RECORDATION REQUESTED BY:

Zernice P. Bishop Estate F.O. Box 3466 Heartuly, Hawaii 96801

AFTER RECORDATION, RETURN TO:

Bernice A. Bisher Estate Mr. C. Rey 3416 Hondalu, Harran 96821

RETURN BY: MAIL () PICKUP (X

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Charles Jaman

BUILDING REQUIREMENTS FOR WATALAE-IKI VIEW LOTS, UNIT IV

The TRUSTEES OF THE ESTATE OF BERNICE PAUAHI BISHOP, whose place of business and post-office address is 519 Halekauwila Street, Honolulu, Hawaii (herein, with their successors in trust and assigns, called the "Trustees"), the owners of certain land (part of R. P. 3578, L. C. Aw. 10613, Ap. 3 to A. Paki) situate in Waialae-iki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

Lots 1 to 126, inclusive, Waialae-iki View Lots, Unit IV, as shown and described on File Plan 1405 in the Bureau of Conveyances of Hawaii, hereinafter severally and collectively called the "lots" and sometimes collectively called the "subdivision",

do hereby certify, declare and establish that the lots shall hereafter be held, used, leased and conveyed subject to and with the benefit and protection of certain restrictions, covenants, conditions and provisions as hereinafter set forth.

INTRODUCTION

The Trustees, in response to many requests and in an attempt to protect the interests of their lessees as well as of the public in general, are endeavoring to develop and maintain the general attractiveness of the subdivision, as seen from all public areas, to provide each lessee as much undisturbed view and unobstructed breeze as practicable, to promote esthetic standards for the buildings and their relationship to each other, to public spaces and to the site, and to assist lessees with problems of access and siting.

To this end, the Trustees will retain the services of a professional architect, as consultant, who will review any lessee's preliminary plans which are of a controversial nature or require variances. Careful attention to submitting plans and specifications which comply with the intent stated in this Introduction and with the following requirements will result in more prompt processing and avoid delay caused by rejection of the same due to insufficient information.

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ARTICLE I. LAWS, CODES AND ORDINANCES

All work undertaken within the subdivision shall comply with the appropriate existing laws, rules, regulations, codes and ordinances. Whenever requirements hereunder are more stringent than the applicable laws, rules, regulations, codes and ordinances, the requirements hereunder shall govern.

ARTICLE II.

GENERAL REQUIREMENTS

1. Preliminary Drawings.

- (a) Preparation and Submittal. Before proceeding with the working drawings or with any work at the site, the Lessee shall submit to the Trustees, and secure their written approval of, one set of preliminary drawings prepared by or under the direct and responsible supervision of a professional architect registered by and in the State of Hawaii and so certified by him. Plans, when submitted, shall be accompanied by a letter of transmittal from the architect requesting preliminary approval, listing any variances requested and detailing reasons therefor, and stating the estimated construction cost of the dwelling proper. The preliminary drawings shall consist of:
 - (1) <u>Site Plan</u> at either a 1/8 inch = 1 foot, 1 inch = 10 feet or larger scale, showing the existing and proposed topography (2-foot contours referred to City and County datum based on mean sea level), setback lines, view channels, outlines of the proposed structures and paved areas, lot drainage control facilities, and materials and methods for retaining soil in cut and filled slopes.
 - showing accurately and legibly the same items and details as the aforementioned site plans as well as roof lines for all structures. This plan shall also indicate the elevations, referred to City and County datum of the floor levels, roofs, eaves and roof ridges. This plan will be used to assemble a composite layout plan for the subdivision, showing the relationship of proposed locations of all major structures and drainage control facilities. This layout plan will assist the Trustees' Consultant and Staff in their review of house sitings and may result in suggestions which could be of benefit to the lessee.

- (3) Floor Plan at either a 1/8 inch = 1 foot or 1/4 inch = 1 foot scale, showing plans for each level. Floor elevations shall be indicated in numerals and shall refer to City and County datum.
- (4) Exterior Elevations at either a 1/8 inch = 1 foot or 1/4 inch = 1 foot scale, showing each exposed side of the proposed structures and indicating proposed materials.
- (5) <u>Longitudinal Section</u>, at same scale as that selected for Site Plan, through the structures and property, commencing at the street and extending to the opposite end of the property. The section taken shall be indicated on the Site Plan.
- (b) Approval. The Trustees will approve the preliminary drawings provided that they comply with all of the requirements hereunder and are, in the Trustees' opinion, suitable for the subdivision and in accord with their objectives as described in the Introduction. Approval may also be dependent on other special conditions, which the Trustees deem appropriate in each particular case, but will not be unreasonably withheld. In such cases where approval of preliminary drawings is contingent upon conformance with certain recommendations, requirements or corrections, a revised set of preliminary drawings, if requested, shall be submitted for approval prior to proceeding with working drawings.

2. Working Drawings.

- (a) Preparation and Submittal. Before commencing any work at the site and prior to submittal of plans to the City and County for a building permit, the lessee shall submit to the Trustees, and secure their written approval of, one set of complete working drawings and specifications prepared by or under the direct and responsible supervision of a professional architect registered by and in the State of Hawaii and so certified by him. The working drawings shall be a development of the approved and required elements of the preliminary drawings. Upon submittal, plans shall be accompanied by a letter of transmittal from the architect requesting approval and stating the updated, estimated construction cost of the dwelling.
- (b) Approval. The Trustees, will approve the submitted working drawings, provided that they comply with the conditions under which the preliminary drawings were approved and meet all requirements hereunder.

3. Review of Revised Plans.

Review and approval of the first set of plans for any lot will be at no cost to the

lessee. The lessee will reimburse the Trustees within ten days after billing date the cost of reviewing any new or revised plans subsequent to approval of the first set of plans for any lot.

4. Variances.

Individual solutions, at variance with the General and Special Requirements herein or with substantial departures from the approved preliminary drawings will be considered on their architectural merit and on their contribution to the objectives stated in the Introduction. Such variances or departures shall be specifically requested in writing by the lessee or his architect, and such request shall detail the reasons therefor.

5. Design and Construction Details.

- (a) Each dwelling, exclusive of garage or carport and attached or detached open lanai(s), shall have a minimum enclosed floor area of 2,000 square feet.
- (b) The dwelling proper, including garage or carport and lanais, shall cost not less than \$60,000 exclusive of costs for swimming pools, retaining walls which are not a part of the dwelling foundation, and other lot improvements and exclusive also of appliances and interior furnishings including carpets and drapery. The lessee will upon request furnish to the Trustees a written statement by the supervising architect or other party acceptable to the Trustees certifying that, to the best of his knowledge and belief, the cost of the dwelling proper, including garage or carport and lanais, will be at least \$60,000 and containing such data in reasonable detail as may be necessary to support such certification.
- (c) Garage. A double-car garage or carport containing not less than 400 square feet of parking area and a width of not less than 18 feet between outside supports shall be attached to the dwelling or other principal building; provided, however, that a detached double garage or carport may be substituted in cases where an attached garage or carport is not feasible. Every garage or carport, whether attached or detached, which has a vehicular entrance facing a street shall contain not less than an additional 60 square feet of enclosed and covered area for service and storage facilities. Single-car garages or carports will not be permitted. However, garages and carports for more than two cars will be permitted, provided the design is appropriate.
- (d) Construction of the dwelling and garage or carport shall be completed

than 24 months after the date of commencement of the lease or earlier date of completion therein specified. Failure by the lessee to complete said construction within said time shall constitute a breach of covenant under the lease, and the Trustees shall, in addition to any other remedies set forth in the lease, thereupon have the right to terminate the lease in accordance with the provisions of Paragraph E on page 5 of the lease.

- (e) The lessee shall give the Trustees at least one week's prior notice of the start of construction.
- (f) The lessee shall file with the Trustees at least one week before the start of construction a copy of the construction contract and a copy or certificate of the contractor's performance bond for not less than 50% of the contract price guaranteeing the completion of the construction free and clear of all mechanics' and materialmen's liens. The bond shall be issued by a responsible corporate surety authorized to do business in the State of Hawaii and shall name the Trustees as obligees.
- (g) The lessee shall furnish to the Trustees one copy of the affidavit of publication of the Notice of Completion filed in the office of the Clerk of the First Circuit Court within one week after its second advertisement.

6. Lot Boundaries.

The lessee shall be responsible for the maintenance of the corner markers of his lot and for the proper location of all improvements and landscaping within the lot boundaries.

Landscaping Plans.

Prior to the completion of construction of the dwelling, the lessee shall submit a landscaping plan of the lot to the Trustees for their approval. A copy of the approved plan shall be filed with the Trustees. The lessee shall, within sixty (60) days after completion of the dwelling, landscape the lot in accordance with the approved plan and thereafter satisfactority maintain said landscaping. Lots fronting on two streets shall be landscaped along both frontages.

8. Alterations and Additions.

The General and Special Requirements herein shall also govern future buildings, structures and improvements and any alterations and additions thereto.

ARTICLE III.

SPECIAL REQUIREMENTS

1. View Channels, Setback Lines, Building Area and Lot Coverage Area.

- (a) <u>View Channels</u> and their view planes are indicated on an overall map of the subdivision on file at the office of the Trustees as Bishop Estate Map No. 8043-F.
 - No portion of any structure within the view channel area shall protrude above the view planes. No trees, hedges or other plans within the view channel area shall be allowed to grow above the view plane of the lot and shall, from time to time as necessary, be removed or trimmed by the lessee to conform to the view plane limit. Except for dwelling construction variances granted by the Trustees, the area above the view plane shall constitute a view easement which shall be enforceable by either the Trustees or by the lessee(s) whose view is in fact impeded by a violation of the view plane easement area. It is to be noted that the Trustees do not guarantee any unobstructed views.
- (b) The <u>Setback Lines</u> for each lot shall conform to the requirements of the Comprehensive Zoning Code of the City and County of Honolulu (Ordinance 3234, as amended); provided, however, that any garage or carport with a vehicular entrance facing a public street shall be set back at least <u>19</u> feet from the property line along such street, to provide for guest parking. This 19-foot setback will be waived if guest parking is provided elsewhere on site. Variances from this requirement will be also considered in cases involving unusually shallow depth or odd shape of lot, or in which extensive excavation or embankment would be required.
- (c) The <u>Building Area</u> of each lot is that portion of the lot lying outside of the setback and view channel areas of the lot.
- (d) The Lot Coverage Area, being the maximum total area under roof and trellis work within the wall lines and/or the outer vertical support members (including balcony railings) of all buildings on the lot, shall amount to not more than one-third (1/3) of the area of the lot.

2. Grading.

- (a) The lessee shall accept the condition of the lot as is, as of the date of completion of all contracts for the grading and roadway and utility improvements for the subdivision or as of the date of acceptance of his application to lease the lot by the Trustees, whichever is later. All site work required thereafter shall be done only at the expense of the lessee in accordance with plans approved by the Trustees.
- (b) Fill or top soil material brought to the site by the lessee shall be free of

adobe, red dirt, termites and deleterious matter.

(c) Cut and fill areas shall be shaped to blend into the adjacent land forms, and where exposed, shall be landscaped and treated in an attractive manner.

Drainage.

- (a) A general plan for lot drainage is on file in the office of the Trustees as Bishop Estate Map No. 8043-F. The lessee is requested to direct his architect to examine said general plan before preparing the site plans. The flow or surface or subsurface drainage onto, across or from each lot must not be obstructed. Such run-off shall be dispersed or channeled by surface swales or other facilities in such a manner as to prevent erosion and damage to property. The Trustees and their Staff will closely scrutinize the proposed location of lot drainage facilities and may suggest revisions to provide for acceptance or discharge at certain points or locations along lot boundaries. The lessee, however, will be responsible for the actual design of these facilities and be liable for all claims for damages resulting therefrom. The Trustees will not unreasonably withhold approval of any design for lot drainage facilities but will disapprove designs which, in their opinion, are impractical or do not adequately consider the possible adverse effects on adjoining property.
- (b) Subsurface drainage systems may be installed within certain lots where engineered embankments are constructed over natural run-off channels. The lessee of any affected lot will be given sketches, upon request, designating the location of these subdrains and their points of discharge. It is suggested that the individual lot drainage facilities provide for acceptance of discharge from the subdrain systems. Should the construction of lot improvements interfere with the operation of any subdrain, the lessee will be required to re-route or alter the affected subdrain in order to maintain it in effective operation.

4. Materials.

All materials used for structures shall be new and of a quality consistently associated with that used on superior custom-designed homes.

5. Ground Termite Treatment.

- (a) Soil under all concrete slabs on 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 licensed termite control agency.
- (b) Treatment shall be guaranteed in writing by said agency against termite infestation for a period of five years. The guarantee shall include

485

one automatic annual inspection service and retreatment of any infested area without extra cost within the guarantee period.

(c) Chemicals used outside of the buildings or in accessible spaces under buildings shall be non-poisonous to children, plants and pets.

6. Foundations.

- (a) Portions of the subdivision will be filled and in some instances the filling will be extensive. A report prepared for the Trustees by a soils engineer indicates the presence of clay soils in the subdivision. To the best of the Trustees' knowledge, areas within the subdivision which will be filled are to be filled and compacted in accordance with approved engineering methods. However, ground settlement of the fill areas is possible. In view of the existence of clay soils and filled areas, the lessee through his architect should give due consideration to the design of the foundation systems of all structures, including without limitation the dwelling, walls and swimming pool. Plans showing filled areas are on file at the Trustees' office. It shall be the lessee's responsibility to direct his architect to examine these plans and arrange for subsurface soil investigation and, thereafter, to design his dwelling accordingly. Certain lots will be posted with settlement gauges, and prior to construction of a dwelling on any such lot the lessee thereof shall cause such lot to be certified by a qualified, recognized soils engineer as to its adequacy for construction. Sketches of lots showing embankments will be supplied to lessees and their architects upon request; however, grades and contours indicated thereon are not guaranteed and are subject to verification by the lessees.
- (b) All retaining walls and foundations placed upon embankments or filled areas of more than two feet in height or depth, shall be designed by a registered architect or structural engineer.
- (c) Where concrete floor slabs are used at ground level, the lessee should consider installing a waterproofing membrane between the concrete and the ground surface or sub-base under the slab.
- (d) All framing lumber shall be pressure-treated against termites and rot and shall carry a five-year guarantee against termite damage.

Single-Wall Construction.

Wood siding, if used in single-wall structures, shall have a minimum thickness of

l" net for all load-bearing sections in order to obviate the need for girts.

8. Double-Wall Construction.

Outside siding for double-wall construction may consist of 3/4" material, or equal, subject to the approval of the Trustees. Plywood 5/8" thick will be permitted. Interior surfacing material shall not be less than 1/2" thick.

9. Flooring.

- (a) Wood flooring over joists shall consist of at least 3/4" thick T&G flooring.
- (b) Sub-flooring may consist of 5/8" thick treated plywood (DFPA), or equal.

10. Roofs.

- (a) The following permitted roofing material must be installed in strict accordance with the manufacturer's and/or appropriate association's specifications:
 - (1) Shake or Wood Shingles;
 - (2) Concrete Tiles;
 - (3) Unglazed Clay Tile;
 - (4) Asphalt Shingles 345 #/sq.
 - (5) Sheet Metal Shingles with granular material imbedded in asphalt;
 - (6) Sheet Metal of Copper or Tintanaloy of standing or batten seam.
- (b) Roofing shall have a finished surface that will not produce glare or have reflective qualities.
- (c) Adequate provision shall be made to obtain true eave lines and to prevent sagging of eave soffits.
- (d) Other types of roofing material will be considered if requested by the lessee and upon submission of evidence of quality comparable to the approved roofing material.
- (e) Flat roofs should generally be avoided except as needed to connect several architectural elements. Flat roofs may be considered in special cases.

11. Structural Analysis.

The Trustees, in reviewing building plans, will not undertake any structural analysis nor make any representation as to the sufficiency of the design or the proposed construction. This will be a matter solely for determination by the lessee or his architect.

12. Height of Buildings, Antennas or Chimneys.

(a) No portion of any building or other structure, except antennas and chimneys, shall be more than 18 feet above the highest existing ground elevation at the building or structure. For houses with setbacks greater than that required, the height shall not project above an imaginary plane constructed over the

building area as follows:

- (1) Commencing at a corner of the building area with the highest ground elevation, measure vertically to a point 18 feet above the corner. This point shall be a corner of the "height plane".
- (2) Slope this plane downward at a ratio of 1 vertical to 10 horizontal towards the corner of the building area with the lowest ground elevation.

Additional sections through ridge lines and/or high points of the roof showing the dwelling height in relation to the imaginary plane shall be required on plans for houses using this determination of height limitation.

- (b) No chimney or radio or television antenna shall extend more than four feet above the highest point of the roof of the dwelling. All lead-in wires shall be concealed.
- (c) Transmission antennas will not be permitted in the subdivision.

13. Under-House Support Members.

- (a) Vertical support members of the lowest floor shall be not longer than nine (9) feet measured from the finished floor level to the finished ground grade or to the top of a continuous garden wall serving as foundation.
- (b) Knee bracing shall be avoided or fully concealed.
- (c) Because of the visual importance of the under-house construction, individual solutions will be reviewed and approved on the basis of the objectives stated in the Introduction.

14. Height of Garden Walls and Fences.

No garden wall or fence built along property lines or within the setback areas or view channels, whether or not used as a retaining wall, shall have an exposed face higher than six (6) feet above the highest existing or approved finish grade at the wall; provided, however, that walls or fences between the setback lines and the property line at street frontage shall not be higher than four (4) feet, unless the wall or fence is set back and the area between such walls or fences and the property line at street frontage is adequately landscaped.

15. Driveways.

- (a) Driveways of a slope of 12% or more shall be paved with concrete.
- (b) Drop driveways shall be constructed by the lessee prior to any other work being done on his lot and shall be used during construction in order to prevent damage to existing concrete gutters, curbs, sidewalks and any underground utility lines.

Any damage caused by the lessee, his contractor or agent, shall be the responsibility of the lessee.

16. Electric Service.

- (a) All electric service lines shall be underground.
- (b) The electric service conductor shall be rated at not less than 115 amps.

17. Gas Service.

Piped gas service will not be provided for the subdivision. Storage tanks for gas service shall be fully screened from view from the roadway.

18. <u>Telephone Service</u>.

- (a) All telephone service lines shall be underground, and a one-inch conduit shall be installed from the telephone pull box at the property line to a convenient point on the sidewall of the dwelling.
- (b) A standard junction box shall be installed above the termination of the above conduit, eight feet above ground level.

19. Water Service.

The main service pipeline from the water meter to the house shall be not less than one inch in diameter; provided, however, that a service pipe of at least $1\frac{1}{2}$ inches in diameter will be required if a lawn sprinkler system and/or swimming pool are contemplated or subsequently installed. Lots below an elevation of 665 feet will require pressure regulators, and the lessees of such lots shall be solely responsible for installing such regulators in accordance with the requirements of the Board of Water Supply of the City and County of Honolulu.

20. Sanitary Sewer and Water Piping.

All piping shall be concealed from public view and the view of neighbors. All underground sanitary sewer pipes shall be cast iron. All water pipes under concrete slabs shall be copper; and other water pipes shall consist either of copper, P.V.C. or galvanized iron of U. S. manufacture or equivalent, with actual selection meeting appropriate ASTM material standards and also having a life expectancy of 20 years.

21. Painting.

- (a) Colors for exterior walls and surfaces shall be non-glaring and muted.
- (b) Wherever painted surfaces are specified, paint shall be applied in a minimum of two coats consisting of one prime coat and a finish coat.
- (c) All paint shall be applied from manufacturer's receptacles, undiluted, except as clearly stated or permitted by the manufacturer's instructions.

22. Refuse Can Enclosures.

Unless adequately screened provisions for storage of refuse cans are made within the house or garage or carport, the lessee shall construct refuse can enclosures in the front yard within 20 feet of the roadway curb to conceal refuse cans from view, and such enclosures shall conform to the general design of the dwelling.

23. Mail Boxes.

Mail boxes, house numbers and name signs shall be of attractive and superior design, installed flush with wall surfaces where possible, and shall not be in conflict with postal regulations.

24. One-Year Warranty.

All workmanship and materials shall meet acceptable standards and shall be guaranteed against defects or failures by the developer or contractor for a period of at least one year after completion.

25. Swimming Pools and Ponds.

The construction of swimming pools and other types of ponds will be governed by the following:

- (a) Construction shall be in accordance with plans first prepared by the lessee and approved in writing by the Trustees, and use shall be subject to the terms and conditions of the lease and these Building Requirements.
- (b) The lessee shall hold the Trustees blameless for any and all difficulty encountered during construction.
- (c) The lessee shall provide a sound-treated filtering pump unit in order to prevent noise nuisance.
- regulations of the State Department of Health. Upon abandonment, or should the pool or pond become a nuisance, the lessee will demolish the same and, insofar as is practicable, restore the land to a condition approximating that which existed prior to the construction of the pool or pond, and will thereafter properly landscape and maintain said restored land. The method of demolishing the pool or pond shall be subject to the Trustees' approval.

26. Air Conditioning System.

Prior to the installation of air conditioning systems, the lessee shall secure the written concurrence of the Trustees as to the location and type of system. Such air conditioning system shall be sound-treated to prevent noise nuisance.

27. Noise Abatement.

Should undue noise result from the operation of any air conditioning system or

swimming pool filtering pump unit or units, the lessee shall, without delay upon request of the Trustees, design additional sound-proofing methods and, upon approval of such methods by the Trustees, proceed expeditiously with necessary adjustments. Notwithstanding the Trustees' right, as expressed herein, to approve and require adjustment of such units, the lessee shall assume full responsibility therefor and shall hold the Trustees harmless against any and all claims resulting from the maintenance and operation of such units.

ARTICLE IV.

MISCELLANEOUS

Variances and Amendments.

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The Trustees reserve the right at any time in their sole discretion to amend, modify, waive, grant variances to or not enforce any requirements herein specified with respect to any lot or lots of the subdivision without any liability whatsoever to the owners, lessees or occupants of any other lots in the subdivision and without impairing or otherwise affecting the same requirements with respect to all the lots of the subdivision.

2. Paragraph Headings.

The headings of paragraphs herein are inserted only for convenience and reference and shall in no way define, expand or limit the scope or intent of any provision hereof.

Binding Effect.

All restrictions, covenants, conditions and provisions contained in or established by this instrument shall constitute restrictions, covenants, conditions and provisions running with the lots of the subdivision and shall bind and inure to the benefit of the Trustees and all persons who shall now or hereafter own, lease or occupy any of the lots. Every person acquiring any estate, right, title or interest in or to any lot or occupancy thereof shall be deemed conclusively to have accepted the same upon and subject to all said restrictions, covenants, conditions and provisions and agreed to be bound thereby, whether or not set forth or referred to in the instrument by which the same was acquired. Said restrictions, covenants, conditions and provisions are in addition to and supplement any other requirements of law and provisions of any instruments under which the respective owners, lessees or occupants claim.

4. Expenses of Enforcement.

In case the Trustees shall bring and sustain any action to enforce any of said restrictions, covenants, conditions and provisions contained in or established

by this instrument, they shall be entitled to recover from the persons violating said restrictions, covenants, conditions or provisions all their costs and expenses including a reasonable attorneys' fee incurred in connection with such action.

Duration.

All the restrictions, covenants, conditions and provisions hereof shall continue in full force and effect for the term of eighty (80) years after the date hereof, unless sooner terminated as herein provided, and may prior to expiration of said term be extended for successive periods of 10 years by the execution and recordation by the Trustees of an instrument to such effect. All or any of the restrictions, covenants, conditions and provisions hereof may be terminated with respect to all or any of the lots by the execution and recordation by the Trustees of an instrument to such effect.

IN WITNESS WHEREOF the Trustees have executed these presents this 7th day of Navember, 1974.

of the Estate e Pauahi Bishop Trusters

> APPROVED AS TO FORM, CONTENTS & AUTHORIZATION Kean St. Stekill. LEGAL DEPARTMENT

STATE OF HAWAII City and County of Honolulu)

NOV 7 1974

, before me personally

day of On this

Frank E. Midkiss

Richard Lyman, Jr. and

Myron B. Thompson appeared three of the Trustees of the Estate of Bernice Pauahi Bishop, to me known to be the persons described in and who severally executed the foregoing instrument, and severally acknowledged that they executed the same as their free act and deed as such Trustees.

ELVERA BLACK Notary Public, First Judicial Circuit State of Hawaii My Commission expires March 31, 1976

My commission expires:

NOTARY PUBLIC, First Judicial Circuit, State of Hawaii.