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Registrar of Conveyances
Assistant Registrar, Land Court
State of Hawaii



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AFTER RECORDATION RETURN BY MAIL TO:

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TITLE OF DOCUMENT:

ORDER APPROVING STIPULATED SETTLEMENT AND FINAL JUDGMENT

0101a/34

PARTIES:

PLAINTIFF: H.O.V.E. ROAD MAINTENANCE CORPORATION
DEFENDANTS: ANN D. PETTINGILL, et. al.

THIRD CIRCUIT COURT
STATE OF HAWAII
FILED

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92 APR 10 AM 9:19
M. TSUJI
CLERK

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT
STATE OF HAWAII

H.O.V.E. ROAD MAINTENANCE CORPORATION, a Hawaii non-profit corporation,)	Civil No. <u>89-232</u>
)	
Plaintiff,)	ORDER APPROVING STIPULATED SETTLEMENT AND FINAL JUDGMENT; EXHIBIT "A"
)	
vs.)	
)	
ANN D. PETTINGILL, et al.,)	
)	
Defendants.)	
<hr/>		
0200h/14)	

**ORDER APPROVING STIPULATED SETTLEMENT
AND FINAL JUDGMENT**

THE COURT HAVING reviewed and approved the Stipulation Re: Notice of Settlement and Order filed herein on January 3, 1992, and having conducted a fairness hearing thereon on March 9, 1992 at 8:00 a.m., hereby finds as follows:

1. The Notice of Proposed Settlement in the form attached hereto as Exhibit "A" was properly mailed to the members of the Defendant Class in accordance with the requirements of said Stipulation;

2. The vote by ballot of the Defendant Class Members was properly tabulated by the League of Women Voters;

I hereby certify that this is a full, true and correct copy of the original on file in this office.


Clerk, Third Circuit Court, State of Hawaii

3. A special meeting of the H.O.V.E. Road Maintenance Corporation membership, which consists of all members of Defendant Class, was held on March 7, 1992 at 1:30 p.m. in which those members that had not elected to vote by ballot were given an opportunity to vote at the meeting.

4. The results of the voting by ballot as presented by the League of Women Voters, was 1,659 in favor of the proposed settlement and 210 opposed to the proposed settlement;

5. The results of the voting at the said meeting were 18 in favor of the proposed settlement and 0 (zero) opposed to the proposed settlement;

6. The settlement appears to be the product of serious, informed noncollusive mediation and negotiations on the part of experienced and able counsel for the respective parties, as well as principals of the Plaintiff and representatives of the Defendant Class;

7. The Notice of Proposed Settlement meets the requirements of Hawaii Rules of Civil Procedure 23(b), 23(c), 23(d) and 23(e) with respect to its contents and fairly presents the terms and provisions of the proposed settlement, the nature of the instant litigation, and the rights and responsibilities of the Defendant Class members in connection with the settlement approval process;

8. The Plaintiff, Counsels for Plaintiff, Counsel for Defendant Class and, of the Defendant Class members voting thereon, 1,677 having approved the proposed settlement and 210

having opposed the proposed settlement, and the proposed settlement being fair, reasonable and in accordance with Hawaiian law;

IT IS HEREBY ORDERED THAT:

1. The settlement is approved and shall be binding upon the Plaintiff and each and every member of the Defendant Class and each and every lot owner within the Hawaiian Ocean View Estates subdivision, their heirs, successors and assigns;

2. The Amended and Restated Articles of Incorporation of H.O.V.E. Road Maintenance Corporation, attached as Exhibit "B" to Exhibit "A" attached hereto, and the Bylaws of H.O.V.E. Road Maintenance Corporation, attached as Exhibit "C" to Exhibit "A" attached hereto, are hereby approved and shall be binding upon and inure to the benefit of all lots and all lot owners in Hawaiian Ocean View Estates subdivision.

3. Said Settlement, Amended and Restated Articles of Incorporation of H.O.V.E. Road Maintenance Corporation and Bylaws of H.O.V.E. Road Maintenance Corporation shall have the force and effect of Covenants that run with each and every lot in Hawaiian Ocean View Estates subdivision, being a portion of grant 2791, Kahuku, District of Kau, County and State of Hawaii, which land is more particularly described as consisting of all of the land described as Hawaiian Ocean View Estates designated and shown on the map of the Hawaiian Ocean View Estates, duly recorded in the Bureau of Conveyances of the State of Hawaii as File Plan Nos. 692, 738, 787, and 1011 in

Liber 4255, Pages 474-476.

4. No further notice of the settlement need be given to the members of the Defendant Class;

5. This Order is a final judgment entered herein;

6. Upon the filing of this judgment, Counsel for Defendants is relieved of its duty to further represent Defendant Class unless by further order of this Court. In the event that the Law Offices of James C. Clay continue to receive correspondence from the Defendant Class, they may charge for reasonable clerical services in forwarding mail to the Plaintiff.

Dated at Hilo, Hawaii, APR 10 1992

[Handwritten Signature]
JUDGE OF THE ABOVE-ENTITLED COURT



APPROVED AS TO FORM AND CONTENT:

4/7/92
DATE

[Handwritten Signature]
ROBERT L. SMITH
Attorney for Plaintiff

4/11/92
DATE

[Handwritten Signature]
JAMES C. CLAY
Attorney for Defendant Class

0200h/14
Order Approving Stipulated Settlement and Dismissal with Prejudice