

**BY-LAWS OF THE
ASSOCIATION OF APARTMENT OWNERS OF
THE CREST AT WAILUNA, INCREMENT 5**

WHEREAS, THE TRUSTEES OF THE ESTATE OF BERNICE PAUHI BISHOP, herein called the "Lessor", own in fee simple that certain land described in the Declaration of Condominium Property Regime hereinafter referred to; and

WHEREAS, Lessor did lease said land to THE LUSK COMPANY, a California corporation authorized to do business in the State of Hawaii, whose principal place of business and post office address in Hawaii is 98-1910 Kaahumanu Street, Pearl City, Hawaii 96782, herein called "Developer", by that certain Bishop Estate Lease No. 27,642, dated October 28, 1986, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 23015, Page 473, as amended; and

WHEREAS, Developer has undertaken to improve said land pursuant to the terms of said Lease and in accordance with plans incorporated herein by reference and filed simultaneously herewith in said Bureau of Conveyances as Condominium Map No. 1158; and

WHEREAS, the Lessor and Developer shall establish that certain condominium project to be known as

"THE CREST AT WAILUNA, INCREMENT 5"

by Declaration of Condominium Property Regime to be recorded or filed of record in the State of Hawaii contemporaneously herewith;

NOW, THEREFORE, the following By-Laws shall apply to the above condominium project (herein called the "Project") situate on said land as described in and established by Declaration of Condominium Property Regime (herein called the "Declaration") to be recorded or filed of record in the State of Hawaii contemporaneously herewith, and to all present and future owners, tenants and occupants of any apartments of the Project and to all other persons who shall at any time use the Project. The acquisition or rental of any apartment or the common element will signify that these By-Laws are accepted, ratified and will be complied with.

ARTICLE I

ASSOCIATION OF APARTMENT OWNERS

Section 1. Membership. All owners of apartments of the Project shall constitute the Association of Apartment Owners, herein called the "Association". The owner of any apartment upon acquiring title thereto shall automatically become a member of the Association and shall remain a member thereof until such time as his ownership of such apartment ceases for any reason, at which time his membership in the Association shall automatically cease. To such extent and for such purposes, including voting, as shall be provided by lease of any apartment filed with the Board of Directors of the Association, (herein called the "Board"), the lessee of an apartment shall be deemed to be the owner thereof. The purchaser of an apartment pursuant to an agreement of sale recorded in the bureau of conveyances or land court shall have all the rights of an apartment owner, including the right to vote, provided that the seller may retain the right to vote on matters substantially affecting his security interest in the apartment.

Section 2. Place of Meetings. Meetings of the Association shall be held at the Project or such other suitable place within the State convenient to the apartment owners as may be designated by the Board.

Section 3. Annual Meetings. The first meeting of the Association shall be held not later than one hundred eighty days after recordation of the first apartment conveyance; provided forty per cent or more of the Project has been sold and recorded. If forty per cent of the Project is not sold and recorded at the end of one year, an annual meeting shall be called; provided ten per cent of the apartment owners so request. Thereafter annual meetings of the Association shall be held within three months after the end of each accounting year.

Section 4. Special Meetings. Special meetings of the Association may be held at any time upon the call of the President or a petition signed by at least twenty-five per cent (25%) of the apartment owners and presented to the Secretary. No business shall be conducted except as stated in the notice thereof unless by consent of at least eighty per cent (80%) of the owners present, either in person or by proxy.

Section 5. Notice of Meetings. The Secretary shall give written or printed notice of each annual and special meeting to every apartment owner according to the Association's

record of ownership, at least fourteen (14) days, if practicable, before the date set for such meeting, in any of the following ways: (a) by delivering it to him personally, or (b) by leaving it at his apartment in the Project or at his usual residence or place of business, or (c) by mailing it, postage prepaid, addressed to him at his address as it appears on the Association's record of ownership. The written or printed notice of meeting shall contain at least the following: A statement as to whether it is an annual or special meeting; the authority for the call of the meeting, the date, time and place of such meeting; the items on the agenda for such meeting; and a standard proxy form authorized by the Association, if any. If notice is given pursuant to the provisions of this section, the failure of any apartment owner to receive actual notice of any meeting shall in no way invalidate such meeting or any proceeding thereat. The presence of any apartment owner in person or by proxy at any meeting shall be deemed a waiver of any required notice to such owner unless he shall at the opening thereof object to the holding of such meeting because of the failure to give notice in accordance with the provisions hereof.

Section 6. Quorum. The presence at any meeting in person or by proxy of a majority of apartment owners shall constitute a quorum, and the acts of a majority of the apartment owners at any meeting at which a quorum is present shall be the acts of the Association except as otherwise provided herein. The term "majority of apartment owners" herein means the owners of apartments to which are appurtenant more than fifty per cent (50%) of the common interests as established by the Declaration, and any other specified percentage of the apartment owners means the owners of apartments to which are appurtenant such percentage of the common interests.

Section 7. Voting. Voting shall be on a percentage basis, and the percentage of the total vote to which each apartment is entitled shall be the percentage of the common interests assigned to such apartment in the Declaration. Votes may be cast in person or by proxy by the respective apartment owners as shown in the record of ownership of the Association. A personal representative, guardian or trustee may vote in person or by proxy at any meeting of the Association the percentage of vote for any apartment owned or controlled by him in such capacity, whether or not the same shall have been transferred to his name in the Association's record of ownership, provided that he shall first present evidence satisfactory to the Secretary that he owns or controls such apartment in such capacity. The vote for any apartment owned of record by two or more persons may be exercised by any one of them present at any meeting in the absence of protest by the

other or others, and in case of protest each co-tenant shall be entitled to only a share of such vote in proportion to his share of ownership in such apartment.

Section 8. Proxies and Pledges.

(a) A proxy, to be valid, must be delivered to the secretary of the association of apartment owners or the managing agent, if any, no later than 4:30 p.m. on the second business day prior to the date of the meeting to which it pertains, and must contain at least: the name of the association of apartment owners, the date of the meeting of the association of apartment owners, the printed name and signature of the person or persons giving the proxy, the apartment or apartments for which the proxy is given, the printed name of the person or entity to whom the proxy is given, and the date that the proxy is given.

(b) A proxy shall only be valid for the meeting to which the proxy pertains and its adjournments, may designate any person as proxy, and may be limited as the apartment owner desires and indicates.

(c) Proxies may be given to the board of directors as an entity.

(d) Nothing in this section shall affect the holder of any proxy under a first mortgage of record encumbering an apartment or under an agreement of sale affecting an apartment.

(e) No resident manager, or managing agent shall solicit, for use by such manager or managing agent, any proxies from any apartment owner of the association of owners which employs him, nor shall he cast any proxy vote at any association meeting except for the purpose of establishing a quorum.

(f) No member of a board of directors who uses association funds to solicit proxies, shall cast any of these proxy votes for the election or reelection of board members at any association meeting unless the proxy form specifically authorizes the board member to vote for the election or reelection of board directors and the board first posts notice of its intent to solicit proxies in prominent locations within the project at least thirty (30) days prior to its solicitation of proxies; provided that if the board receives within seven (7) days of the posted notice a request by any owner for use of association funds to solicit proxies accompanied by a statement, the board shall:

(i) Mail to all owners a proxy form containing either the names of all owners who have requested the use of association funds for soliciting proxies accompanied by their statements; or

(ii) Mail to all owners a proxy form containing no names, but accompanied by a list of names of all owners who have requested the use of association funds for soliciting proxies and their statements.

The statement shall not exceed one hundred (100) words, indicating the owner's qualifications to serve on the board and reasons for wanting to receive proxies.

Section 9. 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 apartment owners present, whether or not a quorum be present, without notice other than the announcement at such meeting. At any such adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted by a quorum at the meeting as originally called.

Section 10. Order of Business. The order of business at all meetings of the Association shall be as follows:

- (a) Roll call.
- (b) Proof of notice of meeting.
- (c) Reading of minutes of preceding meeting.
- (d) Report of officers.
- (e) Report of committees.
- (f) Election of directors.
- (g) Unfinished business.
- (h) New Business.

ARTICLE II

BOARD OF DIRECTORS

Section 1. Number and Qualifications. The affairs of the Association shall be governed by a Board of Directors (the "Board") composed of not less than three (3) and not more than nine (9) persons; provided that if the Project has more than one hundred individual apartment units there shall be an elected board of not less than nine members unless not less than sixty-five per cent of all apartment owners vote by written ballot to set the minimum number of directors at less than nine during an annual meeting or special meeting called for the purpose of reducing the minimum number of directors.

Each member of the Board shall be the sole owner or co-owner of record of an apartment, or a vendee under an agreement of sale of an apartment, or a partner in a general partnership if such partnership is an owner of record or a general partner of a limited partnership if such partnership is an owner of record. If a corporation is an apartment owner, any officer of such corporation shall be eligible to serve as director so long as he remains an officer of such corporation. There shall not be more than one representative on the Board of Directors from any one apartment. No resident manager of the Project shall be eligible to serve as director. The directors shall serve without compensation.

Section 2. Powers. The Board of Directors shall have all powers necessary for the administration of the affairs of the Association and may do all such acts and things therefor as are not by law, the Declaration or these By-Laws directed to be exercised or done only by the apartment owners.

Section 3. Election and Term. Election of directors shall be by a cumulative voting by secret ballot at each annual meeting and any special meeting called for that purpose. Directors shall hold offices for a period of three (3) years and until their respective successors have been elected, subject to removal as herein provided, except that at the first annual meeting one-third (1/3) of the directors shall be elected for one (1) year, one-third (1/3) for two (2) years and one-third (1/3) for three (3) years.

Section 4. Vacancies. Vacancies in the Board of Directors caused by any reason other than removal of a director by the Association shall be filled by vote of a majority of the remaining directors, even though they may constitute less than a quorum, and each person so elected shall be a director until his 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, or his ceasing to be the sole owner or co-owner of an apartment or vendee under an agreement of sale, or in the case of a corporate owner, an officer of the corporation, or in the case of a general partnership or limited partnership that is the owner of record, a general partner of such partnership, shall cause his office to become vacant.

Section 5. Removal of Directors. At any regular or special meeting of the apartment owners, any one or more members of the Board of Directors may be removed with or without cause by a majority of the apartment owners and a successor shall then and there be elected for the remainder of the term to fill the vacancy thus created. If such removal and

replacement is to occur at a special association meeting, the call for such meeting shall be by the president or by a petition to the secretary or managing agent signed by not less than twenty-five per cent of the apartment owners; and provided further that if the secretary or managing agent does not send out the notices for the special meeting within fourteen days of receipt of the petition, the petitioners shall send out the notices for the special meeting.

Section 6. Annual Meeting. Notice of the annual Board meeting shall be given in a reasonable manner at least fourteen (14) days, if practicable, prior to such meeting. At each such meeting the Board shall elect the officers of the Association for the ensuing year.

Section 7. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors, but at least one (1) such meeting shall be held during each calendar quarter of every year. Notice of regular meetings of the Board shall be given to each director, personally or by mail, telephone, or telegraph, at least one (1) day prior to the date of such meeting.

Section 8. Special Meetings. Special meetings of the Board of Directors may be called by the President on at least twenty-four (24) hours' notice to each director, given personally or by telephone or telegraph, which notice shall state the time, place and purpose of such meeting. Special meetings of the Board shall be called by the President or Secretary in like manner and with like notice on the written request of at least two (2) directors.

Section 9. Waiver of Notice. Before or at any meeting of the Board of Directors 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 shall be a waiver of notice to him of such meeting. If all the directors are present at any meeting of the Board, no notice thereof shall be required, and any business may be transacted at such meeting.

Section 10. Quorum of Board. At all meetings of the Board of Directors a majority of the total number of directors shall constitute a quorum for the transaction of business, and the acts of a majority of the directors present at any meeting at which a quorum is present shall be the acts of the Board. If less than a quorum shall be present at any meeting of the Board, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum

is present, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 11. Board Meetings. All meetings of the Board of Directors shall be open to all members of the Association, provided that association members who are not on the board of directors may not participate in any deliberation or discussion unless expressly so authorized by the vote of a majority of a quorum of the board of directors. The board of directors, with the approval of a majority of a quorum of its members, may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters or litigation in which the association is or may become involved. The nature or any and all business to be considered in executive session shall first be announced in open session.

Section 12. Conflict of Interest. No director shall vote or cast proxy at any Board meeting on any issue in which he has a conflict of interest. The director shall disclose the nature of the conflict of interest prior to a vote at the board meeting, and the minutes of the meeting shall record the fact that a disclosure was made.

Section 13. Fidelity Bonds. The Board of Directors shall require that all officers, employees and agents of the Association handling or responsible for its funds, shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

ARTICLE III

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, and in the case of the President from, the Board of Directors. The Board may appoint an Assistant Treasurer, an Assistant Secretary and such other officers as in its judgment may be necessary.

Section 2. Election and Term. The officers of the Association shall be elected annually by the Board of Directors at its annual meeting and shall hold office at the pleasure of the Board.

Section 3. Removal. Any officer may be removed either with or without cause by vote of a majority of the members of

the Board of Directors, and his successor elected at any regular meeting of the Board or any special meeting called for such purpose.

Section 4. President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board of Directors. Subject to the control of the Board he shall exercise general supervision and direction over the management and conduct of the business and affairs of the Association. He shall also have such other powers and duties as may be provided by these By-Laws or assigned to him from time to time by the Board.

Section 5. Vice-President. The Vice-President shall assume and perform the duties of the President in the absence or disability of the President or whenever the office of President is vacant. He shall also have such other powers and duties as may be assigned to him from time to time by the Board.

Section 6. Secretary. The Secretary shall attend and keep the minutes of all meetings of the Association and of the Board of Directors, give all notices thereof as provided by these By-Laws, maintain and keep a continuous and accurate record of ownership of all apartments, have charge of such books, documents and records of the Association as the Board may direct, and in general perform all the duties incident to the office of Secretary. 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 7. Treasurer. The Treasurer shall maintain and keep the financial records and books of account of the Association, prepare regular reports thereof and be responsible for the proper deposit and custody in the name of the Association of all its funds and securities.

ARTICLE IV

ADMINISTRATION

Section 1. Management. The Board of Directors shall at all times manage and operate the Project and have such powers and duties as may be necessary or proper therefor including, without limitation, the following:

- (a) Supervision of its immediate management and operation;

(b) Maintenance, repair, replacement and restoration of the common elements and any additions and alterations thereto;

(c) Purchase, maintenance and replacement of any equipment and provision of all water, sewer and other utility services required for the common elements;

(d) Provision at each apartment of all water, sewer, electricity and such other utility services and utilities as the Board shall deem necessary either at the expense of such apartment or as a common expense as determined by the Board;

(e) Employment, supervision and dismissal of such personnel as may be necessary for the maintenance and operation of the Project;

(f) Preparation at least sixty (60) days before each fiscal year of a proposed budget and schedule of assessments for such year;

(g) Collection from each residential apartment owner of all assessments and other charges payable to Wailuna Recreation Association by each such apartment owner and payment of same to Wailuna Recreation Association;

(h) Collection of all installments of assessments levied and payment of all common expenses authorized by the Board;

(i) Purchase and maintenance in effect of all policies of hazard and liability insurance for the Project required by the Declaration and such other insurance and bonds as may be required or authorized by the Declaration or the Board;

(j) Custody and control of all funds of the Association, maintenance of full and accurate books of account and records of such funds and preparation of regular financial reports thereof;

(k) Notification of all persons having any interest in any apartment according to the Association's record of ownership of delinquency exceeding sixty (60) days in the payment of any assessment against such apartment; and

(l) Establishment of such late fees, penalties and fines as it deems appropriate with respect to

enforcement of the provisions of the Declaration, these By-Laws and the house rules adopted pursuant to these By-Laws; provided such penalties and fines are not inconsistent with the law or the provisions herein, and the unpaid amount of such penalties and fines against any apartment owner shall constitute a lien against his interest in his apartment which may be foreclosed by the Board of Directors or Managing Agent in the same manner as provided in the Condominium Property Act for common expenses.

Section 2. Managing Agent. The Board of Directors shall annually employ a responsible corporation authorized to do business in Hawaii as Managing Agent to manage and control the Project subject at all times to direction by the Board, with all the administrative functions set forth specifically in the preceding Section 1 and such other powers and duties and at such compensation as the Board may establish.

Section 3. Books of Receipts and Expenditures; Unpaid Assessments; Availability for Examination. The manager or board of directors shall keep detailed, accurate records in chronological order, 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. The manager or board of directors shall also keep monthly statements indicating the total current delinquent dollar amount of any unpaid assessments for common expenses. All records and the vouchers authorizing the payments, and statements shall be kept and maintained at the address of the project, or elsewhere within the State as determined by the board of directors, and shall be available for examination by the apartment owners at convenient hours of week days.

Section 4. Representation. Without limiting the rights of any apartment owner, actions may be brought by the Managing Agent or Board of Directors, in either case at the discretion of the Board, on behalf of two or more of the apartment owners, as their respective interests may appear, with respect to any cause of action relating to the common elements for more than one apartment. Service of process on two or more apartment owners in any action relating to the common elements or more than one apartment may be made on the person designated in the Declaration to receive service of process. Every first mortgagee to whom the Lessee is required by the terms of the mortgage to pay same, or whenever there is no such mortgagee, every Managing Agent shall also be the agent of the respective Lessees under any apartment leases filed with the Board for the collection, custody and payment of all rent,

taxes, assessments and other charges thereunder payable to the Lessor; provided, however, all apartment owners shall remain at all times liable directly to the Lessor for the performance of their obligations under their respective apartment leases.

Section 5. Execution of Instruments. All checks, drafts, notes, acceptances, conveyances, contracts and other instruments shall be signed on behalf of the Association by such person or persons as shall be provided by general or special resolution of the Board of Directors or, in the absence of any such resolution applicable to such instrument, by the President or Vice-President and by the Treasurer or Secretary.

ARTICLE V

OBLIGATIONS OF APARTMENT OWNERS

Section 1. Assessments. All apartment owners shall pay to the Managing Agent in advance on the first day of each and every month:

(a) The monthly installments of assessments against their respective apartments for common expenses of the Project;

(b) Any assessments against an apartment pertaining to a limited common element appurtenant to such apartment;

(c) All assessments against each apartment by Wailuna Recreation Association; and,

(d) With respect to any lease of any apartment filed with the Board of Directors, a monthly sum determined by the Managing Agent to be sufficient to accumulate and pay when due all rent, taxes, assessments and other charges thereunder payable by the Lessee of such apartment under the terms of the apartment lease; provided, however, all funds collected under this subsection shall be kept distinct, separate and apart from other funds collected by the managing agent from the apartment owners, and the rent and other payments due and payable under the terms of the apartment leases shall not be considered to be common expenses.

In the event all said monthly charges are not received by the Managing Agent on or before the 15th day after said charges are due, the Managing Agent may assess a late payment charge in an amount not in excess of Fifteen Dollars (\$15.00) to the appropriate apartment owner; and if said charges, including said late payment charge, are not received within thirty (30) days after said monthly charges are due, an

additional late charge in an amount not in excess of Fifteen Dollars (\$15.00) and interest at the rate of one percent (1%) per month calculated from such due date may be assessed. The amount of the late charge and interest rate may be adjusted by the Board.

Section 2. Maintenance of Apartments and Condo Lots.
If not planted and landscaped, then upon acquisition of the apartment, each apartment owner shall promptly, and within sixty (60) days, plant and landscape his Condo lot in accordance with the provisions of these By-laws. Every apartment owner shall at his own expense at all times well and substantially repair, maintain, amend and keep his apartment, including, without limitation, all internal installations therein such as water, electricity, gas, telephone, sewer, sanitation, lights and all other fixtures and accessories belonging to such apartment and all foundations, walls, floors, roofs and ceilings of such apartment, with all necessary reparations and amendments whatsoever in good order and condition except as otherwise provided by law or the Declaration, and shall be liable for all loss or damage whatsoever caused by his failure to perform any such work diligently, and in case of such failure after reasonable notice to perform shall reimburse to the Association promptly on demand all expenses incurred by it in performing any such work authorized by the Board of Directors or the Managing Agent.

Section 3. Damage to Common Elements. Every apartment owner and occupant shall reimburse the Association promptly on demand all expenses incurred by it in repairing or replacing any uninsured loss or damage to the common elements or any furniture, furnishment and equipment thereof caused by such owner or occupant or any person under either of them and shall give prompt notice to the Managing Agent of any such loss or damage or other defect in the Project when discovered.

Section 4. Restrictions on Use of Project.

(a) The apartments shall be used only for such purposes as stated in the Declaration.

(b) All common elements of the project shall be used only for their respective purposes as designed.

(c) No apartment owner or occupant shall plant or cultivate or landscape the common elements or place, store or maintain within or upon any of the common elements any furniture, packages or objects of any kind or otherwise obstruct transit through such common elements.

(d) There shall be strict compliance with the terms and conditions of Article VI of these By-Laws entitled "Architectural Control."

(e) Except for any fences or walls and other improvements constructed by Developer or constructed in accordance with the provisions of Sections 3, 4, or 6 of Article VI, and except for improvements constructed in accordance with subparagraph (h) of this paragraph, no improvements or movable personal property in excess of two and one-half (2-1/2) feet in height above existing grade shall be constructed or permitted to exist within five (5) feet of any Condo lot boundary line.

(f) All Condo lots have an area known as an environmental protective corridor (EPC). No plants, trees or other landscaping or fences or walls or other improvements or the placing of any item of personal property of any kind shall be permitted to exist within an EPC area that exceed two and one half (2-1/2) feet in height above existing grade.

(g) Except as otherwise restricted herein, no plants or hedges, trees or other landscaping shall be permitted within the side yard or rear yard of any Condo lot that shall extend above the existing roof line of the dwelling unit as it appears in the initial Condominium Map.

(h) No improvement shall be constructed on a Condo lot that shall increase the square footage of the footprint of the dwelling unit by more than 450 square feet as it appears in the initial Condominium Map and no improvement shall be added above the roof line of the dwelling unit as shown on the initial Condominium Map.

(i) Every apartment owner and occupant shall at all times keep his apartment and Condo lot neat and clean and in a strictly clean and sanitary condition, and each apartment owner and occupant shall observe and perform all laws, ordinances, rules and regulations now or hereafter made by any governmental authority or the Association for the time being applicable to the use of the Project.

(j) No apartment owner or occupant shall make or suffer any strip or waste or unlawful, improper or offensive use of his apartment and Condo lot or the Project or the common elements nor alter or remove any furniture, furnishings or equipment of the common elements.

(k) All occupants shall avoid making noises and using musical instruments, radios, televisions and amplifiers in such manner as may disturb other occupants;

(l) No garments, rugs or other objects shall be hung from the windows or facades of any building or otherwise displayed in public view.

(m) No rugs or other objects shall be dusted or shaken from the windows or doors of any apartment or cleaned by beating or sweeping on any walkways, lanais, entries or other exterior part of the Project.

(n) No livestock, poultry, rabbits or other animals whatsoever shall be allowed or kept in any part of the project except that dogs, cats and other household pets in reasonable number may be kept by the apartment owners and occupants in their respective apartments and Condo lots but shall not be kept, bred or used therein for any commercial purpose nor allowed on any common elements except in transit when carried or on leash, provided that any such pet causing a nuisance or unreasonable disturbance to any other occupant of the project shall be permanently removed therefrom promptly upon notice given by the Board of Directors or Managing Agent.

(o) No apartment owner or occupant shall without the written approval of the Board of Directors install any wiring for electrical or telephone installations, machines or air conditioning units, or other equipment or appurtenances whatsoever on the exterior of any building of the project or protruding through the walls, windows or roof thereof.

(p) No apartment owner or occupant shall without the prior written approval of the Board of Directors and Lessor, erect, place or maintain any television or other antennas, or solar energy systems or any other types of objects or equipment on any building visible from any point outside of his apartment.

(q) Nothing shall be allowed, done or kept in any apartment or common elements of the project which would overload or impair the floors, walls, or roofs thereof, or cause any increase in the ordinary premium rates or the cancellation or invalidation of any insurance thereon maintained by or for the Association.

(r) No signs whatsoever, including without limitation, commercial, political or similar signs, visible from neighboring property shall be erected or maintained upon or within any apartment or Condo lot except:

(i) Such signs as may be required by legal proceedings;

(ii) Apartment identification signs of a combined total face area of one square foot or less for each resident;

(iii) Not more than one "For Sale" or "For Rent" sign having a maximum face area of three square feet, such sign to refer only to the premises on which it is situated.

(s) No house trailer, mobile home, tent or similar facility or structure shall be kept, placed or maintained upon or within any Condo lot at any time.

(t) No boat or trailer or truck of more than one-ton capacity shall be kept, placed or maintained upon or within any Condo lot.

(u) No trailer, vehicle or boat shall be constructed, or reconstructed or repaired upon or within any Condo lot in such a manner that such construction, reconstruction or repair is visible from neighboring Condo lots, nor shall any vehicle not in good operating condition be maintained upon or within any Condo lot so as to be visible from any neighboring Condo lot, provided that nothing in this paragraph shall prevent an apartment owner from performing maintenance work or minor repairs on his own trailer, vehicle or boat in his garage.

(v) No open storage of furniture, fixtures, appliances and other goods and chattels not in active use will be permitted within a Condo lot so as to be visible from neighboring Condo lot, and no outside clothes lines or other outside clothes drying or airing facilities shall be permitted when they are visible from neighboring Condo lot.

(w) An apartment owner shall not permit any exterior fires whatsoever within the Condo lot, except small barbecue and imu fires, and shall not permit any condition on or within his Condo lot which creates a fire hazard.

(x) An apartment owner shall not park his car on any portion of his Condo lot visible from any adjacent Condo lot, except in a garage or on a paved driveway area, and boats, trailers or truck campers will not be kept within or on any Condo lot except in a garage.

(y) No garage shall be used in a manner inconsistent to the use of same for other than the parking of vehicles and boats.

(z) Each apartment owner and occupant shall do what is necessary to preserve and maintain the drainage patterns on his Condo lot and adjoining Condo lots.

Section 5. House Rules and Regulations. The Board, upon giving notice to all apartment owners in the same manner as herein provided for notice of meetings of the Association and opportunity to be heard thereon, may adopt, amend or repeal any supplemental rules and regulations (sometimes referred to as "house rules") governing the details of the operation and use of the common elements not inconsistent with Declaration or these By-Laws or any provision of the law.

Section 6. Default in Payment of Assessments. Each monthly assessment and each special assessment of the Association and all assessments of Wailuna Recreation Association and all other assessments chargeable to an apartment owner under Article V shall be separate, distinct and personal debts and obligations of the apartment owner against whom the same are assessed. In the event of a default or defaults in payment of any such assessment or assessments and in addition to any other remedies herein or by law provided, the Board of Directors may enforce each such obligation as follows:

(a) By suit or suits at law to enforce each such assessment obligation. Each such action must be authorized by the Board at a regular or special meeting thereof and any such suit may be instituted by any one member of the Board or by the Managing Agent. Each such action shall be brought in the name of the Board and the Board shall be deemed to be acting on behalf of all the apartment owners. Any judgment rendered in any such action shall include, where permissible under any law, a sum for reasonable attorneys' fees in such amount as the Court may adjudge against such defaulting apartment owner. Upon full satisfaction of any such judgment, it shall be the duty of the Board to authorize any two members thereof, acting in the name of the Board, to execute and deliver to the judgment debtor an appropriate satisfaction thereof.

(b) At any time after the occurrence of any such default, the Board may give a notice to the defaulting apartment owner, with a copy to the mortgagee of such apartment owner, if such mortgagee has furnished its name and address to the Board, which said notice shall state the date of the delinquency, the amount of the delinquency and make a demand for payment thereof. If such delinquency is not paid within ten (10) days after delivery of such notice, the Board may elect to file a claim of lien against the

apartment of such delinquent apartment owner. Such claim of lien shall state (1) the name of the delinquent apartment owner or reputed apartment owner, (2) a description of the apartment against which claim of lien is made, (3) the amount claimed to be due and owing (with any proper offset allowed), (4) that the claim of lien is made by the Board pursuant to the terms of these By-Laws and of Chapter 514A, Hawaii Revised Statutes, as amended, and (5) that a lien is claimed against said described apartment in an amount equal to the amount of the stated delinquency. Any such claims of lien shall be signed and acknowledged by any two or more members of the Board and shall be dated as of the date of the execution by the last such Board member to execute said claim of lien. Upon recordation of a duly executed original or copy of such claim of lien with the Bureau of Conveyances or the Assistant Registrar of the Land Court of the State of Hawaii, the Board shall have all remedies provided in Section 514A-90, Hawaii Revised Statutes, as amended. Each default shall constitute a separate basis for a claim of lien or a lien. In the event the foreclosure is under power of sale, the Board, or any person designated by it in writing, shall be entitled to actual expenses and such fees as may be allowed by law or as may be prevailing at the time the sale is conducted. The certificate of sale shall be executed and acknowledged by any two members of the Board or by the person conducting the sale.

(c) For the purposes of this Section, a certificate executed and acknowledged or made under penalty of perjury by the Managing Agent or by any two members of the Board shall be conclusive upon the Board and the apartment owners in favor of any and all persons who rely thereon in good faith as to the matters therein contained (except for any subsequently dishonored checks), and any apartment owner shall be entitled to such a certificate setting forth the amount of any due and unpaid assessments with respect to his apartment (or the fact that all assessments due are paid if such is the case) within fifteen (15) days after demand therefor and upon payment of a reasonable fee as established by the Board. In the event any claims of liens have been recorded and thereafter the Board shall receive payment in full of the amount claimed to be due and owing, then upon demand of the apartment owner or his successor, and payment of a reasonable fee, as established by the Board, the Managing Agent or the Board, acting by any two members, shall execute and acknowledge (in the manner provided above) a release of lien, stating the date of the original claim of lien, the amount claimed, the date, the recordation data if recorded in the Bureau of

Conveyances or the document number if filed in the Land Court, the fact that the lien has been fully satisfied and that the particular lien is released and discharged, such release of lien to be delivered to the apartment owner or his successor upon payment of the fee.

Section 7. Record of Ownership. Every apartment owner shall promptly cause to be duly recorded or filed of record the deed, lease, assignment, Agreement of Sale or other conveyance to him of such apartment or other evidence of his title thereto and shall file such document with and present such other evidence of his title to the Board of Directors through the Managing Agent. The Managing Agent or the Board of Directors shall maintain all such information together with an accurate and current list of members of the Association which shall include their current addresses and shall also maintain a record of the names and addresses of the vendees of an apartment under an agreement of sale, if any. The list shall be maintained at a place designated by the Board of Directors.

ARTICLE VI

ARCHITECTURAL CONTROL

Section 1. Appointment of Architectural Committee. The Board of Directors shall appoint an Architectural Committee, consisting of not less than three (3) members, who shall serve at the pleasure of the Board. The members of such Committee shall not be entitled to any compensation for services performed pursuant to this covenant. Said representatives may be the members of the Board of Directors of the Association.

The Committee in its discretion, may promulgate from time to time standards as to landscaping, building, fences, walls or other structures that do not conflict with provisions of the Declaration or those By-Laws.

Section 2. Architectural Approval. No building, fence, wall or other structure shall be commenced, erected or maintained upon the project, nor shall any exterior addition to or change or alteration therein, including patio covers and antennas, be made until the plans and specification showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Committee and Lessor.

Section 3. Environmental Protective Corridors. It is the desire of the Association to protect certain environmental corridors within certain Condo lots. Consequently, all Condo lots shown on the Condominium Map have shaded areas within the rear yard in which nothing may be built with a height greater than two and one half (2 1/2) feet above existing grade and nothing may be planted which grows to a height in excess of two and one half (2 1/2) feet above existing grade. These areas are known as the "EPC" areas. Any fences within an EPC area must be in accordance with the provisions of Section 4 set forth immediately below.

All of the foregoing notwithstanding, if two adjacent apartment owners so agree in writing, they may, with the prior written approval of the Architectural Committee, construct a fence or wall between their Condo lots to a height not exceeding six (6) feet above the highest finished dwelling unit slab. Should such a wall or fence be desired, then the apartment owner proposing such a wall must have his neighbor's permission attached to and made a part of the drawing which he submits to the Architectural Committee for approval, and prior to granted approval of the fence in writing the Architectural Committee must assure itself that said fence will not adversely affect any EPC area in the project.

Section 4. Fences and Walls. With the prior written approval of the Architectural Committee, fences and walls may be constructed across the rear boundary line of a condominium lot and/or down the side property line to the front building line farthest from the street, and walls may be constructed across and within the front yard (that yard area nearest the street) so long as the top of the wall shall not be higher than the elevation of the concrete slab of the house built within the condominium lot. Any fence within an EPC area must be a wrought iron picket fence or a black picket anodized aluminum fence with pickets not closer than five (5) inches on center. No fences shall be permitted in the front yard and chain link fences and unplastered concrete block walls will not be permitted. Fences and walls must be painted in accordance with provisions of Article VI of these By-Laws.

Section 5. Landscaping Approval. The provisions of this Section 5 are subordinate to the provisions of Section 3 above set forth. No trees, bushes, shrubs or plants which at maturity, and without clipping or pruning thereof, would exceed the height of the dwelling house on a Condo lot shall be planted or emplaced until the plans and specifications for the placement of any such trees, bushes, shrubs or plants have been submitted to and approved in writing by the Architectural Committee as to the preservation of the natural view and aesthetic beauty which

each Condo lot is intended to enjoy. Said plans as submitted shall show in detail the proposed elevations and locations of said trees, bushes, shrubs or plants, including the location and elevation of same in relation to all other Condo lots subject to these restrictions. Approval of said plans by the Architectural Committee may be withheld if in the reasonable opinion of the Committee the view of any Condo lot would be impeded by the location of such tree, bush, shrub or plant, or in any other manner. In any event, the Architectural Committee shall have the right to require any member to remove, trim, top, or prune any tree, or shrub, which in the reasonable belief of the Architectural Committee impedes or detracts from the view of any Condo lot.

Section 6. Lanai Structures, Sun Shades and Gazebos. Structures in this section shall be designed to continue and/or complement architectural features of the dwelling unit. The exterior appearance of the addition shall be built and finished to match the color and trim of the dwelling unit. No such structure shall be built within a EPC area.

Section 7. Repainting. All painting and repainting of exterior surfaces must have the prior written approval of the Architectural Committee.

Section 8. Consents. The Architectural Committee is required to communicate within a reasonable period of time. In the event that the committee and Lessor fails to approve or disapprove of plans and specifications and design within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required, and this Article will be deemed to have been fully complied with.

ARTICLE VII

MORTGAGES AND MORTGAGEES

Section 1. Notice to Board of Directors. An apartment owner who mortgages his interest in an apartment shall notify the Association of the name and address of his mortgagee and within ten (10) days after the execution of the same shall file a conformed copy of such mortgage with the Association; the Association shall maintain such information in a book entitled "Mortgages of Apartments".

Section 2. Notice of Meetings. A mortgagee of an apartment will, upon request, be entitled to written notice of all meetings of the Association and will be entitled to designate a representative to attend all such meetings.

Section 3. Notice of Unpaid Common Expenses and Assessment of Wailuna Recreation Association. The Association whenever so requested in writing by an owner or mortgagee of an interest in an apartment shall promptly report any then unpaid assessments or common expenses due from the apartment owner involved.

Section 4. Notice of Default. The Board, when giving notice to an apartment owner of a default in paying common expenses or other default, shall send a copy of such notice to each holder of a mortgage covering such apartment or interest therein whose name and address has theretofore been furnished to the Association. In each and every case where the lender-mortgagee has made a request, the Association shall notify the lender-mortgagee of any unpaid assessments that are thirty (30) days delinquent or more.

Section 5. Examination of Books. Each apartment owner and each mortgagee shall be entitled to examine the books and records of the Association or the Project at reasonable times on business days, but an owner may not examine said books more than once a month. Each mortgagee shall have the right to require the Board of Directors or the Association to provide such mortgagee with an annual financial statement of the Project within ninety (90) days following the end of each fiscal year of the Project, and such other annual reports and financial data as may be reasonable.

Section 6. Management Contracts. Any management agreement for the Project will be terminable by the Board of Directors for cause upon 30 days' written notice thereof, and the term of any such agreement may not exceed one year, renewable by agreement of the parties for successive one-year periods.

Section 7. Mortgage Protection. Notwithstanding all of the provisions hereof:

(a) The liens created hereunder against any apartment and its appurtenant interest in the common elements shall be subject and subordinate to and shall not affect the rights of the holder of any indebtedness secured by any recorded mortgage of such interest, made for value, provided that after the foreclosure of any such mortgage there shall be a lien upon the interest of the purchaser at such foreclosure sale to secure all assessments, whether regular or special, assessed hereunder to such apartment if falling due after the date of such foreclosure sale.

(b) All taxes, assessments and charges which may become liens prior to the first mortgage under the laws of the State of Hawaii shall relate only to the individual apartment units and not to the condominium Project as a whole.

(c) The Declaration and By-Laws shall not give an apartment owner or any other party, priority over any rights of first mortgagees of apartment units pursuant to their mortgages in the case of a distribution to apartment owners of insurance proceeds or condemnation awards for losses to or a taking of apartment units and/or common elements.

Section 8. Partition or Subdivision. No apartment in the Project may be partitioned or subdivided without prior approval of a holder of any first mortgage lien of such apartment.

Section 9. Right of First Refusal Not Applicable. In the event that there shall be any right of first refusal to purchase any apartment by the Association, any first mortgagee who obtains title to an apartment pursuant to the remedies provided in the mortgage, or foreclosure of the mortgage or assignment of apartment lease in lieu of foreclosure, shall be exempt from such "right of first refusal".

Section 10. Unpaid Common Expenses or Assessments. Any first mortgagee who obtains title to the apartment pursuant to the remedies provided in the mortgage or foreclosure of the mortgage shall not be liable for such apartment's unpaid common expenses and assessments which accrue prior to the acquisition of title to such unit by the mortgagee. The unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the apartment owners, including the acquirer of such apartment, his successors and assigns.

Section 11. Release of Information. The Board of Directors may provide any information available to it pertaining to an apartment or the Project to the first mortgagee of such apartment and such mortgagee may provide any information to the Board of Directors regarding the mortgagor, the mortgagor's loan and the status of such loan.

Section 12. Conflicting Provisions and Amendment to Article VII. In the event of any conflict in the provisions of the Declaration or these By-Laws and the provisions of this Article VII, the provisions of this Article VII shall prevail. Notwithstanding any other provisions of the Declaration or

these By-Laws, no amendment to this Article VII shall affect the rights of the holder of any mortgage which was recorded in the Bureau of Conveyances, State of Hawaii, or filed in the Office of the Assistant Registrar of the Land Court, State of Hawaii, prior to the filing of such amendment, who does not join in the execution thereof.

ARTICLE VIII

MISCELLANEOUS

Section 1. By-Laws, Amendments, Copies. Except as otherwise provided in these By-Laws, these By-Laws may be amended in any respect not inconsistent with provisions of law or the Declaration by the affirmative vote or written consent of sixty-five per cent (65%) of the apartment owners and the written consent of the Lessor, effective only upon the recording of an instrument setting forth such amendment and vote duly executed by such owners or by any two officers of the Association; provided that proposed bylaws with the rationale for the proposal may be submitted by the Board of Directors or by a volunteer apartment owners' committee. If submitted by such a committee, it shall be accompanied by a petition signed by not less than twenty-five percent (25%) of the apartment owners. The proposed bylaws, rationale, and ballots for voting on the proposed bylaws shall be mailed to the owners for approval without change within fourteen (14) days of the receipt of the petition by the Board of Directors. Failure of the Board of Directors to comply with these provisions shall validate the vote taken by the volunteer apartment owners' committee provided the volunteer owners' committee has complied with all other applicable rules on voting for bylaw amendments. Upon the request of any apartment owner, mortgagee or other interested party, the Secretary or the Managing Agent shall supply such party with a copy of the By-Laws as amended and shall certify that such copy is current to the date of such certification; provided, however, that the requesting party shall pay a reasonable service charge plus the actual cost of reproduction.

Section 2. Liability and Indemnity of Directors and Officers. The members of the Board of Directors and officers shall not be liable to the apartment owners for any mistake of judgment or otherwise except for their own individual gross negligence or wilful misconduct. The Association shall indemnify each director and officer of the Association against all costs, expenses and liabilities, including the amount of judgments, amounts paid in compromise settlements and amounts paid for services of counsel and other related expenses which

may be incurred by or imposed on him in connection with any claim, action, suit, proceeding, investigation or inquiry hereafter made, instituted, or threatened in which he may be involved as a party or otherwise by reason of his being or having been a director or officer, or by reason of any action taken or authorized or approved by him or any omission to act as director or officer, whether or not he continues to be a director or officer at the time of the incurring or imposition of such costs, expenses or liabilities, except such costs, expenses or liabilities as shall relate to matters as to which he is liable by reason of his gross negligence or willful misconduct toward the Association in the performance of his duties as such director or officer. As to whether or not a director or officer was liable by reason of gross negligence or wilful misconduct toward the Association in the performance of his duties as such director or officer, in the absence of such final adjudication of the existence of such liability, the Board of Directors and each director and officer may conclusively rely upon an opinion of legal counsel selected by the Board of Directors. The foregoing right of indemnification shall not be exclusive of other rights to which any such director or officer may be entitled as a matter of law or otherwise, and shall inure to the benefit of the heirs, personal representatives, and assigns of each such director and officer.

Section 3. Audits. The Association shall require a yearly audit of the association financial accounts and no less than one yearly unannounced verification of the Association's cash balance by a public accountant or accounting firm as auditor who shall not be an officer of the Association nor own any interest in any apartment; provided that the yearly audit and the yearly unannounced cash balance verification may be waived by the majority vote of all apartment owners taken at an Association meeting.

Section 4. Waiver. The failure of the Board to insist in any one or more instances upon a strict performance of or compliance with any of the covenants of the apartment owner hereunder or to exercise any right or option herein contained, or to serve any notice, or to institute any action or summary proceeding, shall not be construed as a waiver, or a relinquishment for the future, of such covenant or option or right, but such covenant or option or right shall continue and remain in full force and effect. The receipt by the Board of any sum paid by the apartment owner hereunder, with or without knowledge by the Board of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver, express or implied, by the Board of any provision hereof shall be deemed to have been made unless expressed in writing and

signed by the President pursuant to authority contained in resolution of the Board of Directors.

Section 5. Conduct of Meetings. All Association and Board of Directors' meetings shall be conducted in accordance with the most current edition of Roberts Rules of Order.

Section 6. Minutes of Meetings. The minutes of meetings of the Board of Directors, and Association of Apartment Owners shall be available for examination by apartment owners at convenient hours at a place designated by the Board.

Section 7. Association May Incorporate. All of the rights, powers, obligations and duties of the Association imposed hereunder may be exercised and enforced by a non-profit membership corporation, formed under the laws of the State of Hawaii for the purposes herein set forth by the Association. Said corporation shall be formed upon the written approval of a majority of the voting apartment owners. The formation of said corporation shall in no way alter the terms, covenants and conditions set forth herein and the Articles and By-Laws of said corporation shall be subordinated hereto and controlled hereby. Any action taken by said corporation, which said action is in violation of any or all of the terms, covenants or conditions contained herein, shall be void and of no effect.

Section 8. Subordination. Except as otherwise provided herein, these By-Laws are subordinate and subject to all provisions of the Declaration and any amendments thereto and the Condominium Property Act (Chapter 514A, Hawaii Revised Statutes, as amended) which shall control in case of any conflict. All terms herein (except where clearly repugnant to the context) shall have the same meaning as in the Declaration or said Condominium Property Act.

Section 9. Interpretation. In case any provision of these By-Laws shall be held invalid, such invalidity shall not render invalid any other provision hereof which can be given effect. Nothing in these By-Laws shall be deemed or construed to authorize the Association or Board of Directors to conduct or engage in any active business for profit on behalf of any or all of the apartment owners.

CERTIFICATE OF ADOPTION

The Trustees of the Estate of Bernice Pauahi Bishop, "Lessor," and The Lusk Company, "Developer," hereby adopt the foregoing as the By-laws of the Association of Apartment Owners

of The Crest at Wailuna, Increment 5, a condominium property regime created by the Declaration of Condominium Property Regime recorded contemporaneously with these By-Laws.

IN WITNESS WHEREOF, the Lessor and Developer have executed these presents this 15 day of September, 1988.

[Signature]

THE LUSK COMPANY

[Signature]
VICE PRESIDENT

[Signature]

Trustees of the Estate of
Bernice Pauahi Bishop

By [Signature]
Its Secretary

"Lessor"

"Developer"

APPROVED AS TO FORM
CONTENTS AND CORRELATION

[Signature]
Documentary Department

STATE OF HAWAII
CITY AND
COUNTY OF HONOLULU

)
) SS:
)

On this _____ day of SEP 26 1988, 1988,
before me personally appeared Henry H. Felsen
William S. Richardson and Makoto Takahara,
three of the Trustees of the Estate of Bernice Pauahi Bishop,
to me known to be the persons who severally executed the
foregoing instrument and severally acknowledged that they
executed the same as their free act and deed.

Werylend Ann Tomczyk
Notary Public, State of Hawaii

WERYLEND ANN TOMCZYK
Notary Public, State of Hawaii
My commission expires September 29, 1991

My commission expires: _____

STATE OF CALIFORNIA
COUNTY OF ORANGE

)
) SS.
)

On this 15 day of September, 1988, before me
appeared DONALD D. STEFFENSEN and RICHARD T. DEIHL, to me
personally known, who being by me duly sworn, did say that they
are the VICE PRESIDENT and Secretary of THE LUSK
COMPANY, a California corporation; that the seal affixed to the
foregoing instrument is the corporate seal of said corporation,
and that said instrument was signed and sealed in behalf of
said corporation by authority of its Board of Directors, and
said DONALD D. STEFFENSEN and RICHARD T. DEIHL
acknowledged said instrument to be the free act and deed of
said corporation.

Peggy Deaver
Notary Public, State of California

My commission expires: 9-12-89

