

RECORDATION REQUESTED BY:

AFTER RECORDATION, RETURN TO:

*Carlsmith, Carlsmith*

RETURN BY: MAIL ( ) PICKUP ( )

8  
STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDATION SECTION

75: 89587

Liber 11067 / 58A  
1975 DEC -4 AM 10:06

*W. Carlsmith*

SPACE ABOVE THIS LINE FOR REGISTRAR'S USE

FIRST AMENDMENT TO  
DECLARATION OF HORIZONTAL PROPERTY REGIME

WHEREAS, SAMUEL WOOLSEY LEE, husband of Lucy Silva Lee, of Wailuku, County of Maui, State of Hawaii (the "Fee Owner"), and the KIHEI BEACH JOINT VENTURE, a Hawaii registered joint venture, consisting of Realty Consultants of Maui, Inc., a Hawaii corporation and Amfac Financial Corp., a Hawaii corporation and whose principal place of business is 16th Floor, 700 Bishop Street, Honolulu, City and County of Honolulu, State of Hawaii and whose post office address is P. O. Box 2448, Honolulu aforesaid (the "Developer"), together executed that certain Declaration of Horizontal Property Regime, dated January 15, 1975, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 10383, Page 171 (the "Declaration"), concerning the Kealia Condominium Project; and

WHEREAS, Paragraph 13 of the Declaration authorizes the owners of seventy-five percent (75%) of the interest in the common elements to amend the Declaration; and

WHEREAS, there have been no conveyances or leases of any apartments in the Project by the Fee Owner, and therefore the Fee Owner and Developer together own one hundred percent (100%) of the interest in the common elements; and

WHEREAS, the Fee Owner and the Developer desire to amend the Declaration in order to correct an error therein; NOW, THEREFORE, the Declaration is hereby amended as follows:

The second (2nd) sentence of paragraph 3 of the Declaration beginning on page 3 thereof with the words, "Each apartment shall include" and ending on page 4 with the words "is a common element." is hereby amended to read as follows:

"Each apartment shall include all the walls and partitions within its perimeter walls; all glass windows or panels along the perimeters; the entirety of perimeter non-party walls except for the exterior decorated surfaces; the interior half of perimeter walls; the inner decorated or finished surfaces of the floors and ceilings; the adjacent lanai to the exterior edge of the concrete floor slabs; the built-in fixtures including the range, refrigerator, garbage disposal, dishwasher (except that the studio apartments shall not include any dishwasher), stacked washer/dryer, air conditioning unit, water heater, sinks, bathroom fixtures, carpets and drapes; and all air space encompassed within the apartment; provided, however, that the portion of each party wall and of each load-bearing wall (whether or not a party wall) which is included in any apartment is a common element (except for the inner decorated surface of said wall within said apartment, which is not a common element) and that the exterior decorated surface of each perimeter non-party wall is a common element; and provided further than any ventilation duct shaft within an apartment as shown on said condominium map is a common element."

IN WITNESS WHEREOF, the Fee Owner and Developer have executed this instrument this 17<sup>th</sup> day of November 1975.

THE KIHEI BEACH JOINT VENTURE

Samuel Woolsey Lee  
SAMUEL WOOLSEY LEE

Fee Owner

By Amfac Financial Corp.,  
as a Venturer in and on  
behalf of The Kihei  
Beach Joint Venture

*See  
4/1*

By [Signature]  
ITB SENIOR VICE PRESIDENT

By [Signature]  
ITB Asst. Vice President

Developer

STATE OF HAWAII  
CITY AND COUNTY OF HONOLULU

SS:

On this 24<sup>th</sup> day of November, 1975,

before me personally appeared \_\_\_\_\_ and  
KENNETH T. MATSUURA, to me known, who being by me  
duly sworn, did say that they are the \_\_\_\_\_  
and Asst. Vice President, respectively of AMFAC

FINANCIAL CORP., 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

TERUYUKI TAKAHASHI and KENNETH T. MATSUURA

severally acknowledged said instrument to be the free act  
and deed of said corporation.

Phonema Sawm  
Notary Public, First Circuit,  
State of Hawaii

My Commission Expires: NOVEMBER 1979

STATE OF HAWAII }  
COUNTY OF MAUI } SS:

On this 17th day of November, 1975,  
before me personally appeared SAMUEL WOOLSEY LEE, to me known  
to be the person described in and who executed the foregoing  
instrument and acknowledged to me that he executed the same  
as his free act and deed.

Charles M. Jorgensen  
Notary Public, Second Circuit,  
State of Hawaii

My Commission Expires: 5-9-77

RECORDATION REQUESTED BY.

*Lam*

AFTER RECORDATION, RETURN TO:

*Long & Malone Escrow*

RETURN BY: MAIL ( ) PICKUP ( )

STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECEIVED FOR RECORD

LIB 11226 PG 542

1976 FEB -6 PM 2:02

*Christoph Neumann III*  
REGISTRAR

M  
76- 9658

SPACE ABOVE THIS LINE FOR REGISTRAR'S USE

SECOND AMENDMENT TO  
DECLARATION OF HORIZONTAL PROPERTY REGIME

WHEREAS, the KIHEI BEACH JOINT VENTURE, a Hawaii registered joint venture, consisting of Realty Consultants of Maui, Inc., a Hawaii corporation, and Amfac Financial Corp., a Hawaii corporation, and whose principal place of business is 16th Floor, 700 Bishop Street, Honolulu, City and County of Honolulu, State of Hawaii, and whose post office address is P. O. Box 2448, Honolulu aforesaid (the "Developer"), is the Developer of The Kealia condominium project established pursuant to that certain Declaration of Horizontal Property Regime dated January 15, 1975, recorded in the Bureau of Conveyances of the State of Hawaii, in Liber 10383, Page 171, as amended by First Amendment to Declaration of Horizontal Property Regime, dated November 17, 1975, recorded in the aforesaid Bureau of Conveyances in Liber 11067, Page 584 (the "Declaration"); and

WHEREAS, paragraph 13 of the Declaration authorizes the Developer acting alone (1) to amend the Declaration to assign individual parking spaces to individual apartments and (2) to file the "As Built" verified statement required by § 514-13, Hawaii Revised Statutes;

NOW, THEREFORE, the Declaration is hereby amended as follows:

I.

ARCHITECT'S CERTIFICATE

The Declaration is hereby amended by the filing herewith of the attached verified statement of a registered architect, certifying that the final plans theretofore filed together with the sheets being filed simultaneously with this Amendment, fully and accurately depict the layout, location, apartment numbers and dimensions of the apartments as built.

II.

ASSIGNMENT OF INDIVIDUAL PARKING SPACES

The Declaration is hereby further amended by adding the following as an Exhibit "D" thereto:

EXHIBIT "D"

ASSIGNMENT OF INDIVIDUAL PARKING SPACES

Pursuant to paragraphs 5 and 13 of the Declaration concerning the assignment of individual parking spaces to individual apartments, each of the following assigned numbered parking spaces is a limited common element appurtenant to and for the exclusive use of the apartment designated by its apartment number listed below:

<u>Apartment Number</u>	<u>Stall Number</u>
101	12
102	13
103	14
104	1
105	46
106	50
201	15
202	16
203	17
204	6
205	39
206	38
207	28
208	27

209	51
301	9
302	10
303	11
304	13
305	36
306	37
307	45
308	40
309	41
401	21
402	20
403	19
404	4
405	32
406	33
407	34
408	35
409	42
501	25
502	24
503	22
504	5
505	49
506	48
507	47
508	31
509	43
601	7
602	8
603	26
604	2
605	23
606	18
607	30
608	29
609	44

IN WITNESS WHEREOF, the Developer has executed this instrument this 5th day of February, 1976.

THE KIHEI BEACH JOINT VENTURE

By Amfac Financial Corp.,  
as a Venturer in and on  
behalf of The Kihei  
Beach Joint Venture

By *Sammy K. Sabatol*  
Its SENIOR VICE PRESIDENT

By *Robert D. ...*  
Its Assistant Vice President

ARCHITECT'S CERTIFICATE

STATE OF HAWAII }  
COUNTY OF MAUI } SS:

STANLEY S. GIMA, a registered architect, being duly sworn, hereby certifies that the plans heretofore filed as Condominium Map No. 396 in the Bureau of Conveyances of the State of Hawaii, together with the sheets being filed simultaneously herewith, with respect to The Kealia condominium project constructed on Tax Key No. Second Division, 3-8-13-13, fully and accurately depicts the layout, location, apartment numbers and dimensions of the apartments as built in The Kealia condominium project. These plans were filed and approved by the Office of the County of Maui having jurisdiction over the issuance of permits for the construction of buildings. The sheets being filed simultaneously herewith are to be substituted into the aforesaid Condominium Map but do not reflect a change in the condominium plans requiring approval of a county officer having jurisdiction over issuance of permits for construction of buildings.

Dated: Wailuku, Maui, Hawaii, Jan. 30, 1976.

Stanley S. Gima  
STANLEY S. GIMA  
Registered Professional Architect  
License No. 2658-A

Subscribed and sworn to before me  
this 30<sup>th</sup> day of January, 1976.

Sumner M. Anderson  
Notary Public, Second Judicial Circuit  
State of Hawaii

My Commission Expires: 6-15-77



STATE OF HAWAII  
CITY AND COUNTY OF HONOLULU } SS:

On this 5th day of February,  
1976, before me appeared TENEY K. TAKAHASHI and  
KENNETH T. MATSUJIRA, to me personally known, who,  
being by me duly sworn, did say that they are the  
SENIOR VICE PRESIDENT and Assistant Vice-President

respectively, of AMFAC FINANCIAL CORP., 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 TENEY K. TAKAHASHI  
and KENNETH T. MATSUJIRA severally acknowledged  
said instrument to be the free act and deed of said corp-  
oration.

[Signature]  
Notary Public, First Circuit,  
State of Hawaii

My Commission Expires: AUGUST 31, 1977

THE ORIGINAL OF THE DOCUMENT  
RECORDED IN THE OFFICE OF THE  
STATE OF HAWAII

BUREAU OF CONVEYANCES

DATE FEB 03 1982 TIME 802  
DOCUMENT NO. 2003-072412

LAND COURT SYSTEM

REGULAR SYSTEM

Total Number of Pages: 5

After Recordation, Return by Mail (xx) Pickup ( ) To:

ROBERT E. ROWLAND, AAL ALC  
P.O. BOX 455  
KAHULUI, HAWAII 96733

AMENDMENT TO THE  
DECLARATION OF HORIZONTAL PROPERTY REGIME  
OF THE KEALIA CONDOMINIUM

That we, ROBERT McCLEAN and KEN RICHARD being,  
respectively, the President and Secretary of The Association of Apartment Owners of The Kealia  
Condominium, do hereby certify that the document attached hereto is a true and correct copy of  
the amendment to the Declaration of Horizontal Property Regime of The Kealia Condominium  
(the original Declaration of Horizontal Property Regime of The Kealia Condominium dated  
January 15, 1975 was recorded in the Bureau of Conveyances of the State of Hawaii in Liber

10383 at Page 171 with The Kealia being covered by Condominium Map No. 396 ) which was adopted by the written consent of seventy-five percent (75%) or more of the members of the Association pursuant to Hawaii Revised Statutes Section 514A-11(11).

Dated Jan 18, 2005.

THE ASSOCIATION OF APARTMENT  
OWNERS OF THE KEALIA  
CONDOMINIUM

By Robert McClean  
Print Name: ROBERT MCCLEAN  
Its President

By Kenneth G. Richards  
Print Name: KENNETH G. RICHARDS  
Its Secretary

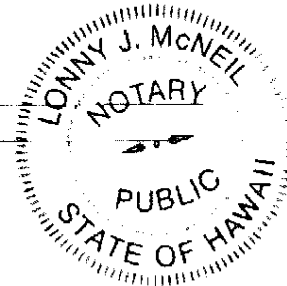
STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

On this 14th day of JANUARY, 2005, before me appeared ROBERT McCLENN, to me personally known, who, being by me duly sworn, did say that he is the President of THE ASSOCIATION OF APARTMENT OWNERS OF THE KEALIA CONDOMINIUM, a Hawaii nonprofit corporation, and that said instrument was signed in behalf of said corporation by authority of its Board of Directors, and said officer acknowledged said instrument to be the free act and deed of said corporation.

**LONNY J. McNEIL  
NOTARY PUBLIC  
STATE OF HAWAII  
MY COMMISSION EXPIRES 7/27/2007**

[Signature]  
Notary Public, in and for said County  
and State

Print Name: \_\_\_\_\_  
My commission expires: \_\_\_\_\_



STATE OF Washington )  
 ) SS:  
COUNTY OF Pierce )

On this 18th day of January, 2005, before me appeared Kenneth B. Richard ~~he~~ to me personally known, who, being by me duly sworn, did say that he is the ~~President~~ Secretary of THE ASSOCIATION OF APARTMENT OWNERS OF THE KEALIA CONDOMINIUM, a Hawaii nonprofit corporation, and that said instrument was signed in behalf of said corporation by authority of its Board of Directors, and said officer acknowledged said instrument to be the free act and deed of said corporation.



[Signature]  
Notary Public, in and for said County  
and State

Print Name: Nancy Gregg  
My commission expires: 9-19-06

**AMENDMENT TO THE  
DECLARATION OF HORIZONTAL PROPERTY REGIME  
OF THE KEALIA CONDOMINIUM**

The Declaration of Horizontal Property Regime of the Kealia Condominium shall be amended by adding a new Paragraph 17, to read as follows:

17. Purchase of Leased Fee Interest. Notwithstanding any other provision contained in this Declaration or the By-Laws to the contrary the Board shall have all of the powers and authority set forth in Hawaii Revised Statutes Sections 514C-6 and 514C-22 to purchase the leased fee interest in the real property on which the Project is situated (hereinafter referred to in this Paragraph 17 as the Project Property) including but not limited to: (i) the power to do all such things as it deems necessary or appropriate to arrange for the Fee Simple Owners/Lessors and/or the Lessee to sell all or a portion of their respective interests in the Project Property to the Association and/or to the owners of the Project apartments and to facilitate the completion of that sale, and (ii) if the Fee Simple Owners/Lessors and/or the Lessee agree to sell all or a portion of their respective interests in the Project Property to the Association and/or the owners of the Project apartments, then the Board, on behalf and in the name of the Association, shall have the power to arrange for and obtain any financing required by the Association in connection with such sale; and (ii) to sign any documents and do any and all other acts or things incidental to the Association's consummation of such sale.

In the event the Association acquires all or any portion of the Fee Simple Owners/Lessors' and/or the Lessee's respective interests in the Project Property in the manner stated in the preceding paragraph, the Board shall be empowered to take all such action as it deems necessary or appropriate to administer the interests so acquired, including but not limited to setting, arbitrating, and collecting lease rents, and selling and/or conveying all or a portion of such interests. All costs incurred by the Board in connection with the acquisition or administration of all or any portion of the Fee Simple Owners/Lessors' and/or Lessee's respective interests in the Project Property (or any efforts toward that end), including but

not limited to all costs associated with the Association obtaining any needed financing in connection with such acquisition; and all payments that become owing to the lender under the terms of any note or mortgage entered into by the Association in connection with such financing, shall constitute a common expense of the Association.

The terms "Fee Simple Owners/Lessors" and "Lessee", as used in this Paragraph 17, include the original Lessors and Lessee and any assignee or other subsequent holder of all or a portion of the Fee Simple Owners/Lessors' and/or Lessee's respective interests in the Project Property.