

THE ORIGINAL OF THE DOCUMENT
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STATE OF HAWAII
BUREAU OF CONVEYANCES

DOCUMENT NO. Doc A-46390802
DATE - TIME September 13, 2012 9:00 AM

LAND COURT

REGULAR SYSTEM

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Kihei, Hawaii 96753

Total Pages: 5

**AMENDMENT TO THE SECOND RESTATED DECLARATION OF CONDOMINIUM
PROPERTY REGIME OF KIHEI SHORES**

(TMK (2) 3-9-004-135; CM No. 1920)
2747 S. Kihei Rd., Kihei, HI 96753

WHEREAS, by Second Restated Declaration of Condominium Property Regime including the Second Restated By-Laws thereto as dated November 13, 2001, recorded at the Bureau of Conveyances of the State of Hawai'i (hereinafter referred to as the "Bureau of Conveyances") as Document No. 2002-025029, as amended, for the Association of Apartment Owners of Kihei Shores, Inc., a Hawai'i corporation, as Condominium Map No. 1920, said Second Restated Declaration being a restatement of that certain Declaration of Condominium Property Regime of "Maui Court" dated July 30, 1993 and Recorded as Document No. 93-145239, did submit the property described in said Declaration to the provisions of Chapter 514, Hawai'i Revised Statutes, as amended (now known as Chapter 514A, Hawai'i Revised Statutes) as superseded in part by Chapter 514B, Hawai'i Revised Statutes; and

WHEREAS, the Declaration, as amended, provided for the organization and operation of the Association of the Apartment Owners of Kihei Shores (the "Association") to operate and manage the Project in accordance with the Bylaws; and

WHEREAS, Hawai'i Revised Statutes ("HRS") Section 514B-23, allows amendments to achieve any result permitted by HRS Chapter 514B upon the vote or written consent of owners holding more than a majority of the common interest in the Project, to achieve any results permitted by HRS Chapter 514B; and

WHEREAS, owners holding more than a majority of the common interest in the Project have affirmatively voted in favor of "opting in" to the provisions of HRS Chapter 514B by amending the Declaration by written consent of the owners on October 17, 2007.

NOW THEREFORE, the Declaration, as amended, is hereby amended as stated below. To the extent that there is any conflict between the provisions of the Declaration and HRS Chapter 514B, the provisions of the Declaration shall be subordinate to HRS Chapter 514B, including all approval requirements in HRS Chapter 514B.

AMENDMENT

AMENDMENT

A new Section 28 is added to the Declaration, to generally amend the Project documents to achieve any results permitted by HRS Chapter 514B, and to read as follows:

28. **GOVERNING LAW**. Notwithstanding anything to the contrary in the Project governing documents, including but not limited to the Declaration, Bylaws, House Rules, and Condominium Map:

(a) This Project shall be governed by the provisions of Hawai'i Revised Statutes, Chapter 514B, as amended;

(b) Any apartment deed, and the Project's Declaration, Bylaws, House Rules, and Condominium Map shall be liberally construed to facilitate the operation of the Project under the law;

(c) Amendments to the Declaration and Bylaws, including but not limited to amendments relating to the alteration of the Project, shall require approval of 67% of the owners;

(d) Approval requirements of 75% for alterations to the common elements shall be reduced to 67%;

(e) Punitive damages may not be awarded except as provided in Hawai'i Revised Statutes, Section 514B-10; and

(f) Approval requirements for leases or uses of the common elements shall be governed by Hawai'i Revised Statutes, Section 514B-38.

IN ALL OTHER RESPECTS, the Declaration and By-Laws, as herein and heretofore amended, are ratified and affirmed and shall be binding upon and inure to the benefit of all apartment owners, tenants of owners, employees of owners and tenants, or any other persons that may in any manner use the property or any part thereof.

AND the undersigned officers of the Association do hereby certify that the foregoing amendment was approved by the requisite percentage of apartment owners.

Each of the undersigned officers of the Association warrants and represents that he or she is legally authorized to sign this Amendment on behalf of the Association. The officers of the Association agree that this Amendment may be executed in counterparts, each of which shall be deemed an original, and those counterparts shall together constitute one and the same instrument, binding all the Parties, notwithstanding that all the Parties are not signatories to the original or the same counterpart.

IN WITNESS WHEREOF, the ASSOCIATION hereby sets its hand this day

AUG 30, 2012.

ASSOCIATION OF APARTMENT OWNERS OF KIHEI SHORES, INC.

By: 

Print Name: SANDRA L SKILLICORN
Its: _____

By: 

Print Name: GREGORY PETER JAY
Its: SECRETARY

State of California)
)
County of Monterey)

On August 30, 2012 before me, Carrie A Williams,
a Notary Public in and for said State, personally appeared:

SANDRA SKILLICORN

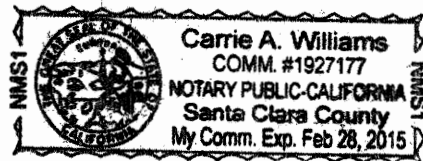
who proved to me the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature:

Carrie A Williams

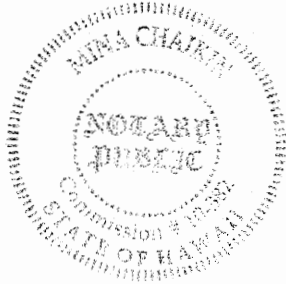


This area for official notarial seal

My Commission Expires: Feb 28, 2015
Notary Name: Carrie A Williams
Notary Phone: 831-484-9194
Notary Registration Number: 1927177
County of Principal Place of Business: Santa Clara

STATE OF HAWAII)
)
COUNTY OF MAUI) SS.

This 5 page, AMENDMENT TO THE SECOND RESTATED DECLARATION OF CONDOMINIUM PROPERTY REGIME OF KIHEI SHORES dated 8/30/2012, was acknowledged to before me, Mina Chaikin, on 9/10/2012, in the Second Circuit of the State of Hawaii, by Gregory Peter Jay, personally known (or proved to me on the basis of satisfactory evidence), who did say that he/she is the Secretary of the ASSOCIATION OF APARTMENT OWNERS OF KIHEI SHORES, A Hawaii nonprofit corporation, and that said instrument was executed on behalf of said Association by authority of its Board of Directors and said officer acknowledged that he/she executed said Instrument as the free act and deed of the ASSOCIATION OF APARTMENT OWNERS OF KIHEI SHORES. Said Association has no seal.



Mina Chaikin
Name: Mina Chaikin
Notary Public, State of Hawaii
No.: 10-382
My commission expires: 11/14/2014

STATE OF HAWAII)
)
COUNTY OF MAUI) SS.

This 5 page, AMENDMENT TO THE SECOND RESTATED DECLARATION OF CONDOMINIUM PROPERTY REGIME OF KIHEI SHORES dated _____, was acknowledged to before me, _____, on _____, in the Second Circuit of the State of Hawaii, by _____, personally known (or proved to me on the basis of satisfactory evidence), who did say that he/she is the _____ of the ASSOCIATION OF APARTMENT OWNERS OF KIHEI SHORES, A Hawaii nonprofit corporation, and that said instrument was executed on behalf of said Association by authority of its Board of Directors and said officer acknowledged that he/she executed said Instrument as the free act and deed of the ASSOCIATION OF APARTMENT OWNERS OF KIHEI SHORES. Said Association has no seal.

Name: _____
Notary Public, State of Hawaii
No.: _____
My commission expires: _____