

WAILEA EKAHI  
ASSOCIATION OF APARTMENT OWNERS

**APARTMENT ALTERATIONS MANUAL**

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# WAILEA EKAHI AOA APARTMENT ALTERATIONS MANUAL

## SECTION A.

### INTRODUCTION

Many owners desire to make alterations in order to upgrade their apartments and the Ekahi Board of Directors encourages them to do so. The goal is not only to encourage but also to assist owners in upgrading and enhancing the use and value of their apartments without changing the unique character of Ekahi Village.

This manual is part of the Ekahi House Rules, as authorized by the Association's By Laws.

**Article V** of Ekahi's **By-Laws** covers the **Use and Maintenance of Premises** and among others provides that "The owner of an Apartment shall not, without prior written consent, of the Association make any structural alterations in or additions to the Apartment or make any alterations in (including paint) or additions to the exterior of the Apartment or to the common elements", and an Owner will not do anything which will interfere with or infringe upon the rights of other Owners.

This manual was prepared to provide the necessary guidelines to Owners and their Contractors, the Building and Site Committee, existing and future Boards of Directors and the General Manager to ensure compliance with Article V of the by-laws and that apartment alterations are made in accordance with applicable Policies. The provisions of this manual do not take precedence over the By-Laws, Covenants and Restrictions of Ekahi, the Covenants and Restrictions of Wailea Community Association, Provisions of the Maui County Building Code and State of Hawaii Revised statutes. The provisions of this manual only apply to changes and additions, which are "non-material" in their content as defined in Hawaii Revised Statutes 514B.

The manual describes Board policies with respect to alterations that are typical and considered as permissible together with the related specifications where applicable. It also provides a description of the procedures to be followed in order to obtain necessary Board, Building & Site Committee, or General Manager approval and includes the forms that are required to be completed by the owner and the General Manager.

Owners have the responsibility of not only adhering to the policies and procedures outlined in this manual but also for compliance with applicable laws and regulations. Failure to comply with the provisions of this manual may result in the removal or change of an alteration at the owner's expense.

Owners and their respective successors and assigns assume all future responsibilities relating to their alterations, including any damage related to or caused by such alterations; regardless of the location within an apartment, to the common element, or to any person.

#### POLICY EXCEPTION:

Under emergency circumstances, when apartment damage has been caused by natural disaster, water and waste leaks, fire, etc. – the General Manager or President of the Board may authorize any alteration action necessary for health and safety of the community.

# WAILEA EKAHI AOAO APARTMENT ALTERATIONS MANUAL

## SECTION B. DEFINITIONS

### 1. MINOR ALTERATION

A minor alteration is defined to mean all interior decoration work performed inside the apartment where there isn't any alteration to the building structure, electrical wiring, plumbing pipes or change to the external appearance of the building or to the common area.

Examples of minor alterations include but are not limited to the following:

1. Replacement of carpets, drapes, shutters, paint and other wall coverings.
2. Replacement of electrical appliances and plumbing fixtures where minor changes to electrical wiring and plumbing pipes are involved.
3. Replacement of built-in cabinetwork not requiring changes to existing building structural system.
4. Replacement of tile floors where tile was installed at the time of original building construction.
5. All other alterations are considered to be Major Alterations.

### 2. MAJOR ALTERATION-CATEGORY 1

A Category 1 Major Alteration is defined to mean alterations of the type that involve changes affecting the exterior of the building, are subject to specific policies that have been approved by the Board and for which standards and specifications have been established. Such alterations do not involve structural changes or additions to the common element.

The following are examples of Category 1 Major Alterations

1. Air conditioning system replacement that does not require any new (different or changed) use of the common element for placement of condensing unit(s) or air handling distribution devices. The routing of coolant pipe and electrical supply bundles that go directly through exterior walls and the replacement of previously approved devices that are located within the common elements are included in this category.
2. Lanai door and partition removal on Model 2B apartments.
3. Lanai sunscreens.
4. Leaf screen addition under lanai trellis.
5. Screen & Security doors.
6. Tinting of Windows
7. Ceiling Fan(s) in enclosed Lanai

### 8. 3. MAJOR ALTERATION – CATEGORY 2

A Category 2 Major Alteration is defined to mean alterations of the type that involve alteration of the building structure, electrical wiring, plumbing pipes, "non-material" changes to the common elements, and in general have a non-adverse impact on building appearance and on neighboring apartments. Such alterations are subject to specific policies approved by the Board and for which standards and specifications have been established.

The following are examples of Category 2 Major Alterations

1. Air-conditioning considerations other than that specifically addressed in “Major Alteration, Category 1”.
2. Attic Storage space
3. Enclosure of first and second floor bedroom lanais of the 1-2A and 2-2 (side bedroom next to living room only) type apartments.
4. First floor trellises over lanais
5. Interior alterations involving structural changes
6. Lanai Areas and Surfaces
7. Lattice Privacy Screens
8. Tub removal/shower installation involving major changes to plumbing.
9. Window modifications or additions (except tinting)

Alterations that are not identified as Minor Alterations or as either Category 1 or Category 2 Major Alterations are subject to the approval procedures required for Category 2 Major Alterations.

# WAILEA EKAHI AOA APARTMENT ALTERATIONS MANUAL

## SECTION C. ALTERATION POLICIES

### 1. GENERAL POLICIES:

#### 1.0 Approval Requirements

1. Minor Alterations may be approved by the General Manager
2. Major Alterations-Category 1 may be approved by the Building & Site Committee
3. Major Alterations-Category 2 must be specifically approved by a majority vote of the Board of Directors
4. The Board of Directors reserves the right to revoke or otherwise alter prior approvals.

#### 1.1 Architectural Requirements

1. Plans for Category 2 Major Alterations that involve any structural changes and exterior changes must be prepared and stamped by a State of Hawaii certified Architect. These plans must be reviewed and the site inspected by the Association Building & Site Committee and the General Manager prior to submission to the Board of Directors for approval action.
2. One copy of the plans as approved by the Board is to be provided to and retained by the Association.
3. Category 2 Major Alterations are to be inspected by the Association General Manager upon completion for compliance with approved plans.
4. All costs for preparation of Architectural plans and reviews are the responsibility of the owner.

#### 1.1.2 Construction Material Requirements

1. All wood, or wood based, construction material used at Ekahi shall be pressure treated to minimize the potential for termite and other pest infestation
  - a. Construction Material is defined as all posts, beams, headers, girders, studs, sub flooring, plates, joists, rafters, shear walls, siding, roofing ply, trellis wood, and all wood used within the common element.

#### 1.2 Building Permit Requirements

1. It is the responsibility of an Owner to obtain a Maui County Building Permit, before work begins, for any apartment alteration for which the County requires such permits. By policy, Ekahi requires Building Permits for Lanai Enclosures and Attic Storage additions.

#### 1.3 Manager Notification and Review Requirements

1. Owners are required to notify the General Manager of their intent to alter their apartment by preparing the Notification of Intent to Alter Apartment form.
2. The General Manager will provide notifying owners with a copy of the Apartment Alterations Manual, or direct them to the Ekahi Website version. He will also assist owners in understanding the requirements for making an alteration to their apartment.

#### 1.4 License Agreement Requirements

Alterations that include a non-material portion of the common element are subject to Board approval and the owner entering into a license agreement with the Association for the use of such common element space.

### **1.5 Licensed Contractor Requirements**

1. Contractors licensed by the State of Hawaii shall be used for alterations involving changes to the electrical wiring or plumbing piping or as otherwise required by the Maui County Building Code and Hawaii Revised Statutes.
2. For all Major Category 1 or 2 projects that will take in excess of 30 days to complete, a timeline (pert type) chart is to be submitted with Alteration Plans that shows expected dates for noisy work intervals

### **1.6 Preliminary Plans Requirements**

1. Owners wishing to make an alteration may submit preliminary plans to the Building & Site Committee or the Board for consideration. Such consideration will result in the Committee or Board advising the owner whether it deems the proposed alteration to be feasible for obtaining approval upon satisfactory completion of all the requirements under this manual. Such advice by the Committee and/or Board as to feasibility of approval will not constitute approval and such approval may ultimately be denied.
2. See “Notice of Intent to Alter Apartment” – Form AM2

### **1.7 Neighbor Notification**

1. Once a Category 1 or 2 Major Alteration has been approved (that the Board feels will cause a significant impact on neighboring apartments), the General Manager will update the Ekahi Website with a brief description of the work and the expected start and completion dates. Approximately 30 days before work is to begin, He will also post an advisory notice on the affected building (see Form AM6) stating that a Category 1 or 2 Major Alteration has been approved with estimated work start and complete dates. All owners must understand that any specified dates are only best estimates and that they are subject to change. Every attempt will be made to post the Website and building 30 days in advance of work starting.
2. All owners should require their on-island property or rental representative to advise them regarding any building posting that announces construction activities in adjacent apartments.

### **1.8 Wailea Community Association requirements**

1. The Board of Directors may at its discretion determine that a proposed alteration should be submitted to the Design Review Committee of the Wailea Community Association for approval.

### **1.9 Compliance with policies**

1. Owners and contractors have the responsibility for compliance with Apartment Alteration Policies, Procedures, Standards and Specifications. Failure to comply may result, at the Board of Directors' option, in the removal or reconstruction of an alteration and other financial consequences. The cost of any such removal or reconstruction is to be borne by the owner.

## **2. SPECIFIC ALTERATION POLICIES**

### **2.0 Air Conditioning Systems**

1. Apartment owners have the option to provide air conditioning of their apartment.

2. Existing air conditioning systems may be retained unless a noise complaint is filed with the State of Hawaii Department of Health by an affected owner and it is determined by the State that the noise level exceeds State of Hawaii requirements. Removal or alteration to comply with State requirements will be at owner's expense.
3. Replacement of existing systems or installation of new systems is generally permitted as long as the owner is confident that the replacement system or new system complies with the State of Hawaii noise level requirements and agrees, in writing, that he or she will immediately remove the machine if a complaint is filed and the State determines that the system does not meet State noise level requirements. Removal or alteration to comply with State requirements will be at owner's expense.
4. Installation of new or replacement **“Package-in-Wall Units”** that comply with guidelines must be installed flush to the face of the exterior wall surface.
5. Installation of **"Mini Split Ductless Systems"** that comply with guidelines as either a replacement of an existing system or a new installation is generally permitted. Such installation involves the common element and is considered a Category 2 Major Alteration.
6. Installation of **"Central Air Conditioning Systems"** that comply with guidelines as either a replacement or a new installation is generally permitted. Such installation involves the common element and is considered a Category 2 Major Alteration.
7. An external location is required for the condenser of Mini Split Ductless and Central Air Conditioning systems. Such condensers should generally be located on the owned portion of the apartment's lanai.

An Owner or the Association may request that the condenser unit be located on a “non-material” portion of the common element. However, no condensing units may be located within the front entry enclosure area of a building. No electric lines, coolant pipes, condensation drainage pipes, or other related components are to be run across the exterior of any building. Such components must be installed per manufacturer specifications on the inside of the apartment or inside the exterior wall. Access to any stud wall cavity shall be from the interior side of the apartment unit and not from the building exterior. Piping and electrical runs through walls or joists shall meet Maui County Building Codes. Any condenser or other components that are to be installed outside the apartment (including those on lanais) are to be enclosed within a removable lattice enclosure that matches other lattice enclosures at Ekahi and painted to match Ekahi stucco color.

A plan of the proposed condensing unit location and lattice enclosure for the condenser shall be submitted to the Building & Site Committee for approval prior to the installation of the Air Conditioning System.

The enclosure must provide a minimum of three-inch clearance for air circulation between the condenser and lattice and shall be kept in good repair. Condensers shall be mounted a minimum of 12 inches off vertical building surfaces. In addition, an isolation mounting pad specifically designed for mounting AC condensing units is to be installed under the condenser. Both the isolation pad and the condenser are to be securely attached to the substrate if the condensing unit is installed on a lanai surface. A waterproof two-line electrical disconnect switch is to be installed near the condenser that is accessible from the exterior of the apartment. This switch may be mounted on the exterior wall of the building in a location that is immediately adjacent to, and below the top level of, the condensing unit. It may also be built into the condenser or is to be attached to the condenser enclosure (flush to the exterior).

8. Owners are responsible for ensuring that the noise level and installation of any and all parts of their air conditioning systems meets all State of Hawaii requirements.

*Note: Any Owner requesting State testing of air conditioning noise levels is responsible for the scheduling and costs of tests. The Ekahi General Manager is to be present during all such tests and all costs for the removal or alteration of any air conditioning system that is found to be non-compliant with State requirements are the responsibility of the Owner of said system.*

### **3.0 Attic Storage Space**

1. Construction of attic storage space in the "non-material" common element above finished wallboard ceilings or behind high walls in second floor Apartments is generally permitted subject to Category 2 Major Alteration requirements and the specifications detailed in the Alterations Manual.
2. Use of Attic Storage Space for habitation is strictly prohibited by Maui County Building Code.
3. Use of Attic Storage Space is strictly limited to storage of non-flammable goods not exceeding 20 pounds per square foot of floor area.
4. Access to the attic storage space shall be by a pull down stairway. A permanent stair is not permitted.

### **4.0 Enclosure of Lanai Areas**

1. Enclosure of bedroom lanai areas of model 1-2A and 2-2 (side bedroom near living room only) apartments on both ground and second floors are generally permitted.
2. Permitted enclosures are subject to approval requirements of Category 2 Major Alterations and plans are required as detailed in the Alterations Manual.
3. Enclosure of any living room lanai area is not permitted.
4. Enclosure of bedroom lanai areas of model 1-2B, 1-1, and Townhouse apartments is not permitted.

### **5.0 First Floor Trellises**

1. The addition of trellises on ground floor lanais is generally permitted subject to Category 2 Major Alteration requirements.

### **6.0 Lanai Area Surfaces**

1. Installation of tile on new lanai surfaces or replacement of existing lanai tile or other coverings is to be made with one of the pre-approved tile selections that are available for viewing in the Association office. Owners wishing to use a different tile are required to obtain specific approval from the Board of Directors. However, all tile colors must fall within the earth toned color spectrum of the pre-approved tiles. In all cases original Ekahi terra cotta bull-nose edging on the building exterior is to be retained on lanais and at all lanai enclosures of upstairs or elevated downstairs apartments.
2. Tiling or otherwise covering lanai areas not part of the deeded property (extension onto the common element or limited common element) is not permitted without specific Board approval and is subject to the requirements of Category 2 Major Alterations.

### **7.0 Lanai Lattice Privacy Screens**

1. Wood lattice privacy screens are common element structures. Any alterations are considered to be Category 2 Major Alterations and subject to the requirements of that category.

## **8.0 Lanai Partition and Door Removal on Model 1-2B Apartments**

1. Removal of the partition wall and door that divides the lanais of the Model 1-2B apartments is generally permitted subject to the requirements of Category 1 Major Alterations.

## **9.0 Lanai Storage Cabinet**

1. Installation of one storage cabinet on an owner's lanai is generally permitted. Such cabinet shall be painted Ekahi Spice to match the exterior color of the apartment and conform to the design and specifications detailed in the Alterations Manual. Such cabinet should be located against a solid wall, but the Board of Directors reserves the right to approve the specific location of such cabinet.

## **10. Lanai Sun Screens**

1. Installation of lanai sunscreens is generally permitted. Such screens are to conform to the design and specifications detailed in the Alterations Manual.

## **11.0 Leaf Screens**

1. Installation of a leaf screen under the trellis located on ground floor apartments is generally permitted. Such screens to conform to the design and specifications detailed in the Alterations Manual. Owners are responsible for ensuring that screens are periodically cleaned to remove accumulated debris.

## **12.0 Satellite Dishes**

1. Installation of a direct broadcast satellite service antenna (satellite dish) on the common element may be permitted subject to the requirements of a Category 2 Major Alteration and the specifications and design detailed in the Alterations Manual.

## **13.0 Screen & Security Doors**

1. Installation of screen or security doors are generally permitted at all exterior doors. Such screen doors are to conform to the design and specifications detailed in the Alterations Manual.

## **14.0 Tile or Other Hard Floor Surfaces**

1. Tile or other hard surfaces on upstairs apartment floors are to be kept to a minimum and any significant extensions, except as noted herein, beyond original tile locations, are not permitted. *See Section H, Addendums 1 and 3 for further reference information*
2. Carpeting with approved padding is to be used for all floor areas of second floor apartments, except as follows:
  - a. Replacement of original Entry, Bathroom, and Kitchen floor tiles is permitted
  - b. Perimeter tiles, not exceeding 12 inches projection from the face of adjacent walls, defining only the dining and living rooms may be installed on the floors for decorative purposes.
3. Carpet padding in all second floor apartments shall be ½" thick, 7 ½ pound rated, and constructed of Re-bond Chipped Foam or equivalent.

### **15.0 Window modification and additions**

1. Window modifications and additions may be permitted subject to the requirements of Category 2 Major Alterations and the design and specifications detailed in the Alterations Manual. Such modifications and additions must be architecturally compatible and meet the requirement that there is no adverse change to the appearance of the building as a result of the installation. Such adverse change determination shall be made by the Building and Site committee prior to review and approval by the Board of Directors.
2. Installation of new or replacement windows with soundproofing properties is generally permitted.
3. Installation of new or replacement windows that reduce the effect of the heat rays of the sun is generally permitted, except that such windows may not result in a "mirror effect" when viewed from the exterior and shall be of a color matching the majority of window glass present in Ekahi. Also see, "Window Tinting Specifications".
4. Installation of solid windows in replacement of jalousie type windows is generally not permitted, except as noted in Section E, Windows.

### **16.0 Ceiling Fan in enclosed Lanai**

1. Ceiling Fan(s) may be installed on the ceiling of an enclosed lanai space subject to the requirements of Category 1 Major Alterations and the specifications detailed in the Alterations Manual.

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## **SECTION D. ALTERATION PROCEDURES**

Upon receiving a signed Notice of Intent to Alter Apartment, the General Manager will determine the type of work involved and assist Owners in submitting required applications. All applications must be complete and the work must receive appropriate approvals prior to commencement. The application requirements are as follows:

### **1.0 MINOR ALTERATION**

The apartment Owner as applicant shall submit the following to the General Manager:

1. A signed Application for Approval to Alter Apartment with a detailed description of the proposed alteration
2. A \$200 refundable deposit
3. A signed copy of the Restrictions and Liability Agreement

The General Manager will review the application and if complete sign the approval, notify the owner to proceed and, if appropriate, post the dates of the work at appropriate locations.

### **2.0 MAJOR ALTERATION-CATEGORY 1**

The Apartment Owner as applicant shall submit the following to the General Manager:

1. A signed Application for Approval to Alter Apartment with a detailed description of the requested alteration
2. A \$200 refundable deposit
3. A signed copy of the Restrictions and Liability Agreement

The General Manager will review the application and if complete submit it to the Building & Site Committee for review. The manager will notify the owner of approval or denial, and if approved, post the dates of the work at appropriate locations.

### **3.0 MAJOR ALTERATION-CATEGORY 2**

The Apartment Owner as applicant shall submit the following to the General Manager:

1. A signed Application for Approval to Alter Apartment with a detailed description of the requested alteration
2. A \$500 deposit for alterations costing less than \$20,000, or \$1,000 for alterations exceeding \$20,000.
3. A signed copy of the Restrictions and Liability Agreement
4. A signed License Agreement if Common Element is included in the alteration.
5. Architectural plans and County Building Permits as required by Board policy
6. In certain cases a Contractor Licensed in the State of Hawaii and/or Wailea Community Association approval may be required.

The General Manager will review the application and if complete submit it to the Ekahi Building & Site Committee for review and approval. Once approved by the committee, he will submit it to the Board for review and final approval. The owner will then be notified of approval and conditions, or denial. If approved, the Manager will post the dates of the work at appropriate locations according to Alteration Manual guidelines.

When an alteration is approved, site inspections will be done to insure all requirements have been adhered to. Upon satisfactory completion of the approved alteration and final inspection, a signed approval will be completed and the deposit will be returned to the Owner, less any Association expenses caused by alteration activities.

# WAILEA EKAHI AOA APARTMENT ALTERATIONS MANUAL

## SECTION E STANDARDS AND SPECIFICATIONS

### AIR CONDITIONING CONDENSING UNITS

#### Major Alteration-Category 2

##### Requirements:

- A. Signed Application for Approval to Alter Apartment
- B. Building & Site Committee approval of specific location(s) and design specifications
- C. Specific Board approval.
- D. An owner signed statement that a Maui County Building Permit will be obtained if an exterior chase (see below) is required.
- E. Licensed Building and AC Contractors shall perform all work
- F. Signed Lease Agreement for use of the Common Element (When applicable).

##### SPECIFICATIONS:

1. No Air Conditioning condensing units may be located within the front entry enclosure area of a building.
2. No electric lines, coolant pipes, condensation drainage pipes, or other related components are to be run across the exterior of any building. Such components must be installed per Maui County Building Codes and manufacturer specifications on the inside of the apartment and:
  - a. All apartment coolant pipes and electrical lines may exit the exterior wall within 2' of the ground grade level – when possible they are to be hidden behind their condensing units. All exit areas are to be weather proofed.
  - b. For first floor apartments that rest directly on ground level concrete slabs – these components must be installed within the apartment interior, or running vertically, inside of the exterior wall. Access to any stud wall cavity shall be from the inside of the apartment unit and not from the building exterior
  - c. For all other apartments – these components must be installed inside of the apartment or in a vertical exterior chase per the following specifications:
    - i. The chase, or pipe and line channel, shall be built on the outside exterior wall of the building, and shall run vertically from the topmost wooden eve trim to 6 “ above ground grade.
    - ii. The top of the chase shall laterally follow the slope of the eve trim (if any) and be beveled downward away from the building, at the top, a minimum of 45 degrees.
    - iii. The chase shall be between 12 and 16 inches wide and approximately 5” deep.
    - iv. It will be constructed with 2” x 4” steel stud material at the sides, bottom, and near the top.
    - v. It will be covered with water proof plywood, plaster, and stucco per standard construction practice.
    - vi. There will be a 4” x 4” pull box that has a removable waterproof service cover within 2 feet of the ground grade.
    - vii. It will be painted to match the building color.

3. Any condenser or other components that are to be installed outside the apartment (including those on lanais) are to be enclosed within a removable lattice enclosure that matches other lattice enclosures at Ekahi and painted to match Ekahi stucco color. The enclosure must provide a minimum of three-inch clearance for air circulation between the condenser and lattice and shall be kept in good repair. Condensers shall be mounted a minimum of 12 inches off vertical building surfaces. In addition, an isolation type mounting pad specifically designed for mounting AC condensing units is to be installed under the condenser. Both the isolation pad and the condenser are to be securely attached to the substrate if the condensing unit is installed on a lanai surface. A waterproof two-line electrical disconnect switch is to be installed near the condenser that is accessible from the exterior of the apartment. This switch may be mounted on the exterior wall of the building in a location that is immediately adjacent to, and below the top level of, the condensing unit. It may also be built into the condenser or is to be attached to the condenser enclosure (flush to the exterior)..
4. Owners are responsible for ensuring that the noise level and installation of any and all parts of their air conditioning systems meets all State of Hawaii requirements.

Note: Any Owner requesting State testing of air conditioning noise levels is responsible for the scheduling and costs of tests. The Ekahi General Manager is to be present during all such tests and all costs for the removal or alteration of any air conditioning system that is found to be non-compliant with State requirements are the responsibility of the Owner of said system

## **ATTIC STORAGE SPACE**

### **Major Alteration-Category 2**

#### Requirements:

- A. Signed Application for Approval to Alter Apartment
- B. Architect prepared and stamped building plans
- C. Building & Site Committee Approval
- D. Specific Board approval.
- E. An owner signed statement that a Maui County Building Permit will be obtained.
- F. Signed Lease Agreement for use of the Common Element.

#### SPECIFICATIONS:

1. All new plans must be drawn by an Architect licensed in the State of Hawaii.
2. A licensed electrical contractor shall perform all electrical work.
3. Design Load: Live load: 20 lbs./ft. – Dead load: 10 lbs./ft.
4. Existing firewalls shall not be modified. Access shall be by pull down stairs. Maui County Building Code prohibits permanent stairs.
5. Maui County Building Code prohibits habitation.

## **LANAI ENCLOSURES**

### Major Alteration-Category 2

#### Requirements:

- A. Signed Application for Approval to Alter Apartment.
- B. GM and Building & Site Committee approval of specific design specifications.
- C. Specific Board approval.
- D. Architect prepared and stamped building plans
- E. An owner signed statement that a Maui County Building Permit will be obtained.
- F. Licensed electrical and plumbing contractors shall perform electrical and plumbing work.

Only the enclosure of Model 1-2A and 2-2 (side bedroom near living room only) bedroom lanais is approved.

#### SPECIFICATIONS:

1. Plans showing details of the proposed build out shall be submitted with the Alteration Request, including specifications for any slab footings, electrical changes, window and door placements, and all other visible exterior changes.
2. An exterior dark framed sliding door/window is required that mimics the original, and is the same width as a window already installed in a built-out upstairs/downstairs unit. If no built-out door/window exists upstairs or downstairs, it's width must not be less than the upstairs/downstairs matching door/window, and not more than the width of the upstairs/downstairs lanai opening. Both 3 and 4 sectioned panel windows are approved.
3. The new door/window cannot be larger than the lanai exterior opening framed by the original side columns and upper header. It must also be a full height sliding door/window.
4. For downstairs units, the large sliding exterior door/window must be installed within a setback of at least 2 inches (not flush) from the exterior, to provide a shadow appearance of the original lanai opening. This also provides a space for any future installation of a sliding security screen door.
5. For upstairs units, the large sliding exterior door/window must be installed inside of the original lanai guard rail that must remain in place. Also, the original bull nose terra cotta colored lanai floor tile edging that is viewable from the exterior must remain on both the front and the end of the original lanai area.
6. If an end panel wooden lattice or guard rail exists in the original design, it must be retained and built into a 2" to 6" recessed area that matches the original and the upstairs/downstairs unit. If no wooden lattice exists in the original design, a 2 inch recessed area that matches the original opening and the upstairs/downstairs unit is required (See Apartment 38D). An exterior dark framed window may be substituted for the wooden lattice, or installed within the recessed area. The width must match any window or lattice installed upstairs/downstairs. The height may vary, but must match any window already installed upstairs/downstairs. (See section on windows).

## **FIRST FLOOR TRELLISES**

### Major Alteration-Category 2

#### Requirements:

- A. Signed Application for Approval to Alter Apartment
- B. Building & Site Committee approval

- C. Specific Board approval.
- D. Signed Lease Agreement for use of the Common Element
- E. A signed statement of consent may be required from any owner where their view might be adversely affected.

Trellises shall be designed so they do not interfere with ingress or egress to and from the apartment.

#### **SPECIFICATIONS:**

1. All modifications of existing trellises require specific Board approval.
2. New trellises shall be built to match original Ekahi trellis design and color.
3. Pressure treated 4" x 6" Douglas fir shall be used for posts.
4. Posts shall be attached 6" above ground to pier blocks that are set in concrete
5. Pressure treated Douglas fir shall be used for all support beams.
6. Pressure treated 2" x 6" Douglas fir, on 6" centers, shall be used for framing.
7. Appropriate post and beam spacing is required to insure proper support.
8. Detailed drawings of the proposed new trellis shall be included with the request.

#### **LANAI AREAS AND SURFACES**

Major Alteration-Category 2

Requirements:

- A. Signed Application for Approval to alter Apartment
- B. Building & Site Committee approval
- C. Specific Board approval.
- D. Signed Lease Agreement for use of the Common Element. (When applicable.)

#### **SPECIFICATIONS:**

1. Plans showing details of proposed concrete footings and slab dimensions shall be submitted for all lanai alterations. At minimum all new or replacement ground level lanai slabs shall be steel reinforced concrete: 3-1/2" deep with 6" perimeter footings.
2. Lower apartment Lanai's may be extended directly out from the front of original lanai's to just inside of the support posts of existing covering trellis. The extended sub-surface concrete is not to attach to the trellis support post concrete. If no covering trellis exists, the extension may extend as far as the inside location of where future support posts might be located – generally 5 or 6 feet out.
3. Extensions to the sides of original lanai surfaces are generally not permitted.
4. Existing lanais or new Board approved lanais may be covered with one of the Association's pre-approved tiles. Deviations from these pre-approved tiles require specific Board approval.
5. Planted areas that lie within the individually owned portion of the lanai may also be covered with one of the pre-approved tiles. All costs incurred by the Association to remove or alter the irrigation or landscaping shall be charged to the owner.
6. Artificial turf or carpeting is not allowed on lanais or front entry walkways. Existing installations of these products cannot be replaced in kind when they deteriorate, and must be removed. Front walkways must be restored to their original condition.

## **LANAI PARTITION & DOOR REMOVAL (Model 1-2B):**

Major Alteration-Category 1

### Requirements:

- A. Signed Application for Approval to Alter Apartment
- B. Building & Site Committee approval.

### SPECIFICATIONS:

1. Following Committee approval to remove the partition and door, the floor, walls and ceiling affected by such removal must be repaired and restored to match the existing adjacent surfaces. For tiled lanais this may require replacing all lanai tiles.

## **LANAI SUNSCREEN**

Major Alteration-Category 1

### Requirements:

- A. Signed Application for Approval to Alter Apartment
- B. Building & Site Committee approval.

### SPECIFICATIONS:

1. Sunscreens installed on trellis-covered lanais shall be dark brown in color to match the painted surfaces of the trellis and shall be installed on the inside of the trellis posts. Sample color is available in the Ekahi office.
2. Sunscreens on all other lanais shall be straw color to be compatible with the standard Ekahi stucco color and shall be installed on the inside surface of the stucco frame. Sample color is available in the Ekahi office.
3. The sunscreens shall be installed to come down no more than 18" above the floor to accommodate air circulation.

## **LEAF SCREEN**

Major Alteration-Category 1

### Requirements:

- A. Signed Application for Approval to Alter Apartment
- B. Building & Site Committee approval.

### SPECIFICATIONS:

1. The frame of the leaf screen shall be constructed of pressure treated 2" x 2" Douglas fir lumber.
2. The frame shall be painted dark brown to match the trellis.
3. The screen material shall be dark brown to match the trellis and frame.
4. The frame shall be installed on the under side of the trellis in such a fashion that it can be easily removed for cleaning and maintenance of the trellis.
5. The Owner shall paint and maintain the leaf screen in good order. The Owner shall clean the leaf screen to prevent excess leaf buildup or possible fire hazard.

## **SATELLITE DISH ANTENNAS**

### **Major Alteration-Category 2**

#### **Requirements:**

- A. Signed Application for Approval to Alter Apartment.
- B. Building & Site Committee approval
- C. Specific Board Approval.
- D. Signed License Agreement for use of the Common element.

#### **SPECIFICATIONS:**

1. The satellite dish antenna shall have a diameter no greater than 39 inches.
2. Owner shall provide a scaled drawing showing preferred location on the Common Element. Board must approve location.
3. All wiring shall be as inconspicuous as possible.
4. Owner shall provide a written estimate of all costs incurred by owner.
5. Owner shall maintain the installation in good order and repair.
6. Dish shall be covered with fabric to match Ekahi stucco color

## **SCREEN & SECURITY DOORS**

### **Major Alteration-Category 1**

#### **Requirements:**

- A. Signed Application for Approval to Alter Apartment
- B. Building & Site Committee Approval.

#### **SPECIFICATIONS:**

1. Dark bronze colored screen and security doors similar to those manufactured by Lange may be installed at all exterior doors.
2. Movable glass panels may be used for air circulation provided safety glass is used.
3. Alternate doors may be allowed if they have a substantially similar appearance to the Lange door and are approved by the Ekahi Building & Site Committee.
4. All security doors are to be installed within the indented space on the outside of existing doors. They are not to be installed so that they extend outward beyond the flush exterior wall.

## **WINDOWS – NEW AND REPLACEMENT**

### **Major Alteration-Category 2**

#### **Requirements:**

- A. Signed Application for Approval to alter Apartment
- B. Building & Site Committee approval
- C. Specific Board approval.
- D. An Architectural plan and application for a Maui County Building Permit may be required if structural changes are involved.

## SPECIFICATIONS:

1. Picture window additions shall be installed in non-shear walls only. Window sizing shall be architecturally compatible with its location and compatible with adjacent window units. The width shall be a minimum of 4 feet and a maximum of 8 feet. The height shall be a minimum of 3 feet and a maximum of 5 feet. Sill height shall be a minimum of 30" above the finished floor.
2. All new wood framing shall be pressure treated Douglas fir lumber.
3. Glass shall be either fixed or louvered to match existing Ekahi jalousie windows and must be non-reflective type glass.
4. Dark bronze aluminum or vinyl shall be used for all window framing.
5. Jalousie windows must be replaced if replacements are available except as follows:
  - a. The jalousie window located directly adjacent to a front entry door may be replaced with solid clear or obscure glass windows of the same dimensions. No etched or art-work windows are allowed.
  - b. Lower kitchen door jalousie windows may be replaced with solid clear or obscure glass of the same dimensions, a solid wooden panel, or the entire door may be replaced with the lower window eliminated.
  - c. The combined jalousie/solid pane kitchen sink area window may be replaced with a single pane window of the same dimensions.
  - d. Replacement jalousie windows may be dark brown aluminum or vinyl framed windows such as those manufactured by Coastal Window Co.
6. When installing new or replacement windows, neatly cut existing walls and patch, repair and paint to match existing Ekahi surfaces.
7. Temporarily shore up existing joist and rafters prior to cutting new wall openings. Remove drywall full height from floor to ceiling to permit proper placement, and top and bottom nailing of new wall studs. New connections to be nailed securely to carry live and dead loads.
8. Roof design live load: 20 PSF. Floor design live load: 40 PSF.
9. All specifications and connections must meet current Maui County Building Codes.
10. Provide temporary dust control protection.

Note: Leaks and damage caused by window additions and alterations are the Owner's responsibility.

## New Header Schedule:

Header nominal depth of 6" for maximum horizontal length of 4'.

Header nominal depth of 8" for maximum horizontal length of 5'.

Header nominal depth of 10" for maximum horizontal length of 6' 6".

Header nominal depth of 12" for maximum horizontal length of 8'.

## **WINDOW(S), TINTING**

Major Alteration-Category 1

### Requirements:

- A. Signed Application for Approval to Alter Apartment
- B. Building & Site Committee approval

**SPECIFICATIONS:**

1. Tinting will not create a “mirror effect” when viewed from the exterior
2. Approved color is Medium Grey or Smoke
3. Reflective properties are not to exceed 35%

**LANAI CEILING FAN(S)**

Major Alteration –Category 1

**Requirements:**

- A. Signed Application for approval to Alter Apartment
- B. Building & Site Committee approval.

**SPECIFICATIONS:**

1. All visible fan components, including the blades are to be dark brown in color.
2. If a light is attached, it must only shine down and must not be visible from other apartments.3No swaged electrical wires or chains are allowed.
3. All electrical supply wires and connections must be enclosed inside of apartment walls or inside of approved exterior metal electrical boxes and conduit.
4. Any electrical Conduit and switch box installed on an exterior wall must be run in non-obvious locations (in corners) and then painted to match the exterior building color.
5. Fans are not to be installed on trellises or beyond the inside lanai ceiling area.
6. Where 2 lanai’s are adjacent to each other (1-2 B Apartments), 2 ceiling fans may be installed in the combined area.

**LANAI STORAGE CABINET**

Major Alteration-Category I

**Requirements:**

- B. Signed Application for Approval to Alter Apartment.
- C. Building & Site Committee approval.

**SPECIFICATIONS:**

1. Design and specifications shall follow the details of the approved drawing dated, June 10, 2002, which is included in this manual in Section G.
2. Cabinet shall be of exterior grade plywood, without grooves.
3. Cabinet top may be hinged in lieu of doors at cabinet front.
4. Cabinet shall be painted Ekahi standard stucco color.
5. Hinges shall be hidden from view and door handles are at the option of the apartment Owner.
6. Cabinet should be located against a solid wall, but the Board of Directors reserves the right to approve the exact location of such cabinet.

**WAILEA EKAHI AOO APARTMENT ALTERATIONS MANUAL**

**SECTION F - FORMS & REFERENCE**

**APPLICATION FOR APPROVAL TO ALTER APARTMENT**

**1.0 To be completed by Apartment Owner:**

/Apartment Number: \_\_\_\_\_ Application No. \_\_\_\_\_

Apartment Owner Name: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email \_\_\_\_\_

I (we) propose to make the following alterations:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Preliminary drawings/Architectural Plans Attached Yes \_\_\_\_\_ No \_\_\_\_\_

Proposed start date \_\_\_\_\_ Proposed Completion Date \_\_\_\_\_

**2.0 TO BE COMPLETED BY GENERAL MANAGER:**

The proposed alteration is a: Minor Alteration \_\_\_\_\_  
Major Alteration Category I \_\_\_\_\_ Major Alteration Category II \_\_\_\_\_

Construction Deposit Fee received \$ \_\_\_\_\_

Ekahi's Architect evaluation:  
Required Yes \_\_\_\_\_ No \_\_\_\_\_  
Obtained Yes \_\_\_\_\_ No \_\_\_\_\_

License agreement for common area use:

Required Yes \_\_\_\_\_ No \_\_\_\_\_  
Obtained Yes \_\_\_\_\_ No \_\_\_\_\_

Architect prepared Plans Required: Yes \_\_\_\_\_ No \_\_\_\_\_

Copy of Plans provided to Association: Yes \_\_\_\_\_ No \_\_\_\_\_

**3.0 Apartment Owner and Contractor / Agents shall comply with the following:**

- 3.1 No work of any kind including but not limited to painting, re-carpeting, cabinet replacement, etc. shall begin prior to receipt of appropriate Approval
- 3.2 Noisy work requires 30 days prior notice to neighboring apartments.
- 3.3 Work Hours are limited to Monday through Friday 8:00 AM to 5:00 PM. No work on Federal holidays.
- 3.4 Consumption of Alcoholic Beverages by contractor or agents is not permitted in the Unit or in Common areas.
- 3.5 Pets shall not be permitted in the Unit or in Common Areas during the Construction period.
- 3.6 Contractor or Agent's family and employees are not permitted to use pool or other common area facilities.
- 3.7 Licensed Contractor shall be engaged to perform any changes to electrical wiring and plumbing work and to secure necessary Maui County Building Permits.
- 3.8 Common Area Courtyards, Landscaped Areas and Automobile Parking Surfaces shall be kept clean at all times. Contractor at his cost shall remove from Ekahi Property all debris on a regular basis.
- 3.9 Playing of radios causing noise beyond the confines of the Apartment Owner's Unit is not permitted.
- 3.10 Construction related equipment shall be operated within the confines of the Apartment Owner's Unit. Noise generating equipment should be operated only when doors and windows are in a closed position.
- 3.11 General Manager shall have the authority to eject any worker considered to be in violation of House Rules.

**4.0 Policies, Procedures and Standards for Apartment Alterations:**

Apartment Owner understands, accepts and agrees to comply with all policies, procedures and standards contained in the "Wailea Ekahi Association of Apartment Owners Apartment Alterations Manual".

**5.0 Restrictions and Liability Agreement:**

Apartment Owner understands, accepts and agrees to save the Wailea Ekahi Association of Apartment Owners harmless from all damage suits and costs arising from the alteration of the Apartment Owner's Unit and from liability from injuries suffered by any employee or person whomsoever, and further that remedy of any damages to buildings or common area arising from the proposed alteration shall be the responsibility of the Apartment Owner or Apartment Owner's Agent whose signature is provided below.

This agreement shall bind the Apartment Owner whose signature is provided below and their respective successors and assigns. This agreement shall be filed in the Apartment Owners file in the Association office. The present Apartment Owner shall notify any future owner of this unit that the future owner shall be bound by the contents of this agreement.

**6.0 I Have Read, Understand, Accept and Agree to the Conditions of this Agreement:**

Apartment Owner's Signature: \_\_\_\_\_ Date \_\_\_\_\_

Print Apartment Owner Name: \_\_\_\_\_ Unit \_\_\_\_\_

Apartment Owner's Agent: \_\_\_\_\_ Unit \_\_\_\_\_

Contractor's Signature: \_\_\_\_\_ License # \_\_\_\_\_

**7.0 Wailea Ekahi AOA Approval**

**General Manager approval:** Yes \_\_\_\_\_ No \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_

**Building & Site approval:** Yes \_\_\_\_\_ No \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_

**Board of Directors approval:** Yes \_\_\_\_\_ No \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_

**8.0 Inspections**

**The proposed alteration has been inspected and, to best of my knowledge and belief, appears to have been completed in accordance with approved plans:**

\_\_\_\_\_ Date \_\_\_\_\_  
**General Manager**

**END of Application Request**

**Form AM1**

## NOTICE OF INTENT TO ALTER APARTMENT

Date: \_\_\_\_\_

Apartment No.: \_\_\_\_\_

Owner Name: \_\_\_\_\_ Telephone No. \_\_\_\_\_

General Manager:

I (We) hereby give notice of our intention to alter my (our) apartment.

I (We) understand that alterations cannot be commenced until appropriate approvals have been received.

I (We) also understand that all alterations must comply with the provisions of the Wailea Ekahi Association of Apartment Owners' Apartment Alterations Manual.

\_\_\_\_ Preliminary drawing of proposed changes attached, if required.

\_\_\_\_\_  
(Signed)

-----  
Apartment Owner:

I have received your Notice of Intent to Alter Apartment and have delivered to you a copy of the Current Wailea Ekahi Association of Apartment Owners' Apartment Alterations Manual.

\_\_\_\_\_  
General Manager

\_\_\_\_\_  
Date

Form AM2

# MEMORANDUM OF LICENSE AGREEMENT FOR USE OF COMMON ELEMENTS AT WAILEA EKAHI AOA

This MEMORANDUM OF LICENSE AGREEMENT, hereinafter "Memorandum" incorporates by reference, as if set forth in full, all of the terms and conditions of the Master License Agreement, adopted by the Board of Directors of Wailea Ekahi AOA, which the Licensee identified below, acknowledges, has had the opportunity to read before signing this Memorandum. (See individual FORM)

**1. PARTIES**

The Licenser is Wailea Ekahi AOA, 3300 Wailea Alanui, Wailea, Maui, HI 96753

The Licensee is (Name): \_\_\_\_\_

\_\_\_\_\_  
(Address) Apartment # \_\_\_\_\_

**2. USE OF PREMISES** (check one or more uses below)

Attic/loft storage space (  ); Installation of AC Equipment (  ): Installation of Satellite Dish (  ); Lanai Extension (  ); Other (  )

**3. DESCRIPTION OF THE COMMON ELEMENTS TO BE USED**

\_\_\_\_\_  
\_\_\_\_\_

**4. LICENSE FEE**

Licensee shall pay to Licenser on or before the Effective date, hereof without deduction, offset, prior notice, the sum of Fifty (\$50.00) dollars in lawful money of the United States.

**5. TERM OF NON EXCLUSIVE LICENSE**

The term of this License shall be for five (5) years and shall become effective on the Effective Date, the date that the Memorandum is executed by the parties; provided that either party may give sixty (60) days written notice to the other to terminate this license.

**6. NOTIFICATION TO SUBSEQUENT PURCHASER**

Licensee shall notify any successor in interest of the existence of the License.

**7. RESPONSIBILITY**

Owners and their respective successors and assigns assume all future responsibilities relating to their alterations, including any damage related to or caused by such alterations, regardless of the location within an apartment, to the common element, or to any person

IN WITNESS WHEREOF, Licenser and Licensee have executed this License to be effective as of the Effective Date, this \_\_\_\_ day of \_\_\_\_\_ (year) \_\_\_\_\_.

**LICENSOR:**  
BOARD OF DIRECTORS OF  
WAILEA EKAHI AOA

By \_\_\_\_\_

Print Name: \_\_\_\_\_

Its \_\_\_\_\_

**LICENSEE:**

By \_\_\_\_\_

## **CONSTRUCTION RULES** Form AM5

Work Hours:  
MONDAY THRU FRIDAY  
8 AM TO 5PM

No Work on Federal Holidays  
NO EXCEPTIONS!

1. No Alcoholic beverages, pets, or radios that can be heard outside of the unit.
2. All power tools and equipment are to be operated indoors.
3. Keep all windows and door closed while operating equipment.
4. Do Not wash down tools or equipment in parking lots or into storm drains.
5. Do Not wash any grout down inside drains
6. All courtyards, stairs, landings & parking lots are to be kept clean at all times.
7. Do not use Ekahi containers for construction trash, and Haul rubbish away regularly.
8. Any contractor construction trash containers are not to exceed 6 cubic yards in size and will be located by the Ekahi Manager
9. Parking is limited. Excess vehicles must park in locations assigned by Ekahi Manager.

Do not perform any work without written approval. Modifications that have not been approved, or are not in conformance with Ekahi guidelines may be removed by order of the Board of Directors at the expense of the owner. Ekahi Manager has the right to eject anyone in violation of Ekahi Rules.

**THANK YOU FOR YOUR COOPERATION  
WAILEA EKAHI HOMEOWNERS ASSOCIATION**

Wailea Ekahi, 3300 Wailea Alanui  
Wailea, Maui 96753, Phone (808) 879-2770

## **NOTICE OF ALTERATION TO BE DONE**

DATE: \_\_\_\_\_

TO NEIGHBORING APARTMENTS OF BUILDING \_\_\_\_\_

Alteration work in apartment \_\_\_\_\_ has been approved in accordance with Ekahi Village Rules and Regulations regarding Owner's Alterations to Apartments.

Work is scheduled to begin on \_\_\_\_\_ and is expected to be completed by \_\_\_\_\_. Actual dates may vary due to circumstances beyond our control. Owners may check the Ekahi Website to track significant date changes.

The work will be performed in compliance with the Wailea Ekahi Restrictions and Liability Agreement.

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EKAHI GENERAL MANAGER

Form AM6

# **WAILEA EKAHI AOO APARTMENT ALTERATIONS MANUAL**

## **SECTION F - FORMS & REFERENCE**

### **PROCEDURES FOR APPROVAL OF OWNER REQUESTS FOR APARTMENT ALTERATIONS WHEN THE BOARD OF DIRECTORS IS NOT IN SESSION.**

#### **GENERAL POLICY-**

Applications for approval of a proposed alteration to an apartment that is considered to be a Major Alteration Category II as defined in the Wailea Ekahi Association of Apartment Owners Apartment Alterations Manual shall be considered at a formally constituted Board of Directors meeting.

#### **EXCEPTION TO GENERAL POLICY-**

Subject to the following conditions the President may, at the request of the Chairman of the Building & Site Committee or the General Manager, request the Board of Directors to respond by email regarding an alteration application:

1. The application to alter an apartment is satisfactorily complete as determined by the General manager.
2. The requested alteration complies with applicable provisions of the Manual.
3. At least one member of the Building & Site Committee has visited the alteration site.
4. A copy of the completed application, or parts thereof, is available to any Board member by facsimile or otherwise (FedEx, etc.).
5. The General Manager and the committee member recommend approval.
6. Applications that include requests for alterations not specifically covered by the manual are not eligible for consideration under this exception.

#### **PROCEDURES FOR IMPLEMENTING AN EXCEPTION-**

Upon receiving evidence of satisfactory compliance with the above conditions, the President will provide appropriate information to Board members and request that they indicate, by email, whether or not they agree with the recommendation of the General Manager and the Building & Site Committee Chairman.

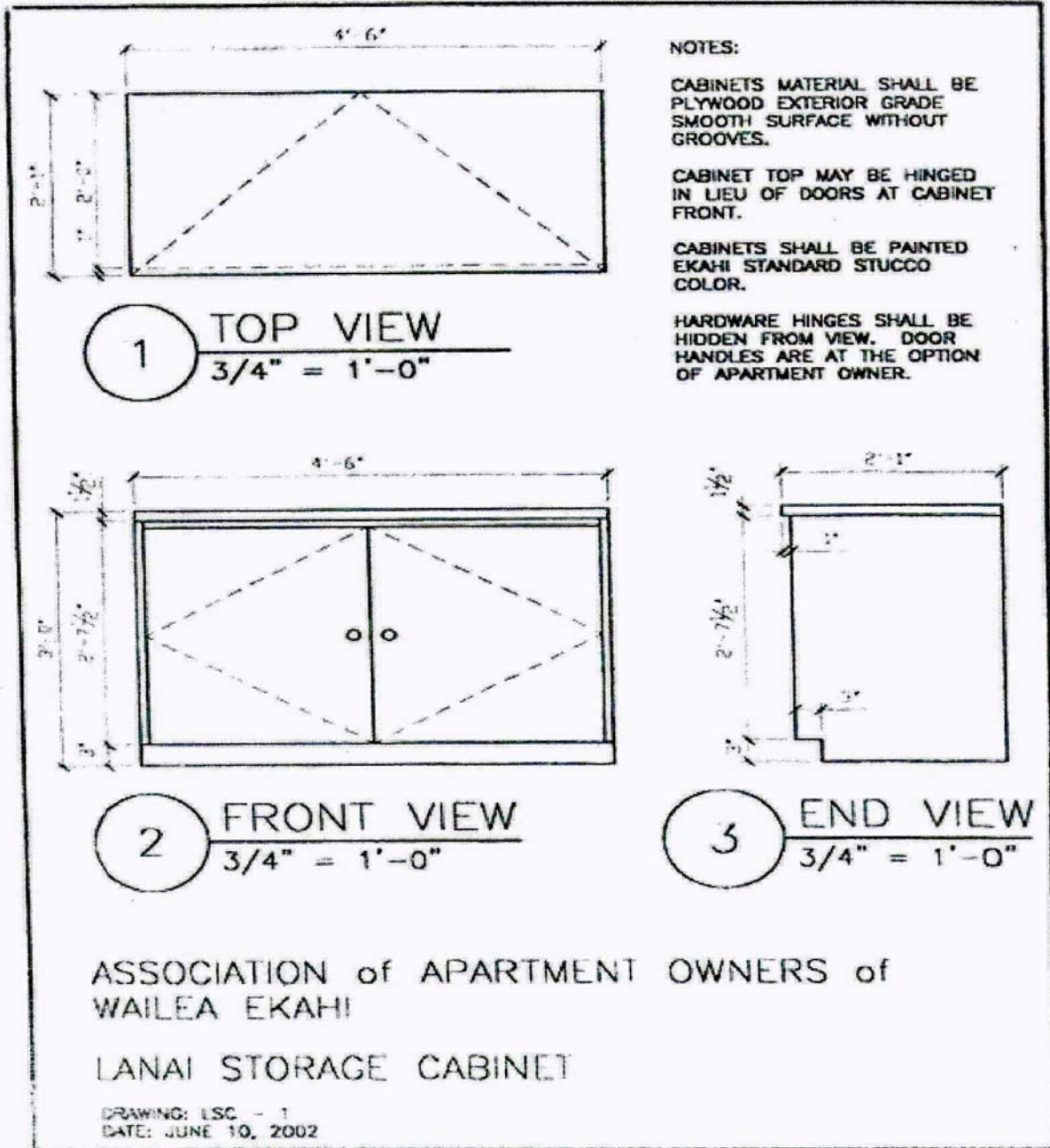
Email responses will be recorded and kept by the General Manager.

Results will be communicated to the applicant.

Decisions made under this exception will be official and recorded in the minutes of the next formally constituted Board of Directors meeting.

Form AM7

SECTION G: LANAI STORAGE CABINET DRAWING



# WAILEA EKAHI AOA APARTMENT ALTERATIONS MANUAL

## SECTION H: ADDENDUM NOTATIONS

### **Addendum #1 - History of the Ekahi Apartment Alteration Manual development**

In early 2000, the Ekahi Board of Directors Directed that a comprehensive Apartment Alterations Manual be developed. A Procedures and Standards of Apartment Alterations document existed at the time. However, it did not always provide specific enough guidance regarding many alteration requests. The need for a more complete and comprehensive manual became further evident because of the following:

1. An expressed desire on the part of the Board to insure that Ekahi Property values and aesthetics are maintained and enhanced over the long term.
2. Over the years, some of the rules regarding permitted alterations to condominium units had changed almost as frequently as Boards and their committees had changed. Thus; Owner's, new Boards, and Committees, were often confused regarding permitted and non-permitted changes.
3. Legal cases, based on Hawaii condominium laws, generally support owners requested changes, if other owners in the same community had been granted the right to make similar changes in the past, regardless of reasons or location considerations. That is, if a change was allowed in one unit, perhaps because it could not be seen due to location, it could not generally be denied in another location where it might be seen and found objectionable. In most instances, everyone in the community must be treated the same and according to the same set of rules. Thus, a set of common standards needed to exist.

Based on the above, the Ekahi Board was advised by it's attorney that it should develop a comprehensive Alterations Manual to be ultimately adopted as it's policy from that date forward – subject only to clarification and updating as required by new requests for which standards did not exist, new technologies became available, and new considerations were presented.

The Board interviewed several registered architects who had extensive experience in Hawaii and Resort architecture. They ultimately contracted with one highly qualified semi-retired architect, Frank Steena, (now deceased) to work with a select committee composed of 2 Board members and the Building & Site committee to prepare an Apartment Alterations Manual for Board consideration.

Guidance given to the select committee by the Ekahi Board and its Attorney was to: 1. Review any prior Ekahi alterations guidelines. 2. Review all prior approved alterations in Ekahi unit files. 3. Review, on site, many previously approved apartment alterations. 4. Review existing Hawaii Condominium Laws. 5. Review all Ekahi Governing documents. 6. Always strive to preserve the unique design character of the original exterior appearance of the Ekahi Buildings – This particular guidance was deemed critical because owners who purchase within a condominium community have a legal right of expectation regarding a long term continuation of the appearance of the community. 7. Grant owners as much flexibility as possible regarding interior alterations. 8. Always consider the impact of any alterations on immediate neighbors and the community as a whole – Owners of nearby units have a right to not have their rights “of quiet enjoyment and pri-

vate personal use” violated by the actions of others within the community. 9. Routinely refer developing regulations to the Ekahi Attorney and Architect for their professional suggestions and approval. 10. Keep the Board constantly updated with draft documentation.

During the final presentation to the Board, for approval, the architect stated these primary concerns for future guidance to the community:

1. Jalousie windows must be retained as they are an integral design component. In addition, they provide important cross ventilation to cool units without using expensive to run and noise producing Air Conditioning systems.
2. Living room and same facing bedroom lanais are not to be built-out (enclosed). If done, a slab-walled “Box Store” appearance will develop - destroying the architectural integrity of the community.
3. No build-outs that extend beneath shed roof overhangs (especially in 1 bedroom, 1 bath units) are to be allowed – destroying the architectural integrity of the community.
4. If upstairs unit owners wish to extend hard surface flooring beyond original locations, the burden of proof must be on them (or their contractor) to prove, prior to installation, that there will be no increase in noise to the unit below. Otherwise, the requests are to be denied.
5. Whenever requested and Board approved alterations involve changes to building structural components such as load bearing entities or sheer walls, plumbing or electrical runs within common elements, or any other building common elements; Maui County Building Permits and Signed Engineering or Architectural drawings are to be required.

After approximately one year of reviews, committee meetings and draft preparation; including multiple reviews with the Ekahi Board of Directors along the way, the select committee’s Apartment Alterations Manual was adopted in early 2001. It has since been updated to reflect new requirements and for purposes of clarification.

The Building & Site committee, in association with the Ekahi General Manager, is responsible for keeping the Apartment Alteration Manual current, both in printed and Ekahi website form. No changes are to be made to the manual without prior Board approval.

## Addendum #2 - DAMAGED LANAIS - By Resolution of the Board, 11/12/2008-

Owners are responsible for taking care of their lanais. If lanais are being cracked or broken by nearby common area plant roots, the Association will, on a case-by-case basis, work with the owner to remove plant roots that are causing the problem if the owner decides to replace their lanai. In addition, the Association will, on a case-by-case basis, consider removing lanai threatening plants based on the impact on neighbors and other owners. However, the Association's preference is to not remove plants that are desired and found attractive by neighbors and other owners.

### **Addendum #3 - The Future of Covenant Enforcement Actions**

#### **Hawaii Condo Bulletin (Oahu) - Feb 2009 – Council Opinion**

A. Hard Surface Floors: Many boards of directors of condominium associations have paid little attention in the past to replacement of carpeting with hard surface floors. However, hard surface floors have become much more popular and easily accessible to owners to install. The problem is that many buildings were not designed to allow hard surface flooring in any areas except perhaps a small entry way or the bathroom. As a consequence, condominium boards are receiving complaints about the noise transmission to lower or adjacent units. While some boards would understandably prefer not to become involved in these issues, unfortunately, the statutes demand that the boards review and approve all work done by owners including replacement of carpeting with hard surface floors:

"No unit owner shall do any work that may jeopardize the soundness or safety of the property, reduce the value thereof, or impair any easement, as reasonably determined by the board."

HRS Section 514B-140: Moreover, if the hard surface flooring could interfere with the right of other unit owners to use and enjoy their units, the alteration very likely would be defined as "material" by a court and require the approval of other owners -67% of the common interest and directly affected owners (ie., the owner below):

"Subject to the provisions of the declaration, no unit owner may make or allow any material addition or alteration, or excavate an additional basement or cellar, without first obtaining the written consent of sixty-seven per cent of the unit owners, the consent of all unit owners whose units or appurtenant limited common elements are directly affected, and the approval of the board, which shall not unreasonably withhold such approval. The declaration may limit the board's ability to approve or condition a proposed addition or alteration; provided that the board shall always have the right to disapprove a proposed addition or alteration that the board reasonably determines could jeopardize the soundness or safety of the property, impair any easement, or interfere with or deprive any nonconsenting owner of the use or enjoyment of any part of the property."

HRS Section 514B-140: If a hard surface floor interferes with the right of other occupants to use and enjoy their apartment, the hard surface floor is "material" under the statute. Thus, faced with this type of proposal the Board must adopt standards of installation designed by professionals (e.g., acoustical engineers) to avoid any interference with the other owners (and thus the alteration becomes non-material). The Board can also submit the proposal to a vote and obtain the approval of 67% of the common interest plus nil directly affected owners (based on an amendment to the declaration to allow installation of the hard surface flooring based on the standards recognized by the professionals).

A number of courts from other jurisdictions have concluded that hard surface flooring creates a nuisance. And, as noted above, some experts advise that there are some buildings that were not designed for the flooring and that only carpeting as installed by the original developer will suffice to prevent interference with the right of the owner below to enjoy his or her unit.