

**WAIKIKI BANYAN BOARD OF DIRECTORS
Special Meeting Minutes**

Thursday April 4, 2013

Waikiki Banyan Conference Room, Waikiki Banyan, 201 Ohua Avenue, Honolulu, HI

TO ORDER: President Dick Eide called the meeting to order at 2:05 pm. In attendance and constituting a quorum were:

PRESENT: President Dick Eide, Treasurer Kenji Iwasa, Secretary Mike McGuire and Directors Lou Palmer and Kini Olegario

PRESENT PARTICIPATING BY CONFERENCE CALL: Teleconference service was unavailable

ABSENT: Directors Shraga Dachner, Karl Springman, John Wong, Norman Hendricks, Jr.

BY INVITATION: General Manager Wayne Babineau, Manager Garret Choy

NEW BUSINESS:

1. 2013 Insurance Package

Motion After discussion, moved by Lou Palmer and seconded by Mike McGuire to approve the 2013 insurance package as presented by Cavanah Associates and Atlas Insurance at a combined total annual cost of approximately \$212,000.00.

NEXT MEETING: continued Annual Meeting, 6:30 PM, 4/15/13, Pacific Beach Hotel.

ADJOURNMENT: The meeting was adjourned at 2:30 PM.

Michael McGuire, Secretary



Wayne Babineau, General Manager

WAIKIKI BANYAN BOARD OF DIRECTORS
Regular Meeting Minutes

Thursday, November 29, 2012

Waikiki Banyan Conference Room, Waikiki Banyan, 201 Ohua Avenue, Honolulu, HI

TO ORDER: President Dick Eide called the meeting to order at 2:01pm. In attendance and constituting a quorum were:

PRESENT: President Dick Eide, Secretary Mike McGuire, Treasurer Kenji Iwasa and Director Lou Palmer

PRESENT PARTICIPATING BY CONFERENCE CALL: Vice-President Norman Hendricks, Jr., Directors Shraga Dachner, Kini Olegario and Karl Springman

ABSENT: Director John Wong

BY INVITATION: Management Executive Emory Bush, General Manager Wayne Babineau and Manager Garrett Choy. Owners: Pam Cotton, 3713-2; Irvin Heuchert, 2013-1; Manfred Schaffrick, 2801-2; Liz Larson, 2310-2; George & Frances Lehleitner, 1204-2; Jeannie Phillips, 3207-1; Ann Joyce, 3714-1; Marie & Don Simonich, 3205-2; Robert Sugel, 1503-2.

Motion **MINUTES:** Moved by Shraga Dachner, seconded by Lou Palmer and agreed unanimously to approve the minutes of the March 27, 2012 Regular Board Meeting and the October 30, 2012 Special Board Meeting as presented.

MANAGER'S REPORT: The Manager's Report for the period March 16, 2012 to November 15, 2012 was reviewed and discussed and by reference made a part of these minutes.

CORRESPONDENCE: none

TREASURER'S REPORT:

1. *Financial Statements:* Management Executive Emory Bush reviewed the financial statement for the month of October, 2012 and the year to date.

He noted that for the month of October, 2012, income was 112.4% of budget and expenses were 98.6% of budget. For the year to date income was 104% of budget and operating expenses were 96.6% of budget.

2. *Delinquencies:* Emory Bush reviewed for the Board the Delinquency Report for the period ending October 31, 2012. He noted that two units, now owned by mortgage companies, accounted for about \$44,000 of total delinquencies.

Motion Moved by Shraga Dachner, seconded by Norman Hendricks and agreed unanimously to accept the financial statement subject to audit.

OLD BUSINESS:

- Motion**
1. *Phone Poll Ratification:* Moved by Shraga Dachner, seconded by Norm Hendricks and agreed unanimously to ratify four telephone polls conducted between May 18 and September 21, 2012 in which the Board approved:

- a) installation of Magna-Lumen reflectors and light bulbs on one floor of the garage at a cost of \$2,369.63;
 - b) painting the exterior of the building a combination of Oyster White and Wendigo;
 - c) purchase of a new Xerox copier for \$11,428;
 - d) purchase of an electrical vehicle charger from Retro Fit Hawaii for \$5,720.
2. *Building Spalling and Repair*: the project is underway as of 10/29/12. The first three stacks are nearing completion and work appears to be of high quality.
 3. *Managers' Contract*: expect to be done by 3/1/13.
 4. *Owners Poll*: incomplete, ongoing
 5. *Potential Litigation*: no report

NEW BUSINESS:

- Motion** 1. *Budget*: the budget and reserve analysis for 2013 were reviewed and discussed. Moved by Shraga Dachner, seconded by Lou Palmer and agreed unanimously to approve the budget and reserve analysis as presented.
- Motion** 2. *Auditor*: Proposals to conduct the annual audit were reviewed. Moved by Dick Eide, seconded by Shraga Dachner and agreed unanimously to approve the proposal submitted by Terry Wong, CPA, for \$3,500 plus HGET.
3. *Leases*: Sam's Snack Bar still paying down arrears
- Motion** 4. *Beautification & Landscaping*: Moved by Lou Palmer, seconded by Mike McGuire and agreed unanimously to authorize the removal of the mango tree on the corner of Paoakalani and Kuhio Avenues and its replacement with a royal Poinciana tree at a cost not to exceed \$5,863.88.
5. *Heat Pump Water Line Insulation*: Moved by Dick Eide to approve A's Insulation proposal to insulate the Tower 2 heat pump hot water lines at a cost of \$3,265. Motion withdrawn to allow the General Manager to verify the work to be done under the proposal.
- Motion** 6. *Parking Rates*: Moved by Mike McGuire, seconded by Shraga Dachner, to increase parking rates effective 5/1/13 according to the following schedule:
a) daily parking: \$12 to \$15;
b) weekly parking: \$72 to \$80;
c) monthly parking: \$120 to \$140;
d) limo parking \$180 to \$200.
AYE: McGuire, Dachner, Eide, Hendricks, Iwasa, Olegario, Springman; NAY: Palmer. Motion carried.
7. *Manager's Apartment Inspection*: President Eide will schedule an inspection of the manager's apartment
8. *House Rules Revisions*: format revisions and substantive revisions to (1) change the closing hour of the saunas from 9pm to 10pm, in accord with a previously approved change; and (2) to require bicycles and mopeds to display Waikiki Banyan registration decals in order to park in the garage were presented. Moved by Lou Palmer, seconded by Mike McGuire and agreed unanimously to approve the proposed House Rules revisions as presented.
- Motion**

9. *Personnel*: to be discussed in executive session following completion of the agenda.

Motion 10. *Annual Meeting*: Moved by Shraga Dachner, seconded by Mike McGuire and agreed unanimously to schedule the 2012 Annual Meeting for Friday, 2/22/13.

At 3:12pm the Board moved to Executive Session to discuss personnel matters.

Motion At 3:20pm the Board returned to regular session. Moved by Shraga Dachner, seconded by Lou Palmer and agreed unanimously to approve a 2% wage increase for all employees effective 12/1/12 and a further 2% wage increase effective 6/1/13.

Motion Moved by Lou Palmer, seconded by Mike McGuire and agreed unanimously to increase Admin Assistant Roxanne Tabudlo's salary to \$40,000 per annum.

Motion Moved by Lou Palmer, seconded by Mike McGuire and agreed unanimously to approve a \$5,000 bonus for the Waikiki Banyan Maintenance Department, to be allocated by General Manager Babineau.

NEXT MEETING: At the call of the President.

ADJOURNMENT: The meeting was adjourned at 3:21pm

Michael McGuire, Secretary



Wayne Babineau, General Manager

WAIKIKI BANYAN BOARD OF DIRECTORS
Special Meeting Minutes

Tuesday October 30, 2012

Waikiki Banyan Conference Room, Waikiki Banyan, 201 Ohua Avenue, Honolulu, HI

TO ORDER: President Dick Eide called the meeting to order at 2:09 pm. In attendance and constituting a quorum were:

PRESENT: President Dick Eide, Treasurer Kenji Iwasa, and Directors Lou Palmer and Kini Olegario

PRESENT PARTICIPATING BY CONFERENCE CALL: Vice-President Norman Hendricks, Jr. and Secretary Mike McGuire.

ABSENT: Directors Shraga Dachner, Karl Springman, John Wong

BY INVITATION: General Manager Wayne Babineau, Association Attorney Philip Nerney

NEW BUSINESS:

1. Potential litigation

President Eide moved the meeting into Executive Session to discuss potential litigation related to modifications made to unit 1201-1 at 2:10 pm.

Director John Wong joined the meeting at 3:01 pm.

Treasurer Kenji Iwasa left the meeting at 3:25 pm.

Vice-President Norman Hendricks and Director Mike McGuire left the meeting at 3:32 pm.

ADJOURNMENT: There being no quorum, the meeting was moved to regular session and adjourned at 3:32 pm.

Michael McGuire, Secretary



Wayne Babineau, General Manager

ASSOCIATION OF APARTMENT OWNERS OF THE WAIKIKI BANYAN
ANNUAL MEETING MINUTES

April 15, 2013
Pacific Beach Hotel

CALL TO ORDER: President Richard Eide called the adjourned annual meeting to order at 6:30 p.m. A quorum was present. Steve Glanstein subsequently chaired the meeting. The final percentage present was 54.566186%. Wayne Babineau was recording secretary for the meeting.

PROOF OF NOTICE OF ANNUAL MEETING: Notice was sent to all owners of record on January 20, 2013 and February 6, 2013. This meeting was a continuation of the February 22, 2013 Annual Meeting with notice being sent to all owners of record on February 28, 2013 and March 22, 2013.

CONDUCT OF BUSINESS: The following additional rule, known as a Simplified Election Ballot Rule, was adopted by unanimous consent: "At any meeting with an election by cumulative voting, owners or proxy-holders of more than one unit shall have the right to receive election ballots containing the total number of votes allocated to them and specify the respective number of integer votes for each candidate of their choice. (The owners or proxy-holders must understand that their ballot may receive a unique total number of votes, permitting later identification of their ballot)."

APPROVAL OF MINUTES: The February 22, 2013 Annual Meeting minutes were approved.

REPORTS OF OFFICERS:

President: A written President's report was provided.

Treasurer: A written Treasurer's report was provided.

Auditor: The Auditor's Report was provided.

INSPECTORS OF ELECTION: Lorimegan Black and Christina Fernandez were appointed inspectors of election for any counted vote for the meeting.

ELECTION OF DIRECTORS: Nominations and elections were conducted. The results are:

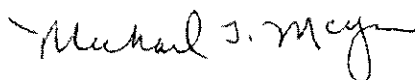
John Wong	55.2511168%	3 years
Richard Eide	51.5981504%	3 years
Kenji Iwasa	41.39267552%	3 years
Wayne Bennett	4.15524728%	

NEW BUSINESS:

1. Resolution on Assessments: The following resolution was approved by unanimous consent: "Resolved, That any excess of membership income over membership expenses for the year ending 2013 tax year be applied against the subsequent tax year member assessments as provided by IRS Revenue Ruling 70-604."
2. Approval of Property Management Contract: The property management contract was approved by unanimous consent.

ADJOURN: The meeting adjourned at 7:18 p.m.

Michael McGuire, Secretary



Wayne Babineau, General Manager
and Secretary pro tem



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BY INVITATION: General Manager Wayne Babineau, Manager Garret Choy

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NEXT MEETING: At the call of the President.

ADJOURNMENT: The meeting was adjourned at 3:21pm

Michael McGuire, Secretary



Wayne Babineau, General Manager

Categories	2013 Monthly	2012 Monthly	12 Mnth Average
OPERATING RECEIPTS	Operating Receipts		
30-Nov-12			
	2013	2012	2012
WAIKIKI BANYAN	Monthly	Monthly	Monthly
	Budget	Budget	Average
NON-TAXABLE RECEIPTS			
Maintenance Fees-AOAO	315,305	284,700	281,032.98
Legal Reimbursement	299	792	261.52
Misc. Non-Taxable	5,192	5,897	5,698.06
CAM-Commercial	8,289	7,090	7,246.87
TOTAL NON-TAXABLE RCPTS	329,085	298,478	294,239.42
TAXABLE RECEIPTS			
Commercial Leases	86,702	84,286	86,365.25
Washer & Dryer	14,838	15,839	14,838.19
Commissions	495	417	465.61
Parking	100,047	80,260	96,592.58
Late Fees	289	497	289.17
Interest	938	1,715	937.53
Miscellaneous	4,073	3,798	5,630.82
TOTAL TAXABLE RECEIPTS	207,381	186,812	205,119.15
NON-OPERATING RCPTS.	212,872	193,500	
Transfer from Reserves		-	0.00
TOTAL RECEIPTS	536,466	485,290	499,358.57
OPERATING EXPENSES	Operating Expenses		
UTILITIES			
Electricity	163,032	169,249	158,283.87
Water	13,719	10,142	12,186.39
Sewer	48,997	49,574	47,529.01
Telephone	467	474	450.47
TOTAL UTILITIES	226,216	229,439	218,449.74
	42.01%	41.62%	
CONTRACT SERVICES			
Window Washing	1,283	1,258	1,247.82
Elevator	7,000	6,667	6,949.07
Pest Control	1,851	2,057	1,589.54
Refuse Removal	7,054	6,794	6,200.46
Security Communications	145	161	166.14
Oceanic Cable	7,241	6,386	
Mechan. Equip. Maint.	3,870	3,809	
TOTAL CONTRACT SERVICES	28,445	27,132	26,784.20
	5.28%	4.92%	

Categories	2013 Monthly	2012 Monthly	12 Mnth Average
BUILD. MAINT. & SUPPLIES			
Housekeeping Supplies	2,996	2,780	2,326.94
Pool Supplies	2,181	1,908	1,445.35
Fire Systems	367	514	290.21
Building Maint.	1,067	1,036	686.65
Building Supplies, Gen.	5,758	5,732	5,034.34
Purchasing HUI	630	425	411.90
TOTAL MAINT. & SUPPLIES	12,999	12,396	10,195.40
	2.41%	2.25%	
ADMINISTRATION			
Vehicle Expense	190	156	153.61
Storage Locker Sec. Dep.	-	-	-206.94
Office & Admin. Expen.	5,044	6,492	5,088.72
Dues, Subscriptions, Seminars	296	280	215.38
Advertising	-	-	0.00
Annual/Board Meetings	132	155	128.17
Other	596	1,247	578.33
Condo Educ. Trust Fund	292	-	0.00
Commercial Lease Sec. Dep.	-	-	0.00
TOTAL ADMIN.	6,549	8,330	5,957.25
	1.22%	1.51%	
PROFESSIONAL SERVICES			
Professional Management	5,223	6,094	4,974.55
Audit & Tax Prep.	292	305	0.00
Legal, General	1,906	1,280	1,906.38
Legal, Reimbursable	498	1,435	498.08
Consulting Fees	199	635	193.46
Board Travel Expenses	-	300	0.00
TOTAL PROFESSIONAL SVCS.	8,119	10,049	7,572.47
	1.51%	1.82%	
PAYROLL			
Administration	16,547	15,823	15,044.31
Maintenance	37,191	41,569	35,950.72
Housekeeping	48,654	51,437	45,376.78
Security	72,482	82,438	69,749.78
Workman's Comp.	4,660	3,289	3,293.08
TDI	898	956	506.80
Ins. Medical	28,310	26,372	24,235.67
Payroll Taxes	13,412	16,328	12,480.06
Payroll Processing	194	180	179.87
Uniforms	744	499	722.26
			0.08
GIRA	3,511	2,633	2,633.33
TOTAL PAYROLL	226,602	241,523	210,172.75
	42.08%	43.81%	

Categories	2013 Monthly	2012 Monthly	12 Mnth Average
INSURANCE			
SMP	13,962	9,027	10,175.20
Property	654		634.58
Liability	3,428	2,379	2,546.89
Flood		595	0.00
D&O	531	515	515.17
Umbrella	941	888	913.50
Auto	225	221	218.08
			-2.50
Fidelity Bond	44	-	0.00
TOTAL INSURANCE	19,783	13,625	15,117.66
	3.67%	2.47%	
TAXES			
Gross Income(GET)	9,772	8,803	8,974.42
State Income			0.00
Federal Income			0.00
TOTAL TAXES	9,772	8,803	8,974.42
	1.81%	1.60%	24,092.08
TOTAL OPERATING EXPENSES	538,484	551,296	503,223.89
NET OF CASH RCPTS & EXPENSE	(2,018)	(66,006)	-3,865.32
NON-OPERATING EXPENSES	Non-Operating Expenses		
MAJOR IMPROVE. & REPAIRS			
General Operating	6,306	5,694	
Security Radio & CCTV System	2,917	2,917	
Heatpump Replace	20,833	51,167	
Building Restoration	67,283	67,283	
Copier	-	1,250	
Pool Retile	-	4,167	
Pool heat pump	1,250	2,500	
Trash chutes	10,000	10,000	
TOTAL CAPITAL EXPENDITURE	108,589	144,978	
ROYALTY TO QLT			
Snack Bar	30	30	
Aston	3,261	3,261	
PacSeas	1,134	1,134	
MapV	359	359	
HSH	250	250	
Koko	228	228	
TOTAL ROYALTY	5,263	5,263	
TOTAL NON-OP EXPENSE	113,853	150,241	
TRANSFER TO RESERVES	(115,871)	(216,247)	
NET CASH/PROFIT/LOSS	0	0	

1-384

STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

SEP 09, 1992 02:41 PM

Doc No(s) 1951836

on Cert(s) AS LISTED HEREIN

/s/ S. FURUKAWA
ASSISTANT REGISTRAR

CONVEYANCE TAX: \$0.00

R-780

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

SEP 09, 1992 02:41 PM

Doc No(s) 92-147513 -

/s/ S. FURUKAWA
REGISTRAR OF CONVEYANCES

CONVEYANCE TAX: \$0.00

WHAU WUKA BIDIEM

AFTER RECORDATION, RETURN BY MAIL () PICKUP () TO:

IWAI MOTOOKA & SOTO
820 Millard St. Suite 502
Hasegawa Konuten Building
Honolulu, Hawaii 96813
537 1235

0180J

CH 527
FIRST RESTATEMENT OF THE
DECLARATION OF CONDOMINIUM PROPERTY REGIME
OF
WAIKIKI BANYAN

WHEREAS, the Trustees of the Liliuokalani Trust, herein referred to as "Liliuokalani Trust", are the owners in fee simple of the real property described in Original Certificate of Title No. 209,663 and the Transfer Certificates of Title listed in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, Kawaiahao Church, a Hawaii eleemosynary corporation, herein referred to as "Kawaiahao", is the owner of the real property described in Exhibit "B" attached hereto and incorporated herein by reference; and

WHEREAS, by Indenture of Lease dated February 22, 1978, effective as of December 1, 1977, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12746, Page 429, herein referred to as the "Master Lease", said Liliuokalani Trust and Kawaiahao, being herein collectively referred to as the "Lessor", demised the real property described in Exhibits "A" and "B" attached hereto to BANYAN ONE, INC., a Hawaii corporation, herein referred to as the "Lessee"; and

WHEREAS, by Master Sublease dated February 22, 1978, effective as of December 2, 1975, recorded as aforesaid in Liber 12746, Page 473, the Lessee sublet said property to Waikiki Banyan, Inc., a Hawaii corporation, hereinafter referred to as the "Developer"; and

WHEREAS, the Developer improved said land by constructing thereon certain improvements hereinafter described in accordance with plans incorporated herein by reference filed and recorded in said Bureau of Conveyances as Condominium File Plan No. 637.

WHEREAS, in order to create a condominium project consisting of said land and improvements (herein called the "project") and to be known as "WAIKIKI BANYAN", the Lessor,

Lessee and Developer submitted all of their interests in said 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), as amended, and in furtherance thereof made the following declarations as to divisions, limitations, restrictions, covenants and conditions and declared and agreed that said property is to be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied and improved subject to said declarations, which declarations constitute covenants running with the land and 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 (See Endnote 1); and

WHEREAS, By-Laws for the project were recorded contemporaneously with the Declaration 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, Section 514A-82.2, Hawaii Revised Statutes, empowers the Board of Directors of the Association of Apartment Owners of the Waikiki Banyan (the "Association") established by

the By-Laws to restate the Declaration to include any amendments to it and to conform it 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, the City and County of Honolulu adopted Ordinance No. 83-58, requiring the installation of an automatic fire sprinkler system in the project; and

WHEREAS, at a meeting duly held on August 24, 1992, the Board of Directors resolved to restate the Declaration in accordance with Section 514A-82.2, Hawaii Revised Statutes to include amendments enabling the Board to comply with the mandatory requirements of Ordinance 83-58;

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. 876 separate condominium apartments are hereby designated in the spaces within the perimeter and party walls, floors and ceilings of each of the 876 apartment units of the project, contained in two buildings, designated the "Mauka Tower" and the "Makai Tower", respectively, containing thirty-seven (37) and thirty-six (36) stories, respectively, both without basements, constructed principally

of concrete, which spaces together with appurtenant lanai spaces, if any, are referred to herein as "apartments" and are designated on said condominium file plan and described as set forth in Exhibit "C" 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 "C" attached hereto and for every purpose made a part hereof.

(b) The apartments are numbered and located in the manner as shown on said Condominium File Plan recorded in the Bureau of Conveyances of the State of Hawaii.

(c) The apartments in each of the Towers have immediate access to a corridor, four elevators and two stairways, all such corridors, elevators and stairways being common elements, on each floor of each respective tower leading 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 ceiling 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 (if any), 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 building;
- (c) All yard, grounds and landscaping;
- (d) All parking areas;
- (e) All pipes, cables, conduits, ducts, fan rooms, 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;
- (f) Two (2) utility/mail rooms and one (1) lounge on the ground floor of each of the Mauka and Makai Towers;

(g) Three (3) utility rooms on each of the third, fourth and fifth floors of each of the Mauka and Makai Towers; and a Makai storage area on the fourth floor of the Makai Tower;

(h) A utility/trash room; two (2) lounge areas; and a housekeeping-electrical room on the sixth floor of the Mauka Tower; men's and women's dressing-sauna-restrooms; one (1) janitor's room, two (2) lounge areas, a laundry room, housekeeping room, electrical room, utility/trash room and snack bar on the sixth floor of the Makai Tower; and a recreation deck and swimming pool on the roof of the garage connecting the Mauka and Makai Towers;

(i) Laundry, housekeeping, utility and electrical rooms located on each of the seventh through twelfth and fourteenth through thirty-seventh floors of the Makai Tower and the seventh through twelfth and fourteenth through thirty-eighth floors of the Mauka Tower;

(j) Jogging track on the roof of each of the Mauka and Makai Towers.

(k) 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.

(l) Automatic sprinkler system, smoke detectors, fire alarm system, annunciator panels, emergency generators,

and any and all other apparatus and installations required to comply with the requirements of Ordinance No. 83-58 of the Revised Ordinances of Honolulu. (See Endnote 2)

B. COMMON INTEREST. Each apartment shall have appurtenant thereto an undivided 1/876 fractional interest and the equivalent thereof stated as a percentage (.11415+1%) 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.

C. EASEMENTS. In addition to any easements herein designated in the limited common elements, if any, 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 designated 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; and in all other apartments of the building for support.

2. If any part of the common elements encroaches upon any apartment, or if any apartment 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 the building 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 due to such construction 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 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.

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 holder 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 Horizontal 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 sublease or condominium conveyance document demising the same.

E. USE. The apartments shall be occupied and used only for purposes permitted from time to time by this Declaration and the By-Laws attached hereto, and by applicable zoning ordinances, rules and regulations, and for no other purpose. 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 attached hereto.

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 attached hereto as Exhibit "E" and made a part hereof. 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 Horizontal 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 building 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 30 days after the giving of such notice.

4. Before commencing or permitting construction of any improvement on the project, obtain and deposit with the Lessor and Lessee a bond or certificate thereof naming as obligees the Lessor, Lessee 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.

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. 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 Lessor, first approved in writing by the 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. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS DECLARATION, the Association of Apartment Owners shall have the irrevocable right, to be exercised by the Board of Directors:

- a. To install an automatic sprinkler system, smoke detectors, fire alarm system, annunciator panels, emergency generators and any and all apparatus and installations required to comply with Ordinance No. 83-58 of the Revised Ordinances of Honolulu. The Board shall not be required to obtain the consent of the Lessor or any of the owners of apartments to proceed with the aforesaid installations.
- b. To have access to each apartment from time to time during reasonable hours as may be necessary for the installation and maintenance of the automatic sprinkler system, smoke detectors, fire alarm system, annunciator panels and any and all apparatus and installations required to comply with Ordinance No. 83-58 of the Revised Ordinances of Honolulu. (See Endnote 3)

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 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. The initial Managing Agent shall be Dillingham Land Corporation whose principal place of business and post office address is 1441 Kapiolani Boulevard, Honolulu, Hawaii. The Managing Agent shall also collect rent payable under Apartment Subleases or Condominium Conveyance Documents issued by the Lessor or Lessee and cause the same to be paid as and when due thereunder, without comingling any such funds with other funds in its custody at any time. Any agreement for professional management for the project shall provide for termination of either the managing agent or the Association without cause or payment of a termination fee or ninety (90) days' or less written notice.

H. COMMON EXPENSES. Except as hereinafter provided, 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 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 horizontal property regime hereby created and no payments thereof shall be payments of such common expenses; provided, however, all such expenses for maintenance, repair, replacement, additions and improvements to limited common elements shall be charged to the apartment owner to which the limited common element is appurtenant. 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, 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 Horizontal Property Act, provided that thirty (30) days' prior written notice of intention to foreclose shall be mailed, postage prepaid, to the 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 mortgage of record of an apartment or of an apartment sublease or condominium conveyance document 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).

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 determine in its sole discretion 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 Horizontal Property Regime hereby created shall be terminated or waived, said 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 horizontal 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, and mortgagees as their interests may appear, 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 Lessor, Lessee and the Secretary of the Association 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 if the property is located in an identified flood hazard area as designated by the Department of Housing and Urban Development in the amount of the aggregate of the outstanding principal

balance 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 exterior glass of the project also be insured under such policy. 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 building, except as provided in paragraph K, 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 Lessor and Lessee 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 building is increased, whether or not within the knowledge or control of the Board, Lessor or Lessee, or because of any breach of

warranty or condition or any other act or neglect by the Board, Lessor, Lessee or any apartment owner or any other persons under either of them;

3. Provide that such policy and the coverage thereunder may not be cancelled or substantially modified (whether or not requested by the Board) except by the insurer giving at least sixty (60) days' prior written notice thereof to the Board, Lessor, Lessee, 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, Lessor, Lessee or apartment owners against any of them or any other persons under them;

5. 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

6. 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 condominium conveyance document 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, Lessor, Lessee 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.

7. Contain a waiver by the insurer of any right of the insurer to repair, rebuild or replace, if the apartment owners decide pursuant to Paragraph K of this Declaration not to repair, reinstate, rebuild or restore the damaged or destroyed improvements.

The Board on behalf of the Association at its common expense shall also effect and maintain at all times comprehensive general liability insurance, covering all apartment owners with respect to the project and naming the

Lessor and Lessee as additional assureds, 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 in any one accident or occurrence and Five Hundred Thousand Dollars (\$500,000.00) for property damage, and from time to time deposit promptly with the Lessor and Lessee 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 (a) provide that the same shall not be invalidated by any act or neglect of the Board, Lessor, Lessee or apartment owners or any persons under any of them; (b) contain a waiver by the insurer of any right of subrogation to any right of the Board, Lessor, Lessee or apartment owners against any of them or any other persons under them; (c) contain a "severability of interest" endorsement, precluding the insurer from denying the claim of an apartment owner because of negligent acts of the Association or other apartment owners; and (d) Provide that the policy and its coverage may not be cancelled or reduced (whether or not requested by the Board), except by the insurer giving at least sixty (60) days' prior written notice thereof to the Board, Lessor, Lessee, apartment owners, every first mortgage of an apartment sublease or condominium conveyance document 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 assessment thereof, and such payments shall be held in a separate escrow account of the Association and shall be 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 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; provided that no adjustment shall be made which decreases any insurance coverage.

At the request of any mortgagee of any interest in any apartment, the Board shall furnish to such mortgagee a copy of the casualty and liability insurance policies referred to in the foregoing paragraph J.

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 untenable, 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 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 untenable, 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 vote against such reconstruction or repair. In the event the property shall not be reconstructed or repaired pursuant to such vote, the provisions of Section 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 Lessor and Lessee as their interests may appear, 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 approved 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 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 addition thereto, different in any material respect from said condominium map of the project, shall be undertaken by the Association or any apartment owners only pursuant to an amendment of this Declaration, duly executed by or pursuant to the affirmative vote of all the apartment owners and accompanied by the written consent of the holders of all liens affecting any of the apartments, and in accordance with complete plans and specifications therefor first approved in writing by the 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 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, provided further, however, that in the event and to the extent the layout, location, description, or area of the apartment is changed from that described in the Declaration or as depicted on the Condominium File Plan, an amendment to this Declaration, or Condominium File Plan, or both, shall be duly executed and recorded by the owners of all apartments directly affected by such change (as determined by the Board as aforesaid), the Board and the holders of all first liens affecting such affected apartments.

O. MAINTENANCE RESERVE FUND. The Board shall establish and maintain a Maintenance Reserve Fund by the assessment of and payment by all 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 horizontal 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 horizontal property regime.

P. AMENDMENT OF DECLARATION. Except as otherwise provided herein or in said Horizontal Property Act, this Declaration may be amended by vote of seventy-five percent (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 of this Declaration shall also require the prior written

approval thereof by the Lessor and at least seventy-five percent (75%) of the institutional holders of first mortgages on apartment subleases or condominium conveyance documents demising or transferring the same (based upon one vote for each first mortgage owned); and, further provided, that the Lessor and Lessee reserve the right to amend this Declaration without the consent or joinder of persons then owning or leasing the apartments by filing an amendment to this Declaration pursuant to the provisions of Section 514A-13, Hawaii Revised Statutes, after completion of the building 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. Notwithstanding the foregoing provisions of this paragraph, the Declaration may further be amended as set forth in Paragraph N hereof. Provided that such amendment shall be effective only upon the recording of the same in the appropriate registry of conveyances of the State of Hawaii.

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 attached hereto 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. Lessor hereby agrees to take no action which would adversely affect the rights of the Association of 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 horizontal property regime.

S. EXPENSES RELATED TO THE INSTALLATION OF THE FIRE SPRINKLER SYSTEM. All expenses related to the purchase and installation of the automatic sprinkler system, smoke detectors, fire alarm system, annunciator panels, emergency generators and any and all apparatus and installations required to comply with Ordinance No. 83-58 of the Revised Ordinances of Honolulu shall constitute common expenses as defined in paragraph "H." of this Declaration, for which all apartment owners shall be severally liable in proportion to their respective common interests. Any sums unpaid for the foregoing purchases and installations shall constitute liens on the

apartments, as fully and effectually as to all other assessments for common expenses. (See Endnote 4)

T. BORROWING. In compliance with Section 514A-82.3, Hawaii Revised Statutes, the Board of Directors may authorize the borrowing of money to be used by the Association for the repair, replacement, maintenance, operation, or administration of the common elements of the project, or the making of any additions, alterations, and improvements thereto. The cost of such borrowing, including, without limitation, all principal, interest, commitment fees, and other expenses payable with respect to such borrowing, shall be a common expense of the project; provided that owners representing fifty percent (50%) of the common interest and apartments give written consent to such borrowing, having been first notified of the purpose and use of the funds. (See Endnote 5)

IN WITNESS WHEREOF, the undersigned have executed this instrument on this 31st day of August, 1992.

ASSOCIATION OF APARTMENT OWNERS
OF WAIKIKI BANYAN

By


Its President

By


Its Secretary

STATE OF HAWAII)

) ss.

CITY AND COUNTY OF HONOLULU)

On this 31st day of August, 1992, before me appeared SHRAGA DACHNER, to me personally known, who, being by me duly sworn, did say that he is the President of the ASSOCIATION OF APARTMENT OWNERS OF THE WAIKIKI BANYAN, 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 the said SHRAGA DACHNER acknowledged said instrument to be the free act and deed of said Association.

LS

William K. Hite
Notary Public, State of Hawaii

My Commission Expires: 8/27/94

STATE OF HAWAII)

) ss.

CITY AND COUNTY OF HONOLULU)

On this 1st day of September, 1992, before me appeared GLORIA BILLINGSLEY, to me personally known, who, being by me duly sworn, did say that she is the Secretary of the ASSOCIATION OF APARTMENT OWNERS OF THE WAIKIKI BANYAN, 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 the said GLORIA BILLINGSLEY acknowledged said instrument to be the free act and deed of said Association.

LS

William K. Hite
Notary Public, State of Hawaii

My Commission Expires: 8/27/94

EXHIBIT "A"

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

LOT 2, area 91,642.0 square feet, of Block "F", as shown on Map 3, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1865 (amended) of First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust.

Being the remainder of the land(s) described in Original Certificate of Title No. 209,663 issued to First Hawaiian Bank, a Hawaii Corporation, Lorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust, in Trust, with power to lease, mortgage and sell and other powers more particularly set forth in Trust Deed dated December 2, 1909, recorded in Liber 319 at Page 447, as amended, and also described in Transfer Certificates of Title Nos.:

206,600	301,883 /	304,714 /
293,092 /	301,884 /	304,715 /
293,926 /	301,885 /	304,716 /
293,927 /	301,886 /	304,717 /
294,514 /	301,887 /	304,718 /
295,167 /	301,888 /	304,719 /
295,846 /	302,998 /	304,720 /
297,032 /	303,896 /	304,721 /
297,611 /	303,897 /	304,722 /
299,136 /	304,334 /	304,723 /
300,296 /	304,708 /	304,724 /
301,825 /	304,709 /	304,725 /
301,879 /	304,710 /	304,726 /
301,880 /	304,711 /	304,914 /
301,881 /	304,712 /	304,915 /
301,882 /	304,713 /	313,976 /
		313,977 /

EXHIBIT "B"

All of that certain parcel of land (being a portion of Royal Patent 5588, Land Commission Award 8452, Apana 3, Section 1 to A. Keohokalole), situated on the Southeast side of Ohua Avenue, at Hamohamo, Kaikiki, Honolulu, City and County of Honolulu, State of Hawaii, and thus bounded and more particularly described as per survey of Robert S. Torigoe, Registered Land Surveyor No. 1361, dated December 15, 1977, as follows:

Beginning at the North corner of this parcel of land and on the Southeast side of Ohua Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WAIKIKI" being 3,426.01 feet South and 2,620.82 feet East, thence running by azimuths measured clockwise from True South:

1.	315°	20'	110.11	feet along Block F of Land Court Application 1865 (Pending), along the remainder of Royal Patent 5588, Land Commission Award 8452, Apana 3, Section 1 to A. Keohokalole;
2.	42°	45'	14.76	feet along the same;
3.	45°	00'	59.95	feet along the same;
4.	135°	20'	107.74	feet along the same;
5.	222°	45'	75.02	feet along the Southeast side of Ohua Avenue to the point of beginning and containing an area of 8,160 square feet, more or less.

SUBJECT, HOWEVER, TO:

1. The reservation in favor of the State of Hawaii of all mineral and metallic mines.

EXHIBIT "C"

Apartments. Eight hundred seventysix (876) apartments are hereby designated in the spaces within the perimeter walls, floors and ceilings of each of the 876 apartments of the project, which spaces together with appurtenant lanais, if any, referred to herein as "apartments", are designated on said plans and described as follows:

I

Apartments 604, 606, 607, 608, 609, 610, 611, 612, 613 and 614 are located on the sixth floor of the Makai Tower;

Apartments 601, 602, 603, 605, 607, 608, 609, 610, 611, 612, 613 and 614 are located on the sixth floor of the Mauka Tower;

Apartments 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713 and 714 are located on the seventh floor of the Makai Tower;

Apartments 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713 and 714 are located on the seventh floor of the Mauka Tower;

Apartments 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813 and 814 are located on the eighth floor of the Makai Tower;

Apartments 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813 and 814 are located on the eighth floor of the Mauka Tower;

Apartment 901, 902, 903, 904, 905
906, 907, 908, 909, 910, 911, 912, 913 and 914 are
located on the ninth floor of the Makai Tower;

Apartments 901, 902, 903, 904, 905,
906, 907, 908, 909, 910, 911, 912, 913 and 914 are
located on the ninth floor of the Mauka Tower;

Apartments 1001, 1002, 1003, 1004, 1005,
1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013 and
1014 are located on the tenth floor of the Makai Tower;

Apartments 1001, 1002, 1003, 1004, 1005,
1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013 and
1014 are located on the tenth floor of the Mauka Tower;

Apartments 1101, 1102, 1103, 1104, 1105,
1106, 1107, 1108, 1109, 1110, 1111, 1112, 1113 and
1114 are located on the eleventh floor of the Makai
Tower;

Apartments 1101, 1102, 1103, 1104, 1105,
1106, 1107, 1108, 1109, 1110, 1111, 1112, 1113 and
1114 are located on the eleventh floor of the Mauka
Tower;

Apartments 1201, 1202, 1203, 1204, 1205,
1206, 1207, 1208, 1209, 1210, 1211, 1212, 1213 and
1214 are located on the twelfth floor of the Makai
Tower;

Apartments 1201, 1202, 1203, 1204, 1205,
1206, 1207, 1208, 1209, 1210, 1211, 1212, 1213 and 1214
are located on the twelfth floor of the Mauka Tower

Apartments 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1413 and 1414 are located on the fourteenth floor of the Makai Tower;

Apartments 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1413 and 1414 are located on the fourteenth floor of the Mauka Tower;

Apartments 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513 and 1514 are located on the fifteenth floor of the Makai Tower;

Apartments 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513 and 1514 are located on the fifteenth floor of the Mauka Tower;

Apartments 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613 and 1614 are located on the sixteenth floor of the Makai Tower;

Apartments 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613 and 1614 are located on the sixteenth floor of the Mauka Tower;

Apartments 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1709, 1710, 1711, 1712, 1713 and 1714 are located on the seventeenth floor of the Makai Tower;

Apartments 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1709, 1710, 1711, 1712, 1713 and 1714 are located on the seventeenth floor of the Mauka Tower;

Apartments 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1811, 1812, 1813 and 1814 are located on the eighteenth floor of the Makai Tower;

Apartments 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1811, 1812, 1813 and 1814 are located on the eighteenth floor of the Mauka Tower;

Apartments 1901, 1902, 1903, 1904, 1905, 1806, 1907, 1908, 1909, 1910, 1911, 1912, 1913 and 1914 are located on the nineteenth floor of the Makai Tower;

Apartments 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1908, 1909, 1910, 1911, 1912, 1913 and 1914 are located on the nineteenth floor of the Mauka Tower;

Apartments 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013 and 2014 are located on the twentieth floor of the Makai Tower;

Apartments 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013 and 2014 are located on the twentieth floor of the Mauka Tower;

Apartments 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113 and 2114 are located on the twenty-first floor of the Makai Tower;

Apartments 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113 and 2114 are located on the twenty-first floor of the Mauka Tower;

Apartments 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213 and 2214 are located on the twenty-second floor of the Makai Tower;

Apartments 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213 and 2214 are located on the twenty-second floor of the Mauka Tower;

Apartments 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313 and 2314 are located on the twenty-third floor of the Makai Tower;

Apartments 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313 and 2314 are located on the twenty-third floor of the Mauka Tower;

Apartments 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413 and 2414 are located on the twenty-fourth floor of the Makai Tower

Apartments 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413 and 2414 are located on the twenty-fourth floor of the Mauka Tower

Apartments 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513 and 2514 are located on the twenty-fifth floor of the Makai Tower;

Apartments 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513 and 2514 are located on the twenty-fifth floor of the Mauka Tower;

Apartments 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613 and 2614 are located on the twenty-sixth floor of the Makai Tower

Apartments 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613 and 2614 are located on the twenty-sixth floor of the Mauka Tower

Apartments 2701, 2702, 2703, 2704, 2705, 2706, 2707, 2708, 2709, 2710, 2711, 2712, 2713 and 2714 are located on the twenty-seventh floor of the Makai Tower

Apartments 2701, 2702, 2703, 2704, 2705, 2706, 2707, 2708, 2709, 2710, 2711, 2712, 2713 and 2714 are located on the twenty-seventh floor of the Mauka Tower;

Apartments 2801, 2802, 2803, 2804, 2805, 2806, 2807, 2808, 2809, 2810, 2811, 2812, 2813 and 2814 are located on the twenty-eighth floor of the Makai Tower;

Apartments 2801, 2802, 2803, 2804, 2805, 2806, 2807, 2808, 2809, 2810, 2811, 2812, 2813 and 2814 are located on the twenty-eighth floor of the Mauka Tower;

Apartments 2901, 2902, 2903, 2904, 2905, 2906, 2907, 2908, 2909, 2910, 2911, 2912, 2913 and 2914 are located on the twenty-ninth floor of the Makai Tower;

Apartments 2901, 2902, 2903, 2904, 2905, 2906, 2907, 2908, 2909, 2910, 2911, 2912, 2913 and 2914 are located on the twenty-ninth floor of the Mauka Tower;

Apartments 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013 and 3014 are located on the thirtieth floor of the Makai Tower;

Apartments 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013 and 3014 are located on the thirtieth floor of the Mauka Tower;

Apartments 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113 and 3114 are located on the thirty-first floor of the Makai Tower;

Apartments 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113 and 3114 are located on the thirty-first floor of the Mauka Tower;

Apartments 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3208, 3209, 3210, 3211, 3212, 3213 and 3214 are located on the thirty-second floor of the Makai Tower;

Apartments 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3208, 3209, 3210, 3211, 3212, 3213 and 3214 are located on the thirty-second floor of the Mauka Tower;

Apartments 3301, 3302, 3303, 3304, 3305, 3306, 3307, 3308, 3309, 3310, 3311, 3312, 3313 and 3314 are located on the thirty-third floor of the Makai Tower;

Apartments 3301, 3302, 3303, 3304, 3305, 3306, 3307, 3308, 3309, 3310, 3311, 3312, 3313 and 3314 are located on the thirty-third floor of the Mauka Tower;

Apartments 3401, 3402, 3403, 3404, 3405, 3406, 3407, 3408, 3409, 3410, 3411, 3412, 3413 and 3414 are located on the thirty-fourth floor of the Makai Tower;

Apartments 3401, 3402, 3403, 3404, 3405, 3406, 3407, 3408, 3409, 3410, 3411, 3412, 3413 and 3414 are located on the thirty-fourth floor of the Mauka Tower;

Apartments 3501, 3502, 3503, 3504, 3505, 3506, 3507, 3508, 3509, 3510, 3511, 3512, 3513 and 3514 are located on the thirty-fifth floor of the Makai Tower;

Apartments 3501, 3502, 3503, 3504, 3505, 3506, 3507, 3508, 3509, 3510, 3511, 3512, 3513 and 3514 are located on the thirty-fifth floor of the Mauka Tower;

Apartments 3601, 3602, 3603, 3604, 3605, 3606, 3607, 3608, 3609, 3610, 3611, 3612, 3613 and 3614 are located on the thirty-sixth floor of the Makai Tower;

Apartments 3601, 3602, 3603, 3604, 3605, 3606, 3607, 3608, 3609, 3610, 3611, 3612, 3613 and 3614 are located on the thirty-sixth floor of the Mauka Tower;

Apartments 3701, 3702, 3703, 3704, 3705, 3706, 3707, 3708, 3709, 3710, 3711, 3712, 3713 and 3714 are located on the thirty-seventh floor of the Makai Tower;

Apartments 3701, 3702, 3703, 3704, 3705, 3706, 3707, 3708, 3709, 3710, 3711, 3712, 3713 and 3714 are located on the thirty-seventh floor of the Mauka Tower;

Apartments 3801, 3802, 3803, 3804, 3805, 3806, 3807, 3808, 3809, 3810, 3811, 3812, 3813 and 3814 are located on the thirty-eighth floor of the Mauka Tower.

II

A. Makai Tower:

Those apartments, the last two digits of the numbers of which are -01, are located in the Diamond Head-Mauka corner of the Tower;

Those apartments, the last two digits of the numbers of which are -02, are located in the Ewa-Mauka corner of the Tower;

Those apartments, the last two digits of the numbers of which are -03, are located in the Diamond Head side of the Tower next to the apartments, the numbers of which end in -01;

Those apartments, the last two digits of the numbers of which are -04, are located in the Ewa side

of the Tower next to the apartments, the numbers of which end in -02;

Those apartments, the last two digits of the numbers of which are -05, are located in the Diamond Head side of the Tower next to the apartments, the numbers of which end in -03;

Those apartments, the last two digits of the numbers of which are -06, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -04;

Those apartments, the last two digits of the numbers of which are -07, are located in the Diamond Head side of the Tower next to the apartments, the numbers of which end in -05;

Those apartments, the last two digits of the numbers of which are -08, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -06;

Those apartments, the last two digits of the numbers of which are -09, are located in the Diamond Head side of the Tower next to the apartments, the numbers of which end in -07;

Those apartments, the last two digits of the numbers of which are -10, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -08;

Those apartments, the last two digits of the numbers of which are -11, are located in the Diamond

Head side of the Tower next to the apartments, the numbers of which end in -09;

Those apartments, the last two digits of the numbers of which are -12, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -10;

Those apartments, the last two digits of the numbers of which are -13, are located in the Diamond Head-Makai corner of the Tower;

Those apartments, the last two digits of the numbers of which are -14, are located in the Ewa-Makai corner of the Tower

B. Mauka Tower:

Those apartments, the last two digits of the numbers of which are -01, are located in the Ewa-Mauka corner of the Tower;

Those apartments, the last two digits of the numbers of which are -02, are located in the Ewa-Makai corner of the Tower;

Those apartments, the last two digits of the numbers of which are -03, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -01;

Those apartments, the last two digits of the numbers of which are -04, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -02;

Those apartments, the last two digits of

the numbers of which are -05, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -03;

Those apartments, the last two digits of the numbers of which are -06, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -04;

Those apartments, the last two digits of the numbers of which are -07, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -05;

Those apartments, the last two digits of the numbers of which are -08, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -06;

Those apartments, the last two digits of the numbers of which are -09, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -07;

Those apartments, the last two digits of the numbers of which are -10, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -08;

Those apartments, the last two digits of the numbers of which are -11, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -09;

Those apartments, the last two digits of

the numbers of which are -12, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -10;

Those apartments, the last two digits of the numbers of which are -13, are located in the Mauka-Diamond Head corner of the Tower;

Those apartments, the last two digits of the numbers of which are -14, are located in the Makai-Diamond Head corner of the Tower.

III

A description of each of the apartments, designating the layout, number of rooms and approximate floor area thereof, is as follows:

Each apartment designated Type "A" and Type "AR" on Exhibit "D" attached hereto and incorporated herein by reference contains one bedroom, one bathroom, a dressing room, kitchen, living room and a lanai and each contains a total area of approximately 600.31 square feet, including the lanai; provided, however, that Apartments 608, 610 and 612 in the Makai Tower, each contains a patio in addition to said bedroom, bathroom, dressing room, kitchen, living room and lanai, and Apartments 608 and 610 in the Makai Tower, each contains a total area of approximately 1,693.31 square feet, including the lanai and patio, and Apartment 612 in the Makai Tower, contains a total area of approximately 1,784.31 square feet, including the lanai and patio. The layout of Apartments designated Type "A" is

the reverse of that of the apartments designated Type "AR".

Each apartment designated Type "A1" and Type "AR1" on said Exhibit "D" contains one bedroom, one bathroom, a dressing room, kitchen, living room and lanai and contains a total area of approximately 600.31 square feet, including the lanai. The layout of the apartments designated Type "AR1" is the reverse of that of the apartments designated Type "A1".

Each apartment designated Type "B" and Type "Bk" on Exhibit "D" attached hereto and incorporated herein by reference contains one bedroom, a bathroom, dressing room, dining area, living room, kitchen and lanai and a total area of approximately 661.29 square feet, including the lanai. The layout of the apartments designated Type "BR" on said Exhibit "D" is the reverse of these designated Type "B".

Each apartment designated on said Exhibit "D" attached hereto and incorporated herein by reference as Type "C" and Type "E" contains one bedroom, one bathroom, a dressing room, kitchen, living room, foyer and a lanai and a total area of approximately 648.78 square feet, including the lanai.

Each apartment designated on said Exhibit "D" as Type "D" and Type "F" contains one bedroom, one bathroom, a dressing room, living room, kitchen and a lanai and a total area of approximately 598.90 square feet, including the lanai.

IV

Each apartment shall be furnished with a Range, Range Hood, Disposal, Refrigerator and Room Air Conditioning Unit.

EXHIBIT "D"

I. Type "A"

A. Mauka Tower.

706, 806, 906, 1006, 1106, 1206 and 1406, 1506, 1606,
1706, 1806, 1906, 2006, 2106, 2206, 2306, 2406, 2506, 2606,
2706, 2806, 2906, 3006, 3106, 3206, 3306, 3406, 3506, 3606,
3706, 3806; 607, 807, 907, 1007, 1107, 1207, 1307, 1407,
1507, 1607, 1707, 1807, 1907, 2007, 2107, 2207, 2307, 2407,
2507, 2607, 2797, 2897, 2967, 3007, 3107, 3207, 3307, 3407,
3507, 3607, 3707, 3807; 610, 710, 810, 910, 1010, 1110,
1210, 1410, 1510, 1610, 1710, 1810, 1910, 2010, 2110, 2210,
2310, 2410, 2510, 2610, 2710, 2810, 2910, 3010, 3110, 3210,
3310, 3410, 3510, 3610, 3710, 3810; 611, 711, 811, 911,
1011, 1111, 1211, 1411, 1511, 1611, 1711, 1811, 1911, 2011,
2111, 2211, 2311, 2411, 2511, 2611, 2711, 2811, 2911, 3011,
3111, 3211, 3311, 3411, 3511, 3611, 3711, 3811.

B. Makai Tower.

703, 803, 903, 1003, 1103, 1203, 1403, 1503, 1603,
1703, 1803, 1903, 2003, 2103, 2203, 2303, 2403, 2503, 2603,
2703, 2803, 2903, 3003, 3103, 3203, 3303, 3403, 3503, 3603,
3703; 607, 707, 807, 907, 1007, 1107, 1207, 1407, 1507,
1607, 1707, 1807, 1907, 2007, 2107, 2207, 2307, 2407, 2507,
2607, 2707, 2807, 2907, 3007, 3107, 3207, 3307, 3407, 3507,
3607, 3707.

II. Type "A1"

A. Mauka Tower.

602, 702, 802, 902, 1002, 1102, 1202, 1402, 1502, 1602,
1702, 1802, 1902, 2002, 2102, 2202, 2302, 2402, 2502, 2602,
2702, 2802, 2902, 3002, 3102, 3202, 3302, 3402, 3502, 3602,
3702, 3802.

B. Makai Tower.

702, 802, 902, 1002, 1102, 1202, 1402, 1502, 1602,
1702, 1802, 1902, 2002, 2102, 2202, 2302, 2402, 2502, 2602,
2702, 2802, 2902, 3002, 3102, 3202, 3302, 3402, 3502, 3602,
3702.

III. Type "AR1"

A. Mauka Tower.

601, 701, 801, 901, 1001, 1101, 1201, 1401, 1501, 1601,
1701, 1801, 1901, 2001, 2101, 2201, 2301, 2401, 2501, 2601,
2701, 2801, 2901, 3001, 3101, 3201, 3301, 3401, 3501, 3601,
3701, 3801.

B. Makai Tower.

701, 801, 901, 1001, 1101, 1201, 1301, 1401, 1501,
1601, 1701, 1801, 1901, 2001, 2101, 2201, 2301, 2401, 2501,
2601, 2701, 2801, 2901, 3001, 3101, 3201, 3301, 3401, 3501,
3601, 3701.

IV. Type "AR"

A. Mauka Tower.

704, 804, 904, 1004, 1104, 1204, 1404, 1504, 1604,
1704, 1804, 1904, 2004, 2104, 2204, 2304, 2404, 2504, 2604,
2704, 2804, 2904, 3004, 3104, 3204, 3304, 3404, 3504, 3604,
3704, 3804; 608, 708, 808, 908, 1008, 1108, 1208, 1408,
1508, 1608, 1708, 1808, 1908, 2008, 2108, 2208, 2308, 2408,
2508, 2608, 2708, 2808, 2908, 3008, 3108, 3208, 3308, 3408,
3508, 3608, 3708, 3808; 609, 709, 809, 909, 1009, 1109,
1209, 1409, 1509, 1609, 1709, 1809, 1909, 2009, 2109, 2209,
2309, 2409, 2509, 2609, 2709, 2809, 2909, 3009, 3109, 3209,
3309, 3409, 3509, 3609, 3709, 3809; 612, 712, 812, 912,
1012, 1112, 1212, 1412, 1512, 1612, 1712, 1812, 1912, 2012,

2112, 2212, 2312, 2412, 2512, 2612, 2712, 2812, 2912,
3012, 3112, 3212, 3312, 3412, 3512, 3612, 3712, 3812.

B. Makai Tower.

705, 805, 905, 1005, 1105, 1205, 1405, 1505, 1605,
1705, 1805, 1905, 2005, 2105, 2205, 2305, 2405, 2505, 2605,
2705, 2805, 2905, 3005, 3105, 3205, 3305, 3405, 3505, 3605,
3705, 3805; 608, 708, 808, 908, 1008, 1108, 1208, 1408, 1508,
16108, 1708, 1808, 1908, 2008, 2108, 2208, 2308, 2408, 2508,
2608, 2708, 2808, 2908, 3008, 3108, 3208, 3308, 3408, 3508,
3608, 3708; 609, 709, 809, 909, 1009, 1109, 1209, 1409,
1509, 1609, 1709, 1809, 1909, 2009, 2109, 2209, 2309, 2409,
2509, 2609, 2709, 2809, 2909, 3009, 3109, 3209, 3309, 3409,
3509, 3609, 3709; 612, 712, 812, 912, 1012, 1112, 1212,
1412, 1512, 1612, 1712, 1812, 1912, 2012, 2112, 2212, 2312,
2412, 2512, 2612, 2712, 2812, 2912, 3012, 3112, 3212, 3312,
3412, 3512, 3612, 3712.

V. Type "B"

A. Mauka Tower.

614, 714, 814, 914, 1014, 1114, 1214, 1414, 1514,
1614, 1714, 1814, 1914, 2014, 2114, 2214, 2314, 2414, 2514,
2614, 2714, 2814, 2914, 3014, 3114, 3214, 3314, 3414, 3514,
3614, 3714, 3814.

B. Makai Tower.

614, 714, 814, 914, 1014, 1114, 1214, 1414, 1514,
1614, 1714, 1814, 1914, 2014, 2114, 2214, 2314, 2414, 2514,
2614, 2714, 2814, 2914, 3014, 3114, 3214, 3314, 3414, 3514,
3614, 3714.

VI. Type "BR"

A. Mauka Tower.

613, 713, 813, 913, 1013, 1113, 1213, 1413, 1513,
1613, 1713, 1813, 1913, 2013, 2113, 2213, 2313, 2413, 2513,
2613, 2713, 2813, 2913, 3013, 3113, 3213, 3313, 3413, 3513,
3613, 3713, 3813.

B. Makai Tower.

613, 713, 813, 913, 1013, 1113, 1213, 1413, 1513,
1613, 1713, 1813, 1913, 2013, 2113, 2213, 2313, 2413, 2513,
2613, 2713, 2813, 2913, 3013, 3113, 3213, 3313, 3413, 3513,
3613, 3713.

VII. Type "C"

A. Makai Tower.

606, 706, 806, 906, 1006, 1106, 1206, 1406, 1506,
1606, 1706, 1806, 1906, 2006, 2106, 2206, 2306, 2406, 2506,
2606, 2706, 2806, 2906, 3006, 3106, 3206, 3306, 3406, 3506,
3606, 3706.

VIII. Type "D"

A. Makai Tower.

604, 704, 804, 904, 1004, 1104, 1204, 1404, 1504,
1604, 1704, 1804, 1904, 2004, 2104, 2204, 2304, 2404, 2504,
2604, 2704, 2804, 2904, 3004, 3104, 3204, 3304, 3404, 3504,
3604, 3704.

EXHIBIT E

0167J

BY-LAWS OF THE ASSOCIATION OF APARTMENT OWNERS OF WAIKIKI BANYAN

The following By-Laws shall apply to the above-named condominium project (herein called the "project"), as described in and created by Declaration of Horizontal Property Regime (herein called the "Declaration") to be recorded or filed of record in the State of Hawaii contemporaneously herewith, and to all present and future owners, tenants and occupants of any apartments of the project and all other persons who shall at any time use the project. The mere acquisition or rental of any apartment or the mere act of occupancy of any apartment will signify that these By-Laws are accepted, ratified, and will be complied with.

ARTICLE I

MEMBERSHIP

Section 1. Qualification. All owners of apartments of the project shall constitute the Association of Apartment Owners (herein called the "Association"). The owner of any apartment upon acquiring title thereto shall automatically become a member of the Association and shall remain a member thereof until such time as his ownership of such apartment ceases for any reason, at which time his membership in the Association shall automatically cease; provided, however, that to such extent and for such purposes, including voting, as shall be provided by lease of any apartment filed with the Board of Directors of the Association, the lessee of such apartment shall be deemed to be the owner thereof. The successor under any apartment sublease or condominium conveyance document shall be deemed to be an apartment owner under these By-Laws.

Section 2. Place of Meetings. Meetings of the Association shall be held at the project or such other suitable place convenient to the apartment owners as may be designated by the Board of Directors.

Section 3. Annual Meetings. The first annual meeting of the Association shall be held as soon as practicable after recording of the Declaration and these By-Laws upon the call of at least ten percent (10%) of the apartment owners; provided, however, that said first annual meeting shall in no event be held more than one hundred eighty (180) days after the date on which the certificate of occupancy for the project was issued by the appropriate county agency. Thereafter the annual meetings of the Association shall be held within three months after the end of each accounting year.

Section 4. Special Meetings. Special meetings of the Association may be held at any time upon the call of the President or a petition signed by at least twenty-five percent (25%) of the apartment owners and presented to the Secretary.

Section 5. Notice of Meetings. The Secretary shall give written or printed notice of each annual and special meeting to every apartment owner according to the Association's record of ownership, and to every institutional holder of a first mortgage on an apartment 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 or the Managing Agent, at least fourteen (14) days but not more than twenty (20) days before the date set for such meeting, stating whether it is an annual or special meeting, the authority for

the call thereof, the place, day and hour of such meeting, the items on the agenda for such meeting and a standard proxy form authorized by the Association, if any, in any of the following ways: (a) by delivering it to him personally, or (b) by leaving it at his apartment in the project or at his usual residence or place of business, or (c) by mailing it, postage prepaid, addressed to him at his address as it appears on the Association's record of ownership. If notice is given pursuant to the provisions of this section, the failure of any apartment owner or mortgagee to receive actual notice of any meeting shall in no way invalidate such meeting or any proceedings thereat. The presence of any apartment owner or mortgagee in person or by proxy at any meeting shall be deemed a waiver of any required notice to such owner unless he shall at the opening thereof object to the holding of such meeting because of the failure to give notice in accordance with the provisions hereof.

Section 6. Quorum. The presence at any meeting in person or by proxy of a majority of apartment owners shall constitute a quorum, and the acts of a majority of the apartment owners 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 apartment owners" herein means the owners of apartments to which are appurtenant more than fifty percent (50%) of the common interests as established by the Declaration, any other specified percentage of the apartment owners means the owners of apartments to which are appurtenant such percentage of the common interests.

Section 7. Voting. Voting shall be on a percentage basis, and the percentage of the total vote to which each apartment is entitled shall be 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, personal representative, 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 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 or others, and in case of protest each co-tenant shall be entitled to only a share of such vote in proportion to his share of ownership in such Apartment. The purchaser of an apartment pursuant to an agreement of sale recorded in the Bureau of Conveyances of the State of Hawaii or filed in the

Office of the Assistant Registrar of the Land Court of the State of Hawaii shall have all of the rights of a unit owner, including the right to vote, except as to those matters expressly retained by the seller under such agreement of sale, pursuant to Section 514A-83, Hawaii Revised Statutes, as amended.

Section 8. Proxies and Pledges. The authority given by any apartment owner to another person to represent him at meetings of the Association shall be in writing, signed by such owner and filed with the Secretary, and unless limited by its terms shall continue until revoked by a writing filed with the Secretary or by the death or incapacity of such owner; provided, however, that the standard proxy form, if any, which accompanies a notice of meeting shall be valid only for the meeting to which such notice pertains and its adjournments, if any. 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 like manner.

Section 9. Adjournment. Any meeting of the Association may be adjourned from time to time not less than forty-eight (48) hours from the time the original meeting was called as may be determined by majority vote of the apartment 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 10. Order of Business. 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 meeting.
- (d) Report of officers.
- (e) Report of committees.
- (f) Election of inspectors of election
- (g) Election of directors.
- (h) Unfinished business.
- (i) New business.

Section 11. Conduct of Meeting. Unless some other generally accepted rules for the conduct of meetings of the Association are designated or adopted by majority vote of the apartment owners, all meetings of the Association and the Board of Directors shall be conducted in accordance with Roberts Rules of Order.

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 nine (9) persons. All members of the Board of Directors shall be owners, co-owners, vendees under an agreement of sale, or an officer of any corporate owner of an apartment. The partners in a general partnership and the general partner(s) of a limited partnership shall be deemed to be the owners of an apartment for this purpose. The directors shall serve without compensation, unless such compensation is specifically authorized by the Association at a regular or special meeting. The resident manager of the project, if any, may not serve on the Board.

Section 2. Powers. The Board of Directors shall have all powers necessary for the administration of the affairs of the Association and may do all such acts and things therefor as are not by law, the Declaration or by these By-Laws directed to be exercised or done only by the apartment owners.

Section 3. Election and Terms. Election of directors shall be by cumulative voting by secret ballot at each annual meeting and any special meeting called for the purpose. Directors shall hold office for a period of three (3) years and until their respective successors have been elected, subject to removal as herein provided, except that at the first annual meeting one-third of the directors shall be elected for one year, one-third for two years and one-third for three years.

Section 4. Vacancies. Vacancies in the Board of Directors caused by any reason other than removal of a director by the Association shall be filled by a 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 his successor is elected at the next annual meeting of the Association. Death, incapacity, or resignation of any Director, or his continuous absence from the State of Hawaii for more than six months, or his ceasing to be the sole owner or co-owner of an apartment, shall cause his office to become vacant.

Section 5. Removal of Directors. At any regular or special meeting of the Association duly called, any one or more of the directors may be removed with or without cause by a vote of a majority of apartment 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 apartment owners shall be given an opportunity to be heard at such meeting.

Section 6. Annual Meetings. An organizational meeting of the Board of Directors shall be held at the place of and immediately following each annual meeting of the Association, and no notice shall be necessary to any directors in order validly to constitute such meeting, provided that a majority of the whole Board shall be present. At such meeting the Board shall elect the officers of the Association for the ensuing year.

Section 7. 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 one such meeting shall be held during each calendar quarter of every year. Notice of regular meetings of the Board shall be given to each director, personally or by mail, telephone, or messenger service, at least three (3) days prior to the date of such meeting.

Section 8. Special Meetings. Special meetings of the Board of Directors may be called by the President on at least eight hours' notice to each director, given personally or by telephone or messenger service, which notice shall state the time, place and purpose of the 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 two directors.

Section 9. 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 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 these By-Laws shall constitute a quorum for the transaction of business, and the acts of a majority of the directors present at any meeting at which a quorum is present shall be the acts of 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.

Section 11. Fidelity Bonds. The Board of Directors shall require that all directors, officers, employees and agents of the Association handling or responsible for funds belonging to or administered by the Association furnish adequate fidelity

bonds in favor of the Association. The premiums on such bonds shall be paid by the Association. Such bonds shall in no event be in an amount less than one and one-half times the Association's estimated annual operating expenses and reserves and every such bond shall:

(a) Provide that the bond(s) may not be cancelled or substantially modified (including cancellation for nonpayment of premiums) without at least thirty (30) days' prior written notice to the Board, the first mortgagees and every other person in interest who shall have requested such notice; and

(b) Contain a waiver of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

Section 12. Conflict of Interest. No member of the Board of Directors shall vote at any board meeting on any issue in which such member has a conflict of interest.

ARTICLE III

OFFICERS

Section 1. Designation. The principal officers of the Association shall be a President, Vice President, a Secretary and a Treasurer, all of whom shall be elected by, and in the case of the President from, 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.

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 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 By-Laws or assigned to him from time to time by the Board.

Section 5. Vice President. The Vice President shall assume and perform the duties of the President in the absence or disability of the President or whenever the office of the President is vacant. 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 do so on an interim basis. He shall also have such other powers and duties as may be assigned to him from time to time 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 By-Laws, maintain and keep a continuous and accurate record of ownership of all apartments, 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.

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.

Section 8. Auditor. The Association shall appoint annually a public accountant or accounting firm as auditor, who shall not be an officer of the Association nor own any interest in any apartment, to audit the books and financial records of the Association as required by law or directed additionally by the Board of Directors. The members of the Association may by majority vote at any annual meeting require that the yearly audit be conducted by a certified public accountant or a firm of certified public accountants. Any institutional holder of a first mortgage on an apartment or of an apartment lease demising the same may request and the Association shall provide said mortgagee with a copy of said annual audited financial statement within ninety (90) days following the end of any fiscal year of the Association.

ARTICLE IV

ADMINISTRATION

Section 1. Management. The Board of Directors shall at all times manage and operate the project and have such powers and

duties as may be necessary or proper therefor including without limitation the following:

- (a) Supervision of its immediate management and operation;
- (b) Maintenance, repair, replacement and restoration of the common elements and any additions and alterations thereto;
- (c) Purchase, maintenance and replacement of any equipment and provision of all water and utility services required for the common elements;
- (d) Provision at each apartment of all 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;
- (e) Employment, supervision and dismissal of such personnel as may be necessary for the maintenance and operation of the project;
- (f) Preparation at least 60 days before each fiscal year of a proposed budget and schedule of assessments for such year;
- (g) Collection of all installments of assessments levied and payment of all common expenses authorized by the Board.
- (h) Purchase and maintenance in effect of all policies of hazard and liability insurance for the project required by the Declaration and such other insurance and bonds as may be required or authorized by the Declaration or the Board;
- (i) Custody and control of all funds of the Association, maintenance of full and accurate books of account and records of such funds and preparation of regular financial reports thereof;
- (j) Notification of all persons having any interest in any apartment according to the Association's record of ownership of delinquency exceeding 30 days in the payment of any assessment against such apartment.
- (k) Notification in writing of all institutional holders of first mortgages on apartments or apartment subleases or condominium conveyance documents demising or conveying the same, as shown in the Association's record of ownership or of which the Secretary of the Association has been given written notice, of any loss to, or taking of, the common elements of the project if such loss or taking exceeds TEN THOUSAND DOLLARS (\$10,000.00);

(l) Notification in writing to the institutional holder of the first mortgage on any apartment or apartment sublease or condominium conveyance document demising or conveying the same, as shown in the Association's record of ownership or of which the Secretary of the Association has been given written notice, of any loss to such apartment which exceeds ONE THOUSAND DOLLARS (\$1,000.00); and

(m) Establishment of such penalties and fines as it deems appropriate with respect to enforcement of the provisions of the Declaration, these By-Laws and the house rules adopted pursuant to Article V, Section 4, of these By-Laws; provided such penalties and fines are not inconsistent with the law or the provisions herein, and the unpaid amount of such penalties and fines against any apartment owner shall constitute a lien against his interest in his apartment which may be foreclosed by the Board of Directors or Managing Agent in the same manner as provided in the Horizontal Property Act for common expenses; provided, however, that the said lien for such penalties and fines shall be subordinate to liens for taxes and assessments lawfully imposed by governmental authority against the apartment and to all sums unpaid on mortgages of record.

Section 2. Managing Agent. The Board of Directors shall annually employ a responsible Hawaii corporate Managing Agent to manage and control the project subject at all times to direction by the Board, with all of the administrative functions specifically set forth in the preceding Section 1 and with such other powers and duties and at such compensation as the Board may establish from time to time, subject to prior approval of every such employment contract by a majority of the apartment owners. Any decision by the Association to terminate professional corporate management of the project and to assume self-management of the project may not be effected without the prior written consent of at least seventy-five percent (75%) of the institutional holders of a first mortgage on an apartment or an apartment lease demising the same (based upon one vote for each first mortgage owned). Every such employment contract shall provide that it may be terminated by the Board of Directors for cause on no more than thirty (30) days' written notice and without cause on no more than ninety (90) days' written notice, and in no event may such employment contract be for a term exceeding one (1) year, and in no event shall a termination fee be due and owing the Managing Agent.

Section 3. Representation. The President or Managing Agent, subject to the direction of the Board of Directors, shall represent the Association or any two or more apartment owners similarly situated as a class in any action, suit, hearing or other proceeding concerning the Association, the common elements

or more than one apartment, and on its or their behalf may institute, defend, intervene in, prosecute and settle any such actions, suits and proceedings, without prejudice to the rights of any apartment owner individually to appear, sue or be sued. Service of process on two or more apartment owners in any such action, suit or proceeding may be made on the President or Managing Agent. Every first mortgagee to whom the sublessee under an Apartment Lease is required by the terms of the mortgage to pay the same or, whenever there is no such mortgagee, every Managing Agent shall also be the agent of the respective lessees under any apartment leases filed with the Board for the collection, custody and payment of all rent, taxes, assessments and other charges thereunder payable to their lessors.

Section 4. Execution of Instruments. All checks, drafts, notes, acceptances, conveyances, contracts and other instruments shall be signed on behalf of the Association by such person or persons as shall be provided by general or special resolution of the Board of Directors or, in the absence of any such resolution applicable to such instrument, by the President or Vice President and by the Treasurer or Secretary.

ARTICLE V

OBLIGATIONS OF APARTMENT OWNERS

Section 1. Assessments. All apartment owners shall pay to the Managing Agent in advance on the first day of each and every month the monthly installments of assessments against their respective apartments for common expenses of the project in accordance with the Declaration and also, a monthly sum determined by the Managing Agent to be sufficient to accumulate and pay when due all rent, taxes, assessments and other charges thereunder payable by the lessee or sublessee of such apartment. Provided, however, that any apartment owners who are required under the terms of a first mortgage in favor of an institutional mortgagee encumbering an apartment sublease or a condominium conveyance document demising an apartment in the project to make lease rent payments to such mortgagee for transmittal to the Lessee, shall be permitted to do so.

Section 2. Maintenance of Apartments. Every apartment owner shall at his own expense at all times well and substantially repair, maintain, amend and keep his apartment and the limited common elements appurtenant thereto, including without limitation all internal installations therein such as water, electricity, gas, telephone, sewer, sanitation, air conditioning, lights and all other fixtures and accessories

belonging to such apartment and the interior decorated or finished surfaces of all walls, floors and ceilings of such apartment, with all necessary reparations and amendments whatsoever in good order and condition except as otherwise provided by law or the Declaration, and shall be liable for all loss or damage whatsoever caused by his failure to perform any such work diligently, and in case of such failure after reasonable notice to perform shall reimburse to the Association promptly on demand all expenses incurred by it in performing any such work authorized by the Board of Directors or the Managing Agent. Every apartment owner and occupant shall reimburse the Association promptly on demand all expenses incurred by it in repairing or replacing any uninsured loss or damage to the common elements or any furniture, furnishing and equipment thereof caused by such owner or occupant or any person under either of them and shall give prompt notice to the Managing Agent of any such loss or damage or other defect in the project when discovered.

Section 3. Use of Project. (a) The apartments of the project shall be used only for their respective purposes as set forth in the Declaration and for no other purpose.

(b) All common elements of the project shall be used only for their respective purposes as designed.

(c) No apartment owner or occupant shall place, store or maintain on walkways, roadways, grounds or other common elements any furniture, packages or objects of any kind or otherwise obstruct transit through such common elements.

(d) Every apartment owner and 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.

(e) 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 furniture, furnishings or equipment of the common elements.

(f) No apartment owner or occupant shall erect or place in the project any building or structure including fences and walls, nor make any additions or alterations to 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 Board and approved

by the Board and a majority of apartment owners (or such larger percentage required by law or the Declaration) including all owners of apartments thereby directly affected.

(g) No apartment owner shall decorate or landscape any entrance of his apartment or any other portion of the project except in accordance with standards therefor established by the Board of Directors or specific plans approved in writing by the Board.

(h) All occupants shall exercise extreme care about making noises and in the use of musical instruments, radios, televisions and amplifiers that may disturb other occupants.

(i) No garments, rugs, or other objects shall be hung from the windows or facades of the project.

(j) 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.

(k) No refuse, garbage or trash of any kind shall be thrown, placed or kept on any common elements of the project outside of the disposal facilities provided for such purpose.

(l) No livestock, poultry, rabbits or other animals whatsoever shall be allowed or kept in any part of the project except that dogs, cats and other household pets in reasonable number may be kept by the apartment owners and occupants in their respective apartments but shall not be kept, bred or used therein for any commercial purpose nor allowed on any common elements except in transit when carried or on leash; provided, however, that any such pet causing a nuisance or unreasonable disturbance to any other occupant of the project shall be permanently removed therefrom promptly upon notice given by the Board of Directors or Managing Agent.

(m) No apartment owner or occupant shall without the written approval of the Board of Directors 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.

(n) No apartment owner or occupant shall erect, place or maintain any television or other antennas on said project visible from any point outside of the project.

(o) Nothing shall be allowed, done or kept in any apartments or common elements of the project which would overload or impair

the floor, walls or roofs thereof, or cause any increase in the ordinary premium rates or the cancellation or invalidation of any insurance thereon maintained by or for the Association.

(p) If the project shall have separate elevators devoted (i) to the transportation of the apartment owners and their guests and (ii) for freight service or auxiliary purposes, the apartment owners and tradesmen are expressly required to utilize the freight or service elevators for transporting packages, merchandise or any other object that may affect the comfort or well-being of the passengers of the elevators dedicated to the transportation of the apartment owners, residents and guests.

Section 4. House Rules. The Board of Directors, upon giving notice to all apartment owners in the same manner as herein provided for notice of meetings of the Association and opportunity to be heard thereon, may adopt, amend or repeal any supplemental rules and regulations governing details of the operation and use of the common elements not inconsistent with any provision of law, the Declaration or these By-Laws.

Section 5. Expenses of Enforcement. Every apartment owner shall pay to the Association promptly on demand all costs and expenses including reasonable attorneys' fees incurred by or on behalf of the Association in collecting any delinquent assessments against such apartment, foreclosing its lien therefor or enforcing any provisions of the Horizontal Property Act, the Declaration or these By-Laws against such owner or any occupant of such apartment.

Section 6. Record of Ownership. The Secretary of the Association or the Managing Agent shall keep an accurate and current list of the names and addresses of all members of the Association, including all vendees under any agreement of sale on an apartment in the project, if any. In connection therewith every apartment owner shall promptly cause to be duly recorded or filed of record the deed, lease, agreement of sale, assignment or other conveyance to him of such apartment or other evidence of his title thereto and shall file a copy of such document(s) with the Board of Directors through the Secretary or the Managing Agent.

Section 7. Mortgages. (a) **Notice to Board of Directors.** An apartment owner who mortgages his interest shall notify the Association of the name and address of his mortgagee and within ten (10) days after the execution of the same shall file a conformed copy of such mortgage with the Association; the Association shall maintain such information in a book entitled "Mortgages of Apartments".

(b) Notice of Unpaid Common Expenses. The Association whenever so requested in writing by an owner or mortgagee of an interest in an apartment shall promptly report any then unpaid assessments or common expenses due from the apartment owner involved.

(c) Notice of Default. The Board, when giving notice to an apartment owner of a default in paying common expenses or other default, shall send a copy of such notice to each holder of a mortgage covering such apartment or interest therein whose name and address has theretofore been furnished to the Association. In each and every case where the mortgagee has made a request, the Association shall notify the mortgagee of any unpaid assessment that is thirty (30) days delinquent or more.

(d) Examination of Books. Each apartment owner and each mortgagee shall be permitted to examine the books and records of the Association or the project at reasonable times on business days, and each mortgagee shall have the right to require the submission of annual reports and other financial data.

(e) Mortgage Protection. Notwithstanding any provision to the contrary in these By-Laws:

(1) Any first mortgagee who obtains title to an apartment pursuant to the remedies provided in the mortgage or foreclosure of the mortgage will not be liable for such apartment's unpaid dues or charges which accrue prior to the acquisition of title to such apartment by the mortgagee.

(2) All taxes, assessments and charges which may become liens prior to the first mortgage under the laws of the State of Hawaii shall relate only to the individual apartments and not to the condominium project as a whole.

(3) The Declaration and By-Laws shall not give an apartment owner or any other party priority over any rights of first mortgagees of apartments pursuant to their mortgages in the case of a distribution to apartment owners of insurance proceeds of condemnation awards for losses to or a taking of apartment units, common elements or both.

(4) Notwithstanding any other provision of these By-Laws, no amendment of this Section 7(e) shall affect the rights of the holder of any such mortgage recorded in the Bureau of Conveyances, State of Hawaii, prior to the filing of such amendment who does not join in the execution thereof.

ARTICLE VI

MISCELLANEOUS

Section 1. Amendment. These By-Laws may be amended in any respect not inconsistent with provisions of law or the Declaration at any meeting of the Association duly called for such purpose, by vote of seventy-five percent (75%) of the apartment owners, and shall be effective only upon the recording of an amendment to the Declaration setting forth such amendment of these By-Laws; and further provided that any material amendment of these By-Laws shall require the prior written consent thereto by at least seventy-five percent (75%) of the institutional holders of a first mortgage on an apartment sublease or condominium conveyance document demising or conveying the same (based upon one vote for each first mortgage owned).

Section 2. Indemnification. The Association shall indemnify every director and officer and his executors and administrators against all expenses reasonably incurred by or imposed on him in connection with any action, suit or proceedings to which he may be made a party by reason of being or having been a director or officer of the Association, except in relation to matters as to which he shall be finally adjudged in such action, suit or proceeding to be liable for negligence or misconduct; and in the absence of such final adjudication, indemnification shall be provided only in connection with such matters as to which the Association is advised by its legal counsel that the person to be indemnified committed no such breach of duty. The foregoing right of indemnification shall not be exclusive of any other rights to which such person may be entitled.

Section 3. Subordination. These By-Laws are subordinate and subject to all provisions of the Declaration and any amendments thereto, the Horizontal Property Act (Chapter 514A, Hawaii Revised Statutes, as amended), which shall control in case of any conflict. All terms herein (except where clearly repugnant to the context) shall have the same meaning as in the Declaration or said Horizontal Property Act.

Section 4. Interpretation. In case any provision of these By-Laws shall be held invalid, such invalidity shall not render invalid any other provision hereof which can be given effect. Nothing in these By-Laws shall be deemed or construed to authorize the Association or Board of Directors to conduct or engage in active business for profit on behalf of any or all of the apartment owners.

Section 5. Books of Receipts and Expenditures. The Managing Agent or Board of Directors shall 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. All records and the 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 of week days.

Section 6. Minutes of Meetings. The minutes of meetings of the Board of Directors, and Association of Apartment Owners shall be available for examination by apartment owners at convenient hours at a place designated by the Board.

CERTIFICATE OF ADOPTION

The undersigned, being the owners and developer of all apartments of the project, hereby adopt the foregoing as the By-Laws of the Association of Apartment Owners of WAIKIKI BANYAN, this _____ day of _____, 19__.

ENDNOTES

The following endnotes correspond to provisions in the Declaration which have been restated to conform to (i) Chapter 514A, Hawaii Revised Statutes ("HRS"); and (ii) Ordinance 83-58 of the Revised Ordinances of Honolulu, which requires the installation of fire sprinklers in the Waikiki Banyan. This Restated Declaration correctly states without change the corresponding provisions of the original Declaration, as amended, and supersedes the original Declaration and all prior amendments thereto. This Restatement was made solely for the purpose of information and convenience. In the event of a conflict, the Restated Declaration shall be subordinate to Ordinance 83-58 and the original Declaration.

1. Act 65 (SLH, 1988) redesignated the Horizontal Property Act as the Condominium Property Act. Therefore, references to the present terminology have been noted.
2. Subparagraph (1) has been added to Paragraph A.2. to confirm that the equipment which must be installed to comply with Ordinance 83-58 will be common elements of the project.
3. Paragraph F.6. has been amended to confirm that the Association may install the equipment required to comply with Ordinance 83-58 without owner or Lessor consent and may enter each apartment during reasonable hours for that purpose.
4. Paragraph S. has been added to confirm that all expenses relating to the installation of the fire sprinkler system are common expenses of the Association.
5. Paragraph T. has been added to conform the Declaration to the requirements of Section 514A-82.3, HRS, relating to borrowing of funds by the Association.

66.1
Jds
L-383

STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

MAR 16, 1993 03:14 PM

Doc No(s) 2006511 /

on Cert(s) AS LISTED HEREIN

/s/ S. FURUKAWA
ASSISTANT REGISTRAR

CONVEYANCE TAX: \$0.00

0 LAND COURT SYSTEM | REGULAR SYSTEM
AFTER RECORDATION, RETURN BY MAIL () PICKUP () TO:

JOHN A. MORRIS, ESQ.
Iwai, Motooka & Goto
Suite 502, Haseko Center
820 Mililani Street
Honolulu, HI 96813-2935
Tel: (801) 537-1935

FIRST AMENDMENT OF THE RESTATED
DECLARATION OF CONDOMINIUM PROPERTY REGIME
AND BY-LAWS OF WAIKIKI BANYAN

WHEREAS, the Trustees of the Liliuokalani Trust, herein referred to as "Liliuokalani Trust", are the owners in fee simple of the real property described in Original Certificate of Title No. 209,663 and the Transfer Certificates of Title listed in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, by Indenture of Lease dated February 22, 1978, effective as of December 1, 1977, recorded in the Bureau of

Conveyances of the State of Hawaii in Liber 12746, Page 429, herein referred to as the "Master Lease", said Liliuokalani Trust and Kawaiahao Church, a Hawaii eleemosynary corporation, herein referred to as "Kawaiahao", the owner of certain adjoining real property, being herein collectively referred to as the "Lessor", leased all the real property to BANYAN ONE, INC., a Hawaii corporation, herein referred to as the "Lessee"; and

WHEREAS, by Master Sublease dated February 22, 1978, effective as of December 2, 1975, recorded as aforesaid in Liber 12746, Page 473, the Lessee sublet said property to Waikiki Banyan, Inc., a Hawaii corporation, hereinafter referred to as the "Developer"; and

WHEREAS, the Developer improved said land by constructing thereon certain improvements hereinafter described in accordance with plans incorporated herein by reference filed and recorded in said Bureau of Conveyances as Condominium File Plan No. 637; and

WHEREAS, to create a condominium project (herein called the "project") known as "WAIKIKI BANYAN", the Lessor, Lessee and Developer submitted all of their interests in the property to a Horizontal Property Regime (now known as a Condominium Property Regime) under Chapter 514A, Hawaii Revised Statutes and adopted a Declaration, dated February 28, 1978 and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12789, Page 613; and

WHEREAS, the Declaration was duly amended by Amendment to Declaration dated December 9, 1971; recorded in Liber 16136, Page 148 and subsequently restated by a First Restatement of the

Declaration of Condominium Property Regime of Waikiki Banyan dated August 31, 1992, filed in Land Court as Land Court Document No. 1951836 and also recorded in the Bureau of Conveyances as Document No. 92-147513; and

WHEREAS, the Declaration, as amended, and the By-Laws for the project attached to and recorded contemporaneously with the Declaration, provided for the organization and operation of the ASSOCIATION OF APARTMENT OWNERS OF WAIKIKI BANYAN (the "Association") in accordance with the By-Laws; and

WHEREAS, pursuant to §514A-11(11) and §514-82(b)(2) of the Hawaii Revised Statutes, more than seventy-five percent (75%) of all apartment owners of the project gave their written consent to amend the Declaration and By-Laws of the Waikiki Banyan.

NOW THEREFORE, the Declaration and By-Laws amended to read as follows:

1. The Declaration of Condominium Property Regime of the Association of Apartment Owners of The Waikiki Banyan subparagraph "(1)" to paragraph A.2. is amended to read:

"(1) Automatic sprinkler system, smoke detectors, fire alarm system, annunciator panels, emergency generators, and any and all other apparatus and installations required to comply with the requirements of Ordinance No. 83-58 of the Revised Ordinances of Honolulu."


2. The By-Laws of the Association of Apartment Owners of the Waikiki Banyan shall be amended by deleting the text of Article I, Section 5, in its entirety and substituting the following text:

"Section 5. Notice of Meetings. Notices of Association meetings, whether annual or special, shall be sent to each member of the Association at least fourteen (14) days prior to the meeting, and shall contain at least: the date, time, and place of the meeting, the items on the agenda for the meeting, and a standard proxy form authorized by the Association, if any."

In all other respects, the Declaration and By-Laws of Waikiki Banyan, as amended, are hereby ratified and confirmed and shall be binding upon and inure to the benefit of the parties to it and their respective successors and permitted assigns. The undersigned officers of the Association of Apartment Owners of the Waikiki Banyan hereby certify that the foregoing amendments were adopted by the vote of more than seventy-five percent (75%) of the members of the Association of Apartment Owners of the Waikiki Banyan.

IN WITNESS WHEREOF, the undersigned have executed this instrument on this 26th day of February, 1993.

ASSOCIATION OF APARTMENT OWNERS OF
THE WAIKIKI BANYAN

By 
Its Vice President

By 
Its Secretary

STATE OF HAWAII)
)
CITY AND COUNTY OF HONOLULU) SS.

On this 26th day of February, 1993, before me appeared SEIJI FUKAYAMA, to me personally known, who being by me duly sworn, did say that he/she is the Vice President of the ASSOCIATION OF APARTMENT OWNERS OF THE WAIKIKI BANYAN, 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 SEIJI FUKAYAMA acknowledged that he/she executed said instrument as his/her free act and deed of the ASSOCIATION OF APARTMENT OWNERS OF THE WAIKIKI BANYAN.

LS

Arthur W. Hsu
Notary Public, State of Hawaii
My commission expires: 8/27/94

STATE OF HAWAII)
)
CITY AND COUNTY OF HONOLULU) SS.

On this 3rd day of March, 1993, before me appeared GLORIA BILLINGSLEY, 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 THE WAIKIKI BANYAN, 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 GLORIA BILLINGSLEY acknowledged that he/she executed said instrument as his/her free act and deed of the ASSOCIATION OF APARTMENT OWNERS OF THE WAIKIKI BANYAN.

LS

Arthur W. Hsu
Notary Public, State of Hawaii
My commission expires: 8/27/94

EXHIBIT "A"

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

LOT 2, area 91,642.0 square feet, of Block "F", as shown on Map 3, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1865 (amended) of First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust.

Being the remainder of the land(s) described in Original Certificate of Title No. 209,663 issued to First Hawaiian Bank, a Hawaii Corporation, Lorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust, in Trust, with power to lease, mortgage and sell and other powers more particularly set forth in Trust Deed dated December 2, 1909, recorded in Liber 319 at Page 447, as amended, and also described in Transfer Certificates of Title Nos.:

293,092	301,883	304,714
293,926	301,884	304,715
293,927	301,885	304,716
294,514	301,886	304,717
295,167	301,887	304,718
295,846	301,888	304,719
296,600	302,998	304,720
297,032	303,896	304,721
297,611	303,897	304,722
299,136	304,334	304,723
300,296	304,708	304,724
301,825	304,709	304,725
301,879	304,710	304,726
301,880	304,711	304,914
301,881	304,712	304,915
301,882	304,713	313,976
		313,977

DOUBLE SYSTEM

65
L-480 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

AUG 12, 1993 02:30 PM

Doc No(s) 2054583

on Cert(s) AS LISTED HEREIN

/s/ S. FURUKAWA
ASSISTANT REGISTRAR

CONVEYANCE TAX: \$0.00

R-682

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

AUG 12, 1993 / 02:30 PM

Doc No(s) 93-131432

/s/ S. FURUKAWA
REGISTRAR OF CONVEYANCES

CONVEYANCE TAX: \$0.00

LAND COURT SYSTEM

AFTER RECORDATION, RETURN BY MAIL () PICKUP (✓) TO:

JOHN A. MORRIS
IWAI MOTOOKA GOTO & MORRIS
Suite 502, Haseko Center
820 Mililani Street
Honolulu, Hawaii 96813
Telephone: 537-1935

Morris/Chen/Thompson, Ltd

SECOND AMENDMENT OF THE RESTATED DECLARATION OF CONDOMINIUM PROPERTY REGIME OF WAIKIKI BANYAN

WHEREAS, the Trustees of the Liliuokalani Trust, herein referred to as "Liliuokalani Trust", are the owners in fee simple of the real property described in Original Certificate of Title No. / 209,663 and the Transfer Certificates of Title listed in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, by Indenture of Lease dated February 22, 1978, effective as of December 1, 1977, recorded in the Bureau of

Conveyances of the State of Hawaii in Liber 12746, Page 429, herein referred to as the "Master Lease", said Liliuokalani Trust and Kawaiahao Church, a Hawaii eleemosynary corporation, herein referred to as "Kawaiahao", the owner of certain adjoining real property, being herein collectively referred to as the "Lessor", leased all the real property to BANYAN ONE, INC., a Hawaii corporation, herein referred to as the "Lessee"; and

WHEREAS, by Master Sublease dated February 22, 1978, effective as of December 2, 1975, recorded as aforesaid in Liber 12746, Page 473, the Lessee sublet said property to Waikiki Banyan, Inc., a Hawaii corporation, hereinafter referred to as the "Developer"; and

WHEREAS, the Developer improved said land by constructing thereon certain improvements hereinafter described in accordance with plans incorporated herein by reference filed and recorded in said Bureau of Conveyances as Condominium File Plan No. 637; and

WHEREAS, to create a condominium project (herein called the "project") known as "WAIKIKI BANYAN", the Lessor, Lessee and Developer submitted all of their interests in the property to a Horizontal Property Regime (now known as a Condominium Property Regime) under Chapter 514A, Hawaii Revised Statutes and adopted a Declaration, dated February 28, 1978 and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12789, Page 613; and

WHEREAS, the Declaration was duly amended by an amendment dated December 9, 1971, recorded in Liber 16136, Page 148 and subsequently restated by a First Restatement of the Declaration of Condominium Property Regime of Waikiki Banyan dated August 31,

1992, filed in Land Court as Land Court Document No. 1951836 and also recorded in the Bureau of Conveyances as Document No. 92-147513; and the First Restatement was subsequently amended by an amendment dated February 26, 1993 and recorded as Land Court Document No. 2006511; and

WHEREAS, the Declaration, as amended, and the By-Laws for the project attached to and recorded contemporaneously with the Declaration, provided for the organization and operation of the ASSOCIATION OF APARTMENT OWNERS OF WAIKIKI BANYAN (the "Association") in accordance with the By-Laws; and

WHEREAS, pursuant to §514A-11(11) of the Hawaii Revised Statutes, more than seventy-five percent (75%) of all apartment owners of the project gave their written consent to amend the Declaration of the Waikiki Banyan.

NOW THEREFORE, the Declaration is amended to read as follows:

1. The First Restatement of Declaration of Condominium Property Regime of the Association of Apartment Owners of The Waikiki Banyan shall be amended by deleting paragraph F.6. in its entirety and substituting the following text:

"6. 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 Lessor, first approved in writing by the 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. NOTWITHSTANDING ANYTHING TO THE

CONTRARY HEREIN CONTAINED, the Association of Apartment Owners shall have the irrevocable right, to be exercised by the Board of Directors:

a. To install an automatic sprinkler system, smoke detectors, fire alarm system, annunciator panels, emergency generators and any and all apparatus and installations required to comply with Ordinance No. 83-58 of the Revised Ordinances of Honolulu. The Board shall not be required to obtain the consent of the Lessor or any of the owners of apartments to proceed with the aforesaid installations.

b. To have access to each apartment from time to time during reasonable hours as may be necessary for the installation of the automatic sprinkler system, smoke detectors, fire alarm system, annunciator panels and any and all apparatus and installations required to comply with Ordinance No. 83-58 of the Revised Ordinances of Honolulu."

2. The First Restatement of the Declaration of Condominium Property Regime of the Association of Apartment Owners of The Waikiki Banyan shall be amended by adding paragraph "S", as follows:

"S. EXPENSES RELATED TO THE INSTALLATION OF THE FIRE SPRINKLER SYSTEM. All expenses related to the purchase and installation of the automatic sprinkler system, smoke detectors, fire alarm system, annunciator panels, emergency generators and any and all apparatus and installations required to comply with Ordinance No. 83-58 of the Revised Ordinances of Honolulu shall constitute common expenses as defined in paragraph "H." of this Declaration, for which all apartment owners shall be severally liable in proportion to their respective common interests. Any sums unpaid for the foregoing purchases and installations shall constitute liens on the apartments, as fully and effectually as to all other assessments for common expenses."

In all other respects, the Declaration of Waikiki Banyan, as amended, is hereby ratified and confirmed and shall be binding upon and inure to the benefit of the parties to it and their respective successors and permitted assigns. The undersigned officers of the Association of Apartment Owners of the Waikiki

Banyan hereby certify that the foregoing amendments were adopted by the vote of more than seventy-five percent (75%) of the members of the Association of Apartment Owners of the Waikiki Banyan.

IN WITNESS WHEREOF, the undersigned have executed this instrument on this 4th day of August, 1993.

ASSOCIATION OF APARTMENT OWNERS OF
THE WAIKIKI BANYAN

By

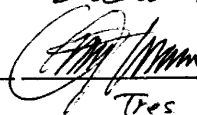
Its



SHRAGA DACHNER
President

By

Its


Tres

KENJI IWASA
Treasurer

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

SS.

On this 28th day of July, 1993, before me appeared Shraga Dackun, 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 THE WAIKIKI BANYAN, 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 Shraga Dackun acknowledged that he/she executed said instrument as his/her free act and deed of the ASSOCIATION OF APARTMENT OWNERS OF THE WAIKIKI BANYAN.

LS

Arthur K. Galt
Notary Public, State of Hawaii

My commission expires: 8/27/94

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

SS.

On this 4th day of August, 1993, before me appeared Kenji Iwasa, to me personally known, who being by me duly sworn, did say that he/she is the Treasurer of the ASSOCIATION OF APARTMENT OWNERS OF THE WAIKIKI BANYAN, 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 Kenji Iwasa acknowledged that he/she executed said instrument as his/her free act and deed of the ASSOCIATION OF APARTMENT OWNERS OF THE WAIKIKI BANYAN.

h

Arthur K. Galt
Notary Public, State of Hawaii

My commission expires: 5-19-95

EXHIBIT "A"

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

LOT 2, area 91,642.0 square feet, of Block "F", as shown on Map 3, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1865 (amended) of First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust.

Being the remainder of the land(s) described in Original Certificate of Title No. 209,663 issued to First Hawaiian Bank, a Hawaii Corporation, Lorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust, in Trust, with power to lease, mortgage and sell and other powers more particularly set forth in Trust Deed dated December 2, 1909, recorded in Liber 319 at Page 447, as amended, and also described in Transfer Certificates of Title Nos.:

293,092	301,883	304,714
293,926	301,884	304,715
293,927	301,885	304,716
294,514	301,886	304,717
295,167	301,887	304,718
295,846	301,888	304,719
296,600	302,998	304,720
297,032	303,896	304,721
297,611	303,897	304,722
299,136	304,334	304,723
300,296	304,708	304,724
301,825	304,709	304,725
301,879	304,710	304,726
301,880	304,711	304,914
301,881	304,712	304,915
301,882	304,713	313,976
		313,977

41
22
65

16
Cert

16
DOUBLE SYSTEM

L-113

STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

JUL 19, 1999 08:02 AM

Doc No(s) 2561101

on Cert(s) AS LISTED HEREM

/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

R-478

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

JUL 19, 1999 08:02 AM

Doc No(s) 99-115283

/s/ CARL T. WATANABE
ACTING
REGISTRAR OF CONVEYANCES

11
LAND COURT SYSTEM

AFTER RECORDATION, RETURN BY MAIL ()

skaka
LOVE YAMAMOTO & MOTOOKA
RANDALL K. SING
1000 Bishop Street, Suite 801
Honolulu, Hawaii 96813
Tel. No. 532-7900

11
REGULAR SYSTEM

PICKUP (X) TO:

THIRD AMENDMENT OF THE RESTATED DECLARATION
OF CCNDOMINIUM PROPERTY REGIME
AND BY-LAWS OF WAIKIKI BANYAN

WHEREAS, the Trustees of the Liliuokalani Trust, herein referred to as
"Liliuokalani Trust", are the owners in fee simple of the real property described in
Original Certificate of Title No. 209,663 and the Transfer Certificates of Title listed in
Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, by Indenture of Lease dated February 22, 1978, effective as of December 1, 1977, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12746, Page 429, herein referred to as the "Master Lease", said Liliuokalani Trust and Kawaiahao Church, a Hawaii eleemosynary corporation, herein referred to as "Kawaiahao", the owner of certain adjoining real property, being herein collectively referred to as the "Lessor", leased all the real property to BANYAN ONE, INC., a Hawaii corporation, herein referred to as the "Lessee"; and

WHEREAS, by Master Sublease dated February 22, 1978, effective as of December 2, 1975, recorded as aforesaid in Liber 12746, Page 473, the Lessee sublet said property to Waikiki Banyan, Inc., a Hawaii corporation, hereinafter referred to as the "Developer"; and

WHEREAS, the Developer improved said land by constructing thereon certain improvements hereinafter described in accordance with plans incorporated herein by reference filed and recorded in said Bureau of Conveyances as Condominium File Plan No. 637; and

WHEREAS, to create a condominium project (herein called the "project") known as "WAIKIKI BANYAN", the Lessor, Lessee and Developer submitted all of their interests in the property to a Horizontal Property Regime (now known as a Condominium Property Regime) under Chapter 514A, Hawaii Revised Statutes, and adopted a Declaration, dated February 28, 1978 and filed in the Bureau of Conveyances of the State of Hawaii in Liber 12789, Page 613; and

WHEREAS, the Declaration was duly amended by an amendment dated December 9, 1971, filed in Liber 16136, Page 148 and subsequently restated by a First Restatement of the Declaration of Condominium Property Regime of Waikiki Banyan dated August 31, 1992, recorded as Land Court Document No. 1951836 and also filed in the Bureau of Conveyances as Document No. 92-147513; and the First Restatement was subsequently amended by two amendments, one amendment dated February 26, 1993 and recorded as Land Court Document No. 2006511; the other dated August 4, 1993 recorded as Land Court Document No. 2054583 and also filed in the Bureau of Conveyances as Document No. 93-131432; and

WHEREAS, the Declaration as restated and amended, and the By-Laws for the project attached to and recorded contemporaneously with the Declaration, provided for the organization and operation of the ASSOCIATION OF APARTMENT OWNERS OF WAIKIKI BANYAN (the "Association") in accordance with the By-Laws; and

WHEREAS, pursuant to Section 514A-82(b)(2) of the Hawaii Revised Statutes, more than sixty-five percent (65%) of all apartment owners of the project gave their written consent to amend the By-Laws of the Association as indicated below;

NOW THEREFORE, the By-Laws are hereby amended as hereinafter set forth.

1. That Article II, Section 4 of the By-Laws is amended to read in its entirety as follows:

Section 4. Vacancies. Vacancies in the Board of Directors caused by any reason other than removal of a director by the Association shall be filled by a 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 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 sole owner or co-owner of an apartment, shall cause his office to become vacant.


2. That a new Article II, Section 13 to the By-Laws is added to read as follows:

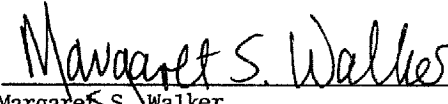
Section 13. Attendance by Telephone. Members of the Board of Directors or of any committee may participate in a meeting by means of a conference telephone or similar communication equipment by which all persons participating in the meeting can hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

In all other respects, the Declaration and By-Laws of the Association, as restated and amended, are hereby ratified and confirmed and shall be binding upon and inure to the benefit of the parties to it and their respective successors and permitted assigns. The undersigned officers of the Association hereby certify that the foregoing amendments were adopted by the written consent of more than sixty-five percent (65%) of the members of the Association.

IN WITNESS WHEREOF, the undersigned have executed this instrument
this 7th day of July, 1999.

ASSOCIATION OF APARTMENT OWNERS
OF WAIKIKI BANYAN

By 
Shiraga Pachner
Its *President*

By 
Margaret S. Walker
Its Secretary

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 7th day of July, 1999, before me appeared Shraga Dachner, to be personally known, who being by me duly sworn, did say he is the President of the Board of Directors of the Association of Apartment Owners of Waikiki Banyan, that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors, and acknowledged that he executed the same as the free act and deed of said Association. Said Association has no seal.



Notary Public, State of Hawaii
Printed Name: Annie C. Kekoolani
My commission expires: 02-16-2002

L.S.

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 7th day of July, 1999, before me appeared Margaret S. Walker, to be personally known, who being by me duly sworn, did say she is the Secretary of the Board of Directors of the Association of Apartment Owners of Waikiki Banyan, that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors, and acknowledged that she executed the same as the free act and deed of said Association. Said Association has no seal.



Notary Public, State of Hawaii
Printed Name: Annie C. Kekoolani
My commission expires: 02-16-2002

L.S.

EXHIBIT "A"

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

LOT 2, area 91,642.0 square feet, of Block "F", as shown on Map 3, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1865 (amended) of First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust.

Being the remainder of the land(s) described in Original Certificate of Title No. 209,663 issued to First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust, in Trust, with power to lease, mortgage and sell and other powers more particularly set forth in Trust Deed dated December 2, 1909, recorded in Liber 319 at Page 447, as amended, and also described in Transfer Certificate of Title Nos.:

✓ 293,092	301,883✓	304,714✓
✓ 293,926	301,884✓	304,715✓
✓ 293,927	301,885✓	304,716✓
✓ 294,514	301,886✓	304,717✓
✓ 295,167	301,887✓	304,718✓
✓ 295,846	301,888✓	304,719✓
✓ 296,600	302,998✓	304,720✓
✓ 297,032	303,896✓	304,721✓
✓ 297,611	303,897✓	304,722✓
✓ 299,136	304,334✓	304,723✓
✓ 300,296	304,708✓	304,724✓
✓ 301,825	304,709✓	304,725✓
✓ 301,879	304,710✓	304,726✓
✓ 301,880	304,711✓	304,914✓
✓ 301,881	304,712✓	304,915✓
✓ 301,882	304,713✓	313,976✓
		313,977✓

DOUBLE SYSTEM

L-205 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

AUG 04, 2000 08:30 AM

Doc No(s) 2642313

on Cert(s) AS LISTED HEREIN

/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

R-710

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

AUG 04, 2000 08:30 AM

Doc No(s) 2000-108303

/s/ CARL T. WATANABE
ACTING
REGISTRAR OF CONVEYANCES

LAND COURT SYSTEM

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL () PICKUP (X) TO:

Shana
LOVE YAMAMOTO & MOTOOKA
RANDALL K. SING
1000 Bishop Street, Suite 801
Honolulu, Hawaii 96813
Tel. No. 532-7900

FOURTH AMENDMENT OF THE RESTATED DECLARATION OF CONDOMINIUM PROPERTY REGIME AND BY-LAWS OF WAIKIKI BANYAN

WHEREAS, the Trustees of the Liliuokalani Trust, herein referred to as "Liliuokalani Trust", are the owners in fee simple of the real property described in Original Certificate of Title No. 209,663 and the Transfer Certificates of Title listed in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, by Indenture of Lease dated February 22, 1978, effective as of December 1, 1977, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12746, Page 429, herein referred to as the "Master Lease", said Liliuokalani Trust and Kawaiahao Church, a Hawaii eleemosynary corporation, herein referred to as "Kawaiahao", the owner of certain adjoining real property, being herein collectively referred to as the "Lessor", leased all the real property to BANYAN ONE, INC., a Hawaii corporation, herein referred to as the "Lessee"; and

WHEREAS, by Master Sublease dated February 22, 1978, effective as of December 2, 1975, recorded as aforesaid in Liber 12746, Page 473, the Lessee sublet said property to Waikiki Banyan, Inc., a Hawaii corporation, hereinafter referred to as the "Developer"; and

WHEREAS, the Developer improved said land by constructing thereon certain improvements hereinafter described in accordance with plans incorporated herein by reference filed and recorded in said Bureau of Conveyances as Condominium File Plan No. 637; and

WHEREAS, to create a condominium project (herein called the "project") known as "WAIKIKI BANYAN", the Lessor, Lessee and Developer submitted all of their interests in the property to a Horizontal Property Regime (now known as a Condominium Property Regime) under Chapter 514A, Hawaii Revised Statutes, and adopted a Declaration, dated February 28, 1978 and filed in the Bureau of Conveyances of the State of Hawaii in Liber 12789, Page 613; and

WHEREAS, the Declaration was duly amended by an amendment dated December 9, 1971, filed in Liber 16136, Page 148 and subsequently restated by a First Restatement of the Declaration of Condominium Property Regime of Waikiki Banyan dated August 31, 1992, recorded as Land Court Document No. 1951836 and also filed in the Bureau of Conveyances as Document No. 92-147513; and the First Restatement was subsequently amended by three amendments, one amendment dated February 26, 1993 and recorded as Land Court Document No. 2006511; the second amendment dated August 4, 1993 recorded as Land Court Document No. 2054583 and also filed in the Bureau of Conveyances as Document No. 93-131432; and the third amendment dated July 7, 1999 recorded as Land Court Document No. 2561101 and also filed in the Bureau of Conveyances as Document No. 99-115283; and

WHEREAS, the Declaration as restated and amended, and the By-Laws for the project attached to and recorded contemporaneously with the Declaration, provided for the organization and operation of the ASSOCIATION OF APARTMENT OWNERS OF WAIKIKI BANYAN (the "Association") in accordance with the By-Laws; and

WHEREAS, pursuant to Section 514A-82(b)(2) of the Hawaii Revised Statutes, more than sixty-five percent (65%) of all apartment owners of the project gave their written consent to amend the By-Laws of the Association as indicated below;

NOW THEREFORE, the By-Laws are hereby amended as hereinafter set forth.

1. That a new Article VI, Section 7 to the By-Laws is added to read as follows:

Section 7. Incorporation. The Board at any time may incorporate the Association as a non-profit corporation under the laws of the State of Hawaii. The incorporated Association shall exercise and enforce all the rights, powers, obligations, and duties of both the Association and a non-profit corporation in Hawaii. Except as required by law: (1) the formation of the corporation shall not alter the provisions of the Declaration or By-Laws; and (2) the Association's Articles of Incorporation shall be subordinate to and controlled by both of those documents. The incorporated Association shall take no action in violation of Chapter 514A, Hawaii Revised Statutes. The Board shall adopt the existing By-Laws of the Association, as amended, as the first By-Laws of the incorporated Association.

In all other respects, the Declaration and By-Laws of the Association, as restated and amended, are hereby ratified and confirmed and shall be binding upon and inure to the benefit of the parties to it and their respective successors and permitted assigns. The undersigned officers of the Association hereby certify that the foregoing amendments were adopted by the written consent of more than sixty-five percent (65%) of the members of the Association.

IN WITNESS WHEREOF, the undersigned have executed this instrument this 25th day of July, 2000.

ASSOCIATION OF APARTMENT OWNERS
OF WAIKIKI BANYAN

By Margaret S. Walker
Its President

By [Signature]
Its Vice President

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

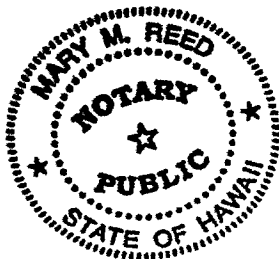
On this 25th day of July, 2000, before me appeared Margaret S. Walker, to be personally known, who being by me duly sworn, did say she is the President of the Board of Directors of the Association of Apartment Owners of Waikiki Banyan, that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors, and acknowledged that she executed the same as the free act and deed of said Association. Said Association has no seal.



Melinda N. Willers
Notary Public, State of Hawaii
Printed Name: Melinda N. Willers
My commission expires: 9-1-2002

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 25th day of JULY, 2000, before me appeared KENJI IWASA, to be personally known, who being by me duly sworn, did say HE is the VICE PRESIDENT of the Board of Directors of the Association of Apartment Owners of Waikiki Banyan, that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors, and acknowledged that HE executed the same as the free act and deed of said Association. Said Association has no seal.



Mary M. Reed
Notary Public, State of Hawaii
Printed Name: MARY M REED
My commission expires: 2-17-2002

EXHIBIT "A"

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

LOT 2, area 91,642.0 square feet, of Block "F", as shown on Map 3, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1865 (amended) of First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust.

Being the remainder of the land(s) described in Original Certificate of Title No. 209,663 issued to First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust, in Trust, with power to lease, mortgage and sell and other powers more particularly set forth in Trust Deed dated December 2, 1909, recorded in Liber 319 at Page 447, as amended, and also described in Transfer Certificate of Title Nos.:

293,092	301,883	304,714
293,926	301,884	304,715
293,927	301,885	304,716
294,514	301,886	304,717
295,167	301,887	304,718
295,846	301,888	304,719
296,600	302,998	304,720
297,032	303,896	304,721
297,611	303,897	304,722
299,136	304,334	304,723
300,296	304,708	304,724
301,825	304,709	304,725
301,879	304,710	304,726
301,880	304,711	304,914
301,881	304,712	304,915
301,882	304,713	313,976
		313,977

DOUBLE SYSTEM

L-348 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

APR 30, 2001 08:01 AM

Doc No(s) 2701072

on Cert(s) AS LISTED HEREIN

/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

R-546

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

APR 30, 2001 08:02 AM

Doc No(s) 2001-062474

/s/ CARL T. WATANABE
ACTING
REGISTRAR OF CONVEYANCES

LAND COURT SYSTEM

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL () PICKUP (X) TO:

Ahano
LOVE YAMAMOTO & MOTOOKA
RANDALL K. SING
1000 Bishop Street, Suite 801
Honolulu, Hawaii 96813
Tel. No. 532-7900

FIFTH AMENDMENT OF THE RESTATED DECLARATION
OF CONDOMINIUM PROPERTY REGIME
AND BY-LAWS OF WAIKIKI BANYAN

WHEREAS, the Trustees of the Liliuokalani Trust, herein referred to as "Liliuokalani Trust", are the owners in fee simple of the real property described in Original Certificate of Title No. 209,663 and the Transfer Certificates of Title listed in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, by Indenture of Lease dated February 22, 1978, effective as of December 1, 1977, recorded in the Bureau of Conveyances of the State of Hawaii in

Liber 12746, Page 429, herein referred to as the "Master Lease", said Liliuokalani Trust and Kawaiahao Church, a Hawaii eleemosynary corporation, herein referred to as "Kawaiahao", the owner of certain adjoining real property, being herein collectively referred to as the "Lessor", leased all the real property to BANYAN ONE, INC., a Hawaii corporation, herein referred to as the "Lessee"; and

WHEREAS, by Master Sublease dated February 22, 1978, effective as of December 2, 1975, recorded as aforesaid in Liber 12746, Page 473, the Lessee sublet said property to Waikiki Banyan, Inc., a Hawaii corporation, hereinafter referred to as the "Developer"; and

WHEREAS, the Developer improved said land by constructing thereon certain improvements hereinafter described in accordance with plans incorporated herein by reference filed and recorded in said Bureau of Conveyances as Condominium File Plan No. 637; and

WHEREAS, to create a condominium project (herein called the "project") known as "WAIKIKI BANYAN", the Lessor, Lessee and Developer submitted all of their interests in the property to a Horizontal Property Regime (now known as a Condominium Property Regime) under Chapter 514A, Hawaii Revised Statutes, and adopted a Declaration, dated February 28, 1978 and filed in the Bureau of Conveyances of the State of Hawaii in Liber 12789, Page 613; and

WHEREAS, the Declaration was duly amended by an amendment dated December 9, 1971, filed in Liber 16136, Page 148 and subsequently restated by a First Restatement of the Declaration of Condominium Property Regime of Waikiki Banyan dated August 31, 1992, recorded as Land Court Document No. 1951836 and also filed

in the Bureau of Conveyances as Document No. 92-147513; and the First Restatement was subsequently amended by four amendments, one amendment dated February 26, 1993 and recorded as Land Court Document No. 2006511; the second amendment dated August 4, 1993 recorded as Land Court Document No. 2054583 and also filed in the Bureau of Conveyances as Document No. 93-131432; the third amendment dated July 7, 1999 recorded as Land Court Document No. 2561101 and also filed in the Bureau of Conveyances as Document No. 99-115283; and the fourth amendment dated July 25, 2000 recorded as Land Court Document No. 2642313 and also filed in the Bureau of Conveyances as Document No. 2000-108303; and

WHEREAS, the Declaration as restated and amended, and the By-Laws for the project attached to and recorded contemporaneously with the Declaration, provided for the organization and operation of the ASSOCIATION OF APARTMENT OWNERS OF WAIKIKI BANYAN (the "Association") in accordance with the By-Laws; and

WHEREAS, pursuant to Sections 514A-11(11) and 514A-82(b)(2) of the Hawaii Revised Statutes, more than seventy-five percent (75%) and sixty-five percent (65%), respectively, of all apartment owners of the project gave their written consent to amend the Declaration and the By-Laws of the Association as indicated below;

NOW THEREFORE, the Declaration and the By-Laws are hereby amended as hereinafter set forth.

1. That new Subparagraphs 9 and 10 are added to Section F of the Declaration to read as follows:

9. Fee Conversion. Notwithstanding any other provision contained in this Declaration or By-Laws to the contrary, the Board on behalf of the Association, shall have the power to do all such things as it deems necessary or appropriate to negotiate with the owners of the leased fee interest, including any sandwich interest, in the land, apartments and other improvements on the property (herein called the "Lessors") to sell all or any portion of the leased fee interest to the Association and/or its members and/or any other parties interested in purchasing all or any portion of the leased fee interest, and to facilitate the completion of the sale, and shall have the power to purchase all or any portion of the leased fee interest, and to sign any documents and do any and all other acts or things incidental to the consummation of the transaction, including but not limited to the powers set forth in the By-Laws.
10. Voiding Lessors' Consent Requirement. Upon the acquisition from all the Lessors of all their leased fee interest in the land, apartments and other improvements of the property by the Association and/or the apartment owners, all approval and other requirements pertaining to the Lessors and their successors and assigns, if any, as contained in this Declaration and the By-Laws, shall thereupon become null and void and of no effect. The term "Lessors", as used herein, includes any assignee or other holder of the leased fee interest, including any sandwich interest, or any portion thereof.

2. That Section H of the Declaration is amended to read in its entirety

as follows:

- H. Common Expenses. Except as hereinafter provided, 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 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, and all charges, costs, and expenses incurred for or in connection with the purchase of all or any portion of the leased fee interest, including any sandwich interest, from the Fee Owners or any Sublessors, (or any efforts toward that end), and/or the administration of all or any portion of said leased fee interest, including but not limited to all costs associated with obtaining any needed financing in connection with such acquisition and all payments that become owing to the lender under the terms of any note or mortgage entered into in

connection with such financing 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 horizontal property regime hereby created and no payments thereof shall be payments of such common expenses; provided, however, all such expenses for maintenance, repair, replacement, additions and improvements to limited common elements shall be charged to the apartment owner to which the limited common element is appurtenant. 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, 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 Horizontal Property Act, provided that thirty (30) days' prior written notice of intention to foreclose shall be mailed, postage prepaid, to the 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 mortgage of record of an apartment or of an apartment sublease or condominium conveyance document 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).

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 determine in its sole discretion 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 Horizontal Property Regime hereby created shall be terminated or waived, said 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 horizontal property regime.

3. That new Subparagraphs (n), (o), (p) and (q) are added to Article

IV, Section 1 of the By-Laws to read as follows:

(n) Undertaking any and all action required to negotiate the acquisition of the leased fee interest or any or all undivided interests in the leased fee interest, including any sandwich interest, from the Fee Owners or any Sublessors of Waikiki Banyan by the Association or by the individual apartment owners, including but not limited to retaining any professionals to represent the Association or the individual apartment owners in the negotiations. The Board's right to negotiate the acquisition of the leased fee interest or any or all undivided interests in the leased fee interest, including any sandwich interest, includes, but is not limited to, the right to reject any terms or conditions it deems unacceptable.

(o) Purchasing, on behalf of the Association, the leased fee interest or any or all undivided interests in the leased fee interest, including any sandwich interest, of all apartments whose owners are unwilling or unable to purchase the leased fee interest or any or all undivided interests in the leased fee interest, including any sandwich interest, appurtenant to their apartments from the Fee Owners or Sublessors; provided that not less than seventy-five percent (75%) of the

leased fee interest or the undivided interest in the leased fee interest, including any sandwich interest, offered by the Fee Owners or Sublessors of the apartments has been purchased by the apartment owners. The intent of this provision is that the Board is not authorized to purchase more than twenty-five percent (25%) of the leased fee interest offered by the Fee Owners or Sublessors of the apartments [e.g. If someone owning twenty percent (20%) of the leased fee interest to the apartments offers to sell that percentage to the Association, the Board is not authorized to purchase more than one-fourth (1/4th) of the twenty percent (20%) i.e. not more than five percent (5%) of the leased fee interest actually being offered.]

(p) If the Board, in compliance with the preceding paragraph, will be purchasing the leased fee interest or any undivided interest in the leased fee interest, including any sandwich interest, offered by the Fee Owners or Sublessors to any of the apartments in the project on behalf of the Association, the Board shall have the right to do the following in connection with the purchase:

(1) To own, improve, use, and otherwise deal in and with the leased fee interest or any or all undivided interests in the leased fee interest, including any sandwich interest;

(2) To finance the purchase of all or any portion of the leased fee interest, including any sandwich interest, by way of a loan, special assessment, use of the Association funds, or any combination thereof;

(3) To enter into a loan transaction with any individual, entity, or lending institution to obtain such financing;

(4) To secure any loan by mortgage or pledge of all or any portion of the Association's assets, property, assessments, and funds;

(5) To execute and deliver a promissory note and all other necessary documents and undertake all other actions necessary for the Association to borrow money;

(6) To assess the apartment owners in a fair and equitable manner for the expenses incurred in acquiring the leased fee interest, including any sandwich interest, appurtenant to the apartments, or to service any debt associated with that acquisition;

(7) To purchase the leased fee interest, including any sandwich interest, on behalf of the Association and to enter into appropriate purchase and sale contracts with Fee Owners or Sublessors;

(8) To sell the leased fee interest, including any sandwich interest, appurtenant to an apartment to the owner of the apartment to which that leased fee interest is appurtenant or to any other person or entity;

(9) To incorporate the Association or to create a land trust in which to hold title to any leased fee interest, including any sandwich interest, to be acquired by the Association;

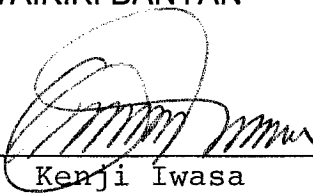
(10) To undertake any and all action as the Board deems necessary or appropriate to administer the leased fee interest, including any sandwich interest, acquired, including, but not limited to, establishing lease rents under the apartment leases or subleases, negotiating lease rent increases under the apartment leases or subleases, retaining professionals to assist in establishing and/or negotiating the lease rents at the renegotiation dates under the apartment leases or subleases and collecting lease rents.

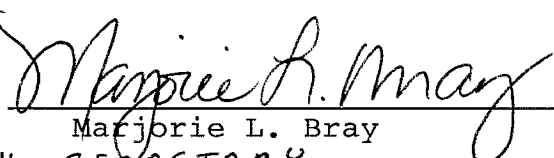
(q) To waive the Association's right of first refusal to purchase the leased fee interest or the undivided interest in the leased fee interest, including any sandwich interest, offered by the Fee Owners or Sublessors of any of the apartments, provided that the proposed sale of said leased fee interest or the undivided interest in the leased fee interest offered by the Fee Owners or Sublessors is to the apartment lessee of the apartment to which the leased fee interest is appurtenant or to a buyer under an agreement of sale of said apartment.

In all other respects, the Declaration and By-Laws of the Association, as restated and amended, are hereby ratified and confirmed and shall be binding upon and inure to the benefit of the parties to it and their respective successors and permitted assigns. The undersigned officers of the Association hereby certify that the foregoing amendments to the Declaration and By-Laws were adopted by the written consent of more than seventy-five percent (75%) and sixty-five percent (65%), respectively, of the members of the Association.

IN WITNESS WHEREOF, the undersigned have executed this instrument
this 29th day of March, 2001.

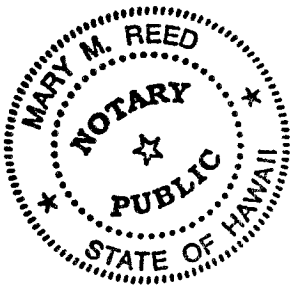
ASSOCIATION OF APARTMENT OWNERS
OF WAIKIKI BANYAN

By 
Kenji Iwasa
Its VICE PRESIDENT

By 
Marjorie L. Bray
Its SECRETARY

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

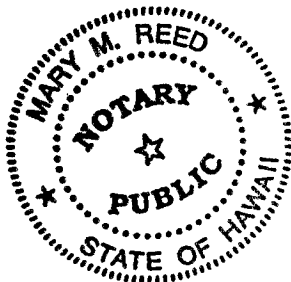
On this 29th day of March, 2001, before me appeared KENJI IWASA, to be personally known, who being by me duly sworn, did say HE is the VICE PRESIDENT of the Board of Directors of the Association of Apartment Owners of Waikiki Banyan, that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors, and acknowledged that HE executed the same as the free act and deed of said Association. Said Association has no seal.



Mary M Reed
Notary Public, State of Hawaii
Printed Name: MARY M REED
My commission expires: 2-17-02

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 29th day of March, 2001, before me appeared MARJORIE L. BRAY, to be personally known, who being by me duly sworn, did say SHE is the SECRETARY of the Board of Directors of the Association of Apartment Owners of Waikiki Banyan, that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors, and acknowledged that SHE executed the same as the free act and deed of said Association. Said Association has no seal.



Mary M Reed
Notary Public, State of Hawaii
Printed Name: MARY M REED
My commission expires: 2-17-02

EXHIBIT "A"

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

LOT 2, area 91,642.0 square feet, of Block "F", as shown on Map 3, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1865 (amended) of First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust.

Being the remainder of the land(s) described in Original Certificate of Title No. 209,663 issued to First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust, in Trust, with power to lease, mortgage and sell and other powers more particularly set forth in Trust Deed dated December 2, 1909, recorded in Liber 319 at Page 447, as amended, and also described in Transfer Certificate of Title Nos.:

293,092	301,883	304,714
293,926	301,884	304,715
293,927	301,885	304,716
294,514	301,886	304,717
295,167	301,887	304,718
295,846	301,888	304,719
296,600	302,998	304,720
297,032	303,896	304,721
297,611	303,897	304,722
299,136	304,334	304,723
300,296	304,708	304,724
301,825	304,709	304,725
301,879	304,710	304,726
301,880	304,711	304,914
301,881	304,712	304,915
301,882	304,713	313,976
		313,977

S.T.C. A3

RECORDATION REQUESTED BY:

SECURITY TITLE CORPORATION
AFTER RECORDATION, RETURN TO:

SECURITY TITLE CORPORATION

RETURN BY: MAIL () PICKUP ()

Requestor to fill above

82- 8759

02 FEB 1 A8:01

16136 148

16136 148

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AMENDMENT TO DECLARATION OF
HORIZONTAL PROPERTY REGIME OF
WAIKIKI BANYAN

WHEREAS, by Declaration of Horizontal Property Regime dated February 28, 1978, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12789, Page 613 (herein called the "Declaration") TRUSTEES OF THE LILIUOKALANI TRUST and KAWAIAHAO CHURCH, a Hawaii eleemosynary corporation, herein collectively referred to as the "Lessor", BANYAN ONE, INC., a Hawaii corporation, herein referred to as the "Lessee", and WAIKIKI BANYAN, INC., a Hawaii corporation, herein referred to as the "Developer", said Lessor, Lessee and Developer being hereinafter collectively referred to as the "Declarants", did submit the property described in said Declaration to the provisions of the Horizontal Property Act, Chapter 514A, ~~Hawaii Revised Statutes, as amended, and contemporaneously~~ therewith filed certain plans, incorporated in said Declaration by reference, in said Bureau of Conveyances as Condominium File Plan No. 537; and

WHEREAS, pursuant to Paragraph P of the Declaration, the Declarants reserved the right from time to time to amend the Declaration without the consent or joinder of any other persons then owning or leasing the apartments

by filing an amendment to the Declaration pursuant to the provisions of Section 514A-12, Hawaii Revised Statutes, as amended, after completion of the building or buildings described therein by attaching to such amendment a verified statement of a registered architect certifying that the plans heretofore filed or filed simultaneously with such amendment fully and accurately depict the layout, location, apartment numbers and dimensions of the apartment, as built.

NOW, THEREFORE, the Declarants in order to comply with the provisions of Section 514A-12, Hawaii Revised Statutes, as amended, does hereby amend said Declaration by incorporating therein a verified statement of a registered architect attached hereto as Exhibit "A" and made a part hereof, certifying that the plans heretofore filed as Condominium File Plan No. 537, fully and accurately depict the elevations of Buildings Mauka Tower and Makai Tower of the Project and the layout, location, apartment numbers and dimensions of the apartments located in Buildings Mauka Tower and Makai Tower of the WAIKIKI BANYAN condominium project, as built.

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

IN WITNESS WHEREOF, the Declarants have executed
this instrument this 6th day of Dec., 1981.

By: FIRST HAWAIIAN BANK

By _____
Its _____

KAWAIAHAO CHURCH

By Arlo W. Richardson
Its Treasurer

"Lessor"

BANYAN ONE, INC.

By John M. [Signature]
Its President

"Lessee"

WAIKIKI BANYAN, INC.

WAIKIKI BANYAN, INC.

By H. J. Johnston ^{and}
Its President

"Developer"

STATE OF HAWAII

CITY & COUNTY OF HONOLULU

SS:

16136 151

On this 4th day of December, 1981, before me appeared EARL GOULD and _____, to me personally known, who, being by me duly sworn, did say that ^{he is} ~~they are~~ the _____ and VICE PRESIDENT & TRUST OFFICER, ~~respectively~~, of FIRST HAWAIIAN BANK, one of the Trustees of the Liliuokalani Trust, 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 _____ and EARL GOULD acknowledged said instrument to be the free act and deed of said corporation, as such Trustee.

Ermine L. Martin
Notary Public
State of Hawaii

My commission expires: OCTOBER 9, 1985

STATE OF HAWAII

CITY & COUNTY OF HONOLULU

SS:

On this 4th day of December, 1981, before me personally appeared DAVID M. PETERS and _____, ^{ONE} ~~TWO~~ of the TRUSTEES OF THE LILIUOKALANI TRUST, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that ^{he} ~~they~~ executed the same as ^{his} ~~their~~ free act and deed, as such Trustees.

Ermine L. Martin
Notary Public
State of Hawaii

My commission expires: OCTOBER 9, 1985

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

On this 8 day of December, 1981 before me appeared Charles Nakoa and Arlon W. Richardson, to me personally known, who being by me duly sworn, did say that they are the President and Treasurer, respectively, of KAWAIAHAO CHURCH, a Hawaii eleemosynary corporation, 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 Charles Nakoa and Arlon W. Richardson acknowledged said instrument to be the free act and deed of said corporation, as such Trustees.

Cory S. Honacka
Notary Public
State of Hawaii

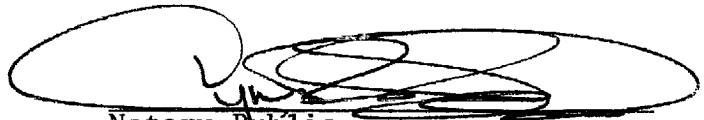
My commission expires: 9/19/83

STATE OF HAWAII

CITY & COUNTY OF HONOLULU

SS:

On this 18th day of December, 1981, before me appeared H. Johnston, to me personally known, who being by me duly sworn, did say that he is the President of BANYAN ONE, INC., a Hawaii corporation, 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 H. Johnston acknowledged said instrument to be the free act and deed of said corporation.



Notary Public
State of Hawaii

My commission expires: 10.30.83

STATE OF HAWAII

CITY & COUNTY OF HONOLULU

SS:

On this 18th day of December, 1981, before me appeared H. Johnston, to me personally known, who being by me duly sworn, did say that he is the President of WAIKIKI BANYAN, INC., a Hawaii corporation, 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 H. Johnston acknowledged said instrument to be the free act and deed of said corporation.

Notary Public
State of Hawaii

My commission expires: 10.30.83

DOUBLE SYSTEM

L-348 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

APR 30, 2001 08:01 AM

Doc No(s) 2701072

on Cert(s) AS LISTED HEREIN

/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

R-546

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

APR 30, 2001 08:02 AM

Doc No(s) 2001-062474

/s/ CARL T. WATANABE
ACTING
REGISTRAR OF CONVEYANCES

LAND COURT SYSTEM

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL () PICKUP (X) TO:

Akano
LOVE YAMAMOTO & MOTOOKA
RANDALL K. SING
1000 Bishop Street, Suite 801
Honolulu, Hawaii 96813
Tel. No. 532-7900

FIFTH AMENDMENT OF THE RESTATED DECLARATION
OF CONDOMINIUM PROPERTY REGIME
AND BY-LAWS OF WAIKIKI BANYAN

WHEREAS, the Trustees of the Liliuokalani Trust, herein referred to as "Liliuokalani Trust", are the owners in fee simple of the real property described in Original Certificate of Title No. 209,663 and the Transfer Certificates of Title listed in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, by Indenture of Lease dated February 22, 1978, effective as of December 1, 1977, recorded in the Bureau of Conveyances of the State of Hawaii in

Liber 12746, Page 429, herein referred to as the "Master Lease", said Liliuokalani Trust and Kawaiahao Church, a Hawaii eleemosynary corporation, herein referred to as "Kawaiahao", the owner of certain adjoining real property, being herein collectively referred to as the "Lessor", leased all the real property to BANYAN ONE, INC., a Hawaii corporation, herein referred to as the "Lessee"; and

WHEREAS, by Master Sublease dated February 22, 1978, effective as of December 2, 1975, recorded as aforesaid in Liber 12746, Page 473, the Lessee sublet said property to Waikiki Banyan, Inc., a Hawaii corporation, hereinafter referred to as the "Developer"; and

WHEREAS, the Developer improved said land by constructing thereon certain improvements hereinafter described in accordance with plans incorporated herein by reference filed and recorded in said Bureau of Conveyances as Condominium File Plan No. 637; and

WHEREAS, to create a condominium project (herein called the "project") known as "WAIKIKI BANYAN", the Lessor, Lessee and Developer submitted all of their interests in the property to a Horizontal Property Regime (now known as a Condominium Property Regime) under Chapter 514A, Hawaii Revised Statutes, and adopted a Declaration, dated February 28, 1978 and filed in the Bureau of Conveyances of the State of Hawaii in Liber 12789, Page 613; and

WHEREAS, the Declaration was duly amended by an amendment dated December 9, 1971, filed in Liber 16136, Page 148 and subsequently restated by a First Restatement of the Declaration of Condominium Property Regime of Waikiki Banyan dated August 31, 1992, recorded as Land Court Document No. 1951836 and also filed

in the Bureau of Conveyances as Document No. 92-147513; and the First Restatement was subsequently amended by four amendments, one amendment dated February 26, 1993 and recorded as Land Court Document No. 2006511; the second amendment dated August 4, 1993 recorded as Land Court Document No. 2054583 and also filed in the Bureau of Conveyances as Document No. 93-131432; the third amendment dated July 7, 1999 recorded as Land Court Document No. 2561101 and also filed in the Bureau of Conveyances as Document No. 99-115283; and the fourth amendment dated July 25, 2000 recorded as Land Court Document No. 2642313 and also filed in the Bureau of Conveyances as Document No. 2000-108303; and

WHEREAS, the Declaration as restated and amended, and the By-Laws for the project attached to and recorded contemporaneously with the Declaration, provided for the organization and operation of the ASSOCIATION OF APARTMENT OWNERS OF WAIKIKI BANYAN (the "Association") in accordance with the By-Laws; and

WHEREAS, pursuant to Sections 514A-11(11) and 514A-82(b)(2) of the Hawaii Revised Statutes, more than seventy-five percent (75%) and sixty-five percent (65%), respectively, of all apartment owners of the project gave their written consent to amend the Declaration and the By-Laws of the Association as indicated below;

NOW THEREFORE, the Declaration and the By-Laws are hereby amended as hereinafter set forth.

1. That new Subparagraphs 9 and 10 are added to Section F of the Declaration to read as follows:

9. Fee Conversion. Notwithstanding any other provision contained in this Declaration or By-Laws to the contrary, the Board on behalf of the Association, shall have the power to do all such things as it deems necessary or appropriate to negotiate with the owners of the leased fee interest, including any sandwich interest, in the land, apartments and other improvements on the property (herein called the "Lessors") to sell all or any portion of the leased fee interest to the Association and/or its members and/or any other parties interested in purchasing all or any portion of the leased fee interest, and to facilitate the completion of the sale, and shall have the power to purchase all or any portion of the leased fee interest, and to sign any documents and do any and all other acts or things incidental to the consummation of the transaction, including but not limited to the powers set forth in the By-Laws.
10. Voiding Lessors' Consent Requirement. Upon the acquisition from all the Lessors of all their leased fee interest in the land, apartments and other improvements of the property by the Association and/or the apartment owners, all approval and other requirements pertaining to the Lessors and their successors and assigns, if any, as contained in this Declaration and the By-Laws, shall thereupon become null and void and of no effect. The term "Lessors", as used herein, includes any assignee or other holder of the leased fee interest, including any sandwich interest, or any portion thereof.

2. That Section H of the Declaration is amended to read in its entirety

as follows:

- H. Common Expenses. Except as hereinafter provided, 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 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, and all charges, costs, and expenses incurred for or in connection with the purchase of all or any portion of the leased fee interest, including any sandwich interest, from the Fee Owners or any Sublessors, (or any efforts toward that end), and/or the administration of all or any portion of said leased fee interest, including but not limited to all costs associated with obtaining any needed financing in connection with such acquisition and all payments that become owing to the lender under the terms of any note or mortgage entered into in

connection with such financing 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 horizontal property regime hereby created and no payments thereof shall be payments of such common expenses; provided, however, all such expenses for maintenance, repair, replacement, additions and improvements to limited common elements shall be charged to the apartment owner to which the limited common element is appurtenant. 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, 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 Horizontal Property Act, provided that thirty (30) days' prior written notice of intention to foreclose shall be mailed, postage prepaid, to the 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 mortgage of record of an apartment or of an apartment sublease or condominium conveyance document 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).

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 determine in its sole discretion 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 Horizontal Property Regime hereby created shall be terminated or waived, said 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 horizontal property regime.

3. That new Subparagraphs (n), (o), (p) and (q) are added to Article

IV, Section 1 of the By-Laws to read as follows:

(n) Undertaking any and all action required to negotiate the acquisition of the leased fee interest or any or all undivided interests in the leased fee interest, including any sandwich interest, from the Fee Owners or any Sublessors of Waikiki Banyan by the Association or by the individual apartment owners, including but not limited to retaining any professionals to represent the Association or the individual apartment owners in the negotiations. The Board's right to negotiate the acquisition of the leased fee interest or any or all undivided interests in the leased fee interest, including any sandwich interest, includes, but is not limited to, the right to reject any terms or conditions it deems unacceptable.

(o) Purchasing, on behalf of the Association, the leased fee interest or any or all undivided interests in the leased fee interest, including any sandwich interest, of all apartments whose owners are unwilling or unable to purchase the leased fee interest or any or all undivided interests in the leased fee interest, including any sandwich interest, appurtenant to their apartments from the Fee Owners or Sublessors; provided that not less than seventy-five percent (75%) of the

leased fee interest or the undivided interest in the leased fee interest, including any sandwich interest, offered by the Fee Owners or Sublessors of the apartments has been purchased by the apartment owners. The intent of this provision is that the Board is not authorized to purchase more than twenty-five percent (25%) of the leased fee interest offered by the Fee Owners or Sublessors of the apartments [e.g. If someone owning twenty percent (20%) of the leased fee interest to the apartments offers to sell that percentage to the Association, the Board is not authorized to purchase more than one-fourth (1/4th) of the twenty percent (20%) i.e. not more than five percent (5%) of the leased fee interest actually being offered.]

(p) If the Board, in compliance with the preceding paragraph, will be purchasing the leased fee interest or any undivided interest in the leased fee interest, including any sandwich interest, offered by the Fee Owners or Sublessors to any of the apartments in the project on behalf of the Association, the Board shall have the right to do the following in connection with the purchase:

(1) To own, improve, use, and otherwise deal in and with the leased fee interest or any or all undivided interests in the leased fee interest, including any sandwich interest;

(2) To finance the purchase of all or any portion of the leased fee interest, including any sandwich interest, by way of a loan, special assessment, use of the Association funds, or any combination thereof;

(3) To enter into a loan transaction with any individual, entity, or lending institution to obtain such financing;

(4) To secure any loan by mortgage or pledge of all or any portion of the Association's assets, property, assessments, and funds;

(5) To execute and deliver a promissory note and all other necessary documents and undertake all other actions necessary for the Association to borrow money;

(6) To assess the apartment owners in a fair and equitable manner for the expenses incurred in acquiring the leased fee interest, including any sandwich interest, appurtenant to the apartments, or to service any debt associated with that acquisition;

(7) To purchase the leased fee interest, including any sandwich interest, on behalf of the Association and to enter into appropriate purchase and sale contracts with Fee Owners or Sublessors;

(8) To sell the leased fee interest, including any sandwich interest, appurtenant to an apartment to the owner of the apartment to which that leased fee interest is appurtenant or to any other person or entity;

(9) To incorporate the Association or to create a land trust in which to hold title to any leased fee interest, including any sandwich interest, to be acquired by the Association;

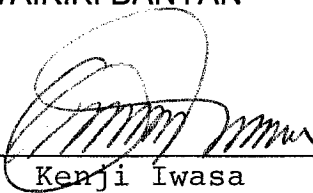
(10) To undertake any and all action as the Board deems necessary or appropriate to administer the leased fee interest, including any sandwich interest, acquired, including, but not limited to, establishing lease rents under the apartment leases or subleases, negotiating lease rent increases under the apartment leases or subleases, retaining professionals to assist in establishing and/or negotiating the lease rents at the renegotiation dates under the apartment leases or subleases and collecting lease rents.

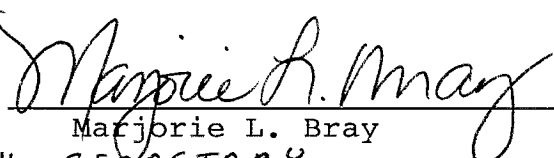
(q) To waive the Association's right of first refusal to purchase the leased fee interest or the undivided interest in the leased fee interest, including any sandwich interest, offered by the Fee Owners or Sublessors of any of the apartments, provided that the proposed sale of said leased fee interest or the undivided interest in the leased fee interest offered by the Fee Owners or Sublessors is to the apartment lessee of the apartment to which the leased fee interest is appurtenant or to a buyer under an agreement of sale of said apartment.

In all other respects, the Declaration and By-Laws of the Association, as restated and amended, are hereby ratified and confirmed and shall be binding upon and inure to the benefit of the parties to it and their respective successors and permitted assigns. The undersigned officers of the Association hereby certify that the foregoing amendments to the Declaration and By-Laws were adopted by the written consent of more than seventy-five percent (75%) and sixty-five percent (65%), respectively, of the members of the Association.

IN WITNESS WHEREOF, the undersigned have executed this instrument
this 29th day of March, 2001.

ASSOCIATION OF APARTMENT OWNERS
OF WAIKIKI BANYAN

By 
Kenji Iwasa
Its VICE PRESIDENT

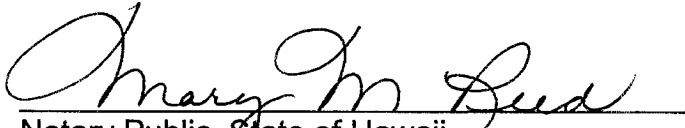
By 
Marjorie L. Bray
Its SECRETARY

STATE OF HAWAII

) SS.

CITY AND COUNTY OF HONOLULU

On this 29th day of March, 2001, before me appeared KENJI IWASA, to be personally known, who being by me duly sworn, did say HE is the VICE PRESIDENT of the Board of Directors of the Association of Apartment Owners of Waikiki Banyan, that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors, and acknowledged that HE executed the same as the free act and deed of said Association. Said Association has no seal.



Printed Name: MARY M REED

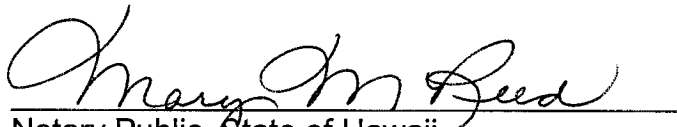
My commission expires: 2-17-02

STATE OF HAWAII

) SS.

CITY AND COUNTY OF HONOLULU

On this 29th day of March, 2001, before me appeared MARJORIE L. BEAY, to be personally known, who being by me duly sworn, did say SHE is the SECRETARY of the Board of Directors of the Association of Apartment Owners of Waikiki Banyan, that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors, and acknowledged that SHE executed the same as the free act and deed of said Association. Said Association has no seal.



Printed Name: MARY M REED

My commission expires: 2-17-02

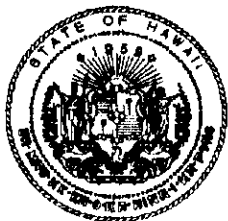
EXHIBIT "A"

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

LOT 2, area 91,642.0 square feet, of Block "F", as shown on Map 3, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1865 (amended) of First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust.

Being the remainder of the land(s) described in Original Certificate of Title No. 209,663 issued to First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust, in Trust, with power to lease, mortgage and sell and other powers more particularly set forth in Trust Deed dated December 2, 1909, recorded in Liber 319 at Page 447, as amended, and also described in Transfer Certificate of Title Nos.:

293,092	301,883	304,714
293,926	301,884	304,715
293,927	301,885	304,716
294,514	301,886	304,717
295,167	301,887	304,718
295,846	301,888	304,719
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297,032	303,896	304,721
297,611	303,897	304,722
299,136	304,334	304,723
300,296	304,708	304,724
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301,879	304,710	304,726
301,880	304,711	304,914
301,881	304,712	304,915
301,882	304,713	313,976
		313,977



L-713 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED
JUN 25, 2003 01:00 PM
Doc No(s) 2948298
on Cert(s) 209,663



R-1462 STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
JUN 25, 2003 01:00 PM
Doc No(s) 2003-129724



/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

20 1/1 Z1 R1462



/s/ CARL T. WATANABE
REGISTRAR OF CONVEYANCES

20 1/1 Z1 L713

ASSISTANT REGISTRAR

REGISTRAR OF CONVEYANCES

RETURN BY MAIL () PICK-UP () TO:

George T. Okamura
220 S. King St., 19th Fl.
Honolulu, Hawaii 96813
Telephone: 548-3000

TMK No(s). (1) 2-6-025-005, CPR #203, #659, #684, and #767

AMENDMENT OF DECLARATION OF TIME SHARE PLAN

THIS AMENDMENT OF DECLARATION OF TIME SHARE PLAN, herein called "this Amendment", is made this 22nd day of January, 2003, by Hawaiian Sun Holidays, a Hawaii non-profit corporation, herein called "the Association", whose address is Tower 1, 201 Ohua Avenue, Suite 403, Honolulu, Hawaii 96815.

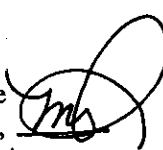
A. RECITALS.

1. There is a time share plan called "Hawaiian Sun Holidays", herein called "Time Share Plan", which is a time share plan as defined by HRS Chapter 514E, herein called the "Time Share Act".

2. The Time Share Plan was created by and is regulated by those instruments (each and collectively a time share instrument under the Time Share Act) described in Exhibit "A" attached hereto and incorporated herein by reference, including Declaration of Covenants Time Share Plan filed in the Land Court, State of Hawaii, as Document No. 1016372, and noted on Transfer Certificate of Title No. 209,663, and recorded in the Bureau of Conveyances, State of Hawaii, at Book 14782, Page 453, and Declaration of Covenants filed as aforesaid as Document No. 1019902, and noted on said Transfer Certificate of Title, and recorded as aforesaid at Book 14831, Page 223, each of the foregoing as heretofore amended, herein each and collectively called "Time Share Instrument".

3. The Association is a time share owners association (incorporated as a Hawaii non-profit corporation) under the Time Share Act consisting of owners of time share interests in the Time Share Plan.

4. The Time Share Plan presently includes 32 condominium units in the Waikiki Banyan condominium project located on Ohua Avenue, Waikiki, Honolulu, Hawaii, owned by Northwest Capital Group, Inc., a Pennsylvania corporation, herein called "Units' Owner". The Units' Owner has requested that 4 condominium units, herein collectively called "Removed Units", more particularly described in Exhibit "B" attached hereto and incorporated herein by reference, be removed from the Time Share Plan and not be subject to the Time Share Instrument.

5. The Association, at its meeting, duly called and noticed, and held on January 20, 2003, by the affirmative vote of owners of time share interests to which are appurtenant 100 % of the voting right and power, approved the removal of the Removed Units from the Time Share Plan and authorized and directed the Association, through its officers and/or directors, to do all things necessary to evidence or to effectuate such removal. 

B. AGREEMENTS, DECLARATIONS AND COVENANTS.

1. All of the foregoing definitions and other provisions of the Recitals in Section A. above are incorporated herein as affirmative substantive declarations, covenants and agreements.

2. Each and every Time Share Instrument is hereby amended by deleting the Removed Units from the list of condominium apartment units covered, included in, or otherwise in any manner subjected to or affected by, the Time Share Plan or any Time Share Instrument, whether listed within the body of any Time Share Instrument or in any exhibit attached thereto.

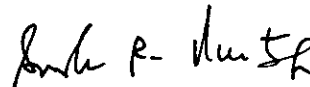
3. This Amendment shall be liberally construed to effectuate its purpose, which is to confirm the right, title and interest of the Units' Owner in and to the Removed Units, free and clear of the Time Share Plan, free and clear of any Time Share Instrument, and free and clear of any right, title, interest or claim by the Association or any time share owner (other than the Units' Owner).

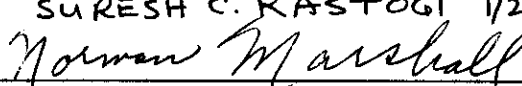
4. The Association, on behalf of itself and all time share owners, confirms and agrees that good, valuable and sufficient consideration for this Amendment has been received.

5. This Amendment and all of its provisions shall "run with the land" and shall bind the Association, all time share owners, and their, and their respective, heirs, devisees, personal representatives, successors and assigns, and shall inure to the benefit of the Units' Owner and its successors and assigns.

IN WITNESS THEREOF, these presents have been executed on the date first above-written at Honolulu, Hawaii.

HAWAIIAN SUN HOLIDAYS
(A Hawaii Non-Profit Corporation)

By , President, HSH
Its SURESH C. RASTOGI 1/22/03

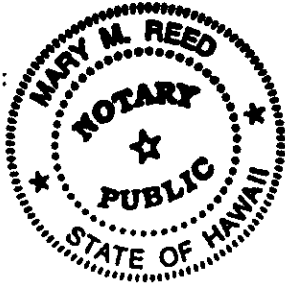
By  VICE PRES
Its NORMAN MARSHALL

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

On this 22nd day of January, 2003, before me personally appeared SURESH C. RASTOGI, to me personally known or proved to me on the basis of satisfactory evidence, 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.

Name (typed or printed) of Notary:

Official signature of Notary:



MARY M REED

Mary M Reed
Notary Public, State of Hawaii

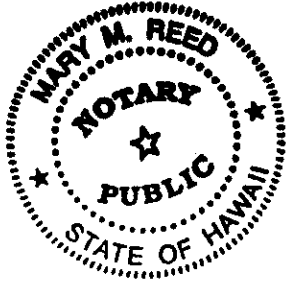
My Commission Expires: 2-17-06

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

On this 22nd day of January, 2003, before me personally appeared NORMAN MARSHALL ~~SURESH C. RASTOGI~~, to me personally known or proved to me on the basis of satisfactory evidence, 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.

Name (typed or printed) of Notary:

Official signature of Notary:



MARY M REED

Mary M Reed
Notary Public, State of Hawaii

My Commission Expires: 2-17-06

EXHIBIT "A"

THE TIME SHARE INSTRUMENT

The Time Share Instrument consists of the following items A. through C. including all sub-parts thereof:

A. DECLARATION OF COVENANTS TIME SHARE PLAN

Dated: May 29, 1980
Document No. 1016372
Book: 14782
Page: 453
to which reference is hereby made

The foregoing Declaration was amended by the following:

<u>Dated</u>	<u>Document No.</u>	<u>Book</u>	<u>Page</u>
November 13, 1980	-----	15135	445
February 3, 1982	1391025		16169 613
March 11, 1987	1446916		20462 192

B. DECLARATION OF COVENANTS

Dated: June 30, 1980
Document No. 1019902
Book: 14831
Page: 223
to which reference is hereby made

The foregoing Declaration was amended by the following:

<u>Dated</u>	<u>Document No.</u>	<u>Book</u>	<u>Page</u>
February 3, 1982	1391024		16169 619
March 11, 1987	1446915		20462 185
November 9, 1987	1509108		21316 512

C. Any of the foregoing as further amended, if at all, and any other instrument(s), if any, creating or regulating the Time Share Plan.

END OF EXHIBIT "A"

EXHIBIT "B"

The "Removed Units"

The "Removed Units" are the following condominium apartment units located in the Waikiki Banyan condominium project:

<u>Apartment Nos.</u>	<u>Tower</u>	<u>Transfer Certificate of Title No.</u>
2111	Makai	304,726
2307	Mauka	304,715
2504	Mauka	304,716
3103	Mauka	304,719

The Waikiki Banyan condominium project was created and is regulated by the following condominium instruments:

DECLARATION OF HORIZONTAL PROPERTY REGIME OF "WAIKIKI BANYAN", and the By-Laws attached thereto:

Dated: February 28, 1978
Book: 12789
Page: 613

Condominium Map No. 537, to which reference is hereby made.

The foregoing Declaration of Horizontal Property Regime was amended by the following:

<u>Dated</u>	<u>Book</u>	<u>Page</u>
December 9, 1981	16136	148

FIRST RESTATEMENT OF THE DECLARATION OF CONDOMINIUM PROPERTY REGIME OF "WAIKIKI BANYAN"

Dated: August 31, 1992
Document No. 1951836
Document No. 92-147513

The foregoing First Restatement of the Declaration of Condominium Property Regime was amended by the following:

<u>Dated</u>	<u>Document No.</u>	<u>Document No.</u>
February 26, 1993	2006511	
August 4, 1993	2054583	93-131432

And, the foregoing, if further amended, shall be deemed to include such further amendment(s), if any, whether or not listed herein.

END OF EXHIBIT "B"

RECORDATION REQUESTED BY:

TITLE GUARANTY ESCROW SERVICES, INC.

AFTER RECORDATION, RETURN TO:

Land Grant

LCAPP - 1845 (BANYAN)

RETURN BY: MAIL () PICKUP ()

Requestor to fill above

Space above this line for Registrar's use

DECLARATION OF HORIZONTAL PROPERTY REGIME
OF
WAIKIKI BANYAN

WHEREAS, the Trustees of the Liliuokalani Trust, herein referred to as "Liliuokalani Trust", are the owners in fee simple of the real property described in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, Kawaiahao Church, a Hawaii eleemosynary corporation, herein referred to as "Kawaiahao", is the owner of the real property described in Exhibit "B" attached hereto and incorporated herein by reference; and

WHEREAS, by Indenture of Lease dated February 22, 1978, effective as of December 1, 1977, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12746, Page 429, herein referred to as the "Master Lease", said Liliuokalani Trust and Kawaiahao, being herein collectively referred to as the "Lessor", demised the real property described in Exhibits "A" and "B" attached hereto to BANYAN ONE, INC., a Hawaii corporation, herein referred to as the "Lessee"; and

WHEREAS, by Master Sublease dated February 22, 1978, effective as of December 2, 1975, recorded as aforesaid in Liber 12746, Page 473, the Lessee has sublet said property to Waikiki Banyan, Inc., a Hawaii corporation, hereinafter referred to as the "Developer"; and

WHEREAS, the Developer has undertaken to improve said land by constructing thereon certain improvements herein-after described in accordance with plans incorporated herein by reference filed and recorded in said Bureau of Conveyances as Condominium File Plan No. ____.

NOW, THEREFORE, in order to create a condominium project consisting of said land and improvements (herein called the "project") and to be known as "WAIKIKI BANYAN", the Lessor, Lessee and Developer hereby submit all of their interests in said property to the Horizontal Property Regime established by the Horizontal Property Act, Chapter 514A, Hawaii Revised Statutes, as amended, and in furtherance thereof make the following declarations as to divisions, limitations, restrictions, covenants and conditions and hereby declare and agree that said property is held and shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied and improved subject to said declarations, which declarations shall constitute covenants running with the land and shall be binding on and for the benefit of the parties hereto,

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:

A. DIVISION OF PROPERTY. The project is hereby divided into the following separate freehold estates:

1. Apartments. 876 separate condominium apartments are hereby designated in the spaces within the perimeter and party walls, floors and ceilings of each of the 876 apartment units of the project, contained in two buildings, designated the "Mauka Tower" and the "Makai Tower", respectively, containing thirty-seven (37) and thirty-six (36) stories, respectively, both without basements, constructed principally of concrete, which spaces together with appurtenant lanai spaces, if any, are referred to herein as "apartments" and are designated on said condominium file plan and described as set forth in Exhibit "C" 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 "C" attached hereto and for every purpose made a part hereof.

(b) The apartments are numbered and located in the manner as shown on said Condominium File Plan recorded in the Bureau of Conveyances of the State of Hawaii.

(c) The apartments in each of the Towers have immediate access to a corridor, four elevators and two stairway, all such corridors, elevators and stairways being common elements, on each floor of each respective tower leading 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 ceiling 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 (if any), 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 building;
- (c) All yard, grounds and landscaping;
- (d) All parking areas;
- (e) All pipes, cables, conduits, ducts, fan rooms, electrical equipment, wiring and other central and

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;

(f) Two (2) utility/mail rooms and one (1) lounge on the ground floor of each of the Mauka and Makai Towers;

(g) Three (3) utility rooms on each of the third, fourth and fifth floors of each of the Mauka and Makai Towers; and a Makai storage area on the fourth floor of the Makai Tower;

(h) A utility/trash room; two (2) lounge areas; and a housekeeping-electrical room on the sixth floor of the Mauka Tower; men's and women's dressing-sauna-restrooms; one (1) janitor's room, two (2) lounge areas, a laundry room, housekeeping room, electrical room, utility/trash room and snack bar on the sixth floor of the Makai Tower; and a recreation deck and swimming pool on the roof of the garage connecting the Mauka and Makai Towers;

(i) Laundry, housekeeping, utility and electrical rooms located on each of the seventh through twelfth and fourteenth through thirty-seventh floors of the Makai Tower and the seventh through twelfth and fourteenth through thirty-eight floors of the Mauka Tower;

(j) Jogging track on the roof of each of the Mauka and Makai Towers.

(k) 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.

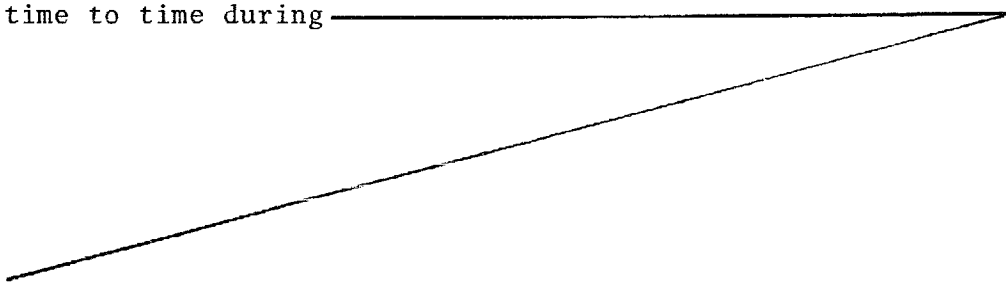
B. COMMON INTEREST. Each apartment shall have appurtenant thereto an undivided 1/876 fractional interest and the equivalent thereof stated as a percentage (.11415++) in all common elements of the project (herein called the "common interest") and the same proportionate share in all common profits and expenses of the project and for all other purposes including voting.

C. EASEMENTS. In addition to any easements herein designated in the limited common elements, if any, 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 designated 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; and in all other apartments of the building for support.

2. If any part of the common elements encroaches upon any apartment, or if any apartment 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 the building 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 due to such construction 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 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.

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 Horizontal 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 sublease or condominium conveyance document demising the same.

E. USE. The apartments shall be occupied and used only for purposes permitted from time to time by this Declaration and the By-Laws attached hereto, and by applicable zoning ordinances, rules and regulations, and for no other purpose. 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 attached hereto.

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 attached hereto as Exhibit "E" and made a part hereof. 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 Horizontal 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 building 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 30 days after the giving of such notice.

4. Before commencing or permitting construction of any improvement on the project, obtain and deposit with the Lessor and Lessee a bond or certificate thereof naming as obligees the Lessor, Lessee 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.

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. 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 Lessor, first approved in writing by the 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.

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 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. The initial Managing Agent shall be Dillingham Land Corporation whose principal place of business and post office address is 1441 Kapiolani Boulevard, Honolulu, Hawaii. The Managing Agent shall also collect rent payable under Apartment Subleases or Condominium Conveyance Documents issued by the Lessor or Lessee and cause the same to be paid as and when due thereunder, without commingling any such funds with other funds in its custody at any time. Any agreement for

professional management for the project shall provide for termination of either the managing agent or the Association without cause or payment of a termination fee on ninety (90) days' or less written notice.

H. COMMON EXPENSES. Except as hereinafter provided, 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 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 horizontal property regime hereby created and no payments thereof shall be payments of such common expenses; provided, however, all such expenses for maintenance, repair, replacement, additions and improvements to limited common elements shall be charged to the apartment owner to which the limited common element is appurtenant. 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, 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 Horizontal Property Act, provided that thirty (30) days' prior written notice of intention to foreclose shall be mailed, postage prepaid, to the 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 mortgage of record of an apartment or of an apartment sublease or condominium conveyance document 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).

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 determine in its sole discretion 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 Horizontal Property Regime hereby created shall be terminated or waived, said 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 horizontal 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, and mortgagees as their interests may appear, 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 Lessor, Lessee and the Secretary of the Association 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 if the property is located in an identified flood hazard area as designated by the Department of Housing and Urban Development in the amount of the aggregate of the outstanding principal balance 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 exterior glass of the project also be insured under such policy. 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 building, except as provided in paragraph K, 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 Lessor and Lessee 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 building is increased, whether or not within the knowledge or control of the Board, Lessor or Lessee, or because of any breach of warranty or condition or any other act or neglect by the Board, Lessor, Lessee or any apartment owner or any other persons under either of them;

3. Provide that such policy and the coverage thereunder may not be cancelled or substantially modified (whether or not requested by the Board) except by the insurer giving at least sixty (60) days' prior written notice thereof to the Board, Lessor, Lessee, 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, Lessor, Lessee or apartment owners against any of them or any other persons under them;

5. 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

6. 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 condominium conveyance document 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, Lessor, Lessee 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.

7. Contain a waiver by the insurer of any right of the insurer to repair, rebuild or replace, if the apartment owners decide pursuant to Paragraph K of this Declaration not to repair, reinstate, rebuild or restore the damaged or destroyed improvements.

The Board on behalf of the Association at its common expense shall also effect and maintain at all times

comprehensive general liability insurance, covering all apartment owners with respect to the project and naming the Lessor and Lessee as additional assureds, 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 in any one accident or occurrence and Five Hundred Thousand Dollars (\$500,000.00) for property damage, and from time to time deposit promptly with the Lessor and Lessee 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 (a) provide that the same shall not be invalidated by any act or neglect of the Board, Lessor, Lessee or apartment owners or any persons under any of them; (b) contain a waiver by the insurer of any right of subrogation to any right of the Board, Lessor, Lessee or apartment owners against any of them or any other persons under them; (c) contain a "severability of interest" endorsement, precluding the insurer from denying the claim of an apartment owner because of negligent acts of the Association or other apartment owners; and (d) Provide that the policy and its coverage may not be cancelled or reduced (whether or not requested by the Board), except by the insurer giving at least sixty (60) days' prior written notice thereof to the Board, Lessor, Lessee, apartment owners, every first mortgage of an apartment sublease or condominium conveyance document 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 shall be 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 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; provided that no adjustment shall be made which decreases any insurance coverage.

At the request of any mortgagee of any interest in any apartment, the Board shall furnish to such mortgagee a copy of the casualty and liability insurance policies referred to in the foregoing paragraph J.

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 untenable, 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 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 untenable, 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 vote against such reconstruction or repair. In the event the property shall not be reconstructed or repaired pursuant to such vote, the provisions of Section 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 Lessor and Lessee as their interests may appear, 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 approved 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 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 addition thereto, different in

any material respect from said condominium map of the project, shall be undertaken by the Association or any apartment owners only pursuant to an amendment of this Declaration, duly executed by or pursuant to the affirmative vote of all the apartment owners and accompanied by the written consent of the holders of all liens affecting any of the apartments, and in accordance with complete plans and specifications therefor first approved in writing by the 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 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, provided further, however, that in the event and to the extent the layout, location, description, or area of the apartment is changed from that described in the Declaration or as depicted on the Condominium File Plan, an amendment to this Declaration, or Condominium

File Plan, or both, shall be duly executed and recorded by the owners of all apartments directly affected by such change (as determined by the Board as aforesaid), the Board and the holders of all first liens affecting such affected apartments.

O. MAINTENANCE RESERVE FUND. The Board shall establish and maintain a Maintenance Reserve Fund by the assessment of and payment by all 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 horizontal 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 horizontal property regime.

P. AMENDMENT OF DECLARATION. Except as otherwise provided herein or in said Horizontal Property Act, this

Declaration may be amended by vote of seventy-five percent (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 of this Declaration shall also require the prior written approval thereof by the Lessor and at least seventy-five percent (75%) of the institutional holders of first mortgages on apartment subleases or condominium conveyance documents demising or transferring the same (based upon one vote for each first mortgage owned); and, further provided, that the Lessor and Lessee reserve the right to amend this Declaration without the consent or joinder of persons then owning or leasing the apartments by filing an amendment to this Declaration pursuant to the provisions of Section 514A-13, Hawaii Revised Statutes, after completion of the building 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. Notwithstanding the foregoing provisions of this paragraph, the Declaration may further be amended as set forth in Paragraph N hereof. Provided that such amendment shall be effective only upon the recording of the same in the appropriate registry of conveyances of the State of Hawaii.

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 attached hereto 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. Lessor hereby agrees to take no action which would adversely affect the rights of the Association of 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 horizontal property regime.

IN WITNESS WHEREOF, Lessor, Lessee and Developer have
executed these presents this 28th day of February,
19 78.

TRUSTEES OF THE LILIUOKALANI
TRUST

By FIRST HAWAIIAN BANK

By *Lee J. med*

 T.L.S. VICE PRESIDENT & TRUST OFFICER

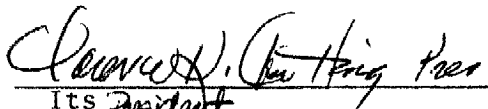
By _____
Its _____

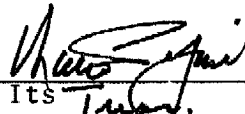
Clarinda Rose Lucas.

- 25 -

James N. May

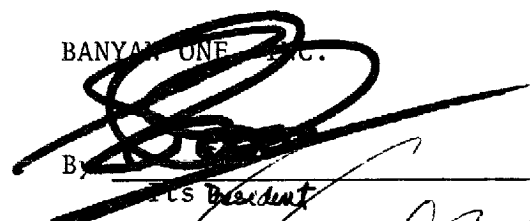
KAWAIAHAO CHURCH

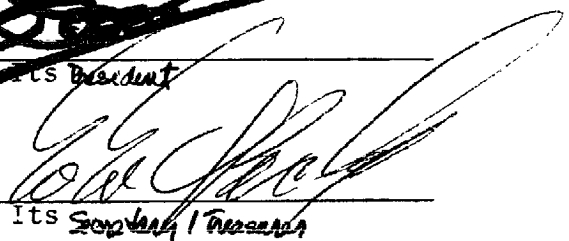
By 
Its President

By 
Its Treas.

"Lessor"

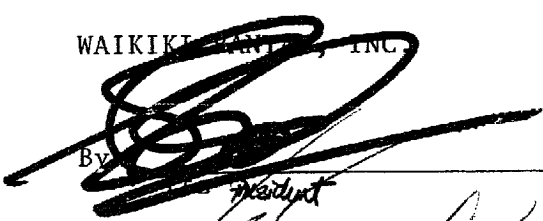
BANYAN ONE, INC.

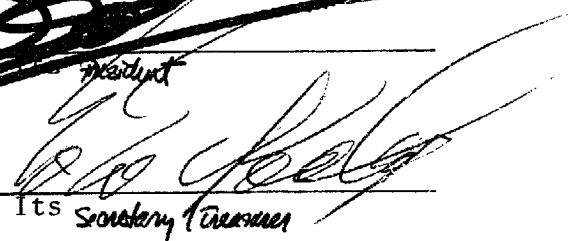
By 
Its President

By 
Its Secretary / Treasurer

"Lessee"

WAIKIKI VENTURES, INC.

By 
Its President

By 
Its Secretary / Treasurer

"Developer"

STATE OF HAWAII
CITY AND COUNTY OF HONOLULU

)
) SS.
)

LIBER 12789 PG 642

On this 24th day of February, 1978, before me personally appeared Clorenda Low Lucas and Dorden S. May, two of the TRUSTEES OF THE LILIUOKALANI TRUST, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed, as such Trustees.

Ermini L. Martin
Notary Public, First Judicial
Circuit, State of Hawaii

My commission expires OCTOBER 9, 1981

STATE OF HAWAII
CITY AND COUNTY OF HONOLULU

)
) SS.
)

On this 24th day of February, 1978, before me appeared EARL GOULD, to me personally known, who, being by me duly sworn, did say that he is the VICE PRESIDENT & TRUST OFFICER of FIRST HAWAIIAN BANK, one of the Trustees of the Liliuokalani Trust, 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 EARL GOULD acknowledged said instrument to be the free act and deed of said corporation, as such Trustess.

Ermini L. Martin
Notary Public, First Judicial
Circuit, State of Hawaii

My commission expires OCTOBER 9, 1981

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 24th day of February, 1978, before me appeared Clarence K. Chu Hing, and Walter P. Yem to me personally known, who being by me duly sworn, did say that they are the President and Treasurer, respectively, of KAWAIAHAO CHURCH, a Hawaii eleemosynary corporation, 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 Clarence K. Chu Hing and Walter P. Yem acknowledged said instrument to be the free act and deed of said corporation, as such Trustess.

Ermine L. Martin
Notary Public, First Judicial
Circuit, State of Hawaii

My commission expires OCTOBER 9, 1981

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 28th day of February, 1978, before me appeared Stanley Cook and William W. Becker, to me personally known, who being by me duly sworn, did say that they are the President and Secretary/Treasurer respectively, of BANYAN ONE, INC., a Hawaii corporation, 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 Stanley Cook and William W. Becker acknowledged said instrument to be the free act and deed of said corporation.

Notary Public, First Judicial
Circuit, State of Hawaii.

My commission expires 10-30-79

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

On this 28th day of February, 1978, before me appeared Stanley Cook and William W. Becker, to me personally known, who being by me duly sworn, did say that they are the President and Secretary/Treasurer respectively. of WAIKIKI BANYAN, INC., a Hawaii corporation, 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 Stanley Cook and William W. Becker acknowledged said instrument to be the free act and deed of said corporation.

Notary Public, First Circuit
State of Hawaii

My commission expires: 10-30-79

Beginning at a pipe at the North corner of this parcel of land, being also the North corner of Block F of Land Court Application 1865 (Pending), the coordinates of said point of beginning referred to Government Survey Triangulation Station "WAIKIKI" being 3,246.39 feet South and 2,786.85 feet East, thence running by azimuths measured clockwise from True South:

1. 312° 45' 230.00 feet along Lots 30-B, D-1 and 36-B of Land Court Application 615 to a pipe;
2. 42° 45' 420.02 feet along the Northwest side of Paoakalani Avenue to a pipe;
3. 44° 52' 16.65 feet along same;
4. Thence along the North corner of the intersection of Paoakalani and Kuhio Avenues, on a curve to the right with with a radius of 20.00 feet, the azimuth and distance of the chord being 95° 14' 30" 30.81 feet;
5. 145° 37' 194.28 feet along the Northeast side of Kuhio Avenue to a pipe;
6. Thence along the East corner of the intersection of Kuhio and Ohua Avenues, on a curve to the right with a radius of 20.00 feet, the azimuth and distance of the chord being 184° 11' 24.94 feet to a pipe;
7. 222° 45' 73.04 feet along the Southeast side of Ohua Avenue;

- | | | | | |
|-----|------|-----|--------|--|
| 8. | 315° | 12' | 107.44 | feet along the remainder
of Royal Patent 5588, Land
Commission Award 8452, Apana
3, Section 1 to A. Keohokalole; |
| 9. | 225° | 00' | 59.95 | feet along same; |
| 10. | 222° | 45' | 14.76 | feet along same; |
| 11. | 135° | 20' | 110.11 | feet along same; |
| 12. | 222° | 45' | 244.60 | feet along the Southeast side
of Ohua Avenue to the point of
beginning and containing an
area of 91,649 square feet,
more or less. |

SUBJECT, HOWEVER, TO:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. Grant dated December 11, 1925, recorded on December 2, 1929 in the Bureau of Conveyances of the State of Hawaii in Book 1038, Page 23, in favor of CITY AND COUNTY OF HONOLULU, Board of Water Supply for sewer line and water main purposes.

All of that certain parcel of land (being a portion of Royal Patent 5588, Land Commission Award 8452, Apana 3, Section 1 to A. Keohokalole), situated on the Southeast side of Ohua Avenue, at Hamohamo, Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, and thus bounded and more particularly described as per survey of Robert S. Torigoe, Registered Land Surveyor No. 1361, dated December 15, 1977, as follows:

Beginning at the North corner of this parcel of land and on the Southeast side of Ohua Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WAIKIKI" being 3,426.01 feet South and 2,620.82 feet East, thence running by azimuths measured clockwise from True South:

- | | | | | |
|----|------|-----|--------|--|
| 1. | 315° | 20' | 110.11 | feet along Block F of Land Court Application 1865 (Pending), along the remainder of Royal Patent 5588, Land Commission Award 8452, Apana 3, Section 1 to A. Keohokalole; |
| 2. | 42° | 45' | 14.76 | feet along the same; |
| 3. | 45° | 00' | 59.95 | feet along the same; |
| 4. | 135° | 20' | 107.74 | feet along the same; |
| 5. | 222° | 45' | 75.02 | feet along the Southeast side of Ohua Avenue to the point of beginning and containing an area of 8,160 square feet, more or less. |

SUBJECT, HOWEVER, TO:

1. The reservation in favor of the State of Hawaii of all mineral and metallic mines.

EXHIBIT "C"

Apartments. Eight hundred seventysix (876) apartments are hereby designated in the spaces within the perimeter walls, floors and ceilings of each of the 876 apartments of the project, which spaces together with appurtenant lanais, if any, referred to herein as "apartments", are designated on said plans and described as follows:

I

Apartments 604, 606, 607, 608, 609, 610, 611, 612, 613 and 614 are located on the sixth floor of the Makai Tower;

Apartments 601, 602, 603, 605, 607, 608, 609, 610, 611, 612, 613 and 614 are located on the sixth floor of the Mauka Tower;

Apartments 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713 and 714 are located on the seventh floor of the Makai Tower;

Apartments 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713 and 714 are located on the seventh floor of the Mauka Tower;

Apartments 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813 and 814 are located on the eighth floor of the Makai Tower;

Apartments 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813 and 814 are located on the eighth floor of the Mauka Tower;

Apartment 901, 902, 903, 904, 905
906, 907, 908, 909, 910, 911, 912, 913 and 914 are
located on the ninth floor of the Makai Tower;

Apartments 901, 902, 903, 904, 905,
906, 907, 908, 909, 910, 911, 912, 913 and 914 are
located on the ninth floor of the Mauka Tower;

Apartments 1001, 1002, 1003, 1004, 1005,
1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013 and
1014 are located on the tenth floor of the Makai Tower;

Apartments 1001, 1002, 1003, 1004, 1005,
1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013 and
1014 are located on the tenth floor of the Mauka Tower;

Apartments 1101, 1102, 1103, 1104, 1105,
1106, 1107, 1108, 1109, 1110, 1111, 1112, 1113 and
1114 are located on the eleventh floor of the Makai
Tower;

Apartments 1101, 1102, 1103, 1104, 1105,
1106, 1107, 1108, 1109, 1110, 1111, 1112, 1113 and
1114 are located on the eleventh floor of the Mauka
Tower;

Apartments 1201, 1202, 1203, 1204, 1205,
1206, 1207, 1208, 1209, 1210, 1211, 1212, 1213 and
1214 are located on the twelfth floor of the Makai
Tower;

Apartments 1201, 1202, 1203, 1204, 1205,
1206, 1207, 1208, 1209, 1210, 1211, 1212, 1213 and 1214
are located on the twelfth floor of the Mauka Tower

Apartments 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1413 and 1414 are located on the fourteenth floor of the Makai Tower;

Apartments 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1413 and 1414 are located on the fourteenth floor of the Mauka Tower;

Apartments 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513 and 1514 are located on the fifteenth floor of the Makai Tower;

Apartments 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513 and 1514 are located on the fifteenth floor of the Mauka Tower;

Apartments 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613 and 1614 are located on the sixteenth floor of the Makai Tower;

Apartments 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613 and 1614 are located on the sixteenth floor of the Mauka Tower;

Apartments 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1709, 1710, 1711, 1712, 1713 and 1714 are located on the seventeenth floor of the Makai Tower;

Apartments 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1709, 1710, 1711, 1712, 1713 and 1714 are located on the seventeenth floor of the Mauka Tower;

Apartments 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1811, 1812, 1813 and 1814 are located on the eighteenth floor of the Makai Tower;

Apartments 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1811, 1812, 1813 and 1814 are located on the eighteenth floor of the Mauka Tower;

Apartments 1901, 1902, 1903, 1904, 1905, 1806, 1907, 1908, 1909, 1910, 1911, 1912, 1913 and 1914 are located on the nineteenth floor of the Makai Tower;

Apartments 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1908, 1909, 1910, 1911, 1912, 1913 and 1914 are located on the nineteenth floor of the Mauka Tower;

Apartments 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013 and 2014 are located on the twentieth floor of the Makai Tower;

Apartments 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013 and 2014 are located on the twentieth floor of the Mauka Tower;

Apartments 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113 and 2114 are located on the twenty-first floor of the Makai Tower;

Apartments 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113 and 2114 are located on the twenty-first floor of the Mauka Tower;

Apartments 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213 and 2214 are located on the twenty-second floor of the Makai Tower;

Apartments 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213 and 2214 are located on the twenty-second floor of the Mauka Tower;

Apartments 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313 and 2314 are located on the twenty-third floor of the Makai Tower;

Apartments 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313 and 2314 are located on the twenty-third floor of the Mauka Tower;

Apartments 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413 and 2414 are located on the twenty-fourth floor of the Makai Tower

Apartments 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413 and 2414 are located on the twenty-fourth floor of the Mauka Tower

Apartments 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513 and 2514 are located on the twenty-fifth floor of the Makai Tower;

Apartments 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513 and 2514 are located on the twenty-fifth floor of the Mauka Tower;

Apartments 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613 and 2614 are located on the twenty-sixth floor of the Makai Tower

Apartments 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613 and 2614 are located on the twenty-sixth floor of the Mauka Tower

Apartments 2701, 2702, 2703, 2704, 2705, 2706, 2707, 2708, 2709, 2710, 2711, 2712, 2713 and 2714 are located on the twenty-seventh floor of the Makai Tower

Apartments 2701, 2702, 2703, 2704, 2705, 2706, 2707, 2708, 2709, 2710, 2711, 2712, 2713 and 2714 are located on the twenty-seventh floor of the Mauka Tower

Apartments 2801, 2802, 2803, 2804, 2805, 2806, 2807, 2808, 2809, 2810, 2811, 2812, 2813 and 2814 are located on the twenty-eighth floor of the Makai Tower;

Apartments 2801, 2802, 2803, 2804, 2805, 2806, 2807, 2808, 2809, 2810, 2811, 2812, 2813 and 2814 are located on the twenty-eighth floor of the Mauka Tower;

Apartments 2901, 2902, 2903, 2904, 2905, 2906, 2907, 2908, 2909, 2910, 2911, 2912, 2913 and 2914 are located on the twenty-ninth floor of the Makai Tower;

Apartments 2901, 2902, 2903, 2904, 2905, 2906, 2907, 2908, 2909, 2910, 2911, 2912, 2913 and 2914 are located on the twenty-ninth floor of the Mauka Tower;

Apartments 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013 and 3014 are located on the thirtieth floor of the Makai Tower;

Apartments 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013 and 3014 are located on the thirtieth floor of the Mauka Tower;

Apartments 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113 and 3114 are located on the thirty-first floor of the Makai Tower

Apartments 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113 and 3114 are located on the thirty-first floor of the Mauka Tower

Apartments 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3208, 3209, 3210, 3211, 3212, 3213 and 3214 are located on the thirty-second floor of the Makai Tower;

Apartments 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3208, 3209, 3210, 3211, 3212, 3213 and 3214 are located on the thirty-second floor of the Mauka Tower;

Apartments 3301, 3302, 3303, 3304, 3305, 3306, 3307, 3308, 3309, 3310, 3311, 3312, 3313 and 3314 are located on the thirty-third floor of the Makai Tower;

Apartments 3301, 3302, 3303, 3304, 3305, 3306, 3307, 3308, 3309, 3310, 3311, 3312, 3313 and 3314 are located on the thirty-third floor of the Mauka Tower;

Apartments 3401, 3402, 3403, 3404, 3405, 3406, 3407, 3408, 3409, 3410, 3411, 3412, 3413 and 3414 are located on the thirty-fourth floor of the Makai Tower;

Apartments 3401, 3402, 3403, 3404, 3405, 3406, 3407, 3408, 3409, 3410, 3411, 3412, 3413 and 3414 are located on the thirty-fourth floor of the Mauka Tower;

Apartments 3501, 3502, 3503, 3504, 3505, 3506, 3507, 3508, 3509, 3510, 3511, 3512, 3513 and 3514 are located on the thirty-fifth floor of the Makai Tower;

Apartments 3501, 3502, 3503, 3504, 3505, 3506, 3507, 3508, 3509, 3510, 3511, 3512, 3513 and 3514 are located on the thirty-fifth floor of the Mauka Tower;

Apartments 3601, 3602, 3603, 3604, 3605, 3606, 3607, 3608, 3609, 3610, 3611, 3612, 3613 and 3614 are located on the thirty-sixth floor of the Makai Tower;

Apartments 3601, 3602, 3603, 3604, 3605, 3606, 3607, 3608, 3609, 3610, 3611, 3612, 3613 and 3614 are located on the thirty-sixth floor of the Mauka Tower;

Apartments 3701, 3702, 3703, 3704, 3705, 3706, 3707, 3708, 3709, 3710, 3711, 3712, 3713 and 3714 are located on the thirty-seventh floor of the Makai Tower;

Apartments 3701, 3702, 3703, 3704, 3705, 3706, 3707, 3708, 3709, 3710, 3711, 3712, 3713 and 3714 are located on the thirty-seventh floor of the Mauka Tower;

Apartments 3801, 3802, 3803, 3804, 3805, 3806, 3807, 3808, 3809, 3810, 3811, 3812, 3813 and 3814 are located on the thirty-eighth floor of the Mauka Tower.

II

A. Makai Tower:

Those apartments, the last two digits of the numbers of which are -01, are located in the Diamond Head-Mauka corner of the Tower;

Those apartments, the last two digits of the numbers of which are -02, are located in the Ewa-Mauka corner of the Tower;

Those apartments, the last two digits of the numbers of which are -03, are located in the Diamond Head side of the Tower next to the apartments, the numbers of which end in -01;

Those apartments, the last two digits of the numbers of which are -04, are located in the Ewa side

of the Tower next to the apartments, the numbers of which end in -02;

Those apartments, the last two digits of the numbers of which are -05, are located in the Diamond Head side of the Tower next to the apartments, the numbers of which end in -03;

Those apartments, the last two digits of the numbers of which are -06, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -04;

Those apartments, the last two digits of the numbers of which are -07, are located in the Diamond Head side of the Tower next to the apartments, the numbers of which end in -05;

Those apartments, the last two digits of the numbers of which are -08, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -06;

Those apartments, the last two digits of the numbers of which are -09, are located in the Diamond Head side of the Tower next to the apartments, the numbers of which end in -07;

Those apartments, the last two digits of the numbers of which are -10, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -08;

Those apartments, the last two digits of the numbers of which are -11, are located in the Diamond

Head side of the Tower next to the apartments, the numbers of which end in -09;

Those apartments, the last two digits of the numbers of which are -12, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -10;

Those apartments, the last two digits of the numbers of which are -13, are located in the Diamond Head-Makai corner of the Tower;

Those apartments, the last two digits of the numbers of which are -14, are located in the Ewa-Makai corner of the Tower.

B. Mauka Tower:

Those apartments, the last two digits of the numbers of which are -01, are located in the Ewa-Mauka corner of the Tower;

Those apartments, the last two digits of the numbers of which are -02, are located in the Ewa-Makai corner of the Tower;

Those apartments, the last two digits of the numbers of which are -03, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -01;

Those apartments, the last two digits of the numbers of which are -04, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -02;

Those apartments, the last two digits of

Head side of the Tower next to the apartments, the numbers of which end in -09;

Those apartments, the last two digits of the numbers of which are -12, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -10;

Those apartments, the last two digits of the numbers of which are -13, are located in the Diamond Head-Makai corner of the Tower;

Those apartments, the last two digits of the numbers of which are -14, are located in the Ewa-Makai corner of the Tower.

B. Mauka Tower:

Those apartments, the last two digits of the numbers of which are -01, are located in the Ewa-Mauka corner of the Tower;

Those apartments, the last two digits of the numbers of which are -02, are located in the Ewa-Makai corner of the Tower;

Those apartments, the last two digits of the numbers of which are -03, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -01;

Those apartments, the last two digits of the numbers of which are -04, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -02;

Those apartments, the last two digits of

the numbers of which are -05, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -03;

Those apartments, the last two digits of the numbers of which are -06, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -04;

Those apartments, the last two digits of the numbers of which are -07, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -05;

Those apartments, the last two digits of the numbers of which are -08, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -06;

Those apartments, the last two digits of the numbers of which are -09, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -07;

Those apartments, the last two digits of the numbers of which are -10, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -08;

Those apartments, the last two digits of the numbers of which are -11, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -09;

Those apartments, the last two digits of

the numbers of which are -12, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -10;

Those apartments, the last two digits of the numbers of which are -13, are located in the Mauka-Diamond Head corner of the Tower;

Those apartments, the last two digits of the numbers of which are -14, are located in the Makai-Diamond Head corner of the Tower.

III

A description of each of the apartments, designating the layout, number of rooms and approximate floor area thereof, is as follows:

Each apartment designated Type "A" and Type "AR" on Exhibit "D" attached hereto and incorporated herein by reference contains one bedroom, one bathroom, a dressing room, kitchen, living room and a lanai and each contains a total area of approximately 600.31 square feet, including the lanai; provided, however, that Apartments 608, 610 and 612 in the Makai Tower, each contains a patio in addition to said bedroom, bathroom, dressing room, kitchen, living room and lanai, and Apartments 608 and 610 in the Makai Tower, each contains a total area of approximately 1,693.31 square feet, including the lanai and patio, and Apartment 612 in the Makai Tower, contains a total area of approximately 1,784.31 square feet, including the lanai and patio. The layout of Apartments designated Type "A" is

the reverse of that of the apartments designated Type "AR".

Each apartment designated Type "A1" and Type "AR1" on said Exhibit "D" contains one bedroom, one bathroom, a dressing room, kitchen, living room and lanai and contains a total area of approximately 600.31 square feet, including the lanai. The layout of the apartments designated Type "AR1" is the reverse of that of the apartments designated Type "A1".

Each apartment designated Type "B" and Type "BR" on Exhibit "D" attached hereto and incorporated herein by reference contains one bedroom, a bathroom, dressing room, dining area, living room, kitchen and lanai and a total area of approximately 661.29 square feet, including the lanai. The layout of the apartments designated Type "BR" on said Exhibit "D" is the reverse of those designated Type "B".

Each apartment designated on said Exhibit "D" attached hereto and incorporated herein by reference as Type "C" and Type "E" contains one bedroom, one bathroom, a dressing room, kitchen, living room, foyer and a lanai and a total area of approximately 648.78 square feet, including the lanai.

Each apartment designated on said Exhibit "D" as Type "D" and Type "F" contains one bedroom, one bathroom, a dressing room, living room, kitchen and a lanai and a total area of approximately 598.90 square feet, including the lanai.

IV

Each apartment shall be furnished with a Range, Range Hood, Disposal, Refrigerator and Room Air Conditioning Unit.

EXHIBIT "D"

I. Type "A"

A. Mauka Tower.

706, 806, 906, 1006, 1106, 1206 and 1406, 1506, 1606, 1706, 1806, 1906, 2006, 2106, 2206, 2306, 2406, 2506, 2606, 2706, 2806, 2906, 3006, 3106, 3206, 3306, 3406, 3506, 3606, 3706, 3806; 607, 807, 907, 1007, 1107, 1207, 1307, 1407, 1507, 1607, 1707, 1807, 1907, 2007, 2107, 2207, 2307, 2407, 2507, 2607, 2797, 2897, 2907, 3007, 3107, 3207, 3307, 3407, 3507, 3607, 3707, 3807; 610, 710, 810, 910, 1010, 1110, 1210, 1410, 1510, 1610, 1710, 1810, 1910, 2010, 2110, 2210, 2310, 2410, 2510, 2610, 2710, 2810, 2910, 3010, 3110, 3210, 3310, 3410, 3510, 3610, 3710, 3810; 611, 711, 811, 911, 1011, 1111, 1211, 1411, 1511, 1611, 1711, 1811, 1911, 2011, 2111, 2211, 2311, 2411, 2511, 2611, 2711, 2811, 2911, 3011, 3111, 3211, 3311, 3411, 3511, 3611, 3711, 3811.

B. Makai Tower.

703, 803, 903, 1003, 1103, 1203, 1403, 1503, 1603, 1703, 1803, 1903, 2003, 2103, 2203, 2303, 2403, 2503, 2603, 2703, 2803, 2903, 3003, 3103, 3203, 3303, 3403, 3503, 3603, 3703; 607, 707, 807, 907, 1007, 1107, 1207, 1407, 1507, 1607, 1707, 1807, 1907, 2007, 2107, 2207, 2307, 2407, 2507, 2607, 2707, 2807, 2907, 3007, 3107, 3207, 3307, 3407, 3507, 3607, 3707.

II. Type "A1"

A. Mauka Tower.

602, 702, 802, 902, 1002, 1102, 1202, 1402, 1502, 1602, 1702, 1802, 1902, 2002, 2102, 2202, 2302, 2402, 2502, 2602, 2702, 2802, 2902, 3002, 3102, 3202, 3302, 3402, 3502, 3602, 3702, 3802.

B. Makai Tower.

702, 802, 902, 1002, 1102, 1202, 1402, 1502, 1602,
 1702, 1802, 1902, 2002, 2102, 2202, 2302, 2402, 2502, 2602,
 2702, 2802, 2902, 3002, 3102, 3202, 3302, 3402, 3502, 3602,
 3702.

III. Type "AR1"A. Mauka Tower.

601, 701, 801, 901, 1001, 1101, 1201, 1401, 1501, 1601,
 1701, 1801, 1901, 2001, 2101, 2201, 2301, 2401, 2501, 2601,
 2701, 2801, 2901, 3001, 3101, 3201, 3301, 3401, 3501, 3601,
 3701, 3801.

B. Makai Tower.

701, 801, 901, 1001, 1101, 1201, 1301, 1401, 1501,
 1601, 1701, 1801, 1901, 2001, 2101, 2201, 2301, 2401, 2501,
 2601, 2701, 2801, 2901, 3001, 3101, 3201, 3301, 3401, 3501,
 3601, 3701.

IV. Type "AR"A. Mauka Tower.

704, 804, 904, 1004, 1104, 1204, 1404, 1504, 1604,
 1704, 1804, 1904, 2004, 2104, 2204, 2304, 2404, 2504, 2604,
 2704, 2804, 2904, 3004, 3104, 3204, 3304, 3404, 3504, 3604,
 3704, 3804; 608, 708, 808, 908, 1008, 1108, 1208, 1408,
 1508, 1608, 1708, 1808, 1908, 2008, 2108, 2208, 2308, 2408,
 2508, 2608, 2708, 2808, 2908, 3008, 3108, 3208, 3308, 3408,
 3508, 3608, 3708, 3808; 609, 709, 809, 909, 1009, 1109,
 1209, 1409, 1509, 1609, 1709, 1809, 1909, 2009, 2109, 2209,
 2309, 2409, 2509, 2609, 2709, 2809, 2909, 3009, 3109, 3209,
 3309, 3409, 3509, 3609, 3709, 3809; 612, 712, 812, 912,
 1012, 1112, 1212, 1412, 1512, 1612, 1712, 1812, 1912, 2012,

2112, 2212, 2312, 2412, 2512, 2612, 2712, 2812, 2912,
3012, 3112, 3212, 3312, 3412, 3512, 3612, 3712, 3812.

B. Makai Tower.

705, 805, 905, 1005, 1105, 1205, 1405, 1505, 1605,
1705, 1805, 1905, 2005, 2105, 2205, 2305, 2405, 2505, 2605,
2705, 2805, 2905, 3005, 3105, 3205, 3305, 3405, 3505, 3605,
3705, 3805; 608, 708, 908, 1008, 1108, 1208, 1408, 1508,
16108, 1708, 1808, 1908, 2008, 2108, 2208, 2308, 2408, 2508,
2608, 2708, 2808, 2908, 3008, 3108, 3208, 3308, 3408, 3508,
3608, 3708; 609, 709, 809, 909, 1009, 1109, 1208, 1409,
1509, 1609, 1709, 1809, 1909, 2009, 2109, 2208, 2309, 2409,
2509, 2609, 2709, 2809, 2909, 3009, 3109, 3209, 3309, 3409,
3509, 3609, 3709; 612, 712, 812, 912, 1012, 1112, 1212,
1412, 1512, 1612, 1712, 1812, 1912, 2012, 2112, 2212, 2312,
2412, 2512, 2612, 2712, 2812, 2912, 3012, 3112, 3212, 3312,
3412, 3512, 3612, 3712.

V. Type "B"

A. Mauka Tower.

614, 714, 814, 914, 1014, 1114, 1214, 1414, 1514,
1614, 1714, 1814, 1914, 2014, 2114, 2214, 2314, 2414, 2514,
2614, 2714, 2814, 2914, 3014, 3114, 3214, 3314, 3414, 3514,
3614, 3714, 3814.

B. Makai Tower.

614, 714, 814, 914, 1014, 1114, 1214, 1414, 1514,
1614, 1714, 1814, 1914, 2014, 2114, 2214, 2314, 2414, 2514,
2614, 2714, 2814, 2914, 3014, 3114, 3214, 3314, 3414, 3514,
3614, 3714.

VI. Type "BR"A. Mauka Tower.

613, 713, 813, 913, 1013, 1113, 1213, 1413, 1513,
1613, 1713, 1813, 1913, 2013, 2113, 2213, 2313, 2413, 2513,
2613, 2713, 2813, 2913, 3013, 3113, 3213, 3313, 3413, 3513,
3613, 3713, 3813.

B. Makai Tower.

613, 713, 813, 913, 1013, 1113, 1213, 1413, 1513,
1613, 1713, 1813, 1913, 2013, 2113, 2213, 2313, 2413, 2513,
2613, 2713, 2813, 2913, 3013, 3113, 3213, 3313, 3413, 3513,
3613, 3713.

VII. Type "C"A. Makai Tower.

606, 706, 806, 906, 1006, 1106, 1206, 1406, 1506,
1606, 1706, 1806, 1906, 2006, 2106, 2206, 2306, 2406, 2506,
2606, 2706, 2806, 2906, 3006, 3106, 3206, 3306, 3406, 3506,
3606, 3706.

VIII. Type "D"A. Makai Tower.

604, 704, 804, 904, 1004, 1104, 1204, 1404, 1504,
1604, 1704, 1804, 1904, 2004, 2104, 2204, 2304, 2404, 2504,
2604, 2704, 2804, 2904, 3004, 3104, 3204, 3304, 3404, 3504,
3604, 3704.

BY-LAWS OF THE
ASSOCIATION OF APARTMENT OWNERS OF
WAIKIKI BANYAN

The following By-Laws shall apply to the above-named condominium project (herein called the "project"), as described in and created by Declaration of Horizontal Property Regime (herein called the "Declaration") to be recorded or filed of record in the State of Hawaii contemporaneously herewith, and to all present and future owners, tenants and occupants of any apartments of the project and all other persons who shall at any time use the project. The mere acquisition or rental of any apartment or the mere act of occupancy of any apartment will signify that these By-Laws are accepted, ratified, and will be complied with.

ARTICLE I

MEMBERSHIP

Section 1. Qualification. All owners of apartments of the project shall constitute the Association of Apartment Owners (herein called the "Association"). The owner of any apartment upon acquiring title thereto shall automatically become a member of the Association and shall remain a member thereof until such time as his ownership of such apartment ceases for any reason, at which time his membership in the Association shall automatically cease; provided, however, that to such extent and for such purposes, including voting, as shall be provided by lease of any apartment filed with the Board of Directors of the Association, the lessee of such apartment shall be deemed to be the owner thereof. The successor under any apartment sublease or condominium conveyance document shall be deemed to be an apartment owner under these By-Laws.

Section 2. Place of Meetings. Meetings of the Association shall be held at the project or such other suitable place convenient to the apartment owners as may be designated by the Board of Directors.

Section 3. Annual Meetings. The first annual meeting of the Association shall be held as soon as practicable after recording of the Declaration and these By-Laws upon the call of at least ten percent (10%) of the apartment owners; provided, however, that said first annual meeting shall in no event be held more than one hundred eighty (180) days after the date on which the certificate of occupancy for the project was issued by the appropriate county agency. Thereafter the annual meetings of the Association shall be held within three months after the end of each accounting year.

Section 4. Special Meetings. Special meetings of the Association may be held at any time upon the call of the President or a petition signed by at least twenty-five percent (25%) of the apartment owners and presented to the Secretary.

Section 5. Notice of Meetings. The Secretary shall give written or printed notice of each annual and special meeting to every apartment owner according to the Association's record of ownership, and to every institutional holder of a first mortgage on an apartment 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 or the Managing Agent, at least fourteen (14) days but not more than twenty (20) days before the date

set for such meeting, stating whether it is an annual or special meeting, the authority for the call thereof, the place, day and hour of such meeting, the items on the agenda for such meeting and a standard proxy form authorized by the Association, if any, in any of the following ways: (a) by delivering it to him personally, or (b) by leaving it at his apartment in the project or at his usual residence or place of business, or (c) by mailing it, postage prepaid, addressed to him at his address as it appears on the Association's record of ownership. If notice is given pursuant to the provisions of this section, the failure of any apartment owner or mortgagee to receive actual notice of any meeting shall in no way invalidate such meeting or any proceedings thereat. The presence of any apartment owner or mortgagee in person or by proxy at any meeting shall be deemed a waiver of any required notice to such owner unless he shall at the opening thereof object to the holding of such meeting because of the failure to give notice in accordance with the provisions hereof.

Section 6. Quorum. The presence at any meeting in person or by proxy of a majority of apartment owners shall constitute a quorum, and the acts of a majority of the apartment owners 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 apartment owners" herein means the owners of apartments to which are appurtenant more than fifty percent (50%) of the common interests as established by the Declaration, any other specified percentage of the apartments owners means the owners of

apartments to which are appurtenant such percentage of the common interests.

Section 7. Voting. Voting shall be on a percentage basis, and the percentage of the total vote to which each apartment is entitled shall be 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, personal representative 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 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 or others, and in case of protest each co-tenant shall be entitled to only a share of such vote in proportion to his share of ownership in such apartment. The purchaser of an apartment pursuant to an agreement of sale recorded in the Bureau of Conveyances of the State of Hawaii or filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii shall have all of the rights of a unit owner, including the right to vote, except as to those matters expressly retained by the seller under such agreement of sale, pursuant to Section 514A-83, Hawaii Revised Statutes, as amended.

Section 8. Proxies and Pledges. The authority given by any apartment owner to another person to represent him at meetings of the Association shall be in writing, signed by such owner and filed with the Secretary, and unless limited by its terms shall continue until revoked by a writing filed with the Secretary or by the death or incapacity of such owner; provided, however, that the standard proxy form, if any, which accompanies a notice of meeting shall be valid only for the meeting to which such notice pertains and its adjournment, if any. 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 like manner.

Section 9. Adjournment. Any meeting of the Association may be adjourned from time to time not less than forty-eight (48) hours from the time the original meeting was called as may be determined by majority vote of the apartment 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 10. Order of Business. 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 meeting.
- (d) Report of officers.
- (e) Report of committees.
- (f) Election of inspectors of election.
- (g) Election of directors.
- (h) Unfinished business.
- (i) New business.

Section 11. Conduct of Meeting. Unless some other generally accepted rules for the conduct of meetings of the Association are designated or adopted by majority vote of the apartment owners, all meetings of the Association and the Board of Directors shall be conducted in accordance with Roberts Rules of Order.

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 nine (9) persons. All members of the Board of Directors shall be owners, co-owners, vendees under an agreement of sale, or an officer of any corporate owner of an apartment. The partners in a general partnership and the general partner(s) of a limited partnership shall be deemed to be the owners of an apartment for this purpose. The directors shall serve without compensation, unless such compensation is specifically authorized by the Association at a regular or special meeting. The resident manager of the project, if any, may not serve on the Board.

Section 2. Powers. The Board of Directors shall have all powers necessary for the administration of the affairs of the Association and may do all such acts and things therefor as are not by law, the Declaration or these By-Laws directed to be exercised or done only by the apartment owners.

Section 3. Election and Terms. Election of directors shall be by cumulative voting by secret ballot at each annual meeting and any special meeting called for the purpose. Directors shall hold office for a period of three (3) years and until their respective successors have been elected, subject to removal as herein provided, except that at the first annual meeting one-third of the directors shall be elected for one year, one-third for two years and one-third for three years.

Section 4. Vacancies. Vacancies in the Board of Directors caused by any reason other than 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 be a director until his successor is elected at the next annual meeting of the Association. Death, incapacity or resignation of any director, or his continuous absence from the State of Hawaii for more than six months, or his ceasing to be the sole owner or co-owner of an apartment, shall cause his office to become vacant.

Section 5. Removal of Directors. At any regular 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 then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the apartment owners shall be given an opportunity to be heard at such meeting.

Section 6. Annual Meetings. An organizational meeting of the Board of Directors shall be held at the place of and immediately following each annual meeting of the Association, and no notice shall be necessary to any directors in order validly to constitute such meeting, provided that a majority of the whole Board shall be present. At such meeting the Board shall elect the officers of the Association for the ensuing year.

Section 7. 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 one such meeting shall be held during each calendar quarter of every year. Notice of regular meetings of the Board shall be given to each director, personally or by mail, telephone or messenger service, at least three (3) days prior to the date of such meeting.

Section 8. Special Meetings. Special meetings of the Board of Directors may be called by the President on at least eight hours' notice to each director, given personally or by telephone or messenger service, 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 two directors.

Section 9. 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 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 these By-Laws shall constitute a quorum for the transaction of business, and the acts of a majority of the directors present at any meeting at which a quorum is present shall be the acts of 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.

Section 11. Fidelity Bonds. The Board of Directors shall require that all directors, officers, employees and agents of the Association handling or responsible for funds belonging to or administered by the Association furnish adequate fidelity bonds in favor of the Association. The premiums on such bonds shall be paid by the Association. Such bonds shall in no event be in an amount less than one and one-half times the Association's estimated annual operating expenses and reserves and every such bond shall:

(a) Provide that the bond(s) may not be cancelled or substantially modified (including cancellation for nonpayment of premiums) without at least thirty (30) days' prior written notice to the Board, the first mortgagees and every other person in interest who shall have requested such notice; and

(b) Contain a waiver of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

Section 12. Conflict of Interest. No member of the Board of Directors shall vote at any board meeting on any issue in which such member has a conflict of interest.

ARTICLE III

OFFICERS

Section 1. Designation. The principal officers of the Association shall be a President, Vice President, a Secretary and a Treasurer, all of whom shall be elected by, and in the case of the President from, 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.

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 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 By-Laws or assigned to him from time to time by the Board.

Section 5. Vice President. The Vice President shall assume and perform the duties of the President in the absence or disability of the President or whenever the office of President is vacant. 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 do so on an interim basis. He shall also have such other powers and duties as may be assigned to him from time to time 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 By-Laws, maintain and keep a continuous and accurate record of ownership of all apartments, 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.

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.

Section 8. Auditor. The Association shall appoint annually a public accountant or accounting firm as auditor, who shall not be an officer of the Association nor own any interest in any apartment, to audit the books and financial records of the Association as required by law or directed additionally by the Board of Directors. The members of the Association may by majority vote at any annual meeting require that the yearly audit be conducted by a certified public accountant or a firm of certified public accountants. Any institutional holder of a first mortgage on an apartment or of an apartment lease demising the same may request and the Association shall provide said mortgagee with a copy of said annual audited financial statement within ninety (90) days following the end of any fiscal year of the Association.

ARTICLE IV

ADMINISTRATION

Section 1. Management. The Board of Directors shall at all times manage and operate the project and have such powers and duties as may be necessary or proper therefor including without limitation the following:

- (a) Supervision of its immediate management and operation;

(b) Maintenance, repair, replacement and restoration of the common elements and any additions and alterations thereto;

(c) Purchase, maintenance and replacement of any equipment and provision of all water and utility services required for the common elements;

(d) Provision at each apartment of all 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;

(e) Employment, supervision and dismissal of such personnel as may be necessary for the maintenance and operation of the project;

(f) Preparation at least 60 days before each fiscal year of a proposed budget and schedule of assessments for such year;

(g) Collection of all installments of assessments levied and payment of all common expenses authorized by the Board.

(h) Purchase and maintenance in effect of all policies of hazard and liability insurance for the project required by the Declaration and such other insurance and bonds as may be required or authorized by the Declaration or the Board;

(i) Custody and control of all funds of the Association, maintenance of full and accurate books of account and records of such funds and preparation of regular financial reports thereof;

(j) Notification of all persons having any interest in any apartment according to the Association's record of

ownership of delinquency exceeding 30 days in the payment of any assessment against such apartment;

(k) Notification in writing of all institutional holders of first mortgages on apartments or apartment subleases or condominium conveyance documents demising or conveying the same, as shown in the Association's record of ownership or of which the Secretary of the Association has been given written notice, of any loss to, or taking of, the common elements of the project if such loss or taking exceeds TEN THOUSAND DOLLARS (\$10,000.00);

(l) Notification in writing to the institutional holder of the first mortgage on any apartment or apartment sublease or condominium conveyance document demising or conveying the same, as shown in the Association's record of ownership or of which the Secretary of the Association has been given written notice, of any loss to such apartment which exceeds ONE THOUSAND DOLLARS (\$1,000.00); and

(m) Establishment of such penalties and fines as it deems appropriate with respect to enforcement of the provisions of the Declaration, these By-Laws and the house rules adopted pursuant to Article V, Section 4, of these By-Laws; provided such penalties and fines are not inconsistent with the law or the provisions herein, and the unpaid amount of such penalties and fines against any apartment owner shall constitute a lien against his interest in his apartment which may be foreclosed by the Board of Directors or Managing Agent in the same manner as provided in the Horizontal Property Act for common expenses; provided, however, that the said lien for such penalties and fines shall be subordinate to liens for taxes and assessments lawfully

imposed by governmental authority against the apartment and to all sums unpaid on mortgages of record.

Section 2. Managing Agent. The Board of Directors shall annually employ a responsible Hawaii corporate Managing Agent to manage and control the project subject at all times to direction by the Board, with all of the administrative functions specifically set forth in the preceding Section 1 and with such other powers and duties and at such compensation as the Board may establish from time to time, subject to prior approval of every such employment contract by a majority of the apartment owners. Any decision by the Association to terminate professional corporate management of the project and to assume self-management of the project may not be effected without the prior written consent of at least seventy-five percent (75%) of the institutional holders of a first mortgage on an apartment or an apartment lease demising the same (based upon one vote for each first mortgage owned). Every such employment contract shall provide that it may be terminated by the Board of Directors for cause on no more than thirty (30) days' written notice and without cause on no more than ninety (90) days' written notice, and in no event may such employment contract be for a term exceeding one (1) year, and in no event shall a termination fee be due and owing the Managing Agent.

Section 3. Representation. The President or Managing Agent, subject to the direction of the Board of Directors, shall represent the Association or any two or more apartment owners similarly situated as a class in any action, suit, hearing or other proceeding concerning the Association, the common elements or more than one apartment, and on its or

their behalf may institute, defend, intervene in, prosecute and settle any such actions, suits and proceedings, without prejudice to the rights of any apartment owner individually to appear, sue or be sued. Service of process on two or more apartment owners in any such action, suit or proceeding may be made on the President or Managing Agent. Every first mortgagee to whom the sublessee under an Apartment Lease is required by the terms of the mortgage to pay the same or, whenever there is no such mortgagee, every Managing Agent shall also be the agent of the respective lessees under any apartment leases filed with the Board for the collection, custody and payment of all rent, taxes, assessments and other charges thereunder payable to their lessors.

Section 4. Execution of Instruments. All checks, drafts, notes, acceptances, conveyances, contracts and other instruments shall be signed on behalf of the Association by such person or persons as shall be provided by general or special resolution of the Board of Directors or, in the absence of any such resolution applicable to such instrument, by the President or Vice President and by the Treasurer or Secretary.

ARTICLE V

OBLIGATIONS OF APARTMENT OWNERS

Section 1. Assessments. All apartment owners shall pay to the Managing Agent in advance on the first day of each and every month the monthly installments of assessments against their respective apartments for common expenses of the project in accordance with the Declaration and also,

a monthly sum determined by the Managing Agent to be sufficient to accumulate and pay when due all rent, taxes, assessments and other charges thereunder payable by the lessee or sublessee of such apartment. Provided, however, that any apartment owners who are required under the terms of a first mortgage in favor of an institutional mortgagee encumbering an apartment sublease or a condominium conveyance document demising an apartment in the project to make lease rent payments to such mortgagee for transmittal to the Lessee, shall be permitted to do so.

Section 2. Maintenance of Apartments. Every apartment owner shall at his own expense at all times well and substantially repair, maintain, amend and keep his apartment and the limited common elements appurtenant thereto, including without limitation all internal installations therein such as water, electricity, gas, telephone, sewer, sanitation, air conditioning, lights and all other fixtures and accessories belonging to such apartment and the interior decorated or finished surfaces of all walls, floors and ceilings of such apartment, with all necessary reparations and amendments whatsoever in good order and condition except as otherwise provided by law or the Declaration, and shall be liable for all loss or damage whatsoever caused by his failure to perform any such work diligently, and in case of such failure after reasonable notice to perform shall reimburse to the Association promptly on demand all expenses incurred by it in performing any such work authorized by the Board of Directors or the Managing Agent. Every apartment owner and

occupant shall reimburse the Association promptly on demand all expenses incurred by it in repairing or replacing any uninsured loss or damage to the common elements or any furniture, furnishings and equipment thereof caused by such owner or occupant or any person under either of them and shall give prompt notice to the Managing Agent of any such loss or damage or other defect in the project when discovered.

Section 3. Use of Project

(a) The apartments of the project shall be used only for their respective purposes as set forth in the Declaration and for no other purpose.

(b) All common elements of the project shall be used only for their respective purposes as designed.

(c) No apartment owner or occupant shall place, store or maintain on walkways, roadways, grounds or other common elements any furniture, packages or objects of any kind or otherwise obstruct transit through such common elements.

(d) Every apartment owner and 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.

(e) 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 furniture, furnishings or equipment of the common elements.

(f) No apartment owner or occupant shall erect or place in the project any building or structure including fences and walls, nor make any additions or alterations to 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 Board and approved by the Board and a majority of apartment owners (or such larger percentage required by law

or the Declaration) including all owners of apartments thereby directly affected.

(g) No apartment owner shall decorate or landscape any entrance of his apartment or any other portion of the project except in accordance with standards therefor established by the Board of Directors or specific plans approved in writing by the Board.

(h) All occupants shall exercise extreme care about making noises and in the use of musical instruments, radios, televisions and amplifiers that may disturb other occupants.

(i) No garments, rugs or other objects shall be hung from the windows or facades of the project.

(j) 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.

(k) No refuse, garbage or trash of any kind shall be thrown, placed or kept on any common elements of the project outside of the disposal facilities provided for such purpose.

(l) No livestock, poultry, rabbits or other animals whatsoever shall be allowed or kept in any part of the project except that dogs, cats and other household pets in reasonable number may be kept by the apartment owners and occupants in their respective apartments but shall not be kept, bred or used therein for any commercial purpose nor allowed on any common elements except in transit when carried or on leash; provided, however, that any such pet causing a nuisance or unreasonable disturbance to any other occupant of the project shall be permanently removed therefrom promptly upon notice given by the Board of Directors or Managing Agent.

(m) No apartment owner or occupant shall without the written approval of the Board of Directors 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.

(n) No apartment owner or occupant shall erect, place or maintain any television or other antennas on said project visible from any point outside of the project.

(o) Nothing shall be allowed, done or kept in any apartments or common elements of the project which would overload or impair the floors, walls or roofs thereof, or cause any increase in the ordinary premium rates or the cancellation or invalidation of any insurance thereon maintained by or for the Association.

(p) If the project shall have separate elevators devoted (i) to the transportation of the apartment owners and their guests and (ii) for freight service or auxiliary purposes, the apartment owners and tradesmen are expressly required to utilize the freight or service elevators for transporting packages, merchandise or any other object that may affect the comfort or well-being of the passengers of the elevators dedicated to the transportation of the apartment owners, residents and guests.

Section 4. House Rules. The Board of Directors, upon giving notice to all apartment owners in the same manner as herein provided for notice of meetings of the Association and opportunity to be heard thereon, may adopt, amend or

repeal any supplemental rules and regulations governing details of the operation and use of the common elements not inconsistent with any provision of law, the Declaration or these By-Laws.

Section 5. Expenses of Enforcement. Every apartment owner shall pay to the Association promptly on demand all costs and expenses including reasonable attorneys' fees incurred by or on behalf of the Association in collecting any delinquent assessments against such apartment, foreclosing its lien therefor or enforcing any provisions of the Horizontal Property Act, the Declaration or these By-Laws against such owner or any occupant of such apartment.

Section 6. Record of Ownership. The Secretary of the Association or the Managing Agent shall keep an accurate and current list of the names and addresses of all members of the Association, including all vendees under any agreement of sale on an apartment in the project, if any. In connection therewith every apartment owner shall promptly cause to be duly recorded or filed of record the deed, lease, agreement of sale, assignment or other conveyance to him of such apartment or other evidence of his title thereto and shall file a copy of such document(s) with the Board of Directors through the Secretary or the Managing Agent.

Section 7. Mortgages.

(a) Notice to Board of Directors. An apartment owner who mortgages his interest shall notify the Association of the name and address of his mortgagee and within ten (10) days after the execution of the same shall file a conformed copy of such mortgage with the Association; the Association

shall maintain such information in a book entitled "Mortgages of Apartments".

(b) Notice of Unpaid Common Expenses. The Association whenever so requested in writing by an owner or mortgagee of an interest in an apartment shall promptly report any then unpaid assessments or common expenses due from the apartment owner involved.

(c) Notice of Default. The Board, when giving notice to an apartment owner of a default in paying common expenses or other default, shall send a copy of such notice to each holder of a mortgage covering such apartment or interest therein whose name and address has theretofore been furnished to the Association. In each and every case where the mortgagee has made a request, the Association shall notify the mortgagee of any unpaid assessment that is thirty (30) days delinquent or more.

(d) Examination of Books. Each apartment owner and each mortgagee shall be permitted to examine the books and records of the Association or the project at reasonable times on business days, and each mortgagee shall have the right to require the submission of annual reports and other financial data.

(e) Mortgage Protection. Notwithstanding any provision to the contrary in these By-Laws:

(1) Any first mortgagee who obtains title to an apartment pursuant to the remedies provided in the mortgage or foreclosure of the mortgage will not be liable for such apartment's unpaid dues or charges which accrue prior to the acquisition of title to such apartment by the mortgagee.

(2) All taxes, assessments and charges which may become liens prior to the first mortgage under the laws of the State of Hawaii shall relate only to the individual apartments and not to the condominium project as a whole.

(3) The Declaration and By-Laws shall not give an apartment owner or any other party priority over any rights of first mortgagees of apartments pursuant to their mortgages in the case of a distribution to apartment owners of insurance proceeds of condemnation awards for losses to or a taking of apartment units, common elements or both.

(4) Notwithstanding any other provision of these By-Laws, no amendment of this Section 7(e) shall affect the rights of the holder of any such mortgage recorded in the Bureau of Conveyances, State of Hawaii, prior to the filing of such amendment who does not join in the execution thereof.

ARTICLE VI

MISCELLANEOUS

Section 1. Amendment. These By-Laws may be amended in any respect not inconsistent with provisions of law or the Declaration at any meeting of the Association duly called for such purpose, by vote of seventy-five percent (75%) of the apartment owners, and shall be effective only upon the recording of an amendment to the Declaration setting forth such amendment of these By-Laws; and further provided that any material amendment of these By-Laws shall require the prior written consent thereto by at least seventy-five percent (75%) of the institutional holders of a first

mortgage on an apartment sublease or condominium conveyance document demising or conveying the same (based upon one vote for each first mortgage owned).

Section 2. Indemnification. The Association shall indemnify every director and officer and his executors and administrators against all expenses reasonably incurred by or imposed on him in connection with any action, suit or proceedings to which he may be made a party by reason of being or having been a director or officer of the Association, except in relation to matters as to which he shall be finally adjudged in such action, suit or proceeding to be liable for negligence or misconduct; and in the absence of such final adjudication, indemnification shall be provided only in connection with such matters as to which the Association is advised by its legal counsel that the person to be indemnified committed no such breach of duty. The foregoing right of indemnification shall not be exclusive of any other rights to which such person may be entitled.

Section 3. Subordination. These By-Laws are subordinate and subject to all provisions of the Declaration and any amendments thereto, the Horizontal Property Act (Chapter 514A, Hawaii Revised Statutes, as amended), which shall control in case of any conflict. All terms herein (except where clearly repugnant to the context) shall have the same meaning as in the Declaration or said Horizontal Property Act.

Section 4. Interpretation. In case any provision of these By-Laws shall be held invalid, such invalidity shall

not render invalid any other provision hereof which can be given effect. Nothing in these By-Laws shall be deemed or construed to authorize the Association or Board of Directors to conduct or engage in active business for profit on behalf of any or all of the apartment owners.

Section 5. Books of Receipts and Expenditures. The Managing Agent or Board of Directors shall 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. All records and the 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 of week days.

Section 6. Minutes of Meetings. The minutes of meetings of the Board of Directors, and Association of Apartment Owners shall be available for examination by apartment owners at convenient hours at a place designated by the Board.

CERTIFICATE OF ADOPTION

The undersigned, being the owners and developer of all apartments of the project, hereby adopt the foregoing as the By-Laws of the Association of Apartment Owners of WAIKIKI BANYAN, this 28th day of February, 1978.

Clouinda Reis Lucas
Samuel N. May

FIRST HAWAIIAN BANK

By [Signature]

Trustees of the Liliuokalani Trust

KAWAIAHAO CHURCH

By Lawrence A. Chaffin Pres.
Its

By Harold S. Yim
Its Treas.

"Lessor"

BANYAN ONE, INC.

By [Signature]
Its

By [Signature]
Its

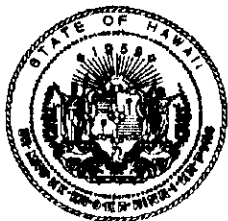
"Lessee"

WALKERT BANYAN, INC.

By [Signature]
Its

By [Signature]
Its

"Developer"



L-713 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED
JUN 25, 2003 01:00 PM
Doc No(s) 2948298
on Cert(s) 209,663



R-1462 STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
JUN 25, 2003 01:00 PM
Doc No(s) 2003-129724



/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

20 1/1 Z1 R1462



/s/ CARL T. WATANABE
REGISTRAR OF CONVEYANCES

20 1/1 Z1 L713

ASSISTANT REGISTRAR

REGISTRAR OF CONVEYANCES

RETURN BY MAIL () PICK-UP () TO:

George T. Okamura
220 S. King St., 19th Fl.
Honolulu, Hawaii 96813
Telephone: 548-3000

TMK No(s). (1) 2-6-025-005, CPR #203, #659, #684, and #767

AMENDMENT OF DECLARATION OF TIME SHARE PLAN

THIS AMENDMENT OF DECLARATION OF TIME SHARE PLAN, herein called "this Amendment", is made this 22nd day of January, 2003, by Hawaiian Sun Holidays, a Hawaii non-profit corporation, herein called "the Association", whose address is Tower 1, 201 Ohua Avenue, Suite 403, Honolulu, Hawaii 96815.

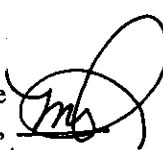
A. RECITALS.

1. There is a time share plan called "Hawaiian Sun Holidays", herein called "Time Share Plan", which is a time share plan as defined by HRS Chapter 514E, herein called the "Time Share Act".

2. The Time Share Plan was created by and is regulated by those instruments (each and collectively a time share instrument under the Time Share Act) described in Exhibit "A" attached hereto and incorporated herein by reference, including Declaration of Covenants Time Share Plan filed in the Land Court, State of Hawaii, as Document No. 1016372, and noted on Transfer Certificate of Title No. 209,663, and recorded in the Bureau of Conveyances, State of Hawaii, at Book 14782, Page 453, and Declaration of Covenants filed as aforesaid as Document No. 1019902, and noted on said Transfer Certificate of Title, and recorded as aforesaid at Book 14831, Page 223, each of the foregoing as heretofore amended, herein each and collectively called "Time Share Instrument".

3. The Association is a time share owners association (incorporated as a Hawaii non-profit corporation) under the Time Share Act consisting of owners of time share interests in the Time Share Plan.

4. The Time Share Plan presently includes 32 condominium units in the Waikiki Banyan condominium project located on Ohua Avenue, Waikiki, Honolulu, Hawaii, owned by Northwest Capital Group, Inc., a Pennsylvania corporation, herein called "Units' Owner". The Units' Owner has requested that 4 condominium units, herein collectively called "Removed Units", more particularly described in Exhibit "B" attached hereto and incorporated herein by reference, be removed from the Time Share Plan and not be subject to the Time Share Instrument.

5. The Association, at its meeting, duly called and noticed, and held on January 20, 2003, by the affirmative vote of owners of time share interests to which are appurtenant 100 % of the voting right and power, approved the removal of the Removed Units from the Time Share Plan and authorized and directed the Association, through its officers and/or directors, to do all things necessary to evidence or to effectuate such removal. 

B. AGREEMENTS, DECLARATIONS AND COVENANTS.

1. All of the foregoing definitions and other provisions of the Recitals in Section A. above are incorporated herein as affirmative substantive declarations, covenants and agreements.

2. Each and every Time Share Instrument is hereby amended by deleting the Removed Units from the list of condominium apartment units covered, included in, or otherwise in any manner subjected to or affected by, the Time Share Plan or any Time Share Instrument, whether listed within the body of any Time Share Instrument or in any exhibit attached thereto.

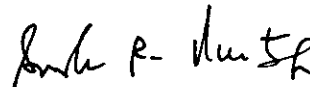
3. This Amendment shall be liberally construed to effectuate its purpose, which is to confirm the right, title and interest of the Units' Owner in and to the Removed Units, free and clear of the Time Share Plan, free and clear of any Time Share Instrument, and free and clear of any right, title, interest or claim by the Association or any time share owner (other than the Units' Owner).

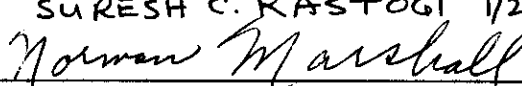
4. The Association, on behalf of itself and all time share owners, confirms and agrees that good, valuable and sufficient consideration for this Amendment has been received.

5. This Amendment and all of its provisions shall "run with the land" and shall bind the Association, all time share owners, and their, and their respective, heirs, devisees, personal representatives, successors and assigns, and shall inure to the benefit of the Units' Owner and its successors and assigns.

IN WITNESS THEREOF, these presents have been executed on the date first above-written at Honolulu, Hawaii.

HAWAIIAN SUN HOLIDAYS
(A Hawaii Non-Profit Corporation)

By , President, HSH
Its SURESH C. RASTOGI 1/22/03

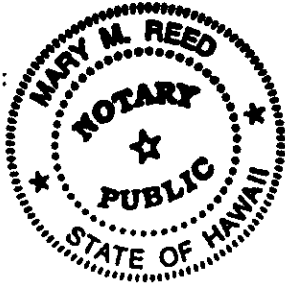
By  VICE PRES
Its NORMAN MARSHALL

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

On this 22nd day of January, 2003, before me personally appeared SURESH C. RASTOGI, to me personally known or proved to me on the basis of satisfactory evidence, 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.

Name (typed or printed) of Notary:

Official signature of Notary:



MARY M REED

Mary M Reed
Notary Public, State of Hawaii

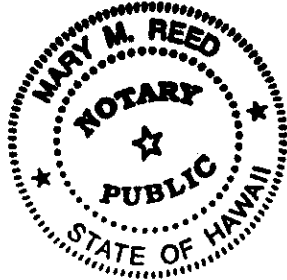
My Commission Expires: 2-17-06

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

On this 22nd day of January, 2003, before me personally appeared NORMAN MARSHALL ~~SURESH C. RASTOGI~~, to me personally known or proved to me on the basis of satisfactory evidence, 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.

Name (typed or printed) of Notary:

Official signature of Notary:



MARY M REED

Mary M Reed
Notary Public, State of Hawaii

My Commission Expires: 2-17-06

EXHIBIT "A"

THE TIME SHARE INSTRUMENT

thereof: The Time Share Instrument consists of the following items A. through C. including all sub-parts

A. DECLARATION OF COVENANTS TIME SHARE PLAN

Dated: May 29, 1980
Document No. 1016372
Book: 14782
Page: 453
to which reference is hereby made

The foregoing Declaration was amended by the following:

<u>Dated</u>	<u>Document No.</u>	<u>Book</u>	<u>Page</u>
November 13, 1980	-----	15135	445
February 3, 1982	1391025		16169 613
March 11, 1987	1446916		20462 192

B. DECLARATION OF COVENANTS

Dated: June 30, 1980
Document No. 1019902
Book: 14831
Page: 223
to which reference is hereby made

The foregoing Declaration was amended by the following:

<u>Dated</u>	<u>Document No.</u>	<u>Book</u>	<u>Page</u>
February 3, 1982	1391024		16169 619
March 11, 1987	1446915		20462 185
November 9, 1987	1509108		21316 512

C. Any of the foregoing as further amended, if at all, and any other instrument(s), if any, creating or regulating the Time Share Plan.

END OF EXHIBIT "A"

EXHIBIT "B"

The "Removed Units"

The "Removed Units" are the following condominium apartment units located in the Waikiki Banyan condominium project:

<u>Apartment Nos.</u>	<u>Tower</u>	<u>Transfer Certificate of Title No.</u>
2111	Makai	304,726
2307	Mauka	304,715
2504	Mauka	304,716
3103	Mauka	304,719

The Waikiki Banyan condominium project was created and is regulated by the following condominium instruments:

DECLARATION OF HORIZONTAL PROPERTY REGIME OF "WAIKIKI BANYAN", and the By-Laws attached thereto:

Dated: February 28, 1978
Book: 12789
Page: 613

Condominium Map No. 537, to which reference is hereby made.

The foregoing Declaration of Horizontal Property Regime was amended by the following:

<u>Dated</u>	<u>Book</u>	<u>Page</u>
December 9, 1981	16136	148

FIRST RESTATEMENT OF THE DECLARATION OF CONDOMINIUM PROPERTY REGIME OF "WAIKIKI BANYAN"

Dated: August 31, 1992
Document No. 1951836
Document No. 92-147513

The foregoing First Restatement of the Declaration of Condominium Property Regime was amended by the following:

<u>Dated</u>	<u>Document No.</u>	<u>Document No.</u>
February 26, 1993	2006511	
August 4, 1993	2054583	93-131432

And, the foregoing, if further amended, shall be deemed to include such further amendment(s), if any, whether or not listed herein.

END OF EXHIBIT "B"

1-384

STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

SEP 09, 1992 02:41 PM

Doc No(s) 1951836

on Cert(s) AS LISTED HEREIN

/s/ S. FURUKAWA
ASSISTANT REGISTRAR

CONVEYANCE TAX: \$0.00

R-780

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

SEP 09, 1992 02:41 PM

Doc No(s) 92-147513 -

/s/ S. FURUKAWA
REGISTRAR OF CONVEYANCES

CONVEYANCE TAX: \$0.00

WHAU WUWA BIDIEM

AFTER RECORDATION, RETURN BY MAIL () PICKUP () TO: REGULAR SYSTEM

IWAI MOTOOKA & SOTO
820 Millard St. Suite 502
Hasegawa Konuten Building
Honolulu, Hawaii 96813
537 1235

0180J

CH 527
FIRST RESTATEMENT OF THE
DECLARATION OF CONDOMINIUM PROPERTY REGIME
OF
WAIKIKI BANYAN

WHEREAS, the Trustees of the Liliuokalani Trust, herein referred to as "Liliuokalani Trust", are the owners in fee simple of the real property described in Original Certificate of Title No. 209,663 and the Transfer Certificates of Title listed in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, Kawaiahao Church, a Hawaii eleemosynary corporation, herein referred to as "Kawaiahao", is the owner of the real property described in Exhibit "B" attached hereto and incorporated herein by reference; and

WHEREAS, by Indenture of Lease dated February 22, 1978, effective as of December 1, 1977, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12746, Page 429, herein referred to as the "Master Lease", said Liliuokalani Trust and Kawaiahao, being herein collectively referred to as the "Lessor", demised the real property described in Exhibits "A" and "B" attached hereto to BANYAN ONE, INC., a Hawaii corporation, herein referred to as the "Lessee"; and

WHEREAS, by Master Sublease dated February 22, 1978, effective as of December 2, 1975, recorded as aforesaid in Liber 12746, Page 473, the Lessee sublet said property to Waikiki Banyan, Inc., a Hawaii corporation, hereinafter referred to as the "Developer"; and

WHEREAS, the Developer improved said land by constructing thereon certain improvements hereinafter described in accordance with plans incorporated herein by reference filed and recorded in said Bureau of Conveyances as Condominium File Plan No. 637.

WHEREAS, in order to create a condominium project consisting of said land and improvements (herein called the "project") and to be known as "WAIKIKI BANYAN", the Lessor,

Lessee and Developer submitted all of their interests in said 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), as amended, and in furtherance thereof made the following declarations as to divisions, limitations, restrictions, covenants and conditions and declared and agreed that said property is to be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied and improved subject to said declarations, which declarations constitute covenants running with the land and 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 (See Endnote 1); and

WHEREAS, By-Laws for the project were recorded contemporaneously with the Declaration 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, Section 514A-82.2, Hawaii Revised Statutes, empowers the Board of Directors of the Association of Apartment Owners of the Waikiki Banyan (the "Association") established by

the By-Laws to restate the Declaration to include any amendments to it and to conform it 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, the City and County of Honolulu adopted Ordinance No. 83-58, requiring the installation of an automatic fire sprinkler system in the project; and

WHEREAS, at a meeting duly held on August 24, 1992, the Board of Directors resolved to restate the Declaration in accordance with Section 514A-82.2, Hawaii Revised Statutes to include amendments enabling the Board to comply with the mandatory requirements of Ordinance 83-58;

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. 876 separate condominium apartments are hereby designated in the spaces within the perimeter and party walls, floors and ceilings of each of the 876 apartment units of the project, contained in two buildings, designated the "Mauka Tower" and the "Makai Tower", respectively, containing thirty-seven (37) and thirty-six (36) stories, respectively, both without basements, constructed principally

of concrete, which spaces together with appurtenant lanai spaces, if any, are referred to herein as "apartments" and are designated on said condominium file plan and described as set forth in Exhibit "C" 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 "C" attached hereto and for every purpose made a part hereof.

(b) The apartments are numbered and located in the manner as shown on said Condominium File Plan recorded in the Bureau of Conveyances of the State of Hawaii.

(c) The apartments in each of the Towers have immediate access to a corridor, four elevators and two stairways, all such corridors, elevators and stairways being common elements, on each floor of each respective tower leading 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 ceiling 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 (if any), 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 building;
- (c) All yard, grounds and landscaping;
- (d) All parking areas;
- (e) All pipes, cables, conduits, ducts, fan rooms, 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;
- (f) Two (2) utility/mail rooms and one (1) lounge on the ground floor of each of the Mauka and Makai Towers;

(g) Three (3) utility rooms on each of the third, fourth and fifth floors of each of the Mauka and Makai Towers; and a Makai storage area on the fourth floor of the Makai Tower;

(h) A utility/trash room; two (2) lounge areas; and a housekeeping-electrical room on the sixth floor of the Mauka Tower; men's and women's dressing-sauna-restrooms; one (1) janitor's room, two (2) lounge areas, a laundry room, housekeeping room, electrical room, utility/trash room and snack bar on the sixth floor of the Makai Tower; and a recreation deck and swimming pool on the roof of the garage connecting the Mauka and Makai Towers;

(i) Laundry, housekeeping, utility and electrical rooms located on each of the seventh through twelfth and fourteenth through thirty-seventh floors of the Makai Tower and the seventh through twelfth and fourteenth through thirty-eighth floors of the Mauka Tower;

(j) Jogging track on the roof of each of the Mauka and Makai Towers.

(k) 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.

(l) Automatic sprinkler system, smoke detectors, fire alarm system, annunciator panels, emergency generators,

and any and all other apparatus and installations required to comply with the requirements of Ordinance No. 83-58 of the Revised Ordinances of Honolulu. (See Endnote 2)

B. COMMON INTEREST. Each apartment shall have appurtenant thereto an undivided 1/876 fractional interest and the equivalent thereof stated as a percentage (.11415+1%) 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.

C. EASEMENTS. In addition to any easements herein designated in the limited common elements, if any, 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 designated 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; and in all other apartments of the building for support.

2. If any part of the common elements encroaches upon any apartment, or if any apartment 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 the building 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 due to such construction 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 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.

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 holder 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 Horizontal 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 sublease or condominium conveyance document demising the same.

E. USE. The apartments shall be occupied and used only for purposes permitted from time to time by this Declaration and the By-Laws attached hereto, and by applicable zoning ordinances, rules and regulations, and for no other purpose. 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 attached hereto.

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 attached hereto as Exhibit "E" and made a part hereof. 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 Horizontal 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 building 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 30 days after the giving of such notice.

4. Before commencing or permitting construction of any improvement on the project, obtain and deposit with the Lessor and Lessee a bond or certificate thereof naming as obligees the Lessor, Lessee 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.

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. 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 Lessor, first approved in writing by the 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. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS DECLARATION, the Association of Apartment Owners shall have the irrevocable right, to be exercised by the Board of Directors:

- a. To install an automatic sprinkler system, smoke detectors, fire alarm system, annunciator panels, emergency generators and any and all apparatus and installations required to comply with Ordinance No. 83-58 of the Revised Ordinances of Honolulu. The Board shall not be required to obtain the consent of the Lessor or any of the owners of apartments to proceed with the aforesaid installations.
- b. To have access to each apartment from time to time during reasonable hours as may be necessary for the installation and maintenance of the automatic sprinkler system, smoke detectors, fire alarm system, annunciator panels and any and all apparatus and installations required to comply with Ordinance No. 83-58 of the Revised Ordinances of Honolulu. (See Endnote 3)

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 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. The initial Managing Agent shall be Dillingham Land Corporation whose principal place of business and post office address is 1441 Kapiolani Boulevard, Honolulu, Hawaii. The Managing Agent shall also collect rent payable under Apartment Subleases or Condominium Conveyance Documents issued by the Lessor or Lessee and cause the same to be paid as and when due thereunder, without comingling any such funds with other funds in its custody at any time. Any agreement for professional management for the project shall provide for termination of either the managing agent or the Association without cause or payment of a termination fee or ninety (90) days' or less written notice.

H. COMMON EXPENSES. Except as hereinafter provided, 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 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 horizontal property regime hereby created and no payments thereof shall be payments of such common expenses; provided, however, all such expenses for maintenance, repair, replacement, additions and improvements to limited common elements shall be charged to the apartment owner to which the limited common element is appurtenant. 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, 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 Horizontal Property Act, provided that thirty (30) days' prior written notice of intention to foreclose shall be mailed, postage prepaid, to the 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 mortgage of record of an apartment or of an apartment sublease or condominium conveyance document 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).

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 determine in its sole discretion 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 Horizontal Property Regime hereby created shall be terminated or waived, said 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 horizontal 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, and mortgagees as their interests may appear, 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 Lessor, Lessee and the Secretary of the Association 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 if the property is located in an identified flood hazard area as designated by the Department of Housing and Urban Development in the amount of the aggregate of the outstanding principal

balance 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 exterior glass of the project also be insured under such policy. 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 building, except as provided in paragraph K, 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 Lessor and Lessee 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 building is increased, whether or not within the knowledge or control of the Board, Lessor or Lessee, or because of any breach of

warranty or condition or any other act or neglect by the Board, Lessor, Lessee or any apartment owner or any other persons under either of them;

3. Provide that such policy and the coverage thereunder may not be cancelled or substantially modified (whether or not requested by the Board) except by the insurer giving at least sixty (60) days' prior written notice thereof to the Board, Lessor, Lessee, 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, Lessor, Lessee or apartment owners against any of them or any other persons under them;

5. 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

6. 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 condominium conveyance document 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, Lessor, Lessee 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.

7. Contain a waiver by the insurer of any right of the insurer to repair, rebuild or replace, if the apartment owners decide pursuant to Paragraph K of this Declaration not to repair, reinstate, rebuild or restore the damaged or destroyed improvements.

The Board on behalf of the Association at its common expense shall also effect and maintain at all times comprehensive general liability insurance, covering all apartment owners with respect to the project and naming the

Lessor and Lessee as additional assureds, 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 in any one accident or occurrence and Five Hundred Thousand Dollars (\$500,000.00) for property damage, and from time to time deposit promptly with the Lessor and Lessee 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 (a) provide that the same shall not be invalidated by any act or neglect of the Board, Lessor, Lessee or apartment owners or any persons under any of them; (b) contain a waiver by the insurer of any right of subrogation to any right of the Board, Lessor, Lessee or apartment owners against any of them or any other persons under them; (c) contain a "severability of interest" endorsement, precluding the insurer from denying the claim of an apartment owner because of negligent acts of the Association or other apartment owners; and (d) Provide that the policy and its coverage may not be cancelled or reduced (whether or not requested by the Board), except by the insurer giving at least sixty (60) days' prior written notice thereof to the Board, Lessor, Lessee, apartment owners, every first mortgage of an apartment sublease or condominium conveyance document 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 assessment thereof, and such payments shall be held in a separate escrow account of the Association and shall be 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 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; provided that no adjustment shall be made which decreases any insurance coverage.

At the request of any mortgagee of any interest in any apartment, the Board shall furnish to such mortgagee a copy of the casualty and liability insurance policies referred to in the foregoing paragraph J.

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 untenable, 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 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 untenable, 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 vote against such reconstruction or repair. In the event the property shall not be reconstructed or repaired pursuant to such vote, the provisions of Section 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 Lessor and Lessee as their interests may appear, 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 approved 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 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 addition thereto, different in any material respect from said condominium map of the project, shall be undertaken by the Association or any apartment owners only pursuant to an amendment of this Declaration, duly executed by or pursuant to the affirmative vote of all the apartment owners and accompanied by the written consent of the holders of all liens affecting any of the apartments, and in accordance with complete plans and specifications therefor first approved in writing by the 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 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, provided further, however, that in the event and to the extent the layout, location, description, or area of the apartment is changed from that described in the Declaration or as depicted on the Condominium File Plan, an amendment to this Declaration, or Condominium File Plan, or both, shall be duly executed and recorded by the owners of all apartments directly affected by such change (as determined by the Board as aforesaid), the Board and the holders of all first liens affecting such affected apartments.

O. MAINTENANCE RESERVE FUND. The Board shall establish and maintain a Maintenance Reserve Fund by the assessment of and payment by all 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 horizontal 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 horizontal property regime.

P. AMENDMENT OF DECLARATION. Except as otherwise provided herein or in said Horizontal Property Act, this Declaration may be amended by vote of seventy-five percent (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 of this Declaration shall also require the prior written

approval thereof by the Lessor and at least seventy-five percent (75%) of the institutional holders of first mortgages on apartment subleases or condominium conveyance documents demising or transferring the same (based upon one vote for each first mortgage owned); and, further provided, that the Lessor and Lessee reserve the right to amend this Declaration without the consent or joinder of persons then owning or leasing the apartments by filing an amendment to this Declaration pursuant to the provisions of Section 514A-13, Hawaii Revised Statutes, after completion of the building 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. Notwithstanding the foregoing provisions of this paragraph, the Declaration may further be amended as set forth in Paragraph N hereof. Provided that such amendment shall be effective only upon the recording of the same in the appropriate registry of conveyances of the State of Hawaii.

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 attached hereto 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. Lessor hereby agrees to take no action which would adversely affect the rights of the Association of 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 horizontal property regime.

S. EXPENSES RELATED TO THE INSTALLATION OF THE FIRE SPRINKLER SYSTEM. All expenses related to the purchase and installation of the automatic sprinkler system, smoke detectors, fire alarm system, annunciator panels, emergency generators and any and all apparatus and installations required to comply with Ordinance No. 83-58 of the Revised Ordinances of Honolulu shall constitute common expenses as defined in paragraph "H." of this Declaration, for which all apartment owners shall be severally liable in proportion to their respective common interests. Any sums unpaid for the foregoing purchases and installations shall constitute liens on the

apartments, as fully and effectually as to all other assessments for common expenses. (See Endnote 4)

T. BORROWING. In compliance with Section 514A-82.3, Hawaii Revised Statutes, the Board of Directors may authorize the borrowing of money to be used by the Association for the repair, replacement, maintenance, operation, or administration of the common elements of the project, or the making of any additions, alterations, and improvements thereto. The cost of such borrowing, including, without limitation, all principal, interest, commitment fees, and other expenses payable with respect to such borrowing, shall be a common expense of the project; provided that owners representing fifty percent (50%) of the common interest and apartments give written consent to such borrowing, having been first notified of the purpose and use of the funds. (See Endnote 5)


IN WITNESS WHEREOF, the undersigned have executed this instrument on this 31st day of August, 1992.

ASSOCIATION OF APARTMENT OWNERS
OF WAIKIKI BANYAN

By


Its President

By


Its Secretary

STATE OF HAWAII)

CITY AND COUNTY OF HONOLULU)

ss.

On this 31st day of August, 1992, before me appeared SHRAGA DACHNER, to me personally known, who, being by me duly sworn, did say that he is the President of the ASSOCIATION OF APARTMENT OWNERS OF THE WAIKIKI BANYAN, 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 the said SHRAGA DACHNER acknowledged said instrument to be the free act and deed of said Association.

LS

Arthur K. H.
Notary Public, State of Hawaii

My Commission Expires: 8/27/94

STATE OF HAWAII)

CITY AND COUNTY OF HONOLULU)

ss.

On this 1st day of September, 1992, before me appeared GLORIA BILLINGSLEY, to me personally known, who, being by me duly sworn, did say that she is the Secretary of the ASSOCIATION OF APARTMENT OWNERS OF THE WAIKIKI BANYAN, 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 the said GLORIA BILLINGSLEY acknowledged said instrument to be the free act and deed of said Association.

LS

Arthur K. H.
Notary Public, State of Hawaii

My Commission Expires: 8/27/94

EXHIBIT "A"

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

LOT 2, area 91,642.0 square feet, of Block "F", as shown on Map 3, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1865 (amended) of First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust.

Being the remainder of the land(s) described in Original Certificate of Title No. 209,663 issued to First Hawaiian Bank, a Hawaii Corporation, Lorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust, in Trust, with power to lease, mortgage and sell and other powers more particularly set forth in Trust Deed dated December 2, 1909, recorded in Liber 319 at Page 447, as amended, and also described in Transfer Certificates of Title Nos.:

206,600	301,883 /	304,714 /
293,092 /	301,884 /	304,715 /
293,926 /	301,885 /	304,716 /
293,927 /	301,886 /	304,717 /
294,514 /	301,887 /	304,718 /
295,167 /	301,888 /	304,719 /
295,846 /	302,998 /	304,720 /
297,032 /	303,896 /	304,721 /
297,611 /	303,897 /	304,722 /
299,136 /	304,334 /	304,723 /
300,296 /	304,708 /	304,724 /
301,825 /	304,709 /	304,725 /
301,879 /	304,710 /	304,726 /
301,880 /	304,711 /	304,914 /
301,881 /	304,712 /	304,915 /
301,882 /	304,713 /	313,976 /
		313,977 /

EXHIBIT "B"

All of that certain parcel of land (being a portion of Royal Patent 5588, Land Commission Award 8452, Apana 3, Section 1 to A. Keohokalole), situated on the Southeast side of Ohua Avenue, at Hamohamo, Kaikiki, Honolulu, City and County of Honolulu, State of Hawaii, and thus bounded and more particularly described as per survey of Robert S. Torigoe, Registered Land Surveyor No. 1361, dated December 15, 1977, as follows:

Beginning at the North corner of this parcel of land and on the Southeast side of Ohua Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WAIKIKI" being 3,426.01 feet South and 2,620.82 feet East, thence running by azimuths measured clockwise from True South:

- | | | | | |
|----|------|-----|--------|--|
| 1. | 315° | 20' | 110.11 | feet along Block F of Land Court Application 1865 (Pending), along the remainder of Royal Patent 5588, Land Commission Award 8452, Apana 3, Section 1 to A. Keohokalole; |
| 2. | 42° | 45' | 14.76 | feet along the same; |
| 3. | 45° | 00' | 59.95 | feet along the same; |
| 4. | 135° | 20' | 107.74 | feet along the same; |
| 5. | 222° | 45' | 75.02 | feet along the Southeast side of Ohua Avenue to the point of beginning and containing an area of 8,160 square feet, more or less. |

SUBJECT, HOWEVER, TO:

1. The reservation in favor of the State of Hawaii of all mineral and metallic mines.

EXHIBIT "C"

Apartments. Eight hundred seventysix (876) apartments are hereby designated in the spaces within the perimeter walls, floors and ceilings of each of the 876 apartments of the project, which spaces together with appurtenant lanais, if any, referred to herein as "apartments", are designated on said plans and described as follows:

I

Apartments 604, 606, 607, 608, 609, 610, 611, 612, 613 and 614 are located on the sixth floor of the Makai Tower;

Apartments 601, 602, 603, 605, 607, 608, 609, 610, 611, 612, 613 and 614 are located on the sixth floor of the Mauka Tower;

Apartments 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713 and 714 are located on the seventh floor of the Makai Tower;

Apartments 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713 and 714 are located on the seventh floor of the Mauka Tower;

Apartments 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813 and 814 are located on the eighth floor of the Makai Tower;

Apartments 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813 and 814 are located on the eighth floor of the Mauka Tower;

Apartment 901, 902, 903, 904, 905
906, 907, 908, 909, 910, 911, 912, 913 and 914 are
located on the ninth floor of the Makai Tower;

Apartments 901, 902, 903, 904, 905,
906, 907, 908, 909, 910, 911, 912, 913 and 914 are
located on the ninth floor of the Mauka Tower;

Apartments 1001, 1002, 1003, 1004, 1005,
1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013 and
1014 are located on the tenth floor of the Makai Tower;

Apartments 1001, 1002, 1003, 1004, 1005,
1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013 and
1014 are located on the tenth floor of the Mauka Tower;

Apartments 1101, 1102, 1103, 1104, 1105,
1106, 1107, 1108, 1109, 1110, 1111, 1112, 1113 and
1114 are located on the eleventh floor of the Makai
Tower;

Apartments 1101, 1102, 1103, 1104, 1105,
1106, 1107, 1108, 1109, 1110, 1111, 1112, 1113 and
1114 are located on the eleventh floor of the Mauka
Tower;

Apartments 1201, 1202, 1203, 1204, 1205,
1206, 1207, 1208, 1209, 1210, 1211, 1212, 1213 and
1214 are located on the twelfth floor of the Makai
Tower;

Apartments 1201, 1202, 1203, 1204, 1205,
1206, 1207, 1208, 1209, 1210, 1211, 1212, 1213 and 1214
are located on the twelfth floor of the Mauka Tower

Apartments 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1413 and 1414 are located on the fourteenth floor of the Makai Tower;

Apartments 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1413 and 1414 are located on the fourteenth floor of the Mauka Tower;

Apartments 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513 and 1514 are located on the fifteenth floor of the Makai Tower;

Apartments 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513 and 1514 are located on the fifteenth floor of the Mauka Tower;

Apartments 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613 and 1614 are located on the sixteenth floor of the Makai Tower;

Apartments 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613 and 1614 are located on the sixteenth floor of the Mauka Tower;

Apartments 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1709, 1710, 1711, 1712, 1713 and 1714 are located on the seventeenth floor of the Makai Tower;

Apartments 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1709, 1710, 1711, 1712, 1713 and 1714 are located on the seventeenth floor of the Mauka Tower;

Apartments 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1811, 1812, 1813 and 1814 are located on the eighteenth floor of the Makai Tower;

Apartments 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1811, 1812, 1813 and 1814 are located on the eighteenth floor of the Mauka Tower;

Apartments 1901, 1902, 1903, 1904, 1905, 1806, 1907, 1908, 1909, 1910, 1911, 1912, 1913 and 1914 are located on the nineteenth floor of the Makai Tower;

Apartments 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1908, 1909, 1910, 1911, 1912, 1913 and 1914 are located on the nineteenth floor of the Mauka Tower;

Apartments 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013 and 2014 are located on the twentieth floor of the Makai Tower;

Apartments 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013 and 2014 are located on the twentieth floor of the Mauka Tower;

Apartments 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113 and 2114 are located on the twenty-first floor of the Makai Tower;

Apartments 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113 and 2114 are located on the twenty-first floor of the Mauka Tower;

Apartments 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213 and 2214 are located on the twenty-second floor of the Makai Tower;

Apartments 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213 and 2214 are located on the twenty-second floor of the Mauka Tower;

Apartments 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313 and 2314 are located on the twenty-third floor of the Makai Tower;

Apartments 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313 and 2314 are located on the twenty-third floor of the Mauka Tower;

Apartments 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413 and 2414 are located on the twenty-fourth floor of the Makai Tower

Apartments 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413 and 2414 are located on the twenty-fourth floor of the Mauka Tower

Apartments 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513 and 2514 are located on the twenty-fifth floor of the Makai Tower;

Apartments 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513 and 2514 are located on the twenty-fifth floor of the Mauka Tower;

Apartments 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613 and 2614 are located on the twenty-sixth floor of the Makai Tower

Apartments 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613 and 2614 are located on the twenty-sixth floor of the Mauka Tower

Apartments 2701, 2702, 2703, 2704, 2705, 2706, 2707, 2708, 2709, 2710, 2711, 2712, 2713 and 2714 are located on the twenty-seventh floor of the Makai Tower

Apartments 2701, 2702, 2703, 2704, 2705, 2706, 2707, 2708, 2709, 2710, 2711, 2712, 2713 and 2714 are located on the twenty-seventh floor of the Mauka Tower;

Apartments 2801, 2802, 2803, 2804, 2805, 2806, 2807, 2808, 2809, 2810, 2811, 2812, 2813 and 2814 are located on the twenty-eighth floor of the Makai Tower;

Apartments 2801, 2802, 2803, 2804, 2805, 2806, 2807, 2808, 2809, 2810, 2811, 2812, 2813 and 2814 are located on the twenty-eighth floor of the Mauka Tower;

Apartments 2901, 2902, 2903, 2904, 2905, 2906, 2907, 2908, 2909, 2910, 2911, 2912, 2913 and 2914 are located on the twenty-ninth floor of the Makai Tower;

Apartments 2901, 2902, 2903, 2904, 2905, 2906, 2907, 2908, 2909, 2910, 2911, 2912, 2913 and 2914 are located on the twenty-ninth floor of the Mauka Tower;

Apartments 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013 and 3014 are located on the thirtieth floor of the Makai Tower;

Apartments 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013 and 3014 are located on the thirtieth floor of the Mauka Tower;

Apartments 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113 and 3114 are located on the thirty-first floor of the Makai Tower;

Apartments 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113 and 3114 are located on the thirty-first floor of the Mauka Tower;

Apartments 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3208, 3209, 3210, 3211, 3212, 3213 and 3214 are located on the thirty-second floor of the Makai Tower;

Apartments 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3208, 3209, 3210, 3211, 3212, 3213 and 3214 are located on the thirty-second floor of the Mauka Tower;

Apartments 3301, 3302, 3303, 3304, 3305, 3306, 3307, 3308, 3309, 3310, 3311, 3312, 3313 and 3314 are located on the thirty-third floor of the Makai Tower;

Apartments 3301, 3302, 3303, 3304, 3305, 3306, 3307, 3308, 3309, 3310, 3311, 3312, 3313 and 3314 are located on the thirty-third floor of the Mauka Tower;

Apartments 3401, 3402, 3403, 3404, 3405, 3406, 3407, 3408, 3409, 3410, 3411, 3412, 3413 and 3414 are located on the thirty-fourth floor of the Makai Tower;

Apartments 3401, 3402, 3403, 3404, 3405, 3406, 3407, 3408, 3409, 3410, 3411, 3412, 3413 and 3414 are located on the thirty-fourth floor of the Mauka Tower;

Apartments 3501, 3502, 3503, 3504, 3505, 3506, 3507, 3508, 3509, 3510, 3511, 3512, 3513 and 3514 are located on the thirty-fifth floor of the Makai Tower;

Apartments 3501, 3502, 3503, 3504, 3505, 3506, 3507, 3508, 3509, 3510, 3511, 3512, 3513 and 3514 are located on the thirty-fifth floor of the Mauka Tower;

Apartments 3601, 3602, 3603, 3604, 3605, 3606, 3607, 3608, 3609, 3610, 3611, 3612, 3613 and 3614 are located on the thirty-sixth floor of the Makai Tower;

Apartments 3601, 3602, 3603, 3604, 3605, 3606, 3607, 3608, 3609, 3610, 3611, 3612, 3613 and 3614 are located on the thirty-sixth floor of the Mauka Tower;

Apartments 3701, 3702, 3703, 3704, 3705, 3706, 3707, 3708, 3709, 3710, 3711, 3712, 3713 and 3714 are located on the thirty-seventh floor of the Makai Tower;

Apartments 3701, 3702, 3703, 3704, 3705, 3706, 3707, 3708, 3709, 3710, 3711, 3712, 3713 and 3714 are located on the thirty-seventh floor of the Mauka Tower;

Apartments 3801, 3802, 3803, 3804, 3805, 3806, 3807, 3808, 3809, 3810, 3811, 3812, 3813 and 3814 are located on the thirty-eighth floor of the Mauka Tower.

II

A. Makai Tower:

Those apartments, the last two digits of the numbers of which are -01, are located in the Diamond Head-Mauka corner of the Tower;

Those apartments, the last two digits of the numbers of which are -02, are located in the Ewa-Mauka corner of the Tower;

Those apartments, the last two digits of the numbers of which are -03, are located in the Diamond Head side of the Tower next to the apartments, the numbers of which end in -01;

Those apartments, the last two digits of the numbers of which are -04, are located in the Ewa side

of the Tower next to the apartments, the numbers of which end in -02;

Those apartments, the last two digits of the numbers of which are -05, are located in the Diamond Head side of the Tower next to the apartments, the numbers of which end in -03;

Those apartments, the last two digits of the numbers of which are -06, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -04;

Those apartments, the last two digits of the numbers of which are -07, are located in the Diamond Head side of the Tower next to the apartments, the numbers of which end in -05;

Those apartments, the last two digits of the numbers of which are -08, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -06;

Those apartments, the last two digits of the numbers of which are -09, are located in the Diamond Head side of the Tower next to the apartments, the numbers of which end in -07;

Those apartments, the last two digits of the numbers of which are -10, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -08;

Those apartments, the last two digits of the numbers of which are -11, are located in the Diamond

Head side of the Tower next to the apartments, the numbers of which end in -09;

Those apartments, the last two digits of the numbers of which are -12, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -10;

Those apartments, the last two digits of the numbers of which are -13, are located in the Diamond Head-Makai corner of the Tower;

Those apartments, the last two digits of the numbers of which are -14, are located in the Ewa-Makai corner of the Tower

B. Mauka Tower:

Those apartments, the last two digits of the numbers of which are -01, are located in the Ewa-Mauka corner of the Tower;

Those apartments, the last two digits of the numbers of which are -02, are located in the Ewa-Makai corner of the Tower;

Those apartments, the last two digits of the numbers of which are -03, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -01;

Those apartments, the last two digits of the numbers of which are -04, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -02;

Those apartments, the last two digits of

the numbers of which are -05, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -03;

Those apartments, the last two digits of the numbers of which are -06, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -04;

Those apartments, the last two digits of the numbers of which are -07, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -05;

Those apartments, the last two digits of the numbers of which are -08, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -06;

Those apartments, the last two digits of the numbers of which are -09, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -07;

Those apartments, the last two digits of the numbers of which are -10, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -08;

Those apartments, the last two digits of the numbers of which are -11, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -09;

Those apartments, the last two digits of

the numbers of which are -12, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -10;

Those apartments, the last two digits of the numbers of which are -13, are located in the Mauka-Diamond Head corner of the Tower;

Those apartments, the last two digits of the numbers of which are -14, are located in the Makai-Diamond Head corner of the Tower.

III

A description of each of the apartments, designating the layout, number of rooms and approximate floor area thereof, is as follows:

Each apartment designated Type "A" and Type "AR" on Exhibit "D" attached hereto and incorporated herein by reference contains one bedroom, one bathroom, a dressing room, kitchen, living room and a lanai and each contains a total area of approximately 600.31 square feet, including the lanai; provided, however, that Apartments 608, 610 and 612 in the Makai Tower, each contains a patio in addition to said bedroom, bathroom, dressing room, kitchen, living room and lanai, and Apartments 608 and 610 in the Makai Tower, each contains a total area of approximately 1,693.31 square feet, including the lanai and patio, and Apartment 612 in the Makai Tower, contains a total area of approximately 1,784.31 square feet, including the lanai and patio. The layout of Apartments designated Type "A" is

the reverse of that of the apartments designated Type "AR".

Each apartment designated Type "A1" and Type "AR1" on said Exhibit "D" contains one bedroom, one bathroom, a dressing room, kitchen, living room and lanai and contains a total area of approximately 600.31 square feet, including the lanai. The layout of the apartments designated Type "AR1" is the reverse of that of the apartments designated Type "A1".

Each apartment designated Type "B" and Type "Bk" on Exhibit "D" attached hereto and incorporated herein by reference contains one bedroom, a bathroom, dressing room, dining area, living room, kitchen and lanai and a total area of approximately 661.29 square feet, including the lanai. The layout of the apartments designated Type "BR" on said Exhibit "D" is the reverse of these designated Type "B".

Each apartment designated on said Exhibit "D" attached hereto and incorporated herein by reference as Type "C" and Type "E" contains one bedroom, one bathroom, a dressing room, kitchen, living room, foyer and a lanai and a total area of approximately 648.78 square feet, including the lanai.

Each apartment designated on said Exhibit "D" as Type "D" and Type "F" contains one bedroom, one bathroom, a dressing room, living room, kitchen and a lanai and a total area of approximately 598.90 square feet, including the lanai.

IV

Each apartment shall be furnished with a Range, Range Hood, Disposal, Refrigerator and Room Air Conditioning Unit.

EXHIBIT "D"

I. Type "A"

A. Mauka Tower.

706, 806, 906, 1006, 1106, 1206 and 1406, 1506, 1606,
1706, 1806, 1906, 2006, 2106, 2206, 2306, 2406, 2506, 2606,
2706, 2806, 2906, 3006, 3106, 3206, 3306, 3406, 3506, 3606,
3706, 3806; 607, 807, 907, 1007, 1107, 1207, 1307, 1407,
1507, 1607, 1707, 1807, 1907, 2007, 2107, 2207, 2307, 2407,
2507, 2607, 2797, 2897, 2967, 3007, 3107, 3207, 3307, 3407,
3507, 3607, 3707, 3807; 610, 710, 810, 910, 1010, 1110,
1210, 1410, 1510, 1610, 1710, 1810, 1910, 2010, 2110, 2210,
2310, 2410, 2510, 2610, 2710, 2810, 2910, 3010, 3110, 3210,
3310, 3410, 3510, 3610, 3710, 3810; 611, 711, 811, 911,
1011, 1111, 1211, 1411, 1511, 1611, 1711, 1811, 1911, 2011,
2111, 2211, 2311, 2411, 2511, 2611, 2711, 2811, 2911, 3011,
3111, 3211, 3311, 3411, 3511, 3611, 3711, 3811.

B. Makai Tower.

703, 803, 903, 1003, 1103, 1203, 1403, 1503, 1603,
1703, 1803, 1903, 2003, 2103, 2203, 2303, 2403, 2503, 2603,
2703, 2803, 2903, 3003, 3103, 3203, 3303, 3403, 3503, 3603,
3703; 607, 707, 807, 907, 1007, 1107, 1207, 1407, 1507,
1607, 1707, 1807, 1907, 2007, 2107, 2207, 2307, 2407, 2507,
2607, 2707, 2807, 2907, 3007, 3107, 3207, 3307, 3407, 3507,
3607, 3707.

II. Type "A1"

A. Mauka Tower.

602, 702, 802, 902, 1002, 1102, 1202, 1402, 1502, 1602,
1702, 1802, 1902, 2002, 2102, 2202, 2302, 2402, 2502, 2602,
2702, 2802, 2902, 3002, 3102, 3202, 3302, 3402, 3502, 3602,
3702, 3802.

B. Makai Tower.

702, 802, 902, 1002, 1102, 1202, 1402, 1502, 1602,
1702, 1802, 1902, 2002, 2102, 2202, 2302, 2402, 2502, 2602,
2702, 2802, 2902, 3002, 3102, 3202, 3302, 3402, 3502, 3602,
3702.

III. Type "AR1"

A. Mauka Tower.

601, 701, 801, 901, 1001, 1101, 1201, 1401, 1501, 1601,
1701, 1801, 1901, 2001, 2101, 2201, 2301, 2401, 2501, 2601,
2701, 2801, 2901, 3001, 3101, 3201, 3301, 3401, 3501, 3601,
3701, 3801.

B. Makai Tower.

701, 801, 901, 1001, 1101, 1201, 1301, 1401, 1501,
1601, 1701, 1801, 1901, 2001, 2101, 2201, 2301, 2401, 2501,
2601, 2701, 2801, 2901, 3001, 3101, 3201, 3301, 3401, 3501,
3601, 3701.

IV. Type "AR"

A. Mauka Tower.

704, 804, 904, 1004, 1104, 1204, 1404, 1504, 1604,
1704, 1804, 1904, 2004, 2104, 2204, 2304, 2404, 2504, 2604,
2704, 2804, 2904, 3004, 3104, 3204, 3304, 3404, 3504, 3604,
3704, 3804; 608, 708, 808, 908, 1008, 1108, 1208, 1408,
1508, 1608, 1708, 1808, 1908, 2008, 2108, 2208, 2308, 2408,
2508, 2608, 2708, 2808, 2908, 3008, 3108, 3208, 3308, 3408,
3508, 3608, 3708, 3808; 609, 709, 809, 909, 1009, 1109,
1209, 1409, 1509, 1609, 1709, 1809, 1909, 2009, 2109, 2209,
2309, 2409, 2509, 2609, 2709, 2809, 2909, 3009, 3109, 3209,
3309, 3409, 3509, 3609, 3709, 3809; 612, 712, 812, 912,
1012, 1112, 1212, 1412, 1512, 1612, 1712, 1812, 1912, 2012,

2112, 2212, 2312, 2412, 2512, 2612, 2712, 2812, 2912,
3012, 3112, 3212, 3312, 3412, 3512, 3612, 3712, 3812.

B. Makai Tower.

705, 805, 905, 1005, 1105, 1205, 1405, 1505, 1605,
1705, 1805, 1905, 2005, 2105, 2205, 2305, 2405, 2505, 2605,
2705, 2805, 2905, 3005, 3105, 3205, 3305, 3405, 3505, 3605,
3705, 3805; 608, 708, 808, 908, 1008, 1108, 1208, 1408, 1508,
16108, 1708, 1808, 1908, 2008, 2108, 2208, 2308, 2408, 2508,
2608, 2708, 2808, 2908, 3008, 3108, 3208, 3308, 3408, 3508,
3608, 3708; 609, 709, 809, 909, 1009, 1109, 1209, 1409,
1509, 1609, 1709, 1809, 1909, 2009, 2109, 2209, 2309, 2409,
2509, 2609, 2709, 2809, 2909, 3009, 3109, 3209, 3309, 3409,
3509, 3609, 3709; 612, 712, 812, 912, 1012, 1112, 1212,
1412, 1512, 1612, 1712, 1812, 1912, 2012, 2112, 2212, 2312,
2412, 2512, 2612, 2712, 2812, 2912, 3012, 3112, 3212, 3312,
3412, 3512, 3612, 3712.

V. Type "B"

A. Mauka Tower.

614, 714, 814, 914, 1014, 1114, 1214, 1414, 1514,
1614, 1714, 1814, 1914, 2014, 2114, 2214, 2314, 2414, 2514,
2614, 2714, 2814, 2914, 3014, 3114, 3214, 3314, 3414, 3514,
3614, 3714, 3814.

B. Makai Tower.

614, 714, 814, 914, 1014, 1114, 1214, 1414, 1514,
1614, 1714, 1814, 1914, 2014, 2114, 2214, 2314, 2414, 2514,
2614, 2714, 2814, 2914, 3014, 3114, 3214, 3314, 3414, 3514,
3614, 3714.

VI. Type "BR"

A. Mauka Tower.

613, 713, 813, 913, 1013, 1113, 1213, 1413, 1513,
1613, 1713, 1813, 1913, 2013, 2113, 2213, 2313, 2413, 2513,
2613, 2713, 2813, 2913, 3013, 3113, 3213, 3313, 3413, 3513,
3613, 3713, 3813.

B. Makai Tower.

613, 713, 813, 913, 1013, 1113, 1213, 1413, 1513,
1613, 1713, 1813, 1913, 2013, 2113, 2213, 2313, 2413, 2513,
2613, 2713, 2813, 2913, 3013, 3113, 3213, 3313, 3413, 3513,
3613, 3713.

VII. Type "C"

A. Makai Tower.

606, 706, 806, 906, 1006, 1106, 1206, 1406, 1506,
1606, 1706, 1806, 1906, 2006, 2106, 2206, 2306, 2406, 2506,
2606, 2706, 2806, 2906, 3006, 3106, 3206, 3306, 3406, 3506,
3606, 3706.

VIII. Type "D"

A. Makai Tower.

604, 704, 804, 904, 1004, 1104, 1204, 1404, 1504,
1604, 1704, 1804, 1904, 2004, 2104, 2204, 2304, 2404, 2504,
2604, 2704, 2804, 2904, 3004, 3104, 3204, 3304, 3404, 3504,
3604, 3704.

EXHIBIT E

0167J

BY-LAWS OF THE ASSOCIATION OF APARTMENT OWNERS OF WAIKIKI BANYAN

The following By-Laws shall apply to the above-named condominium project (herein called the "project"), as described in and created by Declaration of Horizontal Property Regime (herein called the "Declaration") to be recorded or filed of record in the State of Hawaii contemporaneously herewith, and to all present and future owners, tenants and occupants of any apartments of the project and all other persons who shall at any time use the project. The mere acquisition or rental of any apartment or the mere act of occupancy of any apartment will signify that these By-Laws are accepted, ratified, and will be complied with.

ARTICLE I

MEMBERSHIP

Section 1. Qualification. All owners of apartments of the project shall constitute the Association of Apartment Owners (herein called the "Association"). The owner of any apartment upon acquiring title thereto shall automatically become a member of the Association and shall remain a member thereof until such time as his ownership of such apartment ceases for any reason, at which time his membership in the Association shall automatically cease; provided, however, that to such extent and for such purposes, including voting, as shall be provided by lease of any apartment filed with the Board of Directors of the Association, the lessee of such apartment shall be deemed to be the owner thereof. The successor under any apartment sublease or condominium conveyance document shall be deemed to be an apartment owner under these By-Laws.

Section 2. Place of Meetings. Meetings of the Association shall be held at the project or such other suitable place convenient to the apartment owners as may be designated by the Board of Directors.

Section 3. Annual Meetings. The first annual meeting of the Association shall be held as soon as practicable after recording of the Declaration and these By-Laws upon the call of at least ten percent (10%) of the apartment owners; provided, however, that said first annual meeting shall in no event be held more than one hundred eighty (180) days after the date on which the certificate of occupancy for the project was issued by the appropriate county agency. Thereafter the annual meetings of the Association shall be held within three months after the end of each accounting year.

Section 4. Special Meetings. Special meetings of the Association may be held at any time upon the call of the President or a petition signed by at least twenty-five percent (25%) of the apartment owners and presented to the Secretary.

Section 5. Notice of Meetings. The Secretary shall give written or printed notice of each annual and special meeting to every apartment owner according to the Association's record of ownership, and to every institutional holder of a first mortgage on an apartment 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 or the Managing Agent, at least fourteen (14) days but not more than twenty (20) days before the date set for such meeting, stating whether it is an annual or special meeting, the authority for

the call thereof, the place, day and hour of such meeting, the items on the agenda for such meeting and a standard proxy form authorized by the Association, if any, in any of the following ways: (a) by delivering it to him personally, or (b) by leaving it at his apartment in the project or at his usual residence or place of business, or (c) by mailing it, postage prepaid, addressed to him at his address as it appears on the Association's record of ownership. If notice is given pursuant to the provisions of this section, the failure of any apartment owner or mortgagee to receive actual notice of any meeting shall in no way invalidate such meeting or any proceedings thereat. The presence of any apartment owner or mortgagee in person or by proxy at any meeting shall be deemed a waiver of any required notice to such owner unless he shall at the opening thereof object to the holding of such meeting because of the failure to give notice in accordance with the provisions hereof.

Section 6. Quorum. The presence at any meeting in person or by proxy of a majority of apartment owners shall constitute a quorum, and the acts of a majority of the apartment owners 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 apartment owners" herein means the owners of apartments to which are appurtenant more than fifty percent (50%) of the common interests as established by the Declaration, any other specified percentage of the apartment owners means the owners of apartments to which are appurtenant such percentage of the common interests.

Section 7. Voting. Voting shall be on a percentage basis, and the percentage of the total vote to which each apartment is entitled shall be 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, personal representative, 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 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 or others, and in case of protest each co-tenant shall be entitled to only a share of such vote in proportion to his share of ownership in such Apartment. The purchaser of an apartment pursuant to an agreement of sale recorded in the Bureau of Conveyances of the State of Hawaii or filed in the

Office of the Assistant Registrar of the Land Court of the State of Hawaii shall have all of the rights of a unit owner, including the right to vote, except as to those matters expressly retained by the seller under such agreement of sale, pursuant to Section 514A-83, Hawaii Revised Statutes, as amended.

Section 8. Proxies and Pledges. The authority given by any apartment owner to another person to represent him at meetings of the Association shall be in writing, signed by such owner and filed with the Secretary, and unless limited by its terms shall continue until revoked by a writing filed with the Secretary or by the death or incapacity of such owner; provided, however, that the standard proxy form, if any, which accompanies a notice of meeting shall be valid only for the meeting to which such notice pertains and its adjournments, if any. 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 like manner.

Section 9. Adjournment. Any meeting of the Association may be adjourned from time to time not less than forty-eight (48) hours from the time the original meeting was called as may be determined by majority vote of the apartment 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 10. Order of Business. 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 meeting.
- (d) Report of officers.
- (e) Report of committees.
- (f) Election of inspectors of election.
- (g) Election of directors.
- (h) Unfinished business.
- (i) New business.

Section 11. Conduct of Meeting. Unless some other generally accepted rules for the conduct of meetings of the Association are designated or adopted by majority vote of the apartment owners, all meetings of the Association and the Board of Directors shall be conducted in accordance with Roberts Rules of Order.

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 nine (9) persons. All members of the Board of Directors shall be owners, co-owners, vendees under an agreement of sale, or an officer of any corporate owner of an apartment. The partners in a general partnership and the general partner(s) of a limited partnership shall be deemed to be the owners of an apartment for this purpose. The directors shall serve without compensation, unless such compensation is specifically authorized by the Association at a regular or special meeting. The resident manager of the project, if any, may not serve on the Board.

Section 2. Powers. The Board of Directors shall have all powers necessary for the administration of the affairs of the Association and may do all such acts and things therefor as are not by law, the Declaration or by these By-Laws directed to be exercised or done only by the apartment owners.

Section 3. Election and Terms. Election of directors shall be by cumulative voting by secret ballot at each annual meeting and any special meeting called for the purpose. Directors shall hold office for a period of three (3) years and until their respective successors have been elected, subject to removal as herein provided, except that at the first annual meeting one-third of the directors shall be elected for one year, one-third for two years and one-third for three years.

Section 4. Vacancies. Vacancies in the Board of Directors caused by any reason other than removal of a director by the Association shall be filled by a 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 his successor is elected at the next annual meeting of the Association. Death, incapacity, or resignation of any Director, or his continuous absence from the State of Hawaii for more than six months, or his ceasing to be the sole owner or co-owner of an apartment, shall cause his office to become vacant.

Section 5. Removal of Directors. At any regular or special meeting of the Association duly called, any one or more of the directors may be removed with or without cause by a vote of a majority of apartment 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 apartment owners shall be given an opportunity to be heard at such meeting.

Section 6. Annual Meetings. An organizational meeting of the Board of Directors shall be held at the place of and immediately following each annual meeting of the Association, and no notice shall be necessary to any directors in order validly to constitute such meeting, provided that a majority of the whole Board shall be present. At such meeting the Board shall elect the officers of the Association for the ensuing year.

Section 7. 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 one such meeting shall be held during each calendar quarter of every year. Notice of regular meetings of the Board shall be given to each director, personally or by mail, telephone, or messenger service, at least three (3) days prior to the date of such meeting.

Section 8. Special Meetings. Special meetings of the Board of Directors may be called by the President on at least eight hours' notice to each director, given personally or by telephone or messenger service, which notice shall state the time, place and purpose of the 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 two directors.

Section 9. 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 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 these By-Laws shall constitute a quorum for the transaction of business, and the acts of a majority of the directors present at any meeting at which a quorum is present shall be the acts of 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.

Section 11. Fidelity Bonds. The Board of Directors shall require that all directors, officers, employees and agents of the Association handling or responsible for funds belonging to or administered by the Association furnish adequate fidelity

bonds in favor of the Association. The premiums on such bonds shall be paid by the Association. Such bonds shall in no event be in an amount less than one and one-half times the Association's estimated annual operating expenses and reserves and every such bond shall:

(a) Provide that the bond(s) may not be cancelled or substantially modified (including cancellation for nonpayment of premiums) without at least thirty (30) days' prior written notice to the Board, the first mortgagees and every other person in interest who shall have requested such notice; and

(b) Contain a waiver of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

Section 12. Conflict of Interest. No member of the Board of Directors shall vote at any board meeting on any issue in which such member has a conflict of interest.

ARTICLE III

OFFICERS

Section 1. Designation. The principal officers of the Association shall be a President, Vice President, a Secretary and a Treasurer, all of whom shall be elected by, and in the case of the President from, 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.

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 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 By-Laws or assigned to him from time to time by the Board.

Section 5. Vice President. The Vice President shall assume and perform the duties of the President in the absence or disability of the President or whenever the office of the President is vacant. 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 do so on an interim basis. He shall also have such other powers and duties as may be assigned to him from time to time 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 By-Laws, maintain and keep a continuous and accurate record of ownership of all apartments, 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.

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.

Section 8. Auditor. The Association shall appoint annually a public accountant or accounting firm as auditor, who shall not be an officer of the Association nor own any interest in any apartment, to audit the books and financial records of the Association as required by law or directed additionally by the Board of Directors. The members of the Association may by majority vote at any annual meeting require that the yearly audit be conducted by a certified public accountant or a firm of certified public accountants. Any institutional holder of a first mortgage on an apartment or of an apartment lease demising the same may request and the Association shall provide said mortgagee with a copy of said annual audited financial statement within ninety (90) days following the end of any fiscal year of the Association.

ARTICLE IV

ADMINISTRATION

Section 1. Management. The Board of Directors shall at all times manage and operate the project and have such powers and

duties as may be necessary or proper therefor including without limitation the following:

- (a) Supervision of its immediate management and operation;
- (b) Maintenance, repair, replacement and restoration of the common elements and any additions and alterations thereto;
- (c) Purchase, maintenance and replacement of any equipment and provision of all water and utility services required for the common elements;
- (d) Provision at each apartment of all 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;
- (e) Employment, supervision and dismissal of such personnel as may be necessary for the maintenance and operation of the project;
- (f) Preparation at least 60 days before each fiscal year of a proposed budget and schedule of assessments for such year;
- (g) Collection of all installments of assessments levied and payment of all common expenses authorized by the Board.
- (h) Purchase and maintenance in effect of all policies of hazard and liability insurance for the project required by the Declaration and such other insurance and bonds as may be required or authorized by the Declaration or the Board;
- (i) Custody and control of all funds of the Association, maintenance of full and accurate books of account and records of such funds and preparation of regular financial reports thereof;
- (j) Notification of all persons having any interest in any apartment according to the Association's record of ownership of delinquency exceeding 30 days in the payment of any assessment against such apartment.
- (k) Notification in writing of all institutional holders of first mortgages on apartments or apartment subleases or condominium conveyance documents demising or conveying the same, as shown in the Association's record of ownership or of which the Secretary of the Association has been given written notice, of any loss to, or taking of, the common elements of the project if such loss or taking exceeds TEN THOUSAND DOLLARS (\$10,000.00);

(l) Notification in writing to the institutional holder of the first mortgage on any apartment or apartment sublease or condominium conveyance document demising or conveying the same, as shown in the Association's record of ownership or of which the Secretary of the Association has been given written notice, of any loss to such apartment which exceeds ONE THOUSAND DOLLARS (\$1,000.00); and

(m) Establishment of such penalties and fines as it deems appropriate with respect to enforcement of the provisions of the Declaration, these By-Laws and the house rules adopted pursuant to Article V, Section 4, of these By-Laws; provided such penalties and fines are not inconsistent with the law or the provisions herein, and the unpaid amount of such penalties and fines against any apartment owner shall constitute a lien against his interest in his apartment which may be foreclosed by the Board of Directors or Managing Agent in the same manner as provided in the Horizontal Property Act for common expenses; provided, however, that the said lien for such penalties and fines shall be subordinate to liens for taxes and assessments lawfully imposed by governmental authority against the apartment and to all sums unpaid on mortgages of record.

Section 2. Managing Agent. The Board of Directors shall annually employ a responsible Hawaii corporate Managing Agent to manage and control the project subject at all times to direction by the Board, with all of the administrative functions specifically set forth in the preceding Section 1 and with such other powers and duties and at such compensation as the Board may establish from time to time, subject to prior approval of every such employment contract by a majority of the apartment owners. Any decision by the Association to terminate professional corporate management of the project and to assume self-management of the project may not be effected without the prior written consent of at least seventy-five percent (75%) of the institutional holders of a first mortgage on an apartment or an apartment lease demising the same (based upon one vote for each first mortgage owned). Every such employment contract shall provide that it may be terminated by the Board of Directors for cause on no more than thirty (30) days' written notice and without cause on no more than ninety (90) days' written notice, and in no event may such employment contract be for a term exceeding one (1) year, and in no event shall a termination fee be due and owing the Managing Agent.

Section 3. Representation. The President or Managing Agent, subject to the direction of the Board of Directors, shall represent the Association or any two or more apartment owners similarly situated as a class in any action, suit, hearing or other proceeding concerning the Association, the common elements

or more than one apartment, and on its or their behalf may institute, defend, intervene in, prosecute and settle any such actions, suits and proceedings, without prejudice to the rights of any apartment owner individually to appear, sue or be sued. Service of process on two or more apartment owners in any such action, suit or proceeding may be made on the President or Managing Agent. Every first mortgagee to whom the sublessee under an Apartment Lease is required by the terms of the mortgage to pay the same or, whenever there is no such mortgagee, every Managing Agent shall also be the agent of the respective lessees under any apartment leases filed with the Board for the collection, custody and payment of all rent, taxes, assessments and other charges thereunder payable to their lessors.

Section 4. Execution of Instruments. All checks, drafts, notes, acceptances, conveyances, contracts and other instruments shall be signed on behalf of the Association by such person or persons as shall be provided by general or special resolution of the Board of Directors or, in the absence of any such resolution applicable to such instrument, by the President or Vice President and by the Treasurer or Secretary.

ARTICLE V

OBLIGATIONS OF APARTMENT OWNERS

Section 1. Assessments. All apartment owners shall pay to the Managing Agent in advance on the first day of each and every month the monthly installments of assessments against their respective apartments for common expenses of the project in accordance with the Declaration and also, a monthly sum determined by the Managing Agent to be sufficient to accumulate and pay when due all rent, taxes, assessments and other charges thereunder payable by the lessee or sublessee of such apartment. Provided, however, that any apartment owners who are required under the terms of a first mortgage in favor of an institutional mortgagee encumbering an apartment sublease or a condominium conveyance document demising an apartment in the project to make lease rent payments to such mortgagee for transmittal to the Lessee, shall be permitted to do so.

Section 2. Maintenance of Apartments. Every apartment owner shall at his own expense at all times well and substantially repair, maintain, amend and keep his apartment and the limited common elements appurtenant thereto, including without limitation all internal installations therein such as water, electricity, gas, telephone, sewer, sanitation, air conditioning, lights and all other fixtures and accessories

belonging to such apartment and the interior decorated or finished surfaces of all walls, floors and ceilings of such apartment, with all necessary reparations and amendments whatsoever in good order and condition except as otherwise provided by law or the Declaration, and shall be liable for all loss or damage whatsoever caused by his failure to perform any such work diligently, and in case of such failure after reasonable notice to perform shall reimburse to the Association promptly on demand all expenses incurred by it in performing any such work authorized by the Board of Directors or the Managing Agent. Every apartment owner and occupant shall reimburse the Association promptly on demand all expenses incurred by it in repairing or replacing any uninsured loss or damage to the common elements or any furniture, furnishing and equipment thereof caused by such owner or occupant or any person under either of them and shall give prompt notice to the Managing Agent of any such loss or damage or other defect in the project when discovered.

Section 3. Use of Project. (a) The apartments of the project shall be used only for their respective purposes as set forth in the Declaration and for no other purpose.

(b) All common elements of the project shall be used only for their respective purposes as designed.

(c) No apartment owner or occupant shall place, store or maintain on walkways, roadways, grounds or other common elements any furniture, packages or objects of any kind or otherwise obstruct transit through such common elements.

(d) Every apartment owner and 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.

(e) 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 furniture, furnishings or equipment of the common elements.

(f) No apartment owner or occupant shall erect or place in the project any building or structure including fences and walls, nor make any additions or alterations to 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 Board and approved

by the Board and a majority of apartment owners (or such larger percentage required by law or the Declaration) including all owners of apartments thereby directly affected.

(g) No apartment owner shall decorate or landscape any entrance of his apartment or any other portion of the project except in accordance with standards therefor established by the Board of Directors or specific plans approved in writing by the Board.

(h) All occupants shall exercise extreme care about making noises and in the use of musical instruments, radios, televisions and amplifiers that may disturb other occupants.

(i) No garments, rugs, or other objects shall be hung from the windows or facades of the project.

(j) 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.

(k) No refuse, garbage or trash of any kind shall be thrown, placed or kept on any common elements of the project outside of the disposal facilities provided for such purpose.

(l) No livestock, poultry, rabbits or other animals whatsoever shall be allowed or kept in any part of the project except that dogs, cats and other household pets in reasonable number may be kept by the apartment owners and occupants in their respective apartments but shall not be kept, bred or used therein for any commercial purpose nor allowed on any common elements except in transit when carried or on leash; provided, however, that any such pet causing a nuisance or unreasonable disturbance to any other occupant of the project shall be permanently removed therefrom promptly upon notice given by the Board of Directors or Managing Agent.

(m) No apartment owner or occupant shall without the written approval of the Board of Directors 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.

(n) No apartment owner or occupant shall erect, place or maintain any television or other antennas on said project visible from any point outside of the project.

(o) Nothing shall be allowed, done or kept in any apartments or common elements of the project which would overload or impair

the floor, walls or roofs thereof, or cause any increase in the ordinary premium rates or the cancellation or invalidation of any insurance thereon maintained by or for the Association.

(p) If the project shall have separate elevators devoted (i) to the transportation of the apartment owners and their guests and (ii) for freight service or auxiliary purposes, the apartment owners and tradesmen are expressly required to utilize the freight or service elevators for transporting packages, merchandise or any other object that may affect the comfort or well-being of the passengers of the elevators dedicated to the transportation of the apartment owners, residents and guests.

Section 4. House Rules. The Board of Directors, upon giving notice to all apartment owners in the same manner as herein provided for notice of meetings of the Association and opportunity to be heard thereon, may adopt, amend or repeal any supplemental rules and regulations governing details of the operation and use of the common elements not inconsistent with any provision of law, the Declaration or these By-Laws.

Section 5. Expenses of Enforcement. Every apartment owner shall pay to the Association promptly on demand all costs and expenses including reasonable attorneys' fees incurred by or on behalf of the Association in collecting any delinquent assessments against such apartment, foreclosing its lien therefor or enforcing any provisions of the Horizontal Property Act, the Declaration or these By-Laws against such owner or any occupant of such apartment.

Section 6. Record of Ownership. The Secretary of the Association or the Managing Agent shall keep an accurate and current list of the names and addresses of all members of the Association, including all vendees under any agreement of sale on an apartment in the project, if any. In connection therewith every apartment owner shall promptly cause to be duly recorded or filed of record the deed, lease, agreement of sale, assignment or other conveyance to him of such apartment or other evidence of his title thereto and shall file a copy of such document(s) with the Board of Directors through the Secretary or the Managing Agent.

Section 7. Mortgages. (a) **Notice to Board of Directors.** An apartment owner who mortgages his interest shall notify the Association of the name and address of his mortgagee and within ten (10) days after the execution of the same shall file a conformed copy of such mortgage with the Association; the Association shall maintain such information in a book entitled "Mortgages of Apartments".

(b) Notice of Unpaid Common Expenses. The Association whenever so requested in writing by an owner or mortgagee of an interest in an apartment shall promptly report any then unpaid assessments or common expenses due from the apartment owner involved.

(c) Notice of Default. The Board, when giving notice to an apartment owner of a default in paying common expenses or other default, shall send a copy of such notice to each holder of a mortgage covering such apartment or interest therein whose name and address has theretofore been furnished to the Association. In each and every case where the mortgagee has made a request, the Association shall notify the mortgagee of any unpaid assessment that is thirty (30) days delinquent or more.

(d) Examination of Books. Each apartment owner and each mortgagee shall be permitted to examine the books and records of the Association or the project at reasonable times on business days, and each mortgagee shall have the right to require the submission of annual reports and other financial data.

(e) Mortgage Protection. Notwithstanding any provision to the contrary in these By-Laws:

(1) Any first mortgagee who obtains title to an apartment pursuant to the remedies provided in the mortgage or foreclosure of the mortgage will not be liable for such apartment's unpaid dues or charges which accrue prior to the acquisition of title to such apartment by the mortgagee.

(2) All taxes, assessments and charges which may become liens prior to the first mortgage under the laws of the State of Hawaii shall relate only to the individual apartments and not to the condominium project as a whole.

(3) The Declaration and By-Laws shall not give an apartment owner or any other party priority over any rights of first mortgagees of apartments pursuant to their mortgages in the case of a distribution to apartment owners of insurance proceeds of condemnation awards for losses to or a taking of apartment units, common elements or both.

(4) Notwithstanding any other provision of these By-Laws, no amendment of this Section 7(e) shall affect the rights of the holder of any such mortgage recorded in the Bureau of Conveyances, State of Hawaii, prior to the filing of such amendment who does not join in the execution thereof.

ARTICLE VI

MISCELLANEOUS

Section 1. Amendment. These By-Laws may be amended in any respect not inconsistent with provisions of law or the Declaration at any meeting of the Association duly called for such purpose, by vote of seventy-five percent (75%) of the apartment owners, and shall be effective only upon the recording of an amendment to the Declaration setting forth such amendment of these By-Laws; and further provided that any material amendment of these By-Laws shall require the prior written consent thereto by at least seventy-five percent (75%) of the institutional holders of a first mortgage on an apartment sublease or condominium conveyance document demising or conveying the same (based upon one vote for each first mortgage owned).

Section 2. Indemnification. The Association shall indemnify every director and officer and his executors and administrators against all expenses reasonably incurred by or imposed on him in connection with any action, suit or proceedings to which he may be made a party by reason of being or having been a director or officer of the Association, except in relation to matters as to which he shall be finally adjudged in such action, suit or proceeding to be liable for negligence or misconduct; and in the absence of such final adjudication, indemnification shall be provided only in connection with such matters as to which the Association is advised by its legal counsel that the person to be indemnified committed no such breach of duty. The foregoing right of indemnification shall not be exclusive of any other rights to which such person may be entitled.

Section 3. Subordination. These By-Laws are subordinate and subject to all provisions of the Declaration and any amendments thereto, the Horizontal Property Act (Chapter 514A, Hawaii Revised Statutes, as amended), which shall control in case of any conflict. All terms herein (except where clearly repugnant to the context) shall have the same meaning as in the Declaration or said Horizontal Property Act.

Section 4. Interpretation. In case any provision of these By-Laws shall be held invalid, such invalidity shall not render invalid any other provision hereof which can be given effect. Nothing in these By-Laws shall be deemed or construed to authorize the Association or Board of Directors to conduct or engage in active business for profit on behalf of any or all of the apartment owners.

Section 5. Books of Receipts and Expenditures. The Managing Agent or Board of Directors shall 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. All records and the 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 of week days.

Section 6. Minutes of Meetings. The minutes of meetings of the Board of Directors, and Association of Apartment Owners shall be available for examination by apartment owners at convenient hours at a place designated by the Board.

CERTIFICATE OF ADOPTION

The undersigned, being the owners and developer of all apartments of the project, hereby adopt the foregoing as the By-Laws of the Association of Apartment Owners of WAIKIKI BANYAN, this _____ day of _____, 19__.

ENDNOTES

The following endnotes correspond to provisions in the Declaration which have been restated to conform to (i) Chapter 514A, Hawaii Revised Statutes ("HRS"); and (ii) Ordinance 83-58 of the Revised Ordinances of Honolulu, which requires the installation of fire sprinklers in the Waikiki Banyan. This Restated Declaration correctly states without change the corresponding provisions of the original Declaration, as amended, and supersedes the original Declaration and all prior amendments thereto. This Restatement was made solely for the purpose of information and convenience. In the event of a conflict, the Restated Declaration shall be subordinate to Ordinance 83-58 and the original Declaration.

1. Act 65 (SLH, 1988) redesignated the Horizontal Property Act as the Condominium Property Act. Therefore, references to the present terminology have been noted.
2. Subparagraph (1) has been added to Paragraph A.2. to confirm that the equipment which must be installed to comply with Ordinance 83-58 will be common elements of the project.
3. Paragraph F.6. has been amended to confirm that the Association may install the equipment required to comply with Ordinance 83-58 without owner or Lessor consent and may enter each apartment during reasonable hours for that purpose.
4. Paragraph S. has been added to confirm that all expenses relating to the installation of the fire sprinkler system are common expenses of the Association.
5. Paragraph T. has been added to conform the Declaration to the requirements of Section 514A-82.3, HRS, relating to borrowing of funds by the Association.

RECORDATION REQUESTED BY:

TITLE GUARANTY ESCROW SERVICES, INC.

AFTER RECORDATION, RETURN TO:

Land Grant

LCAPP - 1845 (BANYAN)

RETURN BY: MAIL () PICKUP ()

Requestor to fill above

Space above this line for Registrar's use

DECLARATION OF HORIZONTAL PROPERTY REGIME
OF
WAIKIKI BANYAN

WHEREAS, the Trustees of the Liliuokalani Trust, herein referred to as "Liliuokalani Trust", are the owners in fee simple of the real property described in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, Kawaiahao Church, a Hawaii eleemosynary corporation, herein referred to as "Kawaiahao", is the owner of the real property described in Exhibit "B" attached hereto and incorporated herein by reference; and

WHEREAS, by Indenture of Lease dated February 22, 1978, effective as of December 1, 1977, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12746, Page 429, herein referred to as the "Master Lease", said Liliuokalani Trust and Kawaiahao, being herein collectively referred to as the "Lessor", demised the real property described in Exhibits "A" and "B" attached hereto to BANYAN ONE, INC., a Hawaii corporation, herein referred to as the "Lessee"; and

WHEREAS, by Master Sublease dated February 22, 1978, effective as of December 2, 1975, recorded as aforesaid in Liber 12746, Page 473, the Lessee has sublet said property to Waikiki Banyan, Inc., a Hawaii corporation, hereinafter referred to as the "Developer"; and

WHEREAS, the Developer has undertaken to improve said land by constructing thereon certain improvements herein-after described in accordance with plans incorporated herein by reference filed and recorded in said Bureau of Conveyances as Condominium File Plan No. ____.

NOW, THEREFORE, in order to create a condominium project consisting of said land and improvements (herein called the "project") and to be known as "WAIKIKI BANYAN", the Lessor, Lessee and Developer hereby submit all of their interests in said property to the Horizontal Property Regime established by the Horizontal Property Act, Chapter 514A, Hawaii Revised Statutes, as amended, and in furtherance thereof make the following declarations as to divisions, limitations, restrictions, covenants and conditions and hereby declare and agree that said property is held and shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied and improved subject to said declarations, which declarations shall constitute covenants running with the land and shall be binding on and for the benefit of the parties hereto,

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:

A. DIVISION OF PROPERTY. The project is hereby divided into the following separate freehold estates:

1. Apartments. 876 separate condominium apartments are hereby designated in the spaces within the perimeter and party walls, floors and ceilings of each of the 876 apartment units of the project, contained in two buildings, designated the "Mauka Tower" and the "Makai Tower", respectively, containing thirty-seven (37) and thirty-six (36) stories, respectively, both without basements, constructed principally of concrete, which spaces together with appurtenant lanai spaces, if any, are referred to herein as "apartments" and are designated on said condominium file plan and described as set forth in Exhibit "C" 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 "C" attached hereto and for every purpose made a part hereof.

(b) The apartments are numbered and located in the manner as shown on said Condominium File Plan recorded in the Bureau of Conveyances of the State of Hawaii.

(c) The apartments in each of the Towers have immediate access to a corridor, four elevators and two stairway, all such corridors, elevators and stairways being common elements, on each floor of each respective tower leading 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 ceiling 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 (if any), 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 building;
- (c) All yard, grounds and landscaping;
- (d) All parking areas;
- (e) All pipes, cables, conduits, ducts, fan rooms, electrical equipment, wiring and other central and

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;

(f) Two (2) utility/mail rooms and one (1) lounge on the ground floor of each of the Mauka and Makai Towers;

(g) Three (3) utility rooms on each of the third, fourth and fifth floors of each of the Mauka and Makai Towers; and a Makai storage area on the fourth floor of the Makai Tower;

(h) A utility/trash room; two (2) lounge areas; and a housekeeping-electrical room on the sixth floor of the Mauka Tower; men's and women's dressing-sauna-restrooms; one (1) janitor's room, two (2) lounge areas, a laundry room, housekeeping room, electrical room, utility/trash room and snack bar on the sixth floor of the Makai Tower; and a recreation deck and swimming pool on the roof of the garage connecting the Mauka and Makai Towers;

(i) Laundry, housekeeping, utility and electrical rooms located on each of the seventh through twelfth and fourteenth through thirty-seventh floors of the Makai Tower and the seventh through twelfth and fourteenth through thirty-eight floors of the Mauka Tower;

(j) Jogging track on the roof of each of the Mauka and Makai Towers.

(k) 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.

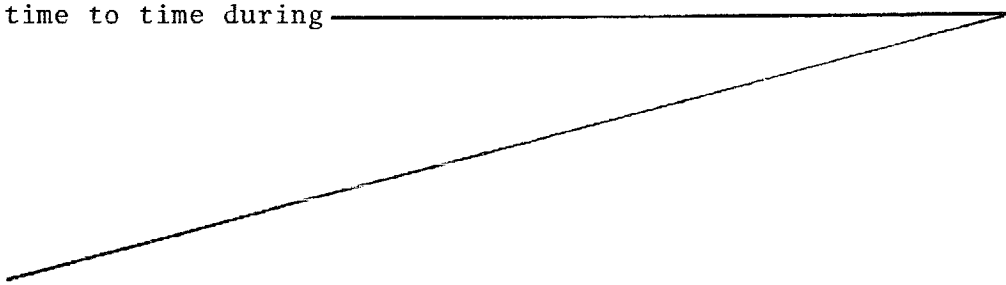
B. COMMON INTEREST. Each apartment shall have appurtenant thereto an undivided 1/876 fractional interest and the equivalent thereof stated as a percentage (.11415++) in all common elements of the project (herein called the "common interest") and the same proportionate share in all common profits and expenses of the project and for all other purposes including voting.

C. EASEMENTS. In addition to any easements herein designated in the limited common elements, if any, 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 designated 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; and in all other apartments of the building for support.

2. If any part of the common elements encroaches upon any apartment, or if any apartment 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 the building 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 due to such construction 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 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.

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 Horizontal 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 sublease or condominium conveyance document demising the same.

E. USE. The apartments shall be occupied and used only for purposes permitted from time to time by this Declaration and the By-Laws attached hereto, and by applicable zoning ordinances, rules and regulations, and for no other purpose. 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 attached hereto.

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 attached hereto as Exhibit "E" and made a part hereof. 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 Horizontal 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 building 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 30 days after the giving of such notice.

4. Before commencing or permitting construction of any improvement on the project, obtain and deposit with the Lessor and Lessee a bond or certificate thereof naming as obligees the Lessor, Lessee 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.

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. 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 Lessor, first approved in writing by the 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.

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 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. The initial Managing Agent shall be Dillingham Land Corporation whose principal place of business and post office address is 1441 Kapiolani Boulevard, Honolulu, Hawaii. The Managing Agent shall also collect rent payable under Apartment Subleases or Condominium Conveyance Documents issued by the Lessor or Lessee and cause the same to be paid as and when due thereunder, without commingling any such funds with other funds in its custody at any time. Any agreement for

professional management for the project shall provide for termination of either the managing agent or the Association without cause or payment of a termination fee on ninety (90) days' or less written notice.

H. COMMON EXPENSES. Except as hereinafter provided, 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 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 horizontal property regime hereby created and no payments thereof shall be payments of such common expenses; provided, however, all such expenses for maintenance, repair, replacement, additions and improvements to limited common elements shall be charged to the apartment owner to which the limited common element is appurtenant. 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, 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 Horizontal Property Act, provided that thirty (30) days' prior written notice of intention to foreclose shall be mailed, postage prepaid, to the 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 mortgage of record of an apartment or of an apartment sublease or condominium conveyance document 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).

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 determine in its sole discretion 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 Horizontal Property Regime hereby created shall be terminated or waived, said 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 horizontal 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, and mortgagees as their interests may appear, 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 Lessor, Lessee and the Secretary of the Association 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 if the property is located in an identified flood hazard area as designated by the Department of Housing and Urban Development in the amount of the aggregate of the outstanding principal balance 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 exterior glass of the project also be insured under such policy. 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 building, except as provided in paragraph K, 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 Lessor and Lessee 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 building is increased, whether or not within the knowledge or control of the Board, Lessor or Lessee, or because of any breach of warranty or condition or any other act or neglect by the Board, Lessor, Lessee or any apartment owner or any other persons under either of them;

3. Provide that such policy and the coverage thereunder may not be cancelled or substantially modified (whether or not requested by the Board) except by the insurer giving at least sixty (60) days' prior written notice thereof to the Board, Lessor, Lessee, 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, Lessor, Lessee or apartment owners against any of them or any other persons under them;

5. 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

6. 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 condominium conveyance document 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, Lessor, Lessee 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.

7. Contain a waiver by the insurer of any right of the insurer to repair, rebuild or replace, if the apartment owners decide pursuant to Paragraph K of this Declaration not to repair, reinstate, rebuild or restore the damaged or destroyed improvements.

The Board on behalf of the Association at its common expense shall also effect and maintain at all times

comprehensive general liability insurance, covering all apartment owners with respect to the project and naming the Lessor and Lessee as additional assureds, 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 in any one accident or occurrence and Five Hundred Thousand Dollars (\$500,000.00) for property damage, and from time to time deposit promptly with the Lessor and Lessee 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 (a) provide that the same shall not be invalidated by any act or neglect of the Board, Lessor, Lessee or apartment owners or any persons under any of them; (b) contain a waiver by the insurer of any right of subrogation to any right of the Board, Lessor, Lessee or apartment owners against any of them or any other persons under them; (c) contain a "severability of interest" endorsement, precluding the insurer from denying the claim of an apartment owner because of negligent acts of the Association or other apartment owners; and (d) Provide that the policy and its coverage may not be cancelled or reduced (whether or not requested by the Board), except by the insurer giving at least sixty (60) days' prior written notice thereof to the Board, Lessor, Lessee, apartment owners, every first mortgage of an apartment sublease or condominium conveyance document 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 shall be 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 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; provided that no adjustment shall be made which decreases any insurance coverage.

At the request of any mortgagee of any interest in any apartment, the Board shall furnish to such mortgagee a copy of the casualty and liability insurance policies referred to in the foregoing paragraph J.

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 untenable, 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 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 untenable, 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 vote against such reconstruction or repair. In the event the property shall not be reconstructed or repaired pursuant to such vote, the provisions of Section 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 Lessor and Lessee as their interests may appear, 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 approved 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 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 addition thereto, different in

any material respect from said condominium map of the project, shall be undertaken by the Association or any apartment owners only pursuant to an amendment of this Declaration, duly executed by or pursuant to the affirmative vote of all the apartment owners and accompanied by the written consent of the holders of all liens affecting any of the apartments, and in accordance with complete plans and specifications therefor first approved in writing by the 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 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, provided further, however, that in the event and to the extent the layout, location, description, or area of the apartment is changed from that described in the Declaration or as depicted on the Condominium File Plan, an amendment to this Declaration, or Condominium

File Plan, or both, shall be duly executed and recorded by the owners of all apartments directly affected by such change (as determined by the Board as aforesaid), the Board and the holders of all first liens affecting such affected apartments.

O. MAINTENANCE RESERVE FUND. The Board shall establish and maintain a Maintenance Reserve Fund by the assessment of and payment by all 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 horizontal 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 horizontal property regime.

P. AMENDMENT OF DECLARATION. Except as otherwise provided herein or in said Horizontal Property Act, this

Declaration may be amended by vote of seventy-five percent (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 of this Declaration shall also require the prior written approval thereof by the Lessor and at least seventy-five percent (75%) of the institutional holders of first mortgages on apartment subleases or condominium conveyance documents demising or transferring the same (based upon one vote for each first mortgage owned); and, further provided, that the Lessor and Lessee reserve the right to amend this Declaration without the consent or joinder of persons then owning or leasing the apartments by filing an amendment to this Declaration pursuant to the provisions of Section 514A-13, Hawaii Revised Statutes, after completion of the building 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. Notwithstanding the foregoing provisions of this paragraph, the Declaration may further be amended as set forth in Paragraph N hereof. Provided that such amendment shall be effective only upon the recording of the same in the appropriate registry of conveyances of the State of Hawaii.

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 attached hereto 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. Lessor hereby agrees to take no action which would adversely affect the rights of the Association of 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 horizontal property regime.

IN WITNESS WHEREOF, Lessor, Lessee and Developer have
executed these presents this 28th day of February,
19 78.

TRUSTEES OF THE LILIUOKALANI TRUST

By FIRST HAWAIIAN BANK

By *Lee J. med*

 T.L.S. VICE PRESIDENT & TRUST OFFICER

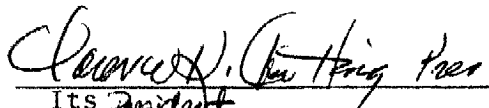
By _____
Its _____

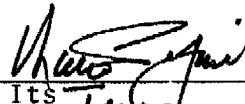
Clarinda Rose Lucas.

- 25 -

James N. May

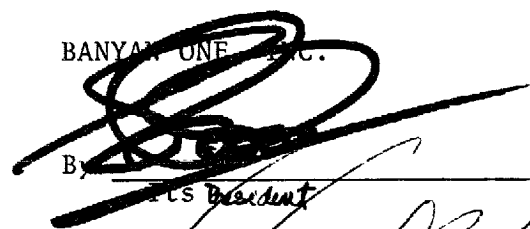
KAWAIAHAO CHURCH

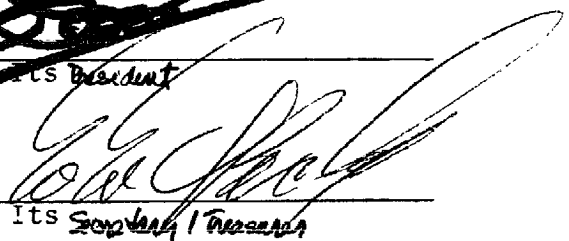
By 
Its President

By 
Its Treasurer

"Lessor"

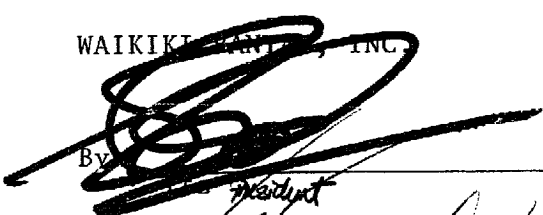
BANYAN ONE, INC.


By 
Its President

By 
Its Secretary / Treasurer

"Lessee"

WAIKIKI MANA, INC.

By 
Its President

By 
Its Secretary / Treasurer

"Developer"

STATE OF HAWAII
CITY AND COUNTY OF HONOLULU

)
) SS.
)

LIBER 12789 PG 642

On this 24th day of February, 1978, before me personally appeared Clorenda Low Lucas and Norden S. May, two of the TRUSTEES OF THE LILIUOKALANI TRUST, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed, as such Trustees.

Ermini L. Martin
Notary Public, First Judicial
Circuit, State of Hawaii

My commission expires OCTOBER 9, 1981

STATE OF HAWAII
CITY AND COUNTY OF HONOLULU

)
) SS.
)

On this 24th day of February, 1978, before me appeared EARL GOULD, to me personally known, who, being by me duly sworn, did say that he is the VICE PRESIDENT & TRUST OFFICER of FIRST HAWAIIAN BANK, one of the Trustees of the Liliuokalani Trust, 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 EARL GOULD acknowledged said instrument to be the free act and deed of said corporation, as such Trustess.

Ermini L. Martin
Notary Public, First Judicial
Circuit, State of Hawaii

My commission expires OCTOBER 9, 1981

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 24th day of February, 1978, before me appeared Clarence K. Chu Hing, and Walter P. Yem to me personally known, who being by me duly sworn, did say that they are the President and Treasurer, respectively, of KAWAIAHAO CHURCH, a Hawaii eleemosynary corporation, 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 Clarence K. Chu Hing and Walter P. Yem acknowledged said instrument to be the free act and deed of said corporation, as such Trustess.

Ermine L. Martin
Notary Public, First Judicial
Circuit, State of Hawaii

My commission expires OCTOBER 9, 1981

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 28th day of February, 1978, before me appeared Stanley Cook and William W. Becker, to me personally known, who being by me duly sworn, did say that they are the President and Secretary/Treasurer respectively, of BANYAN ONE, INC., a Hawaii corporation, 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 Stanley Cook and William W. Becker acknowledged said instrument to be the free act and deed of said corporation.

Notary Public, First Judicial
Circuit, State of Hawaii.

My commission expires 10-30-79

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

On this 28th day of February, 1978, before me appeared Stanley Cook and William W. Becker, to me personally known, who being by me duly sworn, did say that they are the President and Secretary/Treasurer respectively. of WAIKIKI BANYAN, INC., a Hawaii corporation, 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 Stanley Cook and William W. Becker acknowledged said instrument to be the free act and deed of said corporation.

Notary Public, First Circuit
State of Hawaii

My commission expires: 10-30-79

Beginning at a pipe at the North corner of this parcel of land, being also the North corner of Block F of Land Court Application 1865 (Pending), the coordinates of said point of beginning referred to Government Survey Triangulation Station "WAIKIKI" being 3,246.39 feet South and 2,786.85 feet East, thence running by azimuths measured clockwise from True South:

1. 312° 45' 230.00 feet along Lots 30-B, D-1 and 36-B of Land Court Application 615 to a pipe;
2. 42° 45' 420.02 feet along the Northwest side of Paoakalani Avenue to a pipe;
3. 44° 52' 16.65 feet along same;
4. Thence along the North corner of the intersection of Paoakalani and Kuhio Avenues, on a curve to the right with with a radius of 20.00 feet, the azimuth and distance of the chord being 95° 14' 30" 30.81 feet;
5. 145° 37' 194.28 feet along the Northeast side of Kuhio Avenue to a pipe;
6. Thence along the East corner of the intersection of Kuhio and Ohua Avenues, on a curve to the right with a radius of 20.00 feet, the azimuth and distance of the chord being 184° 11' 24.94 feet to a pipe;
7. 222° 45' 73.04 feet along the Southeast side of Ohua Avenue;

- | | | | | |
|-----|------|-----|--------|--|
| 8. | 315° | 12' | 107.44 | feet along the remainder
of Royal Patent 5588, Land
Commission Award 8452, Apana
3, Section 1 to A. Keohokalole; |
| 9. | 225° | 00' | 59.95 | feet along same; |
| 10. | 222° | 45' | 14.76 | feet along same; |
| 11. | 135° | 20' | 110.11 | feet along same; |
| 12. | 222° | 45' | 244.60 | feet along the Southeast side
of Ohua Avenue to the point of
beginning and containing an
area of 91,649 square feet,
more or less. |

SUBJECT, HOWEVER, TO:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. Grant dated December 11, 1925, recorded on December 2, 1929 in the Bureau of Conveyances of the State of Hawaii in Book 1038, Page 23, in favor of CITY AND COUNTY OF HONOLULU, Board of Water Supply for sewer line and water main purposes.

All of that certain parcel of land (being a portion of Royal Patent 5588, Land Commission Award 8452, Apana 3, Section 1 to A. Keohokalole), situated on the Southeast side of Ohua Avenue, at Hamohamo, Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, and thus bounded and more particularly described as per survey of Robert S. Torigoe, Registered Land Surveyor No. 1361, dated December 15, 1977, as follows:

Beginning at the North corner of this parcel of land and on the Southeast side of Ohua Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WAIKIKI" being 3,426.01 feet South and 2,620.82 feet East, thence running by azimuths measured clockwise from True South:

- | | | | | |
|----|------|-----|--------|--|
| 1. | 315° | 20' | 110.11 | feet along Block F of Land Court Application 1865 (Pending), along the remainder of Royal Patent 5588, Land Commission Award 8452, Apana 3, Section 1 to A. Keohokalole; |
| 2. | 42° | 45' | 14.76 | feet along the same; |
| 3. | 45° | 00' | 59.95 | feet along the same; |
| 4. | 135° | 20' | 107.74 | feet along the same; |
| 5. | 222° | 45' | 75.02 | feet along the Southeast side of Ohua Avenue to the point of beginning and containing an area of 8,160 square feet, more or less. |

SUBJECT, HOWEVER, TO:

1. The reservation in favor of the State of Hawaii of all mineral and metallic mines.

EXHIBIT "C"

Apartments. Eight hundred seventysix (876) apartments are hereby designated in the spaces within the perimeter walls, floors and ceilings of each of the 876 apartments of the project, which spaces together with appurtenant lanais, if any, referred to herein as "apartments", are designated on said plans and described as follows:

I

Apartments 604, 606, 607, 608, 609, 610, 611, 612, 613 and 614 are located on the sixth floor of the Makai Tower;

Apartments 601, 602, 603, 605, 607, 608, 609, 610, 611, 612, 613 and 614 are located on the sixth floor of the Mauka Tower;

Apartments 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713 and 714 are located on the seventh floor of the Makai Tower;

Apartments 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713 and 714 are located on the seventh floor of the Mauka Tower;

Apartments 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813 and 814 are located on the eighth floor of the Makai Tower;

Apartments 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813 and 814 are located on the eighth floor of the Mauka Tower;

Apartment 901, 902, 903, 904, 905
906, 907, 908, 909, 910, 911, 912, 913 and 914 are
located on the ninth floor of the Makai Tower;

Apartments 901, 902, 903, 904, 905,
906, 907, 908, 909, 910, 911, 912, 913 and 914 are
located on the ninth floor of the Mauka Tower;

Apartments 1001, 1002, 1003, 1004, 1005,
1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013 and
1014 are located on the tenth floor of the Makai Tower;

Apartments 1001, 1002, 1003, 1004, 1005,
1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013 and
1014 are located on the tenth floor of the Mauka Tower;

Apartments 1101, 1102, 1103, 1104, 1105,
1106, 1107, 1108, 1109, 1110, 1111, 1112, 1113 and
1114 are located on the eleventh floor of the Makai
Tower;

Apartments 1101, 1102, 1103, 1104, 1105,
1106, 1107, 1108, 1109, 1110, 1111, 1112, 1113 and
1114 are located on the eleventh floor of the Mauka
Tower;

Apartments 1201, 1202, 1203, 1204, 1205,
1206, 1207, 1208, 1209, 1210, 1211, 1212, 1213 and
1214 are located on the twelfth floor of the Makai
Tower;

Apartments 1201, 1202, 1203, 1204, 1205,
1206, 1207, 1208, 1209, 1210, 1211, 1212, 1213 and 1214
are located on the twelfth floor of the Mauka Tower

Apartments 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1413 and 1414 are located on the fourteenth floor of the Makai Tower;

Apartments 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1413 and 1414 are located on the fourteenth floor of the Mauka Tower;

Apartments 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513 and 1514 are located on the fifteenth floor of the Makai Tower;

Apartments 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513 and 1514 are located on the fifteenth floor of the Mauka Tower;

Apartments 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613 and 1614 are located on the sixteenth floor of the Makai Tower;

Apartments 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613 and 1614 are located on the sixteenth floor of the Mauka Tower;

Apartments 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1709, 1710, 1711, 1712, 1713 and 1714 are located on the seventeenth floor of the Makai Tower;

Apartments 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1709, 1710, 1711, 1712, 1713 and 1714 are located on the seventeenth floor of the Mauka Tower;

Apartments 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1811, 1812, 1813 and 1814 are located on the eighteenth floor of the Makai Tower;

Apartments 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1811, 1812, 1813 and 1814 are located on the eighteenth floor of the Mauka Tower;

Apartments 1901, 1902, 1903, 1904, 1905, 1806, 1907, 1908, 1909, 1910, 1911, 1912, 1913 and 1914 are located on the nineteenth floor of the Makai Tower;

Apartments 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1908, 1909, 1910, 1911, 1912, 1913 and 1914 are located on the nineteenth floor of the Mauka Tower;

Apartments 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013 and 2014 are located on the twentieth floor of the Makai Tower;

Apartments 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013 and 2014 are located on the twentieth floor of the Mauka Tower;

Apartments 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113 and 2114 are located on the twenty-first floor of the Makai Tower;

Apartments 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113 and 2114 are located on the twenty-first floor of the Mauka Tower;

Apartments 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213 and 2214 are located on the twenty-second floor of the Makai Tower;

Apartments 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213 and 2214 are located on the twenty-second floor of the Mauka Tower;

Apartments 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313 and 2314 are located on the twenty-third floor of the Makai Tower;

Apartments 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313 and 2314 are located on the twenty-third floor of the Mauka Tower;

Apartments 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413 and 2414 are located on the twenty-fourth floor of the Makai Tower

Apartments 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413 and 2414 are located on the twenty-fourth floor of the Mauka Tower

Apartments 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513 and 2514 are located on the twenty-fifth floor of the Makai Tower;

Apartments 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513 and 2514 are located on the twenty-fifth floor of the Mauka Tower;

Apartments 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613 and 2614 are located on the twenty-sixth floor of the Makai Tower

Apartments 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613 and 2614 are located on the twenty-sixth floor of the Mauka Tower

Apartments 2701, 2702, 2703, 2704, 2705, 2706, 2707, 2708, 2709, 2710, 2711, 2712, 2713 and 2714 are located on the twenty-seventh floor of the Makai Tower

Apartments 2701, 2702, 2703, 2704, 2705, 2706, 2707, 2708, 2709, 2710, 2711, 2712, 2713 and 2714 are located on the twenty-seventh floor of the Mauka Tower

Apartments 2801, 2802, 2803, 2804, 2805, 2806, 2807, 2808, 2809, 2810, 2811, 2812, 2813 and 2814 are located on the twenty-eighth floor of the Makai Tower;

Apartments 2801, 2802, 2803, 2804, 2805, 2806, 2807, 2808, 2809, 2810, 2811, 2812, 2813 and 2814 are located on the twenty-eighth floor of the Mauka Tower;

Apartments 2901, 2902, 2903, 2904, 2905, 2906, 2907, 2908, 2909, 2910, 2911, 2912, 2913 and 2914 are located on the twenty-ninth floor of the Makai Tower;

Apartments 2901, 2902, 2903, 2904, 2905, 2906, 2907, 2908, 2909, 2910, 2911, 2912, 2913 and 2914 are located on the twenty-ninth floor of the Mauka Tower;

Apartments 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013 and 3014 are located on the thirtieth floor of the Makai Tower;

Apartments 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013 and 3014 are located on the thirtieth floor of the Mauka Tower;

Apartments 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113 and 3114 are located on the thirty-first floor of the Makai Tower

Apartments 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113 and 3114 are located on the thirty-first floor of the Mauka Tower

Apartments 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3208, 3209, 3210, 3211, 3212, 3213 and 3214 are located on the thirty-second floor of the Makai Tower;

Apartments 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3208, 3209, 3210, 3211, 3212, 3213 and 3214 are located on the thirty-second floor of the Mauka Tower;

Apartments 3301, 3302, 3303, 3304, 3305, 3306, 3307, 3308, 3309, 3310, 3311, 3312, 3313 and 3314 are located on the thirty-third floor of the Makai Tower;

Apartments 3301, 3302, 3303, 3304, 3305, 3306, 3307, 3308, 3309, 3310, 3311, 3312, 3313 and 3314 are located on the thirty-third floor of the Mauka Tower;

Apartments 3401, 3402, 3403, 3404, 3405, 3406, 3407, 3408, 3409, 3410, 3411, 3412, 3413 and 3414 are located on the thirty-fourth floor of the Makai Tower;

Apartments 3401, 3402, 3403, 3404, 3405, 3406, 3407, 3408, 3409, 3410, 3411, 3412, 3413 and 3414 are located on the thirty-fourth floor of the Mauka Tower;

Apartments 3501, 3502, 3503, 3504, 3505, 3506, 3507, 3508, 3509, 3510, 3511, 3512, 3513 and 3514 are located on the thirty-fifth floor of the Makai Tower;

Apartments 3501, 3502, 3503, 3504, 3505, 3506, 3507, 3508, 3509, 3510, 3511, 3512, 3513 and 3514 are located on the thirty-fifth floor of the Mauka Tower;

Apartments 3601, 3602, 3603, 3604, 3605, 3606, 3607, 3608, 3609, 3610, 3611, 3612, 3613 and 3614 are located on the thirty-sixth floor of the Makai Tower;

Apartments 3601, 3602, 3603, 3604, 3605, 3606, 3607, 3608, 3609, 3610, 3611, 3612, 3613 and 3614 are located on the thirty-sixth floor of the Mauka Tower;

Apartments 3701, 3702, 3703, 3704, 3705, 3706, 3707, 3708, 3709, 3710, 3711, 3712, 3713 and 3714 are located on the thirty-seventh floor of the Makai Tower;

Apartments 3701, 3702, 3703, 3704, 3705, 3706, 3707, 3708, 3709, 3710, 3711, 3712, 3713 and 3714 are located on the thirty-seventh floor of the Mauka Tower;

Apartments 3801, 3802, 3803, 3804, 3805, 3806, 3807, 3808, 3809, 3810, 3811, 3812, 3813 and 3814 are located on the thirty-eighth floor of the Mauka Tower.

II

A. Makai Tower:

Those apartments, the last two digits of the numbers of which are -01, are located in the Diamond Head-Mauka corner of the Tower;

Those apartments, the last two digits of the numbers of which are -02, are located in the Ewa-Mauka corner of the Tower;

Those apartments, the last two digits of the numbers of which are -03, are located in the Diamond Head side of the Tower next to the apartments, the numbers of which end in -01;

Those apartments, the last two digits of the numbers of which are -04, are located in the Ewa side

of the Tower next to the apartments, the numbers of which end in -02;

Those apartments, the last two digits of the numbers of which are -05, are located in the Diamond Head side of the Tower next to the apartments, the numbers of which end in -03;

Those apartments, the last two digits of the numbers of which are -06, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -04;

Those apartments, the last two digits of the numbers of which are -07, are located in the Diamond Head side of the Tower next to the apartments, the numbers of which end in -05;

Those apartments, the last two digits of the numbers of which are -08, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -06;

Those apartments, the last two digits of the numbers of which are -09, are located in the Diamond Head side of the Tower next to the apartments, the numbers of which end in -07;

Those apartments, the last two digits of the numbers of which are -10, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -08;

Those apartments, the last two digits of the numbers of which are -11, are located in the Diamond

Head side of the Tower next to the apartments, the numbers of which end in -09;

Those apartments, the last two digits of the numbers of which are -12, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -10;

Those apartments, the last two digits of the numbers of which are -13, are located in the Diamond Head-Makai corner of the Tower;

Those apartments, the last two digits of the numbers of which are -14, are located in the Ewa-Makai corner of the Tower.

B. Mauka Tower:

Those apartments, the last two digits of the numbers of which are -01, are located in the Ewa-Mauka corner of the Tower;

Those apartments, the last two digits of the numbers of which are -02, are located in the Ewa-Makai corner of the Tower;

Those apartments, the last two digits of the numbers of which are -03, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -01;

Those apartments, the last two digits of the numbers of which are -04, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -02;

Those apartments, the last two digits of

Head side of the Tower next to the apartments, the numbers of which end in -09;

Those apartments, the last two digits of the numbers of which are -12, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -10;

Those apartments, the last two digits of the numbers of which are -13, are located in the Diamond Head-Makai corner of the Tower;

Those apartments, the last two digits of the numbers of which are -14, are located in the Ewa-Makai corner of the Tower.

B. Mauka Tower:

Those apartments, the last two digits of the numbers of which are -01, are located in the Ewa-Mauka corner of the Tower;

Those apartments, the last two digits of the numbers of which are -02, are located in the Ewa-Makai corner of the Tower;

Those apartments, the last two digits of the numbers of which are -03, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -01;

Those apartments, the last two digits of the numbers of which are -04, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -02;

Those apartments, the last two digits of

the numbers of which are -05, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -03;

Those apartments, the last two digits of the numbers of which are -06, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -04;

Those apartments, the last two digits of the numbers of which are -07, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -05;

Those apartments, the last two digits of the numbers of which are -08, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -06;

Those apartments, the last two digits of the numbers of which are -09, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -07;

Those apartments, the last two digits of the numbers of which are -10, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -08;

Those apartments, the last two digits of the numbers of which are -11, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -09;

Those apartments, the last two digits of

the numbers of which are -12, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -10;

Those apartments, the last two digits of the numbers of which are -13, are located in the Mauka-Diamond Head corner of the Tower;

Those apartments, the last two digits of the numbers of which are -14, are located in the Makai-Diamond Head corner of the Tower.

III

A description of each of the apartments, designating the layout, number of rooms and approximate floor area thereof, is as follows:

Each apartment designated Type "A" and Type "AR" on Exhibit "D" attached hereto and incorporated herein by reference contains one bedroom, one bathroom, a dressing room, kitchen, living room and a lanai and each contains a total area of approximately 600.31 square feet, including the lanai; provided, however, that Apartments 608, 610 and 612 in the Makai Tower, each contains a patio in addition to said bedroom, bathroom, dressing room, kitchen, living room and lanai, and Apartments 608 and 610 in the Makai Tower, each contains a total area of approximately 1,693.31 square feet, including the lanai and patio, and Apartment 612 in the Makai Tower, contains a total area of approximately 1,784.31 square feet, including the lanai and patio. The layout of Apartments designated Type "A" is

the reverse of that of the apartments designated Type "AR".

Each apartment designated Type "A1" and Type "AR1" on said Exhibit "D" contains one bedroom, one bathroom, a dressing room, kitchen, living room and lanai and contains a total area of approximately 600.31 square feet, including the lanai. The layout of the apartments designated Type "AR1" is the reverse of that of the apartments designated Type "A1".

Each apartment designated Type "B" and Type "BR" on Exhibit "D" attached hereto and incorporated herein by reference contains one bedroom, a bathroom, dressing room, dining area, living room, kitchen and lanai and a total area of approximately 661.29 square feet, including the lanai. The layout of the apartments designated Type "BR" on said Exhibit "D" is the reverse of those designated Type "B".

Each apartment designated on said Exhibit "D" attached hereto and incorporated herein by reference as Type "C" and Type "E" contains one bedroom, one bathroom, a dressing room, kitchen, living room, foyer and a lanai and a total area of approximately 648.78 square feet, including the lanai.

Each apartment designated on said Exhibit "D" as Type "D" and Type "F" contains one bedroom, one bathroom, a dressing room, living room, kitchen and a lanai and a total area of approximately 598.90 square feet, including the lanai.

IV

Each apartment shall be furnished with a Range, Range Hood, Disposal, Refrigerator and Room Air Conditioning Unit.

EXHIBIT "D"

I. Type "A"

A. Mauka Tower.

706, 806, 906, 1006, 1106, 1206 and 1406, 1506, 1606, 1706, 1806, 1906, 2006, 2106, 2206, 2306, 2406, 2506, 2606, 2706, 2806, 2906, 3006, 3106, 3206, 3306, 3406, 3506, 3606, 3706, 3806; 607, 807, 907, 1007, 1107, 1207, 1307, 1407, 1507, 1607, 1707, 1807, 1907, 2007, 2107, 2207, 2307, 2407, 2507, 2607, 2797, 2897, 2907, 3007, 3107, 3207, 3307, 3407, 3507, 3607, 3707, 3807; 610, 710, 810, 910, 1010, 1110, 1210, 1410, 1510, 1610, 1710, 1810, 1910, 2010, 2110, 2210, 2310, 2410, 2510, 2610, 2710, 2810, 2910, 3010, 3110, 3210, 3310, 3410, 3510, 3610, 3710, 3810; 611, 711, 811, 911, 1011, 1111, 1211, 1411, 1511, 1611, 1711, 1811, 1911, 2011, 2111, 2211, 2311, 2411, 2511, 2611, 2711, 2811, 2911, 3011, 3111, 3211, 3311, 3411, 3511, 3611, 3711, 3811.

B. Makai Tower.

703, 803, 903, 1003, 1103, 1203, 1403, 1503, 1603, 1703, 1803, 1903, 2003, 2103, 2203, 2303, 2403, 2503, 2603, 2703, 2803, 2903, 3003, 3103, 3203, 3303, 3403, 3503, 3603, 3703; 607, 707, 807, 907, 1007, 1107, 1207, 1407, 1507, 1607, 1707, 1807, 1907, 2007, 2107, 2207, 2307, 2407, 2507, 2607, 2707, 2807, 2907, 3007, 3107, 3207, 3307, 3407, 3507, 3607, 3707.

II. Type "A1"

A. Mauka Tower.

602, 702, 802, 902, 1002, 1102, 1202, 1402, 1502, 1602, 1702, 1802, 1902, 2002, 2102, 2202, 2302, 2402, 2502, 2602, 2702, 2802, 2902, 3002, 3102, 3202, 3302, 3402, 3502, 3602, 3702, 3802.

B. Makai Tower.

702, 802, 902, 1002, 1102, 1202, 1402, 1502, 1602,
 1702, 1802, 1902, 2002, 2102, 2202, 2302, 2402, 2502, 2602,
 2702, 2802, 2902, 3002, 3102, 3202, 3302, 3402, 3502, 3602,
 3702.

III. Type "AR1"A. Mauka Tower.

601, 701, 801, 901, 1001, 1101, 1201, 1401, 1501, 1601,
 1701, 1801, 1901, 2001, 2101, 2201, 2301, 2401, 2501, 2601,
 2701, 2801, 2901, 3001, 3101, 3201, 3301, 3401, 3501, 3601,
 3701, 3801.

B. Makai Tower.

701, 801, 901, 1001, 1101, 1201, 1301, 1401, 1501,
 1601, 1701, 1801, 1901, 2001, 2101, 2201, 2301, 2401, 2501,
 2601, 2701, 2801, 2901, 3001, 3101, 3201, 3301, 3401, 3501,
 3601, 3701.

IV. Type "AR"A. Mauka Tower.

704, 804, 904, 1004, 1104, 1204, 1404, 1504, 1604,
 1704, 1804, 1904, 2004, 2104, 2204, 2304, 2404, 2504, 2604,
 2704, 2804, 2904, 3004, 3104, 3204, 3304, 3404, 3504, 3604,
 3704, 3804; 608, 708, 808, 908, 1008, 1108, 1208, 1408,
 1508, 1608, 1708, 1808, 1908, 2008, 2108, 2208, 2308, 2408,
 2508, 2608, 2708, 2808, 2908, 3008, 3108, 3208, 3308, 3408,
 3508, 3608, 3708, 3808; 609, 709, 809, 909, 1009, 1109,
 1209, 1409, 1509, 1609, 1709, 1809, 1909, 2009, 2109, 2209,
 2309, 2409, 2509, 2609, 2709, 2809, 2909, 3009, 3109, 3209,
 3309, 3409, 3509, 3609, 3709, 3809; 612, 712, 812, 912,
 1012, 1112, 1212, 1412, 1512, 1612, 1712, 1812, 1912, 2012,

2112, 2212, 2312, 2412, 2512, 2612, 2712, 2812, 2912,
3012, 3112, 3212, 3312, 3412, 3512, 3612, 3712, 3812.

B. Makai Tower.

705, 805, 905, 1005, 1105, 1205, 1405, 1505, 1605,
1705, 1805, 1905, 2005, 2105, 2205, 2305, 2405, 2505, 2605,
2705, 2805, 2905, 3005, 3105, 3205, 3305, 3405, 3505, 3605,
3705, 3805; 608, 708, 908, 1008, 1108, 1208, 1408, 1508,
16108, 1708, 1808, 1908, 2008, 2108, 2208, 2308, 2408, 2508,
2608, 2708, 2808, 2908, 3008, 3108, 3208, 3308, 3408, 3508,
3608, 3708; 609, 709, 809, 909, 1009, 1109, 1208, 1409,
1509, 1609, 1709, 1809, 1909, 2009, 2109, 2208, 2309, 2409,
2509, 2609, 2709, 2809, 2909, 3009, 3109, 3209, 3309, 3409,
3509, 3609, 3709; 612, 712, 812, 912, 1012, 1112, 1212,
1412, 1512, 1612, 1712, 1812, 1912, 2012, 2112, 2212, 2312,
2412, 2512, 2612, 2712, 2812, 2912, 3012, 3112, 3212, 3312,
3412, 3512, 3612, 3712.

V. Type "B"

A. Mauka Tower.

614, 714, 814, 914, 1014, 1114, 1214, 1414, 1514,
1614, 1714, 1814, 1914, 2014, 2114, 2214, 2314, 2414, 2514,
2614, 2714, 2814, 2914, 3014, 3114, 3214, 3314, 3414, 3514,
3614, 3714, 3814.

B. Makai Tower.

614, 714, 814, 914, 1014, 1114, 1214, 1414, 1514,
1614, 1714, 1814, 1914, 2014, 2114, 2214, 2314, 2414, 2514,
2614, 2714, 2814, 2914, 3014, 3114, 3214, 3314, 3414, 3514,
3614, 3714.

VI. Type "BR"A. Mauka Tower.

613, 713, 813, 913, 1013, 1113, 1213, 1413, 1513,
1613, 1713, 1813, 1913, 2013, 2113, 2213, 2313, 2413, 2513,
2613, 2713, 2813, 2913, 3013, 3113, 3213, 3313, 3413, 3513,
3613, 3713, 3813.

B. Makai Tower.

613, 713, 813, 913, 1013, 1113, 1213, 1413, 1513,
1613, 1713, 1813, 1913, 2013, 2113, 2213, 2313, 2413, 2513,
2613, 2713, 2813, 2913, 3013, 3113, 3213, 3313, 3413, 3513,
3613, 3713.

VII. Type "C"A. Makai Tower.

606, 706, 806, 906, 1006, 1106, 1206, 1406, 1506,
1606, 1706, 1806, 1906, 2006, 2106, 2206, 2306, 2406, 2506,
2606, 2706, 2806, 2906, 3006, 3106, 3206, 3306, 3406, 3506,
3606, 3706.

VIII. Type "D"A. Makai Tower.

604, 704, 804, 904, 1004, 1104, 1204, 1404, 1504,
1604, 1704, 1804, 1904, 2004, 2104, 2204, 2304, 2404, 2504,
2604, 2704, 2804, 2904, 3004, 3104, 3204, 3304, 3404, 3504,
3604, 3704.

BY-LAWS OF THE
ASSOCIATION OF APARTMENT OWNERS OF
WAIKIKI BANYAN

The following By-Laws shall apply to the above-named condominium project (herein called the "project"), as described in and created by Declaration of Horizontal Property Regime (herein called the "Declaration") to be recorded or filed of record in the State of Hawaii contemporaneously herewith, and to all present and future owners, tenants and occupants of any apartments of the project and all other persons who shall at any time use the project. The mere acquisition or rental of any apartment or the mere act of occupancy of any apartment will signify that these By-Laws are accepted, ratified, and will be complied with.

ARTICLE I

MEMBERSHIP

Section 1. Qualification. All owners of apartments of the project shall constitute the Association of Apartment Owners (herein called the "Association"). The owner of any apartment upon acquiring title thereto shall automatically become a member of the Association and shall remain a member thereof until such time as his ownership of such apartment ceases for any reason, at which time his membership in the Association shall automatically cease; provided, however, that to such extent and for such purposes, including voting, as shall be provided by lease of any apartment filed with the Board of Directors of the Association, the lessee of such apartment shall be deemed to be the owner thereof. The successor under any apartment sublease or condominium conveyance document shall be deemed to be an apartment owner under these By-Laws.

Section 2. Place of Meetings. Meetings of the Association shall be held at the project or such other suitable place convenient to the apartment owners as may be designated by the Board of Directors.

Section 3. Annual Meetings. The first annual meeting of the Association shall be held as soon as practicable after recording of the Declaration and these By-Laws upon the call of at least ten percent (10%) of the apartment owners; provided, however, that said first annual meeting shall in no event be held more than one hundred eighty (180) days after the date on which the certificate of occupancy for the project was issued by the appropriate county agency. Thereafter the annual meetings of the Association shall be held within three months after the end of each accounting year.

Section 4. Special Meetings. Special meetings of the Association may be held at any time upon the call of the President or a petition signed by at least twenty-five percent (25%) of the apartment owners and presented to the Secretary.

Section 5. Notice of Meetings. The Secretary shall give written or printed notice of each annual and special meeting to every apartment owner according to the Association's record of ownership, and to every institutional holder of a first mortgage on an apartment 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 or the Managing Agent, at least fourteen (14) days but not more than twenty (20) days before the date

set for such meeting, stating whether it is an annual or special meeting, the authority for the call thereof, the place, day and hour of such meeting, the items on the agenda for such meeting and a standard proxy form authorized by the Association, if any, in any of the following ways: (a) by delivering it to him personally, or (b) by leaving it at his apartment in the project or at his usual residence or place of business, or (c) by mailing it, postage prepaid, addressed to him at his address as it appears on the Association's record of ownership. If notice is given pursuant to the provisions of this section, the failure of any apartment owner or mortgagee to receive actual notice of any meeting shall in no way invalidate such meeting or any proceedings thereat. The presence of any apartment owner or mortgagee in person or by proxy at any meeting shall be deemed a waiver of any required notice to such owner unless he shall at the opening thereof object to the holding of such meeting because of the failure to give notice in accordance with the provisions hereof.

Section 6. Quorum. The presence at any meeting in person or by proxy of a majority of apartment owners shall constitute a quorum, and the acts of a majority of the apartment owners 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 apartment owners" herein means the owners of apartments to which are appurtenant more than fifty percent (50%) of the common interests as established by the Declaration, any other specified percentage of the apartments owners means the owners of

apartments to which are appurtenant such percentage of the common interests.

Section 7. Voting. Voting shall be on a percentage basis, and the percentage of the total vote to which each apartment is entitled shall be 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, personal representative 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 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 or others, and in case of protest each co-tenant shall be entitled to only a share of such vote in proportion to his share of ownership in such apartment. The purchaser of an apartment pursuant to an agreement of sale recorded in the Bureau of Conveyances of the State of Hawaii or filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii shall have all of the rights of a unit owner, including the right to vote, except as to those matters expressly retained by the seller under such agreement of sale, pursuant to Section 514A-83, Hawaii Revised Statutes, as amended.

Section 8. Proxies and Pledges. The authority given by any apartment owner to another person to represent him at meetings of the Association shall be in writing, signed by such owner and filed with the Secretary, and unless limited by its terms shall continue until revoked by a writing filed with the Secretary or by the death or incapacity of such owner; provided, however, that the standard proxy form, if any, which accompanies a notice of meeting shall be valid only for the meeting to which such notice pertains and its adjournment, if any. 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 like manner.

Section 9. Adjournment. Any meeting of the Association may be adjourned from time to time not less than forty-eight (48) hours from the time the original meeting was called as may be determined by majority vote of the apartment 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 10. Order of Business. 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 meeting.
- (d) Report of officers.
- (e) Report of committees.
- (f) Election of inspectors of election.
- (g) Election of directors.
- (h) Unfinished business.
- (i) New business.

Section 11. Conduct of Meeting. Unless some other generally accepted rules for the conduct of meetings of the Association are designated or adopted by majority vote of the apartment owners, all meetings of the Association and the Board of Directors shall be conducted in accordance with Roberts Rules of Order.

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 nine (9) persons. All members of the Board of Directors shall be owners, co-owners, vendees under an agreement of sale, or an officer of any corporate owner of an apartment. The partners in a general partnership and the general partner(s) of a limited partnership shall be deemed to be the owners of an apartment for this purpose. The directors shall serve without compensation, unless such compensation is specifically authorized by the Association at a regular or special meeting. The resident manager of the project, if any, may not serve on the Board.

Section 2. Powers. The Board of Directors shall have all powers necessary for the administration of the affairs of the Association and may do all such acts and things therefor as are not by law, the Declaration or these By-Laws directed to be exercised or done only by the apartment owners.

Section 3. Election and Terms. Election of directors shall be by cumulative voting by secret ballot at each annual meeting and any special meeting called for the purpose. Directors shall hold office for a period of three (3) years and until their respective successors have been elected, subject to removal as herein provided, except that at the first annual meeting one-third of the directors shall be elected for one year, one-third for two years and one-third for three years.

Section 4. Vacancies. Vacancies in the Board of Directors caused by any reason other than 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 be a director until his successor is elected at the next annual meeting of the Association. Death, incapacity or resignation of any director, or his continuous absence from the State of Hawaii for more than six months, or his ceasing to be the sole owner or co-owner of an apartment, shall cause his office to become vacant.

Section 5. Removal of Directors. At any regular 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 then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the apartment owners shall be given an opportunity to be heard at such meeting.

Section 6. Annual Meetings. An organizational meeting of the Board of Directors shall be held at the place of and immediately following each annual meeting of the Association, and no notice shall be necessary to any directors in order validly to constitute such meeting, provided that a majority of the whole Board shall be present. At such meeting the Board shall elect the officers of the Association for the ensuing year.

Section 7. 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 one such meeting shall be held during each calendar quarter of every year. Notice of regular meetings of the Board shall be given to each director, personally or by mail, telephone or messenger service, at least three (3) days prior to the date of such meeting.

Section 8. Special Meetings. Special meetings of the Board of Directors may be called by the President on at least eight hours' notice to each director, given personally or by telephone or messenger service, 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 two directors.

Section 9. 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 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 these By-Laws shall constitute a quorum for the transaction of business, and the acts of a majority of the directors present at any meeting at which a quorum is present shall be the acts of 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.

Section 11. Fidelity Bonds. The Board of Directors shall require that all directors, officers, employees and agents of the Association handling or responsible for funds belonging to or administered by the Association furnish adequate fidelity bonds in favor of the Association. The premiums on such bonds shall be paid by the Association. Such bonds shall in no event be in an amount less than one and one-half times the Association's estimated annual operating expenses and reserves and every such bond shall:

(a) Provide that the bond(s) may not be cancelled or substantially modified (including cancellation for nonpayment of premiums) without at least thirty (30) days' prior written notice to the Board, the first mortgagees and every other person in interest who shall have requested such notice; and

(b) Contain a waiver of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

Section 12. Conflict of Interest. No member of the Board of Directors shall vote at any board meeting on any issue in which such member has a conflict of interest.

ARTICLE III

OFFICERS

Section 1. Designation. The principal officers of the Association shall be a President, Vice President, a Secretary and a Treasurer, all of whom shall be elected by, and in the case of the President from, 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.

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 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 By-Laws or assigned to him from time to time by the Board.

Section 5. Vice President. The Vice President shall assume and perform the duties of the President in the absence or disability of the President or whenever the office of President is vacant. 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 do so on an interim basis. He shall also have such other powers and duties as may be assigned to him from time to time 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 By-Laws, maintain and keep a continuous and accurate record of ownership of all apartments, 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.

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.

Section 8. Auditor. The Association shall appoint annually a public accountant or accounting firm as auditor, who shall not be an officer of the Association nor own any interest in any apartment, to audit the books and financial records of the Association as required by law or directed additionally by the Board of Directors. The members of the Association may by majority vote at any annual meeting require that the yearly audit be conducted by a certified public accountant or a firm of certified public accountants. Any institutional holder of a first mortgage on an apartment or of an apartment lease demising the same may request and the Association shall provide said mortgagee with a copy of said annual audited financial statement within ninety (90) days following the end of any fiscal year of the Association.

ARTICLE IV

ADMINISTRATION

Section 1. Management. The Board of Directors shall at all times manage and operate the project and have such powers and duties as may be necessary or proper therefor including without limitation the following:

- (a) Supervision of its immediate management and operation;

(b) Maintenance, repair, replacement and restoration of the common elements and any additions and alterations thereto;

(c) Purchase, maintenance and replacement of any equipment and provision of all water and utility services required for the common elements;

(d) Provision at each apartment of all 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;

(e) Employment, supervision and dismissal of such personnel as may be necessary for the maintenance and operation of the project;

(f) Preparation at least 60 days before each fiscal year of a proposed budget and schedule of assessments for such year;

(g) Collection of all installments of assessments levied and payment of all common expenses authorized by the Board.

(h) Purchase and maintenance in effect of all policies of hazard and liability insurance for the project required by the Declaration and such other insurance and bonds as may be required or authorized by the Declaration or the Board;

(i) Custody and control of all funds of the Association, maintenance of full and accurate books of account and records of such funds and preparation of regular financial reports thereof;

(j) Notification of all persons having any interest in any apartment according to the Association's record of

ownership of delinquency exceeding 30 days in the payment of any assessment against such apartment;

(k) Notification in writing of all institutional holders of first mortgages on apartments or apartment subleases or condominium conveyance documents demising or conveying the same, as shown in the Association's record of ownership or of which the Secretary of the Association has been given written notice, of any loss to, or taking of, the common elements of the project if such loss or taking exceeds TEN THOUSAND DOLLARS (\$10,000.00);

(l) Notification in writing to the institutional holder of the first mortgage on any apartment or apartment sublease or condominium conveyance document demising or conveying the same, as shown in the Association's record of ownership or of which the Secretary of the Association has been given written notice, of any loss to such apartment which exceeds ONE THOUSAND DOLLARS (\$1,000.00); and

(m) Establishment of such penalties and fines as it deems appropriate with respect to enforcement of the provisions of the Declaration, these By-Laws and the house rules adopted pursuant to Article V, Section 4, of these By-Laws; provided such penalties and fines are not inconsistent with the law or the provisions herein, and the unpaid amount of such penalties and fines against any apartment owner shall constitute a lien against his interest in his apartment which may be foreclosed by the Board of Directors or Managing Agent in the same manner as provided in the Horizontal Property Act for common expenses; provided, however, that the said lien for such penalties and fines shall be subordinate to liens for taxes and assessments lawfully

imposed by governmental authority against the apartment and to all sums unpaid on mortgages of record.

Section 2. Managing Agent. The Board of Directors shall annually employ a responsible Hawaii corporate Managing Agent to manage and control the project subject at all times to direction by the Board, with all of the administrative functions specifically set forth in the preceding Section 1 and with such other powers and duties and at such compensation as the Board may establish from time to time, subject to prior approval of every such employment contract by a majority of the apartment owners. Any decision by the Association to terminate professional corporate management of the project and to assume self-management of the project may not be effected without the prior written consent of at least seventy-five percent (75%) of the institutional holders of a first mortgage on an apartment or an apartment lease demising the same (based upon one vote for each first mortgage owned). Every such employment contract shall provide that it may be terminated by the Board of Directors for cause on no more than thirty (30) days' written notice and without cause on no more than ninety (90) days' written notice, and in no event may such employment contract be for a term exceeding one (1) year, and in no event shall a termination fee be due and owing the Managing Agent.

Section 3. Representation. The President or Managing Agent, subject to the direction of the Board of Directors, shall represent the Association or any two or more apartment owners similarly situated as a class in any action, suit, hearing or other proceeding concerning the Association, the common elements or more than one apartment, and on its or

their behalf may institute, defend, intervene in, prosecute and settle any such actions, suits and proceedings, without prejudice to the rights of any apartment owner individually to appear, sue or be sued. Service of process on two or more apartment owners in any such action, suit or proceeding may be made on the President or Managing Agent. Every first mortgagee to whom the sublessee under an Apartment Lease is required by the terms of the mortgage to pay the same or, whenever there is no such mortgagee, every Managing Agent shall also be the agent of the respective lessees under any apartment leases filed with the Board for the collection, custody and payment of all rent, taxes, assessments and other charges thereunder payable to their lessors.

Section 4. Execution of Instruments. All checks, drafts, notes, acceptances, conveyances, contracts and other instruments shall be signed on behalf of the Association by such person or persons as shall be provided by general or special resolution of the Board of Directors or, in the absence of any such resolution applicable to such instrument, by the President or Vice President and by the Treasurer or Secretary.

ARTICLE V

OBLIGATIONS OF APARTMENT OWNERS

Section 1. Assessments. All apartment owners shall pay to the Managing Agent in advance on the first day of each and every month the monthly installments of assessments against their respective apartments for common expenses of the project in accordance with the Declaration and also,

a monthly sum determined by the Managing Agent to be sufficient to accumulate and pay when due all rent, taxes, assessments and other charges thereunder payable by the lessee or sublessee of such apartment. Provided, however, that any apartment owners who are required under the terms of a first mortgage in favor of an institutional mortgagee encumbering an apartment sublease or a condominium conveyance document demising an apartment in the project to make lease rent payments to such mortgagee for transmittal to the Lessee, shall be permitted to do so.

Section 2. Maintenance of Apartments. Every apartment owner shall at his own expense at all times well and substantially repair, maintain, amend and keep his apartment and the limited common elements appurtenant thereto, including without limitation all internal installations therein such as water, electricity, gas, telephone, sewer, sanitation, air conditioning, lights and all other fixtures and accessories belonging to such apartment and the interior decorated or finished surfaces of all walls, floors and ceilings of such apartment, with all necessary reparations and amendments whatsoever in good order and condition except as otherwise provided by law or the Declaration, and shall be liable for all loss or damage whatsoever caused by his failure to perform any such work diligently, and in case of such failure after reasonable notice to perform shall reimburse to the Association promptly on demand all expenses incurred by it in performing any such work authorized by the Board of Directors or the Managing Agent. Every apartment owner and

occupant shall reimburse the Association promptly on demand all expenses incurred by it in repairing or replacing any uninsured loss or damage to the common elements or any furniture, furnishings and equipment thereof caused by such owner or occupant or any person under either of them and shall give prompt notice to the Managing Agent of any such loss or damage or other defect in the project when discovered.

Section 3. Use of Project

(a) The apartments of the project shall be used only for their respective purposes as set forth in the Declaration and for no other purpose.

(b) All common elements of the project shall be used only for their respective purposes as designed.

(c) No apartment owner or occupant shall place, store or maintain on walkways, roadways, grounds or other common elements any furniture, packages or objects of any kind or otherwise obstruct transit through such common elements.

(d) Every apartment owner and 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.

(e) 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 furniture, furnishings or equipment of the common elements.

(f) No apartment owner or occupant shall erect or place in the project any building or structure including fences and walls, nor make any additions or alterations to 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 Board and approved by the Board and a majority of apartment owners (or such larger percentage required by law

or the Declaration) including all owners of apartments thereby directly affected.

(g) No apartment owner shall decorate or landscape any entrance of his apartment or any other portion of the project except in accordance with standards therefor established by the Board of Directors or specific plans approved in writing by the Board.

(h) All occupants shall exercise extreme care about making noises and in the use of musical instruments, radios, televisions and amplifiers that may disturb other occupants.

(i) No garments, rugs or other objects shall be hung from the windows or facades of the project.

(j) 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.

(k) No refuse, garbage or trash of any kind shall be thrown, placed or kept on any common elements of the project outside of the disposal facilities provided for such purpose.

(l) No livestock, poultry, rabbits or other animals whatsoever shall be allowed or kept in any part of the project except that dogs, cats and other household pets in reasonable number may be kept by the apartment owners and occupants in their respective apartments but shall not be kept, bred or used therein for any commercial purpose nor allowed on any common elements except in transit when carried or on leash; provided, however, that any such pet causing a nuisance or unreasonable disturbance to any other occupant of the project shall be permanently removed therefrom promptly upon notice given by the Board of Directors or Managing Agent.

(m) No apartment owner or occupant shall without the written approval of the Board of Directors 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.

(n) No apartment owner or occupant shall erect, place or maintain any television or other antennas on said project visible from any point outside of the project.

(o) Nothing shall be allowed, done or kept in any apartments or common elements of the project which would overload or impair the floors, walls or roofs thereof, or cause any increase in the ordinary premium rates or the cancellation or invalidation of any insurance thereon maintained by or for the Association.

(p) If the project shall have separate elevators devoted (i) to the transportation of the apartment owners and their guests and (ii) for freight service or auxiliary purposes, the apartment owners and tradesmen are expressly required to utilize the freight or service elevators for transporting packages, merchandise or any other object that may affect the comfort or well-being of the passengers of the elevators dedicated to the transportation of the apartment owners, residents and guests.

Section 4. House Rules. The Board of Directors, upon giving notice to all apartment owners in the same manner as herein provided for notice of meetings of the Association and opportunity to be heard thereon, may adopt, amend or

repeal any supplemental rules and regulations governing details of the operation and use of the common elements not inconsistent with any provision of law, the Declaration or these By-Laws.

Section 5. Expenses of Enforcement. Every apartment owner shall pay to the Association promptly on demand all costs and expenses including reasonable attorneys' fees incurred by or on behalf of the Association in collecting any delinquent assessments against such apartment, foreclosing its lien therefor or enforcing any provisions of the Horizontal Property Act, the Declaration or these By-Laws against such owner or any occupant of such apartment.

Section 6. Record of Ownership. The Secretary of the Association or the Managing Agent shall keep an accurate and current list of the names and addresses of all members of the Association, including all vendees under any agreement of sale on an apartment in the project, if any. In connection therewith every apartment owner shall promptly cause to be duly recorded or filed of record the deed, lease, agreement of sale, assignment or other conveyance to him of such apartment or other evidence of his title thereto and shall file a copy of such document(s) with the Board of Directors through the Secretary or the Managing Agent.

Section 7. Mortgages.

(a) Notice to Board of Directors. An apartment owner who mortgages his interest shall notify the Association of the name and address of his mortgagee and within ten (10) days after the execution of the same shall file a conformed copy of such mortgage with the Association; the Association

shall maintain such information in a book entitled "Mortgages of Apartments".

(b) Notice of Unpaid Common Expenses. The Association whenever so requested in writing by an owner or mortgagee of an interest in an apartment shall promptly report any then unpaid assessments or common expenses due from the apartment owner involved.

(c) Notice of Default. The Board, when giving notice to an apartment owner of a default in paying common expenses or other default, shall send a copy of such notice to each holder of a mortgage covering such apartment or interest therein whose name and address has theretofore been furnished to the Association. In each and every case where the mortgagee has made a request, the Association shall notify the mortgagee of any unpaid assessment that is thirty (30) days delinquent or more.

(d) Examination of Books. Each apartment owner and each mortgagee shall be permitted to examine the books and records of the Association or the project at reasonable times on business days, and each mortgagee shall have the right to require the submission of annual reports and other financial data.

(e) Mortgage Protection. Notwithstanding any provision to the contrary in these By-Laws:

(1) Any first mortgagee who obtains title to an apartment pursuant to the remedies provided in the mortgage or foreclosure of the mortgage will not be liable for such apartment's unpaid dues or charges which accrue prior to the acquisition of title to such apartment by the mortgagee.

(2) All taxes, assessments and charges which may become liens prior to the first mortgage under the laws of the State of Hawaii shall relate only to the individual apartments and not to the condominium project as a whole.

(3) The Declaration and By-Laws shall not give an apartment owner or any other party priority over any rights of first mortgagees of apartments pursuant to their mortgages in the case of a distribution to apartment owners of insurance proceeds of condemnation awards for losses to or a taking of apartment units, common elements or both.

(4) Notwithstanding any other provision of these By-Laws, no amendment of this Section 7(e) shall affect the rights of the holder of any such mortgage recorded in the Bureau of Conveyances, State of Hawaii, prior to the filing of such amendment who does not join in the execution thereof.

ARTICLE VI

MISCELLANEOUS

Section 1. Amendment. These By-Laws may be amended in any respect not inconsistent with provisions of law or the Declaration at any meeting of the Association duly called for such purpose, by vote of seventy-five percent (75%) of the apartment owners, and shall be effective only upon the recording of an amendment to the Declaration setting forth such amendment of these By-Laws; and further provided that any material amendment of these By-Laws shall require the prior written consent thereto by at least seventy-five percent (75%) of the institutional holders of a first

mortgage on an apartment sublease or condominium conveyance document demising or conveying the same (based upon one vote for each first mortgage owned).

Section 2. Indemnification. The Association shall indemnify every director and officer and his executors and administrators against all expenses reasonably incurred by or imposed on him in connection with any action, suit or proceedings to which he may be made a party by reason of being or having been a director or officer of the Association, except in relation to matters as to which he shall be finally adjudged in such action, suit or proceeding to be liable for negligence or misconduct; and in the absence of such final adjudication, indemnification shall be provided only in connection with such matters as to which the Association is advised by its legal counsel that the person to be indemnified committed no such breach of duty. The foregoing right of indemnification shall not be exclusive of any other rights to which such person may be entitled.

Section 3. Subordination. These By-Laws are subordinate and subject to all provisions of the Declaration and any amendments thereto, the Horizontal Property Act (Chapter 514A, Hawaii Revised Statutes, as amended), which shall control in case of any conflict. All terms herein (except where clearly repugnant to the context) shall have the same meaning as in the Declaration or said Horizontal Property Act.

Section 4. Interpretation. In case any provision of these By-Laws shall be held invalid, such invalidity shall

not render invalid any other provision hereof which can be given effect. Nothing in these By-Laws shall be deemed or construed to authorize the Association or Board of Directors to conduct or engage in active business for profit on behalf of any or all of the apartment owners.

Section 5. Books of Receipts and Expenditures. The Managing Agent or Board of Directors shall 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. All records and the 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 of week days.

Section 6. Minutes of Meetings. The minutes of meetings of the Board of Directors, and Association of Apartment Owners shall be available for examination by apartment owners at convenient hours at a place designated by the Board.

CERTIFICATE OF ADOPTION

The undersigned, being the owners and developer of all apartments of the project, hereby adopt the foregoing as the By-Laws of the Association of Apartment Owners of WAIKIKI BANYAN, this 28th day of February, 1978.

Clouinda Reis Lucas
Samuel N. May

FIRST HAWAIIAN BANK

By [Signature]

Trustees of the Liliuokalani Trust

KAWAIAHAO CHURCH

By Lawrence A. Chaffin Pres.
Its

By Harold S. Yim
Its Treas.

"Lessor"

BANYAN ONE, INC.

By [Signature]
Its

By [Signature]
Its

"Lessee"

WALKERT BANYAN, INC.

By [Signature]
Its

By [Signature]
Its

"Developer"

S.T.C. A3

RECORDATION REQUESTED BY:

SECURITY TITLE CORPORATION
AFTER RECORDATION, RETURN TO:

SECURITY TITLE CORPORATION

RETURN BY: MAIL () PICKUP ()

Requestor to fill above

82- 8759

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16136 148

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AMENDMENT TO DECLARATION OF
HORIZONTAL PROPERTY REGIME OF
WAIKIKI BANYAN

WHEREAS, by Declaration of Horizontal Property Regime dated February 28, 1978, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12789, Page 613 (herein called the "Declaration") TRUSTEES OF THE LILIUOKALANI TRUST and KAWAIAHAO CHURCH, a Hawaii eleemosynary corporation, herein collectively referred to as the "Lessor", BANYAN ONE, INC., a Hawaii corporation, herein referred to as the "Lessee", and WAIKIKI BANYAN, INC., a Hawaii corporation, herein referred to as the "Developer", said Lessor, Lessee and Developer being hereinafter collectively referred to as the "Declarants", did submit the property described in said Declaration to the provisions of the Horizontal Property Act, Chapter 514A, ~~Hawaii Revised Statutes, as amended, and contemporaneously~~ therewith filed certain plans, incorporated in said Declaration by reference, in said Bureau of Conveyances as Condominium File Plan No. 537; and

WHEREAS, pursuant to Paragraph P of the Declaration, the Declarants reserved the right from time to time to amend the Declaration without the consent or joinder of any other persons then owning or leasing the apartments

by filing an amendment to the Declaration pursuant to the provisions of Section 514A-12, Hawaii Revised Statutes, as amended, after completion of the building or buildings described therein by attaching to such amendment a verified statement of a registered architect certifying that the plans heretofore filed or filed simultaneously with such amendment fully and accurately depict the layout, location, apartment numbers and dimensions of the apartment, as built.

NOW, THEREFORE, the Declarants in order to comply with the provisions of Section 514A-12, Hawaii Revised Statutes, as amended, does hereby amend said Declaration by incorporating therein a verified statement of a registered architect attached hereto as Exhibit "A" and made a part hereof, certifying that the plans heretofore filed as Condominium File Plan No. 537, fully and accurately depict the elevations of Buildings Mauka Tower and Makai Tower of the Project and the layout, location, apartment numbers and dimensions of the apartments located in Buildings Mauka Tower and Makai Tower of the WAIKIKI BANYAN condominium project, as built.

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

IN WITNESS WHEREOF, the Declarants have executed
this instrument this 6th day of Dec., 1981.

By: FIRST HAWAIIAN BANK

By _____
Its _____

KAWAIAHAO CHURCH

By Arlo W. Richardson
Its Treasurer

"Lessor"

BANYAN ONE, INC.

By John M. [Signature]
Its President

"Lessee"

WAIKIKI BANYAN, INC.

WAIKIKI BANYAN, INC.

By H. J. Johnston ^{and}
Its President

"Developer"

STATE OF HAWAII

CITY & COUNTY OF HONOLULU

SS:

16136 151

On this 4th day of December, 1981, before me appeared EARL GOULD and _____

_____, to me personally known, who, being by me duly sworn, did say that ^{he is} ~~they are~~ the _____ and

VICE PRESIDENT & TRUST OFFICER, ~~respectively~~, of FIRST HAWAIIAN BANK,

one of the Trustees of the Liliuokalani Trust, 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 _____

_____ and EARL GOULD acknowledged said instrument to be the free act and deed of said corporation, as such Trustee.

Ermine L. Martin
Notary Public
State of Hawaii

My commission expires: OCTOBER 9, 1985

STATE OF HAWAII

CITY & COUNTY OF HONOLULU

SS:

On this 4th day of December, 1981, before me personally appeared DAVID M. PETERS and _____

_____, ^{ONE} ~~TWO~~ of the TRUSTEES OF THE LILIUOKALANI TRUST, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that ^{he} ~~they~~ executed the same as ^{his} ~~their~~ free act and deed, as such Trustees.

Ermine L. Martin
Notary Public
State of Hawaii

My commission expires: OCTOBER 9, 1985

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

On this 8th day of December, 1981 before me appeared Charles Nakoa and Arlon W. Richardson, to me personally known, who being by me duly sworn, did say that they are the President and Treasurer, respectively, of KAWAIAHAO CHURCH, a Hawaii eleemosynary corporation, 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 Charles Nakoa and Arlon W. Richardson acknowledged said instrument to be the free act and deed of said corporation, as such Trustees.

Carol S. Honacka
Notary Public
State of Hawaii

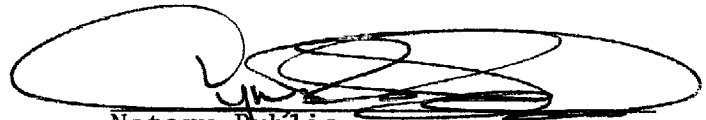
My commission expires: 9/19/83

STATE OF HAWAII

CITY & COUNTY OF HONOLULU

SS:

On this 18th day of December, 1981, before me appeared H. Johnston, to me personally known, who being by me duly sworn, did say that he is the President of BANYAN ONE, INC., a Hawaii corporation, 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 H. Johnston acknowledged said instrument to be the free act and deed of said corporation.



Notary Public
State of Hawaii

My commission expires: 10.30.83

STATE OF HAWAII

CITY & COUNTY OF HONOLULU

SS:

On this 18th day of December, 1981, before me appeared H. Johnston, to me personally known, who being by me duly sworn, did say that he is the President of WAIKIKI BANYAN, INC., a Hawaii corporation, 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 H. Johnston acknowledged said instrument to be the free act and deed of said corporation.

Notary Public
State of Hawaii

My commission expires: 10.30.83

DOUBLE SYSTEM

L-348 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

APR 30, 2001 08:01 AM

Doc No(s) 2701072

on Cert(s) AS LISTED HEREIN

/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

R-546

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

APR 30, 2001 08:02 AM

Doc No(s) 2001-062474

/s/ CARL T. WATANABE
ACTING
REGISTRAR OF CONVEYANCES

LAND COURT SYSTEM

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL () PICKUP (X) TO:

Ahano
LOVE YAMAMOTO & MOTOOKA
RANDALL K. SING
1000 Bishop Street, Suite 801
Honolulu, Hawaii 96813
Tel. No. 532-7900

FIFTH AMENDMENT OF THE RESTATED DECLARATION
OF CONDOMINIUM PROPERTY REGIME
AND BY-LAWS OF WAIKIKI BANYAN

WHEREAS, the Trustees of the Liliuokalani Trust, herein referred to as "Liliuokalani Trust", are the owners in fee simple of the real property described in Original Certificate of Title No. 209,663 and the Transfer Certificates of Title listed in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, by Indenture of Lease dated February 22, 1978, effective as of December 1, 1977, recorded in the Bureau of Conveyances of the State of Hawaii in

Liber 12746, Page 429, herein referred to as the "Master Lease", said Liliuokalani Trust and Kawaiahao Church, a Hawaii eleemosynary corporation, herein referred to as "Kawaiahao", the owner of certain adjoining real property, being herein collectively referred to as the "Lessor", leased all the real property to BANYAN ONE, INC., a Hawaii corporation, herein referred to as the "Lessee"; and

WHEREAS, by Master Sublease dated February 22, 1978, effective as of December 2, 1975, recorded as aforesaid in Liber 12746, Page 473, the Lessee sublet said property to Waikiki Banyan, Inc., a Hawaii corporation, hereinafter referred to as the "Developer"; and

WHEREAS, the Developer improved said land by constructing thereon certain improvements hereinafter described in accordance with plans incorporated herein by reference filed and recorded in said Bureau of Conveyances as Condominium File Plan No. 637; and

WHEREAS, to create a condominium project (herein called the "project") known as "WAIKIKI BANYAN", the Lessor, Lessee and Developer submitted all of their interests in the property to a Horizontal Property Regime (now known as a Condominium Property Regime) under Chapter 514A, Hawaii Revised Statutes, and adopted a Declaration, dated February 28, 1978 and filed in the Bureau of Conveyances of the State of Hawaii in Liber 12789, Page 613; and

WHEREAS, the Declaration was duly amended by an amendment dated December 9, 1971, filed in Liber 16136, Page 148 and subsequently restated by a First Restatement of the Declaration of Condominium Property Regime of Waikiki Banyan dated August 31, 1992, recorded as Land Court Document No. 1951836 and also filed

in the Bureau of Conveyances as Document No. 92-147513; and the First Restatement was subsequently amended by four amendments, one amendment dated February 26, 1993 and recorded as Land Court Document No. 2006511; the second amendment dated August 4, 1993 recorded as Land Court Document No. 2054583 and also filed in the Bureau of Conveyances as Document No. 93-131432; the third amendment dated July 7, 1999 recorded as Land Court Document No. 2561101 and also filed in the Bureau of Conveyances as Document No. 99-115283; and the fourth amendment dated July 25, 2000 recorded as Land Court Document No. 2642313 and also filed in the Bureau of Conveyances as Document No. 2000-108303; and

WHEREAS, the Declaration as restated and amended, and the By-Laws for the project attached to and recorded contemporaneously with the Declaration, provided for the organization and operation of the ASSOCIATION OF APARTMENT OWNERS OF WAIKIKI BANYAN (the "Association") in accordance with the By-Laws; and

WHEREAS, pursuant to Sections 514A-11(11) and 514A-82(b)(2) of the Hawaii Revised Statutes, more than seventy-five percent (75%) and sixty-five percent (65%), respectively, of all apartment owners of the project gave their written consent to amend the Declaration and the By-Laws of the Association as indicated below;

NOW THEREFORE, the Declaration and the By-Laws are hereby amended as hereinafter set forth.

1. That new Subparagraphs 9 and 10 are added to Section F of the Declaration to read as follows:

9. Fee Conversion. Notwithstanding any other provision contained in this Declaration or By-Laws to the contrary, the Board on behalf of the Association, shall have the power to do all such things as it deems necessary or appropriate to negotiate with the owners of the leased fee interest, including any sandwich interest, in the land, apartments and other improvements on the property (herein called the "Lessors") to sell all or any portion of the leased fee interest to the Association and/or its members and/or any other parties interested in purchasing all or any portion of the leased fee interest, and to facilitate the completion of the sale, and shall have the power to purchase all or any portion of the leased fee interest, and to sign any documents and do any and all other acts or things incidental to the consummation of the transaction, including but not limited to the powers set forth in the By-Laws.
10. Voiding Lessors' Consent Requirement. Upon the acquisition from all the Lessors of all their leased fee interest in the land, apartments and other improvements of the property by the Association and/or the apartment owners, all approval and other requirements pertaining to the Lessors and their successors and assigns, if any, as contained in this Declaration and the By-Laws, shall thereupon become null and void and of no effect. The term "Lessors", as used herein, includes any assignee or other holder of the leased fee interest, including any sandwich interest, or any portion thereof.

2. That Section H of the Declaration is amended to read in its entirety

as follows:

- H. Common Expenses. Except as hereinafter provided, 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 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, and all charges, costs, and expenses incurred for or in connection with the purchase of all or any portion of the leased fee interest, including any sandwich interest, from the Fee Owners or any Sublessors, (or any efforts toward that end), and/or the administration of all or any portion of said leased fee interest, including but not limited to all costs associated with obtaining any needed financing in connection with such acquisition and all payments that become owing to the lender under the terms of any note or mortgage entered into in

connection with such financing 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 horizontal property regime hereby created and no payments thereof shall be payments of such common expenses; provided, however, all such expenses for maintenance, repair, replacement, additions and improvements to limited common elements shall be charged to the apartment owner to which the limited common element is appurtenant. 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, 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 Horizontal Property Act, provided that thirty (30) days' prior written notice of intention to foreclose shall be mailed, postage prepaid, to the 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 mortgage of record of an apartment or of an apartment sublease or condominium conveyance document 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).

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 determine in its sole discretion 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 Horizontal Property Regime hereby created shall be terminated or waived, said 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 horizontal property regime.

3. That new Subparagraphs (n), (o), (p) and (q) are added to Article

IV, Section 1 of the By-Laws to read as follows:

(n) Undertaking any and all action required to negotiate the acquisition of the leased fee interest or any or all undivided interests in the leased fee interest, including any sandwich interest, from the Fee Owners or any Sublessors of Waikiki Banyan by the Association or by the individual apartment owners, including but not limited to retaining any professionals to represent the Association or the individual apartment owners in the negotiations. The Board's right to negotiate the acquisition of the leased fee interest or any or all undivided interests in the leased fee interest, including any sandwich interest, includes, but is not limited to, the right to reject any terms or conditions it deems unacceptable.

(o) Purchasing, on behalf of the Association, the leased fee interest or any or all undivided interests in the leased fee interest, including any sandwich interest, of all apartments whose owners are unwilling or unable to purchase the leased fee interest or any or all undivided interests in the leased fee interest, including any sandwich interest, appurtenant to their apartments from the Fee Owners or Sublessors; provided that not less than seventy-five percent (75%) of the

leased fee interest or the undivided interest in the leased fee interest, including any sandwich interest, offered by the Fee Owners or Sublessors of the apartments has been purchased by the apartment owners. The intent of this provision is that the Board is not authorized to purchase more than twenty-five percent (25%) of the leased fee interest offered by the Fee Owners or Sublessors of the apartments [e.g. If someone owning twenty percent (20%) of the leased fee interest to the apartments offers to sell that percentage to the Association, the Board is not authorized to purchase more than one-fourth (1/4th) of the twenty percent (20%) i.e. not more than five percent (5%) of the leased fee interest actually being offered.]

(p) If the Board, in compliance with the preceding paragraph, will be purchasing the leased fee interest or any undivided interest in the leased fee interest, including any sandwich interest, offered by the Fee Owners or Sublessors to any of the apartments in the project on behalf of the Association, the Board shall have the right to do the following in connection with the purchase:

(1) To own, improve, use, and otherwise deal in and with the leased fee interest or any or all undivided interests in the leased fee interest, including any sandwich interest;

(2) To finance the purchase of all or any portion of the leased fee interest, including any sandwich interest, by way of a loan, special assessment, use of the Association funds, or any combination thereof;

(3) To enter into a loan transaction with any individual, entity, or lending institution to obtain such financing;

(4) To secure any loan by mortgage or pledge of all or any portion of the Association's assets, property, assessments, and funds;

(5) To execute and deliver a promissory note and all other necessary documents and undertake all other actions necessary for the Association to borrow money;

(6) To assess the apartment owners in a fair and equitable manner for the expenses incurred in acquiring the leased fee interest, including any sandwich interest, appurtenant to the apartments, or to service any debt associated with that acquisition;

(7) To purchase the leased fee interest, including any sandwich interest, on behalf of the Association and to enter into appropriate purchase and sale contracts with Fee Owners or Sublessors;

(8) To sell the leased fee interest, including any sandwich interest, appurtenant to an apartment to the owner of the apartment to which that leased fee interest is appurtenant or to any other person or entity;

(9) To incorporate the Association or to create a land trust in which to hold title to any leased fee interest, including any sandwich interest, to be acquired by the Association;

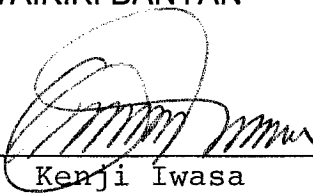
(10) To undertake any and all action as the Board deems necessary or appropriate to administer the leased fee interest, including any sandwich interest, acquired, including, but not limited to, establishing lease rents under the apartment leases or subleases, negotiating lease rent increases under the apartment leases or subleases, retaining professionals to assist in establishing and/or negotiating the lease rents at the renegotiation dates under the apartment leases or subleases and collecting lease rents.

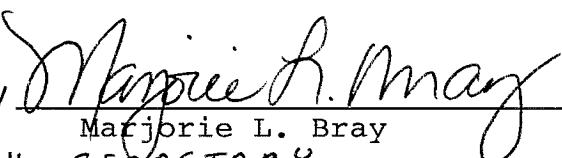
(q) To waive the Association's right of first refusal to purchase the leased fee interest or the undivided interest in the leased fee interest, including any sandwich interest, offered by the Fee Owners or Sublessors of any of the apartments, provided that the proposed sale of said leased fee interest or the undivided interest in the leased fee interest offered by the Fee Owners or Sublessors is to the apartment lessee of the apartment to which the leased fee interest is appurtenant or to a buyer under an agreement of sale of said apartment.

In all other respects, the Declaration and By-Laws of the Association, as restated and amended, are hereby ratified and confirmed and shall be binding upon and inure to the benefit of the parties to it and their respective successors and permitted assigns. The undersigned officers of the Association hereby certify that the foregoing amendments to the Declaration and By-Laws were adopted by the written consent of more than seventy-five percent (75%) and sixty-five percent (65%), respectively, of the members of the Association.

IN WITNESS WHEREOF, the undersigned have executed this instrument
this 29th day of March, 2001.

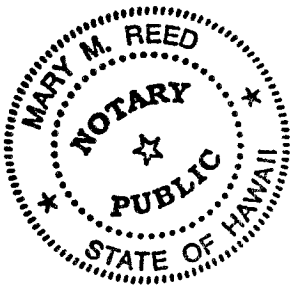
ASSOCIATION OF APARTMENT OWNERS
OF WAIKIKI BANYAN

By 
Kenji Iwasa
Its VICE PRESIDENT

By 
Marjorie L. Bray
Its SECRETARY

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

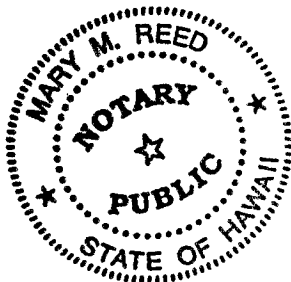
On this 29th day of March, 2001, before me appeared KENJI IWASA, to be personally known, who being by me duly sworn, did say HE is the VICE PRESIDENT of the Board of Directors of the Association of Apartment Owners of Waikiki Banyan, that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors, and acknowledged that HE executed the same as the free act and deed of said Association. Said Association has no seal.



Mary M Reed
Notary Public, State of Hawaii
Printed Name: MARY M REED
My commission expires: 2-17-02

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 29th day of March, 2001, before me appeared MARJORIE L. BRAY, to be personally known, who being by me duly sworn, did say SHE is the SECRETARY of the Board of Directors of the Association of Apartment Owners of Waikiki Banyan, that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors, and acknowledged that SHE executed the same as the free act and deed of said Association. Said Association has no seal.



Mary M Reed
Notary Public, State of Hawaii
Printed Name: MARY M REED
My commission expires: 2-17-02

EXHIBIT "A"

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

LOT 2, area 91,642.0 square feet, of Block "F", as shown on Map 3, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1865 (amended) of First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust.

Being the remainder of the land(s) described in Original Certificate of Title No. 209,663 issued to First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust, in Trust, with power to lease, mortgage and sell and other powers more particularly set forth in Trust Deed dated December 2, 1909, recorded in Liber 319 at Page 447, as amended, and also described in Transfer Certificate of Title Nos.:

293,092	301,883	304,714
293,926	301,884	304,715
293,927	301,885	304,716
294,514	301,886	304,717
295,167	301,887	304,718
295,846	301,888	304,719
296,600	302,998	304,720
297,032	303,896	304,721
297,611	303,897	304,722
299,136	304,334	304,723
300,296	304,708	304,724
301,825	304,709	304,725
301,879	304,710	304,726
301,880	304,711	304,914
301,881	304,712	304,915
301,882	304,713	313,976
		313,977

66.1
Jds
L-383

STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

MAR 16, 1993 03:14 PM

Doc No(s) 2006511 /

on Cert(s) AS LISTED HEREIN

/s/ S. FURUKAWA
ASSISTANT REGISTRAR

CONVEYANCE TAX: \$0.00

0 LAND COURT SYSTEM | REGULAR SYSTEM
AFTER RECORDATION, RETURN BY MAIL () PICKUP () TO:

JOHN A. MORRIS, ESQ.
Iwai, Motooka & Goto
Suite 502, Haseko Center
820 Mililani Street
Honolulu, HI 96813-2935
Tel: (801) 537-1935

FIRST AMENDMENT OF THE RESTATED
DECLARATION OF CONDOMINIUM PROPERTY REGIME
AND BY-LAWS OF WAIKIKI BANYAN

WHEREAS, the Trustees of the Liliuokalani Trust, herein referred to as "Liliuokalani Trust", are the owners in fee simple of the real property described in Original Certificate of Title No. 209,663 and the Transfer Certificates of Title listed in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, by Indenture of Lease dated February 22, 1978, effective as of December 1, 1977, recorded in the Bureau of

Conveyances of the State of Hawaii in Liber 12746, Page 429, herein referred to as the "Master Lease", said Liliuokalani Trust and Kawaiahao Church, a Hawaii eleemosynary corporation, herein referred to as "Kawaiahao", the owner of certain adjoining real property, being herein collectively referred to as the "Lessor", leased all the real property to BANYAN ONE, INC., a Hawaii corporation, herein referred to as the "Lessee"; and

WHEREAS, by Master Sublease dated February 22, 1978, effective as of December 2, 1975, recorded as aforesaid in Liber 12746, Page 473, the Lessee sublet said property to Waikiki Banyan, Inc., a Hawaii corporation, hereinafter referred to as the "Developer"; and

WHEREAS, the Developer improved said land by constructing thereon certain improvements hereinafter described in accordance with plans incorporated herein by reference filed and recorded in said Bureau of Conveyances as Condominium File Plan No. 637; and

WHEREAS, to create a condominium project (herein called the "project") known as "WAIKIKI BANYAN", the Lessor, Lessee and Developer submitted all of their interests in the property to a Horizontal Property Regime (now known as a Condominium Property Regime) under Chapter 514A, Hawaii Revised Statutes and adopted a Declaration, dated February 28, 1978 and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12789, Page 613; and

WHEREAS, the Declaration was duly amended by Amendment to Declaration dated December 9, 1971; recorded in Liber 16136, Page 148 and subsequently restated by a First Restatement of the

Declaration of Condominium Property Regime of Waikiki Banyan dated August 31, 1992, filed in Land Court as Land Court Document No. 1951836 and also recorded in the Bureau of Conveyances as Document No. 92-147513; and

WHEREAS, the Declaration, as amended, and the By-Laws for the project attached to and recorded contemporaneously with the Declaration, provided for the organization and operation of the ASSOCIATION OF APARTMENT OWNERS OF WAIKIKI BANYAN (the "Association") in accordance with the By-Laws; and

WHEREAS, pursuant to §514A-11(11) and §514-82(b)(2) of the Hawaii Revised Statutes, more than seventy-five percent (75%) of all apartment owners of the project gave their written consent to amend the Declaration and By-Laws of the Waikiki Banyan.

NOW THEREFORE, the Declaration and By-Laws amended to read as follows:

1. The Declaration of Condominium Property Regime of the Association of Apartment Owners of The Waikiki Banyan subparagraph "(1)" to paragraph A.2. is amended to read:

"(1) Automatic sprinkler system, smoke detectors, fire alarm system, annunciator panels, emergency generators, and any and all other apparatus and installations required to comply with the requirements of Ordinance No. 83-58 of the Revised Ordinances of Honolulu."


2. The By-Laws of the Association of Apartment Owners of the Waikiki Banyan shall be amended by deleting the text of Article I, Section 5, in its entirety and substituting the following text:

"Section 5. Notice of Meetings. Notices of Association meetings, whether annual or special, shall be sent to each member of the Association at least fourteen (14) days prior to the meeting, and shall contain at least: the date, time, and place of the meeting, the items on the agenda for the meeting, and a standard proxy form authorized by the Association, if any."

In all other respects, the Declaration and By-Laws of Waikiki Banyan, as amended, are hereby ratified and confirmed and shall be binding upon and inure to the benefit of the parties to it and their respective successors and permitted assigns. The undersigned officers of the Association of Apartment Owners of the Waikiki Banyan hereby certify that the foregoing amendments were adopted by the vote of more than seventy-five percent (75%) of the members of the Association of Apartment Owners of the Waikiki Banyan.

IN WITNESS WHEREOF, the undersigned have executed this instrument on this 26th day of February, 1993.

ASSOCIATION OF APARTMENT OWNERS OF
THE WAIKIKI BANYAN

By _____
Its Vice President

By _____
Its Secretary

STATE OF HAWAII)
)
CITY AND COUNTY OF HONOLULU) SS.

On this 26th day of February, 1993, before me appeared SEIJI FUKAYAMA, to me personally known, who being by me duly sworn, did say that he/she is the Vice President of the ASSOCIATION OF APARTMENT OWNERS OF THE WAIKIKI BANYAN, 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 SEIJI FUKAYAMA acknowledged that he/she executed said instrument as his/her free act and deed of the ASSOCIATION OF APARTMENT OWNERS OF THE WAIKIKI BANYAN.

LS

Arthur W. Hsu
Notary Public, State of Hawaii
My commission expires: 8/27/94

STATE OF HAWAII)
)
CITY AND COUNTY OF HONOLULU) SS.

On this 3rd day of March, 1993, before me appeared GLORIA BILLINGSLEY, 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 THE WAIKIKI BANYAN, 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 GLORIA BILLINGSLEY acknowledged that he/she executed said instrument as his/her free act and deed of the ASSOCIATION OF APARTMENT OWNERS OF THE WAIKIKI BANYAN.

LS

Arthur W. Hsu
Notary Public, State of Hawaii
My commission expires: 8/27/94

EXHIBIT "A"

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

LOT 2, area 91,642.0 square feet, of Block "F", as shown on Map 3, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1865 (amended) of First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust.

Being the remainder of the land(s) described in Original Certificate of Title No. 209,663 issued to First Hawaiian Bank, a Hawaii Corporation, Lorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust, in Trust, with power to lease, mortgage and sell and other powers more particularly set forth in Trust Deed dated December 2, 1909, recorded in Liber 319 at Page 447, as amended, and also described in Transfer Certificates of Title Nos.:

293,092	301,883	304,714
293,926	301,884	304,715
293,927	301,885	304,716
294,514	301,886	304,717
295,167	301,887	304,718
295,846	301,888	304,719
296,600	302,998	304,720
297,032	303,896	304,721
297,611	303,897	304,722
299,136	304,334	304,723
300,296	304,708	304,724
301,825	304,709	304,725
301,879	304,710	304,726
301,880	304,711	304,914
301,881	304,712	304,915
301,882	304,713	313,976
		313,977

DOUBLE SYSTEM

L-205 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

AUG 04, 2000 08:30 AM

Doc No(s) 2642313

on Cert(s) AS LISTED HEREIN

/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

R-710

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

AUG 04, 2000 08:30 AM

Doc No(s) 2000-108303

/s/ CARL T. WATANABE
ACTING
REGISTRAR OF CONVEYANCES

LAND COURT SYSTEM

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL () PICKUP (X) TO:

Shana
LOVE YAMAMOTO & MOTOOKA
RANDALL K. SING
1000 Bishop Street, Suite 801
Honolulu, Hawaii 96813
Tel. No. 532-7900

FOURTH AMENDMENT OF THE RESTATED DECLARATION OF CONDOMINIUM PROPERTY REGIME AND BY-LAWS OF WAIKIKI BANYAN

WHEREAS, the Trustees of the Liliuokalani Trust, herein referred to as "Liliuokalani Trust", are the owners in fee simple of the real property described in Original Certificate of Title No. 209,663 and the Transfer Certificates of Title listed in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, by Indenture of Lease dated February 22, 1978, effective as of December 1, 1977, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12746, Page 429, herein referred to as the "Master Lease", said Liliuokalani Trust and Kawaiahao Church, a Hawaii eleemosynary corporation, herein referred to as "Kawaiahao", the owner of certain adjoining real property, being herein collectively referred to as the "Lessor", leased all the real property to BANYAN ONE, INC., a Hawaii corporation, herein referred to as the "Lessee"; and

WHEREAS, by Master Sublease dated February 22, 1978, effective as of December 2, 1975, recorded as aforesaid in Liber 12746, Page 473, the Lessee sublet said property to Waikiki Banyan, Inc., a Hawaii corporation, hereinafter referred to as the "Developer"; and

WHEREAS, the Developer improved said land by constructing thereon certain improvements hereinafter described in accordance with plans incorporated herein by reference filed and recorded in said Bureau of Conveyances as Condominium File Plan No. 637; and

WHEREAS, to create a condominium project (herein called the "project") known as "WAIKIKI BANYAN", the Lessor, Lessee and Developer submitted all of their interests in the property to a Horizontal Property Regime (now known as a Condominium Property Regime) under Chapter 514A, Hawaii Revised Statutes, and adopted a Declaration, dated February 28, 1978 and filed in the Bureau of Conveyances of the State of Hawaii in Liber 12789, Page 613; and

WHEREAS, the Declaration was duly amended by an amendment dated December 9, 1971, filed in Liber 16136, Page 148 and subsequently restated by a First Restatement of the Declaration of Condominium Property Regime of Waikiki Banyan dated August 31, 1992, recorded as Land Court Document No. 1951836 and also filed in the Bureau of Conveyances as Document No. 92-147513; and the First Restatement was subsequently amended by three amendments, one amendment dated February 26, 1993 and recorded as Land Court Document No. 2006511; the second amendment dated August 4, 1993 recorded as Land Court Document No. 2054583 and also filed in the Bureau of Conveyances as Document No. 93-131432; and the third amendment dated July 7, 1999 recorded as Land Court Document No. 2561101 and also filed in the Bureau of Conveyances as Document No. 99-115283; and

WHEREAS, the Declaration as restated and amended, and the By-Laws for the project attached to and recorded contemporaneously with the Declaration, provided for the organization and operation of the ASSOCIATION OF APARTMENT OWNERS OF WAIKIKI BANYAN (the "Association") in accordance with the By-Laws; and

WHEREAS, pursuant to Section 514A-82(b)(2) of the Hawaii Revised Statutes, more than sixty-five percent (65%) of all apartment owners of the project gave their written consent to amend the By-Laws of the Association as indicated below;

NOW THEREFORE, the By-Laws are hereby amended as hereinafter set forth.

1. That a new Article VI, Section 7 to the By-Laws is added to read as follows:

Section 7. Incorporation. The Board at any time may incorporate the Association as a non-profit corporation under the laws of the State of Hawaii. The incorporated Association shall exercise and enforce all the rights, powers, obligations, and duties of both the Association and a non-profit corporation in Hawaii. Except as required by law: (1) the formation of the corporation shall not alter the provisions of the Declaration or By-Laws; and (2) the Association's Articles of Incorporation shall be subordinate to and controlled by both of those documents. The incorporated Association shall take no action in violation of Chapter 514A, Hawaii Revised Statutes. The Board shall adopt the existing By-Laws of the Association, as amended, as the first By-Laws of the incorporated Association.

In all other respects, the Declaration and By-Laws of the Association, as restated and amended, are hereby ratified and confirmed and shall be binding upon and inure to the benefit of the parties to it and their respective successors and permitted assigns. The undersigned officers of the Association hereby certify that the foregoing amendments were adopted by the written consent of more than sixty-five percent (65%) of the members of the Association.

IN WITNESS WHEREOF, the undersigned have executed this instrument this 25th day of July, 2000.

ASSOCIATION OF APARTMENT OWNERS
OF WAIKIKI BANYAN

By Margaret S. Walker
Its President

By [Signature]
Its Vice President

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 25th day of July, 2000, before me appeared Margaret S. Walker, to be personally known, who being by me duly sworn, did say she is the President of the Board of Directors of the Association of Apartment Owners of Waikiki Banyan, that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors, and acknowledged that she executed the same as the free act and deed of said Association. Said Association has no seal.



Melinda N. Willers

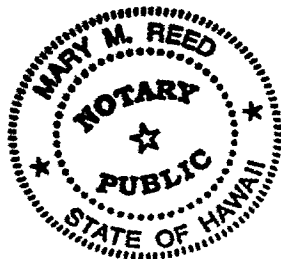
Notary Public, State of Hawaii

Printed Name: Melinda N. Willers

My commission expires: 9-1-2002

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 25th day of JULY, 2000, before me appeared KENJI IWASA, to be personally known, who being by me duly sworn, did say HE is the VICE PRESIDENT of the Board of Directors of the Association of Apartment Owners of Waikiki Banyan, that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors, and acknowledged that HE executed the same as the free act and deed of said Association. Said Association has no seal.



Mary M. Reed

Notary Public, State of Hawaii

Printed Name: MARY M REED

My commission expires: 2-17-2002

EXHIBIT "A"

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

LOT 2, area 91,642.0 square feet, of Block "F", as shown on Map 3, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1865 (amended) of First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust.

Being the remainder of the land(s) described in Original Certificate of Title No. 209,663 issued to First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust, in Trust, with power to lease, mortgage and sell and other powers more particularly set forth in Trust Deed dated December 2, 1909, recorded in Liber 319 at Page 447, as amended, and also described in Transfer Certificate of Title Nos.:

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295,846	301,888	304,719
296,600	302,998	304,720
297,032	303,896	304,721
297,611	303,897	304,722
299,136	304,334	304,723
300,296	304,708	304,724
301,825	304,709	304,725
301,879	304,710	304,726
301,880	304,711	304,914
301,881	304,712	304,915
301,882	304,713	313,976
		313,977

DOUBLE SYSTEM

65
L-480 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

AUG 12, 1993 02:30 PM

Doc No(s) 2054583

on Cert(s) AS LISTED HEREIN

/s/ S. FURUKAWA
ASSISTANT REGISTRAR

CONVEYANCE TAX: \$0.00

R-682

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

AUG 12, 1993 / 02:30 PM

Doc No(s) 93-131432

/s/ S. FURUKAWA
REGISTRAR OF CONVEYANCES

CONVEYANCE TAX: \$0.00

LAND COURT SYSTEM

AFTER RECORDATION, RETURN BY MAIL () PICKUP (✓) TO:

JOHN A. MORRIS
IWAI MOTOOKA GOTO & MORRIS
Suite 502, Haseko Center
820 Mililani Street
Honolulu, Hawaii 96813
Telephone: 537-1935

Morris/Chen/Thompson, Ltd

SECOND AMENDMENT OF THE RESTATED DECLARATION OF CONDOMINIUM PROPERTY REGIME OF WAIKIKI BANYAN

WHEREAS, the Trustees of the Liliuokalani Trust, herein referred to as "Liliuokalani Trust", are the owners in fee simple of the real property described in Original Certificate of Title No. / 209,663 and the Transfer Certificates of Title listed in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, by Indenture of Lease dated February 22, 1978, effective as of December 1, 1977, recorded in the Bureau of

Conveyances of the State of Hawaii in Liber 12746, Page 429, herein referred to as the "Master Lease", said Liliuokalani Trust and Kawaiahao Church, a Hawaii eleemosynary corporation, herein referred to as "Kawaiahao", the owner of certain adjoining real property, being herein collectively referred to as the "Lessor", leased all the real property to BANYAN ONE, INC., a Hawaii corporation, herein referred to as the "Lessee"; and

WHEREAS, by Master Sublease dated February 22, 1978, effective as of December 2, 1975, recorded as aforesaid in Liber 12746, Page 473, the Lessee sublet said property to Waikiki Banyan, Inc., a Hawaii corporation, hereinafter referred to as the "Developer"; and

WHEREAS, the Developer improved said land by constructing thereon certain improvements hereinafter described in accordance with plans incorporated herein by reference filed and recorded in said Bureau of Conveyances as Condominium File Plan No. 637; and

WHEREAS, to create a condominium project (herein called the "project") known as "WAIKIKI BANYAN", the Lessor, Lessee and Developer submitted all of their interests in the property to a Horizontal Property Regime (now known as a Condominium Property Regime) under Chapter 514A, Hawaii Revised Statutes and adopted a Declaration, dated February 28, 1978 and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12789, Page 613; and

WHEREAS, the Declaration was duly amended by an amendment dated December 9, 1971, recorded in Liber 16136, Page 148 and subsequently restated by a First Restatement of the Declaration of Condominium Property Regime of Waikiki Banyan dated August 31,

1992, filed in Land Court as Land Court Document No. 1951836 and also recorded in the Bureau of Conveyances as Document No. 92-147513; and the First Restatement was subsequently amended by an amendment dated February 26, 1993 and recorded as Land Court Document No. 2006511; and

WHEREAS, the Declaration, as amended, and the By-Laws for the project attached to and recorded contemporaneously with the Declaration, provided for the organization and operation of the ASSOCIATION OF APARTMENT OWNERS OF WAIKIKI BANYAN (the "Association") in accordance with the By-Laws; and

WHEREAS, pursuant to §514A-11(11) of the Hawaii Revised Statutes, more than seventy-five percent (75%) of all apartment owners of the project gave their written consent to amend the Declaration of the Waikiki Banyan.

NOW THEREFORE, the Declaration is amended to read as follows:

1. The First Restatement of Declaration of Condominium Property Regime of the Association of Apartment Owners of The Waikiki Banyan shall be amended by deleting paragraph F.6. in its entirety and substituting the following text:

"6. 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 Lessor, first approved in writing by the 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. NOTWITHSTANDING ANYTHING TO THE

CONTRARY HEREIN CONTAINED, the Association of Apartment Owners shall have the irrevocable right, to be exercised by the Board of Directors:

a. To install an automatic sprinkler system, smoke detectors, fire alarm system, annunciator panels, emergency generators and any and all apparatus and installations required to comply with Ordinance No. 83-58 of the Revised Ordinances of Honolulu. The Board shall not be required to obtain the consent of the Lessor or any of the owners of apartments to proceed with the aforesaid installations.

b. To have access to each apartment from time to time during reasonable hours as may be necessary for the installation of the automatic sprinkler system, smoke detectors, fire alarm system, annunciator panels and any and all apparatus and installations required to comply with Ordinance No. 83-58 of the Revised Ordinances of Honolulu."

2. The First Restatement of the Declaration of Condominium Property Regime of the Association of Apartment Owners of The Waikiki Banyan shall be amended by adding paragraph "S", as follows:

"S. EXPENSES RELATED TO THE INSTALLATION OF THE FIRE SPRINKLER SYSTEM. All expenses related to the purchase and installation of the automatic sprinkler system, smoke detectors, fire alarm system, annunciator panels, emergency generators and any and all apparatus and installations required to comply with Ordinance No. 83-58 of the Revised Ordinances of Honolulu shall constitute common expenses as defined in paragraph "H." of this Declaration, for which all apartment owners shall be severally liable in proportion to their respective common interests. Any sums unpaid for the foregoing purchases and installations shall constitute liens on the apartments, as fully and effectually as to all other assessments for common expenses."

In all other respects, the Declaration of Waikiki Banyan, as amended, is hereby ratified and confirmed and shall be binding upon and inure to the benefit of the parties to it and their respective successors and permitted assigns. The undersigned officers of the Association of Apartment Owners of the Waikiki

Banyan hereby certify that the foregoing amendments were adopted by the vote of more than seventy-five percent (75%) of the members of the Association of Apartment Owners of the Waikiki Banyan.

IN WITNESS WHEREOF, the undersigned have executed this instrument on this 4th day of August, 1993.

ASSOCIATION OF APARTMENT OWNERS OF
THE WAIKIKI BANYAN

By

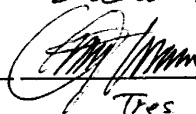
Its



SHRAGA DACHNER
President

By

Its


Tres

KENJI IWASA
Treasurer

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

SS.

On this 28th day of July, 1993, before me appeared Shraga Dackun, 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 THE WAIKIKI BANYAN, 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 Shraga Dackun acknowledged that he/she executed said instrument as his/her free act and deed of the ASSOCIATION OF APARTMENT OWNERS OF THE WAIKIKI BANYAN.

LS

Arthur K. Galt
Notary Public, State of Hawaii

My commission expires: 8/27/94

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

SS.

On this 4th day of August, 1993, before me appeared Kenji Iwasa, to me personally known, who being by me duly sworn, did say that he/she is the Treasurer of the ASSOCIATION OF APARTMENT OWNERS OF THE WAIKIKI BANYAN, 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 Kenji Iwasa acknowledged that he/she executed said instrument as his/her free act and deed of the ASSOCIATION OF APARTMENT OWNERS OF THE WAIKIKI BANYAN.

h

Arthur K. Galt
Notary Public, State of Hawaii

My commission expires: 5-19-95

EXHIBIT "A"

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

LOT 2, area 91,642.0 square feet, of Block "F", as shown on Map 3, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1865 (amended) of First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust.

Being the remainder of the land(s) described in Original Certificate of Title No. 209,663 issued to First Hawaiian Bank, a Hawaii Corporation, Lorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust, in Trust, with power to lease, mortgage and sell and other powers more particularly set forth in Trust Deed dated December 2, 1909, recorded in Liber 319 at Page 447, as amended, and also described in Transfer Certificates of Title Nos.:

293,092	301,883	304,714
293,926	301,884	304,715
293,927	301,885	304,716
294,514	301,886	304,717
295,167	301,887	304,718
295,846	301,888	304,719
296,600	302,998	304,720
297,032	303,896	304,721
297,611	303,897	304,722
299,136	304,334	304,723
300,296	304,708	304,724
301,825	304,709	304,725
301,879	304,710	304,726
301,880	304,711	304,914
301,881	304,712	304,915
301,882	304,713	313,976
		313,977

41
22
65

16
Cert

16
DOUBLE SYSTEM

L-113 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

JUL 19, 1999 08:02 AM

Doc No(s) 2561101

on Cert(s) AS LISTED HEREM

/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

R-478

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

JUL 19, 1999 08:02 AM

Doc No(s) 99-115283

/s/ CARL T. WATANABE
ACTING
REGISTRAR OF CONVEYANCES

11
LAND COURT SYSTEM

AFTER RECORDATION, RETURN BY MAIL (X) TO:

Shane
LOVE YAMAMOTO & MOTOOKA
RANDALL K. SING
1000 Bishop Street, Suite 801
Honolulu, Hawaii 96813
Tel. No. 532-7900

11
REGULAR SYSTEM

THIRD AMENDMENT OF THE RESTATED DECLARATION
OF CCNDOMINIUM PROPERTY REGIME
AND BY-LAWS OF WAIKIKI BANYAN

WHEREAS, the Trustees of the Liliuokalani Trust, herein referred to as
"Liliuokalani Trust", are the owners in fee simple of the real property described in
Original Certificate of Title No. 209,663 and the Transfer Certificates of Title listed in
Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, by Indenture of Lease dated February 22, 1978, effective as of December 1, 1977, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12746, Page 429, herein referred to as the "Master Lease", said Liliuokalani Trust and Kawaiahao Church, a Hawaii eleemosynary corporation, herein referred to as "Kawaiahao", the owner of certain adjoining real property, being herein collectively referred to as the "Lessor", leased all the real property to BANYAN ONE, INC., a Hawaii corporation, herein referred to as the "Lessee"; and

WHEREAS, by Master Sublease dated February 22, 1978, effective as of December 2, 1975, recorded as aforesaid in Liber 12746, Page 473, the Lessee sublet said property to Waikiki Banyan, Inc., a Hawaii corporation, hereinafter referred to as the "Developer"; and

WHEREAS, the Developer improved said land by constructing thereon certain improvements hereinafter described in accordance with plans incorporated herein by reference filed and recorded in said Bureau of Conveyances as Condominium File Plan No. 637; and

WHEREAS, to create a condominium project (herein called the "project") known as "WAIKIKI BANYAN", the Lessor, Lessee and Developer submitted all of their interests in the property to a Horizontal Property Regime (now known as a Condominium Property Regime) under Chapter 514A, Hawaii Revised Statutes, and adopted a Declaration, dated February 28, 1978 and filed in the Bureau of Conveyances of the State of Hawaii in Liber 12789, Page 613; and

WHEREAS, the Declaration was duly amended by an amendment dated December 9, 1971, filed in Liber 16136, Page 148 and subsequently restated by a First Restatement of the Declaration of Condominium Property Regime of Waikiki Banyan dated August 31, 1992, recorded as Land Court Document No. 1951836 and also filed in the Bureau of Conveyances as Document No. 92-147513; and the First Restatement was subsequently amended by two amendments, one amendment dated February 26, 1993 and recorded as Land Court Document No. 2006511; the other dated August 4, 1993 recorded as Land Court Document No. 2054583 and also filed in the Bureau of Conveyances as Document No. 93-131432; and

WHEREAS, the Declaration as restated and amended, and the By-Laws for the project attached to and recorded contemporaneously with the Declaration, provided for the organization and operation of the ASSOCIATION OF APARTMENT OWNERS OF WAIKIKI BANYAN (the "Association") in accordance with the By-Laws; and

WHEREAS, pursuant to Section 514A-82(b)(2) of the Hawaii Revised Statutes, more than sixty-five percent (65%) of all apartment owners of the project gave their written consent to amend the By-Laws of the Association as indicated below;

NOW THEREFORE, the By-Laws are hereby amended as hereinafter set forth.

1. That Article II, Section 4 of the By-Laws is amended to read in its entirety as follows:

Section 4. Vacancies. Vacancies in the Board of Directors caused by any reason other than removal of a director by the Association shall be filled by a 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 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 sole owner or co-owner of an apartment, shall cause his office to become vacant.


2. That a new Article II, Section 13 to the By-Laws is added to read as follows:

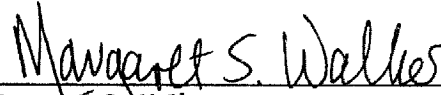
Section 13. Attendance by Telephone. Members of the Board of Directors or of any committee may participate in a meeting by means of a conference telephone or similar communication equipment by which all persons participating in the meeting can hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

In all other respects, the Declaration and By-Laws of the Association, as restated and amended, are hereby ratified and confirmed and shall be binding upon and inure to the benefit of the parties to it and their respective successors and permitted assigns. The undersigned officers of the Association hereby certify that the foregoing amendments were adopted by the written consent of more than sixty-five percent (65%) of the members of the Association.

IN WITNESS WHEREOF, the undersigned have executed this instrument
this 7th day of July, 1999.

ASSOCIATION OF APARTMENT OWNERS
OF WAIKIKI BANYAN

By 
Shiraga Pachner
Its *President*

By 
Margaret S. Walker
Its Secretary

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 7th day of July, 1999, before me appeared Shraga Dachner, to be personally known, who being by me duly sworn, did say he is the President of the Board of Directors of the Association of Apartment Owners of Waikiki Banyan, that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors, and acknowledged that he executed the same as the free act and deed of said Association. Said Association has no seal.



Notary Public, State of Hawaii
Printed Name: Annie C. Kekoolani
My commission expires: 02-16-2002

L.S.

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 7th day of July, 1999, before me appeared Margaret S. Walker, to be personally known, who being by me duly sworn, did say she is the Secretary of the Board of Directors of the Association of Apartment Owners of Waikiki Banyan, that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors, and acknowledged that she executed the same as the free act and deed of said Association. Said Association has no seal.



Notary Public, State of Hawaii
Printed Name: Annie C. Kekoolani
My commission expires: 02-16-2002

L.S.

EXHIBIT "A"

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

LOT 2, area 91,642.0 square feet, of Block "F", as shown on Map 3, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1865 (amended) of First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust.

Being the remainder of the land(s) described in Original Certificate of Title No. 209,663 issued to First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust, in Trust, with power to lease, mortgage and sell and other powers more particularly set forth in Trust Deed dated December 2, 1909, recorded in Liber 319 at Page 447, as amended, and also described in Transfer Certificate of Title Nos.:

✓ 293,092	301,883✓	304,714✓
✓ 293,926	301,884✓	304,715✓
✓ 293,927	301,885✓	304,716✓
✓ 294,514	301,886✓	304,717✓
✓ 295,167	301,887✓	304,718✓
✓ 295,846	301,888✓	304,719✓
✓ 296,600	302,998✓	304,720✓
✓ 297,032	303,896✓	304,721✓
✓ 297,611	303,897✓	304,722✓
✓ 299,136	304,334✓	304,723✓
✓ 300,296	304,708✓	304,724✓
✓ 301,825	304,709✓	304,725✓
✓ 301,879	304,710✓	304,726✓
✓ 301,880	304,711✓	304,914✓
✓ 301,881	304,712✓	304,915✓
✓ 301,882	304,713✓	313,976✓
		313,977✓

RECORDATION REQUESTED BY:

TITLE GUARANTY ESCROW SERVICES, INC.

AFTER RECORDATION, RETURN TO:

Land Grant

LCAPP - 1845 (BANYAN)

RETURN BY: MAIL () PICKUP ()

Requestor to fill above

Space above this line for Registrar's use

DECLARATION OF HORIZONTAL PROPERTY REGIME
OF
WAIKIKI BANYAN

WHEREAS, the Trustees of the Liliuokalani Trust, herein referred to as "Liliuokalani Trust", are the owners in fee simple of the real property described in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, Kawaiahao Church, a Hawaii eleemosynary corporation, herein referred to as "Kawaiahao", is the owner of the real property described in Exhibit "B" attached hereto and incorporated herein by reference; and

WHEREAS, by Indenture of Lease dated February 22, 1978, effective as of December 1, 1977, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12746, Page 429, herein referred to as the "Master Lease", said Liliuokalani Trust and Kawaiahao, being herein collectively referred to as the "Lessor", demised the real property described in Exhibits "A" and "B" attached hereto to BANYAN ONE, INC., a Hawaii corporation, herein referred to as the "Lessee"; and

WHEREAS, by Master Sublease dated February 22, 1978, effective as of December 2, 1975, recorded as aforesaid in Liber 12746, Page 473, the Lessee has sublet said property to Waikiki Banyan, Inc., a Hawaii corporation, hereinafter referred to as the "Developer"; and

WHEREAS, the Developer has undertaken to improve said land by constructing thereon certain improvements herein-after described in accordance with plans incorporated herein by reference filed and recorded in said Bureau of Conveyances as Condominium File Plan No. ____.

NOW, THEREFORE, in order to create a condominium project consisting of said land and improvements (herein called the "project") and to be known as "WAIKIKI BANYAN", the Lessor, Lessee and Developer hereby submit all of their interests in said property to the Horizontal Property Regime established by the Horizontal Property Act, Chapter 514A, Hawaii Revised Statutes, as amended, and in furtherance thereof make the following declarations as to divisions, limitations, restrictions, covenants and conditions and hereby declare and agree that said property is held and shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied and improved subject to said declarations, which declarations shall constitute covenants running with the land and shall be binding on and for the benefit of the parties hereto,

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:

A. DIVISION OF PROPERTY. The project is hereby divided into the following separate freehold estates:

1. Apartments. 876 separate condominium apartments are hereby designated in the spaces within the perimeter and party walls, floors and ceilings of each of the 876 apartment units of the project, contained in two buildings, designated the "Mauka Tower" and the "Makai Tower", respectively, containing thirty-seven (37) and thirty-six (36) stories, respectively, both without basements, constructed principally of concrete, which spaces together with appurtenant lanai spaces, if any, are referred to herein as "apartments" and are designated on said condominium file plan and described as set forth in Exhibit "C" 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 "C" attached hereto and for every purpose made a part hereof.

(b) The apartments are numbered and located in the manner as shown on said Condominium File Plan recorded in the Bureau of Conveyances of the State of Hawaii.

(c) The apartments in each of the Towers have immediate access to a corridor, four elevators and two stairway, all such corridors, elevators and stairways being common elements, on each floor of each respective tower leading 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 ceiling 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 (if any), 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 building;
- (c) All yard, grounds and landscaping;
- (d) All parking areas;
- (e) All pipes, cables, conduits, ducts, fan rooms, electrical equipment, wiring and other central and

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;

(f) Two (2) utility/mail rooms and one (1) lounge on the ground floor of each of the Mauka and Makai Towers;

(g) Three (3) utility rooms on each of the third, fourth and fifth floors of each of the Mauka and Makai Towers; and a Makai storage area on the fourth floor of the Makai Tower;

(h) A utility/trash room; two (2) lounge areas; and a housekeeping-electrical room on the sixth floor of the Mauka Tower; men's and women's dressing-sauna-restrooms; one (1) janitor's room, two (2) lounge areas, a laundry room, housekeeping room, electrical room, utility/trash room and snack bar on the sixth floor of the Makai Tower; and a recreation deck and swimming pool on the roof of the garage connecting the Mauka and Makai Towers;

(i) Laundry, housekeeping, utility and electrical rooms located on each of the seventh through twelfth and fourteenth through thirty-seventh floors of the Makai Tower and the seventh through twelfth and fourteenth through thirty-eight floors of the Mauka Tower;

(j) Jogging track on the roof of each of the Mauka and Makai Towers.

(k) 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.

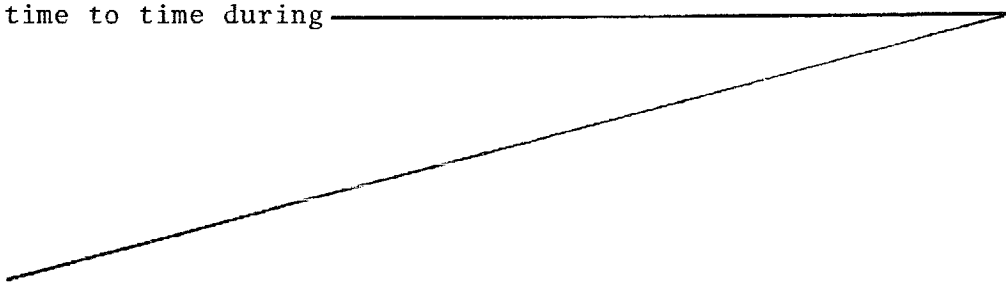
B. COMMON INTEREST. Each apartment shall have appurtenant thereto an undivided 1/876 fractional interest and the equivalent thereof stated as a percentage (.11415++) in all common elements of the project (herein called the "common interest") and the same proportionate share in all common profits and expenses of the project and for all other purposes including voting.

C. EASEMENTS. In addition to any easements herein designated in the limited common elements, if any, 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 designated 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; and in all other apartments of the building for support.

2. If any part of the common elements encroaches upon any apartment, or if any apartment 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 the building 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 due to such construction 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 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.

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 Horizontal 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 sublease or condominium conveyance document demising the same.

E. USE. The apartments shall be occupied and used only for purposes permitted from time to time by this Declaration and the By-Laws attached hereto, and by applicable zoning ordinances, rules and regulations, and for no other purpose. 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 attached hereto.

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 attached hereto as Exhibit "E" and made a part hereof. 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 Horizontal 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 building 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 30 days after the giving of such notice.

4. Before commencing or permitting construction of any improvement on the project, obtain and deposit with the Lessor and Lessee a bond or certificate thereof naming as obligees the Lessor, Lessee 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.

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. 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 Lessor, first approved in writing by the 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.

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 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. The initial Managing Agent shall be Dillingham Land Corporation whose principal place of business and post office address is 1441 Kapiolani Boulevard, Honolulu, Hawaii. The Managing Agent shall also collect rent payable under Apartment Subleases or Condominium Conveyance Documents issued by the Lessor or Lessee and cause the same to be paid as and when due thereunder, without commingling any such funds with other funds in its custody at any time. Any agreement for

professional management for the project shall provide for termination of either the managing agent or the Association without cause or payment of a termination fee on ninety (90) days' or less written notice.

H. COMMON EXPENSES. Except as hereinafter provided, 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 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 horizontal property regime hereby created and no payments thereof shall be payments of such common expenses; provided, however, all such expenses for maintenance, repair, replacement, additions and improvements to limited common elements shall be charged to the apartment owner to which the limited common element is appurtenant. 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, 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 Horizontal Property Act, provided that thirty (30) days' prior written notice of intention to foreclose shall be mailed, postage prepaid, to the 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 mortgage of record of an apartment or of an apartment sublease or condominium conveyance document 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).

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 determine in its sole discretion 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 Horizontal Property Regime hereby created shall be terminated or waived, said 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 horizontal 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, and mortgagees as their interests may appear, 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 Lessor, Lessee and the Secretary of the Association 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 if the property is located in an identified flood hazard area as designated by the Department of Housing and Urban Development in the amount of the aggregate of the outstanding principal balance 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 exterior glass of the project also be insured under such policy. 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 building, except as provided in paragraph K, 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 Lessor and Lessee 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 building is increased, whether or not within the knowledge or control of the Board, Lessor or Lessee, or because of any breach of warranty or condition or any other act or neglect by the Board, Lessor, Lessee or any apartment owner or any other persons under either of them;

3. Provide that such policy and the coverage thereunder may not be cancelled or substantially modified (whether or not requested by the Board) except by the insurer giving at least sixty (60) days' prior written notice thereof to the Board, Lessor, Lessee, 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, Lessor, Lessee or apartment owners against any of them or any other persons under them;

5. 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

6. 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 condominium conveyance document 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, Lessor, Lessee 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.

7. Contain a waiver by the insurer of any right of the insurer to repair, rebuild or replace, if the apartment owners decide pursuant to Paragraph K of this Declaration not to repair, reinstate, rebuild or restore the damaged or destroyed improvements.

The Board on behalf of the Association at its common expense shall also effect and maintain at all times

comprehensive general liability insurance, covering all apartment owners with respect to the project and naming the Lessor and Lessee as additional assureds, 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 in any one accident or occurrence and Five Hundred Thousand Dollars (\$500,000.00) for property damage, and from time to time deposit promptly with the Lessor and Lessee 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 (a) provide that the same shall not be invalidated by any act or neglect of the Board, Lessor, Lessee or apartment owners or any persons under any of them; (b) contain a waiver by the insurer of any right of subrogation to any right of the Board, Lessor, Lessee or apartment owners against any of them or any other persons under them; (c) contain a "severability of interest" endorsement, precluding the insurer from denying the claim of an apartment owner because of negligent acts of the Association or other apartment owners; and (d) Provide that the policy and its coverage may not be cancelled or reduced (whether or not requested by the Board), except by the insurer giving at least sixty (60) days' prior written notice thereof to the Board, Lessor, Lessee, apartment owners, every first mortgage of an apartment sublease or condominium conveyance document 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 shall be 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 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; provided that no adjustment shall be made which decreases any insurance coverage.

At the request of any mortgagee of any interest in any apartment, the Board shall furnish to such mortgagee a copy of the casualty and liability insurance policies referred to in the foregoing paragraph J.

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 untenable, 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 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 untenable, 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 vote against such reconstruction or repair. In the event the property shall not be reconstructed or repaired pursuant to such vote, the provisions of Section 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 Lessor and Lessee as their interests may appear, 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 approved 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 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 addition thereto, different in

any material respect from said condominium map of the project, shall be undertaken by the Association or any apartment owners only pursuant to an amendment of this Declaration, duly executed by or pursuant to the affirmative vote of all the apartment owners and accompanied by the written consent of the holders of all liens affecting any of the apartments, and in accordance with complete plans and specifications therefor first approved in writing by the 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 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, provided further, however, that in the event and to the extent the layout, location, description, or area of the apartment is changed from that described in the Declaration or as depicted on the Condominium File Plan, an amendment to this Declaration, or Condominium

File Plan, or both, shall be duly executed and recorded by the owners of all apartments directly affected by such change (as determined by the Board as aforesaid), the Board and the holders of all first liens affecting such affected apartments.

O. MAINTENANCE RESERVE FUND. The Board shall establish and maintain a Maintenance Reserve Fund by the assessment of and payment by all 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 horizontal 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 horizontal property regime.

P. AMENDMENT OF DECLARATION. Except as otherwise provided herein or in said Horizontal Property Act, this

Declaration may be amended by vote of seventy-five percent (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 of this Declaration shall also require the prior written approval thereof by the Lessor and at least seventy-five percent (75%) of the institutional holders of first mortgages on apartment subleases or condominium conveyance documents demising or transferring the same (based upon one vote for each first mortgage owned); and, further provided, that the Lessor and Lessee reserve the right to amend this Declaration without the consent or joinder of persons then owning or leasing the apartments by filing an amendment to this Declaration pursuant to the provisions of Section 514A-13, Hawaii Revised Statutes, after completion of the building 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. Notwithstanding the foregoing provisions of this paragraph, the Declaration may further be amended as set forth in Paragraph N hereof. Provided that such amendment shall be effective only upon the recording of the same in the appropriate registry of conveyances of the State of Hawaii.

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 attached hereto 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. Lessor hereby agrees to take no action which would adversely affect the rights of the Association of 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 horizontal property regime.

IN WITNESS WHEREOF, Lessor, Lessee and Developer have
executed these presents this 28th day of February,
19 78.

TRUSTEES OF THE LILIUOKALANI TRUST

By FIRST HAWAIIAN BANK

By *Lee J. med*

 T.L.S. VICE PRESIDENT & TRUST OFFICER

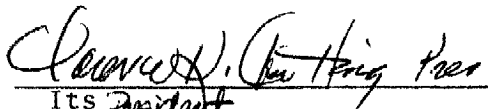
By _____
Its _____

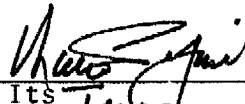
Clorinda Rosa Lucas.

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James N. Kelly

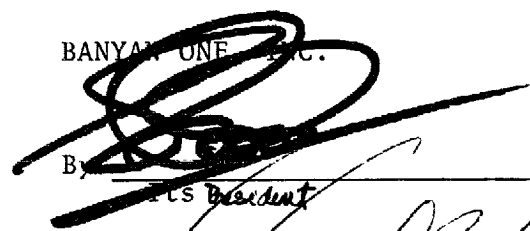
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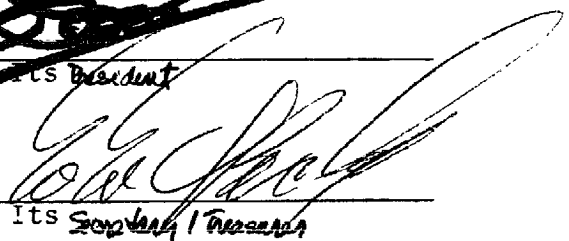
By 
Its President

By 
Its Treasurer

"Lessor"

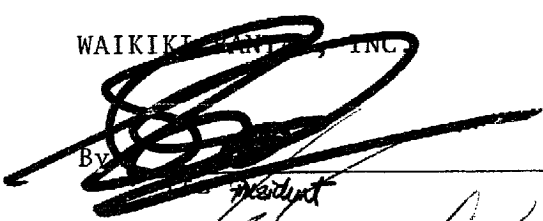
BANYAN ONE, INC.

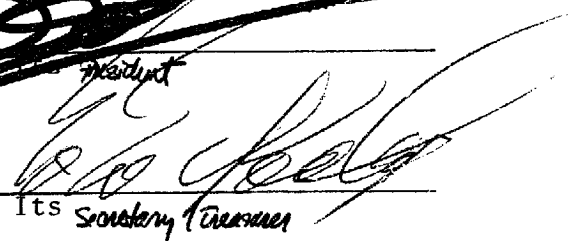
By 
Its President

By 
Its Secretary / Treasurer

"Lessee"

WAIKIKI MANA, INC.

By 
Its President

By 
Its Secretary / Treasurer

"Developer"

STATE OF HAWAII
CITY AND COUNTY OF HONOLULU

)
) SS.
)

LIBER 12789 PG 642

On this 24th day of February, 1978, before me personally appeared Clorenda Low Lucas and Dorden S. May, two of the TRUSTEES OF THE LILIUOKALANI TRUST, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed, as such Trustees.

Ermini L. Martin
Notary Public, First Judicial
Circuit, State of Hawaii

My commission expires OCTOBER 9, 1981

STATE OF HAWAII
CITY AND COUNTY OF HONOLULU

)
) SS.
)

On this 24th day of February, 1978, before me appeared EARL GOULD, to me personally known, who, being by me duly sworn, did say that he is the VICE PRESIDENT & TRUST OFFICER of FIRST HAWAIIAN BANK, one of the Trustees of the Liliuokalani Trust, 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 EARL GOULD acknowledged said instrument to be the free act and deed of said corporation, as such Trustess.

Ermini L. Martin
Notary Public, First Judicial
Circuit, State of Hawaii

My commission expires OCTOBER 9, 1981

Ermine L. Martin
Notary Public, First Judicial
Circuit, State of Hawaii

My commission expires OCTOBER 9, 1981

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 28th day of February, 1978, before me appeared Stanley Cook and William W. Becker, to me personally known, who being by me duly sworn, did say that they are the President and Secretary/Treasurer respectively, of BANYAN ONE, INC., a Hawaii corporation, 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 Stanley Cook and William W. Becker acknowledged said instrument to be the free act and deed of said corporation.

Notary Public, First Judicial
Circuit, State of Hawaii.

My commission expires 10-30-79

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

On this 28th day of February, 1978, before me appeared Stanley Cook and William W. Becker, to me personally known, who being by me duly sworn, did say that they are the President and Secretary/Treasurer respectively. of WAIKIKI BANYAN, INC., a Hawaii corporation, 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 Stanley Cook and William W. Becker acknowledged said instrument to be the free act and deed of said corporation.

Notary Public, First Circuit
State of Hawaii

My commission expires: 10-30-79

Beginning at a pipe at the North corner of this parcel of land, being also the North corner of Block F of Land Court Application 1865 (Pending), the coordinates of said point of beginning referred to Government Survey Triangulation Station "WAIKIKI" being 3,246.39 feet South and 2,786.85 feet East, thence running by azimuths measured clockwise from True South:

1. 312° 45' 230.00 feet along Lots 30-B, D-1 and 36-B of Land Court Application 615 to a pipe;
2. 42° 45' 420.02 feet along the Northwest side of Paoakalani Avenue to a pipe;
3. 44° 52' 16.65 feet along same;
4. Thence along the North corner of the intersection of Paoakalani and Kuhio Avenues, on a curve to the right with with a radius of 20.00 feet, the azimuth and distance of the chord being 95° 14' 30" 30.81 feet;
5. 145° 37' 194.28 feet along the Northeast side of Kuhio Avenue to a pipe;
6. Thence along the East corner of the intersection of Kuhio and Ohua Avenues, on a curve to the right with a radius of 20.00 feet, the azimuth and distance of the chord being 184° 11' 24.94 feet to a pipe;
7. 222° 45' 73.04 feet along the Southeast side of Ohua Avenue;

- | | | | | |
|-----|------|-----|--------|--|
| 8. | 315° | 12' | 107.44 | feet along the remainder
of Royal Patent 5588, Land
Commission Award 8452, Apana
3, Section 1 to A. Keohokalole; |
| 9. | 225° | 00' | 59.95 | feet along same; |
| 10. | 222° | 45' | 14.76 | feet along same; |
| 11. | 135° | 20' | 110.11 | feet along same; |
| 12. | 222° | 45' | 244.60 | feet along the Southeast side
of Ohua Avenue to the point of
beginning and containing an
area of 91,649 square feet,
more or less. |

SUBJECT, HOWEVER, TO:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. Grant dated December 11, 1925, recorded on December 2, 1929 in the Bureau of Conveyances of the State of Hawaii in Book 1038, Page 23, in favor of CITY AND COUNTY OF HONOLULU, Board of Water Supply for sewer line and water main purposes.

All of that certain parcel of land (being a portion of Royal Patent 5588, Land Commission Award 8452, Apana 3, Section 1 to A. Keohokalole), situated on the Southeast side of Ohua Avenue, at Hamohamo, Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, and thus bounded and more particularly described as per survey of Robert S. Torigoe, Registered Land Surveyor No. 1361, dated December 15, 1977, as follows:

Beginning at the North corner of this parcel of land and on the Southeast side of Ohua Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WAIKIKI" being 3,426.01 feet South and 2,620.82 feet East, thence running by azimuths measured clockwise from True South:

- | | | | | |
|----|------|-----|--------|--|
| 1. | 315° | 20' | 110.11 | feet along Block F of Land Court Application 1865 (Pending), along the remainder of Royal Patent 5588, Land Commission Award 8452, Apana 3, Section 1 to A. Keohokalole; |
| 2. | 42° | 45' | 14.76 | feet along the same; |
| 3. | 45° | 00' | 59.95 | feet along the same; |
| 4. | 135° | 20' | 107.74 | feet along the same; |
| 5. | 222° | 45' | 75.02 | feet along the Southeast side of Ohua Avenue to the point of beginning and containing an area of 8,160 square feet, more or less. |

SUBJECT, HOWEVER, TO:

1. The reservation in favor of the State of Hawaii of all mineral and metallic mines.

EXHIBIT "C"

Apartments. Eight hundred seventysix (876) apartments are hereby designated in the spaces within the perimeter walls, floors and ceilings of each of the 876 apartments of the project, which spaces together with appurtenant lanais, if any, referred to herein as "apartments", are designated on said plans and described as follows:

I

Apartments 604, 606, 607, 608, 609, 610, 611, 612, 613 and 614 are located on the sixth floor of the Makai Tower;

Apartments 601, 602, 603, 605, 607, 608, 609, 610, 611, 612, 613 and 614 are located on the sixth floor of the Mauka Tower;

Apartments 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713 and 714 are located on the seventh floor of the Makai Tower;

Apartments 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713 and 714 are located on the seventh floor of the Mauka Tower;

Apartments 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813 and 814 are located on the eighth floor of the Makai Tower;

Apartments 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813 and 814 are located on the eighth floor of the Mauka Tower;

Apartment 901, 902, 903, 904, 905
906, 907, 908, 909, 910, 911, 912, 913 and 914 are
located on the ninth floor of the Makai Tower;

Apartments 901, 902, 903, 904, 905,
906, 907, 908, 909, 910, 911, 912, 913 and 914 are
located on the ninth floor of the Mauka Tower;

Apartments 1001, 1002, 1003, 1004, 1005,
1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013 and
1014 are located on the tenth floor of the Makai Tower;

Apartments 1001, 1002, 1003, 1004, 1005,
1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013 and
1014 are located on the tenth floor of the Mauka Tower;

Apartments 1101, 1102, 1103, 1104, 1105,
1106, 1107, 1108, 1109, 1110, 1111, 1112, 1113 and
1114 are located on the eleventh floor of the Makai
Tower;

Apartments 1101, 1102, 1103, 1104, 1105,
1106, 1107, 1108, 1109, 1110, 1111, 1112, 1113 and
1114 are located on the eleventh floor of the Mauka
Tower;

Apartments 1201, 1202, 1203, 1204, 1205,
1206, 1207, 1208, 1209, 1210, 1211, 1212, 1213 and
1214 are located on the twelfth floor of the Makai
Tower;

Apartments 1201, 1202, 1203, 1204, 1205,
1206, 1207, 1208, 1209, 1210, 1211, 1212, 1213 and 1214
are located on the twelfth floor of the Mauka Tower

Apartments 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1413 and 1414 are located on the fourteenth floor of the Makai Tower;

Apartments 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1413 and 1414 are located on the fourteenth floor of the Mauka Tower;

Apartments 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513 and 1514 are located on the fifteenth floor of the Makai Tower;

Apartments 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513 and 1514 are located on the fifteenth floor of the Mauka Tower;

Apartments 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613 and 1614 are located on the sixteenth floor of the Makai Tower;

Apartments 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613 and 1614 are located on the sixteenth floor of the Mauka Tower;

Apartments 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1709, 1710, 1711, 1712, 1713 and 1714 are located on the seventeenth floor of the Makai Tower;

Apartments 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1709, 1710, 1711, 1712, 1713 and 1714 are located on the seventeenth floor of the Mauka Tower;

Apartments 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1811, 1812, 1813 and 1814 are located on the eighteenth floor of the Makai Tower;

Apartments 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1811, 1812, 1813 and 1814 are located on the eighteenth floor of the Mauka Tower;

Apartments 1901, 1902, 1903, 1904, 1905, 1806, 1907, 1908, 1909, 1910, 1911, 1912, 1913 and 1914 are located on the nineteenth floor of the Makai Tower;

Apartments 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1908, 1909, 1910, 1911, 1912, 1913 and 1914 are located on the nineteenth floor of the Mauka Tower;

Apartments 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013 and 2014 are located on the twentieth floor of the Makai Tower;

Apartments 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013 and 2014 are located on the twentieth floor of the Mauka Tower;

Apartments 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113 and 2114 are located on the twenty-first floor of the Makai Tower;

Apartments 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113 and 2114 are located on the twenty-first floor of the Mauka Tower;

Apartments 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213 and 2214 are located on the twenty-second floor of the Makai Tower;

Apartments 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213 and 2214 are located on the twenty-second floor of the Mauka Tower;

Apartments 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313 and 2314 are located on the twenty-third floor of the Makai Tower;

Apartments 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313 and 2314 are located on the twenty-third floor of the Mauka Tower;

Apartments 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413 and 2414 are located on the twenty-fourth floor of the Makai Tower

Apartments 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413 and 2414 are located on the twenty-fourth floor of the Mauka Tower

Apartments 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513 and 2514 are located on the twenty-fifth floor of the Makai Tower;

Apartments 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513 and 2514 are located on the twenty-fifth floor of the Mauka Tower;

Apartments 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613 and 2614 are located on the twenty-sixth floor of the Makai Tower

Apartments 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613 and 2614 are located on the twenty-sixth floor of the Mauka Tower

Apartments 2701, 2702, 2703, 2704, 2705, 2706, 2707, 2708, 2709, 2710, 2711, 2712, 2713 and 2714 are located on the twenty-seventh floor of the Makai Tower

Apartments 2701, 2702, 2703, 2704, 2705, 2706, 2707, 2708, 2709, 2710, 2711, 2712, 2713 and 2714 are located on the twenty-seventh floor of the Mauka Tower

Apartments 2801, 2802, 2803, 2804, 2805, 2806, 2807, 2808, 2809, 2810, 2811, 2812, 2813 and 2814 are located on the twenty-eighth floor of the Makai Tower;

Apartments 2801, 2802, 2803, 2804, 2805, 2806, 2807, 2808, 2809, 2810, 2811, 2812, 2813 and 2814 are located on the twenty-eighth floor of the Mauka Tower;

Apartments 2901, 2902, 2903, 2904, 2905, 2906, 2907, 2908, 2909, 2910, 2911, 2912, 2913 and 2914 are located on the twenty-ninth floor of the Makai Tower;

Apartments 2901, 2902, 2903, 2904, 2905, 2906, 2907, 2908, 2909, 2910, 2911, 2912, 2913 and 2914 are located on the twenty-ninth floor of the Mauka Tower;

Apartments 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013 and 3014 are located on the thirtieth floor of the Makai Tower;

Apartments 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013 and 3014 are located on the thirtieth floor of the Mauka Tower;

Apartments 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113 and 3114 are located on the thirty-first floor of the Makai Tower

Apartments 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113 and 3114 are located on the thirty-first floor of the Mauka Tower

Apartments 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3208, 3209, 3210, 3211, 3212, 3213 and 3214 are located on the thirty-second floor of the Makai Tower;

Apartments 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3208, 3209, 3210, 3211, 3212, 3213 and 3214 are located on the thirty-second floor of the Mauka Tower;

Apartments 3301, 3302, 3303, 3304, 3305, 3306, 3307, 3308, 3309, 3310, 3311, 3312, 3313 and 3314 are located on the thirty-third floor of the Makai Tower;

Apartments 3301, 3302, 3303, 3304, 3305, 3306, 3307, 3308, 3309, 3310, 3311, 3312, 3313 and 3314 are located on the thirty-third floor of the Mauka Tower;

Apartments 3401, 3402, 3403, 3404, 3405, 3406, 3407, 3408, 3409, 3410, 3411, 3412, 3413 and 3414 are located on the thirty-fourth floor of the Makai Tower;

Apartments 3401, 3402, 3403, 3404, 3405, 3406, 3407, 3408, 3409, 3410, 3411, 3412, 3413 and 3414 are located on the thirty-fourth floor of the Mauka Tower;

Apartments 3501, 3502, 3503, 3504, 3505, 3506, 3507, 3508, 3509, 3510, 3511, 3512, 3513 and 3514 are located on the thirty-fifth floor of the Makai Tower;

Apartments 3501, 3502, 3503, 3504, 3505, 3506, 3507, 3508, 3509, 3510, 3511, 3512, 3513 and 3514 are located on the thirty-fifth floor of the Mauka Tower;

Apartments 3601, 3602, 3603, 3604, 3605, 3606, 3607, 3608, 3609, 3610, 3611, 3612, 3613 and 3614 are located on the thirty-sixth floor of the Makai Tower;

Apartments 3601, 3602, 3603, 3604, 3605, 3606, 3607, 3608, 3609, 3610, 3611, 3612, 3613 and 3614 are located on the thirty-sixth floor of the Mauka Tower;

Apartments 3701, 3702, 3703, 3704, 3705, 3706, 3707, 3708, 3709, 3710, 3711, 3712, 3713 and 3714 are located on the thirty-seventh floor of the Makai Tower;

Apartments 3701, 3702, 3703, 3704, 3705, 3706, 3707, 3708, 3709, 3710, 3711, 3712, 3713 and 3714 are located on the thirty-seventh floor of the Mauka Tower;

Apartments 3801, 3802, 3803, 3804, 3805, 3806, 3807, 3808, 3809, 3810, 3811, 3812, 3813 and 3814 are located on the thirty-eighth floor of the Mauka Tower.

II

A. Makai Tower:

Those apartments, the last two digits of the numbers of which are -01, are located in the Diamond Head-Mauka corner of the Tower;

Those apartments, the last two digits of the numbers of which are -02, are located in the Ewa-Mauka corner of the Tower;

Those apartments, the last two digits of the numbers of which are -03, are located in the Diamond Head side of the Tower next to the apartments, the numbers of which end in -01;

Those apartments, the last two digits of the numbers of which are -04, are located in the Ewa side

of the Tower next to the apartments, the numbers of which end in -02;

Those apartments, the last two digits of the numbers of which are -05, are located in the Diamond Head side of the Tower next to the apartments, the numbers of which end in -03;

Those apartments, the last two digits of the numbers of which are -06, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -04;

Those apartments, the last two digits of the numbers of which are -07, are located in the Diamond Head side of the Tower next to the apartments, the numbers of which end in -05;

Those apartments, the last two digits of the numbers of which are -08, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -06;

Those apartments, the last two digits of the numbers of which are -09, are located in the Diamond Head side of the Tower next to the apartments, the numbers of which end in -07;

Those apartments, the last two digits of the numbers of which are -10, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -08;

Those apartments, the last two digits of the numbers of which are -11, are located in the Diamond

Head side of the Tower next to the apartments, the numbers of which end in -09;

Those apartments, the last two digits of the numbers of which are -12, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -10;

Those apartments, the last two digits of the numbers of which are -13, are located in the Diamond Head-Makai corner of the Tower;

Those apartments, the last two digits of the numbers of which are -14, are located in the Ewa-Makai corner of the Tower.

B. Mauka Tower:

Those apartments, the last two digits of the numbers of which are -01, are located in the Ewa-Mauka corner of the Tower;

Those apartments, the last two digits of the numbers of which are -02, are located in the Ewa-Makai corner of the Tower;

Those apartments, the last two digits of the numbers of which are -03, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -01;

Those apartments, the last two digits of the numbers of which are -04, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -02;

Those apartments, the last two digits of

Head side of the Tower next to the apartments, the numbers of which end in -09;

Those apartments, the last two digits of the numbers of which are -12, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -10;

Those apartments, the last two digits of the numbers of which are -13, are located in the Diamond Head-Makai corner of the Tower;

Those apartments, the last two digits of the numbers of which are -14, are located in the Ewa-Makai corner of the Tower.

B. Mauka Tower:

Those apartments, the last two digits of the numbers of which are -01, are located in the Ewa-Mauka corner of the Tower;

Those apartments, the last two digits of the numbers of which are -02, are located in the Ewa-Makai corner of the Tower;

Those apartments, the last two digits of the numbers of which are -03, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -01;

Those apartments, the last two digits of the numbers of which are -04, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -02;

Those apartments, the last two digits of

the numbers of which are -05, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -03;

Those apartments, the last two digits of the numbers of which are -06, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -04;

Those apartments, the last two digits of the numbers of which are -07, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -05;

Those apartments, the last two digits of the numbers of which are -08, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -06;

Those apartments, the last two digits of the numbers of which are -09, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -07;

Those apartments, the last two digits of the numbers of which are -10, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -08;

Those apartments, the last two digits of the numbers of which are -11, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -09;

Those apartments, the last two digits of

the numbers of which are -12, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -10;

Those apartments, the last two digits of the numbers of which are -13, are located in the Mauka-Diamond Head corner of the Tower;

Those apartments, the last two digits of the numbers of which are -14, are located in the Makai-Diamond Head corner of the Tower.

III

A description of each of the apartments, designating the layout, number of rooms and approximate floor area thereof, is as follows:

Each apartment designated Type "A" and Type "AR" on Exhibit "D" attached hereto and incorporated herein by reference contains one bedroom, one bathroom, a dressing room, kitchen, living room and a lanai and each contains a total area of approximately 600.31 square feet, including the lanai; provided, however, that Apartments 608, 610 and 612 in the Makai Tower, each contains a patio in addition to said bedroom, bathroom, dressing room, kitchen, living room and lanai, and Apartments 608 and 610 in the Makai Tower, each contains a total area of approximately 1,693.31 square feet, including the lanai and patio, and Apartment 612 in the Makai Tower, contains a total area of approximately 1,784.31 square feet, including the lanai and patio. The layout of Apartments designated Type "A" is

the reverse of that of the apartments designated Type "AR".

Each apartment designated Type "A1" and Type "AR1" on said Exhibit "D" contains one bedroom, one bathroom, a dressing room, kitchen, living room and lanai and contains a total area of approximately 600.31 square feet, including the lanai. The layout of the apartments designated Type "AR1" is the reverse of that of the apartments designated Type "A1".

Each apartment designated Type "B" and Type "BR" on Exhibit "D" attached hereto and incorporated herein by reference contains one bedroom, a bathroom, dressing room, dining area, living room, kitchen and lanai and a total area of approximately 661.29 square feet, including the lanai. The layout of the apartments designated Type "BR" on said Exhibit "D" is the reverse of those designated Type "B".

Each apartment designated on said Exhibit "D" attached hereto and incorporated herein by reference as Type "C" and Type "E" contains one bedroom, one bathroom, a dressing room, kitchen, living room, foyer and a lanai and a total area of approximately 648.78 square feet, including the lanai.

Each apartment designated on said Exhibit "D" as Type "D" and Type "F" contains one bedroom, one bathroom, a dressing room, living room, kitchen and a lanai and a total area of approximately 598.90 square feet, including the lanai.

IV

Each apartment shall be furnished with a Range, Range Hood, Disposal, Refrigerator and Room Air Conditioning Unit.

EXHIBIT "D"

I. Type "A"

A. Mauka Tower.

706, 806, 906, 1006, 1106, 1206 and 1406, 1506, 1606, 1706, 1806, 1906, 2006, 2106, 2206, 2306, 2406, 2506, 2606, 2706, 2806, 2906, 3006, 3106, 3206, 3306, 3406, 3506, 3606, 3706, 3806; 607, 807, 907, 1007, 1107, 1207, 1307, 1407, 1507, 1607, 1707, 1807, 1907, 2007, 2107, 2207, 2307, 2407, 2507, 2607, 2797, 2897, 2907, 3007, 3107, 3207, 3307, 3407, 3507, 3607, 3707, 3807; 610, 710, 810, 910, 1010, 1110, 1210, 1410, 1510, 1610, 1710, 1810, 1910, 2010, 2110, 2210, 2310, 2410, 2510, 2610, 2710, 2810, 2910, 3010, 3110, 3210, 3310, 3410, 3510, 3610, 3710, 3810; 611, 711, 811, 911, 1011, 1111, 1211, 1411, 1511, 1611, 1711, 1811, 1911, 2011, 2111, 2211, 2311, 2411, 2511, 2611, 2711, 2811, 2911, 3011, 3111, 3211, 3311, 3411, 3511, 3611, 3711, 3811.

B. Makai Tower.

703, 803, 903, 1003, 1103, 1203, 1403, 1503, 1603, 1703, 1803, 1903, 2003, 2103, 2203, 2303, 2403, 2503, 2603, 2703, 2803, 2903, 3003, 3103, 3203, 3303, 3403, 3503, 3603, 3703; 607, 707, 807, 907, 1007, 1107, 1207, 1407, 1507, 1607, 1707, 1807, 1907, 2007, 2107, 2207, 2307, 2407, 2507, 2607, 2707, 2807, 2907, 3007, 3107, 3207, 3307, 3407, 3507, 3607, 3707.

II. Type "A1"

A. Mauka Tower.

602, 702, 802, 902, 1002, 1102, 1202, 1402, 1502, 1602, 1702, 1802, 1902, 2002, 2102, 2202, 2302, 2402, 2502, 2602, 2702, 2802, 2902, 3002, 3102, 3202, 3302, 3402, 3502, 3602, 3702, 3802.

B. Makai Tower.

702, 802, 902, 1002, 1102, 1202, 1402, 1502, 1602,
 1702, 1802, 1902, 2002, 2102, 2202, 2302, 2402, 2502, 2602,
 2702, 2802, 2902, 3002, 3102, 3202, 3302, 3402, 3502, 3602,
 3702.

III. Type "AR1"A. Mauka Tower.

601, 701, 801, 901, 1001, 1101, 1201, 1401, 1501, 1601,
 1701, 1801, 1901, 2001, 2101, 2201, 2301, 2401, 2501, 2601,
 2701, 2801, 2901, 3001, 3101, 3201, 3301, 3401, 3501, 3601,
 3701, 3801.

B. Makai Tower.

701, 801, 901, 1001, 1101, 1201, 1301, 1401, 1501,
 1601, 1701, 1801, 1901, 2001, 2101, 2201, 2301, 2401, 2501,
 2601, 2701, 2801, 2901, 3001, 3101, 3201, 3301, 3401, 3501,
 3601, 3701.

IV. Type "AR"A. Mauka Tower.

704, 804, 904, 1004, 1104, 1204, 1404, 1504, 1604,
 1704, 1804, 1904, 2004, 2104, 2204, 2304, 2404, 2504, 2604,
 2704, 2804, 2904, 3004, 3104, 3204, 3304, 3404, 3504, 3604,
 3704, 3804; 608, 708, 808, 908, 1008, 1108, 1208, 1408,
 1508, 1608, 1708, 1808, 1908, 2008, 2108, 2208, 2308, 2408,
 2508, 2608, 2708, 2808, 2908, 3008, 3108, 3208, 3308, 3408,
 3508, 3608, 3708, 3808; 609, 709, 809, 909, 1009, 1109,
 1209, 1409, 1509, 1609, 1709, 1809, 1909, 2009, 2109, 2209,
 2309, 2409, 2509, 2609, 2709, 2809, 2909, 3009, 3109, 3209,
 3309, 3409, 3509, 3609, 3709, 3809; 612, 712, 812, 912,
 1012, 1112, 1212, 1412, 1512, 1612, 1712, 1812, 1912, 2012,

2112, 2212, 2312, 2412, 2512, 2612, 2712, 2812, 2912,
3012, 3112, 3212, 3312, 3412, 3512, 3612, 3712, 3812.

B. Makai Tower.

705, 805, 905, 1005, 1105, 1205, 1405, 1505, 1605,
1705, 1805, 1905, 2005, 2105, 2205, 2305, 2405, 2505, 2605,
2705, 2805, 2905, 3005, 3105, 3205, 3305, 3405, 3505, 3605,
3705, 3805; 608, 708, 908, 1008, 1108, 1208, 1408, 1508,
16108, 1708, 1808, 1908, 2008, 2108, 2208, 2308, 2408, 2508,
2608, 2708, 2808, 2908, 3008, 3108, 3208, 3308, 3408, 3508,
3608, 3708; 609, 709, 809, 909, 1009, 1109, 1208, 1409,
1509, 1609, 1709, 1809, 1909, 2009, 2109, 2208, 2309, 2409,
2509, 2609, 2709, 2809, 2909, 3009, 3109, 3209, 3309, 3409,
3509, 3609, 3709; 612, 712, 812, 912, 1012, 1112, 1212,
1412, 1512, 1612, 1712, 1812, 1912, 2012, 2112, 2212, 2312,
2412, 2512, 2612, 2712, 2812, 2912, 3012, 3112, 3212, 3312,
3412, 3512, 3612, 3712.

V. Type "B"

A. Mauka Tower.

614, 714, 814, 914, 1014, 1114, 1214, 1414, 1514,
1614, 1714, 1814, 1914, 2014, 2114, 2214, 2314, 2414, 2514,
2614, 2714, 2814, 2914, 3014, 3114, 3214, 3314, 3414, 3514,
3614, 3714, 3814.

B. Makai Tower.

614, 714, 814, 914, 1014, 1114, 1214, 1414, 1514,
1614, 1714, 1814, 1914, 2014, 2114, 2214, 2314, 2414, 2514,
2614, 2714, 2814, 2914, 3014, 3114, 3214, 3314, 3414, 3514,
3614, 3714.

VI. Type "BR"A. Mauka Tower.

613, 713, 813, 913, 1013, 1113, 1213, 1413, 1513,
1613, 1713, 1813, 1913, 2013, 2113, 2213, 2313, 2413, 2513,
2613, 2713, 2813, 2913, 3013, 3113, 3213, 3313, 3413, 3513,
3613, 3713, 3813.

B. Makai Tower.

613, 713, 813, 913, 1013, 1113, 1213, 1413, 1513,
1613, 1713, 1813, 1913, 2013, 2113, 2213, 2313, 2413, 2513,
2613, 2713, 2813, 2913, 3013, 3113, 3213, 3313, 3413, 3513,
3613, 3713.

VII. Type "C"A. Makai Tower.

606, 706, 806, 906, 1006, 1106, 1206, 1406, 1506,
1606, 1706, 1806, 1906, 2006, 2106, 2206, 2306, 2406, 2506,
2606, 2706, 2806, 2906, 3006, 3106, 3206, 3306, 3406, 3506,
3606, 3706.

VIII. Type "D"A. Makai Tower.

604, 704, 804, 904, 1004, 1104, 1204, 1404, 1504,
1604, 1704, 1804, 1904, 2004, 2104, 2204, 2304, 2404, 2504,
2604, 2704, 2804, 2904, 3004, 3104, 3204, 3304, 3404, 3504,
3604, 3704.

BY-LAWS OF THE
ASSOCIATION OF APARTMENT OWNERS OF
WAIKIKI BANYAN

The following By-Laws shall apply to the above-named condominium project (herein called the "project"), as described in and created by Declaration of Horizontal Property Regime (herein called the "Declaration") to be recorded or filed of record in the State of Hawaii contemporaneously herewith, and to all present and future owners, tenants and occupants of any apartments of the project and all other persons who shall at any time use the project. The mere acquisition or rental of any apartment or the mere act of occupancy of any apartment will signify that these By-Laws are accepted, ratified, and will be complied with.

ARTICLE I

MEMBERSHIP

Section 1. Qualification. All owners of apartments of the project shall constitute the Association of Apartment Owners (herein called the "Association"). The owner of any apartment upon acquiring title thereto shall automatically become a member of the Association and shall remain a member thereof until such time as his ownership of such apartment ceases for any reason, at which time his membership in the Association shall automatically cease; provided, however, that to such extent and for such purposes, including voting, as shall be provided by lease of any apartment filed with the Board of Directors of the Association, the lessee of such apartment shall be deemed to be the owner thereof. The successor under any apartment sublease or condominium conveyance document shall be deemed to be an apartment owner under these By-Laws.

Section 2. Place of Meetings. Meetings of the Association shall be held at the project or such other suitable place convenient to the apartment owners as may be designated by the Board of Directors.

Section 3. Annual Meetings. The first annual meeting of the Association shall be held as soon as practicable after recording of the Declaration and these By-Laws upon the call of at least ten percent (10%) of the apartment owners; provided, however, that said first annual meeting shall in no event be held more than one hundred eighty (180) days after the date on which the certificate of occupancy for the project was issued by the appropriate county agency. Thereafter the annual meetings of the Association shall be held within three months after the end of each accounting year.

Section 4. Special Meetings. Special meetings of the Association may be held at any time upon the call of the President or a petition signed by at least twenty-five percent (25%) of the apartment owners and presented to the Secretary.

Section 5. Notice of Meetings. The Secretary shall give written or printed notice of each annual and special meeting to every apartment owner according to the Association's record of ownership, and to every institutional holder of a first mortgage on an apartment 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 or the Managing Agent, at least fourteen (14) days but not more than twenty (20) days before the date

set for such meeting, stating whether it is an annual or special meeting, the authority for the call thereof, the place, day and hour of such meeting, the items on the agenda for such meeting and a standard proxy form authorized by the Association, if any, in any of the following ways: (a) by delivering it to him personally, or (b) by leaving it at his apartment in the project or at his usual residence or place of business, or (c) by mailing it, postage prepaid, addressed to him at his address as it appears on the Association's record of ownership. If notice is given pursuant to the provisions of this section, the failure of any apartment owner or mortgagee to receive actual notice of any meeting shall in no way invalidate such meeting or any proceedings thereat. The presence of any apartment owner or mortgagee in person or by proxy at any meeting shall be deemed a waiver of any required notice to such owner unless he shall at the opening thereof object to the holding of such meeting because of the failure to give notice in accordance with the provisions hereof.

Section 6. Quorum. The presence at any meeting in person or by proxy of a majority of apartment owners shall constitute a quorum, and the acts of a majority of the apartment owners 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 apartment owners" herein means the owners of apartments to which are appurtenant more than fifty percent (50%) of the common interests as established by the Declaration, any other specified percentage of the apartments owners means the owners of

apartments to which are appurtenant such percentage of the common interests.

Section 7. Voting. Voting shall be on a percentage basis, and the percentage of the total vote to which each apartment is entitled shall be 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, personal representative 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 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 or others, and in case of protest each co-tenant shall be entitled to only a share of such vote in proportion to his share of ownership in such apartment. The purchaser of an apartment pursuant to an agreement of sale recorded in the Bureau of Conveyances of the State of Hawaii or filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii shall have all of the rights of a unit owner, including the right to vote, except as to those matters expressly retained by the seller under such agreement of sale, pursuant to Section 514A-83, Hawaii Revised Statutes, as amended.

Section 8. Proxies and Pledges. The authority given by any apartment owner to another person to represent him at meetings of the Association shall be in writing, signed by such owner and filed with the Secretary, and unless limited by its terms shall continue until revoked by a writing filed with the Secretary or by the death or incapacity of such owner; provided, however, that the standard proxy form, if any, which accompanies a notice of meeting shall be valid only for the meeting to which such notice pertains and its adjournment, if any. 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 like manner.

Section 9. Adjournment. Any meeting of the Association may be adjourned from time to time not less than forty-eight (48) hours from the time the original meeting was called as may be determined by majority vote of the apartment 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 10. Order of Business. 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 meeting.
- (d) Report of officers.
- (e) Report of committees.
- (f) Election of inspectors of election.
- (g) Election of directors.
- (h) Unfinished business.
- (i) New business.

Section 11. Conduct of Meeting. Unless some other generally accepted rules for the conduct of meetings of the Association are designated or adopted by majority vote of the apartment owners, all meetings of the Association and the Board of Directors shall be conducted in accordance with Roberts Rules of Order.

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 nine (9) persons. All members of the Board of Directors shall be owners, co-owners, vendees under an agreement of sale, or an officer of any corporate owner of an apartment. The partners in a general partnership and the general partner(s) of a limited partnership shall be deemed to be the owners of an apartment for this purpose. The directors shall serve without compensation, unless such compensation is specifically authorized by the Association at a regular or special meeting. The resident manager of the project, if any, may not serve on the Board.

Section 2. Powers. The Board of Directors shall have all powers necessary for the administration of the affairs of the Association and may do all such acts and things therefor as are not by law, the Declaration or these By-Laws directed to be exercised or done only by the apartment owners.

Section 3. Election and Terms. Election of directors shall be by cumulative voting by secret ballot at each annual meeting and any special meeting called for the purpose. Directors shall hold office for a period of three (3) years and until their respective successors have been elected, subject to removal as herein provided, except that at the first annual meeting one-third of the directors shall be elected for one year, one-third for two years and one-third for three years.

Section 4. Vacancies. Vacancies in the Board of Directors caused by any reason other than 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 be a director until his successor is elected at the next annual meeting of the Association. Death, incapacity or resignation of any director, or his continuous absence from the State of Hawaii for more than six months, or his ceasing to be the sole owner or co-owner of an apartment, shall cause his office to become vacant.

Section 5. Removal of Directors. At any regular 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 then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the apartment owners shall be given an opportunity to be heard at such meeting.

Section 6. Annual Meetings. An organizational meeting of the Board of Directors shall be held at the place of and immediately following each annual meeting of the Association, and no notice shall be necessary to any directors in order validly to constitute such meeting, provided that a majority of the whole Board shall be present. At such meeting the Board shall elect the officers of the Association for the ensuing year.

Section 7. 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 one such meeting shall be held during each calendar quarter of every year. Notice of regular meetings of the Board shall be given to each director, personally or by mail, telephone or messenger service, at least three (3) days prior to the date of such meeting.

Section 8. Special Meetings. Special meetings of the Board of Directors may be called by the President on at least eight hours' notice to each director, given personally or by telephone or messenger service, 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 two directors.

Section 9. 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 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 these By-Laws shall constitute a quorum for the transaction of business, and the acts of a majority of the directors present at any meeting at which a quorum is present shall be the acts of 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.

Section 11. Fidelity Bonds. The Board of Directors shall require that all directors, officers, employees and agents of the Association handling or responsible for funds belonging to or administered by the Association furnish adequate fidelity bonds in favor of the Association. The premiums on such bonds shall be paid by the Association. Such bonds shall in no event be in an amount less than one and one-half times the Association's estimated annual operating expenses and reserves and every such bond shall:

(a) Provide that the bond(s) may not be cancelled or substantially modified (including cancellation for nonpayment of premiums) without at least thirty (30) days' prior written notice to the Board, the first mortgagees and every other person in interest who shall have requested such notice; and

(b) Contain a waiver of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

Section 12. Conflict of Interest. No member of the Board of Directors shall vote at any board meeting on any issue in which such member has a conflict of interest.

ARTICLE III

OFFICERS

Section 1. Designation. The principal officers of the Association shall be a President, Vice President, a Secretary and a Treasurer, all of whom shall be elected by, and in the case of the President from, 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.

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 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 By-Laws or assigned to him from time to time by the Board.

Section 5. Vice President. The Vice President shall assume and perform the duties of the President in the absence or disability of the President or whenever the office of President is vacant. 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 do so on an interim basis. He shall also have such other powers and duties as may be assigned to him from time to time 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 By-Laws, maintain and keep a continuous and accurate record of ownership of all apartments, 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.

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.

Section 8. Auditor. The Association shall appoint annually a public accountant or accounting firm as auditor, who shall not be an officer of the Association nor own any interest in any apartment, to audit the books and financial records of the Association as required by law or directed additionally by the Board of Directors. The members of the Association may by majority vote at any annual meeting require that the yearly audit be conducted by a certified public accountant or a firm of certified public accountants. Any institutional holder of a first mortgage on an apartment or of an apartment lease demising the same may request and the Association shall provide said mortgagee with a copy of said annual audited financial statement within ninety (90) days following the end of any fiscal year of the Association.

ARTICLE IV

ADMINISTRATION

Section 1. Management. The Board of Directors shall at all times manage and operate the project and have such powers and duties as may be necessary or proper therefor including without limitation the following:

- (a) Supervision of its immediate management and operation;

(b) Maintenance, repair, replacement and restoration of the common elements and any additions and alterations thereto;

(c) Purchase, maintenance and replacement of any equipment and provision of all water and utility services required for the common elements;

(d) Provision at each apartment of all 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;

(e) Employment, supervision and dismissal of such personnel as may be necessary for the maintenance and operation of the project;

(f) Preparation at least 60 days before each fiscal year of a proposed budget and schedule of assessments for such year;

(g) Collection of all installments of assessments levied and payment of all common expenses authorized by the Board.

(h) Purchase and maintenance in effect of all policies of hazard and liability insurance for the project required by the Declaration and such other insurance and bonds as may be required or authorized by the Declaration or the Board;

(i) Custody and control of all funds of the Association, maintenance of full and accurate books of account and records of such funds and preparation of regular financial reports thereof;

(j) Notification of all persons having any interest in any apartment according to the Association's record of

ownership of delinquency exceeding 30 days in the payment of any assessment against such apartment;

(k) Notification in writing of all institutional holders of first mortgages on apartments or apartment subleases or condominium conveyance documents demising or conveying the same, as shown in the Association's record of ownership or of which the Secretary of the Association has been given written notice, of any loss to, or taking of, the common elements of the project if such loss or taking exceeds TEN THOUSAND DOLLARS (\$10,000.00);

(l) Notification in writing to the institutional holder of the first mortgage on any apartment or apartment sublease or condominium conveyance document demising or conveying the same, as shown in the Association's record of ownership or of which the Secretary of the Association has been given written notice, of any loss to such apartment which exceeds ONE THOUSAND DOLLARS (\$1,000.00); and

(m) Establishment of such penalties and fines as it deems appropriate with respect to enforcement of the provisions of the Declaration, these By-Laws and the house rules adopted pursuant to Article V, Section 4, of these By-Laws; provided such penalties and fines are not inconsistent with the law or the provisions herein, and the unpaid amount of such penalties and fines against any apartment owner shall constitute a lien against his interest in his apartment which may be foreclosed by the Board of Directors or Managing Agent in the same manner as provided in the Horizontal Property Act for common expenses; provided, however, that the said lien for such penalties and fines shall be subordinate to liens for taxes and assessments lawfully

imposed by governmental authority against the apartment and to all sums unpaid on mortgages of record.

Section 2. Managing Agent. The Board of Directors shall annually employ a responsible Hawaii corporate Managing Agent to manage and control the project subject at all times to direction by the Board, with all of the administrative functions specifically set forth in the preceding Section 1 and with such other powers and duties and at such compensation as the Board may establish from time to time, subject to prior approval of every such employment contract by a majority of the apartment owners. Any decision by the Association to terminate professional corporate management of the project and to assume self-management of the project may not be effected without the prior written consent of at least seventy-five percent (75%) of the institutional holders of a first mortgage on an apartment or an apartment lease demising the same (based upon one vote for each first mortgage owned). Every such employment contract shall provide that it may be terminated by the Board of Directors for cause on no more than thirty (30) days' written notice and without cause on no more than ninety (90) days' written notice, and in no event may such employment contract be for a term exceeding one (1) year, and in no event shall a termination fee be due and owing the Managing Agent.

Section 3. Representation. The President or Managing Agent, subject to the direction of the Board of Directors, shall represent the Association or any two or more apartment owners similarly situated as a class in any action, suit, hearing or other proceeding concerning the Association, the common elements or more than one apartment, and on its or

their behalf may institute, defend, intervene in, prosecute and settle any such actions, suits and proceedings, without prejudice to the rights of any apartment owner individually to appear, sue or be sued. Service of process on two or more apartment owners in any such action, suit or proceeding may be made on the President or Managing Agent. Every first mortgagee to whom the sublessee under an Apartment Lease is required by the terms of the mortgage to pay the same or, whenever there is no such mortgagee, every Managing Agent shall also be the agent of the respective lessees under any apartment leases filed with the Board for the collection, custody and payment of all rent, taxes, assessments and other charges thereunder payable to their lessors.

Section 4. Execution of Instruments. All checks, drafts, notes, acceptances, conveyances, contracts and other instruments shall be signed on behalf of the Association by such person or persons as shall be provided by general or special resolution of the Board of Directors or, in the absence of any such resolution applicable to such instrument, by the President or Vice President and by the Treasurer or Secretary.

ARTICLE V

OBLIGATIONS OF APARTMENT OWNERS

Section 1. Assessments. All apartment owners shall pay to the Managing Agent in advance on the first day of each and every month the monthly installments of assessments against their respective apartments for common expenses of the project in accordance with the Declaration and also,

a monthly sum determined by the Managing Agent to be sufficient to accumulate and pay when due all rent, taxes, assessments and other charges thereunder payable by the lessee or sublessee of such apartment. Provided, however, that any apartment owners who are required under the terms of a first mortgage in favor of an institutional mortgagee encumbering an apartment sublease or a condominium conveyance document demising an apartment in the project to make lease rent payments to such mortgagee for transmittal to the Lessee, shall be permitted to do so.

Section 2. Maintenance of Apartments. Every apartment owner shall at his own expense at all times well and substantially repair, maintain, amend and keep his apartment and the limited common elements appurtenant thereto, including without limitation all internal installations therein such as water, electricity, gas, telephone, sewer, sanitation, air conditioning, lights and all other fixtures and accessories belonging to such apartment and the interior decorated or finished surfaces of all walls, floors and ceilings of such apartment, with all necessary reparations and amendments whatsoever in good order and condition except as otherwise provided by law or the Declaration, and shall be liable for all loss or damage whatsoever caused by his failure to perform any such work diligently, and in case of such failure after reasonable notice to perform shall reimburse to the Association promptly on demand all expenses incurred by it in performing any such work authorized by the Board of Directors or the Managing Agent. Every apartment owner and

occupant shall reimburse the Association promptly on demand all expenses incurred by it in repairing or replacing any uninsured loss or damage to the common elements or any furniture, furnishings and equipment thereof caused by such owner or occupant or any person under either of them and shall give prompt notice to the Managing Agent of any such loss or damage or other defect in the project when discovered.

Section 3. Use of Project

(a) The apartments of the project shall be used only for their respective purposes as set forth in the Declaration and for no other purpose.

(b) All common elements of the project shall be used only for their respective purposes as designed.

(c) No apartment owner or occupant shall place, store or maintain on walkways, roadways, grounds or other common elements any furniture, packages or objects of any kind or otherwise obstruct transit through such common elements.

(d) Every apartment owner and 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.

(e) 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 furniture, furnishings or equipment of the common elements.

(f) No apartment owner or occupant shall erect or place in the project any building or structure including fences and walls, nor make any additions or alterations to 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 Board and approved by the Board and a majority of apartment owners (or such larger percentage required by law

or the Declaration) including all owners of apartments thereby directly affected.

(g) No apartment owner shall decorate or landscape any entrance of his apartment or any other portion of the project except in accordance with standards therefor established by the Board of Directors or specific plans approved in writing by the Board.

(h) All occupants shall exercise extreme care about making noises and in the use of musical instruments, radios, televisions and amplifiers that may disturb other occupants.

(i) No garments, rugs or other objects shall be hung from the windows or facades of the project.

(j) 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.

(k) No refuse, garbage or trash of any kind shall be thrown, placed or kept on any common elements of the project outside of the disposal facilities provided for such purpose.

(l) No livestock, poultry, rabbits or other animals whatsoever shall be allowed or kept in any part of the project except that dogs, cats and other household pets in reasonable number may be kept by the apartment owners and occupants in their respective apartments but shall not be kept, bred or used therein for any commercial purpose nor allowed on any common elements except in transit when carried or on leash; provided, however, that any such pet causing a nuisance or unreasonable disturbance to any other occupant of the project shall be permanently removed therefrom promptly upon notice given by the Board of Directors or Managing Agent.

(m) No apartment owner or occupant shall without the written approval of the Board of Directors 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.

(n) No apartment owner or occupant shall erect, place or maintain any television or other antennas on said project visible from any point outside of the project.

(o) Nothing shall be allowed, done or kept in any apartments or common elements of the project which would overload or impair the floors, walls or roofs thereof, or cause any increase in the ordinary premium rates or the cancellation or invalidation of any insurance thereon maintained by or for the Association.

(p) If the project shall have separate elevators devoted (i) to the transportation of the apartment owners and their guests and (ii) for freight service or auxiliary purposes, the apartment owners and tradesmen are expressly required to utilize the freight or service elevators for transporting packages, merchandise or any other object that may affect the comfort or well-being of the passengers of the elevators dedicated to the transportation of the apartment owners, residents and guests.

Section 4. House Rules. The Board of Directors, upon giving notice to all apartment owners in the same manner as herein provided for notice of meetings of the Association and opportunity to be heard thereon, may adopt, amend or

repeal any supplemental rules and regulations governing details of the operation and use of the common elements not inconsistent with any provision of law, the Declaration or these By-Laws.

Section 5. Expenses of Enforcement. Every apartment owner shall pay to the Association promptly on demand all costs and expenses including reasonable attorneys' fees incurred by or on behalf of the Association in collecting any delinquent assessments against such apartment, foreclosing its lien therefor or enforcing any provisions of the Horizontal Property Act, the Declaration or these By-Laws against such owner or any occupant of such apartment.

Section 6. Record of Ownership. The Secretary of the Association or the Managing Agent shall keep an accurate and current list of the names and addresses of all members of the Association, including all vendees under any agreement of sale on an apartment in the project, if any. In connection therewith every apartment owner shall promptly cause to be duly recorded or filed of record the deed, lease, agreement of sale, assignment or other conveyance to him of such apartment or other evidence of his title thereto and shall file a copy of such document(s) with the Board of Directors through the Secretary or the Managing Agent.

Section 7. Mortgages.

(a) Notice to Board of Directors. An apartment owner who mortgages his interest shall notify the Association of the name and address of his mortgagee and within ten (10) days after the execution of the same shall file a conformed copy of such mortgage with the Association; the Association

shall maintain such information in a book entitled "Mortgages of Apartments".

(b) Notice of Unpaid Common Expenses. The Association whenever so requested in writing by an owner or mortgagee of an interest in an apartment shall promptly report any then unpaid assessments or common expenses due from the apartment owner involved.

(c) Notice of Default. The Board, when giving notice to an apartment owner of a default in paying common expenses or other default, shall send a copy of such notice to each holder of a mortgage covering such apartment or interest therein whose name and address has theretofore been furnished to the Association. In each and every case where the mortgagee has made a request, the Association shall notify the mortgagee of any unpaid assessment that is thirty (30) days delinquent or more.

(d) Examination of Books. Each apartment owner and each mortgagee shall be permitted to examine the books and records of the Association or the project at reasonable times on business days, and each mortgagee shall have the right to require the submission of annual reports and other financial data.

(e) Mortgage Protection. Notwithstanding any provision to the contrary in these By-Laws:

(1) Any first mortgagee who obtains title to an apartment pursuant to the remedies provided in the mortgage or foreclosure of the mortgage will not be liable for such apartment's unpaid dues or charges which accrue prior to the acquisition of title to such apartment by the mortgagee.

(2) All taxes, assessments and charges which may become liens prior to the first mortgage under the laws of the State of Hawaii shall relate only to the individual apartments and not to the condominium project as a whole.

(3) The Declaration and By-Laws shall not give an apartment owner or any other party priority over any rights of first mortgagees of apartments pursuant to their mortgages in the case of a distribution to apartment owners of insurance proceeds of condemnation awards for losses to or a taking of apartment units, common elements or both.

(4) Notwithstanding any other provision of these By-Laws, no amendment of this Section 7(e) shall affect the rights of the holder of any such mortgage recorded in the Bureau of Conveyances, State of Hawaii, prior to the filing of such amendment who does not join in the execution thereof.

ARTICLE VI

MISCELLANEOUS

Section 1. Amendment. These By-Laws may be amended in any respect not inconsistent with provisions of law or the Declaration at any meeting of the Association duly called for such purpose, by vote of seventy-five percent (75%) of the apartment owners, and shall be effective only upon the recording of an amendment to the Declaration setting forth such amendment of these By-Laws; and further provided that any material amendment of these By-Laws shall require the prior written consent thereto by at least seventy-five percent (75%) of the institutional holders of a first

mortgage on an apartment sublease or condominium conveyance document demising or conveying the same (based upon one vote for each first mortgage owned).

Section 2. Indemnification. The Association shall indemnify every director and officer and his executors and administrators against all expenses reasonably incurred by or imposed on him in connection with any action, suit or proceedings to which he may be made a party by reason of being or having been a director or officer of the Association, except in relation to matters as to which he shall be finally adjudged in such action, suit or proceeding to be liable for negligence or misconduct; and in the absence of such final adjudication, indemnification shall be provided only in connection with such matters as to which the Association is advised by its legal counsel that the person to be indemnified committed no such breach of duty. The foregoing right of indemnification shall not be exclusive of any other rights to which such person may be entitled.

Section 3. Subordination. These By-Laws are subordinate and subject to all provisions of the Declaration and any amendments thereto, the Horizontal Property Act (Chapter 514A, Hawaii Revised Statutes, as amended), which shall control in case of any conflict. All terms herein (except where clearly repugnant to the context) shall have the same meaning as in the Declaration or said Horizontal Property Act.

Section 4. Interpretation. In case any provision of these By-Laws shall be held invalid, such invalidity shall

not render invalid any other provision hereof which can be given effect. Nothing in these By-Laws shall be deemed or construed to authorize the Association or Board of Directors to conduct or engage in active business for profit on behalf of any or all of the apartment owners.

Section 5. Books of Receipts and Expenditures. The Managing Agent or Board of Directors shall 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. All records and the 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 of week days.

Section 6. Minutes of Meetings. The minutes of meetings of the Board of Directors, and Association of Apartment Owners shall be available for examination by apartment owners at convenient hours at a place designated by the Board.

CERTIFICATE OF ADOPTION

The undersigned, being the owners and developer of all apartments of the project, hereby adopt the foregoing as the By-Laws of the Association of Apartment Owners of WAIKIKI BANYAN, this 28th day of February, 1978.

Clouinda Reis Lucas
Samuel N. May

FIRST HAWAIIAN BANK

By [Signature]

Trustees of the Liliuokalani Trust

KAWAIAHAO CHURCH

By Lawrence A. Chaffin Pres.
Its

By Harold S. Yim
Its Treas.

"Lessor"

BANYAN ONE, INC.

By [Signature]
Its

By [Signature]
Its

"Lessee"

WALKERT BANYAN, INC.

By [Signature]
Its

By [Signature]
Its

"Developer"

S.T.C. A3

RECORDATION REQUESTED BY:

SECURITY TITLE CORPORATION
AFTER RECORDATION, RETURN TO:

SECURITY TITLE CORPORATION

RETURN BY: MAIL () PICKUP ()

Requestor to fill above

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AMENDMENT TO DECLARATION OF
HORIZONTAL PROPERTY REGIME OF
WAIKIKI BANYAN

WHEREAS, by Declaration of Horizontal Property Regime dated February 28, 1978, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12789, Page 613 (herein called the "Declaration") TRUSTEES OF THE LILIUOKALANI TRUST and KAWAIAHAO CHURCH, a Hawaii eleemosynary corporation, herein collectively referred to as the "Lessor", BANYAN ONE, INC., a Hawaii corporation, herein referred to as the "Lessee", and WAIKIKI BANYAN, INC., a Hawaii corporation, herein referred to as the "Developer", said Lessor, Lessee and Developer being hereinafter collectively referred to as the "Declarants", did submit the property described in said Declaration to the provisions of the Horizontal Property Act, Chapter 514A, ~~Hawaii Revised Statutes, as amended, and contemporaneously~~ therewith filed certain plans, incorporated in said Declaration by reference, in said Bureau of Conveyances as Condominium File Plan No. 537; and

WHEREAS, pursuant to Paragraph P of the Declaration, the Declarants reserved the right from time to time to amend the Declaration without the consent or joinder of any other persons then owning or leasing the apartments

by filing an amendment to the Declaration pursuant to the provisions of Section 514A-12, Hawaii Revised Statutes, as amended, after completion of the building or buildings described therein by attaching to such amendment a verified statement of a registered architect certifying that the plans heretofore filed or filed simultaneously with such amendment fully and accurately depict the layout, location, apartment numbers and dimensions of the apartment, as built.

NOW, THEREFORE, the Declarants in order to comply with the provisions of Section 514A-12, Hawaii Revised Statutes, as amended, does hereby amend said Declaration by incorporating therein a verified statement of a registered architect attached hereto as Exhibit "A" and made a part hereof, certifying that the plans heretofore filed as Condominium File Plan No. 537, fully and accurately depict the elevations of Buildings Mauka Tower and Makai Tower of the Project and the layout, location, apartment numbers and dimensions of the apartments located in Buildings Mauka Tower and Makai Tower of the WAIKIKI BANYAN condominium project, as built.

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

IN WITNESS WHEREOF, the Declarants have executed
this instrument this 6th day of Dec., 1981.

By: FIRST HAWAIIAN BANK

By _____
Its _____

KAWAIAHAO CHURCH

By Arlo W. Richardson
Its Treasurer

"Lessor"

BANYAN ONE, INC.

By John M. [Signature]
Its President

"Lessee"

WAIKIKI BANYAN, INC.

WAIKIKI BANYAN, INC.

By H. J. Johnston and
Its President

"Developer"

STATE OF HAWAII

CITY & COUNTY OF HONOLULU

SS:

16136 151

On this 4th day of December, 1981, before me appeared EARL GOULD and _____, to me personally known, who, being by me duly sworn, did say that ^{he is} ~~they are~~ the _____ and VICE PRESIDENT & TRUST OFFICER, ~~respectively~~, of FIRST HAWAIIAN BANK, one of the Trustees of the Liliuokalani Trust, 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 _____ and EARL GOULD acknowledged said instrument to be the free act and deed of said corporation, as such Trustee.

Ermine L. Martin
Notary Public
State of Hawaii

My commission expires: OCTOBER 9, 1985

STATE OF HAWAII

CITY & COUNTY OF HONOLULU

SS:

On this 4th day of December, 1981, before me personally appeared DAVID M. PETERS and _____, ^{ONE} ~~TWO~~ of the TRUSTEES OF THE LILIUOKALANI TRUST, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that ^{he} ~~they~~ executed the same as ^{his} ~~their~~ free act and deed, as such Trustees.

Ermine L. Martin
Notary Public
State of Hawaii

My commission expires: OCTOBER 9, 1985

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

On this 8 day of December, 1981 before me appeared Charles Nakoa and Arlon W. Richardson, to me personally known, who being by me duly sworn, did say that they are the President and Treasurer, respectively, of KAWAIAHAO CHURCH, a Hawaii eleemosynary corporation, 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 Charles Nakoa and Arlon W. Richardson acknowledged said instrument to be the free act and deed of said corporation, as such Trustees.

Carol S. Honacka
Notary Public
State of Hawaii

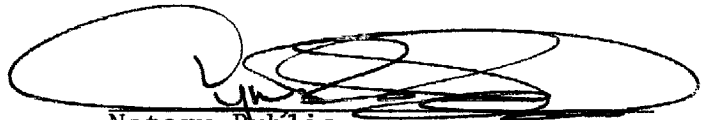
My commission expires: 9/19/83

STATE OF HAWAII

CITY & COUNTY OF HONOLULU

SS:

On this 18th day of December, 1981, before me appeared H. Johnston, to me personally known, who being by me duly sworn, did say that he is the President of BANYAN ONE, INC., a Hawaii corporation, 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 H. Johnston acknowledged said instrument to be the free act and deed of said corporation.



Notary Public
State of Hawaii

My commission expires: 10.30.83

STATE OF HAWAII

CITY & COUNTY OF HONOLULU

SS:

On this 18th day of December, 1981, before me appeared H. Johnston, to me personally known, who being by me duly sworn, did say that he is the President of WAIKIKI BANYAN, INC., a Hawaii corporation, 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 H. Johnston acknowledged said instrument to be the free act and deed of said corporation.

Notary Public
State of Hawaii

My commission expires: 10.30.83

1-384

STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

SEP 09, 1992 02:41 PM

Doc No(s) 1951836

on Cert(s) AS LISTED HEREIN

/s/ S. FURUKAWA
ASSISTANT REGISTRAR

CONVEYANCE TAX: \$0.00

R-780

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

SEP 09, 1992 02:41 PM

Doc No(s) 92-147513 -

/s/ S. FURUKAWA
REGISTRAR OF CONVEYANCES

CONVEYANCE TAX: \$0.00

WHAU WUWA BIDIEM

AFTER RECORDATION, RETURN BY MAIL () PICKUP () TO:

IWAI MOTOOKA & SOTO
820 Millard St. Suite 502
Hasegawa Konuten Building
Honolulu, Hawaii 96813
537 1235

0180J

CH 527
FIRST RESTATEMENT OF THE
DECLARATION OF CONDOMINIUM PROPERTY REGIME
OF
WAIKIKI BANYAN

WHEREAS, the Trustees of the Liliuokalani Trust, herein referred to as "Liliuokalani Trust", are the owners in fee simple of the real property described in Original Certificate of Title No. 209,663 and the Transfer Certificates of Title listed in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, Kawaiahao Church, a Hawaii eleemosynary corporation, herein referred to as "Kawaiahao", is the owner of the real property described in Exhibit "B" attached hereto and incorporated herein by reference; and

WHEREAS, by Indenture of Lease dated February 22, 1978, effective as of December 1, 1977, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12746, Page 429, herein referred to as the "Master Lease", said Liliuokalani Trust and Kawaiahao, being herein collectively referred to as the "Lessor", demised the real property described in Exhibits "A" and "B" attached hereto to BANYAN ONE, INC., a Hawaii corporation, herein referred to as the "Lessee"; and

WHEREAS, by Master Sublease dated February 22, 1978, effective as of December 2, 1975, recorded as aforesaid in Liber 12746, Page 473, the Lessee sublet said property to Waikiki Banyan, Inc., a Hawaii corporation, hereinafter referred to as the "Developer"; and

CM 577
WHEREAS, the Developer improved said land by constructing thereon certain improvements hereinafter described in accordance with plans incorporated herein by reference filed and recorded in said Bureau of Conveyances as Condominium File Plan No. 637.

WHEREAS, in order to create a condominium project consisting of said land and improvements (herein called the "project") and to be known as "WAIKIKI BANYAN", the Lessor,

Lessee and Developer submitted all of their interests in said 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), as amended, and in furtherance thereof made the following declarations as to divisions, limitations, restrictions, covenants and conditions and declared and agreed that said property is to be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied and improved subject to said declarations, which declarations constitute covenants running with the land and 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 (See Endnote 1); and

WHEREAS, By-Laws for the project were recorded contemporaneously with the Declaration 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, Section 514A-82.2, Hawaii Revised Statutes, empowers the Board of Directors of the Association of Apartment Owners of the Waikiki Banyan (the "Association") established by

the By-Laws to restate the Declaration to include any amendments to it and to conform it 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, the City and County of Honolulu adopted Ordinance No. 83-58, requiring the installation of an automatic fire sprinkler system in the project; and

WHEREAS, at a meeting duly held on August 24, 1992, the Board of Directors resolved to restate the Declaration in accordance with Section 514A-82.2, Hawaii Revised Statutes to include amendments enabling the Board to comply with the mandatory requirements of Ordinance 83-58;

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. 876 separate condominium apartments are hereby designated in the spaces within the perimeter and party walls, floors and ceilings of each of the 876 apartment units of the project, contained in two buildings, designated the "Mauka Tower" and the "Makai Tower", respectively, containing thirty-seven (37) and thirty-six (36) stories, respectively, both without basements, constructed principally

of concrete, which spaces together with appurtenant lanai spaces, if any, are referred to herein as "apartments" and are designated on said condominium file plan and described as set forth in Exhibit "C" 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 "C" attached hereto and for every purpose made a part hereof.

(b) The apartments are numbered and located in the manner as shown on said Condominium File Plan recorded in the Bureau of Conveyances of the State of Hawaii.

(c) The apartments in each of the Towers have immediate access to a corridor, four elevators and two stairways, all such corridors, elevators and stairways being common elements, on each floor of each respective tower leading 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 ceiling 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 (if any), 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 building;
- (c) All yard, grounds and landscaping;
- (d) All parking areas;
- (e) All pipes, cables, conduits, ducts, fan rooms, 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;
- (f) Two (2) utility/mail rooms and one (1) lounge on the ground floor of each of the Mauka and Makai Towers;

(g) Three (3) utility rooms on each of the third, fourth and fifth floors of each of the Mauka and Makai Towers; and a Makai storage area on the fourth floor of the Makai Tower;

(h) A utility/trash room; two (2) lounge areas; and a housekeeping-electrical room on the sixth floor of the Mauka Tower; men's and women's dressing-sauna-restrooms; one (1) janitor's room, two (2) lounge areas, a laundry room, housekeeping room, electrical room, utility/trash room and snack bar on the sixth floor of the Makai Tower; and a recreation deck and swimming pool on the roof of the garage connecting the Mauka and Makai Towers;

(i) Laundry, housekeeping, utility and electrical rooms located on each of the seventh through twelfth and fourteenth through thirty-seventh floors of the Makai Tower and the seventh through twelfth and fourteenth through thirty-eighth floors of the Mauka Tower;

(j) Jogging track on the roof of each of the Mauka and Makai Towers.

(k) 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.

(l) Automatic sprinkler system, smoke detectors, fire alarm system, annunciator panels, emergency generators,

and any and all other apparatus and installations required to comply with the requirements of Ordinance No. 83-58 of the Revised Ordinances of Honolulu. (See Endnote 2)

B. COMMON INTEREST. Each apartment shall have appurtenant thereto an undivided 1/876 fractional interest and the equivalent thereof stated as a percentage (.11415+1%) 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.

C. EASEMENTS. In addition to any easements herein designated in the limited common elements, if any, 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 designated 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; and in all other apartments of the building for support.

2. If any part of the common elements encroaches upon any apartment, or if any apartment 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 the building 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 due to such construction 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 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.

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 holder 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 Horizontal 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 sublease or condominium conveyance document demising the same.

E. USE. The apartments shall be occupied and used only for purposes permitted from time to time by this Declaration and the By-Laws attached hereto, and by applicable zoning ordinances, rules and regulations, and for no other purpose. 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 attached hereto.

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 attached hereto as Exhibit "E" and made a part hereof. 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 Horizontal 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 building 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 30 days after the giving of such notice.

4. Before commencing or permitting construction of any improvement on the project, obtain and deposit with the Lessor and Lessee a bond or certificate thereof naming as obligees the Lessor, Lessee 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.

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. 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 Lessor, first approved in writing by the 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. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS DECLARATION, the Association of Apartment Owners shall have the irrevocable right, to be exercised by the Board of Directors:

- a. To install an automatic sprinkler system, smoke detectors, fire alarm system, annunciator panels, emergency generators and any and all apparatus and installations required to comply with Ordinance No. 83-58 of the Revised Ordinances of Honolulu. The Board shall not be required to obtain the consent of the Lessor or any of the owners of apartments to proceed with the aforesaid installations.
- b. To have access to each apartment from time to time during reasonable hours as may be necessary for the installation and maintenance of the automatic sprinkler system, smoke detectors, fire alarm system, annunciator panels and any and all apparatus and installations required to comply with Ordinance No. 83-58 of the Revised Ordinances of Honolulu. (See Endnote 3)

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 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. The initial Managing Agent shall be Dillingham Land Corporation whose principal place of business and post office address is 1441 Kapiolani Boulevard, Honolulu, Hawaii. The Managing Agent shall also collect rent payable under Apartment Subleases or Condominium Conveyance Documents issued by the Lessor or Lessee and cause the same to be paid as and when due thereunder, without comingling any such funds with other funds in its custody at any time. Any agreement for professional management for the project shall provide for termination of either the managing agent or the Association without cause or payment of a termination fee or ninety (90) days' or less written notice.

H. COMMON EXPENSES. Except as hereinafter provided, 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 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 horizontal property regime hereby created and no payments thereof shall be payments of such common expenses; provided, however, all such expenses for maintenance, repair, replacement, additions and improvements to limited common elements shall be charged to the apartment owner to which the limited common element is appurtenant. 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, 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 Horizontal Property Act, provided that thirty (30) days' prior written notice of intention to foreclose shall be mailed, postage prepaid, to the 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 mortgage of record of an apartment or of an apartment sublease or condominium conveyance document 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).

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 determine in its sole discretion 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 Horizontal Property Regime hereby created shall be terminated or waived, said 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 horizontal 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, and mortgagees as their interests may appear, 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 Lessor, Lessee and the Secretary of the Association 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 if the property is located in an identified flood hazard area as designated by the Department of Housing and Urban Development in the amount of the aggregate of the outstanding principal

balance 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 exterior glass of the project also be insured under such policy. 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 building, except as provided in paragraph K, 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 Lessor and Lessee 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 building is increased, whether or not within the knowledge or control of the Board, Lessor or Lessee, or because of any breach of

warranty or condition or any other act or neglect by the Board, Lessor, Lessee or any apartment owner or any other persons under either of them;

3. Provide that such policy and the coverage thereunder may not be cancelled or substantially modified (whether or not requested by the Board) except by the insurer giving at least sixty (60) days' prior written notice thereof to the Board, Lessor, Lessee, 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, Lessor, Lessee or apartment owners against any of them or any other persons under them;

5. 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

6. 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 condominium conveyance document 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, Lessor, Lessee 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.

7. Contain a waiver by the insurer of any right of the insurer to repair, rebuild or replace, if the apartment owners decide pursuant to Paragraph K of this Declaration not to repair, reinstate, rebuild or restore the damaged or destroyed improvements.

The Board on behalf of the Association at its common expense shall also effect and maintain at all times comprehensive general liability insurance, covering all apartment owners with respect to the project and naming the

Lessor and Lessee as additional assureds, 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 in any one accident or occurrence and Five Hundred Thousand Dollars (\$500,000.00) for property damage, and from time to time deposit promptly with the Lessor and Lessee 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 (a) provide that the same shall not be invalidated by any act or neglect of the Board, Lessor, Lessee or apartment owners or any persons under any of them; (b) contain a waiver by the insurer of any right of subrogation to any right of the Board, Lessor, Lessee or apartment owners against any of them or any other persons under them; (c) contain a "severability of interest" endorsement, precluding the insurer from denying the claim of an apartment owner because of negligent acts of the Association or other apartment owners; and (d) Provide that the policy and its coverage may not be cancelled or reduced (whether or not requested by the Board), except by the insurer giving at least sixty (60) days' prior written notice thereof to the Board, Lessor, Lessee, apartment owners, every first mortgage of an apartment sublease or condominium conveyance document 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 assessment thereof, and such payments shall be held in a separate escrow account of the Association and shall be 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 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; provided that no adjustment shall be made which decreases any insurance coverage.

At the request of any mortgagee of any interest in any apartment, the Board shall furnish to such mortgagee a copy of the casualty and liability insurance policies referred to in the foregoing paragraph J.

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 untenable, 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 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 untenable, 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 vote against such reconstruction or repair. In the event the property shall not be reconstructed or repaired pursuant to such vote, the provisions of Section 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 Lessor and Lessee as their interests may appear, 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 approved 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 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 addition thereto, different in any material respect from said condominium map of the project, shall be undertaken by the Association or any apartment owners only pursuant to an amendment of this Declaration, duly executed by or pursuant to the affirmative vote of all the apartment owners and accompanied by the written consent of the holders of all liens affecting any of the apartments, and in accordance with complete plans and specifications therefor first approved in writing by the 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 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, provided further, however, that in the event and to the extent the layout, location, description, or area of the apartment is changed from that described in the Declaration or as depicted on the Condominium File Plan, an amendment to this Declaration, or Condominium File Plan, or both, shall be duly executed and recorded by the owners of all apartments directly affected by such change (as determined by the Board as aforesaid), the Board and the holders of all first liens affecting such affected apartments.

O. MAINTENANCE RESERVE FUND. The Board shall establish and maintain a Maintenance Reserve Fund by the assessment of and payment by all 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 horizontal 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 horizontal property regime.

P. AMENDMENT OF DECLARATION. Except as otherwise provided herein or in said Horizontal Property Act, this Declaration may be amended by vote of seventy-five percent (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 of this Declaration shall also require the prior written

approval thereof by the Lessor and at least seventy-five percent (75%) of the institutional holders of first mortgages on apartment subleases or condominium conveyance documents demising or transferring the same (based upon one vote for each first mortgage owned); and, further provided, that the Lessor and Lessee reserve the right to amend this Declaration without the consent or joinder of persons then owning or leasing the apartments by filing an amendment to this Declaration pursuant to the provisions of Section 514A-13, Hawaii Revised Statutes, after completion of the building 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. Notwithstanding the foregoing provisions of this paragraph, the Declaration may further be amended as set forth in Paragraph N hereof. Provided that such amendment shall be effective only upon the recording of the same in the appropriate registry of conveyances of the State of Hawaii.

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 attached hereto 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. Lessor hereby agrees to take no action which would adversely affect the rights of the Association of 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 horizontal property regime.

S. EXPENSES RELATED TO THE INSTALLATION OF THE FIRE SPRINKLER SYSTEM. All expenses related to the purchase and installation of the automatic sprinkler system, smoke detectors, fire alarm system, annunciator panels, emergency generators and any and all apparatus and installations required to comply with Ordinance No. 83-58 of the Revised Ordinances of Honolulu shall constitute common expenses as defined in paragraph "H." of this Declaration, for which all apartment owners shall be severally liable in proportion to their respective common interests. Any sums unpaid for the foregoing purchases and installations shall constitute liens on the

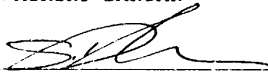
apartments, as fully and effectually as to all other assessments for common expenses. (See Endnote 4)

T. BORROWING. In compliance with Section 514A-82.3, Hawaii Revised Statutes, the Board of Directors may authorize the borrowing of money to be used by the Association for the repair, replacement, maintenance, operation, or administration of the common elements of the project, or the making of any additions, alterations, and improvements thereto. The cost of such borrowing, including, without limitation, all principal, interest, commitment fees, and other expenses payable with respect to such borrowing, shall be a common expense of the project; provided that owners representing fifty percent (50%) of the common interest and apartments give written consent to such borrowing, having been first notified of the purpose and use of the funds. (See Endnote 5)


IN WITNESS WHEREOF, the undersigned have executed this instrument on this 31st day of August, 1992.

ASSOCIATION OF APARTMENT OWNERS
OF WAIKIKI BANYAN

By


Its President

By


Its Secretary

STATE OF HAWAII)

CITY AND COUNTY OF HONOLULU)

ss.

On this 31st day of August, 1992, before me appeared SHRAGA DACHNER, to me personally known, who, being by me duly sworn, did say that he is the President of the ASSOCIATION OF APARTMENT OWNERS OF THE WAIKIKI BANYAN, 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 the said SHRAGA DACHNER acknowledged said instrument to be the free act and deed of said Association.

LS

Arthur K. H.
Notary Public, State of Hawaii

My Commission Expires: 8/27/94

STATE OF HAWAII)

CITY AND COUNTY OF HONOLULU)

ss.

On this 1st day of September, 1992, before me appeared GLORIA BILLINGSLEY, to me personally known, who, being by me duly sworn, did say that she is the Secretary of the ASSOCIATION OF APARTMENT OWNERS OF THE WAIKIKI BANYAN, 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 the said GLORIA BILLINGSLEY acknowledged said instrument to be the free act and deed of said Association.

LS

Arthur K. H.
Notary Public, State of Hawaii

My Commission Expires: 8/27/94

EXHIBIT "A"

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

LOT 2, area 91,642.0 square feet, of Block "F", as shown on Map 3, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1865 (amended) of First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust.

Being the remainder of the land(s) described in Original Certificate of Title No. 209,663 issued to First Hawaiian Bank, a Hawaii Corporation, Lorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust, in Trust, with power to lease, mortgage and sell and other powers more particularly set forth in Trust Deed dated December 2, 1909, recorded in Liber 319 at Page 447, as amended, and also described in Transfer Certificates of Title Nos.:

206,600	301,883 /	304,714 /
293,092 /	301,884 /	304,715 /
293,926 /	301,885 /	304,716 /
293,927 /	301,886 /	304,717 /
294,514 /	301,887 /	304,718 /
295,167 /	301,888 /	304,719 /
295,846 /	302,998 /	304,720 /
297,032 /	303,896 /	304,721 /
297,611 /	303,897 /	304,722 /
299,136 /	304,334 /	304,723 /
300,296 /	304,708 /	304,724 /
301,825 /	304,709 /	304,725 /
301,879 /	304,710 /	304,726 /
301,880 /	304,711 /	304,914 /
301,881 /	304,712 /	304,915 /
301,882 /	304,713 /	313,976 /
		313,977 /

EXHIBIT "B"

All of that certain parcel of land (being a portion of Royal Patent 5588, Land Commission Award 8452, Apana 3, Section 1 to A. Keohokalole), situated on the Southeast side of Ohua Avenue, at Hamohamo, Kaikiki, Honolulu, City and County of Honolulu, State of Hawaii, and thus bounded and more particularly described as per survey of Robert S. Torigoe, Registered Land Surveyor No. 1361, dated December 15, 1977, as follows:

Beginning at the North corner of this parcel of land and on the Southeast side of Ohua Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WAIKIKI" being 3,426.01 feet South and 2,620.82 feet East, thence running by azimuths measured clockwise from True South:

- | | | | | |
|----|------|-----|--------|--|
| 1. | 315° | 20' | 110.11 | feet along Block F of Land Court Application 1865 (Pending), along the remainder of Royal Patent 5588, Land Commission Award 8452, Apana 3, Section 1 to A. Keohokalole; |
| 2. | 42° | 45' | 14.76 | feet along the same; |
| 3. | 45° | 00' | 59.95 | feet along the same; |
| 4. | 135° | 20' | 107.74 | feet along the same; |
| 5. | 222° | 45' | 75.02 | feet along the Southeast side of Ohua Avenue to the point of beginning and containing an area of 8,160 square feet, more or less. |

SUBJECT, HOWEVER, TO:

1. The reservation in favor of the State of Hawaii of all mineral and metallic mines.

EXHIBIT "C"

Apartments. Eight hundred seventysix (876) apartments are hereby designated in the spaces within the perimeter walls, floors and ceilings of each of the 876 apartments of the project, which spaces together with appurtenant lanais, if any, referred to herein as "apartments", are designated on said plans and described as follows:

I

Apartments 604, 606, 607, 608, 609, 610, 611, 612, 613 and 614 are located on the sixth floor of the Makai Tower;

Apartments 601, 602, 603, 605, 607, 608, 609, 610, 611, 612, 613 and 614 are located on the sixth floor of the Mauka Tower;

Apartments 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713 and 714 are located on the seventh floor of the Makai Tower;

Apartments 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713 and 714 are located on the seventh floor of the Mauka Tower;

Apartments 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813 and 814 are located on the eighth floor of the Makai Tower;

Apartments 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813 and 814 are located on the eighth floor of the Mauka Tower;

Apartment 901, 902, 903, 904, 905
906, 907, 908, 909, 910, 911, 912, 913 and 914 are
located on the ninth floor of the Makai Tower;

Apartments 901, 902, 903, 904, 905,
906, 907, 908, 909, 910, 911, 912, 913 and 914 are
located on the ninth floor of the Mauka Tower;

Apartments 1001, 1002, 1003, 1004, 1005,
1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013 and
1014 are located on the tenth floor of the Makai Tower;

Apartments 1001, 1002, 1003, 1004, 1005,
1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013 and
1014 are located on the tenth floor of the Mauka Tower;

Apartments 1101, 1102, 1103, 1104, 1105,
1106, 1107, 1108, 1109, 1110, 1111, 1112, 1113 and
1114 are located on the eleventh floor of the Makai
Tower;

Apartments 1101, 1102, 1103, 1104, 1105,
1106, 1107, 1108, 1109, 1110, 1111, 1112, 1113 and
1114 are located on the eleventh floor of the Mauka
Tower;

Apartments 1201, 1202, 1203, 1204, 1205,
1206, 1207, 1208, 1209, 1210, 1211, 1212, 1213 and
1214 are located on the twelfth floor of the Makai
Tower;

Apartments 1201, 1202, 1203, 1204, 1205,
1206, 1207, 1208, 1209, 1210, 1211, 1212, 1213 and 1214
are located on the twelfth floor of the Mauka Tower

Apartments 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1413 and 1414 are located on the fourteenth floor of the Makai Tower;

Apartments 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1413 and 1414 are located on the fourteenth floor of the Mauka Tower;

Apartments 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513 and 1514 are located on the fifteenth floor of the Makai Tower;

Apartments 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513 and 1514 are located on the fifteenth floor of the Mauka Tower;

Apartments 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613 and 1614 are located on the sixteenth floor of the Makai Tower;

Apartments 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613 and 1614 are located on the sixteenth floor of the Mauka Tower;

Apartments 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1709, 1710, 1711, 1712, 1713 and 1714 are located on the seventeenth floor of the Makai Tower;

Apartments 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1709, 1710, 1711, 1712, 1713 and 1714 are located on the seventeenth floor of the Mauka Tower;

Apartments 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1811, 1812, 1813 and 1814 are located on the eighteenth floor of the Makai Tower;

Apartments 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1811, 1812, 1813 and 1814 are located on the eighteenth floor of the Mauka Tower;

Apartments 1901, 1902, 1903, 1904, 1905, 1806, 1907, 1908, 1909, 1910, 1911, 1912, 1913 and 1914 are located on the nineteenth floor of the Makai Tower;

Apartments 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1908, 1909, 1910, 1911, 1912, 1913 and 1914 are located on the nineteenth floor of the Mauka Tower;

Apartments 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013 and 2014 are located on the twentieth floor of the Makai Tower;

Apartments 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013 and 2014 are located on the twentieth floor of the Mauka Tower;

Apartments 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113 and 2114 are located on the twenty-first floor of the Makai Tower;

Apartments 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113 and 2114 are located on the twenty-first floor of the Mauka Tower;

Apartments 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213 and 2214 are located on the twenty-second floor of the Makai Tower;

Apartments 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213 and 2214 are located on the twenty-second floor of the Mauka Tower;

Apartments 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313 and 2314 are located on the twenty-third floor of the Makai Tower;

Apartments 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313 and 2314 are located on the twenty-third floor of the Mauka Tower;

Apartments 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413 and 2414 are located on the twenty-fourth floor of the Makai Tower

Apartments 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413 and 2414 are located on the twenty-fourth floor of the Mauka Tower

Apartments 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513 and 2514 are located on the twenty-fifth floor of the Makai Tower;

Apartments 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513 and 2514 are located on the twenty-fifth floor of the Mauka Tower;

Apartments 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613 and 2614 are located on the twenty-sixth floor of the Makai Tower

Apartments 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613 and 2614 are located on the twenty-sixth floor of the Mauka Tower

Apartments 2701, 2702, 2703, 2704, 2705, 2706, 2707, 2708, 2709, 2710, 2711, 2712, 2713 and 2714 are located on the twenty-seventh floor of the Makai Tower

Apartments 2701, 2702, 2703, 2704, 2705, 2706, 2707, 2708, 2709, 2710, 2711, 2712, 2713 and 2714 are located on the twenty-seventh floor of the Mauka Tower;

Apartments 2801, 2802, 2803, 2804, 2805, 2806, 2807, 2808, 2809, 2810, 2811, 2812, 2813 and 2814 are located on the twenty-eighth floor of the Makai Tower;

Apartments 2801, 2802, 2803, 2804, 2805, 2806, 2807, 2808, 2809, 2810, 2811, 2812, 2813 and 2814 are located on the twenty-eighth floor of the Mauka Tower;

Apartments 2901, 2902, 2903, 2904, 2905, 2906, 2907, 2908, 2909, 2910, 2911, 2912, 2913 and 2914 are located on the twenty-ninth floor of the Makai Tower;

Apartments 2901, 2902, 2903, 2904, 2905, 2906, 2907, 2908, 2909, 2910, 2911, 2912, 2913 and 2914 are located on the twenty-ninth floor of the Mauka Tower;

Apartments 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013 and 3014 are located on the thirtieth floor of the Makai Tower;

Apartments 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013 and 3014 are located on the thirtieth floor of the Mauka Tower;

Apartments 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113 and 3114 are located on the thirty-first floor of the Makai Tower;

Apartments 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113 and 3114 are located on the thirty-first floor of the Mauka Tower;

Apartments 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3208, 3209, 3210, 3211, 3212, 3213 and 3214 are located on the thirty-second floor of the Makai Tower;

Apartments 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3208, 3209, 3210, 3211, 3212, 3213 and 3214 are located on the thirty-second floor of the Mauka Tower;

Apartments 3301, 3302, 3303, 3304, 3305, 3306, 3307, 3308, 3309, 3310, 3311, 3312, 3313 and 3314 are located on the thirty-third floor of the Makai Tower;

Apartments 3301, 3302, 3303, 3304, 3305, 3306, 3307, 3308, 3309, 3310, 3311, 3312, 3313 and 3314 are located on the thirty-third floor of the Mauka Tower;

Apartments 3401, 3402, 3403, 3404, 3405, 3406, 3407, 3408, 3409, 3410, 3411, 3412, 3413 and 3414 are located on the thirty-fourth floor of the Makai Tower;

Apartments 3401, 3402, 3403, 3404, 3405, 3406, 3407, 3408, 3409, 3410, 3411, 3412, 3413 and 3414 are located on the thirty-fourth floor of the Mauka Tower;

Apartments 3501, 3502, 3503, 3504, 3505, 3506, 3507, 3508, 3509, 3510, 3511, 3512, 3513 and 3514 are located on the thirty-fifth floor of the Makai Tower;

Apartments 3501, 3502, 3503, 3504, 3505, 3506, 3507, 3508, 3509, 3510, 3511, 3512, 3513 and 3514 are located on the thirty-fifth floor of the Mauka Tower;

Apartments 3601, 3602, 3603, 3604, 3605, 3606, 3607, 3608, 3609, 3610, 3611, 3612, 3613 and 3614 are located on the thirty-sixth floor of the Makai Tower;

Apartments 3601, 3602, 3603, 3604, 3605, 3606, 3607, 3608, 3609, 3610, 3611, 3612, 3613 and 3614 are located on the thirty-sixth floor of the Mauka Tower;

Apartments 3701, 3702, 3703, 3704, 3705, 3706, 3707, 3708, 3709, 3710, 3711, 3712, 3713 and 3714 are located on the thirty-seventh floor of the Makai Tower;

Apartments 3701, 3702, 3703, 3704, 3705, 3706, 3707, 3708, 3709, 3710, 3711, 3712, 3713 and 3714 are located on the thirty-seventh floor of the Mauka Tower;

Apartments 3801, 3802, 3803, 3804, 3805, 3806, 3807, 3808, 3809, 3810, 3811, 3812, 3813 and 3814 are located on the thirty-eighth floor of the Mauka Tower.

II

A. Makai Tower:

Those apartments, the last two digits of the numbers of which are -01, are located in the Diamond Head-Mauka corner of the Tower;

Those apartments, the last two digits of the numbers of which are -02, are located in the Ewa-Mauka corner of the Tower;

Those apartments, the last two digits of the numbers of which are -03, are located in the Diamond Head side of the Tower next to the apartments, the numbers of which end in -01;

Those apartments, the last two digits of the numbers of which are -04, are located in the Ewa side

of the Tower next to the apartments, the numbers of which end in -02;

Those apartments, the last two digits of the numbers of which are -05, are located in the Diamond Head side of the Tower next to the apartments, the numbers of which end in -03;

Those apartments, the last two digits of the numbers of which are -06, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -04;

Those apartments, the last two digits of the numbers of which are -07, are located in the Diamond Head side of the Tower next to the apartments, the numbers of which end in -05;

Those apartments, the last two digits of the numbers of which are -08, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -06;

Those apartments, the last two digits of the numbers of which are -09, are located in the Diamond Head side of the Tower next to the apartments, the numbers of which end in -07;

Those apartments, the last two digits of the numbers of which are -10, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -08;

Those apartments, the last two digits of the numbers of which are -11, are located in the Diamond

Head side of the Tower next to the apartments, the numbers of which end in -09;

Those apartments, the last two digits of the numbers of which are -12, are located in the Ewa side of the Tower next to the apartments, the numbers of which end in -10;

Those apartments, the last two digits of the numbers of which are -13, are located in the Diamond Head-Makai corner of the Tower;

Those apartments, the last two digits of the numbers of which are -14, are located in the Ewa-Makai corner of the Tower

B. Mauka Tower:

Those apartments, the last two digits of the numbers of which are -01, are located in the Ewa-Mauka corner of the Tower;

Those apartments, the last two digits of the numbers of which are -02, are located in the Ewa-Makai corner of the Tower;

Those apartments, the last two digits of the numbers of which are -03, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -01;

Those apartments, the last two digits of the numbers of which are -04, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -02;

Those apartments, the last two digits of

the numbers of which are -05, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -03;

Those apartments, the last two digits of the numbers of which are -06, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -04;

Those apartments, the last two digits of the numbers of which are -07, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -05;

Those apartments, the last two digits of the numbers of which are -08, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -06;

Those apartments, the last two digits of the numbers of which are -09, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -07;

Those apartments, the last two digits of the numbers of which are -10, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -08;

Those apartments, the last two digits of the numbers of which are -11, are located in the Mauka side of the Tower next to the apartments, the numbers of which end in -09;

Those apartments, the last two digits of

the numbers of which are -12, are located in the Makai side of the Tower next to the apartments, the numbers of which end in -10;

Those apartments, the last two digits of the numbers of which are -13, are located in the Mauka-Diamond Head corner of the Tower;

Those apartments, the last two digits of the numbers of which are -14, are located in the Makai-Diamond Head corner of the Tower.

III

A description of each of the apartments, designating the layout, number of rooms and approximate floor area thereof, is as follows:

Each apartment designated Type "A" and Type "AR" on Exhibit "D" attached hereto and incorporated herein by reference contains one bedroom, one bathroom, a dressing room, kitchen, living room and a lanai and each contains a total area of approximately 600.31 square feet, including the lanai; provided, however, that Apartments 608, 610 and 612 in the Makai Tower, each contains a patio in addition to said bedroom, bathroom, dressing room, kitchen, living room and lanai, and Apartments 608 and 610 in the Makai Tower, each contains a total area of approximately 1,693.31 square feet, including the lanai and patio, and Apartment 612 in the Makai Tower, contains a total area of approximately 1,784.31 square feet, including the lanai and patio. The layout of Apartments designated Type "A" is

the reverse of that of the apartments designated Type "AR".

Each apartment designated Type "A1" and Type "AR1" on said Exhibit "D" contains one bedroom, one bathroom, a dressing room, kitchen, living room and lanai and contains a total area of approximately 600.31 square feet, including the lanai. The layout of the apartments designated Type "AR1" is the reverse of that of the apartments designated Type "A1".

Each apartment designated Type "B" and Type "Bk" on Exhibit "D" attached hereto and incorporated herein by reference contains one bedroom, a bathroom, dressing room, dining area, living room, kitchen and lanai and a total area of approximately 661.29 square feet, including the lanai. The layout of the apartments designated Type "BR" on said Exhibit "D" is the reverse of these designated Type "B".

Each apartment designated on said Exhibit "D" attached hereto and incorporated herein by reference as Type "C" and Type "E" contains one bedroom, one bathroom, a dressing room, kitchen, living room, foyer and a lanai and a total area of approximately 648.78 square feet, including the lanai.

Each apartment designated on said Exhibit "D" as Type "D" and Type "F" contains one bedroom, one bathroom, a dressing room, living room, kitchen and a lanai and a total area of approximately 598.90 square feet, including the lanai.

IV

Each apartment shall be furnished with a Range, Range Hood, Disposal, Refrigerator and Room Air Conditioning Unit.

EXHIBIT "D"

I. Type "A"

A. Mauka Tower.

706, 806, 906, 1006, 1106, 1206 and 1406, 1506, 1606,
1706, 1806, 1906, 2006, 2106, 2206, 2306, 2406, 2506, 2606,
2706, 2806, 2906, 3006, 3106, 3206, 3306, 3406, 3506, 3606,
3706, 3806; 607, 807, 907, 1007, 1107, 1207, 1307, 1407,
1507, 1607, 1707, 1807, 1907, 2007, 2107, 2207, 2307, 2407,
2507, 2607, 2707, 2807, 2907, 3007, 3107, 3207, 3307, 3407,
3507, 3607, 3707, 3807; 610, 710, 810, 910, 1010, 1110,
1210, 1410, 1510, 1610, 1710, 1810, 1910, 2010, 2110, 2210,
2310, 2410, 2510, 2610, 2710, 2810, 2910, 3010, 3110, 3210,
3310, 3410, 3510, 3610, 3710, 3810; 611, 711, 811, 911,
1011, 1111, 1211, 1411, 1511, 1611, 1711, 1811, 1911, 2011,
2111, 2211, 2311, 2411, 2511, 2611, 2711, 2811, 2911, 3011,
3111, 3211, 3311, 3411, 3511, 3611, 3711, 3811.

B. Makai Tower.

703, 803, 903, 1003, 1103, 1203, 1403, 1503, 1603,
1703, 1803, 1903, 2003, 2103, 2203, 2303, 2403, 2503, 2603,
2703, 2803, 2903, 3003, 3103, 3203, 3303, 3403, 3503, 3603,
3703; 607, 707, 807, 907, 1007, 1107, 1207, 1407, 1507,
1607, 1707, 1807, 1907, 2007, 2107, 2207, 2307, 2407, 2507,
2607, 2707, 2807, 2907, 3007, 3107, 3207, 3307, 3407, 3507,
3607, 3707.

II. Type "A1"

A. Mauka Tower.

602, 702, 802, 902, 1002, 1102, 1202, 1402, 1502, 1602,
1702, 1802, 1902, 2002, 2102, 2202, 2302, 2402, 2502, 2602,
2702, 2802, 2902, 3002, 3102, 3202, 3302, 3402, 3502, 3602,
3702, 3802.

B. Makai Tower.

702, 802, 902, 1002, 1102, 1202, 1402, 1502, 1602,
1702, 1802, 1902, 2002, 2102, 2202, 2302, 2402, 2502, 2602,
2702, 2802, 2902, 3002, 3102, 3202, 3302, 3402, 3502, 3602,
3702.

III. Type "AR1"

A. Mauka Tower.

601, 701, 801, 901, 1001, 1101, 1201, 1401, 1501, 1601,
1701, 1801, 1901, 2001, 2101, 2201, 2301, 2401, 2501, 2601,
2701, 2801, 2901, 3001, 3101, 3201, 3301, 3401, 3501, 3601,
3701, 3801.

B. Makai Tower.

701, 801, 901, 1001, 1101, 1201, 1301, 1401, 1501,
1601, 1701, 1801, 1901, 2001, 2101, 2201, 2301, 2401, 2501,
2601, 2701, 2801, 2901, 3001, 3101, 3201, 3301, 3401, 3501,
3601, 3701.

IV. Type "AR"

A. Mauka Tower.

704, 804, 904, 1004, 1104, 1204, 1404, 1504, 1604,
1704, 1804, 1904, 2004, 2104, 2204, 2304, 2404, 2504, 2604,
2704, 2804, 2904, 3004, 3104, 3204, 3304, 3404, 3504, 3604,
3704, 3804; 608, 708, 808, 908, 1008, 1108, 1208, 1408,
1508, 1608, 1708, 1808, 1908, 2008, 2108, 2208, 2308, 2408,
2508, 2608, 2708, 2808, 2908, 3008, 3108, 3208, 3308, 3408,
3508, 3608, 3708, 3808; 609, 709, 809, 909, 1009, 1109,
1209, 1409, 1509, 1609, 1709, 1809, 1909, 2009, 2109, 2209,
2309, 2409, 2509, 2609, 2709, 2809, 2909, 3009, 3109, 3209,
3309, 3409, 3509, 3609, 3709, 3809; 612, 712, 812, 912,
1012, 1112, 1212, 1412, 1512, 1612, 1712, 1812, 1912, 2012,

2112, 2212, 2312, 2412, 2512, 2612, 2712, 2812, 2912,
3012, 3112, 3212, 3312, 3412, 3512, 3612, 3712, 3812.

B. Makai Tower.

705, 805, 905, 1005, 1105, 1205, 1405, 1505, 1605,
1705, 1805, 1905, 2005, 2105, 2205, 2305, 2405, 2505, 2605,
2705, 2805, 2905, 3005, 3105, 3205, 3305, 3405, 3505, 3605,
3705, 3805; 608, 708, 808, 908, 1008, 1108, 1208, 1408, 1508,
16108, 1708, 1808, 1908, 2008, 2108, 2208, 2308, 2408, 2508,
2608, 2708, 2808, 2908, 3008, 3108, 3208, 3308, 3408, 3508,
3608, 3708; 609, 709, 809, 909, 1009, 1109, 1209, 1409,
1509, 1609, 1709, 1809, 1909, 2009, 2109, 2209, 2309, 2409,
2509, 2609, 2709, 2809, 2909, 3009, 3109, 3209, 3309, 3409,
3509, 3609, 3709; 612, 712, 812, 912, 1012, 1112, 1212,
1412, 1512, 1612, 1712, 1812, 1912, 2012, 2112, 2212, 2312,
2412, 2512, 2612, 2712, 2812, 2912, 3012, 3112, 3212, 3312,
3412, 3512, 3612, 3712.

V. Type "B"

A. Mauka Tower.

614, 714, 814, 914, 1014, 1114, 1214, 1414, 1514,
1614, 1714, 1814, 1914, 2014, 2114, 2214, 2314, 2414, 2514,
2614, 2714, 2814, 2914, 3014, 3114, 3214, 3314, 3414, 3514,
3614, 3714, 3814.

B. Makai Tower.

614, 714, 814, 914, 1014, 1114, 1214, 1414, 1514,
1614, 1714, 1814, 1914, 2014, 2114, 2214, 2314, 2414, 2514,
2614, 2714, 2814, 2914, 3014, 3114, 3214, 3314, 3414, 3514,
3614, 3714.

VI. Type "BR"

A. Mauka Tower.

613, 713, 813, 913, 1013, 1113, 1213, 1413, 1513,
1613, 1713, 1813, 1913, 2013, 2113, 2213, 2313, 2413, 2513,
2613, 2713, 2813, 2913, 3013, 3113, 3213, 3313, 3413, 3513,
3613, 3713, 3813.

B. Makai Tower.

613, 713, 813, 913, 1013, 1113, 1213, 1413, 1513,
1613, 1713, 1813, 1913, 2013, 2113, 2213, 2313, 2413, 2513,
2613, 2713, 2813, 2913, 3013, 3113, 3213, 3313, 3413, 3513,
3613, 3713.

VII. Type "C"

A. Makai Tower.

606, 706, 806, 906, 1006, 1106, 1206, 1406, 1506,
1606, 1706, 1806, 1906, 2006, 2106, 2206, 2306, 2406, 2506,
2606, 2706, 2806, 2906, 3006, 3106, 3206, 3306, 3406, 3506,
3606, 3706.

VIII. Type "D"

A. Makai Tower.

604, 704, 804, 904, 1004, 1104, 1204, 1404, 1504,
1604, 1704, 1804, 1904, 2004, 2104, 2204, 2304, 2404, 2504,
2604, 2704, 2804, 2904, 3004, 3104, 3204, 3304, 3404, 3504,
3604, 3704.

EXHIBIT E

0167J

BY-LAWS OF THE ASSOCIATION OF APARTMENT OWNERS OF WAIKIKI BANYAN

The following By-Laws shall apply to the above-named condominium project (herein called the "project"), as described in and created by Declaration of Horizontal Property Regime (herein called the "Declaration") to be recorded or filed of record in the State of Hawaii contemporaneously herewith, and to all present and future owners, tenants and occupants of any apartments of the project and all other persons who shall at any time use the project. The mere acquisition or rental of any apartment or the mere act of occupancy of any apartment will signify that these By-Laws are accepted, ratified, and will be complied with.

ARTICLE I

MEMBERSHIP

Section 1. Qualification. All owners of apartments of the project shall constitute the Association of Apartment Owners (herein called the "Association"). The owner of any apartment upon acquiring title thereto shall automatically become a member of the Association and shall remain a member thereof until such time as his ownership of such apartment ceases for any reason, at which time his membership in the Association shall automatically cease; provided, however, that to such extent and for such purposes, including voting, as shall be provided by lease of any apartment filed with the Board of Directors of the Association, the lessee of such apartment shall be deemed to be the owner thereof. The successor under any apartment sublease or condominium conveyance document shall be deemed to be an apartment owner under these By-Laws.

Section 2. Place of Meetings. Meetings of the Association shall be held at the project or such other suitable place convenient to the apartment owners as may be designated by the Board of Directors.

Section 3. Annual Meetings. The first annual meeting of the Association shall be held as soon as practicable after recording of the Declaration and these By-Laws upon the call of at least ten percent (10%) of the apartment owners; provided, however, that said first annual meeting shall in no event be held more than one hundred eighty (180) days after the date on which the certificate of occupancy for the project was issued by the appropriate county agency. Thereafter the annual meetings of the Association shall be held within three months after the end of each accounting year.

Section 4. Special Meetings. Special meetings of the Association may be held at any time upon the call of the President or a petition signed by at least twenty-five percent (25%) of the apartment owners and presented to the Secretary.

Section 5. Notice of Meetings. The Secretary shall give written or printed notice of each annual and special meeting to every apartment owner according to the Association's record of ownership, and to every institutional holder of a first mortgage on an apartment 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 or the Managing Agent, at least fourteen (14) days but not more than twenty (20) days before the date set for such meeting, stating whether it is an annual or special meeting, the authority for

the call thereof, the place, day and hour of such meeting, the items on the agenda for such meeting and a standard proxy form authorized by the Association, if any, in any of the following ways: (a) by delivering it to him personally, or (b) by leaving it at his apartment in the project or at his usual residence or place of business, or (c) by mailing it, postage prepaid, addressed to him at his address as it appears on the Association's record of ownership. If notice is given pursuant to the provisions of this section, the failure of any apartment owner or mortgagee to receive actual notice of any meeting shall in no way invalidate such meeting or any proceedings thereat. The presence of any apartment owner or mortgagee in person or by proxy at any meeting shall be deemed a waiver of any required notice to such owner unless he shall at the opening thereof object to the holding of such meeting because of the failure to give notice in accordance with the provisions hereof.

Section 6. Quorum. The presence at any meeting in person or by proxy of a majority of apartment owners shall constitute a quorum, and the acts of a majority of the apartment owners 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 apartment owners" herein means the owners of apartments to which are appurtenant more than fifty percent (50%) of the common interests as established by the Declaration, any other specified percentage of the apartment owners means the owners of apartments to which are appurtenant such percentage of the common interests.

Section 7. Voting. Voting shall be on a percentage basis, and the percentage of the total vote to which each apartment is entitled shall be 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, personal representative, 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 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 or others, and in case of protest each co-tenant shall be entitled to only a share of such vote in proportion to his share of ownership in such Apartment. The purchaser of an apartment pursuant to an agreement of sale recorded in the Bureau of Conveyances of the State of Hawaii or filed in the

Office of the Assistant Registrar of the Land Court of the State of Hawaii shall have all of the rights of a unit owner, including the right to vote, except as to those matters expressly retained by the seller under such agreement of sale, pursuant to Section 514A-83, Hawaii Revised Statutes, as amended.

Section 8. Proxies and Pledges. The authority given by any apartment owner to another person to represent him at meetings of the Association shall be in writing, signed by such owner and filed with the Secretary, and unless limited by its terms shall continue until revoked by a writing filed with the Secretary or by the death or incapacity of such owner; provided, however, that the standard proxy form, if any, which accompanies a notice of meeting shall be valid only for the meeting to which such notice pertains and its adjournments, if any. 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 like manner.

Section 9. Adjournment. Any meeting of the Association may be adjourned from time to time not less than forty-eight (48) hours from the time the original meeting was called as may be determined by majority vote of the apartment 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 10. Order of Business. 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 meeting.
- (d) Report of officers.
- (e) Report of committees.
- (f) Election of inspectors of election
- (g) Election of directors.
- (h) Unfinished business.
- (i) New business.

Section 11. Conduct of Meeting. Unless some other generally accepted rules for the conduct of meetings of the Association are designated or adopted by majority vote of the apartment owners, all meetings of the Association and the Board of Directors shall be conducted in accordance with Roberts Rules of Order.

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 nine (9) persons. All members of the Board of Directors shall be owners, co-owners, vendees under an agreement of sale, or an officer of any corporate owner of an apartment. The partners in a general partnership and the general partner(s) of a limited partnership shall be deemed to be the owners of an apartment for this purpose. The directors shall serve without compensation, unless such compensation is specifically authorized by the Association at a regular or special meeting. The resident manager of the project, if any, may not serve on the Board.

Section 2. Powers. The Board of Directors shall have all powers necessary for the administration of the affairs of the Association and may do all such acts and things therefor as are not by law, the Declaration or by these By-Laws directed to be exercised or done only by the apartment owners.

Section 3. Election and Terms. Election of directors shall be by cumulative voting by secret ballot at each annual meeting and any special meeting called for the purpose. Directors shall hold office for a period of three (3) years and until their respective successors have been elected, subject to removal as herein provided, except that at the first annual meeting one-third of the directors shall be elected for one year, one-third for two years and one-third for three years.

Section 4. Vacancies. Vacancies in the Board of Directors caused by any reason other than removal of a director by the Association shall be filled by a 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 his successor is elected at the next annual meeting of the Association. Death, incapacity, or resignation of any Director, or his continuous absence from the State of Hawaii for more than six months, or his ceasing to be the sole owner or co-owner of an apartment, shall cause his office to become vacant.

Section 5. Removal of Directors. At any regular or special meeting of the Association duly called, any one or more of the directors may be removed with or without cause by a vote of a majority of apartment 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 apartment owners shall be given an opportunity to be heard at such meeting.

Section 6. Annual Meetings. An organizational meeting of the Board of Directors shall be held at the place of and immediately following each annual meeting of the Association, and no notice shall be necessary to any directors in order validly to constitute such meeting, provided that a majority of the whole Board shall be present. At such meeting the Board shall elect the officers of the Association for the ensuing year.

Section 7. 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 one such meeting shall be held during each calendar quarter of every year. Notice of regular meetings of the Board shall be given to each director, personally or by mail, telephone, or messenger service, at least three (3) days prior to the date of such meeting.

Section 8. Special Meetings. Special meetings of the Board of Directors may be called by the President on at least eight hours' notice to each director, given personally or by telephone or messenger service, which notice shall state the time, place and purpose of the 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 two directors.

Section 9. 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 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 these By-Laws shall constitute a quorum for the transaction of business, and the acts of a majority of the directors present at any meeting at which a quorum is present shall be the acts of 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.

Section 11. Fidelity Bonds. The Board of Directors shall require that all directors, officers, employees and agents of the Association handling or responsible for funds belonging to or administered by the Association furnish adequate fidelity

bonds in favor of the Association. The premiums on such bonds shall be paid by the Association. Such bonds shall in no event be in an amount less than one and one-half times the Association's estimated annual operating expenses and reserves and every such bond shall:

(a) Provide that the bond(s) may not be cancelled or substantially modified (including cancellation for nonpayment of premiums) without at least thirty (30) days' prior written notice to the Board, the first mortgagees and every other person in interest who shall have requested such notice; and

(b) Contain a waiver of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

Section 12. Conflict of Interest. No member of the Board of Directors shall vote at any board meeting on any issue in which such member has a conflict of interest.

ARTICLE III

OFFICERS

Section 1. Designation. The principal officers of the Association shall be a President, Vice President, a Secretary and a Treasurer, all of whom shall be elected by, and in the case of the President from, 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.

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 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 By-Laws or assigned to him from time to time by the Board.

Section 5. Vice President. The Vice President shall assume and perform the duties of the President in the absence or disability of the President or whenever the office of the President is vacant. 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 do so on an interim basis. He shall also have such other powers and duties as may be assigned to him from time to time 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 By-Laws, maintain and keep a continuous and accurate record of ownership of all apartments, 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.

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.

Section 8. Auditor. The Association shall appoint annually a public accountant or accounting firm as auditor, who shall not be an officer of the Association nor own any interest in any apartment, to audit the books and financial records of the Association as required by law or directed additionally by the Board of Directors. The members of the Association may by majority vote at any annual meeting require that the yearly audit be conducted by a certified public accountant or a firm of certified public accountants. Any institutional holder of a first mortgage on an apartment or of an apartment lease demising the same may request and the Association shall provide said mortgagee with a copy of said annual audited financial statement within ninety (90) days following the end of any fiscal year of the Association.

ARTICLE IV

ADMINISTRATION

Section 1. Management. The Board of Directors shall at all times manage and operate the project and have such powers and

duties as may be necessary or proper therefor including without limitation the following:

- (a) Supervision of its immediate management and operation;
- (b) Maintenance, repair, replacement and restoration of the common elements and any additions and alterations thereto;
- (c) Purchase, maintenance and replacement of any equipment and provision of all water and utility services required for the common elements;
- (d) Provision at each apartment of all 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;
- (e) Employment, supervision and dismissal of such personnel as may be necessary for the maintenance and operation of the project;
- (f) Preparation at least 60 days before each fiscal year of a proposed budget and schedule of assessments for such year;
- (g) Collection of all installments of assessments levied and payment of all common expenses authorized by the Board.
- (h) Purchase and maintenance in effect of all policies of hazard and liability insurance for the project required by the Declaration and such other insurance and bonds as may be required or authorized by the Declaration or the Board;
- (i) Custody and control of all funds of the Association, maintenance of full and accurate books of account and records of such funds and preparation of regular financial reports thereof;
- (j) Notification of all persons having any interest in any apartment according to the Association's record of ownership of delinquency exceeding 30 days in the payment of any assessment against such apartment.
- (k) Notification in writing of all institutional holders of first mortgages on apartments or apartment subleases or condominium conveyance documents demising or conveying the same, as shown in the Association's record of ownership or of which the Secretary of the Association has been given written notice, of any loss to, or taking of, the common elements of the project if such loss or taking exceeds TEN THOUSAND DOLLARS (\$10,000.00);

(l) Notification in writing to the institutional holder of the first mortgage on any apartment or apartment sublease or condominium conveyance document demising or conveying the same, as shown in the Association's record of ownership or of which the Secretary of the Association has been given written notice, of any loss to such apartment which exceeds ONE THOUSAND DOLLARS (\$1,000.00); and

(m) Establishment of such penalties and fines as it deems appropriate with respect to enforcement of the provisions of the Declaration, these By-Laws and the house rules adopted pursuant to Article V, Section 4, of these By-Laws; provided such penalties and fines are not inconsistent with the law or the provisions herein, and the unpaid amount of such penalties and fines against any apartment owner shall constitute a lien against his interest in his apartment which may be foreclosed by the Board of Directors or Managing Agent in the same manner as provided in the Horizontal Property Act for common expenses; provided, however, that the said lien for such penalties and fines shall be subordinate to liens for taxes and assessments lawfully imposed by governmental authority against the apartment and to all sums unpaid on mortgages of record.

Section 2. Managing Agent. The Board of Directors shall annually employ a responsible Hawaii corporate Managing Agent to manage and control the project subject at all times to direction by the Board, with all of the administrative functions specifically set forth in the preceding Section 1 and with such other powers and duties and at such compensation as the Board may establish from time to time, subject to prior approval of every such employment contract by a majority of the apartment owners. Any decision by the Association to terminate professional corporate management of the project and to assume self-management of the project may not be effected without the prior written consent of at least seventy-five percent (75%) of the institutional holders of a first mortgage on an apartment or an apartment lease demising the same (based upon one vote for each first mortgage owned). Every such employment contract shall provide that it may be terminated by the Board of Directors for cause on no more than thirty (30) days' written notice and without cause on no more than ninety (90) days' written notice, and in no event may such employment contract be for a term exceeding one (1) year, and in no event shall a termination fee be due and owing the Managing Agent.

Section 3. Representation. The President or Managing Agent, subject to the direction of the Board of Directors, shall represent the Association or any two or more apartment owners similarly situated as a class in any action, suit, hearing or other proceeding concerning the Association, the common elements

or more than one apartment, and on its or their behalf may institute, defend, intervene in, prosecute and settle any such actions, suits and proceedings, without prejudice to the rights of any apartment owner individually to appear, sue or be sued. Service of process on two or more apartment owners in any such action, suit or proceeding may be made on the President or Managing Agent. Every first mortgagee to whom the sublessee under an Apartment Lease is required by the terms of the mortgage to pay the same or, whenever there is no such mortgagee, every Managing Agent shall also be the agent of the respective lessees under any apartment leases filed with the Board for the collection, custody and payment of all rent, taxes, assessments and other charges thereunder payable to their lessors.

Section 4. Execution of Instruments. All checks, drafts, notes, acceptances, conveyances, contracts and other instruments shall be signed on behalf of the Association by such person or persons as shall be provided by general or special resolution of the Board of Directors or, in the absence of any such resolution applicable to such instrument, by the President or Vice President and by the Treasurer or Secretary.

ARTICLE V

OBLIGATIONS OF APARTMENT OWNERS

Section 1. Assessments. All apartment owners shall pay to the Managing Agent in advance on the first day of each and every month the monthly installments of assessments against their respective apartments for common expenses of the project in accordance with the Declaration and also, a monthly sum determined by the Managing Agent to be sufficient to accumulate and pay when due all rent, taxes, assessments and other charges thereunder payable by the lessee or sublessee of such apartment. Provided, however, that any apartment owners who are required under the terms of a first mortgage in favor of an institutional mortgagee encumbering an apartment sublease or a condominium conveyance document demising an apartment in the project to make lease rent payments to such mortgagee for transmittal to the Lessee, shall be permitted to do so.

Section 2. Maintenance of Apartments. Every apartment owner shall at his own expense at all times well and substantially repair, maintain, amend and keep his apartment and the limited common elements appurtenant thereto, including without limitation all internal installations therein such as water, electricity, gas, telephone, sewer, sanitation, air conditioning, lights and all other fixtures and accessories

belonging to such apartment and the interior decorated or finished surfaces of all walls, floors and ceilings of such apartment, with all necessary reparations and amendments whatsoever in good order and condition except as otherwise provided by law or the Declaration, and shall be liable for all loss or damage whatsoever caused by his failure to perform any such work diligently, and in case of such failure after reasonable notice to perform shall reimburse to the Association promptly on demand all expenses incurred by it in performing any such work authorized by the Board of Directors or the Managing Agent. Every apartment owner and occupant shall reimburse the Association promptly on demand all expenses incurred by it in repairing or replacing any uninsured loss or damage to the common elements or any furniture, furnishing and equipment thereof caused by such owner or occupant or any person under either of them and shall give prompt notice to the Managing Agent of any such loss or damage or other defect in the project when discovered.

Section 3. Use of Project. (a) The apartments of the project shall be used only for their respective purposes as set forth in the Declaration and for no other purpose.

(b) All common elements of the project shall be used only for their respective purposes as designed.

(c) No apartment owner or occupant shall place, store or maintain on walkways, roadways, grounds or other common elements any furniture, packages or objects of any kind or otherwise obstruct transit through such common elements.

(d) Every apartment owner and 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.

(e) 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 furniture, furnishings or equipment of the common elements.

(f) No apartment owner or occupant shall erect or place in the project any building or structure including fences and walls, nor make any additions or alterations to 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 Board and approved

by the Board and a majority of apartment owners (or such larger percentage required by law or the Declaration) including all owners of apartments thereby directly affected.

(g) No apartment owner shall decorate or landscape any entrance of his apartment or any other portion of the project except in accordance with standards therefor established by the Board of Directors or specific plans approved in writing by the Board.

(h) All occupants shall exercise extreme care about making noises and in the use of musical instruments, radios, televisions and amplifiers that may disturb other occupants.

(i) No garments, rugs, or other objects shall be hung from the windows or facades of the project.

(j) 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.

(k) No refuse, garbage or trash of any kind shall be thrown, placed or kept on any common elements of the project outside of the disposal facilities provided for such purpose.

(l) No livestock, poultry, rabbits or other animals whatsoever shall be allowed or kept in any part of the project except that dogs, cats and other household pets in reasonable number may be kept by the apartment owners and occupants in their respective apartments but shall not be kept, bred or used therein for any commercial purpose nor allowed on any common elements except in transit when carried or on leash; provided, however, that any such pet causing a nuisance or unreasonable disturbance to any other occupant of the project shall be permanently removed therefrom promptly upon notice given by the Board of Directors or Managing Agent.

(m) No apartment owner or occupant shall without the written approval of the Board of Directors 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.

(n) No apartment owner or occupant shall erect, place or maintain any television or other antennas on said project visible from any point outside of the project.

(o) Nothing shall be allowed, done or kept in any apartments or common elements of the project which would overload or impair

the floor, walls or roofs thereof, or cause any increase in the ordinary premium rates or the cancellation or invalidation of any insurance thereon maintained by or for the Association.

(p) If the project shall have separate elevators devoted (i) to the transportation of the apartment owners and their guests and (ii) for freight service or auxiliary purposes, the apartment owners and tradesmen are expressly required to utilize the freight or service elevators for transporting packages, merchandise or any other object that may affect the comfort or well-being of the passengers of the elevators dedicated to the transportation of the apartment owners, residents and guests.

Section 4. House Rules. The Board of Directors, upon giving notice to all apartment owners in the same manner as herein provided for notice of meetings of the Association and opportunity to be heard thereon, may adopt, amend or repeal any supplemental rules and regulations governing details of the operation and use of the common elements not inconsistent with any provision of law, the Declaration or these By-Laws.

Section 5. Expenses of Enforcement. Every apartment owner shall pay to the Association promptly on demand all costs and expenses including reasonable attorneys' fees incurred by or on behalf of the Association in collecting any delinquent assessments against such apartment, foreclosing its lien therefor or enforcing any provisions of the Horizontal Property Act, the Declaration or these By-Laws against such owner or any occupant of such apartment.

Section 6. Record of Ownership. The Secretary of the Association or the Managing Agent shall keep an accurate and current list of the names and addresses of all members of the Association, including all vendees under any agreement of sale on an apartment in the project, if any. In connection therewith every apartment owner shall promptly cause to be duly recorded or filed of record the deed, lease, agreement of sale, assignment or other conveyance to him of such apartment or other evidence of his title thereto and shall file a copy of such document(s) with the Board of Directors through the Secretary or the Managing Agent.

Section 7. Mortgages. (a) **Notice to Board of Directors.** An apartment owner who mortgages his interest shall notify the Association of the name and address of his mortgagee and within ten (10) days after the execution of the same shall file a conformed copy of such mortgage with the Association; the Association shall maintain such information in a book entitled "Mortgages of Apartments".

(b) Notice of Unpaid Common Expenses. The Association whenever so requested in writing by an owner or mortgagee of an interest in an apartment shall promptly report any then unpaid assessments or common expenses due from the apartment owner involved.

(c) Notice of Default. The Board, when giving notice to an apartment owner of a default in paying common expenses or other default, shall send a copy of such notice to each holder of a mortgage covering such apartment or interest therein whose name and address has theretofore been furnished to the Association. In each and every case where the mortgagee has made a request, the Association shall notify the mortgagee of any unpaid assessment that is thirty (30) days delinquent or more.

(d) Examination of Books. Each apartment owner and each mortgagee shall be permitted to examine the books and records of the Association or the project at reasonable times on business days, and each mortgagee shall have the right to require the submission of annual reports and other financial data.

(e) Mortgage Protection. Notwithstanding any provision to the contrary in these By-Laws:

(1) Any first mortgagee who obtains title to an apartment pursuant to the remedies provided in the mortgage or foreclosure of the mortgage will not be liable for such apartment's unpaid dues or charges which accrue prior to the acquisition of title to such apartment by the mortgagee.

(2) All taxes, assessments and charges which may become liens prior to the first mortgage under the laws of the State of Hawaii shall relate only to the individual apartments and not to the condominium project as a whole.

(3) The Declaration and By-Laws shall not give an apartment owner or any other party priority over any rights of first mortgagees of apartments pursuant to their mortgages in the case of a distribution to apartment owners of insurance proceeds of condemnation awards for losses to or a taking of apartment units, common elements or both.

(4) Notwithstanding any other provision of these By-Laws, no amendment of this Section 7(e) shall affect the rights of the holder of any such mortgage recorded in the Bureau of Conveyances, State of Hawaii, prior to the filing of such amendment who does not join in the execution thereof.

ARTICLE VI

MISCELLANEOUS

Section 1. Amendment. These By-Laws may be amended in any respect not inconsistent with provisions of law or the Declaration at any meeting of the Association duly called for such purpose, by vote of seventy-five percent (75%) of the apartment owners, and shall be effective only upon the recording of an amendment to the Declaration setting forth such amendment of these By-Laws; and further provided that any material amendment of these By-Laws shall require the prior written consent thereto by at least seventy-five percent (75%) of the institutional holders of a first mortgage on an apartment sublease or condominium conveyance document demising or conveying the same (based upon one vote for each first mortgage owned).

Section 2. Indemnification. The Association shall indemnify every director and officer and his executors and administrators against all expenses reasonably incurred by or imposed on him in connection with any action, suit or proceedings to which he may be made a party by reason of being or having been a director or officer of the Association, except in relation to matters as to which he shall be finally adjudged in such action, suit or proceeding to be liable for negligence or misconduct; and in the absence of such final adjudication, indemnification shall be provided only in connection with such matters as to which the Association is advised by its legal counsel that the person to be indemnified committed no such breach of duty. The foregoing right of indemnification shall not be exclusive of any other rights to which such person may be entitled.

Section 3. Subordination. These By-Laws are subordinate and subject to all provisions of the Declaration and any amendments thereto, the Horizontal Property Act (Chapter 514A, Hawaii Revised Statutes, as amended), which shall control in case of any conflict. All terms herein (except where clearly repugnant to the context) shall have the same meaning as in the Declaration or said Horizontal Property Act.

Section 4. Interpretation. In case any provision of these By-Laws shall be held invalid, such invalidity shall not render invalid any other provision hereof which can be given effect. Nothing in these By-Laws shall be deemed or construed to authorize the Association or Board of Directors to conduct or engage in active business for profit on behalf of any or all of the apartment owners.

Section 5. Books of Receipts and Expenditures. The Managing Agent or Board of Directors shall 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. All records and the 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 of week days.

Section 6. Minutes of Meetings. The minutes of meetings of the Board of Directors, and Association of Apartment Owners shall be available for examination by apartment owners at convenient hours at a place designated by the Board.

CERTIFICATE OF ADOPTION

The undersigned, being the owners and developer of all apartments of the project, hereby adopt the foregoing as the By-Laws of the Association of Apartment Owners of WAIKIKI BANYAN, this _____ day of _____, 19__.

ENDNOTES

The following endnotes correspond to provisions in the Declaration which have been restated to conform to (i) Chapter 514A, Hawaii Revised Statutes ("HRS"); and (ii) Ordinance 83-58 of the Revised Ordinances of Honolulu, which requires the installation of fire sprinklers in the Waikiki Banyan. This Restated Declaration correctly states without change the corresponding provisions of the original Declaration, as amended, and supersedes the original Declaration and all prior amendments thereto. This Restatement was made solely for the purpose of information and convenience. In the event of a conflict, the Restated Declaration shall be subordinate to Ordinance 83-58 and the original Declaration.

1. Act 65 (SLH, 1988) redesignated the Horizontal Property Act as the Condominium Property Act. Therefore, references to the present terminology have been noted.
2. Subparagraph (1) has been added to Paragraph A.2. to confirm that the equipment which must be installed to comply with Ordinance 83-58 will be common elements of the project.
3. Paragraph F.6. has been amended to confirm that the Association may install the equipment required to comply with Ordinance 83-58 without owner or Lessor consent and may enter each apartment during reasonable hours for that purpose.
4. Paragraph S. has been added to confirm that all expenses relating to the installation of the fire sprinkler system are common expenses of the Association.
5. Paragraph T. has been added to conform the Declaration to the requirements of Section 514A-82.3, HRS, relating to borrowing of funds by the Association.

66.1
Jds
L-383

STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

MAR 16, 1993 03:14 PM

Doc No(s) 2006511 /

on Cert(s) AS LISTED HEREIN

/s/ S. FURUKAWA
ASSISTANT REGISTRAR

CONVEYANCE TAX: \$0.00

0 LAND COURT SYSTEM | REGULAR SYSTEM
AFTER RECORDATION, RETURN BY MAIL () PICKUP () TO:

JOHN A. MORRIS, ESQ.
Iwai, Motooka & Goto
Suite 502, Haseko Center
820 Mililani Street
Honolulu, HI 96813-2935
Tel: (801) 537-1935

FIRST AMENDMENT OF THE RESTATED
DECLARATION OF CONDOMINIUM PROPERTY REGIME
AND BY-LAWS OF WAIKIKI BANYAN

WHEREAS, the Trustees of the Liliuokalani Trust, herein referred to as "Liliuokalani Trust", are the owners in fee simple of the real property described in Original Certificate of Title No. 209,663 and the Transfer Certificates of Title listed in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, by Indenture of Lease dated February 22, 1978, effective as of December 1, 1977, recorded in the Bureau of

Conveyances of the State of Hawaii in Liber 12746, Page 429, herein referred to as the "Master Lease", said Liliuokalani Trust and Kawaiahao Church, a Hawaii eleemosynary corporation, herein referred to as "Kawaiahao", the owner of certain adjoining real property, being herein collectively referred to as the "Lessor", leased all the real property to BANYAN ONE, INC., a Hawaii corporation, herein referred to as the "Lessee"; and

WHEREAS, by Master Sublease dated February 22, 1978, effective as of December 2, 1975, recorded as aforesaid in Liber 12746, Page 473, the Lessee sublet said property to Waikiki Banyan, Inc., a Hawaii corporation, hereinafter referred to as the "Developer"; and

WHEREAS, the Developer improved said land by constructing thereon certain improvements hereinafter described in accordance with plans incorporated herein by reference filed and recorded in said Bureau of Conveyances as Condominium File Plan No. 637; and

WHEREAS, to create a condominium project (herein called the "project") known as "WAIKIKI BANYAN", the Lessor, Lessee and Developer submitted all of their interests in the property to a Horizontal Property Regime (now known as a Condominium Property Regime) under Chapter 514A, Hawaii Revised Statutes and adopted a Declaration, dated February 28, 1978 and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12789, Page 613; and

WHEREAS, the Declaration was duly amended by Amendment to Declaration dated December 9, 1971; recorded in Liber 16136, Page 148 and subsequently restated by a First Restatement of the

Declaration of Condominium Property Regime of Waikiki Banyan dated August 31, 1992, filed in Land Court as Land Court Document No. 1951836 and also recorded in the Bureau of Conveyances as Document No. 92-147513; and

WHEREAS, the Declaration, as amended, and the By-Laws for the project attached to and recorded contemporaneously with the Declaration, provided for the organization and operation of the ASSOCIATION OF APARTMENT OWNERS OF WAIKIKI BANYAN (the "Association") in accordance with the By-Laws; and

WHEREAS, pursuant to §514A-11(11) and §514-82(b)(2) of the Hawaii Revised Statutes, more than seventy-five percent (75%) of all apartment owners of the project gave their written consent to amend the Declaration and By-Laws of the Waikiki Banyan.

NOW THEREFORE, the Declaration and By-Laws amended to read as follows:

1. The Declaration of Condominium Property Regime of the Association of Apartment Owners of The Waikiki Banyan subparagraph "(1)" to paragraph A.2. is amended to read:

"(1) Automatic sprinkler system, smoke detectors, fire alarm system, annunciator panels, emergency generators, and any and all other apparatus and installations required to comply with the requirements of Ordinance No. 83-58 of the Revised Ordinances of Honolulu."


2. The By-Laws of the Association of Apartment Owners of the Waikiki Banyan shall be amended by deleting the text of Article I, Section 5, in its entirety and substituting the following text:

"Section 5. Notice of Meetings. Notices of Association meetings, whether annual or special, shall be sent to each member of the Association at least fourteen (14) days prior to the meeting, and shall contain at least: the date, time, and place of the meeting, the items on the agenda for the meeting, and a standard proxy form authorized by the Association, if any."

In all other respects, the Declaration and By-Laws of Waikiki Banyan, as amended, are hereby ratified and confirmed and shall be binding upon and inure to the benefit of the parties to it and their respective successors and permitted assigns. The undersigned officers of the Association of Apartment Owners of the Waikiki Banyan hereby certify that the foregoing amendments were adopted by the vote of more than seventy-five percent (75%) of the members of the Association of Apartment Owners of the Waikiki Banyan.

IN WITNESS WHEREOF, the undersigned have executed this instrument on this 26th day of February, 1993.

ASSOCIATION OF APARTMENT OWNERS OF
THE WAIKIKI BANYAN

By 
Its Vice President

By 
Its Secretary

STATE OF HAWAII)
)
CITY AND COUNTY OF HONOLULU) SS.

On this 26th day of February, 1993, before me appeared SEIJI FUKAYAMA, to me personally known, who being by me duly sworn, did say that he/she is the Vice President of the ASSOCIATION OF APARTMENT OWNERS OF THE WAIKIKI BANYAN, 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 SEIJI FUKAYAMA acknowledged that he/she executed said instrument as his/her free act and deed of the ASSOCIATION OF APARTMENT OWNERS OF THE WAIKIKI BANYAN.

LS

Arthur W. Hsu
Notary Public, State of Hawaii
My commission expires: 8/27/94

STATE OF HAWAII)
)
CITY AND COUNTY OF HONOLULU) SS.

On this 3rd day of March, 1993, before me appeared GLORIA BILLINGSLEY, 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 THE WAIKIKI BANYAN, 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 GLORIA BILLINGSLEY acknowledged that he/she executed said instrument as his/her free act and deed of the ASSOCIATION OF APARTMENT OWNERS OF THE WAIKIKI BANYAN.

LS

Arthur W. Hsu
Notary Public, State of Hawaii
My commission expires: 8/27/94

EXHIBIT "A"

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

LOT 2, area 91,642.0 square feet, of Block "F", as shown on Map 3, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1865 (amended) of First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust.

Being the remainder of the land(s) described in Original Certificate of Title No. 209,663 issued to First Hawaiian Bank, a Hawaii Corporation, Lorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust, in Trust, with power to lease, mortgage and sell and other powers more particularly set forth in Trust Deed dated December 2, 1909, recorded in Liber 319 at Page 447, as amended, and also described in Transfer Certificates of Title Nos.:

293,092	301,883	304,714
293,926	301,884	304,715
293,927	301,885	304,716
294,514	301,886	304,717
295,167	301,887	304,718
295,846	301,888	304,719
296,600	302,998	304,720
297,032	303,896	304,721
297,611	303,897	304,722
299,136	304,334	304,723
300,296	304,708	304,724
301,825	304,709	304,725
301,879	304,710	304,726
301,880	304,711	304,914
301,881	304,712	304,915
301,882	304,713	313,976
		313,977

DOUBLE SYSTEM

65
L-480 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

AUG 12, 1993 02:30 PM

Doc No(s) 2054583

on Cert(s) AS LISTED HEREIN

/s/ S. FURUKAWA
ASSISTANT REGISTRAR

CONVEYANCE TAX: \$0.00

R-682

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

AUG 12, 1993 / 02:30 PM

Doc No(s) 93-131432

/s/ S. FURUKAWA
REGISTRAR OF CONVEYANCES

CONVEYANCE TAX: \$0.00

LAND COURT SYSTEM

AFTER RECORDATION, RETURN BY MAIL () PICKUP (✓) TO:

JOHN A. MORRIS
IWAI MOTOOKA GOTO & MORRIS
Suite 502, Haseko Center
820 Mililani Street
Honolulu, Hawaii 96813
Telephone: 537-1935

Morris/Chen/Thompson, Ltd

SECOND AMENDMENT OF THE RESTATED DECLARATION OF CONDOMINIUM PROPERTY REGIME OF WAIKIKI BANYAN

WHEREAS, the Trustees of the Liliuokalani Trust, herein referred to as "Liliuokalani Trust", are the owners in fee simple of the real property described in Original Certificate of Title No. / 209,663 and the Transfer Certificates of Title listed in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, by Indenture of Lease dated February 22, 1978, effective as of December 1, 1977, recorded in the Bureau of

Conveyances of the State of Hawaii in Liber 12746, Page 429, herein referred to as the "Master Lease", said Liliuokalani Trust and Kawaiahao Church, a Hawaii eleemosynary corporation, herein referred to as "Kawaiahao", the owner of certain adjoining real property, being herein collectively referred to as the "Lessor", leased all the real property to BANYAN ONE, INC., a Hawaii corporation, herein referred to as the "Lessee"; and

WHEREAS, by Master Sublease dated February 22, 1978, effective as of December 2, 1975, recorded as aforesaid in Liber 12746, Page 473, the Lessee sublet said property to Waikiki Banyan, Inc., a Hawaii corporation, hereinafter referred to as the "Developer"; and

WHEREAS, the Developer improved said land by constructing thereon certain improvements hereinafter described in accordance with plans incorporated herein by reference filed and recorded in said Bureau of Conveyances as Condominium File Plan No. 637; and

WHEREAS, to create a condominium project (herein called the "project") known as "WAIKIKI BANYAN", the Lessor, Lessee and Developer submitted all of their interests in the property to a Horizontal Property Regime (now known as a Condominium Property Regime) under Chapter 514A, Hawaii Revised Statutes and adopted a Declaration, dated February 28, 1978 and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12789, Page 613; and

WHEREAS, the Declaration was duly amended by an amendment dated December 9, 1971, recorded in Liber 16136, Page 148 and subsequently restated by a First Restatement of the Declaration of Condominium Property Regime of Waikiki Banyan dated August 31,

1992, filed in Land Court as Land Court Document No. 1951836 and also recorded in the Bureau of Conveyances as Document No. 92-147513; and the First Restatement was subsequently amended by an amendment dated February 26, 1993 and recorded as Land Court Document No. 2006511; and

WHEREAS, the Declaration, as amended, and the By-Laws for the project attached to and recorded contemporaneously with the Declaration, provided for the organization and operation of the ASSOCIATION OF APARTMENT OWNERS OF WAIKIKI BANYAN (the "Association") in accordance with the By-Laws; and

WHEREAS, pursuant to §514A-11(11) of the Hawaii Revised Statutes, more than seventy-five percent (75%) of all apartment owners of the project gave their written consent to amend the Declaration of the Waikiki Banyan.

NOW THEREFORE, the Declaration is amended to read as follows:

1. The First Restatement of Declaration of Condominium Property Regime of the Association of Apartment Owners of The Waikiki Banyan shall be amended by deleting paragraph F.6. in its entirety and substituting the following text:

"6. 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 Lessor, first approved in writing by the 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. NOTWITHSTANDING ANYTHING TO THE

CONTRARY HEREIN CONTAINED, the Association of Apartment Owners shall have the irrevocable right, to be exercised by the Board of Directors:

a. To install an automatic sprinkler system, smoke detectors, fire alarm system, annunciator panels, emergency generators and any and all apparatus and installations required to comply with Ordinance No. 83-58 of the Revised Ordinances of Honolulu. The Board shall not be required to obtain the consent of the Lessor or any of the owners of apartments to proceed with the aforesaid installations.

b. To have access to each apartment from time to time during reasonable hours as may be necessary for the installation of the automatic sprinkler system, smoke detectors, fire alarm system, annunciator panels and any and all apparatus and installations required to comply with Ordinance No. 83-58 of the Revised Ordinances of Honolulu."

2. The First Restatement of the Declaration of Condominium Property Regime of the Association of Apartment Owners of The Waikiki Banyan shall be amended by adding paragraph "S", as follows:

"S. EXPENSES RELATED TO THE INSTALLATION OF THE FIRE SPRINKLER SYSTEM. All expenses related to the purchase and installation of the automatic sprinkler system, smoke detectors, fire alarm system, annunciator panels, emergency generators and any and all apparatus and installations required to comply with Ordinance No. 83-58 of the Revised Ordinances of Honolulu shall constitute common expenses as defined in paragraph "H." of this Declaration, for which all apartment owners shall be severally liable in proportion to their respective common interests. Any sums unpaid for the foregoing purchases and installations shall constitute liens on the apartments, as fully and effectually as to all other assessments for common expenses."

In all other respects, the Declaration of Waikiki Banyan, as amended, is hereby ratified and confirmed and shall be binding upon and inure to the benefit of the parties to it and their respective successors and permitted assigns. The undersigned officers of the Association of Apartment Owners of the Waikiki

Banyan hereby certify that the foregoing amendments were adopted by the vote of more than seventy-five percent (75%) of the members of the Association of Apartment Owners of the Waikiki Banyan.

IN WITNESS WHEREOF, the undersigned have executed this instrument on this 4th day of August, 1993.

ASSOCIATION OF APARTMENT OWNERS OF
THE WAIKIKI BANYAN

By

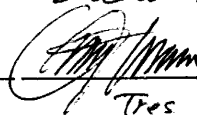
Its



SHRAGA DACHNER
President

By

Its


Tres

KENJI IWASA
Treasurer

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

SS.

On this 28th day of July, 1993, before me appeared Shraga Dackun, 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 THE WAIKIKI BANYAN, 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 Shraga Dackun acknowledged that he/she executed said instrument as his/her free act and deed of the ASSOCIATION OF APARTMENT OWNERS OF THE WAIKIKI BANYAN.

LS

Arthur K. Galt
Notary Public, State of Hawaii

My commission expires: 8/27/94

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

SS.

On this 4th day of August, 1993, before me appeared Kenji Iwasa, to me personally known, who being by me duly sworn, did say that he/she is the Treasurer of the ASSOCIATION OF APARTMENT OWNERS OF THE WAIKIKI BANYAN, 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 Kenji Iwasa acknowledged that he/she executed said instrument as his/her free act and deed of the ASSOCIATION OF APARTMENT OWNERS OF THE WAIKIKI BANYAN.

h

Arthur K. Galt
Notary Public, State of Hawaii

My commission expires: 5-19-95

EXHIBIT "A"

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

LOT 2, area 91,642.0 square feet, of Block "F", as shown on Map 3, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1865 (amended) of First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust.

Being the remainder of the land(s) described in Original Certificate of Title No. 209,663 issued to First Hawaiian Bank, a Hawaii Corporation, Lorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust, in Trust, with power to lease, mortgage and sell and other powers more particularly set forth in Trust Deed dated December 2, 1909, recorded in Liber 319 at Page 447, as amended, and also described in Transfer Certificates of Title Nos.:

293,092	301,883	304,714
293,926	301,884	304,715
293,927	301,885	304,716
294,514	301,886	304,717
295,167	301,887	304,718
295,846	301,888	304,719
296,600	302,998	304,720
297,032	303,896	304,721
297,611	303,897	304,722
299,136	304,334	304,723
300,296	304,708	304,724
301,825	304,709	304,725
301,879	304,710	304,726
301,880	304,711	304,914
301,881	304,712	304,915
301,882	304,713	313,976
		313,977

41
22
65

16
Cert

16
DOUBLE SYSTEM

L-113

STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

JUL 19, 1999 08:02 AM

Doc No(s) 2561101

on Cert(s) AS LISTED HEREM

/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

R-478

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

JUL 19, 1999 08:02 AM

Doc No(s) 99-115283

/s/ CARL T. WATANABE
ACTING
REGISTRAR OF CONVEYANCES

11
LAND COURT SYSTEM

AFTER RECORDATION, RETURN BY MAIL ()

skaka
LOVE YAMAMOTO & MOTOOKA
RANDALL K. SING
1000 Bishop Street, Suite 801
Honolulu, Hawaii 96813
Tel. No. 532-7900

11
REGULAR SYSTEM

PICKUP (X) TO:

THIRD AMENDMENT OF THE RESTATED DECLARATION
OF CCNDOMINIUM PROPERTY REGIME
AND BY-LAWS OF WAIKIKI BANYAN

WHEREAS, the Trustees of the Liliuokalani Trust, herein referred to as
"Liliuokalani Trust", are the owners in fee simple of the real property described in
Original Certificate of Title No. 209,663 and the Transfer Certificates of Title listed in
Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, by Indenture of Lease dated February 22, 1978, effective as of December 1, 1977, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12746, Page 429, herein referred to as the "Master Lease", said Liliuokalani Trust and Kawaiahao Church, a Hawaii eleemosynary corporation, herein referred to as "Kawaiahao", the owner of certain adjoining real property, being herein collectively referred to as the "Lessor", leased all the real property to BANYAN ONE, INC., a Hawaii corporation, herein referred to as the "Lessee"; and

WHEREAS, by Master Sublease dated February 22, 1978, effective as of December 2, 1975, recorded as aforesaid in Liber 12746, Page 473, the Lessee sublet said property to Waikiki Banyan, Inc., a Hawaii corporation, hereinafter referred to as the "Developer"; and

WHEREAS, the Developer improved said land by constructing thereon certain improvements hereinafter described in accordance with plans incorporated herein by reference filed and recorded in said Bureau of Conveyances as Condominium File Plan No. 637; and

WHEREAS, to create a condominium project (herein called the "project") known as "WAIKIKI BANYAN", the Lessor, Lessee and Developer submitted all of their interests in the property to a Horizontal Property Regime (now known as a Condominium Property Regime) under Chapter 514A, Hawaii Revised Statutes, and adopted a Declaration, dated February 28, 1978 and filed in the Bureau of Conveyances of the State of Hawaii in Liber 12789, Page 613; and

WHEREAS, the Declaration was duly amended by an amendment dated December 9, 1971, filed in Liber 16136, Page 148 and subsequently restated by a First Restatement of the Declaration of Condominium Property Regime of Waikiki Banyan dated August 31, 1992, recorded as Land Court Document No. 1951836 and also filed in the Bureau of Conveyances as Document No. 92-147513; and the First Restatement was subsequently amended by two amendments, one amendment dated February 26, 1993 and recorded as Land Court Document No. 2006511; the other dated August 4, 1993 recorded as Land Court Document No. 2054583 and also filed in the Bureau of Conveyances as Document No. 93-131432; and

WHEREAS, the Declaration as restated and amended, and the By-Laws for the project attached to and recorded contemporaneously with the Declaration, provided for the organization and operation of the ASSOCIATION OF APARTMENT OWNERS OF WAIKIKI BANYAN (the "Association") in accordance with the By-Laws; and

WHEREAS, pursuant to Section 514A-82(b)(2) of the Hawaii Revised Statutes, more than sixty-five percent (65%) of all apartment owners of the project gave their written consent to amend the By-Laws of the Association as indicated below;

NOW THEREFORE, the By-Laws are hereby amended as hereinafter set forth.

1. That Article II, Section 4 of the By-Laws is amended to read in its entirety as follows:

Section 4. Vacancies. Vacancies in the Board of Directors caused by any reason other than removal of a director by the Association shall be filled by a 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 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 sole owner or co-owner of an apartment, shall cause his office to become vacant.


2. That a new Article II, Section 13 to the By-Laws is added to read as follows:

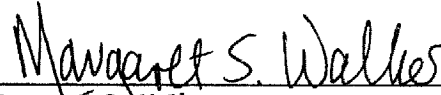
Section 13. Attendance by Telephone. Members of the Board of Directors or of any committee may participate in a meeting by means of a conference telephone or similar communication equipment by which all persons participating in the meeting can hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

In all other respects, the Declaration and By-Laws of the Association, as restated and amended, are hereby ratified and confirmed and shall be binding upon and inure to the benefit of the parties to it and their respective successors and permitted assigns. The undersigned officers of the Association hereby certify that the foregoing amendments were adopted by the written consent of more than sixty-five percent (65%) of the members of the Association.

IN WITNESS WHEREOF, the undersigned have executed this instrument
this 7th day of July, 1999.

ASSOCIATION OF APARTMENT OWNERS
OF WAIKIKI BANYAN

By 
Shiraga Pachner
Its *President*

By 
Margaret S. Walker
Its Secretary

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 7th day of July, 1999, before me appeared Shraga Dachner, to be personally known, who being by me duly sworn, did say he is the President of the Board of Directors of the Association of Apartment Owners of Waikiki Banyan, that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors, and acknowledged that he executed the same as the free act and deed of said Association. Said Association has no seal.



Notary Public, State of Hawaii
Printed Name: Annie C. Kekoolani
My commission expires: 02-16-2002

L.S.

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 7th day of July, 1999, before me appeared Margaret S. Walker, to be personally known, who being by me duly sworn, did say she is the Secretary of the Board of Directors of the Association of Apartment Owners of Waikiki Banyan, that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors, and acknowledged that she executed the same as the free act and deed of said Association. Said Association has no seal.



Notary Public, State of Hawaii
Printed Name: Annie C. Kekoolani
My commission expires: 02-16-2002

L.S.

EXHIBIT "A"

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

LOT 2, area 91,642.0 square feet, of Block "F", as shown on Map 3, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1865 (amended) of First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust.

Being the remainder of the land(s) described in Original Certificate of Title No. 209,663 issued to First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust, in Trust, with power to lease, mortgage and sell and other powers more particularly set forth in Trust Deed dated December 2, 1909, recorded in Liber 319 at Page 447, as amended, and also described in Transfer Certificate of Title Nos.:

✓ 293,092	301,883✓	304,714✓
✓ 293,926	301,884✓	304,715✓
✓ 293,927	301,885✓	304,716✓
✓ 294,514	301,886✓	304,717✓
✓ 295,167	301,887✓	304,718✓
✓ 295,846	301,888✓	304,719✓
✓ 296,600	302,998✓	304,720✓
✓ 297,032	303,896✓	304,721✓
✓ 297,611	303,897✓	304,722✓
✓ 299,136	304,334✓	304,723✓
✓ 300,296	304,708✓	304,724✓
✓ 301,825	304,709✓	304,725✓
✓ 301,879	304,710✓	304,726✓
✓ 301,880	304,711✓	304,914✓
✓ 301,881	304,712✓	304,915✓
✓ 301,882	304,713✓	313,976✓
		313,977✓

DOUBLE SYSTEM

L-205 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

AUG 04, 2000 08:30 AM

Doc No(s) 2642313

on Cert(s) AS LISTED HEREIN

/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

R-710

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

AUG 04, 2000 08:30 AM

Doc No(s) 2000-108303

/s/ CARL T. WATANABE
ACTING
REGISTRAR OF CONVEYANCES

LAND COURT SYSTEM

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL () PICKUP (X) TO:

Shana
LOVE YAMAMOTO & MOTOOKA
RANDALL K. SING
1000 Bishop Street, Suite 801
Honolulu, Hawaii 96813
Tel. No. 532-7900

FOURTH AMENDMENT OF THE RESTATED DECLARATION OF CONDOMINIUM PROPERTY REGIME AND BY-LAWS OF WAIKIKI BANYAN

WHEREAS, the Trustees of the Liliuokalani Trust, herein referred to as "Liliuokalani Trust", are the owners in fee simple of the real property described in Original Certificate of Title No. 209,663 and the Transfer Certificates of Title listed in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, by Indenture of Lease dated February 22, 1978, effective as of December 1, 1977, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12746, Page 429, herein referred to as the "Master Lease", said Liliuokalani Trust and Kawaiahao Church, a Hawaii eleemosynary corporation, herein referred to as "Kawaiahao", the owner of certain adjoining real property, being herein collectively referred to as the "Lessor", leased all the real property to BANYAN ONE, INC., a Hawaii corporation, herein referred to as the "Lessee"; and

WHEREAS, by Master Sublease dated February 22, 1978, effective as of December 2, 1975, recorded as aforesaid in Liber 12746, Page 473, the Lessee sublet said property to Waikiki Banyan, Inc., a Hawaii corporation, hereinafter referred to as the "Developer"; and

WHEREAS, the Developer improved said land by constructing thereon certain improvements hereinafter described in accordance with plans incorporated herein by reference filed and recorded in said Bureau of Conveyances as Condominium File Plan No. 637; and

WHEREAS, to create a condominium project (herein called the "project") known as "WAIKIKI BANYAN", the Lessor, Lessee and Developer submitted all of their interests in the property to a Horizontal Property Regime (now known as a Condominium Property Regime) under Chapter 514A, Hawaii Revised Statutes, and adopted a Declaration, dated February 28, 1978 and filed in the Bureau of Conveyances of the State of Hawaii in Liber 12789, Page 613; and

WHEREAS, the Declaration was duly amended by an amendment dated December 9, 1971, filed in Liber 16136, Page 148 and subsequently restated by a First Restatement of the Declaration of Condominium Property Regime of Waikiki Banyan dated August 31, 1992, recorded as Land Court Document No. 1951836 and also filed in the Bureau of Conveyances as Document No. 92-147513; and the First Restatement was subsequently amended by three amendments, one amendment dated February 26, 1993 and recorded as Land Court Document No. 2006511; the second amendment dated August 4, 1993 recorded as Land Court Document No. 2054583 and also filed in the Bureau of Conveyances as Document No. 93-131432; and the third amendment dated July 7, 1999 recorded as Land Court Document No. 2561101 and also filed in the Bureau of Conveyances as Document No. 99-115283; and

WHEREAS, the Declaration as restated and amended, and the By-Laws for the project attached to and recorded contemporaneously with the Declaration, provided for the organization and operation of the ASSOCIATION OF APARTMENT OWNERS OF WAIKIKI BANYAN (the "Association") in accordance with the By-Laws; and

WHEREAS, pursuant to Section 514A-82(b)(2) of the Hawaii Revised Statutes, more than sixty-five percent (65%) of all apartment owners of the project gave their written consent to amend the By-Laws of the Association as indicated below;

NOW THEREFORE, the By-Laws are hereby amended as hereinafter set forth.

1. That a new Article VI, Section 7 to the By-Laws is added to read as follows:

Section 7. Incorporation. The Board at any time may incorporate the Association as a non-profit corporation under the laws of the State of Hawaii. The incorporated Association shall exercise and enforce all the rights, powers, obligations, and duties of both the Association and a non-profit corporation in Hawaii. Except as required by law: (1) the formation of the corporation shall not alter the provisions of the Declaration or By-Laws; and (2) the Association's Articles of Incorporation shall be subordinate to and controlled by both of those documents. The incorporated Association shall take no action in violation of Chapter 514A, Hawaii Revised Statutes. The Board shall adopt the existing By-Laws of the Association, as amended, as the first By-Laws of the incorporated Association.

In all other respects, the Declaration and By-Laws of the Association, as restated and amended, are hereby ratified and confirmed and shall be binding upon and inure to the benefit of the parties to it and their respective successors and permitted assigns. The undersigned officers of the Association hereby certify that the foregoing amendments were adopted by the written consent of more than sixty-five percent (65%) of the members of the Association.

IN WITNESS WHEREOF, the undersigned have executed this instrument this 25th day of July, 2000.

ASSOCIATION OF APARTMENT OWNERS
OF WAIKIKI BANYAN

By Margaret S. Walker
Its President

By [Signature]
Its Vice President

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

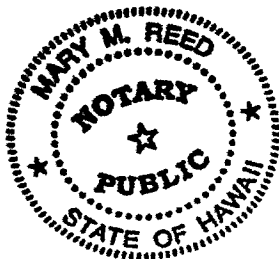
On this 25th day of July, 2000, before me appeared Margaret S. Walker, to be personally known, who being by me duly sworn, did say she is the President of the Board of Directors of the Association of Apartment Owners of Waikiki Banyan, that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors, and acknowledged that she executed the same as the free act and deed of said Association. Said Association has no seal.



Melinda N. Willers
Notary Public, State of Hawaii
Printed Name: Melinda N. Willers
My commission expires: 9-1-2002

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 25th day of JULY, 2000, before me appeared KENJI IWASA, to be personally known, who being by me duly sworn, did say HE is the VICE PRESIDENT of the Board of Directors of the Association of Apartment Owners of Waikiki Banyan, that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors, and acknowledged that HE executed the same as the free act and deed of said Association. Said Association has no seal.



Mary M. Reed
Notary Public, State of Hawaii
Printed Name: MARY M REED
My commission expires: 2-17-2002

EXHIBIT "A"

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

LOT 2, area 91,642.0 square feet, of Block "F", as shown on Map 3, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1865 (amended) of First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust.

Being the remainder of the land(s) described in Original Certificate of Title No. 209,663 issued to First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust, in Trust, with power to lease, mortgage and sell and other powers more particularly set forth in Trust Deed dated December 2, 1909, recorded in Liber 319 at Page 447, as amended, and also described in Transfer Certificate of Title Nos.:

293,092	301,883	304,714
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300,296	304,708	304,724
301,825	304,709	304,725
301,879	304,710	304,726
301,880	304,711	304,914
301,881	304,712	304,915
301,882	304,713	313,976
		313,977

DOUBLE SYSTEM

L-348 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

APR 30, 2001 08:01 AM

Doc No(s) 2701072

on Cert(s) AS LISTED HEREIN

/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

R-546

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

APR 30, 2001 08:02 AM

Doc No(s) 2001-062474

/s/ CARL T. WATANABE
ACTING
REGISTRAR OF CONVEYANCES

LAND COURT SYSTEM

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL () PICKUP (X) TO:

Ahano
LOVE YAMAMOTO & MOTOOKA
RANDALL K. SING
1000 Bishop Street, Suite 801
Honolulu, Hawaii 96813
Tel. No. 532-7900

FIFTH AMENDMENT OF THE RESTATED DECLARATION
OF CONDOMINIUM PROPERTY REGIME
AND BY-LAWS OF WAIKIKI BANYAN

WHEREAS, the Trustees of the Liliuokalani Trust, herein referred to as "Liliuokalani Trust", are the owners in fee simple of the real property described in Original Certificate of Title No. 209,663 and the Transfer Certificates of Title listed in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, by Indenture of Lease dated February 22, 1978, effective as of December 1, 1977, recorded in the Bureau of Conveyances of the State of Hawaii in

Liber 12746, Page 429, herein referred to as the "Master Lease", said Liliuokalani Trust and Kawaiahao Church, a Hawaii eleemosynary corporation, herein referred to as "Kawaiahao", the owner of certain adjoining real property, being herein collectively referred to as the "Lessor", leased all the real property to BANYAN ONE, INC., a Hawaii corporation, herein referred to as the "Lessee"; and

WHEREAS, by Master Sublease dated February 22, 1978, effective as of December 2, 1975, recorded as aforesaid in Liber 12746, Page 473, the Lessee sublet said property to Waikiki Banyan, Inc., a Hawaii corporation, hereinafter referred to as the "Developer"; and

WHEREAS, the Developer improved said land by constructing thereon certain improvements hereinafter described in accordance with plans incorporated herein by reference filed and recorded in said Bureau of Conveyances as Condominium File Plan No. 637; and

WHEREAS, to create a condominium project (herein called the "project") known as "WAIKIKI BANYAN", the Lessor, Lessee and Developer submitted all of their interests in the property to a Horizontal Property Regime (now known as a Condominium Property Regime) under Chapter 514A, Hawaii Revised Statutes, and adopted a Declaration, dated February 28, 1978 and filed in the Bureau of Conveyances of the State of Hawaii in Liber 12789, Page 613; and

WHEREAS, the Declaration was duly amended by an amendment dated December 9, 1971, filed in Liber 16136, Page 148 and subsequently restated by a First Restatement of the Declaration of Condominium Property Regime of Waikiki Banyan dated August 31, 1992, recorded as Land Court Document No. 1951836 and also filed

in the Bureau of Conveyances as Document No. 92-147513; and the First Restatement was subsequently amended by four amendments, one amendment dated February 26, 1993 and recorded as Land Court Document No. 2006511; the second amendment dated August 4, 1993 recorded as Land Court Document No. 2054583 and also filed in the Bureau of Conveyances as Document No. 93-131432; the third amendment dated July 7, 1999 recorded as Land Court Document No. 2561101 and also filed in the Bureau of Conveyances as Document No. 99-115283; and the fourth amendment dated July 25, 2000 recorded as Land Court Document No. 2642313 and also filed in the Bureau of Conveyances as Document No. 2000-108303; and

WHEREAS, the Declaration as restated and amended, and the By-Laws for the project attached to and recorded contemporaneously with the Declaration, provided for the organization and operation of the ASSOCIATION OF APARTMENT OWNERS OF WAIKIKI BANYAN (the "Association") in accordance with the By-Laws; and

WHEREAS, pursuant to Sections 514A-11(11) and 514A-82(b)(2) of the Hawaii Revised Statutes, more than seventy-five percent (75%) and sixty-five percent (65%), respectively, of all apartment owners of the project gave their written consent to amend the Declaration and the By-Laws of the Association as indicated below;

NOW THEREFORE, the Declaration and the By-Laws are hereby amended as hereinafter set forth.

1. That new Subparagraphs 9 and 10 are added to Section F of the Declaration to read as follows:

9. Fee Conversion. Notwithstanding any other provision contained in this Declaration or By-Laws to the contrary, the Board on behalf of the Association, shall have the power to do all such things as it deems necessary or appropriate to negotiate with the owners of the leased fee interest, including any sandwich interest, in the land, apartments and other improvements on the property (herein called the "Lessors") to sell all or any portion of the leased fee interest to the Association and/or its members and/or any other parties interested in purchasing all or any portion of the leased fee interest, and to facilitate the completion of the sale, and shall have the power to purchase all or any portion of the leased fee interest, and to sign any documents and do any and all other acts or things incidental to the consummation of the transaction, including but not limited to the powers set forth in the By-Laws.
10. Voiding Lessors' Consent Requirement. Upon the acquisition from all the Lessors of all their leased fee interest in the land, apartments and other improvements of the property by the Association and/or the apartment owners, all approval and other requirements pertaining to the Lessors and their successors and assigns, if any, as contained in this Declaration and the By-Laws, shall thereupon become null and void and of no effect. The term "Lessors", as used herein, includes any assignee or other holder of the leased fee interest, including any sandwich interest, or any portion thereof.

2. That Section H of the Declaration is amended to read in its entirety

as follows:

- H. Common Expenses. Except as hereinafter provided, 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 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, and all charges, costs, and expenses incurred for or in connection with the purchase of all or any portion of the leased fee interest, including any sandwich interest, from the Fee Owners or any Sublessors, (or any efforts toward that end), and/or the administration of all or any portion of said leased fee interest, including but not limited to all costs associated with obtaining any needed financing in connection with such acquisition and all payments that become owing to the lender under the terms of any note or mortgage entered into in

connection with such financing 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 horizontal property regime hereby created and no payments thereof shall be payments of such common expenses; provided, however, all such expenses for maintenance, repair, replacement, additions and improvements to limited common elements shall be charged to the apartment owner to which the limited common element is appurtenant. 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, 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 Horizontal Property Act, provided that thirty (30) days' prior written notice of intention to foreclose shall be mailed, postage prepaid, to the 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 mortgage of record of an apartment or of an apartment sublease or condominium conveyance document 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).

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 determine in its sole discretion 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 Horizontal Property Regime hereby created shall be terminated or waived, said 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 horizontal property regime.

3. That new Subparagraphs (n), (o), (p) and (q) are added to Article

IV, Section 1 of the By-Laws to read as follows:

(n) Undertaking any and all action required to negotiate the acquisition of the leased fee interest or any or all undivided interests in the leased fee interest, including any sandwich interest, from the Fee Owners or any Sublessors of Waikiki Banyan by the Association or by the individual apartment owners, including but not limited to retaining any professionals to represent the Association or the individual apartment owners in the negotiations. The Board's right to negotiate the acquisition of the leased fee interest or any or all undivided interests in the leased fee interest, including any sandwich interest, includes, but is not limited to, the right to reject any terms or conditions it deems unacceptable.

(o) Purchasing, on behalf of the Association, the leased fee interest or any or all undivided interests in the leased fee interest, including any sandwich interest, of all apartments whose owners are unwilling or unable to purchase the leased fee interest or any or all undivided interests in the leased fee interest, including any sandwich interest, appurtenant to their apartments from the Fee Owners or Sublessors; provided that not less than seventy-five percent (75%) of the

leased fee interest or the undivided interest in the leased fee interest, including any sandwich interest, offered by the Fee Owners or Sublessors of the apartments has been purchased by the apartment owners. The intent of this provision is that the Board is not authorized to purchase more than twenty-five percent (25%) of the leased fee interest offered by the Fee Owners or Sublessors of the apartments [e.g. If someone owning twenty percent (20%) of the leased fee interest to the apartments offers to sell that percentage to the Association, the Board is not authorized to purchase more than one-fourth (1/4th) of the twenty percent (20%) i.e. not more than five percent (5%) of the leased fee interest actually being offered.]

(p) If the Board, in compliance with the preceding paragraph, will be purchasing the leased fee interest or any undivided interest in the leased fee interest, including any sandwich interest, offered by the Fee Owners or Sublessors to any of the apartments in the project on behalf of the Association, the Board shall have the right to do the following in connection with the purchase:

(1) To own, improve, use, and otherwise deal in and with the leased fee interest or any or all undivided interests in the leased fee interest, including any sandwich interest;

(2) To finance the purchase of all or any portion of the leased fee interest, including any sandwich interest, by way of a loan, special assessment, use of the Association funds, or any combination thereof;

(3) To enter into a loan transaction with any individual, entity, or lending institution to obtain such financing;

(4) To secure any loan by mortgage or pledge of all or any portion of the Association's assets, property, assessments, and funds;

(5) To execute and deliver a promissory note and all other necessary documents and undertake all other actions necessary for the Association to borrow money;

(6) To assess the apartment owners in a fair and equitable manner for the expenses incurred in acquiring the leased fee interest, including any sandwich interest, appurtenant to the apartments, or to service any debt associated with that acquisition;

(7) To purchase the leased fee interest, including any sandwich interest, on behalf of the Association and to enter into appropriate purchase and sale contracts with Fee Owners or Sublessors;

(8) To sell the leased fee interest, including any sandwich interest, appurtenant to an apartment to the owner of the apartment to which that leased fee interest is appurtenant or to any other person or entity;

(9) To incorporate the Association or to create a land trust in which to hold title to any leased fee interest, including any sandwich interest, to be acquired by the Association;

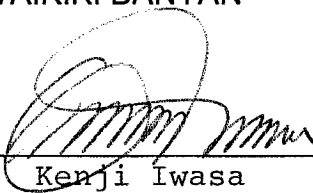
(10) To undertake any and all action as the Board deems necessary or appropriate to administer the leased fee interest, including any sandwich interest, acquired, including, but not limited to, establishing lease rents under the apartment leases or subleases, negotiating lease rent increases under the apartment leases or subleases, retaining professionals to assist in establishing and/or negotiating the lease rents at the renegotiation dates under the apartment leases or subleases and collecting lease rents.

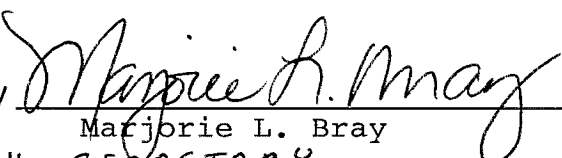
(q) To waive the Association's right of first refusal to purchase the leased fee interest or the undivided interest in the leased fee interest, including any sandwich interest, offered by the Fee Owners or Sublessors of any of the apartments, provided that the proposed sale of said leased fee interest or the undivided interest in the leased fee interest offered by the Fee Owners or Sublessors is to the apartment lessee of the apartment to which the leased fee interest is appurtenant or to a buyer under an agreement of sale of said apartment.

In all other respects, the Declaration and By-Laws of the Association, as restated and amended, are hereby ratified and confirmed and shall be binding upon and inure to the benefit of the parties to it and their respective successors and permitted assigns. The undersigned officers of the Association hereby certify that the foregoing amendments to the Declaration and By-Laws were adopted by the written consent of more than seventy-five percent (75%) and sixty-five percent (65%), respectively, of the members of the Association.

IN WITNESS WHEREOF, the undersigned have executed this instrument
this 29th day of March, 2001.

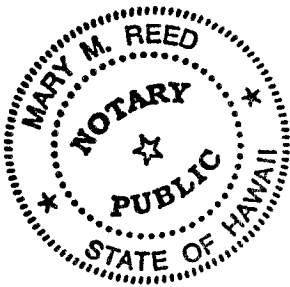
ASSOCIATION OF APARTMENT OWNERS
OF WAIKIKI BANYAN

By 
Kenji Iwasa
Its VICE PRESIDENT

By 
Marjorie L. Bray
Its SECRETARY

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

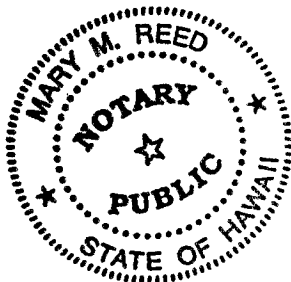
On this 29th day of March, 2001, before me appeared KENJI IWASA, to be personally known, who being by me duly sworn, did say HE is the VICE PRESIDENT of the Board of Directors of the Association of Apartment Owners of Waikiki Banyan, that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors, and acknowledged that HE executed the same as the free act and deed of said Association. Said Association has no seal.



Mary M Reed
Notary Public, State of Hawaii
Printed Name: MARY M REED
My commission expires: 2-17-02

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 29th day of March, 2001, before me appeared MARJORIE L. BRAY, to be personally known, who being by me duly sworn, did say SHE is the SECRETARY of the Board of Directors of the Association of Apartment Owners of Waikiki Banyan, that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors, and acknowledged that SHE executed the same as the free act and deed of said Association. Said Association has no seal.



Mary M Reed
Notary Public, State of Hawaii
Printed Name: MARY M REED
My commission expires: 2-17-02

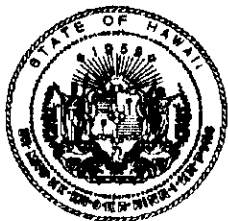
EXHIBIT "A"

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

LOT 2, area 91,642.0 square feet, of Block "F", as shown on Map 3, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1865 (amended) of First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust.

Being the remainder of the land(s) described in Original Certificate of Title No. 209,663 issued to First Hawaiian Bank, a Hawaii Corporation, Clorinda Low Lucas and David M. Peters, Trustees of the Liliuokalani Trust, in Trust, with power to lease, mortgage and sell and other powers more particularly set forth in Trust Deed dated December 2, 1909, recorded in Liber 319 at Page 447, as amended, and also described in Transfer Certificate of Title Nos.:

293,092	301,883	304,714
293,926	301,884	304,715
293,927	301,885	304,716
294,514	301,886	304,717
295,167	301,887	304,718
295,846	301,888	304,719
296,600	302,998	304,720
297,032	303,896	304,721
297,611	303,897	304,722
299,136	304,334	304,723
300,296	304,708	304,724
301,825	304,709	304,725
301,879	304,710	304,726
301,880	304,711	304,914
301,881	304,712	304,915
301,882	304,713	313,976
		313,977



L-713 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED
JUN 25, 2003 01:00 PM
Doc No(s) 2948298
on Cert(s) 209,663



R-1462 STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
JUN 25, 2003 01:00 PM
Doc No(s) 2003-129724



/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

20 1/1 Z1 R1462



/s/ CARL T. WATANABE
REGISTRAR OF CONVEYANCES

20 1/1 Z1 L713

ASSISTANT REGISTRAR

REGISTRAR OF CONVEYANCES

RETURN BY MAIL () PICK-UP () TO:

George T. Okamura
220 S. King St., 19th Fl.
Honolulu, Hawaii 96813
Telephone: 548-3000

TMK No(s). (1) 2-6-025-005, CPR #203, #659, #684, and #767

AMENDMENT OF DECLARATION OF TIME SHARE PLAN

THIS AMENDMENT OF DECLARATION OF TIME SHARE PLAN, herein called "this Amendment", is made this 22nd day of January, 2003, by Hawaiian Sun Holidays, a Hawaii non-profit corporation, herein called "the Association", whose address is Tower 1, 201 Ohua Avenue, Suite 403, Honolulu, Hawaii 96815.

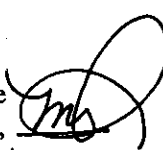
A. RECITALS.

1. There is a time share plan called "Hawaiian Sun Holidays", herein called "Time Share Plan", which is a time share plan as defined by HRS Chapter 514E, herein called the "Time Share Act".

2. The Time Share Plan was created by and is regulated by those instruments (each and collectively a time share instrument under the Time Share Act) described in Exhibit "A" attached hereto and incorporated herein by reference, including Declaration of Covenants Time Share Plan filed in the Land Court, State of Hawaii, as Document No. 1016372, and noted on Transfer Certificate of Title No. 209,663, and recorded in the Bureau of Conveyances, State of Hawaii, at Book 14782, Page 453, and Declaration of Covenants filed as aforesaid as Document No. 1019902, and noted on said Transfer Certificate of Title, and recorded as aforesaid at Book 14831, Page 223, each of the foregoing as heretofore amended, herein each and collectively called "Time Share Instrument".

3. The Association is a time share owners association (incorporated as a Hawaii non-profit corporation) under the Time Share Act consisting of owners of time share interests in the Time Share Plan.

4. The Time Share Plan presently includes 32 condominium units in the Waikiki Banyan condominium project located on Ohua Avenue, Waikiki, Honolulu, Hawaii, owned by Northwest Capital Group, Inc., a Pennsylvania corporation, herein called "Units' Owner". The Units' Owner has requested that 4 condominium units, herein collectively called "Removed Units", more particularly described in Exhibit "B" attached hereto and incorporated herein by reference, be removed from the Time Share Plan and not be subject to the Time Share Instrument.

5. The Association, at its meeting, duly called and noticed, and held on January 20, 2003, by the affirmative vote of owners of time share interests to which are appurtenant 100 % of the voting right and power, approved the removal of the Removed Units from the Time Share Plan and authorized and directed the Association, through its officers and/or directors, to do all things necessary to evidence or to effectuate such removal. 

B. AGREEMENTS, DECLARATIONS AND COVENANTS.

1. All of the foregoing definitions and other provisions of the Recitals in Section A. above are incorporated herein as affirmative substantive declarations, covenants and agreements.

2. Each and every Time Share Instrument is hereby amended by deleting the Removed Units from the list of condominium apartment units covered, included in, or otherwise in any manner subjected to or affected by, the Time Share Plan or any Time Share Instrument, whether listed within the body of any Time Share Instrument or in any exhibit attached thereto.

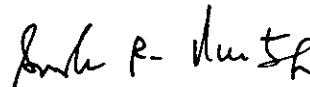
3. This Amendment shall be liberally construed to effectuate its purpose, which is to confirm the right, title and interest of the Units' Owner in and to the Removed Units, free and clear of the Time Share Plan, free and clear of any Time Share Instrument, and free and clear of any right, title, interest or claim by the Association or any time share owner (other than the Units' Owner).

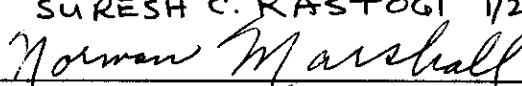
4. The Association, on behalf of itself and all time share owners, confirms and agrees that good, valuable and sufficient consideration for this Amendment has been received.

5. This Amendment and all of its provisions shall "run with the land" and shall bind the Association, all time share owners, and their, and their respective, heirs, devisees, personal representatives, successors and assigns, and shall inure to the benefit of the Units' Owner and its successors and assigns.

IN WITNESS THEREOF, these presents have been executed on the date first above-written at Honolulu, Hawaii.

HAWAIIAN SUN HOLIDAYS
(A Hawaii Non-Profit Corporation)

By , President, HSH
Its SURESH C. RASTOGI 1/22/03

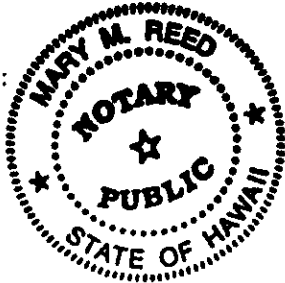
By  VICE PRES
Its NORMAN MARSHALL

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

On this 22nd day of January, 2003, before me personally appeared SURESH C. RASTOGI, to me personally known or proved to me on the basis of satisfactory evidence, 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.

Name (typed or printed) of Notary:

Official signature of Notary:



MARY M REED

Mary M Reed
Notary Public, State of Hawaii

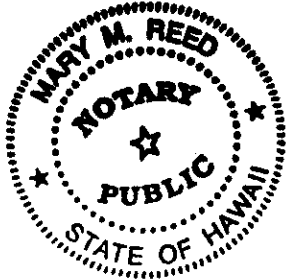
My Commission Expires: 2-17-06

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

On this 22nd day of January, 2003, before me personally appeared NORMAN MARSHALL ~~SURESH C. RASTOGI~~, to me personally known or proved to me on the basis of satisfactory evidence, 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.

Name (typed or printed) of Notary:

Official signature of Notary:



MARY M REED

Mary M Reed
Notary Public, State of Hawaii

My Commission Expires: 2-17-06

EXHIBIT "A"

THE TIME SHARE INSTRUMENT

thereof: The Time Share Instrument consists of the following items A. through C. including all sub-parts

A. DECLARATION OF COVENANTS TIME SHARE PLAN

Dated: May 29, 1980
Document No. 1016372
Book: 14782
Page: 453
to which reference is hereby made

The foregoing Declaration was amended by the following:

<u>Dated</u>	<u>Document No.</u>	<u>Book</u>	<u>Page</u>
November 13, 1980	-----	15135	445
February 3, 1982	1391025		16169 613
March 11, 1987	1446916		20462 192

B. DECLARATION OF COVENANTS

Dated: June 30, 1980
Document No. 1019902
Book: 14831
Page: 223
to which reference is hereby made

The foregoing Declaration was amended by the following:

<u>Dated</u>	<u>Document No.</u>	<u>Book</u>	<u>Page</u>
February 3, 1982	1391024		16169 619
March 11, 1987	1446915		20462 185
November 9, 1987	1509108		21316 512

C. Any of the foregoing as further amended, if at all, and any other instrument(s), if any, creating or regulating the Time Share Plan.

END OF EXHIBIT "A"

EXHIBIT "B"

The "Removed Units"

The "Removed Units" are the following condominium apartment units located in the Waikiki Banyan condominium project:

<u>Apartment Nos.</u>	<u>Tower</u>	<u>Transfer Certificate of Title No.</u>
2111	Makai	304,726
2307	Mauka	304,715
2504	Mauka	304,716
3103	Mauka	304,719

The Waikiki Banyan condominium project was created and is regulated by the following condominium instruments:

DECLARATION OF HORIZONTAL PROPERTY REGIME OF "WAIKIKI BANYAN", and the By-Laws attached thereto:

Dated: February 28, 1978
Book: 12789
Page: 613

Condominium Map No. 537, to which reference is hereby made.

The foregoing Declaration of Horizontal Property Regime was amended by the following:

<u>Dated</u>	<u>Book</u>	<u>Page</u>
December 9, 1981	16136	148

FIRST RESTATEMENT OF THE DECLARATION OF CONDOMINIUM PROPERTY REGIME OF "WAIKIKI BANYAN"

Dated: August 31, 1992
Document No. 1951836
Document No. 92-147513

The foregoing First Restatement of the Declaration of Condominium Property Regime was amended by the following:

<u>Dated</u>	<u>Document No.</u>	<u>Document No.</u>
February 26, 1993	2006511	
August 4, 1993	2054583	93-131432

And, the foregoing, if further amended, shall be deemed to include such further amendment(s), if any, whether or not listed herein.

END OF EXHIBIT "B"

Document Receipt Acknowledgement and Approval

Purchase Contract Ref. Date : June 19, 2013

Seller: Gary Uyeno/Shinsaku Takenaka Buyer: Tasia Heffernan

Property: Waikiki Banyan #3606 Tower-I/ 201 Ohua Avenue, Honolulu, HI 96815

TMK: 1-2-6-025-005-0408

Document Receipt

1. Condominium Documents (M-1)

CPR-HPR (Restated) 2701072 (4/30/2001)

CPR-HPR (Restated) 2561101 (7/19/1999)

CPR-HPR (Restated) 2642313 (8/4/2000)

CPR-HPR (Restated) 2054583 (8/12/1993)

CPR-HPR (Restated) 2006511 (2/26/1993)

CPR-HPR (Restated) 1951836 (8/31/1992)

CPR-HPR declaration 12789613 (2/28/1978)

CPR-HPR Amendments 2701072 (4/30/2001)

CPR-HPR Amendments 2948298 (6/25/2003)

CPR-HPR Amendments 16136148 (2/1/1982)

Insurance Summary (4/10/2013)

Property Information Form (6/11/2013)

Lender's Disclosure (6/18/2013)

Operating Budget (1/1/2013)

Financial Statement (4/30/2013)

Approved Board of Directors Minutes (10/30/2012, 11/29/2012, 4/4/2013)

Annual Meeting Minutes (4/15/2013)

House Rules (1/1/2009)

Reserve Study Summary (1/1/20011)

2. Qualified Fee Documents (Becker Sandwich Lease Disclosure)

Documents Receipt: _____
Received by: _____ Date: _____

Document Approval

We/I have reviewed, understand and hereby approve the above mentioned items.

Buyer: _____ Date: _____

Document Disapproval / Rejection

We/I disapprove/reject the above mentioned check-marked items and exercise above mentioned Sales Contract standard terms, Paragraph O-2. Termination Provision.

Buyer: _____ Date: _____

PAID



Order ID: 231003
Order Date: 06/26/2013

A Title Guaranty Company
1350 South King Street, Suite 105; Honolulu, HI 96814 Phone: (808) 533-2292 Fax: (808) 533-2271

Ship To: MAP VISION INC
MAIN OFFICE
201 OHUA AVE STE 302-I
HONOLULU, HI 96815
Attn: ITSUMI TAKASE
Phone: 1 (808) 971-0101

Bill To: MAP VISION INC
MAIN OFFICE
201 OHUA AVE STE 302-I
HONOLULU, HI 96815
Attn: ITSUMI TAKASE
Phone: 1 (808) 971-0101

Client Reference:

Client Reference Notes: Paid with Credit Card - 0902, Itsumi Takase

Special Instructions:

Delivery Options: Email

Condo Package

Full Package: WAIKIKI BANYAN MAKAI-TOWER I & MAUKA TOW - 201 OHUA AVE Apt/Unit #MAKAI/3606

Description			Price
Approved Annual Minutes	04/15/2013	1 Page(s)	
Approved BOD Minutes	10/30/2012	1 Page(s)	
Approved BOD Minutes	11/29/2012	3 Page(s)	
Approved BOD Minutes	04/04/2013	1 Page(s)	
CPR/HPR (Restated)	08/31/1992	70 Page(s)	
CPR/HPR (Restated)	02/26/1993	6 Page(s)	
CPR/HPR (Restated)	08/12/1993	7 Page(s)	
CPR/HPR (Restated)	07/19/1999	7 Page(s)	
CPR/HPR (Restated)	08/04/2000	6 Page(s)	
CPR/HPR (Restated)	04/30/2001	11 Page(s)	
CPR/HPR Amendments	02/01/1982	8 Page(s)	

Thank You For Your Patronage

Statement of Responsibility

Title Guaranty of Hawaii, Inc. (doing business as and herein referred to as "Docutrieve") has provided the information in this disclosure packet for use by seller of property referenced in the attached documents. Docutrieve has used reasonable care in collecting and maintaining the information but it has relied upon other sources to provide such information and it makes no representation about completeness, accuracy, or timeliness of the information that the seller is using. This information complies with the requirements of the Mandatory Seller Disclosures in Real Estate Transactions law (Section 508D-1, Hawaii Revised Statutes). The seller or any other user of this information is responsible for the completeness of information which is required to be provided to the buyer.

Pursuant to C-64 of the Purchase Contract, the seller is responsible for Condominium/Subdivisions/Homeowner Organizations documentation expenses whether or not the transaction is executed.

PAID



Order ID: 231003
Order Date: 06/26/2013

A Title Guaranty Company
1350 South King Street, Suite 105; Honolulu, HI 96814 Phone: (808) 533-2292 Fax: (808) 533-2271

Description			Price
CPR/HPR Amendments	04/30/2001	11 Page(s)	
CPR/HPR Amendments	06/25/2003	5 Page(s)	
CPR/HPR Declaration	02/28/1978	81 Page(s)	
Financial Statement	04/30/2013	8 Page(s)	
House Rules	01/01/2009	12 Page(s)	
Insurance Summary	04/10/2013	1 Page(s)	
Lenders Disclosure	06/18/2013	2 Page(s)	
Operating Budget	01/01/2013	3 Page(s)	
Property Information	06/11/2013	5 Page(s)	
Reserve Study Summary	01/01/2011	1 Page(s)	
Price			\$330.00
Discount	0.00%		\$0.00
Discounted Price			\$330.00
Tax	4.712%		\$15.55
Condo Package SubTotal			\$345.55
Order Total			\$345.55

Thank You For Your Patronage

Statement of Responsibility

Title Guaranty of Hawaii, Inc. (doing business as and herein referred to as "Docutrieve") has provided the information in this disclosure packet for use by seller of property referenced in the attached documents. Docutrieve has used reasonable care in collecting and maintaining the information but it has relied upon other sources to provide such information and it makes no representation about completeness, accuracy, or timeliness of the information that the seller is using. This information complies with the requirements of the Mandatory Seller Disclosures in Real Estate Transactions law (Section 508D-1, Hawaii Revised Statutes). The seller or any other user of this information is responsible for the completeness of information which is required to be provided to the buyer.

Pursuant to C-64 of the Purchase Contract, the seller is responsible for Condominium/Subdivisions/Homeowner Organizations documentation expenses whether or not the transaction is executed.

	April 30, 2013				YEAR TO DATE			
	ACTUAL	BUDGET	VARIANCE	% OF BUDGET	ACTUAL	BUDGET	VARIANCE	% OF BUDGET
CASH RECEIPTS								
MAINTENANCE FEES-AOAO	303,886.46	315,305	(11,418.54)	96.4	1,211,075.14	1,230,615	(19,539.86)	98.4
TOTAL CAM-COMMERCIAL	7,079.42	8,289	(1,209.58)		27,455.13	33,156	(5,700.87)	
LEGAL FEE REIMBURSEMENT	86.03	299	(212.97)		5,966.01	1,196	4,770.01	
MISCELLANEOUS NON-TAXABLE	4,414.61	5,192	(777.39)		17,366.31	20,768	(3,401.69)	
INTEREST INCOME	458.33	938	(479.67)		1,202.77	3,752	(2,549.23)	
WASHER/DRYER INCOME	16,191.75	15,589	602.75		60,969.23	62,712	(1,742.77)	
COMMISSIONS	525.37	495	30.37		1,841.70	1,980	(138.30)	
PARKING	118,793.00	92,405	26,388.00		413,542.00	346,695	66,847.00	
LATE CHARGES	450.00	289	161.00		2,975.00	1,156	1,819.00	
OTHER	1,169.21	4,073	(2,903.79)		28,454.19	16,292	12,162.19	
TOTAL COMMERCIAL LEASES	83,628.06	86,702	(3,073.94)		327,275.05	346,808	(19,532.95)	
TOTAL CASH RECEIPTS	536,682.24	529,576	7,106.24	101.3	2,098,122.53	2,065,130	32,992.53	101.6
CASH DISBURSEMENTS								
TOTAL UTILITIES	198,311.34	226,215	(27,903.66)		769,301.30	904,860	(135,558.70)	
TOTAL CONTRACT SERVICES	37,531.04	28,444	9,087.04		122,124.76	113,776	8,348.76	
TOTAL MAINTENANCE & SUPPLIES	10,469.02	12,999	(2,529.98)		43,972.37	51,996	(8,023.63)	
TOTAL ADMINISTRATION	7,709.39	6,550	1,159.39		28,143.89	26,200	1,943.89	
TOTAL PROFESSIONAL SERVICES	11,178.23	8,118	3,060.23		35,846.16	32,472	3,374.16	
BOARD TRAVEL EXPENSE	0.00	0.00	0.00		0.00	0.00	0.00	
TOTAL PAYROLL	205,052.75	226,603	(21,550.25)		895,632.89	906,412	(10,779.11)	
TOTAL INSURANCE & TAXES	36,545.09	236,644	(200,098.91)		87,022.88	268,660	(181,637.12)	
TOTAL OPERATING EXPENSES	506,796.86	745,573.00	(238,776.14)	68.0	1,982,044.25	2,304,376	(322,331.75)	86.0
OPERATING SURPLUS(DEFICIT)	29,885.38	(215,997)	245,882.38	(13.8)	116,078.28	(239,246)	355,324.28	(48.5)
MAJOR IMPROVEMENTS & REPAIRS								
GENERAL OPERATING	0.00	6,306	(6,306.00)		491.12	25,224	(24,732.88)	
SEC RADIO & CCTV SYSTEM	0.00	2,917	(2,917.00)		0.00	11,668	(11,668.00)	
HEAT PUMP REPLACEMENT	2,122.25	20,833	(18,710.75)		3,265.00	83,332	(80,067.00)	
POOL HEAT PUMP	0.00	1,250	(1,250.00)		0.00	5,000	(5,000.00)	
BUILDING RESTORATION	177,624.00	67,283	110,341.00		315,303.77	269,132	46,171.77	
TRASH CHUTES	0.00	10,000	(10,000.00)		0.00	40,000	(40,000.00)	
ELECTRIC VEHICLE	1,200.00	0.00	1,200.00		1,200.00	0.00	1,200.00	
TOTAL MAJOR IMPROV & REPAIRS	180,946.25	108,589	72,357.25	166.6	320,259.89	434,356	(114,096.11)	73.7
TOTAL CASH DISBURSEMENTS	687,743.11	854,162	(166,418.89)	80.5	2,302,304.14	2,738,732	(436,427.86)	84.1
CHANGE IN SECURITY DEPOSIT	1,201.21	0.00	1,201.21	0.0	1,201.21	0.00	1,201.21	0.0
NET CHANGE TO CASH & RESERVE	(149,859.66)	(324,586)	174,726.34	46.2	(202,980.40)	(673,602)	470,621.60	30.1
PETTY CASH					1,500.00			
OPERATING CASH					306,739.05			
TOTAL RESERVES					1,640,242.32			
TOTAL CASH & RESERVES					1,948,481.37			
*SECURITY DEPOSITS INCLUDED					(100,333.90)			

PREPARED FOR
201 OHUA AVENUE
HONOLULU HI 96815

ACCT. NO: 1140
PAGE: 1

WAIKIKI BANYAN

STATEMENT OF RECEIPTS AND DISBURSEMENTS FOR PERIOD ENDED 04/30/2013

PREPARED BY
HAWAIIANA MANAGEMENT COMPANY, LTD.
ACCOUNTANT: MARILYN WRIGHT
DATE PRINTED: 05/14/2013

BLD ACCT 1140 DESCRIPTION	CURRENT MONTH		YEAR TO DATE		FISCAL YR 1	
	ACTUAL	BUDGET	VAR.	BUDGET	VAR.	BUDGET
NON-TAXABLE RECEIPTS:						
5100 MAINTENANCE FEE	303886.46	313305.00	-11418.54	1211075.14	1230615.00	-19539.86
5190 LEGAL FEE REIMBURSEMENT	86.03	299.00	-212.97	5966.01	1196.00	4770.01
5210 MISC NON-TAXABLE	4414.61	5192.00	-777.39	17366.31	20768.00	-3401.69
5119 TOTAL CAM-COMMERCIAL	7079.42	8289.00	-1209.58	27455.13	33156.00	-5700.87
TOTAL NON-TAXABLE RECEIPTS	315466.52	329085.00	-13618.48	1261862.59	1285735.00	-23872.41
TAXABLE RECEIPTS:						
5425 TOTAL COMMIL LEASES	83628.06	86702.00	-3073.94	327275.05	346808.00	-19532.95
5330 WASHER & DRYER	16191.75	15589.00	602.75	60969.23	62712.00	-1742.77
5461 COMMISSIONS	525.37	495.00	30.37	1841.70	1980.00	-138.30
5350 PARKING	118793.00	92405.00	26388.00	413542.00	346695.00	66847.00
5360 LATE FEES	450.00	289.00	161.00	2975.00	1156.00	1819.00
5290 INTEREST	458.33	938.00	-479.67	1202.77	3752.00	-2549.23
5370 MISCELLANEOUS	1169.21	4073.00	-2903.79	28454.19	16292.00	12162.19
TOTAL TAXABLE RECEIPTS	221215.72	209491.00	20724.72	836259.94	779395.00	56864.94
TOTAL RECEIPTS	536682.24	529576.00	7106.24	2098122.53	2065130.00	32992.53
UTILITIES:						
6010 ELECTRICITY	135302.23	163032.00	-27729.77	573012.58	652128.00	-79115.42
6030 WATER	14281.37	13719.00	562.37	40104.77	54876.00	-14771.23
6040 SEWER	48283.04	48997.00	-713.96	154395.99	195988.00	-41592.01
6062 TELEPHONE	444.70	467.00	-22.30	1787.96	1868.00	-80.04
TOTAL UTILITIES	198311.34	226215.00	-27903.66	769301.30	904860.00	-135558.70
CONTRACT SERVICES:						
6223 WINDOW WASHING	0.00	1283.00	-1283.00	3664.92	5132.00	-1467.08
6230 ELEVATOR	13831.70	7000.00	6831.70	34579.25	28000.00	6579.25
6280 PEST CONTROL	1763.19	1851.00	-87.81	7052.76	7404.00	-351.24
6300 REFUSE REMOVAL	6788.39	7054.00	-265.61	27104.81	28216.00	-1111.19
6311 SECURITY COMMUNICATIONS	138.22	145.00	-6.78	1074.87	580.00	494.87
6350 OCEANIC CABLE	7416.19	7241.00	175.19	29664.76	28964.00	700.76
6372 MECHANICAL EQUIP MAINT	7593.35	3870.00	3723.35	18983.39	15480.00	3503.39

PREPARED FOR
201 OHUA AVENUE
HONOLULU HI 96815

ACCT. NO: 1140
PAGE: 2

WAIKIKI BANYAN
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR PERIOD ENDED 04/30/2013

PREPARED BY
HAWAIIANA MANAGEMENT COMPANY, LTD
ACCOUNTANT: MARILYN WRIGHT
DATE PRINTED: 05/14/2013

BLD ACCT 1140	CURRENT MONTH		YEAR TO DATE		FISCAL YR 1
DESCRIPTION	ACTUAL	BUDGET	ACTUAL	BUDGET	VAR. BUDG.
TOTAL CONTRACT SERVICES	37531.04	28444.00	131.9	122124.76	8348.76
BUILDING MAINTENANCE:					
6532 HOUSEKEEPING SUPPLIES	1072.22	2996.00	-1923.78	8470.48	-3513.52
6580 POOL SUPPLIES	1742.36	2181.00	-438.64	7828.66	-895.34
6660 FIRE SYSTEMS	0.00	367.00	-367.00	0.00	-1468.00
6691 BUILDING MAINTENANCE	0.00	1067.00	-1067.00	2571.28	-1696.72
6693 BLDG SUPPLIES-GENERAL	7229.90	5758.00	1471.90	23421.72	389.72
6706 PURCHASING HUI	424.54	630.00	-205.46	1680.23	-839.77
TOTAL BUILDING MAINTENANCE	10469.02	12999.00	-2529.98	43972.37	-8023.63
ADMINISTRATION:					
6830 VEHICLE EXPENSE	503.00	190.00	313.00	820.02	60.02
7557 STORAGE LOCKER-SEC DEP	0.00	0.00	0.00	250.00	250.00
6912 OFFICE & ADMIN EXPENSE	6543.72	5044.00	1499.72	24203.59	4027.59
6913 DUES, SUBSCRIPTIONS, SEMINARS	0.00	296.00	-296.00	861.00	-323.00
7543 ANNUAL/BOD MEETING	662.67	132.00	530.67	1941.88	1413.88
6950 OTHER	0.00	596.00	-596.00	67.40	-2316.60
6844 CONDO EDUC TRUST FUND	0.00	292.00	-292.00	0.00	-1168.00
TOTAL ADMINISTRATION	7709.39	6550.00	1159.39	28143.89	1943.89
PROFESSIONAL SERVICES:					
6850 PROFESSIONAL MANAGEMENT	4974.55	5223.00	-248.45	19898.20	-993.80
6870 AUDIT & TAX PREPARATION	0.00	292.00	-292.00	0.00	-1168.00
6881 LEGAL-GENERAL	6203.68	1906.00	4297.68	12001.03	4377.03
6882 LEGAL-REIMBURSEABLE	0.00	498.00	-498.00	2442.13	450.13
6890 CONSULTING FEES	0.00	199.00	-199.00	1504.80	708.80
TOTAL PROFESSIONAL SERVICES	11178.23	8118.00	3060.23	35846.16	3374.16
PAYROLL AND BENEFITS:					
7011 PAYROLL-ADMINISTRATION	16320.02	16547.00	-226.98	65580.08	-607.92
7020 PAYROLL-MAINTENANCE	30664.20	37191.00	-6526.80	133348.12	-15415.88
7030 PAYROLL-HOUSEKEEPING	44806.67	48654.00	-3847.33	186447.58	-8168.42

PREPARED FOR
201 OHUA AVENUE
HONOLULU, HI 96815

ACCT. NO: 1140
PAGE: 3

WAIKIKI BANYAN

STATEMENT OF RECEIPTS AND DISBURSEMENTS FOR PERIOD ENDED 04/30/2013

PREPARED BY
HAWAIIANA MANAGEMENT COMPANY, LTD.
ACCOUNTANT: MARILYN WRIGHT
DATE PRINTED: 05/14/2013

R/LD ACCT 1140 DESCRIPTION	CURRENT MONTH			YEAR TO DATE			FISCAL BEG: 1
	ACTUAL	BUDGET	VAR	ACTUAL	BUDGET	VAR	
7050 PAYROLL-SECURITY	6830.92	7282.00	-3851.08	283508.25	289928.00	-6419.75	
7070 WORKMAN'S COMP	4369.00	4660.00	-291.00	14988.00	18640.00	-3652.00	
7080 TDI	816.16	898.00	-81.84	2896.63	3592.00	-695.37	
7090 INSURANCE-MEDICAL	28000.91	28310.00	-309.09	115760.77	113240.00	2520.77	
7110 PAYROLL TAXES	8949.10	13412.00	-4462.90	55402.70	53648.00	1754.70	
7140 PAYROLL PROCESSING	182.65	194.00	-11.35	790.19	776.00	14.19	
7170 UNIFORMS	2313.12	744.00	1569.12	4510.57	2976.00	1534.57	
7255 GIRA	0.00	3511.00	-3511.00	32400.00	14044.00	18356.00	
TOTAL PAYROLL AND BENEFITS	205052.75	226603.00	-21550.25	895632.89	906412.00	-10779.11	98.8
OTHER EXPENSES:							
7310 INSURANCE-S M P	0.00	167544.00	-167544.00	17666.00	167544.00	-149878.00	
7315 INSURANCE-LIABILITY	0.00	41136.00	-41136.00	3328.00	41136.00	-37808.00	
7325 INSURANCE-D & O	11586.00	6372.00	5214.00	11586.00	6372.00	5214.00	
7330 INSURANCE-FIDELITY BOND	0.00	528.00	-528.00	0.00	528.00	-528.00	
7340 INSURANCE-UMBRELLA	11282.00	11292.00	-10.00	11282.00	11292.00	-10.00	
7350 INSURANCE-AUTO	2399.00	0.00	2399.00	2399.00	2700.00	-301.00	
7356 INSURANCE-CRIME	1740.00	0.00	1740.00	1740.00	0.00	1740.00	
7550 MISCELLANEOUS EXPENSE	-60.00	0.00	-60.00	85.00	0.00	85.00	
7720 GENERAL EXCISE TAX	9598.09	9772.00	-173.91	38936.88	39088.00	-151.12	
TOTAL OTHER EXPENSES	36545.09	236644.00	-200098.91	87022.88	268660.00	-181637.12	32.4
TOTAL OPERATING EXPENSES	506796.86	745573.00	-238776.14	1982044.25	2304376.00	-322331.75	86.0
OPERATING SURPLUS/DEFICIT	29885.38	-215997.00	245882.38	116078.28	-239246.00	355324.28	-48.5
CAPITAL IMPR AND MAJOR REP & REPL:							
8010 GENERAL OPERATING	0.00	6306.00	-6306.00	491.12	2524.00	-24732.88	
8516 SECURITY RADIO & CCTV SYSTEM	0.00	2917.00	-2917.00	0.00	11668.00	-11668.00	
8518 HEAT PUMP REPLACEMENT	2122.25	20833.00	-18710.75	3265.00	8332.00	-80067.00	
8530 POOL HEAT PUMP	0.00	1250.00	-1250.00	0.00	5000.00	-5000.00	
8542 BUILDING RESTORATION	177624.00	67283.00	110341.00	315303.77	269132.00	46171.77	
8543 TRASH CHUTES	0.00	10000.00	-10000.00	0.00	40000.00	-40000.00	
8584 ELECTRIC VEHICLE	1200.00	0.00	1200.00	1200.00	0.00	1200.00	

PREPARED FOR
201 OHUA AVENUE
HONOLULU HI 96815

ACCT. NO: 1140
PAGE: 4

WAIKIKI BANYAN
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR PERIOD ENDED 04/30/2013

PREPARED BY
HAWAIIANA MANAGEMENT COMPANY, LTD
ACCOUNTANT: MARLYN WRIGHT
DATE PRINTED: 05/14/2013

BUD. ACCT 1140	CURRENT MONTH		YEAR TO DATE		FISCAL REQ: 1
DESCRIPTION	ACTUAL	BUDGET	ACTUAL	BUDGET	VAR. BUDG.
TOTAL CAPITAL IMPR AND MAJOR	180946.25	108589.00	72357.25	320259.89	-114096.11
TOTAL CASH DISBURSEMENTS	687743.11	854162.00	-166418.89	2302304.14	-436427.86
CHANGE IN SECURITY DEPOSITS	1201.21	0.00	1201.21	0.00	1201.21
CHANGE TO TOTAL CASH & RESERVE	-149859.66	-324586.00	174726.34	-202980.40	470621.60
					73.7
					84.1
					0.0

PREPARED FOR

201 OHUA AVENUE
HONOLULU HI 96813

ACCT. NO: 1140
PAGE: 1

WAIKIKI BANYAN CASH REPORT AS OF 04/30/2013

PREPARED BY
HAWAIIANA MANAGEMENT COMPANY, LTD.
ACCOUNTANT: MARILYN WRIGHT
DATE PRINTED: 5/14/2013

BLD NUM: 1140

FISCAL BEG: 01 PAGE: 1

OPERATING ACCOUNTS

1000 CHECKING ACCOUNT *
1005 PETTY CASH
1115 CPB LNDRY LQ #*****1504
1116 CPB BBQ LQ #*****9580
1117 CPB PEPSI LQ #*****2520
1175 FHB PRKG LQ #*****7077

TOTAL OPERATING

RESERVES

1630 APFCU LQ #*****8776
1735 CAB LQ #*****2992
1767 FFAC #*****0860
1775 FHB LQ #*****8982
1800 HCCU LQ #*****6399
1830 HTEFCU LQ #*****9274
1840 HSB #*****6755
1965 TERR LQ #*****3046

TOTAL RESERVES

TOTAL ASSOCIATION CASH

LESS: RESTRICTED CASH (HELD FOR OTHERS)

4315 SEC DEPOSIT FUNDS

TOTAL RESTRICTED CASH (HELD FOR OTHERS)

NET ASSOCIATION AVAILABLE CASH AND DEPOSITS

TERM	MATURES	RATE	BEGINNING BALANCE	TRANSFERS TO/ (FROM)	ENDING BALANCE
			61,632.85	245,106.20	306,739.05
			1,500.00	0.00	1,500.00
		0.0800	121,904.74	16,198.94	138,103.68
		0.0300	13,527.05	0.00	13,527.05
		0.0300	9,217.07	0.00	9,217.07
		0.0010	627,795.22	-411,387.16	216,408.06
			835,576.93	-150,082.02	685,494.91
			101.28	0.01	101.29
		0.3500	250,000.00	0.00	250,000.00
		0.5000	249,402.85	0.00	249,402.85
06	MONTHS 10/17/2013	0.2500	70,000.00	0.00	70,000.00
		0.1000	103.44	0.00	103.44
		0.3100	249,651.10	222.35	249,873.45
		0.5000	250,000.00	0.00	250,000.00
12	MONTHS 10/06/2013	0.4000	193,505.43	0.00	193,505.43
		0.4500	1,262,764.10	222.36	1,262,986.46
			2,098,341.03	-149,859.66	1,948,481.37
			99,132.69	1,201.21	100,333.90
			99,132.69	1,201.21	100,333.90
			1,999,208.34	-151,060.87	1,848,147.47

PREPARED FOR
201 OHUA AVENUE
HONOLULU HI 96815
ACCT. NO: 1140
PAGE: 2

WAIKIKI BANYAN
CASH REPORT
AS OF 04/30/2013

PREPARED BY
HAWAIIANA MANAGEMENT COMPANY, LTD.
ACCOUNTANT: MARILYN WRIGHT
DATE PRINTED: 5/14/2013

BLD NUM: 1140

FISCAL BEG: 01 PAGE: 2

* CHECKING ACCOUNT MAY INCLUDE PENDING CAPITAL EXPENSES

BEGINNING CASH BAL. - B.O.Y. 2,151,461.77

----- PREPARED FOR -----
201 OHIA AVENUE
HONOLULU HI 96815
ACCT. NO: 1140
PAGE: 1

WAIKIKI BANYAN
CASH BY INSTITUTION
AS OF 04/30/2013

----- PREPARED BY -----
HAWAIIANA MANAGEMENT COMPANY, LTD.
ACCOUNTANT: MARILYN WRIGHT
DATE PRINTED: 5/14/2013

BLD NUM: 1140

FISCAL BEG: 01 PAGE: 1

CASH BY INSTITUTION:

ALOHA PACIFIC FCU
CENTRAL PACIFIC BANK
COMMUNITY ASSOCIATION BANC
FINANCE FACTORS
FIRST HAWAIIAN BANK
HAWAII CENTRAL CREDIT UNION
HAWAIIAN TEL EMPLOYEE FCU
HOMESTREET BANK
TERRITORIAL SAVINGS BANK

BEGINNING BALANCE	TRANSFERS TO/(FROM)	ENDING BALANCE
101.28	0.01	101.29
206,281.71	261,305.14	467,586.85
250,000.00	0.00	250,000.00
249,402.85	0.00	249,402.85
697,795.22	-411,387.16	286,408.06
103.44	0.00	103.44
249,651.10	222.35	249,873.45
250,000.00	0.00	250,000.00
193,505.43	0.00	193,505.43
2,096,841.03	-149,859.66	1,946,981.37

TOTAL CASH



WAIKIKI BANYAN HOUSE RULES

ARTICLE I COMPLIANCE

SECTION 1. AUTHORITY. Compliance with these House Rules is required by Hawaii Revised Statutes (HRS) §514B-112, and Section I, First Restatement of the Declaration of Condominium Property Regime of Waikiki Banyan (Declaration).

SECTION 2. COSTS OF ENFORCEMENT. In accordance with Article V, Section 5 of the By-Laws of the Association of Apartment Owners Waikiki Banyan (Association), the cost of enforcement is the obligation of the apartment owner responsible for the conduct of the person violating these House Rules. In addition, HRS §514B-157 (a), provides in part that:

"All costs and expenses, including reasonable attorney's fees, incurred by or on behalf of the association for:

(3) Enforcing any provision of the declaration, bylaws, house rules, and this chapter or the rules of the real estate commission; against an owner, occupant, tenant, employee of an owner, or any other person who may in any manner use the property shall be promptly paid on demand to the association...."

SECTION 3. DISTRIBUTION. Each owner shall be provided one hard copy of the House Rules, as revised, at no charge. Additional hard copies are available at nominal cost. In addition, the currently revised House Rules are available in electronic form for download from the Association's web site, <http://www.waikikibanyan.org/>. Each owner or owner's authorized agent is responsible for providing a copy of the House Rules to any person occupying the owner's apartment.

SECTION 4. HOUSING NON-DISCRIMINATION POLICY. Waikiki Banyan has adopted the Housing Non-Discrimination Policy published by the Hawaii Civil Rights Commission. A copy of this policy is available upon request at the Admin Office.

ARTICLE II DEFINITIONS

SECTION 1. OWNER. For the purposes of these House Rules, "owner" means:

- A.** the person or persons holding legal title to an apartment, and/or
- B.** the purchaser of an apartment pursuant to an agreement of sale recorded in the Bureau of Conveyances.

SECTION 2. AGENT. "Agent" means an individual or organization legally authorized by an owner to act on the owner's behalf.

SECTION 3. MANAGER. "Manager" means the on-site person(s) employed by the Association to administer the day-to-day operation of Waikiki Banyan Condominium.

SECTION 4. TENANT. "Tenant" means a person occupying an apartment pursuant to the terms of a written or oral lease not filed with the Board of Directors.

SECTION 5. LESSEE. "Lessee" means any lessee of any portion of a common element under the terms of a lease filed with the Association's Board of Directors. A lessee may also be an owner.

SECTION 6. GUEST. "Guest" means a person other than an owner, tenant or lessee, lawfully on the premises pursuant to the invitation of an owner, tenant or lessee.

SECTION 7. OCCUPANT. "Occupant" means any person lawfully occupying an apartment for any period of time, whether or not otherwise defined as an owner, tenant, lessee or guest.

SECTION 8. PERSON. "Person" means an individual, firm, corporation, partnership or other legal entity.

SECTION 9. PREMISES. "Premises" means the entire condominium project, consisting of apartments and common elements.

SECTION 10. COMMON ELEMENTS. "Common elements" is defined in Section A. 2. of the Declaration and includes, among other things, the land, yard, grounds, landscaping, refuse facilities, driveways, recreation deck, parking garage, lobby.

ARTICLE III GENERAL

SECTION 1. GUESTS. Guests may be invited onto the premises by an owner, tenant or lessee. A guest may not be invited by another guest. Guests are authorized to remain on premises only so long as they comply with the House Rules and other relevant Association documents.

SECTION 2. NOISE. No person on the premises shall make or cause to be made any noise or engage in any loud or offensive conduct which shall disturb or annoy any other person.

SECTION 3. RESPONSIBILITIES OF OWNERS. Each owner shall be responsible for ensuring that tenants, guests and any other person(s) on the premises at the owner's invitation or authority are familiar and comply with the House Rules and other relevant Association regulations. Owners shall be responsible for the conduct of their tenants, guests and others, including liability for any and all damages caused by said tenants, guests and others. Lessees bear the same responsibilities as owners under this Section.

SECTION 4. SOLICITATION. No soliciting of goods or services or religious or political or other causes shall be permitted on the premises.

SECTION 5. KEYS TO APARTMENT. Each owner shall, at the commencement of occupancy or thereafter whenever the apartment door lock(s) shall be changed, provide the Administration Office with the key(s) to his or her apartment to allow access to the apartment for operation of the premises or emergency repairs, in accordance with HRS §514B-137.

SECTION 6. LOCK OUTS. In the event an occupant is locked out of his or her apartment, the Manager may authorize the opening of the apartment door for said person provided that:

- A. management has been provided the key(s) to the apartment in accordance with Section 6 above, and
- B. the person seeking access to the apartment can provide proper identification as a lawful occupant of the apartment, and
- C. the person seeking access pays the current Lockout Fee to the Association before being given access to the apartment.

SECTION 7. EXTERIOR SURFACES. No awnings, shades, screens, vertical blinds, window guards, radio or television antennae, or other objects shall be attached to or hung from the exterior of the building, or from planters, or to protrude through the walls, windows or roofs thereof. No notice, sign, advertisement, bill, poster, illumination, display or other means of communication shall be inscribed or posted on or about the premises, or from the exterior of the building whether visible or not from the outside of the building (except within apartments in locations not visible from the outside of the building). Nothing shall be displayed or projected from any windows of the building. An owner or lessee desiring an exception to this rule must petition the Board of Directors for specific written approval.

SECTION 8. LANAIS. Only appropriate lanai furniture and small plants may be placed on apartment lanais. Flammable material may not be kept on the lanai. Barbecue grills or other cooking facilities are strictly prohibited. No clothes or unsightly objects may be hung to dry on the lanai or lanai railings. Lanais must be painted to conform with the color code established for the building exterior. Lanais may not be painted or decorated so as to be unsightly or offensive to other occupants. The lanai area may not be used for storage purposes. An occupant shall remove upon request of the Manager any object that is judged unsightly by the Manager. Washing of lanais or watering of plants must not cause water to leak into other apartments or onto the lanais of other apartments

SECTION 9. ELECTRICAL WIRING. No owner, tenant, lessee or occupant shall install any wiring or electrical or telephone installation, or install any electrical equipment or appurtenances the operation of which may overload or damage building electrical wiring. No modification to existing apartment wiring may be made without express written authorization of the Board of Directors.

SECTION 10. AIR CONDITIONING. Air conditioning must be maintained so as neither to cause leaks into other apartments nor to cause excessive noise. No additional air conditioning unit may be installed in any apartment without express written approval of the Board of Directors.

SECTION 11. DRAPERIES. The side of all draperies or curtains or venetian style blinds nearest the windows or opening toward the exterior of the building shall be of the original standard white color to enhance the outward appearance of the building.

SECTION 12. GLASS TINT: WINDOW SURFACES. No glass tinting is allowed on any exterior windows of an apartment without specific written authorization from the Board of Directors.

SECTION 13. NAMEPLATES. Nameplates, initials or other personal identifying signs or lettering shall not be visible from the exterior doors or walls or on windows visible from the exterior of the building or on parking stalls.

SECTION 14. DELIVERIES. The Manager shall not accept deliveries of mail or personal property on behalf of any occupant. The Manager, Association, Board of Directors, Managing Agents or employees thereof shall not be liable for loss of or damage to packages or other deliveries left in the halls, at doors of apartments or any other undesignated place on the premises, nor for any article left with any employee, nor for any personal property of an occupant placed or left in or about the common elements.

SECTION 15. DUSTING AND SWEEPING. Garments, rugs, mops and other objects shall not be dusted or shaken from windows or lanais, stairways, corridors or fire escape areas of the building or cleaned in the common elements. Nothing shall be thrown or emptied by any person out of windows or doors into or onto the common elements.

SECTION 16. APARTMENT MAINTENANCE. The repair and maintenance of apartment interiors, windows and appurtenant lanai spaces is the responsibility of the apartment owner. No Association or Managing Agent employee shall repair or maintain any apartment, nor shall any Association tools, equipment or supplies be used by an owner or occupant, except when an emergency threatens damage to other apartments or common elements. Contractors and workers on the premises to work in a unit at an owner's invitation must sign in and out with Security.

SECTION 17. ACTIVITY ON PREMISES. Nothing shall be allowed, done or kept in any apartment or common element which would overload or impair or damage the structural, electrical or plumbing systems or their components, or cause any increase in the ordinary premium rates or the cancellation or invalidation of any insurance thereon maintained by or for the Association. No unlawful, noxious, offensive or nuisance-causing activity shall be engaged in on the premises.

SECTION 18. COMBUSTIBLE OR TOXIC SUBSTANCES. No explosive of any nature whatsoever, including but not limited to fireworks and black powder, shall be brought onto, stored or used on the premises. No highly combustible or toxic substances, except those which are of such nature and limited quantity as are usual and incidental to the normal operation of the building, private residential occupancy of an apartment or the normal operation of a motor vehicle, shall be brought onto, stored or used on the premises.

SECTION 19. FIREARMS AND AMMUNITION. Firearms and ammunition brought onto or kept on property by any occupant must be both lawfully registered and registered with the Manager. Registration consists of providing the Association a copy of the State of Hawaii Firearms and Ammunition Registration form for the items to be registered. Owners or their agents are responsible for ensuring registration of firearms by their tenants and lessees.

SECTION 20. REFUSE. Trash shall be secured in bags before being deposited in the trash chutes or bins. Glass containers may not be disposed of in trash chutes. Glass containers may be left in trash rooms for pickup and disposal by the Association

Combustible or toxic substances such as paint, petroleum products and the like shall not be disposed of through the trash chutes or bins, nor through any drain or sewer facility on premises.

Empty packing boxes may not be disposed of through the trash chutes. They may be deposited directly into the building trash bins, located on the ground level of each tower, provided they are broken down before disposal.

Construction-related waste may not be disposed of through Waikiki Banyan facilities and is the responsibility of the owner or lessee under whose authority the refuse is generated.

Bulky object disposal (furniture, air conditioners, etc.) is the owner's or lessee's responsibility. Bulky objects may not be disposed of in building trash chutes, refuse pickup areas, nor in or on any common areas.

SECTION 21. LIABILITY FOR DAMAGE. Each owner shall be liable to the Association for all costs and expenses, including administrative charges, attorney's and other legal fees, incurred by or on behalf of the Association to repair, replace or restore any damage to or destruction of the common elements, which damage or destruction was contributed to or caused by the owner or anyone on the premises pursuant to the invitation or authority of the owner.

SECTION 22. ASSOCIATION DISCLAIMER OF LIABILITY. The Association, its Board of Directors, and all agents and employees thereof shall not be liable in any manner whatsoever for loss of or damages to any personal property or injury to or death of any person on the premises, whether such loss, damage, injury or death occurs in an apartment or in the common elements, unless such loss, damage, injury or death is the direct result of misconduct of the Association, its Board of Directors, or any agent or employee thereof.

SECTION 23. MANAGER'S DISCRETION. In all matters concerning the standards herein enunciated, the Manager shall be the final judge of compliance.

ARTICLE IV COMMON ELEMENTS

SECTION 1. RESERVATION. Any owner, tenant or lessee wishing to reserve a portion of the common elements must do so by written request to the Board of Directors.

SECTION 2. OBSTRUCTION OF INGRESS AND EGRESS. The driveways, sidewalks, vehicle lanes, passageways, walkways, lobby entryways, elevators, stairs and common corridors are for ingress and egress only and shall not be obstructed or used for play. No items of personal property, except as otherwise allowed by the House Rules, Declaration or By-laws, shall be placed or left in any of the areas specified in this section.

SECTION 3. PERSONAL PROPERTY. No owner, tenant or lessee may place personal property in or on any common elements without the express permission of the Manager.

SECTION 4. ELEVATORS. Bicycles and surfboards are permitted only in the designated freight elevators, car #1 in Tower I and car #5 in Tower II. No motorized mode of transportation, other than a wheelchair, shall be allowed the use of any elevator at any time. No person shall smoke, drink or eat in any elevator at any time.

SECTION 5. ELEVATORS: INDEPENDENT USE. The designated freight elevators may be used under independent control by owners, tenants, agents or lessees for purposes of moving large or bulky objects or large quantities of items by scheduling such use with the

Association's Security Office. Such use must be scheduled at least twenty-four (24) hours in advance. Extended use of one-half hour duration or longer must be scheduled at least one week in advance. The elevator key must be signed out from the Security Office. Owners, tenants, agents or lessees granted independent use of a designated freight elevator must keep an operator in the elevator at all times during such independent use.

SECTION 6. FOR SALE SIGNS. No owner, tenant, agent or lessee, or other person on owner's authority or direction shall place "For Sale," "For Rent," "Open House" or similar signs anywhere on the premises except in the spaces provided on the appropriate bulletin boards in accord with Section 7, below.

SECTION 7. BULLETIN BOARDS. Bulletin boards are placed in the common elements only as designated by the Board of Directors. All notices and announcements must be approved by the Manager prior to posting to the appropriate board. All posted notices shall be prepared in uniform fashion by the Manager to conform to Board-approved standard style and size, and will be posted for a maximum period of four (4) weeks. "Open House" notices shall be posted in the Open House bulletin board only on Saturdays, Sundays, and Holidays during the hours of 1-5 p.m. and Wednesdays 9-11:30 a.m. Any notice pertaining to the sale, rental or lease of an apartment may contain neither information about nor reference to selling price or rental rate.

SECTION 8. FIRE EQUIPMENT. Fire doors, including each apartment's fire-rated entry door, must remain closed at all times. Tampering with fire alarms and other fire safety equipment is a criminal offense for which the Manager will recommend prosecution. Fire alarm system smoke detectors and speakers located in each unit will be maintained in good working order by the unit owner or his representative.

SECTION 9. BICYCLES AND TRICYCLES. Bicycles shall not be ridden on the premises and shall be transported only in the designated freight elevator. Bicycles may be stored in the occupant's apartment, and parked, at the owner's risk, in the designated bicycle parking area in the parking garage. Bicycles so parked must bear current Honolulu City & County registration emblems. Tricycles, other children's riding toys, roller skates and skateboards may not be ridden in or left about any of the common elements; they may be stored in the occupant's apartment.

ARTICLE V VEHICLES & PARKING

SECTION 1. VEHICLE DEFINITION. For purposes of this Article, "vehicle" means automobile, van, truck, motorcycle, motorbike (moped), and other similar motorized transportation device.

SECTION 2. VEHICLE OPERATION. The vehicle speed limit on the premises is 5 mph. Drivers must observe all posted traffic signs, exercise extreme care for the safety of pedestrians, and operate their vehicles responsibly and quietly, so as not to cause hazard or nuisance. Vehicles that are not operated in accord with Association House Rules and posted regulations may be prohibited from entering and parking on the premises.

SECTION 3. VEHICLE CONDITION. All vehicles on the premises shall be in lawful operating condition with current license and safety inspection sticker or the vehicle owner

shall provide proof of ownership and of insurance. Documentation must be provided if license plates are surrendered to Honolulu Police Department.

SECTION 4. PARKING. Parking stalls are unassigned. All vehicles parked on the premises shall be parked only within marked parking stalls, except as noted in Section 6. Posted rules for parking must be observed. All vehicles parked on the premises must display proper authorization. Vehicles parked in violation of these House Rules or posted regulations may have their authorization to park rescinded.

SECTION 5. OWNERS PARKING PERMITS. Parking permits are available for owners. Parking permits are issued directly to a lawful owner or to a person with written authorization from the lawful owner to receive the permit. The parking permit may be used to park one (1) vehicle for one (1) unit. Except as noted in this Section, the parking privilege represented by the owner's parking permit is not transferable, nor may it be sold, leased or rented. An owner's parking permit may be used only by

- A. an owner occupying his or her unit,
- B. the tenant of a unit if so authorized by the unit owner, or
- C. the lawfully authorized agent of a unit who is on property actively to service that unit if authorized to use the permit by the unit owner.

An owner's parking permit used by an authorized individual as defined above must be displayed on the individual's vehicle so as to be clearly visible in its entirety from outside the vehicle. The owner's parking permit may not be altered or duplicated in any way. Alteration or duplication of an owner's parking permit by any means may result in the revocation of the permit.

SECTION 6. OVERSIZED VEHICLE PARKING. Oversized vehicles are those that are too high to proceed past the garage post or too long to fit into a standard parking stall. Overheight vehicles may park in the specially marked stalls adjacent to the garage entrance. Overlength vehicles may utilize tandem stalls located behind and accessed through regular stalls and must pay current rates for the additional stall(s) utilized.

SECTION 7. REGISTRATION OF PARKED VEHICLES. Vehicles parked unattended for a period exceeding seven (7) days must be registered with the Manager prior to such long-term parking. Registered vehicles must conform to other provisions of these House Rules governing vehicles. Long-term parking is not to exceed twelve (12) months in duration. Vehicles that are left on the premises longer than twelve (12) months or that fail to conform to other provisions of these House Rules may have their authorization to park revoked.

SECTION 8. LOADING ZONES. Designated loading zones are adjacent to the ground floor doors in each tower. Vehicles may use these zones only for the purpose of loading or unloading, not for parking. Loading zones may be used a maximum of fifteen (15) minutes.

SECTION 9. UNAUTHORIZED PARKING. Vehicles parked in parking stalls other than as authorized in other Sections of this Article will be considered to be parked on private property without authorization. Such vehicles may be towed away from the premises at the vehicle owner's and driver's cost and risk, and be prohibited from Waikiki Banyan premises thereafter.

SECTION 10. VEHICLE REPAIRS. No major repair may be made to any vehicle on the premises. "Major Repair" is defined, for purposes of this Section, as any repair involving

excessive noise, draining and replacement of automotive fluids, disassembly of mechanical or electrical components, or that takes longer than one hour to finish. The Manager is authorized to prohibit any repair which in his or her judgment is annoying in any way.

SECTION 11. VEHICLE WASHING. No vehicle may be washed on the premises.

SECTION 12. NON-OCCUPANT OWNER PARKING. A non-occupant owner is an owner who is not residing in his or her apartment. Specially marked parking stalls are reserved for the exclusive use of non-occupant owners.

SECTION 13. VISITOR PARKING. Specially marked parking stalls are provided for guests of owners or lessees. Guests may park for a maximum of four (4) hours free of charge, provided they complete the appropriate registration procedure at the Security garage post, and provided a visitor parking stall is available.

SECTION 14. HANDICAP PARKING. Specially marked parking stalls are reserved for handicap parking. Van accessible handicap parking stalls are available in the porte cochere for handicap vehicles that do not fit inside the parking garage. Persons using these reserved handicap stalls must possess and display official Handicap Parking Authorization forms or receive authorization from the Manager, and are subject to the usual parking fees.

ARTICLE VI PETS

SECTION 1. DEFINITION. Owner-occupants and tenants may keep pets in their apartments. Pets may not be livestock, poultry or rabbits.

SECTION 2. BREEDING. Pets may not be bred or used for commercial purposes.

SECTION 3. VISITING. No visiting pets are allowed on the premises.

SECTION 4. COMMON ELEMENTS. Pets accompanying occupants into any common elements, including the elevators, shall be hand-carried or kept on a leash at all times.

SECTION 5. EXCREMENT. Pets shall be walked on a leash or carried off and on the premises and excrement picked up and disposed of in accordance with Board of Health regulations.

SECTION 6. LIABILITY. The pet owner shall bear all financial and other responsibility and liability for any personal injury or property damage caused by the pet to any owner, occupant, guest, Association employee, or member of the public.

SECTION 7. NUISANCE. Any pet which is judged by the Manager to be a nuisance, or which causes disturbance to any occupant, or causes damage to the building or grounds shall be permanently removed by the owner promptly upon notice given by the Board of Directors.

ARTICLE VII RECREATION DECK

SECTION 1. HOURS OF OPERATION. The recreation deck, except for the swimming pool, is open at all times, on condition that no noise or activity on the recreation deck disturbs any resident. The Association does not assume any responsibility for persons using any facilities on the recreation deck. Use of any of the facilities on the recreation deck shall be at the occupant's and guest's sole risk. While there are no specific age restrictions upon children's use of the various facilities on the recreation deck, parents and/or their guardians are expected to utilize reasonable judgment in determining that their children are adequately and safely supervised whenever they are present on the recreation deck.

SECTION 2. CLEAN UP. Any occupant or guest using a portion of the recreation deck shall ensure that it is left in clean and orderly condition.

SECTION 3. NOISE. Loud noise of any kind shall be avoided at all times. Radios, tape players and other sound producing devices must be played at moderate levels, and in any case must not cause annoyance.

SECTION 4. BARBECUES. Subject to availability, occupants may cook on the recreation deck from 8:00 am to 10:00 pm using the installed cooking facilities. Reservations are not necessary, but may be made with Security if desired.

SECTION 5. BEVERAGES. Beverages must be in containers other than glass.

SECTION 6. TENNIS COURT. Occupants may reserve the tennis court by signing up at the Security Office the day before they want to use the court. Proof of residency is required to reserve the tennis court. The reservation sheet is posted daily at the tennis court.

SECTION 7. SWIMMING POOL.

A. The pool and the surrounding areas are for the exclusive use of occupants and guests. Hours of operation are between 8:00 a.m. and 9:00 p.m.

B. There is no lifeguard on duty. Occupants and guests use the pool at their own risk.

C. Hair pins and similar items must be removed before entering pool.

D. Glass or other breakable containers must not be brought into the pool area.

E. No large flotation devices may be brought into the pool. U. S. Coast Guard approved personal flotation devices only may be used.

F. "Horseplay," running, screaming or other loud or boisterous behavior is not permitted in the pool area.

G. Swimmers must wear proper swimming attire.

H. Diving into the pool is not permitted.

I. No one in a dripping wet bathing suit shall enter the elevators or other common areas of the building from the pool.

J. Board of Health regulations, particularly Section 61, Personal Regulations (excerpted below), will be strictly observed:

1. "All persons known to be or suspected of being afflicted with infectious disease, suffering from a cough, cold or wearing Band-Aids or bandages, shall be excluded from bathing in the swimming pool."
2. "Spitting, spouting of water, blowing the nose in the swimming pool are strictly prohibited."

K. Special toddler diapers shall be used to prevent contamination of the pool.

SECTION 8. SPA. All of the rules set forth in Section 7 above (Swimming Pool) shall also apply to use of the spa, except that no flotation devices of any kind shall be permitted in the spa.

No person may use the spa without proper supervision if use of the spa would pose a risk to the person's health, safety and/or welfare without such supervision.

Occupants and guests are expected to utilize reasonable judgment in deciding whether use of the spa is suitable for themselves and/or those under their supervision. Elderly persons, pregnant women, infants, persons on medication, and those with health conditions requiring medical care including diabetes, heart disease, and high or low blood pressure should consult with a physician before using the spa to understand thoroughly any risks involved.

Caution should be taken to keep one's hair and body parts away from drain outlets and other mechanical equipment in the spa.

SECTION 9. SAUNAS. The saunas are dry heat facilities. Hours of operation are between 8:00 a.m. and 9:00 p.m. A key is required for access to the saunas and showers. Washrooms, restrooms, saunas and showers will be secured between 9:00 p.m. and 8:00 a.m. No liquid of any sort is permitted inside the saunas.

ARTICLE VIII FINING PROCEDURE

SECTION 1. AMOUNT OF FINES.

A. Pursuant to the grant of authority set forth in Article IV, Section 1(m) of the By-Laws, the Board of Directors has adopted this fining procedure that gives the Association the right, in addition to any other rights or remedies, to issue citations and to levy fines against the responsible owner, whether or not the violator is the owner, tenant, guest, or employee of the owner's apartment. Fines duly imposed by the Board or its agent but unpaid will constitute a lien on the apartment that may be foreclosed upon in like manner as a lien for unpaid common expenses.

B. The Board of Directors has adopted the following schedule of fines for any violation of the Association's Declaration, By-Laws or House Rules (collectively "Governing Documents"):

1. First Offense. A written citation delivered to both the owner and occupant.
2. Second Offense. A written citation delivered to both the owner and occupants and a \$25.00 fine assessed against the owner.
3. Third Offense. A written citation delivered to both the owner and occupant, and a \$50.00 fine assessed against the owner.
4. Fourth and Subsequent Offenses. A written citation delivered to both the owner and occupant, and a \$100.00 fine assessed against the owner for each offense.

C. Second, third, fourth, and subsequent offenses need not be for a violation of the same provision before a fine is imposed. For example, if an occupant violates a "pool" rule for his/her first violation, and then violates a "noise" rule for his/her second violation, the fine would be imposed on the owner upon the occurrence of the second violation. It is not necessary for an occupant to violate a specific rule, such as "noise" rule, twice before a \$25.00 fine is levied. Similarly, a \$50.00 fine will be assessed for a third violation of the House Rules and a \$100.00 fine will be assessed for a fourth and subsequent violations of the Governing Documents.

D. The Board may delegate its authority to issue citations and/or to assess fines to the Managing Agent and/or the General Manager.

SECTION 2. CITATIONS. Each citation issued shall briefly describe the nature of the violation, date of the violation, apartment number, and name of parties involved, if known. The original citation shall be delivered to the apartment owner who shall be responsible for payment of any applicable fine. If the apartment owner is not an occupant, then a copy of the citation shall also be delivered to the occupant; however, this shall not be deemed a waiver of the apartment owner's responsibility for payment of any applicable fine.

SECTION 3. PAYMENT OF FINES AND LIABILITY. Apartment owners shall be liable for their own fines and for fines assessed against their tenants, guests, agents, or employees. Unless appealed as permitted below, a fine must be paid by the apartment owner to the Association within thirty (30) days of the citation and assessment of the fine. If the apartment owner fails to pay or appeal a fine within thirty (30) days after the fine is assessed, the fine shall be deemed an expense specially assessed against the apartment. The Association may file a lien against the apartment for the unpaid fines and may collect the unpaid fines under the procedures provided in the Governing Documents for collection of delinquent assessments, including the assessment of late fees for fines that remain unpaid, unless the Board votes to suspend or cancel the fine.

SECTION 4. APPEAL OF FINES. Any citation or fine may be appealed as provided in this section.

A. Within thirty (30) days of the date of a citation or fine, an owner, occupant, or other offender may appeal to the Board by delivering a written notice of appeal to the Board or the Managing Agent. A date for hearing the appeal will be set and the appealing party will be notified

B. If an appeal is made to the Board, the notice of appeal must contain a copy of the citation, a statement of the facts of the offense, the reason for the appeal, the names and addresses of any witnesses, and copies of any proposed exhibits. The owner, occupant, or other offender may appear at a Board meeting to provide additional information or the Board may ask the person to appear. In the case of an appeal by a person other than the owner or the owner's agent, the owner or agent must be present at the appeal hearing or notify the Board of the owner's support of the appeal for it to be considered.

C. The Board may reduce, suspend, or cancel any citation or fine after consideration of the appeal. The Board shall deliver a written decision to the owner (and the person making the appeal, if not the owner) within sixty (60) days of the receipt of the notice to appeal.

D. Pending issuance of a written decision in response to an appeal to the Board, an apartment owner need not pay a fine and no lien shall be imposed on an apartment. Unless, however, the Board votes to reduce, suspend, or cancel a citation or fine, filing a notice of appeal shall not halt the accrual of any ongoing late fees or affect the ability to issue citations or levy fines for subsequent violations.

E. If a fine is paid, in lieu of appealing a fine in accordance with this Section 4, an apartment owner has the right to initiate a dispute resolution process as provided by Sections 514B-161, 514B-162, or by filing a request for an administrative hearing under a pilot program administered by the State Department of Commerce and Consumer Affairs.

SECTION 5. MISCELLANEOUS

A. Upon providing notice to all owners, the Board reserves the right to establish a new schedule of fines at any time.

B. In the event of a violation of the Governing Documents that poses a threat to persons or property, as determined by the Board, the procedures set forth herein, may be suspended and referred directly to legal counsel for appropriate action.

C. REMEDY NOT EXCLUSIVE. In addition to the issuance of citations and imposition of fines, the Board of Directors is empowered to take all such other enforcement actions as permitted by the Governing Documents. This includes the retention of legal counsel, initiating legal action or arbitration proceedings, and/or any other form of remedy available to the Association by and through its Board. All remedies shall be cumulative and not be exclusive of the other.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Cavanah Associates, Inc. 1100 Alakea Street, Suite 2600 Honolulu, HI 96813		CONTACT NAME: PHONE (A/C, No, Ext): 808.537.1970 FAX (A/C, No): 808.537.4554 E-MAIL ADDRESS:	
INSURED Waikiki Banyan AOA 201 Ohua Avenue, #306 Tower Two Honolulu, HI 96815		INSURER(S) AFFORDING COVERAGE INSURER A: First Indemnity Ins. of HI NAIC # 41734 INSURER B: First Ins. Co. of Hawaii, Ltd. 0032 INSURER C: First Fire & Casualty Ins. 41726 INSURER D: INSURER E: INSURER F:	

COVERAGES

CERTIFICATE NUMBER: 13:GLAUTOWCPROP

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL/SUBR INSR: WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR		CPP 7036460 08	04/10/2013	04/10/2014	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 0
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC					
	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS		CBA 6364804 07	04/10/2013	04/10/2014	COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ 1,000,000 BODILY INJURY (Per accident) \$ 1,000,000 PROPERTY DAMAGE (Per accident) \$ 1,000,000
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A	FWC 7223775 02	11/01/2012	11/01/2013	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
A	PROPERTY - Special Form Replacement Cost		CPP 7036460 08	04/10/2013	04/10/2014	Limit: \$229,164,000 Deductible: \$3,000 Hurricane Ded: 1%, \$10,000 Min

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

EVIDENCE OF INSURANCE

CERTIFICATE HOLDER

FAX: 808.593.6333

Hawaiiana Management Co., Ltd.
Attn: Virginia
711 Kapiolani Blvd., Ste. 700
Honolulu, HI 96813

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

James Cavanah

James Cavanah/SLT

LENDER'S DISCLOSURE

ASSOCIATION: **WAIKIKI BANYAN**

TMK: 2-6-25-3

Address: 201 Ohua Avenue, Honolulu, Hawaii 96815

Developer, if construction is incomplete, else Managing Agent:

	Subject Phase	Entire Project
Are all common elements, and/or amenities substantially complete?		YES
Are all units, common areas and facilities within the project?		YES
Does the project conform to existing zoning regulations?		YES
Is there pending litigation against the Developer?		NO
Number of additional units/phases to be built: Units: Phases:		NONE
If this project a conversion of an existing building, year of conversion?		NO
Are there any adverse environmental factors affecting the project as a whole?		NO
Date when first units made available for sale:		1979
Total number of floors / units: (2 buildings / 37 floors each)		37 / 876
Number of units sold and closed:		876
Anticipated date to hand over association to owners (Month/Year)		N/A
Number of sales in last 90 days:		unknown

Managing Agent:

Association management firm name and telephone:	Hawaiiana Management Co. Ltd. 808-593-9100
Date control of the Association transferred from the developer to unit owners?	August 1979
Does any one person or entity own more than 10% of the units?	NO
Approximate owner occupancy	18%
Is the unit part of a legally established condominium project, in which common areas are owned jointly by unit owners?	YES
Are the units owned in fee simple or leasehold?	The Fee has been offered and some owners have purchased.
Are the amenities/recreational facilities owned by the Association?	YES
Are any common elements leased to others?	NO
Do the project legal documents include any restrictions on sale or foreclosure which would limit the free transferability of title? (i.e., Age, Restrictions, First Right of Refusal, low moderate income restrictions?)	NO
Do the project legal documents or local zoning limit the amount of time the owner can live in their unit?	NO
Is the budget prepared on an annual basis?	YES
Are there any pending special assessments?: If yes, explain	NO
Number of foreclosures in last 12 months?	0
How many units are over 30 days delinquent?	9 units (1.02 %)
Total dollar amount of delinquency (over 30 days)	\$ 29,720.00

Does the project documentation contain a standard Mortgagee Protection clause?	YES
a. If no, what is in place to insure the lenders 1st lien position?	
If a unit is taken over in foreclosure or deed-in-lieu, for how many months is the mortgagee responsible for delinquent association dues? <u>A purchaser of a lender owned unit may be responsible for 6 months dues.</u>	0

*** A copy of the current Budget and Financial statement are available***

Commercial Space

Percentage of common interest:	Less than 2 %
Is the project a (indicate applicable) Condotel <u>YES</u> ; a Timeshare <u>YES</u>	
Does the property operate as a resort hotel; renting units on a daily basis? If yes, year operation commenced: YES, 1979	
Please indicate available services: Check-in rental desk <u>YES</u> Daily maid service <u>YES</u> Restaurant/food service <u>NO</u> Timeshare YES <u>NO</u> Mandatory rental pool <u>NO</u> Commercial (boutiques, etc.) <u>NO</u>	

Legal

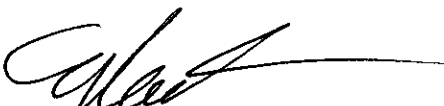
Is the association involved in any litigation, arbitration, mediation or other dispute resolution process?	NO
Attorney:	N/A
Telephone:	N/A

*Any information requested of the Attorney
is at the inquirer's expense and not the Managing Agent's or the Association's.*

Insurance

Company & Agent:	CAVANA ASSOCIATES / JIM CAVANA
Telephone:	537-1970
Flood Insurance Agent/Phone:	YES, SAME AS ABOVE

Preparer

Name:	EMORY BUSH, Management Executive	
Telephone:	593-9100	
Signature:		Date: 6/18/13

					BUDGET YEAR			2011	
WAIKIKI BANYAN					NUMBER OF UNITS			876	
CAPITAL OPERATING BUDGET/RESERVE ANALYSIS					MONTHLY Cash Operating Budget:			470199	
SIX YEAR PROJECTION					INFLATION FACTOR:			3.0%	
REVISED DATE: 10/19/09					2011 Monthly Maintenance Fee			305	
					MMF INFLATION			5.0%	
					OTHER INCOME - cam			195865	
PROJECT	CURRENT YE	START	EVERY	YEAR	YEAR	YEAR	YEAR	YEAR	YEAR
DESCRIPTION	DOLLAR COS	YEAR	n'th YEAR	2011	2012	2013	2014	2015	2016
ROOF	60,000	2010	5	0	0	0	0	60,000	0
PAINT BUILDING EXTERIOR	600,000	2002	9	600,000	0	0	0	0	0
RECARPET+	525,000	2006	8	0	0	0	525,000	0	0
COMPACTOR I	35,000	2006	9	0	0	0	0	35,000	0
COMPACTOR II	30,000	2010	9	0	0	0	0	0	0
HEAT PUMP+	350,000	2011	15	350,000	0	0	0	0	0
OFFICE COPIER	15,000	1998	13	15,000	0	0	0	0	0
HI-RISE PUMPS (4)	65,000	2001	22	0	0	0	0	0	0
ELEVATORS (8)+	2,750,000	2008	28	0	0	0	0	0	0
HALL LIGHT, REDO (700)	100,000	2005	10	0	0	0	0	100,000	0
LOBBY RENOVATION	1,000,000	2002	22	0	0	0	0	0	0
TRANSFORMERS (40)+	300,000	1980	40	0	0	0	0	0	0
POOL HEAT PUMP	30,000	2000	12	0	30,000	0	0	0	0
REC DECK JUNGLE GYM	30,000	2002	13	0	0	0	0	30,000	0
ELECTRIC BBQS	20,000	2006	10	0	0	0	0	0	20,000
POOL, RETILE	50,000	1990	21	50,000	0	0	0	0	0
SECURITY RADIO SYSTEM	11,000	1988	8	0	11,000	0	0	0	0
TRUCK	25,000	2008	10	0	0	0	0	0	0
WASHERS (61)	50,000	2004	14	0	0	0	0	0	0
SPALL REPAIR	60,000	2002	9	60,000	0	0	0	0	0
WINDOW CAULKING+	150,000	1995	16	150,000	0	0	0	0	0
TRASH CHUTES	120,000	1992	20	0	120,000	0	0	0	0
SPA	70,000	2001	20	0	0	0	0	0	0
HEAT PUMP TANKS	70,000	2005	14	0	0	0	0	0	0
REPLACEMENT RESERVE REQUIREMENTS, (CURRENT YEAR DOLLAR				\$1,225,000	\$161,000	\$0	\$525,000	\$225,000	\$20,000
GENERAL OPERATING RESERVE REQUIREMENTS @2% ANNUAL MF				64,123	67,329	70,696	74,231	77,942	81,839
RESERVE REQUIREMENTS, (CURRENT YEAR DOLLARS)				\$1,289,123	\$228,329	\$70,696	\$599,231	\$302,942	\$101,839
INFLATION FACTOR				\$0	\$4,830	\$0	\$48,682	\$28,239	\$3,185
RESERVE REQUIREMENTS (+) INFLATION FACTOR				\$1,289,123	\$233,159	\$70,696	\$647,912	\$331,182	\$105,025
AVERAGE MONTHLY MAINTENANCE FEE WITH MMF INFLATION				305	320	336	353	371	389
START YEAR RESERVES				2,500,000	1,125,029	867,569	839,173	305,526	166,268
ANNUAL INCOME AT MMF + INFLATED OTHER INCOME				5,556,540	5,787,359	6,028,310	6,279,855	6,542,481	6,816,697
ANNUAL C.O.B.				5,642,388	5,811,660	5,986,009	6,165,590	6,350,557	6,541,074
RESERVES DEPOSITED				(85,848)	(24,300)	42,300	114,265	191,924	275,623
RESERVES EXPENDED				1,289,123	233,159	70,696	647,912	331,182	105,025
END OF YEAR RESERVES				THE BOTTOM LINE		1,125,029	867,569	839,173	305,526
								166,268	336,867



Hawaiiana Management Company, Ltd.
Pacific Park Plaza, Suite 700
711 Kapiolani Boulevard
Honolulu, Hawaii 96813
Tel: (808) 593-9100
Fax: (808) 593-6333

PROPERTY INFORMATION FORM

(To be used in conjunction with RR105a Sellers' Real Property Disclosure Statement-
Condominium/Co-op/PUD/and other Homeowner Organization)

Disclaimer: The use of this form is not intended to identify the real estate license as a REALTOR®. REALTOR® is a registered collective membership mark which may be used only by real estate licensees who are members of the National Association of REALTORS® and who subscribe to its Code of Ethics.

Completion Date: August 1979

Name of Property: WAIKIKI BANYAN

All references hereafter to the word "Property" shall refer to the above.

Property Address: 201 Ohua Avenue, Honolulu, Hawaii 96815

Property Tax Map Key: 2-6-25-3

This property is managed by a licensed real estate broker. ☒ Yes ☐ No. If a licensed real estate broker, is managing agent registered with the Real Estate Commission as a Condominium Managing Agent? ☒ Yes ☐ No.

Name of Managing Agent: Hawaiiana Management Company, Ltd.

Managed by this Managing Agent since: November 1, 1988

Managing Agent provides (Check those services that apply):

- ☐ Administrative Management Services
- ☒ Fiscal Management Services
- ☐ Physical Management Services
- ☐ Other Management Services

A. GENERAL & LEGAL

Total number of apartments: 876

Number of guest parking stalls available: 4

If applicable, what percentage of Condominium Apartments has been sold and conveyed (excluding to the Developer)? 100 %.

If applicable, what approximate percentage of Condominium Apartments is owner-occupied? 18 %.

Approximately how many foreclosures have been filed by the Board of Directors during the past twelve (12) months? 0.

What approximate percentage of owners is more than one month delinquent in maintenance fees? 1.02 % (9 owners).

****If answer is "yes", using the SAME number below, describe in the space provided.****

Yes	No	NTMK (Not to my knowledge)		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(1)	Within the past year, has the Board of Directors had discussions with the lessor regarding the purchase of the leased fee interest in the land? <input type="checkbox"/> The property is Fee Simple. SEE BELOW
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	(2)	Is this Property subject to phasing or development of additional increments?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	(3)	Has the Owners Association or Corporation been in control of the operations of the Property for less than two (2) years?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	(4)	Are there any lawsuits, arbitration or mediation actions affecting this Property and/or Association other than delinquent owner maintenance fees?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	(5)	If property is a Condominium, does any single entity, individual or partnership own more than 10 percent of the common interest of this property?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	(6)	Are any Association or Corporation approvals required for transfer of Ownership?
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(7)	Is a resident manager's apartment a part of the common elements, or is one owned by the Association or Corporation (does not apply to Planned Unit Developments)?
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(8)	Is a time share operation existing at this Property?
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(9)	Is there a hotel, transient vacation rental operation, or other organized rental program at the Property?
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(10)	Are there commercial apartments, lots or commercial use of the common areas or common elements at the Property?

Number of Questions answered "YES" and Explain:

- (1) The fee has been offered and some owners have purchased.
- (7) Resident manager's apartment is part of the common elements.
- (8) Time share allowed. Operators include Hawaiian Sun Holidays and Sweetwater Properties.
- (9) Rental programs operated by Resort Quest (fka:Aston), Hawaiian Sun Holidays, R.E.W.A, Hitex International, and Mapvision, Inc.
- (10) In accordance with HRS 514A, the Association has the right to rent out or lease a portion of the common areas for the benefit of the Association. The utility rooms, floors five down, are common areas being utilized by commercial operators.

B. INSURANCE

Name of Insurance Company or Agency/Broker: CAVANAH ASSOCIATES

Name of Insurance Agent: Jim Cavanah

Phone: 537-1970

***Certificate of Insurance should be requested directly from the insurance agent.**

****If answer is "yes", using the SAME number below, describe in the space provided.****

Yes No NTMKNote: In case of Planned Unit Development, questions #13 to #15 apply to common areas only.

- | | | | | |
|-------------------------------------|--------------------------|--------------------------|------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | (11) | Is the Property located in a designated Flood Hazard Zone? |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | (12) | Is this Property covered by Flood Insurance? |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | (13) | Is this Property located in a tsunami inundation area? |

Number of Questions answered "YES" and Explain.

- (11) Self explanatory.
(12) Self explanatory.
(13) Self explanatory.

C. FINANCIAL

Financial statements are prepared monthly and are on a cash basis.

Apartment maintenance fees include:

- ☒ Water & Sewer
- ☒ Hot Water
- ☒ Electricity
- ☐ Gas
- ☐ Air Conditioning
- ☒ Basic Cable TV Signal
- ☐ Parking
- ☐ Recreation/Community Association Dues
- ☐ Lease Rent
- ☐ Real Property Tax
- ☐ Other:

****If answer is "yes", using the SAME number below, describe in the space provided.****

Yes No NTMK

- | | | | | |
|-------------------------------------|-------------------------------------|--------------------------|------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | (14) | Has the Association or Corporation Board of Directors approved a maintenance fee increase, special assessment, or loan? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | (15) | Are any special assessments or loans in effect at this time? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | (16) | Are any assessments required to be paid in full at the time of conveyance of ownership? |

Number of Questions answered "YES" and Explain:

(14) The maintenance fee will increase to \$360.00 a month beginning February 1, 2013.

D. PROPERTY CONDITION

- ☒ There is Reserve Plan Data for any major repairs required or planned with respect to the common elements/common areas of the Property.
- ☐ There is no Property Reserve Study available.

E. DISCLAIMER


While not guaranteed, the information contained in this Property Information Form is based on information reasonably available to the Managing Agent at the time this form was completed. It has been provided by the Managing Agent at Owner/Seller's request and is believed to be current and correct to the best of the Managing Agent's knowledge at the time this form was completed. All persons relying upon the information contained herein are advised that the information provided cannot be considered a substitute for a careful inspection of the Property and the Property's governing documents, meeting minutes, financial documents and other documentation; and that they should refer to qualified experts in the various professional fields, including but not limited to attorneys, Certified Public Accountants, architects, engineers, contractors and other appropriate professionals for a detailed evaluation of areas where additional clarification or information is desired. The person or entity completing the form is doing so only as an accommodation to the parties and shall not be held liable for any errors or omissions whatsoever. The person or entity completing this form is not required to and has not completed any special investigation, and is only reporting facts already known to that person or entity or readily available. Specifically and without limitation, the person or entity completing the form has not reviewed any records

except official records of meetings in the possession of that person or entity and only for the current year. Where the answer to a question is not applicable, unknown or is otherwise unanswerable, it has been marked "NTMK". Where the Managing Agent has marked "NTMK" or "NO" in response to a question concerning property condition, it must be recognized that this does not mean there may not be a defect which an expert could discover or the passage of time would reveal. Likewise, a problem could be more serious than the Managing Agent, the Association, the Corporation or its Board of Directors knows. All such persons having access to this Property Information Form understand and acknowledge that this Property Information Form is not a warranty or guaranty of any kind by the Managing Agent, the Association or its Board of Directors.

*On-Site Manager's Name : Wayne Babineau
Phone No. : 922-7172
Address : 201 Ohua Avenue, #306, Tower II, Honolulu, Hawaii 96815

FOR THE BOARD OF DIRECTORS
WAIKIKI BANYAN

Date: June 11, 2013

A handwritten signature in black ink, appearing to read "Emory Bush", written over a horizontal line.

EMORY BUSH
MANAGEMENT EXECUTIVE
HAWAIIANA MANAGEMENT COMPANY, LTD.



RECEIPT OF PROJECT INFORMATION FORM
Hawaii Association of REALTORS® Standard Form
Revised 12/10 (NC) For Release 5/13



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Property Reference or Address: 201 Ohua, Waikiki Banyan 3606-T1, Honolulu, HI 96815
("Project")

Tax Map Key: Division 1 /Zone 2 /Sec. 6 /Plat 25 /Parcel 5 /CPR 408 (if applicable).

By signing below, I acknowledge and agree that:

1. I received a copy of the Project Information Form RR105c dated June 11, 2013.
2. The information contained in this form is being provided by the Managing Agent at the Seller's request and is based only upon the knowledge and information available to the Managing Agent.
3. The information provided on the form cannot be considered to be a substitute for a careful inspection of the Project and the Project's governing documents, minutes of meetings, financial documents, and the like.
4. I am advised that I should refer to qualified experts in the various fields, including but not limited to attorneys, accountants, engineers and contractors for detailed evaluation of areas where additional information is desired.
5. If the Managing Agent has marked "NTMK" in response to any questions, I recognize that this does not mean there may not be a defect which an expert could discover, or the passage of time would reveal. Likewise, I recognize that a problem may be more serious than the Managing Agent knows.
6. This form is not a warranty of any kind by Seller, the Managing Agent, or any Brokerage Firm and all of its licensees representing Seller or Buyer.

Buyer Date

Buyer Date
Tasia Heffernan

NOTE: THERE IS NO WARRANTY ON PLAIN LANGUAGE. An effort has been made to put this agreement into plain language. But there is no promise that it is in plain language. In legal terms, THERE IS NO WARRANTY, EXPRESSED OR IMPLIED, THAT THIS AGREEMENT COMPLIES WITH CHAPTER 487A OF THE HAWAII REVISED STATUTES, AS AMENDED. This means that the Hawaii Association of REALTORS® is not liable to any Buyer or other person who uses this form for any damages or penalty because of any violation of Chapter 487A. People are cautioned to see their own attorneys about Chapter 487A (and other laws that may apply).





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