

In the Matter of the Petition)
)
 for a)
)
 Charter of Incorporation of)
)
 KAPOHO BEACH COMMUNITY)
 ASSOCIATION,)
)
 a non-profit corporation.)
 _____)

PETITION FOR CHARTER OF INCORPORATION

TO THE HONORABLE MARY G. F. BITTERMAN,
 DIRECTOR OF REGULATORY AGENCIES:

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 KAPOHO BEACH 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: Hilo, Hawaii, this 22nd day of May, 1981.



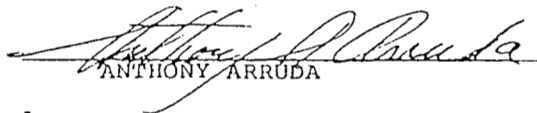
 R. J. FORGUES



 DANIEL NELSON



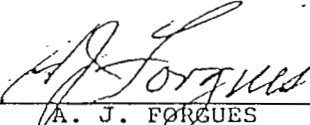
 ANTHONY BENEVIDES



 ANTHONY ARRUDA

STATE OF HAWAII)
) SS:
COUNTY OF HAWAII)

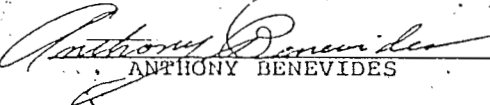
A. J. FORGUES, DANIEL NELSON, ANTHONY BENEVIDES, and ANTHONY ARRUDA, being first duly sworn on oath, depose and say that they are the petitioners above named, that they have read the foregoing petition and attached proposed charter of incorporation and know the contents thereof; and that the matters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



A. J. FORGUES



DANIEL NELSON



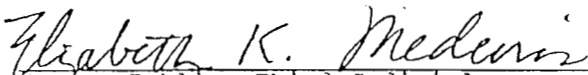
ANTHONY BENEVIDES



ANTHONY ARRUDA

Subscribed and sworn to before me

this 22nd day of May,
1981.



Notary Public, Third Judicial
Circuit, State of Hawaii

My commission expires 9/13/83

CHARTER OF INCORPORATION
OF
KAPOHO BEACH COMMUNITY ASSOCIATION

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, MARY G. F. BITTERMAN, Director of Department of Regulatory Agencies of the State of Hawaii, send GREETING:

WHEREAS, A. J. FORGUES, DANIEL NELSON, ANTHONY BENEVIDES, and ANTHONY ARRUDA, hereinafter called "Petitioners," have made application to me, as Director of Regulatory Agencies of the State of Hawaii, requesting that a perpetual Charter of Incorporation be granted to them and their associates and successors, whereby they and those who may hereafter become associated with them and their successors may be made a body corporate of the State of Hawaii, in perpetuity, under the name of

KAPOHO BEACH COMMUNITY ASSOCIATION

with all the rights, powers, privileges or immunities which are now or may hereafter be conferred by law upon a corporation or such nature;

NOW, THEREFORE, KNOW YE, that I, MARY G. F. BITTERMAN, as such Director of Regulatory Agencies as aforesaid, in the exercise and execution of every power and authority in anywise enabling me in this behalf, hereby constitute the Petitioners and their associates and successors a perpetual body corporate under the laws of the State of Hawaii.

FIRST: The name of the corporation shall be KAPOHO BEACH ^{KOHO} COMMUNITY ASSOCIATION.

SECOND: The location of the principal office of the corporation shall be at Kapoho and the mailing address at P. O. Box ¹⁵¹² 1451, Pahoa, County and State of Hawaii, or at such other place as its board of directors may from time to time determine.

THIRD: The corporation shall be organized and operated exclusively for general public social welfare and safety purposes within the meaning of Section 501(c)(3), (4) and (7) of the U. S. Internal Revenue Code of 1954, as the same now is or may from time to time be amended, and the objects and purposes of the corporation, and its powers in connection therewith, are as follows:

(a) To promote and strive for the improvement, maintenance, management, and protection of all common and community facilities within Kapoho Beach Lots Subdivision; to promote and encourage a better community and civic spirit among, and to foster good will and friendship between, all property owners of Kapoho Beach Lots Subdivision; and to cooperate with civic and public organizations for the general welfare of the people of the Island of Hawaii and of the State of Hawaii;

(b) To protect and promote civic betterments and social improvements for the common good of the owners of lots in the Kapoho Beach Lots Subdivision.

(c) To receive and administer funds in furtherance of the objectives and purposes mentioned above, and to that end; in addition to and not in limitation of, the general powers conferred by the laws of the State of Hawaii, to take and hold

by bequest, devise, gift, grant, purchase, lease, or otherwise, either absolutely, in trust, or jointly with any other person, persons, or corporation, any property, real, personal, tangible, or intangible, or any undivided interest therein, without limitation as to amount or value, required for its purposes; to sell, convey, or otherwise dispose of any such property and to invest, reinvest or deal with the principal or the income thereof in such manner as in the judgment of the board of directors will best promote its purpose, without limitations, except such limitations, if any, as may be contained in the instrument under which such property is received, this Charter of Incorporation, the By-Laws, or any laws applicable thereto;

(d) 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, associate 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 or purposes of the corporation; and to secure the same by mortgages, pledges, deeds of trust or otherwise;

(e) In accordance with the laws of the State of Hawaii, made applicable to corporations formed thereunder, the corporation shall be entitled to and shall have power; (i) to have succession by its corporate names in perpetuity; (ii) to sue and be sued in any court; (iii) to make and use a common seal,

and alter the same at its pleasure; (iv) 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; (v) to appoint such subordinate officers and agents as the business of the corporation shall require; and (vi) to make by-laws not in conflict with law or this Charter of Incorporation; and

(f) To exercise and possess any and all of the rights, privileges, powers and immunities which now or hereafter may be secured by law to chartered benevolent and charitable corporations and which are reasonably incidental to the fulfillment of the objects and purposes above set forth or to the exercise of any powers possessed by or granted to the corporation.

FOURTH: 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) No substantial part of the activities of the corporation shall consist of carrying on propaganda, or otherwise attempting, to influence legislation; nor shall it participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office; nor shall it engage in any activities which are unlawful under the laws of the United States or of 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 corporation in amount or

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

(b) 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 general public social welfare and safety under the laws both of the United States and of the State of Hawaii; and

(c) 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, directors 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.

FIFTH: 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, directors or officers. The corporation is organized, and shall be conducted exclusively for educational, charitable, scientific, or literary purposes.

SIXTH: There shall be a board of directors of the corporation of not less 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 board of directors shall be elected and shall hold office and may be removed as may be prescribed by the By-Laws. Members of the board need not be members 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 interests 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 names of the initial directors of the corporation, which directors shall hold office until their successors shall be duly elected or appointed, and their respective residence addresses are:

A. J. FORGUES	P. O. Box 1451 Pahoa, Hawaii 96778
DANIEL NELSON	P. O. Box 572 Pahoa, Hawaii 96778
ANTHONY BENEVIDES	101 East Palai Street Hilo, Hawaii 96720
ANTHONY ARRUDA	P. O. Box 188 Keaau, Hawaii 96749

SEVENTH: The board of directors annually shall appoint a President, one or more Vice Presidents, a Secretary and a Treasurer, and, from time to time, such other officers as the conduct of the affairs of the corporation may require. One person may hold more than one office, except no person shall hold the offices of President and Secretary.

The names of the initial officers of the corporation, who shall hold office until their successors shall be duly elected or appointed, and their respective addresses are:

<u>Name and Office</u>	<u>Residence Address</u>
A. J. FORGUES President	P. O. Box 1451 Pahoa, Hawaii 96778
DANIEL NELSON Secretary/Vice President	P. O. Box 572 Pahoa, Hawaii 96778
ANTHONY ARRUDA Treasurer	P. O. Box 188 Keaau, Hawaii 96749

EIGHTH: 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 the Kapoho Beach Lots Subdivision may be a member of the corporation and no such owner shall for any reason be denied membership in the corporation. The term "owner" shall mean either the holder of the legal fee simple title to a lot who also has the right to possession, or his lessee, or the holder of the equitable fee simple title to a lot who also has the right to possession, or his lessee. No membership shall be terminated or forfeited nor member be expelled, except upon the transfer of the legal or equitable fee simple title and right to possession of any lot. No member may withdraw, nor shall any member transfer or otherwise assign or dispose of his membership, except upon the transfer of the legal or equitable fee simple title and right of possession of any lot, subject to such reasonable conditions as may be prescribed by the By-Laws. The owner of a lot within Kapoho Beach Lots Subdivision, whether one or more individuals, trustees or corporations, shall be entitled to one (1) membership and one (1) vote per each such lot.

During any period in which a member shall be in default in the payment of any annual or special assessment levied by the Association, such member's voting rights and right to use of the property or facilities for common use of the members of the corporation may be suspended by the board of directors until such assessment has been paid. Such rights of a member may also be suspended, after notice and hearing,

for a period not to exceed thirty (30) days, for violation of rules and regulations established by the board of directors governing the use of the property and facilities for the common use of the members.

NINTH: The property of the corporation shall alone be liable for the payment of its debts and liabilities and the private property of the members, directors and officers shall not be subject to the payment of corporate debts to any extent whatever.

TENTH: In the event of liquidation or dissolution of the corporation, whether voluntarily or involuntarily or by operation of law, the remaining assets of the corporation shall be distributed to the County of Hawaii, State of Hawaii.

ELEVENTH: This Charter of Incorporation shall be subject to amendment from time to time as provided by law, except that no such amendment shall be made which would change the objects and purposes of this corporation to include objects and purposes which would not be exclusively for the general public welfare and safety, or which would permit the net earnings of the corporation in inure to the benefit of any member, donor or private individual, or which would permit any substantial part of the activities of the corporation to be the carrying on of propoganda, or otherwise attempting to influence legislation, or which would permit the corporation to participate in, or intervene in (including the publishing and distributing of statements) any political campaign on behalf of any candidate for public office.

TWELFTH: This Charter of Incorporation shall be effective from and after the date upon which it is signed and sealed by the undersigned Director of Regulatory Agencies.

Dated at Honolulu, Hawaii, this 17th day of June, 1981.

By *Ray J. Patterson*
Director of Regulatory Agencies

By *Russel Knight*
Corporation and Securities Adm.