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LAND COURT

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL ( ) PICK-UP ( )

Peterson, Neeley, Gravello & Anderson-Metcalf

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Honolulu, Hawaii 96813

(DO NOT WRITE IN THIS SPACE)

TITLE OF DOCUMENT:

Third Amendment of Declaration of Horizontal Property Regime and by-laws of Makaha Surfside

PARTIES TO DOCUMENT:

PROPERTY DESCRIPTION:

LIBER/PAGE:

DOCUMENT NO.:

TRANSFER CERTIFICATE OF

TITLE NO(S):

**THIRD AMENDMENT OF DECLARATION OF HORIZONTAL  
PROPERTY REGIME AND BY-LAWS OF MAKAHA SURFSIDE**

WHEREAS, the Declaration of Horizontal Property Regime of Makaha Surfside dated November 28, 1972, was filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii, Document No. 608328 on November 28, 1972 and noted on TCT No. 279,605 on November 29, 1972; and

WHEREAS, said Declaration was amended by instrument dated December 11, 1973 and filed in said Office of the Assistant Registrar of the Land Court of the State of Hawaii as Land Court Document No. 660872; and

WHEREAS, said Declaration was again amended by instrument dated June 22, 1978 and filed in said Office of the Assistant Registrar of the Land Court of the State of Hawaii as Land Court Document No. 937647; and

WHEREAS, Paragraph 7.0 of said Declaration provides that the administration of the project shall be vested in its Association consisting of all owners of apartments, parking stalls and laundry buildings in the project in accordance with the By-Laws of the Association which are made part of said Declaration; and

WHEREAS, Paragraph 16.0 of said Declaration provides that the Declaration may be amended by vote of the Owners whose interest in the common elements total in the aggregate not less than seventy-five percent (75%); and

WHEREAS, Article VIII, Section 1 of said By-Laws provides that no amendment to the By-Laws shall be effective until set forth in an amendment to the Declaration duly recorded in the Office of the Assistant Registrar of the Land Court, State of Hawaii; and

WHEREAS, pursuant to Article VIII, Section 1, of the By-Laws, may be amended by vote of the owners of interests in the Project to which are appurtenant, in the aggregate, seventy-five percent (75%) of the common interests, at a meeting duly called for such purpose; and

WHEREAS, pursuant to Article VIII, Section 2, of the By-Laws, where there is a conflict between the By-Laws and the provisions of Chapter 514, Hawaii Revised Statutes, the latter shall govern and apply; and

WHEREAS, Hawaii Revised Statutes Section 514A-82(b) provides that bylaws may be amended at any time by the vote or written consent of not less than sixty-five percent (65%) of all apartment owners; and

WHEREAS, a meeting of Owners was duly called and noticed for the purpose, among other purposes, of amending the Declaration and

the By-laws, which meeting was held on March 20, 1989; and

WHEREAS, at said meeting, it was voted by more than sixty-five percent (65%) of the owners to amend the By-Laws as hereinafter set forth:

NOW THEREFORE, the By-Laws of the Horizontal Property Regime are hereby amended as follows:

A. Article II, Section 1 of the By-Laws is amended to read as follows:

Section 1. Number and Qualifications. The affairs of the Project shall be governed by a Board composed of seven (7) persons, all of whom shall be owners of interest in the Project.

B. Article V, Section 1 of the By-Laws is amended to read as follows:

Section 1. Determination of Common Expenses and Fixing of Common Charges. The Board shall from time to time, and at least annually, prepare a budget for the Project, determine the amount of the common charges payable by the owners to meet the common expenses of the Project, and allocate and assess such common charges among the owners according to their respective common interest. The common expenses shall include, among other things, the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Board pursuant to the Declaration. The Board shall advise all owners, promptly, in writing, of the amount of common charges payable by each of them, respectively, as determined by the Board. Such charge shall be due and payable monthly in advance on the first day of every month, shall be subject to a late fee penalty, amount to be determined by the Board of Directors, ten (10) days after due date until paid, and with such interest shall be a lien on the entire condominium interest of the delinquent owner, assessed prior in right to all other charges whatsoever except that such lien shall be 1) subordinate to assessments, liens and charges in favor of the State of Hawaii for taxes past due and unpaid on such apartment or other interest and 2) subordinate to the lien of any mortgage instrument duly recorded. Said expenses and assessments shall be received periodically by the Board to determine if any adjustment of the charges are necessary.

C. Article VIII, Section 1 is amended to read as follows:

Section I. Amendment. These By-Laws may be amended,

modified or revoked in any respect from time to time by the owners of interests in the Project to which are appurtenant, in the aggregate, sixty-five percent (65%) of the common interests, at a meeting duly called for such purpose. No amendment to the By-Laws shall be effective until set forth in an amendment to the Declaration duly recorded in the Office of the Assistant Registrar of the Land Court, State of Hawaii.

In all other respects the Declaration and By-Laws, as amended, are hereby confirmed and shall be binding upon and inure to the benefit of Owners and their respective successors and permitted assigns.

The undersigned officers of the Association hereby certify that the foregoing amendments were adopted at a duly held meeting of the Association of Apartment Owners of Makaha Surfside by a vote exceeding sixty-five percent (65%) of the Owners to amend the Declaration and the By-Laws.

IN WITNESS WHEREOF, the undersigned has executed this instrument at this 6<sup>th</sup> day of February, 1990.

ASSOCIATION OF APARTMENT OWNERS  
OF MAKAHA SURFSIDE

By Sharon Tratty  
Its President

By Langell Quinlan  
Its VICE PRESIDENT

STATE OF Hawaii ) )  
COUNTY OF Honolulu ) ) SS:

On this 6<sup>th</sup> day of February, 1990,  
before me personally appeared Sharon Crafty  
to me personally known, who being by me duly sworn, did say that  
she is the President of the ASSOCIATION OF APARTMENT  
OWNERS OF MAKAHA SURFSIDE and that said instrument signed in behalf  
of said Association, and that said Sharon Crafty  
acknowledged said instrument to be the free act and deed of said  
Association. Said Association has no seal.

L.S.

Kay H. Yabiku  
Notary Public  
State of Hawaii

My commission expires: 7-30-92

STATE OF Hawaii ) )  
COUNTY OF Honolulu ) ) SS:

On this 6<sup>th</sup> day of February, 1990,  
before me personally appeared George Swanson  
to me personally known, who being by me duly sworn, did say that he  
is the Vice-President of the ASSOCIATION OF APARTMENT OWNERS  
OF MAKAHA SURFSIDE and that said instrument signed in behalf of  
said Association, and that said George Swanson  
acknowledged said instrument to be the free act and deed of said  
Association. Said Association has no seal.

L.S.

Kay H. Yabiku  
Notary Public  
State of Hawaii

My commission expires: 7-30-92