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**Electronically Filed**  
**FIRST CIRCUIT**  
**1CC121003020**  
**17-AUG-2021**  
**08:13 AM**  
**Dkt. 173 FJ**

**IN THE CIRCUIT COURT OF THE FIRST CIRCUIT**

**STATE OF HAWAI'I**

TADASHI MITSUOKA, VICTORIA  
MITSUOKA and JOHN G. STEWART,  
individually and on Behalf of a Class of All  
Persons Similarly Situated,

Plaintiffs,

vs.

HASEKO HOMES, INC., a Hawai'i  
corporation, HASEKO CONSTRUCTION,  
INC., a Hawai'i corporation, KE NOHO KAI  
DEVELOPMENT, LLC, a Hawai'i  
corporation; SPINNAKER PLACE  
DEVELOPMENT, LLC, a Hawai'i  
corporation; FAIRWAY'S EDGE  
DEVELOPMENT, LLC, a Hawai'i  
Corporation; and DOES 1-10,

Defendants.

CIVIL NO. 12-1-3020-11 JHA  
(Construction Defects)

**FINAL JUDGMENT**

## **FINAL JUDGMENT**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Pursuant to and in accordance with Hawai'i Rule of Civil Procedure 58, and with the Court being fully advised in the premises, and with good cause appearing therefore, IT IS HEREBY ORDERED, ADJUDGED, and DECREED that FINAL JUDGMENT IS ENTERED pursuant to and in accordance with the Court's August 17, 2021 Order Granting Final Approval of Settlement and Awarding Class Representative Incentives, Attorney Fees, Costs, and All Other Expenses ("Final Settlement Order");

Final judgment is entered as to all counts, claims, and crossclaims of this action, including all counts and remedies claimed in the operative First Amended Class Action Complaint, filed March 8, 2013 in the above-captioned action and as were also claimed in the compelled class action arbitration designated as *Mitsuoka, et al. v. Haseko Homes, Inc., et al.*, Dispute Prevention & Resolution Inc. No. 17-0447-A;

This class action involved 621 Homes in areas 2E and 3B-3E of the Ocean Pointe Development ("Subject Homes") and alleged that the wind protection systems in the Subject Homes developed and built by Defendants Haseko Homes, Inc., Haseko Construction, Inc., Ke Noho Kai Development, LLC, and Fairway's Edge Development, LLC (jointly, "Haseko") were defective, including allegations that the Shot Pins in the Subject Homes were defective and corroding. The Settlement has been approved and is hereby implemented, and there are no remaining Class Member Claims or parties;

All Class Members who failed to serve timely written objections in the manner specified in the Court's Order Granting Motion for Preliminary Approval of Settlement, Approval of Notice Plan, and Appointment of Additional Class Counsel and the Settlement are deemed to have waived any objections, are foreclosed from making any objection, whether by appeal or otherwise, to the Settlement and Motion for Award of Class Representative Incentives, Attorney Fees, Costs, and All Other Expenses, are bound by the terms of the Settlement and the Final Judgment, and are foreclosed forever from making any objection to the fairness or adequacy or

any other aspect of the Settlement and the Motion for Award of Class Representative Incentives, Attorney Fees, Costs, and All Other Expenses;

The Haseko Defendants shall have the right to record in the Office of the Assistant Registrar of the Land Court of the State of Hawai'i and/or the Bureau of Conveyances of the State of Hawai'i, as applicable, an executed copy of this Settlement and/or Final Orders and Judgment against each Class Member Structure, and all terms and conditions of this Settlement, including the release, acquittal and discharge of Haseko Defendants set forth herein, shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest in or to any Class Member Structure or any portion thereof without the execution, delivery or recordation of any further instrument, the acquisition of any such right or interest in any Class Member Structure shall be deemed to constitute the acceptance of all terms and conditions of this Settlement by such person or entity, and upon the transfer or any such right or interest in an Class Member Structure, the same shall be subject to and the transferee shall assume and be bound and obligated to observe all of the terms and conditions contained in the Settlement; and

No Class Member validly objected to the Settlement; accordingly this action is DISMISSED WITH PREJUDICE pursuant to the Settlement, with all parties in the Lawsuit to bear their own fees and costs except as is set forth in the Settlement, herein, and in the prior orders of this Court.

APPROVED AS TO FORM:

/s/ Graham B. LippSmith  
MELVIN Y. AGENA  
GRAHAM B. LIPPSMITH  
CELENE S. CHAN  
KENNETH S. KASDAN  
SHARLA MANLEY  
Attorneys for Plaintiffs and the Class


DATED: August 17, 2021

/s/ Ross T. Shinyama

DATED: August 17, 2021

MELVYN M. MIYAGI  
ROSS T. SHINYAMA  
Attorneys for Defendants  
Haseko Homes, Inc.  
Haseko Construction, Inc.  
Ke Noho Kai Development, LLC  
Fairway's Edge Development, LLC

APPROVED AND SO ORDERED:

By: /s/ James H. Ashford   
Honorable James H. Ashford  
Judge of the Circuit Court

DATED: August 17, 2021

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*Tadashi Mitsuoka, et al., vs. Haseko Homes, Inc., et al.*, Civil No. 12-1-3020-11 JHA:  
**FINAL JUDGMENT**