

**REAL ESTATE COMMISSION**  
PROFESSIONAL & VOCATIONAL LICENSING DIVISION  
DEPARTMENT OF COMMERCE & CONSUMER AFFAIRS  
STATE OF HAWAII  
1010 RICHARDS STREET  
P. O. BOX 3469  
HONOLULU, HAWAII 96801

**PRELIMINARY  
HORIZONTAL PROPERTY REGIMES (CONDOMINIUM)  
PUBLIC REPORT**

THE VILLAS AT MAUNA KEA - PHASE II  
Ouli, Waimea, South Kohala, Hawaii

Registration No. 1570

**IMPORTANT — Read This Report Before Buying**

**This Report Is Not an Approval or Disapproval of This Condominium Project**

It reflects information obtained by the Real Estate Commission in its investigation of the project. This report, based on a principle of disclosure, is issued by the Commission for the purpose of preventing fraud, misrepresentation or deceit.

The developer shall not enter into a binding contract or agreement for the sale of any unit in a Condominium Project but may only take reservations therefore after

- (1) A copy of this Report has been given to the prospective purchaser,
- (2) The latter has been given an opportunity to read same, and,
- (3) His receipt taken therefor.

Issued: October 17, 1983

Expires: November 17, 1984

SPECIAL ATTENTION

A comprehensive reading of this report is urged in order that personal requirements and expectations to be derived from the property can be ascertained. The attention of the purchaser or prospective purchaser is particularly directed to the following:

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED ON SEPTEMBER 23, 1983, AND INFORMATION SUBSEQUENTLY FILED AS OF SEPTEMBER 29, 1983. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT, CHAPTER 514A, HAWAII REVISED STATUTES, AS AMENDED.

1. THE VILLAS AT MAUNA KEA - PHASE II is a proposed subleasehold condominium project (hereinafter called the "Project") consisting of seventeen (17) separate single-story buildings, without basements, containing a total of 17 residential apartments, and nine (9) separate detached single-story garage buildings without basements, containing a total of 17 separate garages, together with other improvements, all to be built in accordance with floor plans filed with the Real Estate Commission. The garages in the Project will contain a total of thirty-four (34) assigned covered parking stalls.

2. The Developer of the Project has submitted to the Commission for examination all documents considered necessary for the registration of this condominium project and issuance of this Preliminary Public Report. The Developer will be responsible for placing this Preliminary Public Report (yellow paper stock) and Disclosure Abstract in the hands of all purchasers and prospective purchasers. The Developer will also be responsible for obtaining a signed copy of the receipt therefor from each purchaser and prospective purchaser.

3. The basic documents (the Declaration of Horizontal Property Regime, the By-Laws of the Association of Apartment Owners, and the Condominium Map) have not yet been recorded in the Bureau of Conveyances of the State of Hawaii.

4. No advertising or promotional material has been submitted pursuant to the rules and regulations issued by the Real Estate Commission.

5. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514A, Hawaii Revised Statutes, as amended, and the rules and regulations of the Hawaii Real Estate Commission which relate to horizontal property regimes.

6. This Preliminary Public Report automatically expires thirteen (13) months after the date of issuance, on October 17, 1983, unless a Final Public Report is issued or unless the Commission, upon review of the registration, issues an order extending the effective period of this report.

NAME OF PROJECT: THE VILLAS AT MAUNA KEA - PHASE II

LOCATION: The project is located in Ouli, Waimea, South Kohala, Island, County and State of Hawaii, on approximately 12.041 acres of land.

TAX KEY: Third Division: 6-2-02-22  
6-2-02-23

ZONING: RM-20 under the Ordinances of the County of Hawaii.

DEVELOPER: Mauna Kea Properties, Inc., a Hawaii corporation, whose principal place of business is at Kaunaoa Bay, South Kohala, Hawaii and whose post office address is P. O. Box 218, Kamuela, Hawaii 96743. The current officers of the corporation are as follows:

Harry Mullikin            President  
 William F. Mielcke      Vice President  
 John W. Schneider      Vice President and Secretary  
 Raymond J. Whitty      Treasurer  
 Adi W. Kohler            Assistant Secretary

ATTORNEY REPRESENTING DEVELOPER:    Goodsill Anderson Quinn & Stifel (Attention: Bettina W. J. Lum), 1600 Castle & Cooke Building, Financial Plaza of the Pacific, 130 Merchant Street, Honolulu, Hawaii 96813 (Telephone No. 547-5600)

DESCRIPTION OF THE PROJECT:    The proposed Declaration of Horizontal Property Regime and the plans submitted by the Developer indicate that the Project will contain seventeen (17) separate single-story buildings, without basements, designated as Buildings 24 to 40 inclusive, and nine (9) separate detached single-story garage buildings, designated as Garage Buildings M, N, O, P, Q, R, S, T and U, respectively, all as shown on the Condominium Map. The Buildings and Garage Buildings will be constructed primarily of cement plaster, wood, glass and allied construction materials.

1.    Buildings.

Each Building will contain one (1) residential apartment. Buildings 24 and 25, Buildings 26 and 27, Buildings 28 and 29, Buildings 30 and 31, Buildings 32 and 33, Buildings 34 and 35, Buildings 36 and 37, and Buildings 38 and 39, respectively, are or may be attached to each other by a trellis or trellises and other external fascia, and may share common footings or other supports, but each such Building is otherwise a distinct, separate and self-contained structure. The apartments will be located in the Buildings as follows:

<u>Apartment No.</u>	<u>Building No.</u>
24	24
25	25
26	26
27	27
28	28
29	29
30	30
31	31
32	32
33	33
34	34
35	35
36	36
37	37
38	38
39	39
40	40

2. Garage Buildings.

Garage Buildings M, N, O, P, Q, R, S and T will each contain two (2) separate garages and two (2) separate storage areas. Garage Building U will contain one (1) garage and two (2) storage areas. Each garage will contain two (2) unmarked, regular size covered parking stalls. The garages, parking stalls and storage areas are designated as Garages 24 to 40 inclusive, Stalls 24A to 40A inclusive and 24B to 40B inclusive, and Storage Areas 24 to 39 inclusive, 40A and 40B, respectively, as shown on the Condominium Map.

3. Apartments.

(a) The apartments consist of the spaces within the underside of the concrete slabs, the outside of the roofs and the outer surfaces of the perimeter walls of the seventeen (17) apartment units as shown on the Condominium Map.

(b) The seventeen (17) apartments in the Project are identified by apartment number on the Condominium Map and are located in the Project as shown on said Condominium Map. There are fourteen (14) two-bedroom apartments and three (3) four-bedroom apartments in the Project. The floor plans of each of the apartments are as shown on the Condominium Map. Subject to the provisions of Paragraph 2 of Section R of the Declaration, the apartments are described as follows:

Apartment No. 24 will have two (2) bedrooms, two (2) bathrooms, a powder room, a dining room, a living room, a kitchen, a laundry area, and a lanai with a swimming pool.

Apartment No. 25 will have two (2) bedrooms, two (2) bathrooms, a powder room, a dining room, a living room, a kitchen, a laundry area, and a lanai with a swimming pool.

Apartment No. 26 will have two (2) bedrooms, two (2) bathrooms, a powder room, a dining room, a living room, a kitchen, a laundry area, and a lanai with a swimming pool.

Apartment No. 27 will have two (2) bedrooms, two (2) bathrooms, a powder room, a dining room, a living room, a kitchen, a laundry area, and a lanai with a swimming pool.

Apartment No. 28 will have two (2) bedrooms, two (2) bathrooms, a powder room, a dining room, a living room, a kitchen, a laundry area, and a lanai with a swimming pool.

Apartment No. 29 will have four (4) bedrooms, four (4) bathrooms, a powder room, a dining room, a living room, a kitchen, a laundry area, an entry court and a lanai with a swimming pool.

Apartment No. 30 will have two (2) bedrooms, two (2) bathrooms, a powder room, a dining room, a living room, a kitchen, a laundry area, and a lanai with a swimming pool.

Apartment No. 31 will have four (4) bedrooms, four (4) bathrooms, a powder room, a dining room, a living room, a kitchen, a laundry area, an entry court and a lanai with a swimming pool.

Apartment No. 32 will have two (2) bedrooms, two (2) bathrooms, a powder room, a dining room, a living room, a kitchen, a laundry area, and a lanai with a swimming pool.

Apartment No. 33 will have two (2) bedrooms, two (2) bathrooms, a powder room, a dining room, a living room, a kitchen, a laundry area, and a lanai with a swimming pool.

Apartment No. 34 will have two (2) bedrooms, two (2) bathrooms, a powder room, a dining room, a living room, a kitchen, a laundry area, and a lanai with a swimming pool.

Apartment No. 35 will have two (2) bedrooms, two (2) bathrooms, a powder room, a dining room, a living room, a kitchen, a laundry area, and a lanai with a swimming pool.

Apartment No. 36 will have two (2) bedrooms, two (2) bathrooms, a powder room, a dining room, a living room, a kitchen, a laundry area, and a lanai with a swimming pool.

Apartment No. 37 will have two (2) bedrooms, two (2) bathrooms, a powder room, a dining room, a living room, a kitchen, a laundry area, and a lanai with a swimming pool.

Apartment No. 38 will have two (2) bedrooms, two (2) bathrooms, a powder room, a dining room, a living room, a kitchen, a laundry area, and a lanai with a swimming pool.

Apartment No. 39 will have two (2) bedrooms, two (2) bathrooms, a powder room, a dining room, a living room, a kitchen, a laundry area, and a lanai with a swimming pool.

Apartment No. 40 will have four (4) bedrooms, four (4) bathrooms, a powder room, a dining room, a living room, a kitchen, a laundry area, an entry court and a lanai with a swimming pool.

(c) Subject to the provisions of Paragraph 2 of Section R of the Declaration, each apartment will have the following number of rooms (including the powder room and laundry area and the entry court in Apartment Nos. 29, 31 and 40, but excluding the lanai), approximate net living floor area in square feet (exclusive of lanais), and approximate net lanai floor area (including any area occupied by a swimming pool or spa but excluding any trellage areas) in square feet:

<u>Apartment No.</u>	<u>No. of Rooms</u>	<u>Approx. Net Living Floor Area in Sq. Ft.</u>	<u>Approx. Net Lanai Floor Area in Sq. Ft. (including area occupied by pool or spa but excluding any trellage areas)</u>	<u>Approx. Total Net Floor Area in Sq. Ft.</u>
24	9	2,683	1,643	4,326
25	9	2,683	1,643	4,326
26	9	2,683	1,643	4,326
27	9	2,683	1,643	4,326
28	9	2,683	1,643	4,326
29	14	3,728	2,406	6,134
30	9	2,683	1,716	4,399
31	14	3,728	1,608	5,336
32	9	2,683	1,643	4,326
33	9	2,683	1,643	4,326
34	9	2,683	1,812	4,495
35	9	2,683	1,716	4,399
36	9	2,683	1,812	4,495
37	9	2,683	1,812	4,495
38	9	2,683	1,812	4,495
39	9	2,683	1,812	4,495
40	14	3,728	2,483	6,211

The approximate net living floor areas set forth above are based on measurements taken from the interior surface of all perimeter walls, except that no reduction is made to account for interior walls, ducts, vents, shafts, stairways and the like located within the perimeter walls. All approximate net lanai floor areas set forth above include the area occupied by any swimming pool or spa on or within such lanais, but exclude any trellage areas within such lanais, and are based on measurements taken from the interior surface of all perimeter walls which do not separate the interior of the apartments from the lanais, from the exterior surface of all perimeter walls which separate the interior of the apartments from the lanais, and from the interior edge of the railings, walls, trellage areas or other exterior boundaries of the lanais. All floor areas set forth above are not exact but are approximations based on the floor plans of each type of apartment. All floor areas set forth above have also been rounded to the next lowest full square foot where the approximation of such floor areas exceed a square foot by any fraction of a square foot.

The measurements set forth above do not follow the designation of the limits of the apartments (the legally designated areas of the apartments) set forth below and the floor areas set forth above may be greater than the floor areas of the apartments as so designated and described below.

(d) Each of the apartments will have immediate access through a yard area and motor court which are limited common elements appurtenant to such apartment, to the roadways included in the common areas of the Project.

(e) Notwithstanding the floor areas set forth above and the manner in which such floor areas are measured, the respective apartments shall not be deemed to include any perimeter walls, foundations, columns, girders, beams, floor slabs, footings, supports, roofs or trellises which are utilized for or serve more than one apartment, or any pipes, wires, vents, shafts, ducts, conduits or other utility or service lines or enclosed spaces for wiring, pipes, air exhaust or air conditioning running through or otherwise located within an apartment, which are utilized for or serve more than one apartment, the same being deemed common elements as hereinafter provided.

Each apartment shall be deemed to include:

(i) the perimeter walls, the foundations, columns, girders, beams, floor slabs, footings, supports, roofs, trellises, skylights, ceilings and floors located at the perimeter of or surrounding such apartment, which are utilized for or serve only such apartment;

(ii) the walls and partitions within the apartment;

(iii) the windows, window frames, louvers, shutters, doors and door frames along the perimeter of the apartment;

(iv) the lanai as shown on the Condominium Map, to the exterior surface of any railings or other boundaries of such lanai, and including the foundations, columns, girders, beams, supports, footings, floor slabs, trellage areas and railings of such lanai, which are utilized for or serve only such lanai or the apartment of which it is a part, and the swimming pool or spa (if any) on or within such lanai;

(v) all mechanical, electrical, heating, incinerating, refrigeration and air conditioning equipment originally installed and utilized for or serving only such apartment;

(vi) any pipes, wires, vents, shafts, ducts, conduits or other utility or service lines or enclosed spaces for wiring, pipes, air exhaust or air conditioning running through or located within such apartment, which are utilized for or serve only such apartment; and

(vii) all of the built-in fixtures and appliances originally installed therein, including the floor coverings (if any), refrigerator/freezer, dishwasher, range/oven, microwave oven, garbage disposal, washer, dryer, trash compactor, sinks, air conditioning equipment, water heater and bathroom fixtures.

(f) The proposed Declaration of Horizontal Property Regime provides that except as otherwise provided in any apartment conveyance, the owner of an apartment may make any alterations or additions within an apartment and the owner of any two adjoining apartments may alter or remove all or portions of the intervening walls, at such owner's expense, if such alterations or additions are not visible from the exterior of the apartments and if the structural integrity of the building is not thereby affected. The alterations or additions permitted by the immediately preceding proviso shall require only the written approval thereof, including approval of the apartment owner's plans therefor, by the Developer and the holders of first mortgage liens affecting such apartment (if the lien holders require such approval), by the appropriate agencies of the State of Hawaii and the County of Hawaii if such agencies so require, by the Board of Directors of the Association (which approval shall not be unreasonably or arbitrarily withheld or delayed), and by all other apartment owners thereby directly affected (as determined in a reasonable manner by the Board of Directors of the Association) and such alterations or additions may be undertaken without an amendment to this Declaration or filing of a complete set of floor plans of the Project as so altered. Prior to the termination of the common ownership of any two adjoining apartments, if the intervening walls shall have been altered or removed pursuant to the foregoing provision and any entrances sealed, the owner of such apartment shall restore such intervening walls and entrances to substantially the same condition in which they existed prior to such alteration or removal.

COMMON ELEMENTS: The proposed Declaration of Horizontal Property Regime states that the common elements will include all the remaining portions of the Project (other than the apartments). The common elements will include, for example:

(a) The Land in fee simple;

(b) Any perimeter walls, foundations, floor slabs, columns, girders, beams, footings, supports, roofs or trellises or other external fascia of the buildings which are utilized for or serve more than one apartment;

(c) All walkways, roadways, sidewalks, retaining walls, fences, gates, driveways, motor courts, loading zones, yard areas, planting areas, grounds, landscaping, refuse areas, and mailboxes;

(d) All of the Garage Buildings including all foundations, columns, girders, beams, floor slabs, footings, supports, walls, ceilings and roofs, and all windows and garage doors (and fixtures therefor), if any, of such Garage Buildings, which Garage Buildings contain the garages (which each contain two unmarked covered, regular-size parking stalls) and the storage areas hereinafter designated as limited common elements;

(e) All pipes, cables, conduits, ducts, electrical equipment, wiring and other central and appurtenant transmission facilities and installations over, under and across the Project which serve more than one apartment for services such as power, light, gas, water, air conditioning, telephone and television signal distribution, if any; and

(f) Any and all other apparatus and installations of common use and all other parts of the Project necessary or convenient to its existence, maintenance and safety, or normally in common use.

LIMITED COMMON ELEMENTS. The proposed Declaration of Horizontal Property Regime states that certain parts of the common elements (the "limited common elements) are designated and set aside for the exclusive use of certain apartments, and that such apartments shall have appurtenant thereto exclusive easements for the use of such limited common elements. The limited common elements so set aside are as follows:

(a) Any perimeter walls, foundations, floor slabs, columns, girders, beams, footings, supports, roofs, or trellises or other external fascia of the Buildings which are utilized for or serve more than one apartment shall be limited common elements appurtenant to and reserved for the exclusive use of such apartments utilizing or served by such elements;

(b) Each of the nine (9) Garage Buildings in the Project, including all foundations, columns, girders, beams, floor slabs, footings, supports, walls, ceilings, and roofs, shall be limited common elements appurtenant to and reserved for the exclusive use of the apartments to which the garages, parking stalls and storage areas within such Garage Building are assigned;

(c) The space within the perimeter walls, floors and ceilings or roofs of each of the seventeen (17) covered garages, designated as Garages 23 to 40, inclusive, located in the nine (9) Garage Buildings in the Project as shown on the Condominium Map, including the inner decorated or finished surfaces of all walls, floors, roofs and ceilings, and all windows, window frames, louvers, shutters, panels and doors (and fixtures therefor), if any, along the perimeter of such garages, shall be limited common elements appurtenant to and reserved for the exclusive use of the apartment with a number corresponding to the number of such garage;

(d) Each of the unpartitioned, unmarked parking stalls located in Garages 24 to 40 of the Project, designated as Stalls 24A to 40A inclusive and 24B to 40B inclusive, shall be a limited common element appurtenant to and reserved for the exclusive use of the apartment with a number corresponding to the number of such parking stall;

(e) The space within the perimeter walls, floors and ceilings or roofs of each of the eighteen (18) separate storage areas, designated as Storage Areas 23 to 39 inclusive, 40A and 40B located in the nine (9) Garage Buildings in the Project as shown on the Condominium Map, including the inner decorated or finished surfaces of all walls, floors, roofs and ceilings and all windows, window frames, louvers, shutters, panels and doors (and fixtures therefor), if any, along the perimeter of such Storage Areas, shall be limited common elements appurtenant to and reserved for the exclusive use of the apartment with a number corresponding to the number of such Storage Area;

(f) Each of the seventeen (17) yard areas and motor courts within the Project, designated as Yard Areas 24 to 40 inclusive and Motor Courts 24 to 40 inclusive, respectively, including any walls, railings, and gates within or surrounding such Yard Areas and Motor Courts shall be limited common elements appurtenant to and reserved for the exclusive use of the apartment with a number corresponding to the number of such Yard Area or Motor Court;

(g) Each of the planting areas within the Project designated on the Condominium Map by a number or a number followed by a letter, shall be a limited common element appurtenant to and reserved for the exclusive use of the apartment with a number corresponding to the number of such planting area; and

(h) Any entrance, exit, gateway, entry patio, yard, driveway or steps which would normally be used only for the purposes of ingress to and egress from a specific apartment shall be a limited common element appurtenant to and reserved for the exclusive use of such apartment.

INTEREST TO BE CONVEYED TO BUYER: The proposed Declaration provides that except as otherwise provided in Section S of the Declaration, each apartment shall have appurtenant thereto an undivided percentage interest in the common elements of the Project (the "common interest"), and the same proportionate share in all common profits and expenses of the Project and for all other purposes including voting, as follows:

<u>Apartments</u>	<u>Percentage (each apartment)</u>	<u>Percentage (Total)</u>
24 through 39 inclusive	5.88235%	94.1176%
40	5.88240%	<u>5.8824%</u>
		100%

Each apartment and its appurtenant undivided interest in the common elements (other than Land) will be conveyed to the purchaser, and an undivided interest in the Land will be subleased to the purchaser, by a condominium conveyance document or assignment thereof (hereinafter called "apartment conveyance").

EASEMENTS. The proposed Declaration of Horizontal Property Regime provides that in addition to the exclusive easements established in the limited common elements, the apartments and common elements shall also have and be subject to a number of easements, including the following:

1. Each apartment shall have appurtenant thereto non-exclusive easements in the common elements designed for such purposes for ingress to, egress from, utility services for and support, maintenance and repair of such apartment; in the other common elements for use according to their respective purposes; and in all other apartments and common elements of the building in which it is located or any adjacent buildings for support.

2. If any part of the common elements now or hereafter encroaches upon any apartment or limited common element, or if any apartment now or hereafter encroaches upon any other apartment or upon any portion of the common elements, a valid easement for such encroachment and the maintenance thereof shall and does exist so long as such encroachment continues. In the event the buildings of the Project shall be partially or totally destroyed and then rebuilt, minor encroachments of any parts of the common elements or of any apartment due to such construction shall be permitted and valid easements for such encroachments and the maintenance thereof shall exist for so long as such encroachment exists.

3. The Association of Apartment Owners of the Project shall have the right, to be exercised by its Board of Directors or the Managing Agent, to enter each apartment and/or the limited common elements from time to time during reasonable hours as may be necessary for the operation of the Project, for making emergency repairs therein necessary to prevent damage to any apartments or common elements; or for the inspection, repair, painting, maintenance or replacement of any common elements (other than limited common elements); or for the performance of any inspection, maintenance, painting, resurfacing or replacement to any apartment or limited common elements appurtenant thereto if the Association is required to perform such inspection, maintenance, painting, resurfacing or replacement pursuant to the Declaration or the By-Laws; or for the inspection, repair, painting, maintenance or replacement to any apartment or limited common element appurtenant thereto if the owner of such apartment fails to perform such repair, painting, maintenance or replacement within thirty (30) days after notice of the necessity of the same has been given by the Board of Directors to such apartment owner or his agent.

4. The Association of Apartment Owners of the Project shall have the right, exercisable by its Board of Directors, with the prior written approval of the Developer and Owner, and with the consent and joinder of the Developer and Owner, to grant, convey, transfer, cancel, relocate and otherwise deal with any easements over, under, across or through the common elements of the Project for any reasonable purpose, which may include, but shall not be limited to, those purposes which are necessary to the operation, care, upkeep, maintenance or repair of any apartment, the common elements or any easements for utilities or for any public purpose.

5. The Association of Apartment Owners of the Project shall have the right, exercisable by its Board of Directors, with the prior written approval of the Developer and Owner, and with the consent and joinder of the Developer and Owner, to transfer, cancel, relocate and otherwise deal with any easement over, under, across or through any lands adjacent to the Project, which may be appurtenant to the land of the Project, for any reasonable purpose, which may include, but shall not be limited to, any of the same purposes set forth in paragraph 4 above or for the reason that any owner of any such lands adjacent to the

Project exercises any right to require the relocation of any such easement.

6. The Developer shall have the right to conduct extensive sales activities on and at the Project, including the use of model apartments, sales and management offices, and extensive sales displays and activities until the earlier to occur of: (i) thirty-six (36) months from the date of the recording in the Bureau of Conveyances of the State of Hawaii of the first apartment conveyance in favor of a party not a signatory to the Declaration; or (ii) the closing of the sale of the last unsold apartment in the Project. In the event that the Developer is unable to sell all of the apartments within said thirty-six (36) month period, the Developer shall, nevertheless, continue to have the right to conduct sales activities on and at the Project until the closing of the sale of the last unsold apartment in the Project, provided that such sales activities are conducted in an unobtrusive manner which will not unreasonably interfere with the use, possession and aesthetic enjoyment of the Project by the other apartment owners.

7. The Developer, its agents, employees, contractors, licensees, successors and assigns shall have an easement over and upon any portion of the Project, including the common elements and any apartment, as may be reasonably necessary for the completion of any improvements to and correction of defects and other punch-list items in the common elements or any apartment. Such easement shall terminate twenty-four (24) months after the later to occur of: (1) the date of recording in said Bureau of Conveyances of the first apartment conveyance in favor of a party not a signatory to the Declaration; or (2) the "date of completion" (as said term is used in Chapter 507, part II, Hawaii Revised Statutes) of the improvements to be completed or corrected.

The proposed Declaration of Horizontal Property Regime also provides that in the event of merger of the Project with a condominium project (hereinafter called "Phase I", as defined and provided in Section S of the Declaration, and as hereinafter described in the paragraph entitled Alteration of Project), the apartments and common elements shall also be subject to additional easements, including, without limitation, the following:

1. In connection with, and only to the extent necessary for, the development, construction and sale of apartments and common elements in Phase I, the Developer, its employees, agents and contractors, shall have the right to enter upon the common elements of the Project for all purposes reasonably necessary for or useful to (a) the construction and completion of Phase I according to plans and specifications or amended plans and specifications approved by the officer of the County of Hawaii having jurisdiction over the issuance of building permits, (b) the sale of apartments in Phase I, (c) the connection of the apartments and common elements in Phase I to utilities serving the Project, and (d) the relocation or realignment of any existing easements, rights-of-way or utilities, provided that any such relocation or realignment shall not materially impair

or interfere with the use and enjoyment of any apartment in the Project. The Developer shall have, and has reserved, an easement over, under and across the common elements of the Project for the purposes of commencing and completing all work connected with or incidental to the development, construction and sale of the apartments and other improvements contemplated for Phase I, together with the right, in the form of an easement, to create and cause noise and other nuisances necessitated by and resulting from any work connected with or incidental to the development, construction and sale of the apartments and improvements contemplated for Phase I. The Developer further reserves the right to grant, for the benefit of Phase I and without the consent or joinder of any party having any interest in the Project, easements over, across and under the common elements for utilities, sanitary and storm sewers, cable television and walkways, and rights of way to public authorities and utility companies, provided that such easements and rights of way do not materially impair or interfere with the use of any apartment in the Project or the common elements.

2. Subsequent to the merger of the Project and Phase I, the Developer shall have the right to conduct extensive sales activities on or at the Project and Phase I, including the use of model apartments, sales and management offices, and extensive sales displays and activities until the earlier to occur of: (i) thirty-six (36) months from the date of recording in the Bureau of Conveyances of the State of Hawaii of the first apartment conveyance in favor of a party not a signatory to the Declaration covering an apartment in the Project; or (ii) the closing of the sale of the last unsold apartment in the Project and Phase I. In the event that the Developer is unable to sell all of the apartments within said thirty-six (36) month period, the Developer shall, nevertheless, continue to have the right to conduct sales activities on and at the Project and Phase I until the closing of the sale of the last unsold apartment in the Project and Phase I, provided that such sales activities are conducted in an unobstrusive manner which will not unreasonably interfere with the use, possession and aesthetic enjoyment of the Project and Phase I by the other apartment owners.

3. The Developer, its agents, employees, contractors, licensees, successors and assigns shall have an easement over and upon any portion of the Project and Phase I, including the common elements and any apartment in the Project, as may be reasonably necessary for the completion of any improvements to and correction of defects and other punch list items in the common elements or any apartment in the Project. Such easement shall terminate twenty-four (24) months after the later to occur of: (i) the date of recording in said Bureau of Conveyances of the first apartment conveyance in favor of a party not a signatory to the Declaration covering an apartment in the Project; or (ii) the "date of completion" (as said term is used in Chapter 507, part II, Hawaii Revised Statutes) of the improvements to be completed or constructed.

PURPOSES AND RESTRICTIONS AS TO USE: The proposed Declaration of Horizontal Property Regime provides that:

1. The apartments shall at all times be used only for permanent or temporary residential or lodging purposes.

2. The apartments may be leased for residential or lodging purposes subject to all of the provisions of the Declaration; PROVIDED, HOWEVER, that none of the apartments nor any interest therein shall ever be sold, transferred, conveyed, leased, occupied, rented or used for or in connection with any time-sharing purpose or under any time-sharing plan, arrangement or program, including without limitation any so-called "vacation license", "travel club membership" or "time-interval ownership" arrangement. The term "time-sharing" as used herein shall be deemed to include, but is not limited to, any plan, program or arrangement under which the right to use, occupy, own or possess an apartment or apartments in the Project rotates among various persons on a periodically recurring basis according to a fixed or floating interval or period of time whether by way of deed, lease, association or club memberships, license, rental or use agreement, co-tenancy agreement, partnership or otherwise.

3. No apartment shall be used for any purpose which will injure the reputation of the Project. The Association and any apartment owner shall not suffer anything to be done or kept in his apartment or elsewhere in the Project which will (a) jeopardize the soundness of any building in the Project, (b) interfere with or otherwise unreasonably disturb the rights of other owners and occupants, (c) obstruct any walkway or driveway of any building, (d) increase the rate of fire or extended coverage insurance on any building or the contents thereof, or (e) reduce the value of any building.

4. Except as otherwise expressly provided in Section R of the Declaration, an apartment owner shall not, without the prior written consent of the Board of Directors of the Association and the Developer, make any structural alteration in or additions to the apartment, make any interior alterations in or additions to the apartment visible from the exterior of the apartment, or make any alterations in or additions to the exterior of the apartment or to any other portion or portions of the common elements. No apartment owner shall suffer or permit (a) the attachment, hanging, projection or protrusion of any objects, garments or materials of any kind to, on or from the roofs, exterior walls, windows, doors or gates, or the railings of the lanais of the apartments, or (b) the placement or storage of any objects or personal property (including, without limitation refrigerators, exercise equipment, bicycles, surfboards and boxes or crates) other than appropriate patio furniture on the lanais.

5. No golf carts may be used or operated anywhere within the Project.

6. Notwithstanding anything contained hereinabove to the contrary, the Developer shall have the right to use any apartment owned by Developer for hotel purposes, or to permit such use by its licensees or lessees.

7. Notwithstanding anything contained hereinabove to the contrary, the Developer shall have the right to conduct extensive sales activities at and in the Project, including the use of model apartments, sales and management offices, and extensive sales displays and activities.

The proposed Rules and Regulations provide, in part, that: (1) occupancy shall be limited to not more than two persons per bedroom contained in each apartment, except that such occupancy may be exceeded by members of the immediate family of the owner, tenant or other occupant, provided that in no event shall the number of occupants be more than four per bedroom; and (2) no livestock, poultry, rabbits or other animals whatsoever shall be allowed or kept in any part of the Project except that dogs, cats and other household pets in reasonable number and size as determined by the Board may be kept by the apartment owners and occupants in their respective apartments, subject to the conditions and restrictions contained in the Rules and Regulations.

OWNERSHIP OF TITLE: The Status Title Report issued by Title Guaranty of Hawaii, Inc., dated September 13, 1983, shows that the land is owned in fee simple by Richard Smart, Ralph Dobbins and Frederick G. Riecker, as Trustees of the Richard P. Smart Personal Trust, by Trust Agreement dated August 3, 1978, recorded in Liber 13394 at Page 755, but is leased to the Developer by Lease dated January 20, 1960, recorded in Liber 4002 at Page 300, as amended by instrument dated February 15, 1962, recorded in Liber 4239 at Page 411, as amended by instrument (undated) recorded in Liber 6236 at Page 1, as amended by instrument dated January 23, 1969, recorded in Liber 6499 at Page 155, as assigned by Assignment dated February 24, 1971, recorded in Liber 7424 at Page 278, and as amended by instrument dated November 16, 1981, recorded in Liber 16064 at Page 146 (the "Master Lease").

ENCUMBRANCES AGAINST TITLE: The Status Title Report issued on September 13, 1983, prepared by Title Guaranty of Hawaii, Inc., identifies the following encumbrances against the land:

1. For any real property taxes that may be due and owing, reference is made to the Department of Finance, County of Hawaii.
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
3. Terms, agreements, reservations, covenants, conditions and provisions contained in the Master Lease hereinabove described under ownership of Title paragraph.

4. As to the Master Lease, "All existing rights-of-way, easements and other similar encumbrances, highways and roads that may run across or encroach upon said premises and to all exceptions, reservations and other terms expressed as provided in any of the Patents or other muniments of title hereinbefore described."; as set forth in the Master Lease.

5. As to the Master Lease, "Excepting and reserving unto the Lessor all antiquities including specimens of Hawaii or other ancient art or handicraft which may be found on said premises"; as excepted and reserved in Master Lease.

6. As to Lot 2, Easement "11" (area 54 square feet) for electrical purposes affecting Lot 2, as shown on File Plan 1770 filed in the Bureau of Conveyances of the State of Hawaii.

7. As to Lot 2, Easement "15" for roadway and utility purposes affecting Lots 1 and 2, as shown on said File Plan 1770.

8. As to Lot 3, Easement "12" (area 42 square feet) for electrical purposes affecting Lot 3, as shown on said File Plan 1770.

9. As to Lot 3, Easement "13" (area 42 square feet) for electrical purposes affecting Lot 3, as shown on said File Plan 1770.

10. As to Lot 3, Easement "16" for roadway and utility purposes affecting Lots 1 and 2, as shown on said File Plan 1770.

11. As to Lot 3, Easement "18" (area 228 square feet) for electrical purposes affecting Lot 3, as shown on said File Plan 1770.

12. Declaration of Protective Covenants, Conditions and Restrictions for Mauna Kea Resort dated July 1, 1982, recorded in said Bureau of Conveyances in Liber 16470 at Page 544, and Annexing Declaration dated September 1, 1983, recorded in said Bureau of Conveyances in Liber 17314 at Page 269.

13. Grant in favor of the Water Commission of the County of Hawaii, dated March 30, 1983, recorded in said Bureau of Conveyances in Liber 17121 at Page 739; granting the right in the nature of a perpetual non-exclusive utility easement to maintain, operate, repair, remove and replace underground pipelines, conduits, valves, valve boxes, service laterals and other necessary appliances and equipment as may be necessary for the transmission and distribution of water upon, across, through and under said Easements 15 and 16.

14. Grant in favor of Hawaii Electric Light Company, Inc., dated March 30, 1983, recorded in said Bureau of Conveyances in Liber 17179 at Page 585; granting the

right in the nature of a perpetual non-exclusive utility easement to build, construct, reconstruct, rebuild, repair, maintain, operate and use underground lines, transformer vaults, conduits and other necessary appliances and equipment as may be necessary for the transmission of electricity upon, across, through and under said Easements 11, 12 and 13.

15. Grant in favor of Hawaii Electric Light Company, Inc. and Hawaiian Telephone Company, dated March 30, 1983, recorded in said Bureau of Conveyances in Liber 17179 at Page 595; granting the right in the nature of a perpetual non-exclusive utility easement to build, construct, reconstruct, rebuild, repair, maintain, operate and use underground lines, transformer vaults, conduits and other necessary appliances and equipment as may be necessary for the transmission and distribution of electricity upon, across, through and under said Easements 15, 16, 18 and all secondary service runs for electrical and telephone purposes.

16. Terms, conditions and provisions contained in the Richard P. Smart Personal Trust, by Trust Agreement dated August 3, 1978, recorded in Liber 13394, at Page 755.

DECLARATION OF RESTRICTIONS: The proposed Declaration of Horizontal Property Regime provides that all present and future apartment owners, tenants and occupants of apartments are subject to the provisions of that certain Declaration of Protective Covenants, Conditions and Restrictions for Mauna Kea Resort, dated July 1, 1982, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 16470 at Page 544, as amended and modified (the "Master Declaration"). The Master Declaration provides, among other things, that each apartment owner, by virtue of being such an owner shall be an individual member of the Mauna Kea Community Association (the "Master Association"), and shall pay assessments to the Master Association through the Association of Apartment Owners of the Project. The assessments payable to the Master Association by each apartment owner are equal to a pro rata share of the operating costs and expenses and obligations of the Master Association, including without limitation, the Master Association's share of the costs and expenses incurred in connection with the Mauna Kea Resort Entry Road, the security station located on the Mauna Kea Resort Entry Road near its intersection with Queen Kaahumanu Highway and the roving patrol serving the Project and other areas, all as more fully described in the Master Declaration.

PURCHASE MONEY HANDLING: A specimen Reservation and Sales Agreement and a copy of the executed Escrow Agreement dated September 21, 1983, between Title Guaranty Escrow Services, Inc., a Hawaii corporation, as "Escrow" and the Developer, as "Seller", have been submitted to the Real Estate Commission as part of the registration. Upon examination, the specimen Reservation and Sales Agreement and the executed Escrow Agreement are found to be in compliance with Chapter

514A, Hawaii Revised Statutes, as amended, and particularly Sections 514A-37, 514A-39, 514A-40, 514A-63 through 67, and 514A-105.

Among other provisions, the Escrow Agreement provides that:

1. Subject to various terms and conditions set forth in detail in the Escrow Agreement, the purchaser's funds held in escrow will be paid out by Escrow, at the times and in the amounts requested by Seller, (a) to pay for construction costs of the project in proportion to the valuation of the work completed by the contractor, as certified by a registered architect or professional engineer and as approved by a financially disinterested person; (b) to pay for architectural, engineering, finance and legal fees as approved by a financially disinterested person; and (c) to pay for all other costs and expenses of the Project as approved by a financially disinterested person.
2. All monies received by Escrow under the Escrow Agreement will be deposited by Escrow in a special account or accounts with a federally insured bank or savings and loan association in Honolulu, Hawaii, chosen by Escrow and authorized to do business in the State of Hawaii under an escrow arrangement. The accounts must provide for interest at the going rate, and all interest paid on the accounts will belong to the purchasers.
3. A purchaser will have the right to a refund of his funds only if (a) Seller asks Escrow in writing to return the purchaser's funds to the purchaser; (b) Seller gives Escrow written notice that Seller has rescinded or cancelled the Sales Agreement pursuant to any right of rescission or cancellation stated in the Sales Agreement or which Seller otherwise has; (c) the conditions provided for a refund under Sections 514A-63, 514A-64 or 514A-66 of the Horizontal Property Act (as amended on the date the Sales Agreement becomes binding and effective) have been met and written notice of that fact has been given to Escrow by the Seller; or (d) Seller gives Escrow written notice of the purchaser's cancellation of a reservation for the purchase of an apartment or of the purchaser's rescinding or cancelling the Sales Agreement pursuant to any right of rescission or cancellation stated in the Sales Agreement.

Among other provisions, the specimen Sales Agreement provides that:

1. A Sales Agreement executed prior to the issuance of a Final Public Report for the Project shall constitute a "reservation" and not a "binding contract" for the purchase of an apartment. Accordingly, the reservation may be cancelled and terminated at any time at the option of either

party (and purchaser shall receive a refund) until a Final Public Report is issued on the Project, the purchaser signs a receipt for the Final Public Report (or is deemed to have receipted for it under the Condominium Laws), and the purchaser and Seller execute a separate confirmation letter agreeing to make the Sales Agreement a binding contract. Therefore, the purchaser should be aware that the execution of a Sales Agreement prior to the issuance of a Final Public Report does not necessarily mean that the purchaser will be able to purchase the reserved apartment for the price or on the other terms stated in the Sales Agreement, or on any terms at all.

2. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE OF THE SALES AGREEMENT. THE SELLER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE APARTMENT, THE PROPERTY OR THE PROJECT (INCLUDING THE COMMON ELEMENTS AND LIMITED COMMON ELEMENTS THEREOF), OR WITH RESPECT TO ANY FURNISHINGS, FIXTURES, APPLIANCES OR OTHER CONSUMER PRODUCTS OR OTHER ITEMS WHATSOEVER INSTALLED, AFFIXED OR OTHERWISE CONTAINED IN THE APARTMENT, THE PROPERTY OR THE PROJECT (INCLUDING THE COMMON ELEMENTS AND LIMITED COMMON ELEMENTS THEREOF), INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF "MERCHANTABILITY", "HABITABILITY", "WORKMANLIKE CONSTRUCTION" OR "FITNESS FOR A PARTICULAR USE OR PURPOSE". The Seller does, however, agree to attempt to pass on to the purchaser the benefit of the contractors' warranty or warranties, if any, and also any transferable manufacturer's or dealer's warranties covering any furnishings, fixtures, appliances or consumer products in the apartment.
3. Seller may (but doesn't have to) cancel the Sales Agreement if any material negative change occurs in the purchaser's financial condition or any material negative discrepancy is discovered between the financial information furnished by the purchaser and the purchaser's actual financial condition. The Sales Agreement also may (but need not) be cancelled by Seller (a) if the purchaser has not obtained and delivered to Seller an executed copy of a mortgage loan commitment acceptable to Seller (in Seller's sole discretion) within forty-five (45) days after the effective date of the Sales Agreement, or such longer period of time permitted by Seller, or (b) if the purchaser plans to pay the purchase price in cash and if Seller is not satisfied for any reason with the purchaser's ability to make the cash payments. Seller may also cancel (but doesn't have to) the Sales Agreement if the purchaser should die.

4. If the development and construction of the Project is at any time delayed because of governmental restrictions or regulations enacted after the date of acceptance of the Sales Agreement by the Seller, or because of the occurrence of a contingency, the non-occurrence of which was a basic assumption on which the Sales Agreement was made, and if Seller determines that increases in the development and construction costs because of such delay require increases in the sales prices of the apartments to maintain financial feasibility of the Project, then Seller may increase the purchase price to the extent necessitated by said increases in development and construction costs, and notify purchaser in writing of such increase; provided that the Seller may not increase the purchase price of an apartment by more than the amount you get by multiplying the total increase in the cost of completing the Project by the undivided percentage common interest appurtenant to the apartment. If the purchaser, within fifteen (15) days after receiving such written notice from Seller, agrees in writing to pay the increased purchase price which Seller decides is enough to make the Project economically feasible, or within such fifteen days purchaser does not notify Seller in writing that purchaser elects to cancel the Sales Agreement, then the Sales Agreement will be deemed to be affirmed at the increased purchase price.
  
5. THE PURCHASER AGREES THAT NO ONE (INCLUDING THE SELLER OR ANY SALES PERSON) HAS MADE ANY REPRESENTATIONS WITH RESPECT TO THE POSSIBILITY OR PROBABILITY OF RENTAL OR OTHER INCOME FROM THE APARTMENT OR OTHER ECONOMIC BENEFITS TO BE DERIVED FROM THE RENTAL OF THE APARTMENT, INCLUDING BUT NOT LIMITED TO, ANY REPRESENTATIONS TO THE EFFECT THAT THE SELLER OR THE MANAGING AGENT OF THE PROJECT OR A THIRD PARTY WILL PROVIDE SERVICES RELATING TO THE RENTAL OR SALE OF THE APARTMENT OR REPRESENTATIONS AS TO POSSIBLE ADVANTAGES FROM THE RENTAL OF THE APARTMENT UNDER FEDERAL, STATE OR OTHER TAX LAWS. IF THE PURCHASER WISHES TO RENT HIS APARTMENT TO THIRD PERSONS, PURCHASER MUST MAKE HIS OWN ARRANGEMENTS. THE PURCHASER FURTHER AGREES, AND ACKNOWLEDGES THAT SELLER MAY, AS A REQUIREMENT FOR CLOSING, REQUIRE PURCHASER, ANY SALES PERSON OR ANYONE ELSE CONNECTED WITH THE OFFER TO SELL AND THE SALE OF THE APARTMENT, TO SIGN ADDITIONAL DOCUMENTS TO SATISFY SELLER THAT THE OFFER TO SELL AND THE SALE OF THE APARTMENT IS NOT IN VIOLATION OF ANY SECURITIES LAWS. THE PURCHASER FURTHER AGREES AND ACKNOWLEDGES THAT IN THE EVENT THAT THE OFFER TO SELL AND THE PURCHASE OF THE APARTMENT OR THE ACTIVITIES OF THE PURCHASER WITH RESPECT TO THE APARTMENT ARE DETERMINED TO BE OR ALLEGED TO GIVE RISE TO ANY VIOLATION OF ANY FEDERAL OR STATE SECURITIES LAWS OR REGULATIONS,

SELLER'S INJURY CAUSED BY SUCH VIOLATION WILL BE UNCERTAIN AS TO NATURE AND AMOUNT AND WILL BE DIFFICULT AND EXPENSIVE TO DETERMINE. BECAUSE OF THIS, PURCHASER AGREES THAT SELLER MAY OBTAIN AN INJUNCTION FROM ANY COURT ENJOINING ANY ACTS OF THE PURCHASER WHICH GIVE RISE TO SUCH VIOLATION. SELLER MAY ALSO PURSUE ANY OTHER REMEDY AGAINST THE PURCHASER, INCLUDING SEEKING MONEY DAMAGES. ALL OF SELLER'S COSTS, INCLUDING REASONABLE ATTORNEYS' FEES, INCURRED BECAUSE OF THE PURCHASER'S ACTIONS IN VIOLATION OF ANY SECURITIES LAWS, WILL BE PAID BY THE PURCHASER. THE PURCHASER ALSO AGREES THAT IF THE PURCHASER CLAIMS THAT THERE HAS BEEN ANY VIOLATION OF ANY FEDERAL OR STATE SECURITIES OR DISCLOSURE LAWS (INCLUDING THE HORIZONTAL PROPERTY ACT) CONNECTED WITH THE OFFER OR SALE OF THE APARTMENT, THE INJURY CAUSED BY SUCH VIOLATION WILL BE DIFFICULT TO DETERMINE. BECAUSE OF THIS, PURCHASER AGREES THAT PURCHASER'S ONLY REMEDY WILL BE TO SUE FOR A REFUND OF THE PURCHASE PRICE AND CLOSING COSTS ACTUALLY PAID, PLUS INTEREST AT THE RATE OF SEVEN PERCENT (7%) SIMPLE INTEREST PER YEAR FROM THE FINAL CLOSING DATE UNTIL THE DATE OF REPAYMENT. THE PURCHASER ALSO AGREES THAT (A) THE REFUND WILL BE CONSIDERED AS LIQUIDATED DAMAGES AND NOT A PENALTY, AND (B) ANY ADDITIONAL AMOUNTS PAID BY THE PURCHASER FOR THE APARTMENT (SUCH AS LEASE RENTS, MAINTENANCE CHARGES AND OTHER COMMON EXPENSES, REAL PROPERTY TAXES, MORTGAGE LOAN FEES AND INTEREST, AND THE START-UP FEE) WILL BE PAID BY THE PURCHASER AS THE REASONABLE USE VALUE OF THE APARTMENT FROM THE FINAL CLOSING DATE UNTIL THE DATE OF REPAYMENT.

6. The purchaser will pay one-half (1/2) of the escrow fee, one-half (1/2) of the cost of title insurance, all of purchaser's notary fees, all appraisal fees, all recording costs, all charges for purchaser's credit report, any mortgages and promissory notes, and all mailing, air courier and other delivery charges. The purchaser will also pay all mortgage costs and closing fees. The purchaser will also pay the non-refundable start-up fee which will be held and used by the Seller and Managing Agent as a working capital fund for the benefit of all the apartment owners. Lease rents, real property taxes, maintenance charges and other common expenses and other prorations will be made, and risk of loss will transfer from Seller to purchaser on the scheduled Closing Date as defined in the specimen Sales Agreement. The purchaser will sign all documents and do everything else required for closing within fifteen (15) days after receiving written notice to pre-close. Pre-closing may take place at any time after thirty (30) days from the date Seller signs the Sales Agreement.

7. The purchaser agrees that purchaser will not have any right to transfer the Sales Agreement or his rights under the Sales Agreement without first getting the written consent of Seller (which Seller may withhold in its sole and absolute discretion).
8. Purchaser acknowledges receipt of notice that Seller may be offering to sell the Property covered by the Sales Agreement at a time when Seller's only interest in the land on which the Project is or will be constructed is the lessee's interest under the Master Lease described in the Sales Agreement. Purchaser understands, however, that under said Master Lease, Seller has the right to develop the Project and to execute apartment conveyances pursuant to which subleases of undivided interests in the Land will be conveyed to purchasers of apartments in the Project.

It is important that the purchasers and prospective purchasers read with care the specimen Sales Agreement and the executed Escrow Agreement. The Escrow Agreement describes how the proceeds from the sale of the apartments and any sums received from any source are placed in trust and how the funds will be held, paid out and/or refunded.

MANAGEMENT AND OPERATION: The proposed By-Laws of the Association of Apartment Owners provide that the operation of the Project will be conducted for the Association of Apartment Owners by a responsible corporate managing agent. The managing agent will be appointed by the Board of Directors on behalf of the Association, in accordance with the By-Laws, except that the managing agent for the initial period following the date of the organization of the Association of Apartment Owners may be appointed by the Developer without the approval of the Association. The Developer anticipates selecting Chaney, Brooks & Company, as the initial managing agent.

ALTERATION OF PROJECT: The proposed Declaration of Horizontal Property Regime also provides that the Developer has certain reserved rights with respect to the Project, including the following:

1. Paragraph 2 of Section R of the proposed Declaration of Horizontal Property Regime provides that prior to (a) the time that all apartments in the Project have been sold and recorded, and (b) the filing by the Developer of the "as built" verified statement (with plans, if applicable) required by Section 514A-12 of said Horizontal Property Act (but in no event later than July 1, 1990), the Developer shall have the right to make alterations in the Project (and to amend the Declaration and the Condominium Map accordingly) without the approval, consent or joinder of Richard P. Smart, Ralph Dobbins and Frederick G. Riecker, as Trustees of the Richard P. Smart Personal Trust under Indenture of Trust dated August 3, 1978,

recorded in the Bureau of Conveyances of Hawaii in Liber 13394 at Page 755 (hereinafter called the "Owner"), or any apartment owner, which change the configuration of, alter the number of rooms of, decrease or increase the size of, or change the location of any apartment (and the limited common elements appurtenant thereto) in the Project which is not sold and recorded, or which eliminate or alter the swimming pool or spa (or substitute one for the other) in any apartment not sold and recorded; or to make other alterations in the Project (and to amend the Declaration and the Condominium Map accordingly) without the approval, consent or joinder of the Owner or any apartment owner, which make minor changes in any apartment in the Project or the common elements which do not affect the physical location, design or size of any apartment which has been sold and recorded; PROVIDED, HOWEVER, that any such changes shall be reflected in an amendment to the Declaration as provided in Paragraph 3 of Section T of the Declaration. As used herein the term "sold and recorded" means and refers to the sale of apartments in the Project, and the recordation in the Bureau of Conveyances of the State of Hawaii of apartment conveyances transferring interests in the apartments from the Developer to parties not signatory to the Declaration.

**MERGER OF INCREMENTS:** Section S of the proposed Declaration of Horizontal Property Regime provides that the Developer has reserved the right on or before July 1, 1990, to cause and effect a merger of the Project with a condominium project to be located on approximately 17.9 acres of land adjacent to the Land of the Project, consisting of 23 additional apartments and common elements appurtenant thereto, as part of the same incremental plan of development of the Project (said additional condominium project hereinafter referred to as "Phase I", and the Project as previously described herein sometimes hereinafter referred to as "Phase II").

Upon such merger, all of the apartments in Phase I and Phase II shall be treated as though they were all included in a single condominium project (the "Merged Project"), and the following consequences, among others, shall be of effect:

(a) The common elements of Phase I and Phase II will be the common elements of the Merged Project, and each owner of an apartment in Phase I or Phase II shall have the right to full use and enjoyment of all of the common elements of the Merged Project (excluding the limited common elements appurtenant to other apartments in the Merged Project), to the same extent and subject to the same limitations as are imposed upon the apartment owners in the respective declarations of horizontal property regime for Phase I and Phase II.

(b) Each apartment in the Merged Project shall have an undivided 2.5% interest in the

common elements and in all common profits and expenses of the Merged Project, and for all other purposes, including voting. The acceptance or acquisition by any party of any interest in the Project shall constitute an agreement and consent by such party to the alteration of such party's percentage of undivided interest from the percentage set forth above to 2.5% and to the recording of a "Certificate of Merger" which shall be deemed an amendment to the Declaration which effectuates such alteration of percentage of undivided interest, without any further consent or joinder of such party, and the Developer shall have the right to execute, acknowledge, deliver and record said Certificate of Merger on behalf of said party, as the true and lawful attorney-in-fact of any such party accepting or acquiring any interest in the Project. Said power of attorney shall be coupled with an interest and shall be irrevocable.

(c) Upon the merger of Phase I and Phase II, Developer may require the apartment owners in Phase I or Phase II to make contributions, in addition to their normal prescribed share of the common expenses, to the maintenance reserves of the Merged Project. Developer may provide that such contribution shall be made over a period of time and in setting the amount and terms of such contribution Developer shall take into account the amount of maintenance reserves accumulated prior to the merger and the condition of pre-existing apartments in Phase I.

(d) The apartment owners in Phase II shall not be obligated to pay any outstanding debts, expenses, costs or other obligations of the Phase I apartment owners as of the date of merger.

(e) The associations of apartment owners of each phase provided for in their respective declarations of horizontal property regime shall be merged into a single association covering the entire Merged Project.

(f) All of the apartments in the Merged Project shall be treated as though they were all included in a condominium project created by a single filing of a declaration of horizontal property regime and the declaration applicable to each phase shall be construed as one document applicable to the entire Merged Project constituting both of the merged phases except to the extent expressly otherwise provided in the Declaration. In the event of a

conflict between the respective declarations and by-laws, the declaration and by-laws in effect for Phase I shall control.

(g) Upon the merger of Phase I and Phase II, the land included in Phase I and the Land included in Phase II may be consolidated by the Developer into one parcel of land. The acceptance or acquisition by any party of any interest in the Project shall constitute an agreement and consent by such party to the consolidation of the land included in Phase I and the Land included in Phase II into one parcel of land, without any further consent or joinder of such party, and the Developer shall have the right to execute, acknowledge, deliver and record any documents, maps or other instruments necessary or appropriate, as determined by the Developer in its sole and absolute discretion, to accomplish the legal consolidation of said lands into one parcel of land, and to amend the Declaration to reflect such consolidation on behalf of said party, as the true and lawful attorney-in-fact of any such party accepting or acquiring any interest in the Project. Said power of attorney shall be coupled with an interest and irrevocable.

Nothing herein as to merger shall be construed as a representation or warranty by Owner or Developer that Phase I will be developed or merged with Phase II, or to require Owner or Developer to develop Phase I or merge Phase I into the Project, or to prohibit Owner or Developer from dealing freely with the lands adjacent to the land of the Project including, without limitation, developing the whole or any part of such property for a purpose inconsistent with the merger of such property into the Project.

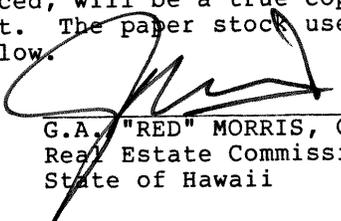
STATUS OF THE PROJECT: The Developer is currently in the process of negotiating a construction contract for the construction of the Project.

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The purchaser or prospective purchaser should be aware of the fact that this public report represents information disclosed by the Developer in the Notice of Intention filed on September 23, 1983, and information subsequently submitted as of September 29, 1983.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of Registration Number 1570 filed with the Commission on September 23, 1983.

This Report, when reproduced, will be a true copy of the Commission's Public Report. The paper stock used in making facsimiles must be in yellow.



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G.A. "RED" MORRIS, Chairman  
Real Estate Commission  
State of Hawaii

DISTRIBUTION: Department of Finance, County of Hawaii  
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Federal Housing Administration  
Escrow Agent

Registration No. 1570

Date: October 17, 1983