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DIRECTOR OF COMMERCE AND CONSUMER AFFAIRS

Date: December 2, 2011

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Non-Profit Corporation

**SPECIAL  
HANDLING**

STATE OF HAWAII  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
Business Registration Division  
1010 Richards Street  
Mailing Address: P. O. Box 40, Honolulu, Hawaii 96810

64 000 D2

In the Matter of the Incorporation  
of  
VACATIONLAND HAWAII COMMUNITY  
ASSOCIATION, INC., a Hawaii  
non-profit corporation.

### PETITION FOR CHARTER OF INCORPORATION

The undersigned, a majority of whom are residents of the State of Hawaii, hereby petition, under the provisions of Section 416-19 and 416-20, Hawaii Revised Statutes, for a charter of incorporation, for themselves and their associates, as a non-profit corporation under the name of VACATIONLAND HAWAII COMMUNITY ASSOCIATION

and in connection herewith do hereby incorporate herein by reference thereto the accompanying proposed charter of incorporation wherein are set forth various matters required under Section 416-20 aforesaid.

Dated at Hilo, Hawaii, this 19th day of November, 1984.

Paul T. Mannen  
PAUL T. MANNEN (Signature)

Clarence F. Robarge  
(Signature)  
CLARENCE F. ROBARGE

Welton Daniels  
(Signature)  
WELTON DANIELS

Harry Kim  
(Signature)  
HARRY KIM

DEPARTMENT OF COMMERCE  
AND CONSUMER AFFAIRS  
STATE OF HAWAII  
Officially Recorded  
On  
December 2, 1984

STATE OF HAWAII

COUNTY OF HAWAII

ss.

PAUL T. MANNEN, CLARENCE F. ROBARGE, WELTON DANIELS

HARRY KIM

, being first duly sworn on oath, depose and say that they are the petitioners above named, that they have read the foregoing petition and attached proposed charter of incorporation and know the contents thereof; and that the matters and statements therein set forth are true to the best of their knowledge and belief.

Paul T. Mannen  
PAUL T. MANNEN (Signature)

Clarence F. Robarge  
(Signature)  
CLARENCE F. ROBARGE

Welton Daniels  
(Signature)  
WELTON DANIELS

Harry Kim  
(Signature)  
HARRY KIM

Subscribed and sworn to before me  
this 19th day of November, 1984.

Notary Public, Third Judicial Circuit  
State of Hawaii

My commission expires: 4/29/87  
Rev. 12/76

FILING FEE, CAPITALS \$10.00  
CERTIFICATION 1 Copies \$1.00  
TOTAL \$11.00



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CHARTER OF INCORPORATION  
OF THE  
VACATIONLAND HAWAII COMMUNITY ASSOCIATION, INC.  
(a Hawaii non-profit corporation)

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, the undersigned Director of Commerce and Consumer Affairs of the State of Hawaii, send Greeting:

WHEREAS, PAUL T. MANNEN, CLARENCE F. ROBARGE, WEITON DANIELS and HARRY KIM, all of whom are residents of the State of Hawaii, have filed with me as Director of Commerce and Consumer Affairs a verified petition to grant to them and their associates a charter of incorporation as a nonprofit corporation, in accordance with the provisions of Section 416-20, Hawaii Revised Statutes;

NOW, THEREFORE, KNOW YE, that I, the said Director, in the exercise and execution of every power and authority in anywise enabling me in this behalf, do hereby constitute the said petitioners and their associates a corporation under the laws of the State of Hawaii for the purposes and in the form hereinafter set forth.

ARTICLE I

NAME OF THE CORPORATION

The name of the corporation shall be VACATIONLAND HAWAII COMMUNITY ASSOCIATION, INC.

ARTICLE II

LOCATION OF THE PRINCIPAL OFFICE

The location of the principal office of the corporation shall be at Pahoa, Hawaii, and the mailing address shall be R.R.#1-Box 4029, Pahoa, Hawaii 96778, or at such place in the County and State of Hawaii as its board of directors may from time to time determine.

### ARTICLE III

#### PURPOSES OF THE CORPORATION

The objects and purposes of the corporation are as follows:

- (a) To protect and promote the best interest of the property owners in the subdivision known as Vacationland Hawaii, in the Puna District, County and State of Hawaii, which property comprising said subdivision is more particularly shown on File Plan No. 814 and 920, filed in the Bureau of Conveyances of the State of Hawaii;
- (b) To construct, maintain, repair, improve and manage roadways, utilities and all common and community facilities within Vacationland Hawaii;
- (c) To establish an assessment program to ensure the adequate and continued maintenance, repair, improvement and management of roadways, utilities and all common and community facilities within Vacationland Hawaii;
- (d) To promote and encourage a better community and civic spirit among and to foster goodwill and friendship between, all property owners of Vacationland Hawaii; and
- (e) To cooperate with civic and public organizations for the general welfare of the people of the Island of Hawaii and State of Hawaii.

### ARTICLE IV

#### POWERS OF THE CORPORATION

The corporation shall have and possess all the powers permitted to a nonprofit corporation under the laws of the State of Hawaii 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) 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, association 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 of purposes of the corporation; and to secure the same by mortgages, pledges, deeds of trust or otherwise; and

(b) to have succession by its corporate name in perpetuity; to sue and be sued in any court; to make and use a common seal, and alter the same at its pleasure; 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; to appoint such subordinate officers and agents as the business of the corporation shall require; and to make by-laws not in conflict with the law or this Charter of Incorporation; and

(c) 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 the promotion of social welfare under the laws of the United States and the State of Hawaii; and

(d) the corporation shall not engage in any activities which are unlawful under the laws of the United States or 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

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corporation in amount or duration, or be used or invested in such manner or for such 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;

(e) 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.

#### ARTICLE V

##### ORGANIZATION OF THE CORPORATION

Notwithstanding any other provision of this Charter, or its by-laws, the corporation shall not carry on any activities not permitted to be carried on by a corporation exempt from federal income tax under Section 501 (c) (4) of the Internal Revenue Code of 1954, as amended.

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.

#### ARTICLE VI

##### BOARD OF DIRECTORS

There shall be a board of directors of the corporation of not fewer 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

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board of directors shall be elected and shall hold office and may be removed as may be prescribed by the by-laws. Each member of the board of directors must be a member in good standing 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 have power to acquire and dispose of property, to appoint officers, agents or employees of the corporation as in its judgment the best interest 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 initial board of directors shall be as follows:

<u>NAME</u>	<u>RESIDENCE ADDRESS</u>
PAUL T. MANNEN	R.R.#1-Box 4029, Pahoa, HI 96778
HARRY KIM	309 Olu St., Hilo, HI 96720
CLARENCE F. ROBARGE	15-150 Pani Paka, Pahoa, HI 96778
WELTON DANIELS	R.R.#1-Box 4001, Pahoa, HI 96778
JANET ANDERSON	R.R.#1 Box 4024, Pahoa, HI 96778

ARTICLE VII

OFFICERS OF THE CORPORATION

The officers of the corporation shall be a President, one or more Vice Presidents, a Secretary and a Treasurer. The corporation may have such additional officers as shall be determined in accordance with the by-laws. The officers shall have the powers, perform the duties and be appointed in the manner set forth in the by-laws. No director may hold more than one office of the corporation. Every officer must be a member in good standing.

The initial officers of the corporation shall be as follows:

<u>NAME</u>	<u>OFFICE</u>	<u>RESIDENCE ADDRESS</u>
PAUL T. MANNEN	President	R.R.#1-Box 4029 Pahoa, HI 96778
HARRY KIM	Vice-President	309 Olu Street Hilo, HI 96720
CLARENCE F. ROBARGE	Secretary	15-150 Pani Paka Pahoa, HI 96778
WELTON DANIELS	Treasurer	R.R.#1-Box 4001 Pahoa, HI 96778

ARTICLE VIII

MEMBERSHIP OF THE CORPORATION

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 said Vacationland Hawaii subdivision may be a member of the corporation and no such owner shall for any reason be denied membership in the corporation. No membership shall be terminated or forfeited nor member be expelled, except upon sale of any lot in said subdivision; provided, however, that upon execution and delivery of a valid contract of sale of any lot, the vendor's membership, including voting rights adhering thereto, shall be considered as having been temporarily transferred to the vendee, such transfer becoming permanent upon



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subsequent delivery of a deed in compliance with said contract or agreement of sale or revesting in the vendor in the event of termination of said contract of sale. No member may withdraw, nor shall any member transfer or otherwise assign or dispose of his membership, except upon lawful conveyance (including any contract or agreement of sale as aforesaid) of his lot, and subject to such reasonable conditions as may be prescribed by the by-laws. The term "owner" as used in this Charter shall include a vendee and shall mean the singular or plural number, individuals, trustees or corporations, and each of their respective successors, executors, administrators and permitted assigns. The owner of an unimproved lot within said subdivision, whether one or more individuals, trustees or corporations, shall be entitled to one (1) membership and one (1) vote per each such lot.

#### ARTICLE IX

##### BY-LAWS

The by-laws of the corporation may only be amended or repealed by the vote of not less than a majority (more than 50%) of the members present, whether present in person or by proxy, at any meeting of the members duly called and held, the notice of which shall have stated that the purpose of the meeting was to consider the amendment or repeal of the by-laws.

#### ARTICLE X

##### DEBTS AND LIABILITIES

The property of the corporation shall alone be liable for the payment of the debts and liabilities of the corporation and the private property of the members, directors and officers shall not be subject to the payment of the corporation's debts or liabilities to any extent whatever.

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## ARTICLE XI

### DISSOLUTION OF THE CORPORATION

If the corporation shall cease to exist or shall be dissolved, all property and assets of the corporation of every kind, after payment of its just debts, shall be distributed only to one or more public agencies, organizations, corporations, trusts or foundations having the like purposes and organized and operated exclusively as a tax-exempt organization under Section 501 (c) (4) of the Internal Revenue Code of 1954, as amended, with purposes similar or related to those of the corporation, as the board of directors shall determine. In no way shall any of the assets or property of this corporation, or the proceeds of any of the assets or property, in the event of dissolution, go or be distributed to members, either for the reimbursement of any sums subscribed, donated, or contributed by such members, or for any other such purpose, if being the intent in the event of the dissolution of this corporation, or upon its ceasing to carry out the object and purposes herein set forth, that the property and assets then owned by the corporation shall be devoted only to non-profit charitable purposes.

## ARTICLE XII

### LIABILITY TO CORPORATION AND INDEMNITY

No director or officer of the corporation shall be liable to the corporation for any loss or damage suffered by it on account of an action or omission by such person as a director or officer if he acted in good faith and in a manner reasonably believed to be in or not opposed to the best interests of this corporation, unless with respect to an action or suit by or in the right of the corporation to procure a judgment in its favor such person shall have been adjudged to be liable for negligence or misconduct in the performance of this duty to this corporation.

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The corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that he is or was a director or officer of the corporation against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, or, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of this corporation or, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

To the extent that a director or officer has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in this section, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

Any indemnification under this section (unless ordered by a court) shall be made by the corporation only if authorized in the specific case upon a determination that indemnification of the director or officer is proper in the circumstances because he has met the applicable standard of conduct. Such determination may be made:

(a) by the board of directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceedings; or

(b) if such a quorum is not obtainable, or, even if obtainable and a quorum of disinterested directors so directs, by independent legal counsel in a written opinion to the corporation; or

(c) if a quorum of disinterested directors so direct, by a majority vote of the members.

Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the corporation in advance of the final disposition of such action, suit or proceeding as authorized by the board of directors in a particular case upon receipt of an undertaking by or on behalf of the director or officer to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the corporation as authorized in this Article.

The corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or other agent of the corporation or is or was serving at the request of the corporation as a director, officer, employee or other agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the corporation would have the power to indemnify him against such liability under the provisions of this Article.

#### ARTICLE XIII

##### NON-PROFIT

The corporation is not organized for profit and it will not issue any stock. The members and directors of the corporation

shall have no interest, present, prospective or contingent of any kind in and shall not receive distributions from, the property, assets, income or earnings of the corporation, except for services actually rendered to the corporation and such rights, powers and privileges as shall be determined by the by-laws.

ARTICLE XIV

CHARTER OF INCORPORATION

This Charter may be amended by the vote of not less than two-thirds (2/3) of the members present at a meeting duly called and held for the purpose. No amendment shall be effective unless there is filed in the office of the Department of Commerce and Consumer Affairs a verified certificate, signed by any two authorized officers of the corporation, setting forth the amendment by stating that the charter of incorporation has been amended to read as set forth in the certificate in full or by stating that any provision of the charter of incorporation, which shall be identified by the numerical or other designation thereof in the charter of incorporation or by stating the wording thereof, has been amended to read as set forth in the certificate, and certifying that the amendment was adopted by the required vote as aforesaid at a meeting duly called and held for the purpose. Any amendment so adopted shall become effective and the charter of incorporation shall be amended on the date of filing of the certificate of amendment or on such later date as specified in the certificate of amendment.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the Department of Commerce and Consumer Affairs, at Honolulu, this 7th day of December 1984

  
\_\_\_\_\_  
DIRECTOR OF COMMERCE AND  
CONSUMER AFFAIRS

By   
\_\_\_\_\_  
CORPORATION AND SECURITIES  
ADMINISTRATOR