

BY-LAWS

OF

HONU ALAHELE HOMEOWNERS ASSOCIATION

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**BY-LAWS
OF
HONU ALAHELE HOMEOWNERS ASSOCIATION**

**ARTICLE I
NAME AND LOCATION**

The name of the corporation is HONU ALAHELE HOMEOWNERS ASSOCIATION. The principal office of the corporation shall be located on the Island and County of Maui, State of Hawaii, and the specific address of its initial office shall be at c/o Hawaiiana Management Co., 140 Hoohana St., Suite 205, Kahului, HI 96732.

**ARTICLE II
DEFINITIONS**

2.1 Definitions. All capitalized terms used herein shall have the same meanings and use as such terms are defined and used in that certain Declaration of Protection Covenants, Conditions and Restrictions for Honu Alahele dated March 20, 2003, recorded in the Bureau of Conveyances of the State of Hawaii, as the same may from time to time be amended.

**ARTICLE III
MEMBERSHIP AND VOTING RIGHTS**

3.1 Qualifications; Certificates. Each Owner and the Declarant shall be Members of the Association, as provided in the Declaration. The Board of Directors of the Association may provide for the issuance of certificates evidencing membership in the Association. Such certificates shall be in such form as may be determined by the Board.

3.2 Voting Rights. The voting rights of the Members of the Association shall be provided in the Declaration.

3.3 Assessments. The rights of membership are subject to the payment of Assessments levied by the Association, the obligation of which Assessments is imposed against each Owner of a Lot and becomes a lien upon such Lot, as provided in the Declaration.

**ARTICLE IV
MEETINGS OF MEMBERS**

4.1 Place of Meetings. Meetings of the Members of the Association shall be held at such place in the State of Hawaii as designated by the Board.

4.2 Annual Meetings. The first annual meeting of the Association shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the Association shall be held within sixty (60) days after the close of the fiscal year of the Association.

4.3 Special Meetings. Special meetings of the Association may be held at anytime upon the call of the President or the Board of Directors or upon a petition signed by Members holding at least twenty-five percent (25%) of the voting power of the Association and presented to the Secretary.

4.4 Notice Of Meetings.

a) The secretary shall give written notice of each annual and special meeting to every Member named in the Association's records not less than ten (10) nor more than fifty (50) days before the date set for such meeting, stating whether it is an annual or special meeting, the authority for the call thereof, the place, day and hour of such meeting, and the purposes therefore, in any of the following ways: (a) by delivering it to him personally, or (b) by mailing it, postage prepaid, addressed to him at his last registered address as it appears on the Association's records.

b) If notice is given pursuant to the provisions of this Section, the failure of any Member to receive actual notice of any meeting shall in no way invalidate the meeting or any proceedings taken or any business done at the meeting. Any Member may waive notice of any meeting either prior to or at or after the meeting, with the same effect as though notice of the meeting had been given to him. The presence of any Member in person or by proxy at a meeting shall be deemed a waiver of any required notice to such Member, 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.

4.5 Record Date. The Board shall have the power to fix in advance a date as a record date for the purpose of determining Members entitled to notice of or to vote at any meeting or to be furnished with any budget or other information or material, or to make a determination of Members for any purpose. The members of record on any such record date shall be deemed the Members for such notice, vote, meeting, furnishing of information or material, or to made a determination of Members for any purpose. The Members of record on any such record date shall be deemed the Members for such notice, vote, meeting, furnishing of information or material or other purpose and for any supplementary notice, information, or material with respect to the same matter and for any adjournment of the same meeting. A record date shall not be more than fifty (50) days nor less than ten (10) days prior to the date on which the particular action requiring determination of Members is proposed or expected to be taken or to occur. If no record date is established for a meeting, the date on which notice of such meeting is first given to any member shall be deemed the record date for the meeting.

4.6 Quorum. The presence in person of Members entitled to exercise a majority of the voting power of the corporation shall be required and shall constitute a quorum at all meetings of the Members for the transaction of business except as otherwise provided by law, by the Articles of Incorporation, or by these Bylaws. Every decision of such quorum shall be valid as a corporate act, except in those specific instances in which a larger vote is required by law, by the Charter of Incorporation or by these Bylaws. If, however, such percentage shall not be presented or represented at any meeting of the Members, the Members entitled to vote thereat, present in person or by proxy, shall have power to adjourn the meeting from time to time, until such requisite percentage of Members shall be present or by proxy. At such adjourned meeting at which the requisite percentage of voting members shall be represented, any business may be transacted which might have been transacted at the original meeting.

4.7 Proxies and Pledges. At all meetings of the Association, each Member may vote in person or by proxy. The proxy given by a member to another person to represent him at meetings of the Association shall be in writing, signed by such Member, and filed with the Secretary and shall not extend beyond a period of eleven (11) months. Subject to the above, such proxy shall continue until revoked by writing filed with the Secretary or by the death or incapacity of such Member or by the conveyance by the Member of his interest in his Lot. Voting rights transferred or pledged by mortgage, lease, or agreement of sale of any Lot or interest therein, a true copy of which is filed with the Board through the Secretary, shall be exercised only by the Person designated in such instrument until the written release or other termination thereof is filed with the Board in like manner.

4.8 Order of Business. The order of business at all meeting of the Association shall be as follows:

1. Roll call.
2. Proof of notice of meeting.
3. Reading of minutes of previous meeting.
4. Report of officers.
5. Report of committees.
6. Election of directors.
7. Unfinished business.
8. New business.

ARTICLE V

BOARD OF DIRECTORS

5.1 Number. The affairs of the Association shall be managed by a Board of Directors comprising an odd number of not less than three (3) nor more than nine (9) directors, and until the occurrence of the events described in Section 5.4(a) below, the Board of Directors shall consist of three (3) directors. Except for the initial directors named in the Articles, each director shall be a Member of the Association, a partner of a partnership member of the Association, an officer or director of a corporate member of the Association, or a representative of Declarant appointed by Declarant.

5.2 Nominations. Except for directors appointed by the Declarant as provided in Sections 5.3 and 5.4 below, nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two (2) or more Members. The Nominating Committee shall be appointed by resolution adopted by a majority of the Board of Directors at each annual meeting and shall serve until the close of the next annual meeting, and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine not less than the number of vacancies that are to be filled.

5.3 Directors During Class B Control Period. Subject to the provisions of Section 5.4 below, all directors shall be selected by the Class B Member acting in its sole discretion and shall serve at the pleasure of the Class B Member until the first to occur of the following (said period being hereinafter referred to as the "Class B Control Period"):

- a) when the Class B Member ceases to own any Lots in Honu Alahele;
- b) December 31, 2004; or
- c) when, in its discretion, the Class B Member so determines.

5.4 Election and Term of Office. Notwithstanding any other provision contained in these By-Laws:

- a) Within thirty (30) days after the time Class A Members other than the Declarant, own fifty percent (50%) of the Lots in Honu Alahele, or whenever the Class B Member earlier determines, the Board shall be increased to five (5) directors.

The Association shall thereafter call a special meeting at which Class A Members shall elect two (2) of the five (5) directors, who shall serve as at-large directors. The remaining three (3) directors shall be appointees of the Class B Member. The directors elected by the Class A Members shall not be subject to removal by the Class B Member acting alone and shall be elected for a term of two (2) years or until the happening of the event described in subsection (b) below, whichever is shorter. The directors appointed by the Class B Member shall not be subject to removal by the Class A Members and shall serve at the pleasure of the Class B Member. If such directors' terms expire prior to the happening of the event described in subsection (b) below, successors shall be elected for a like term.

b) At the first annual meeting of the membership after the termination of the Class B Control Period, all directors shall be elected by the Class A Members. Three (3) directors shall be elected for a term of two (2) years and the remaining directors shall be elected for a term of one (1) year. If the number of directors is increased or decreased from five (5), then a majority of the directors shall serve for a term of two (2) years and the remaining directors shall serve for a term of one (1) year. Setting the initial term for each such director shall be in the sole discretion of the Nominating Committee. At the expiration of the initial term of office of each member of the Board of Directors and at each annual meeting thereafter, a successor shall be elected to serve for a term of two (2) years.

Each Member shall be entitled to cast one (1) vote for each Lot which it owns with respect to each vacancy to be filled from each slate on which such Member is entitled to vote. There shall be no cumulative voting. The candidate(s) receiving the most votes shall be elected. The directors elected by the Members shall hold office until their respective successors have been elected by the Association. Directors may be elected to serve any number of consecutive terms.

In the event of any conflict between the provisions of this Section 5.4 and any other provision in these By-Laws, the Articles or the Declaration, the provisions of this Section shall control.

5.5 Removal; Vacancies. Except as otherwise prohibited by the Declaration or the Articles, any director may be removed from and replaced, with or without cause, by a majority vote of the Members of the Association present, in person or by proxy, at a meeting duly called and held for such purpose. In case of any vacancies on the Board of Directors, including temporary vacancies caused by absence from the State of Hawaii or illness or other disability preventing any member of the Board present in the State of Hawaii from attending a duly called meeting of the Board of Directors (although less than a majority thereof) may fill the same by the affirmative vote of a majority of the remaining members of the Board. In case of any temporary vacancy as aforesaid, such temporary vacancy shall be filled only for the period of the disability of the director whose place is being filled or the period of absence of the director from the State of Hawaii. The determination by the Board of Directors, as shown on the minutes, of the fact of such disability or absence and the duration thereof shall be conclusive as to all Persons and the Association. In the case of a vacancy that is not temporary, the director elected by the Board to fill such vacancy shall hold office, subject to removal by the Members of the Association, until the next annual meeting, at which time the Members of the Association shall elect a replacement director to service for the remainder of the term, if any, of the director who died, resigned, was removed, or otherwise created the original vacancy.

5.6 Compensation. No director shall receive compensation for any service he or she may render to the Association as a director. However, any director may be reimbursed for his or her actual expenses incurred in the performance of his or her duties.

ARTICLE VI

MEETINGS OF DIRECTORS

6.1 Call to Meeting. Regular meetings of the Board of Directors shall be held on such day or days and at such time or times and at such place or places in the State of Hawaii as shall be fixed from time to time by resolution of the Board. Special meetings of the Board of Directors may be called by the President of the Association or by any two (2) members of the Board of Directors, and any such meeting shall be held on such day, at such time, and at such place in the State of Hawaii as shall be specified by the Person or Persons calling the meeting.

6.2 Notice. Notice of each meeting of the Board of Directors, specifying the day, time and place of the meeting, shall be given by or under direction of the Secretary or by the person calling the meeting not less than seventy-two (72) hours before the meeting by giving to each member of the Board of Directors notice in writing or by word of mouth of the meeting. Notice in writing may be given by leaving written notice of the meeting at the directors residence or usual place of business or by mailing written notice of the meeting postage prepaid addressed to him at his residence or usual place of business. Non-receipt of notice of any meeting by any member of the Board of Directors shall not invalidate the meeting or any proceedings taken or any business done at the meeting. No notice of any meeting need to be given to any member of the Board of Directors who at the time of the meeting is absent from the State of Hawaii. Any member of the Board of Directors may waive notice of any meeting either prior to or at or after the meeting, with the same effect as though notice of the meeting had been given to him. Attendance of any member of the Board of Directors at any meeting shall constitute a waiver of notice of such meeting except when a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

6.3 Quorum. A majority of the members of the Board of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of such quorum within the scope of the authority of the Board shall be regarded as the act of the Board.

6.4 Meetings. Any business within the scope of the authority of the Board of Directors may be transacted at any meeting thereof, irrespective of any specification of the business to be conducted at the meeting, which maybe set forth in the call or notice thereof All meetings of the Board of Directors shall be open to all members of the Association, but Members other than directors may not participate in any deliberation or discussion unless authorized to do so by the Board; provided, however, that by approval of a majority of the quorum of the Directors, the Board may adjourn a meeting and reconvene in executive session, without other Members of the Association being present to discuss and vote on personnel matters, litigation, and other matters that in the discretion of the Board require confidential discussion, after announcing at the original meeting the nature of the business to be considered at the executive session.

6.5 Action By Board Without Meetings. Any action that could be taken properly by the Board at a meeting may be taken by the Board by means of a conference telephone or similar communication equipment by means of which all Persons participating in the meeting may hear each other at the same time, provided that an explanation of any action taken thereby shall be posed at a prominent place at the main office of the Association within three (3) days after such action

6.6 Executive Committee. The Board of Directors, by resolution adopted by a majority of the Directors then in office, may designate and appoint an Executive Committee composed of not fewer than three (3) directors and delegate any portion of its authority to said Committee and to the extent permitted by law, every act or decision done or made by such Executive Committee within the scope and authority of the Board shall be regarded as the act of the Board.

6.7 Directors' Policy Regarding Community Park. In connection with the development of Honu Alahele, Declarant intends to construct and maintain the Community Park that, upon dedication to the County of Maui, will be open to the public. The Community Park shall exist in perpetuity and shall provide access to the public in accordance with the applicable ordinances of the County of Maui, as they may be amended or changed from time to time.

a) Each Owner acknowledges that, upon the dedication of the Community Park to the County of Maui, members of the public shall have an easement for access to the Community Park over the Common Area as determined by the Board. The Association shall have no authority to restrict or change the public's right to access except in accordance with the ordinances of the County of Maui and this Declaration. Access to the park shall be via means not requiring parking on the street.

b) At its expense, Declarant shall construct the Community Park and all required facilities and improvements. To the extent permitted by the applicable ordinances of the County of Maui, it will have the right to alter or modify the design of the Community Park as well the infrastructure for the Community Park. The Association shall have the maintenance responsibility for the Community Park as part of the Area of Common Responsibility. The Community Park shall be maintained in a manner consistent with the Community-Wide Standard.

c) To the extent the ordinances of the County of Maui, as amended from time to time, permits, the Community Association may impose reasonable restrictions on the use of the Community Park, including, but not limited to, rules and regulations affecting activities and hours of usage so long as such rules and regulations do not conflict with the public's right of access under the ordinances of the County of Maui.

d) The public shall have a passive use right to utilize the Community Park for recreational purposes and shall not be charged a fee for such use. The Association will not:

Extend any assurance that the premises are safe for any purpose;

Confer upon any person the legal status of an invitee or licensee to whom a

duty of care is owed;

Assume responsibility for, or incur liability for, any injury to person or property caused by an act or omission or commission of such persons; or

Assume responsibility for, or incur liability for, any injury to person or persons who enter the premises in response to an injured recreational user.

ARTICLE VII

OFFICERS

7.1 Designation. The principal officers of the Association shall be a President, a Vice President, a Secretary, a Treasurer, and such other officers, assistant officers, and agents as shall be appointed by the Board of Directors,

7.2 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, except that the initial officers of the Association shall be as designated in the Articles.

7.3 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 may be elected at any regular meeting of the Board or any special meeting called for such purpose.

7.4 Multiple Offices. Any two (2) of the offices of Vice President, Secretary, or Treasurer may be held by the same Person. The President shall not hold any other office.

7.5 President. The President must be a Member of the Association, a partner of a partnership member of the association, an officer or director of a corporate Member of the Association, or a representative of Declarant appointed by Declarant, and must be a member of the Board of Directors. 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, the President shall exercise general supervision and direction over the management and conduct of the business and affairs of the Association. The president shall also have such other powers and duties as may be provided by these By-Laws or assigned to him or her from time to time by the Board.

7.6 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. The Vice President shall have such other powers and duties as may be assigned to him or her from time to time by the Board.

7.7 Secretary. The Secretary shall have charge of the membership ledger, all documents pertaining to the title and interest in and to all real property owned or held by the Association, and all rules, regulations, and other documents required to be filed with the Association

or in the office of the Association by the Declaration. An original or duplicate of each Document shall at all times during the usual hours of business be open to examination by any member at the principal office or place of business of the Association. The Secretary shall record all proceedings of the meetings of the Members and directors in a book, which shall be the property of the Association, to be kept for that purpose at the office of the Association and perform such other duties as shall be assigned to him. In the absence of the Secretary from any such meeting, a temporary Secretary, named by the presiding officer, shall record the proceedings of such meeting in the aforesaid book.

7.8 Treasurer. Subject to the direction and under the supervision of the Board of Directors, and subject to the provisions of the foregoing paragraph, the Treasurer shall have the care and custody of the funds and valuable papers of the Association, shall have power to endorse for deposit or collection all notes, checks, drafts, and other obligations for the payment of money to the Association or its order, and shall keep or cause to be kept accurate financial books and accounts of the Association and to render statements of the same in such form and as often as required by the Board of Directors.

7.9 Compensation. No officer shall receive compensation for any service he or she may render to the Association as an officer. However, any officer may be reimbursed for his or her actual expenses incurred in the performance of his or her duties.

ARTICLE VIII **ADMINISTRATION**

8.1 Management. The Board of Directors shall at all times maintain, manage, and operate the Common Area, Association Property, and all common facilities and shall have such powers and duties as may be necessary and proper therefore including without limitation the following:

(a) To adopt and publish rules and regulations other than the Honu Alahele Subdivision Design Standards referred to in the Declaration (and not in conflict therewith) governing the use of Association Property, the Common Area, and Lots;

(b) To exercise for the Association all powers, duties, and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles, or the Declaration;

(c) To employ or discharge a managing agent, an independent contractor, caretaker/custodian, and such other employees as it deems necessary and to prescribe their authority and duties, subject to the provisions of the Declaration;

(d) To cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Association or at any special meeting when such statement is requested in writing by Members holding one-fourth (1/4) of the voting power of the Association;

(e) To supervise all officers, agents, and employees of this Association and to see that their duties are properly performed;

(f) As more fully provided in the Declaration, to:

(1) Fix the amount of the annual assessment against each Lot;

(2) Send written notice of each assessment to every Member subject thereto at least thirty (30) days in advance of the due date of each annual assessment; and

(3) Foreclose the lien against any Lot for which assessments are not paid within thirty (30) days after the due date or to bring an action at law against the Member personally obligated to pay the same;

(g) To procure and maintain and keep in force adequate fire and extended coverage insurance, comprehensive liability insurance for injury or death, and other insurance, as more fully provided in the Declaration; and

(h) To cause the Common Area and Association Property to be properly maintained.

8.2 Right to Disapprove Actions. So long as the Class B membership exists, the Class B Member shall have a right to disapprove actions of the Association, the Board and any committee, as is more fully provided in this Section. This right shall be exercisable only by the Class B Member, its successors, and assigns. The right to disapprove shall be as follows:

No action, policy or program authorized by the Association, the Board or any committee shall become effective, nor shall any action, policy, or program be implemented until and unless:

(a) The Class B Member shall have been given written notice of all meetings and proposed actions approved at meetings of the Association, the Board or any committee thereof by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, as it may change from time to time, which notice complies with the requirements for Board of Directors meetings and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at said meeting; and

(b) The Class B Member shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program to be implemented by the Association, the Board or any committee thereof. The Class B Member, its representatives or agents may make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee and/or the

Association. The Class B Member shall have and is hereby granted a right to disapprove any such action, policy, or program authorized by the Association, the Board or any committee thereof if Board, committee, or Association approval is necessary for such action. This right may be exercised by the Class B Member, its representatives or agents, at any time within ten (10) days following the meeting held pursuant to the terms and provisions hereof. This right to disapprove may be used to block proposed actions but shall not extend to the requiring of any action or counteraction on behalf of any committee, the Board or the Association. The Class B Member shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

In the event of any conflict between the provisions of this Section 8.2 and any other provision in these By-Laws, the Articles or the Declaration, the provisions of this Section shall control.

This Section may not be amended without the express, written consent of the Class B Member as long as the Class B membership exists.

ARTICLE IX **COMMITTEES**

- 9.1** **Committees.** At such time that Declarant assigns its right to appoint members of the Design Committee to the Board, the Board of Directors shall appoint and remove members to serve on the Design Committee, subject to the limitations of, and as further provided in the Declaration. The Board may also appoint an Executive Committee and a Nominating Committee as provided in these By-Laws. In addition, the Board of Directors, to the extent permitted by law, shall appoint other committees as deemed appropriate in carrying out its purposes.

ARTICLE X **BOOKS AND RECORDS AND EXECUTION OF INSTRUMENTS**

10.1 **Inspection of Records.** The books, records and papers of the Association shall be subject to the inspection by any Member of the Association on such days and at such times as may be prescribed by the Board. The Declaration, Articles, and By-Laws of the Association shall be available for inspection by any Member of the Association at the principal office of the Association, where copies may be purchased at a reasonable cost.

10.2 **Execution of Instruments.** All checks, notes, bonds, deeds, leases, contracts or other documents or instruments shall be executed by any two (2) officers; provided, however, that the Members of the Association or the Board of Directors, by general or special resolution, may designate some other officer to execute or cause to be executed any of the items aforesaid.

ARTICLE XI
AMENDMENTS AND CONSTRUCTION

11.1 Adoption, Amendment and Repeal. Except as otherwise specifically provided in these By-Laws, new By-Laws may be adopted or these By-Laws may be amended or repealed upon a resolution adopted by the Board and approved by the affirmative vote or written consent, or any combination thereof, of Members holding seventy-five percent (75%) of the total votes in the Association, and the prior written consent of the Class B Member, so long as the Class B membership exists. In addition, any applicable approval requirements for mortgagees set forth in the Declaration shall also be satisfied.

11.2 Amendment by Declarant. The Declarant may amend these By-Laws at any time without the consent of any Owner or the Board, if such amendment is:

(a) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation, or judicial determination;

(b) required by an institutional or governmental lender or purchaser of mortgage loans, to enable such lender or purchase to make a purchase loans secured by Lots in Honu Alahele Subdivision; or

(c) necessary to enable any governmental agency or reputable private insurance company to guarantee or insure mortgage loans secured by Lots in Honu Alahele;

provided, however, that no such amendment shall adversely affect the title to any Lot unless the Owner shall consent thereto in writing.

11.3 Conflicts. Except as otherwise specifically provided herein, in the case of any conflict between the Articles and these By-Laws, the Articles shall control, and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE XII
MISCELLANEOUS

12.1 Fiscal Year. The fiscal year of the Association shall be on a calendar year basis.

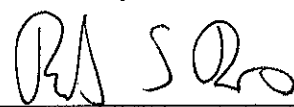
ADOPTION OF BY-LAWS

We the undersigned directors of Honu Alahele Homeowners Association, do hereby, pursuant to the laws of the State of Hawaii, adopt the foregoing provisions as the By-Laws of said Association on the date set forth below.

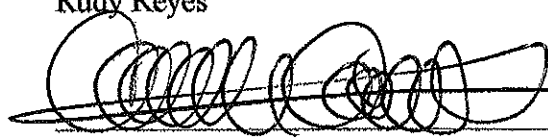
DATED: _____



Sterling J. Kim



Rudy Reyes



Christopher Carroll