (NOAH) in buyout areas;
- Working with local and regional partners to expand access to temporary, transitional, and permanent housing resources, including Housing Choice Vouchers and supportive housing where available;
- Incorporating RUSH-aligned practices into outreach, application intake, case management, and program communications.

This alignment ensures that the Program not only mitigates long-term risk through home purchase assistance but also contributes to the urgent housing stabilization and shelter needs of disaster-impacted populations.

4. Intake Application

Only one (1) application per household for their primary residence will be considered.

Interested applicants may apply for the Program via the following methods

- Complete an application online at **apply.mauioor.com**
- Visit any Program Service Center. All service centers are open from 8:00 AM to 6:00 PM, Monday through Friday[2]. Modified hours may be offered as dictated by program needs. Additionally, intake centers will be available on Saturdays by appointment only.

[2] Please note that County-recognized holidays may impact these hours.

Lahaina	Kahului
Lahaina Gateway 325 Keawe Street, Suite B102 Lahaina, HI 96761	153 E Kamehameha Ave, Suite 101 Kahului HI 96732

Table 3 Location of Program Service Centers

- Download the "Maui OOR" mobile app from the Google Play Store or the Apple App Store and follow the instructions provided, or
- Call **808-865-4007** to be connected to a Program Specialist

Applicants will be required to complete a Program intake application and provide supporting documents required for eligibility review, income verification, duplication of benefits review, and mortgage readiness. Applicants must be able to obtain mortgage approval to be eligible for assistance. The Program is intended to provide funding necessary to cover any gap that may exist between the purchase price of the home minus the amount an applicant can receive as a first mortgage, up to $600,000; however, assistance may also be used to cover other eligible expenses, such as closing costs or mortgage rate buydown/discount points. As such, all documentation submitted by the applicant must be valid at the time of submission and representative of the applicant's current state of mortgage readiness. The application process will require each applicant to authorize the program to obtain 3rd-party data by signing a consent/release form. Program Specialists will collect documents needed to determine eligibility[3].

Program Specialists will be available at the Program service centers, by phone, and via email to assist the applicant through the intake process and to answer questions as needed. Each applicant will be assigned a dedicated Program Specialist. Each Program Specialist has a direct email and phone line at which he/she can be reached. Applicants are provided with direct contact information for the Program Specialist assigned to the application. Alternatively, the applicant may contact a program representative by using the general contact information outlined above.

Multiple standard methods of communication will be provided to ensure applicants receive timely, accurate information regarding their applications and the Program. Methods of communication with the Program include, but are not limited to:

- Program website: **Hookumuhou.mauicounty.gov**
- Email: **info@mauioor.com**
- Telephone at **808-865-4007** and
- Mail correspondence addressed to either intake center

A. Applicant Identification

All applicants and co-applicants aged eighteen (18) or older, who intend to occupy the newly purchased home, will be required to submit a valid photo identification. Expired photo identification will not be accepted. Forms of identification accepted by the Program are:

- Government Issued Photo Identification (Federal or State issued);
- Driver's License;

[3] A complete list of required documentation can be found in the Eligibility Requirements section of this manual.

- Passport;
- Military ID Card; or
- Certificate of Naturalization or Permanent Resident Card.

CRITICAL: REAL ID is an identity document only. It does not prove citizenship or qualified alien status.

Household members under the age of eighteen (18) must also submit proof of age and identity. Birth certificates must be submitted for all household members seventeen (17) and younger, or valid form of identification list above, if applicable. If an applicant is unable to produce a birth certificate for a minor child, other documents may be considered on a case-by-case basis.

B. Citizenship and Qualified Alien Status

The County OOR will administer all CDBG-DR programs in compliance with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), as amended (8 U.S.C. 1601–1646), including eligibility and verification requirements under Title IV. In accordance with the Attorney General's July 11, 2025 Order limiting exceptions, the County OOR shall only recognize the statutory exceptions authorized under PRWORA and shall not extend benefits beyond those permitted by law.

Subject to PRWORA, no federal public benefit may be provided to an alien who entered the United States illegally or is otherwise unlawfully present. To ensure compliance, the County OOR will use the Systematic Alien Verification for Entitlements (SAVE) program, or an equivalent federal verification system, for applicants whose citizenship or immigration status requires confirmation. While the grant agreement does not specifically clarify the scope of SAVE application, it is understood that SAVE is required for all applicants receiving benefits that are not excepted under PRWORA rules.

Until advised otherwise by HUD, the Program will require only those individuals who will be listed on the deed to the assisted property (i.e., the applicant and co-applicant) to provide documentation of U.S. citizenship or qualified alien status.

CRITICAL: *Pending further written guidance from HUD and further order or judgment in State of New York v. U.S. Department of Justice, the County of Maui, as a subdivision of plaintiff State of Hawai'i, will not implement any new or expanded citizenship or immigration-status verification or SAVE-based screening solely on the basis of the July 2025 federal PRWORA notices or HUD's November 26, 2025 PRWORA notice while the stay is in effect. The County reserves all rights under the federal injunction and stipulation, will document any interim actions taken in reliance on that relief, and will maintain a contingency workflow in the event HUD later confirms that an independently operative grant-condition requirement remains.*

I. Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA)

PRWORA establishes the foundational restrictions on alien eligibility for federal public benefits. The key statutory provisions are:

8 U.S.C. § 1611 – Aliens Ineligible for Federal Public Benefits: Establishes that, with limited exceptions, an alien who is not a "qualified alien" is not eligible for any federal public benefit. The statute defines "federal public benefit" to include any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds, as well as retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit.

8 U.S.C. § 1641 – Qualified Alien Definition: Defines the categories of aliens who qualify for federal public benefits:

1. Lawful Permanent Residents (LPRs) admitted under the Immigration and Nationality Act
2. Refugees admitted under INA § 207
3. Asylees granted status under INA § 208
4. Aliens whose deportation or removal has been withheld under INA § 243(h) or § 241(b)(3)
5. Aliens granted parole under INA § 212(d)(5) for at least one year
6. Conditional entrants under former INA § 203(a)(7) (prior to April 1, 1980)
7. Cuban-Haitian entrants as defined in Pub. L. 96-422
8. Certain battered aliens and their children (VAWA protections) - if the individual responsible for battery/cruelty does not reside in the same household as the victim(s)
9. Aliens granted nonimmigrant status under INA §101(a)(15)(T) (T nonimmigrant status), including certain applicants with a pending application that establishes a prima facie case for eligibility
10. Individuals lawfully residing in the United States pursuant to a Compact of Free Association (COFA) recognized under 8 U.S.C. §1612(b)(2)(G)

CRITICAL: *Immigration classifications alone do not determine PRWORA eligibility. Certain immigration statuses may be lawfully present in the United States but are not "qualified aliens." Conversely, some statuses that fall within broader immigration classifications (such as T nonimmigrant status) are expressly included within the statutory definition of qualified alien. Eligibility determinations must therefore be based on the statutory definition in 8 U.S.C. §1641 and the immigration status verified through SAVE rather than visa classification alone.*

For examples of commonly used Immigration Documents, see the U.S. Citizenship and Immigration Services (USCIS) website.

8 U.S.C. § 1611(b)(1)(B) – Emergency Disaster Relief Exception: PRWORA's restrictions do not apply to "short-term, non-cash, in-kind emergency disaster relief." This exception is narrowly construed and primarily applies to immediate post-disaster assistance such as emergency shelter,

food distribution, and non-cash material assistance. Long-term housing rehabilitation, reconstruction grants, and direct cash payments to homeowners do NOT qualify for this exception.

8 U.S.C. § 1642 – Verification Requirements: Establishes the verification framework for federal public benefits, including authorization for SAVE. This section also contains the nonprofit charitable organization exemption from verification requirements, though the underlying eligibility restrictions still apply.

CRITICAL: *For any assistance provided by this program, all individuals included on the purchase contract, mortgage, and/or deed, must be verified for PRWORA eligibility.*

II. U.S. Citizenship Verification

Applicants must provide one (1) of the following documents for Citizenship and Qualified Alien Status verification:

Tier 1: Primary Documentation (Stand Alone):

- U.S. Passport
- Passport Card
- Certificate of Naturalization (N-550, N-570), or
- Certificate of Citizenship (N-560, N-561)

Tier 2: Secondary Documentation (Requires Separate Identity Document)

- U.S. Birth Certificate
- Consular Report of Birth Abroad (FS-240, DS-1350, FS-545)
- U.S. Military Record showing U.S. birthplace (DD-214 or other official military documentation)
- Hospital record of birth (only if birth certificate unavailable), or
- Lawful Permanent Resident (Green Card)

Tier 3: Tertiary Documentation (Last Resort)

- Affidavit of citizenship signed under penalty of perjury
- Early school records showing U.S. birthplace, or
- Census records showing U.S. birth

Other citizenship and legal status documentation may be considered on a case-by-case basis, including but not limited to Citizens of the Freely Associated States of the Federated States of Micronesia, the Republic of the Marshall Islands and the Republic of Palau.

III. Immigration Document Verification

Applicants must provide one (1) of the following documents for Immigration/Qualified Alien Status Verification:

- Permanent Resident Card (I-551)
- Refugee Travel Document

- Asylum Approval Letter
- Employment Authorization Document (I-766)
- I-94 Arrival/Departure Record
- Foreign Passport with Visa
- Notice of Action (I-797)

CRITICAL: Per HUD Guidance dated April 2, 2026, the County OOR may designate applications as "hold in line" when applicants provide documentation demonstrating that citizenship or eligible immigration status renewal is actively in progress.

Under this approach:

1. Applications shall be considered intake-complete but not eligible for final approval until valid documentation is received;
2. No assistance shall be approved, obligated, or disbursed while the application remains in "hold in line" status; and
3. Applicants shall receive written notice identifying:
    - The reason for the hold;
    - Any additional documentation required; and
    - The conditions under which eligibility determination will resume.

This practice acknowledges that renewal delays may result from federal agency backlogs or staffing limitations and ensures consistent treatment of applicants while maintaining compliance with federal requirements.

C. Applicant Designees

Applicants may choose to designate other individuals to act on their behalf or to receive information about the application from the Program. Applicants may designate a Power of Attorney, Co-Applicant, or Communication Designee, or any combination thereof, at the sole discretion of the applicant. The requirements for and powers of each designated representative type vary and are outlined below.

- **Power of Attorney**: Power of Attorney is legally authorized to act on behalf of the applicant. The powers afforded to a legally authorized Power of Attorney vary, based on the duly executed Power of Attorney document. The Program will not aid applicants in designating or securing a Power of Attorney but will recognize the powers of a legal Power of Attorney as outlined in a Power of Attorney document submitted by the applicant. The County OOR may refer the review of Power of Attorney documents to Maui County Corporation Counsel for review, on a case-by-case basis.
- **Co-Applicant:** A Co-Applicant must be an adult. Co-Applicants will have the same authority over the Program application as the Applicant. If a Co-Applicant is designated by the Applicant, Co-Applicants must sign all program documents with the Applicant.

The Co-Applicant will be granted decision-making authority over the Program application. However, Applicants are not required to designate a Co-Applicant**.**

- **Communication Designee**: A communication designee may be any adult person the applicant wishes to designate as an authorized person to receive information about the applicant's program application. The Program shall be authorized to share information with the communication designee, but the Communication Designee is not authorized to make any decisions regarding the Program application or affect the Program application on the applicant's behalf.

Any of the aforementioned persons, if duly appointed by the applicant, may serve as the applicant's representative in attendance of program inspections, should the applicant be unable or unwilling to attend. However, only the Power of Attorney duly authorized to do so may sign documents, make agreements or decisions, or otherwise act unilaterally on behalf of an applicant.

D. Required Applicant Certifications

The certifications required from the Applicant, Co-Applicant, and all adult household members, as applicable, for participation in the Program are outlined in the Table 4 below. The Program reserves the right to require additional certifications or remove certifications at its discretion.

Document	Description
Release of Information	• Authorization to share and receive personal information from third parties in connection with the Program and for purposes of progressing his/her case through the Program.
Certification of Truthfulness	• Affirmation that all information provided in the application is accurate
Subrogation Agreement (as applicable to the Program)	• Affirmation that any funds received for the same purpose as funds provided under the Program after provision of assistance through the Program must be returned to County of Maui
Conflict of Interest Disclosure	• Report of relationship with any public servant, employee, agent, consultant, officer, or elected official or appointed official of the County of Maui, the Office of Recovery (OOR), or of any designated public agencies, or of subrecipients that are receiving funds under the CDBG-DR Program (collectively, "Public Servant") and the nature of said relationship. Applicants who do not have a relationship with Public Servants must report that no such relationship exists.
No Income Certification (as applicable)	• Self-certification confirming that the applicant, co-applicant, or adult household member who claimed zero income attests that he/she does not earn income.

Table 4: Applicant Certification Documents

5. Applicant Prioritization

To assist the most vulnerable households in County of Maui, the Program will prioritize review of applicants based on the following phases, with the burn zone within the County of Maui, as indicated on this map: https://www.mauirecovers.org/maps/fire-extent:

Phase	Criteria
Phase I	Households whose primary residence on August 8, 2023, were within the burn zone and whose annual income equal to or less than 80% AMI.
Phase II	Households whose primary residence on August 8, 2023, were within the burn zone and whose annual income is between 80 and 120% AMI
Phase III	Households whose primary residence on August 8, 2023, were outside of the burn zone and whose annual income is equal to or less than 80% AMI.
Phase IV	Households whose primary residence on August 8, 2023, were outside of the burn zone and whose annual income is between 80 and 120% AMI.

Table 5: Program Prioritization

A. Order of Assistance

The Program shall process applications using a "first come, first ready" methodology within each priority group. Within each phase, prioritization is determined by the date on which the applicant submits all required documentation necessary for eligibility and priority status review.

- "*First come*" is the date and time the applicant submitted their application, the "Created Date" in the County OOR system of record and serves as the official benchmark for establishing this criterion.
- "*First ready*" is the date and time the application is approved for "Pre-Award QC" in the County OOR system of record, serves as the official benchmark for establishing this criterion.

This standard applies consistently across all priority phases, including instances where applicants move into or out of a given phase. Applicants who are reassigned to another phase due to updated information (e.g., income verification, household composition) will retain their original "Pre-Award QC" approval date. Their case will continue in line within the newly assigned phase, if applicable.

This approach prioritizes applicants who have submitted complete applications and satisfied all program requirements necessary to begin eligibility determination.

This policy ensures fairness, transparency, and timely delivery of assistance while recognizing that applicants may progress at different speeds based on their ability to provide documentation and meet program requirements. The Program also acknowledges that the most vulnerable households often face greater impediments to completing applications. To address this, the Program will provide proactive support to help all applicants identify, gather, and submit required documents and certifications as quickly as possible.

Applicants who qualify for priority, as outlined above, will be reviewed on a daily, rolling basis in sequential phase order (Phase 1 through Phase 4). Each day, the Program will first review all Phase I applicants in the queue, followed by Phase II, then Phase III and so on.

The program understands that low-income, wildfire displaced renters have a vulnerability, applicants in Phase I will be awarded before any applicants in phases II – IV are awarded. Eligibility review may result in an initial determination of eligible, not eligible, or a request for additional information. Applicants may be reassigned to a different phase if new or updated information changes their priority status.

6. Applicant Responsibilities

For the Program to be successful in providing applicants with home purchase assistance awards, the applicant must participate and comply with program timeframes, directives, and requests. the Program is a voluntary program. Applicants who do not wish to comply with all or some of the applicant responsibilities may opt to withdraw from the program at any time.

A. Applicant Cooperation with the Program (Pending Action Notice)

Throughout the life of an applicant's participation in the Program – from submission through closeout of the application – the applicant must participate and respond to requests from the Program in a timely manner. At no point should a request from the Program go unanswered for more than thirty (30) calendar days.

The Program will send applicants with outstanding requests from the Program a Pending Action Notice (PAN) to inform the applicant of the outstanding request(s). The Pending Action Notice informs the applicant that the Program requires action from the applicant to proceed and that if the applicant does not complete the required action within thirty (30) calendar days, the applicant's case will be closed. Common outstanding requests include, but are not limited to:

- **Documentation:** The program requires documentation from the applicant for multiple reasons and at multiple phases throughout the program. Not all requests for documentation are for documents an applicant must produce. Some documentation requests may be related to documents generated by the program that the applicant must sign. Applicants must submit and/or sign requested documents in a timely manner.
- **Schedule:** The program requires applicant cooperation and participation at multiple points throughout the process. Applicants must schedule and attend required appointments, inspections, or other required meetings in a timely manner. The Program will make reasonable attempts to coordinate schedules with applicants' availability. Applicants who refuse to schedule or attend required meetings or inspections may be sent a Pending Action Notice.

Applicants who do not take the required action(s) within thirty (30) calendar days of the Pending Action Notice will be closed. Applicants who require assistance, clarification, or an extension to the thirty (30) calendar day timeframe to resolve a pending action must request assistance within the thirty (30) calendar day window. Extensions to the thirty (30) calendar day window will be considered on a case-by-case basis.

B. Applicant Responsiveness (Non-Responsive Notice)

The Non-Responsive Notice is a separate process from the Pending Action Notice (Section 6.a.) and is triggered by the Program's inability to reach the applicant, not by a specific pending document or action request. The 14-day response window reflects the urgent need to re-establish contact rather than the time needed to produce documentation. The program will make reasonable attempts to contact applicants, or designees to schedule meetings, collect documentation, or obtain other necessary information. If the program has made three (3) consecutive unsuccessful attempts to contact an applicant with no follow up contact from the applicant, the applicant will be sent a Non-Responsive Notice. Non-Responsive Notice provides contact information for the program, advises the applicant of the next steps in the application process, and notifies the applicant that he/she must contact the program or complete an action within fourteen (14) calendar days of the date of the letter. If the applicant fails to contact the program or complete the action within the fourteen (14) calendar days allowed, the application will be closed.

C. Voluntary Withdrawal

Applicants may request to withdraw from the Program at any time. Once a withdrawal request is made, a voluntary withdrawal process from the Program will take place. In such an event, the Applicant will notify their Program Specialist in writing of their desire to withdraw from the Program. The withdrawal request may include, at a minimum, the applicant's name, application number, and date they wish to withdraw. The Applicant may submit the request via postal mail, in person at the intake center(s), or by email. Once the Program has reviewed and accepted the withdrawal request, the Program will issue a Voluntary Withdrawal Notice. During this stage, the Applicant's status will update from "Active" to "Withdrawn". The Voluntary Withdrawal Notice informs the applicant that the Program has received their request to withdraw, and states that the applicant has fifteen (15) calendar days from the date of the letter to rescind the withdrawal request. If the applicant does not rescind the voluntary withdrawal request within the fifteen (15) day period, the Program will send a Voluntary Withdrawal Confirmation Notice to the Applicant. The Voluntary Withdrawal Confirmation Notice will inform the Applicant that the process has been completed, and the application will be closed as withdrawn from the Program. However, the Applicant's voluntary withdrawal does not preclude the Applicant from submitting a new application to the Program as long as the Program is still accepting applications.

D. Environmental Review and Purchase & Sales Agreement

For a property to be eligible for acquisition with the Program funds, the Program must document that each property has a completed satisfactory Environmental Review. To ensure compliance with 24 CFR Part 58, applicants for Program assistance may not sign or enter into a purchase and sales agreement or otherwise commit to the purchase of a property until they have been formally notified

that environmental clearance has been obtained. Doing so would trigger a Choice-Limiting Action[4], rendering the application ineligible for assistance.

The Program will endeavor to complete the Environmental Review expeditiously upon identification of a subject property. Applicants may identify a property of interest and initiate lender pre-approval during the application period; no binding commitment to purchase (i.e., executed Purchase and Sale Agreement or equivalent instrument constituting a choice-limiting action under 24 CFR 58.22) may be executed until written environmental clearance is received.

Limit on Environmental Reviews. The Program will complete up to two (2) environmental reviews per applicant as a standard allowance. A third or subsequent review may be authorized by Program staff upon a written showing that prior reviews were necessitated by circumstances outside the applicant's control, such as a failed transaction due to seller withdrawal, competing offers, or property condition issues identified after clearance. Reviews necessitated by an applicant's selection of a property for which they have not obtained or cannot obtain adequate financing, or by voluntary withdrawal from a transaction without documented cause, will not count toward a new standard allowance. In such cases, the cost of the additional review may be assessed to the applicant or the Implementation Contractor, as determined by the Program. Detailed procedures governing this determination are addressed in the applicable Standard Operating Procedure.

7. Eligibility Requirements

Applicants must provide complete and accurate information regarding their household composition, household income, and other eligibility criteria. Failure to disclose accurate and complete information (including failure to provide necessary documentation) may result in the applicant being deemed ineligible for assistance.

If an Applicant is found to have submitted fraudulent, inaccurate and/or incomplete information to appear eligible for the Program, then they may be required to make full restitution to the County OOR, including (but not limited to) administrative fees, recapture of program assistance and other costs, as applicable.

All applicants to the Program must demonstrate compliance with all eligibility criteria, as follows:

- **First-Time Homeowner**: Applicant and/or Co-Applicant Homebuyer(s) are required to be a first-time homeowner *(Defined as an individual(s) who have no ownership interest in a residential property during the three years prior to applying to the Program)*.
    - Any other household members must not be current owners of a residential property at the time of their Program application.

[4] A choice-limiting action is any activity that a grantee undertakes, including committing or expending HUD or non-HUD funds, that reduces or eliminates a grantee's opportunity to choose project alternatives that would avoid or minimize environmental impacts or enhance the quality of the human environment. See: https://www.ecfr.gov/current/title-24/subtitle-A/part-58/subpart-C/section-58.22

  - Applicants and/or Co-Applicants who have inherited property and are listed on the deed, but do not occupy the inherited property as their primary residence, may still qualify as first-time homebuyers. For purposes of this provision, the nature of the transfer instrument does not determine eligibility; what matters is whether the property served as the applicant's primary residence during the three-year look-back period. Transfers without consideration, in addition to inheritances, are eligible for consideration under this Exceptions and Special Considerations. All such cases will be evaluated individually through the program's Exceptions Process;

- **Eligible for Federal Benefits**: Must be a U.S. Citizen or Qualified Alien Status.
- **Mortgage Readiness**: Must be able to obtain a first mortgage commitment.
  - Applicants who are not mortgage ready or able to obtain mortgage financing will have the option to seek financial fitness counseling with a HUD-approved counseling agency, not to be confused with the program required Homebuyer Education Class.
  - Costs associated with financial fitness counseling are not covered by the Program. Applicants will be required to pay all fees associated with financial fitness counseling at their own expense.
- **Completion of Homebuyer Education Course**: Applicants and Co-Applicants are required to attend and complete a Homebuyer Education Workshop with a HUD-approved housing counseling agency.
- **Eligible Properties**: Must be purchasing a single-family, move-in ready residential unit in the County of Maui;
- **Current or Disaster Impacted Resident**: Must be either a current resident or a returning wildfire displaced resident of County of Maui;
- Property taxes and homeowner's insurance must be escrowed;
- Hurricane Insurance must be maintained by the first-time homeowner and must be escrowed;
- **Income Eligibility**: Total combined gross household income must not exceed 120% AMI. *Note: Keep in mind that while both household income and mortgage qualifying income relate to a borrower's finances, they are used for different purposes, are calculated differently and follow different rules.*
  - *CDBG-DR Household Income (For Program Eligibility) Purpose*
    - Includes all taxable income (IRS 1040 Method) for all household members projected over the next 12 months.
    - Used to determine if the household is eligible for assistance under HUD's income limits (typically at or below 120% AMI for CDBG-DR funded programs).
    - Guidelines Used: Must follow HUD income determination rules – for the Program, that is IRS Form 1040 Adjusted Gross Income (AGI) method.
  - *Mortgage Qualifying Income (For Loan Approval) Purpose*
    - Used by lenders to determine if the borrower has sufficient income to repay the mortgage.
    - Guidelines Used: Follows lender underwriting standards, such as: FHA, VA, Fannie Mae/Freddie Mac, or bank-specific guidelines.

- Includes only income of borrower(s) on the mortgage application and may exclude some types of income counted as part of the household income calculation (i.e., the income from a household member who is not a borrower on the mortgage application).

Other applicant requirements:

- All Applicants and/or Co-Applicants are required to sign all program documents, as applicable
- Married couples in which the Applicant and/or Co-Applicant are living (or planning to live) separately will be reviewed on a case-by-case basis as part of the Exceptions Process;
- For married couples, both spouses need to sign all program documents, as applicable.
- Every person listed on the mortgage must be named on the deed;
- All applicants must occupy, the assisted property as their primary residence upon closing and must continue to occupy the property as their primary residence through the applicable compliance period (See Default Provisions for recapture obligations). Non-occupying borrowers and co-signers are not permitted on the mortgage. (See also: First Mortgage Commitment documentation requirement).
- Property taxes and homeowner's insurance must be escrowed;
- Hurricane Insurance must be maintained by the first-time homeowner and must be escrowed;

Eligibility will be determined by the Program based on a combination of information and documents supplied by the applicant and information verified independently by the program, all of which must be valid and effective as of the application submission or eligibility document submission date, unless otherwise stated.

Documentation of Eligibility Criteria

Eligibility Criterion	Acceptable Document(s)	Document Standard
First-time Homebuyers (non-ownership) **Applicants who have inherited property and are listed on the deed, but do not occupy the property as their primary residence, may still qualify as first-time homebuyers. These cases will be evaluated individually through the program's Exceptions Process.*	• Applicant certification/affidavit of non-ownership And; At least one (1) of the following: • Tax returns for prior three years for First Time Homebuyer verification (Most current tax return is required for income	• Certification/attestation of non-ownership • Review of tax returns for mortgage interest deduction or real estate taxes • Check for existing mortgages, closed mortgage accounts with recent activity or trade lines for mortgage loans • Title search of applicant's name in deeds/property records for last three years • Lease or rental agreements that confirm applicant occupied a rental property

Eligibility Criterion	Acceptable Document(s)	Document Standard
	verification, See Table 7 for further requirements.) • Credit report (from mortgage lender) • Title search • Lease agreements from rental units for prior three years	
U.S. Citizenship or Qualified Alien Status	Tier 1: Primary Stand-Alone Documentation: • U.S. Passport • Passport Card • Certificate of Naturalization (N-550, N-570) • Certificate of Citizenship (N-560, N-561) Tier 2: Secondary Documentation (Requires Separate Identity Document) • U.S. Birth Certificate • Consular Report of Birth Abroad (FS-240, DS-1350, FS-545) • U.S. Military Record showing U.S. birthplace (DD-214 or other official military documentation) • Hospital record of birth (only if birth certificate unavailable) • Lawful Permanent Resident (Green Card) Tier 3: Tertiary Documentation (Last Resort)	• All documentation provided must be original source document, or certified copy or notarized copy from issuing authority, as applicable. • For immigration status verification, PRWORA Eligible Documentation Cross-Walk Below: o Lawful Permanent Resident (LPR) → Form I-551 (Green Card), Temporary I-551 Stamp in foreign passport or Form I-94 o Refugee (INA Section 207 → Form I-94 stamped "Refugee" or "Section 207", Form I571 (Refugee Travel Document), Employment Authorization Document (EAD) w/ code A3 o Asylee (INA Section 208) → Stamped I-94 "Asylum Granted" o Withholding of Removal (INA

Eligibility Criterion	Acceptable Document(s)	Document Standard
	• Affidavit of citizenship signed under penalty of perjury • Early school records showing U.S. birthplace • Census records showing U.S. birth Qualified Alien Status Documentation: • Permanent Resident Card (I-551) • Refugee Travel Document • Asylum Approval Letter • Employment Authorization Document (I-766) • I-94 Arrival/Departure Record • Foreign Passport with Visa • Notice of Action (I-797)	Section 243(h)/241(b)(3) → USCIS documentation referencing Section 241(b)(3), Employment Authorization Document Category A10 o Parolee (INA Section 212(d)(5) --_ Form I-94 showing parole status, USCIS parole approval status o Conditional Entrant → I-94 stamped "Conditional Entrant), or USCIS or legacy INA doc referencing INA Section 203(a(7) o Cuban-Haitian Entrant → Form I-94 indicating Cuban-Haitai Entrant Status, EAD w/ Category A03, or USCIS/DHS doc confirming entrant status o Battered Aliens/VAWA Self-Petitioners → Approved or pending VAWA self-petition (Form I-360), USCIS Prima Facie Determination Letter, EAD Category C14

Eligibility Criterion	Acceptable Document(s)	Document Standard
		o T Nonimmigrant Status → Form 797 approving T-Visa, EAD Category A16 o Compact of Free Association (COFA) → I-94 showing COFA status, Passport from Federated States of Micronesia (FSM), Republic of the Marshall Islands (RMI) or Palau
First Mortgage Commitment	• Current (no more than 30 days prior to application date) pre-approval or loan commitment with required lending terms (minimum 30-year term, fixed rate)	• All documents must show applicant and co-applicant, if applicable • Must not include a non-occupying co-borrower or co-signer on the loan.
Homebuyer Education Certificate	• Homebuyer education course completion certificate from a HUD-approved housing counseling agency	• Certificate must be in the name of the Applicant and Co-Applicant, if applicable, and any individual who will be listed on the property deed.
Eligible Location	• Property must be located within Maui County, HI and outside of Special Flood Hazard Areas	• Address should match the address on the executed Purchase and Sale Agreement (PSA).
Current Resident	• Copy of a lease in the name of the Applicant, or Co-applicant, showing current residency in a residential property located within the County of Maui. OR two (2) documents from the following list:	• Address on the lease should reference a property anywhere within the County of Maui but must indicate a current lease agreement for occupancy. • Driver's license or State-issued ID card must show an address within the County of Maui, and the driver's license or state-

Eligibility Criterion	Acceptable Document(s)	Document Standard
	• Driver's license or state-issued ID card in the name of the Applicant or Co-applicant. • Utility bill addressed to Applicant and/or co-applicant at an address located within the County of Maui. • Credit card or bank statement sent to the Applicant or co-applicant at a property located within the County of Maui • Other documents may be considered on a case-by-case basis.	issued ID must be current (cannot be expired). • Utility bill must show that services were provided at the address indicated on the driver's license or lease agreement provided and must also be in the name of the applicant or co-applicant. The utility bill must show current usage. • Credit card or bank statement must show the same address as the lease agreement or ID/driver's license provided and must also show the applicant or co-applicant's name. The credit card and bank statement must also be current.
Wildfire Displaced Resident	One (1) document from the following list: • Copy of a lease in the name of the Applicant or Co-applicant, showing a residential property located within the burn zone at the time of the August 2023 Wildfires. • Evidence of a FEMA IA award in the Applicant or Co-applicant's name at an address within the burn zone, referencing the August 2023 Wildfires (FEMA Disaster # DR-4724-HI). OR two (2) documents from the following list:	• Address on the lease should reference a property anywhere within the County of Maui but must indicate a lease agreement for occupancy prior to the date of the August Wildfires. • FEMA IA Award Letter does not need to indicate that the award is specifically for a destroyed property as the applicant is a renter and not a homeowner. The award can be for personal property or other uses. The point of the award is to prove residency. • Driver's license or State-issued ID card must show an address within the County of Maui on or before August 8, 2023, and expiring after. • Utility bill must show that services were provided in the

Eligibility Criterion	Acceptable Document(s)	Document Standard
	• Driver's license or state-issued ID card in the name of the Applicant or Co-applicant with an address in the burn zone. • Utility bill addressed to Applicant and/or co-applicant at an address located within the burn zone. • Credit card or bank statement sent to the Applicant or co-applicant at a property located within burn zone. Other documents may be considered on a case-by-case basis.	month preceding or month of the disaster (must indicate the household utility usage during the pre-fire time period). • Credit card or bank statement must be in in the month preceding or the month of the disaster.
Income	• See Section 7a. below	

Table 6 Eligibility Documentation

Requests for Additional Information

The Program reserves the right to request additional information to establish Program eligibility for any of the required sections above through a Pending Action Notice (PAN). See Section 6.a.

A. Income Eligibility

To meet Program income eligibility requirements, applicants must have a total combined household income that does not exceed 120% AMI, adjusted for family size, as published annually by HUD[5]. For purposes of this Program, Low- and Moderate-Income (LMI) shall mean households equal to or less than 80% of Area Median Income (AMI), Urgent Need (UN) households are those with incomes greater than 80% but not to exceed 120% AMI.

I. Household Definition

Household members are all people (minors and adults) who intend to reside in the fire-impacted home as their primary residence The test of meeting the low-to-moderate income objective is based on the total adjusted gross income of all the adult household members.

A household is defined as all people occupying the same housing unit, regardless of their relationship to each other. The occupants could consist of a single family, two or more families living together, or any other group of related or unrelated people who share living arrangements

[5] CDBG and CDBG-DR Income Limits: https://www.hudexchange.info/resource/5334/cdbg-income-limits/

The Program will use the following rules to determine the income of household members to be included in the household income calculation:

- **Minors** - Earned income of minors, including foster children (household members under age 18) is not counted. Unearned income attributable to a minor is included in the household income calculation (Examples include payments from trusts, stocks, bonds, etc. if the payments are taxable at the Federal level).
- **Temporarily Absent Family Members -** The income of temporarily absent family members is counted in the annual income, regardless of the amount the absent member contributes to the household. Temporarily absent family members are also counted as a member of the household when determining the household size.

If one of the following special circumstances applies, the income of the referenced individuals will be excluded from the total household income calculation:

- **Live-in Aides**: Persons who are employed by the household and meets the definition[6] of a Live-in Aide and/or are a child of that Live-In Aide
- **Relatives as Live-In Aides**: For relatives to be excluded from the household composition and income calculation, the Live-in Aide relative must meet the definition of a Live-in Aide, and the applicant must certify that:
    - The Live-In Aide is qualified to provide the needed care,
    - The Live-In Aide was not part of the household prior to receiving CDBG-DR assistance
        - If a Live-in Aide relative does not meet the definition of a Live-in Aide and/or the applicant does not certify the abovementioned Live-in Aide certifications then the Live-in Aide relative is not eligible for this exclusion. In such cases, the Live-in Aide and any of their dependents will be included in the household composition and the relative's income will be included in the total household income calculation.
- If an applicant is married and their spouse is absent from the household, residing in a separate household the income of the absent spouse will not be included in the total household income if documentation of a separate residence for the absent spouse is provided.

II. Income Definition (Annual Income)

The Program will use the Internal Revenue Service (IRS) Form 1040 definition of income, as set forth in HUD regulations (24 CFR 570.3), for the purpose of determining Applicants' eligibility for the Program. The IRS Form 1040 definition of income is often referred to as the Adjusted Gross Income or the AGI method.

The Program will project household income by estimating the Adjusted Gross Income (AGI) that would appear on a current IRS Form 1040, based on each adult household member's current rate of

[6] Definition of Live-in Aide (24 CFR 5.403): A person who resides with one or more elderly persons or near-elderly persons or persons with disabilities AND who: 1) Is determined to be essential to the care and well-being of the persons, 2) Is not obligated for the support of the persons, AND 3) Would not be living in the unit except to provide the necessary supportive services.

income at the time assistance is provided in accordance with 24 CFR 570.3. Current income documentation is primary for this projection; the most recently filed tax return supplements and corroborates the projection. A list of income documentation that may be required is included in Table 7.

Pursuant to 24 CFR 570.3, the estimated projected Household income shall include income from all adult family or household members, as applicable. Income or asset enhancement derived from the CDBG-assisted activity shall not be considered in calculating estimated annual income.

Eligibility Criterion	Document(s) Required
Household income	Proof of income is required for all applicants and all household members aged 18 or older. Proof of income required varies by the type of income and individual earnings. Required documents to demonstrate income for the most common sources of income are as follows: • **Most recent, filed year tax return with W-2's, and** • **Wages**: Three (3) most recent consecutive paystubs within the last three months of income determination. If paid monthly, bi-weekly, or semi-monthly. o If a household member is paid weekly they need to provide at least six (6) paystubs. • **Retirement/Social Security**: o Current Social Security Benefits letter (including benefits paid to minors), o Current Pension/Retirement Benefit letter (if applicable), or prior year 1099 form, o Current Annuity Payment letter (if applicable), or prior year 1099 form, or o Past three (3) Months Bank Statements (Social Security Benefits & Pension only), • **Self-Employment Income**: Most recent tax return (1099, 1040 or 1040A, as applicable), W-2 Forms; Current year profit or loss statement, including itemized revenue and expense line items; Hawaii General Excise Tax filings (G-45/G-49) may be requested as third-party corroboration of gross receipts. • **Rental Income:** Current lease agreements • **Unemployment Benefits:** Current benefit letter with gross benefit amount. • **Court Ordered Alimony/Spousal Maintenance**: Copy of court order documentation. • **Taxable Interest and Dividends** (including amounts received by, or on behalf of, minors). • **Other Taxable Income:** (Cash income, tips, etc.) A written statement from the applicant or the applicant's employer verifying the amount of cash contributions received • **No Income:** Adult household members who do not earn an income will be required to submit a Certification of No Income.

For income verification purposes, all income documentation must be current (within three months) as of the date the income determination is performed ("Current Income Completion Date" in the system of record), not the date of original application submission. The program reserves the right to request updated income documentation at any time during the review period if existing documentation has become stale or if the applicant's/co-applicant's circumstances have materially changed. Stale documentation (e.g., paystubs more than 90 days old at the time of income determination) must be replaced before a final income determination is issued.

Table 7 Income Documentation

Applicants may not selectively choose which paystubs to submit. Documentation must consist of the most recent consecutive pay periods within the applicable window, without gaps. The program may reject documentation that does not meet this standard and issue a PAN requesting compliant documentation.

III. Income Projection Methodology

Income will be projected for a 12-month period beginning on the date the income determination is performed. Projections shall account for pay frequency, seasonal or intermittent employment, anticipated changes in wages or hours, and any other known circumstances that may affect household income during the projection period. Projected income shall exclude unanticipated earnings, such as overtime pay, unless such income is expected to be received consistently for a period of twelve (12) months or more.

To determine Low-to-Moderate Income (LMI) or Middle-Income status, the County OOR will verify income through varied means, including the most recent year's filed federal tax return AND copies of pay stubs, or other acceptable documentation of income received. If an applicant has not filed their most recent year's tax return, they must provide a copy of IRS Form 4868.

Current income documentation (such as paystubs, profit or loss statements, and/or benefits statements, etc.) will generally serve as the primary source when income is stable and reflective of the applicant's circumstances. The most recent year's tax return may be used to supplement the projection, particularly for self-employment, seasonal work, or irregular income. Where discrepancies exist between current documentation and the tax return, the Program will use current income documentation as the basis for the Program's income eligibility determination.

IV. Income Recertification

This income certification will be valid for 12 months from the date income was determined eligible. If the applicant has not received or accepted a CDBG-DR award from the County OOR within said period, their household income must be re-certified. While an additional income review will be required for this re-certification, the Program will update the applicant's priority status based on the results of the income re-certification, as applicable.

B. Primary Residence

Primary Residence is a dwelling that the owner uses as their principal and permanent home. It is the place where a person has voluntarily fixed habitation, not used for only special, temporary or vacation purposes, but where the person intends to make a permanent home. A person may only have one designated primary home at any point in time.

C. Eligible Properties

To prevent displacement of tenants, only vacant housing units or housing units that are owner-occupied are eligible for purchase under this program. Housing units must be vacant or owner-occupied at the time of execution of the Purchase and Sale Agreement.

Eligible properties must also comply with the property location and hazard area restrictions described in Section 7.d. below.

I. Fee Simple

Properties held in fee simple ownership are eligible for assistance under the Program. Fee simple ownership means the applicant holds full legal title to both the land and the residential structure, without time limitations or reversionary interests.

II. Leasehold

Leasehold properties, including but not limited to the State of Hawaii Department of Hawaiian Home Lands (DHHL) properties, may be eligible and will be considered on a case-by-case basis. The Program will evaluate whether the leasehold interest meets ownership, occupancy, and legal requirements sufficient to support the use of CDBG-DR funds. This includes the ability to record and enforce program-required documents, such as affordability restrictions, for the duration of the compliance period.

Leasehold properties are subject to all other program eligibility requirements as outlined in this document. The case-by-case evaluation addresses the legal and recording requirements specific to leasehold interests only and does not waive any other eligibility criteria.

D. Property Location

The primary residence being purchased with funding from the Program must not be in a hazardous area:

- Subject to inundation from a flood with a 1% or greater chance of being equaled or exceeded in any given year,
- Tsunami zones/coastal areas that are at risk of being flooded by a tsunami (i.e., tsunami inundation zones and evacuation zones),
- Lava flow zones are designated areas that reflect the relative risk of being affected by future lava flows with rankings based on proximity to volcanic vents; past lava flow paths and frequency; topography and slope; and eruption history and lava flow modeling.

E. Household Size

The Program will apply the following occupancy standards, which sets the minimum and maximum number of bedrooms the subject property may have based on the number of persons in the household:

Number of Persons	Minimum # of Bedrooms	Maximum # of Bedrooms*
1	1	2
2	2	3
3	2	3
4	3	4
5	4	5
6 or more	4	5 or more

Table 8 Household Size and Allowable Bedrooms.

When determining household size for bedroom count purposes, all household members are included, consistent with the household definition in Section 7.a.i., including temporarily absent family members.

Generally, no more than two persons are required to occupy a bedroom. In addition, the following situations will be considered:

- Live-in aides, foster children, and children who are temporarily absent due to placement in a foster home are also counted when determining unit size count.
- Adult children on active military duty and permanently institutionalized family members are not included in the bedroom count.
- In determining appropriate home size, the Program may grant an exception to its established standards if determined that the exception is justified by the age, sex, health, disability, or relationship of household members or other personal circumstances. Reasons may include the need for an additional bedroom due to disability or health conditions (e.g., for medical equipment). Occupancy standard exceptions are at the sole discretion of the County OOR.

F. Inspections

All homes purchased with Program funds must pass occupancy and other required inspections for the applicable jurisdiction as required by the first mortgage lender. There must be an inspection to confirm that the home is in decent, safe, sanitary, and code-compliant condition. The inspector must be an authorized person or entity approved to carry out such inspections by the local governing authority and satisfactory to the first lender's underwriting guidelines. Inspections are not considered a Closing Cost and are not reimbursable by the Program.

G. Eligible Structure Type

Eligible properties may include existing or newly constructed single-family residences including stick built detached structures, condominium units (warrantable), apartments (a single residential unit within a multi-unit building) or townhomes that are move-in ready. Eligible properties may also have an accessory dwelling unit (ADU) or Ohana Suite that is located on the same lot as the primary residence. The Ohana Unit may be detached, attached, an interior ADU (i.e., located within the main

house, such as a converted basement or attic), or a garage conversion. Since eligible properties must be move-in ready, home repairs are not eligible to be funded through this program.

Properties eligible for the program must also:

- Be outside of regulatory floodways, and other high risk areas;
- Not have remaining unrepaired fire or other damages at the time of closing; and
- Be ready for occupancy ("Move-In Ready").

Properties incorporating solar and energy-efficient features are encouraged.

I. Eligible Structure Sales Price and Appraised Value

All properties assisted under the Program shall be supported by a current, independent real property appraisal to establish fair market value and ensure that HOP assistance does not exceed the value of the property.

Appraisals are required prior to final award approval and execution of any purchase assistance, loan, or affordability instrument.

To ensure compliance with cost reasonableness, to safeguard against speculative pricing practices, and provide reasonable flexibility in a competitive, post-disaster housing market in Maui County, the Program shall establish a maximum allowable sales price for any assisted homeownership activity. The sales price of an eligible property shall not exceed 5 percent above the appraised fair market value (FMV) of the property, as determined by a Uniform Standards of Professional Appraisal Practice (USPAP)–compliant appraisal conducted by a state-licensed appraiser.

This standard is informed by HUD's HOME Program affordability framework (24 CFR 92.254), which establishes a 95% value limit as a safeguard against inflated pricing. By applying a 5% buffer at the individual appraisal level, the Program balances cost reasonableness requirements under 2 CFR 200.404 with practical market considerations, ensuring that federal funds are not used to support excessive pricing while still allowing for normal negotiation variances in post-disaster housing markets.

II. New Construction, Reconstruction and Rehabilitation

The program can assist with purchasing a newly built, reconstructed or rehabilitated "Move-In Ready" home; however, the home must be fully completed at the time of closing. Program funds are not available to pay for construction costs or to purchase the land. All participants must agree to affordability and compliance monitoring requirements as a condition of funding.

H. Ineligible Structures

Structures ineligible for the program include dwellings not intended as permanent housing solutions and dwellings which contain more than one unit, except ADUs/Ohana Units. The program is restricted to the purchase of one (1) eligible structure type, meaning the applicant is unable to purchase a duplex, triplex, or quad. However, if the building is a multi-unit structure (i.e. condominium), an applicant may purchase one (1) of the units within the building. Other ineligible structures include, but are not limited to:

- Recreational Vehicles (RVs)
- Trailers
- Fifth wheels
- Campers
- Sheds
- Outbuildings
- Houseboats

The Program does not allow the purchase of properties built prior to 1978, and thus these properties will not be eligible for home purchase assistance.

I. Homebuyer Education Course Requirement

As part of an application, the applicant, and co-applicants, if applicable, are required to attend a Homebuyer Education Workshop with a HUD-approved housing counseling agency. The Program allows any HUD-approved Housing Counseling Agency to provide the required homebuyer education workshop. All applicants will need to provide a copy of the completed homebuyer education course certification prior to being provided with a letter of eligibility.

Costs associated with the homebuyer education course are not covered by the Program. Applicants will be required to pay all fees associated with the course and should contact providers for applicable fees.

8. Mortgage Lender Requirements

Program assistance is calculated as described in Section 2.h.: Award Calculation and Underwriting.

A. First Mortgage

The County OOR recognizes that the needs of applicants will vary depending on their individual circumstances. The home purchase assistance can be used to provide downpayment, closing costs, and/or mortgage principal or rate buydowns/discount points. The first mortgage loan must meet the following requirements to be eligible for the program:

- Minimum 30-year term
- Fixed rate
- Fully amortizing
- Property taxes and insurance must be escrowed
- Private individuals acting as mortgage lenders are not permitted under this program. This includes seller-financing arrangements or loans originated by individuals not affiliated with a recognized financial institution, credit union, or government-backed lender (e.g., FHA, VA, USDA).

The first mortgage amount shall be the maximum amount for which the applicant can qualify, based on their income, debts, and current interest rates. The total monthly payment (PITIA: Principal, Interest, Taxes, Insurance/PMI, and association fees, if applicable) with maximum front-end ratio shall be between 29% and 31% of the gross monthly qualifying income of the borrower(s) as determined by the first mortgage lender.

I. Ineligible First Mortgage

The following are ineligible first mortgage terms:

- Adjustable-Rate Mortgages (ARM)
- Balloon loans or negative amortizing loans
- Prepayment penalties

B. Program Compliance and Security Documents

To secure the CDBG-DR investment and enforce the 99-year affordability period, the County OOR will utilize three interdependent legal documents:

I. Restrictive Covenant

This is the primary document that "runs with the land" and contains all use and resale restrictions, including the affordability formula and the 99-year compliance period. The restrictive covenant is recorded at closing.

II. Soft Second Mortgage

This mortgage secures the Promissory Note and places a lien on the property in favor of the County of Maui. Its primary purpose is to serve as the enforcement mechanism for the Program Restrictive Covenant. The term of the Soft Second Mortgage shall match the first mortgage term. A violation of any term in the Covenant shall constitute a default on this mortgage. The soft second mortgage is recorded at closing.

III. Promissory Note

This document represents the subsidy loan from the County OOR to the homebuyer. It outlines the loan amount, the terms of forgiveness, and the conditions of repayment, which are triggered by a default on the Restrictive Covenant. The promissory note is executed at closing but not recorded.

9. Loan Approval and Settlement Procedures

Upon approval, a Program loan settlement statement/closing disclosure will be prepared by the title company and sent to the Program for review and approval prior to closing. The Program will then prepare the Program Restrictive Covenant, Soft Second Mortgage and Promissory Note in preparation for closing. The title company will be responsible for ensuring that all documents are properly executed and the Program Security Documents are recorded at the Bureau of Conveyances and in accordance with local requirements.

A. Loan Settlement Documents

After execution, the first mortgagee's Title Policy, copies of all signed Closing Disclosures, the original recorded Program Restrictive Covenant, the signed Soft Second Mortgage, Promissory Note and other closing documents related to the purchase, including the warranty deed and copies of the buyer's first mortgage documents must be scanned and sent to the Program via email within three (3) days. Original copies should be mailed to the following address:

The County of Maui – Office of Recovery
Attention: Hoʻokumu Hou First-Time Homebuyer Opportunity Program
200 S. High Street
Wailuku, HI 96793

The title company will be responsible for ensuring that those documents are properly executed and is recorded in accordance with the Program guidelines.

B. Disbursement of Funds

All program security documents will be processed by the Program and made available to the title company for escrow prior to closing.

In conjunction with receipt of the approval letter, the lender will be required to provide the Program with the following items:

1. A firm closing date and the name of the title company. The Program will process and issue checks in accordance with County OOR process and policy.
2. The independent home inspection required under Section 7.f.ii. must be completed and a copy provided to the Program prior to disbursement of funds.
3. Any approved funds that are not utilized at the closing will be required to be returned to the Program. A refund payable to County of Maui – Office of Recovery (OOR), c/o County of Maui's CDBG-DR First-Time Homebuyer Opportunity Program.

10. Sale/Transfer/Default/Non-Occupancy and County OOR Enforcement Rights

A. Applicability and County OOR Rights

This section applies upon any of the following events:

- Sale or transfer of ownership
- Refinancing without Program approval
- Failure to occupy the property as a primary residence
- Default under any recorded Program instrument
- Foreclosure or short sale

To protect the public investment and preserve long-term affordability, the County OOR retains the following rights, as established in the Program Restrictive Covenant:

- An exclusive Option to Purchase upon sale, transfer or default
- A right to cure homeowner defaults
- Authority to enforce all recorded liens and covenants
- Authority to require repayment of CDBG-DR assistance, subject to pro rata amortization and net proceeds limits

The County OOR will review each case individually and may pursue one or more enforcement actions consistent with Program requirements and HUD regulations.

B. Voluntary Sale or Transfer

I. Notice Requirement

The homeowner must provide the County OOR with at least forty-five (45) calendar days written notice of intent to sell or transfer the property.

II. Maximum Resale Price

Upon receipt of notice, the County OOR will calculate the Maximum Resale Price in accordance with the Program's affordability resale formula.

III. County Option to Purchase

The County OOR shall have sixty (60) calendar days from receipt of written notice to exercise its Option to Purchase the property at the Maximum Resale Price.

IV. Waiver of Option

If the County OOR declines to exercise its Option to Purchase, it will issue a written waiver. The homeowner may then sell the property to an income-eligible buyer at or below the Maximum Resale Price. The County OOR will certify buyer income and resale price compliance.

C. Default/Non-Occupancy or Program Violations

I. Events of Default

Events of default include, but are not limited to:

- Failure to occupy the home as a primary residence
- Unauthorized sale, transfer or refinance
- Violation of any Program covenant, note or mortgage
- Failure to maintain required insurance
- Receipt of a first mortgage default notice
- Failure to response to County OOR annual monitoring

II. Notice of Default

The homeowner must provide County OOR with a copy of any lender default notice within ten (10) business days of receipt.

III. County OOR Enforcement Actions

Upon default, the County OOR may:

- Require repayment of CDBG-DR assistance subject to amortization limits
- Offer a cure period or negotiated resolution
- Exercise its Option to Purchase the property

- Initiate legal enforcement of recorded liens
- Refer the matter to the County of Maui Corporation Counsel

D. Foreclosure and Short Sale

If a default is not cured and foreclosure or short sale proceedings occur, County OOR may take action necessary to protect the public investment including:

- Attending foreclosure sales
- Bidding at the foreclosure auctions
- Acquiring the property for resale to an eligible household or other eligible affordable housing use

County OOR actions shall comply with any guidance from the County of Maui Corporation Counsel and applicable State and federal law.

E. Recapture of Funds

If the property is lost through foreclosure or short sale and net proceeds are available:

- The Program shall recapture funds to the extent permitted
- Recaptured funds shall be treated as program income
- Funds shall be used in accordance with 24 CFR 570.489 or 24 CFR 570.504, as applicable

All recaptured funds shall be deposited into a County OOR CDBG-DR an interest-bearing trust account.

F. Compliance Period Exceptions Due to Extenuating Circumstances

In the event that all assisted homeowner(s), as applicable, permanently vacate the property the Program may consider repayment and compliance period exceptions upon request. Extenuating circumstances may include, but are not limited to:

- Death of the all assisted homeowner(s)
  Heirs may occupy the home for the remainder of the compliance period. If not occupied by heirs, the unamortized assistance will be recaptured and compliance period shall remain in effect.
- Military Deployment or Involuntary Transfer
  Temporary exceptions or forgiveness may be granted upon receipt of official orders that results in permanent relocation/transfer.
- Permanent Placement in a Healthcare or Nursing Facility
  Forgiveness may be granted with third-party medical verification.
- Other Circumstances Beyond the Homeowner's Control
  Evaluated case-by-case with third-party documentation.

To the extent possible, all assisted homeowners, heirs or authorized representatives, must notify the County OOR and request an exception within 45 calendar days from vacating event. All exceptions or forgiveness determinations must be documented in writing and approved by the County OOR.

11. Subordination

The Program will review all subordination requests for the purposes of refinance on a case-by-case basis according to the subordination policy below, however, subordination requests are not guaranteed.

A. Reasons for Subordination

The general policy regarding subordination for the program is to not subordinate loans. No cash out refinancing allowed, however, subordination for refinancing may be allowed for the following reason(s) on a case-by-case basis, as determined by an exceptions panel:

- To enable the homeowner to avoid foreclosure.

The Program will not consider subordination of home equity loans or lines of credit.

B. Requests for Subordination

Subordination requests will not be granted to homebuyers to allow cash back or debt consolidation. For subordinations to be considered, the lender must submit the following information to the Program for review at least 5 business days in advance of closing on the subordination:

- Letter requesting subordination. The letter must include a comparison of the existing mortgage and the new proposed mortgage (which should include the mortgage amount, term, interest rate, and PITIA) and indicate no cash out to borrower.
- Copy of the Loan Estimate
- Copy of the Appraisal

These items will be submitted to the Program for review and approval. If the subordination request is approved, the Program will notify the lender, homeowner, and title company through written notification. The Mayor as Chief Executive Officer has the authority to sign a subordination agreement as a “Representative” for the County of Maui.

The original subordination agreement will be given to the lender, and a copy will be uploaded to the homeowner’s file in the Program’s System of Record.

12. Compliance and Affordability Requirements

A. Affordable Resale and Repayment Requirements

All properties assisted under the Program are subject to a ninety-nine (99) year affordability requirement and shall remain affordable to income-eligible households from the date of the first conveyance to an Eligible Homebuyer through the end of the compliance period. These restrictions preserve the public investment and maintain long-term affordability for future buyers. The restrictions will be recorded as a Program Restrictive Covenant, or equivalent, binding the original recipient and all subsequent owners, and surviving foreclosure to the maximum extent allowed by law.

I. Affordable Resale Formula

During the Compliance Period, the property can only be sold or transferred to a household with a gross annual income at or below 120% of the Area Median Income (AMI), adjusted for household size, as calculated using HUD's IRS 1040 Adjusted Gross Income Method at the time of resale. Prior to closing on any resale during the compliance period, the prospective buyer must submit income documentation to the Program for verification consistent with Table 7 and eligibility requirements. The resale price shall not exceed the greater of either:

1. The current balance of the first mortgage of the assisted property at the time of the sale, or
2. The affordable sales prices for an eligible buyer as established by the County of Maui, Department of Housing, Affordable Sales and Rental Prices Guidelines 30% prevailing at the time of sale, as applicable.[7]

Any unauthorized transfer is void unless approved in writing by the Program. The Program may recover funds or take other legal action in the event of noncompliance. These restrictions remain in effect for the full 99 years and may not be terminated or modified without written approval from the Program.

Step	What Happens
1. Seller wants to sell	The homeowner decides to sell their home 6 years after buying it with Program assistance.
2. Buyer is income-eligible	The person who wants to buy the home earns less than 120% of the Area Median Income (AMI), so they qualify under the Program rules.
3. What's still owed	The seller still owes $400,000 on their original first mortgage.
4. What's affordable	The County says the maximum affordable sale price at this time is $385,000, based on current guidelines.
5. What's the max sale price?	The Program allows the seller the greater of the two:
	• $400,000 (remaining mortgage balance); or
	• $385,000 (County's affordable price limit)
	In this instance, $400,000 is the max allowed sale price.
6. Program must confirm	Before the sale can go through, the Program will:
	• Confirm that the buyer meets income requirements
	• Make sure the sale price is allowed

Table 9 Resale Scenario 1 - For illustrative purposes only

If an individual fails to occupy the property as their primary residence, the County OOR will review the situation and explore available options to bring them back into compliance.

[7] Maui County, Department of Housing, Affordable Sales and Rental Guidelines: https://www.mauicounty.gov/1825/Affordable-Sales-Rental-Guidelines

To ensure that CDBG-DR assistance is used in a manner that is necessary and reasonable in accordance with 2 CFR 200.403 and 200.404, while also supporting a fair return on investment and preserving long-term affordability, the soft second mortgage shall be structured to match the term of the borrower's first mortgage. Repayment and forgiveness of the CDBG-DR assistance shall follow the provisions below:

- **Initial Period (Years 1–10)**: Amortization and forgiveness shall accrue on a pro rata basis during the first ten (10) years of the affordability period. If the property is sold, transferred, or otherwise conveyed, or falls out of compliance during this period, the full principal amount of the CDBG-DR assistance shall be subject to repayment, as the owner forfeits any forgiveness accrued during the initial ten (10) years. However, any required repayment shall not exceed fifty percent (50%) of the seller's net proceeds. This provision maintains program integrity while allowing the homeowner to retain a fair share of equity.

- **Amortization Period (Years 11–End of Mortgage Term)**: Beginning in year eleven (11), the forgiveness shall continue to accrue on a pro rata basis over the remaining term of the soft second mortgage. If the property is sold, transferred, otherwise conveyed, or falls out of compliance after year ten (10), the total amount forgiven to date—including the first ten (10) years and any subsequent years—shall be deducted from the original assistance amount, and the remaining unforgiven balance shall be subject to repayment.

  For example, if the first mortgage term is thirty (30) years, one-thirtieth (1/30th) of the original assistance amount shall be forgiven for each full year of continuous owner occupancy from year 1 through year 30. If the property is sold or transferred during this period, the repayment amount shall equal the lesser of:
  - The remaining unforgiven balance, or
  - Fifty percent (50%) of the seller's net proceeds.

- **Post-Term Period**: Upon expiration of the mortgage term, no repayment of the original assistance shall be required. However, the property shall remain subject to resale and affordability restrictions in accordance with program policies, ensuring continued benefit to eligible low- and moderate-income households.

Scenario	Key Facts
Assistance Provided	The homeowner received $200,000 in CDBG-DR assistance through the Program.
Primary Mortgage Term	The homeowner's first mortgage is for 30 years, so the soft second mortgage is also set to 30 years.

Table 10 Repayment Scenario Variables - For illustrative purposes only

Policy Phase	Initial Period – No Forgiveness Yet (Years 1–10)
Forgiveness	No portion of the $200,000 is forgiven yet.

Required Repayment	Full $200,000 is subject to repayment. However, repayment is capped at 50% of the seller's net proceeds.
Example	If the seller's net proceeds = $80,000, they repay only $40,000. The rest is forgiven.

Table 11 Repayment Scenario 2 - For illustrative purposes only

Policy Phase	Amortization Period – Gradual Forgiveness Begins (Years 11–30)
Forgiveness Formula	From Year 11 forward, $200,000 continues to be forgiven evenly over 30 years. That's $6,666.67 forgiven per year.
Forgiveness So Far	By Year 15: that's 15 years × $6,666.67/year = approx. $100,000 forgiven.
Remaining Balance	$200,000 − $100,000 = $100,000 still subject to repayment.
Repayment Cap	Seller only repays the lesser of:
	• $100,000 (unforgiven amount); or
	• 50% of their net proceeds
Example	If net proceeds = $100,000, repayment is capped at $50,000.

Table 12 Repayment Scenario 3 - For illustrative purposes only

Policy Phase	Post-Term Period – Full Forgiveness Complete
Forgiveness	Entire $200,000 is fully forgiven. No repayment required.
Resale Rules Still Apply	The homeowner must still follow affordability and resale restrictions.

Table 13 Repayment Scenario 4 - For illustrative purposes only

Year	Cumulative Forgiven Amount	Remaining Unforgiven Balance	Preliminary Repayment Amount	Notes
1	$ -	$ 200,000	$ 200,000	Initial principal amount
2	$ 6,667	$ 193,333	$ 200,000	Forgiveness accrues pro rata, but full repayment if sold before Year 10
3	$ 13,333	$ 186,667	$ 200,000	
4	$ 20,000	$ 180,000	$ 200,000	
5	$ 26,667	$ 173,333	$ 200,000	
6	$ 33,333	$ 166,667	$ 200,000	
7	$ 40,000	$ 160,000	$ 200,000	
8	$ 46,667	$ 153,333	$ 200,000	
9	$ 53,333	$ 146,667	$ 200,000	

10	$ 60,000	$ 140,000	$ 200,000	
11	$ 66,667	$ 133,333	$ 133,333	Forgiveness begins to apply toward balance if sold after Year 10
12	$ 73,333	$ 126,667	$ 126,667	
13	$ 80,000	$ 120,000	$ 120,000	
14	$ 86,667	$ 113,333	$ 113,333	
15	$ 93,333	$ 106,667	$ 106,667	
16	$ 100,000	$ 100,000	$ 100,000	
17	$ 106,667	$ 93,333	$ 93,333	
18	$ 113,333	$ 86,667	$ 86,667	
19	$ 120,000	$ 80,000	$ 80,000	
20	$ 126,667	$ 73,333	$ 73,333	
21	$ 133,333	$ 66,667	$ 66,667	
22	$ 140,000	$ 60,000	$ 60,000	
23	$ 146,667	$ 53,333	$ 53,333	
24	$ 153,333	$ 46,667	$ 46,667	
25	$ 160,000	$ 40,000	$ 40,000	
26	$ 166,667	$ 33,333	$ 33,333	
27	$ 173,333	$ 26,667	$ 26,667	
28	$ 180,000	$ 20,000	$ 20,000	
29	$ 186,667	$ 13,333	$ 13,333	
30	$ 193,333	$ 6,667	$ 6,667	
31	$ 200,000	$ -	$ -	Fully forgiven after 30 years

Table 14 Sample Amortization Table - For illustrative purposes only

B. Release of Restrictive Covenant

The Program Restrictive Covenant will expire upon the completion of the 99-year affordability period. The Department of Corporation Counsel, Mayor as Chief Executive Officer and CDBG-DR Authorized agent, or other assigned designee will be jointly authorized to release the Program Restrictive covenant filed in conjunction with this program at any point during the affordability period if it is determined to be in the best interest of the County OOR. The County Corporation Counsel will prepare and/or approve all release documents for joint authorization on a case-by-case basis as the terms are satisfied.

13. Complaints

Applicants may submit a complaint to the Program at any time. In accordance with the guidance outlined in FR-6489-N-01, the Program will provide a timely written response to every written citizen complaint. Complaints will be addressed within fifteen (15) calendar days of receipt when practicable. If a complaint cannot be addressed within fifteen (15) calendar days, the Program will notify the complainant of the need for additional time and an estimated resolution/response timeframe.

People who wish to submit formal written complaints related to the Program may do so through any of the following avenues:

- **Email**: CDBG-DR@mauicounty.gov
- **In Writing**: County of Maui – Office of Recovery:
  Attention: Ho'okumu Hou – CDBG-DR Program Complaints
  Office of Recovery, CDBG-DR
  200 S High Street
  Wailuku, HI 96793

Although formal complaints must be submitted in writing, complaints may also be received verbally and by other means necessary, as applicable, when it is determined that the citizen's particular circumstances do not allow the complainant to submit a written complaint. These alternate methods include, but are not limited to:

- **Telephone**: 808-270-MCOR (6267)
- **In-person**: At any Program service center

14. Appeals

Applicants who wish to contest a Program determination may request an initial appeal directly with the Program by submitting a written request via electronic or postal mail or via the web portal at www.Hookumuhou.mauicounty.gov within **thirty (30) calendar days** from the date of the determination being contested. Applicants may request an appeal to contest:

- Eligibility determination,
- Duplication of Benefits gap determination, or
- Recapture Amount.

People who wish to request an initial appeal related to the Program may do so through any of the following avenues:

- **Via the web portal at:** www.Hookumuhou.mauicounty.gov
- **Via Email:** info@mauioor.com
- **In Writing at any of the Program service centers:**

Lahaina Gateway
325 Keawe St., Unit B102
Lahaina, HI 96761

Kākoʻo Maui Relief & Aid Services Center
153 E Kamehameha Ave., Suite 101
Kahului, HI 96732

The Program will conduct an initial review using the request and supporting information submitted by the applicant and make a determination. When practicable, the determination will be made within ten (10) calendar days. Applicants will be notified in writing of the determination made on their initial appeal via an Initial Appeal Determination Notification.

If the applicant believes that the Initial Appeal determination was made in error, the applicant may request a Secondary Appeal directly with the CDBG-DR Appeals Coordinator within fifteen (15)

calendar days of the date of the Initial Appeal Determination Notification. A written determination of the secondary review will be made and issued within ten (10) calendar days when practicable. Applicants will be notified in writing of the determination made on their appeal.

All appeal determinations made by OOR are final with no further administrative review and are not subject to judicial review.

An applicant cannot appeal to program policies, federal regulations, or state statutes. Appeals filed based on these reasons will be denied.

People who wish to request a Secondary Appeal related to the Program may do so through any of the following avenues:

Email: cdbg-dr@mauicounty.gov
Attention: CDBG-DR Appeals

In Writing: Office of Recovery, CDBG-DR
Attn: CDBG-DR Appeals
200 S High Street
Wailuku, HI 96793

An applicant can withdraw the request for appeal at any time by providing written notice to the County OOR of this decision. Such a written notice must be delivered to County OOR at the address(s) referenced above.

Program requirements established by OOR and approved by HUD as dictated by law may not be waived or nullified.

Applicants who choose to file a request for appeal are encouraged to provide individual facts or circumstances, as well as supporting documents to justify their petition. In adjudication of the appeal, the Program will only review facts and information already included in an Applicant's file, unless the Applicant submits new documentation. The Program has the discretion to accept or reject new documentation based upon its relevance to the appeal.

15. Exceptions and Special Considerations

The Program Policies and Procedures set forth the policy governing the Program and approved Standard Operating Procedures (SOP) set forth the procedures by which policy will be enacted. The Policies and Procedures and SOPs are intended to guide program activities and enforce compliance with applicable federal regulations. While Policies and Procedures and SOPs govern the program, neither should be considered exhaustive instructions for every potential scenario that may be encountered by the Program. At times, exception to program policies and/or procedures may be warranted. All exception requests are reviewed and adjudicated on a case-by-case basis as need arises, at the sole discretion of the County OOR and may involve consultation with other County departments as necessary. The case-by-case analysis may consider an applicant's remaining unmet need and would include documentation of cost reasonableness to confirm costs incurred are

necessary and reasonable. Exceptions may be granted to program policy or process. However, exceptions to federal regulations, laws, or statutes shall not be authorized.

16. Conflict of Interest

The County OOR is committed to minimizing and removing any conflicts of interest in its programs, policies, procedures and utilization of federal disaster recovery funds. The County OOR will adhere to the conflicts of interest provisions referenced at 24 CFR 570.611. In addition, the County OOR will comply with the County of Maui Charter, Code of Ethics (January 2025, Article 10), which establishes high ethical standards consistent with federal requirements.

For more information, see the County OOR Conflict of Interest Policy.[8]

17. Cross-Cutting Requirements

A. Duplication of Benefits (DOB)

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), as amended, 42 U.S.C. 5121 et seq., prohibits any person, business concern, or other entity from receiving Federal funds for any part of such loss as to which they have received financial assistance under any other program, from private insurance, charitable assistance, or any other source. The Program must consider disaster recovery aid received by applicants from any other federal, state, local, or other source and determine if any assistance is duplicative. Any assistance determined to be duplicative must be deducted from the Program's calculation of the Applicant's total need before awarding assistance. The DOB review performed by the Program, or an authorized representative assures that federal resources are neither duplicated nor wasted when applied to the provision of homeownership assistance. To ensure the Program does not provide a duplication of benefits, the Program will adhere to the following process:

1. Identify the Applicant's total need;
2. Identify total assistance available;
3. Identify the Amount to Exclude as Non-Duplicative (Amounts used for a different purpose, or same purpose, different allowable use);
4. Identify Total DOB Amount (Total Assistance Minus Non-Duplicative Exclusions);
5. Calculate Maximum Award (Total Need Minus Total DOB Amount); and
6. Final Award (Program Cap = Final Award if Maximum Award is equal to or greater than the Program Cap).

Because the Program requires eligible applicants to be first-time homebuyers at the time of application, it is expected that most applicants will not have received any benefits from other sources for the purposes of home rehabilitation or replacement. Nonetheless, the Program will perform the due diligence of a DOB review and ensure that program beneficiaries do not receive

[8] Conflict of Interest Policy: https://hookumuhou.mauicounty.gov/31/Document-Library

duplicative, unnecessary, or unreasonable assistance. In cases where an applicant has previously received Federal Emergency Management Administration (FEMA), Small Business Administration (SBA), and/or any other funds for the purpose of using them to purchase residential properties, those funds will be considered as a DOB under this Program. These funds will be deducted from the total unmet need determination as part of the underwriting review.

The following are sources of assistance that may have been provided to Applicants and may be considered a duplication of benefits.

The County OOR will conduct a Duplication of Benefits (DOB) review for every project at time of application, prior to award, and at time of closeout.

Prior to awarding CDBG-DR funds, the County OOR will determine and document that the activity costs are not available from, and are not reimbursable by, FEMA or the U.S. Army Corps of Engineers (USACE). This review will include verification of whether FEMA or USACE assistance is currently available for the activity, including whether any relevant application period is open, and whether the applicant may receive reimbursement from FEMA or USACE for the same activity costs. CDBG-DR funds will not be used for costs that are available or reimbursable through FEMA or USACE.

The County OOR will reassess unmet need whenever new information indicates that an applicant's project costs, damages, or available assistance have changed. Reassessment may be triggered by revised cost estimates, professional inspections, scope changes, additional disaster impacts, or updated documentation of assistance received or available. As part of the reassessment, the County OOR will require applicants to provide updated supporting documentation sufficient to verify revised need and all forms of assistance, and the basis for any revised unmet need determination and corresponding award adjustment will be documented in the project file.

The County OOR Duplication of Benefits (DOB) Policy is publicly available on the County OOR's CDBG-DR website and establishes the procedures and controls used to identify, prevent, and resolve duplication of benefits in accordance with HUD CDBG-DR requirements.

I. Federal Emergency Management Agency – Individual Assistance (FEMA IA)

FEMA Individual Assistance (FEMA IA) will be determined and verified by the Program through the FEMA database. If the Program or an authorized representative cannot verify the FEMA IA amount through the FEMA database, the Program will use the payment amount provided by the applicant at the time of application. An applicant can provide documentation demonstrating that the FEMA IA amount provided by the FEMA database includes amounts not paid to cover the structural loss. In such case, the Program or an authorized representative will use the documentation provided by the applicant to adjust the FEMA IA amount considered in the DOB analysis. The documentation supplied by the applicant must come from FEMA.

II. Private Insurance

All private insurance settlement amounts for loss of dwellings are deducted from the Applicant's award.

Legal fees that were paid by the applicant to successfully obtain insurance proceeds are considered exclusions to the applicant and are not included as part of their DOB. Applicants must provide evidence of payment and a judgment or settlement demonstrating the success in the legal action. All other legal fees that an applicant may have paid out of any disaster assistance proceeds are deducted as part of their DOB if the assistance funding used was intended for purchase of a home.

III. Legal Settlements

On July 31, 2025, the County of Maui determined that funds received from settlements or trusts arising from the August 2023 Wildfires do not constitute financial assistance under the Stafford Act and therefore do not result in a Duplication of Benefits (DOB) for this Program. HUD concurred with this determination by email dated April 1, 2026.

IV. Other Sources of Duplication of Benefits

Following a disaster, charitable organizations provide many kinds of contributions, including donations, grants, or loans, among other types of assistance. Grants and cash donations designated for specific eligible work, even when provided from non-Federal sources, but designated for the same purpose as Federal disaster funds generally are considered a duplication of benefit. Grants and cash donations received for unspecified purposes (e.g., "for disaster recovery/relief efforts") or for work not eligible for federal assistance does not constitute a duplication of benefits.

V. DOB Review

The Program or an authorized representative will review each application to determine if funding awarded or donated to the applicant was received for the same purpose as the assistance made available to the applicant through the Program. For this purpose, applicants must provide insurance documentation, FEMA, SBA, and any other type of documentation demonstrating the receipt of funds. The Program will verify the accuracy of the submitted documentation before an award is offered to an applicant. Then, the Program or an authorized representative will determine the applicant’s total unmet needs and calculate the applicant’s total DOB, if any. The applicant must have an unmet need to move forward in the Program. The Program or an authorized representative must ensure compliance with the Stafford Act by collecting, analyzing, and verifying funds or assistance received by applicants for purposes of homeownership. Any sources of funding previously received by the applicant for the same purpose as the assistance made available by the Program will be deducted from the total unmet needs. The calculation of DOB must be based on the collection of documentation provided by the applicant or obtained by the Program via one of County OOR’s information sharing agreements. For example, DOB will be calculated from information obtained from SBA, FEMA, and/or in-kind assistance used for the same purpose as the CDBG-DR award. The final award will be calculated by subtracting any DOB assistance from the total unmet need of the applicant. To comply with these requirements, the Program or its authorized representative will enter the applicant's information into the DOB database to determine whether the applicant received additional financial funds as well as to ensure that any funds determined to be DOB are deducted from the final assistance award. Regarding charity or in-kind assistance, the Program requires full disclosure from the applicant during the application intake process and will review the lending documentation to ensure duplicative assistance is accounted for in unmet needs calculation. The applicant must repay any assistance later determined to be DOB, i.e., received for

the same purpose as those awarded or provided with CDBG-DR funds. The applicant must certify they understand this requirement as outlined in detail in the subrogation terms included in the Subrogation Agreement.

Warning: Any person who knowingly makes a false claim or statement to HUD or causes another to do so may be subject to civil or criminal penalties under 18 U.S.C. 2, 287, 1001 and 31 U.S.C. 3729.

The County OOR will periodically monitor subrogation agreements. Monitoring may include review of applicant certifications, follow-up reporting requirements, review of updated assistance information, and other documentation necessary to determine whether additional assistance for the same purpose has been received. If additional duplicative assistance is identified during the monitoring review, the County OOR will enforce repayment in accordance with the subrogation agreement.

B. Environmental Review

An environmental review process is required for all HUD-assisted projects to ensure that the proposed undertaking does not negatively impact the property or surrounding social, cultural, and physical environment and possible historic fabric. The specific purpose of the environmental review process for the Program is to ensure that with respect to the property being purchased there are no environmental hazards present, there is no adverse impact on the community social and cultural fabric, and that the property does not have potential historic value. Every project must be in compliance with the National Environmental Policy Act (NEPA), and other related Federal and state environmental laws. For more information, refer to https://www.epa.gov/nepa. An environmental review must be completed for all project activities prior to obligating Program funds. The HUD rules and regulations that govern the environmental review process can be found at 24 CFR Part 58. Other federal and state laws and regulations (some of which are enforced by State agencies) also apply depending upon the type of project and the level of review required.

I. Level of Environmental Review

For the Program, the level of Environmental Review is defined at 24 CFR 58.35(b)(5). Activities to assist homebuyers to purchase existing or new dwelling units, including closing costs and down payment assistance, interest buy downs, and similar activities that result in the transfer of a title will require a Categorically Excluded (Not Subject to 58.5) (CENST) Environment Review. The environmental review for any activity in this Program will require a formal determination (including preparing a CENST review and inclusion into the project files) of the environmental regulations at 24 CFR 58.6. Other Requirements to include are:

- Location within a Special Flood Hazard Area;
- Location within a Coastal Barrier Resource System unit and;
- Purchase or sale of an existing property in a Runway Protection Zone or Clear Zone.

County of Maui, as the Responsible Entity, is charged with the responsibility of approving all CENSTs.

Special Flood Hazard Area

In accordance with the County OOR's 2023 CDBG-DR Action Plan and these Guidelines, if the property is determined to be in a Special Flood Hazard Area, the property will not qualify for home purchase assistance.

Coastal Barrier Resources Area

The Coastal Barrier Resources Act (CBRA), 16 U.S.C 3501 et seq., protects coastal areas that serve as barriers against wind and tidal forces caused by coastal storms and serve as a habitat for aquatic species. In compliance with the Act, if the property is determined to be located within a Coastal Barrier Resources Area, the property will not qualify for home purchase assistance.

Runway Protection Zone or Clear Zone

In case that a property is determined to be in a runway protection zone or clear zone, County of Maui Office of Office of Recovery (OOR), as the Responsible Entity, must inform the buyer of the implications of such location and that there is a possibility that the property, may at a later date, be acquired by the airport operator. The buyer must sign an acknowledgement statement understanding the implications of such purchase.

Lead Hazard Requirements

The Program does not allow the purchase of properties built prior to 1978, and thus these properties will not be eligible for home purchase assistance.

18. Fraud, Waste and Abuse

The County OOR, as grantee, is committed to the responsible management of CDBG-DR funds by being a good advocate of the resources while maintaining a comprehensive policy for preventing, detecting, reporting, and rectifying fraud, waste, abuse, or mismanagement.

Pursuant to 90 FR 1754, the County OOR implements adequate measures to create awareness and prevent fraud, waste, abuse, or mismanagement among other irregularities in all programs administered with CDBG-DR funds as well as encourages any individual who is aware or suspects any kind of conduct or activity that may be considered an act of fraud, waste, abuse, or mismanagement, regarding the CDBG-DR Program, to report such acts to the County OOR - CDBG-DR Internal Auditor, directly to the Office of Inspector General (OIG) at HUD, or any local or federal law enforcement agency. For more information, see the County OOR Fraud, Waste and Abuse Policy.[9]

A. Zero-Tolerance

The Program maintains a zero-tolerance policy for fraud, bribery, coercion, attempted undue influence, or other acts intended to improperly affect program eligibility, award determinations, inspections, or benefits.

[9] Fraud, Waste and Abuse Policy: https://hookumuhou.mauicounty.gov/31/Document-Library

Any attempt to offer, give, solicit, or receive money, gifts, favors, or anything of value in connection with a HOP application or related federal assistance constitutes program misconduct and may result in suspension, ineligibility, and referral to appropriate authorities.

B. Grounds for Suspension and Ineligibility

An applicant or assisted household may be suspended from further program processing and/or deemed ineligible if the County determines there is credible evidence of any of the following, including but not limited to:

- Attempted or actual bribery of County staff, contractors, or partners
- Attempted undue influence over program staff or decision-making
- Knowingly false statements, misrepresentations, or omissions
- Fraudulent conduct related to FEMA, SBA, insurance, or other disaster assistance
- Retaliation, threats, or coercion directed at program personnel

A criminal conviction is not required for the County OOR to take administrative action to protect program integrity.

C. Immediate Administrative Suspension

Upon identification of alleged misconduct that threatens program integrity:

- The County OOR may place the application in immediate administrative suspension, halting all eligibility determinations, payments, and processing activities.
- Suspension may occur pending investigation, review, or referral, and does not constitute a final determination of guilt or liability.

The purpose of suspension is to safeguard federal funds and ensure compliance with HUD requirements.

D. Determination of Ineligibility

Following review of the available information, the County OOR may determine that an applicant or assisted household is ineligible for participation in the Program when it finds, by a preponderance of the evidence, that program misconduct occurred.

Ineligibility determinations may result in:

- Denial of the application
- Termination from the program
- Recapture of any improperly obtained assistance, if applicable
- Disqualification from future participation in County-administered disaster recovery housing programs, as permitted by law

E. Notice and Opportunity to Respond

To ensure fairness and due process:

- The County OOR shall provide written notice of suspension or proposed ineligibility, including the basis for the action.
- The applicant shall be afforded an opportunity to submit a written response or appeal in accordance with the Program's appeals procedures.
- Appeals are limited to whether the County's determination was reasonable and supported by the record; criminal determinations are outside the scope of the appeals process.

F. Referral and Cooperation with Authorities

Allegations involving fraud, bribery, or attempted bribery may be referred to:

- The County of Maui Office of the Corporation Counsel or Prosecuting Attorney
- HUD's Office of Inspector General (OIG)
- Other appropriate federal, state, or local authorities

The County will cooperate fully with any investigation and may continue administrative actions independent of external enforcement proceedings.

G. Staff Protection and Reporting

- All program staff and contractors are required to report suspected fraud, bribery, or misconduct immediately to program management.
- Retaliation against staff or whistleblowers is strictly prohibited.
- Staff shall not accept gifts, favors, or anything of value from applicants or participants under any circumstances.

19. Closeout

The applicant's file will be closed out upon completion of the closing process as described in the Loan Approval/Settlement Procedures. The Program staff will perform a comprehensive review of the application file to ensure all necessary documentation is present and to ensure that each file is ready for closeout. By the time an applicant file reaches closeout, it has undergone several quality control (QC) checkpoints and various approvals at specific stages. Because the file has undergone such extensive quality control throughout each stage of the program process, closeout review is intended to provide a completeness review of each individual application, rather than a comprehensive quality control review.

When all quality control review levels have been approved, the applicant will be sent a Final Notice from the Program, informing the applicant that his/her file has been closed and reminding the applicant of the affordability period requirements.

20. Monitoring and Compliance

Due to the extended affordability period of 99-years associated with Program awards, the Program will employ a risk-based monitoring approach. Active compliance monitoring will occur during the

initial years (Years 1 to 20) following initial occupancy. The County OOR will monitor 100% of assisted properties for compliance during the first twenty (20) years following occupancy of the property.

For the remainder of the affordability period, compliance will be enforced through a statistical sampling of 10% of assisted properties, and/or recorded affordability instruments and reviewed upon the occurrence of a triggering event such as sale, transfer, refinancing, or other disposition of the property.

The Program relies on legally enforceable covenants, mortgages, or deed restrictions recorded in the land records to ensure long-term compliance.

[END OF PROGRAM POLICY]

21. Definitions

Affordability Period: The period during which the assisted home must remain owner-occupied and subject to Program restrictions (e.g., resale/recapture requirements), beginning on the date of closing and lasting for the number of years specified by Program policy.

Area Median Income (AMI): The median (middle point) household income for an area adjusted for household size as published and annually updated by the United States Department of Housing and Urban Development (HUD).

Applicant: An individual or household/family who submits an application for homeownership assistance to the First-time Homebuyer Opportunity (HOP) Program.

Appraisal: The product of a systematic approach to determine an accurate estimate of a home's market value using comparable recent sales in the home's immediate area or neighborhood, conducted by an appraiser who is licensed through the State of Hawaii.

Appraised Value: An estimate of the price a property would bring in an arm's length transaction between an unaffiliated and knowledgeable buyer and seller.

Arms-Length Transaction: A purchase transaction in which the buyer and seller (and related parties) have no identity of interest (e.g., family relationship, business affiliation, employer/employee relationship, or other relationship) that could affect the purchase price, terms, or concessions. Transactions must reflect fair market behavior and be free of undisclosed side agreements.

Attorney Fees: Fees charged by a licensed attorney for services directly related to the legal aspects of closing a real estate purchase, such as document preparation, title review, or closing representation, where attorney involvement is customary or required by state or local practice.

Borrower(s): The person(s) who:

(1) receives a loan from a mortgage lender to purchase a property;

(2) is legally responsible for the repayment of the loan; and

(3) is subject to any penalties for nonpayment of the loan based upon the terms as described in the loan agreement and/or promissory note.

Borrower Contribution / Required Borrower Contribution: The minimum amount of funds the homebuyer must contribute from their own eligible sources toward the purchase transaction, as established by Program policy (e.g., a minimum dollar amount or minimum percentage of purchase price/total funds to close). Borrower contribution must be documented.

CDBG-DR: Community Development Block Grant-Disaster Recovery.

Choice-Limiting Action (CLA): Any activity undertaken after the federal environmental "nexus" that reduces or eliminates the opportunity to choose reasonable alternatives or that could have an adverse environmental impact before environmental clearance is obtained. Examples include

committing or expending funds on acquisition, or entering binding contracts that are not properly conditioned on environmental clearance.

Closing Costs: Reasonable and customary costs necessary to complete the closing of a mortgage loan to acquire real property. Typical mortgage closing costs include mortgage lender fees, property appraisal, attorney/realtor fees/commissions, taxes, title insurance, and registration and filing fees. It is expected that closing costs will not exceed five percent (5%) of the sale price of the home. Closing costs do not include payoff of borrower debt. Inspection fees are not reimbursable as part of the Program funding and should not be included in the homebuyer's closing costs.

Closing Disclosure (CD): The final, standardized disclosure provided to the borrower under federal mortgage disclosure requirements showing final loan terms and itemized closing costs and cash to close.

Closing Documents: All documents necessary to complete the legal sale of real property in the State of Hawaii and affect a security interest for any mortgage lender participating in the transaction. Closing documents may also include appraisal fees, escrow account funds, discount points, flood determination fees, loan origination charges, mortgage insurance or fees for government-backed loans, such as FHA, VA, or USDA loans.

Decent, Safe, and Sanitary (DSS): A housing quality standard ensuring that assisted properties meet basic health and safety requirements. The Program must define its specific DSS standards, which often reference local building codes or HUD's Housing Quality Standards (HQS).

Discount Points: fees a home purchaser can pay up front in exchange for a slightly lower interest rate.

Disability: A physical or mental impairment that substantially limits one or more of the major life activities of such for an individual.

Downpayment: A downpayment is the percentage of the home purchase that is paid up front when closing on a home loan.

Duplication of Benefits: A duplication of benefits (DOB) occurs when a person, household, business, or other entity receives disaster assistance from multiple sources for the same recovery purpose, and the total assistance received for that purpose is more than the total need.

Dwelling: Any building, structure, or portion thereof that is occupied as, or designed or intended for occupancy as, a residence by one or more households/families, and any vacant land that is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof. 42 U.S.C. 3602.

Elderly (also referred to as Kupuna): A person who is 62 years of age or older.

Environmental Review: All qualified projects must undergo an environmental review process. This process ensures that the activities comply with the National Environmental Policy Act (NEPA) and other applicable state and federal laws. For HUD purposes, applicable requirements are found at 24 CFR 58.

Environmental Clearance: Completion of required environmental review steps and, where applicable, HUD/state approval of the Request for Release of Funds (RROF), allowing the Program to proceed with the project/activity consistent with 24 CFR Part 58.

Escrow: A legal arrangement in which a third party temporarily holds money or property until a particular condition has been met (such as the fulfillment of a purchase agreement). This typically includes funds for property taxes and homeowners insurance.

Federal Register: The official journal of the Federal government of the United States that contains government agency rules, proposed rules, and public notices. It is published daily, except on Federal holidays. A Federal Register Notice (FRN) is issued for each CDBG-DR funded disaster. The FRN outlines the rules that apply to each allocation of disaster funding.

Federal Emergency Management Agency (FEMA) - The Federal Emergency Management Agency (FEMA) is an agency of the United States Department of Homeland Security. It was created by Presidential Order on 1 April 1979. The primary purpose of FEMA is to coordinate the response to a disaster that has occurred in the United States and that overwhelms the resources of local and state authorities.

First Mortgage: The primary or initial loan obtained for a property by a borrower(s) from a lender.

First Mortgage Commitment (Commitment Letter): A written lender commitment to originate the first mortgage, subject only to clearly stated conditions (e.g., final underwriting, clear title, acceptable appraisal, and satisfaction of conditions precedent). The commitment must identify loan terms (loan amount, rate if applicable, term, product type) and be valid through closing.

First Mortgage Pre-Approval: A preliminary lender determination that a borrower appears qualified based on initial information, not a commitment to lend and generally subject to underwriting and property approval.

Floodplain: FEMA designates floodplains as geographic zones subject to varying levels of flood risk. Each zone reflects the severity or type of potential flooding in the area.

Floodway: A "Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Communities must regulate development in these floodways to ensure that there are no increases in upstream flood elevations. For streams and other watercourses where FEMA has provided Base Flood Elevations (BFEs), but no floodway has been designated, the community must review floodplain development on a case-by-case basis to ensure that increases in water surface elevations do not occur or identify the need to adopt a floodway if adequate information is available.

Form 1003 (URLA): The Uniform Residential Loan Application used to collect borrower, loan, and transaction information and to support lender underwriting.

Form 1008: The Uniform Underwriting and Transmittal Summary used by the underwriter to summarize the final underwriting decision and key loan/transaction metrics, including borrower funds to close and subordinate financing.

Front-end Ratio: The total percentage of debt-to-income after housing costs, including mortgage payment (principal and interest), mortgage insurance payment, homeowners' association's dues, property taxes, and hazard and flood insurance premiums.

Gross Monthly Qualifying Income: Income used by the lender for underwriting and ratio calculations, expressed as a gross monthly amount and based on verified sources deemed acceptable by the lender and Program underwriting standards. This term is distinct from "Household Income" used for income eligibility determinations.

Hold-in-Line Status: A temporary application status used when eligibility cannot be finalized due to a pending verification (e.g., immigration status verification, third-party verification, or other required clearance). The application is not approved for funding and no choice-limiting actions may be taken.

Home Inspection: A non-invasive examination of the condition of a home, often in connection with its sale. A home inspection is performed by a qualified professional and is distinct from an appraisal.

Homeowners Insurance: Also known as casualty insurance and hazard insurance, coverage that protects a property owner against damage caused by natural events and other unexpected events that cause damage to the home, to people on the property, and to the contents of the home. Often the cost of annual premiums to maintain coverage are added to the monthly mortgage payment and remitted to the insurer by the mortgage lender's servicing agent. The Program requires homeowners insurance to be escrowed.

HOP: The First-time Homebuyer Opportunity Program

Household: A household is defined as all persons occupying the same housing unit, regardless of their relationship to each other. The occupants could consist of a single family, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

Household Income: The projected gross income from all sources for all adult household members, estimated for the upcoming twelve (12) month period, calculated using the IRS Form 1040 Adjusted Gross Income (AGI) method pursuant to 24 CFR 570.3 and Program Policy Section 7(a)(ii). See Income Definition (Annual Income) for methodology detail.

Housing Counseling Agency: A public or private non-profit organization established as a HUD-approved provider of housing education and counseling services.

HUD: United States Department of Housing and Urban Development.

IRS 1040/Adjusted Gross Income ("AGI") Calculation Method: Citizens of the United States and resident aliens, except those with gross incomes that fall below a certain level, are required to file an income tax return with the Department of the Treasury's Internal Revenue Service (IRS) each year. The tax return is officially referred to as IRS Form 1040. The Adjusted Gross Income (AGI) is listed on the IRS Form 1040 and is the dollar amount used to aid in identifying the applicant's typical sources of income. The applicant shall also provide the most recent documentation of all current income sources, including but not limited to: pay stubs, monthly benefits such as SSA/SSI, retirement/pension, other sources of income covering all members of the household who will occupy

the assisted home to determine an applicant's household income eligibility for participation in the CDBG-DR Programs.

Lender: A financial institution providing secured loans for purchase and refinance of real property. For the HOP Program purposes, the first mortgage loan in the home purchase must be obtained from loan providers duly registered in the Nationwide Mortgage Licensing System (NMLS) and Registry.

Low to Moderate Income (LMI): Low to moderate income households are those having incomes not more than eighty percent (80%) of Area Median Income, adjusted for household size, as established by HUD on an annual basis.

Low- to Moderate-Income (LMI) National Objective: Activities that benefit households whose total annual gross income does not exceed 80% of Area Median Income (AMI), adjusted for family size. Income eligibility will be determined and verified in accordance with HUD Guidance.

Metropolitan Statistical Area: An area with at least one urbanized area of 50,000 or more population, plus adjacent territory that has a high degree of social and economic integration with the core, as measured by commuting ties.

Mobile/Manufactured Housing Unit (MHU): A structure, transportable in one or more sections which, in the traveling mode is 8 body-feet or more in width, or 40 body-feet or more in length, or when erected on site, is at least 320 square feet, is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. Sometimes referred to as mobile homes.

Mortgage Lender Fees: Fees charged by the mortgage lender to originate, process, underwrite, and fund the home loan. These fees compensate the lender for evaluating the borrower's creditworthiness, preparing loan documents, and administering the loan through closing.

Mortgage Readiness: The homebuyer's demonstrated ability to obtain a first mortgage loan that meets Program and lender requirements, including minimum credit standards, stable and sufficient income, acceptable debt ratios, and satisfaction of underwriting conditions.

Most Impacted and Distressed (MID) Areas: Areas of most impact as determined by HUD or the state using the best available data sources to calculate the amount of disaster damage. County of Maui is the only MID represented by the Home Purchase Assistance (HOP) program and the County of Maui Office of Recovery (OOR) CDBG-DR Action Plan.

Move-In Ready: A property that is safe, sanitary, and suitable for occupancy at closing, and does not require repairs as a condition of habitability, lender approval, or issuance of a certificate of occupancy (as applicable). Cosmetic issues alone do not affect move-in readiness unless they create health/safety concerns.

National Flood Insurance Program (NFIP): The National Flood Insurance Program (NFIP) is managed by the Federal Emergency Management Agency and is delivered to the public by a network of approximately 60 insurance companies and the NFIP Direct. The NFIP provides flood insurance to property owners, renters, and businesses. **Net Proceeds:** The amount remaining from a sale after

paying customary transaction costs and paying off liens and debts secured by the property, calculated according to Program policy and recorded agreements. Net proceeds are used to determine the maximum recapture repayment when applicable.

Non-Responsive: A status applied when an applicant fails to provide required documentation or take required actions within Program timeframes after issuance of a PAN (or similar notice), resulting in denial or closure of the application.

Other Reasonable Allowed Costs: Reasonable and customary costs directly related to the eligible home purchase activity that are not classified as closing costs but are necessary to complete the transaction or carry out Program requirements, and are allowable under applicable cost principles and Program policy. Costs must meet the reasonableness standard.

Pending Action Notice (PAN): A written notice to an applicant identifying missing, incomplete, or inconsistent information required to determine eligibility or proceed with assistance, including a deadline and consequences for failure to respond.

PITIA (or PITI): Monthly housing expense consisting of Principal, Interest, Taxes, Insurance, and (where applicable) Association dues or other required housing fees, as defined by Program underwriting standards.

Prepaid Items (Prepaids): Amounts collected at closing that pay for future-due, lender-required items such as prepaid interest, homeowners insurance premium, flood insurance premium (if applicable), and other lender-required prepaid charges. Prepaids are distinct from closing costs and are only allowable if permitted by Program policy and documented in closing documents.

Primary Residence: A dwelling where a person maintains or will maintain residence for the majority of the calendar year. A person may have only one (1) primary residence at a time.

Program Assistance: All financial assistance provided under the Program to support the eligible home purchase (e.g., down payment assistance, closing cost assistance, principal reduction, approved prepaids or other allowable costs).

Promissory Note: A binding document between the Borrower and a lender outlining the terms of the loan such as loan amount, interest rate and payment plan with a written promise to pay at a future time.

Proof of Funds: Documentation demonstrating that an applicant holds sufficient liquid or readily accessible assets to cover any Required Borrower Contribution — the portion of cash required for closing that exceeds the Program award after accounting for the first mortgage and applicable Duplication of Benefits deductions. Proof of Funds is required only when the award calculation produces a Required Borrower Contribution greater than zero, and must be verified before the Program will initiate an environmental review for a subject property. Acceptable documentation includes recent bank, investment, or retirement account statements dated within sixty (60) days, confirmed gift funds, proceeds from an executed asset sale, or written disbursement commitments from a secondary assistance source. Projected or contingent assets — including anticipated price reductions through buyer negotiation, pending insurance settlements, expected tax refunds, or pending legal settlements distributions — are not acceptable. An applicant's intent to negotiate a

lower purchase price does not satisfy this requirement; however, if a lower price is subsequently reflected in a fully executed purchase agreement, a revised award calculation and Proof of Funds reassessment will be performed. Detailed documentation requirements and acceptable document types are addressed in the applicable Standard Operating Procedure.

Purchase Price: The sales price of a property as denoted in the Hawaii Purchase and Sale Agreement (PSA).

Purchase and Sale Agreement: A written agreement between a seller and buyer for the purchase and sale of a particular property.

Realtor Fees/Commissions: Fees or commissions paid to licensed real estate brokers or agents for representing the buyer or seller in the purchase transaction.

Reasonable Cost: A cost is reasonable if, in its nature and amount, it does not exceed what a prudent person would incur under the circumstances prevailing when the decision to incur the cost was made, considering ordinary and necessary operations, arm's-length bargaining, legal requirements, market prices, and consistency with written policies and procedures.

Reasonable and Customary: Reasonable and customary means typical for similar transactions in the same geographic market and consistent with market pricing, lender requirements, and standard settlement practices, and supported by customary documentation (e.g., Closing Disclosure/settlement statement, lender fee sheet).

Recapture: Provision ensuring that County of Maui's Office of Office of Recovery (OOR) recoups all or a portion of the CDBG-DR funded home purchase assistance provided to a homebuyer if the home does not continue to be the principal residence of the family for up to 99 years.

Registration and Filing Fees: Government-imposed fees charged to record or register legal documents related to the property transfer and mortgage, such as the deed, mortgage, or subordinate lien documents.

Resale Restriction: A restriction requiring that, during the affordability period, resale of the property must meet Program-specified conditions (e.g., buyer eligibility and/or price restrictions), as enforced through recorded covenants.

Restrictive Covenant: A legally binding condition placed on a property that receives grant funds. This provision ensures the property is used for its intended purpose—such as affordable housing for low- and moderate-income residents—for a specified period of time. The covenant is recorded against the property's deed, meaning it remains in effect even if the property is sold.

Returning Displaced Resident: An individual who previously resided in the County of Maui, was temporarily displaced as a direct result of the August 2023 wildfires, and is actively seeking to re-establish residency within the County through the acquisition or occupancy of a new home.

Single Family Residence: Residential structures containing one (1) dwelling unit or one (1) dwelling unit within a multi-unit structure.

Soft Second Mortgage: Soft second mortgages, as it applies to the Program, are government funded forgivable mortgages created to assist homebuyers with mortgage related costs and or financing. These mortgages have terms and a 0% interest rate with no repayment required in conjunction with the fulfillment of all loan terms. Second mortgages are recorded, placing a lien on the subject property. Once the mortgage terms are fulfilled, the mortgage will be forgiven and all applicable liens on the property will be released. Repayment is required in the event that loan terms are not satisfied.

Subject Property: The proposed property that the Applicant is under contract to purchase with HOP funds.

Special Flood Hazard Area (SFHA): An area identified by the United States Federal Emergency Management Agency (FEMA) as an area with a special flood or mudflow, and/or flood related erosion hazard, as shown on a flood hazard boundary map or flood insurance rate map.

Taxes: State or local taxes imposed at the time of property transfer or mortgage recording, including transfer taxes, conveyance taxes, or mortgage taxes, where such taxes are customarily charged to the buyer.

Title Insurance: Insurance issued by a title company to protect against financial loss arising from defects in title, liens, or other encumbrances that could affect ownership or the lender's security interest.

The Program: The Ho'okumu Hou First-Time Homebuyer Opportunity Program

Title Insurance: Insurance that protects the homebuyer and lender against losses arising from problems or defects with the title to a property after it has been purchased.

Warrantable Condominium: A condominium unit in a project that has been verified to meet the underwriting criteria required by Government-Sponsored Enterprises (GSEs), including Fannie Mae and Freddie Mac. These standards assess the project's risk based on factors such as owner-occupancy rates, the financial health of the Homeowners' Association (HOA), and litigation status, ensuring its eligibility for conventional loans.

October 14, 2025

MEMO TO: Members of the Housing and Land Use Committee

F R O M: Nohelani U'u-Hodgins, Chair Nohelani U'u-Hodgins
Bill 9 Temporary Investigative Group

SUBJECT: **TEMPORARY INVESTIGATIVE GROUP ON TRANSIENT VACATION RENTALS IN APARTMENT DISTRICTS FINAL REPORT** (HLU-4(1)) (PAF 25-226)

The Bill 9 Temporary Investigative Group of the Housing and Land Use Committee, having met on September 15, 16, 17, 19, 23, 27, and 29, 2025, makes its report as follows:

I. Background

By correspondence dated August 13, 2025, HLU Committee Vice-Chair Nohelani U'u-Hodgins transmitted a legislative proposal to establish a Temporary Investigative Group on policies and procedures for Transient Vacation Rental uses in Apartment Districts.

Under Section 92-2.5, Hawai'i Revised Statutes, the Bill 9 TIG was formed, as described in the legislative proposal, by the Housing and Land Use Committee on August 20, 2025.

HLU Committee Vice-Chair U'u-Hodgins was designated as the TIG Chair, Councilmember Tamara Paltin as the TIG Vice-Chair, and Councilmembers Tom Cook and Shane M. Sinenci as TIG voting members.

The TIG was required to submit a report of the group's recommendations to the HLU Committee by December 31, 2025.

II. Purpose and scope

The Bill 9 TIG was directed to make findings and recommendations to the Committee on:

Received at 10/14/2025 HLU Committee meeting
from TIG Chair U'u-Hodgins

1. Identifying Apartment District properties where continuing Transient Vacation Rental uses may be appropriate, even if the Council enacts an ordinance phasing out TVRs as permitted uses in the A-1 and A-2 zones. "Properties" includes individual units or entire buildings.

2. Summarizing forecasted economic and social impacts of TVR uses being phased out in the Apartment Districts.

3. Suggesting Council-initiated bills to approve a Change in Zoning, Community Plan Amendment, or Conditional Permit for the identified properties.

4. Suggesting improvements to Chapter 19.510, Maui County Code, "Application and procedures," to make applications for a Change in Zoning, Community Plan Amendment, or other land-use entitlements more cost efficient and time efficient.

The TIG was tasked with evaluating Apartment District properties permitted to have TVR uses to:

- Identify current uses on the properties;

- Consider uses likely to occur on the properties if TVR uses are phased out;

- Analyze how phasing out TVR uses will impact the surrounding community and the County as a whole; and

- Determine whether TVR uses should be allowed to continue on properties through the appropriate land-use-designation changes.

The TIG was authorized to work with the Planning Director to:

- Review the Department's application and review processes for land-use-designation changes to consider the timeliness of applications;

- Identify factors that may hinder processing of applications; and

- Consider policies and procedures to expedite the processing of applications.

The TIG was also authorized to:

- Research other municipalities' land-use processes; and

- Conduct interviews and discussions with:

    - County officers and personnel;

    - Individuals with expertise on Apartment District properties and the impacts of phasing out TVR uses in the Apartment Districts; and

    - Representatives from the following groups:

        - Apartment District and other property owners;

        - Officials in other municipalities;

        - Land-use planners;

        - Housing advocates;

        - Economists; and

        - Businesspersons in real estate, hospitality, and other industries.

Finally, the TIG was requested to:

- Identify Apartment District properties on which TVR uses should be allowed to continue and recommend the appropriate land-use-designation changes;

- Identify, and rank in order of importance, changes to Chapter 19.510, Maui County Code, to improve application and review processes;

- Identify which beneficial changes to policies and procedures require legislative proposals and action by the Council; and

- Identify which beneficial policies and procedures can be accomplished by Department of Planning administrative action.

III. Rules, procedures, and dissolution

The Bill 9 TIG conducted its meetings and discussions under the authority of:

- The legislative proposal that established the TIG; and

- HRS Subsection 92-2.5(b), which states: "Two or more board members, but less than the number of members which would constitute a quorum, may be assigned to:

  (1) Investigate a matter relating to the official business of their board, provided that:

    (A) The scope of the investigation and the scope of each member's authority are defined at a meeting of the board;

    (B) All resulting findings and recommendations are presented to the board at a meeting of the board; and

    (C) Deliberation and decision-making on the matter investigated, if any, occurs only at a duly noticed meeting of the board held no less than six business days after the meeting at which the findings and recommendations of the investigation were presented to the board."

Accordingly, Subparagraph A's requirements were satisfied at the HLU Committee's meeting of August 20, 2025. Subparagraph B's requirements are to be satisfied at the Committee's meeting of October 14, 2025. And Subparagraph C's allowances are to be scheduled by the Committee.

The TIG is dissolved upon presentation of its findings, recommendations, and legislative proposals to the HLU Committee; therefore, the TIG is now dissolved.

IV. Meetings

Present at every meeting were all four TIG members and staff from the Office of Council Services and Department of the Corporation Counsel.

Additionally, the TIG met with the Mayor, Managing Director, staff from the Department of Planning and the Department of Finance, businesspersons in real estate, housing advocates, and loan officers.

The TIG's meeting discussions were scheduled as follows:

- September 15, 2025:

  TIG rules and procedures, planning for future TIG meetings, allowable uses in Apartment Districts, changes in zoning, Community Plan amendments, conditional permits

- September 16, 2025:

  TVR use in Apartment and Hotel Districts, Apartment District Properties allowed to be used for short-term occupancy, timeshares, leaseholds, units originally built for workforce or affordable housing

- September 17, 2025:

  Economic impacts to Maui County if TVR uses are phased out in the Apartment Districts

- September 19, 2025:

  Sea Level Rise Exposure Area; economic and social impacts to Maui County if TVR uses are phased out in the Apartment Districts, including housing availability

- September 23, 2025:

  Mortgage and loan processes; economic and social impacts to Maui County if TVR uses are phased out in the Apartment Districts, including housing availability and attainability

- September 27, 2025:

  Impacts of phasing out TVR uses on the surrounding community and the County as a whole; Department of Planning's application and review processes for land-use-designation changes, including identify factors that may hinder processing of applications and considering policies and procedures to expedite the processing of applications

- September 29, 2025:

  Application and review processes for land-use-designation changes, beneficial policies and procedures that can be accomplished by Department of Planning's administrative action, economic and social impacts to Maui County if TVR uses are phased out in the Apartment Districts, recap of TIG's recommendations

The Bill 9 TIG also conducted site visits around Maui Island.

V. Findings and recommendations

The TIG found the following potential economic and social impacts of TVRs being phased out as permitted uses in the Apartment Districts:

- The economic impact to the County, especially as it relates to Real Property Taxes, is difficult to predict because classifications, tiers, and rates may change over time.

- Assuming the current RPT classifications, tiers, and rates remain the same, the economic impact to the County would be largest—i.e., decrease the County's RPT revenue the most—if all units become owner-occupied. The impact would be smallest—i.e., decrease RPT revenue the least—if all units become non-owner-occupied.

- In the immediate future, the County may not see a large economic impact to its RPT collections; however, phasing out TVR uses in the Apartment Districts may impact General Excise Tax and Transient Accommodations Tax revenue as property owners long-term rent, sell, or vacate their units.

- Similarly, fewer TVRs could result in a reduction in tourism, which could also impact hospitality-related jobs.

- On the other hand, Maui County residents seeking permanent housing have time to prepare for long-term rental or home ownership by meeting with loan officers and taking advantage of homebuyer education classes offered throughout the County.

- Additionally, many Apartment District TVRs are in West Maui, where a large number of residents were displaced by the August 2023 Maui Wildfires. Limited water availability impedes development of new West Maui housing, but housing may still become available to displaced residents if TVR owners choose to sell their properties after a phase out.

- The TIG discussed ways to mitigate the potential financial losses or encourage the full-time use of Apartment District properties for residential purposes, including through an empty homes tax.

- The TIG acknowledged that, although the intent of phasing out TVR uses in the Apartment Districts is to increase housing availability for Maui County residents to live in, both local and

out-of-state investors could purchase properties placed on the market.

- The TIG also acknowledged that properties subject to litigation are (1) less likely to be sold; and (2) less likely to be bought by local residents because banks typically only authorize cash transactions on those properties.

The TIG noted that property owners wishing to continue TVR uses may apply for land-use-designation changes.

By unanimous, affirmative votes the TIG established the following recommendations:

Recommendation #1:

Urging the Department of Planning to introduce legislation establishing H-3 and H-4 Hotel Districts

Purpose and scope:

- Identifying Apartment District properties where continuing Transient Vacation Rental uses may be appropriate, even if the Council enacts an ordinance phasing out TVRs as permitted uses in the A-1 and A-2 zones. “Properties” includes individual units or entire buildings.

- Councilmembers may work with the Planning Director to review the Department of Planning's application and review processes for land-use-designation changes to consider the timeliness of applications, from initiation to final approval or denial, identify factors that may hinder processing of applications, and consider policies and procedures to expedite the processing of applications.

- Identify which beneficial policies and procedures can be accomplished by Department of Planning’s administrative action.

Summary:

- The original purpose and intent of Chapter 19.12, Maui County Code, which established Apartment Districts, was:

  - To provide higher density housing options generally established within or near the urban core of a town to provide residents with access to jobs, services, amenities, and transportation options. Uses within the Apartment Districts are appropriately located near, and are compatible with, uses in the various business, residential, public/quasi-public, and park districts.

  - To provide a transition between residential districts and business districts.

  - That residential buildings and structures within the Apartment District be occupied on a long-term residential basis.

- The County could establish H-3 and H-4 Hotel Districts that are like-for-like with the A-1 and A-2 Apartment Districts, respectively, except that TVR uses would be permitted outright.

- Apartment District properties on which TVR uses should be allowed to continue could then be rezoned into the H-3 and H-4 Hotel Districts without changing the properties' allowable uses.

- Introduction of the legislation by the Department of Planning would result in the proposed legislation going to the Planning Commissions first, without an initial referral by Council, expediting the process and minimizing personnel resources for establishing the new Hotel Districts.

Recommended action: The TIG recommends introduction of a resolution urging the Department of Planning to introduce legislation establishing H-3 and H-4 Hotel Districts in Section 19.14, Maui County Code, that are like-for-like with the A-1 and A-2 Apartment Districts, respectively, except that TVR uses would be outright permitted.

Barriers to implementation: None.

Recommendation #2: Council-initiated land-use-designation changes

Purpose and scope:

- Identifying Apartment District properties where continuing Transient Vacation Rental uses may be appropriate, even if the Council enacts an ordinance phasing out TVRs as permitted uses in the A-1 and A-2 zones. "Properties" includes individual units or entire buildings.

- Suggesting Council-initiated bills to approve a Change in Zoning, Community Plan Amendment, or Conditional Permit for the identified properties.

- Identify which beneficial changes to policies and procedures require legislative proposals and action by the Council.

Summary*:*

- Exhibit "2," attached, notes Apartment District properties allowed to be used for short-term occupancy and the recommendations for which continuing TVR uses may be appropriate.

- Properties with market values not attainable by most Maui County residents would be appropriate to continue TVR uses.

- Properties where any portion of the property is located in the full SLR-XA or would already be impacted by sea-level rise would not produce long-term housing options for residents and would therefore be appropriate to continue TVR uses.

- Properties that are entirely or almost entirely made up of timeshare units would not be required to phase out TVR use and, therefore, should be located in the Hotel District or resort and hotel-related community plan areas.

- TVRs in Apartment Districts located on Molokai were not recommended to be phased out regardless of what occurs countywide.

- Owners of property not included in Exhibit "2" who are wishing to continue TVR uses may still individually apply for land-use-designation changes.

- Owners of properties that are listed in Exhibit "2" but prefer to apply for upzoning of their properties may be excluded from Council-initiated comprehensive zoning and individually apply for land-use-designation changes.

Recommended action: The TIG recommends the following:

1. Council-initiated Changes in Zoning from A-1 or A-2 Apartment Districts to H-3 or H-4 Hotel Districts, respectively, once the H-3 and H-4 Hotel Districts are established, for the properties noted in Exhibit "2."

2. Changes to community-plan designations for properties noted in Exhibit "2" and located in South Maui as part of the Council's review of the South Maui Community Plan update.

3. Council-initiated changes to community-plan designations for all other properties noted in Exhibit "2."

Barrier to implementation: The length of time for land-use-designation changes to be reviewed and approved will likely extend beyond the current Council term.

The recommendations noted above further the following General Plan objectives:

- "Increase the inventory of long-term housing units, whether owner-occupied or long-term rental, and whether single-family or multi-family." (West Maui Community Plan, page 58)

- "Limit the number of visitor-accommodation units and facilities in Community Plan Areas." (Countywide Policy Plan, page 73)

- "Maintain a sustainable balance between the resident, part-time resident, and visitor populations." (Countywide Policy Plan, page 73)

VI. Summary

Under HRS Section 92-2.5, the Bill 9 TIG was established on August 20, 2025, to investigate and make findings and recommendations on policies and procedures for Transient Vacation Rental uses in Apartment Districts.

Through the course of seven meetings including various resource personnel, the TIG found the following potential economic and social impacts of TVR uses being phased out in the Apartment Districts:

- The economic impact to the County, especially as it relates to Real Property Taxes, is difficult to predict because classifications, tiers, and rates may change over time.

- Assuming the current RPT classifications, tiers, and rates remain the same, the economic impact to the County would be largest, or decrease the County's RPT revenue the most, if all units become owner-occupied; and the economic impact would be smallest, or decrease RPT revenue the least, if all units become non-owner-occupied.

- In the immediate future, the County may not see a large economic impact to its RPT collections; however, phasing out TVR uses in the Apartment Districts may impact General Excise Tax and Transient Accommodations Tax revenue as property owners long-term rent, sell, or vacate their units.

- Similarly, fewer TVRs could result in a reduction in tourism, which could also impact hospitality-related jobs.

- On the other hand, Maui County residents seeking permanent housing have time to prepare for long-term rental or home ownership by meeting with loan officers and taking advantage of homebuyer education classes offered throughout the County.

- Additionally, many Apartment District TVRs are in West Maui, where a large number of residents were displaced by the August 2023 Maui Wildfires. Limited water availability impedes development of new West Maui housing, but housing may still become available to displaced residents if TVR owners choose to sell their properties after a phase out.

- The TIG discussed ways to mitigate the potential financial losses or encourage the full-time use of Apartment District properties for residential purposes, including through an empty-homes tax.

- The TIG acknowledged that, although the intent of phasing out TVR uses in the Apartment Districts is to increase housing availability for Maui County residents to live in, both local and out-of-state investors could purchase properties placed on the market.

- The TIG also acknowledged that properties subject to litigation are (1) less likely to be sold; and (2) less likely to be bought by local residents because banks typically only authorize cash transactions on those properties.

The TIG noted that property owners wishing to continue TVR uses may apply for land-use-designation changes.

The TIG also unanimously voted to make the following recommendations:

1. Introduction of a resolution urging the Department of Planning to introduce legislation establishing H-3 and H-4 Hotel Districts in Section 19.14, Maui County Code, that are like-for-like with the A-1 and A-2 Apartment Districts, respectively.

2. Council-initiated changes in zoning from A-1 or A-2 Apartment District to H-3 or H-4 Hotel Districts, respectively, once the H-3 and H-4 Hotel Districts, for the properties noted in Exhibit "2."

3. Council-initiated changes to community-plan designations for properties noted in Exhibit "2" and located in South Maui during its review of the South Maui Community Plan update.

4. Council-initiated changes to community-plan designations for all other properties noted in Exhibit "2."

The TIG is dissolved as of the issuance of this report on October 14, 2025.

paf:kmat:25-226a

Attachment

Exhibit "1"

August 13, 2025

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MEMO TO: HLU-4 File

F R O M: Nohelani U'u-Hodgins, Vice-Chair Nohelani U'u-Hodgins
Housing and Land Use Committee

SUBJECT: **TRANSMITTAL OF LEGISLATIVE PROPOSAL RELATING TO TEMPORARY INVESTIGATIVE GROUP ON POLICIES AND PROCEDURES FOR TRANSIENT VACATION RENTAL USES IN THE APARTMENT DISTRICTS** (HLU-4)

The attached legislative proposal pertains to Item 4 on the Committee's agenda.

paf:jgk:25-205b

Attachment

Temporary Investigative Group on Policies and Procedures for Transient Vacation Rental Uses in the Apartment Districts

Housing and Land Use Committee (HLU-4)

Purpose of investigation:

The investigation's purpose is to make findings and recommendations on:

1. Identifying Apartment District properties where continuing Transient Vacation Rental uses may be appropriate, even if the Council enacts an ordinance phasing out TVRs as permitted uses in the A-1 and A-2 zones. "Properties" includes individual units or entire buildings.

2. Summarizing forecasted economic and social impacts of TVR uses being phased out in the Apartment Districts.

3. Suggesting Council-initiated bills to approve a Change in Zoning, Community Plan Amendment, or Conditional Permit for the identified properties.

4. Suggesting improvements to Chapter 19.510, Maui County Code, "Application and procedures," to make applications for a Change in Zoning, Community Plan Amendment, or other land-use entitlements more cost efficient and time efficient.

Scope of investigation:

The investigation's scope is as follows:

1. The Temporary Investigative Group may evaluate Apartment District properties on which Transient Vacation Rental use is a permitted use to:

    a. Identify current uses on the properties.

    b. Consider uses likely to occur on the properties if Transient Vacation Rental uses are phased out.

    c. Analyze how phasing out Transient Vacation Rental uses will impact the surrounding community and the County as whole.

d. Determine whether Transient Vacation Rental uses should be allowed to continue on the properties through the appropriate land-use-designation changes.

2. The Temporary Investigative Group may work with the Planning Director to review the Department of Planning's application and review processes for land-use-designation changes to:

   a. Consider the timeliness of applications, from initiation to final approval or denial.

   b. Identify factors that may hinder processing of applications.

   c. Consider policies and procedures to quicken the processing of applications, including those implemented by other municipalities.

3. During its investigation, the Temporary Investigative Group may:

   a. Conduct interviews and discussions with County officers or, with the applicable agency head's approval, County personnel, including personnel from the following agencies: Department of Planning, Department of Finance, Department of Housing, and Department of the Corporation Counsel.

   b. Conduct interviews and discussions with individuals with expertise on Apartment District properties and their uses and the impacts of phasing out Transient Vacation Rental uses in the Apartment Districts.

   c. Consult with representatives from the following groups: Apartment District and other property owners, officials in other municipalities, land-use planners, housing advocates, economists, and businesspersons in real estate, hospitality, and other industries.

   d. Research other municipalities' land-use processes.

4. At the investigation's conclusion, the Temporary Investigative Group is requested to:

   a. Identify Apartment District properties on which Transient Vacation Rental uses should be allowed to continue and recommend the appropriate land-use-designation changes.

   b. Identify and rank in order of importance changes to Chapter 19.510 to improve application and review processes.

c. Identify which beneficial changes to policies and procedures require legislative proposals and action by the Council.

d. Identify which beneficial policies and procedures can be accomplished by Department of Planning administrative action.

Duration and general rules:

1. Discussion of matters on the investigation's purpose and scope is restricted to only those Councilmembers appointed as Temporary Investigative Group members by the Housing and Land Use Committee.

2. The presence of three members, whether in person or online, for a discussion called and convened by the Chair, or in the absence or disability of the Chair, the Vice-Chair, is a quorum of the Temporary Investigative Group.

3. Discussion of matters on the investigation's purpose and scope is restricted to discussions called and convened by the Chair, or in the absence or disability of the Chair, the Vice-Chair;

4. Three affirmative votes are required to establish a recommendation.

5. The Temporary Investigative Group will submit a report of the group's recommendations to the Housing and Land Use Committee by December 31, 2025; and

6. The Temporary Investigative Group may be referred to as "the Bill 9 TIG."

7. The Temporary Investigative Group will be dissolved after presentation of its report to the Housing and Land Use Committee.

Membership:	**Authority:**
Nohelani U'u-Hodgins, Chair	Call, convene, and facilitate discussions; request staff assistance from the Council Chair and the Administration; draft the report to the Housing and Land Use Committee; establish and enforce parliamentary procedure.

Tamara Paltin, Vice-Chair	In the Chair's absence or disability, the Vice-Chair assumes the Chair's duties.
Tom Cook, member	Voting member.
Shane M. Sinenci, member	Voting member.

paf:jgk:25-205a

EXHIBIT "2"

PROJECT PROPERTY	MASTER TMK	ADDRESS	YR BLT	COUNTY ZONING	COMMUNITY PLAN DESIGNATION	NUMBER OF UNITS	LOCATION
HANA KAI-MAUI	140050400000	4865 Uakea Rd	1974	A1	MF	19	Hāna (East Maui)
MAUI ELDORADO	440080210000	2661 Kekaa Dr	1968	A2	H	205	Kā‘anapali (West Maui)
HALE KAANAPALI	440060110000	45 Kai Ala Dr	1587	A2/H/OS	H	258	Kā‘anapali (West Maui)
KAPALUA BAY VILLAS	420010240000	500 Bay Dr	1977	A2	MF	141	Kapalua (West Maui)
MAUI SCHOONER	390010040000	980 S Kihei Rd	1980	A2	MF	58	Kīhei (South Maui)
MAUI KAMAOLE	390041430000	2777 S Kihei Rd	1988	A1	MF	28	Kīhei (South Maui)
MAUI KAMAOLE II	390041440000	2777 S Kihei Rd	1989	A1	MF	48	Kīhei (South Maui)
KIHEI BAY SURF	390011070000	715 S Kihei Rd	1980	A1	MF	118	Kīhei (South Maui)
GRND CHAMP VILLAS	210081040000	155 Wailea Ike Pl	1989	A2	MF/OS/PD	188	Kīhei (South Maui)
MAUI VISTA	390180030000	2191 S Kihei Rd	1980	A2	MF	280	Kīhei (South Maui)
MAUI KAMAOLE III	390040820000	2777 S Kihei Rd	1994	A1	MF	240	Kīhei (South Maui)
1178 ULUNIU RD	390070020000	1178 Uluniu Rd	1935	A1	MF	1	Kīhei (South Maui)
1440 HALAMA ST	390090030000	1440 Halama St	1946	A1	MF	1	Kīhei (South Maui)
1470 HALAMA ST	390090250000	1470 Halama St	1960	A1	MF	1	Kīhei (South Maui)
2131 ILIILI RD	390050390000	2131 Iliili Rd	1946	A1	MF	1	Kīhei (South Maui)
INDO LOTUS BEACH HSE	390050220000	2216 S Kihei Rd	1970	A1	MF	1	Kīhei (South Maui)
MOANA VILLA	390070250000	1158 Uluniu Rd	1973	A1	MF	1	Kīhei (South Maui)
MY WAII BEACH COTTAGE	390050120000	2128 Iliili Rd	1870	A1	MF	1	Kīhei (South Maui)
1194 ULUNIU RD	390070010000	1194 Uluniu Rd	1964; 1979	A1	MF	2	Kīhei (South Maui)
KAPU TOWNHOUSE	390090050000	69 Kapu Pl	1980	A1	SF	2	Kīhei (South Maui)
WAIOHULI BCH DUPLEX	390090100000	64 W Lipoa St	1977	A1	MF	2	Kīhei (South Maui)
KIHEI BAY VISTA	390011430000	679 S Kihei Rd	1989	A1	MF	60	Kīhei (South Maui)
HALE KAMAOLE	390040840000	2737 S Kihei Rd	1974	A1/A2	MF	188	Kīhei (South Maui)
KAMAOLE SANDS	390040040000	2695 S Kihei Rd	1983	A2	MF	440	Kīhei (South Maui)
1444 HALAMA ST	390090020000	1444 Halama St	1968	A1	MF	4	Kīhei (South Maui)
WAILEA EKAHI II	210080600000	3300 Wailea Alanui Dr	1976	A1	MF/PUD	92	Wailea-Makena (South Maui)
WAILEA EKAHI I	210080640000	3300 Wailea Alanui Dr	1976	A1/BR/OS/PUD	MF/OS	100	Wailea-Makena (South Maui)
WAILEA EKAHI III	210080650000	3300 Wailea Alanui Dr	1976	A1/H1/OS/PUD	MF/OS	104	Wailea-Makena (South Maui)
WAILEA EKOLU	210080770000	10 Wailea Ekolu Pl	1979	A1/OS-GC/PUD	MF	148	Wailea-Makena (South Maui)
PALMS AT WAILEA I	210080820000	3200 Wallea Alanui Dr	1990	A1	MF/OS/PD	150	Wailea-Makena (South Maui)
KAANAPALI ROYAL	440080230000	2560 Kekaa Dr	1980	A2	MF/OS	105	Kā‘anapali (West Maui)
LAHAINA BEACH CLUB	430060060000	3711 Lower Honoapiilani Rd	1971	A2	MF	12	Lahaina (West Maui)
KAHANA OUTRIGGER	430050310000	4521 Lower Honoapiilani Rd	1981	A1	MF	4	Lahaina (West Maui)
KAHANA OUTRIGGER	430050200000	4521 Lower Honoapiilani Rd	1981	A1	MF	8	Lahaina (West Maui)
PIKAKE	430060630000	3701 Lower Honoapiilani Rd	1966	A2	MF	12	Lahaina (West Maui)
LOKELANI	430060160000	3833 Lower Honoapiilani Rd	1971	A2	MF/OS	36	Lahaina (West Maui)
HALE KAI I	440010420000	3691 Lower Honoapiilani Rd	1967	A2	MF	40	Lahaina (West Maui)
MILOWAI-MAALAEA	380140220000	50 Hauoli St	1977	A2/M1	LI	42	Mā‘alaea (South Maui)
HONO KAI	380140020000	280 Hauoli St	1972	A2/A1	MF	46	Mā‘alaea (South Maui)
LAULOA MAALAEA	380140160000	100 Hauoli St	1979	A2	MF	47	Mā‘alaea (South Maui)
MAALAEA KAI	380140210000	70 Hauoli St	1974	A2	MF	79	Mā‘alaea (South Maui)
ISLAND SANDS	380140150000	150 Hauoli St	1975	A2	MF	83	Mā‘alaea (South Maui)
MAUI SANDS II	440010710000	3559 Lower Honoapiilani Rd	1969	A2	MF	20	Lahaina (West Maui)
HALE MAHINA BEACH	430060410000	3875 Lower Honoapiilani Rd	1981	A2	MF	53	Lahaina (West Maui)
HALE ONO LOA	430060440000	3823 Lower Honoapiilani Rd	1969	A2	MF	67	Lahaina (West Maui)
KULEANA	430080040000	3959 Lower Honoapiilani Rd	1972	A1	MF	18	Lahaina (West Maui)
HONO KOA	430060140000	3801 Lower Honoapiilani Rd	1980	A2	MF	28	Lahaina (West Maui)
PAKI MAUI III	440010500000	3615 Lower Honoapiilani Rd	1978	A2	MF/OS	28	Lahaina (West Maui)
PAKI MAUI I & II	440010510000	3601 Lower Honoapiilani Rd	1975	A2	MF/OS	80	Lahaina (West Maui)
KULEANA	430080050000	3956 Lower Honoapiilani Rd	1974	A1	MF/OS	100	Lahaina (West Maui)
PAPAKEA	440010550000	13543 Lower Honoapiilani Rd	1977	A2/H2	MF/H2/OS2	364	Lahaina (West Maui)
MAUI HILL	390040810000	2881 S Kihei Rd	1981	A1	MF	140	Kīhei (South Maui)
MAUI SUNSET	390010020000	1032 S Kihei Rd	1974	A2	MF	225	Kīhei (South Maui)

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DEPARTMENT OF PLANNING

COUNTY OF MAUI

Amendments to Title MC-12, Chapter 203

Shoreline Rules for the Maui Planning Commission

Amendments to Title MC-12, Chapter 203 — Shoreline Rules for the Maui Planning Commission

Summary

SUMMARY

1. §12-203-2 is amended.
2. §12-203-3 is amended.
3. §12-203-4 is amended.
4. §12-203-6 is amended.
5. §12-203-7 is amended.
6. §12-203-8 is amended.
7. §12-203-9 is amended.
8. §12-203-10 is amended.
9. §12-203-11 is amended.
10. §12-203-12 is amended.
11. §12-203-12.1 is added.
12. §12-203-13 is amended.
13. §12-203-14 is amended.
14. §12-203-15 is amended.
15. §12-203-16 is amended.
16. §12-203-18 is amended.

17. §12-203-23 is amended.

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“Subchapter 1 General Provisions

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§12-203-3	Applicability
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Subchapter 1 6 General Provisions

12-203-2 Purpose

1. Section 12-203-2 is amended to read as follows:

" 12-203-2 Purpose. (a) The purpose of this chapter is to establish shoreline rules that regulate the use and activities of land within the shoreline environment in order to protect the safety and welfare of the public by providing protection from coastal natural hazards; and to ensure that the public use and enjoyment of our coastal resources are preserved and protected for future generations in accordance with the Hawaii coastal zone management law, Hawaii Revised Statutes chapter 205A.

(b) One of the most important and significant natural resources of the County of Maui is its shoreline environment. Due to competing demands for utilization and preservation of the beach and ocean resources, it is imperative:

1. That use and enjoyment of the shoreline area be ensured for the public to the fullest extent possible;
2. That the natural shoreline environment be preserved;
3. That constructed features in the shoreline area be limited to features compatible with the shoreline area;
4. That the natural movement of the shoreline be protected from development;
5. That the quality of scenic and open space resources be protected, preserved, and where desirable, restored; and
6. That adequate public access to and along the shoreline be provided.

These steps are necessary because development and other constructed improvements have resulted in encroachment of structures near the shoreline and, in numerous instances, erosion and other disturbances affecting the natural movement of the shoreline. Moreover, these steps are also necessary because the Hawaiian Islands are subject to coastal natural hazards such as tsunamis, high wave action, sea level rise, hurricanes, coastal flooding, and coastal erosion that pose hazards to residences and other structures near the shoreline. Shoreline hardening has historically been the response to impacts from coastal hazards such as shoreline erosion, and this approach is now widely recognized in most cases to have an adverse impact on neighboring properties and the beach system. To prioritize coastal resilience, and to preserve and restore coastal and cultural resources, preferred alternatives

include options for nature-based protection, and to avoid, accommodate, or shift away from coastal hazards." [Eff 11/27/03; 08/25/24] (Auth:

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HRS Chapter 205A, Parts I and III; Maui County Charter §§8-8.4, 13-2(15)) (Imp: HRS §§205A-1, 205A-2, 205A-43, 205A-43.5, 205A-43.6, 205A-45, 205A-49)

2. Section 12-203-3 is amended to read as follows:

12-203-3 Applicability

§12-203-3 Applicability. These rules shall be applicable to all lands located within the shoreline area of the Island of Maui, County of Maui, State of Hawaii. The director shall administer this chapter." [Eff 11/27/03; am and comp 08/25/24] (Auth: HRS Chapter 205A, Parts I and III; Maui County Charter §§8-8.4, 13-2(15)) (Imp: HRS §§205A-1, 205A-2, 205A-43, 205A-43.5, 205A-43.6, 205A-45, 205A-49)

3. Section 12-203-4 is amended to read as follows:

12-203-4 Definitions

§12-203-4 Definitions. For purposes of this chapter, unless it is plainly evident from the context that a different meaning is intended, certain words and phrases used herein shall be defined as follows:

"Adversely affect beach processes" means to pose a potential immediate or future detrimental effect on beach processes as a result of a structure or activity located within the shoreline area, or to pose the need to artificially fix the shoreline.

"Artificially fix the shoreline" means to permanently establish the shoreline.

"Average lot depth" means the measurement obtained by adding the lengths of the two sides of a lot which are at or near right angles with the shoreline to the length of a line obtained by drawing a line from a point in the center of the makai side of the lot to a point in the center of the mauka side of the lot and dividing the resulting sum by three.

"Beach nourishment" means the technique of placing sand or cobble fill consistent with existing beach conditions along the shoreline to widen the beach and provide a buffer against coastal erosion and wave attack.

"Best Management Practices" or "BMPs" means a set of mitigation actions that are intended to protect the environment from harm and to ensure that water quality and marine resources are protected during all phases of a project or activity.

"Board approval" means approval of the board of land and natural resources pursuant to HRS section 183-C, as amended.

"Calamity" means any episodic non-chronic event producing sudden and severe damage or risk of imminent severe damage or threat to public health or safety within the reasonably foreseeable future.

"Certified shoreline survey" means the actual field location of the shoreline prepared by a land surveyor registered in the State of Hawaii that is signed, dated, and certified by the chairperson of the board of land

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and natural resources.

“Coastal dune” means one of possibly several continuous or nearly continuous mounds or ridges of unconsolidated wind or wave driven marine sand continuous and immediately landward of the beach, situated so that it may be accessible to storm waves and seasonal high waves for release to the beach or offshore waters as defined by chapter 20.08, Maui County Code.

"Coastal erosion" means the wearing away of coastal lands, usually by wave attack, tidal or littoral currents, or wind. Coastal erosion is synonymous with shoreline (vegetation line) retreat.

"Coastal hazards" means any tsunami, hurricane, wind, wave, storm surges, high tide, flooding, erosion, sea level rise, subsidence, or point and nonpoint source pollution, as defined by HRS 205A-1.

"Commission" means the Maui planning commission.

"Department" means the department of planning of the County of Maui.

"Development plan" means a detailed drawing to scale that shows the proposed activity or structure and all areas where work will be performed.

The plan shall include:

1. Property boundaries;
2. All existing natural and constructed features and conditions that occur within the proposed area of work; and
3. All proposed modifications to existing features, such as excavation or other ground-altering activity (length, width, and depth), and proposed new features and conditions.

The director may require that the plan include an accurate instrument survey of the lot as well as cross sections of the lot at designated locations to be prepared by a surveyor licensed in the State of Hawaii.

"Director" means director of the department of planning.

"Dune restoration" means the technique of rebuilding an eroded or degraded dune through one or more various methods, such as sand fill, drift fencing, or revegetation.

"Erosion hazard line" means the mapped, 80 percent, cumulative probability contour of the coastal erosion hazard zone with 3.2 feet of sea level rise on the date these rules were adopted. The erosion hazard line must reflect the best available science as published in peer reviewed literature such as the Hawaii Climate Change Mitigation and Adaptation Commission's 2017 Hawaii Sea Level Rise Vulnerability and Adaptation Report, as accessible within the Hawaii Sea Level Rise Viewer hosted by the Pacific Islands Ocean Observing

System. The erosion hazard line and resulting setback mapped by the Department may need to be updated to reflect future updates and reports based on best available science, with

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such updates "being subject to review by the Commission within 12 months of the release of said science."

"Estuary" means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage.

"Ground altering" or "ground disturbance" means grading, trenching, digging, grubbing, excavating or otherwise moving soil or other natural material that comprises the surface and subsurface of a parcel of land to the extent that such activity could potentially impact cultural or natural resources as determined by the director.

"HRS" means the Hawaii Revised Statutes, as amended.

"Irregularly shaped lot" means a flag lot, triangular parcel, lot bordered by ocean on two or more sides, headland, or peninsula.

"Lot" means a designated parcel, tract, or area of land established by subdivision or as otherwise established prior to the adoption of subdivision laws.

"Makai" means seaward.

"Mauka" means inland.

"Minimum buildable depth" means the minimum depth that a structure may be constructed taken from a line running makai of and parallel to the front yard or most landward setback, not to exceed 40 feet in length.

"Minor activity" means an activity that does not adversely impact the existing grade of the setback area and shall be limited to activities related to landscaping, minor clearing (grubbing) of vegetation, soil testing, archaeological trenching, and minor grading which is not subject to HRS chapter 343, provided that best management practices are employed.

"Minor structure" means a structure that costs less than $250,000, does not impede the natural movement of the shoreline, and does not significantly alter the existing grade of the shoreline area, including the following:

1. Landscape features such as barbecues, lighting, benches, chairs, borders, wooden trellis, fences, railings, bird feeders, signs, and safety improvements;
2. Movable or portable lifeguard stands;
3. Landscaping and drywells;
4. Irrigation systems, provided they are directed away from and do not result in impermissible encumbrances to the shoreline;
5. Outdoor shower and water faucets;
6. Temporary tents for special events conducted by commercial or non-profit entities not exceeding fourteen consecutive days in duration during any three-month period; and
7. Portable or movable walkways for public access, such as wooden or composite boardwalks or dune walkovers or

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structures providing access that primarily benefit the public, as determined by the director.

A minor structure shall not include a pool, spa, gazebo, carport, garage, or a similarly massed structure of a permanent nature.

"Nonconforming structure/activity, lawful" means a structure or activity within the shoreline area and either was completely built or initiated prior to

June 22, 1970 or received all applicable and required permits and approvals for all structures and activities prior to the effective date of these rules.

"Nonstructural improvement" or "nonstructural" is or describes any improvement, maintenance, repair or renovation which does not materially alter the load-bearing components essential to the stability of the overall structure. Nonstructural improvements may include, but are not limited to, window or door replacement or additions, reroofing, storage sheds, fencing, signage, low impact development parking lot improvements, addition of solar panels that do not significantly alter building height or previously developed land area, or other activities that do not affect the integrity of a structure as defined in HRS 205A-22.

"Qualified demolition" means the demolition of a structure or structures where such demolition:

1. Will not adversely affect beach processes;
2. Will not artificially fix the shoreline;
3. Will not interfere with public access, except for public safety reasons during demolition operations;
4. Will not interfere with public views to and along the shoreline, except during demolition operations;
5. Will be consistent with:
    A. The purpose of these rules; and
    B. Section 205A-2(c)(3)(C), HRS, which states that an objective and policy of the coastal zone management program is to preserve, maintain, and, where desirable, improve and restore shoreline open space and scenic resources; and
6. Will comply with:
    A. Chapter 19.62, Maui County Code, relating to flood hazard areas;
    B. Chapter 20.08, Maui County Code, relating to soil erosion and sedimentation control; and
    C. Chapter 6E, HRS, relating to historic preservation.

"Reconstruction" means rebuilding more than 75 percent of an entire structure as measured by the current valuation.

"Renovation" means the remodel, update, or upgrade of a structure that does not increase existing height or floor area and is not

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reconstruction.

"Repair" means the fixing or replacing of any part of an existing structure for the purpose of its maintenance, or renewal of surface treatments such as painting, carpeting, or exterior siding with substantially similar use of materials and location, but does not include expansion of use or intensity, reconstruction or renovation.

"Restaurant dining area" means an outdoor seating area that includes movable tables and chairs, and may include movable umbrellas, for customers of a restaurant where food or beverages are served and consumed; this does not include a bar, kitchen or other facility where food or beverages are prepared.

"Sand" means particles of mineralogic or rock material ranging in diameter from 0.0625 millimeters to 2 millimeters that shall be substantially clean of rubble and debris; shall contain no more than fifteen percent volume of silt which ranges in diameter from 0.039 millimeters to 0.0625 millimeters and clay which ranges in diameter from 0.00006 millimeters to .0039 millimeters; and shall not consist of artificially crushed coral as defined by chapter 20.08, Maui County Code. Additional specifications on quality, such as for dune or beach restoration purposes, may be required.

"Sea Level Rise Exposure Area" means the area of projected land loss (erosion) and flooding (high wave and passive) on the date these rules were adopted and as mapped by the department. The sea level rise exposure area will reflect best available science as published in peer-reviewed literature such as the Hawaii Climate Change Mitigation and Adaptation Commission's 2017 Hawaii Sea Level Rise Vulnerability and Adaptation Report, as accessible within the Hawaii Sea Level Rise Viewer hosted by the Pacific Islands Ocean Observing System. The sea level rise

exposure area may need to be updated to reflect future updates and reports based on best available science, with such updates being adopted by the Commission.

"Shoreline", as defined in HRS section 205A-1 as amended, means the upper reaches of the wash of the waves, other than storm and seismic waves, at high tide during the season of the year in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth, or the upper limit of debris left by the wash of the waves.

"Shoreline area" as defined in HRS section 205A-41, as amended, means all of the land area between the shoreline and the shoreline setback line, and may include the area between mean sea level and the shoreline, provided that if the highest annual wash of the waves is fixed or significantly affected by a structure that has not received all permits and approvals required by law or if any part of any structure in violation of this part extends seaward of the shoreline, then "shoreline area" shall include the entire structure.

12-203-5 Severability

§12-203-5 Severability. If any provision or part of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be inseverable. [Eff 11/27/03] (Auth: HRS §§205A-43, 205A-45, 205A-49; Maui County Charter §§8-8.4, 13-2(15)) (Imp: HRS §§205A-1, 205A-2, 205A-22, 205A-41)

Subchapter 2 — Shoreline Setback Lines; Shoreline Area

12-203-6 Establishment of shoreline setback lines

§12-203-6 Establishment of shoreline setback lines. (a) All lots shall have a shoreline setback line that is specific to each lot and established as follows:

1. Setbacks along shorelines will be established at not less than forty feet inland from the shoreline; and

“Shoreline hardening” means structures that block or significantly inhibit landward movement of the shoreline and are used to protect structures or other features from erosion and other coastal hazards, to include seawalls, revetments, riprap, and bulkheads. Shoreline hardening does not include beach stabilizing structures, such as groins and breakwaters, designed by a professional engineer to stabilize a sandy beach along an eroding shoreline.

“Shoreline processes” means the natural flow of the ocean which affect the movement of the shoreline area or lands bordering the ocean, including submerged lands.

“Shoreline setback line” means that line, as defined in HRS section 205A-41, as amended, running inland from and parallel to the shoreline at a horizontal plane.

“Structural improvement” means any improvement that materially alters load-bearing components essential to the stability of the structure.

“Structure” includes, as defined in HRS section 205A-41, as amended, any portion of any building, pavement, road, pipe, flume, utility line, fence, groin, wall, or revetment.

“Valuation” means the cost of an activity, building, or structure as determined by real property valuation by the director of finance, an estimated valuation by an architect, engineer, or contractor licensed by the department of commerce and consumer affairs, State of Hawaii, or the director of public works. In the event of a conflict among the estimates, the higher estimate amount shall be used for the purposes of these rules.” [Eff 11/27/03; am and comp 08/25/24] (Auth: HRS §§205A-43, 205A-45, 205A-49; Maui County Charter §§8-8.4, 13-2(15)) (Imp: HRS §§205A-1, 205A-2, 205A-22, 205A-41)

§12-203-6 Establishment of shoreline setback lines. (continued)

2. For areas where the erosion hazard line is mapped, the shoreline setback line is measured using the same distance used to map the erosion hazard line at the transect or transects applicable to the lot. The shoreline setback shall be mapped by the department. The Department may make non-substantive mapping alignment adjustments as necessary.

    A. (A) An applicant may choose to obtain a shoreline certification pursuant to HAR 13-222, in which case the setback line will be established by applying the distance used to map the erosion hazard line from the certified shoreline.

    B. (B) For areas where the erosion hazard line is mapped and where a shoreline is accreting or where known geologic information indicates a rock formation that is erosion resistant, as determined by the director, the shoreline setback line shall be established pursuant to 12-203-6(3).

3. For areas where there is no mapped erosion hazard line, the shoreline setback line shall be two hundred feet from the shoreline as mapped by the department, except that:

    A. (A) If the shoreline is established by a certified shoreline survey, then the shoreline setback line shall be calculated based on the lot's depth as follows:

        i. (i) A lot that is not an irregularly shaped lot and that has an average lot depth of one hundred sixty feet or less shall have a shoreline setback line forty feet from the shoreline;

        ii. (ii) A lot that is not an irregularly shaped lot and that has an average lot depth of more than one hundred sixty feet shall have a shoreline setback line located at a distance from the shoreline equal to twenty-five percent of the average lot depth, but not more than one hundred fifty feet;

        iii. (iii) For irregularly shaped lots, the shoreline setback line will be the greater of forty feet or twenty-five percent of the lot's

depth between its front lot line and rear lot lines as measured perpendicularly from the shoreline, to a maximum of one hundred fifty feet from the shoreline.

B. (B) In areas where the safe conduct of a certified shoreline survey would be inhibited by cliffs, bluffs, or other topographic features and where the shoreline is fixed by such features, the shoreline setback shall be forty feet as measured from the top of a cliff or bluff, all as

12-203-7 Request for an amendment to a shoreline setback line established by the erosion hazard line or the approximate shoreline mapped by the department

§12-203-6 Establishment of shoreline setback lines. (continued)

(C) In areas where the safe conduct of a certified shoreline survey would be inhibited by cliffs, bluffs, or other topographic features and where the shoreline is not fixed by such features, the shoreline setback shall be the greater of forty feet or twenty-five percent of the lot's lot depth between its front lot line and rear lot lines as measured perpendicularly from the shoreline, to a maximum of one hundred fifty feet from the approximate shoreline as mapped by the department.

(b) Notwithstanding any provision of this section to the contrary, any structures and activities not otherwise allowed under these rules may be built and carried out within a lot's minimum buildable depth; provided that, in no case shall such structures and activities be located less than 40 feet from the shoreline.

(c) Prior to commencement of grubbing, grading, or construction activities, the shoreline setback line shall be identified on the ground and posted with markers, posts, or other appropriate reference marks by a surveyor licensed in the State of Hawaii. " [Eff 12/26/06; am and comp 08/25/24] (Auth: HRS

§§205A-2, 205A-43.6, 205A-45; Maui County Charter §§8-8.4, 13-2(15)) (Imp: HRS §§205A-2, 205A-45)

5. Section 12-203-7 is amended to read as follows:

"§12-203-7 Request for an amendment to a shoreline setback line established by the erosion hazard line or the approximate shoreline mapped by the department. (a) A request for an amendment to a shoreline setback line established by the erosion hazard line or the approximate shoreline mapped by the department shall be submitted to the department on a form prescribed by the director and shall be accompanied by applicable information to assist in the consideration of the request, which could include a certified shoreline survey unless determined by the director to be a naturally stable geologic feature that is not eroding; development plans, if any; existing and finish contours; photographs of the shoreline area; written justification addressing compliance with the criteria set forth in these rules; an opinion from a coastal engineer, coastal geologist or similar professional setting forth the reasons an amendment is appropriate for the subject lot; and analysis of coastal erosion and shoreline processes. The director shall approve, approve with conditions, or deny a request for a shoreline setback line amendment in accordance with these rules. The director shall transmit any request for a shoreline setback line amendment with all relevant information to appropriate agencies for review and comment. Upon

12-203-8 Determination of the shoreline

§12-203-8 Determination of the shoreline. The director may require an applicant to provide a certified shoreline survey for any activity in the shoreline area. The shoreline shall be established and certified in accordance with the procedures prescribed by the board of land and natural resources; provided that, no determination of a shoreline shall be valid for a period longer than the duration established by the board of land and natural resources, except for those portions of the shoreline which are fixed by naturally stable geologic features that are not eroding as determined by the

director." [Eff 11/27/03; am and comp 08/25/24] (Auth: HRS §205A-42; Maui County Charter §§8-8.4, 13-2(15)) (Imp: HRS §§205A-42, 205A-43, 205A-43.6, 205A-45)

12-203-9 Development plans

§12-203-9 Development plans. Unless otherwise required by the director, all development and site plans showing the location of the shoreline and shoreline setback line of a lot shall:

1. Be drawn to the scale of 1"=20'0";
2. Show the shoreline, existing site conditions including human-caused and natural features such as large trees, rock outcroppings, or other known sensitive environmental areas such as special flood hazard area, coastal dune, tsunami zone, erosion hazard line within the parcel, 3.2-foot sea level rise exposure area, wetland, streams, estuary or geologically

hazardous land, and existing conditions along properties immediately adjacent to the subject lot; and

(3) Show contours at a minimum interval of two feet.

[Eff 11/27/03; am and comp 08/25/24] (Auth: HRS "]

12-203-10 Structures and activities subject to these rules; exceptions

"" Structures and activities subject to these rules; exceptions. All structures and activities located or proposed to be located within the shoreline area including subdivisions shall be subject to these rules and conform to the requirements of this chapter. Other than the following exceptions, the requirements of this chapter shall not abrogate the requirements of any other applicable statutes, codes, ordinances, rules and regulations, or other law.

Construction immediately inland of the shoreline area shall also be subject to these rules until a certified and confirmed survey map, prepared in accordance with the provisions of section 12-203-8 herein, is filed with the department.

The following actions are not subject to these rules and do not require approval pursuant to section 12-203-13, except that these activities may require implementation of relevant best management practices published by the department. Those who propose any use, activity, or operation pursuant to subsections g, h, i, j, and k below in the shoreline area must complete, and submit to the department before the use, activity or operation is initiated, a declaration form as provided by the department and made accessible to the public, that may establish action-specific Best Management Practices and other appropriate restrictions:

a. Transfer of land title; creation or termination of easements, covenants, or other rights in structure or land that do not impair shoreline access;

b. Normal and customary agricultural activities on land currently or historically used for such activities, provided that appropriate best management practices to control or minimize pesticide and sediment runoff are implemented to minimize impacts to nearshore waters;

c. Changes in uses or operations, including changes between short-term and long-term occupancy of dwelling units and various uses of beach parks that are under county or state jurisdiction, that do not increase the density or intensity of use as determined by the director. Increases in the density or intensity of use can be demonstrated by increased off-street parking requirements pursuant to title 19, Maui County Code or increased storage needs;

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d. (d) Archaeological, geophysical, percolation, engineering, soils, and other scientific testing conducted by a licensed archaeological or scientific professional involving temporary excavation limited to the minimum extent determined necessary and appropriate or as approved by the State Historic Preservation Division, and employing best management practices protective of the environment and natural and cultural resources;

e. (e) Traditional native Hawaiian cultural practices that are conducted or led by native Hawaiian cultural practitioners and that do not negatively impact the shoreline area; this includes protection and stabilization of iwi kupuna using best management practices.

f. (f) During the applicable timeframe of a Governor's or Mayor's disaster or emergency declaration or proclamation, while required permits for work that should follow code such as electrical, plumbing, and building permits are obtained and while using best management practices to protect natural and cultural resources:

    1. (1) the removal and disposal of disaster debris that does not expand the area of disturbance; emergency structure stabilization and control erosion and runoff;

    2. (2) emergency repairs to roofs and windows that do not expand the footprint or use of the habitable structure while required permits are obtained;

    3. (3) emergency installation of protective measures to secure habitable structures provided such measures are temporary and do not harden the shoreline.

g. (g) Nonstructural interior maintenance, repairs, and renovations to existing, lawfully established structures that involve no expansion, no ground disturbance, and do not increase the density or intensity of use, such as paint, floors, carpets, cabinets, and interior walls and doors, limited to a cumulative valuation of less than $500,000 in any 24-month period for a single ownership on a single lot or set of lots composing a unified building site, provided a declaration is filed with the department committing to implementing best management practices required by the department. Increases in the density or

intensity of use can be demonstrated by increased off-street parking requirements pursuant to title 19, Maui County Code, increased storage needs, or other effects as determined by the director;

h. (h) Nonstructural exterior maintenance, repairs, and renovations to existing, lawfully established structures that involve no

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ground disturbance, such as doors, windows, shutters, siding, roof repairs or replacement and, for structures erected in 1981 or after, to protect against impacts from lead-based paint, painting with related preparatory work, limited to a cumulative valuation of less than $500,000 in any 24-month period for a single ownership on a single lot or set of lots composing a unified building site, provided a declaration is filed with the department committing to implementing best management practices required by the department;

1. (i) Operation and maintenance activities for existing public roadways and drainage systems, subject to approval by the applicable state or county agency, such as vegetation management activities, including tree trimming and cutting and vegetation removal, and clearing obstructions including beach sand accumulations that block publicly-owned drainage ways, provided that beach sand is placed on adjacent beaches or dunes, and the obstruction consists solely of beach sand that is removed to the minimum volume and depth necessary to allow for passage of flood waters, and including roadway pavement patching, repair, restriping and grooving but not including resealing, resurfacing or reconstruction, and provided a declaration is filed with the department committing to implementing best management practices required by the department.

2. (j) With the application of best management practices to protect the marine and land environment, emergency protection of water, wastewater or stormwater infrastructure managed by the

Department of Water Supply, Department of Environmental Management, or the Department of Public Works when such infrastructure at imminent risk of failure which would substantially affect public health or safety, including significant water loss, or contamination of surface water, land, or water supply, provided a declaration is filed with the department.

3. (k) Patching, repairs, and resurfacing of existing driveways and parking lots less than 1,000 square feet provided a declaration is filed with the department committing to implementing best management practices required by the department. [Eff 11/27/03; am and comp 08/25/24] (Auth: HRS §§205A-2, 205A-43.6, 205A-45; Maui County Charter §§8-8.4, 13-2(15)) (Imp: HRS §§205A-43.6, 205A-45)

9. Section 12-203-11 is amended to read as follows:

12-203-11 Prohibited activities within the shoreline area

§12-203-11 Prohibited activities within the shoreline area. The mining or taking of sand, dead coral or coral rubble, rocks, soil, or other beach or marine deposits from the shoreline area is prohibited with the following exceptions:

1. Where the mining or taking is authorized by a variance pursuant to these rules; or
2. The clearing of these materials from existing drainage pipes and canals and from the mouths of streams including clearing for the purposes under HRS section 46-11.5; provided that, the sand is removed to the minimum volume and depth necessary to allow for passage of flood waters and shall be placed on adjacent areas unless such placement would result in significant turbidity or would otherwise be detrimental to the shoreline environment; or
3. The cleaning of the shoreline area for state or county maintenance purposes, including the clearing of seaweed, limu, and debris under HRS

section 46-12; provided that, the sand removed shall be placed on adjacent areas unless the placement would result in significant turbidity or would otherwise be detrimental to the shoreline environment.

[Eff 11/27/03; am and comp 08/25/24] (Auth: HRS §§205A-2, 205A-43.6, 205A-45; Maui County Charter §§8-8.4, 13-2(15)) (Imp: HRS §§46-11.5, 46-12, 205A-43.6, 205A-44, 205A-45)

12-203-12 Allowable structures and activities within the shoreline area

10. Section 12-203-12 is amended to read as follows:

§12-203-12 Allowable structures and activities within the shoreline area. (a) The following structures and activities may be permitted in the shoreline area subject to the application and approval procedures pursuant to section 12-203-13:

1. Existing lawful nonconforming structures or activities.
2. A structure or activity that received a shoreline variance or administrative approval from the director prior to the adoption of these rules provided the variance or approval remains valid.
3. A structure or activity that is necessary for, or ancillary to, continuation of agriculture or aquaculture existing in the shoreline area on June 16, 1989.
4. A structure or activity that consists of maintenance, repair, and minor additions or alterations of legal boating, maritime, or water sports recreational facilities, and Hawaiian fishponds, and that results in no interference with natural beach processes; provided that the permitted structure may

Additional content from previous item (4):

be repaired, but shall not be enlarged within the shoreline area without a variance.

5. **(5)** Structural and nonstructural repairs (excluding those caused by coastal hazards), renovations, and improvements to a lawful nonconforming structure beyond those allowed pursuant to section 12-203-10, provided that:

    A. (A) The structural and nonstructural repairs, renovations or improvements are less than 50 percent of the current replacement cost of the structure over a cumulative ten-year period; or, if the valuation is cumulatively 50 percent or greater within a ten-year period, the work must be authorized by a special management area use permit approved by the commission, regardless of any rule to the contrary.

    B. (B) The structural and nonstructural repairs, renovations or improvements do not enlarge or expand the structure or intensifies the structure's use; and

    C. (C) The structural and nonstructural repairs, renovations or improvements are permitted by the building code, flood hazard regulations, and special management area law.

6. **(6)** Structural and nonstructural repairs to, and restoration of, a lawful nonconforming structure beyond those allowed pursuant to sections 12-203-10 and 12-203-12(a)(5), in response to damage by fire, insects, wind, named hurricanes or tsunamis with disaster declaration, accidental means, or other calamity excluding all other coastal hazards, provided that:

    A. (A) The structural and nonstructural repairs or restoration are proportional to the damage.

    B. (B) The structural and nonstructural repairs, or restoration do not enlarge or expand the structure or intensify the structure's use;

    C. (C) The structural and nonstructural repairs or restoration are permitted by the building code, flood hazard regulations, and special management area law; and

    D. (D) For the purposes of this subsection, "restoration" means returning the structure to its former condition.

7. **(7)** Structural and nonstructural repairs to a lawful nonconforming structure beyond those allowed pursuant to sections 12-203-10, 12-203-12(a)(5) and 12-203-12(a)(6) in a manner that is proportional and directly related to damage by coastal hazards that are chronic or recurring including wave, storm surges, high tide, flooding, erosion, sea level rise,

[Eff 11/27/03; am and comp 08/25/24] (Auth: HRS §§205A-2, 205A-43.6, 205A-45; Maui County Charter §§8-8.4, 13-2(15)) (Imp: HRS §§46-11.5, 46-12, 205A-43.6, 205A-44, 205A-45)

Additional content from previous item (4):

4. A structure or activity that consists of maintenance, repair, and minor additions or alterations of legal boating, maritime, or water sports recreational facilities, and Hawaiian fishponds, and that results in no interference with natural beach processes; provided that the permitted structure may
    A. **(A)** The structural and nonstructural repairs are limited to 10 percent of the current replacement cost of the structure over a cumulative ten-year period. If the cost is cumulatively more than 10 percent, with a maximum of 50 percent of the current replacement cost of the structure within a ten-year period, the work must be authorized by a special management area use permit approved by the commission, regardless of any rule to the contrary;
    B. **(B)** The structural and nonstructural repairs do not enlarge or expand the structure in a way that increases the nonconformity or intensify the structure's use;
    C. **(C)** The structural and nonstructural repairs shall be permitted by the building code, flood hazard regulations, and special management area law;
    D. **(D)** The structural and nonstructural repairs shall be either in the same location, be located mauka or be in an area less vulnerable to coastal hazards;
    E. **(E)** This subsection shall not limit structural and nonstructural repairs to public infrastructure such as waterlines, wastewater lines,

drainage systems, warning sirens, and roadways if repairs are necessary to system functionality and relocation or retreat of such infrastructure is not practicable;

F. **(F)** A coastal hazard mitigation plan, which contains an avoidance alternative, is required to be prepared and submitted as part of the special management area assessment application to conduct structural and nonstructural repairs under this subsection; and

G. **(G)** The applicant, its successors, and permitted assigns shall defend, indemnify, and hold the County of Maui harmless from and against any and all loss, liability, claim or demand arising out of damages to said structures or activities from coastal natural hazards and coastal erosion.

8. A lawfully constructed shoreline hardening structure that protects a habitable structure may be repaired or maintained with like-for-like materials up to 50 percent of the shoreline hardening structure's replacement value over a cumulative ten-year period; otherwise the shoreline hardening structure shall not be repaired and shall be demolished and removed. The applicant shall provide a professionally certified

[Eff 11/27/03; am and comp 08/25/24] (Auth: HRS §§205A-2, 205A-43.6, 205A-45; Maui County Charter §§8-8.4, 13-2(15)) (Imp: HRS §§46-11.5, 46-12, 205A-43.6, 205A-44, 205A-45)

Additional content from previous item (4):

result in no interference with natural beach processes; provided that the permitted structure may

9. **Lawfully constructed shoreline hardening structures that protect a public structure or infrastructure** may be repaired or maintained with like-for-like materials up to 50 percent of its replacement value over a cumulative ten-year period; otherwise, the work must be authorized by a special management area permit approved by the commission. The applicant shall provide a professionally certified construction estimate to demonstrate the replacement cost of the structure, along with its size

and dimensions, and documentation or evidence of the structure being lawfully nonconforming. The continued reliance on shoreline hardening structures is not recommended and applicants must provide a coastal hazard mitigation plan, which contains an avoidance alternative, as part of the application. The repairs or maintenance shall not substantially exceed the size, height or density of the original structure and shall implement BMPs;

10. **Qualified demolition;**
11. **Beach-nourishment, dune-restoration, sand-pushing, wetland restoration, fish pond restoration, and coastal revegetation projects** approved by all applicable governmental agencies;
12. **A structure or activity that has been determined by the director to be a minor structure or minor activity within the shoreline area** that does not adversely affect beach processes, does not artificially fix the shoreline, and does not interfere with public access or public views to and along the shoreline and which meets the purpose of this chapter, the building code, flood hazard regulations, and special management area requirements;
13. **Adaptation of existing lawful or lawful nonconforming structures** in response to their location within sea level rise exposure area, including relocation of a structure mauka of the sea level rise exposure area, and reconfiguration such as reducing the size of a structure, elevating a structure within

Additional content from previous item (4): the existing footprint;

1. (14) Activities that have received a special management area emergency permit pursuant to section 12-202-16 of the special management area rules for the Maui planning commission;
2. (15) Nonstructural single-story enclosures of existing, lawfully established roofed residential lanais, decks, patios, balconies, carports, or similar structures that are accessory to single-family dwellings and multi-family dwellings and that are included in the definition of “floor area” in title 19 of the Maui County Code;
3. (16) Repair, construction, or reconstruction of critical public infrastructure

beyond the activities allowed pursuant to section 12-203-10;

4. (17) Utility poles, tsunami sirens built to approved standard specifications, and accessory utility structures along existing utility corridors;
5. (18) Uses and structures established pursuant to section 12-203-6(b);
6. (19) Additions and alterations of structures, or intensification of use that involve only existing lawful structures and uses to which they are subordinate and which are protected for their useful life by being located mauka of public facilities that are protected by shoreline hardening or natural features not subject to erosion, or the director determines that alterations will elevate the entire structure to be adequately protected for its useful life;
7. (20) For areas protected by beach nourishment, new non-habitable, portable structures and uses within forty feet immediately makai of a lot's minimum buildable depth, that are accessory to lawful structures and uses and that will be protected for their useful life by being located mauka of shorelines protected by beach nourishment;
8. (21) Structures, such as wooden dune walkovers, that will enhance either vertical or lateral public shoreline access provided that they do not adversely affect beach processes, artificially fix the shoreline, or interfere with public access or public views to and along the shoreline;
9. (22) Exterior installation on and maintenance, repairs, and renovations to existing, lawfully established structures that involve no ground disturbance and that are nonstructural, such as signage, wireless antennae and other transmission equipment, satellite dishes, and roof mounted equipment, such as photovoltaic and solar panels;

(23) Patching, repairs, and resurfacing of existing driveways and parking lots greater than 1,000 square feet, including low impact development features as detailed in Hawaii's Low Impact Development Guide or other guidance where appropriate;

(24) When associated with an existing lawful structure, site improvements, involving limited ground disturbance, such as installation of turf, shallow

landscaping, irrigation, and manual invasive species control that does not use herbicides and does not involve grubbing or earth moving, installation of permeable pavement, and replacement of asphalt or concrete slabs and driveways;

(25) When associated with an existing lawful structure, site improvements, involving limited ground disturbance such as the installation, removal, or maintenance of trees and shrubs and landscaping management plan implementation, utility pedestals, ground signs, water, sewer, and conduit lines, walls and fences up to four feet in height, telephone and light poles, mailbox posts, and solar panels, provided that that this does not include new wireless telecommunications towers, windmills and wind turbines;

(26) Subdivisions in the shoreline area which ensure proposed development will be placed mauka of the shoreline setback line and allow for a minimum buildable area for all subdivided lots and which provide public shoreline access;

(27) Restaurant dining areas that do not exceed a total of 2,000 square feet within the established shoreline setback area per restaurant. Such use shall involve no ground-altering activity; shall not impede the natural movement of the shoreline, dunes, or vegetation; shall not impede public shoreline access or existing walkways; and shall be removed upon imminent threat of erosion, storm impact, or other anticipated hazard or calamity;

(28) Conversion of cesspools to centralized, or Department of Health approved, individual wastewater systems where relocation outside of the shoreline setback is not feasible.

(b) All structures and activities not specifically permitted in this section are prohibited.

(c) If any new structures that are approved subject to a shoreline setback variance are proposed to be located within the shoreline area, the following restrictions shall apply:

1. **(1)** The applicant, its successors, and permitted assigns shall defend, indemnify, and hold the County of Maui harmless from and against any and all loss, liability, claim or demand

12-203-12.1 Abandoned structures or structures imminently threatened by erosion

§12-203-12.1 Abandoned structures or structures imminently threatened by erosion. So that the structure does not become a hazard or threat to the public health, safety or welfare, or to cultural or natural resources, if a structure in the shoreline area is imminently threatened by erosion or abandoned, the property owner must apply for a qualified demolition pursuant to §12-203-12(a)(7) within 180 days of discovery; the property owner must initiate demolition within 180 days of approval and must complete demolition within 180 days of initiation, unless additional time is approved by the director." [Eff 08/25/24] (Auth: HRS §§205A-2, 205A-43.6, 205A-44, 205A-45; Maui County Charter §§8-8.4, 13-2(15))

12-203-13 Request for approval of structures and activities in the shoreline area

"§12-203-13 **Request for approval of structures and activities in the shoreline area.** (a) Other than the exceptions listed in §12-203-10, all proposed structures and activities in the shoreline area shall be subject to an assessment made by the director.

A request for approval of structures and activities in the shoreline area shall be submitted to the department on a form prescribed by the director and shall be accompanied by applicable information to assist in the assessment, which may include, but not be limited to; a certified shoreline survey; construction plans; a list of proposed plants and their growth at maturation; existing and finish contours; flood zones; topography; proximity to the shoreline; any and all shoreline hardening structures; photographs of the shoreline area; an environmental

Subchapter 3 — Variances

12-203-14 Variance application

§12-203-14 Variance application. (a) A written application for a variance from shoreline setback requirements shall be made in a form prescribed by the director and shall be filed with the director. The application shall include development plans, site plans, photographs, and any other plans, drawings, maps, or information determined by the director to be necessary to evaluate the application. The application shall also include:

1. An administrative fee as established in the County budget;
2. Certification from the owner or lessee of the lot authorizing the application for variance;
3. An environmental assessment or environmental impact statement prepared in accordance with HRS chapter 343, and the environmental impact statement rules and applicable guidelines of the State of Hawaii, or a chapter 343 exemption determination;
4. The names, addresses, and the tax map key identification of owners of real property situated adjacent to and abutting the boundaries of the land on which the proposed use, activity, or operation is to occur;
5. A development plan and site plan of the shoreline area, drawn to scale;
6. A copy of the certified shoreline survey of the property;
7. Detailed justification of the proposed project that addresses the purpose and intent of these rules and the criteria for

(Text continues on next page)

12-203-15 Criteria for approval of a variance

approval of a variance;

8. Analysis of historical and anticipated coastal erosion and coastal processes related to the subject property; and
9. Any other information required by the director.

(b) Upon a determination by the director that the application is complete and in compliance with HRS chapter 205A, part III, and this chapter, the director shall submit the application to the commission. If the application is determined to be incomplete by the director, the director shall return the application to the applicant with a written description identifying the portions of the application determined to be incomplete. The director shall submit a written report, and all relevant documents and information to the commission prior to the matter appearing on an agenda of the commission.

(c) Except as otherwise provided in this section, all applications for variances shall be heard, noticed, and processed as public hearing matters. Not less than thirty calendar days before the public hearing date, the applicant for a variance shall mail notices of public hearing by certified or registered mail, postage prepaid, to owners of real property that abuts or is adjacent to the parcel that is the subject of the application. Not less than thirty days prior to the public hearing date, the director shall publish a notice of public hearing once in a newspaper that is printed and issued at least twice weekly in the County and which is generally circulated throughout the County. The notice shall state the nature of the proposed development, the date, time, and place of the hearing, and all other matters required by law." [Eff 11/27/03; am and comp 08/25/24] (Auth: HRS §§205A-43.5, 205A-46, 343-5; Maui County Charter §§8-8.4, 13-2(15)) (Imp: HRS §§205A-43.5, 205A-46, 343-5)

14. Section 12-203-15 is amended to read as follows:

"§12-203-15 Criteria for approval of a variance. (a) A variance may be granted for a structure or activity otherwise prohibited by this chapter, if the commission finds in writing, based on the record presented, that the proposed structure or activity is necessary for or ancillary to:

1. Cultivation of crops;
2. Aquaculture;
3. Landscaping; provided that, the commission finds that the proposed structure or activity will not adversely affect beach processes and will

not artificially fix the shoreline;

4. Drainage;
5. Boating, maritime, or water sports recreational facilities;
6. Facilities or improvements by public agencies or public utilities regulated under HRS chapter 269;
7. Private facilities or improvements that are clearly in the public

Note: The text of item (7) appears to be cut off on this page and continues on the next page.

7. Private facilities or improvements that are clearly in the public interest;
8. Private facilities or improvements that will not adversely affect beach processes, result in flanking shoreline erosion, nor artificially fix the shoreline; provided that, the commission also finds that hardship will result to the applicant if the facilities or improvements are not allowed within the shoreline area;
9. Private facilities or improvements that may artificially fix the shoreline; provided that, the commission finds that shoreline erosion is likely to cause hardship to the applicant if the facilities or improvements are not allowed within the shoreline area; and provided further that, the commission imposes conditions to prohibit any structure seaward of the existing shoreline unless it is clearly in the public interest, and provided that that the improvements or facilities shall not be in areas with sand beaches or where artificially fixing the shoreline may interfere with existing recreational or waterline activities unless it is clearly in the public interest; or
10. Moving of sand from one location seaward of the shoreline to another location seaward of the shoreline; provided that, the commission also finds that the moving of sand will not adversely affect beach processes, will not diminish the size of the public beach, and will be necessary to stabilize an eroding shoreline.

(b) A structure or activity may be granted a variance upon grounds of hardship if:

1. The applicant would be deprived of reasonable use of the land if required to fully comply with the shoreline rules;
2. The applicant's proposal is due to unique circumstances and does not draw into question the reasonableness of the shoreline rules; and
3. The proposal is the practicable alternative that best conforms to the purpose of these rules.

(c) Before granting a hardship variance, the commission must determine that the applicant's proposal is a reasonable use of the land. Because of the dynamic nature of the shoreline environment, inappropriate development may easily pose a risk to individuals or to the public health and safety. For this reason, the determination of the reasonableness of the use of land should properly consider factors such as shoreline conditions, erosion, surf and flood conditions, and the geography of the lot.

(d) For purposes of this section, hardship shall not include: economic hardship to the applicant; County zoning changes, planned development permits, cluster permits, or subdivision approvals after June

Subchapter 4 — Enforcement; Penalties

12-203-16 Enforcement

(e) No variance shall be granted unless appropriate conditions are imposed:

(1) To maintain and require safe lateral access to and along the shoreline for public use or adequately compensate for its loss;

(2) To minimize risk of adverse impacts on beach processes;

(3) To minimize risk of structures failing and becoming loose rocks or rubble on public property;

(4) To minimize adverse impacts on public views to, from, and along the shoreline. For purposes of this section only, "adversely impacts public views" means the adverse impact on public views and open space resources caused by new building structures exceeding a one-story or

30-foot height limitation; and

(5) To comply with chapters 19.62 and 20.08, Maui County Code, relating to flood hazard districts and erosion and sedimentation control respectively.

(f) Notwithstanding any provision of this section to the contrary, the commission may consider granting a variance for the protection of a legal structure or public infrastructure; provided that, the structure is at risk of damage from coastal erosion, poses a danger to the health, safety and welfare of the public, and is the best shoreline management option in accordance with relevant state policy on shoreline hardening.

(g) The applicant may apply to the department for an amendment to the variance in a manner consistent with the procedures of section 12-202-17 of the special management area rules of the Maui planning commission." [Eff 11/27/03; am and comp 08/25/24] (Auth: HRS §205A-43.5, 205A-46; Maui County Charter §§8-8.4, 13-2(15)) (Imp: HRS §205A-43.5, 205A-46; MCC Chapters 19.62, 20.08)

15. Section 12-203-16 is amended to read as follows:

"§12-203-16 Enforcement. (a) The director shall enforce these rules in accordance with HRS chapter 205A.

(b) Any use, activity, construction, or operation pursuant to these rules and chapter 205A, HRS, as amended, that requires and fails to obtain shoreline approval or a variance, or has failed to comply with conditions established with any such approval, is a violation of these rules and chapter 205A, HRS. The violation shall be corrected by requiring the owner or violator to pay all applicable fines and take the following corrective actions:

1. Cease any unpermitted use, activity, or operation;

"§12-203-16 Enforcement. (b) Any use, activity, construction, or operation pursuant to these rules and chapter 205A, HRS, as amended, that requires and

fails to obtain shoreline approval or a variance, or has failed to comply with conditions established with any such approval, is a violation of these rules and chapter 205A, HRS. The violation shall be corrected by requiring the owner or violator to pay all applicable fines and take the following corrective actions:

1. Cease any unpermitted use, activity, or operation;
2. Remove, with appropriate permits, any unpermitted construction;
3. Obtain a shoreline approval or variance; or
4. Other means determined by the director have been achieved.

Applicable fines shall accrue until the violation is corrected. No other permit or approval shall be construed as shoreline approval pursuant to this part.

(c) If a portion of a constructed structure is situated within the shoreline area, and the structure has not been authorized with government agency permits required by law, then for purposes of enforcement of this part, the entire structure shall be construed to be entirely within the shoreline area and shall be subject to enforcement accordingly.

(d) Issuance of notice of violation and order.

(1) The owner shall, and the alleged violator may, be notified by the enforcement agency of an alleged violation of these rules and any approval, variance, or condition issued pursuant thereto. The director shall provide service by at least one of the following methods: certified or registered mail, regular mail with delivery confirmation, or personal service. If, after a reasonable effort has been made at least twice and is documented, and the owner and alleged violator have not been served, the director may provide service by posting on the property or by publishing the notice once per week for three consecutive weeks in a newspaper that is printed and issued at least twice weekly in the County and is generally circulated through the County. The date of service shall be the date on which the certified or registered mail is accepted, the date of regular mail delivery confirmation, the date of personal service, the date of posting on the property, or the date of the last publication in the newspaper.

(2) The notice of violation and order shall include the specific section of these rules that has been violated; the nature of the violation; and the remedy required or available, including cessation or removal of the violation, subject to applicable permitting requirements; that an initial civil fine be paid not to

exceed $100,000 per violation; that a civil fine be paid not to exceed $10,000 per day for each day in which the violation persists, unless otherwise required or allowed by statute, in addition to the foregoing and any other penalties; and that the landowner or violator may appeal the notice of violation pursuant to section 12-203-18 within thirty days of the date of service. The filing of an appeal shall not correct or suspend any violation or stay the assessment and accumulation of

Subchapter 5 — Appeals

12-203-18 Appeal of director's decision; filing the notice of appeal

fines. The following and other applicable and reasonable criteria shall be considered in assessing the initial and daily fines:

- **(A)** Previous violations by the same person;
- **(B)** The degree of damage to the environment, including damage to the shoreline and marine resources;
- **(C)** The degree of cooperation provided by the violator during the investigation;
- **(D)** Amount necessary to deter future violations;
- **(E)** Evidence of circumstances beyond the control of the violator;
- **(F)** Whether the owner or violator knew or should have known that assessments or approvals were required; and
- **(G)** The amount of time and resources required by the department to investigate and determine that a violation occurred.
- **(H)** Whether the owner or violator has financially benefitted from the unpermitted use, activity or structure.

(3) The department, in consultation with the department of the corporation counsel, may institute a civil action in any court of competent jurisdiction for the enforcement of any settlement agreement or order issued pursuant to this

section.

(4) Nothing in this section shall prohibit the department, through the corporation counsel, from filing an order or motion directly with a court in the event that public health, safety and welfare may be at risk.

(5) Appeals of violations shall be processed pursuant to subchapter 8 of the Commission's Rules of Practice and Procedure. [Eff 11/27/03; am and comp 08/25/24] (Auth: HRS §205A-43.6; Maui County Charter §§8-8.4, 13-2(15)) (Imp: HRS §205A-43.6)

16. Section 12-203-18 is amended to read as follows:

"§12-203-18 Appeal of director's decision; filing the notice of appeal. (a) Appeals of violations shall be processed pursuant to Subchapter 8 of the Commission's Rules of Practice and Procedure. Appeal of the director's decision including, but not limited to, the validity of the erosion hazard line, and the determination of minor structures or activities, may be made to the commission by the filing of a notice of appeal with the department not later than 10 days after the receipt of the director's written decision or, where the director's decision is not required

by the commission or these rules to be served upon appellant, not later than 10 days after the meeting at which the commission received notification of the director's decision. The notice of appeal shall be filed in accordance with section 12-201-20 of the rules of practice and procedure for the Maui planning commission. The department shall notify the commission, at the commission's next regularly scheduled meeting, of the filing of the notice of appeal.

(b) For decisions other than enforcement proceedings pursuant to section 12-203-16, appeal of the director's decision may be made to the commission by the filing of a notice of appeal with the department not later than ten days after the receipt of the director's written decision, or, where the director's decision is not required by the commission or these rules to be served upon

appellant, not later than ten days after the meeting at which the commission received notification of the director's decision. For enforcement proceedings pursuant to section 12-203-16, appeal of a notice of violation may be made to the commission by the filing of a notice of appeal with the department within thirty days of the date of service. The notice of appeal shall be filed in accordance with section 12-201-20 of the rules of practice and procedure for the Maui planning commission. The department shall notify the commission, at the commission's next regularly scheduled meeting, of the filing of the notice of appeal.

(c) The director and the owner, violator or Appellant may negotiate a resolution to the violation, other dispute or appeal.

(d) The director and the owner, violator or Appellant may agree on a resolution that includes a reduction of any accumulated fines and correction of the violation, if applicable. If the resolution reduces the accumulated fines by $50,000 or less, then the director will notify the owner or violator in writing and establish which party shall draft the agreement. At the commission's next regularly scheduled meeting, the director shall notify the commission of the agreement, receipt of which shall be acknowledged by the commission.

(e) If the director and the owner or violator agree on a resolution that reduces the accumulated fines by more than $50,000, then the director will notify the owner or violator in writing and establish which party shall draft the agreement. The agreement shall be submitted to the commission for final action. The commission may accept, accept with modifications, or reject the agreement." [Eff 11/27/03; am and comp 08/25/24] (Auth: HRS §§205A-43, 205A-43.5, 205A-43.6, 205A-45, 205A-49, Maui County Charter §§8-8.4, 13-2(15)) (Imp: HRS §§205A-43, 205A-43.5, 205A-43.6, 205A-45, 205A-49, Maui County Charter §§8-8.4, 13-2(15))

17. Section 12-203-23 is amended to read as follows:

12-203-23 Contested case hearing on appeal

"§12-203-23 Contested case hearing on appeal. The commission shall hold a contested case hearing on the appeal. The director, the appellant, and, where the appellant is someone other than the applicant, the applicant shall be parties to the proceedings. Subchapters 3, 4, and 5 of chapter 12-201 of the rules of practice and procedure for the Maui planning commission, relating to petitions to intervene, contested case procedures, and post-hearing procedures, respectively, shall govern the proceedings, except that petitions to intervene on an appeal shall be filed with the commission no later than ten days after the meeting at which the commission received notification of the filing of an appeal." [Eff 11/27/03; am and comp 08/25/24] (Auth: HRS §§205A-43, 205A-43.5, 205A-43.6, 205A-45, 205A-49, Maui County Charter §§8-8.4, 13-2(15)) (Imp: HRS §§205A-43, 205A-43.5, 205A-43.6, 205A-45, 205A-49, Maui County Charter §§8-8.4, 13-2(15))

18. Material to be repealed is bracketed. New material is underscored. In printing these rules, the department need not include the brackets, the bracketed material, or the underscoring.

19. These rules shall take effect 30 days after filing with the Office of the County Clerk. Applications submitted prior to the effective date shall be processed in accordance with the rules in effect at the time the application was submitted.

First Insurance Company of Hawaii
A Member of the Tokio Marine Group

ALLIANT INSURANCE SERVICES
500 ALA MOANA BLVD, STE 7400
HONOLULU, HI 96813

APRIL 30, 2025

AOAO HALE KAI O KIHEI CONDO & THE UNIT OWNERS ATIMA
1310 ULUNIU RD
AOAO OFFICE
KIHEI, HI 96753-8254

Policy Number: 0002051286

Insured(s): AOAO HALE KAI O KIHEI CONDO & THE UNIT OWNERS ATIMA
Property Location: 1310 ULUNIU RD
KIHEI, HI 96753-8254

Flood Insurance Policy Packet

This packet includes:

- **Your Flood Insurance Declarations Page**
- **A National Flood Insurance Program Summary of Coverage**
- **Claims Guidelines in Case of a Flood**

If you would like to electronically view or print a copy of the Standard Flood Insurance Policy, please visit https://ficoh.manageflood.com, click View Important Flood Documents link and select from the list of documents. Your consent to this policy delivery option is assumed, unless you contact us to request a mailed or e-mailed copy of the policy.

If you would like a copy of the Standard Flood Insurance Policy e-mailed or mailed to you, please contact our customer service team at 808-527-7389 or ficohcs@torrentcorp.com.

Important Information About The National Flood Insurance Program

Federal law requires insurance companies that participate in the National Flood Insurance Program to provide you with the enclosed Summary of Coverage. It's important to understand that the Summary of Coverage provides only a general overview of the coverage afforded under your policy. You will need to review your flood insurance policy, Declarations Page, and any applicable endorsements for a complete description of your coverage. The enclosed Declarations Page indicates the coverage you purchased, your policy limits and the amount of your deductible.

You will soon receive additional information about the National Flood Insurance Program. This information will include a Claims Handbook, a history of flood losses that have occurred on your property as contained in FEMA's data base, and an acknowledgement letter.

If you have any questions about your flood insurance policy, please contact your agent or your insurance company.

CLAIM GUIDELINES IN CASE OF A FLOOD

For the protection of you and your family, the following claim guidelines are provided by the National Flood Insurance Program (NFIP). If you are ever in doubt as to what action is needed, consult your insurance representative.

Insurance Agent: ALLIANT INSURANCE SERVICES HOUSE ACCOUNT
Agent's Phone Number: (808) 481-5080

• Notify us or your insurance agent, in writing, as soon as possible after the flood.

• Your claim will be assigned to an NFIP certified adjuster.

• Identify the claims adjuster assigned to your claim and contact him or her if you have not been contacted within 24 hours after you reported the claim to your insurance representative.

• As soon as possible, separate damaged property from undamaged property so that damage can be inspected and evaluated.

• To help the claims adjuster, take photographs of the outside of the premises showing the flooding and the damage and photographs of the inside of the premises showing the height of the water and the damaged property.

• Place all account books, financial records, receipts, and other loss verification material in a safe place for examination and evaluation by the claims adjuster.

• Work cooperatively with the claims adjuster to promptly determine and document all claim items. Be prepared to advise the claims adjuster of the cause and responsible party(ies) if the flooding resulted from other than natural cause.

• Make sure that the claims adjuster fully explains, and that you fully understand, all allowances and procedures for processing claim payments. This policy requires you to send us a signed and sworn-to, detailed proof of loss within 60 days after the loss.

• Any and all coverage problems and claim allowance restrictions must be communicated directly from the NFIP. Claims adjusters are not authorized to approve or deny claims; their job is to report to the NFIP on the elements of flood cause and damage.

At our option, we may accept an adjuster’s report of the loss instead of your proof of loss. The adjuster’s report will include information about your loss and the damages to your insured property.

First Insurance Company of Hawaii
A Member of the Tokio Marine Group

ALLIANT INSURANCE SERVICES
500 ALA MOANA BLVD, STE 7400
HONOLULU, HI 96813

Agency Phone: (808) 481-5080

NFIP Policy Number: 0002051286
Company Policy Number: 0002051286
Agent: ALLIANT INSURANCE SERVICES HOUSE ACCOUNT

Payor: INSURED
Policy Term: 06/22/2025 12:01 AM - 06/22/2026 12:01 AM
Policy Form: RCBAP

To report a claim visit or call us at: https://ficoh.manageflood.com (888) 481-1154

RENEWAL FLOOD INSURANCE POLICY DECLARATIONS

NATIONAL FLOOD INSURANCE PROGRAM

DELIVERY ADDRESS

AOAO HALE KAI O KIHEI CONDO & THE UNIT OWNERS ATIMA
1310 ULUNIU RD
AOAO OFFICE
KIHEI, HI 96753-8254

INSURED NAME(S) AND MAILING ADDRESS

AOAO HALE KAI O KIHEI CONDO & THE UNIT OWNERS ATIMA
1310 ULUNIU RD
AOAO OFFICE
KIHEI, HI 96753-8254

COMPANY MAILING ADDRESS

FIRST INSURANCE COMPANY OF HAWAII, LTD.
PO BOX 912240
DENVER, CO 80291-2240

INSURED PROPERTY LOCATION

1310 ULUNIU RD
KIHEI, HI 96753-8254

BUILDING DESCRIPTION: ENTIRE RESIDENTIAL CONDOMINIUM BUILDING
BUILDING DESCRIPTION DETAIL: N/A

RATING INFORMATION

BUILDING OCCUPANCY: RESIDENTIAL CONDOMINIUM BUILDING
NUMBER OF UNITS: 59 UNITS
PRIMARY RESIDENCE: NO
PROPERTY DESCRIPTION: SLAB ON GRADE (NON-ELEVATED), 3 FLOOR(S), MASONRY CONSTRUCTION
PRIOR NFIP CLAIMS: 0 CLAIM(S)

REPLACEMENT COST VALUE: $17,424,000.00
DATE OF CONSTRUCTION: 01/01/1969
CURRENT FLOOD ZONE: AH
FIRST FLOOR HEIGHT (FEET): 1.1
FIRST FLOOR HEIGHT METHOD: FEMA DETERMINED

MORTGAGEE / ADDITIONAL INTEREST INFORMATION

FIRST MORTGAGEE: **LOAN NO:** N/A

SECOND MORTGAGEE: **LOAN NO:** N/A

ADDITIONAL INTEREST: **LOAN NO:** N/A

DISASTER AGENCY: **CASE NO:** N/A
DISASTER AGENCY: N/A

RATE CATEGORY — RATING ENGINE

	COVERAGE	DEDUCTIBLE
BUILDING:	**$14,750,000**	**$5,000**
CONTENTS:	**N/A**	**N/A**

COVERAGE LIMITATIONS MAY APPLY. SEE YOUR POLICY FORM FOR DETAILS.
Please review this declaration page for accuracy. If any changes are needed, contact your agent.
Notes: The "FULL RISK PREMIUM" is for this policy term only. It is subject to change annually if there is any change in the rating elements. Your property's NFIP flood claims history can affect your premium, for questions please contact your agency. "MITIGATION DISCOUNTS" may apply if there are approved flood vents and/or the machinery & equipment is elevated appropriately. To learn more about your flood risk, please visit FloodSmart.gov/floodcosts.

COMPONENTS OF TOTAL AMOUNT DUE

BUILDING PREMIUM:	$141,408.00
CONTENTS PREMIUM:	$0.00
INCREASED COST OF COMPLIANCE (ICC) PREMIUM:	$75.00
MITIGATION DISCOUNT:	($0.00)
COMMUNITY RATING SYSTEM REDUCTION:	($21,194.00)
FULL RISK PREMIUM:	**$120,289.00**
ANNUAL INCREASE CAP DISCOUNT:	($106,165.00)
STATUTORY DISCOUNTS:	($0.00)
DISCOUNTED PREMIUM:	**$14,124.00**
RESERVE FUND ASSESSMENT:	$2,542.00
HFIAA SURCHARGE:	$250.00
FEDERAL POLICY FEE:	$1,530.00
PROBATION SURCHARGE:	$0.00
TOTAL ANNUAL PREMIUM:	**$18,446.00**

IN WITNESS WHEREOF, I have signed this policy below and hereby enter into this Insurance Agreement

Lance J. Kawano / Vice President, FIRMS President

This declarations page along with the Standard Flood Insurance Policy Form constitutes your flood insurance policy.

Zero Balance Due - This Is Not A Bill

Policy issued by: FIRST INSURANCE COMPANY OF HAWAII, LTD.

Insurer NAIC Number: 41742

Printed 04/30/2025

PRIVACY NOTICE FOR PERSONAL LINES POLICYHOLDERS

Protection of your private information is a matter of great importance to the First Insurance Company of Hawaii, Ltd. (FICOH) affiliated companies. While the nature of insurance requires that insurance companies periodically gather personal information about you, FICOH recognizes that access to nonpublic personal financial and health information must be safeguarded. This notice explains our overall commitment to privacy with respect to nonpublic personal financial or health information that FICOH maintains about you. More detailed privacy notices may apply where required by the nature of the product or service provided.

WHY WE COLLECT INFORMATION

We collect information about you that is necessary to review, process or service requests for products, benefits or other services. For example, we may collect nonpublic personal financial and health information to determine eligibility for coverage or benefits under one or more of our products.

THE TYPES OF INFORMATION WE COLLECT

Most of the information we collect is obtained from you. Generally, we request identification information such as name, address, phone number and social security number. Additional information is collected in connection with providing a product or service. We may obtain additional information from our affiliates, such as information about your transactions with them. We may also obtain information from third parties such as the department of motor vehicles, consumer credit reporting agencies, health care providers and health information clearinghouses.

HOW WE DISCLOSE INFORMATION

The information that we collect as described above is used to make coverage, service, benefit and other insurance-related decisions. This information is sometimes shared, as permitted by law, with FICOH affiliates and nonaffiliated third parties to carry out daily business functions; review, process or service your products or services; or in connection with product offerings. Examples of nonaffiliated third parties with whom we may share information are insurance agents and brokers; insurance regulatory authorities; claim service administrators engaged by us to adjust, administer, service or process claims and reinsurance companies.

Other than as described above, we do not share your personal information with nonaffiliated third parties.

HOW WE PROTECT INFORMATION

FICOH restricts access to information to those employees or service providers who need to know the information in order to provide products or services to you. We regularly review our security measures and employee education programs to help protect this information. When we share information with nonaffiliated third parties, we require that they have standards to keep this information private.
This privacy policy notice is not in lieu of any other privacy notice issued by any other affiliate, business unit, department or division of FICOH. This privacy policy continues to apply even when your relationship with FICOH has terminated.

WHOM TO CONTACT REGARDING PRIVACY MATTERS

You can contact the FICOH Privacy Policy Unit by mail addressed to FICOH Privacy Policy Unit, 1100 Ward Ave., Honolulu, HI 96814 or by fax to (808)543-3283. Please include your name and policy number in any correspondence to us.

THIS NOTICE IS PROVIDED ON BEHALF OF THE FOLLOWING FICOH AFFILIATED COMPANIES:

First Insurance Company of Hawaii, Ltd.
First Indemnity Insurance of Hawaii, Inc.
First Fire and Casualty Insurance of Hawaii, Inc.

First Security Insurance of Hawaii, Inc.

7-20-1967

BY-LAWS OF ASSOCIATION OF APARTMENT OWNERS OF HALE KAI O' KIHEI, A CONDOMINIUM PROJECT A HORIZONTAL PROPERTY REGIME

ARTICLE I

Office

Section 1. Principal Office. The principal office of the Association shall be at 1744 E Kaahumanu Avenue, Wailuku, Maui, Hawaii.

Section 2. Place of Meetings. All meetings of the Association shall be held at its principal office unless some other place is stated in the call.

ARTICLE II

Association of Apartment Owners

Section 1. Annual Meeting. The annual meeting of the Association shall be held on the first Monday in the second calendar month following the close of the Association's fiscal year.

Section 2. Special Meetings. Special meetings may be held at any time upon the call of the President or upon the call of any fourteen owners. Upon receipt of such call, the Secretary shall send out notices of the meeting to all members of the Association.

Section 3. Notice of Meetings. A written or printed notice of every meeting of the Association stating whether it is an annual or special meeting, the authority for the call of the meeting, the place, day and hour thereof, and the purpose therefor shall be given by the Secretary or the person or persons

calling the meeting at least three days before the date set for such meeting. Such notice shall be given to each member in any of the following ways: (a) by leaving the same with him personally, or (b) by leaving the same at the residence or usual place of business of such member, or (c) by mailing it, postage prepaid, addressed to such member at his address as it appears on the records of the Association, or (d) by publishing such notice in any newspaper of general circulation in the County wherein the project is located, such notice to be published not less than two times on successive days, the first publication thereof to be not less than three days nor more than ten days prior to the day assigned for the meeting. If notice is given pursuant to the provisions of this section, the failure of any member to receive actual notice of the meeting shall in no way invalidate the meeting or any proceedings thereat.

Section 4. Waiver of Notice. The presence of all the members, in person or by proxy, at any meeting shall render the same a valid meeting, unless any member shall, at the opening of such meeting, object to the holding of the same for non-compliance with the provisions of Section 3 of this ARTICLE II. Any meeting so held without objection shall, notwithstanding the fact that no notice of meeting was given, or that the notice given was improper, be valid for all purposes, and at such meeting any general business may be transacted and any action may be taken.

Section 5. Quorum. At any meeting of the Association

the owners of a majority of the apartment units in said condominium building, present in person or by proxy, shall constitute a quorum, and the concurring vote of a majority of such owners constituting a quorum shall be valid and binding upon the Association, except as otherwise provided by law or these by-laws.

Section 6. Voting. Any person, firm, corporation, trust or other legal entity or a combination thereof, owning any unit in said project duly recorded in his or its name, the ownership whereof shall be determined by the records of the Bureau of Conveyances of Hawaii, shall be a member of the Association, and either in person or by proxy entitled to one vote for each dwelling or unit so owned at all meetings of the Association. Any provision to the contrary notwithstanding co-owners or joint owners shall be deemed one owner entitled to one vote only. The authority given by a member to another person to represent such member at meetings of the Association shall be in writing, signed by such member or if an apartment is jointly owned then by all joint owners, or if such member is a corporation, by the proper officers thereof, and shall be filed with the Secretary, and unless limited by its terms such authority shall be deemed good until revoked in writing. An executor, administrator, guardian or trustee may vote in person or by proxy at any meeting of the Association with respect to any dwelling or unit owned or held by him in such capacity, whether or not the same shall have been transferred to his name by a duly recorded conveyance. In case such unit shall not have so been transferred to his name, he shall satisfy the

Secretary that he is the executor, administrator, guardian or trustee holding such unit in such capacity. Whenever any such unit is owned by two or more jointly according to the records of said Bureau, the vote therefor may be exercised by any one of the owners present in the absence of protest by the other or others.

Section 7. Adjournment. Any meeting of the Association may be adjourned from time to time to such place and time as may be determined by majority vote of the members present, whether a quorum be present or not, without notice other than the announcement at the meeting. At any such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted by a quorum at the meeting as originally called.

ARTICLE III

Board of Directors

Section 1. Number and Qualification. The affairs of the Association shall be governed by a Board of Directors composed of nine persons, all of whom must be owners of units in the project.

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

Section 3. Other Duties. In addition to duties

imposed by these By-Laws or by resolution of the Association, the Board of Directors shall be responsible for the following:

(a) Care, upkeep and surveillance of the project and the common areas and facilities.

(b) Collection of monthly assessments from the owners.

(c) Designation and dismissal of the personnel necessary for the maintenance and operation of the project, the common elements and facilities and limited common elements and facilities.

Section 4. Manager or Management Agent, Employees, Generally. The Board of Directors may employ for the Association a management agent or manager, at a compensation established by the Board to perform such duties and services as the Board shall authorize including, but not limited to, the duties listed in Section 3 of this Article. The duties conferred upon the management agent or manager by the Board of Directors may be at any moment revoked, modified or amplified by the majority of owners in a duly constituted meeting. The Board of Directors may employ any other employee or agents to perform such duties and at such salaries as the Board of Directors may establish.

Section 5. Election and Term of Office. At the first annual meeting of the Association the term of office of three Directors shall be fixed for three (3) years. The term of office of three Directors shall be fixed at two (2) years, and the term of office of three Directors shall be fixed at one (1) year. At the expiration of the initial term of office of each respective Director, his successor shall be elected to serve a term

of three (3) years. The Directors shall hold office until their successors have been elected and hold their first meeting. The intent and purpose being that the term of office of at least one-third of the Directors shall expire annually.

Section 6. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a Director by a vote of the Association shall be filled by vote of a majority of the remaining Directors, even though they may constitute less than a quorum; and each person so elected shall be a Director until a successor is elected at the next annual meeting of the Association.

Section 7. Removal of Directors. At any regular or special meeting duly called, any one or more of the Directors may be removed with or without cause by a majority of the owners and a successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the owners shall be given an opportunity to be heard at the meeting.

Section 8. Compensation. No compensation shall be paid to Directors for their services as Directors. No remuneration shall be paid to a Director for services performed by him for the Association in any other capacity, unless a resolution authorizing such remuneration shall have been unanimously adopted by the Board of Directors before the services are undertaken. A director may be an employee of the Association.

Section 9. Organization Meeting. The first meeting of a newly elected Board of Directors shall be held within one

week of election at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and no notice shall be necessary to the newly elected Directors in order legally to constitute such meeting, providing a majority of the whole Board shall be present.

Section 10. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of regular meetings of the Board of Directors shall be given to each Director, personally or by mail, addressed to his residence, or by telephone, at least three (3) days prior to the day named for such meeting.

Section 11. Special Meetings. Special meetings of the Board of Directors may be called by the President on three days notice to each Director, given personally or by mail, addressed to his residence, or by telephone, which notice shall state the time, place (as hereinabove provided) and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least three Directors.

Section 12. Waiver of Notice. Before or at any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the Directors are

present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 13. Board of Directors' Quorum. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 14. Bonds of Officers and Employees. The Board of Directors shall require that all officers and employees handling or responsible for Association funds shall furnish adequate bonds. The premiums on such bonds shall be paid by the Association.

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 and from the Board of Directors. The Directors may appoint any assistant treasurer, and an assistant secretary, and such other officers as in their judgment may be necessary.

Section 2. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board and shall hold office at the pleasure of the Board.

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

Section 4. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board of Directors. He shall have all of the general pwoers and duties which are usually vested in the office of president of an Association, including but not limited to the power to appoint committees from among the owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association.

Section 5. Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board to so do on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors.

Section 6. Treasurer. The Treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all moneys and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board of Directors.

Section 7. Secretary. The Secretary shall attend and keep the minutes of all meetings of the Board of Directors or of the Association; shall give all notices as provided by these By-Laws, and shall have such other powers and duties as may be incidental to the office of Secretary, given him by these By-Laws or assigned to him from time to time by the Directors. If the Secretary shall not be present at any meeting, the presiding officer shall appoint a secretary pro tempore who shall keep the minutes of such meeting and record them in the books provided for that purpose.

Section 8. Auditor. The Association may at any meeting appoint some person, firm or corporation engaged in the business of auditing to act as auditor of the Association and to perform such audits and fiscal duties as may be requested of him by the Association.

ARTICLE V

Obligations of the Owners

Section 1. Expenses, Assessments. Every owner of

any apartment unit in said project shall contribute prorata toward the expenses of administration of said project, including but not limited to all types of insurance, the cost of operation, maintenance, repair and replacement of all the buildings and common elements thereof, according to the total number of units in said project, or prorata according to the value of the unit owned, as may be determined by the Association, or as it may be provided in the document of conveyance, whether it be a deed or lease or sublease; provided that his contribution for any limited common elements appurtenant to such dwelling shall be determined according to the number of units having the use thereof. The Association shall fix a monthly charge for each unit in an amount sufficient to provide for its prorata share of all such current expenses, reasonable reserves for future expenses of administration and such other expenses as the Association may deem proper, subject to adjustment from time to time as the Association may deem necessary. Such monthly charge shall be due and payable monthly in advance on the first day of every month, shall bear interest at the rate of ten per cent (10%) per annum from due date until paid, and with such interest shall be a lien on the apartment unit or on the lease of the dwelling as the case may be, assessed prior in right to all other charges whatsoever except assessments, liens and charges in favor of the State of Hawaii for taxes past due and unpaid on such unit and payments due under mortgage instruments duly recorded.

Section 2. Maintenance and Repair. (a) Every owner

must perform promptly all maintenance and repair work within his own unit, which if omitted would affect the project in its entirety or in a part belonging to other owners, being expressly responsible for the damages and liabilites that his failure to do so may engender.

(b) All the repairs of internal installations of the unit such as water, light, gas, power, sewage, telephone, air conditioners, sanitary installations, doors, windows, lamps and all other accessories belonging to the unit area shall be at the owner's expense.

(c) An owner shall reimburse the Association for any expenditures incurred in repairing or replacing any common area and facility damaged through his fault.

Section 3. Use of Family Units. All units shall be utilized for residential purposes only.

Section 4. House Rules. In order to assure the peaceful and orderly use and enjoyment of the apartment units, parking stalls and common elements of said project the Association may from time to time adopt, amend, modify and revoke in whole or in part by unanimous vote of all members present in person or represented by proxy at any meeting duly called for the purpose such reasonable rules and regulations to be called House Rules governing the conduct of persons on said project as it may deem necessary. Such house rules upon adoption and every amendment, modification and revocation thereof shall be delivered promptly to each apartment unit in the project and shall be binding upon all members of the Association and occupants of the dwelling.

ARTICLE VI

Execution of Instruments

Section 1. Instruments Generally. All checks, drafts, notes, bonds, acceptances, contracts and all other instruments except conveyances shall be signed by such person or persons as shall be provided by general or special resolution of the Directors, and in the absence of any such resolution applicable thereto such instrument shall be signed by the President or the Vice President and by the Treasurer or Secretary or assistant treasurer or assistant secretary.

ARTICLE VII

Liability of Officers

Section 1. Exculpation. No Director or officer of the Association shall be liable for acts or defaults of any other officer or member or for any loss sustained by the Association or any member thereof, unless the same has resulted from his own wilful misconduct or negligence.

Section 2. Indemnification. Every Director, officer and member of the Association shall be indemnified by the Association against all reasonable costs, expenses and liabilities (including counsel fees) actually and necessarily incurred by or imposed upon him in connection with any claim, action, suit, proceeding, investigation or inquiry of whatever nature in which he may be involved as a party or otherwise by reason of his having been an officer or member of the Association whether or not he continues to be such Director, officer or

member of the Association at the time of the incurring or imposition of such costs, expenses or liabilities, except in relation to matters as to which he shall be finally adjudged in such action, suit, proceeding, investigation or inquiry to be liable for wilful misconduct or negligence toward the Association in the performance of his duties, or in the absence of such final adjudication, any determination of such liability by the opinion of legal counsel selected by the Association. The foregoing right of indemnification shall be in addition to and not in limitation of all other rights to which such person may be entitled as a matter of law and shall inure to the benefit of the legal representatives of such person.

ARTICLE VIII

Fiscal Year

Section 1. Fiscal Year. The fiscal year of the Association shall be such as may from time to time be established by the Association.

ARTICLE IX

By-Laws

Section 1. Amendment. These By-Laws may be amended, modified or revoked in any respect from time to time by vote of three-fourths of all members of the Association at a meeting duly called for the purpose. No amendment to the By-Laws shall be effective until set forth in an amendment to the declaration and duly recorded in the Bureau of Conveyances or Office of the Assistant Registrar of the Land Court as the case may be.

Section 2. Conflict. In the event of any conflict between these By-Laws with the provisions of the statute, the latter shall govern and apply.

ADOPTION OF BY-LAWS

The undersigned owner of said project hereby adopts the foregoing as the By-Laws of its Association of Apartment Owners, this 20th day of July, 1967.

HALE KAI O'KIHEI

By David R Ing

5-14-1969

BY-LAWS OF ASSOCIATION OF APARTMENT OWNERS OF HALE KAI O' KIHEI II, A CONDOMINIUM PROJECT, A HORIZONTAL PROPERTY REGIME

ARTICLE I

Office

Section 1. Principal Office. The principal office of the Association shall be at 1744 E Kaahumanu Avenue, Wailuku, Maui, Hawaii.

Section 2. Place of Meetings. All meetings of the Association shall be held at its principal office unless some other place is stated in the call.

ARTICLE II

Association of Apartment Owners

Section 1. Annual Meeting. The annual meeting of the Association shall be held on the first Monday in the second calendar month following the close of the Association's fiscal year.

Section 2. Special Meetings. Special meetings may be held at any time upon the call of the President or upon the call of any fourteen owners. Upon receipt of such call, the Secretary shall send out notices of the meeting to all members of the Association.

Section 3. Notice of Meetings. A written or printed notice of every meeting of the Association stating whether it is an annual or special meeting, the authority for the call of the meeting, the place, day and hour thereof, and the purpose therefor shall be given by the Secretary or the person or persons

calling the meeting at least three days before the date set for such meeting. Such notice shall be given to each member in any of the following ways: (a) by leaving the same with him personally, or (b) by leaving the same at the residence or usual place of business of such member, or (c) by mailing it, postage prepaid, addressed to such member at his address as it appears on the records of the Association, or (d) by publishing such notice in any newspaper of general circulation in the County wherein the project is located, such notice to be published not less than two times on successive days, the first publication thereof to be not less than three days nor more than ten days prior to the day assigned for the meeting. If notice is given pursuant to the provisions of this section, the failure of any member to receive actual notice of the meeting shall in no way invalidate the meeting or any proceedings thereat.

Section 4. Waiver of Notice. The presence of all the members, in person or by proxy, at any meeting shall render the same a valid meeting, unless any member shall, at the opening of such meeting, object to the holding of the same for non-compliance with the provisions of Section 3 of this ARTICLE II. Any meeting so held without objection shall, notwithstanding the fact that no notice of meeting was given, or that the meeting given was improper, be valid for all purposes, and at such meeting any general business may be transacted and any action may be taken.

Section 5. Quorum. At any meeting of the Association the owners of a majority of the apartment units in said condominium building, present in person or by proxy, shall constitute a quorum, and the concurring vote of a majority of such owners constituting a quorum shall be valid and binding upon the Association, except as otherwise provided by law or these by-laws.

Section 6. Voting. Any person, firm, corporation, trust or other legal entity or a combination thereof, owning any unit in said project duly recorded in his or its name, the ownership whereof shall be determined by the records of the Bureau of Conveyances of Hawaii, shall be a member of the Association, and either in person or by proxy entitled to one vote for each dwelling or unit so owned at all meetings of the Association. Any provision to the contrary notwithstanding co-owners or joint owners shall be deemed one owner entitled to one vote only. The authority given by a member to another person to represent such member at meetings of the Association shall be in writing, signed by such member or if an apartment is jointly owned then by all joint owners, or if such member is a corporation, by the proper officers thereof, and shall be filed with the Secretary, and unless limited by its terms such authority shall be deemed good until revoked in writing. An executor, administrator, guardian or trustee may vote in person or by proxy at any meeting of the Association with respect to any dwelling or unit owned or held by him in such capacity, whether or not the same shall have been transferred to his name

by a duly recorded conveyance. In case such unit shall not have so been transferred to his name, he shall satisfy the Secretary that he is the executor, administrator, guardian or trustee holding such unit in such capacity. Whenever any such unit is owned by two or more jointly according to the records of said Bureau, the vote therefor may be exercised by any one of the owners present in the absence of protest by the other or others.

Section 7. Adjournment. Any meeting of the Association may be adjourned from time to time to such place and time as may be determined by majority vote of the members present, whether a quorum be present or not, without notice other than the announcement at the meeting. At any such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted by a quorum at the meeting as originally called.

ARTICLE III

Board of Directors

Section 1. Number and Qualification. The affairs of the Association shall be governed by a Board of Directors composed of nine persons, all of whom must be owners of units in the project.

Section 2. Powers and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law or by these by-laws directed to be

exercised and done by the owners.

Section 3. Other Duties. In addition to duties imposed by these by-laws or by resolution of the Association, the Board of Directors shall be responsible for the following:

(a) Care, upkeep and surveillance of the project and the common areas and facilities.

(b) Collection of monthly assessments from the owners.

(c) Designation and dismissal of the personnel necessary for the maintenance and operation of the project, the common elements and facilities and limited common elements and facilities.

Section 4. Manager or Management Agent, Employees, Generally. The Board of Directors may employ for the Association a management agent or manager, at a compensation established by the Board to perform such duties and services as the Board shall authorize including, but not limited to, the duties listed in Section 3 of this Article. The duties conferred upon the management agent or manager by the Board of Directors may be at any moment revoked, modified or amplified by the majority of owners in a duly constituted meeting. The Board of Directors may employ any other employee or agents to perform such duties and at such salaries as the Board of Directors may establish.

Section 5. Election and Term of Office. At the first annual meeting of the Association the term of office of three Directors shall be fixed for three (3) years. The term of office of three Directors shall be fixed at two (2) years, and the term of office of three Directors shall be fixed at one (1) year. At

the expiration of the initial term of office of each respective Director, his successor shall be elected to serve a term of three (3) years. The Directors shall hold office until their successors have been elected and hold their first meeting. The intent and purpose being that the term of office of at least one-third of the Directors shall expire annually.

Section 6. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a Director by a vote of the Association shall be filled by vote of a majority of the remaining Directors, even though they may constitute less than a quorum; and each person so elected shall be a Director until a successor is elected at the next annual meeting of the Association.

Section 7. Removal of Directors. At any regular or special meeting duly called, any one or more of the Directors may be removed with or without cause by a majority of the owners and a successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the owners shall be given an opportunity to be heard at the meeting.

Section 8. Compensation. No compensation shall be paid to Directors for their services as Directors. No remuneration shall be paid to a Director for services performed by him for the Association in any other capacity, unless a resolution authorizing such remuneration shall have been unanimously adopted by the Board of Directors before the services are undertaken. A director may be an employee of the Association.

Section 9. Organization Meeting. The first meeting of a newly elected Board of Directors shall be held within one week of election at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and no notice shall be necessary to the newly elected Directors in order legally to constitute such meeting, providing a majority of the whole Board shall be present.

Section 10. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of regular meetings of the Board of Directors shall be given to each Director, personally or by mail, addressed to his residence, or by telephone, at least three (3) days prior to the day named for such meeting.

Section 11. Special Meetings. Special meetings of the Board of Directors may be called by the President on three days notice to each Director, given personally or by mail, addressed to his residence, or by telephone, which notice shall state the time, place (as hereinabove provided) and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least three Directors.

Section 12. Waiver of Notice. Before or at any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a

Director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 13. Board of Directors' Quorum. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 14. Bonds of Officers and Employees. The Board of Directors shall require that all officers and employees handling or responsible for Association funds shall furnish adequate bonds. The premiums on such bonds shall be paid by the Association.

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 and from the Board of Directors. The Directors may appoint

any assistant treasurer, and an assistant secretary, and such other officers as in their judgment may be necessary.

Section 2. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board and shall hold office at the pleasure of the Board.

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

Section 4. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board of Directors. He shall have all of the general powers and duties which are usually vested in the office of president of an Association, including but not limited to the power to appoint committees from among the owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association.

Section 5. Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board to so

do on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors.

Section 6. Treasurer. The Treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all moneys and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board of Directors.

Section 7. Secretary. The Secretary shall attend and keep the minutes of all meetings of the Board of Directors or of the Association; shall give all notices as provided by these by-laws, and shall have such other powers and duties as may be incidental to the office of the Secretary, given him by these by-laws or assigned to him from time to time by the Directors. If the Secretary shall not be present at any meeting, the presiding officer shall appoint a secretary pro tempore who shall keep the minutes of such meeting and record them in the books provided for that purpose.

Section 8. Auditor. The Association may at any meeting appoint some person, firm or corporation engaged in the business of auditing to act as auditor of the Association and to perform such audits and fiscal duties as may be requested of him by the Association.

ARTICLE V

Obligations of the Owners

Section 1. Expenses. Assessments. Every owner of any apartment unit in said project shall contribute prorata toward the expenses of administration of said project, including but not limited to all types of insurance, the cost of operation, maintenance, repair and replacement of all the buildings and common elements thereof, according to the total number of units in said project, or prorata according to the value of the unit owned, as may be determined by the Association, or as it may be provided in the document of conveyance, whether it be a deed or lease or sublease; provided that his contribution for any limited common elements appurtenant to such dwelling shall be determined according to the number of units having the use thereof. The Association shall fix a monthly charge for each unit in an amount sufficient to provide for its prorata share of all such current expenses, reasonable reserves for future expenses of administration and such other expenses as the Association may deem proper, subject to adjustment from time to time as the Association may deem necessary. Such monthly charge shall be due and payable monthly in advance on the first day of every month, shall bear interest at the rate of ten per cent (10%) per annum from due date until paid, and with such interest shall be a lien on the apartment unit or on the lease of the dwelling as the case may be, assessed prior in right to all other charges whatsoever except assessments, liens and charges in favor of the State of

Hawaii for taxes past due and unpaid on such unit and payments due under mortgage instruments duly recorded.

Section 2. Maintenance and Repair. (a) Every owner must perform promptly all maintenance and repair work within his own unit, which if omitted would affect the project in its entirety or in a part belonging to other owners, being expressly responsible for the damages and liabilities that his failure to do so may engender.

(b) All the repairs of internal installations of the unit such as water, light, gas, power, sewage, telephone, air conditioners, sanitary installations, doors, windows, lamps and all other accessories belonging to the unit area shall be at the owner's expense.

(c) An owner shall reimburse the Association for any expenditures incurred in repairing or replacing any common area and facility damaged through his fault.

Section 3. Use of Family Units. All units shall be utilized for residential purposes only.

Section 4. House Rules. In order to assure the peaceful and orderly use and enjoyment of the apartment units, parking stalls and common elements of said project the Association may from time to time adopt, amend, modify and revoke in whole or in part by unanimous vote of all members present in person or represented by proxy at any meeting duly called for the purpose such reasonable rules and regulations to be called House Rules governing the conduct of persons on said project

as it may deem necessary. Such house rules upon adoption and every amendment, modification and revocation thereof shall be delivered promptly to each apartment unit in the project and shall be binding upon all members of the Association and occupants of the dwelling.

ARTICLE VI

Execution of Instruments

Section 1. Instruments Generally. All checks, drafts, notes, bonds, acceptances, contracts and all other instruments except conveyances shall be signed by such person or persons as shall be provided by general or special resolution of the Directors, and in the absence of any such resolution applicable thereto such instrument shall be signed by the President or the Vice President and by the Treasurer or Secretary or assistant treasurer or assistant secretary.

ARTICLE VII

Liability of Officers

Section 1. Exculpation. No Director or officer of the Association shall be liable for acts or defaults of any other officer or member or for any loss sustained by the Association or any member thereof, unless the same has resulted from his own wilful misconduct or negligence.

Section 2. Indemnification. Every Directors, officer and member of the Association shall be indemnified by the Association against all reasonable costs, expenses and liabilities (including counsel fees) actually and necessarily incurred by or

imposed upon him in connection with any claim, action, suit, proceeding, investigation or inquiry of whatever nature in which he may be involved as a party or otherwise by reason of his having been an officer or member of the Association whether or not he continues to be such Director, officer or member of the Association at the time of the incurring or imposition of such costs, expenses or liabilities, except in relation to matters as to which he shall be finally adjudged in such action, suit, proceeding, investigation or inquiry to be liable for wilful misconduct or negligence toward the Association in the performance of his duties, or in the absence of such final adjudication, any determinatio of such liability by the opinion of legal counsel selected by the Association. The foregoing right of indemnification shall be in addition to and not in limitation of all other rights to which such person may be entitled as a matter of law and shall inure to the benefit of the legal representatives of such person.

ARTICLE VIII

Fiscal Year

Section 1. Fiscal Year. The fiscal year of the Association shall be such as may from time to time be established by the Association.

ARTICLE IX

By-Laws

Section 1. Amendment. These By-Laws may be amended, modified or revoked in any respect from time to time by vote of

three-fourths of all members of the Association at a meeting duly called for the purpose. No amendment to the By-Laws shall be effective until set forth in an amendment to the declaration and duly recorded in the Bureau of Conveyances or Office of the Assistant Registrar of the Land Court as the case may be.

Section 2. Conflict. In the event of any conflict between these By-Laws with the provisions of the statute, the latter shall govern and apply.

ADOPTION OF BY-LAWS

The undersigned owner of said project hereby adopts the foregoing as the By-Laws of its Association of Apartment Owners, this 14 day of May, 1969.

HALE WAI O' KUPEE II

By David S. Ing

20

R-133

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

APR 21, 1995 08:01 AM

Doc No(s) 95-052812

/s/ CARL T. WATANABE
ACTING REGISTRAR OF CONVEYANCES

LAND COURT

AFTER RECORDATION, RETURN BY MAIL (x) PICK-UP ( )

HALE KAI O'KIHEI
1310 ULUNIU ROAD
KIHEI HI 96753

76 207317 - 1A

RECORDATION REQUESTED BY:
HALE KAI O'KIHEI CONDOMINIUM
1310 Uluniu Road
Kihei, Maui, Hawaii 96753

AFTER RECORDATION RETURN TO:
HALE KAI O'KIHEI CONDOMINIUM
1310 Uluniu Road
Kihei, Maui, Hawaii 96753

RETURN BY: MAIL (X) PICKUP ( )

RESTATEMENT OF

BYLAWS OF THE

ASSOCIATION OF APARTMENT OWNERS OF

HALE KAI O'KIHEI
INCLUDING ALL AMENDMENTS

WHEREAS, by Declaration dated March 15, 1967, and recorded in the Bureau of Conveyances of the State of Hawaii at condominium project known as Hale Kai O'Kihei; and

WHEREAS, by Declaration dated May 14, 1969, and recorded in said Bureau at Liber 6523, Page 364, there waa created a condominium project known as Hale Kai O'Kihei II; and

WHEREAS, by reason of an amendment to the Bylaws originally created under each such Declaration which amendment was adopted November 3, 1973, and recorded in the Bureau of Conveyances of the State of Hawaii at Liber 9798, Page 264, the operation of Phase I and Phase II of the Hale Kai O'Kihei condominium project have been governed by a unified set of Bylaws; and

WHEREAS, subsequent to 1973, the Hawaii Legislature has enacted various changes to the Hawaii Horizontal Property Act, hereinafter referred to as the "Act," as applicable to the Hale Kai O'Kihei condominium; and

WHEREAS, the apartment owners and the Board of Directors of the Association of Apartment Owners of Hale Kai O'Kihei (formerly known as Hale Kai O'Kihei and Hale Kai O'Kihei II), hereinafter referred to as the "Association," deem it in the best interest of the combined Condominium and of all apartments therein that the Bylaws of the Association be modified and amended to specifically include the various changes mandated by the Act, and to reflect the fact that the Bylaws shall continue to apply to the entire project as unified;

NOW, THEREFORE, in order that the condominium project now known as "Hale Kai O'Kihei" shall have a single set of Bylaws to govern the operation of the project, which are intended to incorporate all changes mandated by the recent amendments to the Hawaii Horizontal Property Act, the Bylaws, as amended in entirety, shall hereafter read as follows:

BY-LAWS OF THE ASSOCIATION OF APARTMENT OWNERS
OF

HALE KAI O'KIHEI

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BYLAWS OF THE
ASSOCIATION OF APARTMENT OWNERS OF
HALE KAI O'KIHEI

The following Bylaws shall apply to the HALE KAI O'KIHEI condominium project (herein sometimes called the "Project"), as described in the Declaration of Merger (hereinafter referred to as "the Declaration") filed for the project, and the Declarations of Horizontal Property Regime referred to therein, as amended and to be recorded in the Bureau of Conveyances of the State of Hawaii and to all present and future Owners, tenants and occupants of any Apartment(s) of the Project and all other persons who shall at any time use the Project.

ARTICLE I

INTRODUCTORY PROVISION

Section 1. Definitions. The terms used herein shall have the meanings given to them in Chapter 514A, Hawaii Revised Statutes, as amended (hereinafter called the "Act'), except as otherwise expressly provided herein. Unless clearly repugnant to the context, the following terms, whenever used in these Bylaws, shall be given the following meanings:

(A) "Common elements" means those elements designated in the Declaration as common elements.

(B) "Limited common elements" means those elements designated in said Declaration as limited common elements.

(C) "Apartment" as used herein means an Apartment in the Project, within the meaning of that term as used in the Act, as designated and described in the Declaration.

(D) "Land" means the Land designated and described in the Declaration.

(E) "Project" means and includes the Land, the buildings and all other improvements thereon (including the Apartments and the common elements) and all easements, rights and appurtenances belonging thereto, and all other property with respect to which a Horizontal property Regime shall exist from time to time pursuant to the Declaration.

(F) "House Rules" refers to the Rules and Regulations or House Rules for the conduct of Owners, occupants and guests of Apartments in the Project adopted by the Board of Directors as hereinafter provided.

(G) "Owner" or "Apartment Owner" means a person owning all or any interest in an apartment and the common interest appertaining thereto, to the extent of such interest owned; provided that to such extent and for such purposes, including the exercise of voting rights, as shall be provided by agreement of sale or lease filed with the Board of Directors, the vendee under an agreement of sale or the lessee of an Apartment or interest therein shall be deemed to be the Owner of such Apartment or interest therein.

(H) "Association" means the Association of Apartment Owners of the Project.

(I) "Board" means the Board of Directors of the Association.

(J) "Common Expenses" includes the expenses designated as common expenses in Sections 1, 2 and 3 of Article VI of these Bylaws.

Section 2. Gender. All pronouns used herein shall include the male, female and neuter genders and shall include the singular or plural numbers, as the case may be.

Section 3. Conflicts. These Bylaws are set forth to comply with the requirements of the Act. In case any of these Bylaws conflict with the provisions of the Act or the Declaration, as they now exist and are hereafter amended, the Act or the Declaration, as the case may be, shall control.

Section 4. Application. All present and future Owners, mortgagees, vendees under agreements of sale, tenants and occupants of Apartments and their employees, guests, customers and invitees and any other persons who may use or occupy and part of the Project in any manner, are subject to these Bylaws, the Declaration, and the House Rules, as each may be amended from time to time. The acceptance of an apartment deed, conveyance, mortgage, agreement of sale, or lease of an Apartment, or the act of occupying an Apartment, shall constitute an agreement that these Bylaws, the House Rules, and the Declaration, as they may be amended from time to time, are accepted, ratified, and will be strictly complied with.

ARTICLE II
ASSOCIATION OF APARTMENT OWNERS

Section 1. Membership. All Owners of Apartments of the Project shall constitute the Association.

Section 2. Powers of the Association. The Association shall have all of those powers with respect to the operation and regulation of the Project which are or may be conferred upon the association of apartment owners of a condominium project pursuant to the provisions of the Act, including without limiting the generality of the foregoing:

(A) The election of a Board of Directors.

(B) The management, maintenance, acquisition, construction and care of the Association property. As used herein, the term "Association property" includes the common elements of the Project, property held by the Association, property commonly held by its members, property within the Project privately held by its members but which may be subject to a common maintenance assessment by the Association for such purposes as insurance, and property owned by any governmental agency and used for the benefit of the Association's members.

"Notwithstanding anything herein to the contrary, the Association shall have the power, by and through its Board of Directors, to make such investments as the Association determines will be of benefit to the Association in the operation and regulation of the project, which investments may include without limitation an apartment within the project purchased for use as a residence by the resident manager of the Project; provided, that all such investments shall be held in the sole name of the Association and shall not be, nor be deemed to be, a modification of or addition to the common elements of the Project nor shall the percentage of common elements appurtenant to any apartment be modified thereby; and provided further, that, in the case of the purchase of any such apartment the approval of owners whose apartments represent not less than SIXTY-FIVE percent (65%) of the total common interest of the Project shall be obtained for each such investment. The Association shall also have the power to assess and collect such special assessments from each and every apartment owner as shall be necessary or appropriate to procure and/or pay for all such investments which are acquired or purchased pursuant to this provision."

(C) The collection of common expenses from the Owners.

(D) The designation, employment and removal of personnel necessary for the operation, maintenance, repair and replacement of the common elements.

(E) The establishment of such restrictions and requirements, not inconsistent with the Declaration, the Act or these Bylaws, regarding the use, operation and maintenance of the Apartments and the use of the common elements.

(F) The amendment of these Bylaws in accordance with the Declaration, Section 8 of Article X hereof and Section 514-82 (18b) of the act.

(G) Any and all powers not inconsistent with any law or the Declaration which are reasonably incidental to the fulfillment of the purposes of the Horizontal Property Regime set forth in the Declaration, or are reasonably incidental to the exercise of the Association's powers as set forth in the Declaration or herein.

Nothing in this Section 2 shall prohibit the delegation by the Association of any of its powers in accordance with these Bylaws, as amended from time to time.

Section 3. Meetings. The annual meetings of the Association shall be held on the first Saturday in November of each year. Each annual meeting shall be a general meeting, and at such meeting any business within the powers of the Association, without special notice of such business, may be transacted except as limited by law, the Declaration or these Bylaws. Special meetings of the Association may be called at any time by the President or upon the request of any fourteen (14) Owners. At any special meeting only such business shall be transacted as shall have been indicated by a specific or general description in the notice of such meeting. All meetings of the Association shall be held at the address of the Project or such other suitable place within the State of Hawaii as may be designated by the Board of Directors.

Section 4. Notice of Meetings. Any notices permitted or required to be given herein must be in writing and may be delivered either personally, by delivery to the residence or usual place of business of the apartment owner or by mail. The notice of every meeting of the Association shall state whether it is an annual or special meeting, the authority for the call of the meeting, and shall contain at least the date, time and place of the meeting, the items on the agenda for such meeting and a standard proxy form authorized by the Association, if any. Notices of annual meetings shall be given at least thirty (30) days before the date of such meeting. Notices of special meetings shall be given at least twenty (20) days before the date of such meeting.. If delivery is made by mail, the notice shall be deemed to have been given twenty-four (24) hours after a copy of it has been deposited in the United States mail, postage prepaid, addressed to the person to whom the notice is to be given at the address given by such person to the Board of Directors, or to the apartment which such person owns if no address has been given by such person to the Board of Directors. Such address may be changed from time to time by notice in writing to the Board of Directors. Upon written request for notice delivered to the Board of Directors and agreement to pay the additional costs related thereto, the holder of any duly recorded mortgage against any Apartment may promptly obtain a copy of any and all notices permitted or required herein to be made to the Owner or Owners whose Apartment is subject to said mortgage. Said request for notice need not be renewed and shall entitle the holder of such mortgage requesting such notice, so long as such holder pays the costs related thereto, as aforesaid, to receive all notices sent to the Owner or Owners whose Apartment is subject to said mortgage from and after the date of said request until said request is withdrawn or the mortgage is discharged of record.

If notice is given pursuant to the provisions of this section, the failure of any Apartment Owner to receive actual notice of the meeting shall in no way invalidate the meeting or any proceedings thereat. The presence of all Owners, in person or by proxy, at any meeting shall render the same a valid meeting notwithstanding that notice thereof was not given or was improper, unless any Owner shall at the opening of such meeting object to the holding of such meeting because of the failure to comply with the provisions of this section.

Section 5. Quorum. The presence at any meeting in person or by proxy of a majority of the Owners shall constitute a quorum, and the acts of a majority of the Owners present at any meeting at which a quorum is present shall be the acts of the Association except as otherwise provided herein. The term "Majority of the Owners" herein means the Owners of Apartments to which are appurtenant more than fifty percent (50%) of the common interest as established by the Declaration. The term "majority of the Owners present at any meeting" shall mean Owners of Apartments to which are appurtenant more than fifty percent (50%) of the aggregate common interests appurtenant to Apartments owned by those present at the meeting. Any other specified percentage of the Owners means the owners of Apartments to which are appurtenant such percentage of the common interests.

Section 6. Voting. All Owners shall be members of the Association and shall be entitled to vote at meetings thereof. Voting shall be on a percentage basis with the percentage of the total vote to which each Apartment is entitled being the same as the percentage of the common interests assigned to such Apartment in the Declaration. Votes may be cast in person or by proxy by the respective Apartment Owners as shown in the record of ownership of the Association. An executor, administrator, guardian or trustee may vote in person or by proxy at any meeting of the Association the percentage of vote for any apartment owned or controlled by him in such capacity, whether or not the same shall have been transferred to his name in the Association's record of ownership, provided that he shall first present evidence satisfactory to the Secretary that he owns or controls such Apartment in such capacity. The purchaser of an Apartment under an agreement of sale recorded in the Bureau of Conveyances of the State of Hawaii and/or delivered to the Association, and certified to be in effect by the Seller and Buyer thereunder shall have all the rights of an Owner, including the right to vote, unless the seller under such agreement of sale retains the right to vote pursuant to Section 514A-83 of the Act. The vote for any Apartment owned of record by two or more persons may be exercised by any one of them present at any meeting in the absence of protest by the other co-Owner(s). In the event of such protest, each co-Owner shall be entitled to vote only the proportionate share of such vote which his share of ownership in such Apartment bears to all interest in said apartment properly represented at such meetings. Where title to an apartment is held by a corporation, partnership, trust or other entity, the vote on behalf of such owner shall be cast by one person duly selected and designated by said entity (pursuant to said entity's own procedures) to vote on its behalf, which person shall be an officer of a corporate owner, general partner of a partnership owner, or trustee of trust owner. Votes allocated to any area which constitutes a common element under Section 514A-13(h) of the Act shall not be cast at any association meeting, whether or not it is so designated in the Declaration.

Section 7. Proxies and Pledges. The authority given by any Apartment Owner to another person to represent him at meetings of the Association shall be delivered to the secretary of the association or the managing agent, if any, not later than 4:30 p.m. HST on the second business day prior to the date of the meeting to which it pertains (or such earlier time as may hereafter be set by Hawaii law), and unless limited by its terms shall continue

until revoked by a written instrument filed with the Secretary or by death or incapacity of the Owner; provided, however, that a proxy shall be valid only for the meeting to which the notice pertains and any adjournment thereof, and may designate any person as proxy and may be limited as the Owner desires and indicates. Proxies may be given to the Board as an entity, in which case they shall be cast by vote of a majority of the Board. A valid proxy must be in writing and contain at least (1) the name of the association, (2) the date of the meeting of the association, (3) the printed name and signature of the person(s) giving the proxy, (4) the apartment(s) for which the proxy is given, (5) the printed name of the person or entity to whom the proxy is given, and (6) the date that the proxy is given. However, nothing in this paragraph shall affect the holder of any proxy under a first mortgage of record encumbering an apartment or under an agreement of sale affecting an apartment.

Voting rights transferred or pledged by mortgage, deed of trust or agreement of sale of any Apartment or interest therein, a true copy of which is filed with the Board through the Secretary or Managing Agent, shall be exercised only by the person designated in such instrument until the written release or other termination thereof is filed with the Board in a like manner.

No member of the Board of Directors who uses Association funds to solicit proxies shall cast any proxy votes for the election or reelection of board members at any Association meeting unless the proxy form specifically authorizes the board member to vote for the election or reelection of board directors.

Section 8. Adjournment. Any meeting of the Association may be adjourned from time to time to such place and time as may be determined by majority vote of the Owners present, whether or not a quorum is present, without notice other than the announcement at such meeting. At any such adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted by a quorum at the meeting as originally called.

Section 9. Order of Business; Rules; Minutes. The order of business at all meetings of the Association shall be as follows:

(A) Roll call.

(B) Proof of notice of meeting.

(C) Reading of minutes of preceding meetings.

(D) Report of officers.

(E) Report of committees.

(F) Election of directors (when so required).

(G) Unfinished business.

(H) New business.

All meetings of the Association shall be conducted in accordance with the most current edition of Robert's Rules of Order. The minutes of all meetings of the Association and Board of Directors and the Association's financial statements shall be available for examination by the Apartment Owners at convenient hours at a place within the County of Maui as designated by the Board, and shall be mailed to an Owner upon request, and shall include the recorded vote of each Board member on all motions except motions voted on in executive session.

Section 10. Committees. The Association may create and appoint such general or special committees as the affairs of the Association may require and define the authority and duties of such committees.

Section 11. Auditor. The members of the Association may require by majority vote at any annual meeting a yearly audit of the Association books by a certified public accountant or accounting firm as auditor, who shall not be an officer of the Association nor own any interest in any Apartment.

ARTICLE II
BOARD OF DIRECTORS

Section 1. Number and Qualifications. The affairs of the Association shall be governed by a Board of Directors composed of at least three (3) but not more than nine (9) directors who shall serve without compensation. No renumeration shall be paid to a Director for services performed by him for the Association in any other capacity, unless a resolution authorizing such renumerations shall have been unanimously adopted by the Board before the services are undertaken. The initial and each succeeding Board of Directors shall consist of nine (9) directors unless and until a majority of Apartment Owners vote to increase or decrease the size of the Board within the limits set forth herein. Each of the directors shall be the Owner or co-Owner of record of an Apartment or the vendee thereof under an agreement of sale, or an officer of a corporate Owner of an Apartment. The partners in a general partnership and the general partners of a limited partnership shall be deemed to be the Owners of an Apartment for such purpose. There shall not be more than one representative on the Board from any one Apartment. No resident manager shall serve on the Board of Directors.

Section 2. Elections and Terms. Election of directors shall be by cumulative voting by secret ballot at each annual meeting and each special meeting called for that purpose. 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, except that the terms for which the directors are elected shall be such that the terms of at least one-third (1/3) of the directors shall expire annually. Directors shall be elected at each annual meeting to fill the vacancy in the office of director occurring as of the time of such meeting. The term "cumulative voting" as used herein means that each Owner may cast for any one or more nominees to the Board a vote equivalent to the vote to which such Owner is entitled multiplied by the number of directors to be elected, and each Owner shall be entitled to cumulate his votes and give all thereof to one nominee or to distribute his votes in such manner as he shall determine among any or all of the nominees, and the nominees receiving the highest number of votes on the foregoing basis, up to the number of directors to be elected, shall be deemed elected.

Section 3. Vacancies. Any vacancies in the Board of Directors, other than a vacancy caused by the natural expiration of the term of a director or the removal of a director by the Association, shall be filled by vote of a majority of the remaining directors, even though they may constitute less than a quorum, and each person so elected shall serve until his successor is elected at the next annual meeting of the Association. Death, incapacity or resignation of any director, or his ceasing to be the Owner or co-Owner of an Apartment, or the vendee under an agreement of sale, or the officer of a corporate Owner of an Apartment, or the general partner of a partnership which is the Owner of an Apartment, shall cause his office to become vacant.

Section 4. Removal of Directors. At any annual or special meeting of the Association duly called, any one or more of the directors may be removed with or without cause by vote of a majority of Apartment Owners, and a successor may be elected to fill the vacancy thus created. If said vacancy is not so filled, the Board shall fill said vacancy as provided hereinabove in Section 3. Any director whose removal has been proposed by the Apartment Owners shall be given an opportunity to be heard at such meeting.

Any Board Member who misses two consecutive Board Meetings or a total of three meetings in a term of three years may be terminated by ordinary resolution of the Board.

Section 5. Annual Meetings. The first meeting of the Board of Directors following the annual meeting of the Association shall be held at the place of and immediately following each annual meeting of the Association, and no notice shall be necessary to the newly elected members of the Board of Directors in order legally to constitute such meeting, provided a majority of the whole Board of Directors shall be present thereat. At such meeting the Board shall elect the officers of the Association for the ensuing year. Notice of the annual Board of Directors meeting shall be given in a reasonable manner at least thirty (30) days prior to such meeting and may be included with any notice of the annual meeting of the Association. All meetings of the Board of Directors (whether organizational, annual, regular or special) shall be conducted in accordance with the most current edition of Robert's Rules of Order. The minutes of all meetings of the Board of Directors shall be available for examination by the Apartment Owners at convenient hours at a place designated by the Board, and shall be mailed to an Owner upon request, and shall include the recorded vote of each Board member on all motions except motions voted on in executive session.

Section 6. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but at least two such meetings shall be held each year unless cancelled by a vote of a majority of the directors. Notice of regular meetings of the Board shall be given to each director by telephone or in a reasonable manner at least thirty (30) days prior to the date of such meeting.

Section 7. Special Meetings. Special meetings of the Board of Directors may be called by the President on at least thirty (30) days notice to each director, given personally or by telephone or telegraph, or by mail addressed to the director's residence, which notice shall state the time, place and purpose of such meeting. Special meetings of the Board shall be called by the President or Secretary in like manner and with like notice on the written request of at least three (3) directors.

Section 8. Board Meetings.

(A) All meetings of the board of directors shall be open to all members of the association, provided that association members who are not on the board of directors may not participate in any deliberation or discussion unless expressly so authorized by the vote of majority of a quorum of the board of directors.

(B) The board of director, with the approval of a majority of a quorum of its members, may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters or litigation in which the association is or may become involved. The nature of any and all business to be considered in executive session shall first be announced in open session.

(C) "All votes on Board motions must record each members vote and be included in the minutes of Board Meetings, except votes on motions made in executive sessions."

Section 9. 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.

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

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

Any director may, in his sole discretion elect to be deemed to be present at a meeting of the Board of Directors (other than at the annual meeting) if such meeting is held by conference telephone call, provided that all directors shall have the opportunity to participate in such telephone conference, and provided further that minutes of such meeting shall be concurred in by all directors in writing.

Section 11. Powers of the Board.

(A) The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all acts or things set forth in the Act, the Declaration and these Bylaws which may be done by a Board of Directors, except as otherwise expressly prohibited. Such powers and duties shall include, but not be limited to, the following:

(1) Enforcement of the provisions of the Declaration these Bylaws, the House Rules and any Regulations, including the authority to levy reasonable fines or service charges for repeated violations of the House Rules and/or Regulations.

(2) Making contracts and incurring liabilities in connection with the exercise of any of the powers and duties of the Board.

(3) Providing or causing to be provided all goods and services required by the Bylaws or by law, or which the Board, in its discretion, deems necessary for the proper operation and maintenance of the Project, or which are used in common or jointly by the common elements and apartments, in each case to the extent such goods and services shall not be otherwise provided.

(4) Payment of all common expenses which the Association is required to pay pursuant to these Bylaws or by law or which in the Board's opinion are necessary and proper for the operation and maintenance of the Project or for the enforcement of these Bylaws; provided that if any such payment is required because of the particular actions or negligence of the Owners of particular Apartments, the cost thereof shall be specially assessed to the Owners of such Apartments; and provided that the Board shall have the authority to expend up to 20% of the current budget of the Association if necessary in an emergency situation to deal with the prevention of, or the handling of the results of damage from a natural disaster or an Act of God, or the threat of such damage.

(5) Opening of bank accounts on behalf of the Association and designating the signatories thereof.

(6) Delegation of its powers to committees, agents, officers, representatives and employees.

(7) Contracting for insurance on behalf of the Association pursuant to the provisions of Article VII hereof.

(8) Designating, employing and removing personnel necessary for the maintenance, operation, repair and replacement of the common elements.

(9) Within 60 days prior to the beginning of each fiscal year, to cause to be prepared and to approve a budget covering the itemized estimated income of the Project, from all sources and the estimated cost of maintaining and operating the Horizontal Property Regime during the ensuing fiscal year, including any and all expenses for taxes, insurance premiums, improvements, assessments, utility charges, maintenance and operating expenses, and all other charges and outgoings of any description to which the Association or its property may be assessed or become liable, plus the reserves established by these Bylaws and any other reasonable reserves for such purposes, less any surpluses from the operation of prior years, if any. In addition, the Board of Directors shall prepare and approve a schedule of monthly assessments against each Apartment Owner for his proportionate share of such estimated cost of maintaining and operating the property of the Horizontal Property Regime for such ensuing year.

(10) To enter any Apartment when necessary in connection with an emergency, a condition which jeopardizes the Project, any other apartment or the common elements, or if necessary for any maintenance, repair or construction for which the Board of Directors is responsible. Such entry shall be made with as little inconvenience to the Owner as is practicable, and any damage caused thereby shall be repaired by the Board of Directors at the expense of the Association, and such expense is hereby designated a common expense.

(11) From time to time to lease or rent any apartment set aside for use by any Managing Agent or other employees, or other common elements not actually used by any of the Owners, with or without charge, and to enforce, modify and make agreements with respect to any lease or tenancy of any portions of the common elements on behalf of the Apartment Owners, provided that any such lease shall not have a term exceeding five years and shall contain a provision that the lease or agreement for use may be terminated by the Association on not more than sixty (60) days written notice, unless approval by the Owners of seventy-five percent (75%) of the common interest is obtained, as permitted by Section 514A-13 of the Act.

(12) Provided it obtains the prior approval of Owners having not less than seventy-five percent (75%) of the common interests, to purchase Apartments of the Project at foreclosure, at other judicial sales or otherwise, on behalf of all Apartment Owners, and thereafter to sell,lease, mortgage, vote the common interest appurtenant to and otherwise deal with such Apartments.

(13) To change the use of the common elements upon the approval of Owners having not less than seventy-five percent (75%) of the common interests.

(14) To keep an accurate and current list of the names and addresses of the members of the Association and the names and addresses of any vendees of an Apartment under an agreement of sale. The list shall be maintained at the address of the Project, or such other place within the County of Maui as designated by the Board, and shall be available for inspection by Apartment Owners at all reasonable times.

(15) To provide or arrange for others to provide to each Apartment water, sewer, electricity and such other utility services and utilities as the Board shall deem necessary, either at the expense of such Apartment or as a common expense, as determined by the Board.

(16) Nothing herein contained shall be construed to give the Board of Directors authority to conduct an active business for profit on behalf of the Owners, or any of them, or the Association.

Section 12. Conflicts of Interest. No director shall cast any proxy vote at any Board meeting, nor shall any director vote at any Board meeting on any matter in which he or she has a conflict of interest. A majority of the directors (excluding the director or directors alleged to be involved in a conflict of interest) shall determine the existence or nonexistence of such a conflict. Nor shall any member of the Board of Directors who uses the Association funds to solicit proxies cast any proxy votes for the election or reelection of board members at any Association meeting unless the proxy form specifically authorizes the board member to vote for the election or reelection of board members. No Resident Manager, Managing Agent or officer or employee thereof shall solicit, for use by such Resident Manager or Managing Agent, any proxies from any apartment owner of the Association which employs him, nor shall he cast any proxy vote at any Association meeting except for the purpose of establishing a quorum.

Section 13. Managing Agent. Hale Kai O'Kihei Owners Association is a self-management organization. It's Board of Directors acts as it's Managing Agent and assumes all the duties and responsibilities of an outside Managing Agent. Any reference to A "Managing Agent" is deemed to mean the Board of Directors.

The Board of Directors shall hire a Resident Manager who shall perform such duties as the Board shall direct. Upon being appointed by the Board the Resident Manager shall be designated as the person to accept service of process on behalf of the association, the Board of Directors or two or more apartment owners as the case may be in any action relating to the common elements or more than one apartment. Unless otherwise directed, the Resident Manager shall among other things:

(A) Collect assessments to discharge common expenses and pay said common expenses in accordance with these Bylaws.

(B) Shall assume responsibility for the day-to-day operation and management of the common elements.

(C) Establish and maintain such reserve funds as may be necessary for the proper operation and management of the common elements, with each Owner having an interest in such reserves equal to his common interest.

(D) Notify the Owners in writing of any increases in the maintenance fees at least 30 days prior to any such increase.

(E) 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, as required by Section 514A-85 of the Act, or any other successor law. The Managing Agent shall also keep monthly statements indicating the total current delinquent dollar amount of any unpaid assessments for common expenses. All records and vouchers authorizing the payments shall be kept and maintained at the address of the Project, or elsewhere within the State as determined by the Board of Directors, and shall be available for examination by the Apartment Owners at convenient hours on weekdays.

Any such records more than five (5) years old may be disposed of without liability to the Managing Agent if the Managing Agent first provides the Board with written notice of the managing Agent's intent to dispose of said records if not retrieved by the Board within 60 days, which notice shall include an itemized list of the records which the Managing Agent intends to dispose of.

(F) At the direction of the Board, to bring and prosecute an action, without prejudice to the rights of any apartment Owner to act for himself, on behalf of two or more Apartment Owners, as their respective interests may appear, with respect to any cause of action relating to the common elements or more than one Apartment; and

(G) Provide and maintain in full force and effect at all times a fidelity bond in the amount of not less than $500 per apartment, but in no event less than $20,000, or such higher amount as is required from time to time by law, naming the Association as obligee.

(H) Take appropriate measures to ensure that the funds in the general operating account of the Association are not commingled with funds of other activities such as lease rent collections and rental operations, as defined in the Act, and to ensure that Association funds are not commingled with the Managing Agent's own funds.

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 of Directors. The Board may appoint an assistant treasurer, an assistant secretary and such other officers as in its judgment may be necessary. The President and Vice-President shall, but no other officers need be, members of the Board. The Board shall require that all officers and employees of the Association other than the Managing Agent who handles or is responsible for Association funds to furnish an adequate bond. The premiums on such bonds shall be paid by the Association and shall be common expenses.

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

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

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

Section 5. 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 6. Secretary. The Secretary shall attend and keep the minutes of all meetings of the Association and of the Board of Directors, give all notices thereof as provided by these Bylaws, maintain and keep a continuous and accurate record of ownership of all Apartments, 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. If the Secretary shall not be present at any meeting, the presiding officer shall appoint a secretary pro tempore who shall keep the minutes of such meeting and record them in the books for such purpose.

Section 7. Treasurer. The Treasurer shall maintain and keep the financial records and books of account of the Association, prepare regular reports thereof and be responsible for the proper deposit and custody in the name of the Association of all its funds and securities. The Treasurer shall, in general, perform all the duties incident to the office of Treasurer and all other duties assigned by the Board.

Section 8. Execution of Instruments. All checks, drafts, notes, bonds, acceptances, deeds, leases, contracts and all other documents and instruments of the Association shall be signed, executed and delivered by the President or the Vice-President, and the Secretary or the Treasurer, provided, however, that the Board of Directors may from time to time by resolution authorize documents or instruments of the Association to be signed, executed and delivered by such other person or persons as may be designated pursuant to the general or special resolution of the Board.

Section 9. Liability and Indemnity of the Board and Officers. The directors and officers shall not be liable to the Apartment Owners for any mistake of judgment or otherwise, except for their own individual gross negligence or willful misconduct. The Association shall indemnify each director and officer of the Association against all costs, expenses and liabilities, including the amount of judgments, amounts paid in compromise settlements and amounts paid for reasonable attorney's fees and other related expenses which may be incurred by or imposed on him in connection with any claim, action, suit, proceeding, investigation or inquiry hereafter made, instituted, or threatened in which he may be involved as a party or otherwise by reason of his being or having been such director or officer, or by reason of any past or future action taken or authorized or approved by him or any omission to act as such director or officer, whether or not he continues to be such director or officer at the time of the incurring or imposition of such costs, expenses or liabilities, except such cost, expenses or liabilities as shall relate to matters as to which he is liable by reason of his gross negligence or willful misconduct toward the Association in the performance of his duties as such director or officer. As to whether or not a director or officer is liable by reason of gross negligence or willful misconduct towards the Association in the performance of his duties as such director or officer, in the absence of a final adjudication of the existence of such liability, the Board and each director and officer may conclusively rely upon an opinion of legal counsel selected by the Board. The foregoing right to indemnification shall not be exclusive of other rights to which any such director or officer may be entitled as a matter of law or otherwise, and shall inure to the benefit of the heirs, executors, administrators and assigns of each such director and officer.

The Assocation shall endeavor to obtain and maintain, as an Association expense, officers and directors liability insurance in an amount deemed appropriate, from time to time, by a majority of the Board.

ARTICLE V
REPAIR AND MAINTENANCE AND USE

Section 1. Repair and Maintenance.

(A) Every owner from time to time and at all times shall perform or cause to be performed promptly all repair, maintenance and alteration work within or with respect to his Apartment the omission of which would adversely affect the reputation or appearance of the Project, any common element, or the limited common elements appurtenant thereto, or any other Apartment, and shall be responsible for all loss and damage caused by his failure to do so. Every Owner and occupant shall at all times keep his Apartment and any appurtenant areas in a strictly clean and sanitary condition.

(B) All repairs of installations within each Apartment such as water, light, gas, power, sewage, telephone, air conditioning, sanitation, doors, windows, lamps, and all other installations, fixtures and accessories belonging to such Apartment, including interior walls and partitions and the inner decorated or finished surfaces of the perimeter walls, floors, and ceilings of such Apartment, shall be at the Owner's expense.

(C) Every Owner shall reimburse the Association or affected Owner(s) for any expenditures incurred in repairing or replacing any common elements or furniture, furnishings, and equipment thereof damaged or lost through the fault of such Owner or any person using the Project under him, and shall give prompt notice to the Managing Agent of any such damage, loss, or other defect when discovered.

(D) All maintenance, repairs and replacements to the common elements, whether located inside or outside of the Apartments, shall be made by the Board and be charged to all the Owners as a common expense to be allocated in proportion to the common interest appurtenant to each apartment, unless necessitated by the negligence, misuse or neglect of an Apartment Owner, in which case such expense shall be charged to such Apartment Owner, or unless with respect to limited common elements, in which case such amounts shall be charged only to those Apartment(s) to which said limited common elements are appurtenant with each such Apartment paying a proportional amount derived by dividing the common interest appurtenant to each Apartment so charged by the total common interest appurtenant to all such Apartments so charged.

Section 2. Use.

(A) All of the Apartments and the common elements shall be used only for the purposes set forth in the Declaration.

(B) Except as permitted by the Declaration, and the House Rules promulgated thereunder (and then only to the extent permitted by law) no occupant, Owner, agent of Owner, or anyone holding under any Owner of an Apartment shall post any advertisement, bill, poster, or other sign on or about the Project, except as authorized by the Board.

(C) All Owners and occupants shall exercise reasonable and due care to avoid causing or permitting noises, (including without limiting the generality of the foregoing noises caused by children residing in or visiting an Apartment) fumes or other circumstances that may disturb other Owners or occupants, or their customers, employees or invitees.

(D) No owner or occupant shall permit any child residing or visiting with him to loiter or play in the driveway areas of the project.

(E) No garbage, refuse, or trash of any kind shall be thrown, placed or kept on any common element other than the disposal facilities provided for such purposes.

(F) No Owner or occupant shall place, store or maintain on walkways, roadways, grounds or other common elements any equipment, furniture, packages or other objects of any kind or otherwise obstruct transit through such common elements.

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

(H) No Apartment Owner or occupant shall make or suffer any strip or waste or unlawful, improper or offensive use of his Apartment or the Project nor alter or remove any planting, equipment or other portion of the common elements.

(I) No rugs, or other objects shall be dusted or shaken from the windows of the Project or cleaned by beating or sweeping on any hallway or exterior part of the Project.

(J) No pets or livestock, poultry, rabbits or other animals whatsoever shall be allowed or kept in any part of the Project. "This does not apply to the use of seeing eye and hearing specialist dogs."

(K) No Owner or occupant shall without the written approval of the Board install any wiring for electrical or telephone installations, television antenna, machines or air-conditioning units,or other equipment or appurtenances whatsoever on the exterior of the Project or protruding through the walls, windows or roof thereof.

(L) No Owner or occupant shall, without the prior approval of the Board, erect, place or maintain any television or other antennas on said Project visible from any point outside of the Project.

(M) Nothing shall be allowed, done, or kept in any Apartment or common element which will overload or impair the floors, walls, or roofs of the Project, or cause any increase in the ordinary premium rates or the cancellation or invalidation of any insurance maintained by or for the Board with respect thereto, nor shall any noxious or offensive activity or nuisance be made or suffered thereon.

(N) Every Owner and occupant shall at all times observe all the provisions of the Declaration, these Bylaws, the House Rules, and all laws, ordinances, rules and regulations now or hereafter made by any governmental authority or the Association.

Section 3. House Rules.

In order to assure the peaceful and orderly use and enjoyment of the project, the Association may from time to time adopt, amend, modify,or revoke, in whole or in party, by a two-thirds majority vote of the owners present in person or by proxy at any meeting duly called for that purpose, such reasonable rules and regulations governing the details of the operation and use of the project as it deems necessary. A copy of such House Rules upon adoption, amendment, or modification, or a notice of revocation in the event that such rules are revoked, shall be delivered promptly to each owner and to each apartment in the project, and shall be binding upon all owners and occupants of any apartment in the project.

Section 4. Violation-Fines.

In the event the Board of Directors finds an owner has violated any of the requirements of Section 1, 2 or 3 and such owner fails to correct such violation after 10 days notice to do so, or in the event the Board of Directors finds an owner has repeatedly violated the established requirements after 10 days notice to correct the same, the Board may impose a Fine up to $100.00 per violation against such owner in such amount as it deems appropriate. Such fine may be enforced in the same manner as the enforcement of delinquent assessments.

ARTICLE VI
COMMON EXPENSES, OPERATIONAL EXPENSES, APARTMENT EXPENSES AND TAXES

Section 1. Common Expenses.

(A) "Common Expenses" consist solely of those related to the Common Elements, and the operation of the Project, as a whole. Such expenses shall be charged to and paid by all Apartment owners, in proportion to their respective interest in the Common Elements.

(B) The Owner of each Apartment shall be liable for and pay a share of the common expense in proportion to his undivided interest in the common elements appurtenant to his Apartment as expressed in the Declaration. Common expenses shall include all charges, costs and expenses whatsoever incurred by the Association for and in conjunction with the administration and operation of the Project, including without limitation all charges for taxes (except real property taxes and other such taxes which are or may hereafter be assessed separately on each Apartment and the common interest in the common elements appertaining thereto or the personal property or any other interest of the Owners), assessments, insurance, including casualty and liability insurance, any liability whatsoever for loss or damage arising out of or in connection with the common elements or any fire, accident or nuisance thereon, the cost of repair, reinstatement, rebuilding and replacement of the common elements, landscaping, yard, janitorial, and other similar services, wages, accounting and legal fees, management fees, start-up fees and other necessary expenses of upkeep, maintenance, management and operation actually incurred on or for the common elements, and the cost of any utility services, including water, sewer, electricity, disposal, telephone, and any other similar services, unless to the extent not separately metered or otherwise separately attributable to an Apartment or group of Apartments, in which case the amounts charged or attributable to each Apartment or group of Apartments, as determined by the Board with the advice of a certified public accountant, shall be payable by the Owner of such Apartment or Owners of Apartments as the case may be. The common expenses may also include such amounts as the Board may deem proper to makeup any deficit in the payment of common expenses for any prior year. Payment of common expenses shall be made to the Board (through the Managing Agent), as agent of the Owners of the Apartments. If there should be any excess assessments on hand at the end of any year, the same shall be used or applied by the Board, in its sole discretion, (i) to pay common expenses in the following year; (ii) as a capital contribution to the Association to be used for future capital improvements and replacements; or (iii) as a capital contribution to be placed in one or more Capital Improvements Reserve Funds established pursuant to paragraph (B) below.

(C) From time to time, as specifically directed by the Association at any annual or special meeting, the Board may establish and maintain one or more Capital Improvements Reserve Funds by monthly assessment against and payment by all the Owners in proportion to their respective common interests.

Each such fund shall be earmarked for a specific capital improvement which shall have been specifically authorized by the Association at any annual or special meeting and the amount of such Fund shall be such amount as the Association determines to be adequate (but no more) to provide for the particular capital improvement, whether it be the repair, restoration, and replacement of the common elements or for such other improvement as may be specifically authorized by the Association. The assessments for said Funds shall be deemed conclusively to be savings of the Owners held for their benefit for common expenses of a capital nature. Each such Fund shall be deposited in a separate account with a safe and responsible depository and shall be in the form of cash deposit or otherwise invested in obligations of or fully guaranteed as to principal by, an agency of the United States of America. Disbursements from said Fund shall be made only upon authorization of the Board. The proportionate interests of each Owner in said Fund and all interest earned thereon shall not be withdrawn or assigned separately but shall be deemed to be transferred with each Apartment even though not mentioned or described expressly in the instrument of transfer. If the Horizontal Property Regime established hereby is terminated or waived, or if the Fund exceeds the cost of the particular improvement, or if the planned improvement is for any reason not implemented within a reasonable time (in any event not more than ten (10) years) after creation of said Fund, said Fund remaining shall be distributed to all Owners in proportion to their respective common interests, except for the shares in said Fund attributable to the Owners of Apartments reconstituted as a new Horizontal Property Regime, which shares shall be retained for the reconstituted Horizontal Property Regime.

Section 2. Allocation and Payment of Common Expenses. For the purpose of fixing and determining the payments to be made as hereinabove provided in this Article VI, the Board shall, on behalf of all Owners and as soon as practicable, determine for each fiscal year the estimated aggregate amount of the common expenses for such year. The Board, on behalf of the Owners, may from time to time during each year make reasonable adjustments in said estimated aggregate amount of common expenses on the basis of actual costs incurred. As soon as practicable after the end of each fiscal year, the common expenses, as determined by the Board, shall be allocated and paid as follows:

(A) The aggregate amount so estimated by the Board, and the actual aggregate amount so determined by the Board, shall be allocated by the Board among the owners in proportion to the common interests appurtenant to their Apartments.

(B) The amount of the estimated common expenses for each fiscal year, so determined and allocated to each Owner from time to time, shall be payable by the Owner in equal monthly installments in advance on or before the first (1st) day of each month. Each Owner shall pay any unpaid balance of the actual amount of such Owner's proportionate share of the common expenses as so determined and allocated by the Board from time to time. Any omission or delay in determining and allocating said expenses for any year shall not relieve the Owners therefrom. In such event, the Owners, pending the determination and allocation thereof, shall pay monthly installments of common expenses in accordance with the last determination and allocation of such expenses for the preceding fiscal year, and shall pay the deficiency, if any, upon the proper determination and allocation of the estimated common expenses within ten (10) days after notice thereof. Each such payment transmitted to the Board, as agent of all Owners, shall then be transmitted by the Board to the third persons entitled to payment of the same from each Owner.

(C) Anything herein to the contrary notwithstanding, the Board shall have the right to require each Owner to pay at such time as the Board shall deem proper as a common expense in a lump sum his proportionate share of such amount as shall be determined by the Board to be necessary for working capital and to pay initial expenses.

(D) The Board will pay or cause to be paid all common expenses, as agent for and on behalf of all Owners. The Board will keep and maintain or cause to be kept and maintained 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. All records and the vouchers authorizing the payments shall be kept and maintained at the address of the Project, or elsewhere in the State of Hawaii as determined by the Board, and shall be available for inspection by the Owners at convenient hours on weekdays. Each Owner, as principal, shall be liable for and pay his share, determined as aforesaid, of all common expenses and the Board shall be responsible, as agent for each Owner, only to transmit the payments made by the Owner to third persons to whom such payments must be made by the Owner. The Board or Managing Agent collecting the common expenses shall not be liable for payment of said common expenses as principal but only as the agent of all Owners to transmit said payments to third persons to whom said payments must be made by the Owner.

Section 3. Taxes and Assessments. Except as may be otherwise provided in the Declaration, each Owner of an Apartment shall be obligated to have the real property taxes for his own Apartment and its appurtenant interest in the common elements assessed separately by the proper governmental authority and to pay the amount of all such real property taxes so determined. The foregoing sentence shall apply to all types of taxes which now are or may hereafter be assessed separately by law on each Apartment and the common interest in the common elementa appertaining thereto or the personal property or any other interest of the Owner. Each Owner shall execute such documents and take such action as may be reasonably specified by the Board to facilitate dealing with the proper governmental authority regarding such taxes and assessment. Each Owner shall be obligated to pay to the Board his proportionate share of any assessment by the Board for any portion of taxes or assessments, if any, assessed against all or any part of the common elements, such payment to be made as directed by the Board. If, in the opinion of the Board, any taxes or assesaments may be a lien on all or any part of the common elements, the Board may pay such taxes or assessments and shall assess the same to the Owners in their proportionate share as determined by the Board. Such assessments by the Board shall be secured by the lien created by Section 5 of this Article VI.

Section 4. Default in Payment of Assessments. Each monthly assessment and each special assessment shall be separate, distinct and personal debts and obligations of the Owner against whom the same are assessed. If any Owner shall fail to pay his assessment when due, then he shall pay an additional assessment or service charge of ten dollars ($10.00) (or such other reasonable amount as the Board may establish from time to time) for each such failure, and all delinquent assessments shall also bear interest at the rate of one percent (1%) per month from the assessment due date until paid. In the event of a default or defaults in payment of any such assessment or assessments, the Board, in addition to any other remedies provided herein or by law, may enforce each such obligation as follows:

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

(B) At any time within ninety (90) days after the occurrence of any such default, the Board (acting upon the authorization of the majority thereof at any regular or special meeting) may give a notice to the defaulting Owner, with a copy to the mortgagee of such Owner, if such mortgagee has furnished its name and address to the Board, which said notice shall state the date of the delinquency, the amount of the delinquency and make a demand for payment thereof. If such delinquency is not paid within ten (10) days after delivery of such notice, the Board may elect to file a claim of lien against the Apartment of such delinquent Owner. Such claim of lien shall state (1) the name of the delinquent Owner or Owners, (2) a descripton of the Apartment against which the claim of lien is made, (3) the amount claimed to be due and owing (with any proper offset allowed), (4) that the claim of lien is made by the Board pursuant to the terms of these Bylaws and the Act, and (5) that a lien is claimed against said described Apartment in an amount equal to the amount of the stated delinquency. Any such claims of lien shall be signed and acknowledged by any two or more members of the Board and shall be dated as of the date of the execution by the last such Board member to execute said claim of lien. Upon recordation of a duly executed original or copy of such claim of lien in the Bureau of Conveyances of the State of Hawaii, the Board shall have all remedies and priorities provided in the Act. Each default shall constitute a separate basis for a claim of lien.

(C) For the purposes of this Section 4, a certificate executed and acknowledged or made under penalty of perjury by any two members of the Board shall be conclusive upon the Board and the Owners in favor of any and all persons who rely thereon in good faith as to the matters therein contained, and any Owner shall be entitled to such a certificate setting forth the amount of any due and unpaid assessments with respect to his Apartment (or the fact that all assessments due are paid if such is the case) within fifteen (15) days after demand therefor and upon payment of a reasonable fee not to exceed ten dollars ($10.00). In the event any claims of liens have been recorded, and thereafter the Board shall receive payment in full of the amount claimed to be due and owing, then upon demand of the Owner or his successor, and payment of a reasonable fee not to exceed ten dollars ($10.00), the Board, acting by any two members, shall execute and acknowledge (in the manner provided above) a releaae of lien stating the date of the original claim of lien, the amount claimed, the date, the book and page of recordation of the claim of lien, and the fact that the lien has been fully satisfied and that the particular lien is released and discharged, such release of lien to be delivered to Owner or his successor upon payment of the fee.

Section 5. Liens.

(A) All unpaid sums assessed by the Association as common expenses chargeable to any Apartment shall constitute a lien on such Apartment prior to all other liens, except only (1) liens for taxes and assessments lawfully imposed by governmental authority against the Apartment, and (2) all sums unpaid on mortgages of record, and costs and expenses including attorneys' fees provided in such mortgages. Such lien may be foreclosed by an action by the Managing Agent or the Board of Directors acting on behalf of the Association, in like manner as a mortgage of real property. In any such foreclosure the apartment owner shall be required to pay a reasonable rental for the apartment, (as determined in the sole discretion of the Board, acting by a majority) and the plaintiff in the foreclosure shall he entitled to the appointment of a receiver to collect the same. An action to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same.

(B) If the mortgagee of a mortgage of record or other purchaser of an Apartment obtains title to the Apartment as a result of foreclosure of the mortgage, such acquirer of title, his successors and assigns, shall not be liable for the share of the common expenses or assessments by the Association chargeable to the Apartment which became due prior to the acquisition of title to such Apartment by the acquirer. Such unpaid share of common expenses or assessments shall be deemed to become an expense collectible from all of the Apartment Owners, including the acquirer, his successors and assigns, provided that nothing herein shall prevent the Association from thereafter collecting said amount from the delinquent Apartment Owner.

(C) In a voluntary conveyance the grantee of an apartment is jointly and severally liable with the grantor for all unpaid assessments against the latter for his share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's power to recover from the grantor the amounts paid by the grantee therefor. However, any such grantor or grantee is entitled to a statement from the Managing Agent or Board setting forth the amount of the unpaid assessments against the grantor, and except as to the amount of subsequently dishonored checks mentioned in such statement as having been received within the thirty day period immediately preceding the date of such statement, the grantee is not liable for, nor is the apartment conveyed subject to a lien for, any unpaid assessments against the grantor in excess of the amount therein set forth.

Section 6. Attorney's Fees and Expenses of Enforcement. All costs and expenses, including reasonable attorney's fees, incurred by or on behalf of the Association by the Board in collecting any delinquent assessments against any Owner's Apartment, in foreclosing any lien thereon, or in enforcing any provision of the Declaration, these Bylaws, the House Rules and Regulations, the Act or the rules and regulations of the real estate commission against any Owner, occupant, tenant, employee of an owner, or any other person who may in any manner use the property or an apartment shall be promptly paid on demand to the Board by the Apartment Owner; provided that if none of the claims upon which the Board takes any action are substantiated, all costs and expenses, including reasonable attorney's fees, incurred by the Apartment Owner or such other person as a result of the action of the Board, shall be promptly paid on demand to the Apartment Owner by the Board on behalf of the Association.

Section 7. Waiver. The failure of the Board to insist in any one or more instances upon a strict performance of or compliance with any of the covenants of the Owners hereunder or to exercise any right or option herein contained, or to serve any notice, or to institute any action or summary proceeding, shall not be construed as a waiver, or a relinquishment for the future, of such covenant, option or right, but such covenant, option or right shall continue and remain in full force and effect. The receipt and acceptance by the Board of any sum paid by the Owner hereunder, with or without knowledge by the Board of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by the Board of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the President pursuant to authority contained in a resolution of the Board.

Section 8. Waiver of Use of Common Elements; Abandonment of Apartment; Conveyance to Board of Directors. No apartment owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use and enjoyment of any of the common elements or by abandonment of his apartment. Notwithstanding the foregoing, any apartment owner may, by conveying his apartment and his common interest to the Board of Directors on behalf of all other apartment owners, exempt himself from common expenses thereafter accruing, subject to the following terms and conditions:

1) The Apartment Owner shall pay prior to conveying his apartment and common interest to the Board, any and all common expenses, fines, penalties or other late fees assessed by the Board against him or his apartment prior to the date of conveyance;

2) The Apartment Owner shall execute any and all documents necessary to accomplish the conveyance of the Apartment and common interest to the Board;

3) The Apartment Owner shall hold harmless the Association, the Board, the Officers, the Managing Agent, any employee or agent of any of the foregoing, and any apartment owner harmless from any liability arising from events occurring prior to the time of the conveyance of the apartment and the common interest;

4) The Apartment Owner shall convey his entire interest in the Apartment and his common interest to the Board; and

5) The Apartment Owner shall pay for all costs and expenses including attorneys' and accountants' fees, incurred by the Association to facilitate the conveyance to the Board.

ARTICLE VII
INSURANCE AND RESTORATION

Section 1. Fire and Extended Coverage Insurance. The Association shall procure, and at all times maintain or cause to be maintained from a reputable and substantial company or companies qualified to do business in Hawaii a policy or policies (herein called the "Policy") of fire insurance, with extended coverage endorsements and war risk coverage (if reasonably obtainable), such Policy to be in an amount as nearly as practicable to one hundred percent (100%) of the insurance replacement cost, without deduction for depreciation, covering the Apartments and fixtures therein, the common elements, and the buildings and their fixtures and building service equipment (including all exterior and interior walls, floors, and ceilinga), in the name of the Association as insured, as trustee for the Association and each of the Owners of the Apartment(s) so affected in proportion to their respective interests in the items so insured. Exterior glass may be insured at the option of the Association.

The coat of each said policy shall be charged to and among the Apartment Owners in proportion to their respective percentage ownership interest in the common elements or limited common elements so insured.

The Policy (unless unobtainable):

(A) shall contain no provision limiting or prohibiting other insurance by the Owner of any Apartment, such right being provided by statute but, if obtainable, shall provide that the liability of the insurer shall not be affected by, nor shall the insurer claim any right of setoff, counterclaim, apportionment, proration, or contribution by reason of any such other insurance;

(B) shall contain no provision relieving the insurer from liability because of loss occurring while the hazard is increased in the buildings, whether or not within the control or knowledge of the Board, or, if obtainable, shall contain no provision relieving the insurer from liability by reason of any breach of warranty or condition caused by the Board or the Owner or tenant of any Apartment, or by reason of any act or neglect of the Board or the Owner or tenant of any Apartment;

(C) shall provide that the Policy may not be cancelled or coverage thereunder reduced (whether or not requested by the Board) except by giving to the Board and to the Owner and/or mortgagee of each Apartment who shall have requested such notice of the insurer in writing addressed to him at the premises, thirty (30) days' written notice of such cancellation or reduction in coverage;

(D) shall contain a provision waiving any right of subrogation by the insurer to any right of the Association against the Owner or lessee of any Apartment;

(E) shall contain a provision waiving any right of the insurer to repair, rebuild or replace if a decision is made pursuant to Section 5 of this Article VII not to repair, reinstate, rebuild or restore the damage or destruction;

(F) shall provide that any loss shall be adjusted with the Board, the Owner and the mortgagee of any Apartment directly affected by the loss;

(G) shall contain a standard mortgagee clause which:

(1) shall name the holder of any mortgage affecting any Apartment whose name shall have been furnished to the Board;

(2) shall provide that the insurance as to the interest of the mortgagee shall not be invalidated by any act or neglect of the Board or the Owner or tenant of any Apartment;

(3) shall waive any requirement invalidating such mortgagee clause by reason of the failure of the mortgagee to notify the insurer of any hazardous use or vacancy, any requirement that the mortgagee pay any premium (provided, however, in case the Board shall fail to pay the premium due or to become due under the policy, the mortgagee may pay the same prior to the effective date of the termination of the policy), any contribution clause, and any right to be subrogated to the right of any mortgage against the Owner or lessee of any Apartment or the Board or to require an assignment of any mortgage to the insurer, except that the insurer will have the right of subrogation to the extent of insurance proceeds received by and retained by the mortgagee if the insurer shall claim no liability as to the mortgagor or Owner, but without impairing mortgagee's right to aue;

(4) shall provide that without affecting the protection afforded to the mortagagee by such mortgagee clause, any proceeds payable under such clause shall be payable to a corporate trustee selected by the Board who shall be a substantial bank or trust company doing business in Hawaii, herein referred to as the "Insurance Trustee" or "Trustee";

(5) shall provide that any reference to a mortgagee in the Policy shall include all mortgagees on any Apartment, in order of preference;

(H) shall provide for payment of the proceeds to the Insurance Trustee;

(I) shall contain a provision requiring the insurance carrier, at the inception of the Policy and on each anniversary date thereof, to provide the Board with a written summary, in layman's terms, of the Policy. The summary shall include the type of Policy, a description of the coverage and the limits thereof, amount of annual premium, and renewal dates. The Board shall provide this information to each Apartment Owner; and

(J) shall be accompanied by the certificate of a licensed insurance broker or agent certifying that the Policy complies with and satisfies all the requirements contained in this Section 1.

Section 2. Comprehensive Liability Insurance. The Association shall procure and maintain from a reputable company or companies a policy or policies (herein called the "Policy") of Public Liability Insurance to insure the Board, each Apartment Owner, the Developer, and the Managing Agent and other employees of the Association against the claims for personal injury, death and property damage arising out of the condition of the Project or activities thereon or on adjacent sidewalks and roadways under a Comprehensive General Liability form to include, but not be limited to, Water Damage Legal Liability and Fire Damage Legal Liability. The Policy (a) shall have minimum limits of not less than $1,000,000.00 for injury to one person and $1,000,000.00 for injury to more than one person in any one accident or occurrence and $300,000.00 for property damage; (b) shall contain no provision relieving the insurer from liability because of loss occurring while the hazard is increased in the buildings, whether or not within the control or knowledge of the Board, or by any breach of warranty or condition caused by the Owner of any Apartment, or by any act or neglect of the Owner or tenant of any Apartment; and (c) shall provide that the Policy may not be cancelled (whether or not requested by the Board) except by giving to the Board, to the Owner of each Apartment, to the Developer, and to any mortgagee who shall have requested such notice of the insurer in writing, thirty (30) days' written notice of such cancellaion.

Section 3. Flood Insurance and Insurance Against Additional Risks. If the Project is ever located in an identified flood hazard area as designated from time to time by the federal Department of Housing and Urban Development, the Association shall procure, purchase and at all times maintain flood insurance under the provisions of the federal Flood Disaster Protection Act of 1973 with the same coverage and terms as required for fire insurance under Section 1 of this Article VII, but only to the extent required by law or otherwise deemed advisable by the Board. The Board may also procure or cause to by procured insurance against such additional risks as the Board may deem advisable for the protection of the Apartment Owners of a character normally carried with respect to properties of comparable character and use in the State of Hawaii.

Section 4. Miscellaneous Insurance Provisions. Except as specifically stated otherwise above, all insurance required hereunder will be obtained and maintained by or in conjunction with the Association acting through the Board. The Board shall review not less frequently than annually the adequacy of its insurance program and shall report in writing the Board's conclusions and action taken on such review to the Owner of each Apartment, and to the holder of any mortgage on any Apartment who shall have requested a copy of such report. At the request of any mortgagee of any Apartment, the Board shall, upon reimbursement of costs incurred, furnish to such mortgagee a copy of the Policy described in Section 1 of this Article and of any other Policy to which a mortgagee endorsement shall have been attached, and proof satisfactory to such mortgagee that payment of premiums on such policy has been made for the period for which the mortgagee may request such proof. Copies of every policy of insurance procured by the Board shall be available for inspection by any Apartment Owner (or purchaser holding a contract to purchase an interest in an Apartment) at the office of the Managing Agent.

Any coverage procured by the Board shall be without prejudice to the right of the Owners of Apartments to insure such Apartments and the contents thereof for their own benefit at their own expense.

Section 5. Damage and Destruction.

(A) If the buildings are damaged by fire or other casualty which is insured against, and said damage is limited to a single Apartment and/or limited common elements appurtenant exclusively to that Apartment, the insurance proceeds shall be used by the Trustee for payment of the contractor employed by the Apartment Owner to rebuild or repair such Apartment, including paint, floor covering and fixtures, generally in accordance with the original plans and specifications therefor, or if reconstruction

in accordance with said design is not permissible under the laws then in force, or practical in accordance with such modified plan as shall be previously approved by the Board, the affected Apartment Owner(s) and the mortgagee of record of any interest in an Apartment directly affected thereby.

(B) If such damage extends to two or more Apartments or extends to any part of any limited common elements or to the common elements, the Board shall thereupon contract to repair or rebuild the damaged portions of the building or buildings, including all Apartments so damaged, as well as the common elements, in accordance with plans and specifications therefor which will restore the same generally to the design immediately prior to destruction, or if reconstruction in accordance with said design is not permissible under the laws then in force, or practical, in accordance with such modified plan as shall be previously approved by the Board, the affected Apartment Owner(s) and the mortgagee of record of any interest in an Apartment directly affected thereby; provided that in the event said modified plan eliminates any Apartment and such Apartment is not reconstructed the Insurance Trustee shall pay the Owner of said Apartment, as their interests may appear, the portion of said insurance proceeds allocable to said Apartment (less the proportionate share of said Apartment in the cost of debris removal) and shall disburse the balance of insurance proceeds as hereinafter provided for the disbursement of insurance proceeds.

(C) The insurance proceeds shall be paid by the Trustee to the contractor employed for such work, in accordance with the terms of the contract for such construction and in accordance with the terms of this Section 5 If the insurance proceeds are insufficient to pay all the costs of repairing and/or rebuilding any general common elements, the Board shall levy a special assessment on the Owners of Apartments in proportion to their respective common interests. Any costs in excess of the insurance proceeds for the repairing and/or rebuilding of any Apartment(s) or limited common elements shall be specially assessed against the respective owner(s) thereof and said special assessment shall be secured by the lien created under Section 5 of Article VI hereof

(D) The cost of the work (as estimated by the Board) shall be paid out from time to time or at the direction of the Board as the work progresses, but subject to the following conditions.

(1) An architect or engineer (who may be an employee of the Board) shall be in charge of the work

(2) Each request for payment shall be made on seven (7) days' prior notice to the Trustee and shall be accompanied by a certificate to be made by such architect or engineer stating that all of the work completed has been done in compliance with the approved plans and specifications and that the sum requested is justly required to reimburse the Board for payments by the Board to, or is justly due to, the contractor, subcontractors, materialmen, laborers, engineers, architects or other persons rendering services or materials for the work (giving a brief description of such services or materials), and that when added to all sums previously paid out by the Trustee the sum requested does not exceed the value of the work done to the date of such certificate

(3) Each request shall be accompanied by waivers of liens satisfactory to the Trustee covering that part of the work for which payment or reimbursement is being requested and by a search prepared by a title company or licensed abstractor or by other evidence satisfactory to the Trustee that there has not been filed with respect to the premises any mechanics or other lien or instrument for the retention of title with respect to any part of the work not discharged of record.

(4) The request for any payment after the work has been completed shall be accompanied by a copy of any certificate or certificates required by law to render occupancy of the premises legal.

(5) The fees and expenses of the Trustee as determined by the Board, the affected Apartment Owner(s) and the Trustee shall be deemed to be an additional cost of such repair or reconstruction, to be charged to the Association or apartment Owner(s) responsible for the costs of such work, and such fees and expenses may be deducted from any proceeds at any time in the hands of the Trustee.

(6) Such other conditions not inconsistent with the foregoing as the Trustee may reasonably request.

(E) Upon completion of the work and payment in full therefor, any remaining proceeds of insurance then or thereafter in the hands of the Board or the Trustee shall be paid or credited to the Owners of the Apartments so affected (or to the holder of any mortgage on an Apartment if there be a mortgage) in proportion to their respective interests in the property so repaired or reconstructed.

(F) To the extent that any loss, damage or destruction to the buildings or other property is adequately covered by insurance procured by the Board, the Board shall have no claim or cause of action for such loss, damage or destruction against any Apartment Owner or lessee. To the extent that any loss, damage or destruction to the property of any Apartment Owner or lessee is adequately covered by insurance procured by such Owner or lessee, such Owner or lessee shall have no claim or cause of action for such loss, damage or destruction against the Board, the Managing Agent, any other Apartment Owner, or the Association. All policies of insurance referred to in this paragraph (F) shall contain appropriate waivers of subrogration.

Section 6. Uninsured Casualty. In case at any time or times any improvements of the Project shall be damaged or destroyed by any casualty not herein required to be insured against, such improvements shall, unless specifically agreed to the contrary by seventy-five percent (75%) of the Apartment Owners, be rebuilt, repaired or restored to the extent permitted by law. The apartment owner (s) suffering such casualty shall be solely responsible for any restoration of their respective apartments and limited common elements appurtenant thereto so damaged or destroyed, according to the original plans and elevation thereof, or such other plan first approved by appropriate governmental authority and any affected mortgagee(s). Unless such restoration is undertaken within a reasonable time after such casualty, the Association at its common expense (but with right to reimbursement from the responsible apartment owners) shall remove all remains of improvements so damaged or destroyed and restore the site thereof to good orderly condition and even grade for the subsequent use by the Association. Any restoration of the common elements shall be completed diligently by the Association at its common expense, and following such restoration the remainder of the Project shall be held or disposed of as may be approved by a majority of apartment owners.

Section 7. Directors' and Officers' Liability Insurance. The Association may purchase and maintain directors' and officers' liability insurance with minimum coverage in such amount as shall be determined by the Board. Premiums for such insurance shall be a common expense.

ARTICLE VIII
REGULATION OF PARKING

Section 1. Non-assigned Parking. Parking spaces are not assigned. Owners and guests may park in any available parking space subject to the parking rules of the association.

Section 2. Limit on Vehicles. Only one vehicle per Apartment may be parked on the Project property by the Owner or occupants of each Apartment, unless permission for additional vehicles is granted in writing by the Board of Directors. Administration of unassigned parking spaces if any shall be at the discretion of the Board of Directors.

ARTICLE IX
CONDEMNATION

Section 1. Condemnation. In the event of a taking in condemnation or by eminent domain of part or all of the Project, all compensation and damages for or on account of the Land and all compensation payable for or on account of the taking of any building or improvements on the Land shall be payable to a condemnation trustee, who shall be designated by the Board and who shall be a substantial bank or trust company doing business in Hawaii. To the extent practical, the Board shall arrange for the repair and restoration of the buildings or improvements so taken in accordance with the design thereof immediately prior to such condemnation, or if such repair and restoration in accordance with said design are not permissible under the laws then in force, in accordance with such modified plan as shall be previously approved by the Board and the mortgagee of record of any interest in the Apartment directly affected thereby.

In the event of a partial taking in which any Apartment, or the limited common elements appurtenant thereto, is eliminated or not restored, the condemnation trustee shall disburse the portion of the proceeds of such award allocable to said Apartment, less the proportionate share of any costs, to the owner of said Apartment and his mortgagee, if any, as their interests may appear.

Any remaining amounts being those attributable to the common elements, shall be payable to all owners in proportion to their respective interests in the common elements.

In the case of restoration, the condemnation trustee shall disburse the remainder of the proceeds of such award to the contractor engaged in such repair and restoration in the same way funds are disbursed for repair and restoration work under Section 5 of Article VII above, and in the event such proceeds are insufficient to pay the costs thereof the Board shall levy special assessment on the Owners of the Apartments so affected in proportion to their common interest. In the event sums are received in excess of the cost of repairing and restoring the remaining buildings and improvements, or in the event all of the buildings and improvements are so taken or condemned, such excess proceeds or said proceeds, as the case may be, shall be divided among the mortgagees and Owners of the Apartments in accordance with their interests in the common elements.

ARTICLE X
GENERAL PROVISIONS

Section 1. Abatement and Enjoinment of Violations by Apartment Owners. The violations (as determined by a majority of the Board of Directors) of any House Rule or of any other rule or regulation adopted by the Board, or the breach of any Bylaw contained herein or of any provision of the Declaration, shall give the Board the right, in addition to any other rights set forth in these Bylaws, (a) to enter the Apartment in which, or as to which, such violation or breach exists and to summarily abate

and remove, at the expense of the defaulting Apartment Owner, any structure, thing or condition that may exist therein, contrary to the intent and meaning of the provisions hereof, and the Board shall not thereby be deemed guilty in any manner of trespass; (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach, and all costs thereof, including attorneys' fees, shall be borne by the defaulting Apartment Owner; and/or (c) to impose such further sanctions, monetary penalties and/or service charges as may be established by the Board from time to time (subject to revocation by a majority of Apartment Owners) consistent with these Bylaws and Hawaii Law.

Section 2. Additions or Alterations by Board. Whenever, in the judgment of the Board, the common elements shall require additions or alterations costing less than five thousand dollars ($5,000.00), the Board may proceed with such additions or alterations and shall assess all Owners for the cost thereof as a common expense. Any additions or alterations costing in excess of five thousand dollars ($5,000.00) may be made by the Board only after obtaining approval of the Owners of seventy-five percent (75%) of the interest in the common elements. If such approval shall be obtained, the cost thereof shall constitute part of the common expenses.

Section 3. Right of Access. An Apartment Owner shall grant a right of access to his Apartment to the Managing Agent and/or any other person authorized by the Board or the Managing Agent, for the purpose of making inspections or for the purpose of correcting any condition originating in his Apartment and threatening another Apartment or a common element, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services or other common elements in his Apartment or elsewhere in the buildings, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the Owner. In case of an emergency, such right of entry shall be deemed granted, to be effective immediately, whether the Owner is present at the time or not.

Section 4. Arbitration. In the event of a dispute between one or more Apartment Owners and the Association with respect to any matter, the parties shall first submit the dispute to mediation for resolution to be conducted under the American Arbitration Association Commerical Mediation Rules.

If the dispute is not resolved by mediation within 60 days of same being submitted, then the dispute shall be referred to arbitration for resolution pursuant to Part VII of the State of Hawaii condominium law.

Section 5. Notices. All notices to the Association or the Board shall be sent by first class mail, postage prepaid, to the Board, c/o the Managing Agent or, if there be no Managing Agent, to the office of the Board or to such other address as the Board may hereafter designate from time to time. All notices to any Owner shall be sent by first class mail, postage prepaid, to the building or to such other address as may have been designated by him from time to time, in writing, to the Board. Except as otherwise expressly provided in these Bylaws, all notices to mortgagees of Apartments shall he sent by first class mail, postage prepaid, to their respective addresses, as designated by them from time to time, in writing, to the Board. All notices shall be deemed to have been given when mailed, except notices of change of address which shall be deemed to have been given when received.

Section 6. Offices. The principal office of the Association shall be at 1310 Uluniu Road, Kihei, Maui, Hawaii, 96753, unless and until changed by the Board of Directors.

Section 7. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws, or the intent of any provisions thereof.

Section 8. Amendment. The provisions of these Bylaws, may be amended by the Owners of Apartments to which are appurtenant not less than sixty-five percent (65%) of the common interest, which amendment shall be effective upon filing in the Bureau of Conveyances of the State of Hawaii an instrument in writing, signed and acknowledged by such Owners or by the proper officers of the Association; provided, however, that each one of the particulars set forth in Section 514A-82 of the Act shall always be embodied in these Bylaws.

Section 9. Owners May Incorporate. All of the rights, powers, obligations and duties of the Owners imposed hereunder may be exercised and enforced by a non-profit membership corporation formed by the Owners under the laws of the State of Hawaii for the purposes herein set forth. Such corporation shall be formed upon the written approval of seventy-five percent (75%) in interest of the Owners. The formation of such corporation shall in no way alter the terms, covenants and conditions herein set forth, and the Articles and Bylaws of such corporation shall be subordinated hereto and controlled hereby. Any action taken by such corporation in violation of any or all of the terms, covenants or conditions contained herein shall be void and of no effect.

Section 10. Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision shall not affect the validity or enforceability of any other provision hereof.

Section 11. Hawaii State Condominium Law. The Condominium owners and Association are required at all times to operate according to the current "State of Hawaii Statues on Condominium Law", whether they have been officially made part of these bylaws or not.

Section 12. Rentals. "An owner may rent or lease their unit either privately or through the official Rental pool of Hale Kai O'Kihei. No rental or lease to any County, State or Governmental Agencies shall be longer than one month. This does not preclude the owners right to extend such rental or lease at their option, up to another month."

This Amendment may be executed in separate counterparts, which counterparts may be reassembled into a single document and which counterparts, taken together, shall be deemed one original instrument binding upon each and every party who has signed one or more of said counterparts.

IN WITNESS WHEREOF, the Association has executed this Amendment to the Bylaws of the Association of Apartment Owners of Hale Kai O'Kihei effective the 7th day of April, 1995.

ASSOCIATION OF APARTMENT OWNERS
OF HALE KAI O'KIHEI

By: Thomas P. Shanahan
Its President

By: Henry E. Kastner
Its acting Secretary

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this date: April 7, 1995, before me personally appeared Thomas P. Shanahan and Henry E. Kastner to me personally known, who, being by me duly sworn, did say that they are the President and Acting Secretary of the ASSOCIATION OF APARTMENT OWNERS OF HALE KAI O'KIHEI, that the said Association has no seal, and that said instrument is signed and sealed on behalf of said Association by authority of its Board of Directors and said officers acknowledged said instrument to be the free act and deed of said Association.

Cindy L Harman
NOTARY PUBLIC, STATE OF HAWAII

My Commission Expires: 6/20/98

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BUREAU OF CONVEYANCES
RECORDED
JUN 17, 2009 02:00 PM
Doc No(s) 2009-093007

/s/ NICKI ANN THOMPSON
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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: 13

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Tax Map Keys: (2) 3-9-8-3 (Phase I) Condominium Map No. 85 (Phase I)
(2) 3-9-8-4 (Phase II) Condominium Map No. 134 (Phase II)

AMENDMENT AND FIRST RESTATEMENT OF THE DECLARATION OF HALE KAI O'KIHEI

WHEREAS, by Declaration dated March 15, 1967 (the "Phase I Declaration"), and recorded in the Bureau of Conveyances of the State of Hawai'i at Liber 5639, Page 193, as amended, there was created a condominium project known as Hale Kai O'Kihei; and

WHEREAS, the Phase I Declaration was amended by instrument dated July 20, 1967, recorded in the Bureau of Conveyances of the State of Hawai'i in Liber 5736 at Page 435; and

WHEREAS, by Declaration dated May 14, 1969 (the "Phase II Declaration"), and recorded in said Bureau at Liber 6527, Page 364, there was created a condominium project known as Hale Kai O'Kihei II; and

WHEREAS, the Phase II Declaration was amended by instrument dated February 3, 1970, recorded in the Bureau of Conveyances of the State of Hawai'i in Liber 6883 at Page 230; and

WHEREAS, each Declaration, as amended, provided for the organization and operation of an Association of Apartment Owners to operate and manage the Project in accordance with the By-Laws attached to and made a part of each Declaration; and

WHEREAS, Phase I and Phase II were merged pursuant to the Declaration of Merger dated May 1, 1985 but effective as of November 3, 1984, recorded in the Bureau of Conveyances of the State of Hawai'i in Liber 19197 at Page 13; and

WHEREAS, by reason of an amendment to the Bylaws originally created under each such Declaration, which amendment was adopted November 3, 1973, and recorded in the Bureau of Conveyances of the State of Hawai'i at Liber 9798, Page 264, the operation of Phase I and Phase II of the Hale Kai O'Kihei condominium project have been governed by a unified set of Bylaws; and

WHEREAS, the Bylaws of the combined Association were amended in their entirety by instrument dated November 2, 1985, recorded in the Bureau of Conveyances of the State of Hawai'i in Liber 19197 at Page 19; and

WHEREAS, the Bylaws were restated by instrument dated April 7, 1995, recorded in the Bureau of Conveyances of the State of Hawai'i as Document Number 95-052812;

WHEREAS, the Bylaws were further restated by instrument dated October 22, 2001, recorded in the Bureau of Conveyances of the State of Hawai'i as Document Number 2001-166852; and

WHEREAS, the Declarations were amended with the approval of more than a majority of unit owners to opt in to Chapter 514B of the Hawai'i Revised Statutes; and

WHEREAS, the Declarations were further amended with the written consent of at least 67% of the owners; and

WHEREAS, Section 514B-109, Hawai'i Revised Statutes, as amended, empowers the Board of Directors of the Association of Apartment Owners of Hale Kai O'Kihei (the "Association") established by the Bylaws to restate the Declarations to include any amendments to them and to conform them to the provisions of Chapter 514B, Hawai'i Revised Statutes, as amended, and any other statute, ordinance, rule, or regulation enacted by any governmental authority, by a resolution adopted by the Board of Directors; and

WHEREAS, at a meeting duly held on May 4, 2009, the Board of Directors resolved to restate the Declarations in one single Declaration for the entire Hale Kai O'Kihei condominium project, in accordance with Section 514B-109, Hawai'i Revised Statutes, as amended.

NOW THEREFORE, the Declaration is hereby restated to read as follows:

The following Declaration shall apply to the HALE KAI O'KIHEI condominium project (herein sometimes called the "Project"), as described in the Declaration of Merger filed for the project, and to all present and future Owners, tenants and occupants of any Unit (s) of the Project and all other persons who shall at any time use the Project.

1. The land submitted to the Condominium Property Regime[1] by said Declaration is described on Exhibit "A" attached hereto and by reference made a part hereof.

2. This regime shall be known as "HALE KAI O'KIHEI".

3. The project consists of two, three story buildings, one ("Building One") containing thirty (30) units[2] and the other ("Building Two") containing twenty-nine (29) units. Building One is constructed of reinforced concrete and hollow tile. Building Two is constructed of reinforced concrete.[3]

4. a. This Condominium Property Regime contains fifty-nine (59) units:

(i) Building One contains ten (10) units on each of its three floors consisting of eight (8) one-bedroom and two (2) two-bedroom units on each floor;

(ii) Building Two contains nine (9) units on the first floor, consisting of seven (7) one-bedroom units and two (2) two-bedroom units, and ten (10) units on each of its upper two floors consisting of eight (8) one-bedroom and two (2) two-bedroom units on each floor.

The forty-seven (47) one-bedroom units have approximately 616 square feet in area, containing one bedroom, a combination living room-dining room area, a kitchen, a bathroom, and a lanai. The twelve (12) two-bedroom units each have approximately 915 square feet in area, containing two bedrooms, a combination living room-dining room area, a kitchen, two bathrooms, and a lanai. The immediate common elements to which each unit has access are a hall or passageway and two stairways.[4]

b. Limits of Units. The respective units shall not be deemed to include the original/as built undecorated or unfinished surfaces of the: perimeter walls, interior load-bearing walls, or floors and ceilings surrounding each unit; nor to include any pipes, wires, conduits or other utility lines running through the units which are utilized for or serve more than one unit. Instead, those items shall be deemed common elements as provided below. Each unit shall include the air space and finished surfaces of the adjacent lanai as they are shown on the condominium map for the project, including any tile or other covering installed on the lanai surface; provided that the ground floor lanais shall only include the area shown on the condominium map and not any additional area adjacent to them. Each unit shall also include: (i) all the walls and partitions which are not load-bearing within its perimeter walls; (ii) any fixtures located on the partition wall between the interior living space and the lanai (including, but not limited to, any window wall, jalousie window, fixed part of the sliding glass doors, sliding lanai door and/or sliders); (iii) the inner decorated or finished surfaces of all walls, floors and ceilings; (iv) the jalousies located in the unit entry doors located on the parking lot side of the unit; and (v) the fixtures, originally installed therein, including the doors and windows, built-in range-oven, refrigerator, disposal, water heater, dishwasher, washer and dryer, and all locks.[5]

5. Numbering of each unit shall be as follows:

a. Building One:

First Floor: 101, 102, 103, 104, 105, 106, 107, 108, 109, and 110

Second Floor: 201, 202, 203, 204, 205, 206, 207, 208, 209, and 210

Third Floor: 301, 302, 303, 304, 305, 306, 307, 308, 309, 310

b. Building Two:

First Floor: 112, 113, 114, 115, 116, 117, 118, 119, and 120

Second Floor: 211, 212, 213, 214, 215, 216, 217, 218, 219, and 220[6]

Third Floor: 311, 312, 313, 314, 315, 316, 317, 318, 319, and 320.

Unit numbers the third digit of which ends in the number "5" or "6" shall be two-bedroom units. All other units shall be one-bedroom units.

There shall be one breezeway on the first floor of Building Two, which shall provide access to the beach area and which shall serve as storage room.[7]

6. The common elements shall include each of the elements which is mentioned in Sections 514B-3 and 514B-35 of Chapter 514B, Hawai'i Revised Statutes, as amended, and which is actually constructed or provided on the land described above, and specifically includes, but is not limited to the following:

a. Undivided fee simple interest in the land;

b. All foundations, columns, girders, beams, supports, bearing walls, roofs, lanai floors, lanais (excluding floor covering, the lanai air spaces and the finished surfaces of the lanais, which are included in the unit pursuant to Section 4.b.), lobbies, hallways, stairs, walkways, entrances and exits of the building (including the entry doors and door frames on the parking lot side of the building);

c. Parking area, driveways, yard and refuse area;

d. All ducts, electrical equipment, wiring and other central and appurtenant installations for services including power, light, water, refuse and telephone;

e. Switchroom and transformer vault;

f. Trashrooms;

g. Storage rooms, breezeway, and all other elements and facilities rationally in common use or necessary to the existence, upkeep and safety of the building or the project.[8]

7. Certain parts of the common elements, herein called and designated as "limited common elements", are hereby set aside and reserved for the exclusive use of certain units and such units shall have appurtenant thereto an exclusive easement for the use of such limited common elements. The limited common elements so set aside and reserved are as follows:

a. One parking space designated by number shall be assigned to each unit and shall be for the exclusive use of such unit.

b. Entry hallway adjoining a unit or units shall be appurtenant to and for the exclusive use of such unit or units to which it adjoins.

8. The percentage of undivided interest in the common elements appertaining to each unit and its owner for all purposes, including voting, is as follows:

One-bedroom Units: 1.53846% for each (47 units)

Two-bedroom Units: 2.3076983% for each (12 units)[9]

9. The purposes for which the units are intended and restricted as to use is residential, but this shall not be construed to prohibit the renting or leasing of said units for profit, individually or otherwise, so long as the ultimate tenant thereof uses the unit as a place in which to reside as distinguished from a place in which to carry on a trade or business.

10. Until changed, the person to receive service of process in the cases provided for in said Chapter 514B is David P. Ting and his residence and post office address is Kihei, Maui, Hawai'i.[10]

11. Wherever voting by unit owners shall decide a question, the vote of a majority of the owners of units shall be determinative and be binding upon all such owners, except where a greater percentage is required by law, this Declaration, or the Bylaws. The proportionate representation for voting purposes shall be in said percentage for each unit as provided in paragraph 8 above. Where a unit is owned jointly by more than one person, each joint owner shall be entitled to that proportion of the vote appurtenant to his unit equal to his percentage interest in such unit. Even if completely destroyed, a unit shall be deemed existing for the purposes of preserving the voting rights of the owner of the destroyed unit.

12. Administration of the project shall be vested in the Association of Apartment Owners, herein called the "Association", in accordance with said Condominium Property Act, this Declaration and the Bylaws hereto attached. Every owner of a unit in this regime shall automatically become and remain a member of the Association until such time as his ownership of such unit ceases at which time his membership in the Association shall automatically cease, it being understood that physical destruction of his unit shall not of itself be construed to terminate his status as a unit owner. Without limiting the generality of the powers of administration hereinbefore set forth, the Association shall, on behalf of all unit owners, but on the several (and not joint) liability of each of such owner limited to his proportionate share of the expense therefor where cost is involved, observe and perform the following:

a. Conditions Precedent to Construction, Repairs, etc. Whenever, in the judgment of the Board, the common elements shall require additions, alterations or repairs costing more than Twenty Thousand Dollars ($20,000.00), the Board will, prior to delivery of materials and the commencement of such addition, alteration, or repair (i) give to each owner not less than ten (10) days notice of such proposed improvements or alterations or additions or repairs, (ii) engage a licensed architect to supervise compliance with the plans and specifications for such work, and (iii) set aside or provide sufficient moneys to fully pay for all improvements proposed to be erected and alterations, additions or repairs to be made. No "extras" shall be contracted for nor shall any modifications or substitutions be made to any approved plan without prior Board approval.[11]

b. Repair and Maintenance. It will well and substantially repair, maintain, amend and keep all the common and limited common elements, including all plumbing, electrical, and other fixtures located therein and all paintings required therefor, with all necessary repairs and amendments whatsoever and in good order and in a safe condition.

c. Laws and Ordinances. It will keep the common and limited common elements in a strictly clean and sanitary condition and comply with all rules, regulations, ordinances and laws made by the health and other authorities, of the municipal, state or federal government applicable to the common and limited common elements.

d. Fire Insurance. The Board, on behalf of the Association, at its common expense, shall at all times keep all buildings of the project insured against loss or damage by fire, including extended coverage, and war risk insurance during the time of war when the same is issued by the United States Government,[12] in an amount equal to the full replacement value thereof, payable in case of loss to the Board as trustee for all unit owners and mortgagees according to the loss or damage to their respective units and appurtenant common interests, and from time to time upon receipt thereof, cause the policy or policies or certificates thereof to be kept at the office of the Association, without prejudice to the right of each unit owner to insure his unit for his own benefit. In every case of such loss or damage, all insurance proceeds shall be used as soon as reasonably possible by the Association for rebuilding, repairing or otherwise reinstating the same buildings in a good and substantial manner according to the original plan and elevation thereof or such modified plans conforming to laws and ordinances then in effect after notice to each unit owner as herein provided with respect to improvements and alterations, and the Association, at its common expense, shall make up any deficiency in such insurance proceeds.

e. Liability Insurance. It will purchase and at all times maintain a commercial general liability insurance policy against claims and liabilities arising in connection with the ownership, existence, use, or management of the property in a minimum amount of ONE MILLION DOLLARS ($1,000,000.00), or a greater amount deemed sufficient in the judgment of the Board, said policy to be written in the names of said Association and all unit owners, and such policy or policies of liability insurance shall be kept at the office of the Association.[13]

f. Maintenance Reserve Fund. It shall establish and maintain a Maintenance Reserve Fund by assessment of and payment by all unit owners in monthly installments and in their respective proportionate shares of such annual amount as the Association may estimate as adequate to cover each unit owner's obligations to provide for utilities, insurance, maintenance and repair of the common elements, administration expenses and other common expenses of the project. Reserves for contingencies may be included in

such assessment, and such assessment may from time to time be increased or decreased in the discretion of the Association, provided that the Board shall notify the unit owners in writing of maintenance fee increases at least thirty (30) days prior to such an increase.[14] The proportionate share of each unit owner in such fund cannot be withdrawn or separately assigned, nor shall it be subject to claims of creditors or others nor to legal process except as may be permitted by the Condominium Property Act; but said share shall be deemed to be transferred with such unit even though not expressly mentioned in the conveyance thereof. Upon termination of this regime, any remaining moneys in said fund shall be distributed to the unit owners in their respective proportionate shares.

13. Restoration or replacement of the project or any building thereof or construction of any additions, different in any material respect from said condominium plan recorded in the Bureau of Conveyances of the State of Hawai'i, shall be undertaken only pursuant to amendment of this Declaration, approved by written consent of unit owners representing sixty-seven percent (67%) of the interest in the common elements and consented to in writing by all lienholders affected thereby who have, in writing, requested notice of such changes; and promptly upon completion of the same, such amendment shall be recorded in said Bureau together with said plans certified as built by a registered architect or professional engineer.[15]

13A. Regardless of anything to the contrary in this Declaration, the Bylaws, or the House Rules, disabled occupants shall: (1) be permitted to make reasonable modifications to their units and/or the common elements, at their expense, if the modifications are necessary to enable them to use and enjoy their units and/or the common elements; provided that any disabled occupant wishing to make modifications or to obtain an exemption first submits a written request to the Board, and the Board consents in writing to the request. The request must state in detail the nature of the request and the reason that the disabled occupant needs to make modifications or to be granted an exemption. The Board shall not unreasonably withhold or delay its consent to the request, and any request shall be deemed to be granted if the Board does not respond in writing, within forty-five (45) days of the Board's receipt of the request. The Board may condition its consent upon the disabled occupant complying with the following conditions:

a. The disabled occupant must provide plans and specifications, including detailed plot plans, if requested, at the disabled occupant's expense;

b. The disabled occupant must agree to, if necessary, submit the plans and specifications to an engineer or other expert selected by the Board for review and approval, at the disabled occupant's expense;

c. The disabled occupant must agree to, if necessary, an inspection of the proposed additions or alterations during the course of construction and/or following completion of construction, by an engineer or other expert selected by the Board at the disabled occupant's expense;

d. The disabled occupant must strictly comply with all applicable laws, ordinances, and regulations of any governmental entity; and

e. The disabled occupant must obtain any necessary building permits, at the disabled occupant's expense.[16]

14. In case at any time or times the project or any part thereof shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages for or on account of any land as well as any improvements of the project shall be payable to the Board as trustee for all unit owners and mortgagees according to the loss or damage to their respective units and appurtenant common interests and shall be used promptly by the Association to the extent necessary for restoring or replacing such improvements on the remaining land according to plans therefor first approved as herein provided unless such restoration or replacement is impractical in the circumstances, and unless such restoration or replacement is undertaken within a reasonable time after such condemnation, the Association at its common expenses shall remove all remains of all such improvements so taken or condemned and restore the site thereof to good orderly condition and even grade.

15. The Bylaws of this regime were initially attached to each Declaration, but they are now recorded separately as a single document.[17]

16. All charges, costs and expenses whatsoever for or in connection with the administration of the regime, including without limitation thereof management operation and maintenance, repair, replacement and restoration of the common and limited common elements, any additions and alterations thereto, all labor, services, materials, supplies and equipment therefor, and all premiums for liability and fire insurance, shall constitute common expenses of the project for their respective fractional shares of which the unit owners shall be severally liable. Notwithstanding that requirement, the Board may charge the expenses related to limited common elements ("limited common expenses") only against the unit or units to which the limited common elements are appurtenant ("the benefited units"), with each unit charged according to its percentage of common interest in proportion to the total percentage of common interest of all the units to which the limited common elements are appurtenant. For example, if the limited common element is appurtenant to Units A and B and Unit A has 1% of common interest and Unit B has 2% of common interest, the Board may decide that Unit A shall pay 1/3 of the limited common expense and Unit B shall pay 2/3 of the expense. If, however, the Board of the Association determines that the cost of separating limited common expenses is not justified, it may assess these expenses against all owners as permitted by the Condominium Property Act.[18]

17. Except as otherwise provided herein or in said Condominium Property Act, this Declaration may be amended by vote of sixty-seven percent (67%) of the unit owners, effective only upon the filing of an instrument setting forth such amendment and vote duly executed by such owners of by the proper officers of the Association.[19]

18. All terms used herein which are identical to terms used in the Condominium Property Act shall have the same meanings attributed to them in said Act. "Association" as used herein refers to the Association of Apartment Owners, and "Board" as used herein refers to the Board of Directors of the Association. "Proportionate share" as used herein refers to the percentage of common interest appurtenant to each unit.

19. All unit owners, their tenants, families, servants, guests and invitees, and any other persons who may in any manner use the project or any part thereof, shall be bound by and comply with the provisions of this Declaration, the Bylaws and all agreements, decisions and determinations of the Association; and failure to comply shall be grounds for an action to recover sums due, for damages for injunctive relief, or both, maintainable by the Board or managing agent on behalf of the Association or in a proper case, by an aggrieved unit owner.

20. Notwithstanding anything to the contrary in the Project governing documents, including but not limited to the Declaration, the By-Laws ("Bylaws"), the House Rules, and the Condominium Map, this Project shall be governed by the provisions of Hawai'i Revised Statutes, Chapter 514B, as amended.[20]

IN WITNESS WHEREOF, the undersigned have executed this instrument on this 5th day of June, 2009.

THE ASSOCIATION OF APARTMENT OWNERS OF HALE KAI O'KIHEI

By: Edward G. Andrews
(Print name: EDWARD G. ANDREWS)
Its: President

By: Cathy D. Webb
(Print name: CATHY D. WEBB)
Its: Secretary

STATE OF NEVADA)
) ss.
COUNTY OF HUMBOLDT)

On this 5th day of June, 2009, before me personally appeared EDWARD G. ANDREWS, 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.

ANNIE OLSEN
Notary Public, State of Nevada
Appointment No. 05-98369-9
My Appt. Expires Aug 15, 2009

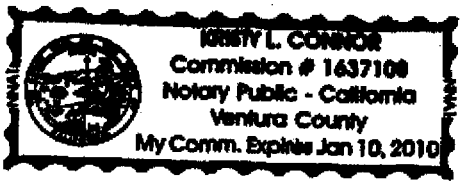
Print Name: Annie Olsen
Notary Public, State of Nevada

My Commission Expires: Aug 15 2009

(By Ekimoto & Morris, 5/28/09)

STATE OF CALIFORNIA)
) ss.
COUNTY OF VENTURA)

On this 11th day of June, 2009, before me personally appeared CATHY D. WEBB, 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.



Kristy L Connor

Print Name: KRISTY L. CONNOR
Notary Public, State of California

My Commission Expires: 1/10-2010

(By Ekimoto & Morris, 5/28/09)

ENDNOTES

The following endnotes correspond to provisions in the Declarations which have been restated to conform to Chapter 514B, Hawai'i Revised Statutes, as amended, the Federal Fair Housing Act, as amended (Title 42, Chapter 45 of the United States Code) and its State counterpart, Chapter 515 of the Hawai'i Revised Statutes, as amended, and to integrate all amendments made to the Declarations. This Amendment and First Restatement of Declaration correctly sets forth without change the corresponding provisions of the original Declarations, as amended, and supersedes the original Declarations and all prior amendments thereto. This Amendment and First Restatement was made solely for the purpose of information and convenience. In the event of a conflict, the Amendment and First Restatement shall be subordinate to the cited statute.

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[1] Section 1 was amended to replace the words "Horizontal Property Regime" with "Condominium Property Regime" to reflect the current terminology. This replacement has been made throughout this Declaration.

[2] Chapter 514B of the Hawai'i Revised Statutes ("HRS") replaced the term "Apartment" with the term "Unit". This replacement has been made throughout this Declaration.

[3] Section 3 of the Phase I Declaration was amended by "Amended Declaration Submitting Deeds to Horizontal Property Regime" dated July 20, 1967, recorded in the Bureau of Conveyances of the State of Hawai'i in Liber 5736 at Page 435. It was further amended to reflect the current description of the project, as stated in the Declaration of Merger dated May 1, 1985 but effective as of October 31, 1984 ("Declaration of Merger"), recorded in the Bureau of Conveyances of the State of Hawai'i in Liber 19197 at Page 13.

[4] Section 4.a was amended in accordance with the Declaration of Merger to describe the units of both Phase I (Building One) and Phase II (Building Two) of the project.

[5] Section 4.b. was added with the written consent of at least 67% of the owners (after the project had opted in to Chapter 514B) to define the boundaries of the units.

[6] Section 5 of the Phase II Declaration was amended to replace unit "210" with unit "220" by "Amendment to Declaration Submitting Deeds to Horizontal Property Regime" dated February 3, 1970, recorded in Liber 6883 at Page 230.

[7] Section 5 was amended to describe the unit numbers of both Phase I (Building One) and Phase II (Building Two) of the project. It was further amended to state that the breezeway exists only in Building Two.

[8] Section 6. was amended with the written consent of at least 67% of the owners (after the project had opted in to Chapter 514B) to designate the common elements more specifically.

[9] The percentages of common interests were recalculated in the Declaration of Merger.

[10] Section 10 was amended to replace Chapter 170A and Chapter 514 with their successor, Chapter 514B of the Hawai'i Revised Statutes. Note: David Ting was the original developer. Service should now be made on the Association of Apartment Owners, 1310 Uluniu Road, Kihei, Hawaii 96753.

[11] Section 12.a. was amended with the written consent of at least 67% of the owners (after the project had opted in to Chapter 514B) to allow the Board to make improvements that cost up to $20,000 and remove the bond requirement.

[12] Section 12.d. was amended to remove the words "in an insurance company approved in writing by the Lessor and Sublessor" from the Phase I Declaration because there is no Lessor nor Sublessor for this project.

[13] Section 12.e. was amended to conform to Section 514B-143(a)(2), HRS, which increased the coverage requirements for commercial general liability insurance.

[14] This part of Section 12.f. was amended to conform to Section 514B-144(h), HRS, which requires at least 30 days' written notification before a maintenance fee increase becomes effective.

[15] Section 13 was amended with the written consent of at least 67% of the owners (after the project had opted in to Chapter 514B) to decrease the owner approval requirement for material alterations from 100% to 67%.

[16] Paragraph 13A was added to provide a clear statement that disabled owners and residents will be permitted to make all alterations and additions to their unit and the project authorized by the Fair Housing Act Amendments and Chapter 515, Hawai'i Revised Statutes, as amended.

[17] Section 15 was amended to explain that the Bylaws were initially attached to the Phase I and Phase II Declaration, but they have now been restated and are recorded separately as a single document.

[18] Section 16 was amended with the written consent of at least 67% of the owners (after the project had opted in to Chapter 514B) to confirm the Board's authority to impose limited common expenses against specific units.

[19] Section 17 was amended with the written consent of at least 67% of the owners (after the project had opted in to Chapter 514B) to decrease the required owner approval for amendments to the Declaration from 75% to 67% and remove the authority of the Developer to file an amendment to the Declaration.

[20] Section 20 was added with the approval of at least 50% of the unit owners pursuant to Section 514B-23, HRS.

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LAND COURT SYSTEM REGULAR SYSTEM

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Honolulu, Hawai'i 96813-3410

Total pages: 46

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Tax Map Keys: (2) 3-9-8-3 (Phase I) Condominium Map No. 85 (Phase I)
(2) 3-9-8-4 (Phase II) Condominium Map No. 134 (Phase II)

AMENDMENT AND THIRD RESTATEMENT OF THE BYLAWS OF THE ASSOCIATION OF APARTMENT OWNERS OF HALE KAI O'KIHEI

WHEREAS, by Declaration dated March 15, 1967, and recorded in the Bureau of Conveyances of the State of Hawai'i at Liber 5639, Page 193, as amended, there was created a condominium project known as Hale Kai O'Kihei; and

WHEREAS, by Declaration dated May 14, 1969, and recorded in said Bureau at Liber 6527, Page 364, there was created a condominium project known as Hale Kai O'Kihei II; and

WHEREAS, each Declaration, as amended, provided for the organization and operation of an Association of Apartment Owners to operate and manage the Project in accordance with the By-Laws attached to and made a part of each Declaration; and

WHEREAS, by reason of an amendment to the Bylaws originally created under each such Declaration, which amendment was adopted November 3, 1973, and recorded in the Bureau of Conveyances of the State of Hawai'i at Liber 9798, Page 264, the operation of Phase I and Phase II of the Hale Kai O'Kihei condominium project have been governed by a unified set of Bylaws; and

WHEREAS, the Bylaws of the combined Association were amended in their entirety by instrument dated November 2, 1985, recorded in the Bureau of Conveyances of the State of Hawai'i in Liber 19197 at Page 19; and

WHEREAS, the Bylaws were restated by instrument dated April 7, 1995, recorded in the Bureau of Conveyances of the State of Hawai'i as Document Number 95-052812;

WHEREAS, the Bylaws were further restated by instrument dated October 22, 2001, recorded in the Bureau of Conveyances of the State of Hawai'i as Document Number 2001-166852; and

WHEREAS, the Bylaws were further amended with the written consent of at least 67% of the owners; and

WHEREAS, Section 514B-109, Hawai'i Revised Statutes, as amended, empowers the Board of Directors of the Association of Apartment Owners of Hale Kai O'Kihei (the "Association") established by the Bylaws to restate the Bylaws to include any amendments to them and to conform them to the provisions of Chapter 514B, Hawai'i Revised Statutes, as amended, and any other statute, ordinance, rule, or regulation enacted by any governmental authority, by a resolution adopted by the Board of Directors; and

WHEREAS, at a meeting duly held on May 4, 2009 the Board of Directors resolved to restate the Bylaws in accordance with Section 514B-109, Hawai'i Revised Statutes, as amended.

NOW THEREFORE, the Bylaws are hereby restated to read as follows:

The following Bylaws shall apply to the HALE KAI O'KIHEI condominium project (herein sometimes called the "Project"), as described in the Declaration of Merger filed for the project, and the Declarations of Condominium Property Regime referred to therein, as amended and recorded in the Bureau of Conveyances of the State of Hawai'i and to all present and future Owners, tenants and occupants of any Unit (s) of the Project and all other persons who shall at any time use the Project.

AMENDMENT AND THIRD RESTATEMENT OF THE BYLAWS OF
THE ASSOCIATION OF APARTMENT OWNERS OF HALE KAI O'KIHEI

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ARTICLE I

INTRODUCTORY PROVISION

Section 1. Definitions.

The terms used herein shall have the meanings given to them in Chapter 514B,[1] Hawai'i Revised Statutes, as amended (hereinafter called the "Act"), except as otherwise

expressly provided herein. Unless clearly repugnant to the context, the following terms, whenever used in these Bylaws, shall be given the following meanings:

(A) "Common elements" means those elements designated in the Declaration as common elements.

(B) "Limited common elements" means those elements designated in said Declaration and the Act as limited common elements.[2]

(C) "Apartment" or "Unit" as used herein means a Unit in the Project, within the meaning of that term as used in the Act, as designated and described in the Declaration.[3]

(D) "Land" means the Land designated and described in the Declaration.

(E) "Project" means and includes the Land, the buildings and all other improvements thereon (including the Units and the common elements) and all easements, rights and appurtenances belonging thereto, and all other property with respect to which a Condominium Property Regime shall exist from time to time pursuant to the Declaration.[4]

(F) "House Rules" refers to the Rules and Regulations or House Rules for the conduct of Owners, occupants and guests of Units in the Project adopted by the Board of Directors as hereinafter provided.

(G) "Owner or "Unit Owner" means a person owning all or any interest in a Unit and the common interest appertaining thereto, to the extent of such interest owned; provided that to such extent and for such purposes, including the exercise of voting rights, as shall be provided by agreement of sale or lease filed with the Board of Directors, the vendee under an agreement of sale or the lessee of a Unit or interest therein shall be deemed to be the Owner of such Unit or interest therein.

(H) "Association" means the Association of Apartment Owners of the Project.

(I) "Board" means the Board of Directors of the Association.

(J) "Common Expenses" includes expenses designated as common expenses in Sections 1, 2 and 3 of Article VI of these Bylaws.

Section 2. Gender.

All pronouns used herein shall include the male, female and neuter genders and shall include the singular or plural numbers, as the case may be.

Section 3. Conflict.

These Bylaws are set forth to comply with the requirements of the Act. In case any of these Bylaws conflict with the provisions of the Act or the Declaration, as they now exist and are hereafter amended, the Act or the Declaration, as the case may be, shall control.

Section 4. Application.

All present and future Owners, mortgagees, vendees under agreements of sale and tenants and occupants of Units and their employees, guests, customers and invitees and any other persons who may use or occupy and part of the Project in any manner, are subject to these Bylaws, the Declaration, and the House Rules, as each may be amended from time to

time. The acceptance of an apartment deed, conveyance, mortgage, agreement of sale or lease of a Unit, or the act of occupying a Unit, shall constitute an agreement that these Bylaws, the House Rules and the Declaration, as they may be amended from time to time, are accepted, ratified, and will be strictly complied with.

ARTICLE II

ASSOCIATION OF APARTMENT OWNERS

Section 1. Membership.
All Owners of Units of the Project shall constitute the Association.

Section 2. Powers of the Association.
The Association shall have all of those powers with respect to the operation and regulation of the Project which are or may be conferred upon the association of apartment owners of a condominium project pursuant to the provisions of the Act, including without limiting the generality of the foregoing:

(A) The election of a Board of Directors.

(B) The management, maintenance, acquisition, construction and care of the Association property. As used herein, the term "Association property" includes the common elements of the Project, property held by the Association, property commonly held by its members, property within the Project privately held by its members but which may be subject to a common maintenance assessment by the Association for such purposes as insurance, and property owned by any governmental agency and used for the benefit of the Association's members.

Notwithstanding anything herein to the contrary, the Association shall have the power, by and through its Board of Directors, to make such investments as the Association determine will be of benefit to the Association in the operation and regulation of the project, which investments may include without limitation a unit within the project purchased for use as a residence by the resident manager of the Project; provided, that all such investments shall be held in the sole name of the Association and shall not be, nor be deemed to be, a modification of or addition to the common elements of the Project nor shall the percentage of common elements appurtenant to any unit be modified thereby; and provided further, that, in the case of the purchase of any such unit the approval of owners whose units represent not less the SIXTY-FIVE percent (65%) of the total common interest of the Project shall be obtained for each such investment. The association shall also have the power to assess and collect such special assessments from each and every unit owner as shall be necessary or appropriate to procure and/or pay for all such investments which are acquired or purchased pursuant to this provision.[5]

(C) The collection of common expenses from the Owners.

(D) The designation, employment and removal of personnel necessary for the operation, maintenance, repair and replacement of the common elements.

(E) The establishment of such restrictions and requirements, not inconsistent with the Declaration, the Act or these Bylaws, regarding the use, operation and maintenance of the Units and the use of the common elements.

(F) The amendment of these Bylaws in accordance with the Declaration, Section 8 of Article X hereof and Section 514B-108(e) of the Act, as amended.[6]

(G) Any and all powers not inconsistent with any law or the Declaration which are reasonably incidental to the fulfillment of the purposes of the Condominium Property Regime set forth in the Declaration, or are reasonably incidental to the exercise of the Association's powers as set forth in the Declaration or herein.

Nothing in this Section 2 shall prohibit the delegation by the Association of any of its powers in accordance with these Bylaws, as amended from time to time.

Section 3. Meetings.

The annual meetings of the Association shall be held on the first Saturday in November of each year. Each annual meeting shall be a general meeting, and at such meeting any business within the powers of the Association, without special notice of such business, may be transacted except as limited by law, the Declaration or these Bylaws. Special meetings of the Association may be called at any time by the President, a majority of the Board, or upon the request of at least twenty-five percent (25%) of the unit owners. At any special meeting only such business shall be transacted as shall have been indicated by a specific or general description in the notice of such meeting. All meetings of the Association shall be held at the address of the Project or such other suitable place within the State of Hawai'i as may be designated by the Board of Directors; provided that in the event of a natural disaster, such as a hurricane, an Association meeting may be held outside the State.[7]

Section 4. Notice of Meetings.

Any notices permitted or required to be given herein must be in writing and may be delivered either personally, by delivery to the residence or usual place of business of the unit owner, by mail or at the option of the unit owner, expressed in writing, by electronic mail to the electronic mailing address designated in writing by the unit owner.[8] The notice of every meeting of the Association shall state whether it is an annual or special meeting, the authority for the call of the meeting, and shall contain at least the date, time and place of the meeting, the items on the agenda for such meeting and a standard proxy form authorized by the Association, if any. Notices of annual meetings shall be given at least thirty (30) days before the date of such meeting. Notices of special meetings shall be given at least twenty (20) days before the date of such meeting. If delivery is made by mail, the notice shall be deemed to have been given twenty-four (24) hours after a copy of it has been deposited in the United States mail, postage prepaid, addressed to the person to whom the notice is to be given at the address given by such person to the Board of Directors, or to the unit which such person owns if no address has been given by such person to the Board of Directors. Such address may be changed from time to time by notice in writing to the Board of Directors. Upon written request for notice delivered to the Board of Directors and agreement to pay the additional costs related thereto, the holder of any duly recorded mortgage against any Unit may promptly obtain a copy of any and all notices permitted or required herein to be made to the Owner or Owners whose Unit is subject to said mortgage. Said request for notice need not be renewed and shall entitle the holder of such mortgage requesting such notice, so long as such holder pays the costs related thereto, as aforesaid, to receive all notices sent to the Owner or Owners whose Unit is subject to said

mortgage from and after the date of said request until said request is withdrawn or the mortgage is discharged of record.

If notice is given pursuant to the provisions of this section, the failure of any Unit Owner to receive actual notice of the meeting shall in no way invalidate the meeting or any proceedings thereat. The presence of all Owners, in person or by proxy, at any meeting shall render the same a valid meeting notwithstanding that notice thereof was not given or was improper, unless any Owner shall at the opening of such meeting object to the holding of such meeting because of the failure to comply with the provision of this section.

Section 5. Quorum.

The presence at any meeting in person or by proxy of a majority of the Owners shall constitute a quorum, and the acts of a majority of the Owners present at any meeting at which a quorum is present shall be the acts of the Association except as otherwise provided herein. The term "majority of the Owners" herein means the Owners of Units to which are appurtenant more than fifty percent (50%) of the common interest as established by the Declaration. The term "majority of the Owners present at any meeting" shall mean Owners of Units to which are appurtenant more than fifty percent (50%) of the aggregate common interests appurtenant to Units owned by those present at the meeting. Any other specified percentage of the Owners means the owners of Units to which are appurtenant such percentage of the common interests.

Section 6. Voting.

All Owners shall be members of the Association and shall be entitled to vote at meetings thereof. Voting shall be on a percentage basis with the percentage of the total vote to which each Unit is entitled being the same as the percentage of the common interests assigned to such Unit in the Declaration. Votes may be cast in person or by proxy by the respective Unit Owners as shown in the record of ownership of the Association. An executor, administrator, 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 in such capacity, whether or not the same shall have been transferred to his name in the Association's record of ownership, provided that he shall first present evidence satisfactory to the Secretary that he owns or controls such Unit in such capacity. The purchaser of a Unit under an agreement of sale recorded in the Bureau of Conveyances of the State of Hawai'i and/or delivered to the Association, and certified to be in effect by the Seller and Buyer thereunder shall have all the rights of an Owner, including the right to vote, unless the seller under such agreement of sale retains the right to vote pursuant to Section 514B-124 of the Act, as amended. The vote for any Unit owned of record by two or more persons may be exercised by any one of them present at any meeting in the absence of protest by the other co-Owner(s). In the event of such protest, each co-Owner shall be entitled to vote only the proportionate share of such vote which his share of ownership in such Unit bears to all interest in said unit properly represented at such meetings. Where title to a unit is held by a corporation, partnership, trust or other entity, the vote on behalf of such owner shall be cast by one person duly selected and designated by said entity (pursuant to said entity's own procedures) to vote on its behalf, which person shall be an officer of a corporate owner, general partner of a partnership owner, or trustee of trust owner. Votes allocated to any area which constitutes a common element under Section 514B-108(b)(8) of the Act, as amended, shall not be cast at any association meeting, whether or not it is so designated in the Declaration.[9]

Section 7. Proxies and Pledges.

The authority given by any Unit Owner to another person to represent him at meetings of the Association shall be delivered to the secretary of the association or the managing agent, if any, not later than 4:30 p.m. HST on the second business day prior to the date of the meeting to which it pertains (or such earlier time as may hereafter be set by Hawai'i law), and unless limited by its terms shall continue until revoked by a written instrument filed with the Secretary or by death or incapacity of the Owner, provided, however, that a proxy shall be valid only for the meeting to which the notice pertains and any adjournment thereof, and may designate any person as proxy and may be limited as the Owner desires and indicates. Proxies may be given to the Board as specified under Section 514B-123 of the Act, as amended.[10] A valid proxy must be in writing and contain at least (1) the name of the association, (2) the date of the meeting of the association, (3) the printed name and signature of the person(s) giving the proxy, (4) the unit(s) for which the proxy is given, (5) the printed name of the person or entity to whom the proxy is given, and (6) the date that the proxy is given. However, nothing in this paragraph shall affect the holder of any proxy under a first mortgage of record encumbering a unit or under an agreement of sale affecting a unit. The proxy form shall also contain a box wherein the unit owner may indicate that the owner wishes to obtain a copy of the annual audit report required by Section 514B-150 of the Hawai'i Revised Statutes, as amended.[11]

Votes allocated to a unit may be cast pursuant to a proxy duly executed by a unit owner. A unit owner may vote by mail or electronic transmission through a duly executed proxy. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through a duly executed proxy. In the absence of protest, any owner may cast the votes allocated to the unit by proxy. A unit owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the secretary of the Association or the Managing Agent. A proxy is void if it purports to be revocable without notice.[12]

Voting rights transferred or pledged by mortgage, deed of trust or agreement of sale of any Unit or interest therein, a true copy of which is filed with the Board through the Secretary or Managing Agent, shall be exercised only by the person designated in such instrument until the written release or other termination thereof is filed with the Board in a like manner.

No member of the Board of Directors who uses Association funds to solicit proxies shall cast any proxy votes for the election or reelection of board members at any Association meeting unless the proxy form specifically authorizes the board member to vote for the election or reelection of board directors; provided that this shall not prevent a board member from exercising his right as a unit owner under Section 7A below.[13]

Section 7A. Solicitation of Proxies.

No resident manager or Managing Agent, or their employees, shall solicit, for use by the manager, Managing Agent or employee, any proxies from any unit owner, nor shall the resident manager, Managing Agent or employee cast any proxy vote at any Association meeting except for the purpose of establishing a quorum. If the Board intends to use Association funds to distribute proxies, the Board must first post notice of its intent to solicit proxies in prominent locations within the project at least twenty-one days prior to the Board's distribution of proxies; provided that if the Board receives within seven 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, indicating the owner's qualifications to serve on the Board or reasons for wanting to receive proxies.

No board of directors shall adopt any rule prohibiting the solicitation of proxies or distribution of materials relating to association matters on the common elements by unit owners; provided that a board of directors may adopt rules regulating reasonable time, place, and manner of such solicitations or distributions, or both. A board of directors may prohibit commercial solicitations.[14]

Section 8. Adjournment.

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

Section 9. Order of Business; Rules; Minutes.

The order of business at all meetings of the Association shall be as follows:

(A) Roll call.

(B) Proof of notice of meeting.

(C) Reading of minutes of preceding meetings.

(D) Report of officers.

(E) Report of committees.

(F) Unfinished business.

(G) New business.

(H) Election of directors (when so required).[15]

All meetings of the Association shall be conducted in accordance with the most recent edition of Robert's Rules of Order Newly Revised. Minutes of meetings of the Association shall be approved at the next succeeding regular meeting or by the Board, within sixty days after the meeting, if authorized by the owners at an annual 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 days after approval. Minutes of all meetings of the Association shall be available within seven calendar days after approval, and unapproved final drafts of the minutes of a meeting shall be available within sixty days after the meeting. An owner shall be allowed to

offer corrections to the minutes at an Association meeting. The minutes of all meetings of the Association and the Association's financial statements shall be available for examination by the Unit Owners at convenient hours at a place within the island of Maui as designated by the Board, and shall be mailed to an Owner upon request.[16]

Section 10. Committees.

The Association may create and appoint such general or special committees as the affairs of the Association may require and define the authority and duties of such committees.

Section 11. Auditor.

The Association shall conduct an annual audit of financial records and an unannounced verification of the Association's cash balance by a public accountant as auditor, who shall not own any interest in any Unit.[17]

ARTICLE III

BOARD OF DIRECTORS

Section 1. Number and Qualifications.

The affairs of the Association shall be governed by a Board of Directors composed of at least three (3) but not more than nine (9) directors who shall serve without compensation. No remuneration shall be paid to a director for services performed by him for the Association in any other capacity, unless a resolution authorizing such remunerations shall have been unanimously adopted by the Board before the services are undertaken. The initial and each succeeding Board of Directors shall consist of nine (9) directors unless and until a majority of Unit Owners vote to increase or decrease the size of the Board within the limits set forth herein. Each of the directors shall be the Owner or co-Owner of record of a Unit, the vendee thereof under an agreement of sale, a trustee 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. The partners in a general partnership and the general partners of a limited partnership shall be deemed to be the Owners of a Unit for such purpose. There shall not be more than one representative on the Board from any one Unit. No resident manager or employee of the Association shall serve on the Board of Directors.[18]

Section 2. Elections and Term.

Election of directors shall be by cumulative voting by secret ballot at each annual meeting and each special meeting called for that purpose. 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, except that the terms for which the directors are elected shall be such that the terms of at least one-third (1/3) of the directors shall expire annually. Directors shall be elected at each annual meeting to fill the vacancy in the office of director occurring as of the time of such meeting. The term "cumulative voting" as used herein means that each Owner may cast for any one or more nominees to the Board a vote equivalent to the vote to which such Owner is entitled multiplied by the number of directors to be elected, and each Owner shall be entitled to cumulate his votes and give all thereof to one nominee or to distribute his votes in such manner as he shall determine among any or all of the nominees, 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.

Section 3. Vacancies.

Any vacancies in the Board of Directors, other than a vacancy caused by the natural expiration of the term of a director or the removal of a director by the Association, shall be filled by vote of a majority of the remaining directors, even though they may constitute less than a quorum, and each person so elected shall serve until his successor is elected at the next annual meeting of the Association. Death, incapacity or resignation of any director, or his ceasing to be the Owner or co-Owner of a Unit, or the vendee under an agreement of sale, or the officer of a corporate Owner of a Unit, or the general partner of a partnership which is the Owner of a Unit, shall cause his office to become vacant.

Section 4. Removal of Directors.

At any annual or special meeting of the Association duly called, any one or more of the directors may be removed with or without cause by vote of a majority of Unit Owners, and a successor may be elected to fill the vacancy thus created. If said vacancy is not so filled, the Board shall fill said vacancy as provided herein above in Section 3. Any director whose removal has been proposed by the Unit Owners shall be given an opportunity to be heard at such meeting.

Any Board Member who misses two consecutive Board Meetings or a total of three meetings in a term of three years may be terminated by ordinary resolution of the Board.[19]

Section 5. Annual Meetings.

The first meeting of the Board of Directors following the annual meeting of the Association shall be held at the place of and immediately following each annual meeting of the Association, and no notice shall be necessary to the newly elected members of the Board of Directors in order legally to constitute such meeting, provided a majority of the whole Board of Directors shall be present thereat. At such meeting the Board shall elect the officers of the Association for the ensuing year. Notice of the annual Board of Directors meeting shall be given in a reasonable manner at least thirty (30) days prior to such meeting and may be included with any notice of the annual meeting of the Association. All meetings of the Board of Directors (whether organizational, annual, regular or special) shall be conducted in accordance with the most current edition of Robert's Rules of Order Newly Revised. Minutes of meetings of the Board shall be approved no later than the second succeeding regular meeting. Minutes of all meetings of the Board shall be available within seven calendar days after approval, and unapproved final drafts of the minutes of a meeting shall be available within sixty 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. The minutes of all meetings of the Board of Directors shall be available for examination by the Unit Owners at convenient hours at a place within the island of Maui designated by the Board, and shall be mailed to an Owner upon request, and shall include the recorded vote of each Board member on all motions except motions voted on in executive session.[20]

Section 6. Regular Meetings.

Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but at least two such meetings shall be held each year unless cancelled by a vote of a majority of the directors. Notice of regular meetings of the Board shall be given to each director by telephone or in reasonable manner at least thirty (30) days prior to the date of such meeting.

Section 7. Special Meetings.

Special meetings of the Board of Directors may be called by the President on at least thirty (30) days notice to each director, given personally or by telephone or telegraph, or by mail addressed to the director's residence, which notice shall state the time, place and purpose of such meeting. Special meetings of the Board shall be called by the President or Secretary in like manner and with like notice on the written request of at least three (3) directors.

Section 8. Board Meetings.

(A) All meetings of the board of directors shall be open to all members of the association, provided that association members who are not on the Board of Directors may not participate in any deliberation or discussion unless expressly so authorized by the vote of majority of a quorum of the board of directors.

(B) The board of directors, with the approval of a majority of a quorum of its members, may adjourn a meeting and reconvene in executive session to discuss and vote upon matters: (1) concerning personnel; (2) concerning litigation in which the Association is or may become involved; (3) necessary to protect the attorney-client privilege of the Association; or (4) necessary to protect the interests of the Association while negotiating contracts, leases, and other commercial transactions.[21] The nature of any and all business to be considered in executive session shall first be announced in open session.

(C) All votes on Board motions must record each members vote and be included in the minutes of Board meetings, except votes on motions made in executive sessions.[22]

Section 9. 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 all Board meetings shall be posted by the Managing Agent, resident manager, or a member of the Board, in prominent locations within the project seventy-two hours prior to the meeting or simultaneously with notice to the Board.[23] Before or at any meeting of the Board of Directors, any director may in writing waive notice of such meeting, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall be a waiver of notice to him of such meeting. If all the directors are present at any meeting of the Board, no notice thereof shall be required, and any business may be transacted at such meeting.

Section 10. Quorum of Board.

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

Any director may, in his sole discretion elect to be deemed to be present at a meeting of the Board of Directors (other than the annual meeting) if such meeting is held by any means of communication through which all directors participating may simultaneously hear each other during the meeting, provided that all directors shall have the opportunity to participate in

such meeting, and provided further that minutes of such meeting shall be concurred in by all directors in writing. 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 unit 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 unit owner pay for the costs associated with the participation.[24]

Section 11. Powers of the Board.

(A) The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all acts or things set forth in the Act, the Declaration and these Bylaws which may be done by a Board of Directors, except as otherwise expressly prohibited. Such powers and duties shall include, but not be limited to, the following:

(1) Enforcement of the provisions of the Declaration, these Bylaws, the House Rules and any Regulations, including the authority to levy reasonable fines or service charges for repeated violations of the House Rules and/or Regulations.

(2) Making contracts and incurring liabilities in connection with the exercise of any of the powers and duties of the Board.

(3) Providing or causing to be provided all goods and services required by the Bylaws or by law, or which the Board, in its discretion, deems necessary for the proper operation and maintenance of the Project, or which are used in common or jointly by the common elements and units, in each case to the extent such goods and services shall not be otherwise provided.

(4) Payment of all common expenses which the Association is required to pay pursuant to these Bylaws or by law which in the Board's opinion are necessary and proper for the operation and maintenance of the Project or for the enforcement of these Bylaws; provided that if any such payment is required because of the particular actions or negligence of the Owners of particular Units, the cost thereof shall be specially assessed to the Owners of such Units; and provided that the Board shall have the authority to expend up to 20% of the current budget of the Association if necessary in an emergency situation to deal with the prevention of, or the handling of the results of damage from a natural disaster or an Act of God, or the threat of such damage.[25]

(5) Opening of bank accounts on behalf of the Association and designating the signatories thereof, subject to the requirements of Section 514B-149 of the Act, as amended.[26]

(6) Delegation of its powers to committees, agents, officers, representatives and employees.

(7) Contracting for insurance on behalf of the Association pursuant to the provisions of Article VII hereof and Section 514B-143 of the Act, as amended.[27]

(8) Designating, employing and removing personnel necessary for the maintenance, operation, repair and replacement of the common elements; provided that the Association's employees shall not engage in selling or renting units in the project except

Association-owned units, unless such activity is approved by the affirmative vote of sixty-seven percent of the Association members.[28]

(9) Prior to the annual owners meeting, to cause to be prepared and to approve a budget covering the itemized estimated income of the Project, from all sources and the estimated costs of maintaining and operating the Condominium Property Regime during the ensuing fiscal year, including any and all expenses for taxes, insurance premiums, improvements, assessments, utility charges, maintenance and operating expenses, and all other charges and outgoings of any description to which the Association or its property may be assessed or become liable, plus the reserves established by these Bylaws and any other reasonable reserves for such purposes, less any surpluses from the operation of prior years, if any. In addition, the Board of Directors shall prepare and approve a schedule of monthly assessments against each Unit Owner for his proportionate share of such estimated cost of maintaining and operating the property of the Condominium Property Regime for such ensuing year.[29]

(10) To enter any Unit when necessary in connection with an emergency, a condition which jeopardizes the Project, any other unit or the common elements, or if necessary for any maintenance, repair or construction for which the Board of Directors is responsible. Such entry shall be made with as little inconvenience to the Owner as is practicable, and any damage caused thereby shall be repaired by the Board of Directors at the expense of the Association, and such expense is hereby designated a common expense, except as provided in Section 514B-137 of the Act, as amended.[30]

(11) From time to time to lease or rent any unit set aside for use by any Managing Agent or other employees, or other common elements not actually used by any of the Owners, with or without charge, and to enforce, modify and make agreements with respect to any lease or tenancy of any portions of the common elements on behalf of the Unit Owners, provided that any such lease shall not have a term exceeding five years and shall contain a provision that the lease or agreement for use may be terminated by the Association on not more than sixty (60) days written notice, unless approval by the Owners of sixty-seven percent (67%) of the common interest is obtained, as permitted by Section 514B-38(5) of the Act, as amended.[31]

(12) Provided it obtains the prior approval by written consent of Owners having not less than sixty-seven percent (67%) of the common interests, to purchase Units of the Project at foreclosure, at other judicial sales or otherwise, on behalf of all Unit Owners, and thereafter to sell, lease, mortgage, vote the common interest appurtenant to and otherwise deal with such Units.[32]

(13) To change the use of the common elements upon the approval of Owners having not less than sixty-seven percent (67%) of the common interests.[33]

(14) To keep an accurate and current list of the names and addresses of the members of the Association and the names and addresses of any vendees of a Unit under an agreement of sale. The list shall be maintained at the address of the Project, or such other place within the island of Maui as designated by the Board, and shall be available for inspection by Unit Owners at all reasonable times. A copy shall be available, at cost, to any member of the Association who furnishes to the managing agent or resident manager or the Board a duly executed and acknowledged affidavit stating that the list:

(i) Will be used by the owner personally and only for the purpose of soliciting votes or proxies, or for providing information to other owners with respect to Association matters; and

(ii) Shall not be used by the owner or furnished to anyone else for any other purpose.

A board may prohibit commercial solicitations. 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 subsection and Subsections 514B-153(e) and (f) of the Act, as amended. The managing agent, resident manager, or Board may not use the information contained in the lists to create any separate list for the purpose of evading this subsection.[34]

(15) To provide or arrange for others to provide each Unit water, sewer, electricity and such other utility services and utilities as the Board shall deem necessary, either at the expense of such Unit or as a common expense, as determined by the Board.

(16) Nothing herein contained shall be construed to give the Board of Directors authority to conduct an active business for profit on behalf of the Owners, or any of them, or the Association.

Section 12. Conflicts of Interest.

Each director and officer shall owe the Association a fiduciary duty and exercise the degree of care and loyalty required of an officer or director of a corporation organized under Chapter 414D of the Hawai'i Revised Statutes, as amended, in the performance of the director's or officer's responsibilities.[35] No director shall cast any proxy vote at any Board meeting, nor shall any director vote at any Board meeting on any matter in which he or she has a conflict of interest. A majority of the directors (excluding the director or directors alleged to be involved in a conflict of interest) shall determine the existence or nonexistence of such a conflict. Nor shall any member of the Board of Directors who uses the Association's funds to solicit proxies, cast any proxy votes for the election or reelection of board members at any Association meeting unless the proxy form specifically authorizes the board member to vote for the election or reelection of board members; provided that this shall not prevent a board member from exercising his right as a unit owner under Article II, Section 7A of these Bylaws.[36] No Resident Manager, Managing Agent or officer or employee thereof shall solicit, for use by such Resident Manager or Managing Agent, any proxies from any unit owner of the Association which employs him, nor shall he cast any proxy vote at any Association meeting except for the purpose of establishing a quorum.

Section 13. Managing Agent.

Hale Kai O'Kihei Owners Association is a self-management organization. Its Board of Directors acts as its Managing Agent and assumes all the duties and responsibilities of an outside Managing Agent. Any reference to a "Managing Agent" is deemed to mean the Board of Directors, unless the Board hires a Managing Agent.

The Board of Directors shall hire, as appropriate, a Resident Manager, a fiscal services company, and/or a property management company which shall perform such duties as the Board shall direct; provided the person or entity hired must meet all the requirements of the Act. The Resident Manager's contract shall specifically state that the

Resident Manager is prohibited from doing repairs and renovations to any owner's unit except: (i) emergency repairs to prevent damage to the common elements or to another unit or units; or (ii) minor repairs that are paid for by the owner, documented in the Association's records, and performed outside of the hours the Resident Manager is supposed to work for the Association.

Upon being appointed by the Board, the Resident Manager shall be designated as the person to accept service of process on behalf of the Association, the Board of Directors or two or more unit owners as the case may be in any action relating to the common elements or more than one unit. Unless the Board delegates responsibility for any of the following to the Resident Manager or Managing Agent (if any), the Board shall, among other things:

(A) Collect assessments to discharge common expenses and pay said common expenses in accordance with these Bylaws.

(B) Assume responsibility for the day-to-day operation and management of the common elements.

(C) Establish and maintain such reserve funds as may be necessary for the proper operation and management of the common elements, with each Owner having an interest in such reserves equal to its common interest.

(D) Notify the Owners in writing of any increases in the maintenance fees at least 30 days prior to any such increase.

(E) 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, as required by Section 514B-153 of the Act, as amended, or any other successor law. The Board shall also keep monthly statements indicating the total current delinquent dollar amount of any unpaid assessments for common expenses. All records and vouchers authorizing the payments shall be kept and maintained at the address of the Project, or elsewhere within the State as determined by the Board of Directors, and shall be available for examination by the Unit Owners at convenient hours on weekdays.

The Board or its agent may dispose of Association records which are more than five (5) years old, except for tax records, which shall be kept for seven (7) years, in accordance with Section 514B-154(h) of the Act, as amended.

(F) At the direction of the Board, to bring and prosecute an action, without prejudice to the rights of any unit Owner to act for himself, on behalf of two or more Unit Owners, as their respective interests may appear, with respect to any cause of action relating to the common elements or more than one Unit; and

The Board may in its discretion limit any of the powers herein granted to the Resident Manager or grant additional powers to the Resident Manager, with the exception of repairs or renovations inside an owner's unit.[37]

Section 14. Documents Provided to the Board.

Each Board member will be supplied with a current version of the Declaration, the Bylaws, and the House Rules for the project and annually, a copy of the Act, as amended, at Association expense.[38]

Section 15. Educational Expenses.

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 include these expenses as separate line items. These expenses may include registration fees, books, videos, tapes, other educational materials, and economy travel expenses. Except for economy travel expenses within the State, all other travel expenses incurred under this section shall be subject to the requirements of Section 514B-107(d) of the Act, as amended, and Section 17 of this Article.[39]

Section 16. Board Expenditure of Funds.

Directors shall not expend Association funds for their travel, directors' fees, and per diem, unless owners are informed and a majority approve of these expenses; provided that, with the approval of the Board, directors may be reimbursed for actual expenditures incurred on behalf of the Association. The minutes shall reflect in detail the items and amounts of the reimbursements.[40]

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 of Directors. The Board may appoint an assistant treasurer, an assistant secretary and such other officers as in its judgment may be necessary. The President and Vice-President shall, but no other officers need be, members of the Board. The Board shall require that all officers and employees of the Association other than the Managing Agent who handles or is responsible for Association funds to furnish an adequate bond. The premiums on such bonds shall be paid by the Association and shall be common expenses.

Section 2. Election and Term.

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

Section 3. Removal.

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

Section 4. President.

The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board of Directors. Subject to the control

of the Board he shall exercise general supervision and direction over the management and conduct of the business and affairs of the Association. He shall also have such other powers and duties as may be provided by these Bylaws or assigned to him from time to time by the Board.

Section 5. 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 6. Secretary.

The Secretary shall attend and keep the minutes of all meetings of the Association and of the Board of Directors, give all notices thereof as provided by these 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 duties incident to the office of Secretary and all other duties assigned by the Board. If the Secretary shall not be present at any meeting, the presiding officer shall appoint a secretary pro tempore who shall keep the minutes of such meeting and record them in the books for such purpose.

Section 7. Treasurer.

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

Section 8. Execution of Instruments.

All checks, drafts, notes, bonds, acceptances, deeds, leases, contracts and all other documents and instruments of the Association shall be signed, executed and delivered by the President or the Vice-President, and the Secretary or the Treasurer, provided, however, that the Board of Directors may from time to time by resolution authorize documents or instruments of the Association to be signed, executed and delivered by such other person or persons as may be designated pursuant to the general or special resolution of the Board.

Section 9. Liability and Indemnity of the Board of Officers.

The directors and officers shall not be liable to the Unit Owners for any mistake of judgment or otherwise, except for their own individual gross negligence or willful misconduct. The Association shall indemnify each director and officer of the Association against all costs, expenses and liabilities, including the amount of judgments, amounts paid in compromise settlements and amounts paid for reasonable attorney's fees and other related expenses which may be incurred by or imposed on him in connection with any claim, action, suit, proceeding, investigation or inquiry hereafter made, instituted, or threatened in which he may be involved as a party or otherwise by reason of his being or having been such director or officer, or by reason of any past or future action taken or authorized or approved by him or any omission to act as such director or officer, whether or not he continues to be such director or officer at the time of the incurring or imposition of such costs, expenses or liabilities, except such costs, expenses or liabilities as shall relate to matters as to which he is liable by reason of his gross negligence or willful misconduct toward the Association in the performance of his duties as such director or

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

The Association shall endeavor to obtain and maintain, as an Association expense, officers and directors liability insurance in an amount deemed appropriate, from time to time, by a majority of the Board.

ARTICLE V

REPAIR AND MAINTENANCE AND USE

Section 1. Repair and Maintenance.

(A) Every owner from time to time and at all times shall perform or cause to be performed promptly all repair, maintenance and alteration work within or with respect to his Unit the omission of which would adversely affect the reputation or appearance of the Project, any common element, or the limited common elements appurtenant thereto, or any other Unit, and shall be responsible for all loss and damage caused by his failure to do so. Every Owner and occupant shall at all times keep his Unit and any appurtenant areas in a strictly clean and sanitary condition.

(B) All repairs of installation within each Unit such as water, light, gas, power, sewage, telephone, air conditioning, sanitation, doors, windows, lamps, and all other installations, fixtures and accessories belonging to such Unit, including interior walls and partitions and the inner decorated or finished surfaces of the perimeter walls, floors, and ceilings of such Unit, shall be at the Owner's expense.

(C) Every Owner shall reimburse the Association or affected Owner(s) for any expenditures incurred in repairing or replacing any common elements or furniture, furnishings, and equipment thereof or lost through the fault of such Owner or any person using the Project under him, and shall give prompt notice to the Managing Agent of any such damage, loss or other defect when discovered.

(D) All maintenance, repairs and replacements to the common elements, whether located inside or outside of the Units, shall be made by the Board and be charged to all the Owners as a common expense to be allocated in proportion to the common interest appurtenant to each unit, unless: (1) necessitated by the negligence, misuse or neglect of a Unit Owner, in which case such expense shall be charged to such Unit Owner, or (2) with respect to limited common elements, in which case such amounts shall be charged only to those Unit(s) to which said limited common elements are appurtenant with each such Unit paying a proportional amount derived by dividing the common interest appurtenant to each Unit so charged by the total common interest appurtenant to all such Units so charged, or (3) with respect to an addition or alteration to the common elements made by the owner or a predecessor in interest of the owner, such as the jalousie inserts on

the unit entry doors on the parking lot side of the units, in which case the addition or alteration shall be the responsibility of the owner.[41]

(E) It is intended that the project shall have a uniform appearance. For that purpose, the Board may impose standards concerning the maintenance, modification or replacement of the glass wall and sliding door along with the parking lot side window and door jalousies, even though owners remain responsible for the maintenance, repair, and replacement of these items. In addition, the Board shall have the exclusive authority and responsibility to maintain the paint on the walls and ceilings of the lanais and the lanai light fixtures at common expense. This Subsection 1(E) shall not apply to lanai floors, which remain the responsibility of each owner.[42]

Section 2. Use.

(A) All of the Units and the common elements shall be used only for the purposes set forth in the Declaration.

(B) Except as permitted by the Declaration, and the House Rules promulgated thereunder (and then only to the extent permitted by law) no occupant, Owner, agent of Owner or anyone holding under any Owner of a Unit shall post any advertisement, bill, poster, or other sign on or about the Project, except as authorized by the Board.

(C) All Owners and occupants shall exercise reasonable and due care to avoid causing or permitting noises, (including without limiting the generality of the foregoing noises caused by person(s) residing in or visiting a Unit) fumes or other circumstances that may disturb other Owners or occupants, or their customers, employees or invitees.[43]

(D) No Owner or occupant shall permit any person(s) residing or visiting with him to loiter or play in the driveway areas of the project.[44]

(E) No garbage, refuse, or trash of any kind shall be thrown, placed or kept on any common element other than the disposal facilities provided for such purposes.

(F) No Owner or occupant shall place, store, or maintain on walkways, roadways, grounds or other common elements any equipment, furniture, packages or other objects of any kind or otherwise obstruct transit through such common elements.

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

(H) No Unit Owner or occupant shall make or suffer any strip or waste or unlawful, improper or offensive use of his Unit or the Project nor alter or remove any plantings, equipment or other portion of the common elements.

(I) No rugs, or other objects shall be dusted or shaken from the windows of the Project or cleaned by beating or sweeping on any hallway or exterior part of the Project.

(J) Except as otherwise provided in Article X, Section 13 of these Bylaws, no pets or livestock, poultry, rabbits or other animals whatsoever shall be allowed or kept in any part of the Project.[45]

(K) Except as otherwise provided in Article X, Section 13 of these Bylaws and section 207 of the Telecommunications Act of 1996 and the rules adopted by the Federal Communications Commission pursuant to that section, no Owner or occupant shall without the written approval of the Board install any wiring for electrical or telephone installations, television antenna, machines or air-conditioning units or other equipment or appurtenances whatsoever on the exterior of the Project or protruding through the walls, window or roof thereof.[46]

(L) Except as otherwise provided in section 207 of the Telecommunications Act of 1996 and the rules adopted by the Federal Communications Commission pursuant to that section, no Owner or occupant shall, without the prior approval of the Board, erect, place or maintain any television or other antennas on said Project visible from any point outside of the Project.[47]

(M) Nothing shall be allowed, done or kept in any Unit or common element which will overload or impair the floors, walls or roofs of the Project, or cause any increase in the ordinary premium rates or the cancellation or invalidation of any insurance maintained by or for the Board with respect thereto, nor shall any noxious or offensive activity or nuisance be made or suffered thereon.

(N) Every Owner and occupant shall at all times observe all the provisions of the Declaration, these Bylaws, the House Rules, and all laws, ordinances, rules and regulations now or hereafter made by any governmental authority or the Association.

Section 3. House Rules.

In order to assure the peaceful and orderly use and enjoyment of the project, the Association may from time to time adopt, amend, modify, or revoke, in whole or in part, by a two-thirds majority vote of owners present in person or by proxy at any meeting duly called for that purpose, such reasonable rules and regulations governing the details of the operation and use of the project as it deems necessary. A copy of such House Rules upon adoption, amendment, or modification, or a notice of revocation in the event that such rules are revoked, shall be delivered promptly to each owner and to each unit in the project, and shall be binding upon all owners and occupants of any unit in the project.

Section 4. Violation-Fines.

In the event the Board of Directors finds an owner or tenant has violated any of the requirements of Section 1, 2 or 3 and such person fails to correct such violation after 10 days notice to do so, or in the event the Board of Directors finds an owner or tenant has repeatedly violated the established requirements after 10 days notice to correct the same, the Board may impose a fine up to $100.00 per violation against such owner or tenant in such amount as it deems appropriate. Such fine may be enforced in the same manner as the enforcement of delinquent assessments.[48]

ARTICLE VI

COMMON EXPENSES, OPERATIONAL EXPENSES, APARTMENT EXPENSES AND TAXES

Section 1. Common Expenses.

(A) "Common Expenses" consist solely of those related to the Common Elements, and the operation of the Project as a whole; in particular, the common expenses shall not include the limited common expenses that the Board may charge against specific owners as provided in Section 16 of the Declaration. Such expenses shall be charged to and paid by all Apartment owners, in proportion to their respective interest in the Common Elements.[49]

(B) The owner of each Unit shall be liable for and pay a share of the common expenses in proportion to the common interest in the common elements appurtenant to his Unit, as stated in the declaration.[50]

Common expenses shall include all charges, costs and expenses whatsoever incurred by the Association for and in conjunction with the administration and operation of the Project, including without limitation all charges for taxes (except real property taxes and other such taxes which are or may hereafter be assessed separately on each Unit and the common interest in the common elements appertaining thereto or the personal property or any other interest of the Owners), assessments, insurance, including casualty and liability insurance, any liability whatsoever for loss or damage arising out of or in connection with the common elements or any fire, accident or nuisance thereon, the cost of repair, reinstatement, rebuilding and replacement of the common elements, landscaping, yard, janitorial, and other similar services, wages, accounting and legal fees, management fees, start-up fees and other necessary expenses of upkeep, maintenance, management and operation actually incurred on or for the common elements, and the cost of any utility services, including water, sewer, electricity, disposal, telephone, and any other similar services, unless to the extent not separately metered or otherwise separately attributable to a Unit or group of Units, in which case the amounts charged or attributable to each Unit or group of Units, as determined by the Board with the advice of a certified public accountant, shall be payable by the Owner of such Unit or Owners of Units as the case may be. The common expenses may also include such amounts as the Board may deem proper to make up any deficit in the payment of common expenses for any prior year. Payment of common expenses shall be made to the Board (through the Managing Agent), as agent of the Owners of the Units. If there should be any excess assessments on hand at the end of any year, the same shall be used or applied by the Board, in its sole discretion, (i) to pay common expenses in the following year; (ii) as a capital contribution to the Association to be used for future capital improvements and replacements; or (iii) as a capital contribution to be placed in one or more Reserve Funds[51] established pursuant to paragraph (C) below.

(C) The Board of Directors shall establish and maintain a Reserves Fund based upon an Association reserve study and in compliance with Section 514B-148 of the Act, as amended, including any associated Rules and Manuals. The reserves fund shall provide for the planned upkeep, repair, replacement, modification or other improvements as authorized by the Association to common elements. The Owner of each Unit shall be liable for and pay a share of Reserves Fund assessment in proportion to his undivided interest in the common element. The Reserves Fund shall be deemed conclusively to be the savings of the Owners held for their benefit and shall be invested when appropriate as regulated by Section 514B-149 of the Act, as amended. Disbursements from the reserves fund shall be made only upon authorization of the Board. The proportionate interests of each Owner in said Fund and all interest earned thereon shall not be withdrawn or assigned separately but shall be deemed to be transferred with each Unit even though not mentioned or described expressly in the instrument of transfer. If the Condominium Property Regime is terminated or waived, or if the planned improvement is not implemented for any reason, the Reserves Fund or portion thereof

shall be distributed to all Owners in proportion to their respective interests, except for shares attributed to the Owners of Units reconstituted as a new Condominium Property Regime, which shares shall be retained for the reconstituted Condominium Property Regime.[52]

Section 1A. Owners May Not Withhold Assessments.

(A) No unit owner shall withhold any assessment claimed by the Association. A unit 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;

(4) That under Hawai'i law, a unit owner has no right to withhold assessments for any reason;

(5) That a unit owner has a right to demand mediation or arbitration to resolve disputes about the amount or validity of an Association's assessment, provided the unit owner immediately pays the assessment in full and keeps assessments current; and

(6) That payment in full of the assessment does not prevent the owner from contesting the assessment or receiving a refund of amounts not owed.

Nothing in this section shall limit the rights of an owner to the protection of all fair debt collection procedures mandated under federal and state law.

(b) A unit owner who pays an Association the full amount claimed by the Association may file in small claims court or require the Association to mediate to resolve any disputes concerning the amount or validity of the Association's claim. If the unit owner and the Association are unable to resolve the dispute through mediation, either party may file for arbitration under Section 514B-162 of the Act, as amended; provided that a unit owner may only file for arbitration if all amounts claimed by the Association are paid in full on or before the date of filing. If the unit owner fails to keep all Association assessments current during the arbitration, the Association may ask the arbitrator to temporarily suspend the arbitration proceedings. If the unit owner pays all Association assessments within thirty days of the date of suspension, the unit owner may ask the arbitrator to recommence the arbitration proceedings. If the owner fails to pay all Association assessments by the end of the thirty day period, the Association may ask the arbitrator to dismiss the arbitration proceedings. The unit owner shall be entitled to a refund of any amounts paid to the Association which are not owed.[53]

Section 2. Allocation and Payment of Common Expenses.

For the purpose of fixing and determining the payments to be made as herein above provided in this Article VI, the Board shall, on behalf of all Owners and no later than the annual Owners meeting, determine for each fiscal year the estimated aggregate amount of the common expenses for such year. The Board, on behalf of the Owners, may from time to time

during each year make reasonable adjustments in said estimated aggregate amount of common expenses on the basis of actual costs incurred. The common expenses, as determined by the Board, shall be allocated and paid as follows:[54]

(A) The aggregate amount so estimated by the Board, and the actual aggregate amount so determined by the Board, shall be allocated by the Board among the owners in proportion to the common interests appurtenant to their Units.

(B) The amount of the estimated common expenses for each fiscal year, so determined and allocated to each Owner from time to time, shall be payable by the Owner in equal monthly installments in advance on or before the first (1st) day of each month. Each Owner shall pay any unpaid balance of the actual amount of such Owner's proportionate share of the common expenses as so determined and allocated by the Board from time to time. Any omission or delay in determining and allocating said expenses for any year shall not relieve the Owners therefrom. In such event, the Owners, pending the determination and allocation thereof, shall pay monthly installments of common expenses in accordance with the last determination and allocation of such expenses for the preceding fiscal year, and shall pay the deficiency, if any, upon the proper determination and allocation of the estimated common expenses within ten (10) days after notice thereof. Each such payment transmitted to the Board, as agent of all Owners, shall then be transmitted by the Board to the third persons entitled to payment of the same from each Owner.

(C) Anything herein to the contrary notwithstanding, the Board shall have the right to require each Owner to pay at such time as the Board shall deem proper as a common expense in a lump sum his proportionate share of such amount as shall be determined by the Board to be necessary for working capital and to pay initial expenses.

(D) The Board will pay or cause to be paid all common expenses, as agent for and on behalf of all Owners. The Board will keep and maintain or cause to be kept and maintained 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. All records and the vouchers authorizing the payments shall be kept and maintained at the address of the Project or elsewhere in the State of Hawai'i as determined by the Board, and shall be available for inspection by the Owners at convenient hours on weekdays. Each Owner, as principal, shall be liable for and pay his share, determined as aforesaid, of all common expenses and the Board shall be responsible, as agent for each Owner, only to transmit the payments made by the Owner to third persons to whom such payments must be made by the Owner. The Board or Managing Agent collecting the common expenses shall not be liable for payment of said common expenses as principal but only as the agent of all Owners to transmit said payments to third persons to whom said payments must be made by the Owner.

Section 3. Taxes and Assessments.

Except as may be otherwise provided in the Declaration, each Owner of a Unit shall be obligated to have the real property taxes for his own Unit and its appurtenant interest in the common elements assessed separately by the proper governmental authority and to pay the amount of all such real property taxes so determined. The foregoing sentence shall apply to all types of taxes which now are or may hereafter be assessed separately by law on each Unit and the common interest in the common elements appertaining thereto or the personal property or any other interest of the Owner. Each Owner shall execute such documents and take such action as may be reasonably specified by the Board to facilitate dealing with the proper

governmental authority regarding such taxes and assessment. Each Owner shall be obligated to pay to the Board his proportionate share of any assessment by the Board for any portion of taxes or assessments, if any, assessed against all or any part of the common elements, such payment to be made as directed by the Board. 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 such taxes or assessments and shall assess the same to the Owners in their proportionate share as determined by the Board. Such assessments by the Board shall be secured by the lien created by Section 5 of this Article VI.

Section 4. Default in Payment of Assessments.

Each monthly assessment and each special assessment shall be separate, distinct and personal debts and obligations of the Owner against whom the same are assessed. If any Owner shall fail to pay his assessment when due, then he shall pay an additional assessment or service charge of ten dollars ($10.00) (or such other reasonable amount as the Board may establish from time to time) for each such failure, and all delinquent assessments shall also bear interest at the rate of one percent (1%) per month (or such other reasonable percentage as the Board may establish from time to time) from the assessment due date until paid. In the event of a default or defaults in payment of any such assessment or assessments, the Board, in addition to any other remedies provided herein or by law, may enforce each such obligation as follows:

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

(B) At any time within ninety (90) days after the occurrence of any such default, the Board[55] may give a notice to the defaulting Owner, with a copy to the mortgagee of such Owner, if such mortgagee has furnished its name and address to the Board, which said notice shall state the date of delinquency, the amount of the delinquency and make a demand for payment thereof. If such delinquency is not paid within ten (10) days after delivery of such notice, the Board may elect to file a claim of lien against the Unit of such delinquent Owner. Such claim of lien shall state (1) the name of the delinquent Owner or Owners, (2) a description of the Unit against which the claim of lien is made, (3) the amount claimed to be due and owing (with any proper offset allowed), (4) that the claim of lien is made by the Board pursuant to the terms of these Bylaws and the Act, and (5) that a lien is claimed against said described Unit in an amount equal to the amount of the stated delinquency. Any such claims of lien shall be signed and acknowledged by any two or more members of the Board and shall be dated as of the date of the execution by the last such Board member to execute said claim of lien. Upon recordation of a duly executed original or copy of such claim of lien in the Bureau of Conveyances of the State of Hawai'i, the Board shall have all remedies and priorities provided in the Act. Each default shall constitute a separate basis for a claim of lien.

(C) For the purposes of this Section 4, a certificate executed and acknowledged or made under penalty of perjury by any two members of the Board shall be

conclusive upon the Board and the Owners in favor of any and all persons who rely thereon in good faith as to the matters therein contained, and any Owner shall be entitled to such a certificate setting forth the amount of any due and unpaid assessments with respect to his Unit (or the fact that all assessments due are paid if such is the case) within fifteen (15) days after demand therefor and upon payment of a reasonable fee.[56] In the event any claims of liens have been recorded, and thereafter the Board shall receive payment in full of the amount claimed to be due and owing, then upon demand of the Owner or his successor, and payment of a reasonable fee,[57] the Board, acting by any two members, shall execute and acknowledge (in the manner provided above) a release of lien stating the date of the original claim of lien, the amount claimed, the date, the book and page of recordation of the claim of lien, and the fact that the lien has been fully satisfied and that the particular lien is released and discharged, such release of lien to be delivered to Owner or his successor upon payment of the fee.

Section 5. Liens.

(A) All unpaid sums assessed by the Association as common expenses chargeable to any Unit shall constitute a lien on such Unit prior to all other liens, except only (1) liens for taxes and assessments lawfully imposed by governmental authority against the Unit, and (2) all sums unpaid on mortgages of record that were recorded prior to the recordation of a notice of a lien by the Association, and costs and expenses including attorneys' fees provided in such mortgages. Such lien may be foreclosed by an action or by nonjudicial or power of sale foreclosure procedures set forth in Chapter 667 of the Hawai'i Revised Statutes, as amended, by the Managing Agent or the Board of Directors acting on behalf of the Association, in like manner as a mortgage of real property. In any such foreclosure the unit owner shall be required to pay a reasonable rental for the unit, (as determined in the sole discretion of the Board, acting by a majority) and the plaintiff in the foreclosure shall be entitled to the appointment of a receiver to collect the same. An action to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same.[58]

(B) Except as provided in Section 514B-146(g) of the Act, as amended, if the mortgagee of a mortgage of record or other purchaser of a Unit obtains title to the Unit as a result of foreclosure of the mortgage, such acquirer of title, his successors and assigns, shall not be liable for the share of common expenses or assessments by the Association chargeable to the Unit which became due prior to the acquisition of title to such Unit by the acquirer. Such unpaid share of common expenses or assessments shall be deemed to become an expense collectible from all of the Unit Owners, including the acquirer, his successors and assigns, provided that nothing herein shall prevent the Association from thereafter collecting said amount from the delinquent Unit Owner.[59]

(C) In a voluntary conveyance the grantee of a unit is jointly and severally liable with the grantor for all unpaid assessments against the latter for his share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's power to recover from the grantor the amounts paid by the grantee therefor. However, any such grantor or grantee is entitled to a statement from the Managing Agent or Board setting forth the amount of the unpaid assessments against the grantor, and except as to the amount of subsequently dishonored checks mentioned in such statement as having been received within the thirty day period immediately preceding the date of such statement, the grantee is not liable for, nor is the unit conveyed subject to a lien for, any unpaid assessments against the grantor in excess of the amount therein set forth.

Section 6. Attorney's Fees and Expenses of Enforcement.

All costs and expenses including reasonable attorney's fees, incurred by or on behalf of the Association by the Board in collecting any delinquent assessments against any Owner's Unit, in foreclosing any lien thereon, or in enforcing any provision of the Declaration, these Bylaws, the House Rules and Regulations, the Act or the rules and regulations of the real estate commission against any Owner, occupant, tenant, employee of an owner, or any other person who may in any manner use the property or a unit shall be promptly paid on demand to the Board by the Unit Owner; provided that if none of the claims upon which the Board takes any action are substantiated, all costs and expenses, including reasonable attorney's fees, incurred by the Unit Owner or such other person as a result of the action of the Board, shall be promptly paid on demand to the Unit Owner by the Board on behalf of the Association.

Section 7. Waiver.

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

Section 8. Waiver of Use of Common Elements; Abandonment of Unit; Conveyance to Board of Directors.

No unit owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use and enjoyment of any of the common elements or by abandonment of his unit. Notwithstanding the foregoing, any unit owner may, by conveying his unit and his common interest to the Board of Directors on behalf of all other unit owners, exempt himself from common expenses thereafter accruing, subject to the following:[60]

1) The Unit Owner shall pay prior to conveying his unit and common interest to the Board, any and all common expenses, fines, penalties or other late fees assessed by the Board against him or his unit prior to the date of conveyance;

2) The Unit Owner shall execute any and all documents necessary to accomplish the conveyance of the Unit and common interest to the Board;

3) The Unit Owner shall hold harmless the Association, the Board, the Officers, the Managing Agent, any employee or agent of any of the foregoing, and any unit owner harmless from any liability arising from events occurring prior to the time of the conveyance of the unit and the common interest;

4) The Unit Owner shall convey his entire interest in the Unit and his common interest to the Board; and

5) The Unit Owner shall pay for all costs and expenses including attorneys' and accountants' fees, incurred by the Association to facilitate the conveyance to the Board.

ARTICLE VII

INSURANCE AND RESTORATION

Section 1. Fire and Extended Coverage Insurance.

The Association shall procure, and at all times maintain or cause to be maintained from a reputable and substantial company or companies qualified to do business in Hawai'i a policy or policies (herein called the "Policy") of fire insurance, with extended coverage endorsements and war risk coverage (if reasonably obtainable), such Policy to be in an amount as nearly as practicable to one hundred percent (100%) of the insurance replacement cost, without deduction for depreciation, covering the Units and fixtures therein, the common elements, and the buildings and their fixtures and building service equipment (including all exterior and interior walls, floors, and ceilings), in the name of the Association as insured, as trustee for the Association and each of the Owners of the Unit(s) so affected in proportion to their respective interests in the items so insured. Exterior glass may be insured at the option of the Association.

The cost of each said policy shall be charged to and among the Unit Owners in proportion to their respective percentage ownership interest in the common elements or limited common elements so insured.

The Policy (unless unobtainable):

(A) shall contain no provision limiting or prohibiting other insurance by the Owner of any Unit, such right being provided by the statute but, if obtainable, shall provide that the liability of the insurer shall not be affected by, nor shall the insurer claim any right of setoff, counterclaim, apportionment, proration, or contribution by reason of any such other insurance;

(B) shall contain no provision relieving the insurer from liability because of loss occurring while the hazard is increased in the buildings, whether or not within the control or knowledge of the Board, or if obtainable, shall contain no provision relieving the insurer from liability by reason of any breach of warranty or condition caused by the Board or the Owner or tenant of any Unit, or by reason of any act or neglect of the Board or the Owner or tenant of any Unit;

(C) shall provide that the Policy may not be canceled or coverage thereunder reduced (whether or not requested by the Board) except by giving to the Board and to the Owner and/or mortgagee of each Unit who shall have requested such notice of the insurer in writing addressed to him at the premises, thirty (30) days' written notice of such cancellation or reduction in coverage;

(D) shall contain a provision waiving any right of subrogation by the insurer to any right of the Association against the Owner or lessee of any Unit;

(E) shall contain a provision waiving any right of the insurer to repair, rebuild or replace if a decision is made pursuant to Section 5 of this Article VII[61] not to repair, reinstate, rebuild or restore the damage or destruction;

(F) shall provide that any loss shall be adjusted with the Board, the Owner and the mortgagee of any Unit directly affected by the loss;

(G) shall contain a standard mortgagee clause which:

(1) shall name the holder of any mortgage affecting any Unit whose name shall have been furnished to the Board;

(2) shall provide that the insurance as to the interest of the mortgagee shall not be invalidated by any act or neglect of the Board or the Owner or tenant of any Unit;

(3) shall waive any requirement invalidating such mortgagee clause by reason of the failure of the mortgagee to notify the insurer of any hazardous use or vacancy, any requirement that the mortgagee pay any premium (provided, however, in case the Board shall fail to pay the premium due or to become due under the policy, the mortgagee may pay the same prior to the effective date of the termination of the policy), any contribution clause, and any right to be subrogated to the right of any mortgage against the Owner or lessee of any Unit or the Board or require an assignment of any mortgage to the insurer, except that the insurer will have the right of subrogation to the extent of insurance proceeds received by and retained by the mortgagee if the insurer shall claim no liability as to the mortgagor or Owner, but without impairing mortgagee's right to sue.

(4) shall provide that without affecting the protection afforded to the mortgagee by such mortgagee clause, any proceeds payable under such clause shall be payable to a corporate trustee selected by the Board who shall be a substantial bank or trust company doing business in Hawai'i, herein referred to as the "Insurance Trustee" or "Trustee";

(5) shall provide that any reference to a mortgagee in the Policy shall include all mortgages on any Unit, in order of preference;

(H) shall provide for payment of the proceeds to the Insurance Trustee;

(I) shall contain a provision requiring the insurance carrier, at the inception of the Policy and on each anniversary date thereof, to provide the Board with a written summary, in layman's terms, of the Policy. The summary shall include the type of Policy, a description of the coverage limits thereof, amount of annual premium, and renewal dates. The Board shall provide this information to each Unit Owner; and

(J) shall be accompanied by the certificate of a licensed insurance broker or agent certifying that the policy complies with and satisfies all the requirements contained in this Section 1.

Section 2. Commercial General Liability Insurance.

The Association shall procure and maintain from a reputable company or companies a policy or policies (herein called the "Policy") of Commercial General Liability Insurance to insure the Board, each Unit Owner, the Developer and the Managing Agent and other employees of the Association against claims for personal injury, death and property damage arising out of the condition of the Project or activities thereon or on adjacent sidewalks and roadways under a Commercial General Liability form to include, but not be limited to, Water Damage Legal Liability and Fire Damage Legal Liability. The Policy (a) shall have minimum limits of not less than $1,000,000.00 for injury to one person and $1,000,000.00 for injury to more than one person in any one accident or occurrence and $300,000.00 for property damage; (b) shall contain no provision relieving the insurer from liability because of loss occurring while the hazard is increased in the buildings, whether or not within control or knowledge of the

Board, or by any breach of warranty or condition caused by the Owner of any Unit, or by any act or neglect of the Owner or tenant of any Unit; and (c) shall provide that the Policy may not be cancelled (whether or not requested by the Board) except by giving to the Board, to the Owner of each Unit, to the Developer, and to any mortgagee who shall have requested such notice of the insurer in writing, thirty (30) days' written notice of such cancellation.[62]

Section 3. Flood Insurance and Insurance Against Additional Risks.

If the Project is ever located in an identified flood hazard area as delineated from time to time by the federal Department of Housing and Urban Development, the Association shall procure, purchase and at all times maintain flood insurance under the provisions of the federal Flood Disaster Protection Act of 1973 with the same coverage and terms as required for fire insurance under Section 1 of this Article VII, but only to the extent required by law or otherwise deemed advisable by the Board. The Board may also procure or cause to be procured insurance against such additional risks as the Board may deem advisable for the protection of the Unit Owners of a character normally carried with respect to properties of comparable character and use in the State of Hawai'i.

Section 4. Miscellaneous Insurance Provisions.

Except as specifically stated otherwise above, all insurance required hereunder will be obtained and maintained by or in conjunction with the Association acting through the Board. The Board shall review not less frequently than annually the adequacy of its insurance program and shall report in writing the Board's conclusions and action taken on such review to the Owner of each Unit, and to the holder of any mortgage on any Unit who shall have requested a copy of such report. At the request of any mortgagee of any Unit, the Board shall, upon reimbursement of costs incurred, furnish to such mortgagee a copy of the Policy described in Section 1 of this Article and of any other Policy to which a mortgagee endorsement shall have been attached, and proof satisfactory to such mortgagee that payment of premiums on such policy has been made for the period for which the mortgagee may request such proof. Copies of every policy of insurance procured by the Board shall be available for inspection by any Unit Owner (or purchaser holding a contract to purchase an interest in a Unit) at the office of the Managing Agent.

Any coverage procured by the Board shall be without prejudice to the right of the Owners of Units to insure such Units and the contents thereof for their own benefit at their own expense.

Section 5. Damage and Destruction.

(A) If the buildings are damaged by fire or other casualty which is insured against, and said damage is limited to a single Unit and/or limited common elements appurtenant exclusively to that Unit, the insurance proceeds shall be used by the Trustee for payment of the contactor employed by the Unit Owner to rebuild or repair such Unit, including paint, floor covering and fixtures, generally in accordance with the original plans and specifications therefor, or if reconstruction in accordance with said design is not permissible under the laws then in force, or practical in accordance with such modified plans as shall be previously approved by the Board, the affected Unit Owner(s) and the mortgagee of record of any interest in a Unit directly affected thereby.

(B) If such damage extends to two or more Units or extends to any part of any limited common elements or to the common elements, the Board shall thereupon contract to repair or rebuild the damaged portions of the building or buildings, including all Units so damaged, as well as the common elements, in accordance with plans and specifications

therefor which will restore the same generally to the design immediately prior to destruction or if reconstruction in accordance with said design is not permissible under the laws then in force, or practical, in accordance with such modified plan as shall be previously approved by the Board, the affected Unit Owner(s) and the mortgagee of record of any interest in a Unit directly affected thereby; provided that in the event said modified plan eliminates any Unit and such Unit is not reconstructed the Insurance Trustee shall pay the Owner of said Unit, as their interests may appear, the portion of said insurance proceeds allocable to said Unit (less the proportionate share of said Unit in the cost of debris removal) and shall disburse the balance of insurance proceeds as hereinafter provided for the disbursement of insurance proceeds.

(C) The insurance proceeds shall be paid by the Trustee to the contractor employed for such work, in accordance with the terms of the contract for such construction and in accordance with the terms of this Section 5. If the insurance proceeds are insufficient to pay all the costs of repairing and/or rebuilding any general common elements, the Board shall levy a special assessment on the Owners of Units in proportion to their respective common interests. Any costs in excess of the insurance proceeds for the repairing and/or rebuilding of any Unit(s) or limited common elements shall be specially assessed against the respective owner(s) thereof and said special assessment shall be secured by the lien created under Section 5 of Article VI hereof.

(D) The cost of the work (as estimated by the Board) shall be paid out from time to time or at the direction of the Board as the work progresses, but subject to the following conditions:

(1) An architect or engineer (who may be an employee of the Board) shall be in charge of the work.

(2) Each request for payment shall be made on seven (7) days' prior notice to the Trustee and shall be accompanied by a certificate to be made by such architect or engineer stating that all of the work completed has been done in compliance with the approved plans and specifications and that the sum requested is justly required to reimburse the Board for payments by the Board to, or is justly due to, the contractor, subcontractors, materialmen, laborers, engineers, architects or other persons rendering services or materials for the work (giving a brief description of such services or materials) and that when added to all sums previously paid out by the Trustee the sum requested does not exceed the value of the work done to the date of such certificate.

(3) Each request shall be accompanied by waivers of liens satisfactory to the Trustee, covering that part of the work for which payment or reimbursement is being requested and by a search prepared by a title company or licensed abstractor or by other evidence satisfactory to the Trustee that there has not been filed with respect to the premises any mechanics' or other lien or instrument for the retention of title with respect to any part of the work not discharged of record.

(4) The request for any payment after the work has been completed shall be accompanied by a copy of any certificate or certificates required by law to render occupancy of the premises legal.

(5) The fees and expenses of the Trustee as determined by the Board, the affected Unit Owner(s) and the Trustee shall be deemed to be an additional cost of such repair or reconstruction, to be charged to the Association or unit owner(s) responsible for

the costs of such work, and such fees and expenses may be deducted from any proceeds at any time in the hands of the Trustee.

(6) Such other conditions not inconsistent with the foregoing as the Trustee may reasonably request.

(E) Upon completion of the work and payment in full therefor, any remaining proceeds of the insurance then or thereafter in the hands of the Board or the Trustee shall be paid or credited to the Owners of the Units so affected (or to the holder of any mortgage on a Unit if there be a mortgage) in proportion to their respective interests in the property so repaired or reconstructed.

(F) To the extent that any loss, damage or destruction to the building or other property is adequately covered by insurance procured by the Board, the Board shall have no claim or cause of action for such loss, damage or destruction against any Unit Owner or lessee. To the extent that any loss, damage or destruction to the property of any Unit Owner or lessee is adequately covered by insurance procured by such Owner or lessee, such owner or lessee shall have no claim or cause of action for such loss, damage or destruction against the Board, the Managing Agent, any other Unit Owner or the Association. All policies of insurance referred to in this paragraph (F) shall contain appropriate waivers of subrogation.

Section 6. Uninsured Casualty.

In case at any time or times any improvements of the Project shall be damaged or destroyed by any casualty not herein required to be insured against, such improvements shall, unless specifically agreed to the contrary by sixty-seven percent (67%) of the Unit Owners, be rebuilt, repaired or restored to the extent permitted by law. The unit owner(s) suffering such casualty shall be solely responsible for any restoration of their respective units and limited common elements appurtenant thereto so damaged or destroyed, according to the original plans and elevation thereof, or such other plan first approved by appropriate governmental authority and any affected mortgagee(s). Unless such restoration is undertaken within a reasonable time after such casualty, the Association at its common expense (but with right to reimbursement from the responsible unit owners) shall remove all remains of improvements so damaged or destroyed and restore the site thereof to good orderly condition and even grade for the subsequent use by the Association. Any restoration of the common elements shall be completed diligently by the Association at its common expense, and following such restoration the remainder of the Project shall be held or disposed of as may be approved by a majority of unit owners.

Section 7. Directors' and Officers' Liability Insurance.

The Association may purchase and maintain directors' and officers' liability insurance with minimum coverage in such amount as shall be determined by the Board. Premiums for such insurance shall be a common expense.

ARTICLE VIII

REGULATION OF PARKING

Section 1. Non-assigned Parking.

Parking spaces are not assigned. Owners and guests may park in any available parking space subject to the parking rules of the association.[63]

Section 2. Limit on Vehicles.

Only one vehicle per Unit may be parked on the Project property by the Owner or occupants of each Unit, unless permission for additional vehicles is granted in writing by the Board of Directors. Administration of unassigned parking spaces if any shall be at the discretion of the Board of Directors.[64]

ARTICLE IX

CONDEMNATION

Section 1. Condemnation.

In the event of a taking in condemnation or by eminent domain of part or all of the Project, all compensation and damages for or on account of the land and all compensation payable for or on account of the taking of any building or improvements on the land shall be payable to a condemnation trustee, who shall be designated by the Board and who shall be a substantial bank or trust company doing business in Hawai'i. To the extent practical, the Board shall arrange for the repair and restoration of the buildings or improvements so taken in accordance with the design thereof immediately prior to such condemnation, or if such repair and restoration in accordance with said design are not permissible under the laws then in force, in accordance with such modified plan as shall be previously approved by the Board and the mortgagee of record of any interest in the Unit directly affected thereby.

In the event of a partial taking in which any Unit, or the limited common elements appurtenant thereto, is eliminated or not restored, the condemnation trustee shall disburse the portion of the proceeds to such award allocable to said Unit, less the proportionate share of any costs, to the owner of said Unit and his mortgagee, if any, as their interests may appear.

Any remaining amounts being those attributable to the common elements, shall be payable to all owners in proportion to their respective interests in the common elements.

In the case of restoration, the condemnation trustee shall disburse the remainder of the proceeds of such award to the contractor engaged in such repair and restoration in the same way funds are disbursed for repair and restoration work under Section 5 of Article VII above, and in the event such proceeds are insufficient to pay the costs thereof the Board shall levy special assessment on the Owners of the Units so affected in proportion to their common interest. In the even sums are received in excess of the cost of repairing and restoring the remaining buildings and improvements, or in the event all of the buildings and improvements are so taken or condemned, such excess proceeds or said proceeds, as the case may be, shall be divided among the mortgagees and Owners of the Units in accordance with their interests in the common elements.

ARTICLE X

GENERAL PROVISIONS

Section 1. Abatement and Enjoinment of Violations by Unit Owners.

The violations (as determined by a majority of the Board of Directors) of any House Rule or of any other rule or regulation adopted by the Board, or the breach of any Bylaw contained herein or of any provision of the Declaration, shall give the Board the right, in addition to any other rights set forth in these Bylaws, (a) to enter the Unit in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist therein, contrary to the intent and meaning of the provisions hereof, and the Board shall not thereby be deemed guilty in any manner of trespass; (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach, and all costs thereof, including attorneys' fees, shall be borne by the defaulting Unit Owner; and/or (c) to impose such further sanctions, monetary penalties and/or service charges as may be established by the Board from time to time (subject to revocation by a majority of Unit Owners) consistent with these Bylaws and Hawai'i Law.

Section 2. Additions or Alterations by Board.

Whenever, in the judgment of the Board, the common elements shall require additions or alterations costing less than Twenty Thousand Dollars ($20,000.00) the Board may proceed with such additions or alterations and shall assess all Owners for the cost thereof as a common expense. Any additions or alterations costing in excess of Twenty Thousand Dollars ($20,000.00) may be made by the Board only after obtaining approval by written consent of the Owners of sixty-seven percent (67%) of the interest in the common elements. If such approval shall be obtained, the cost thereof shall constitute part of the common expenses; provided this limitation shall not apply to any maintenance, repair or replacement required by the Declaration, these Bylaws, or the Act.[65]

Section 3. Right of Access.

A Unit Owner shall grant a right of access to his Unit to the Managing Agent and/or any other person authorized by the Board or the Managing Agent, for the purpose of making inspections or for the purpose of correcting any condition originating in his Unit and threatening another Unit or a common element, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services or other common elements in his Unit or elsewhere in the buildings, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the Owner. In case of emergency, such right of entry shall be deemed granted, to be effective immediately, whether the Owner is present at the time or not.

Section 4. Arbitration.

In the event of a dispute between one or more Unit Owners and the Association with respect to any matter, the parties shall first submit the dispute to mediation for resolution to be conducted under the American Arbitration Association Commercial Mediation Rules.

If the dispute is not resolved by mediation within 60 days of same being submitted, then the dispute shall be referred to arbitration for resolution pursuant to Section 514B-162 of the Hawai'i Revised Statutes, as amended.[66]

Section 5. Notices.

All notices to the Association or the Board shall be sent by first class mail, postage prepaid, to the Board, c/o the Managing Agent or, if there is no Managing Agent, to the office of the Board or to such other address as the Board may hereafter designate from time to time. All notices to any Owner shall be sent by first class mail, postage prepaid, to the building or to such other address as may have been designated by him from time to time, in writing, to the Board. Except as otherwise expressly provided in these Bylaws, all notices to mortgagees of Units shall be sent by first class mail, postage prepaid, to their respective addresses, as designated by them from time to time, in writing, to the Board. All notices shall be deemed to have been given when mailed, except notices of change of address that shall be deemed to have been given when received.

Section 6. Offices.

The principal office of the Association shall be at 1310 Uluniu Road, Kihei, Maui, Hawai'i, 96753, unless and until changed by the Board of Directors.

Section 7. Captions.

The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws, or the intent of any provisions thereof.

Section 8. Amendment.

The provisions of these Bylaws may be amended by the Owners of Units to which are appurtenant not less than sixty-seven percent (67%) of the common interest, which amendment shall be effective upon filing in the Bureau of Conveyances of the State of Hawai'i an instrument in writing, signed and acknowledged by such Owners or by the proper officers of the Association; provided, however, that each one of the particulars set forth in Section 514B-108 of the Act, as amended, shall always be embodied in these Bylaws.[67]

Section 9. Owners May Incorporate.

All of the rights, powers, obligations and duties of the Owners imposed hereunder may be exercised and enforced by a non-profit membership corporation formed by the Owners under the laws of the State of Hawai'i for the purposes herein set forth. Such corporation shall be formed upon the written approval of seventy-five percent (75%) in interest of the Owners. The formation of such corporation shall in no way alter the terms, covenants and conditions herein set forth, and the Articles and Bylaws of such corporation shall be subordinated hereto and controlled hereby. Any action taken by such corporation in violations of any or all terms, covenants or conditions contained herein shall be void and of no effect.

Section 10. Severability.

The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision shall not affect the validity or enforceability of any other provision hereof.

Section 11. Hawai'i State Condominium Law.

The Condominium owners and Association are required at all times to operate according to the current "State of Hawai'i Statutes on Condominium Law", whether they have been officially made part of these Bylaws or not.[68]

Section 12. Rentals.

An owner may rent of lease their unit either privately or through a Rental Agent. Private leases of an owner unit shall not exceed 90 days. This does not preclude the owner's right to extend such lease at their option for additional periods.

No rental or lease to any County, State or Governmental Agencies shall be longer than one month. This does not preclude the owners' right to extend such a rental or lease at their option, up to another month.[69]

Section 13. Discrimination Prohibited.

The Association shall not engage in any prohibited discrimination. The unit owners adopt the following provisions to implement that policy, which shall apply regardless of any contrary requirement in the Association documents:

(a) In granting or withholding any approval or consent required under the Association documents, the Board of Directors shall avoid any prohibited discrimination.

(b) In enforcing any requirement of the Association documents, the Board shall avoid any prohibited discrimination against children, particularly in evaluating any request relating to occupancy restrictions or leasing or renting any unit located in the Project.

(c) The Board may suspend any requirement of the Association documents which, if enforced, would result in prohibited discrimination. If the Board suspends any requirement which can be amended only with unit owner approval, the Board shall propose the amendment or deletion of the requirement at the next meeting of the unit owners, whether annual or special. The Board or the unit owners may call a special meeting of the unit owners for that purpose, in compliance with the Bylaws.

(d) A disabled occupant of the Project may keep a guide dog, signal dog, or other animal required because of the occupant's disability. If such an animal causes a nuisance, the occupant will be given a reasonable opportunity to resolve the problem by measures which fall short of removing the animal from the Project. If the Board determines those measures have been unsuccessful, it may require removal of the animal. If the Board requires removal, the occupant will be allowed reasonable time to obtain a suitable substitute animal. During that time, the animal creating the nuisance will be allowed to remain on the Project, provided its continued presence does not create an unreasonable imposition on any other occupant. In addition, a disabled guest of a unit owner or occupant may bring a guide dog, signal dog, or other animal required for assistance onto the Project, provided the animal does not cause a nuisance or unreasonable disturbance.

(e) At their own expense, disabled occupants may: (i) make reasonable modifications to a unit or the common areas; and (ii) have reasonable exemptions from requirements of the Association documents, to enable the occupants to have full use and enjoyment of the Project. A disabled occupant requiring a modification or exemption shall submit a written request to the Board specifying the nature of the request and why it is necessary. The Board shall not unreasonably withhold or delay its consent to the request, and any such request shall be deemed to be granted if not denied in writing, within forty-five (45) days after the Board receives it.

As used in this section: "Prohibited discrimination" means any discrimination prohibited by any Federal or State law or any ordinance of the County of Maui. "Association

documents" means the Declaration, Bylaws, House Rules, or any other documents of the Association.[70]

IN WITNESS WHEREOF, the undersigned have executed this instrument on this 5th day of June, 2009.

THE ASSOCIATION OF APARTMENT OWNERS OF HALE KAI O'KIHEI

By: Edward G. Andrews
(Print name: EDWARD G. ANDREWS)
Its: President

By: Cathy D. Webb
(Print name: CATHY D. WEBB)
Its: Secretary

STATE OF NEVADA)
) ss.
COUNTY OF HUMBOLDT)

On this 5th day of June, 2009, before me personally appeared EDWARD G. ANDREWS, 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.

ANNIE OLSEN
Notary Public, State of Nevada
Appointment No. 05-98369-9
My Appt. Expires Aug 15, 2009

Print Name: Annie Olsen
Notary Public, State of Nevada

My Commission Expires: Aug 15 2009

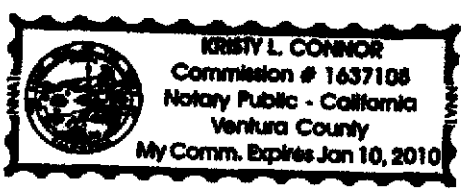
STATE OF CALIFORNIA)
) ss.
COUNTY OF VENTURA)

On this 11th day of June, 2009, before me personally appeared CATHY D. WEBB, 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.

Kristy L. Connor

Print Name: KRISTY L. CONNOR
Notary Public, State of California

My Commission Expires: 1/10-2010



ENDNOTES

The following endnotes correspond to provisions in the Bylaws which have been restated to conform to Chapter 514B, Hawai'i Revised Statutes, as amended, the Federal Fair Housing Act, as amended (Title 42, Chapter 45 of the United States Code) and its State counterpart, Chapter 515 of the Hawai'i Revised Statutes, as amended, and to integrate all amendments made to the Bylaws. This Amendment and Third Restatement of Bylaws correctly sets forth without change the corresponding provisions of the original By-Laws, as amended, and supersede the original By-Laws and all prior amendments thereto and restatements thereof. This Amendment and Third Restatement was made solely for the purpose of information and convenience. In the event of a conflict, the Amendment and Third Restatement shall be subordinate to the cited statute.

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[1] Chapter 514A has been recodified as Chapter 514B of the Hawai'i Revised Statutes ("HRS").

[2] Article I, Section 1(B) was amended to conform to Sections 514B-3 and 514B-35, HRS, which add certain categories of limited common elements not necessarily designated in the Declaration.

[3] Chapter 514B, HRS replaced the term "Apartment" with the term "Unit". This replacement has been made throughout these Bylaws. The definition of "apartment" in Article I, Section 1(C) was also amended to make clear that the words "apartment" and "unit" are interchangeable.

[4] Article I, Section 1(E) was amended to replace the words "Horizontal Property Regime" with "Condominium Property Regime" to reflect the current terminology. This replacement has been made throughout these Bylaws.

[5] This paragraph was added to Article II, Section 2(B) by the "Second Amendment to the Bylaws of the Association of Apartment Owners of Hale Kai O'Kihei" dated April 2, 1986, recorded in the Bureau of Conveyances of the State of Hawai'i in Liber 19449 at Page 684.

[6] Article II, Section 2(F) was amended to refer to Article X, Section 8 (instead of Section 9) of the Bylaws and to replace Section 514A-82(11), HRS with Section 514B-108(e), its current equivalent under the Recodification.

[7] Article II, Section 3 was amended to conform to (1) Section 514B-121(b), HRS, which states that special meetings may be called by a majority of the Board or upon a petition signed by at least 25% of the unit owners, and (2) Section 514B-121(e), HRS, which authorizes Association meetings to be held out of the State of Hawai'i in the event of a natural disaster.

[8] Article II, Section 4 was amended to conform to Section 514B-121(c), HRS, which authorizes notice to be given by electronic mail.

[9] Article II, Section 6 was amended to replace Sections 514A-83 and Section 514A-13(h), HRS, respectively with Section 514B-124, and Section 514B-108(b)(8), their recodified equivalents.

[10] Article II, Section 7 was amended to replace Section 514A-83.2, HRS, with Section 514B-123, its recodified equivalent.

[11] This part of Article II, Section 7 was amended to conform to Section 514B-123(d), HRS, which added the requirement that the proxy contain a box indicating the owner's wish to obtain a copy of the annual audit report.

[12] This paragraph was added to Article II, Section 7 to conform to Section 514B-123(b), HRS, which provides new rules for units that have more than one owner.

[13] This sentence of Article II, Section 7 was amended to conform to Section 514B-123(h)(2), HRS, which authorizes a board member to solicit proxies as an individual unit owner.

[14] Article II, Section 7A was added to incorporate the requirements of Subsections 514B-123(h), (i), and (j), HRS, relating to the solicitation of proxies by resident managers, Managing Agents, and Board members.

[15] Article II, Section 9 was amended by the "Amendment and Restatement of Bylaws of the Association of Apartment Owners of Hale Kai O'Kihei Including All Amendments" dated October 22, 2001 (the "2001 Amendment and Restatement"), recorded in the Bureau of Conveyances of the State of Hawai'i as Document Number 2001-166852, to change the order of subsections (F), (G), and (H).

[16] This part of Article II, Section 9 was amended to (1) state that Board meetings must be conducted in accordance with the most recent edition of Robert's Rules of Order Newly Revised, as required by Section 514B-121(d), HRS, (2) conform to Section 514B-122, HRS, which now states separate requirements for minutes of Association meetings, and (3) conform to Section 514B-152, HRS, which requires that Association records be kept on the island where the condominium project is located. The requirements for the minutes of Board meetings are now stated separately in Article III, Section 5.

[17] Article II, Section 11 was amended by the 2001 Amendment and Restatement to comply with Section 514A-96(a) (now Section 514B-150), HRS, which requires an annual audit of the Association's financial account and no less than one annual unannounced verification of the Association's cash balance by a public accountant.

[18] This part of Article III, Section 1 was amended to conform to Sections 514B-107(a) and (b), HRS, which expanded and limited the list of persons who can be Board members.

[19] This sentence was added to Article III, Section 4 by the "Restatement of Bylaws of the Association of Apartment Owners of Hale Kai O'Kihei Including All Amendments" dated April 7, 1995 (the "1995 Restatement"), recorded in the Bureau of Conveyances of the State of Hawai'i as Document Number 95-052812.

[20] Article III, Section 5 was amended to conform to (1) Section 514B-125(c), HRS, which states that all Board meetings must be conducted in accordance with Robert's Rules of Order Newly Revised, (2) Section 514B-126, HRS, which states separate requirements for minutes of Board meetings, and (3) Section 514B-152, HRS, which that Association records be kept on the island where the condominium project is located.

[21] Article III, Section 8(B) was amended to conform to Section 514B-125(b), HRS, which expanded the list of matters that may be covered in an executive session.

[22] Article III, Section 8 was amended by the 1995 Restatement to add a subsection (C) to conform to Section 514A-83.4(a) (now Section 514B-126(a)), HRS, which requires that the minutes of Board meetings include the vote of each Board member on all motions except motions voted on in executive session.

[23] Article III, Section 9 was amended to conform to Section 514B-125(d), HRS, which requires posted notice of all Board meetings.

[24] Article III, Section 10 was amended to conform to Section 514B-125(c), HRS, which permits meetings conducted by any means of communication that allows all directors to simultaneously hear each other and adds that unit owners may participate in these meetings.

[25] Article III, Section 11(A)(4) was amended by the 1995 Restatement.

[26] Article III, Section 11(A)(5) was amended to include a reference to the requirements of Section 514B-149, HRS, regarding the handling and disbursement of funds.

[27] Article III, Section 11(A)(7) was amended to incorporate a reference to the insurance requirements stated in Section 514B-143, HRS.

[28] Article III, Section 11(A)(8) was amended to conform to Section 514B-133(b), HRS, which restricts the right of Association employees to sell or rent units in the condominium in which they are employed, without owner approval.

[29] Article III, Section 11(A)(9) was amended by the 1995 Restatement to remove the requirement that the budget be prepared within 60 days prior to the beginning of the fiscal year. It was further amended to replace the term "Horizontal Property Regime" with "Condominium Property Regime".

[30] Article III, Section 11(A)(10) was amended to include a reference to Section 514B-137, HRS, which states that the Association is not responsible for the costs of removing or replacing any finished surfaces or other barriers in the units which impede the Board's ability to maintain and repair the common elements.

[31] Article III, Section 11(A)(11) was amended to replace Section 514A-13 with Section 514B-38(5), HRS, and to reduce the required percentage of approval from 75% to 67% to conform to Section 514B-38(5), HRS.

[32] Article III, Section 11(A)(12) was amended with the written consent of at least 67% of the owners to reduce the required owner approval from 75% to 67%.

[33] Article III, Section 11(A)(13) was amended to conform to Section 514B-38(5) and (6), HRS, which reduced the required percentage of owner approval to change the use of the common elements from 75% to 67%.

[34] Article III, Section 11(A)(14) was amended to conform to Section 514B-152, which requires that Association records be kept on the island where the condominium project is located, and to Section 514B-153, HRS, which imposes restrictions on the availability of the Association's membership list.

[35] This part Article III, Section 12 was added to conform to Section 514B-106(a), HRS, which imposes a fiduciary duty on all directors and officers to the Association.

[36] This sentence of Article III, Section 12 was amended to conform to Section 514B-123(h)(2), HRS, which authorizes a board member to solicit proxies as an individual unit owner.

[37] Article III, Section 13 was amended by the 1995 Restatement and by the 2001 Amendment and Restatement to remove the requirement that the Board employ a managing agent for the Project. It was further amended with the written consent of at least 67% of the owners to normally prohibit the resident manager from making repairs to a unit.

[38] Article III, Section 14 was added to conform to Section 514B-107(e), HRS, relating to the documents which must be provided to members of the Board of Directors.

[39] Article III, Section 15 was added to incorporate the requirements of Section 514B-107(f), HRS, relating to educational expenses.

[40] Article III, Section 16 was added to conform to Section 514B-107(d), HRS, which restricts the ability of directors to use Association funds for their expenses.

[41] Article V, Section 1(D) was amended with the written consent of more than 67% of the owners to require that the owners be responsible for the jalousie inserts they or the previous owners installed on the entry doors.

[42] Article V, Section 1(E) was added with the written consent of more than 67% of the owners to authorize the Board to impose standards to preserve the uniform appearance of the building.

[43] Article V, Section 2(C) was amended by the 2001 Amendment and Restatement to replace the word "children" with "person" to comply with the Federal Fair Housing Act, as amended (Title 42, Chapter 45 of the United States Code) and its State counterpart, Chapter 515 of the Hawai'i Revised Statutes, as amended, which prohibit discrimination against children.

[44] Article V, Section 2(D) was amended by the 2001 Amendment and Restatement to replace the word "child" with "person" to comply with the Federal Fair Housing Act, as amended (Title 42, Chapter 45 of the United States Code) and its State counterpart, Chapter 515 of the Hawai'i Revised Statutes, as amended, which prohibit discrimination against children.

[45] Article V, Section 2(J) was amended by the 1995 Restatement to allow certain dogs trained to assist person with disabilities to comply with the Federal Fair Housing Act, as amended (Title 42, Chapter 45 of the United States Code) and its State counterpart, Chapter 515 of the Hawai'i Revised Statutes, as amended, which prohibit discrimination against persons with disabilities. It was further amended to reference Article X, Section 13 of the Bylaws and the special rights it provides to disabled residents or guests of the project.

[46] Article V, Section 2(K) was amended to reference (1) Article X, Section 13 of the Bylaws and the special rights disabled occupants may have to install equipment made necessary by the disability, and (2) the Telecommunications Act of 1996 and the rules adopted by the Federal Communications Commission implementing Section 207 of that Act, which greatly restrict an association's authority to limit an owner or resident from installing antennas and small satellite dishes designed to receive video programming.

[47] Article V, Section 2(L) was amended to reference the Telecommunications Act of 1996 and the rules adopted by the Federal Communications Commission implementing Section 207 of that Act, which greatly restrict an association's authority to limit an owner or resident from installing antennas and small satellite dishes designed to receive video programming.

[48] Article V, Section 4 was added by the 1995 Restatement. It was further amended to conform to Section 514B-104(b), HRS, which authorizes the Association to impose fines against tenants as well as owners.

[49] Article VI, Section 1(A) was amended with the written consent of at least 67% of the owners to confirm that the Board has the authority to impose limited common expenses against specific units.

[50] This sentence of Article VI, Section 1 was amended by the 2001 Amendment and Restatement to include the percentages of common interest. It was further amended with the written consent of more than 67% of the owners to remove the percentages of common interest.

[51] Article VI, Section 1(B) was amended by the 2001 Amendment and Restatement to remove the words "Capital Improvements" from the phrase "Capital Improvements Reserve Funds".

[52] Article VI, Section 1(C) was amended by the 2001 Amendment and Restatement to state that there is only one Reserves Fund. It was further amended: (1) to replace Section 514A-83.6 with Section 514B-148, HRS, its recodified equivalent, (2) in the second instance, to replace Section 514A-83.6 with Section 514B-149, HRS, the section that currently regulates investments of funds by condominium associations, and (3) to replace the words "Horizontal Property Regime" with "Condominium Property Regime" to reflect the current terminology.

[53] Article VI, Section 1A was added to incorporate the provisions of Sections 514B-146(c) and (d), HRS, restricting an owner's right to withhold assessments from the Association, providing owners with a right to receive a full statement of all amounts owed, and permitting an owner who pays amounts claimed by the Association to request arbitration or mediation to resolve any dispute about the amounts owed.

[54] This paragraph of Article VI, Section 2 was amended by the 2001 Amendment and Restatement to delete the words "as soon as practicable" and instead require that the Board determine the amount of common expenses before each Association meeting.

[55] Article VI, Section 4(B) was amended by the 2001 Amendment and Restatement to remove the words "(acting upon the authorization of the majority thereof at any regular or special meeting)".

[56] This part of Article VI, Section 4(C) was amended by the 2001 Amendment and Restatement to delete the words "not to exceed ten dollars ($10.00)".

[57] This part of Article VI, Section 4(C) was amended by the 2001 Amendment and Restatement to delete the words "not to exceed ten dollars ($10.00)".

[58] Article VI, Section 5(A) was amended to conform to Section 514B-146(a)(2), HRS, which states that only those mortgages that were recorded before the Association's lien have priority

over the Association's lien and that the Association may enforce its lien by nonjudicial foreclosure.

[59] Article VI, Section 5(B) was amended to include a reference to Section 514B-146(g), HRS, which requires the payment of assessments from the purchaser at a foreclosure proceeding in certain cases.

[60] Article VI, Section 8 was amended by the 2001 Amendment and Restatement to delete the words "terms and conditions".

[61] Article VII, Section 1(E) was amended by the 1995 Restatement to replace the reference to Article VII, Section 6 with Article VII, Section 5.

[62] Article VII, Section 2 was amended to replace the terms "comprehensive liability insurance" and "public liability insurance", which are outdated insurance terms, with "commercial general liability insurance", which is required by Section 514B-143(a)(2), HRS.

[63] Article VIII, Section 1 was amended by the 1995 Restatement to designate all parking stalls as unassigned.

[64] Article VIII, Section 2 was deleted by the 1995 Restatement and Section 3 was re-numbered Section 2 to follow sequence.

[65] Article X, Section 2 was amended with the written consent of at least 67% of the owners to increase the spending limit from $5,000 to $20,000.

[66] Article X, Section 4 was amended by the 1995 Restatement to include a requirement to mediate disputes to conform to Section 514A-121.5 (now Section 514B-161), HRS. It was further amended to replace Part VII of the State of Hawai'i condominium law with Section 514B-162, HRS, its current equivalent under the Recodification.

[67] Article X, Section 8 was amended to replace Section 514A-82 with Section 514B-108, HRS, its recodified equivalent. It was further amended to conform to Section 514B-108(e), HRS, which increased the required percentage of owner approval from 65% to 67%.

[68] Article XI, Section 11 was added by the 1995 Restatement.

[69] Article X, Section 12 was added by the 1995 Restatement and was amended by the 2001 Amendment and Restatement to authorize private leases of up to 90 days.

[70] Article X, Section 13 was added to outline the rights provided to families with children and disabled occupants and guests of the project by the Federal Fair Housing Act and its State counterpart, Chapter 515, HRS, as amended.

HLU Committee

From: County Clerk
Sent: Friday, June 26, 2026 8:45 AM
To: HLU Committee
Subject: Fw: Kapalua Golf Villas-Bill 88 H3/H4 Statement of Record
Attachments: Golf Villas statement of record re Bill 88-Planning DirectorDeputy Director.pdf; Kapalua Villas Gold Program.pdf; Kapalua Villas Rental-Lodging income and pricing 1999-2006.pdf; Urban Land Institute-Kapalua Project File 1995.pdf

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From: T Jinks <tj95037@yahoo.com>
Sent: Friday, June 26, 2026 6:11 AM
To: County Clerk <County.Clerk@mauicounty.us>
Subject: Fw: Kapalua Golf Villas-Bill 88 H3/H4 Statement of Record

You don't often get email from tj95037@yahoo.com. Learn why this is important

Dear Maui County Clerk,

This is a forwarded message sent to the Planning Department, Mayor Bissen, and each County Council Member. I am asking that this be submitted for county records as it pertains to the property, Kapalua Golf Villas, and Bill 88.

Thank you,

Tom Jinks
President, Kapalua Golf Villas AOAO

----- Forwarded Message -----
From: T Jinks <tj95037@yahoo.com>
To: planning@mauicounty.gov <planning@mauicounty.gov>
Sent: Friday, June 19, 2026 at 04:07:06 PM PDT
Subject: Fw: Kapalua Golf Villas-Bill 88 H3/H4 Statement of Record

Dear Maui County Planning Director Takakura and Deputy Director Lillis,

My name is Tom Jinks and I am the President of the Kapalua Golf Villas AOAO.

Attached is a Statement of Record created to request that Maui County consider reclassifying the Kapalua Golf Villas to the new H3/H4 zone category. There are also some additional attachments which document the history and evidence of the Golf Villas purpose and intent since the property was originally developed and has continued to operate since the late 1970's.

Thank you for your consideration.

Sincerely,

Tom Jinks
President, Kapalua Golf Villas AOAO

The Kapalua Golf Villas

Dear Maui County Planning Director Takakura and Planning Deputy Director Lillis,

I am the President of the Kapalua Golf Villas AOAO. I am writing to you in regards to Bill 88 and the new H3/H4 zoning classification.

The Kapalua Golf Villas were developed and built by Maui Land and Pineapple in the late 1970's as part of the Master Planned Resort Area of Kapalua. The Kapalua Golf Villas has a historical record of being purposed for full-time residential, part-time residential and transient rental usage as documented in development records with both the State of Hawaii and the County of Maui.

When the Kapalua Golf Villas were developed, the property also included a reception center. That building now houses our full time Resident Manager. Because the Golf Villas operates as a resort property, the Golf Villas also employs full time maintenance staff and office personnel who work on property 7 days a week.

A very important point to recognize is that there are truly only three designated Master Planned Resort Areas on Maui: Wailea, Kaanapali, and Kapalua. It seems it would be very desirable and reasonable that officials of Maui County see these resort areas as the prime locations where visitors and guests would reside in properly zoned occupancies while visiting Maui. Historically, having transient occupancies available for visitors in the Kapalua Resort Area has kept visitors from staying in areas more appropriately designed for local Maui residents.

Additionally, the Kapalua Golf Villas has a very historical record of providing Maui County with a very strong tax generation mechanism. This cannot be over stated nor ignored. With more than 84 percent of Golf Villa units classified as TVR use, there is significant annual revenue generated to the GET and TAT collections. The Kapalua Golf Villas are consistently in the top 10 of apartment zoned property tax contributors for Maui County. The positive financial and economic impact to Maui County and to the entire Maui community should be strongly considered. Losing the ability to provide this positive economic impact to Maui would be felt by many in the community.

Affordability, attainability, and desirableness:

The average current listing price in the Kapalua Golf Villas is $1.35 million dollars per unit. The average sales price for units sold in the past six months is $1.47 million dollars. It would be nearly impossible to categorize the Golf Villas as affordable using the financial indexes in the market. As attainable housing typically is defined as homes priced to fit the median income of families in the area, it would also be challenging to define the Golf Villas as attainable. Additionally, on average, each unit is assessed $1100 per month in AOAO maintenance fees with two large projects (complete property repaving and complete property stairway upgrades and

replacements) on agenda to be completed in the next 2-5 years, these fees will certainly need to be increased.
On the subject of desirability, the Kapalua Golf Villas is not the typical housing and area most local families are seeking in Maui. Most local families do not want to reside in a resort area. There is no storage and no garages. There are no front yards and there are no backyards. The Golf Villas were designed and developed as resort occupancies with the intent and purpose of providing owners and guests all of the amenities of a world class resort would offer while staying on Maui.

I sincerely request and urge you to consider the Kapalua Golf Villas as one of the properties perfectly suited to fit into the new Maui County H3/H4 zone classification. The Kapalua Golf Villas have continued to be excellent partners with Maui County in both the visitor industry as well as being part of the responsible economic growth Maui has always relied upon.

I included some links and documents in the original email to evidence the above statements. I can also provide full copies of any of documents if needed.

Thank you very much for your consideration,

Tom Jinks
President, Kapalua Golf Villas AOAO
tj95037@yahoo.com

CC: Maui County Mayor Richard Bissen
County Council Member Alice Lee
County Council Member Yuki Lei Sugimura
County Council Member Kauanoe Batangan
County Council Member Tom Cook
County Council Member Gabe Johnson
County Council Member Tamara Paltin
County Council Member Keani Rawlins-Fernandez
County Council Member Shane Sinenci

Kapalua Gold Villas

Aloha friends,

The Kapalua Villas are in the process of of an ongoing renaissance. Excellence in accommodations goes hand-in-hand with a unparalleled visitor experience. The Kapalua Gold program, detailed in this information package, offers owners the opportunity to participate in the resort's exciting transformation to one of the world's premier destination resorts while investing in their own future at the same time.

I've enclosed some detailed information about participation in the Gold program. Once owners have completed their "Gold" renovation, they become eligible for premier pricing and services reserved only for The Kapalua Gold Villas. VIP check-in service, daily housekeeping, nightly turn-down service and signature amenities are just a few of the reasons why Kapalua Gold Villas will enjoy higher occupancy and daily room rates.

Like the butterfly in its logo, Kapalua Resort is experiencing a metamorphosis from which the resort will emerge as the select destination for Maui's most discriminating visitors. High levels of luxury, comfort, service and amenities will return the resort and the Kapalua Gold Villas to its rightful place at the pinnacle of the Hawaiian hospitality experience. Please don't hesitate to participate in this exclusive opportunity.

Should you require additional information or specifications on the program, or have general questions regarding the ongoing improvements to the resort, please do not hesitate to contact me directly at (808) 669-8088 or via email mklaschka@kapaluavillas.com.

With warmest aloha,

Mark Klaschka
General Manager
The Kapalua Villas

Kapalua Resort Development

Central Resort & The Village at Kapalua

- Kapalua Home Store
- Women's Boutique Shop
- Noodle Shop
- Bakery
- Kapalua Collections
- Art Galleries
- Pizza Shop
- Community Development Office
- Kapalua Outfitter's Store
- Post Office
- Coffee Shop
- Professional Services

The Honolua Store

- Dinner service
- Coffee bar
- Expanded cold deli
- Increased wine selection
- Gourmet foods
- Organic health foods

The Residences at Kapalua Bay

84 Private Ownership Residences:

- 8 Four-bedroom residences (4,271 square feet)
- 41 Three-bedroom with study residences (3,131 square feet)
- 35 Three-bedroom residences (2,998 square feet)

Pool & Activity Center

- Renovated Tennis Center
- Beach volleyball & basketball courts
- Special activities for Resort keiki
- Featured water activities will include tube slides, waterfalls, and children's area

Spa

- 22 treatment rooms (10 outdoor)
- Sylvia Sepielli design
- Fitness & Yoga motion center
- 25,000 square feet

Pulelehua

- A mix of residential, commercial and public uses
- Parks and open spaces
- Neighborhood school
- Biking and walking paths
- Lively town center
- Pedestrian-friendly streets
- Inviting, accessible public places

Kapalua Farms

- Diversified organic agricultural research
- Use of Kapalua-grown produce by Kapalua Resort restaurants
- Plan farm and landscape to serve as an aesthetic amenity and branding opportunity
- Serve as a sales tool for Kapalua Mauka real estate sales
- Demonstration garden to be incorporated into trail system

Kapalua Resort Trail Circulation

- Total trail miles = 80

- Rugged, Natural Surface Trails = 65 miles
- Paved, Multi-Use Trails = 15 miles

Zip-Line / Canopy Tour

- Eleven point to point, platform to platform
- Engineered cable extensions
- Designed to carry guests and or bicycles across specific areas
- One suspension bridge
- Small group guided tours
- Large corporate outings
- Eighteen different canopy tour courses have been identified utilizing the eleven cable spans

Kapalua Mauka

- Master-planned resort residential and recreational community
- Comprised of 690 homes
- Golf Course designed by Tom Fazio

- 925 acres mauka (mountain side) of Honoapiilani highway
- Luxury homesites, villas and condominium properties
- Extensive open space, parks, trails, golf, mountain adventure center and clubhouse

The Mauka Course

- Scheduled to open late 2008/ early 2009
- Designed by Tom Fazio
- Dramatic views of the ocean
- Will follow through foothills of the West Maui Mountains
- Members-only course

**Above information is subject to change*

The Kapalua Villas
Maui

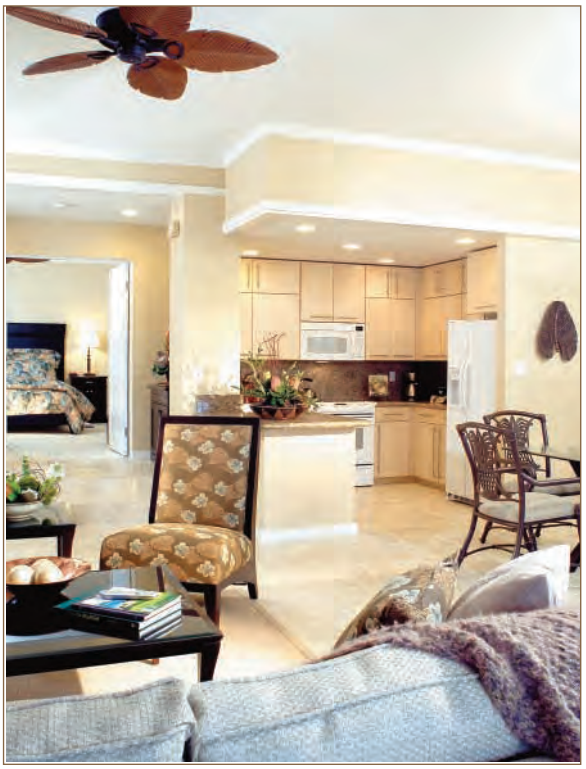
(800) 545-0018
(808) 669-8088 • FAX (808) 669-1844
500 Office Road • Lahaina, Maui, Hawai'i 96761

www.kapalua.com

Printed on recycled paper using soy-based ink

Mikole Construction and Koliana Designs

Mikole Construction and Koliana Designs are locally based construction and design firms who have designed a Gold Villa standard that creates a premium experience for the valued owners and guests visiting Kapalua. Starting with our commitment to maintaining the ecology of our planet, our construction and design teams create a villa experience that is unique to Kapalua. Koliana was able to work directly with manufacturers to create furniture that was designed specifically for this project and is not available in residential furniture outlets anywhere in the Pacific.



Mikole and Koliana buy direct from manufacturers who use construction techniques that with-stand the rigorous use of guests, including commercial finishes, and premium materials, like Lyptus. Lyptus is a premium-grade hardwood, with grain and color similar to Koa, and is grown using sustainable forestry practices. We blend quality and durability while preserving and enhancing a native Hawaiian theme. All appliances, fans, and lighting are Energy Star Rated. The paint is Green-Sure certified. The fabrics are commercial grade and carry an environmental label. Kitchen and bath fixtures reduce water usage, and are designed to allow ease of use for those with grasping difficulties.

Visit one of the turn-key units and see the variety of wood and fabric choices available. Our turnkey service means that our packages are complete and include everything from a fully stocked kitchen package, all furniture and art from the walls to the plants. In addition, our service includes all project management, and during renovation the process is communicated to you directly.

Our goal is to provide you with quality and comfort in each room of your villa. Attention to detail and amenities are the keys of our design philosophy. The Koliana/Mikole team will complete the transition of your villa from the average condominium rental property to a dream vacation destination, resulting in a comfortable, relaxing living environment and increased occupancy.

Refer to process and costs on back of page.

Koliana Turn-Key Package Includes:

- Pre-designed Package: Kitchen and Bath Designs, Doors and Hardware, Flooring, Wall Surfaces, Lighting, Plumbing, and Window Covering Specifications
- Furniture Package with Options
- Art & Accessory Package
- Standard Duvets and Shams, Pillows and Blankets
- Standard Dish & Amenity Package can be viewed at www.koliana.com and has a 2 year replacement guarantee.
- Standard Electronics Package
- Construction & Construction Administration
- Coordination/Communication with The Kapalua Villas
- Furniture Liquidation
- Furniture Installation
- No Permit Required unless moving: walls, electrical, plumbing
- Home Owner Association Review Required and Mikole will process for you.
- After Renovation is Complete Final Villa Gold Team Walk-thru is required.

Cost Ranges Turn-Key:

$175,000 to $280,000 + tax

*SUBJECT TO CHANGE WITHOUT NOTICE

Kapalua Design

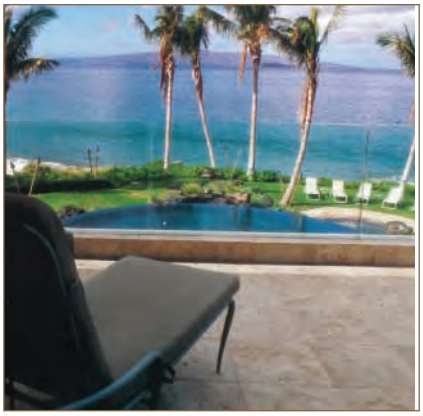
Kapalua Design, a new division of the Kapalua Land Company, was created as a collaborative design firm to service high end residential, commercial, retail, restaurant and resort spaces for owners at Kapalua Resort and outside clients.

With a mission of bringing together many different disciplines to create design concepts for a variety of clients, the firm has a deep foundation in design integrity, actualization of concepts as well as working to effectively express and convey the needs and desires of the clients. Sense of place and integration of environment will be the cornerstones to the guiding philosophy of the firm. Designers will work closely with clients to understand and incorporate their lifestyles and needs into each project.

Headed by Debra Schonewill, Director of Interior Design for Kapalua Design, will plan, design and furnish some of the high end interiors of Honolua Ridge, Plantation Estates, The Residences at Kapalua Bay and The Kapalua Villas Custom Gold program, as well as the retail, office spaces and resort spaces located throughout the Resort.

Kapalua Design services will vary from project to project and are also available to clients outside of the resort. Kapalua Design will also play a key role in the creation of a Kapalua Resort line of furniture, fabric and apparel, and in the design of home products and textiles to be used exclusively in resort properties

With extensive experience in commercial tenant improvements, architectural space design and detailing, as well as a broad understanding of all facets of interior and exterior finishes, furniture, plumbing, lighting, hardware and cabinetry, Kapalua Design offers comprehensive design services for all types of commercial and residential projects.



Refer to process on back of page.

Kapalua Design
Custom Gold Program Options:

Owner has the option to hire Kapalua Design, a full service interior design firm.

- Kapalua Design can provide the owner with a custom design concept tailored to the owners desires while relating to the beautiful environment of Kapalua Maui.
- Design would include the following: Kitchen and Bath Designs, Doors and Hardware, Flooring, Wall Surfaces, Lighting, Plumbing, and Window Covering Specifications
- Furniture Specifications
- Art & Accessory Specifications
- Standard Duvets and Shams, Pillows and Blankets
- Owner to coordinate and purchase Standard Dish and Amenity Package
- Owner to coordinate and purchase Standard Electronics Package
- Kapalua Design can provide pricing/purchasing/procurement services and installation

A Licensed Contractor is required. Owner will retain their own Contractor and has the option to hire a Construction Administrator.

- Contractor to price the final design specifications
- Construction & Construction Administration
- Owner/Construction Administrator to Coordinate/Communicate with The Kapalua Villas
- Owner to provide Furniture Liquidation
- No Permit Required unless moving: walls, electrical, plumbing
- Home Owner Association Review Required
- After Renovation is Complete Final Villa Gold Team Walk-thru is required.

808-669-3015 • Fax: 808-669-3051 • www.kapaluadesign.com

Kapalua Design

Custom Gold – Other Designer

It is recommended that the Owner hire a designer to create custom design concept.

- Owner to request Kapalua Gold Villa Program – Custom Design Standards
- Establish Scope of Services with designer to include: Kitchen and Bath Designs, Doors and Hardware, Flooring, Wall Surfaces, Lighting, Plumbing, Window Coverings, Furniture, Art & Accessory Specifications
- Standard Duvets and Shams, Pillows and Blankets
- Owner to coordinate and purchase Standard Dish and Amenity Package
- Owner to coordinate and purchase Standard Electronics Package
- Villa Gold Team will review The Custom Design in requested format for a $200 fee prior to purchasing of any items.
- Upon Villa approval Project can be slated for construction.

A Licensed Contractor is required. Owner will retain their own Contractor and has the option to hire a Construction Administrator.

- Contractor to price the final Design Specifications
- Construction & Construction Administration
- Owner/Construction Administrator to Coordinate/Communicate with The Kapalua Villas
- Owner to provide Furniture Liquidation
- No Permit Required unless moving: walls, electrical, plumbing
- Home Owner Association Review Required
- After Renovation is Complete Final Villa Gold Team Walk-thru is required.

Renovations requiring permit – please refer to back of page.

Custom Gold Renovation Requiring Permit:
(if you are moving walls, electrical or plumbing)

The following scope of work spurs a permit from the County of Maui.

All property below the Highway requires (SMA) Special Management Area Assessment application. Permitted interior renovations are normally assessed as a minor SMA in the application process.

Scope of Work: removing or adding walls, moving or adding plumbing, moving or adding electrical, additions of floor space, any structural changes or exterior renovations. A permit requires a set of construction documents to be prepared by a licensed Hawaii Architect/Structural Engineer.

Owner to hire an Architect and Designer to create custom design concept and obtain a permit.

- Owner to request Kapalua Gold Villa Program – Custom Design Standards
- Establish Scope of Services with Architect/Designer to include:
- Space Planning, Design and Construction Documents
- Interior Design: Kitchen and Bath Designs, Doors and Hardware, Flooring, Wall Surfaces, Lighting, Plumbing, Window Coverings, Furniture, Art & Accessory Specifications
- Standard Duvets and Shams, Pillows and Blankets
- Owner to coordinate and purchase Standard Dish and Amenity Package
- Owner to coordinate and purchase Standard Electronics Package
- Villa Gold Team will review The Custom Design in requested format for a $200 fee prior to purchasing of any items.
- Upon Villa approval Project can be slated for construction.

A Licensed Contractor is required. Owner will retain their own Contractor and has the option to hire a Construction Administrator.

- Contractor to price the final Design Specifications.
- Construction & Construction Administration
- Owner/Construction Administrator to Coordinate/Communicate with The Kapalua Villas
- Owner to provide Furniture Liquidation
- Home Owner Association Review Required
- After Renovation is Complete Final Villa Gold Team Walk-thru is required

808-669-8088 • Fax: 808-669-1844
www.kapaluavillas.com

The Kapalua Villas
Maui

Frequently Asked Questions

Frequently Asked Questions about the Gold Program

1. What are the minimum requirements?
   a. Request from Kapalua Villas: Kapalua Gold Villa Program-Custom Design Standards

2. What revenue will I receive once my upgrade is complete.
   a. While we are unable to predict future revenue and occupancy levels, the history of existing Gold units have provided for higher occupancy than Non-Gold units. Presently, on average a Gold Villa is receiving $100 of additional nightly revenue compared to Non-Gold Villas in the same veiw category.

3. What are my present options for turn-key package contractors?
   a. Mikole / Koliana Turn-key Package
   b. Owner Selected Contractor, Custom Gold

4. How are you marketing the "Gold Villas".
   a. All advertising is being sent to travel agents Worldwide explaining the "New Gold Program" we have established within our company.
   b. All consumer directed ads which display information pertaining to Kapalua Resort, categorizes it as a vacation destination.

5. Will I be removed from the program, if I decide against renovation?
   a. Yes, we can not uphold "Gold" standard services to those not willing to participate in our program.

6. What services will my "Gold Villa" receive?
   a. VIP check-in and amenities
   b. Daily, full maid service
   c. Daily turndown
   d. Complimentary newspaper delivery
   e. Dedicated concierge service
   f. Our "Gold Villa Service Guarantee"

7. Do I get any discounts for being a Kapalua Club Member?
   a. Yes. All Club Members will receive a 50% discount on the initial membership fee, and 50% off of your monthly dues.

8. What are the costs of the "turn key" package options?
   a. Present Mikole / Koliana package cost range: $175,000 up to $280,000 + tax.
   **Subject to change without notice*

808-669-8088 • Fax: 808-669-1844
www.kapaluavillas.com

The Kapalua Villas
Maui

Club Amenities

Premier Resort Membership Benefits & Privileges

Member Privileges to The Spa at Kapalua

This approximately 25,000 square foot facility will have a lap pool, fitness center and a 2,000 square foot movement studio. There will be locker rooms with steam showers and saunas, hot tubs and cold plunge pools and over 20 treatment rooms, both indoors and outdoors. There are plans for a juice bar and a specialty shop. The Spa at Kapalua will be open to the public for a substantial daily fee. As a Premier Member your monthly dues provides you access.

Member Privileges to the Mountain Adventure Center

Members will board a special shuttle to transport them into the rainforest. From here the Member will be able to go on hiking trails, mountain biking trails, a zipline canopy ride and possibly, in the future, horse back riding. There are plans to eventually have over 80 miles of trails throughout Kapalua Nui. While these trails will be open to the public, Premier Members will receive special discounts on activities and invitations to events such as Member only hikes and special education lectures.

As a Premier Resort Member you will be able to play The Bay Course and The Plantation Golf Course at discounted rates. You will continue to have 30 day advance tee times on The Bay Course and The Plantation Course. Your shopping and dining discounts will continue as will your use of The Tennis Garden. You will also have use of The Ritz-Carlton, Kapalua pool subject to availability as stated in the Membership Plan, under Article 7.3.

And, of course, if you are on island, there will be a number of Kapalua Club Member events to participate in such as sunset sails, wine tastings and nature hikes.

The Kapalua Club Premier Resort Membership is going to be a great way to enjoy many of the new Kapalua amenities.

Planned amenities as described are subject to change or delay due to unforeseen circumstances.

Refer to back of page for amenities.

Club Amenities

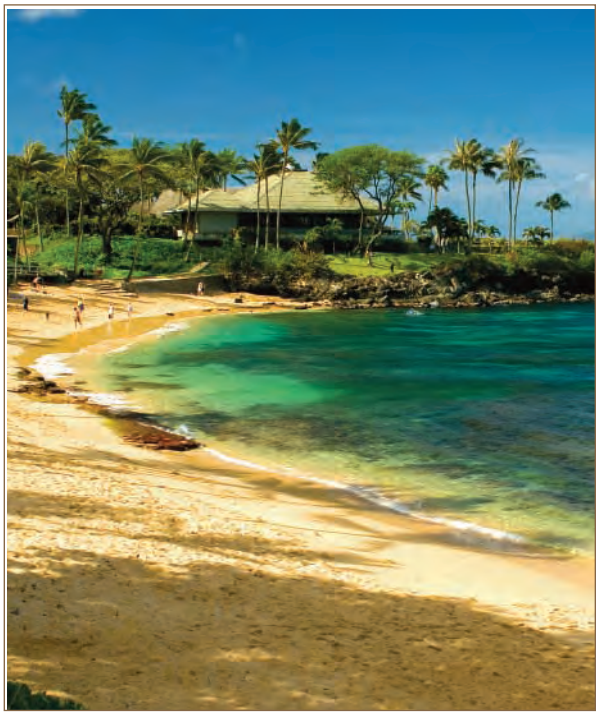
The Kapalua Club Premier Resort Membership

	INITIATION DEPOSIT	MONTHLY DUES
KAPALUA PROPERTY OWNER	$15,000 80% REFUNDABLE	$200
NON KAPALUA PROPERTY OWNER	$25,000 80% REFUNDABLE	$200
KAPALUA GOLD VILLA OWNER	**$7,500 80% REFUNDABLE**	**$100**

BENEFITS AND PRIVILEGES

- Play at The Bay and The Plantation Course for discounted member rate
- Thirty-day advance tee time reservations on The Bay and Plantation Courses
- Member privileges to The Spa at Kapalua
- Member privileges to The Mountain Adventure Center
- Member privileges to The Tennis Garden and planned Recreation Center
- Shopping and Dining Discounts
- Invitations to various Club social events
- Refer to Club Amenities on Back of Page

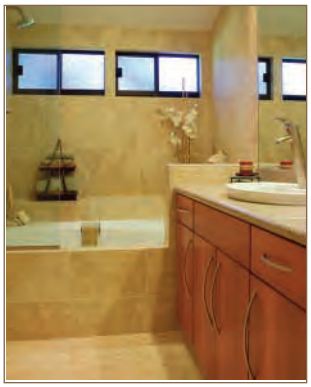
Premier Golf Memberships available also, please contact The Kapalua Club office for more information.



808-669-8803 • Fax: 808-669-1844
kclub@kapaluamaui.com • www.kapalua.com

The Kapalua Club

Financials



Room Rates & Occupancy

While we are unable to predict future revenue and occupancy levels, the history of existing Gold units have provided for higher occupancy than Non-Gold units. Presently, on average a Gold Villa is receiving $100 of additional nightly revenue compared to Non-Gold Villas in the same veiw category.

We do anticipate continuing to raise the rates on the Gold Villas year after year.

"We are very pleased with the work that was done, it was done quickly and beautifully, and we've received many compliments regarding its transformation. The property value has definitely been enhanced. Our Ridge unit was appraised at $1.1M prior to improvements and just appraised for $1.7M."

– Tricia Morris, Villa Owner

Owner Information Request

I'm interested in:

- ❒ Seeing the turn-key packages
- ❒ Getting more information about Kapalua Design
- ❒ Doing a Custom Gold Design and hiring my own designer and builder
- ❒ Financial Information
- ❒ Information about Kapalua Club Membership
- ❒ Other: _____

Name: _____ Villa No.: _____

Home Address: _____

Home Phone: _____ Cell Phone: _____

Email Address: _____

Date of next Kapalua Visit: _____

RETURN TO: Kapalua Villas General Manager: 500 Office Road, Lahaina, HI 96761
goldprogram@kapaluavillas.com

Gold Options

TURN-KEY PACKAGES

Koliana

Turn-Key Package include:

- ❒ Pre-designed Package: Kitchen and Bath Designs, Doors and Hardware, Flooring, Wall Surfaces, Lighting, Plumbing, and Window Covering Specifications
- ❒ Furniture Package with Options
- ❒ Art & Accessory Package
- ❒ Standard Duvets and Shams, Pillows and Blankets
- ❒ Standard Dish & Amenity Package can be viewed at www.koliana.com and has a 2-year replacement guarantee.
- ❒ Standard Electronics Package
- ❒ Construction & Construction Administration
- ❒ Coordination/Communication with The Kapalua Villas
- ❒ Furniture Liquidation
- ❒ Furniture Installation
- ❒ No Permit Required unless moving: walls, electrical, plumbing
- ❒ Home Owner Association Review Required and Mikole will process for you.
- ❒ After Renovation is Complete Final Villa Gold Team Walk-thru is required.

Cost Ranges Turn-Key:
$168,000 up to $275,000 + tax
*SUBJECT TO CHANGE WITHOUT NOTICE

CUSTOM GOLD RENOVATION

Kapalua Design

Owner has the option to hire Kapalua Design, a full service interior design firm.

- ❒ Kapalua Design can provide the owner with a custom design concept tailored to the owners desires while relating to the beautiful environment of Kapalua Maui.
- ❒ Design would include the following: Kitchen and Bath Designs, Doors and Hardware, Flooring, Wall Surfaces, Lighting, Plumbing, and Window Covering Specifications
- ❒ Furniture Specifications
- ❒ Art & Accessory Specifications
- ❒ Standard Duvets and Shams, Pillows and Blankets
- ❒ Owner to coordinate and purchase Standard Dish and Amenity Package
- ❒ Owner to coordinate and purchase Standard Electronics Package
- ❒ Kapalua Design can provide pricing/purchasing/procurement services and installation

A Licensed Contractor is required. Owner will retain their own Contractor and has the option to hire a Construction Administrator.

- ❒ Contractor to price the final Design Specifications
- ❒ Construction & Construction Administration
- ❒ Owner/Construction Administrator to Coordinate/Communicate with The Kapalua Villas
- ❒ Owner to provide Furniture Liquidation
- ❒ No Permit Required unless moving: walls, electrical, plumbing
- ❒ Home Owner Association Review Required
- ❒ After Renovation is Complete Final Villa Gold Team Walk-thru is required.

CUSTOM GOLD RENOVATION

Other Designer

It is recommended that the Owner hire a designer to create custom design concept.

- ❒ Owner to request Kapalua Gold Villa Program – Custom Design Standards
- ❒ Establish Scope of Services with designer to include: Kitchen and Bath Designs, Doors and Hardware, Flooring, Wall Surfaces, Lighting, Plumbing, Window Coverings, Furniture, Art & Accessory Specifications
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- ❒ Villa Gold Team will review The Custom Design in requested format for a $200 fee prior to purchasing of any items.
- ❒ Upon Villa approval Project can be slated for construction.

A Licensed Contractor is required. Owner will retain their own Contractor and has the option to hire a Construction Administrator.

- ❒ Contractor to price the final Design Specifications
- ❒ Construction & Construction Administration
- ❒ Owner/Construction Administrator to Coordinate/Communicate with The Kapalua Villas
- ❒ Owner to provide Furniture Liquidation
- ❒ No Permit Required unless moving: walls, electrical, plumbing
- ❒ Home Owner Association Review Required
- ❒ After Renovation is Complete Final Villa Gold Team Walk-thru is required.

CUSTOM GOLD RENOVATION REQUIRING A PERMIT

Architect / Other Designer

The following scope of work spurs a permit from the County of Maui.
All property below the Highway requires (SMA) Special Management Area Assessment application. Permitted interior renovations are normally assessed as a minor SMA in the application process.
Scope of Work: removing or adding walls, moving or adding plumbing, moving or adding electrical, additions of floor space, any structural changes or exterior renovations. A permit requires a set of construction documents to be prepared by a licensed Hawai'i Architect/Structural Engineer.

Owner to hire an Architect and Designer to create custom design concept and obtain a permit.

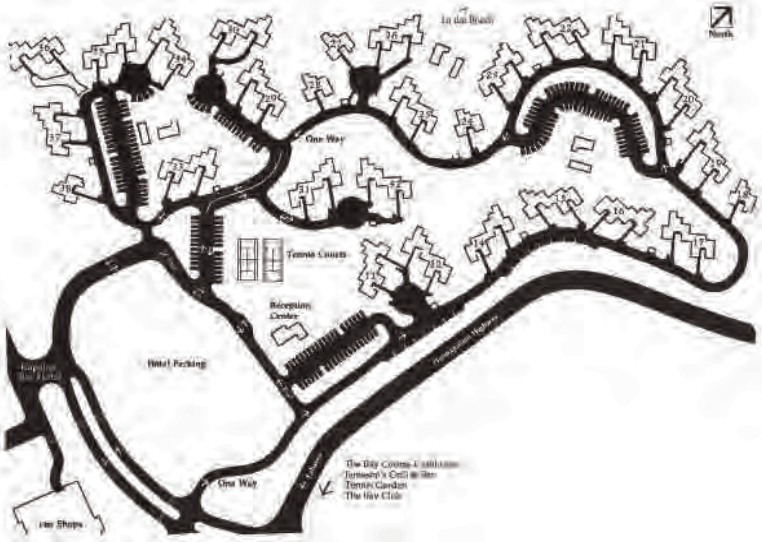
- ❒ Owner to request Kapalua Gold Villa Program – Custom Design Standards
- ❒ Establish Scope of Services with Architect/Designer to include: Space Planning, Design and Construction Documents
  Interior Design: Kitchen and Bath Designs, Doors and Hardware, Flooring, Wall Surfaces, Lighting, Plumbing, Window Coverings, Furniture, Art & Accessory Specifications
- ❒ Standard Duvets and Shams, Pillows and Blankets
- ❒ Owner to coordinate and purchase Standard Dish and Amenity Package
- ❒ Owner to coordinate and purchase Standard Electronics Package
- ❒ Villa Gold Team will review The Custom Design in requested format for a $200 fee prior to purchasing of any items.
- ❒ Upon Villa approval Project can be slated for construction.

A Licensed Contractor is required. Owner will retain their own Contractor and has the option to hire a Construction Administrator.

- ❒ Contractor to price the final Design Specifications, Obtain a permit
- ❒ Construction & Construction Administration
- ❒ Owner/Construction Administrator to Coordinate/Communicate with The Kapalua Villas
- ❒ Owner to provide Furniture Liquidation
- ❒ Home Owner Association Review Required
- ❒ After Renovation is Complete Final Villa Gold Team Walk-thru is required

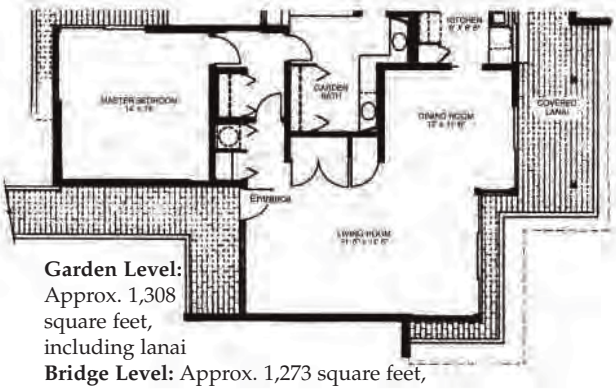
The Kapalua Villas
Maui

808-669-8088 • Fax: 808-669-1844 • www.kapaluavillas.com



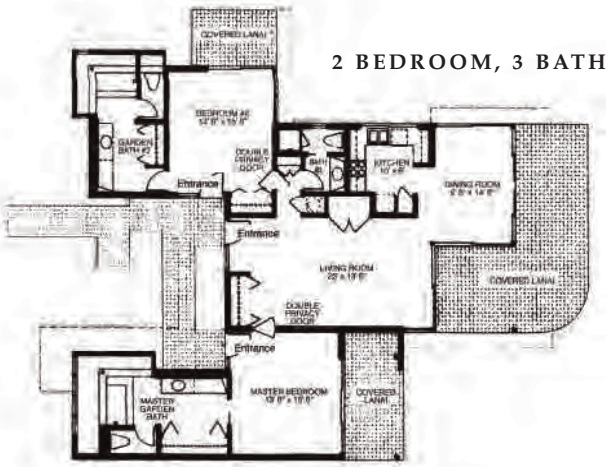
THE BAY VILLAS

1 BEDROOM, 1 BATH



Garden Level: Approx. 1,308 square feet, including lanai
Bridge Level: Approx. 1,273 square feet, including lanai

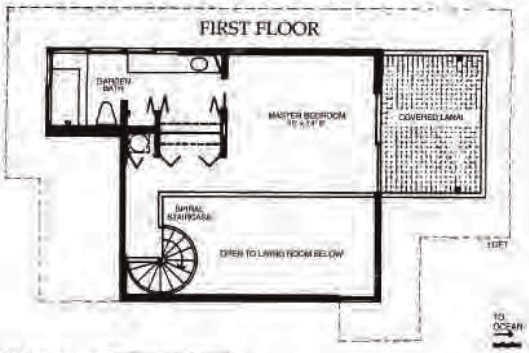
2 BEDROOM, 3 BATH



Garden Level: Approx. 2,046 square feet, including lanai
Bridge Level: Approx. 1986 square feet, including lanai

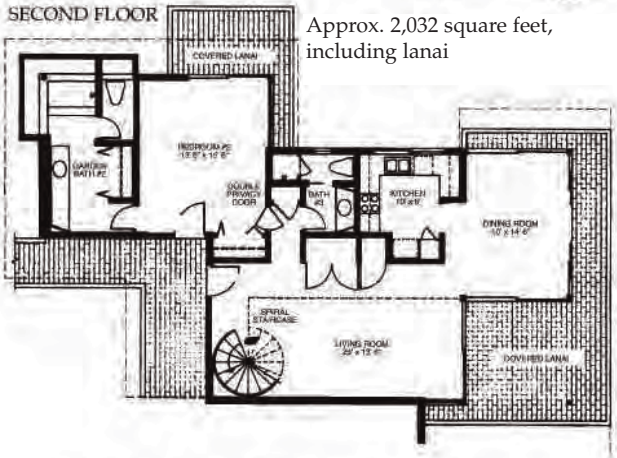
2 BEDROOM, LOFT, 3 BATH

FIRST FLOOR



SECOND FLOOR

Approx. 2,032 square feet, including lanai

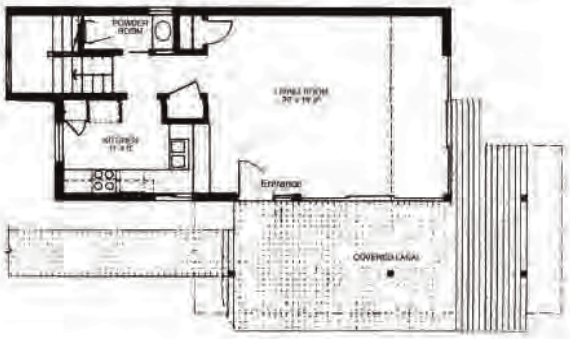


1 BEDROOM, LOFT, 1-1/2 BATH

FIRST FLOOR

End Unit: Approx. 1,416 square feet, including lanai
Interior Unit: Approx. 1,209 square feet, including lanai

SECOND FLOOR



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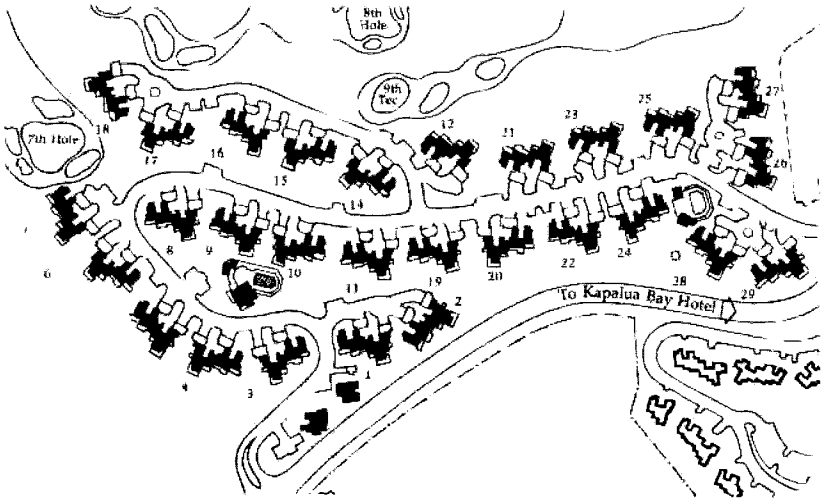
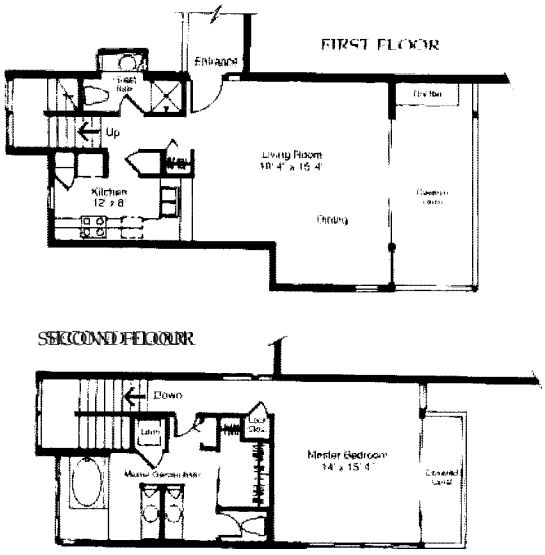


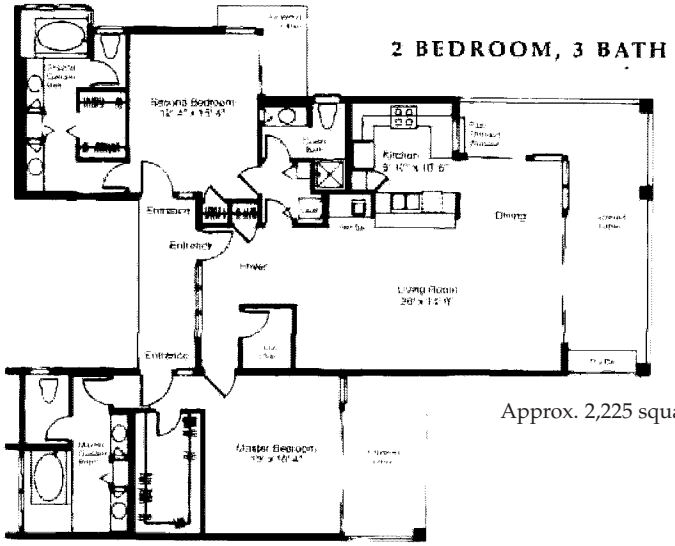
THE RIDGE VILLAS

1 BEDROOM TOWNHOUSE, 2 BATH



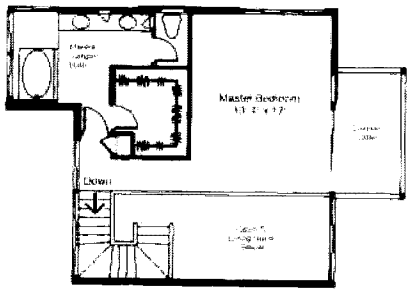
Center Unit: Approx. 1,364 square feet
End Unit: Approx. 1,391 square feet

2 BEDROOM, 3 BATH



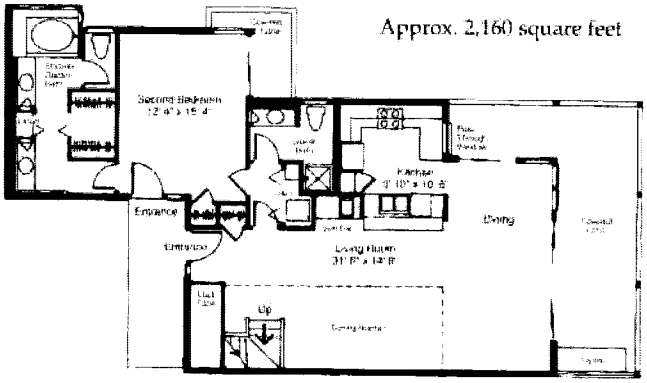
Approx. 2,225 square feet

2 BEDROOM, LOFT, 3 BATH



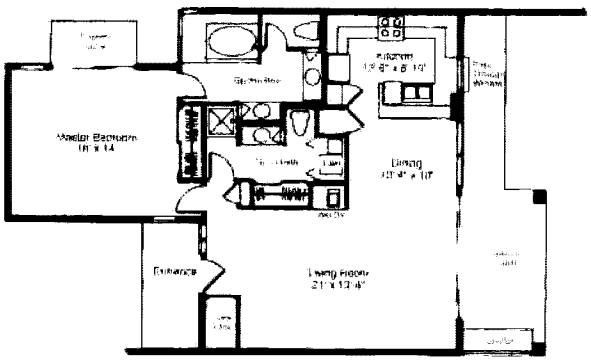
SECOND FLOOR

Approx. 2,160 square feet



SECOND FLOOR

1 BEDROOM, 2 BATH



Approx. 1,338 square feet to 1,354 square feet

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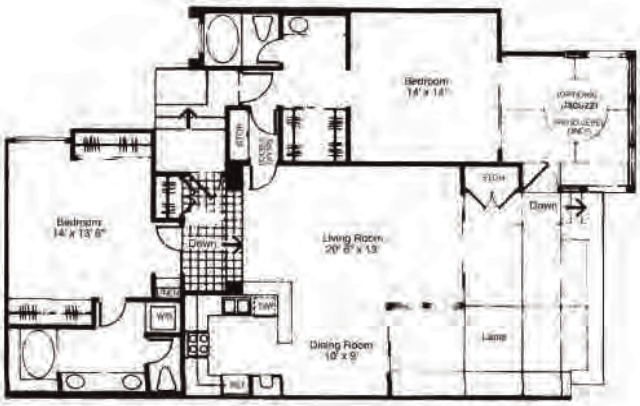
THE GOLF VILLAS

1 BEDROOM, LOFT, 1-1/2 BATH

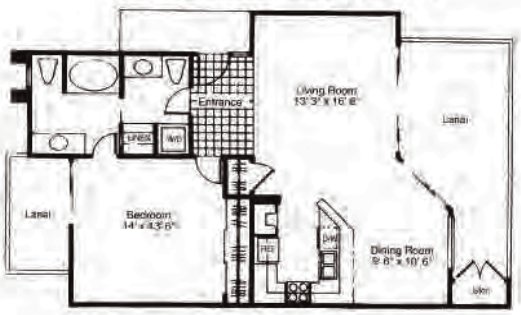
End Unit: Approx. 1,291 square feet
End Unit: Approx. 1,233 square feet
(lanai areas may vary)

2 BEDROOM, 2 BATH



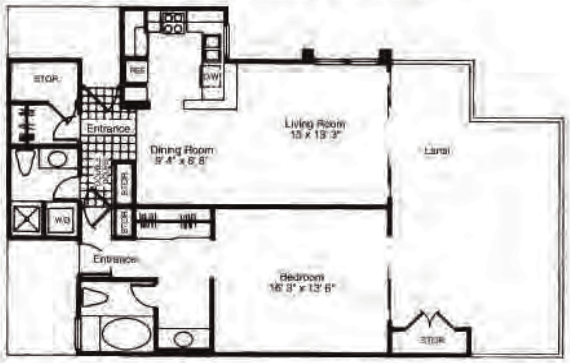
Patio Level: Approx. 1,774 square feet
Trellis & Vista Level: Approx. 1,694 square feet

1 BEDROOM, 1-1/2 BATH



Approx. 1,137 square feet

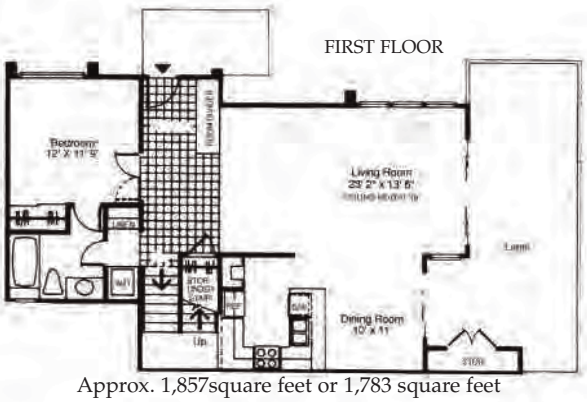
1 BEDROOM, 2 BATH



Approx. 1,338 square feet or 1,278 square feet
(lanai areas vary)

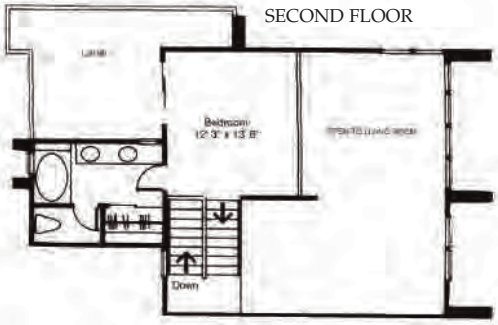
2 BEDROOM, LOFT, 2 BATH

FIRST FLOOR



Approx. 1,857square feet or 1,783 square feet
(lanai areas vary)

SECOND FLOOR



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Fairway View	$259	$279	$329
Delux Fairway View	$299	$329	$379
Ocean View	$299	$329	$379
Delux Ocean View	$399	$429	$479
Ocean Front	$399	$429	$499
Delux Ocean Front	$499	$529	$599

TWO (2) BEDROOM VILLA

Fairway View	$359	$379	$429
Delux Fairway View	$459	$479	$549
Ocean View	$479	$499	$579
Delux Ocean View	$579	$599	$679
Ocean Front	$579	$599	$689
Delux Ocean Front	$679	$699	$799

THREE (3) BEDROOM VILLA

Fairway View	$479	$499	$579
Delux Fairway View	$579	$599	$679
Ocean View	$579	$599	$679
Delux Ocean View	$679	$699	$799

LUXURY HOME ESTATES*

Three (3) Bedroom	$2,000	$2,000	$2,500
Four (4) Bedroom	$4,000	$4,000	$4,500
Five (5) Bedroom	$7,500	$7,500	$7,500

No additional Person Charge.

One-bedroom rate is for up to four persons maximum. Two-bedroom rate is for up to six persons maximum. Three-bedroom rate is for up to six persons maximum. Four and five bedroom rate is for up to eight persons maximum.

Included in above rates is daily maid service.

A resort fee of $15.00 + tax per villa per day will be collected directly from the guest upon check out. Fee is non commissionable and not included in enclosed rates.

All rates are subject to a 4.166% state excise tax and a 7.25% accommodation tax (total of 11.416%) rates are subject to change without notice.

Groups/10 villas or more may be negotiated at separate rates.

One Bedroom Ocean View					
Ridge Villas	33	$37,380	$51,945	50.1%	$204.59
Bay Villas	28	$35,624	$48,542	47.7%	$203.37
One Bedroom Ocean Front					
Bay Villas	36	$52,628	$70,766	60.0%	$240.62
Two Bedroom Fairway View					
Golf Villas	29	$40,917	$57,757	43.8%	$256.21
Ridge Villas	5	$45,259	$47,697	42.2%	$293.89
Two Bedroom Ocean View					
Ridge Villas	51	$48,849	$76,921	41.1%	$325.88
Bay Villas	34	$51,800	$71,322	43.8%	$323.43
Two Bedroom Ocean Front					
Bay Villas	30	$72,165	$111,132	48.2%	$410.87
Three Bedroom Fairway View					
Golf Villas	11	$63,826	$71,658	48.5%	$359.58
Three Bedroom Ocean View					
Golf Villas	129	$46,584	$46,584	32.3%	$394.78
Ridge Villas	44	$54,554	$87,519	36.4%	$408.14
Two Bedroom Ironwoods					
Ocean View					
Ocean Front	67	$33,475	$33,475	20.0%	$501.56
Three Bedroom Homes					
Pineapple Hill	39	$44,555	$46,545	9.3%	$1,354.00
Four Bedroom Homes					
Pineapple Hill	106	$39,550	$63,350	6.3%	$1,800.40
Five Bedroom Homes					
Plantation Estates	28	$97,500	$97,500	6.0%	$4,432.00
Kapalua Place	32	$102,750	$102,750	4.1%	$6,850.00

One Bedroom Fairway View:					
Golf Villas	27	$38,473	$49,273	67.5%	$175.44
Ridge Villas	8	$32,911	$34,712	54.2%	$174.96
One Bedroom Ocean View:					
Ridge Villas	31	$33,020	$47,735	51.6%	$206.03
Bay Villas	20	$35,731	$54,282	53.4%	$206.01
One Bedroom Ocean Front:					
Bay Villas	24	$52,967	$69,173	66.3%	$246.57
Two Bedroom Fairway View:					
Golf Villas	33	$42,254	$50,722	52.7%	$259.72
Ridge Villas	27	$41,466	$41,466	49.6%	$269.26
Two Bedroom Ocean View:					
Ridge Villas	34	$48,792	$71,425	51.6%	$328.19
Bay Villas	29	$55,500	$67,851	54.3%	$328.27
Two Bedroom Ocean Front:					
Bay Villas	30	$80,470	$99,216	58.5%	$419.91
Three Bedroom Fairway View:					
Golf Villas	9	$67,492	$69,655	52.6%	$368.81
Three Bedroom Ocean View:					
Golf Villas	116	$61,320	$61,320	71.0%	$428.81
Ridge Villas	81	$77,833	$78,442	67.1%	$442.23

Two Bedroom Ironwoods					
Ocean View	29	$6,820	$6,820	12.3%	$426.25
Ocean Front	50	$9,100	$9,100	17.6%	$650.00
Three Bedroom Homes:					
Pineapple Hill	17	$68,853	$74,650	17.5%	$1,344.26
Four Bedroom Homes:					
Pineapple Hill	94	$31,003	$97,100	30.5%	$1,797.25
Five Bedroom Homes:					
Plantation Estates	24	$117,500	$117,500	14.5%	$4,051.72
Kapalua Place	54	$ 70,000	$ 70,000	17.5%	$7,000.00

One Bedroom Fairway View:					
Golf Villas	25	$40,690	$54,277	72.8%	$170.63
Ridge Villas	23	$33,641	$34,260	60.3%	$170.12
One Bedroom Ocean View:					
Ridge Villas	24	$45,313	$54,947	70.9%	$195.59
Bay Villas	21	$40,471	$50,227	64.2%	$192.98
One Bedroom Ocean Front:					
Bay Villas	22	$35,321	$80,140	61.0%	$225.63
Two Bedroom Fairway View:					
Golf Villas	39	$47,191	$62,085	64.0%	$238.85
Ridge Villas	15	$52,050	$52,050	62.2%	$245.52
Two Bedroom Ocean View:					
Ridge Villas	32	$61,478	$71,864	65.4%	$309.06
Bay Villas	32	$56,609	$78,810	60.6%	$300.92
Two Bedroom Ocean Front:					
Bay Villas	21	$61,916	$95,468	52.0%	$382.73
Three Bedroom Fairway View:					
Golf Villas	13	$66,404	$78,127	60.0%	$321.57
Three Bedroom Ocean View:					
Golf Villas	34	$61,957	$61,957	50.1%	$415.82
Ridge Villas	51	$84,619	$87,638	71.2%	$403.91

Two Bedroom Ironwoods					
Ocean View	28	$32,000	$32,000	29.9%	$395.06
Three Bedroom Homes:					
Pineapple Hill	47	$56,096	$75,769	26.6%	$1,137.07
Four Bedroom Homes:					
Pineapple Hill	37	$82,908	$122,740	30.9%	$2,265.25
Five Bedroom Homes:					
Plantation Estates	31	$ 20,000	$ 20,000	10.4%	$2,857.14

Ridge Villas	43	$36,187	$50,750	66.3%	$181.84
One Bedroom Ocean View:					
Ridge Villas	26	$54,784	$66,567	78.4%	$211.39
Bay Villas	15	$55,066	$61,831	71.2%	$211.53
Bay Villas *	15	$40,160	$45,862	55.6%	$213.49
One Bedroom Ocean Front:					
Bay Villas	20	$58,118	$78,395	72.9%	$238.35
Two Bedroom Fairway View:					
Golf Villas	32	$58,514	$75,240	69.6%	$263.16
Ridge Villas	16	$58,249	$58,249	64.1%	$267.20
Two Bedroom Ocean View:					
Ridge Villas	41	$74,221	$88,196	72.9%	$331.34
Bay Villas	30	$66,291	$90,589	62.5%	$334.38
Two Bedroom Ocean Front:					
Bay Villas	22	$100,027	$117,874	75.9%	$402.52
Bay Villas*	22	$55,826	$62,139	38.6%	$395.02
Ironwood (12/1/00)	0	$ 4,400	$ 4,400	3.0%	$400.00
Three Bedroom Fairway View:					
Golf Villas	10	$85,560	$85,560	64.4%	$364.08
Three Bedroom Ocean View:					
Ridge Villas	81	$59,799	$60,675	64.7%	$385.80

*** Construction**

The Kapalua Villas

Four Bedroom Homes:					
Pineapple Hill	42	$83,281	$114,500	24.4%	$1,771.94
Five Bedroom Estate:					
Plantation Estates	55	$84,000	$84,000	21.4%	$3,652.17

	Average	*High*	*Occupancy*
Golf	$45,972.67	$53,745.25	72.87%
Ridge	$45,712.70	$50,167.00	70.89%
1 Bedroom Ocean View			
Ridge	$44,170.98	$59,830.50	66.55%
Bay	$45,993.14	$64,628.00	61.72%
1 Bedroom Ocean Front			
Bay	$54,700.00	$74,512.50	64.14%
2 Bedroom Fairway View			
Golf	$51,325.48	$67,564.00	61.16%
Ridge	$43,355.50	$50,888.50	50.27%
2 Bedroom Ocean View			
Ridge	$58,494.84	$80,480.00	55.63%
Bay	$66,186.81	$79,203.50	59.23%
2 Bedroom Ocean Front			
Bay	$81,252.29	$107,616.00	62.47%
3 Bedroom			
Pineapple Hill	$56,099.83	$98,402.50	24.38%
4 Bedroom			
Pineapple Hill	$40,646.50	$90,000.00	5.66%
5 Bedrooms			
Plantation Estates	$104,250.00	$104,250.00	8.77%

This rental income summary is historical in nature and should not be construed as a projection of future income. Kapalua Realty makes no representations or guarantees about future rental income or occupancy rates. All questions on rentals (including expenses) should be directed to The Kapalua Villas Management Staff. You may contact Lorraine Hamade or David Sosner, at (800) 545-0018.

The Kapalua Villas

project reference file

VOLUME 25 NUMBER 13
JULY-SEPTEMBER 1995

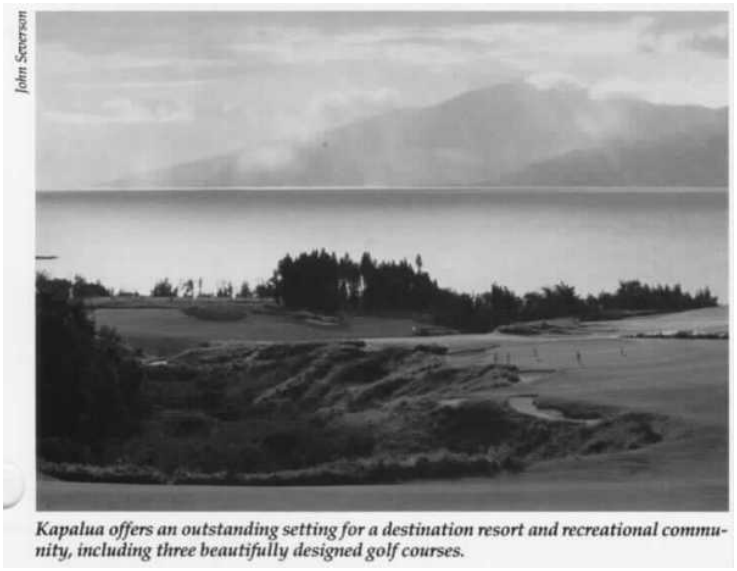
RESIDENTIAL

KAPALUA

MAUI, HAWAII

PROJECT TYPE

A 1,500-acre oceanfront destination resort that includes three world class resort properties—the Ritz-Carlton Kapalua, Kapalua Bay Hotel and Villas, and The Kapalua Villas—as well as seven residential communities, three championship golf courses, two tennis centers, three white sand beaches, and specialty shopping. The community was started in 1975 and currently is about 50 percent complete.


John Severson

Kapalua offers an outstanding setting for a destination resort and recreational community, including three beautifully designed golf courses.

SPECIAL FEATURES

- Destination resort
- Oceanfront site
- Golf as primary amenity

DEVELOPER

Kapalua Land Company, Ltd.
a subsidiary of Maui Land & Pineapple Company, Inc.
1000 Kapalua Drive
Kapalua, Maui, Hawaii 96761
808-669-5622

SITE PLANNER

Belt Collins and Associates
680 Ala Moana Blvd.
Suite 200
Honolulu, Hawaii 96813
808-521-5361

GENERAL DESCRIPTION

Kapalua is an upscale, self-contained, master-planned resort community set amid a 23,000-acre privately owned pineapple plantation. It is located on the scenic northwest coast of Maui, approximately one hour by car from Maui's main airport in Kahului and five minutes from the Kapalua-West Maui Airport. It has been developed as a destination resort on 1,500 acres along three miles of shoreline, of which 3,700 feet is prime beach frontage on the Pacific ocean, including several bays. The land consists of sloping hills and valleys, with elevations from sea level to approximately 750 feet.

A key focus of the resort concept has been the development of condominiums, or villas, in addition to the resort hotels, as well as single-family fee-simple homesites. The single-family owners provide the resort the stability of long-term residents and add profitable land use alternatives to high-density resort hotel and commercial uses.

Kapalua provides a model for contemporary resort developments in that it is an exclusive resort whose design is highly sensitive to its surrounding natural environment. The natural contours of the land have been preserved, with no mass grading, and the existing plantation roads form the basis of the unified design, which harmoniously blends the natural beauty of the site with the mix of land uses necessary for the resort's success. No mega-hotels make big exotic statements at Kapalua; the hotels are designed to complement the ocean frontage, not compete with it.

THE SITE AND DEVELOPMENT PROCESS

In the late 1800s, Kapalua was part of Honolua Ranch, an agricultural operation with taro patches, coffee beans, and cattle. At the turn of the century, Maui businessman H.P. Baldwin acquired the ranch. He planted pineapple, as well as a variety of other crops (macadamia, mango, aloe, corn), and hundreds of trees, including Cook and Norfolk pines. Colin Cameron, a fifth-generation descendent of Baldwin, founded the Kapalua resort. His conservation mentality led to extraordinarily sensitive environmental and site planning.

The resort is now owned and managed by the developer, Kapalua Land Company, Ltd., a subsidiary of Maui Land & Pineapple Company, Inc. The company sought to create a high-quality, self-contained, full-destination resort with a unified design and carefully planned mix of facilities primarily for the free independent traveler and quality tour groups. Planned components included luxury hotel accommodations, attached and detached housing, golf, tennis, beach/ocean recreation, restaurants, and shops. Free, resort-wide shuttle service was considered essential. The project has been developed in two major phases, with construction starting in 1975.

Phase I: 1964 to 1985. The first phase of the project was developed over a 21-year period, with construction and sales beginning in 1975, and currently consists of the following:

- Kapalua Bay Hotel and Villas, a 194-room hotel with an open-air configuration of rooms and suites, as well as 100 one and two bedroom villas. It is noted for The Point, which, with its butterfly-shaped pool and dramatic ocean panoramas, is a popular site for weddings. Its amenities include private room lanais, afternoon tea service, complimentary in-room videos, year-round children's programs, whale/ocean lectures, an exercise room, and two hours daily use of complimentary water sports equipment at Kapalua Bay. The developer sold the project in 1985 to KBH Operations Limited Partnership.

- Condominium Villas, four separate projects totaling 488 units, including: The Bay Villas, 141 one- and two-bedroom units on 16.5 acres, completed in 1977; The Golf Villas, 186 one- and two-bedroom units on 15.8 acres, completed in 1979; The Ridge Villas, 161 one- and two-bedroom units on 22 acres, completed in 1980; and The Ironwoods, completed in 1980, which includes 40 units in 10 plantation-style buildings on 9.2 acres, with 4 homes in each building.

- Pineapple Hill, 99 single-family, fee-simple detached homesites on 45.5 acres, first made available in 1985 and sold out by 1987.

Phase I amenities include two 18-hole golf courses designed by Arnold Palmer—the 6,600-yard Bay Course, which opened in 1975, and the 6,632 yard Village Course, which opened in 1980; the Tennis Garden, with 10 courts, four of them lighted for night play, which opened in 1979; and Kapalua Shops, a 40,000-square-foot boutique shopping center adjacent to the Kapalua Bay Hotel, completed in 1979.

Phase II: 1986 to present. The second and most recent phase of the development includes:

- Kapalua Place, eight fee-simple, single-family homesites in a private, gated oceanfront community on 8.9 acres. These sites were first offered in 1989 and sold out in one year.

- Plantation Estates, 36 fee-simple, single-family homesites in a private, gated golf community on 108.4 acres. First offered for sale in 1990, the sites are nearly sold out.

- The 550-room Ritz-Carlton Kapalua hotel, opened in late 1992. It is owned by the Maui Land & Pineapple Company, Nissho Iwai, and the Ritz Carlton Hotel Company, and operated by Ritz-Carlton. Situated on 37 acres, the hotel is bordered by a white sand beach and the Bay Course. It has an open-air configuration of oceanfront rooms and suites, including 58 executive suites and two Ritz-Carlton suites. All guest rooms have spacious lanais. The hotel also has a 10,000-square-foot, three-level swimming pool with a 20,000-square-foot sun deck; over 30,000 square feet of meeting space; a 165-seat theater; a private lounge serving continental breakfast, afternoon tea, daily cocktails, and after-dinner cordials; and five restaurants.

Phase II amenities include: The Plantation Course, an 18-hole, 7,263-yard championship course designed by Bill Coore and Ben Crenshaw, which opened in 1991 and is the heart of the residential community of Plantation Estates; a 33,000-square-foot clubhouse with a full-service golf shop, men's and women's locker facilities, and a restaurant, which also opened in 1991; and the Village Tennis Center, a landscaped tennis complex located on the oceanfront lawns of the Ritz-Carlton Kapalua hotel, which opened at the end of 1992 and includes ten courts, half of them lighted for night play.

PLANNING AND DESIGN

At Kapalua, developers used low-rise, low-density construction to blend with the natural contours of the site rather than intrude on it. The unified design is distinctive yet appropriate to both the site and the Hawaiian islands. Rules adopted for each segment of the resort control the design and construction and the selection of architects. The design and construction rules for each community are part of the declaration of covenants, conditions, and restrictions for that community.

In Pineapple Hill, for example, design standards define the general style as cascading hipped roof forms with strong overhanging masses composed of basic earthtone colors that blend into the natural setting. Consistency of roof form and restraint in use of materials and color are key design elements. Grading is minimal, and buildings are "stair stepped" with existing contours.

Condominiums are developed in small clusters and sited for maximum view orientation. In addition to the ocean views, the site offers many attractive non-ocean views, since the adjoining land is still used for pineapple farming. Forestland and watersheds provide mountain vistas as well. The covenants and design review regulations provide the continuing site-planning tools that ensure maximum view orientation for each residence. Careful placement of buildings also provides natural air circulation and protection from wind.

Design guidelines for Plantation Estates require homeowners to use informal landscaping to soften retaining walls with cascading vines, and to ensure that buildings and trees—except for

the historic Norfolk pines—not exceed 35 feet in height to preserve views. Residents may use a limited variety of plants to establish the overall landscape theme for the lot, which much reinforce the character of the golf course within a transitional area between the golf course and the residence. Gulches—defined as densely vegetated land with slopes of 20 percent or greater, inaccessible without major land-form adjustments—are to be protected; they may not be altered without the written approval of the design review committee.

The plan leaves sensitive areas undeveloped, greatly enhancing the environmental setting for the development. An ancient burial ground has been preserved as well as Pu'u Kukui, an 8,661-acre rare native rainforest. Situated above Kapalua in the West Maui Mountains, the rainforest is home to three native bird species, five rare snail species, and 12 natural communities. In 1992, Colin Cameron granted The Nature Conservancy of Hawaii a permanent easement over the native forest, creating the state's largest private nature preserve. Since 1978, Honolua and Mokuleia bays have been declared marine life conservation districts by the state; fishing is prohibited in an effort to protect the island's unique ocean resources.

MANAGEMENT AND MARKETING

The variety of hotel, residential, and recreational offerings on the site has resulted in a complex resort operation—comprising numerous operating entities—and a detailed merchandising plan. For example, Kapalua Bay Hotel and Villas are owned and managed by the KBH Operations Limited Partnership, which acquired the property from the developer in 1985; the latter continues to own the land and leases it to the hotel. Other villa rentals are managed by Kapalua Land Company, and amenities include privileges at the Ritz-Carlton Kapalua hotel, including the Ritz Kids program, spa, and pool. All villas at Kapalua are individually owned.

The three golf courses are owned by Kapalua Land Company and are open to the public. Priority is given to members of the Kapalua Club, a nonequity club managed by the developer, and resort guests, who are allowed to book tee times in advance of other players. Golf play from members and owners constitutes only about 7 percent of golf activity and 20 percent of tennis activity. Golf play from resort guests represents about 50 percent. The balance comes from visitors staying off the resort and from the local community.

The Kapalua Club offers three classes of membership: resort, golf, and corporate. Resort memberships are available for purchase by resort property owners and, in addition, a limited number (presently not to exceed 100) are offered for nonproperty owners. Initiation fees are moderate—$500 for property owners and $1,000 for nonproperty owners. Annual dues currently are $150 for property owners, $300 for nonproperty owners. Resort privileges include beach and pool facilities with payment of equipment rental fees, complimentary tennis court fees, a year-round calendar of member activities, advance golf reservations at reduced fees, eligibility for spa memberships at the Ritz-Carlton Kapalua hotel, and discounts on the published rack rate for resort properties and on restaurant charges.

Golf memberships may be purchased by a limited number of resort property owners (presently not to exceed 100) and nonproperty owners (presently not to exceed 50). The initiation fee currently is $8,500 for property owners and $14,000 for nonproperty owners, of which 80 percent is refundable if a replacement member is found. Golf privileges include resort membership, complimentary greens fees at the golf courses, seven-day advance reservation at the Bay and Village courses, ten-day advance reservation at The Plantation Course, complimentary privileges at the two practice ranges, and reduced lesson and other fees.

Kapalua provides a good example of how a new destination resort community is by nature a long term undertaking, requiring significant resources and staying power of the financial partner. Kapalua has been financially successful, in spite of having to provide most of the infrastructure, which the local government did not provide. In the mid-1970s, the developer had to absorb significant design, infrastructure, and carrying costs. Revenues from resort operations and lot sales did not offset expenses until Kapalua achieved reasonable maturity in

the mid-1990s. Only then did the developer break even on the initial resort infrastructure.

Approximately one-third of the developer's revenue from resort operations in 1994 came from golf and tennis fees, one-fourth from retail sales, about 15 percent from condominium rentals, 8 percent from commercial leases, 6 percent from membership and utility company income, and 15 percent from other sources.

The hotels sold off by the developer have experienced numerous ups and downs. The Kapalua Bay Hotel and Villas opened in 1979. From then until it was sold in 1985, occupancy ranged from 54 percent to 68 percent, and the hotel did not operate at a profit. The property had three good years from 1986 to 1989, with occupancy rates reaching 87 percent. However, a glut of high-end room inventory on Maui and on Hawaii in general, coupled with poor economic growth, resulted in low occupancy and losses again after 1989.

Since the Ritz-Carlton Kapalua hotel opened, occupancy has averaged 58 percent. The hotel has consistently generated positive cash flow from operations before debt service. However, the cash flow has not been enough to cover debt service on the mortgage, and the hotel currently is restructuring its debt.

Kapalua's residential component provides an additional revenue source. In the resort's early days, investors bought many of the villas and lots. Recently, however, the trend has shifted toward owner occupancy. Oceanfront lots are the most valuable, with two-third-acre lots at Kapalua Place currently selling for between $2.5 million and $2.8 million. The price of golf course frontage lots vary, but Pineapple Hill's predominantly quarter-acre lots sell for approximately $450,000. Lots in Plantation Estates have been selling for about $1 million per acre, with lot sizes of two or more acres. Comparing prices among developments is difficult because each is unique, and lot sizes vary because Kapalua's hallmark is a land plan in which the lots are shaped by and complement the terrain.

Lot sale and housing prices climbed until the recession of the early 1990s, when they began to fall. As of 1995, however, they have stabilized. Over the last two years, sales averages in Pineapple Hill have been up 45 percent over original prices.

Kapalua capitalizes on its extraordinary environmental setting by providing eco-vacation packages, a recent trend in the resort business. In 1993, it launched Eco Resort Shuttle Tours to highlight Kapalua's environmental and preservation efforts.

EXPERIENCE GAINED

- Kapalua provides a good example of how environmentally sensitive planning and design, enforced by covenants and design review standards and procedures, ultimately translates into financially rewarding investments. However, the time frame for this to occur can be quite long. Kapalua Land Company was fortunate that its parent company, Maui Land & Pineapple Company, Inc., was well capitalized and had the financial staying power necessary to provide upfront planning and infrastructure years before construction could begin. It could also weather the long period before revenues caused the resort to break even.

- The resort also provides a good lesson in how important it is for self contained destination resorts to create diverse environments that include residential components. Kapalua's residential component stabilized the resort and created additional business for resort operations. Resort components, in turn, supported and fed the marketing effort for the residential lots, helping to generate a greater market for luxury housing and multimillion-dollar estates, important profit centers for the resort.

- The developer's choice of maximum quality environmental planning has paid dividends in the quality of Kapalua. The incomparable natural features of Kapalua have been enhanced by the ongoing requirements for quality design. The harmony of the resort with its surroundings and the company's stewardship of the land have played a large part in enhancing the value of residential real estate in Kapalua. Kapalua's developer

chose a different path in its development as a resort from the other mega hotels of Maui, and it has proven that environmentally sensitive land planning does translate into incomparable results that withstand the test of time.

PROJECT DATA

LAND USE PLAN

	Acres	*Percent of Site*
Detached Residential	205	13.7%
Attached/Multifamily Residential	260	17.3
Hotel	85	5.7
Golf Courses	550	37.0
Roads	50	3.3
Common Open Space	300	20.0
Commercial	15	1.0
Other	35	2.3
Total	1,500	100.0%

HOTEL INFORMATION

Number of Separate Hotels Planned: 3
Number of Separate Hotels Completed: 2
Total Hotel Rooms Planned: 1,380
Total Hotel Rooms Completed: 744
Average Daily Room Rate: $250
Average Annual Occupancy Rate: 60 percent

RESIDENTIAL UNIT INFORMATION

Completed Areas	*Acres*	*Lot Size (Square Feet)*	*Unit Type*	*Date Completed*	*No. of Units Planned/Built*	*Range of Sales Prices*
The Bay Villas	16.5	1,560	MF	12-77	141/141	$370,000-950,000
The Golf Villas	15.8	1,500	MF	8-79	186/186	$300,000-460,000
The Ridge Villas	22.0	1,650	MF	4-80	161/161	$295,000-460,000
The Ironwoods	9.2	2,520	MF	3-80	40/40	-
Pineapple Hill	45.5	11,000	SF	10-87	99/99	$212,500-430,000[1]
Kapalua Place	8.9	43,800	SF	6-89	8/8	-
Plantation Estates I	22.5	113,000	SF	6-90	36/36	$585,000-950,000

Total Residential Units Completed: 671

Note:

[1]Price for lots only. Homes typically sell for around $1,150,000.

DEVELOPMENT SCHEDULE

Site Purchased: Early 1900s
Planning Started: 1964
Construction Started: 1975
Sales Started: 1975
Percent Completed: 50 percent

DIRECTIONS

From Kapalua-West Maui Airport: Proceed north on Hanoapiilani Highway. Turn left into community entrance at "Kapalua" sign.

Driving Time: 5 minutes in non-peak-hour traffic.

The Project Reference File is intended as a resource tool for use by the subscribers in improving the quality of future projects. Data contained herein were made available by the Development team and constitute a report on, not an endorsement of, the project by ULI - The Urban Land Institute.

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1025 Thomas Jefferson Street, N.W. Ste. 500w, Washington, D. C. 20007-5201

John Severson

Kapalua offers an outstanding setting for a destination resort and recreational community, including three beautifully designed golf courses.

Overlooking the Pacific Ocean, The Ironwoods includes ten condominium buildings of four units each.

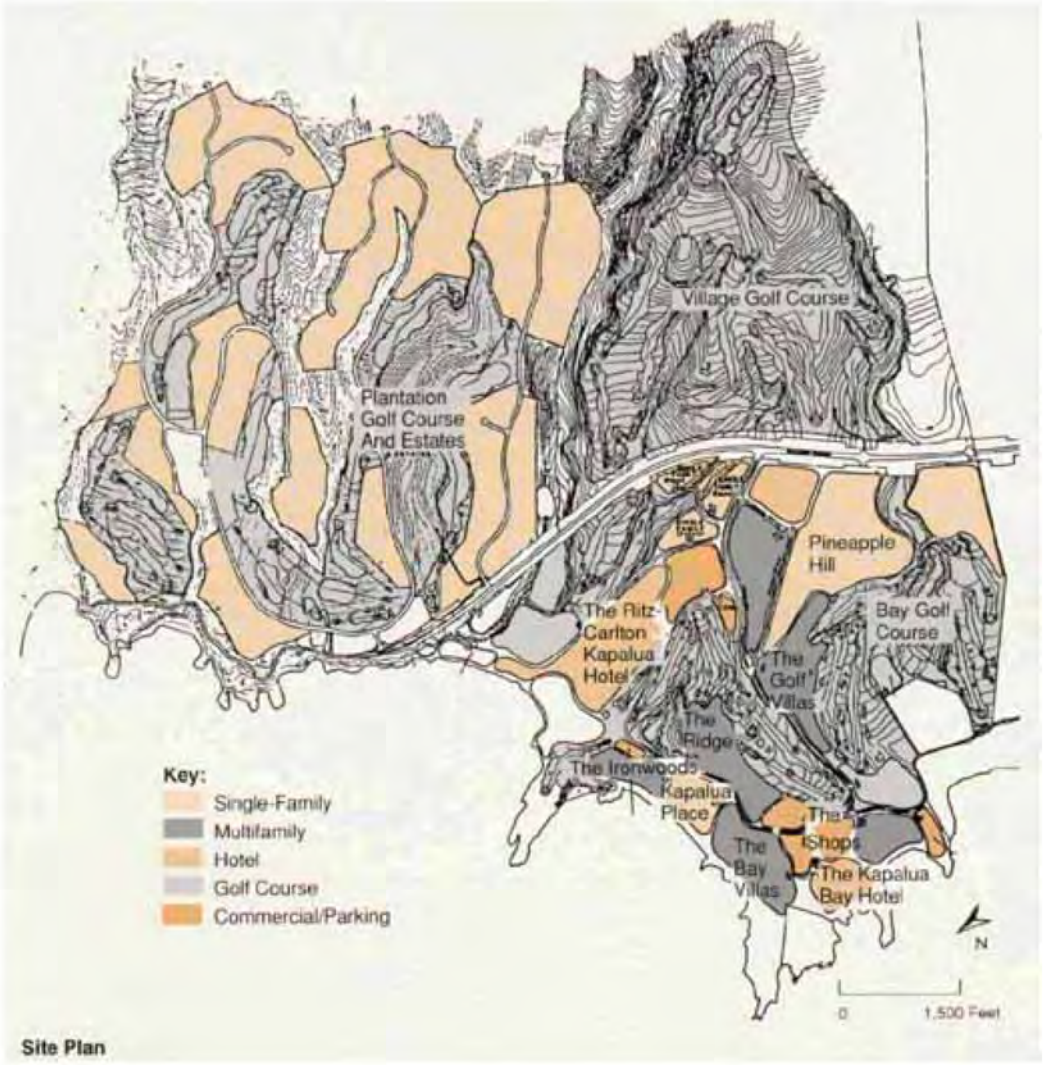
Overlooking Kapalua Bay, Kapalua Bay Hotel and Villas—including 194 hotel rooms and 100 villas—remains the centerpiece of the resort.

The 6,632-yard Village Course, which opened in 1980, climbs into the West Maui Mountains, 750 feet above sea level.

The three-mile Kapalua coastline includes several bays, some rocky terrain, and 3,700 feet of prime beach frontage.

John Severson

Located in scenic enclaves throughout the resort, Kapalua's villas are characterized by low-density development, with architectural designs created to complement the terrain.


Village Golf Course
Plantation
Golf Course
And Estates
Pineapple
Hill
Bay Golf
Course
The Ritz-
Carlton
Kapalua
Hotel
The
Golf
Villas
The
Ridge
The Ironwoods
Kapalua
Place
The
Shops
The
Bay
Villas
The Kapalua
Bay Hotel
N
0
1,500 Feet
Key:
Single-Family
Multifamily
Hotel
Golf Course
Commercial/Parking

Site Plan

HLU Committee

From: County Clerk
Sent: Friday, June 26, 2026 8:45 AM
To: HLU Committee
Subject: Fw: Kapalua Golf Villas-Additional documentation for record-Metes and Bounds-Bill 88
Attachments: Kapalua Golf Villas Metes and Bounds-2026 Fidelity National Title and Escrow.pdf

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From: T Jinks <tj95037@yahoo.com>
Sent: Friday, June 26, 2026 6:11 AM
To: County Clerk <County.Clerk@mauicounty.us>
Subject: Fw: Kapalua Golf Villas-Additional documentation for record-Metes and Bounds-Bill 88

You don't often get email from tj95037@yahoo.com. Learn why this is important

Dear Maui County Clerk,

I am forwarding this email which I sent to the Planning Dept., Mayor Bissen, and each Council Member. I am asking that this be submitted to be included in county records for our property, Kapalua Golf Villas, and relating to Bill 88.

Thank you,

Tom Jinks
President, Kapalua Golf Villas AOAO

----- Forwarded Message -----
From: T Jinks <tj95037@yahoo.com>
To: planning@mauicounty.gov <planning@mauicounty.gov>
Cc: mayors.office@co.maui.hi.us <mayors.office@co.maui.hi.us>; alice.lee@mauicounty.us <alice.lee@mauicounty.us>; yukilei.sugimura@mauicounty.us <yukilei.sugimura@mauicounty.us>; kauanoe.batangan@mauicounty.us <kauanoe.batangan@mauicounty.us>; thomas.cook@mauicounty.us <thomas.cook@mauicounty.us>; gabe.johnson@mauicounty.us <gabe.johnson@mauicounty.us>; tamara.paltin@mauicounty.us <tamara.paltin@mauicounty.us>; keani.rawlins@mauicounty.us <keani.rawlins@mauicounty.us>; shane.sinenci@mauicounty.us <shane.sinenci@mauicounty.us>; nohe.uu-hodgins@mauicounty.us <nohe.uu-hodgins@mauicounty.us>
Sent: Friday, June 26, 2026 at 05:23:59 AM PDT
Subject: Kapalua Golf Villas-Additional documentation for record-Metes and Bounds-Bill 88

Dear Maui County Planning Director Takakura, Honorable Mayor Bissen, and County Council Members,

My name is Tom Jinks and I am the President of the Kapalua Golf Villas AOAO. Last week I sent each of you a Statement of Record documenting some very important

points and characteristics of our property. The purpose of my messages is to formally request that the Kapalua Golf Villas be considered in the initial set of properties to be approved for the new zone classification, H3/H4 under Bill 88. That request is based upon these important points which I hope you will consider.

Those points included:

- Master Planned Resort development history and property usage outlines in County and State documentation

- Documented evidence showing the lodgings and rental programs established by the original developer, Maui Land & Pineapple

- Recent and current sales and listings within the property

I have recently been advised that Maui County officials will also require a property's recorded Metes and Bounds. I submitted a request to Fidelity National Title and Escrow. I am submitting that copy today. Additionally, I am including a map of the Kapalua Resort from Maui County records dated 1974.

The property owners of the Kapalua Golf Villas fully appreciate all of the work that continues to go into this process. As we recognize this is an important phase of Bill 88, we also understand this is not a simple task. If there is additional information or assistance needed from our property, please do not hesitate to ask.

Thank you again for your consideration.

Sincerely,

Tom Jinks
President, Kapalua Golf Villas AOAO

RETA CHIN
VP/Sales Manager
Fidelity National Title & Escrow
Reta.Chin@fnf.com
Direct: 808-268-6554
WHAT CLIENTS ARE SAYING

From: Chin, Reta <Reta.Chin@fnf.com>
Sent: Wednesday, June 24, 2026 2:23 PM
To: T Jinks <tj95037@yahoo.com>; Courtney M. Brown <cb@luxuryrealestatemaui.com>
Subject: RE: Kapalua Golf Villas

Aloha Tom,

Please find the doc.
Courtney, Metes and Bounds was not listed on prelim.
However, it was in the Condo's Declaration HPR.

Starts on page 15.

Warmest aloha,

RETA CHIN
VP/Sales Manager
Fidelity National Title & Escrow
Reta.Chin@fnf.com
Direct: 808-268-6554
WHAT CLIENTS ARE SAYING

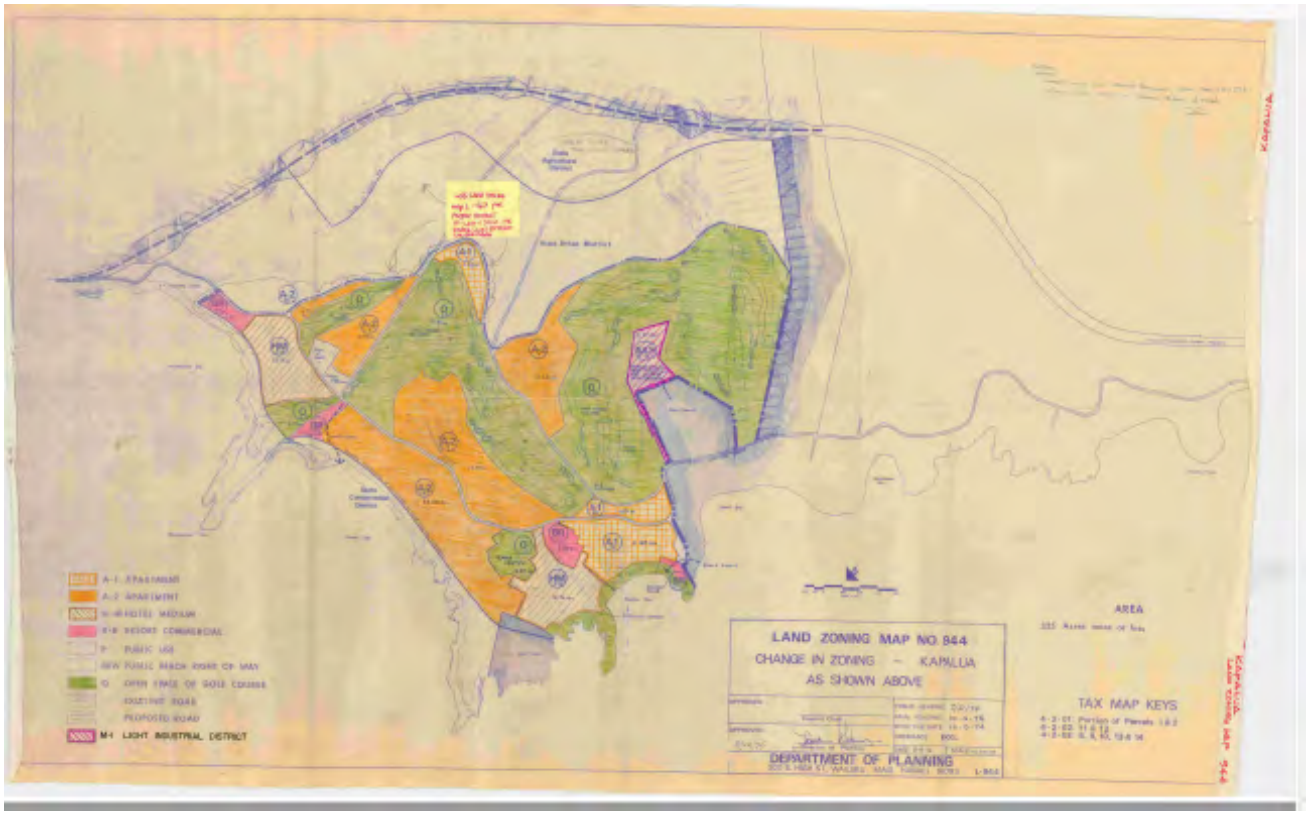
LAND ZONING MAP NO. 844
CHANGE IN ZONING - KAMALUA
AS SHOWN ABOVE
DEPARTMENT OF PLANNING
AREA
TAX MAP KEYS
A-1 APARTMENT
A-2 APARTMENT
H-M HOTEL MEDIUM
H-R RESORT COMMERCIAL
P PUBLIC USE
OPEN SPACE OF GOLF COURSE
M-1 LIGHT INDUSTRIAL DISTRICT
KAMALUA
Zoning Map No. 844

EXHIBIT A

FIRST:

Lot 2B, being all of that certain parcel of land being portion of Royal Patent 2236, Land Commission Award 8522-B Apana 1 to Kale Davis, situate Honokahua, Lahaina, Maui, Hawaii, more particularly described as follows:

Beginning at the Northwesterly corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Hawea" being:

1,612.30 feet South
1,531.25 feet East

and running by azimuths measured clockwise from true south:

1.	271°	30'	30"	231.07	feet along remainder of R.P. 2236;
2.	288°	09'		303.00	feet along remainder of R.P. 2236;
					thence along the same and along a curve to the left with a radius of 230.00 feet, the chord azimuth and distance being:
3.	268°	47'		152.54	feet;
4.	249°	25'		130.00	feet along remainder of R.P. 2236;
					thence along same and along a curve to the right with a radius of 250.00 feet, the chord azimuth and distance being:
5.	263°	20'		120.26	feet;
6.	277°	15'		121.00	feet along remainder of R.P. 2236;
					thence along same and along a curve to the right with a radius of 245.00 feet, the chord azimuth and distance being:
7.	303°	19'		215.31	feet;

8.	59°	23'	59.00	feet along remainder of R.P. 2236;
9.	81°	18'	148.28	feet along remainder of R.P. 2236;
10.	0°	00'	74.26	feet along remainder of R.P. 2236;
11.	67°	53'	166.76	feet along remainder of R.P. 2236;
12.	87°	13'	202.20	feet along remainder of R.P. 2236;
13.	57°	15'	105.00	feet along remainder of R.P. 2236;
14.	147°	15'	232.00	feet along remainder of R.P. 2236;
15.	118°	35'	115.00	feet along remainder of R.P. 2236;
16.	114°	25'	228.00	feet along remainder of R.P. 2236;
17.	163°	15'	18.74	feet along remainder of R.P. 2236;
18.	103°	25'	173.00	feet along remainder of R.P. 2236;
19.	190°	32'	107.65	feet along remainder of R.P. 2236 to the point of beginning and containing an area of 7.232 acres.

SECOND:

Lot 2C, being all of that certain parcel of land being portions of Royal Patent 1663, Land Commission Award 5524 to L. Konia and Royal Patent 2236, Land Commission Award 8522-B Apana 1 to Kale Davis, situate Napili 2 and 3, Honokahua, Lahaina, Maui, Hawaii, more particularly described as follows:

Beginning at the Northwesterly corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Hawea" being:

2,120.60 feet South
2,119.35 feet East

and running by azimuths measured clockwise from true south:

1.	237°	15'		105.00	feet along remainder of R.P. 2236;
2.	267°	13'		202.20	feet along remainder of R.P. 2236;
3.	247°	53'		166.76	feet along remainder of R.P. 2236;
4.	180°	00'		74.26	feet along remainder of R.P. 2236;
5.	231°	14'		165.30	feet along remainder of R.P. 2236;
6.	239°	23'		59.00	feet along remainder of R.P. 2236;
					thence along same and along a curve to the right with a radius of 245.00 feet, the chord azimuth and distance being:
7.	349°	25'	30"	167.92	feet;
8.	9°	28'		155.00	feet along remainder of R.P. 2236;
					thence along same and along a curve to the left with a radius of 650.00 feet, the chord azimuth and distance being:
9.	352°	43'	48"	374.37	feet;
10.	335°	59'	36"	32.05	feet along remainder of R.P. 2236;
					thence along same and along a curve to the right with a radius of 270.00 feet, the chord azimuth and distance being:

11.	347°	59'	48"	112.30	feet;
12.	0°	00'		80.00	feet along remainder of R.P. 2236;
					thence along same and along a curve to the left with a radius of 200.00 feet, the chord azimuth and distance being:
13.	350°	37'	30"	65.16	feet;
14.	341°	15'		140.00	feet along remainder of R.P. 2236;
15.	321°	05'		46.96	feet along remainder of R.P. 2236;
16.	51°	05'		115.00	feet along remainders of R.P. 2236 and R.P. 1663;
17.	78°	35'		87.75	feet along remainder of R.P. 1663;
18.	160°	05'		189.00	feet along remainder of R.P. 1663;
19.	171°	55'		275.00	feet along remainders of R.P. 1663 and R.P. 2236;
20.	162°	25'		103.00	feet along remainder of R.P. 2236;
21.	79°	38'		135.00	feet along remainder of R.P. 2236;
22.	14°	15'		62.50	feet along remainder of R.P. 2236;
23.	57°	35'		33.21	feet along remainder of R.P. 2236;
24.	64°	50'		65.00	feet along remainders of R.P. 2236 and R.P. 1663;
25.	146°	45'		33.41	feet along remainder of R.P. 1663;
26.	163°	35'		158.00	feet along remainders of R.P. 1663 and R.P. 2236;

27.	147°	15'	20.00	feet along remainder of R.P. 2236;
28.	170°	15'	157.00	feet along remainder of R.P. 2236;
29.	89°	21'	72.41	feet along remainder of R.P. 2236;
30.	147°	15'	150.00	feet along remainder of R.P. 2236 to the point of beginning and containing an area of 8.609 acres.

TOGETHER WITH, as to FIRST and SECOND above, a nonexclusive easement for ingress and egress for vehicular and pedestrian traffic, and for electrical, gas, communications and other utility purposes and for sanitary and storm sewers, water facilities, cable television, and rights-of-way over, under, across, along and through that certain Roadway Easement described below; EXCEPTING AND RESERVING, however, unto Maui Land & Pineapple Company, Inc., its successors and assigns, the right to relocate or realign such easements at the expense of Maui Land & Pineapple Company, Inc., and the right to grant to the United States of America, State of Hawaii, County of Maui, or any other appropriate governmental agency, or to any public utility or other corporation, easements for such purposes within the Roadway Easement described below, under such terms and conditions as Maui Land & Pineapple Company, Inc. may desire or require. The easement mentioned herein is to be maintained and repaired by the Lessor and is described as follows:

All of that certain parcel of land being a portion of Lot 2-A and portions of Royal Patent 1663 Apana 1, Land Commission Award 5524 Apana 1 to L. Konia and Royal Patent 2236, Land Commission Award 8522-B Apana 1 to Kale Davis, situate Honokahua, Napili 2 & 3, Lahaina, Maui, Hawaii, more particularly described as follows:

Beginning at a point on the northerly corner of this easement, on the easterly side of Lot 4, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Hawea" being:

1,323.03 feet South
798.37 feet East

and running by azimuths measured clockwise from true south:

1.	2°	09'	35.7"	45.67 feet along remainder of Lot 2-A and along the remainder of R.P. 2236, L.C.Aw. 8522-B Ap. 1 to Kale Davis to a point;

thence along same and along the remainder of R.P. 1663 Ap. 1, L.C.Aw. 5524 Ap. 1 to L. Konia and along an arc of a curve to the right with a radius of 173.00 feet, the chord azimuth and distance being:

2.	319°	32'	12.5"	50.27	feet to a point;
3.	326°	53'	25"	60.56	feet along the remainder of Lot 2-A and along the remainder of R.P. 1663 Ap. 1, L.C.Aw. 5524 Ap. 1 to L. Konia to a point;

thence along same and along an arc of a curve to the left with a radius of 217.95 feet, the chord azimuth and distance being:

4.	305°	47'	06.7"	156.96	feet to a point;
5.	267°	15'	24"	434.00	feet along the remainder of Lot 2-A and along the remainders of R.P. 1663 Ap. 1, L.C.Aw. 5524 Ap. 1 to L. Konia and R.P. 2236, L.C.Aw. 8522-B Ap. 1 to Kale Davis to a point;
6.	271°	06'	00"	362.00	feet along the remainder of Lot 2-A and along the remainder of R.P. 2236, L.C.Aw. 8522-B Ap. 1 to Kale Davis to a point;
7.	284°	58'	42"	263.77	feet along same to a point;
8.	268°	24'	45"	134.44	feet along same to a point;
9.	251°	47'	30"	105.26	feet along same to a point;
10.	261°	16'	15"	123.52	feet along same to a point;
11.	270°	45'	00"	40.72	feet along same to a point;
12.	278°	10'	50"	107.34	feet along same to a point;
13.	285°	36'	40"	320.00	feet along same to a point;

14.	15°	36'	40"	185.00	feet along same to a point;
15.	73°	25'	01"	36.19	feet along same to a point;
					thence along Lots 2-C and 2-B and along the remainder of R.P. 2236, L.C.Aw. 8522-B Ap. 1 to Kale Davis and along an arc of a curve to the left with a radius of 245.00 feet, the chord azimuth and distance being:
16.	130°	19'	59"	267.47	feet to a point;
17.	97°	15'	00"	121.00	feet along Lot 2-B and along the remainder of R.P. 2236, L.C.Aw. 8522-B Ap. 1 to Kale Davis to a point;
					thence along same and along an arc of a curve to the left, with a radius of 250.00 feet, the chord azimuth and distance being:
18.	83°	20'	00"	120.26	feet to a point;
19.	69°	25'	00"	130.00	feet along Lot 2-B and along the remainder of R.P. 2236, L.C.Aw. 8522-B Ap. 1 to Kale Davis to a point;
					thence along same and along an arc of a curve to the right with a radius of 230.00 feet, the chord azimuth and distance being:
20.	88°	47'	00"	152.54	feet to a point;
21.	108°	09'	00"	303.00	feet along Lot 2-B and along the remainder of R.P. 2236, L.C.Aw. 8522-B Ap. 1 to Kale Davis to a point;
22.	91°	30'	30"	231.07	feet along same to a point;
23.	10°	32'	00"	20.50	feet along same to a point;

24.	99°	31'	11"	53.36	feet along the remainder of Lot 2-A and along the remainder of R.P. 2236, L.C.Aw. 8522-B Ap. 1 to Kale Davis to a point;
25.	106°	30'	30"	23.82	feet along same to a point;
					thence along same and along an arc of a curve to the left with a radius of 195.00 feet, the chord azimuth and distance being:
26.	99°	00'	30"	50.91	feet to a point;
27.	91°	30'	30"	30.22	feet along the remainder of Lot 2-A and along the remainder of R.P. 2236, L.C.Aw. 8522-B Ap. 1 to Kale Davis to a point;
					thence along same and along the remainder of R.P. 1663 Ap. 1, L.C.Aw. 5524 Ap. 1 to L. Konia and along an arc of a curve to the left with a radius of 1,977.00 feet, the chord azimuth and distance being:
28.	89°	22'	57"	146.67	feet to a point;
29.	87°	15'	24"	166.11	feet along the remainder of Lot 2-A and along the remainder of R.P. 1663 Ap. 1, L.C.Aw. 5524 Ap. 1 to L. Konia to a point;
					thence along same and along an arc of a curve to the right with a radius of 279.95 feet, the chord azimuth and distance being:
30.	98°	12'	41"	106.40	feet to a 40-foot road to a point;
31.	267°	15'	24"	329.46	feet along a 40-foot road to a point;
32.	112°	44'	24"	92.97	feet along same and along R.P. 1663 Ap. 1, L.C.Aw. 5524 Ap. 1 to L. Konia to a point;

33.	87°	15'	24"	301.08	feet along a 40-foot road to a point;
					thence along same and along an arc of a curve to the left with a radius of 299.75, the chord azimuth and distance being:
34.	86°	00'	17"	13.10	feet to a point;
					thence along the remainder of Lot 2-A and along the remainder of R.P. 1663 Ap. 1, L.C.Aw. 5524 Ap. 1 to L. Konia with a radius of 279.95 feet, the chord azimuth and distance being:
35.	135°	10'	15"	104.14	feet to a point;
36.	146°	53'	25"	60.56	feet along the remainder of Lot 2-A and along the remainder of R.P. 1663 Ap. 1, L.C.Aw. 5524 Ap. 1 to L. Konia to a point;
					thence along same and along an arc of a curve to the left with a radius of 111.00 feet, the chord azimuth and distance being:
37.	138°	32'	12.5"	32.25	feet to a point;
38.	70°	56'	38"	34.86	feet along the remainder of Lot 2-A and along the remainder of R.P. 1663 Ap. 1, L.C.Aw. 5524 Ap. 1 to L. Konia to Lot 4 to a point;
39.	212°	55'	24"	68.50	feet along Lot 4 and along the remainder of R.P. 1663 Ap. 1, L.C.Aw. 5524 Ap. 1 to L. Konia to a point;
40.	218°	36'	30"	60.00	feet along Lot 4 and along the remainder of R.P. 2236, L.C.Aw. 5922-B Ap. 1 to Kale Davis to the point of beginning and containing an area of 4.335 Acres.

TOGETHER WITH, as to FIRST and SECOND above, a non-exclusive easement for ingress and egress for vehicular and

pedestrian traffic, and for electrical, gas, communications and other utility purposes and for sanitary and storm sewers, water facilities, cable television, and rights-of-way over, under, across, along and through that certain Easement Area described below; EXCEPTING AND RESERVING, however, unto Maui Land & Pineapple Company, Inc., its successors and assigns, the right to relocate or realign such easements at the expense of Maui Land & Pineapple Company, Inc., the right to grant to the United States of America, State of Hawaii, County of Maui, or any other appropriate governmental agency, or to any public utility or other corporation, easements for such purposes within the Easement Area described below, under such terms and conditions as Maui Land & Pineapple Company, Inc. may desire or require and the right in connection with the widening of Honoapiilani Highway to withdraw from this demise and to grant and to dedicate to the United States of America, State of Hawaii, County of Maui, or any other appropriate governmental agency, all or portions of the Easement Area described below. The Easement Area mentioned herein is to be maintained and repaired by the Lessor and is described as follows:

All of that certain parcel of land, being Lot 4, being also portions of Royal Patent 2236, Land Commission Award 8522-B, Apana 1 to Kale Davis and Royal Patent 1663, Apana 1, Land Commission Award 5524, Apana 1 to L. Konia, situate Honokahua, Napili 2 and 3, Lahaina, Maui, Hawaii, more particularly described as follows:

Beginning at the northeasterly corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Hawea" being:

83.22 feet South

3,398.16 feet East

and running by azimuths measured clockwise from true south:

1.	75°	59'	30"	634.31	feet along Lot 2 and along remainder of R.P. 2236, L.C. Aw. 8522-B, Ap. 1 to Kale Davis; thence along same and along an arc of a curve to the left with a radius of 335.78 feet, the chord azimuth and distance being:
2.	65°	02'	45"	127.52	feet;
3.	54°	06'	00"	54.39	feet along Lot 2 and along remainder of R.P. 2236, L.C. Aw. 8522-B, Ap. 1 to Kale Davis;

thence along same and along an arc of a curve to the right with a radius of 600.96 feet, the chord azimuth and distance being:

4. 62° 12' 30" 169.52 feet;

5. 70° 19' 00" 155.12 feet along Lot 2 and along remainder of R.P. 2236, L.C. Aw. 8522-B, Ap. 1 to Kale Davis;

thence along same and along an arc of a curve to the left with a radius of 1,805.47 feet, the chord azimuth and distance being:

6. 68° 11' 00" 134.42 feet;

7. 66° 03' 00" 77.75 feet along Lot 2 and along remainder of R.P. 2236, L.C. Aw. 8522-B, Ap. 1 to Kale Davis;

thence along same and along an arc of a curve to the right with a radius of 204.29 feet, the chord azimuth and distance being:

8. 84° 03' 00" 126.26 feet;

9. 102° 03' 00" 83.16 feet along Lot 2 and along remainder of R.P. 2236, L.C. Aw. 8522-B, Ap. 1 to Kale Davis;

thence along same and along an arc of a curve to the right with a radius of 791.94 feet, the chord azimuth and distance being:

10. 106° 47' 30" 130.93 feet;

11. 111° 32' 00" 163.23 feet along Lot 2 and along remainder of R.P. 2236, L.C. Aw. 8522-B, Ap. 1 to Kale Davis;

thence along same and along an arc of a curve to the left with a radius of 226.65 feet, the chord azimuth and distance being:

12. 82° 28' 30" 220.17 feet;

13.	53°	25'	00"	337.70	feet along Lot 2 and along remainder of R.P. 2236, L.C. Aw. 8522-B, Ap. 1 to Kale Davis;
					thence along same and along an arc of a curve to the left with a radius of 299.40 feet, the chord azimuth and distance being:
14.	37°	05'	30"	168.31	feet;
15.	20°	46'	00"	66.02	feet along Lot 2 and along remainder of R.P. 2236, L.C. Aw. 8522-B, Ap. 1 to Kale Davis;
					thence along same and along an arc of a curve to the left with a radius of 790.51 feet, the chord azimuth and distance being:
16.	18°	02'	00"	75.40	feet;
17.	15°	18'	00"	105.66	feet along Lot 2 and along remainder of R.P. 2236, L.C. Aw. 8522-B, Ap. 1 to Kale Davis;
					thence along same and along an arc of a curve to the right with a radius of 464.54 feet, the chord azimuth and distance being:
18.	26°	57'	15"	187.68	feet;
19.	38°	36'	30"	217.14	feet along Lot 2 and along remainders of R.P. 2236, L.C. Aw. 8522-B, Ap. 1 to Kale Davis and R.P. 1663, Ap. 1, L.C. Aw. 5524, Ap. 1 to L. Konia;
20.	32°	55'	24"	136.27	feet along Lot 2 and along remainder of R.P. 1663, Ap. 1, L.C. Aw. 5524, Ap. 1 to L. Konia;
21.	28°	25'	24"	89.21	feet along same;
					thence along same and along an arc of a curve to the right with a radius of 350.16 feet, the chord azimuth and distance being:
22.	44°	01'	54"	188.43	feet;

23.	59°	38'	24"	173.40	feet along Lot 2 and along remainder of R.P. 1663, Ap. 1, L.C. Aw. 5524, Ap. 1 to L. Konia; thence along same and along an arc of a curve to the left with a radius of 180.44 feet, the chord azimuth and distance being:
24.	43°	34'	54"	99.83	feet;
25.	27°	31'	24"	125.19	feet along Lot 2 and along remainder of R.P. 1663, Ap. 1, L.C. Aw. 5524, Ap. 1 to L. Konia; thence along same and along an arc of a curve to the left with a radius of 138.19 feet, the chord azimuth and distance being:
26.	356°	56'	39.5"	140.60	feet; thence along Lot 2, along remainder of R.P. 1663, Ap. 1, L.C. Aw. 5524, Ap. 1 to L. Konia, and along an arc of a curve to the left with a radius of 10.00 feet, the chord azimuth and distance being:
27.	247°	10'	02.5"	19.65	feet; thence along a 40-foot road, along remainder of R.P. 1663, Ap. 1, L.C. Aw. 5524, Ap. 1 to L. Konia, and along an arc of a curve to the left with a radius of 238.00 feet, the chord azimuth and distance being:
28.	340°	59'	46"	57.79	feet; thence along the easterly side of the Honoapiilani Highway and along an arc of a curve to the right with a radius of 146.19 feet, the chord azimuth and distance being:
29.	164°	54'	53"	197.94	feet;

30.	207°	31'	24"	185.19	feet along the easterly side of the Honoapiilani Highway;
					thence along same and along an arc of a curve to the right with a radius of 188.44 feet, the chord azimuth and distance being:
31.	223°	34'	54"	104.25	feet;
32.	239°	36'	24"	173.40	feet along the easterly side of the Honoapiilani Highway;
					thence along same and along an arc of a curve to the left with a radius of 342.16 feet, the chord azimuth and distance being:
33.	224°	01'	54"	184.12	feet;
34.	208°	25'	24"	89.52	feet along the easterly side of the Honoapiilani Highway;
35.	212°	55'	24"	136.98	feet along same;
36.	218°	36'	30"	217.54	feet along same;
					thence along same and along an arc of a curve to the left with a radius of 456.54 feet, the chord azimuth and distance being:
37.	206°	57'	15"	184.45	feet;
38.	195°	18'	00"	105.66	feet along the easterly side of the Honoapiilani Highway;
					thence along same and along an arc of a curve to the right with a radius of 798.51 feet, the chord azimuth and distance being:
39.	198°	02'	00"	76.16	feet;
40.	200°	46'	00"	66.02	feet along the easterly side of the Honoapiilani Highway;
					thence along same and along an arc of a curve to the right with a radius of 307.40 feet, the chord azimuth and distance being:
41.	217°	05'	30"	172.81	feet;

52.	234°	06'	00"	54.39	feet along the easterly side of the Honoapiilani Highway;
					thence along same and along an arc of a curve to the right with a radius of 343.78 feet, the chord azimuth and distance being:
53.	245°	02'	45"	130.56	feet;
54.	255°	59'	30"	633.83	feet along the easterly side of the Honoapiilani Highway;
55.	342°	33'	00"	8.01	feet along same to the point of beginning and containing an area of 34,530 square feet.

Subject, however, to the following:

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

2. Covenants and restrictions contained in "Declaration of Covenants and Restrictions" dated December 29, 1976, recorded in the said Bureau in Liber 11922 at Page 26, as supplemented by that certain Supplemental Declaration of Covenants and Restrictions dated June 16, 1977, recorded in the said Bureau in Liber 12291 at Page 406, and the reservation in favor of Maui Land & Pineapple Company, Inc. of the right to annex the easement areas demised hereby as well as other property to the Kapalua Protective Provisions as provided in said Declaration of Covenants and Restrictions.

3. Reservation in favor of Maui Land & Pineapple Company, Inc. of the right, at its expense and for the benefit of the land described above or adjacent property or other Kapalua Resort property (i) to grant over, across and under the common elements easements for utilities, sanitary and storm sewers, cable television, walkways, and rights of way, and (ii) to relocate or realign any existing easements and rights of way over, across, and under the land described above, including without limitation, any existing utilities, sanitary and sewer lines and cable television and connect same, over, across and under the land described above, provided that such easements and such relocations and connections of lines shall not materially impair or interfere with the use of the land described above.