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STATE OF HAWAII
BUREAU OF CONVEYANCES
DATE 7-9-97 TIME _____
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LAND COURT SYSTEM

REGULAR SYSTEM

RETURN BY: MAIL [] PICKUP [X]

TO: Oliver, Lau, Lawhn, Ogawa & Nakamura
707 Richards Street, Suite 600
Honolulu, Hawaii 96813
Telephone: 533-3999

RESTATED DECLARATION OF CONDOMINIUM¹ PROPERTY REGIME
UNDER CHAPTER 514A. HAWAII REVISED STATUTES

THE SANDS OF KAHANA

WHEREAS, HYADES BECHERT KIESEL, as "Owner", MYRON A. RESNICK, as "Lessee", and WEST MAUI SHORE INVESTORS, a Hawaii limited partnership, as "Developer" did execute that certain Declaration of Condominium Property Regime Under Chapter 514A, Hawaii Revised Statutes (formerly known as a "Declaration of Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes") and By-Laws for THE SANDS OF KAHANA dated October 14, 1980, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15060, Page 527 (herein called the "Declaration");

WHEREAS, concurrently with said Declaration, plans were submitted and filed in said Bureau of Conveyances of the State of Hawaii as Condominium Map No. 703 and later final plans were submitted and filed in said Bureau of Conveyances of the State of Hawaii as Condominium Map No. 763, as evidenced by the verified statement of Barry A. Rank, the registered architect for the Project, a copy of which is attached hereto as Exhibit "B":²

WHEREAS, in order to create a condominium project consisting of said land and improvements (herein called the "project"), and to be known as The Sands of Kahana condominium project, said property and all improvements thereon or to be constructed thereon was submitted to the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, as amended;

WHEREAS, a First Amendment to the Declaration of Horizontal Property Regime under Chapter 514A, Hawaii Revised Statutes, for The Sands At Kahana, dated February 23, 1981, was recorded in said Bureau of Conveyances of the State of Hawaii in Liber 15399, Page 351;

WHEREAS, a Second Amendment to the Declaration of Horizontal Property Regime under Chapter 514A, Hawaii Revised Statutes, for The Sands At Kahana, dated July 6, 1982, was recorded in said Bureau of Conveyances of the State of Hawaii in Liber 16575, Page 474;

WHEREAS , an Amendment of Declaration of Horizontal Property Regime and Bylaws of Association of Apartment Owners The Sands At Kahana Condominium Project, dated September 10, 1983, was recorded in said Bureau of Conveyances of the State of Hawaii in Liber 17322, Page 680;

WHEREAS, an Amendment of the Declaration of Horizontal Property Regime and Bylaws of The Sands At Kahana dated December 17, 1984, was recorded in said Bureau of Conveyances of the State of Hawaii in Liber 18359, Page 326;

WHEREAS, an Amendment of Bylaws of The Sands At Kahana, dated March 23, 1993, was recorded in said Bureau of Conveyances of the State of Hawaii as Document No. 93-061935;

WHEREAS, an Amendment of Bylaws of the Association of Apartment Owners of The Sands At Kahana. dated March 21, 1994, was recorded in said Bureau of Conveyances of the State of Hawaii as Document No. 94-056991;

WHEREAS, an Amendment to the Bylaws of the Association of Apartment Owners of The Sands At Kahana, dated March 18, 1997, was recorded in said Bureau of Conveyances of the State of Hawaii as Document No. 97-086977;

WHEREAS, pursuant to Article X -Section4 Of the By-Laws, the Association of Apartment Owners of The Sands of Kahana elected to form The Sands of Kahana, Inc., a non-profit Hawaii corporation, to exercise and enforce all of the rights, powers, obligations and duties of said Association of Apartment Owners, and said corporation was thus created effective November 17, 1995;

WHEREAS, Section 514A-82.2, Hawaii Revised Statutes, empowers boards of directors of condominium associations to restate their Declaration to set forth amendments thereto, and to conform with the provisions thereof 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 such boards, and

WHEREAS, at a meeting duly held on August 10, 1996, the Board of Directors of The Sands of Kahana, Inc. (hereinafter referred to as the "Association") resolved to restate the Declaration, pursuant to Section 514A-82.2, Hawaii Revised Statutes, in the manner set forth herein,

NOW, THEREFORE, the Declaration is hereby restated to read as follows:

1. Name. The Condominium³ Property Regime established hereby shall be known as "THE SANDS OF KAHANA"

2. Land Description, The Land submitted to Condominium⁴ Property Regime is described on Exhibit on, attached hereto and incorporated herein by reference.

3. Description of Project: The Project consists of one hundred ninety-six (196) residential apartments contained in four (4) apartment building complexes, each containing a basement containing thirty-six (36) parking stalls, numbered Buildings 1 through 4, inclusive. Buildings 1 and 4 both contain a configuration of five (5) to eight (8) stories. Buildings 2 and 3 both contain a configuration of six (6) to nine (9) stories. Each building has a basement level recreation room with storage, one (1) restroom and a kitchen. In addition, Building 2 contains as part of the basement a boat storage and general maintenance facility. Also included in the Project are a swimming pool with a jacuzzi, wading pool, two (2) beach pavilions, one of which contains a kitchen and bar facility, three (3) tennis courts, a manager's office and landscaping, including a sculptured water pond and garden area. There are sixty-one (61) on-grade, uncovered parking stalls of which eight (8) on-grade, uncovered parking stalls are reserved for public use as part of the public beach access along the southerly boundary of the Project. There are fifty-eight (58) on-grade, trellis-covered parking stalls.⁵

The apartment buildings are primarily of masonry construc-

tion with concrete masonry bearing walls, concrete floor and roof slabs, concrete pile foundations and interior partitioning of steel studs with gypsum wallboard. Each apartment on the first floor has immediate access to the walkways connecting the buildings to the Project grounds, and each apartment on the other floors has immediate access to hallways, stairways and an elevator providing access to the walkways connecting the buildings to the Project grounds.⁶

There are fifteen (15) basic types of apartments in the Project. The layout, location, unit type, number of each apartment and location of the parking stalls are shown on the Condominium Map; provided, however, that should the descriptions and divisions set forth in this Declaration conflict with the depictions and divisions shown on the Condominium Map, the Condominium Map shall control; and provided, further, that the Condominium Map is intended only to show the layout, location, apartment numbers and dimensions of the apartments and the elevations of the buildings and shall not be deemed to contain or make any other representation or warranty.⁷

There are a total of fourteen- (14) Type 1A apartments in the Project. Three (3) Type 1A apartments are located in each of Buildings 1 and 4 and four (4) Type 1A apartments are located in each of Buildings 2 and 3. Each Type 1A apartment contains a living-dining room, kitchen, one bedroom, two bathrooms (one bathroom containing a toilet and bathtub-shower combination and the other containing a toilet and shower), and two lanais (one off the living-dining room and the other off the kitchen, bathrooms and bedroom).⁸

There are a total of ten (10) Type 1B apartments in the Project. Two (2) Type 1B apartments are located in each of Buildings 1 and 4 and three (3) Type 1B apartments are located in each of Buildings 2 and 3. Each Type 1B apartment contains a living-dining room, kitchen, one bedroom, two bathrooms (one bathroom containing a toilet and bathtub-shower combination and the other containing a toilet and shower), and one lanai off the living-dining room.⁹

There are twelve (12) Type 1C apartments in the Project. Four (4) Type 1C apartments are located in each of Buildings 1 and 4r two (2) Type 1C apartments are located in each of Buildings 2 and 3. Each Type 1C apartment contains a living-dining room, kitchen, one bedroom, one bathroom containing a toilet and bathtub- shower combination, and one lanai off the

living-dining room.¹⁰

There are a total of four (4) Type 1E apartments in the Project. One (1) Type 1E apartment is located in each of Buildings 1, 2, 3 and 4. Each Type 1E apartment contains a living-dining room, kitchen, one bedroom, two bathrooms (one bathroom containing a toilet and bathtub-shower combination and the other containing a toilet and shower), and one lanai off the living-dining room.¹¹

There are a total of forty-four (44) Type 2A apartments in the Project. Ten (10) Type 2A apartments are located in each of Buildings 1 and 4, and twelve (12) Type 2A apartments are located in each of Buildings 2 and 3. Each Type 2A apartments contains a living-dining room, kitchen, two bedrooms, two bathrooms (one bathroom containing a toilet and bathtub-shower combination and the other containing a toilet and shower) , and one lanai off the living-dining room and master bedroom.¹²

There are a total of twenty-two (22) Type 2B apartments in the Project. Five (5) Type 2B apartments are located in each of Buildings 1 and 4, and six (6) Type 2B apartments are located in Buildings 2 and 3. Each Type 2B apartment contains a living-dining room, kitchen, two bedrooms, two bathrooms (one bathroom containing a toilet, shower and bathtub and the other containing a toilet and shower), and two lanais (one off the living-dining room and master bedroom and the other off the bathrooms and other bedroom).¹³

There are a total of sixteen (16) Type 2C apartments in the Project. Three (3) Type 2C apartments are located in each of Buildings 1 and 4 and five (5) Type 2C apartments are located in each of Buildings 2 and 3. Each Type 2C apartment contains a living-dining room, kitchen two bathrooms (one bathroom containing a toilet and bathtub-shower combination and the other containing a toilet and shower), and one lanai off the living-dining room and master bedroom.¹⁴

There are a total of sixteen (16) Type 2D apartments in the Project. Four (4) Type 2D apartments are located in each of Buildings 1, 2, 3 and 4. Each Type 20 apartment contains a living- dining room, kitchen, two bathrooms (one bathroom containing a toilet and bathtub-shower combination and the other containing a toilet and shower), and one lanai off the living-dining room and master bedroom.¹⁵

There are a total of four (4) Type 2E apartments in the Project. One (1) Type 2E apartment is located in each of Buildings 1, 2, 3 and 4. Each Type 2E apartment contains a living-dining room, kitchen, two bathrooms (one bathroom containing a toilet, shower and bathtub and the other containing a toilet and shower), and two lanais (one off the living-dining room and master bedroom and the other off the bathrooms and other bedroom).¹⁶

There are a total of four (4) Type 2F apartments in the Project. One (1) Type 2F apartment is located in each of Buildings 1, 2, 3 and 4. Each Type 2F apartment is in a two-level configuration. The lower level contains a living-dining room, kitchen, laundry room, one bedroom, one bathroom containing a toilet and bathtub-shower combination, and one lanai off the living-dining room. The loft level contains one bedroom and one bathroom containing a toilet and shower and one lanai off the bedroom.¹⁷

There are a total of twenty-six (26) Type 3A apartments in the Project. Six (6) Type 3A apartments are located in each of Buildings 1 and 4 and seven (7) Type 3A apartments are located in each of Buildings 2 and 3. Each Type 3A apartment contains a living-dining room, kitchen, three bedrooms, two bathrooms (one bathroom containing a toilet, bathtub and shower and the other containing a toilet and shower), and two lanais (one off the living-dining room and master bedroom and the other off the bathrooms and second bedroom).¹⁸

There are a total of eight (8) Type 3B apartments in the Project. Two (2) Type 3B apartments are located in each of Buildings 1, 2, 3 and 4. Each Type 3B apartment is in a two-level configuration. The lower level contains a living-dining room, kitchen, two bedrooms, two bathrooms (one bathroom containing a toilet, bathtub and shower and the other containing a toilet and shower), and two lanais (one off the living-dining room and master bedroom and the other off the bathrooms and second bedroom). The loft level contains one bedroom, one bathroom containing a toilet and shower, and one lanai off the bedroom and bathroom.¹⁹

There are a total of four (4) Type 3C apartments in the Project. One (1) Type 3C apartment is located in each of Buildings 1, 2, 3 and 4. Each Type 3C apartment contains a living-dining room, kitchen, three bedrooms, two bathrooms (one bathroom containing a toilet, bathtub and shower and the other

containing a toilet and shower), and two lanais (one off the living-dining room and master bedroom and the other off the bathrooms and second bedroom).²⁰

There are a total of four (4) Type 3D apartments in the Project. One (1) Type 3D apartment is located in each of Buildings 1, 2, 3 and 4. Each Type 3D apartment is in a two-level configuration. The lower level contains a living-dining room, kitchen, two bedrooms, two bathrooms (one bathroom containing a toilet, bathtub and shower and the other containing a toilet and shower), and two lanais (one off the living-dining room and master bedroom and the other off the bathrooms and second bedroom). The loft level contains one bedroom, one bathroom containing a toilet and shower, except that Apartment Number 171 contains a bathtub-shower combination, and one lanai off the bedroom and bathroom.²¹

There are a total of eight (8) Type 3E apartments in the Project. Two (2) Type 3E apartments are located in each of Buildings 1, 2, 3 and 4. Each Type 3E apartment is in a two-level configuration. The lower level contains a living-dining room, kitchen, two bedrooms, two bathrooms (one bathroom containing a toilet and bathtub-shower combination and the other containing a toilet and shower), and one lanai off the living-dining room and one of the bedrooms. The loft level contains one bedroom, one bathroom containing a toilet and shower, except that Apartment Number 482 contains a bathtub-shower combination, and one lanai off the bedroom and bathroom.²²

The apartment numbers, apartment types, interior floor areas, lanai floor areas, total floor areas, and percentage of common interest appurtenant to each apartment are hereafter listed. The first digit of each apartment number indicates the number of the building in which the apartment is located. The second digit of each apartment number indicates the number of the floor on which the apartment is located. The third digit of each apartment number indicates the number of the apartment on each floor of the building.²³

Apt. No.	Apt. Type	Interior Floor Area	Lanai Area	Total Apt. Area	Percentage Interest
111	1A	835	240	1,075	.3234
112	1B	805	110	915	.2753
113	1C	670	110	780	.2347

114	1C	670	110	780	.2347
115	2B	1,660	220	1,880	.5656
116	2A	1,580	140	1,720	.5175
117	2A	1,580	140	1,720	.5175
118	1E	770	110	880	.2648
119	1A	835	240	1,075	.3234
121	1A	835	240	1,075	.3234
122	1B	805	110	915	.2753
123	1C	670	110	780	.2347
124	1C	670	110	780	.2347
125	2B	1,660	220	1,880	.5656
126	2A	1,580	140	1,720	.5175
127	2A	1,580	140	1,720	.5175
128	3A	1,790	220	2,010	.6047
131	3A	1,790	220	2,010	.6047
132	2C	1,500	110	1,610	.4844
133	2B	1,660	220	1,880	.5656
134	2A	1,580	140	1,720	.5175
135	2A	1,580	140	1,720	.5175
136	3A	1,790	220	2,010	.6047
141	3A	1,790	220	2,010	.6047
142	2C	1,500	110	1,610	.4844
143	2B	1,660	220	1,880	.5656
144	2A	1,580	140	1,720	.5175
145	2A	1,580	140	1,720	.5175
146	3A	1,790	220	2,010	.6047
151	3B	2,290	430	2,720	.8183
152	2C	1,500	110	1,610	.4844
153	2B	1,660	220	1,880	.5656
154	2A	1,580	140	1,720	.5175
155	2A	1,580	140	1,720	.5175
156	3A	1,790	220	2,010	.6047
161	2F	1,682	270	1,955	.5882
162	2E	1,600	220	1,820	.5476
163	2D	1,535	110	1,645	.4949
164	2D	1,535	110	1,645	.4949
165	3C	1,730	220	1,950	.5867
171	3D	2,085	430	2,515	.7566
172	2D	1,535	110	1,645	.4949
173	2D	1,535	110	1,645	.4949

174	3B	2,290	430	2,720	.8183
181	3E	2,050	350	2,400	.7221
182	3E	2,050	350	2,400	.7221
211	1A	835	240	1,075	.3234
212	1B	805	110	915	.2753
213	1C	670	110	780	.2347
214	1C	670	110	780	.2347
215	2B	1,660	220	1,880	.5656
216	2A	1,580	140	1,720	.5175
217	2A	1,580	140	1,720	.5175
218	1E	770	110	880	.2648
219	1A	835	240	1,075	.3234
221	1A	835	240	1,075	.3234
222	1B	805	110	915	.2753
223	2C	1,500	110	1,610	.4844
224	2B	1,660	220	1,880	.5656
225	2A	1,580	140	1,720	.5175
226	2A	1,580	140	1,720	.5175
227	3A	1,790	220	2,010	.6047
231	1A	835	240	1,075	.3234
232	1B	805	110	915	.2753
233	2C	1,500	110	1,610	.4844
234	2B	1,660	220	1,880	.5656
235	2A	1,580	140	1,720	.5175
237	3A	1,790	220	2,010	.6047
241	3A	1,790	220	2,010	.6047
242	2C	1,500	110	1,610	.4844
243	2B	1,660	220	1,880	.5656
244	2A	1,580	140	1,720	.5175
245	2A	1,580	140	1,720	.5175
246	3A	1,790	220	2,010	.6047
251	3A	1,790	220	2,010	.6047
252	2C	1,500	110	1,610	.4844
253	2B	1,660	220	1,880	.5656
254	2A	1,580	140	1,720	.5175
255	2A	1,580	140	1,720	.5175
256	3A	1,790	220	2,010	.6047
261	3B	2,290	430	2,720	.8183
262	2C	1,500	110	1,610	.4844

263	2B	1,660	220	1,880	.5656
264	2A	1,580	140	1,720	.5175
265	2A	1,580	140	1,720	.5175
266	3A	1,790	220	2,010	.6047
271	2F	1,685	270	1,955	.5882
272	2E	1,600	220	1,820	.5476
273	2D	1,535	110	1,645	.4949
274	2D	1,535	110	1,645	.4949
275	3C	1,730	220	1,950	.5867
281	3D	2,085	430	2,515	.7566
282	2D	1,535	110	1,645	.4949
283	2D	1,535	110	1,645	.4949
284	3B	2,290	430	2,720	.8183
291	3E	2,050	350	2,400	.7221
292	3E	2,050	350	2,400	.7221
311	1A	835	240	1,075	.3234
312	1B	805	110	915	.2753
313	1C	670	110	780	.2347
314	1C	670	110	780	.2347
315	2B	1,660	220	1,880	.5656
316	2A	1,580	140	1,720	.5175
317	2A	1,580	140	1,720	.5175
318	1E	770	110	880	.2648
319	1A	835	240	1,075	.3234
321	1A	835	240	1,075	.3234
322	1B	805	110	915	.2753
323	2C	1,500	110	1,610	.4844
324	2B	1,660	220	1,880	.5656
325	2A	1,580	140	1,720	.5175
326	2A	1,580	140	1,720	.5175
327	3A	1,790	220	2,010	.6047
331	1A	835	240	1,075	.3234
332	1B	805	110	915	.2753
333	2C	1,500	110	1,610	.4844
334	2B	1,660	220	1,880	.5656
335	2A	1,580	140	1,720	.5175
336	2A	1,580	140	1,720	.5175
337	3A	1,790	220	2,010	.6047
341	3A	1,790	220	2,010	.6047

342	2C	1,500	110	1,610	.4844
343	2B	1,660	220	1,880	.5656
344	2A	1,580	140	1,720	.5175
345	2A	1,580	140	1,720	.5175
346	3A	1,790	220	2,010	.6047
351	3A	1,790	220	2,010	.6047
352	2C	1,500	110	1,610	.4844
353	2B	1,660	220	1,880	.5656
354	2A	1,580	140	1,720	.5175
355	2A	1,580	140	1,720	.5175
356	3A	1,790	220	2,010	.6047
361	3B	2,290	430	2,720	.8183
362	2C	1,500	110	1,610	.4844
363	2B	1,660	220	1,880	.5656
364	2A	1,580	140	1,720	.5175
365	2A	1,580	140	1,720	.5175
366	3A	1,790	220	2,010	.6047
371	2F	1,685	270	1,955	.5882
372	2E	1,600	220	1,820	.5476
373	2D	1,535	110	1,645	.4949
374	2D	1,535	110	1,645	.4949
375	3C	1,730	220	1,950	.5867
381	3D	2,085	430	2,515	.7566
382	2D	1,535	110	1,645	.4949
383	2D	1,535	110	1,645	.4949
384	3B	2,290	430	2,720	.8183
391	3E	2,050	350	2,400	.7221
392	3E	2,050	350	2,400	.7221
411	1A	835	240	1,075	.3234
412	1B	805	110	915	.2753
413	1C	670	110	780	.2347
414	1C	670	110	780	.2347
415	2B	1,660	220	1,880	.5656
416	2A	1,580	140	1,720	.5175
417	2A	1,580	140	1,720	.5175
418	1E	770	110	880	.2648
419	1A	835	240	1,075	.3234
421	1A	835	240	1,075	.3234
422	1B	805	110	915	.2753

423	1C	670	110	780	.2347
424	1C	670	110	780	.2347
425	2B	1,660	220	1,880	.5656
426	2A	1,580	140	1,720	.5175
427	2A	1,580	140	1,720	.5175
428	3A	1,790	220	2,010	.6047
431	3A	1,790	220	2,010	.6047
432	2C	1,500	110	1,610	.4844
433	2B	1,660	220	1,880	.5656
434	2A	1,580	140	1,720	.5175
435	2A	1,580	140	1,720	.5175
436	3A	1,790	220	2,010	.6047
441	3A	1,790	220	2,010	.6047
442	2C	1,500	110	1,610	.4844
443	2B	1,660	220	1,880	.5656
444	2A	1,580	140	1,720	.5175
445	2A	1,580	140	1,720	.5175
446	3A	1,790	220	2,010	.6047
451	3B	2,290	430	2,720	.8183
452	2C	1,500	110	1,610	.4844
453	2B	1,660	220	1,880	.5656
454	2A	1,580	140	1,720	.5175
455	2A	1,580	140	1,720	.5175
456	3A	1,790	220	2,010	.6047
461	2F	1,685	270	1,955	.5882
462	2E	1,600	220	1,820	.5476
463	2D	1,535	110	1,645	.4949
464	2D	1,535	110	1,645	.4949
471	3D	2,085	430	2,515	.7566
472	2D	1,535	110	1,645	.4949
473	2D	1,535	110	1,645	.4949
474	3B	2,290	430	2,720	.8183
481	3E	2,050	350	2,400	.7221
482	3E	2,050	350	2,400	.7221

The respective apartments shall not be deemed to include the undecorated or unfinished interior surfaces of the perimeter walls or interior load-bearing walls, the floors and ceiling surrounding each apartment, or any pipes, wires, conduits or other utility lines running through such apartment which are

utilized for or serve more than one (1) apartment, the same being deemed common elements as hereinafter provided. Each apartment shall include any adjacent lanai as shown on the Condominium Map, all the walls and partitions which are not load-bearing within its perimeter walls, the inner decorated or finished surfaces of all walls, pillars, floors and ceilings, doors and door frames, windows and window frames, and any built-in fixture.²⁴

4. Limits of Apartments, The respective apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls or interior load bearing walls, the floors and ceiling surrounding each apartment, or any pipes, wires, conduits or other utility lines running through such apartment which are utilized for or serve more than one (1) apartment, the same being deemed common elements as hereinafter provided. Each apartment shall include any adjacent lanai as shown on the Condominium Map, all the walls and partitions which are not load bearing within its perimeter walls, the inner decorated or finished surfaces of all walls, pillars, floors and ceilings, doors and door frames, windows and window frames, and any built-in fixtures.

5. Common Elements: The common elements will include the Land and all improvements on the Land (other than the apartments), the limited common elements, and all common elements mentioned in Chapter 514A, Hawaii Revised Statutes, which are actually constructed on the Land and specifically shall include, but shall not be limited to:

- (a) The Land in fee simple;
- (b) All foundations, columns, girders, beams, supports and load-bearing walls;
- (c) The roof and basements;
- (d) All the landscaped perimeter, plantings, planting boxes, retaining walls, planting areas, and similar items;
- (e) All ramps, roads, driveway areas, fences and exterior ground level walkways;
- (f) The staircases and all building walkways, all ducts, electrical equipment, wiring and other central and appurtenant installations for services including power, light, cold and hot water, refuse and telephone;
- (g) The swimming pool with jacuzzi, wading pool and three (3) tennis courts;
- (h) The two (2) beach pavilions with equipment and storage facilities, boat storage facility, manager's office and the

basement level recreation rooms in each building, including the storage room, two (2) restrooms and kitchen therein;

(i) All parking stalls; and

(j) All other devices or other installations upon the Land existing for or rationally of common use to all the owners of apartments within the Project.²⁵

6. Limited Common Elements: The exterior storage lockers having the same number as the number of the apartment, located on the same floor and assigned to each apartment are limited common elements reserved for the use of each respective apartment. The costs and expenses of these limited common elements, including but not limited to maintenance, repair, replacement, additions and improvements, shall be borne entirely by the apartment or apartments to which they are appurtenant. If any such cost is charged to more than one apartment, each such apartment shall bear that portion of the total cost equal to the ratio which its common interest bears to the total common interest of all apartments responsible for said cost.²⁶

7. Easements. The apartments and common elements shall also have and be subject to the following easements:

(a) Each apartment shall have appurtenant thereto nonexclusive easements in the common elements designed for such purposes for ingress to, egress from, and support, maintenance and repair of such apartment; in the other common elements for use according to their respective purposes, subject always to the exclusive use of the limited common elements as provided therein; and in all other apartments and limited common elements of the building for support;

(b) If any part of the common elements now or hereafter encroaches upon any apartment or limited common element or if any apartment now or hereafter encroaches upon any other apartment or upon any portion of the common elements, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall exist. In the event the apartment building shall become partially or totally destroyed and then rebuilt, minor encroachments of any parts of the common elements upon any apartment or of any apartment upon any other apartment or upon any portion of the common elements due to construction shall be permitted, and valid easements for such

(c) The Association of Apartment Owners (the "Association" shall have the right, to be exercised by its Board of Directors

or the managing agent, to enter each apartment and the limited common elements from time to time during reasonable hours as may be necessary for the operation of the Project or for making emergency repairs therein necessary to prevent damage to any apartment or common elements;

(d) Each apartment owner shall have an easement in common with the owners of all other apartments to use all pipes, wires, ducts, cables, conduits, public utility lines and other common elements located in any of the other apartments and serving his apartment. Each apartment shall be subject to an easement in favor of the owners of all other apartments for access to any common elements located in such apartment.²⁷

8. Alteration and Transfer of Interests. The common interest and easements appurtenant to each apartment shall have a permanent character and shall not be altered without the consent of all of the apartment owners affected, expressed in an amendment to this Declaration duly recorded. The common interest and easements shall not be separated from the apartment to which they appertain, and shall be deemed to be conveyed, leased or encumbered with such apartment even though such interest or easements are not expressly mentioned or described in the conveyance or other instrument.

9. Purposes.

(a) The apartments hereinabove described shall at all times be used as permanent or temporary- residences or as hotel rooms (if permitted by the applicable county zoning ordinances), and for such other purposes which are compatible with the applicable zoning ordinances. The owners of the respective apartments may rent or lease their apartments on any long-term or short-term (including daily) basis for such residential use. The apartments shall not be used as an office or for any other commercial purpose.

(b) The owner of an apartment shall not use the same for any purpose which will injure the reputation of the Project. Such owner shall not suffer anything to be done or kept in an apartment or elsewhere which will jeopardize the soundness of the Project, or which will interfere with or unreasonably disturb the rights of other owners, or which will obstruct the public halls or stairways of the building, or which will increase the rate of fire insurance on the Project or the contents thereof, or which will reduce the value of the Project.

(c) The owner of an apartment shall not, without the prior written consent of the Owner, Lessee, Board and any affected apartment owner and such affected owner's mortgagee, if any, make any structural alterations in or additions to the apartment or make any alterations in or additions to the lanai or exterior of the apartment (including awnings, jalousies or screens) or to any other portion or portions of the common elements unless permitted by the Board and not in conflict with the Declaration and By-Laws.

(d) Occupancy of each apartment shall be limited to two (2) persons multiplied by the number of bedrooms in the apartment (for example, no more than 4 persons may occupy a two-bedroom apartment), except that members of the immediate family of (i) the apartment owner, or (i) the apartment owner's tenant or hotel guest, and shall not be counted for purposes of determining whether the foregoing limitation on occupancy has been violated.²⁸

10. Service of Process. Wilbur F. Daily, Jr., whose address is Suite 295, The Kahului Building, 33 Lone Avenue, Kahului, Maui, Hawaii 96732, is hereby designated as the person to receive service of process until such time as the Board of the Association is elected, at which time and thereafter process may be served upon any member of said Board.

11. Percentage of Votes Required for Rebuilding. In the event of damage or destruction of all or any part of the buildings, the percentage of votes of the apartment owners which shall be determinative of whether not to rebuild, repair or restore a building shall be a vote of the apartment owners in the building so damaged or destroyed, owning at least seventy-five percent (75%) of the common interest appurtenant to the apartments in such building and a vote of the owners of apartments so damaged in such building in such building owning at least seventy-five percent (75%) of the common interests appurtenant to the damaged apartments in such building. That is to say, there shall be an affirmative obligation to rebuild in absence of a vote not to rebuild as herein provided. If more than one (1) building is damaged or destroyed, the votes of apartment owners in each building shall be considered separately.

In the event of substantial damage or destruction of all or part of any other common elements on the land, the percent-

age of votes which shall be determinative of whether not to rebuild, repair or restore such damaged or destroyed common elements shall be a vote of the owners of seventy-five percent (75%) of the interests in the common elements. That is to say, there shall be an affirmative obligation to rebuild in absence of a vote not to rebuild as herein provided.

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

13. By-Laws. In furtherance of the provisions of this Declaration, the Owner and Developer hereby approve and adopt the By-Laws. The Owner and Developer hereby affirm that the Project described in this Declaration shall be held, conveyed, improved in accordance with the By-Laws. In the event of any discrepancy between a provision of this Declaration and a provision of the By-Laws, the provisions of this Declaration shall prevail.

14. Amendment. This Declaration of Condominium²⁹ Property Regime may be amended, consistent with the provisions of Chapter 514A, Hawaii Revised Statutes, as amended, by the vote or written consent of the owners of at least seventy-five percent (75%) of the common interest in the common elements, evidenced by an instrument in writing, signed and acknowledged by any two officers of the Association, which amendment shall be effective upon filing with the said Bureau of Conveyances; provided, however, that the Developer reserves the right to amend this Declaration one or more times without the consent or joinder of any apartment owner in order to file one or more amendments pursuant to the provisions of Section 514A-12, Hawaii Revised Statutes, after completion of construction of the Project, and attaching to each such amendment a verified statement of a registered architect certifying that the Condominium Map theretofore filed fully and actually depicts the layout, location, apartment numbers, and dimensions of the apartments as built.³⁰

15. Binding Effect. All of the covenants, agreements and conditions herein contained shall extend to and be binding upon the heirs, executors, administrators and assigns of the respective parties hereto.

16. Commercial Use of Common Elements. Notwithstanding anything to the contrary contained in this Declaration or the By-Laws, the Board of Directors shall have the right to use such portions of the common elements of the Project as may be determined by the Board, for business and commercial uses. The Board may use or authorize the use of the common elements for any lawful purpose which the Board may, in its sole and reasonable discretion, deem to be beneficial to the apartment owners or the Project, or to enhance the quality of the Project, or to broaden the activities, amenities or services available to the apartment owners. These common elements include, but are not limited to, all of the rooms and floor space located in the basement of each of the buildings comprising the Project and the storage rooms located on each floor of each building, and the Project's parking stalls, pool decks, lobby and entry areas and rooms, beach pavilion, manager's office and boat storage facility. Business and commercial uses of these and other portions of the common elements include, but are not limited to, food and drink service, snack bar restaurant, bar, lounge and kitchen service and facilities and maid, bellboy, front desk, administration and other housekeeping, rental and hotel services and facilities.

The Board may enter into concession or license agreements, space leases, rental agreements, operating agreements and other contracts with one or more third-parties for the lease or use, on an exclusive or non-exclusive basis, of such portions of the common elements, upon such terms and conditions as shall be determined by the Board. Each apartment owner's use and enjoyment of the common elements shall be subject to any business or commercial uses, whether exclusive or non-exclusive, approved by the Board. The Board or any contractor, lessee, licensee, operator, concessionaire or any other person or entity to whom control or use of the common elements may be transferred, shall have the right to impose or charge the apartment owners fees for the use or purchase of the services, facilities or goods made available to the owners by the Board or such contractor, lessee, licensee, operator, concessionaire or other person or entity, and to limit the use of the availability of such services, facilities or goods solely to apartment owners, members of their immediate families and guests, and persons occupying or residing at the Project.

Notwithstanding anything to the contrary contained in the Declaration or the By-Laws, the Board shall have the right to

improve or make additions or alterations to the common elements of the Project, and shall have the right to authorize others to make such improvements, additions or alterations, as may be deemed necessary in the Board's discretion to prepare such common elements for the business or commercial uses permitted by the Board, and to engage in all construction activities necessary for the completion and construction of such improvements, additions or alterations; provided, however, that no such improvements, additions or alterations shall jeopardize the soundness or safety of the Project or reduce the value thereof. No consent of the Owner the Lessee or the apartment owners or their mortgagees shall be required for any improvements, additions or alterations to the common elements authorized by the Board pursuant to this paragraph, notwithstanding anything to the contrary contained in this Declaration (including, without limitation, paragraph 10(c) of the Declaration) or the By-Laws (including, without limitation, Section 3 of Article V of the By-Laws).

The Board shall have the authority to collect from third-parties all or a portion of the cost of constructing or making such improvements, additions or alterations. The Board shall have the right to grant to governmental agencies, utility and service companies and other third-parties perpetual or temporary easements and rights-of-way as the Board in its sole and reasonable discretion may from time to time deem necessary for transmission facilities and appurtenances for sewer, electrical power, gas, telephone, water, drainage, flowage and other similar public or utility purposes, over, across, under and through the common elements, including without limiting the generality of the foregoing, the right to enter upon the common elements to construct, reconstruct, install, operate, maintain, repair and replace such lines, facilities and appurtenances, provided such rights are exercised in such a manner as will cause the least practicable interference with the apartment owners' use and occupancy of the Project and shall not materially detract from or adversely affect the value of the Project or any apartment, Each apartment owner shall join in all such grants to governmental agencies or utility or service companies promptly at the request of the Board without payment of additional consideration.³¹

17. Exemptions for Handicapped Persons. Notwithstanding anything to the contrary contained in this Declaration, the By-Laws, or the Rules and Regulations, and subject to reasonable administrative requirements as set forth in the Rules and

Regulations, handicapped residents shall: (1) be permitted to make reasonable modifications to their apartments and/or the common elements, at their expense (including without-limitation the cost of obtaining any bonds required by this Declaration or the By-Laws, if such modifications are necessary to enable them to use and enjoy their apartments and/or the common elements, as the case may be; and (2) be allowed reasonable exemptions from this Declaration, the By-Laws, and the rules and regulations, when necessary to enable them to use and enjoy their apartments and/or the common elements.³²

IN WITNESS WHEREOF, this Restated Declaration of Condominium Property Regime Under Chapter 514A, Hawaii Revised Statutes, has been duly executed this 18th day of April, 1997.

THE SANDS OF KAHANA, INC.

By: [Signature]
Its President

By: [Signature]
Its [Signature] V.P.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Riverside

On April 18, 1997 before me, Maureen A. Byrne, Notary Public
Name and Title of Official (e.g., "Jane Doe, Notary Public")

personally appeared Sandra Broth
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Maureen A. Byrne
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Partiated Declaration of Condominium Property

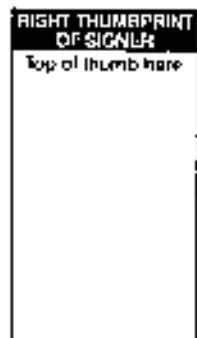
Document Date: Regime under Chapter 218A, Hawaii Revised Statutes Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer
Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing:

Signer's Name: _____

- Individual
- Corporate Officer
Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing:

ENDNOTES

The following endnotes correspond to provisions in the Declaration of Condominium Property Regime which have been restated to conform to Chapter 514A, Hawaii Revised Statutes, the Federal Fair Housing Act (42 U.S.C. Sections 3601 et sea.), and Chapter 515, Hawaii Revised Statutes, and to integrate all amendments made to the Declaration of Condominium Property Regime, This Restated Declaration correctly sets forth without change the corresponding provisions of the original Declaration of Horizontal Property Regime and all prior amendments thereto. This Restatement was made solely for purposes of information and convenience. In the event of a conflict, the Restated Declaration of Condominium Property Regime shall be subordinate to the cited statutes.

1. To reflect the 1988 redesignation of the Horizontal Property Act (Chapter 514A, Hawaii Revised Statutes) as the "Condominium Property Act".

2. Exhibit "B" was added by that certain Second Amendment to Declaration of Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes, dated July 6, 1982, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 16575, Page 474.

3. To reflect the 1988 redesignation of the Horizontal Property Act (Chapter 514A, Hawaii Revised Statutes) as the "Condominium Property Act".

4. To reflect the 1988 redesignation of the Horizontal Property Act (Chapter 514A, Hawaii Revised Statutes) as the "Condominium Property Act".

5. The first paragraph of this Paragraph 3 was amended by that certain Second Amendment to Declaration Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes, dated July 6, 1982, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 16575, Page 474.

6. This paragraph was amended by that certain First Amendment to Declaration of Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes, dated July 6, 1982, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15399, Page 351.

7. This paragraph was amended by that certain First Amendment to Declaration of Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes, dated July 6, 1982, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15399, Page 351.

8. This paragraph was amended by that certain First Amendment to Declaration of Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes, dated July 6, 1982, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15399, Page 351.

9. This paragraph was amended by that certain First Amendment to Declaration of Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes, dated July 6, 1982, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15399, Page 351.

10. This paragraph was amended by that certain First Amendment to Declaration of Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes, dated July 6, 1982, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15399, Page 351.

11. This paragraph was amended by that certain First Amendment to Declaration of Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes, dated July 6, Bureau of Conveyances of the State of Hawaii in Liber 15399, Page 351.

12. This paragraph was amended by that certain First Amendment to Declaration of Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes, dated July 6, 1982, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15399, Page 351.

13. This paragraph was amended by that certain First Amendment to Declaration of Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes, dated July 6, 1982, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15399, Page 351.

14. This paragraph was amended by that certain First Amendment to Declaration of Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes, dated July 6, 1982, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15399, Page 351.

15. This paragraph was amended by that certain First Amendment to Declaration of Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes, dated July 6, 1982, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15399, Page 351.

16. This paragraph was amended by that certain First Amendment to Declaration of Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes, dated July 6, 1982, recorded in the Bureau of conveyances of the State of Hawaii in Liber 15399, Page 351.

17. This paragraph was amended by that certain First Amendment to Declaration of Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes, dated July 6, 1982, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15399, Page 351.

18. This paragraph was amended by that certain First Amendment to Declaration of Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes, dated July 6, 1982, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15399, Page 351.

19. This paragraph was amended by that certain First Amendment to Declaration of Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes, dated July 6, 1982, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15399, Page 351,

20. This paragraph was amended by that certain First Amendment to Declaration of Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes, dated July 6, 1982, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15399, Page 351.

21. This paragraph was amended by that certain Second Amendment to Declaration of Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes, dated July 6, 1982, recorded in the Bureau of conveyances of the State of Hawaii in Liber 16575, Page 474.

22. This paragraph was amended by that certain Second Amendment to Declaration of Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes, dated July 6, 1982, recorded in

the Bureau of Conveyances of the State of Hawaii in Liber 16575, Page 474.

23. This paragraph was amended by that certain First Amendment to Declaration of Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes, dated July 6, 1982, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15399, Page 351.

24. This paragraph was amended by that certain First Amendment To Declaration of Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes, dated February 23, 1981, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15399, Page 351.

25. This paragraph was amended by that certain First Amendment to Declaration of Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes, dated February 23, 1981, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15399, Page 351.

26. This paragraph was amended by that certain First Amendment to Declaration of Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes, dated February 23, 1981, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15399, Page 351.

27. This paragraph was amended by that certain First Amendment to Declaration of Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes, dated February 23, 1981, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 15399, Page 351.

28. This sub-paragraph was added by that certain Amendment to Declaration of Horizontal Property Regime And Bylaws Of Association of Apartment Owners The Sands of Kahana Condominium Project, signed on September 15, 1983, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 17322, Page 680.

29. To reflect the 1988 redesignation of the Horizontal Property Act (Chapter 514A, Hawaii Revised Statutes) as the "Condominium Property Act".

30. This paragraph was amended by that certain First Amendment to Declaration of Horizontal Property Regime Under Chapter 514A, Hawaii Revised Statutes, dated February 23; 1981 record-

ed in the Bureau of Conveyances of the State of Hawaii in Liber 15399, Page 351; and that certain Amendment of the Declaration of Horizontal Property Regime And Bylaws of The Sands of Kahana, dated December 17, 1984, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 18359, Page 326.

31. This paragraph was added by that certain Amendment to Declaration of Horizontal Property Regime And Bylaws Of Association of Apartment Owners The Sands of Kahana Condominium Project, signed on September 15, 1983, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 17322, Page 680.

32. This paragraph was added to conform to the Federal Fair Housing Act, as amended (42 U.S.C. Section 3601 et. sea.) and Chapter 515, Hawaii Revised Statutes.

EXHIBIT "A"

All of that certain parcel of land, being portions of Grant 1166 to D. Baldwin, J. F. Pogue and S. E. Bishop, Royal Patent 177, Lend Commission Award 3925-D, Apana 2 to Hualii and Royal Patent 6231, Land Commission Award 3925-I, Apana 1 to Pale, being Lot 4-C-1 of the Bechert Estate Subdivision, situated at Kahananui, Kaanapali, Lahaina, Island and County of Maui, State of Hawaii, and thus bounded and described, as per survey of George F. Newcomer, Registered Professional Land Surveyor, Certificate Number 2715-S, dated October 26, 1979, to-wit:

Beginning at the Northeasterly corner of this parcel of land on the westerly side of Honoapiilani Highway, the coordinates of said point or beginning referred to Government Survey Triangulation Station "Hawea" being:

11,801.73 feet South
191.73 feet West

and running by azimuths measured clockwise from true South:

1. 359° 03' 00" 3.01 feet along the westerly side of Honoapiilani Highway;
2. 2° 47' 30" 192.00 feet along same;
3. 12° 09' 00" 52.44 feet along same;
4. 26° 07' 00" 64.45 feet along same;

5. 36° 57' 30" 32.58 feet along same;
6. 43° 06' 30" 62.21 feet along same;
7. 54° 22' 30" 48.57 feet along same;
8. 57° 36' 30" 83.20 feet along same;
9. 62° 06' 30" 176.88 feet along same;
10. 100° 04' 30" 246.33 feet along Lot 5 of this sub-
division and along the remainder of Grant 1166 to D. Baldwin,
J. F. Pogue and S. E. Bishop;

thence along the shoreline at the vegetation line, certified as
of May 4, 1979, the direct azimuth and distance being:

11. 184° 59' 30" 84.81 feet;
12. 191° 44' 30" 104.57 feet along same;
13. 182° 31' 00" 84.33 feet along same;
14. 184° 53' 30" 117.95 feet along same;
15. 173° 49' 00" 129.50 feet along same;
16. 185° 15' 00" 74.68 feet along same;
17. 280° 04' 30" 593.26 feet along Lot 4-B of this
subdivision and along the remainders of Grant 1166 to D.
Galdwin, J. F. Pogue and S. E. Bishop, R. P. 4177, 5. C. Aw.
3925-D, Ap. 2 to Hualii, and R. P. 6231, L. C. Aw. 3925-I, An.
1 to Pala to the point of beginning and containing an area of
6.788 acres.

END OF EXHIBIT "A"

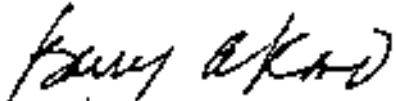
ARCHITECT'S CERTIFICATE

I, BARRY A. RAND, hereby certify that,

1. I am an architect duly licensed and registered in the State of Hawaii and that my Hawaii Registration Number is AR-03043.

2. That the plans for THE SANDS OF KAHANA Condominium Project heretofore filed as Condominium Map No. 763, as amended by First Amendment to Declaration of Horizontal Property Regime, fully and accurately depict the layout, location, apartment numbers and dimensions of the apartments and other improvements as built.

Dated: August 26, 1982.



BARRY A. RAND

STATE OF HAWAII)
) 55.
COUNTY OF MAUI)

BARRY A. RAND, being first duly sworn on oath, deposes and says that he has read the foregoing and knows and understands the contents thereof and that the statements made therein are true of his own knowledge.



BARRY A. RAND

Subscribed and sworn to before me
this 10th day of October, 1982.



Notary Public, Second Judicial
Circuit, State of Hawaii.

My commission expires: 5-5-85