



**REAL ESTATE COMMISSION
STATE OF HAWAII**
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
PROFESSIONAL & VOCATIONAL LICENSING DIVISION
1010 Richards Street
P. O. Box 3469
Honolulu, Hawaii 96801

CONDOMINIUM PUBLIC REPORT

on

76-6280 ALII DRIVE
76-6280 Alii Dr.
Kailua-Kona, Hawaii

Registration No. 1842 (Conversion)

Issued: July 9, 1987
Expires: August 9, 1988

Report Purpose:

This report is based on information and documents submitted by the developer to the Real Estate Commission as of June 10, 1987 and is issued by the Commission for informational purposes only. It represents neither approval nor disapproval of the project. Buyers are encouraged to read this report carefully.

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 when complete information is filed.
- FINAL:** (white) The developer has legally created a condominium and has filed complete information with the Commission.
 - Supersedes all prior public reports
 - Must be read together with _____
- SUPPLEMENTARY:** (pink) Updates information contained in the
 - Prelim. Public Report dated _____
 - Final Public Report dated _____
 - Supp. Public Report dated _____

And Supersedes all prior public reports

Must be read together with _____

This report reactivates the _____ public report(s) which expired on _____

Disclosure Abstract: Separate Disclosure Abstract on this condominium project:

Required 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.

There have been no earlier public reports.

TABLE OF CONTENTS

	page
Report Purpose	1
Type of Report	1
Summary of Changes from Earlier Public Reports	2
Table of Contents	3
General Information on Condominiums	4
Summary of the Condominium Project	5
I. PEOPLE CONNECTED WITH THE PROJECT	6
Developer	Managing Agent
Real Estate Sales Agent	Attorney for Developer
Escrow Company	
II. CREATION OF THE CONDOMINIUM; CONDOMINIUM DOCUMENTS	
A. Declaration	7
B. Condominium Map (File Plan)	7
C. Bylaws	7
D. House Rules	8
E. Changes to Condominium Documents	8
III. THE CONDOMINIUM PROJECT	
A. Interest to be Conveyed to Buyer	9
B. Underlying Land	10
C. Buildings and Other Improvements	10
D. Common Elements, Limited Common Elements, Common Interest	14
E. Encumbrances Against Title	15
F. Management of the Common Elements	15
G. Maintenance Fees	16
H. Utility Charges	16
I. Construction Warranties	16
J. Status of Construction	17
K. Project Phases	17
L. Sales Documents Filed with the Real Estate Commission	17
IV. ADDITIONAL INFORMATION NOT COVERED ABOVE	18
Buyer's Right to Cancel Sales Contract	19
Signature of Real Estate Commission Chairman	20
EXHIBIT A: VARIANCE PERMIT	
EXHIBIT B: COMMON ELEMENTS	
EXHIBIT C: ESTIMATE OF INITIAL MAINTENANCE FEES; ESTIMATE OF MAINT. FEES DISB	
EXHIBIT D: ENCUMBRANCES AGAINST TITLE	
EXHIBIT E: SUMMARY OF SALES CONTRACT	
EXHIBIT F: SUMMARY OF ESCROW AGREEMENT	
EXHIBIT G:	
EXHIBIT H:	
EXHIBIT I:	
EXHIBIT J:	

GENERAL INFORMATION ON CONDOMINIUMS

A condominium is a special form of real property. To create a condominium in Hawaii, the requirements of Hawaii's "Horizontal Property Act" (Chapter 514A, Hawaii Revised Statutes) must be followed.

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 they 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 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.

Some condominium projects are leasehold. This means that the land or the land, 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 owner/tenant) 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. The 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.

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 a vote of the owners. Some of these actions may significantly impact the quality of life for all 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 vitally important to all apartment owners that the transition from developer to owner control be accomplished in an orderly manner and in a spirit of cooperation.

SUMMARY OF THE CONDOMINIUM PROJECT

(cite to appropriate pages
in text of report)

Interest to be Conveyed to Buyer:

Individual apartment and an undivided common interest in the land
in fee simple. (See Page 9.)

Type of Project:

1. New Building(s) Conversion
 Both New Building(s) and Conversion
2. Residential Commercial
 Mixed Residential and Commercial
 Other _____
3. High Rise (5 stories or more) Low Rise
4. Single or Multiple Buildings

5. Apartment Description

<u>Apt. Type</u>	<u>Qty</u>	<u>BR/Bath</u>	<u>Net Living Area*</u>	<u>Lanai/Patio</u>
<u>1</u>	<u>1</u>	<u>1/2</u>	<u>1287.82</u>	<u> </u>
<u>2</u>	<u>1</u>	<u>1/1</u>	<u>986.66</u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

Total Apartments: 2

*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.

6. Parking:

	<u>Number of Stalls</u>
Assigned Stalls (Individual Units)	<u>1 each unit</u>
Guest Stalls	<u>1 total</u>
Unassigned Stalls	<u> </u>
Extra Stalls Available for Purchase	<u> </u>
Other: _____	<u> </u>
Total Parking Stalls	<u>3</u>

7. Recreational amenities:

Swimming pool, lanai

I. PEOPLE CONNECTED WITH THE PROJECT

Developer: L. Earl Farnsworth Phone: [REDACTED]
Name (Business)
[REDACTED]
Business Address
[REDACTED]

Names of officers or general partners of developers who are corporations or partnerships:
None

Real Estate Sales Agent: Keauhou Kona Realty, Inc. Phone: 322-3101
Name (Business)
P. O. Box 1990
Business Address
Kailua-Kona, Hawaii 96745

Escrow: First American Title Co. Phone: 329-4431
Name (Business)
75-5706 Hanama Place, Suite 108
Business Address
Kailua-Kona, Hawaii 96740

Managing Agent: Owners Association Phone: _____
Name (Business)
76-6280 Alii Drive
Business Address
Kailua-Kona, Hawaii 96740

Attorney for Developer: Michael S. Zola
LeRoy C. Boyce
Name
75-5744 Alii Drive, Suite 223
Business Address
Kailua-Kona, Hawaii 96740

**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 Horizontal Property Regime, a Condominium Map (File Plan), and the Bylaws of the Association of Apartment Owners.

- A. **Declaration of Horizontal 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 — Book 19787 Page 770
 Filed — Land Court — Document Number _____

Amendment date(s) and recording/filing information:

- 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 Conveyance Condo Map No. 1031
 Filed — Land Court Condo Map No. _____

Amendment date(s) and recording/filing information:

- 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 way in which meetings will be conducted, and other matters which affect how the condominium project will be governed.

The Bylaws for this condominium are:

Proposed
 Recorded — Bureau of Conveyances — Book 19788 Page 001
 Filed — Land Court — Document Number _____

Amendment date(s) 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 individual apartments. House rules may cover matters such as parking regulations, hours of operation for common facilities such as recreation areas, use of lanais, keeping of pets, and occupancy limits. 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 apartment owners who 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>65%</u>
House Rules	—	<u>51%</u>

The percentages for individual condominium projects may be more than the minimum set by law.

2. **Developer:** The developer has reserved the following rights to change the Declaration, Condominium Map, Bylaws, or House Rules:

None

The Condominium Statute (Chapter 514A, HRS), the Declaration, Bylaws, and House Rules control the rights and obligations of the apartment owners with respect to 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.

III. THE CONDOMINIUM PROJECT

A. Interest to be Conveyed to Buyer:

- Fee Simple: Individual apartments and the underlying land will be in fee simple.
- Leasehold or Subleasehold: Individual apartments and the underlying land will be leasehold.

The leases for the individual apartments and the underlying land usually require that at the end of the lease term, the lessee (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.

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.

- Individual Apartments in Fee Simple, Underlying Land in Leasehold or Subleasehold:

The 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; or (2) convey the building(s) and improvements to the lessor, often at a specified price.

Exhibit _____ contains further explanations.

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:

For Subleaseholds:

- Buyer's sublease may be cancelled if the master lease between the sublessor and fee owner is
 Cancelled 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 cancelled or foreclosed.

B. Underlying Land:

Address: 76-6280 Alii Drive Tax Map Key: (3) 7-6-14-7
Kailua-Kona, Hawaii 96740 (TMK)

Address TMK is expected to change because _____

Land Area: 4706 square feet acre(s) Zoning: V-1.25

Fee Owner: L. Earl Farnsworth
name
[REDACTED]
address
[REDACTED]

Sublessor: _____
name
address

C. Buildings and Other Improvements:

1. New Building(s) Conversion of Existing Building(s)
 Both New Building(s) and Conversion

2. Buildings: one Floors Per Building: 3

Exhibit _____ contains further explanations.

3. Principal Construction Material:

Concrete Hollow Tile Wood

Other Glass

4. Permitted Uses:

	<u>No. of Apts.</u>		<u>No. of Apts.</u>
<input type="checkbox"/> Commercial	_____	<input type="checkbox"/> Industrial	_____
<input checked="" type="checkbox"/> Residential	<u>2</u>	<input type="checkbox"/> Agricultural	_____
<input type="checkbox"/> Timeshare/Hotel	_____	<input type="checkbox"/> Recreational	_____
<input type="checkbox"/> Other:	_____		_____

5. Special Use Restrictions:

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

] Pets: _____

] Number of Occupants: _____

] Other: _____

] There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Total Apartments 2

Elevators 1 Stairways 1 Trash Chutes 0

<u>Apt. Type</u>	<u>Qty</u>	<u>BR/Bath</u>	<u>Net Living Area*</u>	<u>Lanai/Patio</u>
<u>1</u>	<u>1</u>	<u>1/2</u>	<u>1287.82</u>	<u> </u>
<u>2</u>	<u>1</u>	<u>1/1</u>	<u>986.66</u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

*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 floor area may have been used.

Boundaries of Each Apartment:

Each apartment shall be deemed to include all of the walls and partitions which are not load bearing within its perimeter walls, the inner decorated or finished surfaces of all walls, floors and ceilings, all windows and window frames and doors and door frames serving the Apartment and all fixtures and appliances installed in such Apartment for its exclusive use.

Permitted Alterations to Apartments:

Each apartment owner has the right, at his sole option, to improve, renovate, remodel, make additions to, remove, replace or restore the improvements to or in his unit, at any time, without the consent of anyone other than the holder of liens affecting the unit.

7. Parking Stalls:

Total Parking Stalls: 3

	<u>Regular</u>		<u>Compact</u>		<u>Tandem</u>		<u>TOTAL</u>
	<u>covered</u>	<u>open</u>	<u>covered</u>	<u>open</u>	<u>covered</u>	<u>open</u>	
Assigned (for individual units)	<u>2</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u>2</u>
Guest Unassigned Extra Available for Purchase	<u> </u>	<u>1</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u>1</u>
Other:	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Total Covered & Open	<u>3</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

Each apartment will have the exclusive use of at least 1 parking stall(s).
Buyers are encouraged to find out which stall(s) will be available for their use.

Commercial parking garage permitted in condominium project.

Exhibit contains additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities:

There are no recreational or common facilities.

Swimming pool

Storage Area

Recreation Area

Laundry Area

Tennis Court

Trash Chute

Other: Storage area includes built-in vacuum system and hot water heater.

9. Present Condition of Improvements

(For conversions of residential apartments in existence for five years):

a. Condition and Expected Useful Life of Structural Components, Mechanical, and Electrical Installations

The building is 7½ years old and has been well maintained. As such the structural, electrical and mechanical components are in excellent condition. The expected useful life is undetermined.

b. Compliance with Building Code and Municipal Regulations; Cost to Cure Violations

The project is in compliance with all ordinances, codes, rules, regulations and other requirements in force at the time of its construction. There are no outstanding notices of incurred violations.

10. Conformance to Present Zoning Code

a. No variances to zoning code have been granted.

Variance(s) to zoning code was/were granted as follows:

To allow a 12-foot side yard setback in lieu of minimum 20-foot setback requirement. A copy of the variance permit is attached as Exhibit "A".

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	<u> X </u>	<u> </u>	<u> </u>
Structures	<u> X </u>	<u> </u>	<u> </u>
Lot	<u> X </u>	<u> </u>	<u> </u>

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 intended to be used by all apartment owners. They are owned jointly by all apartment owners.

Exhibit B describes the common elements.

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 may use them are:

described in Exhibit _____

as follows:

The elevator and stairway to each unit and the hall or landing immediately adjacent thereto and the assigned parking stall, as shown and delineated on said Condominium Map, including without limitation, any private area, shall be deemed a limited common element for the sole and exclusive use of the unit to which it is appurtenant.

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 often used to determine each apartment's share of the maintenance fees and other common profits and expenses of the condominium. It may also be used for other purposes, including voting on matters requiring action by apartment owners.

Exhibit _____ describes the common interests for each apartment.

as follows:

Unit No.	Approx. Net Living Floor Area	Percentage of Common Interest
1	1287.82	56.620%
2	986.66	43.380%

NOTE: The common interest for an apartment was determined by dividing the common interest by the square foot area of each apartment.

E. Encumbrances Against Title: An encumbrance is a claim against or a liability on the property.

Exhibit F describes the encumbrances against the title contained in the title report dated May 28, 1987, by First American Title.

Blanket Liens:

A blanket lien is a mortgage on a condominium project that secures a construction loan. It 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. Buyer's interest will be affected only if the developer defaults prior to conveying the apartment to buyer.

<u>Type of Lien</u>	<u>Effect on Buyer's Interest If Developer Defaults</u>
First Mortgage to Bank of Hawaii	Buyer's interest may be terminated and Buyer will receive a refund.
Second Mortgage to George and Mary Norwood	

F. Management of the Common Elements: The Association of Apartment Owners is responsible for the management of the common elements and the overall operation of the condominium project. The Association may be permitted, and in some cases may be required, to employ or retain a managing agent to assist the Association in managing the condominium project.

Initial Managing Agent: When the developer or the developer's affiliate is the initial managing agent, the management contract must have a term of one year or less and the parties must be able to terminate the contract on notice of 60 days or less.

The initial managing agent for this condominium is:

- not affiliated with the Developer.
- the Developer or the Developer's affiliate.
- other _____

G. Estimate of Initial Maintenance Fees:

The Association will make assessments against your apartment to provide funds for the operation and maintenance of the condominium project. If you are delinquent in paying the assessments, your apartment may be liened and sold through a foreclosure proceeding.

Initial maintenance fees are difficult to estimate and tend to increase as the condominium ages. Maintenance fees may vary depending on the services provided to each apartment.

Exhibit C contains a schedule of maintenance fees and maintenance fee disbursements.

H. Utility Charges for Apartments:

Each apartment will be billed separately for utilities except for the following checked utilities which are included in the maintenance fees:

- | | |
|--------------------------------------|---|
| <input type="checkbox"/> Electricity | <input type="checkbox"/> Television Cable |
| <input type="checkbox"/> Gas | <input checked="" type="checkbox"/> Water & Sewer |
| <input type="checkbox"/> Other _____ | |

I. 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, as an existing building is being converted.

2. Appliances:

None, as warranties have expired. The developer will assure each purchaser only that the appliances are in working order at the time of occupancy by the purchaser.

J. Status of Construction and Estimated Completion Date:

K. Project Phases:

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

Summary of Developer's Present Plans for Future Development:

None.

L. 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 E contains a summary of the pertinent provisions of the sales contract.

Escrow Agreement dated _____

Exhibit F contains a summary of the pertinent provisions of the escrow agreement.

Other Specimen Apartment Deed _____

IV. ADDITIONAL INFORMATION NOT COVERED ABOVE

Buyer's Right to Cancel Sales Contract:

A. Rights Under the Condominium Statute:

Preliminary Report: Sales made by the Developer 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, Supplementary Report to a Final Report: Sales made by the Developer are binding if:

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

1. There is a material change in the condominium which directly, substantially, and adversely affects (a) the use or value of the buyer's apartment or its limited common elements; or (b) the amenities available for buyer's use; and
2. 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.

B. Rights Under the Sales Contract:

Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the condominium. These include but are not limited to the:

1. Condominium Public Reports issued by the Hawaii Real Estate Commission.
2. Declaration of Horizontal Property Regime and Condominium Map.
3. Bylaws of the Association of Apartment Owners.
4. House Rules.
5. Escrow Agreement.
6. Hawaii's Condominium Law (Chapter 514A, HRS, as amended; Hawaii Administrative Rules, Chapter 16-107, adopted by the Real Estate Commission).
7. Other _____

If these documents are not in final form, the buyer should ask to see the most recent draft.

Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer and are on file at the Department of Commerce and Consumer Affairs. Reprints of Hawaii's Condominium Law (Chapter 514A, HRS and Hawaii Administrative Rules Chapter 16-107) are available at the Department of Commerce and Consumer Affairs.

This Public Report is a part of Registration No. 1842 filed with the Real Estate Commission on April 6, 1987.

Reproduction of Report. When reproduced, this report must be on:

yellow paper stock white paper stock pink paper stock

Expiration Date of Reports. Preliminary Public Reports and Final Public Reports automatically expire thirteen (13) months from the date of issuance unless a Supplementary Public Report is issued or unless the Commission issues an order extending the effective period for the report.

Supplementary Public Reports expire on the expiration date given on the front of the report.



GLORIA DAMRON, Chairman
REAL ESTATE COMMISSION
STATE OF HAWAII

Distribution:

Bureau of Conveyances
Department of Finance, County of Hawaii
Planning Department, County of Hawaii
Federal Housing Administration
Escrow Agent

PLANNING COMMISSION

Planning Department
County of Hawaii
Hilo, Hawaii

APPLICATION FOR VARIANCE)
by)
GEORGE NORWOOD)
from)
MINIMUM FRONT YARD AND SHORELINE) VARIANCE NO. 539
SETBACK REQUIREMENT AND PARKING)
IMPROVEMENT REQUIREMENTS)
in)
Holualoa 1st and 2nd,)
North Kona, Hawaii)
_____)

VARIANCE PERMIT

The County of Hawaii Planning Commission at a duly held public hearing on July 13, 1978, considered the application of GEORGE NORWOOD for a variance from Article 9, Section 7 and Article 26, Section 6 of Chapter 8 (Zoning Code), Hawaii County Code, as amended, and from Article 26, Section 7 of the Zoning Code as well as Rule 8 of the Planning Commission, "Rules and Regulations Relating to Shoreline Setback," more specifically to allow the construction of a two (2) unit apartment structure on 4,706 square feet of land with a front yard setback of twelve (12) feet in lieu of the minimum requirement at twenty (20) feet stipulated in the Resort-1,250 square foot (V-1.25) zoned district, a twelve (12) foot shoreline setback in lieu of the minimum requirement of twenty (20) feet, and a grassed hollow tile parking back-up area in lieu of the requirement of an all-weather dust free paved surface at Holualoa 1st and 2nd, North Kona, Hawaii, Tax Map Key 7-6-14:07.

The Commission has found:

That there are unusual circumstances applying to the subject property which do not generally apply to surrounding properties or improvements in the same zoned district. The parcel involved consists of 4,706 square feet of land and is non-conforming with respect to the 15,000-square foot minimum area requirement of the Resort zoned district. The parcel is also generally triangular in shape. Due to the shape of the parcel, the buildable area narrows towards the apex of the triangle. This configuration results in a buildable area which is relatively quite restrictive in terms of practical usable space. The standard rectangular design of living areas is not easily adaptable to the shape and area of the subject parcel.

The proposed structure has been designed in such a way that some of the basic restrictions of the parcel's shape and size have been overcome, and the side and rear yard setbacks will be complied with. In the proposed plans, however,

the structure encroaches into the front yard setback area in order that a minimal living area can be provided. The shape and size of the parcel are determined to be unusual circumstances which are not generally found in surrounding or similarly zoned properties. In addition, these are of such a nature that compliance with all of the setback requirements would deprive the petitioner of property rights. The purpose of the variance provisions of the Zoning Code is to accommodate those circumstances in which the strict and literal enforcement of the law would result in undue hardship for the petitioner. In this particular case, the application of all required setbacks would result in a structure of small size and odd shape and would obviously interfere with the best manner of development and use of the subject property.

Further, approval of the front yard setback variance will not be inconsistent with the general purpose of the zoned district or the purpose and intent of the Zoning Code. The intent of the setback provisions of the Zoning Code is to assure that adequate light, air and circulation is available for structures and between properties. In this particular case, encroachment into the front yard setback area will not interfere with light, air and circulation for the proposed development or other adjacent developments, especially in that side and rear yard setbacks will be met. Approval of this aspect of the variance request is thus not expected to be materially detrimental to the public welfare or to improvements or property rights related to property in the near vicinity.

The protrusion of the second floor lanai into the shoreline setback area is also not expected to be materially detrimental to the public welfare nor directly contrary to the purpose and intent of the shoreline setback provisions. The lanai will be approximately nine feet above grade and will be open in character. It should not be subject to high seas or otherwise endangered by ocean actions. The nature of the proposed improvement is not contrary to the intent of the shoreline setback regulations, which is to prevent disturbance of natural shoreline processes and massive development along the shoreline as well as to protect shoreline structures from high wave and tsunami damage. As proposed, the lanai will essentially have no effect on the shoreline setback area in that the major impact resulting from development of the subject property will be from the proposed structure which otherwise complies with setback requirements in this area of the parcel.

In addition, it should be pointed out that the property lines of the subject parcel abut the shoreline for a distance of approximately 16 feet. The character of the parcel is not essentially that of fronting on the shoreline. The configuration and size of the parcel compound the unusual circumstances of the parcel. By encroaching into the front yard setback area, the projection of a portion of the proposed structure into the shoreline setback area is minimized.

In terms of the parking improvements proposed by the petitioner, it is determined that the provision of grassed hollow tile for the turnout area essentially is consistent with the provision of an all-weather, dust free surface. The use of the proposed surface in lieu of asphalt pavement will accomplish the same goal of providing a usable, nuisance-free parking improvement. Given the unusual circumstances of the size and shape of the parcel, the petitioner's intent to utilize the parking turnout area as an entrance way to the proposed structure will promote the best manner of development of the subject property while still complying with the parking requirements of the Zoning Code. Except for the turnout area, all other parking related improvements will be in compliance.

In addition, the scale of the proposed development as well as the nature of it is such that the proposed grassed hollow tile turnout area will not have any adverse effects on other properties. The proposed development consists of two residential units which will generate traffic of a domestic, low volume nature. In this particular case, the provision of the required number of parking spaces and the relief of improvement requirements for the turnout area is determined to be more consistent with the provisions of the Zoning Code than vice versa. Such a proposal is expected to create less of a traffic hazard on Ali'i Drive than other alternatives to relief from the parking requirements which could be pursued to resolve the difficulties encountered by the unusual circumstances of the subject property which have been cited above.

Based on the above, it is determined that approval of the subject request will not be contrary to the purpose and intent of the Zoning Code, will not be detrimental to the public welfare nor injurious to property rights related to property in the near vicinity, and will not constitute a grant of personal or special privilege inconsistent with the limitations upon properties in similarly zoned districts.

Therefore, the Commission hereby grants to the applicant a variance to allow the construction of a two (2) unit apartment structure on 4,706 square feet of land with a front yard setback of twelve (12) feet in lieu of the minimum requirement of twenty (20) feet stipulated in the Resort-1,250 square foot (V-1.25) zoned district, a twelve (12) foot shoreline setback in lieu of the minimum requirement of twenty (20) feet, and a grassed hollow tile parking back-up area in lieu of the requirement of an all-weather dust free paved surface pursuant to the authority vested in it by Article 1, Section 7 of the Zoning Code and by Section 205-35, Hawaii Revised Statutes and Rule 8.8 of the Planning Commission, "Rules and Regulations Relating to Shoreline Setback" subject to the following conditions:

1. That the petitioner or his authorized representative shall submit plans for plan approval within one year from the effective date of the Variance Permit.

2. That the proposed development shall conform to the representations made by the petitioner and the plans submitted with the application.
3. That construction of the proposed development shall commence within one year from the date of receipt of final plan approval and be completed within two years thereafter.
4. That should any archaeological or historical sites or remains be found during land preparation activities, work shall immediately cease and the petitioner or his authorized representative shall notify the Planning Department. Work shall not resume until a review and clearance of the affected site or sites has been obtained from the Planning Department.
5. That all other applicable rules, regulations and requirements shall be complied with.

Should any of the foregoing conditions not be met, the Variance Permit may be deemed null and void by the Planning Commission.

The effective date of this permit shall be from July 13, 1978.

Dated at Hilo, Hawaii, this 16th day of August, 1978.



WILLIAM F. MIELCKE, CHAIRMAN
Planning Commission

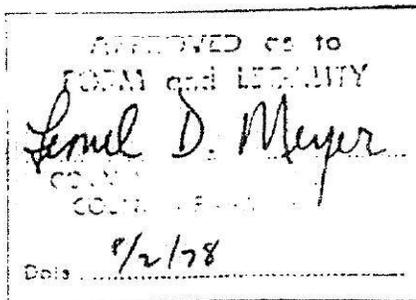


EXHIBIT B

Common Elements

- a. The land in fee simple;
- b. All yards, grounds, and planting areas, landscaping; and swimming pool and lanai;
- c. The driveway, access areas, and carports which are limited common elements to the units;
- d. All electrical and mechanical equipment and wiring and other central and appurtenant installations for services, including power, lights, sewer, sewer pump system, and water;
- e. All other parts of the Project existing for the common use where necessary to the existence, maintenance, and safety of the Project.

EXHIBIT C

ESTIMATE OF INITIAL MAINTENANCE FEES
AND
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

<u>Apartment</u>	<u>Monthly Fee</u> x 12 months =	<u>Yearly Total</u>
1	\$285.93	\$3,431.16
2	\$219.07	\$2,628.84

[] Revised on _____

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 x 12 months = Yearly Total

Utilities and Services

Air Conditioning

Electricity

[] common elements only

[] common elements
and apartments

Gas

Refuse Collection

\$ 15.00

\$180.00

Telephone

Water and Sewer

\$ 20.00

\$240.00

Maintenance, Repairs and Supplies

Building

\$100.00

\$1200.00

Grounds

\$ 95.00

\$1140.00

Pool Maintenance

\$ 75.00

\$900.00

Management

Management Fee

Payroll and Payroll Taxes

Office Expenses

Insurance

\$200.00

\$2400.00

Reserves

Taxes and Government Assessments

Other

TOTAL

\$505.00

\$6060.00

I/We, L.E. Farnsworth, as managing agents for the condominium, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.



Date: 103 11-80

EXHIBIT D

Encumbrances Against Title

1. **TAXES** Tax Key: Hawaii 7-6-14-7

Reference is hereby made to the Office of the Tax Assessor of the Third Division.

2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.

3. "Any existing easement or right for roadway purposes in favor of any governmental authority, the public or any person due to the existence of the present alignment of Alii Drive over and across a portion of the premises described above."; as contained in that certain Warranty Deed dated March 13, 1985, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 18506 Page 42.

4. "Patent to be applied for re: Land Commission Award Number 8015, Apana 2 to Aipo."; as contained in that certain Warranty Deed dated March 13, 1985, recorded in said Bureau in Liber 18506 Page 42.

5. **MORTGAGE**

Mortgagor: L. Earl Farnsworth, unmarried
Mortgagee: Bank of Hawaii, a corporation organized and existing under the laws of the State of Hawaii
Dated: March 14, 1985
Liber: 18506
Page: 47
To Secure: \$300,000.00
and any other amounts and/or obligations secured thereby

EXHIBIT D

Encumbrances Against Title

6. **MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT**

Mortgagor: L. Earl Farnsworth, unmarried
Mortgagee: George Norwood and Mary Jane Norwood, husband
and wife, as Joint Tenants
Dated: March 27, 1985
Liber: 18537
Page: 427
To Secure: \$136,250.00
and any other amounts and/or obligations
secured thereby

7. Condominium Map No. 1031, filed in said Bureau.

8. The restrictions, covenants, agreements, obligations, conditions, easements and other provisions set forth in Declaration of Horizontal Property Regime dated June 31, 1986, recorded in said Bureau in Liber 19787 Page 770, and the By-laws attached thereto.

9. The restrictions, covenants, agreements, obligations, conditions and other provisions set forth in By-Laws of the Association of Apartment Owners of 76-6280 Alii Drive dated April 30, 1986, recorded in said Bureau in Liber 19788 Page 1.

10. All exclusive and non-exclusive easements mentioned in said Declaration, as amended, and/or said Warranty Deed, and/or as shown on Condominium Map No. 1031.

EXHIBIT E

Summary of Sales Contract

The Sales Contract contains the price and other terms and conditions under which a purchaser will agree to buy an apartment in the Project. Among other things, the Sales Contract says:

(a) That the apartment will be subject to the various Horizontal Property Regime documents which the purchaser should examine.

(b) That the purchaser must close the purchase at a certain date and pay closing costs in addition to the purchase price.

The Sale Contract contains various other provisions with which the Purchaser should become acquainted.

EXHIBIT F

Summary of Escrow Agreement

The Escrow Agreement sets up an arrangement under which the deposits which a purchaser makes under a Sales Contract will be held by a neutral party ("Escrow"). Under the Escrow Agreement these things will or may happen:

(a) Escrow will let purchaser know when payments are due.

(b) Escrow will arrange for purchasers to sign all necessary documents.

(c) The Escrow Agreement says under what conditions a refund will be made to a purchaser.

(d) The Escrow Agreement says what will happen to a purchaser's funds upon a default under the Sales Contract.

The Escrow Agreement contains various other provisions and establishes certain charges with which the purchaser should become acquainted.