

**RULES OF
THE LAND COURT
(SCRU-11-0001089)**

**Adopted and Promulgated by
the Supreme Court
of the State of Hawai‘i**

**December 15, 1989
With Amendments as Noted**

**The Judiciary
State of Hawai‘i**

RULES OF THE LAND COURT

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RULES OF THE LAND COURT

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RULES OF THE LAND COURT

PART I. REGISTRATION IN THE LAND COURT PROPER

Rule 1. OFFICE HOURS; FILING ORIGINAL PAPERS.

The office of the land court shall be open from 7:45 a.m. until 4:30 p.m. every day in the year, except Saturdays, Sundays, legal holidays and furlough days established by law. Papers presented for filing shall be accepted from 8:00 a.m. until 4:00 p.m. Papers may be electronically filed in land court at all hours, except when the Judiciary Information Management System is not in operation for maintenance or other reasons.

(Amended November 6, 2019, effective November 17, 2019.)

Rule 1.1. ELECTRONIC FILING AND CONSTRUCTION OF RULES.

(a) Registration Required. As provided by the Hawai'i Electronic Filing and Service Rules, unless exempted by the court, each attorney representing a party to a case maintained in the Judiciary Information Management System (JIMS) shall register as a Judiciary Electronic Filing and Service (JEFS) User and shall file all documents electronically. A self-represented party may register as a JEFS User for the case in which the self-represented party is a natural person party.

(b) Interpretation. These Rules shall be construed and administered to secure the just, speedy, and inexpensive determination of every action. These Rules shall be read and construed with reference to each other: the Hawai'i Electronic Filing and Service Rules, the Hawai'i Rules of Civil Procedure, the Rules of the Circuit Courts of the State of Hawai'i, and the Hawai'i Court Records Rules. The Rules of the Land Court shall apply unless an issue is not covered by these Rules, in which case the Hawai'i Rules of Civil Procedure and the Rules of the Circuit Courts of the State of Hawai'i shall apply, in this order. To the extent there is any conflict between these Rules and the Hawai'i Court Records Rules or the Hawai'i Electronic Filing and Service Rules, the latter shall prevail.

(c) Effect of Hawai'i Electronic Filing and Service Rules. Documents filed and notices given in accordance with the Hawai'i Electronic Filing and Service Rules shall be deemed to comply with the filing, mailing, certified mailing, notice and service requirements of any part of these Rules.

(d) Effects of automation on processes and procedure. Duties set out in these Rules may be performed by automation.

(e) Definition. All definitions will be interpreted consistently with those of Rule 1 of the Hawai'i Electronic Filing and Service Rules.

(Added November 6, 2019, effective November 17, 2019.)

Rule 1.2. DEFINITIONS.

As used in these Rules unless context requires otherwise:

Assistant Registrar means the registrar of the bureau of conveyances, appointed in accordance with Hawai'i Revised Statutes, Section 502-1, and the registrar's deputy and such other assistants as may be sworn before the judge.

Certificate means a certificate of title showing the owner's name, a description of the land and a summary of encumbrances affecting the land, if any.

File, filed or filing means to accept, maintain and preserve any instrument required to be filed conventionally or electronically.

HRS means Hawai'i Revised Statutes.

Instrument means a document lawfully affecting title or a map that is required by law to be registered, recorded or filed with the land court or the assistant registrar.

Judge means the administrative judge of the circuit court of the First Circuit, civil division, or a judge of the circuit court of the First Circuit assigned by the administrative judge to preside over or dispose of land court matters pursuant to Hawai'i Revised Statutes, Section 501-2.

Land means land, title to which is lawfully registered in the land court.

Record, recorded, or recording means the act of entering into the public records the written instruments affecting title to real property.

(Added November 6, 2019, effective November 17, 2019.)

Rule 2. NUMBERING OF APPLICATIONS; ABBREVIATION OF LAND COURT APPLICATION.

The registrar shall, immediately upon the filing of an original application, assign to the same its appropriate number. The numbers so assigned shall be consecutive, and all papers and maps thereafter filed in any application shall be numbered to correspond with the number assigned to the application in which the same is filed.

In numbering applications whole numbers only shall be used. Alphabetical characters opposite the numbers of applications, such as Land Court Application 400-A and Land Court Application 400-B shall not be used.

The official abbreviation for Land Court Application shall be Ld. Ct. App.

Rule 3. FORM AND STYLE OF DOCUMENTS.

(a) **Form.** All pleadings and documents to be filed in the land court shall be printed or typewritten on unruled white paper 11 inches long by 8-1/2 inches wide. Unless otherwise indicated in these Rules, the margins on all sides of the page shall be 1 inch in which no text or language shall be entered.

(b) **Form of first page.** Unless otherwise indicated in these Rules, all pleadings and documents filed, except forms printed and distributed by the court, shall include on the first page a case caption which shall contain the following information:

(1) The space at the top left of the center of the page shall contain the name, attorney number, office address, email address and telephone number of the attorney for the party on whose behalf the document is filed, and the name of all parties represented by the attorney, or of the party if the party is a natural person appearing without attorney representation;

(2) Other than the information indicated in (1) above, the remainder of the space at the top 3 inches to the right of the center of the page shall be left blank for use of the clerk of the court or the electronic file stamp, seal, certification, or any other automatically affixed mark pursuant to the Hawai'i Electronic Filing and Service Rules;

(3) There shall be centered on the page the name of the court in all capital letters, which shall be located below the above-described 3-inch space at the top of the first page; and

(4) Below the name of the court, the entire caption and application number of the original application for the registration of title to land in the land court shall be stated.

All original applications for the registration of title to land in the land court shall be entitled as follows:

IN THE MATTER OF THE APPLICATION
OF

_____, to register
title to real property.

A solid line under the original application caption shall separate the original application caption from the remainder of the new or current cause caption, as described below.

(5) Below the solid line, in the space to the left of the center of the page, there shall be stated in all capital letters the title of the new or current cause (which title shall include the full names of all of the parties in the initial pleading or document, but thereafter may be appropriately abbreviated);

(6) In the space to the right of the title of the current cause, there shall be listed the court case number;

(7) Below the new land court case number, there shall be listed, in all capital letters, an inventory of the complete title of each document being filed together, separated by a semicolon;

(8) Below the inventory of all documents being filed together, if the document involves or is related to a hearing matter, then it shall indicate, in upper and lower case letters, the hearing date, time, and presiding judge. If the document relates to a nonhearing matter, then it shall indicate substantially in upper and lower case letters the following: "(Nonhearing Petition), as is appropriate."

(9) All captions regarding matters relating to land that is already registered in land court shall appear substantially in the form that is reflected in LD Form C for hearing and nonhearing pleadings and documents and LD Form D for *ex parte* pleadings and documents in the Appendix of Forms.

(c) Two or more pleadings or documents filed together. Where 2 or more pleadings or documents are bound or fastened together and are submitted for conventional filing together as a single pleading or document, only the first page of the first document shall follow all of the requirements of subsection (b), above. Following that, centered below the case caption and above the text of the first of multiple documents to be filed, the title of only the first document shall be typed in all capital letters.

Following that, for each additional document being filed together, the attorney or party identification information at the top left corner of the page need not be included. The complete case caption and application and case numbers shall be included. Under the case number on the right half of the caption, only the title of that document shall be typed in all capital letters. Following that, centered below the complete caption and above the text of the document, shall be typed the title of the document in all capital letters and centered on the page.

For electronically filed documents, the documents shall be filed as separate docket items, pursuant to Rule 2 of the Hawai'i Electronic Filing and Service Rules.

(d) File-mark stamp. Documents electronically filed in the Land Court, which receive the Circuit Court of the First Circuit, State of Hawai'i's seal, certification, signature, or any other automatically affixed mark, shall be deemed filed, sealed, certified, or signed in the Land Court of the State of Hawai'i, as required by statute.

(e) Personal Information. Any personal information as defined in the Hawai'i Court Records Rules which is contained in any pleading or document to be filed with the land court shall be redacted and filed in accordance with the Hawai'i Court Records Rules.

(Amended November 6, 2019, effective November 17, 2019.)

Rule 4. DEPOSITS.

Upon the filing of an original application, the applicant shall deposit with the registrar the sum of \$250.00 to be applied to the fees and expenses payable under the land registration act.

If any surplus remains after the requirements of said act shall have been complied with, it shall be returned to the applicant. If such deposit is not

sufficient to meet such requirements, a further deposit shall be made upon request of the registrar.

All petitions filed subsequent to original registration shall be accompanied by a deposit sufficient to cover the fees and expenses of such petition. The registrar shall determine the amount of such deposit.

Attorneys shall be liable for all fees and costs incurred by or on behalf of their clients.

Rule 5. WITHDRAWAL OF PAPERS.

No abstract of title or map or document filed in the land court may be withdrawn except with the written approval of the judge of the land court upon a receipt form furnished by the registrar.

Rule 6. REQUIREMENTS AS TO ORIGINAL APPLICATIONS.

The application shall be filed in quadruplicate. It shall state on its face the number of blueprints desired and shall be accompanied by an abstract of title. In the absence of such notation, the registrar shall order one blueprint for the applicant. When an application is filed stating therein that the land is subject to an existing unrecorded mortgage or to an unrecorded lease for a term exceeding one year, the original document shall be filed with the application. Unrecorded muniments of title shall be filed with an application together with one certified copy thereof for delivery to the examiner.

Where it is the intent of the applicant to obtain a registered title by proof of adverse possession, he shall aver the same in his application.

Where the application as filed mentions the occupants of the land sought to be registered and the occupants and owners of lands adjoining the land sought to be registered, and other parties in interest as required by law but does not mention their addresses or simply states them as "Honolulu, Hawai'i," the application shall be accompanied by an affidavit stating what search was made to ascertain the correct addresses of such parties.

The application shall set forth all interests or claims affected thereby whether the applicant admits or denies them. If further interests or claims come to the attention of the judge or registrar, additional notices shall be issued, if deemed advisable.

Where an application is amended to include more land than was included in the original

application, the applicant shall file an abstract of title covering the addition. Such abstract shall be referred to an examiner of title for check and report. The applicant may show the addition either by amending the map previously filed or by filing a supplementary map. The map so amended or the map so filed shall be referred to the state land surveyor for check and report.

Amendments to the description in an application after citation issues will be allowed without further citation only when it is proved to the satisfaction of the court that no new interests are involved.

Rule 7. NOTICE OF FILING APPLICATION.

"Notice of Filing Application" shall be filed with the original application.

When the description in an application and map is amended after the notice has been recorded in the office of the registrar of conveyances, the applicant shall file with the registrar of the land court, an amended "Notice of Filing Application," and the said amended notice shall contain a reference to the liber and page of the record of the original notice in the office of the registrar of conveyances. The registrar, after checking the description in the amended notice with the description on the amended map and in the amended application, shall send a copy of the same to the office of the registrar of conveyances.

(Amended November 6, 2019, effective November 17, 2019.)

Rule 8. REQUIREMENTS AS TO ABSTRACTS OF TITLE.

Portions or the whole of abstracts of title on file in the land court may be incorporated by reference in subsequently filed abstracts, and in such case the reference shall set forth a clear identification of the prior abstract, the name of the abstractor, the period covered by the abstract, and the portion of the abstract incorporated if less than the whole.

Where a right-of-way or easement is claimed as appurtenant to a parcel of land sought to be registered, an abstract of title to the servient estate shall be filed with the application unless waived by the court upon cause shown.

Rule 9. SURVEYS, DESCRIPTIONS AND MAPS.

Surveys, descriptions and maps filed in the land court shall be prepared in the manner provided in Part III of these rules.

Rule 10. EXAMINERS OF TITLE.

An examiner of the land court shall file his report in triplicate. He may appear and act as counsel for any applicant for the registration of any title not assigned to him for examination; but as to titles assigned to him for examination, he shall not act as counsel for any party interested or appearing therein.

Where an applicant files original muniments of titles with his application which have been abstracted and contained in the applicant's filed abstract of title, they shall not be delivered to the examiner for check but shall remain with the record.

One month only shall be allowed for the examination of an abstract unless further time shall be allowed by the court on cause shown.

Rule 11. PROOF OF PUBLICATION.

Where by law or by order of court, the publication in a newspaper of any process, notice or order, shall be required, evidence of such publication shall be given by affidavit of the editor, publisher, manager, foreman, clerk or printer of such newspaper, not interested in the application for registration to which such publication relates, to which affidavit shall be attached a copy of such process, notice or order, and which affidavit shall also specify the dates and times when and the newspaper in which the publication was made. And it will also be the duty of the publisher of such process, notice or order, to duly file with the registrar said affidavit before the time fixed for hearing the matter to which the affidavit relates.

Rule 12. NOTICES.

The citation shall be filed and the filing attorney or party shall thereupon examine the application, the examiner's report, the map and all papers filed with the record to see that all persons interested in any way in the title have been properly included in the citation. After thus checking it, the filing attorney or party shall file the original with the record which shall be entitled "Original Citation" and the filing attorney or party shall send a copy to the newspaper

designated to publish the same. A copy of the citation as printed shall be filed in the record and be marked "Printed Citation." Any corrections made by the filing attorney or party on the copy sent to the publisher shall also be noted on the original filed with the record. The description of the property sought to be registered contained in the citation shall be the correct description as found by the surveyor as given in his final report.

All citations and other notices ordered to be published by the court shall be published once in each of 3 consecutive weeks (3 insertions). The date of the hearing shall be determined by the registrar and inserted in the citation before sending it to the newspaper.

Notices by mail shall be by registered letter as provided for by statute and a return receipt shall be required in all cases; but in mailing such notices, the registrar may require that the return receipt be signed by the addressee only.

Notices generated electronically shall have the same effect and power as notices by registered letter as provided for by statute and the Hawai'i Electronic Filing and Service Rules.

Whenever, in any case, a notice given in accordance with the land registration act or the general forms of procedure or otherwise is held by the court to be insufficient, it may order such further notice as the case requires.

(Amended November 6, 2019, effective November 17, 2019.)

Rule 13. PETITIONS AND ORDERS OF AMENDMENT.

Petitions to amend maps and orders thereon, and petitions to amend applications where a corresponding change on the map is necessary and orders thereon shall be filed electronically or conventionally, if the petitioner is not required or qualified to file electronically.

(Amended November 6, 2019, effective November 17, 2019.)

Rule 14. NOTATION OF ENCUMBRANCES.

All encumbrances shall be set forth in detail in the final decree and not by reference to other documents.

Encumbrances may be noted on transfer certificates of title by reference, only when the document referred to is on file in the office of the assistant registrar of the land court.

Rule 15. SUBDIVISIONS.

(1) A petition for the subdivision of land or for the consolidation of lots of a previous subdivision or for the designation of an easement or matters of a like nature shall be filed in duplicate and shall be signed and sworn to by the person in whose name the certificate of title has issued or by his attorney or by an agent duly authorized by him. In the latter case, the power of attorney of the agent must be filed with the petition. A map shall be filed with each petition. Leases, mortgages and similar encumbrances need not be noted or referred to if all lots in the subdivision are affected. When any of the encumbrances affects one or more but not all of the lots created by such subdivision and it is desired to confine such encumbrance or encumbrances to the lot or lots affected, the petition shall clearly set forth the lot or lots affected.

(2) Where land is held in undivided interests by co-owners, no single co-owner shall subdivide the land, except with the written consent of the other owners.

(3) The words "subdivision" and "re-subdivision" shall not be used interchangeably, one for the other, but shall be employed only in their strict grammatical sense. Two or more contiguous lots or parcels of land in the same application may be consolidated and re-subdivided into lots having other dimensions and areas, in the same petition; provided that the total area of the first set of lots and the total area of the newly created lots shall be the same.

(4) A petition for subdivision, or the map accompanying it, shall evidence any necessary approval by county agencies. (See Rule 104 of these rules.)

(5) A copy of the petition, the map, and the certificate of title shall by order of court be transmitted to the state land surveyor for check and report. Upon receipt of the return and report of the state land surveyor and completion by the petitioner

of the additional things to be done, if any, an "Order of Subdivision" shall issue under the seal of the court, which order shall reflect all changes caused by the subdivision, in encumbrances, reservations, restrictions or otherwise. The map of the subdivision shall also be endorsed as follows: "Authorized and approved by order of the Judge of the Land Court dated _____. By Order of the Court" and be signed by the registrar of the land court.

(6) After approval by the judge of the land court, a subdivision map may not be altered either by adding other matters thereto or deleting therefrom any writings recorded thereon. Any change relating to land delineated on a map previously approved may only be registered by the filing of a new petition and map.

(7) Exceptions to the foregoing Rule 15 [sic] may be made at any time by order of the court upon good cause being shown therefor.

Rule 16. NOTICE TO ATTORNEYS.

(a) Changing attorney. If a party shall change the party's attorney, pending any proceeding, the name of the new attorney shall be substituted on the docket for that of the former attorney, and notice thereof given to any adverse party; and until such notice of the change of an attorney, all notices given to or by the former attorney shall be considered in all respects as notice to or from the attorney's client, except in cases in which by law the notice is required to be given to the party personally; provided, however, that nothing in these Rules shall be construed to prevent any party who is a natural person from appearing without attorney representation in the manner provided by law.

(b) Parties appearing without attorney representation. In cases where a natural person party appears in a case without attorney representation, the natural person party so appearing shall be subject to the same rules and requirements that are or may be provided for attorneys in like cases, so far as the same are applicable.

(Amended November 6, 2019, effective November 17, 2019.)

Rule 17. DEPOSITIONS AND DISCOVERY.

Depositions and discovery in land court shall be governed by the Rules of the Circuit Courts of the State of Hawai'i and the Hawai'i Rules of Civil Procedure except that in any proceeding: (1) the land court may, by order, direct that Chapter V of the Hawai'i Rules of Civil Procedure shall not be applicable to the proceeding if the court for good cause finds that the application thereof would not be feasible or would work an injustice; and (2) if the proceeding be *ex parte* any deposition therein upon oral examination or upon written interrogatories shall be pursuant to motion and order of court, rather than pursuant to notice as set forth in subdivision (a) of Rule 30 or subdivision (a) of Rule 31 of the Hawai'i Rules of Civil Procedure, and in any such case the order of court shall, for all purposes relating to said Chapter V, take the place of said notice.

Any subpoenas for use in land court shall be governed by Rule 45 of the Hawai'i Rules of Civil Procedure.

(Amended November 6, 2019, effective November 17, 2019.)

Rule 18. RESERVED.

Rule 19. DEPOSITION TRANSCRIPTS, HOW FILED AND DISPOSED OF.

All deposition transcripts submitted electronically will be subject to the Hawai'i Rules of Civil Procedure and Hawai'i Electronic Filing and Service Rules. All parties required or qualified to file documents electronically, who wish to have deposition testimony entered into the record when the transcript is actually used as testimony (other than as an exhibit in another document) shall electronically file with the land court such deposition transcript or portions of the transcript. All conventionally submitted deposition transcripts may be electronically scanned and filed to the case docket by the registrar when appropriately received. The registrar may require any deposition transcript conventionally submitted to be submitted in electronic form. The deposition transcript shall afterwards be in the registrar's custody, subject to the order of the court and the Hawai'i Court Records Rules, as other documents in the case.

(a) A deposition transcript will generally not be filed with the court, except if any portion of the transcript is used as testimony during an evidentiary hearing. The deposition transcript cannot be filed before the evidentiary hearing. The entire testimony from a deposition transcript shall be electronically filed with the court by the attorney using deposition testimony no later than 48 hours after its actual use; provided that a party who is a natural person party and is not required or qualified to file documents electronically may conventionally submit to the registrar such deposition testimony within the same time period.

(b) If the deposition testimony is not read into the record at the evidentiary hearing by the party taking it, it may be used by any other party, if the other party see fit, to the same extent that it could be used by the other party if the other party had taken it and paid the cost of taking the same. If the non-noticing party uses the deposition transcript, the deposition transcript shall be electronically filed with the court in accordance with section (a), above.

(Amended November 6, 2019, effective November 17, 2019.)

Rule 20. MASTERS.

(a) **Appointment and Compensation.** The land court may appoint special masters. As used in these Rules, the word “master” includes a referee, an auditor, an examiner, or an assessor. The compensation to be allowed to a master shall be fixed by the court, and shall be charged upon such of the parties or paid out of any fund or subject matter of the action, which is in the custody and control of the court, as the court may direct. The master shall not retain the report for compensation; but when the party ordered to pay the compensation allowed by the court does not pay it after notice and within the time prescribed by the court, the master is entitled to a writ of execution against the delinquent party.

(b) **Hearing Before Master.** When any matter shall be referred to a master, the master shall assign a time and place for hearing which shall not be less than 10 days thereafter; and the party in whose behalf the reference is made shall serve the adverse party, at least 7 days before the time appointed for the hearing, with a summons, or such other notice as may be ordered by the court, requiring the adverse party’s attendance at such time and place, and make

proof thereof to the master; and thereupon, if the adverse party summoned shall not appear to show cause to the contrary, the master may proceed *ex parte*; and if the party obtaining the reference shall not appear at the time or place or show cause why the party does not, the master may proceed *ex parte*.

(Amended November 6, 2019, effective November 17, 2019.)

Rule 21. PROCEDURE BEFORE MASTER.

When the master has prepared a draft copy of his report, he shall notify the parties or their attorneys of the time and place, when and where they may attend to hear the same, and suggest such alterations, if any, as they may think proper; upon consideration whereof, the master will finally settle the draft of his report, and give notice thereof to the parties or their attorneys, whereupon, after examining the same, or being furnished with a copy thereof, if they so request, and pay the usual fees therefor, five days shall be allowed for bringing in written objections thereto, which objections, if any, shall be appended to the report. No exception to a master's report will be allowed without a special order of the court unless founded upon an objection made before the master, and shown by his report, and unless filed with the registrar within fourteen days from the filing of the report. Notice of the filing of a master's report shall be forthwith sent by the registrar to each party or his attorney.

Rule 22. EXCEPTIONS TO MASTER'S REPORT.

When exceptions shall be taken to the report of a master, they shall be filed with the registrar, and notice thereof shall forthwith be given to the adverse party; and the exceptions shall then be set down for argument. In every case the exceptions shall briefly and clearly specify the matter excepted to, and the cause thereof, and the exceptions shall not be valid as to any matter not so specified.

Rule 23. RESERVED.

Rule 24. RESERVED.

**Rule 25. ANSWERS AND PLEADINGS
SUBSEQUENT TO ORIGINAL
APPLICATION; MOTIONS TO SET;
DISCLAIMERS; REQUIREMENTS
AS TO LAND COURT ORDERS.**

Answers and pleadings that are submitted after an original application, and motions to set a hearing, shall not be accepted by the registrar from a self-represented party unless the document includes a notation that appropriate service has been made on all other attorneys and self-represented parties in the case. The notation shall be made

(1) on said document and signed by either the wet-ink signature or electronic signature of the self-represented party who is filing the document or

(2) by attaching a certificate of service from an attorney or other appropriate individual that proper service or delivery of the document has been made.

Motions to set and other hearing matters will be heard only upon 48 hours written notice to the adverse party unless time is shortened by court order. If time is shortened, the movant shall serve all parties in the most expeditious and effective manner as practicable.

All disclaimers filed in proceedings for original registration shall be sworn to and the identity of the disclaiming party established by the signature of counsel or acknowledged before a notary public.

All proposed written orders to be entered in the land court following a hearing shall first be presented to all parties for approval as to form in accordance with Rule 23 of the Rules of the Circuit Courts of the State of Hawai'i. Thereafter, the proposed order shall be conventionally submitted to the registrar or electronically submitted through JEFS to be presented to the judge for consideration and execution.

(Amended November 6, 2019, effective November 17, 2019; further amended February 18, 2020, effective July 1, 2020.)

**Rule 26. REGISTRATION OF TITLE TO
ACCRETION; CORRECTIONS TO
REFLECT EROSION.**

Any owner of a lot or tract of land registered in the land court bounded by the sea may personally or by someone duly authorized on the owner's behalf seek to register title to the natural accretion thereto

and/or may seek to have the oceanfront boundary corrected to reflect erosion by filing a petition that substantially complies with LD Form D, as shown in the Appendix of Forms and submitting the petition electronically, or conventionally if the petitioner is not required or qualified to file electronically, in the following form below:

COMES NOW _____
and respectfully shows:

That said natural person petitioner is the owner of Lot _____ of the above Application covered by Transfer Certificate of Title No. _____, and that since the title to said lot was originally registered there has been a gradual and natural accretion to said lot [and/or there has been natural erosion to the lot] so that the boundary along high-water mark as of _____ is as shown on the map prepared by _____, and filed herewith.

That no other person has any interest in the said accretion, and that the following named are all the adjoining owners, the location of whose lands in reference to the said accretion [and/or erosion] is as shown by map attached hereto:

(Names and addresses)

WHEREFORE, it is prayed that said map be referred to the state land surveyor for check and report, that notice of this petition be served on the Attorney General and all adjoining owners and any others the Court map deem necessary and proper to be served, and that upon approval of the map by the said surveyor and due proof of matters contained herein, the Court adjudge the petitioner to be the owner of said accretion [and/or decree correction of the oceanfront boundary to reflect erosion], approve said map and order the Assistant Registrar of the Land Court to endorse on said Certificate a

memorandum of the Decree so adjudging and approving said map.

DATE: (etc.)
(OATH) (Signature)

Said petition shall be signed by the petitioner’s counsel, or by the petitioner if the petitioner is self-represented or by someone duly authorized on the petitioner’s behalf.

The petition shall be accompanied by a map.

Sufficient copies of the petition and map shall be filed to serve copies thereof on the state land surveyor, the attorney general and all of the adjoining owners and any other party which the petition may show to be interested.

Upon filing of the petition, the registrar shall forward a certified copy thereof and the map to the state land surveyor, who shall check the accretion and/or erosion on the ground. The state land surveyor shall, in addition to making the usual return on the accuracy of the map, report to the court whether, in the state land surveyor’s opinion, the accretion and/or erosion is or is not natural accretion and/or erosion. The state land surveyor shall transmit to the attorney general a copy of the state land surveyor’s return to the court.

After the return of the survey has been filed with the court, the registrar shall serve certified copies of the petition and map upon the attorney general, the adjoining owners and such other parties as the court may deem to be interested.

Such service shall be by registered mail or electronic mail if the receiving party has previously consented with return receipt requested or by personal service if the court so directs. The return date shall be not less than 1 week in case of personal service and not less than 2 weeks in case of service by mail.

In lieu of service, the petitioner may secure and file written disclaimers from the attorney general and the adjoining owners or

they may join in the petition waiving notice.

Where notices have been served and a return date set and no answers have been filed or appearances noted before or on said return date, the court may enter a general default and immediately file the court’s decision if the surveyor has filed a return recommending the registration of said accretion and/or correction of oceanfront boundary.

Where appearances have been noted, the court will grant persons so appearing a reasonable time within which to file an answer. When answers have been filed, the court shall set the case for speedy disposition.

Where the court grants such petition on the record, the court’s decision and decree shall be in substantially the following form:

FINDINGS OF FACT AND DECISION

The records show that the petition of _____ for registration of title to accretion to Lot _____ and/or correction of boundary to reflect erosion of Lot _____, as shown on Map _____ of the above application, being the lot, or one of the lots, described in Certificate of Title _____ issued to the petitioner, was filed on _____, 20____, and it, together with the map showing such accretion and/or erosion filed with said petition, was referred to the State Land Surveyor, who has approved said map and found said accretion and/or erosion to be natural; that due notices were served on the Attorney General, the adjoining owners and all other interested parties as required by law and the rules of this Court and that no answers have been filed or appearances noted; therefore the Court finds:

(1) That the high-water mark which is the seaward boundary of said lot as of _____, 20____ the date of the map filed with said petition, is as shown on said map, and that said lot together with said accretion or reflecting said erosion has been designated as said new Lot _____;

(2) That the change in location of the seaward boundary has been due entirely to natural accretion or erosion of said original lot on the seaward side;

(3) That the petitioner is the owner of said new Lot _____. A decree shall be entered in conformity herewith and the Assistant Registrar of this Court is authorized and directed to endorse on said certificate of title a reference to said decree.

DATED: Honolulu, Hawai'i, _____, 20____.

Judge of the Land Court
of the State of Hawai'i

DECREE

In conformity with the Decision entered herein on _____, 20____, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

(1) The map of new Lot _____ of the above application be and the same is hereby approved;

(2) The high-water mark, being the seaward boundary of said new Lot _____, as of _____, 20____, is as shown on said map;

(3) _____, the petitioner herein, is the owner of said new lot as shown on said map;

(4) The Assistant Registrar of the Land Court is hereby authorized and directed to endorse on said certificate of title a reference to this decree and to said map.

DATED: Honolulu, Hawai'i, _____, 20____.

Registrar of the Land Court

The decree shall be filed in triplicate with the registrar who shall immediately transmit a certified copy thereof and the map filed with the petition to the state land surveyor who shall thereupon place on the map the following certificate:

I hereby certify that Decree re-establishing high-water mark as of _____, 20____, of new Lot _____ of the herein application has been noted on Owner's Transfer Certificate of Title No. _____.

DATED: Honolulu, Hawai'i, _____, 20____.

Registrar of the Land Court

Upon procuring the signature of the registrar thereto, the surveyor shall forward the map with the surveyor's return to the court, together with as many prints as may be required. The registrar shall thereupon transmit a certified copy of the decree, the transfer certificate of title, the map and one print thereof to the assistant registrar of the land court for compliance with said decree.

(Amended November 6, 2019, effective November 19, 2019.)

Rule 27. LAND COURT CONSOLIDATIONS.

An owner of two or more contiguous or adjacent lots, as defined in HRS § 501-85, covered by two or more separate land court applications, may combine them by filing a petition therefor, which shall be called a Land Court Consolidation, and be numbered consecutively in the same manner as original land court applications in accordance with Rule 2 of these rules. Such petition shall be accompanied by a map prepared in accordance with Rule 106 of Part III of these rules. On approval a new certificate of title shall be issued covering the area consolidated.

Rule 28. to 50. RESERVED.

PART II. RECORDATION OF INSTRUMENTS AND ENTRY OF CERTIFICATES OF TITLE

Rule 51. PURPOSE AND APPLICABILITY.

The purpose of this Part is to regulate the recordation of instruments required to be registered in the office of the assistant registrar and the entry of certificates of title by the assistant registrar.

This Part shall apply to all persons recording instruments in the office of the assistant registrar.

Rule 52. DEFINITIONS.

As used in this Part unless context requires otherwise:

"Assistant Registrar" means the registrar in the bureau of conveyances, department of land and natural resources, and the registrar's deputy and such other assistants as may be sworn before the judge.

"Certificate" means a certificate of title showing the owner's name, a description of the land and a summary of encumbrances affecting the land, if any.

"File," "filed" or "filing" means to accept, maintain and preserve any instrument required to be filed.

"HRS" means Hawai'i Revised Statutes.

"Instrument" means a document or map required to be registered, recorded or filed.

"Judge" means the administrative judge of the circuit court of the first circuit, civil division, or a judge of the circuit court of the first circuit assigned by the administrative judge to hear land court matters pursuant to HRS § 501-2.

"Land" means land, title to which is registered in the land court.

"Record," "recorded," "recordation," or "recording" means to make an entire literal copy of any instrument presented for registration.

Rule 53. HOURS OF RECORDATION.

The office of the assistant registrar shall be open from 7:45 a.m. until 4:30 p.m. every day of the year, except on Saturdays, Sundays and holidays established by law, but instruments shall only be recorded between 8:00 a.m. and 3:29 p.m. Every instrument presented for recordation shall be examined for recordation by the assistant registrar in the order it is presented for that purpose and if the

instrument is entitled by law to be recorded, shall be recorded:

(1) At 8:01 a.m. if the instrument was presented to the assistant registrar before 8:01 a.m.;

(2) As of the time it is accepted by the assistant registrar;

(3) At 8:01 a.m. the next day the assistant registrar's office is open if the person requesting recordation so requests;

(4) At 8:01 a.m. the next day the assistant registrar's office is open if the instrument was presented after 3:29 p.m.; or

(5) On the date and at a time between 8:01 a.m. and 3:29 p.m. pursuant to the terms contained in any written agreement with the assistant registrar relating to prechecking and recordation of instruments.

Rule 54. RECORD OF DISPOSITION OF APPLICATIONS FOR REGISTRATION.

As soon as an application for registration of title is disposed of, the registrar shall make a memorandum stating the disposition of the case and shall send the same to the assistant registrar, who shall record and index it with the records of deeds in the bureau of conveyances, and in the index of applications. If the proceedings upon the application end in a decree of registration of title, the land included therein shall become registered land. Thereafter instruments relating to such land shall be recorded and indexed with the records and documents relating to registered land, and shall not be recorded with the records of deeds relating to unregistered land except to the extent that such instruments also involve unregistered land.

Rule 55. TRANSCRIPTION OF DECREE IN REGISTRY; CERTIFICATE OF TITLE.

Immediately upon the entry of the decree of registration, the registrar shall send a certified copy thereof, under the seal of the court, to the assistant registrar in the bureau of conveyances, who shall transcribe the decree in a book to be called the registration book, in which a leaf or leaves in consecutive order shall be devoted exclusively to each title. The entry made by the assistant registrar in this book in each case shall be the original certificate and shall be signed by the registrar and sealed with the seal of the court. All certificates shall be numbered consecutively, beginning with number one.

Rule 56. MATTERS NOT COVERED BY THESE RULES.

HRS chapter 501 and other applicable chapters shall govern matters relating to recordation and registration not covered by these rules.

Rule 57. RESERVED.**Rule 58. VOLUNTARY DEALING WITH LANDS.**

The assistant registrar shall not record any deed, mortgage or other voluntary instrument unless the deed is signed by the grantor, and if applicable, the grantee in such deed, the mortgage is signed by the mortgagor, or the other voluntary instrument is signed by the party or parties to such instrument, which signature or signatures must be either wet-ink or electronic (as permitted by Hawai'i Administrative Rules Chapter 13-16), and:

(1) It contains or has indorsed upon it the full name(s) or name(s) of the grantee(s) or other person(s) acquiring or claiming an interest under the instrument, marital status and, if married, the full name(s) of the spouse(s), and the address of the grantee(s) or other person(s) acquiring or claiming an interest under the instrument;

(2) The assistant registrar has verified the existence and good standing of any grantee, assignee, lessee or mortgagee which is a corporation, partnership, limited liability partnership, limited liability company, or other legal entity incorporated or organized in the state; or there is presented as to any grantee, assignee, lessee or mortgagee which is

a foreign corporation, partnership, limited liability partnership, limited liability company or other legal entity: (a) evidence that such foreign entity is registered to do business and in good standing in the state; or (b) evidence in the form of a certification issued by the government official or agency with jurisdiction over the registration of the entity in the state or country of incorporation or organization, or an opinion of counsel, that such foreign entity is in good standing in its state or country of incorporation or organization. Evidence must include the date of incorporation or organization of the foreign entity. For the purposes of this subsection (b), such evidence will not be accepted by the assistant registrar more than 1 year after the last anniversary of the date of incorporation or organization of the entity.

(3) It contains a reference to the proper number of the certificate affected or, in the case of documents recorded concurrently with the deed or other instrument conveying a fee simple interest, a space is provided for the assistant registrar to write, type or otherwise include the proper number of the new certificate of title;

(4) Except as otherwise provided by Hawai'i Revised Statutes, Sections 502-50 to 502-52, there is indorsed, subjoined or attached thereto a certificate of acknowledgment in the form provided or authorized in any of Hawai'i Revised Statutes, Sections 502-41, 502-42, 502-43, 502-45 or 502-47 and Hawai'i Administrative Rules Chapter 5-11;

(5) Every notary public to the instrument places the notary's initials in the margin of the instrument opposite each interlineation, erasure, or change contained in the instrument, if any; and

(6) The instrument can be reproduced legibly under photographic or electrostatic methods, is of a size not larger than 8-1/2 inches by 11 inches, and does not contain any exhibit having sheets in excess of such size.

In addition:

(7) On all instruments to be recorded, the top 3-1/2 inches of space of the first page shall be reserved for recording information for the assistant registrar on the left half of that space, and for the registrar of conveyances on the right half of that space. The following 1 inch of space shall be reserved for information showing to whom the documents should be returned. (*See* Rule 67 of these

Rules for the form of the first page of a document.) Each instrument shall be stapled once in the upper left-hand corner and shall not have a cover or backer attached. Nonconforming documents may have a fly sheet that conforms with Rule 58.5 of these Rules. Any document recorded in the office of the assistant registrar shall contain a reference to the number(s) of the certificate of title of the land affected, which may be accomplished by endorsement on a conforming fly sheet, as provided by Hawai'i Revised Statutes, Section 501-108(b); and

(8) All names of signatories in the instrument must be typewritten, stamped or manually or electronically printed beneath all signatures. No discrepancy in the name shall exist between the printed name as it appears in the body of the instrument, beneath the signature, and in the notary's certificate of acknowledgment. The provisions of this paragraph shall not apply to any deed or conveyance instrument executed prior to January 1, 1990.

(Amended October 6, 1998, effective November 6, 1998; further amended December 21, 2016, effective January 1, 2017; further amended November 6, 2019, effective November 17, 2019.)

Rule 58.5. FLY SHEET; DEFINITION AND PURPOSE.

A fly sheet is a single sheet of paper affixed onto the first page of a voluntary instrument covered by Rule 58 of these Rules or an involuntary instrument covered by Rule 62(a) to 62(d) of these Rules to be recorded in the bureau of conveyances or office of the assistant registrar of the land court. The fly sheet is counted as a page in the page count of the instrument, but except for the information required or permitted to be shown on the fly sheet by statute or rule the fly sheet shall not be considered a part of the instrument itself and the instrument shall control in the event of any inconsistency. Except as specifically permitted by this Rule, a fly sheet may not be used to change, correct or add to any information that is not otherwise contained in the instrument being presented for recordation.

Any indorsement permitted by statute or by these rules shall be stated only on a fly sheet in conformance with this Rule.

(a) Form. A fly sheet shall be 8 ½ inches by 11 inches in size with printing on only one side. The fly sheet shall conform to the format and information

requirements of Hawai'i Revised Statutes §§ 501-108, 502-31; Haw. Admin. Rule 13-16-4; and Rules 3 and 58(7) of the Rules of the Land Court:

(1) the top 3 ½ inches of space shall be reserved for recording information for the assistant registrar on the left half of that space and for the registrar of conveyances on the right half of that space; and

(2) the following 1 inch of space shall be reserved for information indicating to whom the instrument should be returned. A suggested, but not required, form of a fly sheet is appended to the Appendix of Forms of these Rules as Form LD Form B.

(b) Other Information Permitted to be Shown on a Fly Sheet.

Provided that the instrument itself shall control in the event of any inconsistency, the following information is permitted to be shown on a fly sheet:

(1) the name, address, and telephone number of the person to whom the instrument should be returned; this information shall be included within the 1 inch space described above;

(2) the total number of pages of the instrument including the fly sheet;

(3) if an instrument contains an abbreviation or abbreviations of an initial or initials in place of the first or middle names(s) of an individual who is a party to the instrument, the full legal name of the individual may be stated on the fly sheet by spelling out the name designated by the abbreviation or initial. No name may be added by indorsement on the fly sheet if there is no abbreviation or initial designated in the instrument, and no name may be added or changed by indorsement on the fly sheet if the abbreviation or initial contained in the instrument is incomplete or incorrect;

(4) the fly sheet shall not be used to clarify or add any portion of a name of a corporation, partnership, limited liability company, or other legal entity which is a party to the instrument;

(5) if no marital status is contained in the instrument for any party to the instrument, the party's marital status may be specified for that party. A marital status that is contained in the instrument may not be changed by indorsement on the fly sheet;

(6) if the instrument does not contain the state or jurisdiction of incorporation or organization of a corporation, partnership, limited liability company, or other legal entity which is a party to the instrument, it may be added by indorsement on the fly sheet if authoritative verification of the information is submitted to the Assistant Registrar by way of evidence of good standing which meets the requirements of Rule 58(2) of these Rules;

(7) if the certificate number contained in the instrument is not current, then the current certificate of title number shall be stated by indorsement on the fly sheet; and

(8) the current address of a grantee, assignee, or transferee.

(Adopted December 21, 2016, effective January 1, 2017.)

Rule 59. ENTRY OF NEW CERTIFICATE.

The assistant registrar shall enter a new certificate upon any transfer of an estate in fee simple from the owner or some of the registered owners. All interests in registered land less than an estate in fee simple shall be registered by recording with the assistant registrar the instrument creating or transferring or claiming such interest, and by a brief memorandum thereof made by the assistant registrar upon the certificate. When land is transferred in fee, the grantor or grantee may record the instrument of transfer with the assistant registrar. The assistant registrar shall thereupon, in accordance with the rules and instructions of the court, enter a new certificate in the name of the grantee, and upon certification by the assistant registrar, a certification date shall be noted on the certificate. Any outstanding duplicate certificate shall be surrendered, and the word "canceled" stamped upon it. The instrument of conveyance shall be indorsed with the number of the certificate of the land conveyed, provided that the assistant registrar may limit the number of lots covered by any one certificate. A new certificate shall be entered in the following cases:

(a) Conveyance of Fee. When an owner desiring to convey in fee registered land or any

portion thereof executes a deed of conveyance, made in compliance with this Part, which the owner or the grantee records with the assistant registrar;

(b) Portion of Registered Fee. When a deed in fee is for part only of the land described in a certificate, the assistant registrar may enter a new certificate to the grantor for the part of the land not included in the deed, or enter on the grantor's certificate a memorandum of the deed of transfer;

(c) Foreclosure by Action. When a certified copy of the final judgment of the circuit court confirming the sale which contains the proper number of the certificate affected and also contains or has endorsed upon it a full memorandum of all encumbrances affecting the land, if any, or a statement that there are no outstanding encumbrances affecting the land, is recorded with the assistant registrar, pursuant to Hawai'i Revised Statutes, Section 667-1.5;

(d) Foreclosure Under Power of Sale. When the affidavit required by Hawai'i Revised Statutes, Section 667-32 is recorded with the assistant registrar pursuant to Hawai'i Revised Statutes, Section 667-33, and the purchaser records the conveyance document pursuant to Hawai'i Revised Statutes, Section 667-33, and such conveyance document contains the proper number of the certificate of the land affected and also contains or has endorsed upon it a full memorandum of all encumbrances affecting the land, if any, or a statement that there are no outstanding encumbrances affecting the land, under the power of sale;

(e) Subdivisions. When land is subdivided or when 2 or more parcels of land are consolidated, or consolidated and resubdivided, a new certificate will be entered when the assistant registrar (at the request of the owner) determines that such would be clearer, but not otherwise;

(f) New Trustee. When a new or successor trustee is appointed by any court or otherwise, provided that the assistant registrar may, instead of entering a new certificate to a new or successor trustee, make a memorandum of such appointment on the certificate issued in the name of the existing or prior trustee;

(g) Enforcement of Lien. When land has been sold on any execution, or taken or sold for the enforcement of any lien of any description, the person claiming under an execution or under any

deed or other instrument made in the course of proceedings to levy the execution or enforce the lien, petitions the court for the entry of a new certificate and the petition is granted;

(h) Bankruptcy Proceedings. When a trustee in bankruptcy records a certified copy of either the petition in bankruptcy (the schedules may be omitted), or the decree of adjudication of bankruptcy, or the order approving the trustee's bond which contains the proper number of the certificate affected and also contains or has endorsed upon it a full memorandum of all encumbrances affecting the land, if any, or a statement that there are no outstanding encumbrances affecting the land, the new certificate shall state that it is issued to the trustee in bankruptcy;

(i) Descent and Devise, Testate. When the owner of registered land dies having devised the same by will and the person or persons entitled thereto records with the assistant registrar a correct statement containing the full names of the devisees, the devisees' addresses, marital status, and, if married, the full names of the devisees' spouses, and a reference to the number of the certificate affected, and records a certified copy of the will, a certified copy of an order of the circuit court admitting it to probate or a certified copy of the written statement of the registrar of the circuit court admitting it to informal probate, and a certified copy of an order of the circuit court determining the persons entitled to distribution of the land;

(j) Descent and Devise, Intestate. When the owner of registered land dies not having devised the same by will, the person or persons entitled thereto records with the assistant registrar a correct statement signed by the person's attorney of record and containing the full names of the heirs, the heirs' addresses, marital status, and, if married, the full names of the heirs' spouses and a reference to the number of the certificate affected, and records a certified copy of the judgment of the circuit court determining the heirs or a certified copy of an order of the circuit court determining the persons entitled to distribution of the land;

(k) Personal Representative's Deed.

(1) Upon recordation of a conveyance document executed by a personal representative to heirs and devisees who are entitled to the estate in accordance

with the terms of the probated will or the laws of intestate succession;

(2) Upon recordation of a conveyance document executed by a personal representative if the personal representative is authorized by the terms of any will to grant, bargain, sell, convey, mortgage, or otherwise deal with the land, before any instrument executed by the personal representative, pursuant to such authority, is recorded with the assistant registrar, there shall be first recorded a certified copy of the order of the circuit court admitting the same to probate or a certified copy of the written statement of the registrar of the circuit court admitting it to informal probate, and a certified copy of the letters, on which shall be listed all orders of the circuit court relating to the personal representative's authority to grant, bargain, sell, convey, mortgage, lease or otherwise deal with the property and a certified copy of each such order;

(l) Eminent Domain. Whenever any land is taken by eminent domain, the state or body politic or corporate or other authority exercising the right shall record with the assistant registrar a description of the land so taken, giving the name of each owner thereof and referring by number to each certificate affected. A new certificate may be issued in the name of the owner for the land remaining to the owner after the taking;

(m) Reverter of Land. When for any reason, by operation of law, land which was taken for a public use reverts to the owner from whom it was taken or to the owner's heirs or assigns, the court, upon the petition of the person entitled to the benefit of reversion, after notice and hearing, shall order the entry of the new certificate in the owner's name;

(n) Discharge of Proceedings in Bankruptcy. If a new certificate has been entered to the trustee in bankruptcy, the debtor is entitled to the entry of a new certificate in the owner's name, the court of bankruptcy orders a reconveyance of land to the debtor, and a certified copy of the order or decree is recorded;

(o) Conveyance of Real Property Upon Merger or Consolidation of Corporations or Other Entities. Whenever any domestic or foreign corporation, limited liability company or other entity having any real property in the state merges or consolidates with another domestic or foreign corporation, limited liability company or other entity, and a certified copy of the merger or consolidation agreement, referring by number to each certificate of title affected, together with a certificate of any duly authorized official of the jurisdiction under the laws of which the surviving or consolidated corporation, limited liability company or other entity is organized, that the merger or consolidation has been effected in accordance with the laws of the jurisdiction, is recorded; and

(p) Partition. When, after the entry of the final judgment of partition and the acceptance of the report of the commissioners, if any, a certified copy of the judgment and of the return of the commissioners, referring by number to each certificate of title affected, is recorded with the assistant registrar, if the land is ordered by the court to be sold, the purchaser or the purchaser's assigns may present the deed of the commissioners for recordation; provided that any new certificate entered in pursuance of partition proceedings, whether by way of set-off or of sale, shall contain a reference to the final judgment of partition. The certificate's conclusive effect as to title shall be as provided by law (*see* Hawai'i Revised Statutes, Section 501-156).

(Amended November 6, 2019, effective November 17, 2019.)

Rule 60. ENTRY BOOK; CERTIFIED COPIES.

The assistant registrar shall keep a record in which the assistant registrar shall enter in the order of reception all deeds and other voluntary and involuntary instruments recorded with the assistant registrar relating to registered land. The assistant registrar shall note in the record the year, month and day of reception of all instruments, in the order in which such instruments are received. Each instrument shall be regarded as registered or recorded from the date when the new certificate of title generated by that instrument is entered by the assistant registrar and the memorandum of each

instrument when made on the certificate to which it refers shall bear the same date. Every instrument so recorded with the assistant registrar shall be numbered and indexed, and indorsed with a reference to the proper certificate of title. All records and papers relating to registered land in the office of the assistant registrar shall be open to the public, subject to such reasonable regulations as the assistant registrar, under the direction of the court, may make. Certified copies of all instruments recorded with the assistant registrar may be obtained at any time on payment of the assistant registrar's fees.

(Amended November 6, 2019, effective November 17, 2019.)

Rule 61. TRANSFER IN TRUST; PROCEDURE; POWERS TO BE NOTED ON CERTIFICATE.

(a) Whenever any instrument is recorded for the purpose of transferring land in trust, or for the purpose of creating or declaring a trust in land without transfer, the particulars of the trust shall not be entered on the certificate; but a memorandum thereon shall be entered by the words "in trust," and by a reference by number to the instrument authorizing or creating the same. If the instrument creating or declaring a trust is already recorded in the bureau of conveyances or admitted to probate, or any order of a federal court creating or declaring a trust in real property has been made, a certified copy may be recorded by the assistant registrar.

(b) If the instrument creating or declaring a trust contains an express power to sell, mortgage, or deal with the land in any manner, the power shall be stated in the certificate. No instrument transferring, mortgaging, or in any way dealing with land held in trust shall be recorded, unless the power thereto enabling is expressly conferred in the instrument of trust, or unless the judgment of a court of competent jurisdiction has construed the instrument in favor of the power, in which case a certified copy of the judgment shall be recorded with the assistant registrar. If a trust instrument is recorded, then it shall be indexed in the records of the assistant registrar and shall not require a reference to a Certificate of Title Number.

(Amended November 6, 2019, effective November 17, 2019.)

Rule 62. FILING LIENS, ETC.

A lien, attachment, order, decree, or other involuntary instrument which contains or has indorsed upon a fly sheet conforming to Rule 58.5 of these Rules a reference to the proper number of the certificate affected may be recorded in the office of the assistant registrar in the bureau of conveyances. The effect of such recordation shall be as provided by law (*see* Hawai'i Revised Statutes, Section 501-102; *see also* Hawai'i Revised Statutes, Chapters 231 and 505 concerning state and federal tax liens).

(a) Attachment and Other Liens; Recording of. When a writing of any description or a copy of any writ affecting land issued by a judge of a circuit in which the land is situated is recorded to create or preserve any lien, right, or attachment on land or interest therein, in addition to any particulars required in such papers for recording with the records of deeds, it shall also contain a reference to the number of the certificate to be affected.

(b) Mechanic's Lien. When a mechanic's lien or lien for labor and materials is claimed upon land, and the notice required by law is filed in the circuit court where the land is situated, an attested copy of the order directing the lien to attach which contains or has indorsed upon a fly sheet conforming to Rule 58.5 of these Rules a reference to the certificate affected may be recorded with the assistant registrar. Any such lien may be discharged as provided by law (*see* Hawai'i Revised Statutes, Section 507-45).

(c) Notice of Bankruptcy. Whenever a certified copy of the petition in bankruptcy under a voluntary bankruptcy, or a certified copy of the order for relief under involuntary bankruptcy filed in a United States Bankruptcy Court for reorganization under Chapter 11 of the bankruptcy code is recorded against the owner of registered land, and the instrument contains or has indorsed upon a fly sheet conforming to Rule 58.5 of these Rules the proper number of the certificate affected, the assistant registrar shall note such fact by entry of an appropriate memorandum on the certificate. After such memorandum has been entered on the certificate, no conveyance by the registered owner shall be recorded unless the conveyance recites that it is made subject to the rights of the trustee in bankruptcy.

(d) Recording Notice of Pendency of Action. In any action concerning land or affecting the title or the right of possession of land, the plaintiff may

record with the assistant registrar a certified copy of a notice of pendency of the action of a United States District Court or of a state court, containing the names or designations of the parties, as set out in the summons or pleading, the object of the action or claim for affirmative relief, a description of the land affected thereby, and a reference to the number of the proper certificate affected.

(e) Judgment Lien. Money judgments, orders, or decrees of a Hawai'i state court or the United States District Court for the District of Hawai'i, shall create a lien upon registered land if certified copies of the same are recorded in the bureau of conveyances; provided that only the monetary lien created by the recordation shall affect the land; provided further that no other provision of a judgment, order, or decree shall affect registered land unless recorded in compliance with Hawai'i Revised Statutes, Chapter 501 and these Rules. Notwithstanding the foregoing provision, any money judgment or decree of a state court or the United States District Court for the District of Hawai'i, if certified as correct by a clerk of the court where it is entered, may be recorded with the assistant registrar. The effect of such recordation in the bureau of conveyances or the land court and the duration of any lien created thereby shall be as provided by law (*see* Hawai'i Revised Statutes, Section 636-3). A satisfaction of such money judgment or a copy thereof, certified as correct by a clerk of the court where it is entered, may be recorded in the bureau of conveyances or with the assistant registrar, depending upon where the money judgment is recorded. Every judgment, assignment of judgment or satisfaction of judgment recorded in the land court shall contain a reference to the proper number of the certificate affected.

(f) Foreign Judgment. An exemplified copy of any judgment, decree or order of a court of the United States or of any other court which is entitled to full faith and credit in this state, when filed in the office of the clerk of the appropriate court of this state, which contains the proper number of the certificate affected may be recorded with the assistant registrar. The effect of such recordation and the enforceability or satisfaction of the judgment shall be as provided by law (*see* Hawai'i Revised Statutes, Chapter 636C).

(g) Liens Upon Interests of Heirs and Devisees. Proper papers relating to an involuntary lien, charge or *lis pendens* against the interest of a relict, heir or devisee in the lands of a deceased registered owner, prior to the registration of the title of such relict, heir or devisee, may be recorded with the assistant registrar as in other cases, in which event the assistant registrar shall make entry thereof as a memorial on the certificate entered in the name of the deceased owner, giving the name and the address of the relict, heir or devisee against whom the lien, charge or *lis pendens* is sought to operate. (See Hawai'i Revised Statutes, Section 501-171(b) concerning the effect and necessity of such recordation.)

(Amended December 21, 2016, effective January 1, 2017; further amended November 6, 2019, effective November 17, 2019.)

Rule 63. DISCHARGE OR MODIFICATION OF LIENS.

The continuation, reduction, discharge and dissolution of liens shall be as provided by law (see HRS § 501-138). Every certificate or other instrument which is permitted or required by law to be recorded in the bureau of conveyances to give effect to the continuance, reduction, discharge or dissolution of attachments or other liens upon unregistered lands, or to give notice of such continuance, reduction, discharge or dissolution, may in the case of like liens upon registered land be recorded with the assistant registrar, if it contains a reference to the number of the proper certificate containing the memorandum of the attachment or other liens.

Rule 64. POWER OF ATTORNEY; RECORDATION.

(a) A power of attorney to procure land to be registered and convey or otherwise deal with land shall be recorded with the assistant registrar. (See Hawai'i Revised Statutes, Section 501-174.) A special power of attorney that is limited to 1 or more parcels of registered land shall contain or have indorsed on a fly sheet the current certificate number or numbers. A general power of attorney, not so limited, need not contain a certificate number. In all other respects, the format, names, signatures and acknowledgment contained in the power of attorney

shall be as set forth in these Rules for documents of conveyance.

(b) Instruments revoking powers of attorney may be recorded in like manner.

(c) The effect of the death, disability or incapacity of the principal shall be as provided by law (*see* Hawai'i Revised Statutes, Sections 560:5-501 and 560:5-502 and common law).

(Amended November 6, 2019, effective November 17, 2019.)

Rule 65. ALTERATIONS UPON REGISTRATION BOOK PROHIBITED; AMENDMENTS TO CERTIFICATES.

(a) No erasure, alteration or amendment shall be made upon the registration book after entry of a certificate or of a memorandum thereon and the attestation of the same by the assistant registrar except by order of the court recorded with the assistant registrar, provided that the assistant registrar may correct any clerical error made by personnel of the assistant registrar's office.

(b) Any registered owner or other person in interest may at any time apply by petition to the court, upon the ground that registered interests of any description, whether vested, contingent, expectant or inchoate have terminated and ceased; or that new interests have arisen or been created which do not appear upon the certificate; or that any error, omission or mistake was made in entering a certificate or any memorandum thereon; or that the name of any person on the certificate has been changed; or that the registered owner has been married, or if registered as married, that the marriage has been terminated; or that a corporation which owned registered land and has been dissolved has not conveyed the same within 3 years after its dissolution; or upon any other reasonable ground. The petition after approval by the court shall be recorded with the assistant registrar.

(c) Initial petitions filed pursuant to subsection (b) of this Rule shall be filed together with a fully completed Land Court Information Sheet that substantially complies with LD Form A, as shown in the Appendix.

(d) Any *ex parte* petitions filed pursuant to subsection (b) of this Rule shall be dismissed if the petitioning party takes no further action within 90 days after the petition was denied.

(Amended December 27, 2011, effective January 1, 2012; further amended November 6, 2019, effective November 17, 2019.)

Rule 66. CERTIFICATE OF CONVEYANCE REQUIRED.

No document or instrument, on account of which a certificate of conveyance is required to be filed with the office of the director of taxation under HRS § 247-6, shall be accepted for recordation with the assistant registrar, unless the certificate has been duly filed.

Rule 67. REQUIREMENTS AS TO CONVEYANCES.

The assistant registrar shall be authorized to accept uniform mortgage instruments for registration and to incorporate the provisions by reference. Subject to the information required to be included herein a conveyance of any interest in registered land may be substantially in the following form:

After Recordation Return by Mail () Pick up () to:

I, (here insert the full name and whether married or unmarried, and if married the full name of the husband or wife), GRANTOR (or MORTGAGOR, LESSOR, etc.), for and in consideration of (here insert the consideration, if any), to me in hand paid, do hereby grant, bargain, sell and convey to (here insert the full name and address of grantee or mortgagee, lessee, etc., whether married or unmarried, and if married full name of husband or wife, and the character of the interest granted), GRANTEE (or MORTGAGEE, LESSEE, etc.), his heirs and assigns forever, the following described land (here insert the description), same being registered land, for which Certificate of Title No. _____ was duly issued.

WITNESS my hand this _____ day of _____, 20____.

(1) No metes and bounds description will be allowed in any conveyance or other instrument affecting registered land where a portion only of the land described in a certificate is sought to be affected. The designation of land in any deed, lease, mortgage, grant or other document shall be by lot number, unless the land is described only by metes and bounds in the certificate. If a portion of land is conveyed, leased, mortgaged or otherwise affected, the land shall first be subdivided into lots and a memorandum of the subdivision noted on the certificate.

(2) Any deed conveying one or more but not all lots in a certificate shall contain full memoranda relating to easements, right-of-way and all other encumbrances affecting the particular lot or lots conveyed. If the deed affects all of the land in a certificate of title, encumbrances may be referred to by reference, such as, "subject to the encumbrances mentioned in Certificate of Title No. _____, to which reference is hereby made."

Rule 68. HORIZONTAL PROPERTY REGIMES; CONDOMINIUM PROPERTY REGIMES.

The individual titles and interests corresponding to each apartment or unit together with its common interest in the land appertaining thereto shall be recordable with the assistant registrar in accordance with the provisions of this Part where applicable and also in accordance with Hawai'i Revised Statutes, Chapters 514A and 514B.

On the conveyance in fee of an apartment or unit together with its appurtenant undivided interest in the land, a new certificate shall be issued to the owners describing the undivided interest in the land, setting forth the applicable encumbrances, and noting the number of the apartment or unit to which the undivided interest is appurtenant. When an apartment or unit is either leased or conveyed together with a leasehold interest in the land, the lease or conveyance of the apartment or unit and leasehold interest in the land shall be noted on the certificate covering the fee interest in the land and no new certificate shall be entered except that the assistant registrar may at any time enter a new separate certificate to the fee owner of the land covering the undivided interest appurtenant to at least 5 apartments or units, setting forth the applicable

encumbrances, and noting the numbers of the apartments or units to which the undivided interests in the land are appurtenant.

(Amended November 6, 2019, effective November 17, 2019.)

Rule 69. TIME SHARING PLANS.

Declarations creating a time-share plan shall be recordable with the assistant registrar in accordance with the provisions of this Part where applicable and also in accordance with Hawai'i Revised Statutes, Chapter 514E. Instruments assigning, conveying, or otherwise affecting leasehold time-share interests and fee simple time-share interests created pursuant to such Declaration shall not be recordable with the assistant registrar.

(Amended November 6, 2019, effective November 17, 2019.)

Rule 70. SCHEDULE OF FEES.

(a) Unless otherwise ordered by the land court, the registrar of the land court is entitled to demand and receive the following fees, in addition to any other fees provided by law, except however, no fees shall be charged for any documents or petitions offered for filing by any officer of the United States, State of Hawaii, or any county of Hawaii, or by any officer or agent of any agency or instrumentality thereof in their official capacity.

(1) For filing of any petition for original registration, order to show cause, citation, notice of hearing, application to register accretion, or corrections to reflect erosion - \$315.

(2) For filing a petition after original registration with an order for a suggestion of death, (other than a trustee), fact of marriage, termination of marriage, notice of issue of an order in bankruptcy, change of name, or amendment to correct an error, omission, mistake, or memorandum entered on the certificate - \$50 plus \$10 per exhibit.

(3) For filing a petition after original registration with an order for suggestion of death of a trustee, removal of a trustee, incapacity of a trustee, appointment by a successor trustee, or acceptance of a successor trustee - \$100 plus \$10 per exhibit.

(4) For filing any petition for subdivision, consolidation, resubdivision, designation of easements, or cancellation of easements - \$200.

(5) For filing any petition for any other matter not covered in items 2 thru and 4, inclusive, above after original registration - \$300 plus \$10 per exhibit.

(6) For an uncertified copy of any instrument filed in the Office of the Registrar of the Land Court, when the copy is not authenticated by the seal of office and the copy is made by court personnel - \$2 per page or as provided by law.

(7) For certification under seal of the registrar of the land court or its designee a copy of a pleading or other paper subsequent to the initial filing of the pleading or paper except the record on appeal - \$5 per document.

(8) For filing of any motion - \$30.

(9) For filing of any other document not addressed above - \$5.

(10) For retrieval of files (including a document or documents within a case file) from off-site storage - \$10 per case file.

(b) The supreme court, by rule of court, from time to time, may revise, amend, add to, or eliminate any fees payable under subsection (a), or create additional fees as it deems reasonable, for services provided by the Office of the Registrar of the Land Court.

The new Rule 70 shall take effect on July 1, 2015.

(Amended June 13, 1997, effective July 1, 1997; further amended May 24, 2002, effective July 1, 2002; further amended June 24, 2015, effective July 1, 2015.)

Rule 71. to 100. RESERVED.

PART III. SURVEYS

Rule 101. SURVEYS, DESCRIPTIONS, AND MAPS.

(1) The field survey made for the purpose of registering title to, or subdividing registered land, shall be made on the ground by or under the direct supervision of a registered professional surveyor duly licensed under the laws of the state who shall also have been found qualified by the judge and registered to practice in the land court, and whose registration to practice therein remains unrevoked.

(2) The description of survey filed with an application for registration or title shall be prepared from a recent actual field survey and shall be printed or typewritten on unruled white paper with a flyleaf in the manner directed in Rule 3 of these Rules, shall be filed in duplicate, and shall be dated and signed by the surveyor making the field survey, or under whose supervision the field survey was executed.

(3) Unless elsewhere specifically referred to, the surveying instruments to be used, degree of accuracy, extent, manner, form, and other matters covering the procedure and things to be done in executing field surveys, compiling descriptions and preparing maps, shall be in accordance with practices heretofore obtaining in the land court subject to modifications from time to time by the state land surveyor with the approval of the judge of the land court.

(4) The map filed with the original application for registration of title or for any subsequent purpose shall be in electronic format, though the original shall be of one of the following sizes, figures indicating inches: 10x15, 15x21, 21x32, 30x36, 36x42 or any length thereof up to 72, or 42x42 or any length thereof up to 72. There shall be a 1/2-inch border along the edges of all the maps. The lettering and the representation of the boundaries and other features of the survey, as well as the surveyor's electronic signature, registration stamp and Land Court Registration number, shall be in black ink and the plat shall be drawn to one of the following scales: 10, 20, 30, 40, 50, 60 feet to the inch, or any power of ten times the above mentioned scales. Letters I and O shall not be used to designate lots and when letters are combined with numbers, I and O shall be skipped. A hyphen or dash shall not be used between degrees, minutes or seconds or between courses and distances.

(5) The map shall be in 2 parts showing as far as practicable the drawing of the plat of the land on the left-hand side with true north pointing towards the top on the right-hand side near the top of the map, the title of the court, the number and title of the cause and reference to the locality in which the land is situated which shall include the number of the award and name of awardee, or the number of the patent or grant, or other class of original title, and the name of the patentee or grantee, the ili, and ahupua'a, district and island, and any local name in common use together with a brief general description of the land sufficient to identify the same; all writing shall have a space not less than 2/10 of an inch between the written lines. The scale to which the plat is drawn shall also be noted. Beneath this, sufficient space, approximately 2 1/2 inches, shall be reserved for signatures, certificates, orders of the court and other writings.

(6) The map shall be wet-ink or electronically signed by the applicant, or by the applicant's attorney or authorized agent, in black ink, and shall also have endorsed thereon and properly filled in, as indicated by the text, a certificate reading substantially as follows:

This map is from an actual survey on the ground made by, or under the direct supervision of the undersigned, between the dates _____ and _____ and may be checked by the state land surveyor with my field book number _____, calculation book number _____, and working sheet number _____.

Date: _____

Address: _____

Registered Professional Surveyor
Certificate Number _____

(7) As noncontiguous lands may be registered under 1 application, more than 1 map may be filed under the same number or the several parcels of land may be shown in separate panels in the same map. Insert maps delineating in more detail or on a different scale particular features of the land sought to be registered may be inserted and shown in panels on the map. One or more supplementary maps may be filed with the original map or at any time prior to the issuance of the decree and shall be indicated by letters of the alphabet, as "Supplemental Map A," "Supplemental Map B," etc. When 2 or more maps are filed, each map shall carry in the lower right-hand corner the notation: "Sheet ____ of ____ Sheets," with the appropriate figures inserted in the blank spaces.

(8) Unless otherwise ordered by the court, the description and map shall be referred for check as to form and mathematical correctness to the state land surveyor who shall then make a report of the state land surveyor's findings by written return. In the event it is found that certain changes or corrections are to be made prior to the date of the return, applicant's surveyor in consultation with the state land surveyor may correct the description and map without order of the court where such correction is found necessary to adjust the survey, but no alteration shall be made after the return has issued except by the state land surveyor on an order of the court, and in such case the description and map shall be marked "Amended" and subsequent amendments by orders of the court shall be indicated by the notation "Second Amendment," "Third Amendment," etc., as the case may be. These expressions are to be used only up to the date of the decree. Thereafter, references to the application shall be solely by its number. In new applications, adjacent registered titles (completed cases) noted on the map or referred to in the description shall be designated by the application number only; but adjacent pending applications, if amended, shall be designated with the number and the kind of amendment, to which shall be added the word "Pending" in parentheses. Example: Land Court Application 1000 - 2nd Amendment (Pending). Adjacent pending applications, if unamended, shall have added after the number the word "Pending" in parentheses. Example: Land Court Application 1200 (Pending). In preparing subdivisions of registered titles (completed

cases), the fact that the application had been amended before final decree, shall no longer be noted and the caption of a subdivision map shall designate the application by its number only. The notation "Re-Amended" shall not be used. The state land surveyor shall revise the description and engross on the map the subject matter contained in the order of the court which shall be authenticated by a suitable certificate written on the description and engrossed on the map. If there be more than 1 map, each map shall have thereon a statement referring to the order of the court and the subject matter thereof.

(9) If an order of the court amending the survey contains a description which cannot be reconciled to the survey in the application, or which is mathematically incorrect, the state land surveyor in consultation with the applicant's surveyor shall make the necessary corrections and report the facts to the court. Applicant on being notified thereof shall by motion in writing secure the approval of the court, but after final decree has issued, no change shall be made under any circumstance except by an order of the court.

(10) Where it is desired to withdraw a description or a map from registration and substitute others in place thereof, the originals shall not be withdrawn from the records but shall be cancelled by an order of the court and the substitutions designated "Amended" or "Amendment" in the manner directed in this Rule.

(11) The state land surveyor may require applicant's surveyor to file temporarily the original field notes, calculations and working sheets while an application is being examined. Such original records shall be returned when the state land surveyor makes his final report.

(12) Exceptions to this Rule may be made in specific instances by order of the court upon good cause being shown therefor.

(13) Previous to entry of decree and the recording of same on map, no print or other form of reproduction shall be furnished to any person, unless such copy shall have marked thereon in large type letters the notation: ADVANCE SHEET - SUBJECT TO CHANGE.

(14) Unless otherwise requested or ordered, only 2 prints shall be furnished the land court and said prints shall have marked thereon the notation referred to above, viz: ADVANCE SHEET - SUBJECT TO CHANGE. A similar print on paper shall be retained for the files of the survey office with an added certificate reading as follows:

I hereby certify this print to be a true and correct copy of the map filed with Land Court Application _____ and returned, _____.

Honolulu, Hawai'i, _____, 20__

Surveyor, State of Hawai'i

(15) When an original application is ready for report to the land court, there shall be written on the map the following certificate for the state land surveyor's signature:

I hereby certify that the description of survey and map hereon have been examined and the boundaries checked and verified on the ground and found to be in accord.

Honolulu, Hawai'i, _____, 20__

Surveyor, State of Hawai'i

(16) Upon the entry of decree, the map will be returned to the survey office and the following certificate shall be written thereon:

I hereby certify that Decree of Registration dated _____, and numbered _____, has been issued to _____ covering the land described hereon and that Owner's(s) Certificate of Title No. _____ has been transcribed therefrom.

Honolulu, Hawai'i, _____, 20__

Surveyor, State of Hawai'i

When the above certificate is filled in and signed, prints will then be distributed without the notation in (14) above or other certificates, except that 1 print shall be made for the files of the survey office bearing the following certificate:

I hereby certify this print to be a true and correct copy of the map filed with Land Court Application _____ on which Decree of Registration has been entered.

Honolulu, Hawai'i, _____, 20__

Surveyor, State of Hawai'i

(17) When a subdivision map is filed and referred to the state land surveyor for examination before decree is entered, the certificate of the state land surveyor shall read as follows:

I hereby certify that the map hereon being a subdivision of Land Court Application _____ (NOW PENDING) as herein entitled has been examined and checked as to form and mathematical correctness and found to be in accord.

Honolulu, Hawai'i, _____, 20__

Surveyor, State of Hawai'i

NOTE: There shall be endorsed on such a map ADVANCE SHEET - SUBJECT TO CHANGE, which legend shall not be removed until the subdivision is approved by the judge of the land court.

Approval by the judge of the land court will be withheld until final decree is entered and original certificate of title issued, upon which appropriate order shall be issued and the subdivision map endorsed with a certificate bearing the same date as the decree, as follows:

Approved by order of the Judge of the Land Court dated _____, Honolulu, Hawai'i, _____, 20__

Surveyor, State of Hawai'i

NOTE: The legend ADVANCE SHEET - SUBJECT TO CHANGE shall then be erased.

If a resubdivision is wanted during pendency of an application, the first subdivision should be withdrawn and cancelled and a substitute map offered.

Previous to issuance of order of approval by the judge of the land court and the recording of same on the subdivision map, no print or other form of reproduction of the map shall be furnished to any person, unless such copy shall have marked thereon in large type letters, the notation: ADVANCE SHEET - SUBJECT TO CHANGE.

The map shall be retained in the survey office, but a report of the findings of the state land surveyor shall be forwarded to the land court, and upon receipt back of a certified copy of the Order of Approval, the spaces provided for dates shall be filled in and the certificate signed by the surveyor.

The map shall then be forwarded to the land court with the number of prints requested in the Order of Reference and prints shall then be prepared for distribution. All such prints shall no longer bear the notation: ADVANCE SHEET - SUBJECT TO CHANGE, and no other certificate is required thereon, except that 1 print on paper shall be made for the files of the survey office and shall have thereon the following certificate:

I hereby certify this print to be a true and correct copy of the map filed with subdivision of Land Court Application _____ and approved _____, Honolulu, Hawai'i, _____, 20__

Surveyor, State of Hawai'i

Rule 102. INSTRUCTIONS TO SURVEYORS.

(1) The instrument used in making field surveys shall be a surveyor's transit or theodolite with horizontal circle graduated from 0° to 360° and vernier reading to minutes or seconds, with a vertical arc or circle graduated in a similar manner and with a magnetic needle and compass plate divided into quadrants. No instrument shall be used which has not been subjected from time to time to the usual tests required for field adjustments.

(2) The tape used shall be of steel made to bench standards certified accurate by the U.S. Bureau of Standards, and of a make approved by the state land surveyor and shall in whole or in part be graduated to feet, and to tenths and hundredths of a foot. Tapes used by applicant's surveyor shall be regularly tested by him with some recognized standard and a record kept of the differences. All precise measurements of lines shall be made by the steel tape or electronic distance measuring equipment that meets the accuracy standards as set forth under (3) below. The transit and stadia may be used for general location of cultural and topographical features.

(3) The methods of plane surveying shall be used for all surveys for the registration of title, and computations for traverses and closure shall be based on plane or rectangular coordinates. A closed traverse may be made of the boundaries either by direct traverse along the boundary lines or upon lines from which the boundary points are directly located. The error of closure for field work before adjustment shall not be greater than 1 in 20,000 for city property, 1 in 15,000 for residential suburban property, and 1 in 10,000 for farm, agricultural or other rural property. The allowable error is based on the sum of the measured lines of the closed traverse. All surveys shall be connected with the government survey triangulation system.

(4) Adjoining surveys which have been established by decree of the land court or other recognized authority, as well as established street or road lines, shall be adopted, unless applicant's surveyor determines conclusively their inaccuracy. In such cases it is advisable that the surveyor consult with the state land surveyor prior to making any change. If there is a land court survey within convenient distance, some point of said survey shall be tied to some point on the boundary of the land under survey.

(5) Where a large tract of land is included in one survey, the origin of the azimuths used shall be derived from a government survey triangulation station and the name of the station recorded on the map and all coordinate references shall be computed from said station. Supplementary stations may be used for control but in any net of auxiliary stations, the angular measurement before adjustment shall be such as not to contain an error greater than fifteen (15) seconds of arc for any one triangle. In localities where triangulation control is not feasible, a system of closed traverses may be used. (In surveys in which old magnetic survey descriptions are involved, it is advisable that the magnetic declination be observed at frequent intervals.)

(6) In surveys of city and residential suburban property, street lines shall be shown, and the initial point shall be referred to a government survey triangulation station and also if possible connected to a city street monument, or to some other survey monument of official record.

(7) The description of survey of the exterior boundaries shall be described as running from left to right (clockwise), true azimuths being used in designating the courses with zero or 360° at true south, 90° at true west, 180° at true north and 270° at true east: distances shall be given in linear feet and decimals to two places and areas in square feet to the nearest square foot or acres and decimals to three places thereof. The initial point may be referred to the "origin of azimuth" station either by plane coordinates or direct azimuth and distance with such supplementary references to other stations or known monuments as are convenient or desirable. All reservations, exclusions or exceptions of lands not sought to be registered shall be described in a similar manner. Perpetual easements or easements running for long terms or other permanent encumbrances

shall also be described by metes and bounds. Temporary or indefinite easements or encumbrances may be described in general terms only. A meandering boundary such as a stream, mountain ridge or the seashore, shall be described by direct azimuths and distances between located points on said meandering line, locations being spaced at sufficiently frequent intervals to make possible a relocation of the described boundary.

(8) The map shall show the exterior boundaries with lines and points thereon well defined and clearly marked (as well as all reservations, exclusions and exceptions), with the azimuths and distances along the bounds designated by the same numbers as in the description of survey. Meandering boundaries shall be shown and the courses indicated by the conventional methods in general use. There shall also be delineated on the map all improvements, topographical, cultural and other features of primary importance (e.g., so as to assist in orienting persons using the map, to delineate the title or the boundary), original titles and boundaries, and boundary marks and monuments, with the appropriate conventional signs, symbols and writings. Connections to triangulation and reference stations, and to contiguous land court or other adopted or official surveys shall also be indicated.

(9) It is recommended that the ends of all important courses or pivotal points in the boundary be marked on the ground by a special marker and if possible imbedded in concrete which shall have indicated thereon reference to the fact that said marker is a land court boundary point. In addition, said markers should also include the land court registration number of the land surveyors. Specifications for a uniform type of marker and the manner in which it is to be used shall be supplied by the state land surveyor.

(10) Exceptions to this rule may be made in specific instances by order of the court upon good cause being shown therefor.

**Rule 103. GOVERNMENT EMPLOYEES
DISQUALIFIED TO PRESENT
SURVEYS FOR USE BY PRIVATE
PARTIES IN THE LAND COURT.**

No person, while he is regularly employed in any capacity and paid by the government or any subdivision thereof, shall, during the period of such employment, actively associate himself directly or indirectly in the survey or preparation of maps on behalf of and in the employment of any private persons in connection with land court procedure and for use therein. No maps so prepared shall be received in the land court on behalf of such private parties. The clerk of the land court shall inform the judge of any attempted violation of this rule.

The certificate of registration as a land court surveyor of any person violating the above rule shall be subject to revocation in the discretion of the judge of the land court.

Rule 104. SUBDIVISION MAPS.

(1) A subdivision map filed after the decree is entered and original certificate issued shall delineate the metes and bounds and area of each lot or parcel of land within the subdivision and shall conform to the requirements for a map filed with an original application, eliminating however all reference to conveyances from the government from which original title was derived; there shall also be inscribed on the map the name of the owner of, and the number of the certificate of title covering the land. Each lot or parcel of land shall be given a definite designation either by a number or a letter or by a combination of both and there shall be no duplication of such designations in the same application. There shall be no writings on the subdivision map except those requested in the petition for subdivision, or those taken from the map of the original application or subsequent subdivision maps, or those authorized by this rule. All setback lines, proposed streets, easements and encumbrances of a like nature registered in the land court system and applicable to the subdivision shall be placed on the map and those created in the petition shall be shown and delineated on the map by metes and bounds. The area of easements is to be shown at the bottom left corner of the map. If the easement is described in the original application by center line description with a prescribed width, or by metes and

bounds, describing its exterior boundaries, the same method shall be applied on the subdivision map as is followed in the original map. The description shall be confined within the limits of the lots in the subdivision, but the lines of the easement shall be extended for a short distance beyond the lot boundaries to show the direction of the easement. Neither the area of the easement nor that of any portion thereof shall be given. If the easement has undefined boundaries except "as shown on map made a part of the original application," such easement shall be indicated on the subdivision map in the same manner as indicated on the original map, and no area is expected to be given. Leases, mortgages and similar encumbrances need not be noted or referred to if all lots in the subdivision are affected. When any of the encumbrances affects one or more but not all of the lots created by such subdivision and it is desired to confine such encumbrance or encumbrances to the lot or lots affected, the petition shall clearly set forth the lot or lots affected. It is not necessary, unless desired by the surveyor presenting the subdivision map, to place on said map topographical features shown on the original map. A note may be placed on the subdivision map, reading somewhat as follows: "For topography see original map and original certificate of title." Topography or other features not shown on the original map shall not be placed on a subdivision map, except by petition properly presented to the judge of the land court and confirmed by an order of court.

(2) Every subdivision map shall have evidence on it of the approval of the appropriate county agency or agencies, as indicated by a seal on the map or by other accompanying proof of approval.

(3) In preparing subdivision maps for the land court, there shall be added to the title or heading of the descriptive part of the map, and immediately below the present form, the name or names of the owner or owners of the land under consideration and the number or numbers of owner's certificate(s) of title.

(4) A resubdivision map is one in which the boundaries of a group of lots shown on a prior approved subdivision map are altered or changed. This map must state the conditions before and after the change, i.e., designation and numbering of lots, and should show in light dotted lines (not even short dashes) the boundaries and numbers of the lots of the previous subdivision.

(5) Exceptions to this rule may be made in specific instances by order of the court upon good cause being shown therefor.

Rule 105. REGISTRATION OF ACCRETION; CORRECTION TO REFLECT EROSION.

The map filed with the petition for registration of title to an accretion and/or correction to reflect erosion, in addition to complying with all the rules and statutes governing the preparation and filing of maps in the land court, shall bear the legend:

LAND COURT APPLICATION _____
 ACCRETION [AND/OR EROSION]
 TO LOT _____ AS SHOWN
 ON MAP _____ AND THE
 REDESIGNATION OF SAID LOT _____
 WITH ACCRETION [AND/OR EROSION]
 AS LOT _____

and shall contain the following information:

(A) The previous high-water mark as shown on Map _____ (to be shown by dotted lines) with the new high-water mark (to be shown by solid line, together with the date of the determination thereof and a specification in parentheses whether the mark reflects vegetation, upper reaches of the wash of waves, debris, seaward face of seawall, top of rock ledge, etc.);

(B) The old lot number shown by dotted lettering, the old lot area shown by solid lettering enclosed by parentheses, the area of any accreted portion shown by solid lettering enclosed by parentheses, the area of any eroded portion shown by solid lettering enclosed in parentheses, the new lot to be designated by a new number and shown by solid lettering and the total area to be shown by solid lettering;

(C) Location of pipes or other permanent marks set on the boundaries near the new high-water mark with the distances from said permanent marks to the new high-water mark;

(D) The names of the landowners adjoining the lot as accreted and/or eroded;

(E) The certificate of the surveyor stating substantially as follows: New high-water mark as shown hereon is from an actual survey on the ground made under the direction and supervision of the undersigned on _____, 20____.

Rule 106. LAND COURT CONSOLIDATIONS.

An owner of two or more contiguous or adjacent lots, as defined in HRS § 501-85, covered by two or more separate land court applications, may combine them by filing a petition therefor, which shall be called a Land Court Consolidation, and be numbered consecutively in the same manner as original land court applications in accordance with Rule 2 of these rules. Such petition shall be accompanied by a map showing the land court application numbers and old lot numbers in dotted lettering and old lot boundaries within the consolidation in dotted lines. The title of the map shall contain provision for the consolidation number, the old land court application numbers, old map numbers, old lot numbers and areas, certificate of title numbers, and the total area of the consolidation. The map shall conform to requirements of a map filed with a petition for subdivision as set forth in Rule 104 of these rules.

Unless the map contains a description of the exterior boundaries of the consolidation, it shall be accompanied by a typed description thereof in triplicate. The courses shall contain no reference to monuments at the ends thereof, either on the map or in the description.

Lots so combined in a Land Court Consolidation may be treated as follows:

- (1) All contiguous lots may be consolidated into a single lot;
- (2) Individual lots may be redesignated;
- (3) Combinations of contiguous lots may be consolidated into larger lots and redesignated;

Rule 106**RULES OF THE LAND COURT**

(4) All lots or combinations of contiguous or adjacent lots may be consolidated and subdivided into new lots, in which case the provisions of Rule 104 shall be followed.

The official abbreviation for Land Court Consolidation shall be Ld. Ct. Cons.

Rule 107. REPEALED.

INSTRUCTIONS FOR COMPLETING THE LAND COURT INFORMATION SHEET

The filing party or parties or their authorized representative is required to complete this form.

The information contained on the Land Court Information Sheet does not replace or supplement the filings, the service, pleadings or other papers as required by law.

If additional space is needed to answer any item you may attach a separate continuation sheet.

I. PETITIONER(S) and RESPONDENT(S).

List the names of the petitioner(s) and respondent(s) exactly as they appear on the petition.

I(a). PETITIONER’S ATTORNEY INFORMATION.

If the petitioner is represented by an attorney, list the attorney’s name, Hawai’i Bar number, address, phone number and email contact information.

Lawyers not licensed in Hawai’i do not qualify as a petitioner’s attorney but may be listed as a primary contact.

List the names of any additional attorney(s), together with their Hawai’i Bar number and contact information.

I(b). PRIMARY CONTACT INFORMATION.

If the petitioner is self-represented, list the name, address, phone number, and email contact information for a person that the Land Court can contact about the petition.

I(c). TITLE COMPANY INFORMATION.

If the petition is being submitted by a title company, list its contact information, including the company name, addresses, phone, and email contact information.

II. NATURE OF PETITION.

Place a in the appropriate box that describes the subject matter of the petition.

- Box 101 (Ex Parte) if the petition is to note marriage, death, divorce, name change, or change of trustee.
- Box 201 (Maps) if the petition relates to designation of easement, subdivision, consolidation, accretion or erosion.
- Box 301 (Other) if the subject matter of the petition is not listed above, please specify the general nature of the petition.

III. APPLICATION and/or CONSOLIDATION NUMBER(S).

List the Land Court Application and/or Consolidation number(s) for the subject property as stated on the petition.

IV. TRANSFER CERTIFICATE OF TITLE (TCT) NUMBER(S).

List the current Transfer Certificate of Title (TCT) number or numbers if more than one TCT will be affected by this petition.

V. IS THE SUBJECT PROPERTY A TIMESHARE INTEREST? Check the appropriate box.

VI. SIGNATURE OF PETITIONER OR FILING PARTY SUBMITTING THE PETITION.

The person who provided the information for this Land Court Information Sheet should sign where indicated.

Print or type name below signature and date.

Fly Sheet

The following items (a) through (g) correspond to Land Court Rule 58.5.

After Recording, return by mail or pick-up

(a) Name, address and phone number to contact for pick-up

(b) Total Pages: _____
(including this fly sheet)

(c) Name of a party to the instrument (first and middle names may be spelled out but only if abbreviations or initials are indicated in the instrument).

(d) Marital status, either "married" or "unmarried" (marital status may be added but only if not stated in the instrument).

(e) If the interested party is an entity, state the name of the entity and place of organization (place of organization may be added if not stated in the instrument).

(f) Current Certificate of Title number (TCT numbers may be updated but cannot be added if not stated in the instrument).

(g) If applicable, current address of the grantee, assignee, or transferee, if not stated in the instrument.

I hereby certify that the information contained on this fly sheet is true and correct to the best of my knowledge, information and belief.

(Signature)

(Date)

(Name printed or typed)

(State your relationship to interested party)



In accordance with the Americans with Disabilities Act and other applicable state and federal laws, if you require reasonable accommodations for a disability, please contact the ADA Coordinator at the Land Court at (808) 539-4777 or Fax (808) 539-4713, at least 10 working days prior to your hearing or appointment date. For other related matters please call (808) 539-4777.

LD Form B

Attorney Name (bar number)/Party Name
Address
Telephone Number

IN THE LAND COURT OF THE STATE OF HAWAI'I

| | |
|---------------------------|-------------------------------|
| In the Matter of |) Ld. Ct. App. No.: _____ |
| the Application of |) |
| _____ |) |
| to register and confirm |) |
| title to land situated at |) |
| _____ |) |
| _____ |) |
| _____ |) 1LD Case No.: _____ |
| _____ |) |
| |) TITLE OF DOCUMENT |
| |) (OR INVENTORY OF MULTIPLE |
| Petitioner, |) DOCUMENTS) |
| |) |
| vs. |) Hearing: |
| |) Date: |
| _____ |) Time: |
| |) Judge: |
| Respondent. |) _____ or |
| |) |
| _____ |) Non-Hearing Petition/Motion |

TITLE OF DOCUMENT

Attorney Name (bar number)/Party Name
Address
Telephone Number

IN THE LAND COURT OF THE STATE OF HAWAI'I

| | | | |
|-----------------------------|---|---------------------------|-------|
| In the Matter of |) | Ld. Ct. App. No.: | _____ |
| the Application of |) | | |
| _____ |) | | |
| to register and confirm |) | | |
| title to land situated at |) | | |
| _____ |) | | |
| _____ |) | ILD Case No.: | _____ |
| |) | | |
| In the Matter of the |) | TITLE OF DOCUMENT | |
| <i>Ex Parte</i> Petition of |) | (OR INVENTORY OF MULTIPLE | |
| _____, |) | DOCUMENTS) | |
| |) | | |
| |) | | |
| Petitioner. |) | | |
| _____ |) | | |

EX PARTE TITLE OF DOCUMENT

RULES OF THE LAND COURT

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