

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by:

Developer Mahinui Garden, LLC
Address 2115 Ala Wai Blvd. #1401, Honolulu, HI 96815

Project Name (\*): MAHINUI GARDEN
Address: 45-422 Kamehameha Hwy. & 45-510 to 530 Mahinui Rd., Kaneohe, Hawaii 96744

Registration No. 732
Effective date: November 3, 2003
Expiration date: December 3, 2004

Preparation of this Report

This report has been prepared by the Developer pursuant to the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, as amended. This report is not valid unless the Hawaii Real Estate Commission has issued a registration number and effective date for the report.

This report has not been prepared or issued by the Real Estate Commission or any other government agency. Neither the Commission nor any other government agency has judged or approved the merits or value, if any, of the project or of purchasing an apartment in the project.

Buyers are encouraged to read this report carefully, and to seek professional advice before signing a sales contract for the purchase of an apartment in the project.

Expiration Date of Reports: Preliminary Public Reports and Final Public Reports automatically expire thirteen (13) months from the effective date unless a Supplementary Public Report is issued or unless the Commission issues an order, a copy of which is attached to this report, extending the effective date for the report.

Exception: The Real Estate Commission may issue an order, a copy of which shall be attached to this report, that the final public report for a two apartment condominium project shall have no expiration date.

Type of Report:

PRELIMINARY: (yellow) The developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report. A Final Public Report will be issued by the developer when complete information is filed.

FINAL: (white) The developer has legally created a condominium and has filed complete information with the Commission.
[ ] No prior reports have been issued.
[ ] This report supersedes all prior public reports.
[ ] This report must be read together with

X SUPPLEMENTARY: (pink) This report updates information contained in the:
[ ] Preliminary Public Report dated:
[X] Final Public Report dated: November 19, 1974
[ ] Supplementary Public Report dated:

And [X] Supersedes all prior public reports.
[ ] Must be read together with
[ ] This report reactivates the public report(s) which expired on

(\* ) Exactly as named in the Declaration

This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2644 to submit your request.

**Disclosure Abstract:** Separate Disclosure Abstract on this condominium project:

Required and attached to this report       Not Required – Disclosures covered in this report

**Summary of Changes from Earlier Public Reports:**

This summary contains a general description of the changes, if any, made by the developer since the last public report was issued. It is not necessarily all inclusive. Prospective buyers should compare this public report with the earlier reports if they wish to know the specific changes that have been made.

No prior reports have been issued by the developer.

Changes made are as follows:

1. The current format for the public report is being used.
2. Page 5. The Developer, Architect, Broker, Escrow Agent, Managing Agent and Attorney have changed.
3. Page 6. The Declaration of Horizontal Property Regime and Condominium Map have been amended.
4. Page 7. The Developer has adopted House Rules for the project.
5. Page 8. The apartments will be offered for sale in fee simple instead of leasehold.
6. Page 10. The fee owner of the property has changed.
7. Page 13. An Existing Use Permit has been obtained for the Project and all future work must be done in conformance therewith.
8. Page 14. An updated title report has been obtained.
9. Page 17. The Maintenance Budget and Fee Schedule have been updated.
10. Page 18. A new escrow agreement is in place.
11. Page 20. The Additional Information page has a summary of project changes and certain caveats and disclosures.
12. Exhibit A to the Final Public Report has been updated to show the latest limited common areas and number of bathrooms in each unit and to reflect that what was previously referred to as "lots" in the Final Public Report are not legally subdivided "lots" but "limited common areas" appurtenant to each apartment.

Please refer to page 20-20b for further update and information.

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### General Information On Condominiums

A condominium is a special form of real property. To create a condominium in Hawaii, the requirements of the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, must be complied with. In addition, certain requirements and approvals of the County in which the project is located must be satisfied and obtained.

Some condominium projects are leasehold. This means that the land or the building(s) and other improvements are leased to the buyer. The lease for the land usually requires that at the end of the lease term, the lessees (apartment owners/tenants) deliver their interest in the land to the lessor (fee property owner). The lease also usually requires that the lessees either (1) convey to the lessor the building(s) and other improvements, including any improvements paid for by the lessees; or (2) remove or dispose of the improvements at the lessee's expense. Leases for individual apartments often require that at the end of the lease term, the lessee deliver to the lessor the apartment, including any improvements placed in the apartment by the lessee.

If you are a typical condominium apartment owner, you will have two kinds of ownership: (1) ownership in your individual apartment; and (2) an undivided interest in the common elements.

"Common elements" are the areas of the condominium project other than the individual apartments. They are owned jointly by all apartment owners and include the land, either in fee simple or leasehold, and those parts of the building or buildings intended for common use such as foundations, columns, roofs, halls, elevators, and the like. Your undivided interest in the common elements cannot be separated from ownership of your apartment.

In some condominium projects, some common elements are reserved for the exclusive use of the owners of certain apartments. These common elements are called "limited common elements" and may include parking stalls, patios, lanais, trash chutes, and the like.

You will be entitled to exclusive ownership and possession of your apartment. Condominium apartments may be individually bought, sold, rented, mortgaged or encumbered, and may be disposed of by will, gift, or operation of law.

Your apartment will, however, be part of the group of apartments that comprise the condominium project. Study the project's Declaration, Bylaws, and House Rules. These documents contain important information on the use and occupancy of apartments and the common elements as well as the rules of conduct for owners, tenants, and guests.

### Operation of the Condominium Project

The Association of Apartment Owners is the entity through which apartment owners may take action with regard to the administration, management, and operation of the condominium project. Each apartment owner is automatically a member of the Association.

The Board of Directors is the governing body of the Association. Unless you serve as a board member or an officer, or are on a committee appointed by the board, your participation in the administration and operation of the condominium project will in most cases be limited to your right to vote as an apartment owner. The Board of Directors and officers can take certain actions without the vote of the owners. For example, the board may hire and fire employees, increase or decrease maintenance fees, borrow money for repair and improvements and set a budget. Some of these actions may significantly impact the apartment owners.

Until there is a sufficient number of purchasers of apartments to elect a majority of the Board of Directors, it is likely that the developer will effectively control the affairs of the Association. It is frequently necessary for the developer to do so during the early stages of development and the developer may reserve certain special rights to do so in the Declaration and Bylaws. Prospective buyers should understand that it is important to all apartment owners that the transition of control from the developer to the apartment owners be accomplished in an orderly manner and in a spirit of cooperation.

I. PERSONS CONNECTED WITH THE PROJECT

Developer: Mahinui Garden, LLC Phone: (808) 926-8008  
Name\* (Business)  
2115 Ala Wai Blvd. #1401  
Business Address  
Honolulu, HI 96815

Names of officers and directors of developers who are corporations; general partners of a partnership; partners of a Limited Liability Partnership (LLP); or manager and members of a Limited Liability Company (LLC) (attach separate sheet if necessary):

Robert H. Fulford, Member/Manager  
Radoslav Lepur, Member  
\_\_\_\_\_  
\_\_\_\_\_

Real Estate Broker\*: PaR Management Inc. Phone: (808) 951-8870  
Name (Business)  
1400 Kapiolani Blvd. Ste. B35  
Business Address  
Honolulu, HI 96814

Escrow Guardian Escrow Services Phone: (808) 951-6991  
Name (Business)  
2347 Beretania St. #200  
Business Address  
Honolulu, HI 96826

General Contractor\*: N/A Phone: \_\_\_\_\_  
Name (Business)  
Business Address

Condominium Managing Agent\*: PaR Management Inc. Phone: (808) 951-8870  
Name (Business)  
1400 Kapiolani Blvd. Ste. B35  
Business Address  
Honolulu, HI 96814

Attorney for Developer: Glenn M. Adachi Phone: (808) 591-1154  
Name (Business)  
1314 South King St., Suite 616  
Business Address  
Honolulu, HI 96814

\* For Entities: Name of corporation, partnership, Limited Liability Partnership (LLP), or Limited Liability Company (LLC)

**II. CREATION OF THE CONDOMINIUM;  
CONDOMINIUM DOCUMENTS**

A condominium is created by recording in the Bureau of Conveyances and/or filing with the Land Court a Declaration of Condominium Property Regime, a Condominium Map (File Plan), and the Bylaws of the Association of Apartment Owners. The Condominium Property Act (Chapter 514A, HRS), the Declaration, Bylaws, and House Rules control the rights and obligations of the apartment owners with respect to the project and the common elements, to each other, and to their respective apartments. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law.

A. Declaration of Condominium Property Regime contains a description of the land, buildings, apartments, common elements, limited common elements, common interests, and other information relating to the condominium project.

The Declaration for this condominium is:

Proposed  
 Recorded - Bureau of Conveyances: Document No. \_\_\_\_\_  
Book 10220 Page 375  
 Filed - Land Court: Document No. \_\_\_\_\_

The Declaration referred to above has been amended by the following instruments {state name of document, date and recording/filing information}: An Amendment to the Declaration of Horizontal Property Regime dated September 29, 2003 was recorded on September 30, 2003 as Regular System Document No. 2003-212246. The amendment replaced Exhibit A, added an Exhibit B and substituted a new Condominium Map No. 385.  
B. Condominium Map (File Plan) shows the floor plan, elevation and layout of the condominium project. It also shows the floor plan, location, apartment number, and dimensions of each apartment.

The Condominium Map for this condominium project is:

Proposed  
 Recorded - Bureau of Conveyances Condo Map No. 385  
 Filed - Land Court Condo Map No. \_\_\_\_\_

The Condominium Map has been amended by the following instruments {state name of document, date and recording/filing information}:  
Amendment to Declaration of Horizontal Property Regime dated September 29, 2003, recorded aforesaid.

C. Bylaws of the Association of Apartment Owners govern the operation of the condominium project. They provide for the manner in which the Board of Directors of the Association of Apartment Owners is elected, the powers and duties of the Board, the manner in which meetings will be conducted, whether pets are prohibited or allowed and other matters which affect how the condominium project will be governed.

The Bylaws for this condominium are:

Proposed  
 Recorded - Bureau of Conveyances: Document No. \_\_\_\_\_  
Book 10220 Page 397  
 Filed - Land Court: Document No. \_\_\_\_\_

The Bylaws referred to above have been amended by the following instruments {state name of document, date and recording/filing information}:

D. **House Rules.** The Board of Directors may adopt House Rules to govern the use and operation of the common elements and limited common elements. House Rules may cover matters such as parking regulations, hours of operation for common facilities such as recreation areas, use of lanais and requirements for keeping pets. These rules must be followed by owners, tenants, and guests. They do not need to be recorded or filed to be effective. The initial House Rules are usually adopted by the developer.

The House Rules for this condominium are:

Proposed       Adopted       Developer does not plan to adopt House Rules

E. **Changes to Condominium Documents** Changes to the Declaration, Condominium Map, and Bylaws are effective only if they are duly adopted and recorded and/or filed. Changes to House Rules do not need to be recorded or filed to be effective.

1. **Apartment Owners:** Minimum percentage of common interest which must vote for or give written consent to changes:

	<u>Minimum Set by Law</u>	<u>This Condominium</u>
Declaration (and Condo Map)	75%*	<u>75%</u>
Bylaws	65%	<u>75%</u>
House Rules	—	<u>N/A</u>

\* The percentages for individual condominium projects may be more than the minimum set by law for projects with five or fewer apartments.

2. **Developer:**

No rights have been reserved by the developer to change the Declaration, Condominium Map, Bylaws or House Rules.

Developer has reserved the following rights to change the Declaration, Condominium Map, Bylaws or House Rules:

Pursuant to paragraph P of the Declaration, the developer has the right as long as he owns 75% or more of the common interest in the project, to amend the Declaration, Condominium Map and By-Laws of the project.

III. THE CONDOMINIUM PROJECT

A. Interest to be Conveyed to Buyer:

Fee Simple: Individual apartments and the common elements, which include the underlying land, will be in fee simple.

Leasehold or Sub-leasehold: Individual apartments and the common elements, which include the underlying land will be leasehold.

Leases for the individual apartments and the underlying land usually require that at the end of the lease term, the lessee (apartment owner/tenant) deliver to the lessor (fee property owner) possession of the leased premises and all improvements, including improvements paid for by the lessee.

Exhibit \_\_\_\_\_ contains further explanations regarding the manner in which the renegotiated lease rents will be calculated and a description of the surrender clause provision(s).

Lease Term Expires: \_\_\_\_\_ Rent Renegotiation Date(s): \_\_\_\_\_

Lease Rent Payable:  Monthly  Quarterly  
 Semi-Annually  Annually

Exhibit \_\_\_\_\_ contains a schedule of the lease rent for each apartment per:  Month  Year

For Sub-leaseholds:

Buyer's sublease may be canceled if the master lease between the sublessor and fee owner is:  Canceled  Foreclosed

As long as the buyer is not in default, the buyer may continue to occupy the apartment and/or land on the same terms contained in the sublease even if the master lease is canceled or foreclosed.

Individual Apartments in Fee Simple: Common Interest in the Underlying Land in Leasehold or Sub-leasehold:

Leases for the underlying land usually require that at the end of the lease term, the lessees (apartment owners/tenants) deliver to the lessor (fee property owner) their interest in the land and that they either (1) remove or dispose of the building(s) and other improvements at the lessee's expense; or (2) convey the building(s) and improvements to the lessor, often at a specified price.

Exhibit \_\_\_\_\_ contains further explanations regarding the manner in which the renegotiated lease rents will be calculated and a description of the surrender clause provision(s).

Lease Term Expires: \_\_\_\_\_ Rent Renegotiation Date(s): \_\_\_\_\_

Lease Rent Payable:  Monthly  Quarterly  
 Semi-Annually  Annually

Exhibit \_\_\_\_\_ contains a schedule of the lease rent for each apartment per:  Month  Year

Other:

**IMPORTANT INFORMATION ON LEASEHOLD CONDOMINIUM PROJECTS**

The information contained in this report is a summary of the terms of the lease. For more detailed information, you should secure a copy of the lease documents and read them thoroughly.

If you have any legal questions about leasehold property, the lease documents or the terms of the lease and the consequences of becoming a lessee, you should seek the advice of an attorney.

There are currently no statutory provisions for the mandatory conversion of leasehold condominiums and there are no assurances that such measures will be enacted in the future.

In leasehold condominium projects, the buyer of an apartment will acquire the right to occupy and use the apartment for the time stated in the lease agreement. The buyer will not acquire outright or absolute fee simple ownership of the land. The land is owned by the lessor or the leased fee owner. The apartment owner or lessee must make lease rent payments and comply with the terms of the lease or be subject to the lessor's enforcement actions. The lease rent payments are usually fixed at specific amounts for fixed periods of time, and are then subject to renegotiation. Renegotiation may be based on a formula, by arbitration set in the lease agreement, by law or by agreement between the lessor and lessee. The renegotiated lease rents may increase significantly. At the end of the lease, the apartment owners may have to surrender the apartments, the improvements and the land back to the lessor without any compensation (surrender clause).

When leasehold property is sold, title is normally conveyed by means of an assignment of lease, the purpose of which is similar to that of a deed. The legal and practical effect is different because the assignment conveys only the rights and obligations created by the lease, not the property itself.

The developer of this condominium project may have entered into a master ground lease with the fee simple owner of the land in order to develop the project. The developer may have then entered into a sublease or a new lease of the land with the lessee (apartment owner). The developer may lease the improvements to the apartment owner by way of an apartment lease or sublease, or sell the improvements to the apartment owners by way of a condominium conveyance or apartment deed.

**B. Underlying Land:**

Address: 45-510 to 530 Mahinui Rd. Tax Map Key (TMK): (1)4-5-036-023  
45-422 Kamehameha Hwy., Kaneohe, HI 96744

Address  TMK is expected to change because N/A

Land Area: 119,000  square feet  acre(s) Zoning: R-5

Fee Owner: Mahinui Garden, LLC  
 Name  
2115 Ala Wai Blvd. #1401  
 Address  
Honolulu, HI 96815

Lessor: N/A  
 Name  
 Address

C. **Buildings and Other Improvements:**

1.  New Building(s)  
 Conversion of Existing Building(s)  
 Both New Building(s) and Conversion
2. Number of Buildings: 19 Floors Per Building: 1  
 Exhibit A contains further explanations.
3. Principal Construction Material:  
 Concrete       Hollow Tile       Wood  
 Other \_\_\_\_\_
4. Uses Permitted by Zoning:

	<u>No. of Apts.</u>	<u>Use Permitted By Zoning</u>	
<input checked="" type="checkbox"/> Residential	<u>20</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Commercial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Hotel	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Timeshare	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Ohana	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Industrial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Agricultural	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Recreational	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Other	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Is/Are this/these use(s) specifically permitted by the project's Declaration or Bylaws?  
 Yes       No

5. Special Use Restrictions:

The Declaration and Bylaws may contain restrictions on the use and occupancy of the apartments. Restrictions for this condominium project include but are not limited to :

- Pets: Dogs, cats, and birds allowed; but no livestock poultry or rabbits.
- Number of Occupants: \_\_\_\_\_
- Other: \_\_\_\_\_
- There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0      Stairways: 0      Trash Chutes: 0

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Net Other Area (sf)</u>	<u>(Identify)</u>
<u>See Exhibit A</u>	_____	_____	_____	_____	_____
<u>Most of the apartments are single family detached and dissimilar in layout and areas.</u>					
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

Total Number of Apartments: 20

**\*Net Living Area is the floor area of the apartment measured from the interior surface of the apartment perimeter walls**

**Other documents and maps may give floor area figures which differ from those above because a different method of determining the floor area may have been used.**

Boundaries of Each Apartment:

The exterior finished surfaces of all apartments (perimeter walls, roofs, foundations, windows, frames, doors, beams, post entries) consisting of separate buildings (Apartments #1-8, #11-20). As for apartments #9 and 10, which are joined, each apartment includes the space enclosed by the walls, floors, and ceilings surrounding the apartment, all non-load-bearing walls, all perimeter walls, floors, ceilings, doors and windows.

Permitted Alterations to Apartments:

As provided under paragraph N of the Declaration and the City's Existing Use Permit (Exhibit B), as amended.

Apartments Designated for Owner-Occupants Only:

Fifty percent (50%) of residential apartments must be so designated; developer has a right to substitute similar apartments for those apartments already designated. Developer must provide this information either in a published announcement or advertisement as required by section 514A-102, HRS; or include the information here in this public report and in the announcement (see attachment 11a). Developer has \_\_\_\_\_ elected to provide the information in a published announcement or advertisement.

**NOTE: Although developer believes it is exempt from owner-occupancy sales because the condominium project was created before the law requiring such came into effect, developer nevertheless plans to publish an announcement per section 514A-102.**



11. Conformance to Present Zoning Code

- a.  No variances to zoning code have been granted.  
 Variance(s) to zoning code was/were granted as follows:

b. Conforming/Non-Conforming Uses, Structures, Lot

In general, a non-conforming use, structure, or lot is a use, structure, or lot which was lawful at one time but which does not now conform to present zoning requirements.

	<u>Conforming</u>	<u>Non-Conforming*</u>	<u>Illegal</u>
Uses	_____	_____X_____	_____
Structures	_____	_____X_____	_____
Lot	_____X_____	_____	_____

\*See Exhibits B and C.

If a variance has been granted or if uses, improvements or lot are either non-conforming or illegal, buyer should consult with county zoning authorities as to possible limitations which may apply.

Limitations may include restrictions on extending, enlarging, or continuing the non-conformity, and restrictions on altering and repairing structures. In some cases, a non-conforming structure that is destroyed or damaged cannot be reconstructed.

The buyer may not be able to obtain financing or insurance if the condominium project has a non-conforming or illegal use, structure, or lot.

D. Common Elements, Limited Common Elements, Common Interest:

1. Common Elements: Common Elements are those parts of the condominium project other than the individual apartments. Although the common elements are owned jointly by all apartment owners, those portions of the common elements which are designated as limited common elements (see paragraph 2 below) may be used only by those apartments to which they are assigned. The common elements for this project, as described in the Declaration, are:

described in Exhibit \_\_\_\_\_.

as follows:

the land, the driveways shown on the Condominium Map, central facilities and appurtenant installations for utility and other common services such as power, lights, gas and water; and all other parts of the property necessary or convenient to its existence, maintenance, and safety or normally of common use.

2. Limited Common Elements: Limited Common Elements are those common elements which are reserved for the exclusive use of the owners of certain apartments.

There are no limited common elements in this project.

The limited common elements and the apartments which use them, as described in the Declaration, are:

described in Exhibit D.

as follows:

3. Common Interest: Each apartment will have an undivided fractional interest in all of the common elements. This interest is called the "common interest." It is used to determine each apartment's share of the maintenance fees and other common profits and expenses of the condominium project. It may also be used for other purposes, including voting on matters requiring action by apartment owners. The common interests for the apartments in this project, as described in the Declaration, are:

described in Exhibit \_\_\_\_\_.

as follows: Each apartment shall have a 5% share in all common elements and common expenses.

- E. Encumbrances Against Title: An encumbrance is a claim against or a liability on the property or a document affecting the title or use of the property. Encumbrances may have an adverse effect on the property or your purchase and ownership of an apartment in the project.

Exhibit F describes the encumbrances against the title contained in the title report dated September 10, 2003 and issued by First American Title (updated September 26, 2003)

**Blanket Liens:**

A blanket lien is an encumbrance (such as a mortgage) on the entire condominium project that secures some type of monetary debt (such as a loan) or other obligation. A blanket lien is usually released on an apartment-by-apartment basis upon payment of specified sums so that individual apartments can be conveyed to buyers free and clear of the lien.

There are no blanket liens affecting title to the individual apartments.

There are blanket liens which may affect title to the individual apartments.

Blanket liens (except for improvement district or utility assessments) must be released before the developer conveys the apartment to a buyer. The buyer's interest will be affected if the developer defaults and the lien is foreclosed prior to conveying the apartment to buyer.

**Type of Lien**  
Mortgages

**Effect on Buyer's Interest and Deposit if Developer Defaults  
or Lien is Foreclosed Prior to Conveyance**

Developer does not intend to use purchaser's funds prior to closing. Therefore, if the property is foreclosed before closing, the purchaser may not be able to close but may cancel the transaction and seek refund of his deposit less an escrow cancellation fee not to exceed \$250.

**F. Construction Warranties:**

Warranties for individual apartments and the common elements, including the beginning and ending dates for each warranty, are as follows:

1. **Building and Other Improvements:**  
None. All sales "as-is".
  
  
  
  
  
  
  
  
  
  
2. **Appliances:**  
None. All sales "as-is".

G. Status of Construction and Date of Completion or Estimated Date of Completion:

The units were constructed in 1941 and 1952 and are now being sold "as-is". Alterations and reconstructions must be in compliance with the project's Declaration, the City's Existing Use Permit (Exhibit B) and applicable City ordinances.

H. Project Phases:

The developer [ ] has [X] has not reserved the right to add to, merge, or phase this condominium.

Summary of Developer's plans or right to perform for future development (such as additions, mergers or phasing):



V. MISCELLANEOUS

A. Sales Documents Filed With the Real Estate Commission:

Sales documents on file with the Real Estate Commission include but are not limited to:

- Notice to Owner Occupants
- Specimen Sales Contract  
Exhibit G contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated July 3, 2003  
Exhibit H contains a summary of the pertinent provisions of the escrow agreement.
- Other \_\_\_\_\_

B. Buyer's Right to Cancel Sales Contract:

1. Rights Under the Condominium Property Act (Chapter 514A, HRS):

Preliminary Report: Sales made by the developer are not binding on the prospective buyer. Sales made by the developer may be binding on the developer unless the developer clearly states in the sales contract that sales are not binding. A prospective buyer who cancels the sales contract is entitled to a refund of all moneys paid, less any escrow cancellation fee up to \$250.00.

Supplementary Report to a Preliminary Report: Same as for Preliminary Report.

Final Report or Supplementary Report to a Final Report: Sales made by the developer are binding if:

- A) The Developer delivers to the buyer a copy of:
  - 1) Either the Final Public Report OR the Supplementary Public Report which has superseded the Final Public Report for which an effective date has been issued by the Real Estate Commission; AND
  - 2) Any other public report issued by the developer prior to the date of delivery, if the report was not previously delivered to the buyer and if the report has not been superseded;
- B) The buyer is given an opportunity to read the report(s); AND
- C) One of the following has occurred:
  - 1) The buyer has signed a receipt for the report(s) and waived the right to cancel; or
  - 2) Thirty (30) days have passed from the time the report(s) were delivered to the buyer; or
  - 3) The apartment is conveyed to the buyer within 30 days from the date the report(s) were delivered to the buyer.

Material Change: Binding contracts with the Developer may be rescinded by the buyer if:

- A) There is a material change in the project which directly, substantially, and adversely affects (1) the use or value of the buyer's apartment or its limited common elements; or (2) the amenities available for buyer's use; AND
- B) The buyer has not waived the right to rescind.

If the buyer rescinds a binding sales contract because there has been a material change, the buyer is entitled to a full and prompt refund of any moneys the buyer paid.

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:
- A) Condominium Public Reports issued by the developer which have been issued an effective date by the Hawaii Real Estate Commission.
  - B) Declaration of Condominium Property Regime, as amended.
  - C) Bylaws of the Association of Apartment Owners, as amended.
  - D) House Rules, if any.
  - E) Condominium Map, as amended.
  - F) Escrow Agreement.
  - G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
  - H) Other \_\_\_\_\_

Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer or through the developer's sales agent, if any. Reprints of Hawaii's Condominium Property Act (Chapter 514A, HRS) and Hawaii Administrative Rules, Chapter 16-107, are available at the Cashier's Office, Department of Commerce and Consumer Affairs, 1010 Richards Street, 3rd Floor, Honolulu, Hawaii, mailing address: P. O. Box 541, Honolulu, HI 96809, at a nominal cost.

This Public Report is a part of Registration No. 732 filed with the Real Estate Commission on November 1, 1974.

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C. Additional Information Not Covered Above

1. Changes of Ownership

A Declaration of Horizontal Property Regime for the project dated October 25, 1974 was filed on October 31, 1974. On May 22, 1986, Ela-Flo-May, Inc., the original developer and fee owner of the project entered into a master lease with Dynamic Funding Corporation ("Dynamic") for the entire project. In May 2003, a subsequent fee owner sold its leased fee interest to Mahinui Garden, LLC ("Mahinui"), the current developer.

Meanwhile, Dynamic, the lessee, transferred via assignment of lease its leasehold interest to RTM Properties Inc ("RTM"), the sole stockholder being one Reid T. Moriyama, who in turn entered into a Stock Purchase Agreement with Mahinui on July 31, 2003. Said Agreement enabled Mahinui, owner of the fee, to acquire all of Moriyama's interest in RTM, owner of the leasehold, which Mahinui did on July 31, 2003. As owner of both the fee and leasehold interests in the property, Mahinui proposes to merge them at the time of conveyance by extinguishing the leasehold interest at that time.

On closing of each apartment, the purchaser will receive a deed from the fee owner/developer for a fee simple interest in the apartment, together with an appurtenant percentage interest in the common elements.

2. Developer's and Purchaser's Compliance with Existing Use Permit

On March 7, 2003, the City issued an Existing Use Permit (File No. 2002/EU-32) on the project (Exhibit B). The approval noted several conditions:

- a. #2. Two building violations had to be resolved. These have since been satisfied by the developer as confirmed by letter from the City dated September 2, 2003.
- b. #11. All driveways and parking areas for all dwelling units had to be paved. This is being done pursuant to a contract between the developer and Hawai'i Seal Coating Co., Inc dated September 4, 2003.
- c. #7. The Terms of the Existing Use Permit had to be incorporated into restrictive covenants that run with the land. A copy had to be recorded and filed with the City before any change in ownership occurs. This has been completed with recording an Amendment to Declaration of Horizontal Property Regime dated September 29, 2003 (see Page 6 of Report). All prospective purchasers are encouraged to read Exhibit B carefully since all sales are made subject to purchasers complying with the terms of the Existing Use Permit.

3. City's Verification of Code Compliance

See the City's letter of August 8, 2003 attached as Exhibit C. Prospective purchasers are advised that the affidavit mentioned in item 4 on page 2, required on issuance of building permit number 68242 on 6/25/76 for installation of a bathroom, bar area, bar sink and enclosed patio in Apartment 5 (45-422D Kamehameha Hwy.), is now moot since the improvements have been removed and the apartment's floor plan restored to that shown in the Condominium Map.

4. Developer Intends to Obtain Partial Releases from Lienors

The developer as owner of the fee and the corporation that owns the leasehold interest, intends to obtain partial releases on all liens prior to each apartment purchaser's closing so that each conveyance will be that of a fee simple interest free and clear of prior liens.

5. Lead Warning Statement

Pursuant to federal law, 42, U.S.C. 4852(d), the Residential Lead-Based Paint Reduction Act, "Every purchaser of any interest in residential real property on which a residential dwelling was

built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspection in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase."

6. Hazardous Material

The Developer neither prepared nor commissioned a Phase 1 environmental Site Assessment and makes no representations or warranties whatsoever. The developer has made not independent investigation as to asbestos or other hazardous substances in the apartments or in, under or around the Project, including but not limited to, radioactive materials, organic compounds known as polychlorinated biphenyls, chemicals know to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances, and any and all other substances or materials defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials", or "toxic substances" under, or for the purposes of, hazardous materials laws. Buyer acknowledges that in light of the age of the Project, there may be asbestos and other hazardous substances in the apartments, or in, under or around the Project. Because of the possible presence of such substances, Buyer should have the apartment inspected to determine the extent (if any) of such contamination and any necessary remedial action. The developer will not correct any defects in the apartments or in the Project or anything installed or contained therein and the Buyer expressly releases the developer from any liability to Buyer if any hazardous materials are discovered.

Purchasers should be aware that the Project is subject to several blanket mortgages and liens (see Exhibit F). The sale of any Unit is subject to the satisfaction of the liens (and removal thereof) or the partial release of the liens so that the Unit can be conveyed free and clear of the liens. If such has not occurred within 90 days of entering into a sales contract, either party may elect to terminate the contract.

7. Limitation of Purchaser's Rights

The Specimen Sales Contract provides that the Purchaser understands that the Apartments and the Project are being sold in "as-is" condition. The existence of any defect in the Apartments or anything installed thereon shall not excuse the Purchaser's obligation to perform all of his obligations under his sales contract.

The Specimen Sales Contract further states that the Purchasers will not have any right to file any lawsuit for damages against the Seller for any defects in the Apartments or in the Project.

The specimen Apartment Deed provides that the Developer disclaims any promises or representations or other statements to the condition of the Apartments or of the Project, or of any improvements, on, in or under the Apartments or in the Project. By way of illustration (but not limitation), Developer makes no promises or representations about:

- i. The construction, structural soundness, condition or state of repair, operating order, safety or livability of any improvements in or within the Project;
- ii. The suitability of any improvements for any particular use;
- iii. Whether or not the Apartment, the Project or any improvements meet the requirements of any building, health, zoning, land use, subdivision, setback or other law, ordinance, rule or regulation which may apply;

- iv. Whether or not any easement, right-of-way or driveway meets the requirements of any building, health, zoning, land use, subdivision, setback or other law, ordinance, rule or regulation which may apply;
- v. The density, stability, structure, erosion or other condition of the Project's soil for building or any other use;
- vi. Whether any improvements on or under the Project encroach over the boundary lines of any land which shares a boundary with the Project;
- vii. Whether any improvements on or under land which shares a boundary with the Project encroach over the boundary lines of the Project;
- viii. Any matter concerning the electrical, water, gas, plumbing or sewer systems (if any);
- ix. The accuracy of any staking or survey done by any person; and
- x. The accuracy of areas of the apartments, limited common areas and the land on which the Project is located.

8. **Developer – Real Estate License Disclosure**

Pursuant to sections 16-99-3(g) and 16-99-11(d), Hawaii Administrative Rules ("HAR"), prospective purchasers are hereby advised that Robert H. Fulford (RS-51916), managing member of Mahinui Garden, LLC, the developer, is a current and active Hawai'i-licensed real estate salesperson associated with Coldwell Banker Pacific Properties (RB-16781-10). Pursuant to section 16-99-11(c) HAR, "(n)o licensee shall be allowed to advertise 'For Sale by Owner', 'For Rent by Owner', 'For Lease by Owner', 'For Exchange by Owner'."

9. **Property Management Agreement**

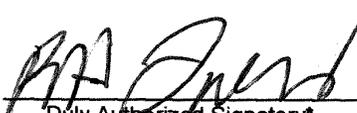
In addition, to the monthly management fee of \$300 per month (in Exhibit E), the property management agreement provides for the following additional fees and cost reimbursements:

- a. An additional fee for attendance at monthly meetings that exceed 3 hours in length; and
- b. Fee for storage of the Association's records.

Prospective purchasers should read the property management agreement.

- D. The developer declares subject to the penalties set forth in section 514A-49(b) that this project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to Act 251 (SLH 2000) [Section 514A-1.6] (The developer is required to make this declaration for issuance of an effective date for a final public report.)
- E. The developer hereby certifies that all the information contained in this Report and the Exhibits attached to this Report and all documents to be furnished by the developer to buyers concerning the project have been reviewed by the developer and are, to the best of the developer's knowledge, information and belief, true, correct and complete.

Mahinui Garden, LLC  
Printed Name of Developer

By:  10/9/03  
Duly Authorized Signatory\* Date

Robert H. Fulford, Managing Member  
Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, City and County of Honolulu

Planning Department, City and County of Honolulu

***\*Must be signed for a: corporation by an officer; partnership or Limited Liability Partnership (LLP) by the general partner; Limited Liability Company (LLC) by the manager or member; and for an individual by the individual.***

APARTMENT AND LIMITED COMMON AREA DESCRIPTIONS

EXHIBIT "A"

<u>Apartment and LCA* No.</u>	<u>Street Address</u>	<u>Number of Bedrooms</u>	<u>Number of Bathrooms</u>	<u>Approximate Apartment Floor Area</u>	<u>Approximate LCA*</u>
1	45-422 Kamehameha Highway	3	2	1380	10776
2	45-422A Kamehameha Highway	3	2	1010	6641
3	45-422B Kamehameha Highway	3	2	1282	5653
4	45-422C Kamehameha Highway	3	1	1087	7556
5	45-422D Kamehameha Highway	3	2 1/2	1650	6816
6	45-422E Kamehameha Highway	3	1 1/2	907	4183
7	45-510E Mahinui Road	3	1 1/2	1329	6630
8	45-510F Mahinui Road	3	2	994	5874
9	45-510G Mahinui Road	1	1	920	4000
10	45-510H Mahinui Road	1	1	705	4203
11	45-510 Mahinui Road	3	2	1130	3588
12	45-510A Mahinui Road	3	2	1190	4118
13	45-510B Mahinui Road	3	2	817	5982
14	45-510C Mahinui Road	3	2	1304	5594
15	45-510D Mahinui Road	3	2	1390	5930
16	45-518 Mahinui Road	3	2	1080	4896
17	45-522 Mahinui Road	3	2	1234	4978
18	45-524 Mahinui Road	3	2	1103	4646
19	45-526 Mahinui Road	3	1	1047	5130
20	45-530 Mahinui Road	3	2	995	5346

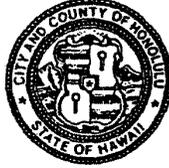
\*LCA—"Limited Common Area" appurtenant to apartments. These are not legally subdivided lots.

Revised September 23, 2003

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET • HONOLULU, HAWAII 96813  
Telephone: (808) 523-4414 • Fax: (808) 527-6743 • INTERNET: www.co.honolulu.hi.us

JEREMY HARRIS  
MAYOR



ERIC G. CRISPIN, AIA  
DIRECTOR

BARBARA KIM STANTON  
DEPUTY DIRECTOR

2002/EU-32(GU)

<b>MINOR PERMIT</b>	:	<b>EXISTING USE (EU)</b>
File Number	:	2002/EU-32
Project	:	Mahinui Gardens
Location	:	45-422 & 45-422A-E Kamehameha Highway, 45-510, 45-510A-H, 45-518, 45-522, 45-524, 45-526 & 45-530 Mahinui Road - Kaneohe
Tax Map Key	:	4-5-36:23
Zoning	:	R-5 Residential District
Applicant	:	Robert H. Fulford
Date Received	:	December 23, 2002
Date Accepted	:	January 8, 2003

**APPROVAL** is granted to the existing use, twenty (20) existing (18 single-family and 1 two-family detached) dwelling units, in accordance with the application documents (plans date-stamped December 23, 2002, and January 28, 2003), subject to the following conditions:

1. All work shall be in accordance with approved application documents, the conditions enumerated below and the Land Use Ordinance (LUO) unless otherwise stated by this permit.
2. Notices of Violation (NOVs) for two of the project units were issued during the City's inspection for this permit. For Lot 1 (45-422 Kamehameha Highway), 2003/NOV-02-032 (HC) was issued for enclosing an open storage area and constructing a bathroom without required building permits. For Lot 12 (45-510A Mahinui Road), 2003/NOV-02-033 (HC) was issued for converting a carport into a bedroom without the required building permit.

The applicant/landowner shall do one of the following *prior to transfer of any ownership interest in the property*:

- a) obtain after-the-fact permits, or
- b) restore the areas to previously existing conditions.

3. The addition, alteration or reconstruction of any dwelling unit shall comply with Fire Department requirements for access, water and/or Fire Department connections, and shall be submitted to the Fire Department for review and approval prior to issuance of building permits. Specifically, units 45-510, 45-510A-H, and 45-422C-E shall provide an automatic fire sprinkler system in accordance with NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings.

In addition, all work shall maintain a 13'-6" vertical clearance throughout the existing roadway for fire apparatus access; and all construction plans shall be submitted to the HFD and the Department of Planning and Permitting for review and approval.

4. The EU permit is only for the continued use, repair, alteration, expansion, relocation, or reconstruction of the existing dwellings. This Existing Use approval does not certify that the existing structures and improvements comply with the current zoning code or other regulations.
5. In accordance with Section 2.100(a) of the LUO, in the event of destruction, uses may be continued and structures may be rebuilt under the approved existing use plan, provided that such restoration is permitted by the Building Code and Flood Hazard Regulations and is started within two years.
6. Only minor modifications to the EU plans shall be allowed. Any major modification which may have an adverse impact on surrounding land uses, increases the number of dwelling units, and/or involves the reconstruction and/or expansion of a dwelling(s) which is part of a larger development, shall require the processing of a Cluster Housing Permit.
7. The applicant/landowner shall incorporate this Existing Use Permit into the restrictive covenants which run with the land, to serve as notice to all owners and tenants. The draft covenant shall be submitted for review and approval by the DPP. Upon approval of the covenant, a certified recorded copy shall be filed with the DPP, prior to the change in any ownership or the issuance of any permits.
8. If the project will be condominiumized, the applicant or landowner shall submit a copy of the approved Condominium Property Regime (CPR) map and documents to the DPP *prior to the change in any ownership or the issuance of any permits*. If the EU Permit is incorporated into the CPR documents, a separate declaration of restrictive covenants is not required.  
  
Future work subsequent to the creation of a CPR may require approval from the homeowners association prior to the start of work.
9. All work shall comply with the applicable Land Use Ordinance (LUO) standard for the underlying zoning district, unless otherwise stated herein:
  - (1) A minimum 5-foot setback, for structures, fences or walls, shall be required from the common access drive and its easement;
  - (2) A minimum 15-foot width for common access ways that serve more than one dwelling;
  - (3) Within the project, the minimum distances between buildings shall be as follows:
    - (i) 10 feet between two one-story dwellings
    - (ii) 15 feet between a one-story and a two-story dwelling or portion thereof
    - (iii) 20 feet between two-story dwellings

If the property is condominiumized, then, buildings shall comply with required yards and height setbacks of the underlying zoning district as measured from limited common element (CPR) lines.

- (4) 510 Mahinui Road shall have a maximum building area of 40 percent (equivalent to existing) of its private yard area (limited common element). All other lots shall have a maximum building area of 35 percent of each unit's private yard area (limited common element).
10. All new work shall be compatible in design with the existing and surrounding structures. The Director may require the redesign of exterior entrances, stairways, bar areas, including plumbing and electrical systems, to ensure that the number of dwelling units is not increased.
11. Prior to the transfer of any ownership interest in the property, the applicant/landowner shall pave the common access driveways, individual driveways and required parking for each dwelling unit. All existing dwellings and additions shall comply with the LUO parking regulations. Existing parking spaces within carports or garages shall not be converted into usable floor area (including garage or carport storage areas).
12. Only chain link fencing shall be permitted (no walls). Fencing shall only be permitted within the side and rear yards; fencing within front yards shall be prohibited. New or reconstructed perimeter chain link fencing shall require a two-foot landscape strip with a minimum five-foot high hedge, maintained in a healthy condition.
13. All existing trees 6 inches or greater in diameter shall be retained on-site, or replacement landscaping shall be required. All landscaping shall be maintained in a healthy visual condition at all times.
14. Any modification to the application documents and conditions stated herein shall be subject to approval by the DPP. For good cause, the Director may impose additional requirements and/or amend the above conditions.

POSSE Doc. 204700

THIS COPY, WHEN SIGNED BELOW, IS NOTIFICATION OF THE ACTION TAKEN.

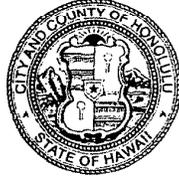
Patricia Segura for Director March 7, 2003  
SIGNATURE TITLE DATE

The above approval does not constitute approval of any other required permits, such as building permits.

EXHIBIT B

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET • HONOLULU, HAWAII 96813  
TELEPHONE: (808) 523-4414 • FAX: (808) 527-6743 • INTERNET: [www.co.honolulu.hi.us](http://www.co.honolulu.hi.us)



JEREMY HARRIS  
MAYOR

ERIC G. CRISPIN, AIA  
DIRECTOR

BARBARA KIM STANTON  
DEPUTY DIRECTOR

2003/ELOG-2346 (LT)

August 8, 2003

Mr. Robert H. Fulford  
Managing Member  
Mahinui Garden, LLC  
2115 Ala Wai Boulevard, Apt. 1401  
Honolulu, Hawaii 96815

Dear Mr. Fulford:

Subject: Condominium Conversion Project  
45-422 Kamehameha Highway  
Tax Map Key: 4-5-036: 023

This is in response to your letter dated July 1, 2003 requesting verification that the structures on the above-mentioned property met all applicable code requirements at the time of construction.

Investigation revealed that the eighteen one-story single-family detached dwellings and the one-story two-family detached dwelling with forty all-weather surface off-street parking spaces met all applicable code requirements when they were constructed in 1941 and 1952 on this 119,000-square foot R-5 Residential District zoned lot.

Investigation also revealed the following:

1. 73/SUB-239 was approved on July 26, 1973 on the proposed subdivision of Lot A-6, being the whole of Lots 1, 2 and 3 and portions of Lots 50 and 51 of the Kamehameha Highway Park Tract, File Plan 236, being portion of Grant 7361 to Charles Koelling, being Tax Map Key (TMK) 4-5-36: 23 at Kaneohe, into two lots: Lot A-6-A of 21,570 square feet (TMK: 4-5-36: 81) and Lot A-6-B of 119,000 square feet (TMK: 4-5-36: 23). Presently, the dwellings are on Lot A-6-B.

EXHIBIT C

Mr. Robert H. Fulford

August 8, 2003

Page 2

2. 2002/EU-32 was approved on March 7, 2003 with conditions for twenty (20) existing dwelling units (18 single-family and 1 two-family detached dwellings).
3. The eighteen (18) one-family detached dwellings and the one (1) two-family detached dwelling are considered nonconforming dwelling units.
4. An affidavit was required with the issuance of building permit No. 68242 on June 25, 1976 for an addition to a one-story single-family detached dwelling. The addition consists of a bathroom and enclosed patio with bar area and bar sink.

For your information, the Department of Planning and Permitting cannot determine all other legal nonconforming uses or structures as a result of the adoption or amendment of any ordinances or codes.

No variances or special permits were granted to allow deviations from any applicable codes.

Conversion to a condominium property regime (CPR) is not recognized by the City and County as an approved subdivision. CPR delineates ownership; it does not create a separate lot of record.

If you have any questions regarding this matter, please contact Mr. Ivan Matsumoto of our Commercial and Multi-family Code Enforcement Branch at 527- 6341.

Sincerely yours,



ERIC G. CRISPIN, AIA  
Director of Planning and Permitting

EGC:ft  
Doc 236960

### LIMITED COMMON ELEMENTS

Portions of the common elements set aside and allocated as "limited common elements" for the exclusive use of certain apartments, and which apartments shall have appurtenant thereto exclusive easements for the use of such limited common elements, are:

(a) Each "lot"\*, the perimeter of which is delineated on the Condominium Map and within which each apartment is contained, shall bear the same number assigned to the apartment contained within such lot, is hereby designated a limited common element appurtenant to and for the exclusive use of the respective apartment contained within such lot; provided, however, that the areas within Lots 1 through 6, inclusive, which are shaded gray on the Condominium Map and which are roadways and driveways serving said Lots 1 through 6, shall be subject to easements for ingress and egress in favor of the lots requiring the same, and the areas within Lots 7 through 15, inclusive, which are shaded gray on the Condominium Map and which are roadways and driveways serving said Lots 7 through 15, inclusive, shall be subject to easements for ingress and egress in favor of the lots requiring the same.

(b) As to Apartments 9 and 10, those parts of the building (within which Apartments 9 and 10 are contained) which are not included within either Apartments 9 and 10 shall be limited common elements appurtenant to and for the exclusive use of said apartments.

\*NOTE: As used herinafter, the word "lot" shall mean a "Limited Common Area" and not a legally subdivided lot.

EXHIBIT E

ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

<u>Apartment</u>	<u>Monthly Fee x 12 months = Yearly Total</u>	
All apartments	\$75	\$900.00

*The Real Estate Commission has not reviewed the estimates of maintenance fee assessments and disbursements for their accuracy or sufficiency*

**Estimate of Maintenance Fee Disbursements:**

Monthly Fee x 12 months = Yearly Total

Utilities and Services

Air Conditioning		N/A	
Electricity			
[ ] common elements only		N/A	
[ ] common elements and apartments			
Elevator		N/A	
Gas			
[ ] common elements only		N/A	
[ ] common elements and apartments			
Refuse Collection		\$300	\$3600
Telephone		N/A	
Water and Sewer	N/A - separate meters		

Maintenance, Repairs and Supplies

Building None  
Grounds

Management

Management Fee		\$300	\$3600
Payroll and Payroll Taxes	N/A		
Office Expenses	N/A		

Insurance – Liability		\$75	\$900
Fidelity Bond		\$25	\$300

Reserves(*)- Road Resurface		\$200	\$2400
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Taxes and Government Assessments N/A

Audit Fees N/A

Other

TOTAL		\$900	\$10,800
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I, R. Donald Brough, as agent for/and /or employed by PaR Management Inc. the condominium managing agent for the MAHINUI GARDEN condominium project, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

  
\_\_\_\_\_  
Signature

10-3-03  
\_\_\_\_\_  
Date

(\*) Mandatory reserves assessment and collection in effect beginning 1994 budget year. The Developer is to attach to this exhibit an explanation whether, in arriving at the figure for "Reserves", the Developer has conducted a reserve study in accordance with §514A-86.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawai'i Administrative Rules, as amended.

Pursuant to §514A-86.6, HRS, a new association created after January 1, 1993, need not collect estimated replacement reserves until the fiscal year which begins after the association's first annual meeting.

ENCUMBERANCES AGAINST TITLE

1. Real property taxes as may be due and owing. Check with the City and County Tax Assessor for further information.
2. General Plan Setback Line as shown on Park Engineering, Inc.'s May dated December 6, 1972.
3. A Grant of Easement to construct, reconstruct, etc., an underground sewer pipe line or pipe lines and incidental purposes, in favor of City and County of Honolulu, recorded as Book 10181 page 466 of Official Records.
4. Covenants, conditions, restrictions and all other provisions contained in or incorporated by reference in the Declaration of Condominium Property Regime and the By-laws attached thereto, as amended; on Condominium Map No. 385; in any document creating the estate or interest herein set forth; and in any other allied document referred to in any of the above documents. Said Declaration was recorded as Book 10220 page 375 of Official records.

An Amendment to the Declaration of Condominium Property Regime dated September 29, 2003 was recorded on September 30, 2003 as Regular System Document No. 2003-212246. The amendment replaced Exhibit A, added in Exhibit B and substituted a new Condominium Map Number 385.

5. Any unrecorded Apartment Leases and/or rental agreements and any lien, charges or exceptions against any lessees or tenants named therein covering the Apartment Units within the Condominium Project known as "MAHINUI GARDEN".
6. The following covenants:

(a) that the layout or use of the building will not be converted at a future date to some other layout of use which is illegal;

(b) that this covenant and agreement shall be binding upon ourselves, or any tenant of lessee of any subsequent owners of the building for as long as the building is in use or unless otherwise release by authority of the Director of the Building Department, City and County of Honolulu; and

(c) that, in the event title of the premises upon which the building is located is transferred, we shall require the new buyer to file a similar affidavit with the Bureau of conveyances and/or the Office of the Assistant Registrar or the Land Court of the State of Hawai'i.

As set forth in an Affidavit made by Ela-Flo-May, Inc., recorded July 6, 1976 as Book 11516 page 143 of Official records.

7. An unrecorded lease executed by Ela-Flo-May, Inc., a Hawai'i corporation, as Lessor, and Dynamic Funding Corporation, a Hawai'i corporation, as Lessee, for a term of as set forth in that certain written Lease Agreement dated May 22, 1986, as disclosed by a Short form recorded June 2, 1986 as Book 19553 page 24 of Official Records.

As amended by instrument recorded February 27, 1991 as Regular System Document No. 91-025497 of Official Records.

The Lessee's interest under said lease was assigned to RTM Properties Inc., a Hawai'i Corporation, by assignment recorded a Regular System Document No. 2003-112680 of Official Records.

8. A mortgage to secure an original principal indebtedness of \$2,127,660.00, and any other amounts or obligations secured thereby.

Dated: May 14, 2003

Mortgagor: Radoslav LePur, husband of Carmen LePur

Mortgagee: Florence Y. Ichinose Foundation

Recorded May 14, 2003 as Regular System Document No. 2003-091354 of Official Records.

9. A mortgage to secure an original principal indebtedness of \$100,000.00, and any other amounts or obligations secured thereby.

Dated: May 30, 2003

Mortgagor: RTM Properties Inc., a Hawai'i corporation

Mortgagee: Dynamic Funding Corporation a Hawai'i corporation

Recorded June 6, 2003 as Regular System Document No. 2003-112683 of Official Records.

NOTE: Mortgages leasehold interest in said premises.

NOTE: As to item 7, the title search showed Lessee's interest was assigned to RTM Properties Inc. by document recorded on June 6, 2003 as Doc. No. 2003-112680. Said Lease is encumbered by mortgage in favor of Dynamic Funding Corporation dated may 30, 2003 recorded at said Bureau of June 6, 2003 as Doc. No. 2003-112683.

## SUMMARY OF SALES CONTRACT

The Sales Contract consists of two documents: the then current form of the HAR Standard form of Deposit Receipt Offer and Acceptance ("DROA") and a document attached to the DROA which is entitled "Special Provisions to the DROA")

1. Description of the Property to be Conveyed: Fee simple title to the Apartment, together with the furnishings and appliances, if any, described in the DROA and the undivided interest in the common elements set forth in the DROA.

2. Purchase Price and Terms. The purchase price for the Apartment is set forth on page 2 of the DROA is to be paid in the method and at the times set forth in the DROA. This may include payment of (a). An initial deposit; (b). An additional cash deposit, if set forth in the DROA; and (c) the balance of the purchase price is to be paid to escrow by the purchaser on or before closing.

3. Financing of Purchase. Paragraph C-24 of the DROA Form (if selected) provides if Buyer desires financing, a loan application must be made within a certain number of days and if Buyer's application is not approved within a certain number of days after the application, then either Seller or Buyer may cancel the Sales Contract. Upon such cancellation, Buyer's deposits will be refunded by escrow without interest.

4. Closing Costs. Closing costs and escrow fees are to be shared in accordance with the DROA, except that Seller does have the option to require two months' advance payment of association maintenance fees and a start up expense for the Association of Apartment Owners equal to two month's of Association maintenance fees. Buyer's proportionate share of any liability insurance premium, real property taxes, maintenance fees and any other charges with respect to the Property shall be pro-rated between Seller and Buyer as of the date of closing.

5. Closing. Seller has agreed to cause the Apartment to be sold to the Buyer within the time period set forth on page 3 of the DROA which is expected to occur within 90 days of the date of the Sales Contract.

6. No Present Transfer and Subordination to Construction Loan.

(a) The Sales Contract may be subject to existing blanket loans, and any security interest now or hereafter obtained by a lender of Seller is or will be prior and senior to any rights of the Buyer arising under the Sales Contract. This obligation to subordinate the purchaser's right under the Sales Contract to loans now or hereafter made by the Seller is set forth in Paragraph 4 of the Special Provisions.

(b) Seller may also assign by way of security all of its interest in the Sales Contract, as collateral for the repayment of the loan and if the Lender acquires the Seller's interest in the Sales Contract, then the Buyer is obligated to perform the Sales Contract, and to attorn to and recognize the Lender as the seller under the Sales Contract.

© Notwithstanding that the Sales Contract may be subordinate to a blanket lien, if the Buyer performs his obligations under the Sales Contract, then Seller is required to convey the Apartment to Buyer at closing free and clear of any blanket lien.

7. Seller's rights to Cancel Sales Contract. The Seller may cancel the sales Contract with the Buyer if (a) Buyer fails to qualify for a permanent loan (if Paragraph C-24 of the DROA is selected; (b) Buyer defaults under the Sales Contract (paragraph 5(b) of the special Provisions); or (c) Buyer dies prior to Closing Date

(paragraph 5(a) of the Special following Seller's notice of Buyer's default, if Buyer has not cured his default under the Sales Contract, the Seller may cancel the Sales Contract and all sums previously paid by Buyer will belong absolutely to the Seller as liquidated damages. Additionally, Seller may pursue any other remedy, and all costs, including reasonable attorney's fees, incurred by reason of default by the Buyer shall be borne by the Buyer. Time is the essence of the Sales Agreement.

8. Rights of Buyer to Cancel the Sales Contract. The Buyer has the right to cancel the sales Contract under the following conditions:

a. At any time within thirty (30) days following the date this Public Report is delivered to Buyer. If Buyer so cancels, Buyer will be entitled to receive refund of any deposits, less any escrow cancellation fees and other costs up to \$250. If Buyer does not act within the thirty (30) day period, or if the Apartment is conveyed to the Buyer, Buyer will be deemed to have executed the receipt for this Public Report and to have waived his right to cancel (paragraph 6 of the Special Provisions).

b. The Buyer may cancel his purchase if there is a material change in the Project which directly, substantially and adversely affects the use or value of the Buyer's apartment or the amenities available for the Buyer's use (paragraph 7 of the Special Provisions).

c. Buyer fails to qualify for permanent financing if Paragraph C-24 of the DROA has been selected.

9. Paragraph 9 of the Special Provisions provides that the Buyer acknowledges that he or she has examined (and agrees to be bound) by the following:

(a) The Condominium Map (including floor plans, exterior elevations and site map for the Project;)

(b) Escrow Agreement;

(c) The Declaration of Condominium Property Regime and the By-Laws of the Association of Apartment Owners;

(d) Specimen form of the Apartment Deed;

(e) The Supplementary Public Report for which an effective date having been issued by the Real Estate Commission of the State of Hawai'i.

10. Paragraph 10 of the Special Provisions contains an "as is" clause whereby Seller disclaims all warranties relating to construction, design, materials or workmanship of the Apartment being bought and the Project. Buyer is cautioned to have his own inspection of the property and the Apartment.

11. Nonconformities under LUO. Paragraph 13 of the Special Provisions contains acknowledgements by the Buyer that the Project is subject to the Land Use Ordinance of the City and County of Honolulu ("LUO") and an Existing Use Permit (EUP). Among other things, the Buyer is being asked to acknowledge the foregoing non-conformities, is willing to accept title to the Apartment subject to the EUP, and expressly release Seller from any liability to Buyer arising from the Project's nonconforming use and structure.

The Summary contained in this Exhibit is merely a summary and is not intended to be a substitute for the Buyer's careful review of the Sales Contract.

SUMMARY OF THE MATERIAL PROVISIONS OF THE ESCROW AGREEMENT

Summary of the Condominium Escrow Agreement between the Developer and Guardian Escrow Services, Inc.

1. All deposits will be paid to Escrow. A copy of each Sales Contract and all payments made to purchase an Apartment shall be turned over to the Escrow Agent.

2. Refunds. A Buyer shall be entitled to a return of his funds, and Escrow shall pay such funds to such Buyer, without interest, in accordance with the Sales Contract if any of the following has occurred:

(a) Developer and the purchaser shall have requested Escrow in writing to return to purchaser the funds of purchaser held hereunder by Escrow; or

(b) Developer shall have notified Escrow of Developer's exercise of the option to cancel or rescind the sales contract pursuant to any right of cancellation or rescission provided therein or otherwise available to Developer; or

(c) With respect to a purchaser whose funds were obtained prior to the issuance of the Final Report, the purchaser has exercised his right to cancel the contract pursuant to Section 514A-62, Hawai'i Revised Statutes, as amended; or

(d) A purchaser has exercised his right to rescind the contract pursuant to Section 514A-63, Hawai'i Revised Statutes, as amended.

Upon such refund, Escrow Agent shall be entitled to a reasonable fee not less than \$50 or a fee commensurate with the work done by Escrow prior to cancellation but not exceeding \$250. Tax will be added to all fees.

3. Requirements Prior to Disbursement of Buyer's Funds. Escrow Agent shall make no disbursements of Buyer's funds, pursuant to paragraph 5 of the Escrow Agreement until all of the following have occurred:

(a) the Real Estate Commission has issued a final public report (the "Final Report") on the Project;

(b) Seller or Seller's attorney has given a written opinion to Escrow stating that all of the requirements of Sections 514A-39, 514A-62 and 514A-63 of the Hawai'i Revised Statutes, then applicable to the Project, have been satisfied and if the project is a conversion project, that the requirement of Section 514A-38 have been met.

(c) Seller shall have given Escrow a written waiver of any option reserved in any sales contract to cancel such sales contract;

4. Purchaser's Default. Seller must notify Escrow in writing if Purchaser defaults, and must certify that Seller has cancelled the Purchaser's Sales Contract. After such cancellation Escrow will treat the Purchaser's funds less Escrow's cancellation fees as belonging to the Seller.

THIS BRIEF SUMMARY OF THE ESCROW AGREEMENT IS NOT INTENDED TO TAKE THE PLACE OF PURCHASER'S THOROUGH READING OF THE DOCUMENT

