

BY-LAWS
OF
THE ASSOCIATION OF OWNERS OF
MAKAHA SURFSIDE

ARTICLE I
CONDOMINIUM OWNERSHIP. APPLICABILITY OF BY-LAWS

Section 1. Condominium Ownership. The property is located at 85-175 Farrington Highway, Waianae, City and County of Honolulu, State of Hawaii, has been submitted to the provisions of Chapter 514, Hawaii Revised Statutes (the Horizontal Property Act), by a Declaration recorded simultaneously herewith, to be known as the "Makaha Surfside" (herein known as the Project).

Section 2. Applicability of By-Laws. The provisions of these By-Laws are applicable to the Project and to the use and occupancy thereof. All present and future owners, mortgagees, lessees, and occupants of apartments, parking stalls, laundry buildings or other interests in the property and their employees, and any other persons who may use the facilities of the Project in any manner are subject to these By-Laws, the Declaration and the House Rules.

The acceptance of a deed or conveyance or the entering into of a lease or the act of occupancy of an apartment or other interest in the Project or the use of any of the facilities of the Project shall constitute an agreement that these By-Laws, the House Rules and the provisions of the Declaration, as they may be amended from time to time, are accepted, ratified, and will be complied with.

Section 3. Office. The office of the Project and of the Board of Directors (hereinafter called the Board) and of the Association of Owners (hereinafter called the Association) shall be located at the address of the Project in Honolulu, Hawaii. All meetings of the Association and of the Board shall be held at said address unless some other place is stated in the call.

ARTICLE II
BOARD OF DIRECTORS

Section 1. Number and Qualification. The affairs of the project shall be governed by a Board composed of five (5) persons, all of whom shall be owners of interests in the Project.

Section 2. Powers and Duties. The Board of Directors of the Association shall be responsible only for the administration of

Exhibit "C"

those portions of the Project relating to the apartments and the common elements appurtenant thereto. All other areas of the Project shall be administered by and be the sole responsibility of the owners, their successors and assigns.

The Board shall have the powers and duties necessary for the administration of the affairs of the apartments described above, and may do all such acts and things except as by law or by the Declaration or by these By-Laws may not be delegated to the Board by the owners. Such powers and duties of the Board shall include, but shall not be limited to, the following:

- (a) Operation, care, security, upkeep and maintenance of the portions of the common elements;
- (b) Collection of monthly assessments from the apartment owners;
- (c) Employment and dismissal of the personnel necessary for the maintenance, repair, replacement and operation of the common elements;
- (d) Keeping of Detailed accurate records of the receipts and expenditures affecting the common elements specifying and itemizing the maintenance and repair expenses of the common elements and any other expenses incurred. Such records and vouchers authorizing payment shall be available for examination by the apartment owners or other owners of interests in the Project at convenient hours of weekdays;
- (e) Obtaining of insurance for the Project, including the apartments, pursuant to the provisions of the Declaration.
- (f) Making of repairs, additions and improvements to or alterations of the Project and repairs to and restoration of the Project in accordance with the other provisions of these By-Laws, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings.
- (g) Determination of common expenses and fixing of common charges.

Section 3. Additions, Alterations or Improvements by the Board. Whenever in the judgment of the Board the common elements shall require additions, alterations or improvements, costing in excess of fifty thousand dollars (\$50,000.00), and the making of such additions, alterations or improvements shall have been approved by the owners of apartments, parking stalls and laundry

buildings having appurtenant thereto a majority of the total common interests, the Board shall proceed with such additions, alterations or improvements and shall assess all owners for the cost thereof as a common expense. Any additions, alterations or improvements costing fifty thousand dollars (\$50,000.00) or less may be made by the Board without approval of the owners and the cost thereof shall constitute part of the common expenses.

Section 4. Managing Agent and Manager. The Board may employ for the Association a management agent or manager, at a compensation established by the Board to perform such duties and services as the Board shall authorize including, but not limited to, the duties listed in Section 2 of this Article. The duties conferred upon the management agent or manager by the Board may at any time be revoked, modified or amplified by the owners of interests in the Project to which are appurtenant, in the aggregate, a majority of the total undivided interest in the common elements, at a duly constituted meeting. The Board may employ any other employee or agent to perform such duties at such salaries as the Board may establish.

Section 5. Election and Term of Office. Election of Directors may be by cumulative voting, shall be by secret ballot at each annual meeting unless waived, or at any special meeting called for the purpose. Directors shall hold office for a period of two (2) years or until their respective successors have been elected, subject to removal as herein provided, except that at the first annual meeting, two of the Directors shall be elected for one year and three for two years.

Section 6. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a Director by a vote of the Association shall be filled by vote of the majority of the remaining Directors, even though they may constitute less than a quorum; and each person so elected shall be a Director until a successor is elected at the next annual meeting of the Association. Death, incapacity, or resignation of any Director or his continuous absence from the State of Hawaii for more than six months shall cause his office to become vacant.

Section 7. Removal of Directors. At any regular or special meeting duly called, any one or more of the Directors may be removed with or without cause by a majority of the owners and a successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the owners shall be given an opportunity to be heard at the meeting.

Section 8. Compensation. No compensation shall be paid to Directors for their services as Directors.

Section 9. Organization Meeting. The first meeting of a newly-elected Board of Directors shall be held within one week of election at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and no notice shall be necessary to the newly elected Directors in order legally to constitute such meeting, provided that a majority of the whole Board must be present.

Section 10. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the Directors. Notice of regular meetings of the Board shall be given to each Director, personally or by mail addressed to his residence, or by telephone, at least one (1) day prior to the day named for such meeting.

Section 11. Special Meetings. Special meetings of the Board may be called by the President on one day's notice to each Director, given personally or by mail, addressed to his residence, or by telephone, which notice shall state the time, place (as hereinabove provided) and purpose of the meeting. Special meetings of the Board shall be called by the President or Secretary in like manner and on like notice on the written request of at least three Directors.

Section 12. Waiver of Notice. Before or at any meeting of the Board, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board, unless he objects to the calling of the same, shall be a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 13. Board of Directors' Quorum. At all meetings of the Board, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board. If, at any meeting of the Board, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 14. Bonds of Officers and Employees. The Board shall require that all officers and employees handling or responsible for Association funds shall furnish adequate bonds. The premiums on such bonds shall be paid by the Association.

ARTICLE III
ASSOCIATION OF OWNERS

Section 1. Annual Meeting. The annual meeting of the Association shall be held on the first Monday in the Third calendar month following the close of the Association's fiscal year.

Section 2. Special Meetings. Special meetings may be held at any time upon the call of the President or upon the call of owners of interests to which are appurtenant, in the aggregate, ten per cent (10%) of the common interests. Upon receipt of such call, the Secretary shall send out notices of the meeting to all members of the Association.

Section 3. Notice of Meetings. A written or printed notice of every meeting of the Association stating whether it is an annual or special meeting, the authority for the call of the meeting, the place, day and hour thereof, and the purpose therefor shall be given by the Secretary or the person or persons calling the meeting at least three days before the date set for such meeting. Such notice shall be given to each member in any of the following ways: (a) by leaving the same with him personally, or (b) by leaving the same at the residence or usual place of business of such member, or (c) by mailing it, postage prepaid, addressed to such member at his address as it appears on the records of the Association, or (d) by publishing such notice in any newspaper of general circulation in the County wherein the Project is located, such notice to be published not less than two times on successive days, the first publication thereof to be not less than three days nor more than ten days prior to the day assigned for the meeting. If notice is given pursuant to the provisions of this section, the failure of any member to receive actual notice of the meeting shall in no way invalidate the meeting or any proceedings thereat.

Section 4. Waiver of Notice. The presence of all the members, in person or by proxy, at any meeting shall render the same a valid meeting, unless any member shall, at the opening of such meeting, object to the holding of the same for noncompliance with the provisions of Section 3 of this ARTICLE III. Any meeting so held without objection shall, notwithstanding the fact that no notice of meeting was given, or that the notice given was improper, be valid for all purposes, and at such meeting any general business may be transacted and any action may be taken.

Section 5. Quorum. At any meeting of the Association, the owners of interests in said Project to which are appurtenant,

in the aggregate, a majority of the total interest in the common interests, present in person or by proxy, shall constitute a quorum, and the concurring vote of said majority shall be valid and binding upon the Association, except as otherwise provided by law or these By-Laws. "Majority," as used herein, means more than fifty per cent (50%).

Section 6. Voting. Voting shall be on a percentage basis, and the percentage of the total vote to which the owner of any interest is entitled shall be the percentage assigned to such interest in accordance with the Declaration. Any specified percentage of the owners means the owners of interests to which are appurtenant such percentage of the common interests as are established in accordance with the Declaration. Any person, firm, corporation, trust or other legal entity or a combination thereof, owning any unit in said Project duly recorded in his or its name, the ownership whereof shall be determined by the records of the Office of the Assistant Registrar of the Land Court, State of Hawaii, shall be a member of the Association, and either in person or by proxy entitled to vote the percentage of vote assigned to each interest so owned at all meetings of the Association. Any provision to the contrary notwithstanding co-owners or joint owners shall be deemed one owner entitled to the percentage vote allocated to their interest.

Section 7. Voting. Proxies and Pledges. The authority given by a member to another person to represent such member at meetings of the Association shall be in writing, signed by such member or if an interest is jointly owned then by all joint owners, or if such member is a corporation, by the proper officers thereof, and shall be filed with the Secretary, and unless limited by its terms, such authority shall be deemed good until revoked in writing. An executor, administrator, guardian or trustee may vote in person or by proxy at any meeting of the Association with respect to any interest owned or held by him in such capacity, whether or not the same shall have been transferred to his name by a duly recorded conveyance. In case such interest shall not have so been transferred to his name, he shall satisfy the Secretary that he is the executor, administrator, guardian or trustee holding such interest in such capacity. Whenever any such interest is owned by two or more persons, natural or legal, jointly, according to the records of said Office of the Assistant Registrar, the vote therefore may be exercised by any one of the owners present in the absence of protest by the other or others.

Section 8. Adjournment. Any meeting of the Association may be adjourned from time to time to such place and time as may be determined by majority vote of the members present, whether a quorum be present or not, without notice other than the announcement at the meeting. At any such adjourned meeting at which a quorum shall be present, any business may be

transacted which might have been transacted by a quorum at the meeting as originally called.

ARTICLE IV
OFFICERS

Section 1. Designation. The principal officers of the Association shall be a President, a Vice President, a Secretary, and a Treasurer, all of whom shall be elected by the Board of Directors. The Directors may appoint an assistant treasurer, an assistant secretary, and such other officers as they in their judgment deem necessary.

Section 2. Election of Officers. The officers of the Association shall be elected annually by the Board at the organization meeting of each new Board and shall hold office at the pleasure of the Board.

Section 3. Removal of Officers. Upon an affirmative vote of a majority of the members of the Board, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board, or at any special meeting of the Board called for such purpose.

Section 4. President. The President shall be the chief executive officer of the Association and a member of the Board. He shall preside at all meetings of the Association and of the Board. He shall have all of the general powers and duties which are usually vested in the office of president of an Association, including but not limited to the power to appoint committees from among the owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association.

Section 5. Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice president is able to act, the Board shall appoint some other member of the Board to so do on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors.

Section 6. Treasurer. The Treasurer shall supervise the management agent's or manager's custody of all funds of the Association, maintenance of accounts and records thereof, and preparation of final reports thereof.

Section 7. Secretary. The Secretary shall attend and keep the minutes of all meetings of the Board and of the Association, shall give all notices as provided by these By-Laws,

and shall have such other powers and duties as may be incidental to the office of Secretary, given him by these By-Laws or assigned to him from time to time by the Directors. If the Secretary is not present at any meeting, the presiding officer shall appoint a secretary pro tempore who shall keep the minutes of such meeting and record them in the books provided for that purpose.

Section 8. Auditor. The Association may at any meeting appoint some person, firm or corporation engaged in the business of auditing to act as auditor of the Association and to perform such audits and fiscal duties as may be requested of him by the Association.

ARTICLE V OBLIGATIONS OF THE OWNERS

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 interests. 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 bear interest at the rate of twelve per cent (12%) per annum 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 reviewed periodically by the Board to determine if any adjustment of the charges are necessary.

Section 2. Maintenance and Repair. (a) All maintenance of and repairs to any apartment, parking stall or laundry building, structural or non-structural, ordinary or extraordinary, (other than maintenance of and repairs to any common elements contained therein, and not necessitated by the negligence, misuse or neglect of the owner thereof) shall be made by the owner thereof. Each owner shall be responsible for all damages to any and all other apartments, parking stalls and laundry buildings and/or to the common elements, that his failure so to do may engender. (b) All maintenance, repairs and replacements to the common elements, whether located inside or outside of the apartments, parking stalls or laundry buildings, (unless necessitated by the negligence, misuse or neglect of an owner, in which case

such expense shall be charged to such owner), shall be made by the Board and be charged to all the owners as a common expense.

Section 3. Representation. The Manager, subject to the direction of the Board, shall represent the Association or any two or more owners similarly situated as a class in any action, suit, hearing or other proceeding concerning the Association, the common elements or more than one apartment, parking stall or laundry building, and on its or their behalf may institute, defend, intervene in, prosecute and settle any such actions, suits and proceedings, without prejudice to the rights of any owners individually to appear, sue or be sued. Service of process on two or more owners in any such action, suit or proceeding may be made on the Manager.

Section 4. Foreclosure of Lien. In any suit to foreclose a lien against any owner of an apartment, parking stall or laundry building, the Association may be represented through its Manager or Board in like manner as any mortgagee of real property. The Manager or Board acting on behalf of the owners, shall have the power to bid for and acquire any such apartment, parking stall or laundry building at the foreclosure sale. The delinquent owner shall be required to pay to the Association a reasonable rent for such apartment, parking stall or laundry building until sale or foreclosure, together with all costs and reasonable attorney's fees. Suit to recover a money judgment for unpaid common expenses shall be maintainable with all costs and reasonable attorney's fees without foreclosing or waiving the lien securing the same.

Section 5. House Rules. Two-thirds of the Board may, from time to time, adopt, amend, modify and/or revoke in full or in part, such reasonable rules and regulations, to be called House Rules governing the conduct of persons using said Project as it may deem necessary. Copies of such House Rules, upon adoption, amendment, modification and/or revocation thereof shall be delivered to each owner of an apartment, parking stall and laundry building in the Project and shall be binding upon all members of the Association, occupants of apartments, and other users of the premises.

Section 6. Title. Every owner shall promptly cause to be duly recorded in the Office of the Assistant Registrar of the Land Court, State of Hawaii, the deed, lease, assignment or other conveyance to him of his apartment or other evidence of his title thereto. Such evidence of title must also be filed with the Manager who shall maintain such information in the record of ownership of the Association.

Section 7. Mortgages. Any mortgagee of an apartment may file a copy of his mortgage or send a certified copy of a letter indicating the recording data thereof and giving the names of the parties, apartment and other pertinent data, with the Manager who shall maintain such information in the records of ownership of the Association. After such filing, the Board, through its Manager, shall notify the mortgagee of any apartment owner who is in default in his common expense contribution. The mortgagee, at its option, may pay the delinquent expenses.

Section 8. Enforcement of Declaration, By-Laws and House Rules.

- (a) Consent by Resident Manager. Every owner before renting, leasing, and/or permitting any person to use his apartment shall secure the approval of the same from the resident manager and in the event that the resident manager disapproves the same the owner shall comply with the same.
- (b) Penalty for Violation. As to any violation of the Declaration, By-Laws and/or House Rules an offending party (including any owner, tenant, lessee, licensee, guest and/or invitee) shall be given 10 days written notice by certified mail of the violation he has committed and the necessary corrective action that is required and if it continues to persist after the 10 day period is over the owner and offending party shall pay a penalty of \$10.00 per day until the violation is corrected. The mailing of the notice shall constitute the commencement of the 10 day period.
- (c) Penalty for Spot Violation. As to any violation of the Declaration, By-Laws and/or House Rules by any offending party who is a short term tenant, lessee, licensee, guest and/or invitee, short term is defined for a period of less than 14 days, the Resident Manager shall have the right to immediately invoke a penalty of \$10.00 per day until the violation is corrected, against the offending party, and in addition the tenant, lessee, licensee, guest and/or invitee, may also be subject to immediate eviction by the Resident Manager; where the violation constitutes a breach which amounts to a disturbance of the peace, the short term offending party (including any tenant, lessee, licensee, guest and/or invitee) may also be subject to immediate eviction.
- (d) Litigation, Costs and Expenses. All costs and expenses incurred including a reasonable attorney's fee shall be paid for by the offending party and owner in the event of any action to recover penalties and damages or for injunctive relief.

ARTICLE VI
EXECUTION OF INSTRUMENTS

Section 1. Instruments Generally. All checks, drafts, notes, bonds, acceptances, contracts and all other instruments, except conveyances shall be signed by such person or persons as shall be provided by general or special resolution of the Board, and in the absence of any such resolution applicable thereto such instrument shall be signed by the President or the Vice President and by the Treasurer or Secretary or Assistant Treasurer or Assistant Secretary.

ARTICLE VII
LIABILITY OF OFFICERS

Section 1. Exculpation. No Director or Officer of the Association or Board shall be liable for acts or defaults of any other Director, Officer or other member or for any loss sustained by the Association except for willful misconduct or willful negligence.

Section 2. Indemnification. Every Director, Officer and Member of the Association shall be indemnified by the Association against all reasonable costs, expenses and liabilities (including counsel fees) actually and necessarily incurred by or imposed upon him in connection with any claim, action, suit, proceeding, investigation or inquiry of whatever nature in which he may be involved as a party or otherwise by reason of his having been a Director, Officer or Member of the Association or Board, whether or not he continues to be such Director, Officer or Member at the time such costs, expenses or liabilities are incurred or imposed except in relation to matters as to which he shall be finally adjudged, in such action, suit, proceeding, investigation or inquiry, to be liable for willful misconduct or willful negligence toward the Association in the performance of his duties, or in the absence of such final adjudication, any determination of such liability by the opinion of legal counsel selected by the Association. The foregoing right of indemnification shall be in addition to and not in limitation of all other rights to which such person may be entitled as a matter of law and shall inure to the benefit of the legal representatives of such person.

ARTICLE VIII
BY-LAWS

Section 1. 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, seventy-five (75%) percent 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.

Section 2. Conflict. In the event of any conflict between these By-Laws and the provisions of Chapter 514, Hawaii Revised Statutes, as amended, the latter shall govern and apply.

ADOPTION OF BY-LAWS

The undersigned owner of said Project hereby adopts the foregoing as the By-Laws of its Association of Owners, this 28TH day of NOVEMBER, 1972.

PROJECT COORDINATOR'S OFFICE, INC.

By: [Signature]
Its President

By: [Signature]
Its Vice President-Secretary

General Partner of Makaha Surfside
Development Company, a Hawaii
limited partnership