



DECLARATION OF
COVENANTS, CONDITIONS & RESTRICTIONS

including

CHARTER OF INCORPORATION & BY-LAWS

of

LEILANI COMMUNITY ASSOCIATION

RECORDATION REQUESTED BY:

AFTER RECORDATION, RETURN TO:

RETURN BY MAIL.

Certified copy, of the original document,
recorded at the Office of Bureau of
Conveyances, State of Hawaii, on the 19th
day of March, 1969; at 9:16 a.m., in Liber
6446, on pages 9 - 59.

TITLE GUARANTY OF HAWAII, INC.

A PORTION OF

LEILANI ESTATES

Hilo, Hawaii

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

including

CHARTER OF INCORPORATION

and

BY-LAWS

of

LEILANI COMMUNITY ASSOCIATION

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FIRST HAWAIIAN BANK, duly authorized and qualified to do business in the State of Hawaii, having its principal business address and its post office address at 161 South King Street, P. O. Box 3200, Honolulu, Hawaii 96801, hereinafter called "Declarant" is the Trustee under that certain unrecorded Trust Agreement dated December 6, 1968, by and among the FIRST NATIONAL BANK OF HAWAII, as Trustee, PUNA SUGAR COMPANY, LTD., as First Beneficiary, CHIAKI MATSUO, as Second Beneficiary, and LEILANI DEVELOPMENT, as Third Beneficiary, of those certain parcels of land situated in the Puna District, County and State of Hawaii, described as follows:

See Exhibit "C"

Declarant desires to establish covenants, conditions and restrictions relative to the use of said land in order to create a more desirable subdivision.

THEREFORE, Declarant hereby declares on this 14th day of March, 1969, that each of said lots described above shall be subject to the following covenants, conditions and restrictions:

1. ARCHITECTURAL COMMITTEE. Before any building, garage, wall, fence or any other improvement (hereinafter collectively referred to as "improvement") is constructed or maintained upon the lots or any alterations made thereto, a duplicate set of plans and specifications relating to said construction work shall be submitted to a committee to be known as the ARCHITECTURAL COMMITTEE. Such a Committee shall consist of the following persons: HAYDN PHILLIPS, KENNETH B. GRIFFIN and MICHAEL LA PLANTE.

The Declarant, its successors and assigns, for a period of two years (2) from and after the date hereof, shall have full power to make appointments from time to time, to fill any vacancy in the membership of said Committee and two (2) members of said Committee shall have the right of removal of the other member of said Committee at any time. Thereafter, the said power shall be exercised by the COMMUNITY ASSOCIATION hereinafter mentioned.

No improvement of any kind shall be constructed upon any of said lots until the plans and specifications therefor, and location of said improvement on the lot or lots have been approved in writing by at least two members of said Committee, which approval shall not be unreasonably withheld. One set of such plans and specifications will be kept by the Architectural Committee. Any such improvement on which construction is commenced shall be completed in a prompt and expeditious manner; provided, however, that neither the Declarant, its successors or assigns, the Community Association, nor any member of said Committee shall be responsible for any structural defects in said plans or specifications, nor in any improvement

constructed in accordance with such plans and specifications. In the event said Committee fails to approve or disapprove such plans and specifications and location within 30 days after said plans have been submitted to it, or, in any event, if no suit to enjoin the construction or the maintenance of such improvement has been commenced prior to the completion thereof, such approval will not be required and this covenant will be deemed to have been fully complied with.

In the event of any dispute between Declarant and any one or more owners or between any two or more owners of any interest, legal or equitable, in any lot as to whether any use or proposed use complies with the conditions hereof relating to the use of the property, the same shall be submitted to the Architectural Committee whose decision with respect thereto shall be final.

The powers and duties of such Committee and its designated representatives shall cease on and after December 31, 1988. Thereafter the approval described in this covenant shall not be required unless, prior to said date and effective thereon, a written instrument shall be executed by the then record owners of a majority of said lots and duly recorded appointing a representative or representatives, who shall thereafter exercise the same powers previously exercised by said Committee.

2. SINGLE FAMILY RESIDENCE. All of the lots shall be used only for single family residence (hereinafter referred to as "residence") and purposes incidental thereto, one such residence only being permitted on each such lot.

3. GARAGE. Every residence shall have a minimum of a 2-car garage or a 2-car carport, which shall be considered part of the residence.

4. MINIMUM SIZE. No residence shall be constructed which contains less than 800 square feet of ground floor space, exclusive of porches, lanai and garage.

5. HEIGHT. No improvement shall be constructed that will exceed 18 feet in height from the highest point of the land within the perimeter of the structure.

6. TEMPORARY OR SEPARATE IMPROVEMENTS. No trailer, mobile home, tent, shack, garage or other outbuilding shall be constructed prior to or during construction of a residence.

7. NUISANCE. No noxious or offensive activity shall be carried on upon any of said lots, nor shall anything be done thereon which may or may become an annoyance or nuisance to the neighborhood.

8. MATERIALS. All materials used in the construction of any improve-

ment upon any portion of the lots shall be new materials except that used decorative or structural materials may be used to enhance the appearance of the improvement.

9. FOUNDATIONS. No conventional subfloor framing shall be exposed from any side of any residence. All subfloor framing shall be concealed in a manner acceptable to the Architectural Committee.

10. DRIVEWAYS. Driveways shall be a minimum of 12 feet wide at the street and shall be paved during or prior to completion of a residence.

11. ROOFS. Cedar shakes, cedar shingles or clay tiles or metal shall be among approved roofing materials.

12. ANIMALS. Only dogs, cats or other household pets may be kept on any of said lots, provided that they are not kept, bred or maintained for any commercial purpose and are otherwise kept in accordance with zoning ordinances, rules and regulations otherwise applicable to urban land use.

13. SIGNS. No signs of any kind shall be displayed to the public view on any of said lots except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale or rent; or signs used by a builder to advertise the property during the construction and sales period.

14. RUBBISH AND TRASH. None of the lots shall be used or maintained as a dumping ground for discarded or old vehicles, rubbish, trash, garbage or other waste. No such material shall be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

15. ALL CONVEYANCES SUBJECT HERETO. All deeds, mortgages, agreements of sale, leases, or other conveyances made or delivered by any legal or equitable owner of any lot or interest therein shall be subject to the same covenants, conditions and restrictions as in this Declaration set forth whether expressly contained in such conveyance, mortgage or lease or not. Notwithstanding the foregoing, every such deed, mortgage, agreement of sale, lease or other conveyance shall contain the following provisions:

"Subject, however, to each and all of the covenants, conditions and restrictions contained in that certain Declaration of Covenants, Conditions and Restrictions, dated _____, and filed in the Bureau of Conveyances of the State of Hawaii in _____."

"Subject further, however, to the proviso that no commercial purpose involving the keeping or raising of cattle, hogs, or other livestock will

be maintained on the above described premises and that no noxious industry will be permitted to be operated on said premises; and that this covenant will run with the land and jurisdiction may be taken in equity at the suit of the Grantor, or the Community Association, or any owner, and their respective successors and assigns, to restrain by injunction any violation or threatened violation of this covenant."

16. BUILDING PERMIT. No work shall be commenced on the construction of any improvement until a building permit has been obtained from the Building Department of the County of Hawaii as required by law or ordinance.

17. COMMUNITY ASSOCIATION. Each owner (defined below) shall be a member of the LEILANI COMMUNITY ASSOCIATION, hereafter referred to as the "Association," as Hawaii nonprofit corporation.

Each owner shall be a member of the Association and entitled to all the benefits and rights as a member whether or not a certificate of membership has been issued. The right of membership of each owner in the Association and to the beneficial use of the streets or roadways as referred to below shall be appurtenant to each lot.

Each owner accepts and agrees to abide and be bound by the terms and provisions of the Charter and By-Laws of the Association, copies of which are attached hereto as "Exhibits 'A' and 'B' respectively, and are herein incorporated by reference, and amendments thereto; provided, however, that such terms and conditions of the Charter and By-Laws of the Association, and amendments thereto shall not conflict with or be inconsistent with this Declaration and in the event of any such conflict, the provisions hereof shall prevail.

Any assessment imposed against any owner as provided in the By-Laws of the Association shall constitute a lien upon his lot or lots in favor of the Association and such lien may be enforced by suit for money judgment or may be foreclosed by the Association in the same manner as a real estate mortgage may be foreclosed, provided that no action shall be brought to foreclose such lien unless ninety (90) days' written notice thereof shall be mailed to the delinquent member of the Association, and provided further that the liability of Declarant as an Owner shall be limited to its interest in the lots to which it has the right of immediate possession and shall not extend to any other property of Declarant and that Declarant shall in no way be subject to liability for any deficiency judgment. Declarant, or its successors in interest, shall be responsible for the payment of assessments on lots which have not been sold, or which are not under contract of sale, by them to third parties. The term "owner" shall mean, either the holder of the legal fee simple title to a lot who also has the right to possession, or his lessee, or the holder of the equitable fee simple title to who also has the right to possession, or his lessee.

18. Any streets or roadways dedicated as public streets on the tract may for that portion of LEILANI ESTATES referred to above shall be public streets and are not subject to this Declaration. Those streets or roadways which are not so dedicated shall be private streets used as such solely by the Association members, owners of the lots, their guests and invitees, and firemen, policemen and other government personnel in accordance with applicable laws and rules and regulations of the Association so long as such Association or a successor assuming its function as to such street or roadways is in existence.

Each owner shall also have as to each lot of such owner a 1/2241st nonexclusive right to the beneficial use of the easement in Roadway Lots A, B and C, as shown on the tract map of LEILANI ESTATES to be used in common with others entitled thereto, the interest in the said right in the easement for such use to terminate upon dedication of the fee title to said Roadway Lots to any governmental authority.

19. EASEMENTS. There are hereby specifically reserved for the benefit of the Association, for the owners in common, and for each lot owner severally, as their respective interests shall appear, the easements, and rights of way, as are particularly identified in this paragraph.

(a) There is reserved for the benefit of each lot, and the lot owner thereof, as dominant tenement:

(1) A Nonexclusive easement for utility services at reasonable places over, under and through each lot, as the servient tenement;

(2) As to each owner a nonexclusive right of way easement, as as to the Association, an easement, for egress and ingress over the private streets or roadways as referred to in Paragraph 18 above;

(b) There is reserved to the Association, its agents and servants, in gross, of which all of the lots shall be jointly the servient tenement, an easement of entry and access, including the permanent installation of utility pole anchors, for the installation and maintenance of utility lines, utility boxes, landscaping and maintenance of all streets and roads and for the performance generally of its rights and duties as provided in this Declaration and its Charter.

20. COVENANTS RUNNING WITH THE LAND. The foregoing restrictions shall operate as covenants running with the land and the breach of any such covenants or the conditions or the continuance of any such breach may be enjoined, abated or remedied by said Declarant, or by the Community Association, or by any owner, and by their respective successors and assigns, but by no other person; provided, however, that any violation or re-entry shall not forfeit or render invalid the lien of any mortgage or deed of trust made in good faith and for value as to any lot or any interest therein. Each and all of said restrictions shall be binding upon and enforceable and effective against Declarant, or any other owner including but not limited to

any owner whose title to any interest in any lot is acquired through foreclosure or trustee's sale, as well as the successors in interest of any such owner, so long as Declarant or such owner has any interest in such lot. Easements for electricity and telephone are of record.

21. ENFORCEMENT. Jurisdiction may be taken in equity at suit of the Association, the Declarant or its successors or assigns, or of any owner to restrict or prevent by injunction, mandatory or restraining, any violation of any of said covenants upon the part of the Association, Declarant or any owner to be observed and performed, without prejudice to the right of the Association, the Declarant or its successors or assigns or any owner to adopt or pursue any other remedy thereafter for the same breach or failure, or for any subsequent breach or failure, or to take any action to recover damages for any such breach or failure.

22. SEVERABILITY. Invalidation of any of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

23. AMENDMENT. This Declaration of Restrictions (other than Exhibits A and B hereto) may be amended by an instrument in writing, approved, signed and acknowledged, by the owners of at least seventy-five percent (75%) of the lots, which amendments shall be effective upon recordation in the office of the Bureau of Conveyances of the State of Hawaii; provided, however, that this paragraph shall not be amended to allow amendments by the lot owners of less than seventy-five percent (75%) of the lots.

No such amendment shall affect the mortgagee, trustee or beneficiary of any valid, bona fide mortgage or deed of trust given in good faith and for value on any part or portion of the property or interest therein prior to the effective date of such amendment. No such amendment shall have the effect of taking any part or portion of the property or interest therein without either adequately compensating the respective owner of the lot to which such part, portion, or interest pertains (this excludes the Association to the right of compensation) unless the taking affects each lot substantially equally.

24. ANNEXATION OF ADDITIONAL PROPERTIES.

(a) Additional property may be annexed by an instrument in writing approved, signed, and acknowledged by the lot owners of at least seventy-five percent (75%) of the lots, and the annexation shall be effective upon the recordation of such instrument in the office of the Bureau of Conveyances of the State of Hawaii.

(b) Notwithstanding the foregoing, if within three (3) years of the date of incorporation of the Association, Leilani Development should develop additional lands adjacent to or proximate within a one mile radius of the perimeter of the property herein, such additional lands may be annexed to

the property without the assent of the lot owners; provided, however, the development of the additional lands is a reasonable continuation of the general plans of LEILANI ESTATES.

Dated on March 14, 1969, in Honolulu, Hawaii, By First Hawaiian Bank.

FIRST HAWAIIAN BANK

By (s) CHAS. F. MARSLAND, JR.
Trust Officer

By (s) CARL L. FINSETH
Trust Officer

The First Beneficiary under that certain Trust Agreement dated December 6, 1968 and presently unrecorded, the PUNA SUGAR COMPANY, LIMITED, hereby approves the execution and recordation of this Declaration of Covenants, Conditions and Restrictions.

Dated on March 14, 1969, in Honolulu, Hawaii, by Puna Sugar Company, Limited.

PUNA SUGAR COMPANY, LIMITED

By (s) KARL H. BERG
President

By (s) J. E. LOOMIS
Assistant Secretary

STATE OF HAWAII)
CITY AND COUNTY OF HONOLULU) SS:

On this 14th day of March, 1969, before me personally appeared CHAS. F. MARSLAND, JR. and CARL L. FINSETH, to me known, who, being by me duly sworn, did say that they are the TRUST OFFICER and TRUST OFFICER, respectively, of FIRST HAWAIIAN BANK, A Hawaii corporation, and that the 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 CHAS. F. MARSLAND, Jr. and CARL L. FINSETH severally acknowledged said instrument to be the free act and deed of said corporation.

(s) HALL T. TANAKA
Notary Public, First Judicial
Circuit, State of Hawaii

My Commission expires NOVEMBER 17, 1972

STATE OF HAWAII)
CITY AND COUNTY OF HONOLULU) SS:

On this 14th day of March, 1969, before me personally appeared KARL H. BERG and J. E. LOOMIS, to me known, who, being by me duly sworn, did say that they are the PRESIDENT and ASSISTANT SECRETARY, respectively, of PUNA SUGAR COMPANY, LIMITED, a Hawaii Corporation, and 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 KARL H. BERG and J. E. LOOMIS severally acknowledged said instrument to be the free act and deed of said corporation.

By (s) S. T. VONIER
Notary Public, First Judicial
Circuit, State of Hawaii

My Commission expires AUGUST 31, 1970.

BY-LAWS
of
LEILANI COMMUNITY ASSOCIATION

EXHIBIT "B"

ARTICLE 1

SECTION 1. Name. The name of the corporation is the LEILANI COMMUNITY ASSOCIATION, hereinafter for convenience called the "corporation."

SECTION 2. Principal Office. The principal office of the corporation shall be maintained c/o The Realty Investment Company, Limited, 1145 Kilauea Avenue, P. O. Box 747, Hilo, County and State of Hawaii, or at such other place in the State of Hawaii as the board of directors from time to time shall determine.

SECTION 3. Place of Meeting. All meetings of the members and of the board of directors shall be held at the principal office of the corporation or at such other place within or without the State of Hawaii as is stated in the call for the meeting.

SECTION 4. Seal. The corporation may, but need not, have a common seal. The seal of the corporation shall be in such form and shall bear the name of the corporation and such other words, devices and inscriptions as the board of directors from time to time shall prescribe.

SECTION 5. Fiscal Year. The fiscal year of the corporation shall be such as may from time to time be established by the board of directors.

ARTICLE II

SECTION 1. Eligibility, Admission, Effective Date. Every owner of any of lots 31 to 75 inclusive, Block 4; 1 to 20 inclusive and 43 to 58 inclusive, Block 5; 38 to 49 inclusive, Block 6; 1 to 16 inclusive and 31 to 61 inclusive, Block 7; 23 to 45 inclusive, Block 8; 1 to 29 inclusive, Block 9; 1 to 64 inclusive, Block 10; 1 to 41 inclusive, Block 11; 1 to 64 inclusive, Block 12; 1 to 52 inclusive, Block 13; 1 to 64 inclusive, Block 14; 1 to 64 inclusive, Block 15; 1 to 64 inclusive, Block 16; 1 to 53 inclusive, Block 17; 1 to 76 inclusive, Block 18; 1 to 64 inclusive, Block 19; 1 to 45 inclusive, Block 20; 1 to 88 inclusive, Block 21; 1 to 64 inclusive, Block 22; 1 to 99 inclusive, Block 23; 1 to 64 inclusive, Block 24; 1 to 104 inclusive, Block 25; 1 to 64 inclusive, Block 26; 1 to 97 inclusive, Block 27; 1 to 64 inclusive, Block 28; 1 to 88 inclusive, Block 29; 1 to 62 inclusive, Block 30; 1 to 57 inclusive, Block 31; 1 to 68 inclusive, Block 32; 1 to 78 inclusive, Block 33; 1 to 45 inclusive, Block 34; 1 to 64 inclusive, Block 35; 1 to 35

Block 36; 1 to 62 inclusive, Block 37; within the subdivision known as LEILANI ESTATES in the Puna District, County and State of Hawaii, which property comprising said subdivision is more particularly shown on the map filed in the Office of the Registrar of Conveyances in Honolulu, Hawaii, as FILE PLAN NO. 672, same being a subdivision of portion of land described in Land Patent (Grant) 8088 and 8094, shall be a member of the corporation. No such owner shall for any reason be denied membership in the corporation. The term "owner" shall mean either the holder of the legal fee simple title to a lot who also has the right to possession, or his lessee, or the holder of the equitable fee simple title to a lot who also has the right to possession, or his lessee. No such owner, whether one or more individuals, trustees, or corporations shall be eligible for more than one (1) membership per each such lot. If there is more than one owner of a lot, they may designate in whose name the membership will be held, but upon their failure to do so, any one of them may be designated as the member. Each such owner shall be admitted to membership by the entry of his name upon the membership roll of the corporation and no other or further formality shall be required to constitute any such owner a member of the corporation. The effective date of membership for each owner of a lot as of the effective date of the Charter of the corporation shall be the effective date of the Charter. The effective date of each and every owner shall be the date of the instrument, act or occurrence by which such person becomes an owner of a lot.

SECTION 2. Expulsion, Withdrawal, Transfer, Suspension. No membership shall be terminated or forfeited nor member be expelled, except upon the transfer of the legal or equitable fee simple title and right to possession of any lot. No member may withdraw, nor shall any member transfer or otherwise dispose of his membership, except as above mentioned.

During any period in which a member shall be in default in the payment of any annual or special assessment levied by the Association, such member's voting rights and right to use of the property or facilities for common use of the members of the corporation may be suspended by the board of directors until such assessment has been paid. Such rights of a member may also be suspended, after notice and hearing, for a period not to exceed thirty (30) days, for violation of any rules and regulations established by the board of directors governing the use of the property and facilities for the common use of the members.

Each member shall be entitled to the use and enjoyment of the property and facilities for the common use of the members. Any member may delegate his rights of enjoyment of the property and facilities for common use to the members of his family, his tenants or contract purchasers. Such member shall notify the secretary in writing of the name of any such delegee. The rights and privileges of such delegee are subject to suspension to the same extent as those of the member. Guests of those

who have the right to use the property and facilities for common use may use the same subject to rules and regulations of the Association. No admission or other fees or charges of any kind for the use of any property or facilities for common use shall be charged by the Association.

ARTICLE III MEETINGS

SECTION 1. Annual Meeting. The annual meeting of the members of the corporation shall be held on the fourth Monday of January of each year. At the annual meeting the President, Treasurer and Standing Committee Chairmen shall make their annual reports to the members, the members shall elect the members of the board of directors, may transact any general business which may be brought before the meeting and may take any corporate action.

SECTION 2. Special Meetings. Special meetings of the members of the corporation may be held at any time upon the call of the president, or upon the call of a majority of the board of directors, or upon a petition of member in good standing representing 10% of the votes of all the members and who present to the President or the board of directors a request for such meeting, giving the necessity or specific reason for calling a special meeting. No business other than that for which the special meeting is called shall be transacted at such meeting.

SECTION 3. Notice of Meetings. A written notice of every meeting of the members, stating whether it is an annual, regular 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 by the person or persons calling the meeting, at least ten (10) but not more than sixty (60) days before the day 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 airmail, postage prepaid, or by telegraphing it, addressed to such member at his address as it appears on the membership roll of the corporation. If notice is given pursuant to the provisions of this section, the failure of any member to receive actual notice of meeting shall in no way invalidate the meeting or any proceeding thereat.

SECTION 4. Notice Unnecessary. The presence of all of 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 said meeting object to the holding of the same for noncompliance with the provisions of Section 3, immediately above. 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 corporate action may be taken.

SECTION 5. Quorum. At any meeting of the members of which proper notice has been given, members having ten per cent (10%) or more of the votes of all of the members of the corporation, present in person or by proxy, shall constitute a quorum, and the concurring vote of the members holding a majority of the votes of the members constituting a quorum shall be valid and binding upon the corporation, except as otherwise provided by law or by these By-Laws or by the Charter of the corporation.

SECTION 6. Voting. At every meeting of the members of the corporation, each member in good standing shall be entitled to vote in person or by proxy (appointed by instrument in writing, executed by such member or his authorized attorney-in-fact and filed with the Secretary). Each member shall be entitled to one vote per lot. Any member who is in default in the payment of any lot assessment shall not be a member in good standing and while he may attend meetings, he shall not be entitled to vote; provided, however, that each member in default shall be so notified in writing at the time and in the manner notice of meetings are given pursuant to Article III, Section 3, thereof; and provided, further, that if, prior to the commencement of the meeting, the member shall fully pay his delinquency or at least seven days prior to such meeting in writing request a hearing by the board of directors (which board shall promptly act upon his request and determine his eligibility to vote) and be determined by the board to be so eligible to vote, such member shall then be considered a member in good standing and be fully entitled to vote at the meeting. Unless otherwise limited to a shorter period by its terms, a proxy shall only be valid for a period of ninety (90) days and shall not cover a voting right for more than one meeting wherein the members are to vote; provided, however, that said person shall have the right to exercise his voting rights under said proxy at any adjourned meeting if the same is held within ninety (90) days of the date of the proxy. Cumulative voting is permitted as provided by Section 172-93, Revised Laws of Hawaii 1955, as the same now exists or is hereafter amended.

SECTION 7. Adjournment. Any meeting of the members of the corporation, whether annual, regular or special, may be adjourned from time to time, whether a quorum be present or not, without notice other than the announcement at the meeting. Such adjournment may be to such time and to such place as shall be determined by a majority vote of the members present; provided, however, that if any meeting cannot be held because a quorum is not present, the members present, in person or by proxy, may adjourn the meeting to a time not less than 48 hours nor more than 30 days from the time the original meeting was called. 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 original meeting as originally called.

ARTICLE IV

BOARD OF DIRECTORS

SECTION 1. Number. There shall be a board of directors of the corporation of not less than three (3) nor more than seven (7) members, as may from time to time be determined by the members of the corporation. Until the members of the corporation shall otherwise determine, the board of directors shall consist of three (3) members. Other than the initial directors, each member of the board of directors must be a member in good standing of the corporation.

SECTION 2. Election and Term. The directors shall be elected at the annual meeting of the members of the corporation, and shall, unless sooner removed by the members of the corporation as provided in these By-Laws, hold office until their successor shall be duly elected. Nominations for the directors to be elected shall be made by any member in good standing writing to the Secretary of the corporation nominating his desired candidate. Said nominations shall be made on or before the first day of January of the year in which the election is to occur. In the notice of the meeting, the Secretary of the corporation shall list the names of all such nominees. The three (3) nominees receiving the highest number of votes shall be declared elected as members of the board of directors and the Secretary of the corporation shall certify the election of such directors.

SECTION 3. Annual meeting. The annual meeting of the board of directors of the corporation shall be held at the place of each annual meeting of the members and immediately following such meeting. At the annual meeting the directors shall appoint the officers of the corporation for the following year, may transact any general business which may be brought before the meeting and may take any corporate action.

SECTION 4. Regular Meetings. The board of directors may establish regular meetings to be held at such places and at such times as it may from time to time by vote determine, and when any such meeting or meetings shall be so determined no further notice thereof shall be required.

SECTION 5. Special Meetings. Special meetings of the board of directors may be called at any time by the president or by any two (2) directors.

SECTION 6. Notice. A written notice of each special meeting of the directors of the corporation, stating the authority for the call of the meeting and the place, day and hour thereof, shall be given to each director by the Secretary or by the persons calling the meeting at least seven (7) days before the date set for such meeting. Such notice shall be given to each director in any of the following ways: (A) by leaving the same with the

director personally, or (B) by leaving the same at the director's residence or usual place of business, or (C) by mailing it, air mail, postage prepaid, or by telegraphing it, addressed to the director at the director's address as it appears on the books of the corporation. If notice is given pursuant to the provisions of this section, the failure of any director to receive actual notice of meeting shall in no way invalidate the meeting or any proceedings thereat. The presence of any director at any meeting shall be equivalent of a waiver of the requirement of giving notice of the meeting to such director.

SECTION 7. Quorum. A majority of the total number of directors to which the board is entitled shall constitute a quorum to transact business. To be valid, any act or business must receive the approval of a majority of such quorum. A vacancy or vacancies in the membership of the board shall not affect the validity of any action of the board, provided there is present at the meeting a quorum of all members to which the board is entitled.

SECTION 8. Actions Authorized Without Meeting. Any action which the board of directors may lawfully take at any meeting properly called and held may also be taken by action of all the individual directors by their written assent thereto. Any action so taken shall be valid and effective from and after the filing with the Secretary or with an Assistant Secretary of a written minute or other instrument, signed by all of the directors, evidencing the action.

SECTION 9. Powers. Subject to any limitations which may be set forth in the Charter of Incorporation or in these By-Laws, the board of directors shall have full power to control and direct the business and affairs of the corporation and to do and provide for any and every lawful act, whether in the ordinary course of the business of the corporation or otherwise.

SECTION 10. Removal. Any director may be removed from office by the concurring vote of the members holding two-thirds (2/3) of the total votes of all the members of the corporation present at any meeting duly called and held for such purpose.

SECTION 11. Vacancies. If any vacancy occurs in the board of directors, the remaining members of the board by an affirmative vote of a majority of them may elect a successor to serve until the next annual meeting of the members of the corporation or until a successor shall be duly elected or appointed.

SECTION 12. Compensation of Directors. Members of the board of directors shall receive no compensation for their services as directors but they may be reimbursed for actual expenses incurred. This provision shall not preclude any director from serving the corporation in any other

capacity as an officer, agent or otherwise, and receiving compensation for services as such officer or agent.

SECTION 13. Proxies. At all meetings of the board of directors, voting by proxy shall not be allowed.

ARTICLE V

OFFICERS

SECTION 1. Appointment and Term. The officers of the corporation shall be a President, one or more Vice Presidents, a Treasurer, and a Secretary. Each of the officers shall be appointed at the annual meeting of the board of directors and shall hold office at the pleasure of the board until the next annual meeting or until a successor shall be duly appointed and qualified. One person may hold more than one office except no one person shall hold the offices of President and Secretary. If a vacancy occurs in any office, the board of directors may appoint a successor to fill such vacancy for the remainder of the term.

SECTION 2. Subordinate Officers and Agents. The board of directors may appoint or employ such subordinate officers, including Assistant Treasurers and Assistant Secretaries, agents and employees as may be deemed proper, who shall hold their positions at the pleasure of the board of directors and who shall have such powers and duties as may be assigned to them by the board of directors. The authority to employ agents and employees and fix their powers and duties may be delegated by the board of directors. Any officer of the corporation may also be a subordinate officer, agent or employee.

SECTION 3. Salaries. The salaries and compensation, if any, of all officers, subordinate officers, agents and employees shall be determined by the board of directors. The authority to fix the salary and compensation of agents and employees may not be delegated.

SECTION 4. Bonds. Any officer may be required by the board of directors to give a surety company bond for the faithful discharge of his duties in such sum as the board of directors may require and such bond shall be deposited as the board may direct.

ARTICLE VI

PRESIDENT

SECTION 1. Powers and Duties. The President when present shall preside at all meetings of the members of the corporation and of the board of directors. Subject to the control of the board of directors, he shall be the chief executive officer of the corporation, shall exercise general

supervision and direction over the management and conduct of the business and affairs of the corporation and shall have the right to inspect at all times any and all of the records, accounts and property of the corporation. He shall also have such other powers and duties as are given to him elsewhere by law or in these By-Laws and as may be assigned to him from time to time by the board of directors.

ARTICLE VII

VICE PRESIDENTS

SECTION 1. Powers and Duties. The Vice President (or Vice Presidents in order or priority of appointment) 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. Each Vice President shall have such other powers and duties as may be given to him by law or in these By-Laws and as may be assigned to him from time to time by the board of directors.

ARTICLE VIII

TREASURER

SECTION 1. Powers and Duties. The Treasurer shall receive all moneys belonging to the corporation and deposit the same in a reliable bank. He shall pay out money only as approved by the President or as directed by the board of directors. He shall account for all funds and disbursements at such time and in such manner as the board of directors may specify, and shall render a report of all receipts and disbursements at annual meetings. He shall also have the powers and perform the duties customarily incidental to the office and such other powers and duties as may be given elsewhere in these By-Laws or as may be assigned from time to time by the board of directors.

ARTICLE IX

SECRETARY

SECTION 1. Powers and Duties. The Secretary will attend and keep the minutes of all meetings of the members of the corporation and of the board of directors and of any committee, in books provided for that purpose. He shall give all notices provided by these By-Laws and shall have such other powers and duties as may be incidental to the office of Secretary or elsewhere given to him by law or in these By-Laws and as may be assigned to him from time to time by the Board of Directors.

SECTION 2. Secretary Pro Tem. If the Secretary shall not be present at any meeting, the presiding officer shall appoint a secretary pro tempore.

He shall keep the minutes of such meeting and record them in the books provided for that purpose.

ARTICLE X

AUDITORS

SECTION 1. Election. The members of the corporation may at any annual meeting, or at any special meeting called for that purpose, or in the absence of such action by the members, then the board of directors shall, appoint some person, firm or corporation engaged in the business of auditing to act as Auditor of the corporation.

SECTION 2. Disqualification. No director, officer or member shall be eligible to serve as Auditor of the corporation.

SECTION 3. Duties. The Auditor shall, as often as is required by the directors, examine the books and papers of the corporation and compare the statements of the Treasurer with the books and vouchers of the corporation, and otherwise make a complete audit of the books of the corporation, and thereafter make appropriate reports to the directors, who shall within thirty (30) days of the completion of such audit make a copy thereof available to each member.

ARTICLE XI

REMOVALS, VACANCIES AND ABSENCES

SECTION 1. Removals. The board of directors may at any time remove from office or discharge from employment any officer, subordinate officer, agent or employee appointed by it or by any person under authority delegated by it, except so far as such removal would be contrary to law.

SECTION 2. Vacancies. If the office of any officer shall become vacant by reason of death, resignation, removal, disqualification or otherwise, the board of directors may appoint a successor who shall hold office for the unexpired term.

SECTION 3. Absence of Treasurer or Secretary. In the absence of the Treasurer or in his inability to act, or if that office is vacant, the duties thereof shall be performed by such Assistant Treasurer as may have been designated by the board of directors, otherwise by the Secretary. In the absence of the Secretary or in his inability to act, or if that office is vacant, the duties thereof shall be performed by such Assistant Secretary as may have been designated by the board of directors, otherwise by the Treasurer.

ARTICLE XII

EXECUTION OF INSTRUMENTS

SECTION 1. Authorized Signatures. All checks, drafts, notes, bonds,

acceptances, deeds, leases, contracts and all other instruments shall be signed by such person or persons as shall be provided by general or special resolution of the board of directors, and in the absence of any such general or special resolution applicable to any such instrument, then such instrument shall be signed by the President and by the Treasurer or Secretary.

ARTICLE XIII

LIABILITY OF OFFICERS AND DIRECTORS

SECTION 1. Exculpation. Each director or officer shall be free from all personal liability for any acts done on behalf of the corporation or for any losses incurred or sustained by the corporation unless the same have occurred through his wilful or fraudulent misconduct.

SECTION 2. Indemnification. Every director or officer shall be indemnified by the corporation against all reasonable costs, expenses and liabilities (including counsel fees) actually and necessarily incurred by or imposed upon him in connection with or resulting from 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 being or having been a director or officer of the corporation, whether or not he continues to be such director or officer of the corporation at the time of the incurring or imposition of such costs, expenses or liabilities, 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 wilful misconduct or fraud toward the corporation 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 wilful misconduct or fraud toward the corporation 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 or in the manner designated by the board of directors. The foregoing right to 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 XIV

RULES AND REGULATIONS

SECTION 1. Adoption. The board of directors may from time to time make such rules and regulations concerning the use of the facilities of the corporation as it deems necessary or advisable, including the matter of the use of such facilities by guests of members or of the corporation.

SECTION 2. Promulgation. The Secretary shall mail a true and

correct copy of all rules and regulations, or amendments thereto, to each member of the corporation as appears on the membership roll of the corporation at his last known address, and shall enter upon the records of the corporation his certificate of such mailing.

SECTION 3. Effective Date. Any such rule or regulation or amendment thereto, adopted by the board of director shall be effective commencing at 12:01 A. M. on the fifth (5th) day following the date of such mailing, unless the board of directors, in adopting the same, shall specify some other effective date.

SECTION 4. Advisory Committee. The President, with the approval of the board of directors, may appoint a committee of members to prepare drafts of such rules and regulations, to suggest amendments thereto, and generally to advise the board of directors in regard to the use of the facilities of the corporation.

ARTICLE XV

ASSESSMENTS AND CHARGES

SECTION 1. Regulatory Annual Assessments. One of the primary purposes and objects of the corporation shall be to establish a suitable and equitable assessment program to ensure the adequate and continued repair and maintenance of roads and streets and landscaping adjacent thereto and community facilities within the LEILANI ESTATES as provided in the Charter of Incorporation. In furtherance of such purposes a scale of assessments shall be fixed by the board of directors on a budgetary basis so that sufficient revenue shall be derived therefrom to enable the corporation to accomplish its general purposes and to enable it to maintain all areas within the subdivision. The amount of any annual assessment shall be determined by the board before the annual meeting of the members of the corporation and each member of the corporation shall be notified of the amount and effective date of such assessment. Initially, such regular annual assessment shall be \$15.00 per year per lot.

No member shall be assessed as to any lot owned until one year after the Public Offering Statement as to such lot has been approved for use by the Director of Regulatory Agencies, State of Hawaii, and the lot is first offered for sale pursuant thereto as determined by the then owner of such lot, the determination of which date shall be binding upon the corporation, the board of directors, and members.

SECTION 2. Special Assessments. If at any time the board of directors shall find or anticipate that the funds of the corporation are or will be insufficient to reasonably enable the corporation to accomplish its purposes and objectives, the board may, at any regular or special meeting, thereof, levy other and further assessments against the members of the corporation

as it determines are necessary or desirable. Upon the determination of any such special assessment, the Secretary shall notify each member of the corporation as to the amount of the assessment and its effective date.

SECTION 3. Reserve Fund. In determining the amount of any annual or special assessment, the board of directors shall consider the necessity and advisability of establishing a reserve fund for emergency or extraordinary expenses, and the board shall have the power to reasonably and equitably establish such a reserve fund.

SECTION 4. Veto of Assessments. If at any time the board of directors either (a) increases the last prior regular annual assessment by more than ten per cent (10%) or (b) declares any special assessment, the members, by an affirmative vote of the members holding a majority of the votes of all the members of the corporation may veto such increase or special assessment at a special meeting duly called for that purpose. Unless such meeting is called within sixty (60) days of the notice of assessment, the assessment as declared by the board shall be effective as of the date originally announced.

SECTION 5. Approval of Members for Assessments Which Relate to Community Facilities Other Than Maintenance and Landscaping. Anything in these By-Laws to the contrary notwithstanding, if at any time the board of directors establishes and declares an assessment, or portion thereof, which relates to community facilities other than repair and maintenance of roads and landscaping adjacent thereto as provided in the Charter of Incorporation, such assessment shall not be effective unless and until the members approve and ratify the same by an affirmative vote of not less than sixty per cent (60%) of the entire membership of the corporation. Votes may be cast either in person or by proxy.

SECTION 6. Payment of Assessments, Delinquency Every assessment, whether annual or special, shall be borne by the members pro rata; that is, each member will be required to pay per lot of which he is the owner the amount that is equal to the quotient of the total amount of the assessment as determined by the board divided by the total number of lots within LEILANI ESTATES subdivision as of the effective date of such assessment. Each annual assessment shall be due and payable on or before March first of each year or as may be otherwise determined by the board of directors. Each special assessment shall be due and payable not later than thirty (30) days after its effective date or as may be otherwise determined by the board of directors.

SECTION 7. Lien. Each assessment shall constitute a lien upon each lot against which it is imposed and such lien may be foreclosed by the corporation in the same manner as a real estate mortgage may be foreclosed; provided that no action shall be brought to foreclose such lien unless ninety (90) days' written notice thereof shall be mailed to the delinquent

member. Such lien shall be prior to all other liens, except (i) liens for taxes and assessments lawfully imposed by governmental authority against such lot and (ii) all sums unpaid on mortgages of record. If suit is brought, the member shall be responsible for all costs thereof, including reasonable attorneys' fees. The liability of the first owner of any lots as of the effective date of these By-Laws whether such lots have been retained since the effective date of these By-Laws or were required by such owner and any successor or assign of such owner who succeeds to the rights of such owner in all of the lots to lots to which such owner at the time of such succession had legal title whether such lots are sold or unsold, shall be limited to its interest in the lots to which such owner or such successor or assign of such owner has the right of immediate possession and shall not extend to any other property of such owner or such successor or assign of such owner and such owner shall in no way subject to liability for any deficiency judgment.

ARTICLE XVI

AMENDMENTS TO BY-LAWS

SECTION 1. Procedure. These By-Laws may be altered, amended, added to or repealed by an affirmative vote of not less than the majority of of the board of directors (except as to a change in the number of directors) present at any meeting duly called and held if notice of the proposed amendments shall have been given in the call for such meeting and subject to the right of the members to alter, amend, add to, or repeal these By-Laws as hereinafter referred to or by an affirmative vote of the members holding the majority of the votes of all the members of the corporation, present at any meeting duly called and held if notice of the proposed amendments shall have been in the call for such meeting.

EXHIBIT "C"

All of those certain parcels of land situated at Keahialaka, Puna, County and State of Hawaii, described as follows:

BLOCK NO.	LOT NO.
4	31 to 75 inclusive
5	1 to 20 inclusive and 43 to 58 inclusive
6	38 to 49 inclusive
7	1 to 16 inclusive and 31 to 61 inclusive
8	23 to 45 inclusive
9	1 to 29 inclusive
10	1 to 64 inclusive
11	1 to 41 inclusive
12	1 to 64 inclusive
13	1 to 52 inclusive
14	1 to 64 inclusive
15	1 to 64 inclusive
16	1 to 64 inclusive
17	1 to 53 inclusive
18	1 to 76 inclusive
19	1 to 64 inclusive
20	1 to 45 inclusive
21	1 to 88 inclusive
22	1 to 64 inclusive
23	1 to 99 inclusive
24	1 to 64 inclusive
25	1 to 104 inclusive
26	1 to 64 inclusive
27	1 to 97 inclusive
28	1 to 64 inclusive
29	1 to 88 inclusive
30	1 to 62 inclusive
31	1 to 57 inclusive
32	1 to 68 inclusive
33	1 to 78 inclusive
34	1 to 45 inclusive
35	1 to 64 inclusive
36	1 to 35 inclusive
37	1 to 62 inclusive

All as shown on File Plan 672 of "Leilani Estates" filed in the Bureau of Conveyances at Honolulu;

TOGETHER WITH AN UNDIVIDED 2046/2241sts interest in Roadway Lots A, B and C, as shown on Said File Plan to be used in common with others entitled thereto, the interest in said easement to terminate up on dedication of the fee title to said roadway lots to any governmental authority;

SUBJECT, HOWEVER, to a reservation in favor of Puna Sugar Company, Limited, for a perpetual easement for road and utility purposes to be used in common with other entitled thereto over, across and under that certain roadway approximately 50 feet in width designated as Road B on File Plan 672 of Leilani Estates filed in said Bureau in Book 3733, Page 357, said easement to terminate upon dedication of the fee title to said roadway lot to any governmental authority;

CHARTER OF INCORPORATION

of

LEILANI COMMUNITY ASSOCIATION

EXHIBIT "A"

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, EDWIN I. HONDA, Director of Department of Regulatory Agencies of the State of Hawaii, send GREETING:

WHEREAS, RICHARD HENDERSON, D. W. ROSE and KENNETH B. GRIFFIN, hereinafter called "petitioners," have made application to me, as Director of Regulatory Agencies of the State of Hawaii, requesting that a perpetual Charter of Incorporation be granted to them and their associates and successors, whereby they and those who may hereafter become associated with them and their successors may be made a body corporate of the State of Hawaii, in perpetuity, under the name of

LEILANI COMMUNITY ASSOCIATION

with all the rights, powers, privileges or immunities which are now or may hereafter be conferred by law upon a corporation of such nature;

NOW, THEREFORE, KNOW YE, that I, EDWIN I. HONDA, as such Director of Regulatory Agencies as aforesaid, in the exercise and execution of every power and authority in anywise enabling me in this behalf, hereby constitute the petitioners and their associates and successors a perpetual body corporate under the laws of the State of Hawaii.

FIRST: The name of the corporation shall be LEILANI COMMUNITY ASSOCIATION.

SECOND: The location of the principal office of the corporation shall be c/o The Realty Investment Company, Limited, 1145 Kilauea Avenue, P. O. Box 747, Hilo, County of Hawaii, State of Hawaii, or at such other place as its board of directors may from time to time determine.

THIRD: The corporation shall be organized and operated exclusively for general public social welfare and safety purposes within the meaning of Section 501 (c) (3), (4) and (7) of the U. S. Internal Revenue Code of 1954, as the same now is or may from time to time be amended, and the objects and purposes of the corporation, and its powers in connection therewith, are as follows:

- (a) To own, hold, repair and maintain all roads and streets not

accepted for such repair and maintenance by the County of Hawaii or any other duly authorized body politic and to repair and maintain landscaping adjacent to all roads and streets adjacent to Lots 31 to 75 inclusive, Block 4; 1 to 20 inclusive and 43 to 58 inclusive, Block 5; 38 to 49 inclusive, Block 6; 1 to 16 inclusive and 31 to 61 inclusive, Block 7; 23 to 45 inclusive, Block 8; 1 to 29 inclusive, Block 9; 1 to 64 inclusive, Block 10; 1 to 41 inclusive, Block 11; 1 to 64 inclusive, Block 12; 1 to 52 inclusive, Block 13; 1 to 64 inclusive, Block 14; 1 to 64 inclusive, Block 15; 1 to 64 inclusive, Block 16; 1 to 53 inclusive, Block 17; 1 to 76 inclusive, Block 18; 1 to 64 inclusive, Block 19; 1 to 45 inclusive, Block 20; 1 to 88 inclusive, Block 21; 1 to 64 inclusive, Block 22; 1 to 99 inclusive, Block 23; 1 to 64 inclusive, Block 24; 1 to 104 inclusive, Block 25; 1 to 64 inclusive, Block 26; 1 to 97 inclusive, Block 27; 1 to 64 inclusive, Block 28; 1 to 88 inclusive, Block 29; 1 to 62 inclusive, Block 30; 1 to 57 inclusive, Block 31; 1 to 68 inclusive, Block 32; 1 to 78 inclusive, Block 33; 1 to 45 inclusive, Block 34, 1 to 64 inclusive, Block 35; 1 to 35 inclusive, Block 36; 1 to 62 inclusive, Block 37; in the subdivision known as LEILANI ESTATES (hereinafter referred to as "LEILANI ESTATES") in the Puna District, County and State of Hawaii, which property comprising said subdivision is more particularly shown on the map filed in the office of the Registrar of Conveyances in Honolulu, Hawaii, as FILE PLAN NO. 672, same being a subdivision of portion of land described in Land Patent (Grant) 8088 & 8094: to promote and strive for the improvement, maintenance and management of all common and community facilities within that portion of LEILANI ESTATES hereinabove referred to: to promote and encourage a better community and civic spirit among, and to foster good will and friendship between, all property owners of that portion of LEILANI ESTATES hereinabove referred to; and to cooperate with civic and public organizations for the general welfare of the people of the Island of Hawaii and of the State of Hawaii;

(b) To protect and promote civic betterments and social improvements for the common good of the owners of lots in the portion of LEILANI ESTATES hereinabove referred to, including but not limited to, enforcing the provisions of the Declaration of Covenants, Conditions and Restrictions applicable to that portion of Leilani Estates hereinabove referred to.

(c) To receive and administer funds in furtherance of the objectives and purposes mentioned above, and to that end; in addition to and not in limitation of, the general powers conferred by the laws of the State of Hawaii, to take and hold by bequest, devise, gift, grant, purchase, lease, or otherwise, either absolutely, in trust, or jointly with any other person, persons, or corporation, any property, real, personal, tangible, or intangible, or any undivided interest therein, without limitation as to amount or value, required for its purposes; to sell, convey, or otherwise dispose of any such property and to invest, reinvest or deal with the principal or the income thereof in such manner as in the judgment of the board of directors will best promote its purpose, without limitations, except such limitations,

if any, as may be contained in the instrument under which such property is received, this Charter of Incorporation, the By-Laws, or any laws applicable thereto;

(d) To enter into, make, perform and carry out contracts of every kind for any corporate purpose, without limit as to amount, with any person, firm, associate or corporation or other group or organization, including particularly contracts for the borrowing of money and for the employment of administrators and investment or other counsel as the board of directors may deem necessary; to draw, make, accept, endorse, discount, execute and issue promissory notes, warrants and other negotiable or transferable instruments; to issue bonds, debentures or other obligations for any of the objects or purposes of the corporation; and to secure the same by mortgages, pledges, deeds of trust or otherwise;

(e) In accordance with the laws of the State of Hawaii, made applicable to corporations formed thereunder, the corporation shall be entitled to and shall have power; (i) to have succession by its corporate names in perpetuity; (ii) to sue and be sued in any court; (iii) to make and use a common seal, and alter the same at its pleasure; (iv) to hold, purchase and convey such property as the purposes of the corporation shall require, without limit as to amount, and to mortgage, pledge and hypothecate the same to secure any debt of the corporation; (v) to appoint such subordinate officers and agents as the business of the corporation shall require; and (vi) to make by-laws not in conflict with law or this Charter of Incorporation; and

(f) To exercise and possess any and all of the rights, privileges, powers and immunities which now or hereafter may be secured by law to chartered benevolent and charitable corporations and which are reasonably incidental to the fulfillment of the objects and purposes above set forth or to the exercise of any powers possessed by or granted to the corporation.

FOURTH: In all events and under all circumstances, including but not limited to reorganization, dissolution, or amendment of the Charter of Incorporation of the corporation,

(a) No substantial part of the activities of the corporation shall consist of carrying on propaganda, or otherwise attempting, to influence legislation; nor shall it participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office; nor shall it engage in any activities which are unlawful under the laws of the United States or of the State of Hawaii; nor shall it engage in any transaction defined at the time as "prohibited" under the Internal Revenue laws of the United States; nor shall amounts be accumulated out of income of the corporation in amount or duration, or be used or invested in such manner or for purposes or functions, such that the same would constitute grounds for denial of income tax exemption under the

Internal Revenue laws of the United States;

(b) The corporation shall never be operated for the primary purpose of carrying on any trade or business for profit; and neither the whole nor any part or portion of the assets, income or earnings of the corporation shall be used, nor shall the corporation ever be organized or operated, for objects or purposes which are not exclusively for general public social welfare and safety under the laws both of the United States and of the State of Hawaii; and

(c) Neither the whole nor any part or portion of the assets, income, or earnings, current or accumulated, of the corporation shall ever be used for dividends or be otherwise withdrawn or distributed to or divided among any members, trustees or officers of the corporation or any donor, whether upon liquidation or dissolution of the corporation or otherwise; provided, further, that neither the whole nor any part or portion of such assets, income or earnings shall ever be used for, accrue to, or inure to the benefit of any private individual within the meaning of the tax exemption requirements of the laws both of the United States and of the State of Hawaii.

FIFTH: The Corporation shall be a membership corporation. The corporation is not organized for profit and will not issue any stock, and no part of its assets, income, or earnings shall be used for dividends, or otherwise withdrawn or distributed to any of its members, trustees or officers. The corporation is organized, and shall be conducted exclusively for educational, charitable, scientific, or literary purposes.

SIXTH: There shall be a board of directors of the corporation of not less than three (3) directors nor more than such number as may from time to time be fixed by the By-Laws. The members of the board of directors shall be elected and shall hold office and may be removed as may be prescribed by the By-Laws. Members of the board need not be members of the corporation. All of the powers and authority of the corporation shall be vested in and be exercised by the board of directors except as limited by law, the Charter or the By-Laws, and in furtherance and not in limitation of said general powers, the board of directors shall be power to acquire and dispose of property, to appoint officers, agents or employees of the corporation as in its judgment the best interests of the corporation may require and to confer upon and to delegate to them by power of attorney or otherwise such power and authority as it shall determine; to fix the salaries or compensation of any and all of the agents and employees of the corporation, and in its discretion require security of any of them for the faithful performance of any of their duties; to make rules and regulations not inconsistent with law or the Charter or By-Laws; to create such committees of the board of directors and to designate as members of such committees such persons as it shall determine and to confer upon such committees such powers and authority as may by resolution be set forth

for the carrying on or exercising of the powers of the corporation; to remove or suspend any officer and generally to do any and every lawful act necessary or proper to carry into effect the powers, purposes and objects of the corporation.

The names of the initial directors of the corporation, which directors shall hold office until their successors shall be duly elected or appointed, and their respective residence addresses are:

John M. La Plante	352 Kauila Street Hilo, Hawaii
Yutaka Imata	3362 Woodlawn Drive Honolulu, Hawaii
Peter G. Shayne	182 Halai Street Hilo, Hawaii
Kenneth B. Griffin	31 Kuikahi Street Hilo, Hawaii

SEVENTH: The board of directors annually shall appoint a President, one or more Vice Presidents, a Secretary and a Treasurer, and, from time to time, such other officers as the conduct of the affairs of the corporation may require. One person may hold more than one office, except no person shall hold the offices of President and Secretary.

The names of the initial officers of the corporation, who shall hold office until their successors shall be duly elected or appointed, and their respective addresses are:

<u>Name and Office</u>	<u>Residence Address</u>
John M. La Plante, President	352 Kauila Street Hilo, Hawaii
Yutaka Imata, Secretary	3362 Woodlawn Drive Honolulu, Hawaii
Peter G. Shayne, Vice President	182 Halai Street Hilo, Hawaii
Kenneth B. Griffin, Treasurer	31 Kuikahi Street Hilo, Hawaii

EIGHTH: The membership of the corporation shall consist of such members as shall be admitted to membership in the manner prescribed in the by-Laws. Every owner of a lot within that portion of LEILANI ESTATES

hereinabove referred to shall be a member of the corporation and no such owner shall for any reason be denied membership in the corporation. The term "owner" shall mean either the holder of the legal fee simple title to a lot who also has the right to possession, or his lessee, or the holder of the equitable fee simple title to a lot who also has the right to possession, or his lessee. No membership shall be terminated or forfeited nor member be expelled, except upon the transfer of the legal or equitable fee simple title and right to possession of any lot. No member may withdraw, nor shall any member transfer or otherwise assign or dispose of his membership, except upon the transfer of the legal or equitable fee simple title and right of possession of any lot, subject to such reasonable conditions as may be prescribed by the By-Laws. The owner of a lot within that portion of LEILANI ESTATES, hereinabove referred to, whether one or more individuals, trustees or corporations, shall be entitled to one (1) membership and one (1) vote per each such lot.

During any period in which a member shall be in default in the payment of any annual or special assessment levied by the Association, such member's voting rights and right to use of the property or facilities for common use of the members of the corporation may be suspended by the board of directors until such assessment has been paid. Such rights of a member may also be suspended, after notice and hearing, for a period not to exceed thirty (30) days, for violation of rules and regulations established by the board of directors governing the use of the property and facilities for the common use of the members.

Each member shall be entitled to the use and enjoyment of the property and facilities for the common use of the members. Any member may delegate his rights of enjoyment of the property and facilities for common use to the members of his family, his tenants or contract purchasers. Such member shall notify the secretary in writing of the name of any such delegee. The rights and privileges of such delegee are subject to suspension to the same extent as those of the member. Guests of those who have the right to use the property and facilities for common use may use the same subject to rules and regulations of the Association. No admission or other fees or charges of any kind for the use of any property or facilities for common use shall be charged by the Association.

NINTH: The initial By-Laws of the corporation may be adopted by the petitioners of the corporation within thirty (30) days after the effective date of this Charter, and thereafter may be amended or repealed by the vote of not less than two-thirds (2/3) of the members present, in person or by proxy, at any meeting of the members duly called and held, the notice of which shall have stated that a purpose of the meeting was to consider the amendment or repeal of the By-Laws.

TENTH: The property of the corporation shall alone be liable for the payment of its debts and liabilities and the private property of the members,

directors and officers shall not be subject to the payment of corporate debts to any extent whatever.

ELEVENTH: In the event of liquidation or dissolution of the corporation, whether voluntarily or involuntarily or by operation of law, the remaining assets of the corporation shall be distributed to the County of Hawaii, State of Hawaii.

TWELFTH: This Charter of Incorporation shall be subject to amendment from time to time as provided by law, except that no such amendment shall be made which would change the objects and purposes of this corporation to include objects and purposes which would not be exclusively for the general public welfare and safety, or which would permit the net earnings of the corporation to inure to the benefit of any member, donor or private individual, or which would permit any substantial part of the activities of the corporation to be the carrying on of propaganda, or otherwise attempting to influence legislation, or which would permit the corporation to participate in, or intervene in (including the publishing and distributing of statements) any political campaign on behalf of any candidate for public office.

THIRTEENTH: This Charter of Incorporation shall be effective from and after the date upon which it is signed and sealed by the undersigned Director of Regulatory Agencies.

DATED at Honolulu, Hawaii, this 29th day of January, 1969.

By (s) EDWIN I. HONDA
Director of Regulatory Agencies

By (s) JAMES K. WILLIAMS
Corporation and Securities Adm.

AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS INCLUDING CHAPTER OF INCORPORATION AND BY-LAWS OF LEILANI COMMUNITY ASSOCIATION, ALL PERTAINING TO A PORTION OF LEILANI ESTATES, COUNTY OF HAWAII, STATE OF HAWAII

WHEREAS, FIRST HAWAIIAN BANK and PUNA SUGAR COMPANY, LIMITED, did on March 14, 1969 execute the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS PERTAINING TO A PORTION OF LEILANI ESTATES and caused the same to be recorded on March 19, 1969, in Liber 6446, Pages 9-59;

WHEREAS, LEILANI DEVELOPMENT, as Third Beneficiary, under that certain unrecorded Trust Agreement dated December 6, 1968, by and among the FIRST NATIONAL BANK OF HAWAII, (now known as FIRST HAWAIIAN BANK) as Trustee, PUNA SUGAR COMPANY, LIMITED, as First Beneficiary, CHIAKI MATSUO, as Second Beneficiary, and LEILANI DEVELOPMENT, as Third Beneficiary, has requested FIRST HAWAIIAN BANK, as Trustee, to amend such DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS as hereinafter set forth, and PUNA SUGAR COMPANY, LIMITED, to consent to such amendment; and

WHEREAS, FIRST HAWAIIAN BANK, as Trustee is the holder of the legal fee simple title to 2028 lots in the portion of LEILANI ESTATES to which the above-mentioned DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS are applicable and constituting 99.12% of the total of 2,046 lots which are subject to the above-mentioned DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS:

NOW, THEREFORE, the above-mentioned DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is amended as follows:

1. Paragraph 23 is amended to read as follows:

"23. AMENDMENT. This Declaration of Restrictions (other than Exhibits A and B hereto) may be amended by an instrument in writing, approved, signed and acknowledged, by the owners of at least seventy-five percent (75%) of the lots, which amendments shall be effective upon recordation in the office of the Bureau of Conveyances of the State of Hawaii; provided, however, that this paragraph shall not be amended to allow amendments by the lot owners of less than seventy-five percent (75%) of the lots.

No such amendment shall affect the mortgagee, trustee or beneficiary of any valid, bona fide mortgage or deed of trust given in good faith and for value on any part or portion of the property or interest therein prior to the effective date of such amendment."

2. Delete paragraph 24.

3. Section I of Article XV of BY-LAWS of LEILANI COMMUNITY ASSOCIATION attached to the above-mentioned DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS as EXHIBIT B thereto is amended to read as follows:

"SECTION 1. Regular Annual Assessments. One of the primary purposes and objects of the corporation shall be to establish a suitable and equitable assessment program to ensure the adequate and continued repair and maintenance of roads and streets and landscaping adjacent thereto and community facilities within the Leilani estates as provided in the Charter of Incorporation. In furtherance of such purposes a scale of assessments shall be fixed by the board of directors on a budgetary basis so that sufficient revenue shall be derived therefrom to enable the corporation to accomplish its general purposes and to enable it to maintain all areas within the subdivision. The amount of any annual

assessment shall be determined by the Board before the annual meeting of the members of the corporation and each member of the corporation shall be notified of the amount and effective date of such assessment. Initially, such regular annual assessment shall be \$15.00 per year per lot.

"No member shall be assessed as to any lot owned until one year after such lot has been registered as a part of an offering with the Director of Regulatory Agencies, State of Hawaii, the Public Offering Statement as to such lot has been filed with such director, and such Statement may first be used without the objection of such Director, or in the event the laws of the State of Hawaii are amended after the date hereof, and such amendment requires other performance for legal authority to sell such lot, then until one year after compliance with such amendment. The foregoing shall be applicable only to the first portion of the lots referred to in Article II, Section 1, above, to be improved and sold to the public, which portion is hereinafter referred to as Increment A. As to lots Referred to in Article II, Section 1, which are not included in Increment A, and which are subsequently improved with roads, members shall be assessed as to such lots commencing with the completion of such road improvements and the discharge or exoneration of the bond posted with the County of Hawaii securing the performance of such road improvements from time to time.

Assessments shall be only on a per lot basis and shall be spread over all lots subject to assessment pursuant hereto either equally or pro-rata on the basis of front footage immediately adjacent to each lot."

4. Section 1 of Article XVI of By-Laws of LEILANI COMMUNITY ASSOCIATION attached to the above mentioned DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS as Exhibit "B" thereto is amended to read as follows:

"Section 1. Procedure. The members may alter, amend, add to, or repeal these by-laws by an affirmative vote of the members holding the majority of the votes of the members of the corporation present at any meeting duly called and held if notice of the proposed amendment shall have been in the call for such meeting."

5. Section 5 of ARTICLE III of By-Laws of LEILANI COMMUNITY ASSOCIATION attached to the above mentioned AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, as Exhibit "B" thereto, is amended to read as follows:

"Section 5. Quorum. At any meeting of the members of which proper notice has been given, members having ten per cent (10%) or more of the votes of all of the members of the corporation, present in person or by proxy, shall constitute a quorum, except that a quorum for the effective amendment to any of these by-laws other than a by-law that relates to the internal government of the project governed by this corporation must consist of the members having at least a majority or more of the votes of all of the members of the corporation, and the concurring vote of the members holding a majority of the votes of the members constituting a quorum shall be valid and binding upon the corporation, except as otherwise provided by law or by these By-Laws or by the Charter of the corporation."

DATED: June 30, 1969, in Honolulu, Hawaii, but First Hawaiian Bank.

FIRST HAWAIIAN BANK

BY (s) CHAS. F. MARSLAND, JR.
Trust Officer

BY (s) F. P. WHITTEMORE
Executive Vice President - Trust

The First Beneficiary under that certain Trust Agreement, dated December 6, 1968, and presently unrecorded, the PUNA SUGAR COMPANY, LIMITED, hereby approves and execution and recordation of this Amendment Declaration of Covenants, Conditions and Restrictions.

Dated: July 11, 1969, in Honolulu, Hawaii, by Puna Sugar Company, Limited.

PUNA SUGAR COMPANY, LIMITED.

BY (s) KARL H. BERG
President

BY (s) J. E. LOOMIS
Assistant Secretary

STATE OF HAWAII)
CITY AND COUNTY OF HONOLULU) SS:

On this 14th day of July, 1969, before me personally appeared CHAS. F. MARSLAND, JR. and F. P. WHITTEMORE, to me known, who, being by me duly sworn, did say that they are the TRUST OFFICER and EXECUTIVE VICE PRESIDENT-TRUST, respectively, of FIRST HAWAII BANK, a Hawaii corporation, and 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 CHAS. F. MARSLAND, JR. and F. P. WHITTEMORE severally acknowledged said instrument to be the free act and deed of said corporation.

(s) HALL T. TANAKA
Notary Public, First Judicial
Circuit, State of Hawaii

My Commission expires November 17, 1972

STATE OF HAWAII)
CITY AND COUNTY OF HONOLULU) SS:

On this 11th day of July, 1969, before me personally appeared KARL H. BERG and J. E. LOOMIS, to me known, who, being by me duly sworn, did say that they are the PRESIDENT and ASSISTANT SECRETARY respectively, of PUNA SUGAR COMPANY, LIMITED, a Hawaii corporation, and 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 KARL H. BERG and J. E. LOOMIS severally acknowledged said instrument to be the free act and deed of said corporation.

By (s) S. T. VONIER
Notary Public, First Judicial
Circuit, State of Hawaii

My Commission expires August 31, 1970

TITLE GUARANTY OF HAWAII, INCORPORATED
Honolulu, Hawaii

We hereby certify that we have carefully examined the Indexes in the Offices of the Clerks of the Supreme Court, District Court of the United States for the District of Hawaii and Registrar of Conveyances, FROM AND INCLUDING MARCH 19TH, A. D. 1969 AT 9:16 O'clock A. M., (THE DATE OF THE ATTACHED SECOND CONTINUATION OF CERTIFICATE OF TITLE), as to the title of

-FIRST HAWAIIAN BANK-(A HAWAII CORPORATION) (TRUSTEE UNDER THAT CERTAIN TRUST AGREEMENT DATED DECEMBER 6TH, A. D. 1968) (UNRECORDED)

in and to:-

The premises under search described in and covered by the attached Certificate of Title and the Continuations thereto.

(NOTE:- PSC CORPORATION- was merged with and into -PUNA SUGAR COMPANY, LIMITED-, by Certificate of Merger dated March 25th, 1969 and recorded in Liber 6456 on Page 215.)

AND WE further certify that there are no other or further liens or encumbrances of whatsoever kind or nature against said title, save and except the following, to-wit:-

-FIRST HAWAIIAN BANK-"DECLARANT"
(TRUSTEE UNDER THAT CERTAIN UNRECORDED
TRUST AGREEMENT DATED DECEMBER 6, 1968,
BY AND AMONG THE FIRST NATIONAL BANK OF
HAWAII, AS TRUSTEE, PUNA SUGAR COMPANY,
LTD., AS FIRST BENEFICIARY, CHIAKI MATSUO,
AS SECOND BENEFICIARY AND LEILANI DEVELOP-
MENT AS THIRD BENEFICIARY)

-AMENDMENT TO DE-
CLARATION OF COVEN-
ANTS, CONDITIONS AND
RESTRICTIONS-

DATED: JUNE 30TH, 1969

-TO- -NOTICE- -VOL. 6603 PAGE 339-

- A M E N D S -

The Declaration of Covenants, Conditions and Restrictions dated March 14th, 1969 and recorded in Liber 6446 on Page 9.

NOTE:- For further particulars, reference is hereby made to said Amendment attached hereto and made a part hereof.

- T A X E S -

For any taxes that may be due and owing and a lien on the lands under search, reference is hereby made to the Office of the Tax Assessor of the District in which said lands are situated.

AND WE further certify that the legal title to said parcels of land (excepting Lot 61, Block 7), is vested in the said

-FIRST HAWAIIAN BANK- (A HAWAII CORPORATION) (TRUSTEE UNDER THAT CERTAIN TRUST AGREEMENT DATED DECEMBER 6TH, A. D. 1968) (UNRECORDED)

as shown by said Indexes, SUBJECT, HOWEVER, AS AFORESAID.
EXECUTED THIS - SEVENTEENTH- day of -JULY-, 1969 at 3:51 O'clock P. M.

TITLE GUARANTY OF HAWAII, INCORPORATED

BY

LD/87295

Block....., Lots....., , 19....

A copy of the PUBLIC OFFERING STATEMENT, and the STATE
PROPERTY REPORT DISCLAIMER, and the DECLARATION OF
COVENANTS & RESTRICTIONS including CHARTER & BY-LAWS
OF LEILANI COMMUNITY ASSOCIATION of LEILANI ESTATES
SUBDIVISION UNIT, INCREMENT, was received
from Leilani Estates, Inc. at the time of purchase of
parcel (s). We were (I was) given ample opportunity to examine
these documents before making the purchase.

.....

Purchaser

.....

Purchaser

DIRECTOR
DEPT. OF REGULATORY AGENCIES
STATE OF HAWAII

Block....., Lots....., , 19....

A copy of the PUBLIC OFFERING STATEMENT, and the STATE
PROPERTY REPORT DISCLAIMER, and the DECLARATION OF
COVENANTS & RESTRICTIONS including CHARTER & BY-LAWS
OF LEILANI COMMUNITY ASSOCIATION of LEILANI ESTATES
SUBDIVISION UNIT, INCREMENT, was received
from Leilani Estates, Inc. at the time of purchase of
parcel (s). We were (I was) given ample opportunity to examine
these documents before making the purchase.

.....
Purchaser

.....
Purchaser

DIRECTOR
DEPT. OF REGULATORY AGENCIES
STATE OF HAWAII

OWNER

LOT (s) #

BLOCK (s) #

DATE