

OFFICE OF THE  
ASSISTANT REGISTRAR, LAND COURT  
STATE OF HAWAII  
(BUREAU OF CONVEYANCES)

THE ORIGINAL OF THIS DOCUMENT WAS  
RECORDED AS FOLLOWS:

Doc 4117751  
CTN AS LISTED HEREIN  
DEC 09, 2011 02:00 PM

LAND COURT SYSTEM

REGULAR SYSTEM

AFTER RECORDATION, RETURN TO:

RETURN BY: MAIL  PICKUP

EKIMOTO & MORRIS  
JOHN A. MORRIS, ESQ./at  
AMERICAN SAVINGS BANK TOWER  
1001 BISHOP STREET, SUITE 780  
HONOLULU, HAWAII 96813-3410

Total Page(s): 17

(Affecting "Declaration of Covenants, Conditions and Restrictions" dated February 15, 1967 (the "Declaration"), filed in the Office of the Assistant Registrar of the Land Court of the State of Hawai'i as Document No. 412355 and noted on the Transfer Certificates of Title shown on the attached Exhibit "1".)

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by AHUIMANU INVESTMENT COMPANY, hereinafter referred to as "Declarant" (hereby modified and renewed by the Board of Directors of AHUIMANU HOMEOWNERS ASSOCIATION),

### WITNESSETH:

WHEREAS, Declarant was the owner of certain property in the County of Honolulu, State of Hawaii, which is more particularly described as:

Lots 1 to 263, inclusive, and Lots A to H, inclusive, and J to N, inclusive, and the designation of Easements 1 to 42, inclusive, as shown on Map I filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Consolidation No. 105 and being the lands described and covered by Transfer Certificate of Title No. 111, 113, and

WHEREAS, Declarant conveyed said properties, subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth;

NOW, THEREFORE, the AHUIMANU HOMEOWNERS ASSOCIATION hereby declares that all of the properties described above were held or sold and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the real property. These easements, covenants, restrictions and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described properties or any part thereof, and shall inure to the benefit of each owner thereof.

### ARTICLE I

#### DEFINITIONS

Section 1. "Association" shall mean and refer to AHUIMANU HOMEOWNERS ASSOCIATION, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the members of the Association.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 5. "Member" shall mean and refer to every person or entity who or which holds membership in the Association.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 7. "Declarant" shall mean and refer to AHUIMANU INVESTMENT COMPANY, a limited partnership.

## ARTICLE II

### MEMBERSHIP

Every person or entity who or which is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, shall be a member of the Association. The foregoing is not intended to include persons or entities who or which hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separate from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership.

## ARTICLE III

### VOTING RIGHTS

The Association shall have one class of voting membership:

Members shall be all those Owners as defined in Article II. Members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article II. When more than one person holds such interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

## ARTICLE IV

### PROPERTY RIGHTS

Section 1. Members' Easements of Enjoyment. Every member shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the following provisions:

- (a) The right of the Association to limit the number of guests of members;
- (b) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- (c) The right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property, and the rights of such mortgagee in said Common Area shall be subordinate to the rights of the homeowners hereunder;

- (d) The right of the Association to suspend the voting rights and right to use of the recreational facilities by a member for any period during which any assessment against his Lot remains unpaid, but, upon payment of such assessments, his right and privileges shall be automatically restored. If the directors have adopted and published rules and regulations governing the use of the Common Area and the personal conduct of any person thereon, as provided in Article VII, Section (9), and if a member has violated such rules and regulations, the directors shall give such member a three-day written notice of hearing thereon. If at such hearing a majority of the directors determine that such member has violated the rules and regulations, they may, in their discretion, suspend the rights of such member to the recreational facilities of the project for a period not to exceed thirty (30) days. Upon such determination the member may appeal to the entire membership by giving them a written three-day notice of the time and place of such hearing and the suspension shall not become effective until a determination has been made by the membership. If at such hearing, which shall be conducted like any meeting of the members, a majority of the members present determine that such member has violated the rules and regulations, the suspension shall become effective as of that date, subject to such modifications as the members may, in their discretion, impose, but in no event shall any suspension be for a period in excess of thirty (30) days; and
- (e) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by members entitled to cast two-thirds thirds (2/3) of the votes of the membership has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every member not less than 30 days nor more than 60 days in advance.

Section 2. Delegation of Use. Any member may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Title to the Common Area. The Declarant has conveyed fee simple title to the Common Area to the Association, free and clear of all encumbrances and liens, prior to the conveyance of the first Lot.

## ARTICLE V

### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements and emergency needs, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made.

Each such assessment, together with such interest, costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation shall not pass to his successors in title unless expressly assumed by them,

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Properties and in particular for the improvement and maintenance of the Common Area, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Area.

Section 3. Basis and Maximum of Annual Assessments. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Sixty and no/100 Dollars (\$60.00) per Lot.

- (a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased effective January 1 of each year without a vote of the membership in conformance with the rise, if any, of the Consumer Price Index (published by the Department of Labor, Washington, D.C.) for the preceding month of July.
- (b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above that established by the Consumer Price Index formula by a vote of the members for the next succeeding calendar year and at the end of each such year, for each succeeding year, provided that any such change shall have the assent of two-thirds (2/3) of the votes of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.
- (c) After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. City's Rights and Lien of City. In the event that the Common Area or any part thereof is not maintained in a sanitary condition or free from noxious or unsightly growths or trash, or in a condition suitable for the use for which the Common Area was intended, at the expiration of sixty (60) days after the date of written notice to such effect has been given to the Association by the Director of Parks and Recreation of the City of Honolulu, State of Hawaii, then said Director may proceed to undertake such work as may reasonably be required to remedy such condition, or cause such work to be done. The cost thereof, including cost of notice and administrative costs, shall be charged pro-rata to the Owners or lessees of the Properties, and shall be a lien or charge on the Properties, and the Corporation Counsel may, in the name of the City of Honolulu, recover the said costs by appropriate action, including any proceeding allowed for the foreclosure of tax liens.

Section 5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting.

Section 6. Special Assessments for Emergency Needs. In the event the Association shall determine that its budget for any current month is, or will become inadequate to meet all expenses hereunder for any reason, including non-payment of any Owner's assessment on a current basis, it shall immediately determine the approximate amount of such inadequacy for such month and issue a supplemental budget, noted as to the reason therefore, and levy a special assessment against the Owners of each of the Lots after approval by the members in the manner set forth in Section 5 of this Article, for the amount required to meet all such expenses on a current basis, which special assessment shall be paid within thirty (30) days from notice thereof.

Section 7. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 8. Quorum for Any Action Authorized Under Sections 3 and 5. At the first meeting called, as provided in Sections 3 and 5 hereof, the presence at the meeting of members or of proxies entitled to cast sixty (60%) per cent of all the votes of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Sections 3 and 5, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 9. Annual Assessments. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall upon demand at any time furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid,

Section 10. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessments, which are not paid when due, shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of twelve (12%) per cent per annum and shall, together with such interest thereon, statement charges (as determined by the Board of Directors) and cost of collection thereof, become a continuing lien on the delinquent Owner's Lot, and the Association or the City of Honolulu, Hawaii, on behalf of the Association, may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against said property, and interest,

costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment; provided that no such lien shall be effective for any purpose until a notice of claim thereof is recorded by the Association in the Office of the County Recorder of the County of Honolulu, Hawaii; and provided further that no action shall be brought to foreclose such lien or to proceed under the power of sale less than thirty (30) days after the date a copy of such notice of claim of lien with the recording date shown thereon is deposited in the United States mail, postage prepaid, to the Owner of said Lot; said notice of claim must recite a good and sufficient legal description of any such Lot, the record owner or reputed owner thereof, the amount claimed (which may at Association's or said City's option include interest on the unpaid assessment at the legal rate from the date due plus reasonable attorney's fees and expenses of collection in connection with the debt secured by said lien) and the name and address of the claimant. Such lien and the rights to foreclosure and sale shall be in addition to and not in substitution for all other rights and remedies, which the Association and its assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid assessments, as above provided.

Any such sale is to be conducted in accordance with the provisions of the laws of the State of Hawaii, applicable to the exercise of powers of sale in Mortgages and Deeds of Trust, or in any other manner permitted by law.

In any such foreclosure or sale, the Owner of any of the Lots so in default shall be required to pay to the Association a reasonable rental for the occupancy of the Lot during such period, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Association, through its duly authorized agents, shall have the power to bid on the Lot at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same; however, in any event, a suit to recover a money judgment for unpaid assessments shall be maintainable by the Association or said City without foreclosing or waiving the lien securing the same,

Upon the timely curing of any default for which a notice of claim of lien was filed by the Association, the officers of the Association are hereby authorized to file or record, as the case may be, an appropriate release of such notice,

No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 11. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot which is subject to any mortgage, pursuant to a decree of foreclosure under such mortgage or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to payments thereof which became due prior to such sale or transfer, but there shall be a lien on the interest of the purchaser at such sale to secure all assessments accruing and arising after the date of any such sale, which lien shall have the same effect and be enforced in the same manner as so provided herein. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 12. Mortgagee Protection Clause. No breach of the covenants, conditions or restrictions herein contained, nor the enforcement of any lien provisions herein shall defeat or render invalid the lien of any Mortgage or Deed of Trust made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any owner whose title is derived through foreclosure or trustee's sale, or otherwise.

Section 13. Exempt Property. The property subject to this Declaration shall be exempt from the assessments created herein:

- (a) All properties dedicated to and accepted by a local public authority; and
- (b) The Common Area.

However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

## ARTICLE VI

### DAMAGE AND DESTRUCTION AFFECTING THE COMMON AREA

If any portion of the Common Area is damaged or destroyed by fire or other casualty, then:

- (a) If the cost of repairing or rebuilding does not exceed the amount of available insurance proceeds by more than Fifty Thousand (\$50,000.00) Dollars, the manager or Board shall thereupon contract to repair or rebuild the damaged portions of the Common Area substantially in accordance with the original plans and specifications therefor;
- (b) If the cost of repairing or re-building exceeds the amount of available insurance proceeds by more than Fifty Thousand (\$50,000.00) Dollars, and if the Owners holding in aggregate more than fifty (50%) per cent interest in the Common Area agree to the repair or restoration of the project, then the manager or Board shall contract as provided in subparagraph (a) above. If said Owners do not so agree, then all insurance proceeds shall be paid to the account of the Association, to be held for the benefit of the Owners and their Mortgagees as their respective interests shall appear;
- (c) If a bid to repair or rebuild is accepted, the Board shall levy a special assessment in proportion to the interest of each Owner in the Common Area to make up any deficiency between the total insurance proceeds and the contract price for such repair and re-building; and such assessment and all insurance proceeds, whether or not subject to liens of Mortgagees, shall be paid to the account of the Association, to be used for such rebuilding. If any Owner shall fail to pay the special assessment within thirty (30) days after the levy thereof, the Board shall make up the deficiency by payment from the maintenance fund. Upon payment, the Board shall let the contract to the successful bidder.



## ARTICLE VII

### DUTIES OF ASSOCIATION

In addition to the powers delegated to it by its Articles of Incorporation, and without limiting the generality thereof, the Association shall:

- (1) Own, maintain and otherwise manage all of the Common Area and all facilities, improvements and landscaping thereon, and all property acquired by the Association;
- (2) Pay any real and personal property taxes and other charges assessed against the Common Area;
- (3) Have the authority to obtain, for the benefit of the Common Area, all water, gas, electric power, gardening service and refuse collection;
- (4) Grant easements where necessary for utilities and sewer facilities over and through the Common Area to serve the Common Area and the Lots;
- (5) Maintain a policy or policies of liability insurance, insuring the Association and its agents, guests and invitees and the Owners of the Lots against liability to the public or to said Owners, their guests and invitees incident to the ownership or use of the Common Area in an amount of not less than One Hundred Thousand (\$100,000.00) Dollars for any one person injured, Three Hundred Thousand (\$300,000.00) Dollars for any one accident, and One Hundred Thousand (\$100,000.00) Dollars for property damage. Said limits shall be re-viewed at intervals of not less than three (3) years and adjusted if necessary to provide such coverage and protection as the Association may deem prudent;
- (6) Maintain a policy or policies of fire and such other casualty insurance as the Association may deem necessary upon all of the improvements upon the Common Area, in such amounts and with such companies as the Association may determine, which policies shall, among other things, provide for a Loss Payable Endorsement to the Association, as well as such other loss payees as any Mortgagee shall require. Upon the occurrence of any casualty loss resulting in damage to any of said improvements, and subject to the limitations of Section 2 of Article VII hereof, the Association shall, using such proceeds as are available to it from such insurance policies, immediately cause said improvements to be rebuilt so as to restore them as nearly as possible to their original condition;
- (7) Maintain Workman's Compensation Insurance to the extent necessary to comply with any applicable law;
- (8) Maintain its funds in a trust account and render an annual accounting, prepared and certified to by an independent certified public accountant, to its members;

- (9) Establish and publish such general Rules and Regulations as the Association may deem reasonable in connection with the use, occupancy and maintenance of the Common Area, which Rules and Regulations may be altered and amended from time to time as the Association may see fit. A copy of such Rules and Regulations shall be;
- (a) Maintained in the office of the Association and be available for inspection at all reasonable times;
  - (b) Posted in a conspicuous place on the Common Area; and
  - (c) Given to each Owner within a reasonable time after the Association has notice of his occupancy of the dwelling unit upon any of the Properties.

The Rules and Regulations shall be binding upon each and every Owner upon the happening of any one of the foregoing.

No changes or amendments in said Rules and Regulations shall be effective until forty-eight (48) hours after the distribution and posting of such changes or amendments in the manner above provided for the distribution of the original Rules and Regulations;

- (10) In its discretion, employ any agent or agents, and enter into any contracts for the purpose of performing any and all of the foregoing duties on its part to be performed; and
- (11) Enter into such agreements with such management agents and companies as may be necessary to carry out any of the purposes and duties herein described.

## ARTICLE VIII

### USE RESTRICTIONS AND ARCHITECTURAL CONTROL

In addition to all other covenants contained herein, the use of the Properties and each Lot therein is subject to the following:

Section 1. Each Lot shall be used as a residence for a single family and for no other purposes;

Section 2. Each Lot Owner shall be responsible for the maintenance thereof and the dwelling unit situated thereon, and shall at all times keep said Lot in a clean and sanitary condition and observe all laws, ordinances, rules and regulations now or hereafter made by any governmental authority applicable to said Lot or any improvement thereon or use thereof.

Section 3. No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alternation therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee,

fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

Section 4. No dwelling shall be permitted on any Lot at a cost of less than \$12,000.00 based upon cost levels prevailing on the date these covenants are recorded, it being the intention and purpose of the covenant to assure that all dwellings shall be of a quality of workmanship and materials substantially the same or better than that which can be produced on the date these covenants are recorded at the minimum cost stated herein for the minimum permitted dwelling size. The ground floor area of the main structure, exclusive of one-story open porches and garages, shall be not less than 950 square feet for a one-story dwelling, nor less than 1200 square feet for a dwelling of more than one story.

Section 5. Each Lot Owner shall observe any set-back lines affecting his Lot as shown on the map herein mentioned in the description of the Properties, and shall not erect, place or maintain any building or structure whatsoever except approved fences or walls between any street boundary of said Lot and the set-back line along such boundary nor maintain any hedge of a greater height than four feet above the ground level between such setback line and street boundary.

Section 6. No dwelling shall be erected or placed on any Lot having a width of less than 50 feet at the minimum building setback line, except that the minimum shall be 35 feet for lots fronting on a cul-de-sac, nor shall any dwelling be erected or placed on any lot having an area of less than 4,800 square feet. Notwithstanding the above, Lot # 263 may have a single family residence constructed on it, even though it is of a smaller size, subject to the approval of the Association's Board of Directors and the City & County of Honolulu.

Section 7. The owner of any lot which has an area of less than 4,800 square feet, may request that the lot be excluded from the Association and from this DCCR. Approval by Board of Directors will require payment of any outstanding amounts due to the Association and ten years dues in advance, at the rate in effect at the date of the request.

Section 8. No existing lot which is subject to this DCCR, can be divided into two or more separate lots.

Section 9. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded map. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

Section 10. No noxious or offensive activity shall be carried on upon any Lot or any part of the Properties nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the Owners of his respective dwelling unit, or which shall in any way increase the rate of insurance.

Section 11. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently.

Section 12. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot for commercial purposes, or in unreasonable numbers. Notwithstanding the foregoing, no animals or fowl may be kept on the Properties which result in an annoyance or are obnoxious to residents in the vicinity, and in any event, any Lot Owner shall be absolutely liable to each and all remaining Owners, their families, guests and invitees, and to the Association, for any and all damage to person or property caused by any pets brought upon or kept upon the Lots or the Common Area by any Lot Owner or by members of his family, guests or invitees.

Section 13. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 14. Each Owner of a Lot shall pay any real and personal property taxes or charges assessed against his respective Lot, and the utility charges for said Lot.

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating its uniform plan for the operation of a planned community development. Failure to enforce any provision herein shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

## ARTICLE IX

### EASEMENTS

Section 1. The Common Area shall be owned by the Association in fee simple, for the use, enjoyment and convenience of the Owners, and shall contain the parking areas, walkways, recreational areas, storage and trash areas, and all other areas not a part of the Lots. Each Lot within the Properties subject to this Declaration is hereby declared to have an easement over all of the Common Area, for the benefit of the Lots, the Owners of the Lots, and each of them, and for their respective families, guests, and invitees, for all of the purposes and uses hereinabove set forth, and without limiting the generality of the foregoing, for recreational and parking purposes and use, and for ingress and egress over and through the Common Area. In furtherance of the establishment of this easement, the individual grant deeds to the Lots may, but shall not be required to, set forth the foregoing easements.

Section 2. There is hereby reserved to Declarant and the Association such easements as are necessary to perform the duties and obligations of the Association as are hereinafter set forth.

Section 3. Each of the easements hereinabove referred to shall be deemed to be established upon the recordation of this Declaration, and shall thenceforth be deemed to be covenants running with the Land for the use and benefit of the Lots and the Common Area, as the case may be, superior to all other encumbrances which may hereafter be applied against or in favor of the property which is the subject of this Declaration or any portion thereof.

ARTICLE X

GENERAL PROVISIONS

Section 1. Enforcement. The Association, any Owner, or the City of Honolulu, Hawaii, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association, by any Owner, or by said City to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Term. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives heirs, successors, and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years.

Section 4. Amendments. The covenants and restrictions of this Declaration may be amended by an instrument signed by not less than sixty-six and two thirds percent (66 2/3% ) of the Lot Owners. Any amendment must be properly recorded.

The Declarant executed this Declaration at Honolulu, Hawaii, on the 15th day of February, 1967. The AHUIMANU HOMEOWNERS ASSOCIATION hereby renews and modifies this Declaration, on the 28th day of July, 2010.

AHUIMANU HOMEOWNERS ASSOCIATION



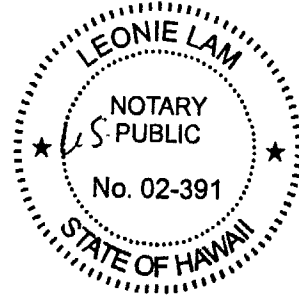
---

By Brian C. Benton  
Its President

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

On this 28<sup>th</sup> day of July 2010 before me personally appeared Brian C. Benton, to me personally known, who, being by me duly sworn, did say that he is the President of AHUIMANU HOMEOWNERS ASSOCIATION, duly elected by the Board of Directors of the Association, and has the authority to sign this instrument on behalf of the Board of Directors and the membership of the Association.

Leonie Lam Leonie Lam  
Notary Public, First Circuit, State of Hawaii



My Commission expires: ~~August 11, 2010~~

Document Date:	<u>7/28/10</u>	# Pages:	<u>13</u>
Notary Name:	LEONIE LAM	First Circuit	
Doc. Description:	<u>Declaration</u> <u>of covenants, conditions and Restrictions</u>		
Notary Signature	<u>Leonie Lam</u>	Date	<u>7/28/10</u>

**Exhibit "1"**  
**Ahuimanu Homeowners Association**

Lot No.	TCT No.
1	942,353
2	422,027
3	242,557
4	988,339
5	735,015
6	496,537
7	487,301
8	162,260
9	845,554
10	589,427
11	433,100
12	568,095
13	170,198
14	628,655
15	881,940
16	937,946
17	810,479
18	882,457
19	642,628
20	531,937
21	469,722
22	991,665
23	554,019
24	586,986
25	403,873
26	454,456
27	559,872
28	517,994
29	506,501
30	732,812
31	975,453
32	622,606
33	438,538
34	260,480
35	754,248
36	688,680
37	929,598
38	726,028
40	796,636

Lot No.	TCT No.
41	422,749
42	965,496
43	702,194
44	887,187
45	1,030,868
46	725,368
47	1,002,116
48	800,835
49	846,590
50	370,433
51	128,066
52	815,162
53	825,593
54	244,141
55	847,230
56	548,859
57	508,338
58	674,067
59	191,982
60	1,008,287
61	508,974
64	419,498
65	833,337
66	116,118
67	810,514
68	375,225
69	612,670
70	411,970
71	371,011
72	1,017,781
73	530,267
	387979 &
74	387980
75	398,967
76	793,388
77	719,011
79	834,978
80	459,823
81	396,680
82	1,002,065

Lot No.	TCT No.
83	260,980
84	115,449
85	560,134
86	182,949
87	974,922
88	329,860
	392808 &
89	392809
90	408,226
91	874,889
92	604,850
93	607,169
94	878,353
95	628,149
96	651,246
97	943,712
98	416,152
99	627,160
100	925,523
101	969,312
102	225,693
103	762,917
104	575,846
105	520,556
106	661,140
107	424,106
108	429,974
109	947,894
110	885,052
111	801,142
112	416,457
113	1,013,298
114	282,421
115	951,351
116	697,709
117	386,426
118	451,182
119	201,488
120	967,557
121	604,214

**Exhibit "1"**  
**Ahuimanu Homeowners Association**

Lot No.	TCT No.
122	709,024
123	602,541
124	907,945
125	995,988
126	595,189
127	734,905
128	813,440
129	479,379
130	582,426
131	305,515
132	996,658
133	769,006
134	527,220
135	418,783
136	761,204
137	1,030,426
138	446,289
139	181,214
140	603,788
141	673,988
142	579,149
143	122,942
144	123,403
145	679,391
146	253,847
147	859,762
148	445,887
149	592,141
150	937,931
151	126,506
152	512,773
153	868,870
154	670,713
155	664,044
156	806,463
157	864,179
158	1,013,278
159	733,155
160	663,132

Lot No.	TCT No.
161	965,969
162	177,789
163	727,323
164	445,859
165	399,851
166	318,393
167	255,463
168	338,156
169	218,893
170	651,878
171	203,950
172	279,770
173	650,868
174	922,464
175	305,512
	387989 & 387990
176	
177	424,766
178	807,771
179	786,566
180	147,904
181	471,044
182	562,848
	353146 & 353147
183	
184	263,810
185	310,546
186	384,473
187	364,002
188	669,899
189	1,011,148
190	955,308
191	681,007
192	424,277
193	930,226
194	318,905
195	381,929
196	969,910
197	129,104
198	170,100

Lot No.	TCT No.
199	663,989
200	755,899
201	1,029,835
202	526,806
203	455,779
204	445,676
205	149,219
206	521,139
207	731,565
208	704,779
209	742,711
210	412,789
211	707,427
212	630,229
213	649,198
214	941,662
215	659,852
216	583,172
217	872,888
218	183,329
219	375,653
220	980,778
221	318,766
222	1,033,926
223	678,389
224	1,030,544
225	399,101
226	934,885
227	984,011
228	366,024
229	686,366
230	280,458
231	599,202
232	134,036
233	191,095
234	184,796
235	604,269
236	619,145
237	490,587



**Exhibit "1"**  
**Ahuimanu Homeowners Association**

<b>Lot No.</b>	<b>TCT No.</b>
238	772,043
239	818,098
240	1,005,796
241	337,537
242	1,031,576
243	778,891
244	967,556
245	676,151
246	892,656
247	490,444
248	283,375
249	1,022,510
250	180,199
251	1,013,835
252	799,740
253	520,431
254	269,953
255	418,891
256	995,559
257	188,983
258	114,503
259	114,503
262	383,423
263	1,030,177
264	899,962
265	411,334
266	906,404
267	584,980
260A	114,503
261A	850,511
261B	671,449
A	264,905
B	264,905
C	264,905
D	264,905
E	264,905
F	264,905
G	264,905
H	264,905

<b>Lot No.</b>	<b>TCT No.</b>
J	264,905
K	264,905
L	264,905
M1	383,423
N	383,423