

LAND COURT

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL (XXX) PICK-UP () TO:

Aina O Ka Hale Pili Community Association
c/o Lisa Mosbarger
383 N. Holokai Road
Haiku, Hawaii 96708

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//// WRITE IN ///
/// THIS SPACE //
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Tax Map Key No.: (2) 2-8-011-021

**TERMINATION OF RESERVATION OF
PEDESTRIAN (FISHERMAN) ACCESS EASEMENT**

This Termination of Reservation of Pedestrian (Fisherman) Access Easement is made and entered into this ____ day of _____, 2018, by and between ‘**AINA O KA HALE PILI COMMUNITY ASSOCIATION**, a Hawaii Nonprofit Corporation, whose address is PO Box 791836, Paia, Hawaii 96779, (hereinafter referred to as “Aina O”), the **COUNTY OF MAUI**, whose address is _____, (hereinafter referred to as “County”), and the **STATE OF HAWAII, DEPARTMENT OF LAND AND NATURAL RESOURCES**, whose address is _____, (hereinafter referred to as “DLNR”).

WITNESSETH:

WHEREAS, in 1992 Pili Hale Associates, a Hawaii general partnership, began the process to create a subdivision known as ‘Aina O Ka Hale Pili, that is located at Peahi, Uaoa, Hamakualoa, Maui, Hawaii (the “Subdivision”);

WHEREAS, as part of the subdivision process the Planning Commission of the County of Maui (“County”) granted a Special Management Use Permit (“SMA”) to Pili Hale Associates to create the Subdivision at its regular meeting of October 6, 1992;

WHEREAS, the SMA was granted subject to Condition Number 27 in the Permit which states “That the applicant shall consult with the Department of Land and Natural Resources and shall provide traditional fishing beach access trails as required by the Department of Land and Natural Resources.”

WHEREAS, by letter dated April 19, 1993 the Department of Land and Natural Resources (“DLNR”) indicated that Pili Hale Associates should provide an easement for a public trail to the County through a portion of Tax Map Key No.: (2) 2-8-4-:15, (currently affecting the subdivided lot with Tax Map Key No.: (2) 2-8-011-021) which area had been identified by the Department of Land and Natural Resources;

WHEREAS, on August 28, 1995, Pili Hale Associates, prepared and filed a Reservation of Pedestrian (Fisherman) Access Easement, and recorded it on September 5, 1995 as Document No. 95-113759, that created a reservation of an easement right that was temporary until such time as a governmental agency or other entity was willing to take title to the Easement;

WHEREAS, on March 29, 2001, Pili Hale Associates, by and through its’ successor in interest, Yacht Harbor Real Estate, Ltd., a Hawaii Corporation, prepared and filed a Quitclaim Assignment of Reservation of Pedestrian (Fisherman) Access Easement, and recorded it on March 30, 2001 as Document No. 2001-046479, that unilaterally assigned its’ rights to the County of Maui without the County’s acknowledgment or consent;

WHEREAS, to date the County has expressed its reluctance to accept the ownership of or any responsibility for the management, public use and safety of such easement;

WHEREAS, no State or County agency or other entity has, to the date of this instrument, accepted the management, control and maintenance of the easement for said public use;

WHEREAS, pursuant to Paragraph 3(b) of the Reservation of Pedestrian (Fishman) Access Easement: “If in the future no such entity shall be willing to accept an assignment or transfer of said Easement, the Declarant may elect, in its sole discretion, to terminate the Easement by document of termination duly executed by Declarant and recorded in the State of Hawaii Bureau of Conveyances; provided however, that said right of termination shall not be exercised if such termination would violate any permit, governmental approval, condition or requirement of the Subdivision (including condition 27 of the SMA Permit). If this Easement shall not be so terminated, it shall remain in effect in perpetuity.”

WHEREAS, Pili Hale Associates, filed a Partnership Dissolution Statement on December 12, 1996 and was succeeded by its’ general partner known as Yacht Harbor Real Estate a Hawaii Corporation, which filed Articles of Dissolution on April 4, 2001 with the Department of Commerce and Consumer Affairs;

WHEREAS, the Declaration of Covenants, Conditions and Restrictions of Aina O Ka Hale Pile Subdivision were filed in the Bureau of Conveyances of the State of Hawaii on November 18, 1994 as document no. 94-190492, and the Subdivision has been maintained, managed and operated by its homeowners association known as the 'Aina O Ka Hale Pili Community Association which filed its Articles of Incorporation on November 22, 1994, and is in good standing with the State of Hawaii.

NOW THEREFORE, for valuable consideration, receipt of which is acknowledged, 'Aina O Ka Hale Pili Community Association recites and declares that, pursuant to Paragraph 3(b) of the Reservation of Pedestrian (Fishman) Access Easement, no entity has been willing to accept an assignment or transfer of said Easement and that the Declarant hereby terminates the Reservation of Pedestrian (Fisherman) Access Easement, recorded on September 5, 1995 as Document No. 95-113759, by this document of termination duly executed by and through the authority of its Board of Directors and signature of its President.

IN WITNESS WHEREOF, the parties have executed this document effective the date set forth above.

**'AINA O KA HALE PILI
COMMUNITY ASSOCIATION**

By: Lisa Mosbarger
Its: President

COUNTY OF MAUI

By: _____
Its: _____

**STATE OF HAWAII, DEPARTMENT OF
LAND AND NATURAL RESOURCES**

By: _____
Its: _____

STATE OF HAWAII)
) ss.
COUNTY OF MAUI)
Second Judicial Circuit

Document Description: Termination of Reservation of Pedestrian (Fishman) Access Easement

Document Date: _____

Number of Pages: _____

On this _____ day of _____, 2018, appeared Lisa Mosbarger, to me personally known, who, being by me duly sworn, did say that she is the President of 'Aina O Ka Hale Pili Community Association., a Hawaii non-profit corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer(s) acknowledged said instrument to be the free act and deed of said corporation.

Name of Notary: David R. Spee
Notary Public, State of Hawaii
My Commission expires: March 24, 2019

STATE OF HAWAII)
) ss.
COUNTY OF MAUI)
Second Judicial Circuit

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On this _____ day of _____, 2018, appeared _____, to me personally known, who being by me duly sworn did say that he/she is the _____ of the County of Maui, a political subdivision of the State of Hawaii, and that the said instrument was signed and sealed on behalf of said County of Maui by authority of its Charter, and the said _____ acknowledged that said instrument to be authorized by the County of Maui.

Name of Notary: _____
Notary Public, State of Hawaii
My Commission expires: _____

STATE OF HAWAII)
) ss.
COUNTY OF MAUI)
Second Judicial Circuit

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On this _____ day of _____, 2018, appeared _____, to me personally known, who being by me duly sworn did say that he/she is the _____ of the State of Hawaii, Department of Land and Natural Resources, a political subdivision of the State of Hawaii, and that the said instrument was signed and sealed on behalf of the Department of Land and Natural Resources, and the said _____ acknowledged that said instrument to be authorized by the State of Hawaii.

Name of Notary: _____
Notary Public, State of Hawaii
My Commission expires: _____