

**Design Guidelines for
East Kapolei I, Kanehili
[3/18/09 Revised Draft]**

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Introduction

The following Design Standards are hereby established and adopted for East Kapolei I. All terms herein shall have the same meaning as set forth in the Declaration. "Declaration" means the Declaration of Covenants, Conditions and Restrictions to which these Design Standards are attached as Exhibit B. "Subdivision" means East Kapolei I. "Committee" means the Architectural Design Committee. "Lot" means each of the subdivided Lots described on the East Kapolei I Subdivision plan. "Owner" means a lessee as defined in Section 2.08 of the Declaration.

If there is any conflict or inconsistency between these Design Standards and the Declaration, the Declaration shall control.

A. Use and Site Development Restrictions and Requirements

Except as otherwise provided in the Declaration, each owner and occupant of a Lot in the Subdivision shall at all times comply with all applicable laws, and with all of the provisions of the Declaration. Each owner and occupant of a lot in the Subdivision shall be responsible for insuring that the architect, engineer, general contractor, and all subcontractors also comply with all applicable laws and with all of the provisions of the Declaration. In addition, each owner and occupant shall at all times comply with and observe each of the following provisions; provided, however, that in the event of any conflict between or among the provisions set forth below, the provisions of the Declaration and applicable laws, codes or ordinances, the most restrictive provisions or law, code or ordinance shall control.

i. Utilities

Except for propane gas and trash collection, utility services shall be provided to the boundary of each Lot in a completely underground distribution and/or collection system. Propane gas must be kept underground or within an enclosure, screened from view, approved by the Committee and gas supplier. Trash receptacles shall be screened from view of adjacent properties and roadways.

ii. Individual Lot Plot Plans

- a. Plot Plans for individual Lots will be furnished to the original owners approximately designating:
 1. utility locations,
 2. building setbacks,
 3. sightline setbacks
- b. The Declarant, Association, Board and Committee make no representation and assume no responsibility for the accuracy of the information set forth

in the individual plot plans which is approximate and subject to verification by the owner.

iii. Easements

Easements for the installation and maintenance of utilities and drainage facilities are as set forth in or are as reserved as shown on the deed conveying the Lot to the initial owner of the Lot, and/or the Plot Plan for each Lot.

No improvements, roof eaves or overhangs, or major planting shall be placed on, below or above these easements without the prior consent of the Committee and, if applicable, the entity utilizing the easement or to whom the easement has been granted.

iv. Grading and Filling

The owner shall accept the condition of his or her Lot in "as is" condition. All subsequent site work performed by the owner shall be in strict compliance with plans as approved by the Committee.

v. Lot Drainage

- a. The flow of surface and/or subsurface drainage onto, across, or from each Lot, shall not be obstructed. Such run-off shall be managed in a manner which will prevent erosion and damage to adjacent property and will conform to the requirements of Section 3.13 of the Declaration. The design for Lot drainage facilities shall be prepared by an architect or civil engineer registered in the State of Hawaii and shall be subject to the prior approval of the Committee. The design shall incorporate points of acceptance and points of discharge from the individual plot plans.

Drainage designs which, in the Committee's opinion, are impractical or do not adequately consider the possible adverse effects on adjoining property, will be disapproved. Drainage plans which are later proven to be ineffective shall be modified by the owner's consultant and submitted for re-approval to the Committee for reconstruction by the owner's contractor at the owner's expense.

The Committee shall not review the drainage plan for adequacy of engineering technical data or computation. The Committee shall not be responsible for any damage to adjacent property resulting from inadequate or improper drainage and grading, regardless of the Committee's approval of the Lot's drainage plans.

b. Certain Lots must accept and/or discharge drainage at specific locations along the Lot boundaries. In addition, the Plot Plans for the Lots may indicate any specific required drainage locations.

vi. Temporary Structures and Surplus Materials

Subject to written approval by the Committee, temporary structures, trailers and construction materials may be placed on a Lot only at the commencement of construction and are to be completely removed from the Lot no later than thirty (30) days from the "date of completion" as that term is defined in Section 507-43, HRS. Temporary structures, trailers and construction materials shall be placed on the Lot and not on an adjacent lot or common area without the written approval of the landowner, Board, and Committee.

vii. Fire Hazard

Each Lot and all improvements located thereon shall be maintained by the owner thereof in good condition and repair, and in such manner as to not create a fire hazard, all at owner's expense. It shall be the responsibility of each individual homeowner to maintain front yard landscaping to the acceptable standards of the Committee. Rear and side yard landscaping shall be maintained free of rubbish, trash, weeds and/or offensive plants or material. If owner fails to comply, the association shall have the right to have the work performed and to assess the cost to the owner as a special assessment.

viii. Pavement and Play Areas

Paved play areas shall not be permitted within setback areas, and all play areas must be adequately screened by landscaping or other acceptable architectural means. Sports courts, including, without limitation, tennis, basketball and racquetball courts are not permitted.

ix. Vehicles, Trailers and Boats

Vehicles shall not be parked continuously, overnight or regularly on roadways within the Subdivision. Only occasional parking by guests or by vehicles servicing a Lot shall be permitted on such roadways.

Boats or trailers parked on any lot shall not be visible from any adjacent property or roadway and shall not be parked on any roadway.

x. Vehicle Repair

No vehicle, boat or other equipment, may be dismantled, repaired or serviced on any Lot so as to be visible from adjoining or neighboring lots or from any roadway.

B. Architectural Standards

i. Architectural Character

Architectural character of all buildings shall be of a contemporary Hawaiian style featuring generous overhangs, lanais, trellises, and building siting oriented to take advantage of prevailing tradewinds for ventilation. Tudor, colonial, Georgian and French provincial styles are prohibited. Also, pole houses and structures with "A-frame" roof lines, shall not be placed on any lot.

The Committee may prohibit other architectural styles, without liability or limitation, when the architectural character of a building is not harmonious and/or detracts from the intended architectural character of the subdivision.

Each home shall be aesthetically designed and shall not be an eyesore; including but not limited to each home which is visible from any roadway or any other Property.

ii. Buildable Area

The buildable area shall consist of all the area defined by the building setback lines. Buildable areas have been established to reasonably protect open space corridors and to respond to existing topography. All improvements must be confined solely to the buildable areas of each Lot, and may not be located on or encroach on any setback areas. Locations of ohana dwellings shall be determined by the Committee.

iii. Finished Floor Elevations

It is the general intent to balance cut and fill volumes. To avoid massive retaining walls on street elevations and to control the height of improvements to reasonably protect open space and views, grading, cuffing and filling shall be limited as follows:

- a. Cuts of greater than 3'-0" or fills of greater than 2'-0" shall require a plan prepared by a civil engineer duly registered as such by the State of Hawaii.
- b. Cutting and filling shall be kept to a minimum. Grading shall be contoured, with no cut or fill banks greater than thirty percent (30%), unless specifically approved by the Committee to meet unusual site conditions. Pads for homes shall utilize stepped foundations to avoid massive cuts or fills. Cut or fill greater than 1,000 cubic yards shall require special written Committee approval, and will not be permitted except under unusual circumstances. Verification of the amount of cut and fill must be provided by the owner's civil engineer as part of the preliminary design submittal.

iv. Building Size and Height

Each home shall have not less than 700 square feet of living area.

Roof elevations shall be measured at the highest point of a structure's roof. The height of any building or structure shall not exceed the lower of (a) two stories or (b) 30 feet measured vertically from existing grade.

A story is that portion of a residence included between the upper surface of any floor and the upper surface of the next floor or roof above. If the finished floor level directly above a usable or unused under-floor space is more than six (6) feet above grade for greater than fifty percent (50%) of the total perimeter or is more than twelve (12) feet above grade at any point, such space shall be considered a story.

v. Garage

Lots on "Road A" shall have a garage for at least two (2) cars containing not less than four hundred (400) square feet of parking area under roof, which may be attached to or detached from the dwelling. Garage doors shall be provided. Windows in garage doors are acceptable.

Lots on other streets shall have a carport or garage for at least one car.

vi. Roof Materials, Pitch and Overhang

a. Roof Materials

Roofs shall be asphalt shingles, roof shake, or tile in a color approved by the Committee. A sample shall be submitted for Committee approval as to color, style and texture.

The following roof materials are not permitted: corrugated metal steel or aluminum rolled roofing, fiberglass, plastic and rubber membrane.

Built up roofing will be permitted only for flat roof construction.

Skylights are to be designed as an integral part of the roof system, utilize safety or tempered glass, and be of a non-reflective color or tint. Except for roof fans and solar panels, no mechanical equipment shall be placed on a roof.

Roof material colors are limited to earth tones with shades of browns, grays, blues and greens, and shall be only those colors specifically approved by the Committee

b. Roof Pitch

Roof pitch shall be a minimum of 4:12 (vertical: horizontal) for single pitched roofs. Double pitched roofs shall have a minimum pitch of 3:12 on the lower portion of the roof and a minimum pitch of 5:12 on the upper portion of the roof. Mansard roofs are not permitted.

c. Flat Roofs

The area of flat roof shall not exceed fifteen percent (15%) of the total roof area. Only flat roofs of exceptional design and quality will be considered for approval.

The flat roof surface above the second story shall not be utilized as a roof terrace.

d. Overhangs

Roof overhangs, as measured horizontally, shall not extend more than the amount permitted by the County Building Code into any building setback area.

vii. Building Surfaces

Articulation of building surfaces is encouraged to soften their appearances and reduce mass. Articulation should be achieved by utilizing various architectural elements including:

- Projections and recesses to provide shadows and depth.
- Lanais
- Sunshading devices such as trellises
- Staggering of wall planes
- Articulated doors, windows and wall openings

Any architectural element used shall be approved by the Committee.

viii. Exterior Lighting

There shall be no exterior lighting of any type, either installed or maintained, the light source of which is visible from neighboring property, except as permitted by the Committee. Security lights activated by movement may be installed with approval of the Committee. Colored lights (non-white), fluorescent, high intensity discharge exterior lights, flashing, exposed bulbs and flood lamps on roof eaves are not permitted.

ix. Driveways

- a. Driveway aprons shall be paved with concrete.
- b. Driveways shall be constructed by the owner following County standards prior to any other work being done, and shall be used during construction to prevent damage to existing concrete gutters, curbs, sidewalks, sprinkler systems and underground utility lines. Any damage caused by the owner or the owner's contractors, employees or agents shall be the responsibility of the owner, and shall be immediately and completely repaired to the original condition.

x. Air Conditioning System and Mechanical Equipment

Prior to the installation of an air-conditioning system, swimming pool filter pump unit(s) or other mechanical equipment, the owner shall secure the written approval of the Committee as to the location and type of system. Such air-conditioning, swimming pool filter pump unit(s) or other mechanical equipment system shall be sound treated to prevent noise nuisance.

The level of noise or sound pressure emanating from any Lot shall not exceed the maximum level permitted for single-family residential districts under the County ordinances

All designs shall be reviewed by the Committee. If the proposed noise mitigation measures appear to be insufficient, the Committee may request more information justifying the adequacy of the proposed measures, or the incorporation of additional treatment.

xi. Swimming Pools and Water Features

Swimming pools and water features design shall be submitted as part of the preliminary and final plans. Swimming pools and swimming pool decks shall have a minimum ten foot setback from property lines, except where stated or delineated on the individual plot plans. Swimming pool equipment and housing shall be enclosed and contained within the buildable area.

Noise mitigation factors shall be utilized to address noise generated by water features. Swimming pools and water features shall be kept operable in accordance with the rules and regulations of the Department of Health. If abandoned or if a pool or water feature becomes a nuisance, the owner shall demolish, remove the pool or water feature, and, insofar as practicable, restore the land to a condition approximating that which existed prior to the construction of the pool or water feature, and properly landscape and maintain the restored area. The method of demolishing the pool or water feature shall be subject to prior written Committee

approval. Pool equipment rooms shall be sound treated to prevent noise nuisance in accordance with noise control guidelines.

All pool, pumps and related equipment must be designed to drain into the street upon which the Lot has access. No drainage onto adjacent lots is permitted.

xii. Refuse Storage

Refuse receptacles are to be located within the buildable area of the Lot. The refuse receptacles must be covered and screened completely from view of adjoining lots and common areas either by landscaping or other screening material which is compatible in design and color with the main structure. Such receptacles shall be designed to accommodate the sorting of recyclable products.

xiii. Antennas and Flagpoles

Except as otherwise permitted in the Declaration, no visible antennas, television, radio or otherwise are allowed, and miniature satellite dishes not to exceed 24" in diameter may be permitted only after specific written approval of the Committee. One flag pole per lot shall be allowed within the buildable area. Pole height shall not exceed twenty feet (20') nor extend beyond the building envelope. No commercial flags shall be allowed.

xiv. Mailboxes

All mailboxes shall be clustered in designated areas and shall be maintained by the United States Postal Service.

xv. Exterior Walls/Other Materials/Color

All materials shall be either stucco, cast concrete, fiber cement, board and batten, or shiplap siding. All wood siding shall be clear redwood, cedar, douglas fir, or an approved cement fibrous material such as "Hardie Plank" or panels. Samples of the siding shall be submitted as part of the preliminary plan application. No vinyl, pre-finished metal siding, plain surfaced, composite or presswood siding are permitted.

All exterior wall materials must be continued down to within six (6) inches of finish grade so that unfinished foundation walls will not be exposed.

Subtle "earth" colors and tones are permitted with complementary accent colors for architectural features, but color chips must be submitted to the Committee for review and prior written approval. All flashing, sheet metal, vent and pipes shall be finished to match or complement building surfaces. No garish, reflective, stark white or fluorescent colors shall be allowed on any exterior surface. Light

reflectance value (gloss) in the exterior paint shall not exceed a range of forty four percent (44%) to sixty nine percent (69%).

Light reflectance value (gloss) in the exterior trim elements shall not exceed a range of twelve percent (12%) to sixty eight percent (68%).

xvi. Fences, Walls, Hedges and Enclosures

Fences, walls hedges and enclosures located along the street right-of-way with the following height shall be set back from the property line the minimum distance set forth below:

<u>Height</u>	<u>Setback</u>
Less than 18"	Up to the property line
18" to 3'	3 feet
3' to 5'	5 feet
5' to 6'	6 feet

Fences, walls and hedges located along side property lines shall not exceed six (6) feet in height from the original grade. The retaining wall portion of a wall along side property lines shall not exceed three (3) feet in height from the original grade.

Retaining walls and foundations of more than three (3) feet in height or where placed upon embankments of filled areas, shall be designed by an architect or civil or structural engineer duly registered as such by the State of Hawaii. The maximum height of any exposed face of any retaining wall shall be six (6) feet as measured from the finished grade on either side at the wall's base.

All walls shall be constructed of lava rock, blue rock, concrete or concrete block.

All other walls, fences and incidental garden structures shall be designed so as to be attractive from all viewable sides, and shall have a height limit of six (6) feet as measured from finished grade level.

Exposed cement mortar for rock walls shall be of standard gray or charcoal color. No white or other coloring agents shall be applied or mixed with the exposed cement mortar. If a wall is located at the street frontage or rear yard frontage, the area between the wall and the property line shall be attractively landscape irrigated and maintained.

Highly detailed wood or aluminum picket fences permitted whenever appropriate. The wood fence shall be of an attractive design, have a high quality finish and must be approved in writing by the Committee. Fencing shall be designed to be equally attractive from both sides. A chain link fence or vinyl fence is permitted.

Property line fences shall be developed in common with adjacent property owners to eliminate double fencing, wherever possible.

xvii. Laundry Facilities

Laundry facilities and any service or utility area, including any area for hanging clothes, must be screened from view from any adjacent property and roadways.

xviii. Signs

Except as otherwise permitted by the Declaration, no signs whatsoever shall be erected or maintained upon any lot; except:

- a. Such signs as may be required by legal proceedings.
- b. Such signs as required for house numbers and name signs, provided that such signs shall not exceed one square foot maximum
- c. Any sign which does not comply with the above must obtain specific written approval of the Committee and the Board.

xix. Setbacks

No structure shall be located closer than 15 feet from the road front lot line nor 6 feet from side and rear lines.

xx. New Material

All construction materials must be new. No used or second hand lumber shall be allowed.

C. Landscape Standards

i. Required Landscaping

Each lot owner shall be responsible to landscape the front, side and rear yards. The Owner of each Property shall maintain all landscaping in neat, attractive, irrigated and trimmed condition.

ii. Top Soil

Top or fill soil material brought to the site by the owner shall be free of clay, termites and/or other deleterious matter.

D. Construction Standards

i. Prior Notice to Committee

The owner shall give the Committee two (2) weeks advance written notice of the owner's intent to commence any construction or site improvements whatsoever. Prior to commencement of construction, the owner will deposit a copy of the County building permit with the Committee. Additional items which must be submitted to the Committee are described below.

ii. Performance: General Contracts

All work to or upon a Lot shall be expeditiously and with due diligence prosecuted to completion. All work must be performed by a contractor duly licensed to perform such work under the laws of the State of Hawaii or by owner-builder in accordance with applicable law.

iii. Materials and Quality

The materials used for structures shall be new and of a quality consistently associated with that used on custom-designed homes. No used materials are permissible except where specifically approved in writing by the Committee to achieve a desired aesthetic effect.

All lumber shall be pressure treated against termite infestation and shall be guaranteed in writing against such infestation for a period of five (5) years. All field cuts of lumber and materials shall be field treated.

iv. Foundations

The owner and owner's architect, engineer and contractor shall give due consideration to the design of the foundation systems of all structures (home, walls, swimming pools, etc.). It is the owner's responsibility to conduct an independent soils engineering investigation. The Committee may request that the owner submit an independent soils engineering report as part of the design review process.

v. Ground Termite Standards

- a. Soil under all concrete slabs on the ground and under all building floors, whether on ground or over air space, and under all footings and masonry foundation walls, shall be treated against subterranean termites by a reliable, established and duly licensed termite control company.
- b. Treatment shall be guaranteed in writing by said company against termite infestation for a period of three (3) years. The guarantee shall include annual inspection and re-treatment of infested areas. A copy of this guarantee shall be delivered to the Committee.

Chemicals used outside of the dwelling or in accessible spaces under the dwelling shall be applied in a safe manner to mitigate exposure to humans, plants and pets.

vi. Abandoned Construction

If construction of a dwelling is at any time abandoned, the Lot owner shall cause the Lot to be cleared and landscaped so as to present a neat appearance, and shall thereafter so maintain the Lot until the recommencement of construction. "Abandonment" shall mean the cessation of substantial construction activity for a period of thirty (30) consecutive days.

vii. Utility Lines

Except electrical service, all utility lines, including but not limited to telephone, sewer and television service shall be underground.

E. Construction Requirements

i. Blasting

Blasting is not allowed.

ii. Construction Signs

No construction signs (i.e., signs identifying the name of the contractor, architect, construction lender, etc.) are permitted on any Lot.

iii. Refuse Disposal Bins

A refuse disposal bin shall be placed on a Lot only at the commencement of construction and is to be completely removed from the Lot no later than thirty (30) days from the "date of completion", as that term is defined in Section 507-43, HRS. The refuse disposal bin shall not be placed on an adjacent lot or common area without approval of the landowner, Board and Committee.

iv. Site Preparation

Driveway curb cuts must be made, and the grade of the driveway apron to the property line must be completed prior to the start of construction. All irrigation lines within the medial strip must be sleeved and reburied, and all associated irrigation heads moved as necessary.

v. Portable Toilets

A portable toilet in fully operating condition must be maintained on the construction site at all times during construction and serviced in accordance with applicable State Department of Health and County Sanitation standards.

F. Approvals, Procedures, and Requirements

i. Architectural Controls

No structure or other improvement shall be erected, placed or altered on any Lot and no grading or filling shall occur until (a) the preliminary and final construction plans and specifications referred to in subparagraph (iii) below, prepared under the immediate and direct supervision and stamped by a duly licensed Architect, have been submitted to and approved by the Committee, and (b) the landscape plans for the Lot have been submitted to and approved by the Committee. It is recommended that the approvals described above be obtained before any materials are ordered or purchased for such structure or improvement on the Lot.

In the event the proposed improvement or alteration is for repainting (decorating the exterior of any structure in a manner affecting only the exterior color thereof), it shall only be necessary to obtain written Committee approval of the color scheme prior to the commencement of such work.

The approval of the Committee, in its sole discretion, may be withheld without limitation or liability, upon any of the following grounds:

- a. The work of construction or alteration shown on the plans and specifications and other materials submitted, fail to comply with the conditions, covenants and restrictions set forth herein or in the Declaration or in any other applicable document which is administered by the Committee.
- b. The improvements shown on the plans and specifications and other materials submitted are deemed unsatisfactory in location, design, exterior design or color, or would not be in harmony with the Subdivision.
- c. The proposed work does not comply with the Declaration, these Design Standards or spirit and intent of all other relevant documents as applied by the Committee.

The approval of any plans, specifications or variances shall not be deemed to waive the right of the Committee to object to the same or similar plans or specifications or any feature or element embodied therein, if and when the same or similar plans, specifications, features or elements are submitted for approval for use on other Lots in the Subdivision.

ii. Procedures for Submitting Plans

Each owner shall submit to the Committee not less than the following items for the Committee's review and approval prior to commencing any construction or other work upon the owner's Lot:

a. Preliminary Plans (1 bound set)

Preliminary plans must include but are not limited to the following:

1. One 1/8" scale floor plan.
2. One 1/8" scale exterior elevations with materials indicated.
3. One 1/8" scale site/building cross sections, elevations and roof height elevations noted.
4. One 1/8" scale site plan showing building placement, roof overhangs, building square footage, vehicle access, percentage of allowable buildable area covered, finish floor elevations with adjacent exterior corner grade elevations, drainage design, existing and proposed preliminary grades, conceptual landscape plan, compass, tradewinds and solar orientations, driveway, retaining walls, fences, lanais, decks, patios, easements and building setbacks, existing street tree locations, utility hookups, all site dimensions and lot number, swimming pools, spas, equipment rooms, mail boxes and any other information which may be requested by the Committee.
5. Calculations on building square footage, percentage of buildable area covered, floor area ratio, cut and fill volumes, any other calculations which may be required by the Committee.
6. Topographic survey of the existing contours at two-foot intervals.
7. Samples of proposed exterior finishes, if known.
8. Proposed construction schedule.
9. Variance requests, in writing, for any nonconforming portion of the plan. Any variance requested shall be discussed with the Committee prior to submittal of the preliminary plans.
10. List of consultants including, but not limited to, the architect, engineers and landscape architect.

11. A Design Review Fee if required by the Architectural Design Committee.

Approval shall be in compliance with the standards and restrictions set forth herein. The review shall consider

1. Compliance with all relevant documents and regulations
2. Siting and orientation of the house structure
3. Setback lines and height restrictions
4. Building shapes
5. Architectural character
6. Drainage and site engineering considerations

b. Final Plans (1 bound set)

Final plans must include but are not limited to the following:

1. Final working drawings.
2. Landscape and irrigation plans.
3. Specifications.

Upon securing the Committee's written approval of all of the above, the owner shall submit a copy of the building permit and a letter of intent to begin construction at least two (2) weeks prior to beginning any work whatsoever.

iii. Applicable Laws

The owner or the owner's architect, engineer, contractor or other professionals shall be responsible for all submissions to the appropriate state and county agencies and for complying with all applicable laws, regulations, ordinances and codes, and shall acquire all permits necessary before commencement of any construction.

iv. Performance of Work

All construction, alterations and landscaping performed or placed on the Lot shall be performed or place in strict compliance and conformity with the final plans and specifications therefore approved by the Committee and any deviation from such plans and specifications shall require the prior written approval of the Committee.

All construction, alterations and landscaping performed or placed on the Lot shall be performed or placed in compliance and conformity with the guidelines of this document and those of the Declaration.

Work must commence within one hundred eighty (180) days of final approval or approval shall be automatically revoked without notice. In the event final approval is revoked, the owner must resubmit the plans for final approval and obtain final written approval prior to commencing construction. The Committee shall not be bound by decisions made by prior approvals.

Work must be completed within twelve (12) months of the date of final approval. The owner shall provide a Certified Survey As-Built Plan indicating all improvements, roof heights and setbacks.

G. Reservations and Limitations

i. Variances and Amendments

The Committee shall have the right at any time in its sole discretion to amend, modify, waive, grant variances to or not enforce any of the provisions and requirements herein specified with respect to any Lot or Lots without any liability whatsoever to the owners or occupants of the lot to which the waiver, variance or non-enforcement applies, or to the owners or occupants of any other lots, or to any other person, and without impairing or otherwise affecting the application or enforcement of such requirements with respect to all other lots.

ii. Delegation of Authority

The Committee shall have the right to delegate the administration (including the right to approve or reject designs, colors, plans and specifications, and/or enforcement of all or any part of the provisions and requirements of those standards to any other person, including Declarant. The written decision or disposition of any such delegatee shall be binding upon the Committee.

iii. Nonliability

No review or approval by the Committee of any item submitted to the Committee pursuant to this Declaration or any recorded instrument shall in any manner constitute the Committee's (or any Committee member's), Declarant's, the Board's or the Association's representation, warranty or agreement that such item (a) has been prepared free of defects or is of good workmanship or design, or will result in improvements which are readily marketable or free of design or construction defects, or (b) complies with any or all applicable laws (including, building code requirements), or (c) will result in any government entity's or any other person's approval of the same. Neither Declarant nor the Committee nor any director,

officer, employee, agent or member of Declarant or the Committee shall be liable to the Association, or to any owner, or to any other person, for any damage, loss or prejudice suffered or claimed on account of (a) the approval or rejection of, or the failure to approve or reject any plans, drawings and specifications or other request submitted by an owner pursuant to this Declaration whether or not defective, and whether or not in compliance with the provisions and requirements of this Declaration, (b) the construction of any improvement or performance of any work, whether or not such construction or performance complies with this Declaration, or the terms of any approval of the Committee, (c) the development or manner of development of any other lot or land within the Subdivision, (d) the erroneous execution of an estoppel certificate, (e) the failure of any plans, drawings, specifications or other item approved by the Committee to comply with the provisions and requirements of this Declaration or applicable laws, regulations, ordinances or codes, (f) the Committee's failure to require the owner or owner's architect or contractor to comply with the provisions and requirements of this Declaration, or (g) any other matter, decision, act or omission; provided that such director, officer, employee, agent or member shall have acted in the belief that such actions or omissions were in the best interests of East Kapolei I (or the Declarant, in any case where action is taken by Declarant acting as the Committee).