

559



R-311 STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
AUG 08, 2002 08:01 AM
Doc No(s) 2002-138595



/s/ CARL T. WATANABE
ACTING
REGISTRAR OF CONVEYANCES

79 1/4 Z6

W

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail () Pickup (✓) To:

THOMAS D. WELCH, JR.
Mancini, Welch & Geiger LLP
33 Lono Avenue, Suite 470
Kahului, Hawaii 96732

TG: 200234954

TGE: A22640161 0
LYNN SUEDA

1 R/S

tdw.67212.6/August 1, 2002
TMK (2) 4-8-3:10, 69 and 76

Total Number of Pages: 79

Olowalu Mauka

Declaration of Covenants, Conditions and Restrictions

Declarant: Olowalu Elua Associates LLC
173 Ho'ohana Street
Kahului, Hawaii 96732

OLOWALU MAUKA

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

TABLE OF CONTENTS

1.	RECITALS	-1-
2.	DEFINITIONS	-1-
	2.01 Declarant	-1-
	2.02 Declaration	-1-
	2.03 Committee	-1-
	2.04 Common Area	-1-
	2.05 Association	-2-
	2.06 Property and Lot	-2-
	2.07 Neighborhood and Olowalu Mauka	-2-
	2.08 Owner	-2-
	2.09 Plan	-2-
	2.10 Utility	-2-
3.	COVENANTS	-2-
	3.01 Permitted Uses	-2-
	3.02 Animal Control	-3-
	3.03 Vehicles and Parking	-3-
	3.04 Nuisances	-3-
	3.05 Maintenance of Structures, Properties and Drainage Areas	-3-
	3.06 Irrigation System Plan	-4-
	3.07 Hazardous Materials	-4-
	3.08 Refuse and Building Materials	-4-
	3.09 Exterior Lighting	-4-
	3.10 Grading and Drainage	-4-
	3.11 Completion of Construction	-4-
	3.12 Easement Areas	-5-
	3.13 Signs	-5-
	3.14 Utilities	-5-
	3.15 Building Height	-5-
	3.16 Reflective Materials	-5-
	3.17 Temporary Structures	-5-
	3.18 Septic	-5-
	3.19 Further Additions and Divisions of Properties	-5-
	3.20 Timeshares	-5-
	3.21 Community Gate	-6-
	3.22 Cultural Reserve Buffer	-6-

3.23	Native and Endangered Species	-6-
3.24	Compliance With Design Standards and Laws	-6-
3.25	Rock Piles	-6-
4.	ARCHITECTURAL CONTROLS	-6-
4.01	Purpose	-6-
4.02	Restriction and Scope	-6-
4.03	Composition of Architectural Design Committee	-7-
4.04	Standards and Procedures of the Architectural Design Committee	-7-
4.05	Responsibility	-8-
4.06	Variances	-8-
4.07	No Protection of Views	-8-
4.08	Design Standards	-9-
5.	ASSOCIATION	-9-
5.01	Membership	-9-
5.02	Government and Control of Common Areas	-10-
5.03	Common Expenses	-10-
5.04	Rules and Regulations	-11-
5.05	Declarant's Control	-11-
6.	EASEMENTS	-11-
6.01	Easements Shown on Plan	-11-
6.02	Encroachments	-11-
6.03	Additional Easements	-12-
7.	ROADS	-12-
7.01	Use	-12-
7.02	Responsibility	-13-
7.03	Conveyance to the County	-13-
8.	NUISANCES FROM AGRICULTURAL AND DEVELOPMENT OPERATIONS	-13-
8.01	Operations	-13-
9.	WATER SYSTEM	-14-
9.01	Potable Water	-14-
9.02	Irrigation (Non-Potable) Water	-14-
10.	ADDITIONAL LOTS	-14-
10.01	Addition of Lots	-14-
11.	ADMINISTRATIVE PROVISIONS	-14-
11.01	Right to Abate Violations	-14-
11.02	Resolution of Disputes Between Owners of Properties	-14-

11.03 Duration of Covenants -15-
11.04 Amendment of Covenants -15-
11.05 Severability -16-
11.06 Perpetuities -16-
11.07 Notice of Sale or Transfer of Title -16-
11.08 Records of Ownership and Notices -16-

Declaration of Covenants, Conditions and Restrictions

This Declaration is dated as of this 15th day of July, 2002, and is executed by Olowalu Elua Associates LLC, whose principal place of business is 173 Hoohana Street, Kahului, Maui, Hawaii 96732 (the "Declarant").

1. RECITALS

The land to which this Declaration applies consists of fourteen (14) agricultural lots, one road lot and several easements, all as described in Exhibit A hereto. The subdivision is known as the "Olowalu Mauka". This Declaration and each covenant will run with the land and will be binding upon and will inure to the benefit of each subdivided lot within said land (except road and widening lots if any, which shall be dedicated after to a governmental body) and all of its successive owners and occupants.

It is the Declarant's intention to create a common development plan, enforceable by the Declarant or any property owner within the said land, in accordance with this Declaration. The acceptance of a deed, Agreement of Sale, lease or other conveyance by any person of any property or any interest in any property within the subdivision shall constitute acceptance of these covenants, regardless of whether or not said instrument is expressly made subject hereto. This Declaration shall be binding upon and enforceable against each owner, purchaser, tenant and occupant of all or any part of said land, including each Property (defined in Section 2.06 below) and their respective successors in interest; and shall be deemed incorporated in each deed, lease or other instrument by which any right, title or interest in Olowalu Mauka or any Property is granted, devised or conveyed, whether or not expressly referred to therein.

2. DEFINITIONS

The following terms shall have the following meanings:

2.01 "Declarant" means Olowalu Elua Associates LLC and its successors, assigns or designees who may be identified as such in an instrument executed by Declarant (or a successor or assign of Declarant), to be recorded in the Bureau of Conveyances of the State of Hawaii.

2.02 "Declaration" means this Declaration of Covenants, Conditions and Restrictions as it may be amended from time to time.

2.03 "Committee" is defined in Section 4.02.

2.04 "Common Area" means (i) Roadway Lot 38 if and so long as said road shall not have been dedicated to and accepted by the County of Maui; (ii) designated waterlines not owned by the water provider which serve more than one lot or the subdivision as a whole; (iii) non-exclusive Easements 1, 5, 6 and 7 for roadway and utility purposes, (subject to the rights of others entitled thereto and subject to the terms and

conditions of each easement; (iv) greenway areas which the Declarant may designate in the future, either under the exclusive ownership and control of the Association or by non-exclusive easement or agreement to implement the sharing of use and costs with one or more other subdivisions, developments or associations; (v) all other areas within one or more Properties to be designated by Declarant and comprising landscaping easements, drainage easements or utility easements for the benefit of one or more other Properties, the common areas or Olowalu Mauka as a whole or as may be required by governmental authorities; and (vi) such other assets, properties, facilities, and property rights, if any, which may in the future be designated as Common Area by Declarant or transferred to or acquired by the Association (defined below).

2.05 "Association" shall mean the Olowalu Mauka Homeowners Association, Inc., a Hawaii non-profit corporation, as more particularly described in Article 5 below, and any other association referred to in Section 5.01.

2.06 "Property" and "Lot" means each of the fourteen (14) subdivided Lots numbered 1 through 14, described on the Plan and any other lots which may be added to this Declaration by Declarant in its discretion.

2.07 "Neighborhood" and "Olowalu Mauka" mean Olowalu Mauka Subdivision as described on the Plan and as it may be altered or enlarged from time to time, including any future development phase or other subdivisions annexed to the subdivision, and including but not limited to all Properties and all roads and other Common Areas (whether now or in the future designated as such).

2.08 "Owner" of a Property means any person (including Declarant) who owns a fee simple interest in said Property, and any person to whom all rights as Owner (including voting) shall have been transferred by means of (a) a deed, (b) a lease of said Property for a period in excess of 5 years, or (c) an agreement of sale which transfers all rights of possession and occupancy; provided, however, that in each such case the transferee of said rights will not be recognized as an "Owner" by the Association unless a written notice of transfer is filed in the official ownership records of the Association maintained by the Board of Directors.

2.09 "Plan" means the subdivision plat entitled "Olowalu Mauka Subdivision" dated April 25, 2002, by R.T. Tanaka Engineers, Inc., as approved by the County of Maui as the same may be amended from time to time.

2.10 "Utility" includes electricity, telephone, cable television, water and any other existing or future use normally considered a utility.

3. COVENANTS

3.01 Permitted Uses. Olowalu Mauka is an agricultural subdivision and shall be subject to the Hawaii Right to Farm Act, HRS Chapter 165. Agricultural use is encouraged and all lots may legally be used for agricultural uses including farm dwellings,

orchards, crops, ranching and other productive agricultural pursuits, all as permitted by the County of Maui Zoning Ordinance as amended from time to time, except the following activities which shall be prohibited to the extent that such prohibition shall not be restricted by the Hawaii Right to Farm Act or other provision of State or County law:

- (a) The raising or storage of pigs or roosters for any purpose;
- (b) The slaughtering, smoking or curing of animals; or
- (c) Any use prohibited by any other section of this Article 3.

All buildings and structures shall comply with all applicable County of Maui Codes and Regulations.

3.02 Animal Control. All animals will be confined to the borders of their Owner's Property at all times when out of doors and shall be controlled so as not to disturb any occupant of the neighborhood.

3.03 Vehicles and Parking. Vehicles which become inoperable and outside of an enclosed garage must be removed from the property or promptly placed within an enclosed garage within two weeks of becoming inoperable. School buses, heavy trucks and heavy non-agricultural equipment shall not be parked on any Property except on a temporary basis in connection with construction or site work being conducted on said Property.

3.04 Nuisances. No noxious or offensive activity shall be carried on upon any Property, nor shall anything be done on any Property which may be or may become an annoyance or nuisance to any occupants of the Neighborhood, including but not limited to activities (other than normal and reasonable agricultural activities) which cause unreasonable noise, dust, or odors or unreasonably violate privacy or violate any applicable laws, rules or regulations. It is understood that this restriction shall not, however, apply to Declarant or its successor as developer of said land with respect to noise, dust or inconvenience caused by the construction of roads, utilities or other improvements or to the grading of, or construction of buildings on, any lot, provided that such activities are carried on with reasonable safeguards consistent with normal industry practices and standards. See also Section 3.01 concerning the Hawaii Right to Farm Act and Section 8.01 concerning the non-liability of Declarant and others for development and agriculture nuisances.

3.05 Maintenance of Structures, Properties and Drainage Areas. All structures located on each Property shall be kept in attractive condition, in good order and repair, and free from visible deterioration. Whether vacant or improved with a dwelling each Property shall be irrigated and kept green with healthy vegetation (except during periods immediately following harvest) consistent with sound and prudent soil, conservation and agricultural maintenance practices. The Owner of each Property will maintain any drainage area on the Property in accordance with all County of Maui requirements and will

refrain from dumping vegetation waste or other debris therein and shall keep said area free of buildings, paving and obstructions which would reduce or interfere with its operation as a drainage facility.

3.06 Irrigation System Plan. Attached hereto as Exhibit D is the current version of Declarant's Irrigation System Plan, as required by the County of Maui. Declarant shall not be obligated to provide non-potable water for irrigation, but if in Declarant's discretion Declarant does so, all Owners will be bound by said plan. The Declarant reserves the right to change said plan from time to time as the irrigation and non-potable water system is implemented and operated, the requirements of regulatory authorities may change, the needs and requirements of system operations may dictate, and other developments to be served by the system shall require. Declarant shall obtain all necessary governmental approvals for each such change and shall notify the Association of each such change. Declarant may delegate this authority to any entity to which the system or its operation may be transferred or delegated.

3.07 Hazardous Materials. No Owner shall use, generate, store or dump any hazardous materials on any Property or in any other portion of the Neighborhood. "Hazardous materials" means those materials and substances which are identified as hazardous, toxic or otherwise regulated under applicable federal, state or local environmental laws, rules or regulations.

3.08 Refuse and Building Materials. Trash, garbage and domestic waste shall not be kept on any Property except in containers, stored inside the dwelling or enclosed garage and not visible from any street or other Property. Agricultural waste shall be managed and maintained in a prudent and responsible manner consistent with Section 3.04 above. No new or used building materials shall be stored on any Property except during active construction and all construction waste will be removed promptly after construction is complete. No Property shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste.

3.09 Exterior Lighting. All exterior lights shall be appropriately screened so as not to cause any unreasonable glare visible from adjoining Properties or roads and so as to prevent harm to the shearwater and other seabirds. The detailed exterior lighting standards, approved by the County of Maui, are attached hereto as Schedule 1 to Exhibit B to this Declaration, and incorporated by reference herein.

3.10 Grading and Drainage. No Owner of any Property will alter the grade or topography of any Property in a manner which would materially increase or change the location or direction of the flow of drainage from the Property to any adjoining Property or to any road. Owners are required to retain on site any additional drainage created by improvements to their Property.

3.11 Completion of Construction. Once the construction of any building or structure on a Property has commenced, said building or structure shall be pursued in

good faith and with due diligence to completion within the shortest reasonable time and in all events said building or structure and all surrounding grass, planted areas and other landscaping shall be completed not later than 18 months from the date of commencement.

3.12 Easement Areas. No buildings or other structures shall be built within any area labeled on the Plan as easements for landscaping, setbacks, water, drainage, electricity, telephone, CATV or other utilities.

3.13 Signs. Signs shall be prohibited except (a) Declarant's signs in connection with the construction, promotion and sale of Olowalu Mauka; (b) not more than one standard broker's-type "for sale" sign on a Property in connection with resale of said Property; (c) subdivision and road identification signs installed by the Declarant or the Board of Directors of the Association and approved by Declarant; and other signs permitted under the Design Guidelines.

3.14 Utilities. All utilities within Olowalu Mauka and within each Property shall be underground, except for overhead lines existing on the date of this Declaration.

3.15 Building Height. The height of any building or structure on a property shall not exceed 30 feet above finished grade.

3.16 Reflective Materials. No building, improvement or structure located on any lot shall have a roof consisting of a highly reflective material or incorporate mirrored glass on the exterior of such building, improvement or structure.

3.17 Temporary Structures. No temporary buildings or structures, sheds, tents or trailers of any kind shall be erected or permitted to remain on any Property except during periods of construction and only incidental to construction.

3.18 Septic. The Owner of each Property shall be responsible for installing, operating, maintaining, repairing and replacing the septic system on his or her lot, which shall comply with all applicable laws, rules and regulations. Aerobic systems shall be required for all systems located within one thousand feet (1000') of a well.

3.19 Further Additions and Divisions of Properties. Declarant reserves the right to add additional Properties to this Declaration. See Section 11.04 below.

This Declaration hereby prohibits the division of ownership of any Property by further subdivision into smaller lots or submission of a Property to a Condominium Property Regime under HRS Chapter 514A or any successor statute or by any other method of division.

3.20 Timeshares. No timesharing plans as defined in HRS Chapter 514E or any successor statute or any comparable Maui County Ordinance shall be permitted.

3.21 Community Gate. An entry gate may be installed within the main access road in the subdivision at the option of the Association provided that the decision to install and maintain such gate shall be approved by the affirmative vote or written consent of a majority of the Properties in Olowalu Mauka. Said gate, if so installed, shall be a common area of Olowalu Mauka and shall be maintained and operated by the Association as a common expense of the Neighborhood.

3.22 Cultural Reserve Buffer. Lots 6, 7 and 8 are subject to a buffer/setback 30 feet deep along their common boundary with the Cultural Reserve Easement "23". No dwellings or other structures may be constructed within the 30 foot buffer except a boundary wall which may not exceed four feet in height.

3.23 Native and Endangered Species. [INTENTIONALLY OMITTED]

3.24 Compliance With Design Standards and Laws. All structures, shall comply with (a) the Design Standards attached hereto as Exhibit B as they may be amended by the Declarant from time to time and (b) all applicable laws, rules and regulations. Where requirements in this Declaration are more stringent than applicable laws, rules and regulations, the requirements in this Declaration shall govern.

3.25 Rock Piles. Rock piles on Lots 3, 7, 9, 10 and 12 were built up from the sugarcane plantation days. Owners will have the sole discretion as to the disposition of the rock piles to include using it for terracing. However, no structures or landscaping can be built or planted on said rock pile higher than three feet above the level of the pile as it exists on the date of this Declaration.

4. ARCHITECTURAL CONTROLS.

4.01 Purpose. The purpose of the architectural controls set forth in this Article 4 is not to regulate all details of an owner's construction and landscaping activity, but instead is to give the Declarant the means to attempt in its discretion to avoid strange, jarring or inappropriate structures being initially developed within Olowalu Mauka which may be out of harmony with Olowalu Mauka as a whole. It is hoped that all concerned will cooperate in this process with the mutual objective of protecting property values and the general appearance of the neighborhood. The power to exercise these controls is reserved to the Declarant and may be exercised and delegated at Declarant's option only.

4.02 Restriction and Scope. No structure which is or will be visible from a road or from any other Property may be constructed without the prior written approval of the Design Review Committee (defined below, and hereinafter called the "Committee"); and no such feature, once built, may be externally remodeled, or otherwise visually altered to any material extent without the prior written approval of the Committee. The Owners of each Property shall comply with and abide by all proposals, plans and specifications submitted to and approved by the Committee with respect to said Property. The term "structure" includes a building, any addition or expansion, pool, fence, wall, and any other

man-made item located on or above the surface of the ground which may be visible from any road or other Property, and also includes any pavement of a driveway, parking area, lanai or open patio.

Notwithstanding the foregoing, the following shall not be subject to prior written approval of the Committee under this Article 4: (a) the construction, remodeling or change of any structure by the Declarant (or any successor as developer of all or part of Olowalu Mauka) as part of the development or initial sale of Olowalu Mauka; (b) the construction, remodeling or change of any structure by the Association of any Common Area facilities and (c) the repair or reconstruction of a damaged structure in accordance with plans previously approved for the original structure or the repainting of a structure in accordance with a previously approved color and color scheme.

4.03 Composition of Architectural Design Committee. The Declarant, or any person or persons whom the Declarant in its sole discretion may designate, shall serve as the Architectural Design Committee until the date, if any, on which the Declarant (or Declarant's assignee) shall, in its sole discretion, notify the Board of Directors of the Association or the owners of all Properties that the Declarant (or said designee) assigns the Architectural Design Committee's function to the Association, after which time the Board of Directors shall act as the Design Review Committee. At all times there shall be a licensed architect on the Architecture Design Committee or retained by it as a consultant.

4.04 Standards and Procedures of the Architectural Design Committee. All proceedings by the Architectural Design Committee shall be conducted in an orderly manner and a reasonable record of all proceedings shall be maintained.

All applications for approval of the Architectural Design Committee shall be accompanied by plans, specifications and other supporting material which shall be detailed and complete to the point which would, in the Architectural Design Committee's reasonable judgment, enable it to adequately understand and evaluate the location and appearance of the planned work. The Architectural Design Committee shall engage one or more architects, engineers or other professionals (including any architect service on the Committee and who renders his or her professional services) to assist in its deliberations and review and process of applications and may assess to the applicant all reasonable costs and fees incurred. The Architectural Design Committee shall have the right to refuse to consider any application unless and until the application shall have been completed, and no application to said Committee shall be deemed completed until all materials shall have been received by said Committee in accordance with the Design Standards and all rules and requests of said Committee, all requests and rules of said Committee shall have been complied with, and all assessments shall have been paid.

The Architectural Design Committee may in its discretion adopt reasonable rules and regulations to govern its procedures and requirements as it may deem appropriate from time to time.

The approval of the Architectural Design Committee shall not be withheld unreasonably, provided that the following conditions are met: (a) the proposal complies with all terms and conditions of this Declaration; (b) the proposal conforms to the Design Standards attached hereto as Exhibit B as they may be amended from time to time (or conforms to any variance granted by the Architectural Design Committee), and (c) the appearance of the proposed structure, alteration, addition or treatment is not likely to be out of harmony or out of scale or visually inconsistent with the rest of Olowalu Mauka. Any decision of the Architectural Design Committee which involves a subjective conclusion as to taste or aesthetics (such as matters referred to in clauses (b) or (c) in the preceding sentence which require an opinion or judgment) shall be final and binding on all concerned and shall not be appealable to any court or tribunal (but any such decision may be reconsidered by the Architectural Design Committee in its sole and absolute discretion).

4.05 Responsibility. The members of the Architectural Design Committee shall not be personally liable, and the Architectural Design Committee itself and Declarant shall not be liable, for any of their or its acts or omissions in connection with the performance of (or failure to perform) any duties hereunder so long as such actions or omissions were grounded in the belief that such actions or omissions were in the best interests of Olowalu Mauka or the Declarant.

Neither the Declarant, the Association, its Board of Directors, nor the Architectural Design Committee (nor the agents, officers, members or affiliates of any of them) shall be held liable for any injury, loss or damages arising out of or in any way connected with the integrity, quality or execution of any construction or design, or the failure of any construction or design to comply with any laws, rules or regulations, or the failure to approve or to require the approval of any structure.

4.06 Variations. The Architectural Design Committee in its sole discretion may grant variances from the strict requirements of the Design Standards in individual cases if said Committee determines that (a) strict compliance would result in an undue hardship or would serve no reasonable purpose, and (b) the structure, alteration or addition, or its location, as proposed, complies with the general spirit and intent of the Design Standards and this Declaration. The Architectural Design Committee's discretion to grant or withhold a variance in any particular case shall be solely within the Committee's discretion, shall be binding on all parties and shall not be appealable, and shall not bind said Committee as precedent in any other case.

4.07 No Protection of Views. No Property shall have any vested rights or easements for the protection of any view from said Property and the Declarant makes no warranties or representations of any kind to the buyer, owner or occupant of any Property concerning the extent, attractiveness or protection of any view over any Property or Common Area from any other Property or Common Area. The Architectural Design Committee shall have no obligation to consider the protection of views in any case before it (including both original applications or variance applications) unless a formal written view easement shall have been specifically granted by the Owner(s) of any Property in favor of

the applicant before the Committee and said easement shall have been recorded in the Bureau of Conveyances of the State of Hawaii and a true copy delivered to the Architectural Design Committee with the application. However, the Architectural Design Committee shall have the unilateral right, in its sole discretion, to consider views in approving proposed structures, improvements, topographical changes, landscaping and trees.

4.08 Design Standards. The Design Standards attached hereto as Exhibit B are hereby adopted by the Declarant as the Design Standards for Olowalu Mauka. They shall apply to all Properties except where variances are granted in individual cases as provided in Section 4.06 above. The Design Standards may be amended from time to time by the Declarant provided that no amendment shall be inconsistent with, or have the express or implied effect of superseding the body of this Declaration of Covenants, Conditions and Restrictions (as it may be amended by the Association under Section 8.04 below). The Declarant shall give notice of all proposed amendments to all lot owners (as shown on the records of the Association) and a reasonable opportunity to comment, all in accordance with reasonable procedural rules implemented by the Architectural Design Committee from time to time. Said power to amend may be exercised by any person or entity, including the Association, to which the Declarant may, in its discretion, assign said power in the future.

No amendment to the Design Standards or this Declaration shall apply to any structure which shall have been previously approved by the Architectural Design Committee and the construction or placement of which (in accordance with said approval) has commenced or will, in the reasonable judgment of the Architectural Design Committee, be commenced by the Owner in good faith without undue delay.

5. ASSOCIATION

5.01 Membership. The Owners of each Property shall automatically be members of the Olowalu Mauka Association, Inc., a Hawaii nonprofit corporation and said membership will be mandatory.

In each case, the said membership in the Association may be transferred or encumbered only with and to the same extent as the Property to which it is appurtenant is transferred or encumbered. In the event fee title to a Property is transferred without mention of said membership, said membership shall be deemed to be automatically transferred with said Property. Also, see Section 2.08 concerning the recognition of certain other persons as "Owners."

In the Declarant's discretion, one or more additional associations may be formed for the purpose of holding, controlling, managing and operating roads, open areas, public areas, utility services, utility distribution systems, drainage facilities and other facilities which shall serve or be associated with other subdivisions or developments at Olowalu or nearby areas and which shall also serve or be associated with Olowalu Mauka.

In this event the term "the Association" as used in this Declaration shall also include any such association in addition to Olowalu Mauka Association, Inc.

Similarly, the Declarant in its discretion may expand the scope, functions and membership of Olowalu Mauka Association, Inc. to include common areas, properties and members outside of Olowalu Mauka, regardless of whether or not contiguous.

5.02 Government and Control of Common Areas. The Association shall hold, control, manage and operate, as a common expense, all Common Areas and facilities, from and after the time when ownership or use thereof shall have been transferred to the Association (or the Association acquires rights with respect thereto), and may exercise all reasonable management rights, powers and authority with respect thereto including, but not limited to, (a) the power to enter into contracts for, or otherwise to implement, the maintenance, operation, repair, replacement and sale of such assets and facilities; (b) the power to maintain appropriate casualty and liability insurance; and (c) the power to adopt, implement and enforce reasonable rules and regulations to govern the orderly use and operation thereof. In each case where a Common Area is in the form of a non-exclusive easement, the Association's dominion, control and authority shall be subject to the terms, conditions and restrictions of said easement. All such dominion, control and authority of the Association shall automatically cease and terminate with respect to any road, water line or sewer line, or other facility, the responsibility of which shall be accepted by the County of Maui or other governmental authority or any regulated public utility. NOTE: THE COUNTY OF MAUI HAS NOT AGREED TO ACCEPT ANY SUCH ROADS, LINES OR FACILITIES, AND DECLARANT DOES NOT WARRANT OR REPRESENT THAT ANY SUCH ACCEPTANCE WILL OCCUR IN THE FUTURE.

5.03 Common Expenses. Each Property shall be subject to the obligation to pay all assessments for common expenses assessed to said Property by the Association in accordance with the Articles of Incorporation and Bylaws thereof. The Association, by its Board of Directors, may enforce and collect each such assessment (together with all legal fees and expenses of enforcement) by legal proceedings to enforce such obligation. All amounts so owed shall be a lien on the Property obligated. Said lien may be enforced by judicial foreclosure or power of sale in the same manner as a mortgage is enforced under Hawaii law, as amended from time to time. The Association may file a notice of said lien in the State of Hawaii Bureau of Conveyances, but said filing shall not be a prerequisite to the perfection of said lien. In addition to, and without limiting said lien and foreclosure, the Association may obtain an ex parte attachment or Lis Pendens against the delinquent Property or its owners.

Said lien or attachment, however, shall be junior and subordinate in lien priority to the lien of any mortgage or other encumbrance which shall have been in existence and duly recorded in said Bureau of Conveyances prior to the date the Association's notice of lien, attachment or pending litigation is recorded.

5.04 Rules and Regulations. The Association acting through its Board of Directors (and in the Board of Directors' discretion) shall have the power to adopt, amend and enforce reasonable rules and regulations for (a) the reasonable and orderly use of roads and other common areas and facilities, if any, (b) the clarification, implementation and enforcement of the covenants and restrictions contained in Sections 3.01 through 3.25 including (by way of example) the establishment and collection of fines for violations) and (c) the clarification, implementation and enforcement of any other provisions of this Declaration.

5.05 Declarant's Control. Notwithstanding anything herein to the contrary, the Declarant and its appointees shall act in all respects as and on behalf of the Association and its Board of Directors in all matters until the first to occur of the following: (a) the expiration of ten (10) years from the date of recording of this Declaration in the Bureau of Conveyances of the State of Hawaii; or (b) the date on which Declarant notifies the Owners of the Properties of its relinquishment of said authority. The Declarant may in its discretion relinquish said authority either in full at one time or in portions or stages over time during the 10-year period. Upon the expiration or relinquishment of Declarant's control, the Association shall promptly elect a Board of Directors so as to minimize any disruption in the Association's affairs caused by the transition.

6. EASEMENTS.

6.01 Easements Shown on Plan. The Plan specifically describes certain Easements over, across and affecting certain Properties. Each of said Easements is hereby established for those purposes and in those locations ("Easement Areas") which are shown on the Plan. Provided, however that Declarant reserves the right to relocate or eliminate all easements as it deems necessary. Each Easement shall be non-exclusive and shall be for the benefit of (a) the Property or Properties served by such Easement; (b) the Association and its members where so indicated; or (c) the public or private utility provider whose pipes or lines or other facilities are installed within any such Easement. Each Easement shall confer the right to the benefitted Property, person or entity to construct, operate, maintain, repair and replace such improvements and facilities within the Easement Area as may be reasonably necessary or appropriate for the purposes for which the Easement is established as stated on the Plan. Reference is made to Exhibit C listing some of the easements which apply on a lot by lot basis.

All work within each Easement Area shall be conducted in a reasonable and orderly manner, so as to minimize any disturbance to the Owners and occupants of the encumbered Property, and all excavations will be filled in and promptly returned to even grade without unreasonable delay.

6.02 Encroachments. Upon the completion of the installation of any utility line, water line, sewer line, drainage structure, or other facility which is part of the Common Areas, if it is determined that the location of the line, structure or facility inadvertently encroaches on any Property outside of the Easement Area as defined on the Plan, a

nonexclusive, perpetual Easement shall thereafter exist for the maintenance, operation, repair and replacement of such line, structure, or facility in its location as built, provided that its location outside of the Easement Area shall not unreasonably interfere with the reasonable use and enjoyment of the encumbered Property by the Owners and occupants thereof or cause any diminution in value of the encumbered Property.

6.03 Additional Relocation and Elimination of Easements. Declarant hereby reserves for itself and its successors in interest the right to grant and create further easements within the roads and Common Areas of Olowalu Mauka for the purpose of establishing or relocating utility lines, water lines, sewer lines, effluent lines, as well as pumps, controls, access points, meters, poles, anchors, stays and wires or any other equipment necessary or appurtenant thereto, and for establishing any necessary drainage structures or areas.

Declarant further reserves the right to relocate and/or eliminate easements as provided by law and as set forth in paragraph 6.01 above.

In addition, so long as the Declarant owns any portion of the land described on Exhibit A of this Declaration and for a period of ten years thereafter, the Declarant reserves for itself, the Association, and the designees of each (which may include, without limitation, Maui County and any utility provider) access and maintenance easements upon, across, over and under all of the Properties and common areas to the extent reasonably necessary for the purpose of installing, replacing, repairing and maintaining telecommunication systems, roads, walkways, drainage systems, irrigation systems, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, gas, and electricity, and for the purpose of installing any of the foregoing on land which it owns or within easements designated for such purposes on recorded plats of the Properties. Notwithstanding anything to the contrary herein, this easement shall not entitle Declarant or the easement holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any existing dwelling on a Property or cause any material diminution in value of the Property. Any damage to a dwelling or a Property resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the person exercising the easement. The exercise of this easement shall not unreasonably interfere with development or use of any dwelling and, except in an emergency, entry onto any dwelling shall be made only after reasonable notice to the Owner or occupant thereof.

If and when any Easement Area is conveyed to or acquired by any governmental authority as a public highway or road, then all private easement rights granted hereby or in any conveyance document shall automatically terminate.

7. ROADS.

7.01 Use. Except as otherwise limited in this Declaration, a nonexclusive, perpetual easement is hereby granted to the Owners and occupants of all Properties and

their tenants, licensees and visitors for pedestrian and vehicular passage over the roadway lot described on the Plan and any associated easements, together with the nonexclusive right to construct, maintain, improve, operate, repair and replace lines for utility services in or over such roads, all subject to such reasonable rules and regulations as Declarant or the Association (through its Board of Directors) may establish from time to time. Note that the public may have rights of access over some or all of the roads in the neighborhood as may be required by law or the County of Maui.

Also note that Declarant may construct the road within Roadway Lot 38 in increments over time. The easement established by this Section 7.01 shall encumber only that portion of Roadway Lot 38 that shall be so developed from time to time until such time as the physical roadway shall be extended to serve other land. Easements 6 and 7 are established for temporary turnaround purposes which may be terminated by Declarant upon the extension of the physical roadway beyond (to the north) Easements 6 and 7.

Declarant reserves the right to grant additional easements for roadway use and utility purposes over all or any part of the roads within or serving Olowalu Mauka to other subdivisions, lots or users and may in its discretion establish a requirement by which said other subdivisions, lots or users shall bear an equitable or proportionate share of all costs of holding, maintaining, repairing, insuring and operating said roads.

7.02 Responsibility. From and after the date on which each road or related Common Area is available for use by the lot owners (regardless of whether or not it shall have been conveyed to the Association) or such later date as Declarant may determine in its discretion, the Association will assume all responsibilities and liabilities with respect to its use, operation, maintenance and improvement. All costs and expenses will be assessed to and paid by all Properties as common expenses as provided in Section 5.03 above and in the Bylaws of the Association.

7.03 Conveyance to the County. Declarant shall have the authority, without the consent of the Association, to convey to the County of Maui an easement to use, or legal title to, all or any part of any road. If, after Declarant's control shall have ceased as provided in Section 5.05 and title to any road shall have been conveyed to the Association, the Association through its Board of Directors shall decide to convey to the County of Maui the title to all or any part of any road and related facilities or any other common areas and facilities, and the County agrees to accept them, Declarant (or the Association as the case may be) shall execute and deliver such deeds and other documents as shall be necessary or appropriate for the purpose of implementing said conveyance and the transfer of all responsibilities to the County. Upon said transfer becoming effective, all rights and easements established under Section 7.01 shall automatically terminate if thereafter the use of said road shall continue as a public highway.

8. NUISANCES FROM AGRICULTURAL AND DEVELOPMENT OPERATIONS.

8.01 Operations. All Owners and occupants of Properties are hereby notified that certain lands nearby or abutting Olowalu Mauka are or may become zoned to permit residential and agricultural development and agricultural operations and that in the

future, the Owners and occupants may be subject to noise, dust, emissions, traffic and other nuisances in connection with such activities. The developer of said facilities and Declarant (and their respective officers, directors, employees and agents of each) shall not have any liability or responsibility for any such noise, dust, emissions and nuisances. Each Owner of a Property, by taking title to said Property, thereby waives all such rights and claims.

9. WATER SYSTEM.

9.01 Potable Water. The potable water system for Olowalu Mauka will be provided by a water system which is shared by this and other subdivisions in the area and which is owned and operated by Olowalu Water Company LLC, a regulated public utility, or its successors in interest. The owners and occupants of each Property shall pay all water rates and assessments charged by said water company from time to time and shall comply with the PUC Tariff and all other applicable rules and regulations.

9.02 Irrigation (Non-Potable) Water. Refer to the Irrigation System Plan described in Section 3.06 and in Exhibit D.

10. ADDITIONAL LOTS.

10.01 Addition of Lots. Declarant has the right to add additional lots in Olowalu, and may amend this Declaration unilaterally, from time to time, to add said lots to the "Properties" to which the benefits and burdens of this Declaration shall accrue in accordance with this Declaration. Refer also to Sections 2.06, 3.19 and 11.04.

11. ADMINISTRATIVE PROVISIONS.

11.01 Right to Abate Violations. If any person or entity shall violate or attempt to violate any of the covenants herein contained, any rules or regulations of the Association or any ruling of the Architectural Design Committee, the Owner of any Property (or the Association or the Declarant in its discretion, but in any case without having any affirmative duty to do so) may commence legal action at law or in equity against such person or entity, either to prevent or abate such violation or to recover damages caused by such violation, or both. Such enforcement initiated by the Association must be approved by vote of the Board of Directors at any special or annual meeting. Said damages may expressly include a judgment for all of the plaintiff's costs of suit, including reasonable attorney's fees. The Board of Directors shall have the power to levy and collect fines to enforce against any violations.

11.02 Resolution of Disputes Between Owners of Properties. If a dispute arises between Owners of Properties as to any matter relating to any terms, meaning, application or enforcement of this Declaration, said Owners may, by mutual agreement, refer the matter to the Board of Directors of the Association for nonbinding arbitration (except as otherwise provided in Section 4.04 relating to the finality of certain decisions by

the Architectural Design Committee). The Board of Directors may conduct proceedings to hear and consider both sides of the dispute, in accordance with reasonable procedures to be established by the Board of Directors, and may decide any such matter by majority vote of the Board members in attendance. Any decision in such matter shall be advisory only and shall not pre-empt or restrict either party's rights to pursue legal action in said matter. The Board may, in its discretion, for any reason, refuse to hear any matter referred to it under the terms of this paragraph.

11.03 Duration of Covenants. These covenants shall be binding for a period of fifty (50) years from the date this instrument is recorded in the Bureau of Conveyances of the State of Hawaii. Thereafter, they shall automatically be extended without any documentation or any action of any person or the Association, for successive periods of ten (10) years each unless terminated at the end of said initial 50-year period or at the end of any such successive 10-year period by the affirmative vote or written election of Owners representing not less than 65% of all Properties which are subject to this Declaration, evidenced by an instrument reciting said vote or election, signed and sworn by the Owners of not less than three Properties, and recorded in the Bureau of Conveyances of the State of Hawaii.

11.04 Amendment of Covenants. These covenants may be amended or terminated at any time by the affirmative vote or the written consent of the Owners of not less than 65% of all Properties which are subject to this Declaration. Said amendment shall be effective upon the filing in the Bureau of Conveyances of the State of Hawaii of an instrument which shall (a) recite said amendment; (b) recite that the Owners of not less than 65% of all Properties which are subject to this Declaration voted for, or gave their written approval for, said amendment or termination; and (c) be signed and sworn by the President and Treasurer of the Association or by Owners of not less than 2 Properties.

Notwithstanding the foregoing, this Declaration may not be amended in any event, or at any time, without Declarant's written consent as long as the period of Declarant's control under Section 5.05 shall remain in effect, and thereafter as long as Declarant shall elect to maintain this approval right, unless Declarant shall be dissolved, shall be declared bankrupt, or shall in its sole discretion elect to relinquish said approval by right of written notice signed by Declarant and duly recorded in the State of Hawaii Bureau of Conveyances.

Notwithstanding the foregoing, the Declarant acting unilaterally may amend these covenants at any time and for any purpose within ten years from the date these covenants are recorded in the Bureau of Conveyances of the State of Hawaii. In addition, notwithstanding anything herein to the contrary, the Declarant may from time to time amend these covenants unilaterally without the consent of any Owner or mortgagee of any Property during or after the end of said ten year period, for any of the following purposes:

- (a) to correct any drafting or typographical error;

(b) to comply with (i) any applicable law, rule or regulation of the State of Hawaii or the County of Maui, (ii) any requirement or condition of any governmental agency or (iii) any governmental approval, permit or order affecting the subdivision;

(c) to qualify some or all of the Properties for financing through the Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, or any similar program to facilitate the financing of Properties through any mortgage market or general financing program; or

(d) to annex to this Declaration additional Lots and Common Areas which may be developed in the future in lands abutting or near Olowalu Mauka.

The Declarant's rights reserved under this Section 11.04 may be released by Declarant in its discretion at any time upon Declarant's voluntary relinquishment of said rights by written release recorded in the Bureau of Conveyances of the State of Hawaii.

11.05 Severability. Invalidation of any one or more of these covenants by judgment or court order shall not affect any of the other provisions hereof.

11.06 Perpetuities. If any provision of this Declaration shall be void or voidable for violation of the Rule Against Perpetuities in effect in the State of Hawaii, said provision shall continue only until the end of such period as shall not violate the Rule Against Perpetuities, measured by the lives of the following persons on the date of this Declaration: The members of the United States Senate serving in office on the date of this Declaration, and the descendants of such persons living on the date of this Declaration.


11.07 Notice of Sale or Transfer of Title. Upon the sale or transfer of title to any Property, the transferee shall promptly notify the Board of Directors of the Association in writing of the name of each new Owner of said Property and his or her mailing address and home and business phone numbers.

11.08 Records of Ownership and Notices. The Declarant, the Association and the Architectural Design Committee shall be entitled to rely conclusively on the records of ownership of the Properties provided to the Association pursuant to Section 11.07 and 2.07 above, for all purposes, including, but not limited to, names and addresses for all communications, notices, service of process, approvals, voting and consents, it being the obligation and burden of each Owner of each Property to ensure that the Declarant and the Association have ownership records which are accurate and up-to-date. The Declarant, the Association and the Architectural Design Committee may also conclusively rely, in the sole discretion of each, on the records of ownership and addresses of Owners of each Property as shown on the real property tax records of Maui County in any particular case.

Executed the day and year first above written.

Olowalu Elua Associates LLC

By: Olowalu Land Company, LLC,
Its: Managing Member,




By: Peter K. Martin

Its: Member

STATE OF HAWAII)
) SS:
COUNTY OF MAUI)

On this 5th day of August, 2002, before me personally appeared Peter K. Martin, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.



Notary Public, State of Hawaii
Printed Name: Juanita Charkas
My Commission Expires: 2/7/03

**JUANITA CHARKAS
NOTARY PUBLIC
STATE OF HAWAII**

EXHIBIT "A"

[Description of the 14 Properties and Subdivision,
by Perimeter Metes and Bounds and Lot Numbers]

EXHIBIT "A"

LOT 1

OLOWALU MAUKA SUBDIVISION

AT OLOWALU, LAHAINA, MAUI, HAWAII

BEING PORTIONS OF GRANT 11073,

PART 5 TO PIONEER MILL COMPANY, LIMITED AND

GRANT 4973 TO WALTER M. GIFFARD

Beginning at the Northwest corner of this Lot, being also the Southerly corner of Lot 2, Olowalu Mauka Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KILEA" being 790.87 feet South and 3,189.30 feet East and running by azimuths measured clockwise from True South:

1. 233° 27' 402.35 feet along Lot 2, Olowalu Mauka Subdivision;
2. 346° 35' 30" 658.97 feet along the Government (Crown) Land of Olowalu;
3. 7° 25' 167.18 feet along the Government (Crown) Land of Olowalu;
4. 148° 12' 78.11 feet along the Government (Crown) Land of Olowalu;
5. 71° 10' 94.00 feet along the Government (Crown) Land of Olowalu;
6. 109° 10' 65.00 feet along the Government (Crown) Land of Olowalu;
7. 90° 10' 40.00 feet along the Government (Crown) Land of Olowalu;
8. 77° 50' 55.48 feet along the Government (Crown) Land of Olowalu;
9. 88° 00' 21.65 feet along the Government (Crown) Land of Olowalu;
10. 178° 00' 112.94 feet along Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision;

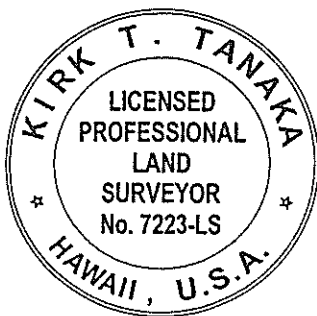
11. Thence, along Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision on a curve to the left with a radius of 730.00 feet, the chord azimuth and distance being: -

160° 43' 30" 433.56 feet

to the point of beginning and containing an area of 5.001 Acres.

TOGETHER with the following Easements:

1. Easement 1, for roadway and utility purposes affecting Lot 18, Olowalu Mauka Subdivision.
2. Easement 2, for roadway and utility purposes affecting Lot 24, Olowalu Mauka Subdivision.
3. Easement 3, for roadway and utility purposes affecting Lot 21, Olowalu Mauka Subdivision.
4. Easement 4, for roadway and utility purposes affecting Lot 23, Olowalu Mauka Subdivision.
5. Easement 6, for roadway and utility purposes affecting Lot 8, Olowalu Mauka Subdivision.
6. Easement 7, for roadway and utility purposes affecting Lot 9, Olowalu Mauka Subdivision.



R. T. TANAKA ENGINEERS, INC.

A handwritten signature in cursive script that reads "Kirk T. Tanaka".

Kirk T. Tanaka
Licensed Professional Land Surveyor
Certificate No. 7223

871 Kolu Street, Suite 201
Wailuku, Hawaii 96793

July 8, 2002

LOT 2

OLOWALU MAUKA SUBDIVISION

AT OLOWALU, LAHAINA, MAUI, HAWAII

BEING PORTIONS OF GRANT 11073,

PART 5 TO PIONEER MILL COMPANY, LIMITED AND

GRANT 4973 TO WALTER M. GIFFARD

Beginning at the Southerly corner of this Lot, being also the Northwest corner of Lot 1, Olowalu Mauka Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KILEA" being 790.87 feet South and 3,189.30 feet East and running by azimuths measured clockwise from True South:

1. Along Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision on a curve to the left with a radius of 730.00 feet, the chord azimuth and distance being:
126° 24' 30" 427.88 feet;
2. Thence, along Lot 3, Olowalu Mauka Subdivision on a curve to the right with a radius of 15.00 feet, the chord azimuth and distance being:
153° 05' 30" 20.74 feet;
3. 196° 49' 264.60 feet along Lot 3, Olowalu Mauka Subdivision;
4. 270° 37' 533.61 feet along Lot 3, Olowalu Mauka Subdivision;
5. 346° 35' 30" 288.24 feet along the Government (Crown) Land of Olowalu;

6. 53° 27' 402.35 feet along Lot 1, Olowalu Mauka Subdivision to the point of beginning and containing an area of 5.530 Acres.

TOGETHER with the following Easements:

1. Easement 1, for roadway and utility purposes affecting Lot 18, Olowalu Mauka Subdivision.
2. Easement 2, for roadway and utility purposes affecting Lot 24, Olowalu Mauka Subdivision.
3. Easement 3, for roadway and utility purposes affecting Lot 21, Olowalu Mauka Subdivision.
4. Easement 4, for roadway and utility purposes affecting Lot 23, Olowalu Mauka Subdivision.
5. Easement 6, for roadway and utility purposes affecting Lot 8, Olowalu Mauka Subdivision.
6. Easement 7, for roadway and utility purposes affecting Lot 9, Olowalu Mauka Subdivision.



R. T. TANAKA ENGINEERS, INC.

A handwritten signature in cursive script that reads "Kirk T. Tanaka".

Kirk T. Tanaka
Licensed Professional Land Surveyor
Certificate No. 7223

871 Kolu Street, Suite 201
Wailuku, Hawaii 96793

July 8, 2002

LOT 3

OLOWALU MAUKA SUBDIVISION

AT OLOWALU, LAHAINA, MAUI, HAWAII

BEING PORTIONS OF GRANT 11073,

PART 5 TO PIONEER MILL COMPANY, LIMITED AND

GRANT 4973 TO WALTER M. GIFFARD

Beginning at the Southwest corner of this Lot, on the Northerly side of Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KILEA" being 526.27 feet South and 2,812.23 feet East and running by azimuths measured clockwise from True South:

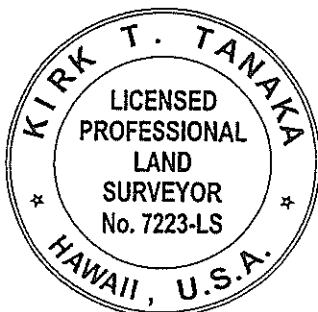
1. 196° 49' 278.86 feet along Lot 25, Olowalu Mauka Subdivision;
2. 192° 54' 683.75 feet along the Government (Crown) Land of Olowalu;
3. 282° 54' 258.80 feet along the Government (Crown) Land of Olowalu;
4. 346° 35' 30" 637.64 feet along the Government (Crown) Land of Olowalu;
5. 90° 37' 533.61 feet along Lot 2, Olowalu Mauka Subdivision;
6. 16° 49' 264.60 feet along Lot 2, Olowalu Mauka Subdivision;
7. Thence, along Lot 2, Olowalu Mauka Subdivision on a curve to the left with a radius of 15.00 feet, the chord azimuth and distance being:
333° 05' 30" 20.74 feet;

8. Thence, along Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision on a curve to the left with a radius of 730.00 feet, the chord azimuth and distance being:
- 108° 01' 34.40 feet
- to the point of beginning and containing an area of 6.111 Acres.

SUBJECT HOWEVER to existing Easement M-1 for transmission line purposes in favor of Maui Electric Company, Limited.

TOGETHER with the following Easements:

1. Easement 1, for roadway and utility purposes affecting Lot 18, Olowalu Mauka Subdivision.
2. Easement 2, for roadway and utility purposes affecting Lot 24, Olowalu Mauka Subdivision.
3. Easement 3, for roadway and utility purposes affecting Lot 21, Olowalu Mauka Subdivision.
4. Easement 4, for roadway and utility purposes affecting Lot 23, Olowalu Mauka Subdivision.
5. Easement 6, for roadway and utility purposes affecting Lot 8, Olowalu Mauka Subdivision.
6. Easement 7, for roadway and utility purposes affecting Lot 9, Olowalu Mauka Subdivision.



R. T. TANAKA ENGINEERS, INC.

Kirk T. Tanaka

Kirk T. Tanaka
 Licensed Professional Land Surveyor
 Certificate No. 7223

871 Kolu Street, Suite 201
 Wailuku, Hawaii 96793

July 8, 2002

LOT 4

OLOWALU MAUKA SUBDIVISION

AT OLOWALU, LAHAINA, MAUI, HAWAII

BEING A PORTION OF GRANT 4973 TO WALTER M. GIFFARD

Beginning at the Southeast corner of this Lot, on the Northerly side of Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KILEA" being 506.70 feet South and 2,729.62 feet East and running by azimuths measured clockwise from True South:

1. 100° 00' 168.88 feet along Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision;
2. Thence, along Lot 6, Olowalu Mauka Subdivision on a curve to the left with a radius of 560.00 feet, the chord azimuth and distance being:

91° 25' 50" 166.89 feet;
3. Thence, along Lot 6, Olowalu Mauka Subdivision on a curve to the right with a radius of 30.00 feet, the chord azimuth and distance being:

125° 25' 50" 40.59 feet;
4. Thence, along Lot 6, Olowalu Mauka Subdivision on a curve to the left with a radius of 187.74 feet, the chord azimuth and distance being:

148° 45' 123.79 feet;
5. 219° 30' 502.89 feet along Lot 5, Olowalu Mauka Subdivision;
6. 304° 00' 127.44 feet along Lot 25, Olowalu Mauka Subdivision;
7. 336° 10' 05" 128.70 feet along Lot 25, Olowalu Mauka Subdivision;

8. Thence, along Lot 25 Olowalu Mauka Subdivision on a curve to the right with a radius of 350.00 feet, the chord azimuth and distance being:

5° 25' 02.5" 342.03 feet

9. 34° 40' 26.02 feet along Lot 25, Olowalu Mauka Subdivision to the point of beginning and containing an area of 4.060 Acres.

TOGETHER with the following Easements:

1. Easement 1, for roadway and utility purposes affecting Lot 18, Olowalu Mauka Subdivision.
2. Easement 2, for roadway and utility purposes affecting Lot 24, Olowalu Mauka Subdivision.
3. Easement 3, for roadway and utility purposes affecting Lot 21, Olowalu Mauka Subdivision.
4. Easement 4, for roadway and utility purposes affecting Lot 23, Olowalu Mauka Subdivision.
5. Easement 6, for roadway and utility purposes affecting Lot 8, Olowalu Mauka Subdivision.
6. Easement 7, for roadway and utility purposes affecting Lot 9, Olowalu Mauka Subdivision.



R. T. TANAKA ENGINEERS, INC.

A handwritten signature in cursive script, appearing to read "Kirk T. Tanaka".

Kirk T. Tanaka
Licensed Professional Land Surveyor
Certificate No. 7223

871 Kolu Street, Suite 201
Wailuku, Hawaii 96793

July 8, 2002

LOT 5

OLOWALU MAUKA SUBDIVISION

AT OLOWALU, LAHAINA, MAUI, HAWAII

BEING A PORTION OF GRANT 4973 TO WALTER M. GIFFARD

Beginning at the Westerly corner of this Lot, being also the Southerly corner of Lot 6, Olowalu Mauka Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KILEA" being 119.94 feet South and 1,956.61 feet East and running by azimuths measured clockwise from True South:

1. 213° 00' 506.59 feet along Lot 6, Olowalu Mauka Subdivision;
2. 304° 00' 466.25 feet along Lot 25, Olowalu Mauka Subdivision;
3. 39° 30' 502.89 feet along Lot 4, Olowalu Mauka Subdivision;
4. Thence, along Lot 6, Olowalu Mauka Subdivision on a curve to the left with a radius of 187.74 feet, the chord azimuth and distance being:
126° 15' 21.29 feet
5. 123° 00' 388.00 feet along Lot 6, Olowalu Mauka Subdivision to the point of beginning and containing an area of 5.053 Acres.

SUBJECT HOWEVER to Easement 25 for drainage purposes in favor of Lot 25, Olowalu Mauka Subdivision.

TOGETHER with the following Easements:

1. Easement 1, for roadway and utility purposes affecting Lot 18, Olowalu Mauka Subdivision.
2. Easement 2, for roadway and utility purposes affecting Lot 24, Olowalu Mauka Subdivision.

37

3. Easement 3, for roadway and utility purposes affecting Lot 21, Olowalu Mauka Subdivision.
4. Easement 4, for roadway and utility purposes affecting Lot 23, Olowalu Mauka Subdivision.
5. Easement 5, for roadway and utility purposes affecting Lot 8, Olowalu Mauka Subdivision.
6. Easement 6, for roadway and utility purposes affecting Lot 8, Olowalu Mauka Subdivision.
7. Easement 7, for roadway and utility purposes affecting Lot 9, Olowalu Mauka Subdivision.



R. T. TANAKA ENGINEERS, INC.

A handwritten signature in cursive script that reads "Kirk T. Tanaka".

Kirk T. Tanaka
Licensed Professional Land Surveyor
Certificate No. 7223

871 Kolu Street, Suite 201
Wailuku, Hawaii 96793

July 8, 2002

LOT 6

OLOWALU MAUKA SUBDIVISION

AT OLOWALU, LAHAINA, MAUI, HAWAII

BEING A PORTION OF GRANT 4973 TO WALTER M. GIFFARD

Beginning at the Southerly corner of this Lot, being also the Westerly corner of Lot 5, Olowalu Mauka Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KILEA" being 119.94 feet South and 1,956.61 feet East and running by azimuths measured clockwise from True South:

1. 303° 00' 388.00 feet along Lot 5, Olowalu Mauka Subdivision;
2. Thence, along Lots 4 and 5, Olowalu Mauka Subdivision on a curve to the right with a radius of 187.74 feet, the chord azimuth and distance being:
325° 30' 143.69 feet;
3. Thence, along Lot 4, Olowalu Mauka Subdivision on a curve to the left with a radius of 30.00 feet, the chord azimuth and distance being:
305° 25' 50" 40.59 feet;
4. Thence, along Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision on a curve to the left with a radius of 560.00 feet, the chord azimuth and distance being:
78° 00' 94.91 feet;
5. Thence, along Lot 7, Olowalu Mauka Subdivision on a curve to the left with a radius of 30.00 feet, the chord azimuth and distance being:
210° 34' 10" 40.59 feet;

6. Thence, along Lot 7, Olowalu Mauka Subdivision on a curve to the left with a radius of 147.74 feet, the chord azimuth and distance being:
- 145° 30' 113.08 feet;
7. 123° 00' 564.07 feet along Lot 7, Olowalu Mauka Subdivision;
8. 141° 10' 81.52 feet along Lot 7, Olowalu Mauka Subdivision;
9. 170° 00' 82.94 feet along Lot 25, Olowalu Mauka Subdivision;
10. 141° 10' 211.93 feet along Lot 25, Olowalu Mauka Subdivision;
11. 237° 10' 127.08 feet along Lot 25, Olowalu Mauka Subdivision;
12. 225° 30' 83.00 feet along Lot 25, Olowalu Mauka Subdivision;
13. 221° 10' 170.00 feet along Lot 25, Olowalu Mauka Subdivision;
14. 242° 00' 74.02 feet along Lot 25, Olowalu Mauka Subdivision;
15. 323° 30' 86.55 feet along Lot 25, Olowalu Mauka Subdivision;
16. 304° 00' 300.40 feet along Lot 25, Olowalu Mauka Subdivision;
17. 33° 00' 506.59 feet along Lot 5, Olowalu Mauka Subdivision to the point of beginning and containing an area of 5.779 Acres.

SUBJECT HOWEVER to the following Easements:

Easement 5 for roadway & utility purposes in favor of Lots 5 and 25, Olowalu Mauka Subdivision and Olowalu Elua Associates, LLC.

Easement 24 for drainage purposes in favor of Lot 25, inclusive, Olowalu Mauka Subdivision.

Easement 25 for waterline purposes in favor of Olowalu Elua Associates, LLC.

TOGETHER with the following Easements: -

1. Easement 1, for roadway and utility purposes affecting Lot 18, Olowalu Mauka Subdivision.
2. Easement 2, for roadway and utility purposes affecting Lot 24, Olowalu Mauka Subdivision.
3. Easement 3, for roadway and utility purposes affecting Lot 21, Olowalu Mauka Subdivision.
4. Easement 4, for roadway and utility purposes affecting Lot 23, Olowalu Mauka Subdivision.
5. Easement 6, for roadway and utility purposes affecting Lot 8, Olowalu Mauka Subdivision.
6. Easement 7, for roadway and utility purposes affecting Lot 9, Olowalu Mauka Subdivision.



R. T. TANAKA ENGINEERS, INC.

A handwritten signature in cursive script that reads "Kirk T. Tanaka".

Kirk T. Tanaka
Licensed Professional Land Surveyor
Certificate No. 7223

871 Kolu Street, Suite 201
Wailuku, Hawaii 96793

July 8, 2002

LOT 7

OLOWALU MAUKA SUBDIVISION

AT OLOWALU, LAHAINA, MAUI, HAWAII

BEING A PORTION OF GRANT 4973 TO WALTER M. GIFFARD

Beginning at the Northwest corner of this Lot, being also the Northeast corner of Lot 8, Olowalu Mauka Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KILEA" being 188.32 feet South and 1,567.20 feet East and running by azimuths measured clockwise from True South:

1. 221° 00' 257.36 feet along Lot 25, Olowalu Mauka Subdivision;
2. 321° 10' 81.52 feet along Lot 6, Olowalu Mauka Subdivision;
3. 303° 00' 564.07 feet along Lot 6, Olowalu Mauka Subdivision;
4. Thence, along Lot 6, Olowalu Mauka Subdivision on a curve to the right with a radius of 147.74 feet, the chord azimuth and distance being:
325° 30' 113.08 feet;
5. Thence, along Lot 6, Olowalu Mauka Subdivision on a curve to the right with a radius of 30.00 feet, the chord azimuth and distance being:
30° 34' 10" 40.59 feet;
6. Thence, along Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision on a curve to the left with a radius of 560.00 feet, the chord azimuth and distance being:
69° 34' 10" 69.73 feet;
7. 66° 00' 131.73 feet along Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision;

8. Thence, along Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision on a curve to the right with a radius of 570.00 feet, the chord azimuth and distance being:
- 88° 00' 427.05 feet;
9. 162° 40' 39" 416.33 feet along Lot 8, Olowalu Mauka Subdivision to the point of beginning and containing an area of 6.268 Acres.

TOGETHER with the following Easements:

1. Easement 1, for roadway and utility purposes affecting Lot 18, Olowalu Mauka Subdivision.
2. Easement 2, for roadway and utility purposes affecting Lot 24, Olowalu Mauka Subdivision.
3. Easement 3, for roadway and utility purposes affecting Lot 21, Olowalu Mauka Subdivision.
4. Easement 4, for roadway and utility purposes affecting Lot 23, Olowalu Mauka Subdivision.
5. Easement 6, for roadway and utility purposes affecting Lot 8, Olowalu Mauka Subdivision.
6. Easement 7, for roadway and utility purposes affecting Lot 9, Olowalu Mauka Subdivision.



R. T. TANAKA ENGINEERS, INC.

Kirk T. Tanaka

Kirk T. Tanaka
 Licensed Professional Land Surveyor
 Certificate No. 7223

871 Kolu Street, Suite 201
 Wailuku, Hawaii 96793

July 8, 2002

LOT 8

OLOWALU MAUKA SUBDIVISION

AT OLOWALU, LAHAINA, MAUI, HAWAII

BEING PORTIONS OF ROYAL PATENT 6881,

LAND COMMISSION AWARD 8657 TO KIKAU AND

GRANT 4973 TO WALTER M. GIFFARD

Beginning at the Northeast corner of this Lot, being also the Northwesterly side of Lot 7, Olowalu Mauka Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KILEA" being 188.32 feet South and 1,567.20 feet East and running by azimuths measured clockwise from True South:

1. 342° 40' 39" 416.33 feet along Lot 7, Olowalu Mauka Subdivision;
2. 110° 00' 258.49 feet along Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision;
3. Thence, along Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision on a curve to the right with a radius of 470.00 feet, the chord azimuth and distance being:
128° 00' 290.48 feet;
4. 146° 00' 218.30 feet along Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision;
5. Thence, along Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision on a curve to the left with a radius of 400.00 feet, the chord azimuth and distance being:
111° 45' 450.24 feet;
6. 257° 30' 131.35 feet along Lot 25, Olowalu Mauka Subdivision;
7. 264° 00' 320.00 feet along Lot 25, Olowalu Mauka Subdivision;

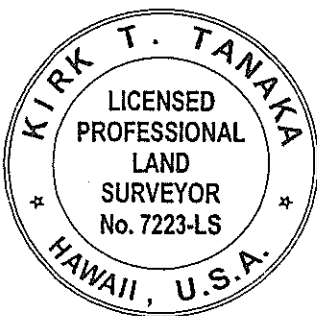
MA

8. .258° 20' 94.05 feet along Lot 25, Olowalu Mauka Subdivision;
9. 310° 30' 459.62 feet along Lot 25, Olowalu Mauka Subdivision to the point -of beginning and containing an area of 5.408 Acres.

SUBJECT HOWEVER to existing Easement 6 for roadway and utility purposes in favor of Lots 1 to 7, inclusive and Lots 9 to 25, Olowalu Mauka Subdivision.

TOGETHER with the following Easements:

1. Easement 1, for roadway and utility purposes affecting Lot 18, Olowalu Mauka Subdivision.
2. Easement 2, for roadway and utility purposes affecting Lot 24, Olowalu Mauka Subdivision.
3. Easement 3, for roadway and utility purposes affecting Lot 21, Olowalu Mauka Subdivision.
4. Easement 4, for roadway and utility purposes affecting Lot 23, Olowalu Mauka Subdivision.
5. Easement 7, for roadway and utility purposes affecting Lot 9, Olowalu Mauka Subdivision.



R. T. TANAKA ENGINEERS, INC.

A handwritten signature in cursive script that reads "Kirk T. Tanaka".

Kirk T. Tanaka
Licensed Professional Land Surveyor
Certificate No. 7223

871 Kolu Street, Suite 201
Wailuku, Hawaii 96793

July 8, 2002

LOT 9

OLOWALU MAUKA SUBDIVISION

AT OLOWALU, LAHAINA, MAUI, HAWAII

BEING PORTIONS OF ROYAL PATENT 6881,

LAND COMMISSION AWARD 8657 TO KIKAU AND

GRANT 4973 TO WALTER M. GIFFARD

Beginning at the Northeast corner of this Lot, being also the Northwest corner of Lot 10, Olowalu Mauka Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KILEA" being 461.70 feet South and 1,268.33 feet East and running by azimuths measured clockwise from True South:

- | | | | |
|----|----------|-------------|---|
| 1. | 40° 00' | 321.23 feet | along Lot 10, Olowalu Mauka Subdivision; |
| 2. | 128° 40' | 343.69 feet | along Lot 24, Olowalu Mauka Subdivision; |
| 3. | 82° 30' | 75.00 feet | along Lot 24, Olowalu Mauka Subdivision; |
| 4. | 118° 50' | 75.00 feet | along Lot 24, Olowalu Mauka Subdivision; |
| 5. | 170° 00' | 75.00 feet | along Lot 24, Olowalu Mauka Subdivision; |
| 6. | 199° 00' | 50.00 feet | along Lot 24, Olowalu Mauka Subdivision; |
| 7. | 232° 00' | 44.70 feet | along Lot 24, Olowalu Mauka Subdivision; |
| 8. | 167° 30' | 281.85 feet | along Lot 24, Olowalu Mauka Subdivision; |
| 9. | 257° 30' | 62.65 feet | along Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision; |

10. Thence, along Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision on a curve to the right with a radius of 340.00 feet, the chord azimuth and distance being: -

291° 45' 382.71 feet;

11. 326° 00' 218.30 feet along Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision;

12. Thence, along Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision on a curve to the left with a radius of 530.00 feet, the chord azimuth and distance being:

318° 00' 147.52 feet

to the point of beginning and containing an area of 5.844 Acres.

SUBJECT HOWEVER to Easement 7 for access and utility purposes in favor of Lots 1 to 8, inclusive and Lots 10 to 25, Olowalu Mauka Subdivision.

TOGETHER with the following Easements:

1. Easement 1, for roadway and utility purposes affecting Lot 18, Olowalu Mauka Subdivision.
2. Easement 2, for roadway and utility purposes affecting Lot 24, Olowalu Mauka Subdivision.
3. Easement 3, for roadway and utility purposes affecting Lot 21, Olowalu Mauka Subdivision.
4. Easement 4, for roadway and utility purposes affecting Lot 23, Olowalu Mauka Subdivision.

5. Easement 6, for roadway and utility purposes affecting Lot 8,
Olowalu Mauka Subdivision.



R. T. TANAKA ENGINEERS, INC.

A handwritten signature in cursive script, appearing to read "Kirk T. Tanaka".

Kirk T. Tanaka
Licensed Professional Land Surveyor
Certificate No. 7223

871 Kolu Street, Suite 201
Wailuku, Hawaii 96793

July 8, 2002

LOT 10

OLOWALU MAUKA SUBDIVISION

AT OLOWALU, LAHAINA, MAUI, HAWAII

BEING A PORTION OF GRANT 4973 TO WALTER M. GIFFARD

Beginning at the Northeast corner of this Lot, being also the Northwest corner of Lot 11, Olowalu Mauka Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KILEA" being 670.57 feet South and 1,776.71 feet East and running by azimuths measured clockwise from True South:

1. 10° 00' 300.00 feet along Lot 11, Olowalu Mauka Subdivision;
2. 82° 30' 294.54 feet along Lot 24, Olowalu Mauka Subdivision;
3. 128° 40' 474.84 feet along Lot 24, Olowalu Mauka Subdivision;
4. 220° 00' 321.23 feet along Lot 24, Olowalu Mauka Subdivision;
5. Thence, along Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision on a curve to the left with a radius of 530.00 feet, the chord azimuth and distance being:
300° 00' 184.07 feet;
6. 290° 00' 258.49 feet along Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision;
7. Thence, along Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision on a curve to the left with a radius of 630.00 feet, the chord azimuth and distance being:
285° 00' 109.82 feet
to the point of beginning and containing an area of 5.281 Acres.

TOGETHER with the following Easements:

1. Easement 1, for roadway and utility purposes affecting Lot 18, Olowalu Mauka Subdivision.
2. Easement 2, for roadway and utility purposes affecting Lot 24, Olowalu Mauka Subdivision.
3. Easement 3, for roadway and utility purposes affecting Lot 21, Olowalu Mauka Subdivision.
4. Easement 4, for roadway and utility purposes affecting Lot 23, Olowalu Mauka Subdivision.
5. Easement 6, for roadway and utility purposes affecting Lot 8, Olowalu Mauka Subdivision.
6. Easement 7, for roadway and utility purposes affecting Lot 9, Olowalu Mauka Subdivision.



R. T. TANAKA ENGINEERS, INC.

A handwritten signature in black ink, appearing to read "Kirk T. Tanaka".

Kirk T. Tanaka
Licensed Professional Land Surveyor
Certificate No. 7223

871 Kolu Street, Suite 201
Wailuku, Hawaii 96793

July 8, 2002

LOT 11

OLOWALU MAUKA SUBDIVISION

AT OLOWALU, LAHAINA, MAUI, HAWAII

BEING A PORTION OF GRANT 4973 TO WALTER M. GIFFARD

Beginning at the Northwest corner of this Lot, being also the Northeast corner of Lot 10, Olowalu Mauka Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KILEA" being 670.57 feet South and 1,776.71 feet East and running by azimuths measured clockwise from True South:

1. Along Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision on a curve to the left with a radius of 630.00 feet, the chord azimuth and distance being:
263° 00' 363.39 feet;
2. 246° 00' 131.73 feet along Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision;
3. Thence, along Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision on a curve to the right with a radius of 500.00 feet, the chord azimuth and distance being:
263° 00' 292.37 feet;
4. 280° 00' 82.36 feet along Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision;
5. 40° 00' 433.69 feet along Lot 24, Olowalu Mauka Subdivision;
6. 82° 30' 636.05 feet along Lot 24, Olowalu Mauka Subdivision;

7. 190° 00' 300.00 feet along Lot 10, Olowalu Mauka Subdivision to the point of beginning and containing an area of 5.136 Acres.

TOGETHER with the following Easements:

1. Easement 1, for roadway and utility purposes affecting Lot 18, Olowalu Mauka Subdivision.
2. Easement 2, for roadway and utility purposes affecting Lot 24, Olowalu Mauka Subdivision.
3. Easement 3, for roadway and utility purposes affecting Lot 21, Olowalu Mauka Subdivision.
4. Easement 4, for roadway and utility purposes affecting Lot 23, Olowalu Mauka Subdivision.
5. Easement 6, for roadway and utility purposes affecting Lot 8, Olowalu Mauka Subdivision.
6. Easement 7, for roadway and utility purposes affecting Lot 9, Olowalu Mauka Subdivision.



R. T. TANAKA ENGINEERS, INC.

A handwritten signature in cursive script, appearing to read "Kirk T. Tanaka".

Kirk T. Tanaka
Licensed Professional Land Surveyor
Certificate No. 7223

871 Kolu Street, Suite 201
Wailuku, Hawaii 96793

July 8, 2002

LOT 12

OLOWALU MAUKA SUBDIVISION

AT OLOWALU, LAHAINA, MAUI, HAWAII

BEING A PORTION OF GRANT 4973 TO WALTER M. GIFFARD

Beginning at the Easterly corner of this Lot, being also the Northerly corner of Lot 13, Olowalu Mauka Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KILEA" being 735.78 feet South and 3,060.00 feet East and running by azimuths measured clockwise from True South:

1. 54° 00' 517.00 feet along Lot 13, Olowalu Mauka Subdivision;
2. Thence, along Lot 24, Olowalu Mauka Subdivision on a curve to the left with a radius of 500.00 feet, the chord azimuth and distance being:
133° 25' 183.67 feet;
3. 208° 00' 297.83 feet along Lot 24, Olowalu Mauka Subdivision;
4. 220° 00' 110.55 feet along Lot 24, Olowalu Mauka Subdivision;
5. Thence, along Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision on a curve to the right with a radius of 670.00 feet, the chord azimuth and distance being:
296° 30' 41.4" 380.84 feet
to the point of beginning and containing an area of 3.059 Acres.

TOGETHER with the following Easements:

1. Easement 1, for roadway and utility purposes affecting Lot 18, Olowalu Mauka Subdivision.

2. Easement 2, for roadway and utility purposes affecting Lot 24, Olowalu Mauka Subdivision.
3. Easement 3, for roadway and utility purposes affecting Lot 21, Olowalu Mauka Subdivision.
4. Easement 4, for roadway and utility purposes affecting Lot 23, Olowalu Mauka Subdivision.
5. Easement 6, for roadway and utility purposes affecting Lot 8, Olowalu Mauka Subdivision.
6. Easement 7, for roadway and utility purposes affecting Lot 9, Olowalu Mauka Subdivision.



871 Kolu Street, Suite 201
Wailuku, Hawaii 96793

July 8, 2002

R. T. TANAKA ENGINEERS, INC.

A handwritten signature in cursive script, appearing to read "Kirk T. Tanaka".

Kirk T. Tanaka
Licensed Professional Land Surveyor
Certificate No. 7223

LOT 13

OLOWALU MAUKA SUBDIVISION

AT OLOWALU, LAHAINA, MAUI, HAWAII

BEING PORTIONS OF GRANT 11073,

PART 5 TO PIONEER MILL COMPANY, LIMITED AND

GRANT 4973 TO WALTER M. GIFFARD

Beginning at the Northeast corner of this Lot, being also the Southeast corner of Lot 12, Olowalu Mauka Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KILEA" being 735.78 feet South and 3,060.00 feet East and running by azimuths measured clockwise from True South:

1. Along Lot 38 (60 Feet Wide Roadway Lot), Olowalu Mauka Subdivision on a curve to the right with a radius of 670.00 feet, the chord azimuth and distance being:
328° 17' 12.6" 352.77 feet;
2. 73° 33' 02.4" 551.24 feet along Lot 14, Olowalu Mauka Subdivision;
3. Thence, along Lot 24, Olowalu Mauka Subdivision on a curve to the left with a radius of 500.00 feet, the chord azimuth and distance being:
153° 46' 31.2" 169.79 feet;
4. 234° 00' 517.00 feet along Lot 12, Olowalu Mauka Subdivision to the point of beginning and containing an area of 3.256 Acres.

TOGETHER with the following Easements:

1. Easement 1, for roadway and utility purposes affecting Lot 18, Olowalu Mauka Subdivision.
2. Easement 2, for roadway and utility purposes affecting Lot 24, Olowalu Mauka Subdivision.

50

3. Easement 3, for roadway and utility purposes affecting Lot 21, Olowalu Mauka Subdivision.
4. Easement 4, for roadway and utility purposes affecting Lot 23, Olowalu Mauka Subdivision.
5. Easement 6, for roadway and utility purposes affecting Lot 8, Olowalu Mauka Subdivision.
6. Easement 7, for roadway and utility purposes affecting Lot 9, Olowalu Mauka Subdivision.



R. T. TANAKA ENGINEERS, INC.

A handwritten signature in cursive script, appearing to read "Kirk T. Tanaka".

Kirk T. Tanaka
Licensed Professional Land Surveyor
Certificate No. 7223

871 Kolu Street, Suite 201
Wailuku, Hawaii 96793

July 8, 2002

5. .358° 00' 198.66 feet along Lot 38 (60 Feet Wide Road way Lot) and Lot 18, Olowalu Mauka Subdivision to the point of beginning and containing an area of 3.732 Acres.

TOGETHER with the following Easements:

1. Easement 1, for roadway and utility purposes affecting Lot 18, Olowalu Mauka Subdivision.
2. Easement 2, for roadway and utility purposes affecting Lot 24, Olowalu Mauka Subdivision.
3. Easement 3, for roadway and utility purposes affecting Lot 21, Olowalu Mauka Subdivision.
4. Easement 4, for roadway and utility purposes affecting Lot 23, Olowalu Mauka Subdivision.
5. Easement 6, for roadway and utility purposes affecting Lot 8, Olowalu Mauka Subdivision.
6. Easement 7, for roadway and utility purposes affecting Lot 9, Olowalu Mauka Subdivision.



R. T. TANAKA ENGINEERS, INC.

A handwritten signature in cursive script that reads "Kirk T. Tanaka".

Kirk T. Tanaka
Licensed Professional Land Surveyor
Certificate No. 7223

871 Kolu Street, Suite 201
Wailuku, Hawaii 96793

July 8, 2002

END OF EXHIBIT "A"

A small, handwritten mark or signature in the bottom right corner of the page.

EXHIBIT "B"
DESIGN STANDARDS
FOR
OLOWALU MAUKA

A. OLOWALU MAUKA

I. Overview of Design Standards

The Design Standards for the Olowalu Mauka Subdivisions, ("Olowalu Mauka"), have been promulgated pursuant to, and as a part of, Olowalu Mauka Subdivision Declaration of Covenants, Conditions, and Restrictions (the "Declaration") to which they are attached as Exhibit "B". The Design Standards are administered by The Design Review Committee, hereinafter "DRC" in accordance with the Declaration and the procedures therein and herein set forth. The Design Standards and the Declaration may be amended from time to time, and it is the responsibility of each Owner to obtain and review a copy of the most recently revised Design Standards and Declaration.

The invalidity or unenforceability of any provision of these Design Standards, in whole or in part, shall not affect the validity or enforceability of any other provision or any valid and enforceable part of a provision of these Design Standards or the Declaration.

A. **Spirit and Intent:** Recognizing the historical significance and natural beauty of Olowalu, the intent is to create a cohesive, visually unified agricultural community with a sense of individual identity but with a relationship to the overall design standards for the greater "Olowalu". The Design Standards strive to create a place of aesthetic and physical wellness with the environment, a sense of tranquility and quality, which, to the extent possible, will increase the desirability and attractiveness of Olowalu Mauka and the greater "Olowalu". The intent of the Design Standards is to provide further definition and illustration of the requirements set forth in the Declaration. In establishing certain standards and procedures for the construction within the Lots, the Design Standards provide specific restrictions, limitations and requirements, as well as illustrative design interpretations of the intent regarding site uses, site development, architectural design and landscape improvements.

B. **Design Philosophy:** Two distinct architectural styles reflect the informal island lifestyle and tropical climate of Hawaii. First is the indigenous

architecture of its first inhabitants, the Native Hawaiians. The main elements of this architectural style, generally characterized today as "Polynesian" architecture, was a simple roof form and the generous use of indigenous or natural materials. The other architectural style is characterized as "Plantation Managers Style" architecture. The main elements of this "Plantation" architectural style are large eaves and a grand veranda or porch. Another important element to the "Plantation" feeling is expansive lawns and a canopy of mature trees. Individually, both architectural styles attempt to blend with the existing environment and lessen the visual and physical impacts of its surroundings. Together, these two architectural styles take advantage of the tropical climatic conditions, such that the distinction between indoor and outdoor living are often blurred.

II. General Design Review Procedures

These Design Standards provide guidelines for the DRC in its review and evaluation of proposed improvements within Olowalu Mauka. All improvements, including sitework, buildings, structures and lighting shall be subject to these Design Standards. No Owner shall be permitted to construct or install any improvements without the express prior written approval of the DRC.

Each lot owner and occupant of a lot in the Subdivision shall at all times comply with all applicable laws, all of the provisions of the Declaration. In addition, each lot owner and occupant shall at all times comply with and observe each of the provisions within these Design Standards; provided, however, that in the event of any conflict between or among the provisions set forth with the provisions of the Design Standards, the Declaration and applicable laws, codes or ordinances, the most restrictive provisions or law, code or ordinance shall control.

The design review process will follow the Design Review Procedures established in Section E of the Design Standards and will include an Optional Pre-design Conference, Preliminary Design Review and Final Plan Submittal. The Pre-design Conference permits each Owner to either review his ideas and the aspects of his particular Lot with the DRC before any plans are prepared or review conceptual or preliminary plans with the DRC before the Owner finalizes his design in conformance with the Design Standards. The Preliminary Design Review allows the DRC to review preliminary plans prior to the preparation of construction documents. The Final Plan Submittal determines that the final plans are consistent with the previously approved preliminary plans.

The Owner is required to retain the professional services of an Architect and/or Engineers and Contractor properly licensed in the State of Hawaii. A thorough analysis and understanding of the Lot and Owner's special needs and living patterns, as well as the ability to convey to the DRC the concept and design of a

proposed residence or other improvements, are all important elements of the design review process.

B. Site Development and Landscape Standards

I. Individual Lot Plot Plans

Plot Plans for individual Lots shall be furnished to the Lot owners by the Declarant, approximately designating boundaries and utility locations. All grades, contours, utility locations and grade elevations are subject to determination by the Owner, prior to start of construction. It shall be the Lot Owner's responsibility to arrange for subsurface soil investigation and to design and construct the Lot Owner's structure accordingly.

II. Buildable Area

The buildable area is that portion of each Lot defined by setbacks and height restrictions and is the area in which improvements may be built or placed. No structures, other than as specifically permitted herein or in the Declaration, shall be allowed outside of the buildable area and no portion of any improvement, except as may be specifically permitted herein or in the Declaration, may extend outside of the buildable area.

III. Setbacks

Generally, the minimum building setbacks are as follows:

- a. Front yards - fifty (50) feet
- b. Side yards - forty (40) feet
- c. Rear yards – forty (40) feet

IV. Easements

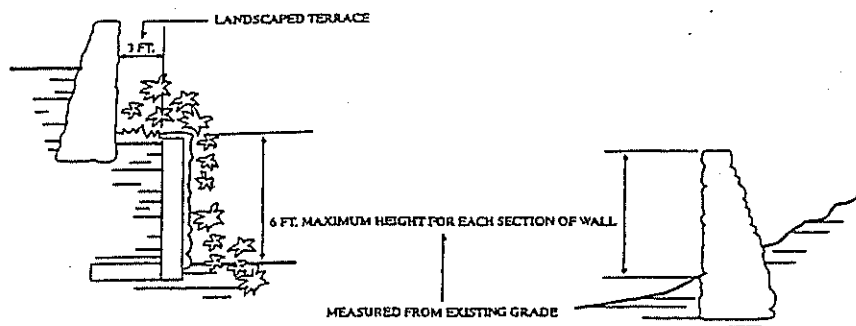
Easements on lots are as described in the Declaration and are depicted on the Plot Plan for each Lot. No improvements, roof eaves or overhangs, or major planting shall be placed on, below or above these easements without the prior written consent of the DRC and, if applicable, the entity utilizing the easement or to whom the easement has been granted.

V. Sitework

- i) The Lot Owner shall accept the condition of his or her Lot in "as is" condition. All subsequent site work performed by the Owner shall be in strict compliance with plans as approved by the DRC.

- ii) Until approved by the DRC, no change in natural or existing drainage patterns for surface waters shall be made upon any Lot. The flow of existing surface and/or subsurface drainage onto, across or from each Lot shall not be obstructed. Storm water generated from improvements on each Lot shall be disposed of in sumps, natural low points or created low areas to allow water to percolate into the ground on the same Lot. No concentrated sources from any improvement storm water shall be discharged onto an adjacent Lot in a different location, rate or volume than previously existed.
- iii) In the event of any violation of (i) or (ii) above, the DRC may cause the Lot to be restored to its state of existing immediately prior to such violation, at owners expense.
- iv) Finish grades shall not be steeper than one-foot vertical to three-foot horizontal and should blend in with existing slope conditions. All finish grades over one foot vertical to three-foot horizontal within the Buildable Area shall be reviewed for stability against erosion.
- v) If retaining walls are used, their maximum height should be six feet, subject to any restrictions from the County agricultural ordinance. Where retaining conditions are required over six feet, then multiple walls may be used. A minimum three-foot wide planter shall be located between the top of the lower wall and the base of the upper wall (see Figure 1 below). Design of retaining walls shall be done by an Architect and/or Structural or Civil Engineer registered in the State of Hawaii.

Figure 1:



VI. Landscaping and Cultivation

While landscaping and cultivation plans do not require DRC approval, the intent is that they will reflect the rural/agricultural character of Hawaii's Plantation Era.

Landscaping work and layout of agricultural operations shall be done, as much as is practical, concurrently with building of a farm dwelling.

VII. Swimming Pools and Water Features

Swimming pools and water features design shall be submitted as part of the preliminary and final plans. Swimming pool equipment and housing shall be shielded and contained within the buildable area. Water features, its equipment and housing shall be shielded from view and contained within the buildable area.

Noise mitigation factors shall be utilized to address noise generated by water features. Swimming pools and water features shall be kept operable in accordance with the rules and regulations of the Department of Health. If abandoned or if a pool or water feature becomes a nuisance, the owner shall demolish, remove the pool or water feature, and, insofar as practicable, restore the land to a condition approximating that which existed prior to the construction of the pool or water feature, and properly landscape and maintain the restored area. Pool equipment rooms shall be sound treated to prevent noise nuisance in accordance with mechanical equipment noise control guidelines.

Temporary, plastic, or pre-fabricated swimming pools are prohibited on any Lot above the natural grade. Permanently constructed swimming pools will be allowed below or above grade so long as they are appropriately integrated into the landscaping and grading design so as to minimize the visual impact on neighboring Lots.

VIII. Driveway Accesses

The location of driveways for access to any Lot, or any improvements thereon, shall be sited to avoid drainageways, and utility laterals and service lines, to provide a cohesive landscape treatment along the subdivision roadways, the driveways and related improvements within the front yard setback area shall be reviewed and approved by the DRC prior to construction. In general, the driveway and related improvements shall be simple and understated in design and shall not be ornamental or include materials, forms, or colors not acceptable within Design Standards. All driveways shall be located a minimum of 40 feet from any adjoining Lot, unless otherwise approved by the DRC.

Lots shall be limited to no more than two driveways, although only one driveway is preferred. Driveway connections to the subdivision roads shall follow contours of road right of way and all driveways shall be subject to approval by the DRC.

IX. Vehicles, Trailers and Boats

Vehicles shall not be parked continuously or regularly on common area roadway lots. Only occasional parking by guests or by vehicles servicing a Lot shall be

permitted on such roadway lots. Boats or trailers parked on any lot shall not be visible from any adjacent property or roadway and shall not be parked on any roadway. No vehicle, boat or other equipment, may be dismantled, repaired or serviced on any Lot so as to be visible from adjoining or neighboring lots or from any roadway.

X. Refuse Storage

Refuse receptacles for domestic and building waste are to be located within the buildable area of the Lot. The refuse receptacles must be covered and screened completely from view of adjoining lots and common areas either by landscaping or other screening material, which is compatible in design and color with the main structure.

XI. Antennas

No visible antennas or satellite dishes greater than one meter in width are permitted. Placement of satellite dishes shall not be beyond the building envelope and its location shall be approved by the DRC in order to retain the architectural integrity of the building design.

XII. Mailboxes

All mailboxes shall be designed per postal regulations and designs submitted as part of the Design Review Procedures. House number and name signs shall be of an attractive and superior quality design and installed flush with wall surfaces where possible, and shall in no event exceed an aggregate of one (1) square foot in size.

XIII. Other

Refer to Article 3 of the Declaration for additional requirements.

C. Architectural and Building Standards and Requirements

I. Architectural Character

Architectural character of all buildings shall be of a contemporary "Polynesian" and/or a contemporary "Plantation Managers Style". The main features that should be utilized in the design are generous eaves, a grand veranda or porch and simple roof forms. The use of indigenous or natural materials, split pitch roofs, trellises and one-story designs are highly encouraged.

Mediterranean, Oriental, Modernistic, Tudor, Colonial, Georgian and French provincial styles are not permitted. Also, pole houses, structures with "A-frame"

roof lines, and factory-built structures which have been pre-assembled or pre-cut for assembly, are not permitted.

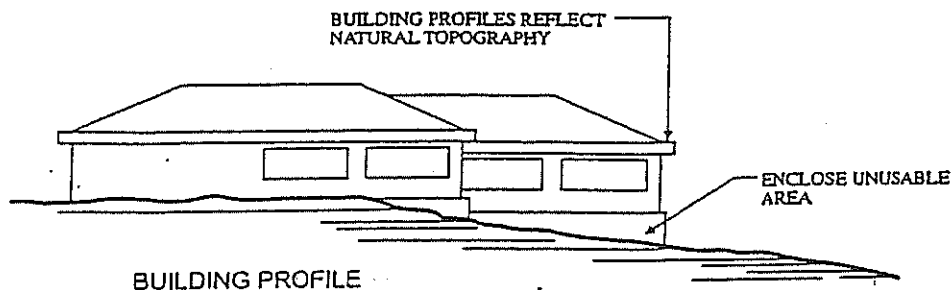
The DRC may prohibit or encourage other architectural styles, without liability or limitation, when the architectural character of a building is not harmonious and/or detracts from the intended architectural character of the subdivision.

II. Finished Floor Elevations

It is the general intent to balance cut and fill volumes. To avoid massive retaining walls on street and to control the height of improvements to reasonably protect open space corridors, grading, cutting and filling shall be kept to a minimum. Step pads or building pads which conform to the topography of the lot are recommended to avoid massive cuts or fills. Usable areas under buildings shall be enclosed to give the appearance that the building grows out of the Lot (see Figure 2). Cut or fill greater than two thousand (2,000) cubic yards shall require special written DRC approval, and will not be permitted except under unusual circumstances.

Improvements within floodway Flood Zones A0 and A4 shall be constructed above the flood elevations.

Figure 2:



III. Building Height

One story buildings are encouraged. Two story portions may be accepted by the DRC when the design does not appear excessive in height, however, two story walls without horizontal breaks are not permitted. Two story design concepts will be considered where the appearance is broken to more closely resemble one story design. Dwelling may be sited partially below grade. The building height at the highest point on the exterior roof shall not exceed 30' 0".

IV. Agricultural Buildings and Garages if Included:

All garages shall be fully enclosed with garage doors. It is encouraged that garage door designs break up the door massing by various means such as detailed articulation, use of custom doors or separate door for each vehicle. Garage entries shall not face subdivision roadways unless shielded from view from such roadways.

Agricultural buildings (barns) shall be designed such that the profile, massing and materials used complement the land and other improvements on it, consistent with these Design Standards.

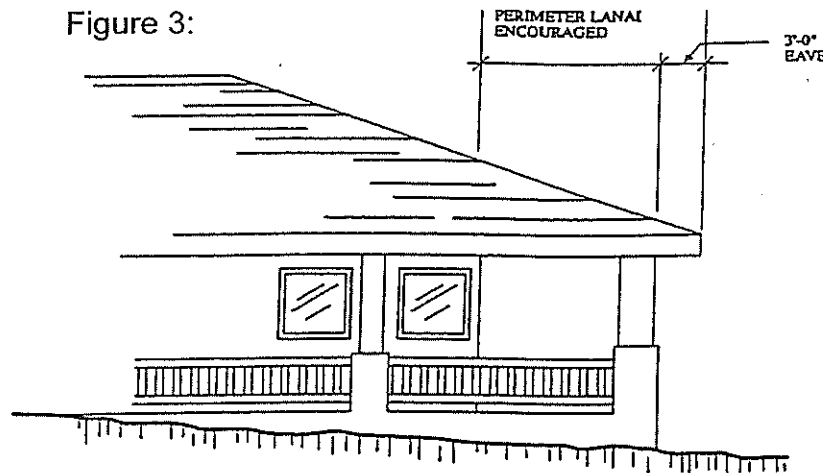
V. Roofs

The appearance should reflect simple roof forms.

i. Eaves

Designs should show generous roof overhangs from the wall or support line (see Figure 3 below). Roof overhangs, as measured horizontally, shall not extend more than four feet into any building setback area.

Figure 3:



ii) Roof Materials

Roofs shall use "No. 1 Blue label" wood shingle, high grade "agricultural" asphalt shingle, high grade non-glare metal, high grade wood shake, premium asphalt shingles, glazed concrete tile, clay tile, copper or other roofing materials of equivalent texture and character. A sample or proposed roof material shall be submitted for DRC approval as to color, style and texture. Roof material colors are limited to earth tones with shades of browns, grays and greens. Clay tiles shall be of an integral color; wood shakes and wood shingles shall be natural or stained with penetrating stain or oil.

The following roof materials are not permitted: corrugated metal, steel or aluminum; rolled roofing; fiberglass; plastic; and rubber membrane. Built up roofing will be permitted only for flat roof construction.

Skylights are to be designed as an integral part of the roof system, utilize safety or tempered glass, and be of a non-reflective color or tint. No mechanical equipment shall be placed on a roof except solar panels as permitted under Section IX below.

iii) Roof Pitch

Roof pitch shall be a minimum of 4:12 (vertical:horizontal) for single pitched roofs. Double pitched roofs shall have a minimum pitch of 3:12 on the lower portion of the roof and a minimum pitch of 5:12 on the upper portion of the roof. At least eighty-five percent (85%) of the roofed area must have pitches between 4:12 and 12:12. Mansard roofs are not permitted.

iv) Flat Roofs

The area of flat roof shall not exceed fifteen percent (15 %) of the total roof area. Only flat roofs of exceptional design and quality will be considered for approval.

VI. Building Surfaces

Articulation of building surfaces is encouraged to soften their appearances and reduce mass. Articulation should be achieved by utilizing various architectural elements including:

- i) Projections and recesses to provide shadows and depth,
- ii) Lanais,
- iii) Sunshading devices such as trellises,
- iv) Staggering of wall planes,
- v) Articulated doors, windows and wall openings.

VII. Exterior Materials and Surfaces

i) Exterior Materials

All materials shall be either stucco, stone, board and batten, or shiplap siding. All wood siding shall be clear redwood, cedar or Douglas fir suitable for a paint or stain finish.

No prefinished metal siding, plain surfaced or grooved plywood panels are permitted.

All exterior wall materials must be continued down to within six (6) inches of finish grade so that unfinished foundation walls will not be exposed, unless other solutions are approved by DRC.

ii) Exterior Colors

Subtle "earth" colors and tones are permitted with complementary accent colors for architectural features, but color chips must be submitted to the DRC for review and prior written approval. Allowable exterior color for walls shall range from 1M45E to 1H60G and 1U45B to 1M60D for trim colors based upon the color key 1 program (Ameritone System). No garish, reflective, or fluorescent colors shall be allowed on any exterior surface. Light reflectance value (gloss) in the exterior paint shall not exceed a range of forty four percent (44%) to sixty nine percent (69 %).

Light reflectance value (gloss) in the exterior trim elements shall not exceed a range of twelve percent (12%) to sixty eight percent (68%).

iii) Windows

Window frames should generally be recessed from the plane of the exterior wall. Wood window frames are encouraged. Colored anodized aluminum, vinyl, fiberglass or other factory lamina frames may be used. Non-anodized or clear anodized frames are prohibited.

iv) Glass

Mirrored or reflective glass or glazing materials are prohibited.

v) Skylights

Skylights shall not be mirrored or reflective material. Skylights shall be clear, bronze, or smoke-colored plastic or glass with the metal frame colored to match the surrounding roofing material color. White plastic and clear aluminum are prohibited. Skylights shall be integrated into the roof form.

VIII. Exterior Lighting

Lighting shall be used only for the purpose of illumination, and shall not be designed for or used as an advertising display or dramatically highlighting any dwelling, landscaping component or improvement. Exterior lighting fixtures shall be compatible with the architectural design of the building or buildings they serve.

All exterior lighting, including but not limited to building lights, porch lights, yard lights and security lights, shall be fully shielded and if not fully shielded, be of a construction where the lighting is subdued and/or indirect. Colored lights (non-white), fluorescent, high intensity discharge exterior lights, flashing, exposed bulbs and flood lamps on roof eaves are not permitted. Outdoor recreational lighting is prohibited except for underwater swimming pool lights. There shall be no exterior lighting of any type, either installed or maintained, the light source of which is visible from neighboring property, except as permitted by the DRC.

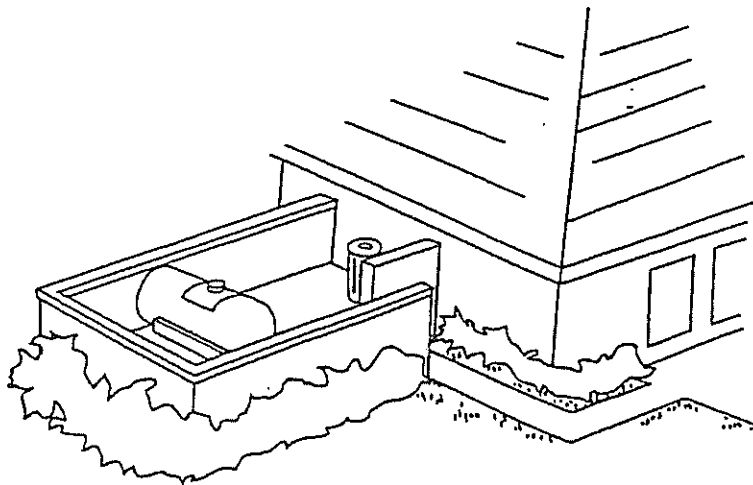
Lighting that would be considered temporary in nature are allowed, unless the usage becomes more of a permanent nature. Examples of permissible temporary lighting would be holiday lighting and construction site lighting.

Detailed requirements are set forth in Schedule 1 hereto, as required by the County of Maui.

IX. Air Conditioning System and Mechanical Equipment

Prior to the installation of an air-conditioning system, swimming pool filter pump unit(s) or other mechanical equipment, the Lot owner shall secure the written approval of the DRC as to the location and type of system. Such air-conditioning, swimming pool filter pump unit(s) or other mechanical equipment system shall be sound treated to prevent noise nuisance and shall be screened from view (see Figure 4).

Figure 4:



Notwithstanding the above, should complaints occur after start-up, the DRC may, without liability or limitation, restrict or prohibit the operation of any air-conditioning or mechanical equipment found to be generating property line noise levels exceeding 40 db, A scale, until additional noise mitigation measures are provided by the owner and approved in writing by the DRC.

X. Solar Energy and Heat Pumps

The use of solar energy or heat pumps as the primary source to heat water is recommended. Solar energy installations shall be, as much as practicable, hidden from view by accommodating them into the roof or incorporating them into a flat roof section, and shall be installed at the same angle of slope and parallel plane as the roof. The intent is to create an architecturally pleasing integration of the solar panels into the roofline. Collectors may be ground mounted provided they are properly screened. Roof mounted composite solar collector and water storage tank systems are not allowed. The design of all installations shall require the prior written approval of the DRC and be part of the design submittals.

XI. Fences and Walls

Walls and fences shall be designed so as to be attractive from all viewable sides.

Exposed cement mortar for rock walls shall be of standard gray color. No white or other coloring agents shall be applied or mixed with the exposed cement mortar. If a wall is located at the street frontage, the area between the wall and the property line shall be attractively landscaped irrigated and maintained.

Property line fences shall be developed in common with adjacent property owners to eliminate double fencing, wherever possible.

XII. Laundry Facilities

Laundry facilities and any service or utility area, including any area for hanging clothes, must be screened from view from adjacent property and roadways.

XIII. Service Yards and Storage Tanks

All aboveground garbage and trash containers, clotheslines, mechanical equipment and other outdoor maintenance and service facilities must be screened from view of other Lots, streets or public spaces. All fuel tanks, water tanks or similar storage facilities shall either be shielded from view by walls or other improvements or shall be located underground with all visible projections screened from view. Underground tanks shall be installed in accordance with applicable laws for underground tanks.

Propane gas tanks shall either be shielded and screened from view or shall be installed or constructed underground in compliance with the County of Maui and State of Hawaii ordinances, statutes, rules and regulations.

XIV. Signs

No signs whatsoever shall be erected or maintained upon any lot except:

- a) Such signs as may be required by legal proceedings;
- b) Such signs as required for house numbers and name signs in accordance with item mailboxes above, provided that such signs shall not exceed one (1) square foot maximum;
- c) Real Estate "for sale" signs on the lot being sold, not to exceed 8 sq ft.;
- d) signs for agricultural businesses as provided in the agricultural zoning ordinance; and
- e) Any sign which does not comply with the above must obtain specific written approval of the DRC.

D. Construction and Builder Regulations

I. Acceptance of Lot

Each Owner shall accept the condition of his Lot in an "AS IS, WHERE IS" condition as of the date of completion of all subdivision improvements. All subsequent improvements to the Lot by the Owner shall be in strict accordance with the construction plans approved by the DRC. The Owner is solely responsible for evaluating and accepting soils, topography and other aspects of the Lot and its suitability for Owner's proposed agricultural operations.

II. Grades and Location

All plans and drawings for the subdivision improvements are approximate only. Such plans and drawings include grading plans and the location of utility lines and conduits, water and drainage lines, water laterals, roadways, walls and other improvements.

Owners acknowledge and accept that the standards of the farming, ranching and construction industry and actual on-site conditions may require changes, alterations or deviations from the plans. Consequently, Owners shall not rely upon any such plans for any purpose whatsoever. Each Owner is responsible for verifying the location of all utility lines, laterals and stub outs, and verifying the topography and elevation of his Lot by hiring his own licensed Land Surveyor or Engineer.

III. Performance; General Contractor

All construction and site work to or upon a Lot shall be expeditiously and with due diligence prosecuted to completion.

IV. Materials and Quality

The materials used for structures shall be new and of a quality consistently associated with that used on superior quality custom-designed homes. No used

materials are permissible except where specifically approved in writing by the DRC to achieve a desired aesthetic effect.

All structural lumber shall be pressure treated against termite infestation and shall be guaranteed in writing against such infestation for a period of five (5) years.

V. Foundations

Ground settlement is possible. The owner and owner's architect, engineer and contractor shall give due consideration to the design of the foundation systems of all structures (home, walls, swimming pools, etc.). It is the Owner's responsibility to conduct an independent soils engineering investigation.

VI. Abandoned Construction

If construction of a dwelling is at any time abandoned, the Lot owner shall cause the Lot to be cleared and landscaped so as to present a neat appearance, and shall thereafter so maintain the Lot until the recommencement of construction. "Abandonment" shall mean the cessation of construction activity for a period of ninety (90) consecutive days.

VII. Utility Lines

All utility lines, including, but not limited to, electrical, telephone, sewer and television service shall be underground. Meters and service panels shall be screened from public view.

VII. Construction Requirements

i) Blasting

All blasting must be performed by a licensed contractor. Twenty-four hours prior written notice must be given to the DRC and owners and occupants of property within a radius of five hundred (500) feet from the property line of the Lot on which the blasting is to occur.

ii) Construction Hours

The hours during which construction may occur at any Lot are restricted to 7:00 a.m. to 6:00 p.m., Mondays through Saturdays. No construction work shall be performed before or after the hours specified or on Sunday, except for emergencies or where no noise nuisance is created.

iii) Refuse Disposal Bins

A refuse disposal bin shall be placed on a Lot only at the commencement of construction and are to be completely removed from the Lot no later than thirty (30) days from the "date of completion", as that term is defined in Section 507-43, HRS. The refuse disposal bin shall not be placed on an adjacent lot or common area without approval of the DRC.

iv) Site Preparation

All irrigation lines within the roadside strip must be sleeved and reburied, and all associated irrigation leads moved as necessary.

v) Portable Toilets

A portable toilet in fully operating condition must be maintained on the construction site at all times during construction, and serviced in accordance with applicable State Department of Health and County Sanitation standards.

vi) Temporary Structures and Surplus Materials

Temporary structures, trailers and construction materials may be placed on a Lot only at the commencement of construction and are to be completely removed from the Lot no later than thirty (30) days after the "date of completion", as that term is defined in Section 507-43, HRS. Temporary structures, trailers and construction materials shall be placed on the Lot and not on an adjacent lot or common area without the written approval of the DRC.

vii) Fire Hazard

Each Lot and all improvements located thereon, shall be maintained by the Lot owner thereof in good condition and repair, and in such manner as to not create a fire hazard, all at Lot owner's expense.

E. Design Review and Other Restrictions and Requirements

I. Design Review Process

The Owner of a Lot and his Architect shall have the following meetings, submit the following drawings, and receive the following approvals prior to the construction of any improvements to or on his Lot.

i) Optional Pre-design Conference

Prior to preparing preliminary drawings, it is highly suggested that the Owner of a Lot and/or his Architect meet with representative of the DRC

to discuss and review the Owner's concepts and plans for development and the DRC's requirements for and standards of review and approval.

ii) Preliminary Design Review

Owner's shall submit three (3) copies of each the following for review by the DRC:

- a) Preliminary floor plan. Scale $1/8" = 1'$.
- b) Preliminary exterior elevations from four sides with materials indicated. Scale $1/8" = 1'$.
- c) Preliminary site plan showing building placement, roof overhangs, building square footage, vehicle access, finish floor elevations with adjacent exterior corner grade elevations, drainage design, driveways, retaining walls, fences, swimming pools, and other material requested by the DRC. Scale $1/8" = 1'$.

The DRC will approve the submitted Preliminary Design Review information provided that it complies with these Design Standards. Approval may be dependent upon certain special conditions which are found by the DRC to be appropriate in each particular case. However, approval will not be unreasonably withheld. This approval will not be delayed for more that thirty days without notifying the Owner and/or his Architect in writing of the reasons for such delay.

iii) Final Plan Submittal

Owners shall be required to obtain the DRC's prior approval of the following plans, specifications and other items for the proposed design and construction of any improvements, prior to the submission of any application to the County of Maui. Owners shall submit three (3) copies of each of the following to the DRC:

- a) Site plan showing existing and proposed Lot topography, setbacks, easements, buffers, buildings, garages, driveways, retaining and/or garden walls, fences, utility lines, landscape areas, pools, other recreational areas, drainage systems, septic systems, and other improvements. Scale: $1/4" = 1.0'$.
- b) Floor plans for each structure. Scale: $1/4" = 1.0'$.
- c) Elevation drawings showing each exposed side of each proposed structure (including typical walls and fencing) indicating materials and colors for roofs, house walls, retaining and/or garden walls, and fences (with appropriate samples). Scale: $1/4" = 1.0'$.
- d) Section drawings indicating the relationships between buildings on site, views from on site, the impact of off-site views and major cut and fill areas. Scale: $1/4" = 1.0'$.

- e) Section drawings showing outdoor landscaping areas, retaining and/or garden walls, fences, and any exterior appurtenant structures. Scale: 1/4" = 1.0'.
- f) A proposed construction schedule.
- g) Any other plans or drawings that may be requested by the Design Review Committee.
- h) All proposed colors.

The DRC will approve the submitted Final Design Review information provided that it complies with these Design Standards. Approval may be dependent upon certain special conditions which are found by the DRC to be appropriate in each particular case. However, approval will not be unreasonably withheld. This approval will not be delayed for more than thirty days without notifying the Owner and/or his Architect in writing of the reasons for such delay.

II. Enforcement

These Design Standards may be enforced by the Association, Declarant, and/or the Owner of a Lot in Olowalu Mauka, as provided in the Declaration. These criteria and standards shall be made a part of the construction contract document specifications for each building or structure or other improvements on a Lot, and all contractors, Owners, and other persons shall be bound thereby. Any violation by a contractor shall be deemed to be a violation by the Owner of the Lot.

III. Variances

Except in the case of any standards or requirements imposed by law or as conditions to the approval of Olowalu Mauka, in the event specific designs, plans or specifications cannot or do not comply with these Design Standards, the Owner may apply to the DRC for a variance. Each application shall be considered in accordance with the Declaration on a case-by-case basis on its architectural merit and contribution to or conflict with the overall purpose of these Design Standards and the Declaration. A variance granted in one circumstance shall not be considered as precedent or grounds requiring approval of subsequent or similar request in any other circumstances.

IV. Commencement and Completion of Construction

Upon receipt of approval from the DRC, the Owner shall, as soon as practicable, satisfy all conditions thereof, if any, and diligently proceed with the commencement and completion of all construction, reconstruction, refinishing, alterations, and excavations pursuant to the approved plans within eighteen months from the date of such approval as required by the Declaration.

V. Fees

As required by the Declaration, the costs of the professionals and consultants, and any other costs and expenses incurred by the DRC shall be borne by the Owner as a fee. The estimated fee for such review is \$1,000, but the actual fee in each case will vary.

VI. Applicable Laws

The Owner or the Owner's architect, engineer, contractor or other professionals, shall be responsible for all submissions to the appropriate state and county agencies and for complying with all applicable laws, regulations, ordinances and codes, and shall acquire all permits necessary before commencement of any construction.

END OF EXHIBIT "B"

SCHEDULE 1

DETAILED LIGHTING STANDARDS Olowalu Lands, Olowalu, Lahaina, Maui Hawaii

Purpose: While providing some level of safety for pedestrian and vehicular traffic, the purpose of this Lighting Standard is to mitigate the effects of development (human intrusion) onto cultural and environment resources within Olowalu.

Intent: The intent of these Lighting Standards is:

1. To protect night sky viewing
2. To mitigate the effects of lighting on migratory seabirds
3. To prevent light trespass on, and light glare to neighboring properties
4. To mitigate any adverse impact to cultural sites
5. To keep the rural nature of Olowalu by limiting an excessive amount of light fixtures as well as light intensity
6. To encourage the conservation of electricity

Criteria: These standards apply to properties within the Olowalu area, purchased by Olowalu Elua Associates, LLC (OEA) on September 21, 1998, and their successors and assigns. This applies to all parcels regardless of its present or future zoning and/or land use designation and regardless of its intended use (roadway, agricultural, residential, park, etc.).

Definitions: For the purpose of these rules, unless it is plainly evident from the context that a different meaning is intended, certain words and phrases used herein are defined as follows:

- "AOAO" means an association of homeowners whose duty is to enforce any and all covenants, restrictions and conditions placed on property within the area.
- "Fully shielded" means that the outdoor light fixture is constructed so that all of the light emitted by the fixture is projected below the horizontal plane of the lowest point of the fixture.
- "Light glare" means the sensation produced by luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort or loss in visual performance and visibility.

- “Light trespass” means any form of artificial illumination emanating from a luminaire that penetrates other property other than its intended use.
- “Luminaire” means the complete lighting assembly, less the support assembly.

Roadway Lighting Standards:

1. Lamp Standards:

(a) High pressure sodium or other light fixtures approved by OEA or the AOA, shall be the only allowed lamp on roadway lots.

(b) For roadways, the maximum allowable wattage shall be 100W HPS for internal road intersections and 150W HPS for intersections involving a major and/or minor public collector road.

(c) Specifically, mercury vapor lamps are expressly prohibited.

2. Luminaire Standards: Fully shielded luminaries shall be the only allowed fixtures.

3. Light Standards (poles):

(a) Light standards shall be of a non-reflective material.

(b) The maximum height for light standards within roadways, measured from ground level directly below the luminaire to the bottom of the lamp itself, shall be twenty (20) feet.

(c) Light standards for roadways are only required at roadway intersections, unless OEA or AOA feels that excessive pedestrian activity or physical attribute warrants additional light standards.

Improvement of Lighting Standards: This section applies to all exterior lighting on a lot that is visible from adjoining properties, including but not limited to porch lights, yard lights, security lights, advertising lighting and exterior improvement light fixtures.

1. Intent: Exterior lighting shall be fully shielded and if not fully shielded, be of a construction where the lighting is subdued and/or indirect. As an example, while the light emission from a low voltage light fixture could be exposed, the nature of the lighting is considered unobtrusive to adjoining properties. Colored lights, fluorescent, high intensity discharge exterior lights, flashing, exposed bulbs and flood lamps are not allowed.



Variations: Any request for variations to these standards shall be presented in writing to OEA or AOAO. A decision will be made within 14 days of receipt of said request, unless further information is needed before a determination can be made. A determination shall be considered final.

Exceptions: Lighting that conflicts with these standards but would be considered temporary in nature are allowed, unless in the opinion of the OEA or AOAO, the usage of temporary lights are of a permanent nature. Examples of temporary lighting would be holiday lighting and construction site lighting.

Liability: Property owners will indemnify and hold harmless OEA, its successors or assigns from any loss, liabilities, claims or demands for property damage, personal injuries, deaths or any other incidents arising out of implementation of these lighting standards.

END OF SCHEDULE 1

EXHIBIT "C"

Schedule of Easements and Restrictions

This schedule lists those matters affecting each lot which may be specific to that lot and may not affect others. The following schedule is not exclusive or comprehensive. There may be additional matters that affect a particular lot not noted on this schedule. As stated in the project documents and the deed to each lot, the developer has reserved the right to amend existing easements and establish additional easements as needed, before and after closing of lot sales. Lot areas are approximate and may change on the final plan.

Lot No.	Approximate Lot Area (as shown on Plan)	<u>Specific Easements and Restrictions Affecting Lot</u>
1	5.001 acres	
2	5.530 acres	
3	6.111 acres	▶ Easement M-1 for power transmission line
4	4.060 acres	
5	5.053 acres	▶ Easement 25 for drainage purposes
6	5.670 acres	▶ Easement 5 for access and utilities in favor of Lot 5 ▶ Easement 24 for drainage purposes ▶ Easement 26 for access and waterline purposes ▶ 30 foot setback from cultural reserve
7	5.832 acres	▶ 30 foot setback from cultural reserve
8	5.253 acres	▶ Easement 6 for roadway purposes ▶ 30 foot setback from cultural reserve
9	5.844 acres	▶ Easement 7 for roadway purposes
10	5.281 acres	
11	5.136 acres	

Lot No.	Approximate Lot Area (as shown on Plan)	<u>Specific Easements and Restrictions Affecting Lot</u>
12	3.059 acres	
13	3.256 acres	
14	3.732 acres	

END OF EXHIBIT "C"

EXHIBIT "D"

OLOWALU LANDS, LAHAINA, MAUI, HAWAII

IRRIGATION SYSTEM PLAN

Background:

At its meeting of September 12, 2000, the Maui Planning Department voted to grant approval of a Special Management Use Permit for the subdivision of lands at Olowalu, Maui, Hawaii. Condition No. 15 of the approval states:

That the applicant shall establish an irrigation system for the proposed agricultural subdivisions which addresses the supply, storage, and distribution of irrigation water to the proposed lots, and is secured in terms of permit acquisition, quality, quantity, availability, and year-round operations and maintenance. Documentation that the irrigation system has been established shall be submitted to the Maui Planning Department within ninety (90) days of construction of the subdivision.

Accordingly, this Irrigation System Plan confirms that an irrigation system is currently in place and that provisions for back-up contingency have been identified for implementation, as needed.

Historical Accounting:

Olowalu Sugar Company and Pioneer Mill Company installed and maintained an irrigation system for sugar cane cultivation. This system consisted of two stream intakes, two (2) wells, four (4) reservoirs, a ditch system to transport the water and appurtenant waterlines within the fields. Generally, each reservoir and appurtenant ditches irrigated specific fields. One well ("N" Shaft) was used to add capacity to a specific reservoir while the second well ("O" Pump) was used as a direct irrigation source for some lower fields. See Exhibit "C".

For the makai lands, the existing irrigation system (from Pioneer Mill Company) is currently being utilized and will provide the source for this irrigation system.

Primary Irrigation Plan:

The two stream intakes will be the primary source for non-potable water for agricultural parcels. One of the stream intakes is on State Land 1.1 miles above subject property and subject to a revocable permit from the State Department of Land and Natural Resources. Termination of the revocable permit by the State would impact some of the northern (mauka) parcels. The existing ditches and reservoirs will continued to be used in its present capacity, however, some field irrigation lines will need to be re-routed.

Secondary Irrigation Plan:

This Plan involves the use of the "N" Shaft as a non-potable water source and would be implemented under two circumstances. The first would be a major breakdown of the ditch system from the stream intake on State Land to subject property. This upper ditch system is subject to landslide damage, intermittent breach of a wooden flume and damage to the intake itself. The "N" Shaft would be used to add capacity to the three lower reservoirs, however, the northern (mauka) fields (generally serviced from the uppermost reservoir) cannot be provided non-potable water under this Plan.

Alternative Irrigation Plan:

This Plan involves the use of potable water from a State certified well, through potable waterlines to be established within the project. This Plan would be implemented under either of two circumstances. For the northern (mauka) parcels, the breakdown of the upper ditch system on State Lands would necessitate implementation of this Alternative Plan. For the rest of the agricultural parcels, the loss of the "N" Shaft as a water source and the breakdown of the upper ditch system on State Lands would necessitate implementation of this Alternative Plan. Loss of the "N" Shaft would either be because of pump failure or any de-certification by the State Department of Health.

General Conditions:

1. Users understand and accept that on the date of this plan, Declarant (Olowalu Elua Associates, LLC) owns the "System" under this Irrigation System Plan, and has exclusive control and rights to exercise management over the "System". Declarant has the right and option to designate all or part of said system as a Common Area under Section 2.04 of the Declaration or may transfer all or a part of said system to the Association or to another entity which may be formed in Declarant's discretion for the purpose of owning and operating all or any part of said system. This entity may be a cooperative entity; a privately owned public utility (regulated by the Hawaii Public Utilities Commission) or other operating arrangement. Upon such designation or transfer Declarant shall have no further liability or responsibility with respect to the operation of the System, any failure of the System or any other aspect of it.

The cost of operating and maintaining said system and funding reserves to repair and replace the components of this System will be provided by assessing each Lot Owner the Lot's fair share of the expenses, based on usage or other equitable division. Rates and fees shall be established to offset costs, consistently with operating as a noncommercial and nonprofit entity.

2. Users of the "System" water will indemnify and hold harmless Declarant, its successors, assigns, employees, contractors and agents from any loss, liabilities, claims, or demands for property damage, personal injuries, deaths or any other incidents arising out of any acts or omissions of user, its successor, assigns, officers, employees, contractors and agents, under this Irrigation System Plan.
3. All users are required to place non-potable warning signage on spigots, etc. Water in the System is dangerous to drink.
4. The operation of the System and provision of non-potable water for irrigation under this Plan shall be considered an amenity voluntarily provided by Declarant and not a legally enforceable promise for which Declarant or any successor or designee who shall hold and operate the System would be responsible or liable. In other words, if the System for any reason whatsoever shall fail to provide water (either temporarily or permanently) to any Property, or if the quality or quantity of water shall be diminished or unfit for use, regardless of cause, the Declarant and its successor or designee who shall be operating the System shall have no liability for any loss or damage arising out of such failure or circumstance. Without limiting the generality of the preceding sentence, Declarant makes no warranties, expressed or implied, as to the availability, quality or quantity of water or adequacy of water pressure for users' intended purpose.
5. All users who also use potable water on their property will be required to install a "backflow preventative valve" on the potable system at their own expense, before initial use of the "System".
6. Users are obligated to pay for the installation of a meter, however, the System operator will install and maintain said meter.
7. If a non-potable water management company is established by Declarant, users will be given an opportunity to review and approve the "Rules and Regulations" governing the non-potable water system. Should any user not wish to participate in the "System", Declarant is under no obligation to provide water under the Irrigation Plan to said User. Said "Rules and Regulations" could include a water charge for the non-potable water or a co-maintenance agreement with all Users.

END OF EXHIBIT "D"