

RULES OF THE LAND COURT

**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

Table of Contents

PART I. REGISTRATION IN THE LAND COURT PROPER

- Rule 1. OFFICE HOURS; FILING ORIGINAL PAPERS**
- Rule 2. NUMBERING OF APPLICATIONS; ABBREVIATION OF LAND COURT APPLICATION**
- Rule 3. FORM AND STYLE OF ORIGINAL PAPERS**
- Rule 4. DEPOSITS**
- Rule 5. WITHDRAWAL OF PAPERS**
- Rule 6. REQUIREMENTS AS TO ORIGINAL APPLICATIONS**
- Rule 7. NOTICE OF FILING APPLICATION**
- Rule 8. REQUIREMENTS AS TO ABSTRACTS OF TITLE**
- Rule 9. SURVEYS, DESCRIPTIONS AND MAPS**
- Rule 10. EXAMINERS OF TITLE**
- Rule 11. PROOF OF PUBLICATION**
- Rule 12. NOTICES**
- Rule 13. PETITIONS AND ORDERS OF AMENDMENT**
- Rule 14. NOTATION OF ENCUMBRANCES**
- Rule 15. SUBDIVISIONS**
- Rule 16. NOTICE TO ATTORNEYS**
- Rule 17. DEPOSITIONS AND DISCOVERY**
- Rule 18. RESERVED**
- Rule 19. DEPOSITIONS, HOW DISPOSED OF**
- Rule 20. HEARING BEFORE MASTER**
- Rule 21. PROCEDURE BEFORE MASTER**
- Rule 22. EXCEPTIONS TO MASTER'S REPORT**
- 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**
- Rule 26. REGISTRATION OF TITLE TO ACCRETION; CORRECTIONS TO REFLECT EROSION**
- Rule 27. LAND COURT CONSOLIDATIONS**
- Rule 28. to 50. RESERVED**

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

- Rule 51. PURPOSE AND APPLICABILITY**
- Rule 52. DEFINITIONS**
- Rule 53. HOURS OF RECORDATION**
- Rule 54. RECORD OF DISPOSITION OF APPLICATIONS FOR
REGISTRATION**
- Rule 55. TRANSCRIPTION OF DECREE IN REGISTRY; CERTIFICATE OF
TITLE**
- Rule 56. MATTERS NOT COVERED BY THESE RULES**
- Rule 57. RESERVED**
- Rule 58. VOLUNTARY DEALING WITH LANDS**
- Rule 59. ENTRY OF NEW CERTIFICATE**
 - (a) Conveyance of Fee
 - (b) Portion of Registered Fee
 - (c) Foreclosure by Action
 - (d) Foreclosure Under Power of Sale
 - (e) Subdivisions
 - (f) New Trustee
 - (g) Enforcement of Lien
 - (h) Bankruptcy Proceedings
 - (i) Descent and Devise, Testate
 - (j) Descent and Devise, Intestate
 - (k) Personal Representative's Deed
 - (l) Eminent Domain
 - (m) Reverter of Land
 - (n) Discharge of Proceedings in Bankruptcy
 - (o) Conveyance of Real Property Upon Merger or Consolidation of
Corporations
 - (p) Partition
- Rule 60. ENTRY BOOK; CERTIFIED COPIES**
- Rule 61. TRANSFER IN TRUST; PROCEDURE; POWERS TO BE NOTED ON
CERTIFICATE**
- Rule 62. FILING LIENS, ETC.**
 - (a) Attachment and Other Liens; Recording of
 - (b) Mechanic's Lien
 - (c) Notice of Bankruptcy
 - (d) Recording Notice of Pendency of Action
 - (e) Judgment Lien
 - (f) Foreign Judgment
 - (g) Liens Upon Interests of Heirs and Devisees

- Rule 63. DISCHARGE OR MODIFICATION OF LIENS**
- Rule 64. POWER OF ATTORNEY; RECORDATION**
- Rule 65. ALTERATIONS UPON REGISTRATION BOOK PROHIBITED;
AMENDMENTS TO CERTIFICATES**
- Rule 66. CERTIFICATE OF CONVEYANCE REQUIRED**
- Rule 67. REQUIREMENTS AS TO CONVEYANCES**
- Rule 68. HORIZONTAL PROPERTY REGIMES**
- Rule 69. TIME SHARING PLANS**
- Rule 70. SCHEDULE OF FEES**
- Rule 71. to 100. RESERVED**

PART III. SURVEYS

- Rule 101. SURVEYS, DESCRIPTIONS AND MAPS**
- Rule 102. INSTRUCTIONS TO SURVEYORS**
- Rule 103. GOVERNMENT EMPLOYEES DISQUALIFIED TO PRESENT
SURVEYS FOR USE BY PRIVATE PARTIES IN THE LAND COURT**
- Rule 104. SUBDIVISION MAPS**
- Rule 105. REGISTRATION OF ACCRETION; CORRECTION TO REFLECT
EROSION**
- Rule 106. LAND COURT CONSOLIDATIONS**
- Rule 107. FEES**

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 on Saturdays, Sundays and holidays established by law. Original papers presented for filing shall be accepted from 8:00 a.m. until 4:00 p.m.

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 ORIGINAL PAPERS.

All original papers filed in the land court shall be printed or typewritten on unruled white paper 11 inches long by 8-1/2 inches wide. All papers filed, except forms printed and distributed by the court, shall include a flyleaf. The flyleaf shall contain the following information:

- (1) title of the court;
- (2) title of the cause in full;
- (3) number of the cause;
- (4) character of the document; and
- (5) name or names of the attorney or attorneys representing the party on whose behalf the same is filed.

All original applications shall be entitled as follows:

IN THE MATTER OF THE APPLICATION OF

_____, to register title to real property.

All papers shall be free from interlineations and erasures except as noted by the judge of the land court or the registrar, or as noted and initialled by the party filing the paper.

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 in duplicate 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, in duplicate, 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.

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 in duplicate. The registrar 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, he shall file the original with the record which shall be entitled "Original Citation" and the copy he shall send 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 registrar 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 three consecutive weeks (three 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.

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.

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 in duplicate.

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.

If a party shall change his 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 attorney first appointed shall be considered in all respects as notice to or from his 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 interested from appearing for himself in the manner provided by law; and in such cases the party so appearing shall be subject to the same rules that are or may be provided for attorneys in like cases, so far as the same are applicable.

Rule 17. DEPOSITIONS AND DISCOVERY.

As provided in Rule 81(g) of the Hawai'i Rules of Civil Procedure, depositions and discovery in land court shall be governed by Chapter V of the Hawai'i Rules of Civil Procedure, except that in any proceeding: (1) the land court may by order direct that said Chapter V 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.

Rule 18. RESERVED.

Rule 19. DEPOSITIONS, HOW DISPOSED OF.

All depositions shall be opened and filed by the registrar when received. The deposition shall afterwards be in his custody, subject to the order of the court, as other documents in the case; and if not read at the trial by the party taking it, it may be used by any other party, if he sees fit, to the same extent that it could be used by him if he had taken it, he paying the cost of taking the same.

Rule 20. 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 ten days thereafter; and the party in whose behalf the reference is made shall serve the adverse party, at least seven days before the time appointed for the hearing, with a summons, or such other notice as may be ordered by the court, requiring his attendance at such time and place, and make proof thereof to the master; and thereupon, if the 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 he does not, the master may proceed ex parte.

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 subsequent to original application, and motions to set, shall not be accepted by the registrar unless notation of service on opposing counsel or parties shall be indorsed on said document either by signature or by certificate of counsel that proper delivery has been made.

Motions to set and other like matters will be heard only upon forty-eight hours written notice to the adverse party.

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 orders to be entered in the land court shall be presented to the registrar for approval as to form before being presented to the judge.

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 in his 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 therefor substantially in the following form:

IN THE LAND COURT OF THE STATE OF HAWAII

In the Matter of the Application)
of) APPLICATION
(Name of Taxpayer)) NO.
(Use title of original application)

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)

PETITION FOR REGISTRATION OF TITLE TO ACCRETION [AND/OR CORRECTION OF BOUNDARY TO REFLECT EROSION] TO THE PRESIDING JUDGE OF THE LAND COURT OF THE STATE OF HAWAII:

Said petition shall be signed and sworn to by the petitioner or by someone duly authorized in his behalf and shall be accompanied by a deposit of \$15.00.

COMES NOW and respectfully shows:

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.

That he 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.

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. He shall, in addition to making the usual return on the accuracy of the map, report to the court whether, in his opinion, the accretion and/or erosion is or is not natural accretion and/or erosion. He shall transmit to the attorney general a copy of his return to the court.

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:

After the return of the surveyor 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.

(Names and addresses)

Such service shall be by registered mail with return receipt requested or by personal service if the court so directs. The return date shall be not less than one week in case of personal service and not less than two weeks in case of service by mail.

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

In lieu of service personally or by mail, 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 its 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, its 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. _____.
Honolulu, Hawai'i, _____, 20_____.

Registrar of the Land Court

Upon procuring the signature of the registrar thereto, the surveyor shall forward the map with his 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.

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:

(1) It contains or has endorsed upon it the full name or names of the grantees or other person acquiring or claiming an interest under the instrument, their marital status and if married, the full names of their spouses, and the address of the grantee or other person 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 incorporated in the state or a partnership registered in this state; or there is presented as to any grantee, assignee, lessee or mortgagee which is a foreign corporation or partnership: (a) evidence that such foreign corporation or partnership is registered to do business and in good standing in the state; or (b) evidence (which may be in the form of an opinion of counsel) that such foreign corporation or partnership is in good standing in its state of incorporation or organization;

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

(4) Except as otherwise provided by HRS §§ 502-50 to 502-52, there is endorsed, subjoined or attached thereto a certificate of acknowledgment in the form provided or authorized in any of HRS §§ 502-41, 502-42, 502-43, 502-45 or 502-47;

(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 one inch of space shall be reserved for information showing to whom the documents should be returned. (See Rule 67 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 conforming flysheet attached; and

(8) All names of signatories in the instrument must be typewritten, stamped or printed beneath all signatures. No discrepancy in the name shall exist between the printed name as it appears in the body of the instrument 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.)

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 one 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. 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 HRS § 667-1;

(d) Foreclosure Under Power of Sale. When the affidavit required by HRS § 667-5 is recorded with the assistant registrar, and the purchaser presents the deed which 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 to the assistant registrar for recordation;

(e) Subdivisions. When land is subdivided or when two or more parcels of land are combined, or combined 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 trustee is appointed by any court or otherwise, provided that the assistant registrar may, instead of entering a new certificate to a new trustee, make a memorandum of such appointment on the certificate issued in the name of the old 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 application 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, their addresses, their marital status, and if married the full names of their 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 their attorney of record and containing the full names of the heirs, their addresses, their marital status, and if married the full names of their 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 him 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 his heirs or assigns, the court, upon the petition of the person entitled to the benefit of reversion, after notice and hearing, orders 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.

Whenever any domestic or foreign corporation having any real property in the state merges or consolidates with another domestic or foreign corporation, 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 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. In case 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 HRS § 501-156).

Rule 60. ENTRY BOOK; CERTIFIED COPIES.

The assistant registrar shall keep a record in which the assistant registrar shall enter in the order of their 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 they are received. They shall be regarded as registered from the date so noted, 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.

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.

Rule 62. FILING LIENS, ETC.

A lien, attachment, order, decree, or other involuntary instrument which contains or has indorsed upon it 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 HRS § 501-102; see also HRS chapters 231 and 505 concerning state and federal tax liens).

(a) **Attachment and Other Liens; Recording of.** When a writing of any description of 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, in attested copy of the order directing the lien to attach which contains or has indorsed upon it a reference to the certificate affected may be recorded with the assistant registrar. Any such lien may be discharged as provided by law (see HRS § 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 it 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. 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 and the duration of any lien created thereby shall be as provided by law (see HRS § 636-3). A satisfaction of judgment or a copy thereof, certified as correct by a clerk of the court

where it is entered, may be recorded with the assistant registrar. Every judgment, assignment of judgment or satisfaction of judgment 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 or has endorsed upon it 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 HRS 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 HRS § 501-171(b) concerning the effect and necessity of such recordation.)

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 may be recorded with the assistant registrar. (See HRS § 501-174.)

(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 HRS §§ 560:5-501 and 560:5-502 and common law).

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 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 three years after its dissolution; or upon any other reasonable ground. The petition after approval by the court shall be recorded with the assistant registrar.

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.

The individual titles and interests corresponding to each apartment 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 HRS chapter 514A.

On the conveyance in fee of an apartment 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 to which the undivided interest is appurtenant. When an apartment is either leased or conveyed together with a leasehold interest in the land, the lease or conveyance of the apartment 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 five apartments, setting forth the applicable encumbrances, and noting the numbers of the apartments to which the undivided interests in the land are appurtenant.

Rule 69. TIME SHARING PLANS.

Time share interests shall be recordable with the assistant registrar in accordance with the provisions of this Part where applicable and also in accordance with HRS chapter 514E.

Rule 70. SCHEDULE OF FEES.

The assistant registrar is entitled to demand and receive the following fees, provided that no fees shall be charged for the recordation of any instrument offered for recordation by any officer of the United

States, or by any officer or agent of any agency or instrumentality of the United States acting in his official capacity, and provided further that no fee shall be required of any county presenting a document for record, wherein the county is the grantee.

(1) For the recordation of every instrument, including indexing, and making and attesting memorandum on certificate not in excess of four - \$10, and \$1 for each additional memorandum on certificates in excess of four required by any one instrument.

(2) For filing an order for a suggestion of death, fact of marriage, divorce, subdivision, or notice of issue of an order in bankruptcy - \$25.

(3) For entry of a certificate of title or for making and entering a new certificate - \$25 if contained within four pages. For each additional page or fraction thereof - \$1.

(4) For a copy of a certificate of title - \$2 if contained within four pages. For each additional page or fraction thereof - \$1.

(5) For a copy of any instrument recorded in the assistant registrar's office, authenticated by the assistant registrar's seal of office, or for a copy of any instrument or portion of any instrument recorded in the assistant registrar's office, not authenticated by the assistant registrar's seal of office - \$1 per page or fraction thereof.

(6) For indexing any instrument recorded while application for registration is pending - 25 cents.

(7) For a copy of the daily computerized magnetic tapes containing the daily entry record - \$100 per month.

(8) For inquiring into computerized data of the Land Court Automated Title System - Monthly Fee which includes printing is \$150.

(9) For a copy of any instrument recorded in the assistant registrar's office, when the copy is not authenticated by the assistant registrar's seal of office and the copy is made by the person desiring same on a coin operated duplicating machine provided by the assistant registrar, no more than 50 cents per page or fraction thereof.

(10) For filing any petition after original registration - \$5; plus \$1 for each exhibit attached.

(11) For any order after original registration - \$20.

(12) For certification under seal of a copy of a pleading or other paper subsequent to the initial filing of the pleading or paper, except the record on appeal - \$2.

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

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 on tracing cloth of good quality or other material approved by the state surveyor and 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 signature, registration stamp and Land Court Registration number, shall be in black india drafting 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. Two white print copies shall be filed with the map.

(5) The map shall be in two 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 ahupuaa, 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 signed by the applicant, or by his attorney, or by his authorized agent, in black india drafting ink, and shall also have engrossed 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 one application, more than one 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 two 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 his 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 one 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 blueprint 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 two (2) blueprints shall be furnished the land court and said blueprints shall have marked thereon the notation referred to above, viz: ADVANCE SHEET - SUBJECT TO CHANGE. A similar blueprint 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 tracing 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 tracing 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, blueprints will then be distributed without the notation in (14) above or other certificates, except that one (1) blueprint 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 tracing 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 in heavy penciled letters the legend 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 blueprint 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 tracing 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 tracing shall then be forwarded to the land court with the number of blueprints requested in the Order of Reference and blueprints shall then be prepared for distribution. All such blueprints shall no longer bear the notation: ADVANCE SHEET - SUBJECT TO CHANGE, and no other certificate is

required thereon, except that one (1) blueprint 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 tracing 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;
- (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. FEES.

The following fees should be charged for services related to the checking and processing of land court maps referred to the Surveyor of the State of Hawai'i for check and report:

(1) For verifying and checking map on the ground, for lots of one acre or less, \$84.37; an addition of \$3.37 an acre or fraction thereof for all areas over one acre and up to one hundred acres; an addition of \$1.68 an acre or fraction thereof for all areas over one hundred acres and up to one thousand acres; an addition of 84 cents an acre or fraction thereof for all areas over one thousand acres;

(2) Any expenses incurred for air transportation, rental of ground transportation, and per diem for the survey crew shall be charged to the applicant;

(3) For checking survey and map as to form and mathematical correctness but not on the ground, \$10.00 an hour;

(4) For processing subdivisions and designation of easements of registered land, and for checking same as to form and mathematical correctness but not on the ground, \$10.00 an hour.

Whenever applicable by statute, the above fees will not be charged to federal, state or county governments.