

IN THE DEPARTMENT OF REGULATORY AGENCIES  
OF THE STATE OF HAWAII

DEPARTMENT OF REGULATORY AGENCIES  
STATE OF HAWAII  
OFFICE OF THE SECRETARY  
OR  
*March 19, 1973*

In the Matter of the Application )  
of )  
MARINER'S VALLEY TWO MAINTENANCE )  
ASSOCIATION )  
For a Charter of Incorporation )

*7507819*

PETITION FOR CHARTER

AMOUNT FOR CAPITAL \$ \_\_\_\_\_  
RECORDING FEE \_\_\_\_\_  
REGISTRATION FEE \_\_\_\_\_  
TOTAL \$ \_\_\_\_\_

*23,982*

TO THE DIRECTOR OF REGULATORY AGENCIES, STATE OF HAWAII:

The petition of ROBERT C. KAY, WILLIAM M. SWOPE and JACK J. SISK respectfully shows:

That they and each of them being residents of the State of Hawaii, are desirous of forming a corporation, the objects and purposes of which shall be to manage, control and provide for the administration, care, maintenance and improvement of certain Common Areas, as defined in that certain Declaration of Protective Provisions for Mariner's Valley Two, filed in the Bureau of Conveyances, State of Hawaii, in Book 8708, Page 368, and any amended or supplemental declaration provided for thereby. In accordance with the provisions of Section 416-20 of the Hawaii Revised Statutes, as amended, the petitioners state as follows:

I

The name, location, objects and purposes, proposed period of duration and the number and names and residence addresses of the officers and directors of the corporation, the proposed manner of admission and expulsion of members of

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the corporation, and the manner in which the Bylaws of the corporation are to be made and amended are all as set forth in the proposed form of Charter of Incorporation hereto attached and by this reference incorporated herein with the same force and effect as if herein set forth in full.

II

The corporation is not organized for profit and will not issue any stock; no part of its assets, income or earnings will be used for dividends, or otherwise withdrawn or distributed to any of its members, directors or officers except for services actually rendered to the corporation; and upon liquidation of its property in case of corporate dissolution, all of the property and assets of the corporation, after payment of its just debts, will be distributed solely and exclusively to its members.

WHEREFORE, your petitioners respectfully pray that they be granted a charter of incorporation consistent with the foregoing showing in the form of the charter attached hereto and made a part hereof for every purpose.

DATED: Honolulu, Hawaii, this 15 day of MARCH, 1973.

Robert C. Kay  
ROBERT C. KAY

William M. Swope  
WILLIAM M. SWOPE

Jack J. Sisk  
JACK J. SISK

STATE OF HAWAII )  
 ) SS.  
CITY AND COUNTY OF HONOLULU )

ROBERT C. KAY, WILLIAM M. SWOPE and JACK J. SISK,  
being first duly sworn, state:

That they are the petitioners named in and who  
signed the foregoing Application for Charter; that they have  
read said Application, know the contents thereof and that  
the same is true to the best of their knowledge and belief.

Robert C. Kay  
ROBERT C. KAY

William M. Swope  
WILLIAM M. SWOPE

Jack J. Sisk  
JACK J. SISK

Subscribed and sworn to before me  
this 13<sup>th</sup> day of March, 1973.

[Signature]  
Notary Public, First Judicial  
Circuit, State of Hawaii

My commission expires: 10-24-75

IN THE DEPARTMENT OF REGULATORY AGENCIES  
OF THE STATE OF HAWAII

In the Matter of the Application )  
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MARINER'S VALLEY TWO MAINTENANCE )  
ASSOCIATION )  
For a Charter of Incorporation )  

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CHARTER OF INCORPORATION

TO ALL WHOM THESE PRESENTS MAY COME:

I, the undersigned, the Director of Regulatory Agencies of the State of Hawaii, send Greetings:

WHEREAS, ROBERT C. KAY, WILLIAM M. SWOPE and JACK J. SISK, each of whom is a resident of the State of Hawaii, have filed with me as Director of Regulatory Agencies a verified petition to grant to them a Charter of Incorporation as a nonprofit corporation, in accordance with the provisions of Section 416-20, Hawaii Revised Statutes, as amended;

NOW, THEREFORE, KNOW YE, that I, the Director of Regulatory Agencies, in the exercise and execution of every power and authority in any wise enabling me in this behalf, do hereby constitute the same petitioners a corporation under the laws of the State of Hawaii for the purposes and in the form hereinafter set forth.

I

The name of the corporation shall be "MARINER'S VALLEY TWO MAINTENANCE ASSOCIATION".

II

The location of the corporation shall be in the City and County of Honolulu, State of Hawaii, and its initial office shall be at 7192 Kalaniana'ole Highway, Honolulu, Hawaii.

III

The objects and purposes of the corporation shall be:

(1) To manage, control and provide for the care, maintenance and improvement of those certain "Common Areas" (as hereinafter defined) set aside for the benefit of all the lessees and occupants of every residential lot duly created by subdivision of "Mariner's Valley Two" (as hereinafter defined). For the purposes of this instrument and the Bylaws of this corporation, the terms "Common Areas" and "Mariner's Valley Two" are defined in that certain Declaration of Protective Provisions for Mariner's Valley Two, filed in the Bureau of Conveyances, State of Hawaii, in Book 8708, Page 368, and any amended or supplemental declaration provided for thereby.

(2) To adopt, amend, modify or revoke such reasonable rules and regulations as are necessary or desirable for the proper control and operation of the above-described Common Areas, and to enforce the rules and regulations by any appropriate means.

(3) To enforce by legal action or other appropriate means such restrictions, covenants, conditions and provisions to which the Common Areas described above may from time to time be subject.

IV

The period of duration of the corporation shall be perpetual.

V

The initial officers and directors of the corporation, who shall serve until their successors are elected and take office, shall be three (3) in number as follows:

| <u>Name</u>      | <u>Office</u>                         | <u>Residence Address</u>             |
|------------------|---------------------------------------|--------------------------------------|
| Robert C. Kay    | President,<br>Director                | 6929 Niunalu Lp.<br>Honolulu, Hawaii |
| William M. Swope | Vice President,<br>Director           | 2564 Sonoma Pl.<br>Honolulu, Hawaii  |
| Jack J. Sisk     | Secretary &<br>Treasurer,<br>Director | 722 Halaula Pl.<br>Honolulu, Hawaii  |

VI

Membership in the corporation shall always consist of and be limited to the owners of any residential lot located in Mariner's Valley Two or the lessees thereof under any valid and subsisting leases or subleases for a term of one year or more entitling them for the time being to possession of such lots, and the holder of such lease or sublease upon acquiring title thereto shall automatically become a member of the corporation with all the rights, privileges, duties and obligations of membership, including without limitation, one vote in all meetings of members, and shall remain a member thereof until his ownership of such lease or sublease ceases for any reason, whereupon his membership in the corporation shall automatically terminate; provided, however, that where there are joint or common lessees or sublessees of a residential lot, the holders thereof shall be considered as one member and they shall have collectively only one vote.

VII

The corporation shall have only such powers as

provided for by law.

VIII

The corporation is organized for nonprofit purposes only and is not organized for profit; it will not issue any stock, and no part of its assets, income or earnings shall be distributed to its members, directors, or officers, except for services actually rendered to the corporation and upon liquidation of its property in case of corporate dissolution.

IX

Upon dissolution and final liquidation of the corporation, its net assets, after payment of all debts and expenses, shall be distributed pro rata among the members.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the Department of Regulatory Agencies, State of Hawaii, at Honolulu, Hawaii, this 15 day of MARCH, 1973.



DIRECTOR OF REGULATORY AGENCIES  
OF THE STATE OF HAWAII



By \_\_\_\_\_  
Corporation & Securities Administrator

BYLAWS

of

✓ MARINER'S VALLEY TWO MAINTENANCE ASSOCIATION

RECEIVED  
12/20  
DEPARTMENT OF REGULATORY  
AFFAIRS  
STATE OF HAWAII

ARTICLE I

PURPOSES

Section 1. The primary purposes of this corporation shall be to provide for the care, maintenance and improvement of those certain "Common Areas" (as hereinafter defined) set aside for the common benefit of the owners of every residential lot in "Mariner's Valley Two" (as hereinafter defined). For purposes of these Bylaws, the terms "Mariner's Valley Two" and "Common Areas" are as defined by that certain Declaration of Protective Provisions for Mariner's Valley Two, filed in the Bureau of Conveyances, State of Hawaii, in Book 8708, Page 368, and any amended or supplemental declaration provided for thereby.

Section 2. It is the intent of these Bylaws to establish the procedures for the administration, operation, care, maintenance and improvement of the Common Areas by all the owners of the residential lots in Mariner's Valley Two.

Section 3. The Board of Directors of the Association may adopt, amend, modify or revoke such reasonable rules and regulations as are necessary or desirable for the proper control of the Common Areas and enforce these rules and regulations, and any other restrictions, covenants, conditions and provisions to which the Common Areas may from time to time be subject, by any appropriate means.

Section 4. The Association will also collect the dues and fees from the owners of the residential lots located in Mariner's Valley Two necessary to accomplish the objectives



and purposes set forth in Section 1 of this Article I.

ARTICLE II

MEMBERSHIP

Section 1. Membership Qualification. Membership in the Mariner's Valley Two Maintenance Association (hereinafter referred to as the "Association") shall always consist of, be limited to, and be compulsory for the owners of any residential lot in Mariner's Valley Two or any lessees thereof as defined in "Declaration of Protective Provisions for Mariner's Valley Two", dated October 25, 1972, recorded in the Bureau of Conveyances of the State of Hawaii in Book 8708, Page 368, and any amended or supplemental declaration provided for thereby. The owner of such residential lot, upon acquiring title thereto, shall automatically become a member of the Association with all the rights, privileges, duties and obligations set forth in Article I, Section 1 and including, without limitation, one vote on all matters pertaining to the Common Areas, and shall remain a member thereof until his ownership of such residential lot ceases for any reason, whereupon his membership in the Association shall automatically terminate; provided, however, that where there are joint or common owners of a single residential lot, such owners shall be considered as one member.

Section 2. Dues. Annual dues payable for Association membership with respect to each residential lot shall be \$\_\_\_\_\_ or such greater or lesser amounts as shall be fixed by the Board of Directors. Such dues shall be set before each calendar year and payable semi-annually in advance on January 1 and July 1 of such year, or upon the later creation of lease or sublease of such lot during such year, then at the time the

membership commences on a pro rata basis. Any Association member delinquent for over thirty (30) days in the payment of his dues shall be subject to the legal action of the Board of Directors with respect to the collection thereof as provided for herein and shall not have or exercise any rights of membership including vote unless such dues are fully paid, but shall nevertheless remain obligated to observe and perform all duties incident to such membership. The annual dues of the member shall be for the express purpose set forth in Article I.

ARTICLE III

MEETINGS OF MEMBERS

Section 1. Place of Meetings. Meetings of the Association shall be held at such suitable place convenient to the members as may be designated by the Board of Directors.

Section 2. Annual Membership Meeting. The annual meeting of the Association shall be held on the third Tuesday of March of every year, or such other time as the Board of Directors of the Association shall designate. At every annual meeting the members shall elect directors as provided by these Bylaws and may also transact such other business of the Association as may properly come before them.

Section 3. Special Meetings. Special meetings of the Association may be held at any time under the call of the President of the Association, or a petition signed by at least twenty-five per cent (25%) of the respective members and presented to the Secretary.

Section 4. Notice of Meetings. The Secretary for the Association shall give written notice of each meeting of the Association to every member according to the Association's

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record of ownership, at least five days before the date set for such meeting, stating therein whether it is an annual or special meeting, the authority for the call thereof, and the place, date, hour and purpose of such meeting, in any of the following ways: (a) by delivering it to him personally, or (b) by leaving it at his residence or usual place of business, or (c) by mailing it postage prepaid, addressed to him at his address as it appears on the Association's record of lease ownership. If notice is given pursuant to the provisions of this section, the failure of any member to receive actual notice of such meeting shall in no way invalidate the meeting or any proceedings thereat. The presence of a majority of the members of the Association, including proxies representing the majority of the members of the Association, at any meeting shall render it a valid meeting, notwithstanding that notice thereof was not given or was improper, unless any member shall at the opening thereof object to the holding of such meeting for noncompliance with the provisions of this section.

Section 5. Quorum. The presence at any Association meeting in person or by proxy of a majority of members as herein defined shall constitute a quorum. The term "majority of members" of the Association shall mean members owning more than half of all Mariner's Valley Two residential lots who are then qualified to vote.

Section 6. Voting. The owner of each Mariner's Valley Two residential lot shall be entitled to one vote in person or by proxy with respect to such lot. Where there are joint or common owners of such lot, the joint or common owners shall have only one vote between them and if they cannot agree

they may each vote their fractional interest in the vote allotted to their membership; the vote for such lot may be exercised by any one of them present at any meeting in the absence of protest by the other or others. An executor, administrator, guardian or trustee may vote in person or by proxy at any meeting of the Association the vote for any lot leased or controlled by him in such capacity, whether or not the same shall have been transferred to his name in the Association's record of lease ownership, provided that he shall first present evidence satisfactory to the Secretary that he leases or controls such lot in such capacity.

Section 7. Proxies. The authority given by any member to another person to represent him at meetings of the Association shall be in writing, signed by such member and filed with the Secretary and unless limited by its terms, shall continue until revoked by writing filed with the Secretary or by the death or incapacity of such member. Voting rights transferred or pledged by mortgage, deed of trust or agreement of sale of any residential lot or interest therein, an executed copy of which is filed with the Association, shall be exercised only by the mortgagee, trustee or purchaser under such instrument until the written release or other termination thereof is filed with the Association.

Section 8. Adjournment. Any meeting of the Association may be adjourned from time to time to such place and time as may be determined by majority vote of the members present, whether or not a quorum be present, without notice other than the announcement at such meeting. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting as originally

called may be transacted without further notice.

ARTICLE IV

BOARD OF DIRECTORS

Section 1. Number and Qualifications. The affairs of the Association shall be governed by a Board of Directors composed of nine directors elected from the members of the Association. The charter members of the Board of Directors need not be owners of a residential lot of Mariner's Valley Two. All directors shall serve without compensation.

Section 2. Powers and Duties. The Board of Directors of the Association shall have all powers and duties necessary for the administration of the affairs of the Association as described in Article I, Section 1, and the Board of Directors may do all such acts and things therefor as are not by law or these Bylaws specifically reserved to the members.

Section 3. Election and Term. At the first annual meeting of the Association three directors for the Association shall be elected for a term of three years; three directors for the Association shall be elected for a term of two years; and three directors for the Association shall be elected for a term of one year. At the expiration of the initial term of office of each respective director, his successor shall be elected to serve for a term of three years. Directors shall hold office until their successors are elected and hold their first meeting.

Section 4. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a director shall be filled by vote of a majority of the remaining directors, even though they may constitute less than a quorum, and each person so elected shall be a director until

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his successor is elected at the next annual meeting of the Association. Death, incapacity or resignation of any director, or his continuous absence from the State of Hawaii for more than six months, or his ceasing to be the sole owner or co-owner of a residential lot, shall cause his office to become vacant.

Section 5. Removal of Directors. At any regular or special meeting of the Association duly called, any one or more of the directors may be removed with or without cause by vote of a majority of members of the Association, and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the members shall be given an opportunity to be heard at such meeting.

Section 6. Organizational Meeting. An organizational meeting of the charter members of the Board of Directors shall be held at a place and time mutually agreed upon by them. At this organizational meeting the Board shall elect the officers of the Association for the ensuing year.

Section 7. Regular and Special Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but at least one such meeting of the Board shall be held during each calendar quarter of every year. Notice of regular meetings of the Board shall be given to each director, personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of such meeting. Special meetings of the Board shall be called by the President or Secretary of the Association in like manner and with like notice on the written request of at least three

directors of the Association.

Section 8. Waiver of Notice. Before or at any meeting of the Board of Directors, any director may, in writing waive notice of such meeting; and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall be a waiver of notice to him of such meeting. If all the directors are present at any meeting of the Board, no notice thereof shall be required and any business may be transacted at such meeting.

Section 9. Quorum of Board. At all meetings of the Board of Directors a majority of the total number of directors established by these Bylaws shall constitute a quorum for the transaction of business, and the acts of a majority of such directors present at any meeting at which a quorum is present shall be the acts of the Board. If less than a quorum shall be present at any meeting of the Board, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 10. Fidelity Bonds. The Board of Directors shall require that all officers, employees and agents of the Association handling or responsible for its funds, other than a Hawaii bank or trust company employed as managing agent, shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

ARTICLE V

OFFICERS

Section 1. Designation. The principal officers

of the Association shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by and from the Board of Directors. The Board of Directors may appoint such other officers as in their judgment may be necessary. No person may hold two or more of such offices at the same time. All officers shall serve without compensation.

Section 2. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at its organizational meeting and shall hold office at the pleasure of the Board of Directors.

Section 3. Removal of Officers. Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board or any special meeting called for such purpose.

Section 4. President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and the Board of Directors. Subject to the control of the Board, he shall exercise general supervision and direction over the management and conduct of the business and affairs of the Association. He shall also have such other powers and duties as may be provided by these Bylaws or assigned to him from time to time by the Board of Directors of the Association.

Section 5. Vice President. The Vice President shall assume and perform the duties of the President in the absence or disability of the President or whenever the office of President is vacant. He shall also have such other powers and duties as may be assigned to him from time to time by the Board of Directors of the Association.



Section 6. Secretary. The Secretary shall attend and keep the minutes of all meetings of the Association and of the Board of Directors of the Association, give all notices thereof as provided by these Bylaws, maintain and keep a continuous and accurate record of ownership of Mariner's Valley Two residential lots and of all leases and subleases thereof and all secured and other interests therein, have charge of such books, documents and records of the Association as the Board may direct, and in general perform all duties incident to the office of Secretary.

Section 7. Treasurer. The Treasurer shall have responsibility for all funds and securities of the Association, maintain and keep full and accurate accounts of all receipts and disbursements of the Association and render statements thereof in such form and as often as may be required by the Board of Directors, and be responsible for the deposit of all moneys and other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Board.

Section 8. Auditor. The Association shall elect annually a public accountant or accounting firm as auditor, who shall not be an officer of the Association nor own any interest in any residential lot, to audit the books and financial records of the Association as required by law or directed additionally by the Board of Directors.

Section 9. Execution of Documents. All checks, drafts, notes, acceptance, conveyances, contracts and other instruments shall be signed on behalf of the Association by such person or persons as shall be provided by general or special resolution of the Board of Directors or, in the

absence of any such resolution applicable to such instrument, by the President or Vice President and by the Treasurer or Secretary.

ARTICLE VI

ADMINISTRATION

Section 1. Management. The Board of Directors of the Association shall at all times manage and control all Common Areas, including, but not limited to, the following:

(a) Care, maintenance and operation of the Common Areas and rebuilding and improvement thereof;

(b) Adoption, amendment, modification and revocation of any rules and regulations for control and operation of the Common Areas;

(c) Provision, maintenance and replacement of any equipment and supplies, including utility services for the Common Areas;

(d) Employment, supervision and dismissal of any personnel necessary for its administrative functions;

(e) Preparation and adoption before each calendar year of an administrative budget and schedule of assessments for such year;

(f) Assessment of all residential lots semi-annually for administrative expenses in accordance with the declaration and collection when due of all assessments and membership dues;

(g) Payment of all authorized administrative expenses and capital expenditures;

(h) Custody of all funds of the Association, maintenance of full and accurate books of account and records of such funds and preparation of regular financial reports

for the Association;

(i) Notification of all persons having any interest in any residential lot, as shown in the Association's record of ownership, of delinquency exceeding sixty (60) days in the payment of any assessment against such lots; and

(j) Report to any actual or prospective mortgagee or purchaser of any lot or interest therein, upon request, of the amount of any unpaid assessments on such lot.

Section 2. Managing Agent. The Board of Directors may employ a responsible Hawaii corporation as managing agent to manage and control the Common Areas of Mariner's Valley Two at such compensation and with such administrative powers and duties as the Board may establish, subject to prior approval of every such employment contract by a majority of members of the Association.

Section 3. Representation. The President or other designated officer on behalf of the Association, subject to the direction of the Board of Directors, shall represent the Association or the owners of any two or more residential lots similarly situated as a class in any action, suit, hearing or other proceeding concerning the Association, the Common Areas, such lots of Mariner's Valley Two generally, and on its or their behalf may institute, defend, intervene in, prosecute and settle any such actions, suits and proceedings, without prejudice to the rights of any members individually to appear, sue or be sued.

Section 4. Record of Ownership. Every member shall promptly cause to be duly filed of record the deed, lease, sublease, assignment or other conveyance to him of his ownership, or leasehold interest in a lot or other evidence of his interest thereto and present such evidence of interest

thereto to the Association, and the Secretary shall maintain such information in the Association's record of lease ownership.

#### ARTICLE VII

##### AMENDMENT OF BYLAWS

Section 1. Procedure. These Bylaws may be amended in any respect not inconsistent with any provisions of law or the charter of incorporation of the Association by vote of sixty-six and two-thirds per cent (66-2/3%) of the members at any meeting of the Association duly called for such purpose.

#### ARTICLE VIII

##### GENERAL

Section 1. Indemnification. The Association shall indemnify every director and officer of the Association and his executors and administrators, against all expenses reasonably incurred by or imposed on him in connection with any action, suit or proceeding to which he may be made a party by reason of being or having been a director or officer of the Association, except in relation to matters as to which he shall be finally adjudged in such action, suit or proceeding to be liable for negligence or misconduct; and in the absence of such final adjudication, indemnification shall be made only in connection with such matters as to which the Association is advised by its legal counsel that the person to be indemnified committed no such breach of duty. The foregoing right of indemnification shall not be exclusive of any other rights to which such person may be entitled.

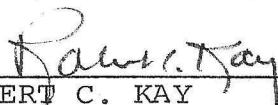
Section 2. Subordination. These Bylaws shall be subordinate and subject to all provisions of law, and in

case of any conflict the latter shall control.

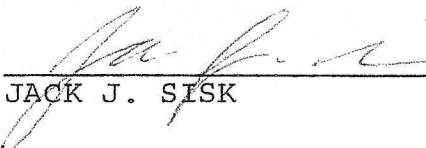
Section 3. Separability. In case any provision of these Bylaws shall be held invalid, such invalidity shall not affect or render invalid any other provision hereof which can be given effect.

ADOPTION OF BYLAWS

The undersigned signers of the petition for the charter of incorporation of Mariner's Valley Two Maintenance Association hereby adopt the foregoing as the Bylaws of the Association this 27 day of MARCH, 1973.

  
\_\_\_\_\_  
ROBERT C. KAY

  
\_\_\_\_\_  
WILLIAM M. SWOPE

  
\_\_\_\_\_  
JACK J. SISK