

FIRST RESTATEMENT OF THE BYLAWS OF WEST LOCH FAIRWAYS ASSOCIATION

WHEREAS, THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, a body corporate and politic of the City and County of Honolulu, and WESTLOCH, INC., a Hawai'i corporation (hereinafter collectively called "Declarant"), owned in fee simple that certain property known as West Loch Fairways situate at District of Ewa, City and County of Honolulu, State of Hawai'i, bounded by Fort Weaver Road and Pearl Harbor, more particularly as defined below; and

WHEREAS, Declarant or its agents developed said property with residences, community facilities, parks, open areas and a variety of uses by means of a planned community development which combined practical usefulness and economic benefit with aesthetic enjoyment resulting in an urban community, specifically distinct from a uniform, detached residential development; and

WHEREAS, Declarant declared pursuant to the "Declaration of Covenants, Conditions and Restrictions" dated October 25, 1991 (the "Declaration"), filed in the Office of the Assistant Registrar of the Land Court of the State of Hawai'i as Document No. 1862778 and noted on Transfer Certificates of Title shown on the attached Exhibit "1", and also recorded in the Bureau of Conveyances of the State of Hawai'i as Document No. 91-151535, that the Property described was to be held, sold, conveyed, encumbered, leased, occupied and improved, subject to the West Loch Fairways Covenants, Conditions and Restrictions, meaning the limitations, restrictions, covenants and conditions set forth in the Declaration, all of which were established and declared and agreed to be for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property. These limitations, restrictions, covenants and conditions run with said Property and are binding upon all parties having or acquiring any right, title or interest in and to the Property or any part thereof, and shall inure to the benefit of the Declarant, the Association and each Owner thereof or any part thereof, and each successor in interest of such Owner; and

WHEREAS, the Declaration was amended by the "First Amendment to Declaration of Covenants, Conditions and Restrictions of West Loch Fairways" dated February 10, 1992, recorded in said Office as Land Court Document No. 1888370 and also recorded in said Bureau as Document No. 92-020281; by the "Second Amendment to Declaration of Covenants, Conditions and Restrictions of West Loch Fairways" dated January 30, 1992, filed in said Office as Land Court Document No. 1888371 and also recorded in said Bureau as Document No. 92-020282; by the "First Supplement to Declaration of Covenants, Conditions and Restrictions of West Loch Fairways" dated October 30, 1995, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawai'i as Land Court Document No. 2288663 and also recorded in the Bureau of Conveyances of the State of Hawai'i as Document No. 96-016037; and by "Third Amendment of the Declaration of Covenants, Conditions and Restrictions of West Loch Fairways and By-Laws of West Loch Fairways Association" dated December 24, 1997, filed in said Office as Land Court Document No. 2451994 and also recorded in said Bureau as Document No. 98-056748; and

WHEREAS, the West Loch Fairways Association adopted By-Laws dated October 23, 1991 (the "Bylaws"); and

WHEREAS, the Bylaws were amended by instrument dated December 24, 1997, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawai'i as Land Court Document No. 2451994 and also recorded in the Bureau of Conveyances of the State of Hawai'i as Document No. 98-056748; and

WHEREAS, the Association was incorporated on October 23, 1991 under Chapter 415B, Hawai'i Revised Statutes, as the West Loch Fairways Association; and

WHEREAS, Section 421J-7.5, Hawai'i Revised Statutes, authorizes the Board of Directors of the Association established by the Bylaws to restate the Bylaws to include in them any amendments and to conform their provisions to the provisions of Chapter 421J, Hawai'i Revised Statutes, and any other statute, ordinance, rule, or regulation enacted by any governmental authority, by a resolution adopted by the Board of Directors; and

WHEREAS, at a meeting duly held on March 17, 2009 the Board of Directors resolved to restate the Bylaws, pursuant to Section 421J-7.5, Hawai'i Revised Statutes, in the manner set forth herein;

NOW, THEREFORE, the Bylaws are hereby restated to read as follows:

NOT FOR USE IN RESALE OR REFINANCING

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ARTICLE I.

Interpretation of Bylaws

SECTION 1.1: Construction of Bylaws.

These Bylaws shall be construed with reference to the Declaration of Covenants, Conditions and Restrictions of West Loch Fairways, dated October 25, 1991, filed with the Bureau of Conveyances of the State of Hawai'i and the Office of the Assistant Registrar of the Land Court of the State of Hawai'i as Document Nos. 91-151535 and 1862778, respectively, a copy of which is attached hereto and made a part hereof as Exhibit "A", hereinafter called the "Declaration". These Bylaws shall be liberally construed to facilitate the operation of the West Loch Fairways Association.¹

SECTION 1.2: Definitions.

The following words whenever used herein shall have the following meanings:

(a) "Association" means the "West Loch Fairways Association", a nonprofit corporation organized under the laws of the State of Hawai'i whose principal office shall be 650 South King Street, Fifth Floor, Honolulu, Hawai'i 96813, or such other location as may be, from time to time, designated by the Board of Directors.

(b) "Board of Directors" means the Board of Directors of the Association as duly constituted from time to time.

(c) "Common Expenses" means the following expenses, charges and costs of the Association:

- (1) The management, operation, protection, maintenance, renovation, reconstruction or repair of the Common Property, the payment of insurance premiums of the Common Property, the payment of real property taxes or assessments, if any, levied upon the Common Property, and the payment of utility charges, if any, required for the Common Property.
- (2) The regulation, administration and enforcement of the provisions of the Declaration, as amended from time to time.
- (3) The administration and management of the business and affairs of the Association, including the fees of an agent appointed by the Board of Directors to collect assessments.
- (4) The funding of a reasonable reserve as the Board of Directors may establish.
- (5) Any expense which shall benefit the health and welfare of the Owners or the Common Property or enhance the use or value of the Residential Lots.

ARTICLE II.

Membership

SECTION 2.1: Owner-Member.

Each Owner shall be a member and shall continue to be a member so long as he continues to be an Owner. Membership shall be appurtenant to a Lot and shall not be separable from the Ownership of the Lot to which it is appurtenant. Upon the transfer of the Ownership of a Lot, the new Owner shall be admitted as a member without approval of the other Owners, or the approval of the Board of Directors, with the payment of an Initiation Assessment, and without the execution of any instrument to evidence the transfer of the membership which is appurtenant to that Lot.

SECTION 2.2: Voting.

The Owners shall first vote at the first Association meeting as provided herein. Each Owner shall have a vote equal to the Common Interest appurtenant to the Lot that he owns. The term "majority of Owners", or any other term or phrase used herein relating or referring to any stated fraction or percentage of the Owners, shall refer to the vote appurtenant to each Lot, the total of all such votes, or, as the case may be, the stated percentage or fraction of the total of all such votes. If two or more persons own a Lot (whether jointly, in common, or by the entireties), any one of such Owners present in person at any meeting of the Owners shall be entitled to exercise the vote appurtenant to such Lot, and if there should be more than one of such Owners present at any meeting of the Owners, and if there should be any dispute among them as to which of them shall exercise the vote appurtenant to such Lot, then each Co-Owner then present shall exercise a fraction of one vote equal to his percentage interest in the Lot.

SECTION 2.3: First Annual Meeting.

The first annual meeting of the Owners shall be held at the principal offices of the Association within three (3) months after the sale of the last Lot has been closed; provided that in no event shall the first annual meeting of Owners be held later than February 1, 1993.

SECTION 2.4: Annual Meeting.

After the first annual meeting, the annual meeting of the Owners shall be held at the principal offices of the Association or at such other place within the City and County of Honolulu as the Board of Directors shall determine. The annual meeting of the Owners shall be held within three (3) months after the close of each fiscal year. The day and the time for the assembly of each annual meeting of the Owners shall be fixed by the President.

SECTION 2.5: Special Meetings.

A. Special meeting of Owners shall be held:

- (i) When requested by the President;
- (ii) When requested by five members of the Board of Directors;
- (iii) When requested by not less than thirty percent (30%) of the Owners.

B. Each such request for a special meeting shall be in writing and shall set forth the purpose for that meeting and the items of business proposed to be considered at the requested special meeting.

Each request for a special meeting of Owners shall be delivered to the Secretary. The President shall forthwith fix a reasonable time and day for the requested special meeting, and shall prepare the agenda for the requested special meeting, which agenda shall permit the consideration of the items of business properly proposed for consideration in the request for the special meeting. Special meetings of the Owners shall be held at the meeting place selected by the President.

SECTION 2.6: Membership List.

The Secretary shall maintain a list of the Owners and of their respective post office addresses. The Secretary shall not register a transfer of a membership until he has been furnished with a certified copy of a recorded (with the Bureau of Conveyances of the State of Hawai'i or the Office of the Assistant Registrar of the Land Court of the State of Hawai'i, or both, as applicable) deed, agreement of sale, or assignment of agreement of sale, that transfers the Ownership of the Lot upon which membership is based or other evidence satisfactory to the Secretary that ownership of a Lot has been transferred. The officers and directors of the Association shall have the right to rely upon the membership list maintained by the Secretary, and shall have the right to regard any person or entity whose name appears on such list as the Owner of the Lot specified and as the Owners entitled to the rights of membership with respect to the Lot so specified. The membership list shall be open to inspection by the other Owners, but the Secretary may in his discretion refuse to permit an inspection of the list of Owners if he believes that inspection is sought for the purpose of commercial solicitation; and the Board may require members to furnish the Association with an affidavit stating that the use of the list is requested in good faith for the protection of the Association, its members, or both.²

SECTION 2.7: Closing Membership List.

For the purpose of determining the Owners entitled to notice of and to vote at a meeting of the Owners, including any adjournment thereof, the membership list shall be closed thirty (30) days immediately preceding such meeting.

SECTION 2.8: Notice of Meeting.

The Secretary shall notify each Owner eligible to vote at any meeting of the following: (i) the hour, day and place for the assembly of such meeting, and (ii) if the meeting is a special meeting, the purpose and the agenda for the meeting. Such notice shall be in writing, and shall be delivered personally or by mail, postage prepaid, not less than ten (10) days, nor more than thirty (30) days, prior to the day fixed for the assembly of such meeting. The presence of an Owner at a meeting in person or by proxy shall constitute a waiver of the requirement of the giving of notice to such Owner.

SECTION 2.9: Voting Record.

The Secretary shall make a complete record of the Owners entitled to vote at each meeting of the Owners, including any adjournment thereof, arranged in alphabetical order, with the address of each. Such record shall be produced and kept open at the time and place of such meeting and shall be subject to the inspection of any Owner during the whole time of the meeting for the purposes thereof.

SECTION 2.10: Quorum.

A quorum for a meeting of the Owners shall require the presence, in person or by proxy, of fifty percent (50%) of the Owners. A meeting of the Owners that lacks a quorum shall not be able to transact business. In the absence of a quorum at any meeting of the Owners, a majority of the Owners then present in person or by proxy, may, without providing for further notice of meeting, adjourn such meeting from time to time in order to secure the presence of a quorum.

SECTION 2.11: Conduct of Meeting.

The President, or in his absence the Vice President, shall preside at all meetings of Owners. The Owners may from time to time enact and amend rules of order, not contrary to these Bylaws, the Articles of Incorporation, the Declaration, or the laws of the State of Hawai'i, to regulate their meetings; but otherwise, all meetings shall be conducted in accordance with the most current edition of Robert's Rules of Order, Newly Revised.³ Meetings shall be conducted in accordance with an agenda properly prepared by the President. The agenda prepared by the President for an annual meeting shall give each Owner present in person or by proxy an opportunity to present appropriate resolutions. The agenda prepared by the President for such a special meeting shall permit the consideration of the items of business properly proposed for consideration in the request for that special meeting.

SECTION 2.12: Proxy.

An Owner may in writing authorize one or more natural persons to attend and vote as his proxy at a meeting. Wherever these Bylaws refer to or require the "presence" of an Owner at a meeting, the presence of a proxy at a meeting shall constitute the presence of the Owner appointing such proxy at that meeting.

(a) A proxy shall be in writing and shall be valid for only a specified meeting of the Association and any adjournments of that meeting.

(b) A member of the Association may give a proxy to any person or the Board as an entity, and the proxy may be limited as indicated by the member. No proxy shall be irrevocable unless:

(1) The proxy is coupled with a financial interest in the Lot; or

(2) The proxy is held pursuant to a first mortgage of record encumbering a Lot or an agreement of sale affecting a Lot.

(c) To be valid, a proxy shall:

(1) Be delivered to the Secretary of the Association or the managing agent, if any, no later than 4:30 p.m. on the second business day prior to the date of the meeting to which it pertains;

(2) Contain at least the name of the Association, the date of the meeting of the Association, the printed name and signature of the person or persons giving the proxy, the Lot or Lots for which the proxy is given, and the date that the proxy is given; and

(3) Contain boxes wherein the owner has indicated that the proxy is given:

- (A) For quorum purposes only;
- (B) To the individual whose name is printed on a line next to this box;
- (C) To the Board as a whole and that the vote be made on the basis of the preference of the majority of the Board; or
- (D) To those directors present at the meeting and the vote to be shared with each Board member receiving an equal percentage.

(d) Any Board that uses Association funds to distribute proxies that include the election of directors shall first post notice of its intent to distribute proxies in prominent locations within the project at least thirty (30) days prior to its distribution of proxies; provided that if the Board receives within seven (7) days of the posted notice a request by any owner for nomination to the Board accompanied by a statement, the Board shall mail to all owners either:

- (1) A proxy form containing the names of all owners who have requested nomination to the Board accompanied by their statements; or
- (2) A proxy form containing no names, but accompanied by a list of names of all owners who have requested nomination to the Board and their statements.

The statement shall not exceed one hundred words, indicating the owner's qualifications to serve on the Board and reasons for wanting to receive proxies.

(e) Nothing in this section shall affect the holder of any proxy under a first mortgage of record encumbering a Lot or under an agreement of sale affecting a Lot.

(f) Nothing in this Section 2.12 shall prohibit the use of proxies for filling vacancies that occur after the notice of the annual meeting has been distributed.⁴

SECTION 2.13: Multiple Membership.

A person or entity who is the Owner of more than one Lot shall have as many memberships as he owns Lots. Declarant shall be entitled to a membership for each Lot that the Declarant owns.

ARTICLE III.

Directors

SECTION 3.1: Number, Classification, and Term of Office.

The Board of Directors shall consist of nine (9) persons. The directors shall be elected at the annual meeting to staggered terms as follows: three directors shall have a term of one year; three directors shall have a term of two years and three directors shall have a term of three years. At each annual meeting thereafter, the successors to the directors whose terms shall expire in that year shall be elected directors for a term of three (3) years; provided that each director shall hold office until his successor shall have been elected and shall qualify, or

until his death, resignation or removal in the manner provided herein. All directors shall have equal power. A director must be an Owner. There shall be no more than one director from any one Lot.⁵

SECTION 3.2: Vacancies.

Any vacancy among the directors shall be filled by the affirmative vote of the remaining directors. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor.

SECTION 3.3: Meetings.

Meetings of the Board of Directors shall be held at least once a year⁶ at the call of the President or at the call of any three or more directors. The President shall fix the hour, day and place for every meeting of the Board of Directors. The Secretary shall provide oral notice or deliver to each member of the Board of Directors written notice of every meeting of the Board of Directors not less than forty-eight (48) hours prior to the time fixed for the commencement of such meeting. Meetings of the Board of Directors shall be governed by such rules of order as the Board of Directors shall adopt and from time to time amend, provided they are consistent with Robert's Rules of Order, New Revised. Such rules of order shall continue in effect after the expiration of the term of office of any such Board of Directors, until amended or revoked by their successors. Otherwise, meetings of the Board of Directors shall be conducted in accordance with the most current edition of Robert's Rules of Order, Newly Revised.⁷

The President shall preside at meetings of the Board of Directors. A majority of directors shall constitute a quorum for the transaction of business at meetings of the Board of Directors. A meeting of the Board of Directors that lacks a quorum shall not be able to transact business. Directors shall vote in person and not by proxy. All meetings of the Board of Directors, other than executive sessions, shall be open to all members to provide input on the matters being discussed. Members who are not on the Board of Directors may participate in any deliberation or discussion, other than during executive sessions, unless a majority of a quorum of the Board of Directors votes otherwise. The President, in his discretion, may invite persons who are not owners to attend meetings of the Board of Directors.⁸ The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by the Articles of Incorporation or these Bylaws.

Attendance of a director at a meeting of the Board of Directors shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting has not been lawfully called or convened. The Board of Directors may conduct a meeting by means of a conference telephone or similar communication equipment by means of which all persons participating in the meeting can hear each other at the same time, and participation by such means shall constitute presence in person at that meeting.

The Board of Directors, with the approval of a majority of a quorum of its members, may adjourn any meeting and reconvene in executive session to discuss and vote upon matters concerning personnel, litigation in which the Association is or may become involved, or as may be necessary to protect the attorney-client privilege of the Association. The general nature of any business to be considered in executive session shall be first announced in the regular session.⁹

Minutes of the meetings of the Board of Directors shall include the recorded vote of each Board member present on all motions except motions voted upon in executive session.¹⁰

SECTION 3.4: Action By Directors Without A Meeting.

Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if all of the directors sign a written consent setting forth the action taken or to be taken at any time before or after the intended effective date of such action. Such consents shall be filed with the minutes of the directors' meetings, and shall have the same effect as the unanimous vote of the directors at a meeting of the Board of Directors.

SECTION 3.5: Authority.

The management of all the affairs, business and property of the Association shall be vested in the Board of Directors. The Board shall be authorized to engage a management company authorized to do business in the State of Hawai'i.

The Board of Directors shall have and may exercise all of the powers of the Association, including, without limitation, all of the powers of the Association as set forth in the Declaration, except as specifically reserved to or as may from time to time be conferred upon Owners by operation of law, the Articles of Incorporation, the Declaration or these Bylaws.

SECTION 3.6: Committees.

The Board of Directors shall have¹¹ the power to create, by resolution or resolutions enacted by a majority of the entire Board of Directors, such special committee or committees (each committee to consist of one or more directors) which shall have and may exercise such power or powers of the Board of Directors provided by the Articles of Incorporation, these Bylaws, or by statute, with respect to the management of the business and affairs of the Association, including, without limitation, the power to issue binding directives to any of the officers of the Association, and in the name of the Board of Directors, the power to authorize the attachment of the seal of the Association to such instrument or document executed by the Association, as may be necessary, to the extent, and as shall be provided, from time to time, by such resolution or resolutions enacted by the Board of Directors pursuant to Section 421J-5(f) of the Hawai'i Revised Statutes, as amended.¹² Such a committee of the Board of Directors shall not have the power to:

- (1) Amend, alter or repeal these Bylaws;
- (2) Elect, appoint or remove any member of such committee or any director or officer of the Association;
- (3) Amend the Articles of Incorporation, restate the Articles of Incorporation, adopt a plan of merger, or adopt a plan of consolidation;
- (4) Authorize the sale, lease, exchange or mortgage of all or substantially all of the property and assets of the Association;
- (5) Authorize the voluntary dissolution of the Association or revoke proceedings therefor;
- (6) Adopt a plan for the distribution of the assets of the Association; or

- (7) Amend, alter or repeal any resolution of the Board of Directors which by its terms provides that it shall not be amended, altered or repealed by such committee.

SECTION 3.7: Removal of Directors.

Any director, or all the directors, may be removed, with or without cause, at a meeting of the Owners called expressly for that purpose, by the vote of a majority of the Owners present.

SECTION 3.8: Transactions in Which Directors are Interested.

A transaction or contract between the Association and another Association, partnership or enterprise shall not be void or voidable because such transaction or contract was entered upon by the Association pursuant to, or ratified by, resolution of the Board of Directors of the Association enacted upon the vote of a member of the Board of Directors of the Association who was at the time of such vote also a director, officer, stockholder, or a partner, or who was otherwise interested in, such other corporation, partnership, or enterprise, if the member of the Board of Directors of the Association who is also interested in such other corporation, partnership or enterprise fully disclosed to the other members of the Board of Directors of the Association the nature and extent of such interest before the vote by the Board of Directors of the Association upon such resolution. The minutes of the Board meeting shall record the fact that a disclosure was made.¹³

ARTICLE IV.

Officers

SECTION 4.1: Designation of Officers.

A. The President, Vice President, Secretary and Treasurer shall be the principal officers of the Association, and each of them shall be appointed by and shall serve at the pleasure of the Board of Directors.

B. The Board of Directors, in its discretion, may from time to time create more than one office of Vice President, one or more offices of Assistant Secretary, and one or more offices of Assistant Treasurer. The Board of Directors may appoint such Owners to such offices as it believes to be qualified, and each of them shall serve at the pleasure of the Board of Directors.

C. The Board of Directors may appoint an Owner to one or more of the principal or subordinate offices of the Association.

D. The Board of Directors may at any time and for any reason remove from the office or discharge any of the principal or subordinate officers.

SECTION 4.2: President.

The President, who shall be elected from among the Directors, shall exercise general supervision and direction of the business and affairs of the Association. The President shall also have the powers and duties customarily incidental to such office, and such other

powers and duties as may be given to him elsewhere in these Bylaws, by the Articles of Incorporation, or as may be assigned to him by resolution of the Board of Directors.

SECTION 4.3: Vice-President.

The Vice-President shall assume and perform the duties of the President when that office is vacant or whenever the President, for any reason, is¹⁴ unable to perform the duties of his office. The Vice-President shall have, in addition to the powers and duties specifically set forth above, the powers and duties customarily incidental to such office, such other powers and duties as may be given to him elsewhere in these By-Laws, and such other powers and duties as may be assigned to him by the President or by resolution of the Board of Directors.

SECTION 4.4: Secretary.

The Secretary shall keep the minutes of all meetings of the Owners and of the Board of Directors of the Association. The Secretary shall determine whether a person who claims to be entitled to be present and to vote at any meeting of the Owners has that right, and whether a quorum exists at any meeting of the Owners. The Secretary shall record the number of votes for and against any motion or resolution voted upon at any meeting of the Owners. The Secretary shall keep and maintain the Articles of Incorporation, these Bylaws, the Minute Book, and the membership list. The Secretary shall have, in addition to the powers and duties specifically set forth above, the powers and duties customarily incidental to such office, such other powers and duties as may be given to him elsewhere in these Bylaws, by the Articles of Incorporation, and under the law of the State of Hawaii, and such other powers and duties as may be assigned to him by the President or by resolution of the Board of Directors.

SECTION 4.5: Treasurer.

The Treasurer shall be responsible for the money, credit, and securities of the Association. The Treasurer shall organize, maintain and present the books and records of account for the Association. The Treasurer shall have, in addition to the powers and duties specifically set forth above, the powers and duties customarily incidental to such office, such other powers and duties as may be given to him elsewhere in these Bylaws, by the Articles of Incorporation, and such other powers and duties as may be assigned to him by the President or by resolution of the Board of Directors.

ARTICLE V.

Administrative Rules

SECTION 5.1: Adoption of Administrative Rules.

The Owners, by the affirmative vote of a majority of all the Owners, at a meeting of the Owners, shall have the power to adopt Administrative Rules regulating the use of the Common Property by the Owners, and Administrative Rules regulating the use, maintenance or¹⁵ the appearance of a Lot by the Owner or an occupant thereof as may be reasonably necessary for the common welfare of all the Owners. The Owners shall not have the power to adopt an Administrative Rule unless the substance of the Administrative Rule proposed for adoption has been given in writing to each Owner not less than fourteen (14) days prior to the day fixed for the assembly of the meeting at which it is proposed to adopt such Administrative Rule. Upon the adoption of an Administrative Rule by the Owners, the Association shall publish the same by mailing or delivering a copy thereof to each Owner. The Association shall keep at

its office in a separate binder a copy of each Administrative Rule which shall be certified by the Secretary, and shall show the date when the same was adopted by the Owners.

SECTION 5.2: Sanctions for Violation of Administrative Rule or Declaration.

The Board of Directors shall have the power to impose the following sanctions for the violation of an Administrative Rule or the Declaration:

- (a) The power to order a Member to stop violating an Administrative Rule or the Declaration (a "Performance Order").
- (b) The power to suspend the right of a Member, and all persons who claim under him, to use those parts of the Common Properties which are not required for access to his Lot for a period not to exceed thirty (30) days.
- (c) The power to impose a fine payable to the Association which shall not exceed the amount of \$250 for each violation. If after the issuance of a Performance Order a member willfully fails or refuses to stop violating the Administrative Rule or the Declaration, or to correct the condition which caused a violation of the Administrative Rule or the Declaration, each day thereafter during which the Member continues to violate such Administrative Rule or the Declaration shall be the basis for the imposition of a fine which shall not exceed the amount of \$250; provided, that the aggregate amount of all fines for any such continuing violation shall not exceed \$1,000. The Board of Directors shall from time to time adopt and publish a "Schedule of Maximum Fines for Administrative Rule and Declaration Violations" which shall prescribe the maximum fine that may be imposed for the violation of each particular Administrative Rule or Declaration provision.
- (d) The power to suspend, or to condition, the imposition of a fine for a violation of an Administrative Rule or the Declaration.
- (e) If an Administrative Rule or the Declaration has been violated by a tenant of an Owner, and such tenant fails or refuses to stop such violation after notice from the Owner and the Association, the power to enter into the Lot occupied by such tenant and to evict such tenant therefrom, as the irrevocably appointed agent of the Owner. If the Association incurs any expense in such eviction, the full amount of such expense shall be a lien against such Lot with like effect, and to the same extent, as a Special Assessment against the Lot.¹⁶

SECTION 5.3: Imposition of Sanctions.

Any officer or Owner of the Association may by a written complaint filed with the Board of Directors request the Board of Directors to impose sanctions upon an Owner for an alleged violation of an Administrative Rule. The complaint shall describe the nature of the alleged violation of the Administrative Rule. Upon the filing of a complaint the Secretary shall immediately fix a date, time and place for the hearing thereof by the Board of Directors (which date shall not be less than five days after the delivery of notice of the hearing upon the Owner alleged to be in default) and shall forthwith deliver a copy of the complaint and the notice of hearing to the Owner alleged to be in default.

SECTION 5.4: Expenses of Enforcement.

Expenses of enforcement shall be allocated as provided in Section 7.02 of the Declaration and Chapter 421J, Hawai'i Revised Statutes.¹⁷

ARTICLE VI.

Internal Corporate Relationships

SECTION 6.1: Indemnification.

The Association shall indemnify every director, officer, employee, and any former director, officer or employee and their respective heirs, executors and administrators (hereinafter called "indemnitee"), against reasonable costs and expenses, including judgments, fines, penalties, amounts paid in settlement and attorney's fees (hereinafter called "expenses"), incurred in connection with any civil or criminal action, suit or administrative proceeding to which an indemnitee shall be made a party by reason of his being or having been a director, officer or employee of the Association, to the fullest extent permitted, and as provided, by the Hawai'i Nonprofit Corporation Act.

SECTION 6.2: Execution of Instruments.

All checks, notes, bonds, deeds, leases, contracts, documents and instruments of the Association authorized by the Board of Directors, shall be executed on behalf of the Association by any two of the following officers: President, Vice-President, Treasurer or Secretary, or some other subordinate officer of the Association as the Board of Directors may designate for such purpose.

ARTICLE VII.

Amendment and Repeal of Bylaws

Any amendment to these Bylaws or the repeal of these Bylaws and the enactment of new Bylaws shall be effective upon the adoption of a resolution of amendment or repeal pursuant to the written consent of a majority of all the owners or at a meeting of the Owners, the notice of which shall have stated the amendment of the Bylaws as a part of the agenda of the meeting called, carried by the affirmative vote of a majority of all the Owners.¹⁸

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

(The remaining portion of this page is intentionally left blank; signature page follows.)

IN WITNESS WHEREOF, the undersigned have executed this instrument on this _____ day of _____, 2011.

WEST LOCH FAIRWAYS ASSOCIATION

By: _____
(Print name: _____)
Its:

By: _____
(Print name: _____)
Its:

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ENDNOTES

The following endnotes correspond to provisions in the Bylaws which have been restated to conform to Chapter 421J and to integrate all amendments made to the Declaration that may have an impact on the Bylaws. This First Restatement of the Bylaws correctly sets forth without change the corresponding provisions of the original Bylaws and supersedes the original Bylaws. This First Restatement was made solely for the purpose of information and convenience. In the event of a conflict, the First Restatement shall be subordinate to the cited statute.

¹ Article I, Section 1.1 was amended to conform to Section 421J-1.5, Hawai'i Revised Statutes ("HRS"), which states that Association documents must be liberally construed to facilitate the operation of the Association.

² Article II, Section 2.6 was amended to conform to Section 421J-8, HRS, which authorizes the Board to request an affidavit from owners who wish to inspect the membership list.

³ Article II, Section 2.11 was amended to conform to Section 421J-6, HRS, which requires that Association meetings be conducted in accordance with Robert's Rules of Order, Newly Revised.

⁴ Article II, Section 2.12 was amended to conform to Section 421J-4, HRS, which contains specific requirements regarding proxies and proxy solicitation.

⁵ Article III, Section 3.1 was amended to conform to Section 421J-3(b), which prevents having more than one director from the same Lot.

⁶ This part of Article III, Section 3.3 was amended to conform to Section 421J-5(b), HRS, which requires at least one Board meeting per year.

⁷ This part of Article III, Section 3.3 was amended to conform to Section 421J-6, HRS, which requires that Board meetings be conducted in accordance with Robert's Rules of Order, Newly Revised.

⁸ This part of Article III, Section 3.3 was amended to conform to Section 421J-5(a), HRS, which normally requires that Board meetings be open to all owners.

⁹ This paragraph was added to Article III, Section 3.3 to conform to Section 421J-5(c), HRS, which authorizes the Board to meet in executive session.

¹⁰ This sentence was added to Article III, Section 3.3 to conform to Section 421J-5(g), HRS, which states the requirements for minutes of Board meetings.

¹¹ Article III, Section 3.6 was amended to replace the word "has" with "have", to correct a typographical error.

¹² Article III, Section 3.6 was amended to refer to Section 421J-5(f), HRS, which states the requirements for the Board to appoint a committee or subcommittee.

¹³ Article III, Section 3.8 was amended to conform to Section 421J-5(e), HRS, which requires that the Board meeting minutes record the disclosure of a conflict of interest.

¹⁴ Article IV, Section 4.3 was amended to replace the word “be” with “is” to correct a grammatical error.

¹⁵ Article V, Section 5.1 was amended to replace the word “of” with “or”, to correct a typographical error.

¹⁶ Article V, Section 5.2 was amended by “Third Amendment of the Declaration of Covenants, Conditions and Restrictions of West Loch Fairways and By-Laws of West Loch Fairways Association” dated December 24, 1997, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawai‘i as Document No. 2451994 and also recorded in the Bureau of Conveyances of the State of Hawai‘i as Document No. 98-056748.

¹⁷ Article V, Section 5.4 was added to recognize the requirements of Section 421J-10, HRS, which states the requirements for an award of attorneys’ fees and expenses of enforcement.

¹⁸ Article VII was amended to conform to Section 421J-12, HRS, which authorizes the amendment of the Association’s documents by written consent without a meeting.

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