



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

**CONDOMINIUM PUBLIC REPORT**

on  
 HALE AWAPUHI  
 366 Papaloa Road  
 Wailua, County of Kauai, Hawaii

Registration No. 1915

Issued: February 8, 1990  
 Expires: March 8, 1991

Report Purpose:

This report is based on information and documents submitted by the developer to the Real Estate Commission as of January 18, 1990, 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:** 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.  
*(yellow)*
- FINAL:** The developer has legally created a condominium and has filed complete information with the Commission.  
*(white)*
- No prior reports have been issued  
 Supersedes all prior public reports  
 Must be read together with \_\_\_\_\_
- 
- SUPPLEMENTARY:** Updates information contained in the  
*(pink)*
- 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.

No prior reports have been issued by the Commission.

Changes made are as follows:

\*\*\*\*\*

SPECIAL ATTENTION:

Since the issuance of the Preliminary Public Report on March 18, 1988, the Developer has modified the Project to create six (6) parking stall apartments and to reduce the number of parking stalls appurtenant to Apartment Nos. 121 and 123.

In order to effect this change, the condominium documents have been modified to reduce the common interest appurtenant to each the residential apartments and to reduce the estimated maintenance fees for each of the residential apartments.

Minor changes were made to the Declaration and Condominium Map to reflect the deletion of storage closets from some residential apartments. However, all apartments still have appurtenant thereto as a limited common element, one storage locker located in the Office and Service Building.

The By-Laws were revised to reflect changes in the Condominium Property Act.

Each purchaser is urged to carefully review the Project documents for any changes.

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## 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: Schedule of Apartments and Common Interests	
EXHIBIT B: Schedule of Parking Stall Apartments	
EXHIBIT C: Description of Common Elements	
EXHIBIT D: Description of Limited Common Elements	
EXHIBIT E: Encumbrances Against Title	
EXHIBIT F: Estimate of Initial Maintenance Fees and Disbursements	
EXHIBIT G: Summary of Sales Contract	
EXHIBIT H: Summary of Escrow Agreement	
EXHIBIT I: Boundaries of Each Apartment	
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 "Condominium 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 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

Interest to be Conveyed to Buyer:

- Fee simple interest in an apartment and an undivided feehold interest in the common elements.
- Leasehold interest in an apartment and an undivided leasehold interest in the common elements.
- Fee simple interest in an apartment and an undivided leasehold interest in the common elements.

**Types of Project:**

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

5. Apartment Description

See Exhibit "A"  
Apt.

<u>Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Lanai/Patio (sf)</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Total Apartments: 15

*\*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>9</u>
Guest Stalls	_____
Unassigned Stalls	_____
Extra Stalls Available for Purchase	_____
Other: <u>Parking Stall Apartments</u>	<u>6</u>
<b>Total Parking Stalls</b>	<b><u>15</u></b>

7. Recreational amenities:

Swimming Pool

**I. PEOPLE CONNECTED WITH THE PROJECT**

**Developer:** Wailua Partners **Phone:** (213) 456-2472  
**Name** (Business)  
2850 Ocean Park Blvd., Suite 345  
**Business Address**  
Santa Monica, California 90405

**Names of officers or general partners of developers who are corporations or partnerships:**

<u>James H. Van Dyke</u>	<u>General Partner</u>
<u>Johanna B. Van Dyke</u>	<u>General Partner</u>
<u>Wayne E. Johnson</u>	<u>General Partner</u>
<u>Karen L. Johnson</u>	<u>General Partner</u>
<u>John E. Denton</u>	<u>General Partner</u>
<u>Isabel L. Denton</u>	<u>General Partner</u>

**Real Estate Sales Agent:** Douglas Wilson dba Wilson Realty **Phone:** (808) 246-0402  
**Name** (Business)  
4334 Rice Street, #203C  
**Business Address**  
Lihue, Kauai, Hawaii 96766

**Escrow:** Founders Title & Escrow of Hawaii, Inc. **Phone:** (808) 531-0226  
**Name** (Business)  
10th Floor, 900 Fort Street  
**Business Address**  
Honolulu, Hawaii 96813

**Managing Agent:** Self-managed by the Association of Apartment Owners **Phone:** \_\_\_\_\_  
**Name** (Business)  
**Business Address**  
\_\_\_\_\_

**Attorney for Developer:** Rush Moore Craven & Stricklin (Attention: D. Scott MacKinnon)  
**Name**  
745 Fort Street, 20th Floor, Hawaii Tower  
**Business Address**  
Honolulu, Hawaii 96813

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

A condominium is created by recording in the Bureau of Conveyances and/or filing with the Land Court a Declaration of Condominium Property Regime, a Condominium Map (File Plan), and the Bylaws of the Association of Apartment Owners.

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

The Declaration for this condominium is:

Proposed  
 Recorded - Bureau of Conveyances - Book 23875 Page 452  
 Filed - Land Court - Document Number \_\_\_\_\_

Amendment date(s) and recording/filing information:

First Amendment dated December 29, 1989 recorded January 2, 1990 as Document No. 90-000371.

- 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. 1261  
 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 23875 Page 508  
 Filed - Land Court - Document Number \_\_\_\_\_

Amendment date(s) and recording/filing information:

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.

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 common interest which must vote for or give written consent to changes:

	<u>Minimum Set by Law</u>	<u>This Condominium</u>
Declaration (and Condo Map)	75%	<u>75%</u>
Bylaws	65%	<u>65%</u>
House Rules	---	<u>See Article V, Section 4 of By-Laws</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:

Developer reserves the right to amend the Declaration without the consent or joinder of the person then owning the apartments by filing an amendment to the Declaration pursuant to the provisions of Section 514A-12, Hawaii Revised Statutes, as amended, after completion of the buildings of the Project by attaching to such amendment a verified statement of a registered architect or professional engineer certifying that the final plans theretofore filed or being filed simultaneously with the amendment fully and accurately depict the layout, location, apartment numbers and dimensions of the apartments as built.

During the sales and/or construction period, the Developer reserves the right to make changes to the documents and Project as may be required by law, any title company, institutional mortgage lender, or governmental agency, provided only that such changes shall not increase the buyer's share of common expenses without his consent, reduce the obligations of the seller for common expenses on unsold apartments or require a substantial physical change of the apartment or of the building in which the apartment is located.



**B. Underlying Land:**

Address: 366 Papaloa Road Tax Map Key: (4) 4-1-5-1  
Wailua, Kauai, Hawaii (TMK)

Address  TMK is expected to change because \_\_\_\_\_

Land Area: 38,900  square feet  acre(s) Zoning: R-10

Fee Owner: Wailua Partners  
Name

2850 Ocean Park Blvd., Suite 345  
Address

Santa Monica, California 90405

Sublessor: N/A  
Name

Address

**C Buildings and Other Improvements:**

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

2. Buildings: one building and one service Floors Per Building 2 plus loft  
building service building has one (1)  
 Exhibit \_\_\_\_\_ contains further explanations. floor

3. Principal Construction Material:

Concrete  Hollow Tile  Wood

Other glass, steel, aluminum

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>9</u>	<input type="checkbox"/> Agricultural	_____
<input type="checkbox"/> Timeshare/Hotel	_____	<input type="checkbox"/> Recreational	_____
<input checked="" type="checkbox"/> Other: <u>Parking Stall Apartments</u>			<u>6</u>

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 Dogs, cats and other household pets not allowed in project
- Number of Occupants: No more than 2 persons per bedroom, plus two persons, except family of owners
- Other: No hotel, transient or time-share use of apartment permitted
- There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Total Apartments 15

Elevators none                      Stairways 3                      Trash Chutes none

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Lanai/Patio (sf)</u>
<u>SEE EXHIBIT "A"</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>	<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 the floor area may have been used.*

**Boundaries of Each Apartment:**

See Exhibit "I"

**Permitted Alterations to Apartments;**

Except as provided by law, any alterations or additions within an apartment shall require only the written approval thereof, including the apartment owner's plans therefor, by the holder of a first lien affecting such apartment (if the lien holders require such approval), the Board and all other apartment owners thereby directly affected, and such alterations or additions may be undertaken without an amendment to the Declaration or filing of a complete set of floor plans of the Project as so altered.

7. Parking Stalls:

Total Parking Stalls: 15

	<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>7</u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>9</u>
Guest	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Unassigned	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Extra Available for Purchase	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Other: *	<u>6</u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>6</u>
Total	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Covered & Open	<u>15</u>		<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>

\*The project includes six (6) parking stall apartments.

Each apartment will have the exclusive use of at least one (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.

[XX] Exhibit B contains additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities.

[ ] There are no recreational or common facilities.

[XX] Swimming pool

[X] Storage Area (Each apartment has storage locker appurtenant thereto.)

[ ] Recreation Area

[ ] Laundry Area

[ ] Tennis Court

[ ] Trash Chute

[ ] Other: \_\_\_\_\_

\_\_\_\_\_

9. Present Condition of Improvements

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

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

N/A

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

N/A

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:

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

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

	<u>Conforming</u>	<u>Non-Conforming</u>	<u>Illegal</u>
Uses	X		
Structures	X		
Lot	X		

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  "C"  describes the common elements.

As follows:

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  "D"

as follows:

3. Common Interest: Each apartment will have an undivided fractional interest in all of the common elements. This interest is called the "common interest." It is 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  "A"  describes the common interests for each apartment.

As follows:

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

Exhibit "E" describes the encumbrances against the title contained in the title report dated October 31, 1989 and issued by Founders Title Corporation of Hawaii, Inc.

**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>
Mortgage and Security Interests in favor of Central Pacific Bank	Mortgagee has right to foreclose and to eliminate Buyer's rights under sales contract if it so chooses.

**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.

self-managed by the Association of Apartment Owners.

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  "F"  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 checked="" type="checkbox"/> Television Cable |
| <input type="checkbox"/> Gas            | <input checked="" type="checkbox"/> Water & Sewer    |
| <input type="checkbox"/> Other _____    |  |
| <input type="checkbox"/> Not applicable |  |

**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:**

The contractor warrants against structural defects in any apartment of which written notice has been given to the contractor by the apartment owner at any time within one (1) year from the date of substantial completion of the Project or conveyance of title to the apartment owner, whichever first occurs. In addition, the contractor warrants against structural defects in the common elements for one (1) year from the date of substantial completion of the Project.

**2. Appliances:**

Manufacturer's warranties on appliances furnished with an apartment shall be assigned by the Developer and shall thereafter run in favor of the apartment purchaser directly from the manufacturer. These warranties will expire at different times, depending on the date of installation of the appliances. 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:**

Construction is completed.

**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:

The Developer has no plans for future development of the Project.

**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 "G" contains a summary of the pertinent provisions of the sales contract.

Escrow Agreement dated January 22, 1988

Exhibit "H" contains a summary of the pertinent provisions of the escrow contract.

Other \_\_\_\_\_

#### **IV. ADDITIONAL INFORMATION NOT COVERED ABOVE**

None.

**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 Condominium 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. 1915 filed with the Real Estate Commission on  
January 22, 1988.

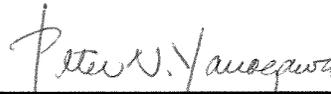
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**Expiration Date of Reports.** Preliminary Public Reports and Final Public Reports automatically expire thirteen (13) months from the date of issuance unless a Supplementary Public Report is issued or unless the Commission issues an order extending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



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PETER N. YANAGAWA, Chairman  
REAL ESTATE COMMISSION  
STATE OF HAWAII

**Distribution:**

Bureau of Conveyances

Department of Finance, County of Kauai

Planning Department, County of Kauai

Federal Housing Administration

Escrow Agent

EXHIBIT "A"Schedule of Apartments and Common InterestsA. Residential Apartments:

<u>Qty.</u>	<u>Apt. No.</u>	<u>Apt. Type</u>	<u>No. of BR /BATH</u>	<u>Approximate Net Living Floor Area (Sq. Ft.)</u>	<u>Approximate Lanai Area (Sq. Ft.)</u>	<u>Percentage Interest</u>
1	111	1A	2/2	1,286	274	9.80%
1	112	1B	2/2	1,263	213	9.27%
1	113	1C	2/2	1,238	199	9.02%
1	114	1D	2/2	1,272	285	9.78%
1	121	2E	2/3	1,672	325	12.54%
1	122	2F	2/3	1,636	217	11.64%
1	123	2G	1/2	1,351	264	10.14%
1	124	2H	1/2	1,317	195	9.50%
1	125	2J	2/3	1,677	273	12.25%

B. Parking Stall Apartments:

<u>Apartment No.</u>	<u>Approximate Net Floor Area (Sq. Ft.)</u>	<u>Percentage Interest</u>
P-3	161	1.01%
P-4	161	1.01%
P-5	161	1.01%
P-6	161	1.01%
P-7	161	1.01%
P-8	161	1.01%

END OF EXHIBIT "A"

EXHIBIT "B"Schedule of Parking Stall Assignments

<u>Apartment No.</u>	<u>Parking Stall No.</u>
111	P-15
112	P-14
113	P-13
114	P-11
121	P-1
122	P-12
123	P-2
124	P-10
125	P-9

END OF EXHIBIT "B"

EXHIBIT "C"Description of Common Elements

- (a) The land of the Project in fee simple;
- (b) All foundations, floor slabs, columns, girders, beams, supports, unfinished perimeter, party and load-bearing walls, roofs, entries, stairways, elevators, walkways, entrances and exits of the buildings of the Project;
- (c) The Office and Service Building;
- (d) All yards, grounds and landscaping;
- (e) The swimming pool, appurtenant deck area and pool equipment;
- (f) All parking areas, except those parking areas which are a part of the parking stall apartments;
- (g) 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, sewer, telephone and television signal distribution, if any;
- (h) Any and all other apparatus and installations of common use and all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

END OF EXHIBIT "C"

EXHIBIT "D"Description of Limited Common Elements

Certain parts of the common elements, herein called the "limited common elements", are designated and set aside for the exclusive use of certain apartments, and such apartments shall have appurtenant thereto easements for the use of such limited common elements as follows:

(a) One (1) parking space, as designated on the Condominium Map by numbers, which numbers are also set forth opposite the number of each of the respective residential apartments set forth in Exhibit "B" of this Public Report, shall be appurtenant to and for the exclusive use of such residential apartment;

(b) Each residential apartment shall have for its exclusive use one (1) mailbox bearing the same number as such residential apartment;

(c) Each residential apartment shall have for its exclusive use one (1) storage room bearing the same number as such residential apartment.

END OF EXHIBIT "D"

EXHIBIT "E"Encumbrances Against Title

1. Title to all mineral and metallic mines reserved to the State of Hawaii.
2. Terms, provisions, covenants and agreements as contained in that certain Deed dated March 13, 1987, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 20482, at Page 337.
3. Mortgage dated November 14, 1987, recorded as aforesaid in Liber 21348, at Page 434, in favor of Central Pacific Bank, a Hawaii corporation.
4. Financing Statement recorded as aforesaid in Liber 21348, at Page 449, executed by Wailua Partners, as Debtor, in favor of Central Pacific Bank, as Secured Party.
5. The covenants, agreements, obligations, conditions, easements and other provisions as contained in the following:

Declaration of Condominium Property Regime, recorded as aforesaid on November 15, 1989 in Liber 23875, Page 452, as amended by First Amendment to Declaration of Condominium Property Regime, recorded as aforesaid on January 2, 1990 as Document No. 90-000371; and By-Laws recorded as aforesaid on November 15, 1989 in Liber 23875, Page 508. The Condominium Map was filed as Map No. 1261.

END OF EXHIBIT "E"

EXHIBIT "F"

ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

ESTIMATE OF INITIAL MAINTENANCE FEES:

<u>Apartment</u>	<u>Monthly Fee X 12 months =</u>	<u>Yearly Total</u>
Type 1A	\$ 266.07	\$ 3,192.84
Type 1B	251.68	3,020.17
Type 1C	244.89	2,938.71
Type 1D	265.53	3,186.32
Type 1E	340.46	4,085.53
Type 1F	316.03	3,792.31
Type 1G	275.30	3,303.61
Type 1H	257.93	3,095.10
Type 1J	332.59	3,991.05
Type P-3 Parking Stall	27.42	329.06
Type P-4 Parking Stall	27.42	329.06
Type P-5 Parking Stall	27.42	329.06
Type P-6 Parking Stall	27.42	329.06
Type P-7 Parking Stall	27.42	329.06
Type P-8 Parking Stall	27.42	329.06

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

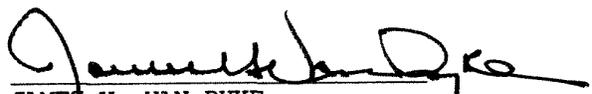
EXHIBIT "F" CONTINUED

ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS:

	<u>MONTHLY</u> X 12 MONTHS =	<u>YEARLY TOTAL</u>
<b>Utilities and Services</b>		
Electricity		
(X) common elements only	\$ 100	\$ 1200
( ) common elements and apartments		
Gas (LPG)	50	600
Refuse Collection	100	1200
Telephone	50	600
Water	140	1680
Sewer	100	1200
<b>Maintenance, Repairs &amp; Supplies</b>		
Pest Control	50	600
Building	80	960
Grounds	600	7200
Pool/Spa	125	1500
<b>Management</b>		
Data Processing	50	600
Management Fee (None)	-0-	-0-
Office Expenses	20	240
Legal & Audit	700	8400
<b>Insurance</b>		
Insurance - DIC (None)	-0-	-0-
Reserves	150	1800
<b>Taxes and Government Assessments</b>		
	-0-	-0-
<b>Other</b>		
TV Cable	200	2400
Bookkeeping Service	150	1800
Miscellaneous	50	600
	-----	-----
<b>TOTAL</b>	<b><u>\$2,715</u></b>	<b><u>\$32,580</u></b>

The undersigned as Developer of 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 principals consistently applied.

WAILUA PARTNERS

By   
 JAMES H. VAN DYKE  
 Its Managing General Partner

Date: December 26, 1989

EXHIBIT "G"SUMMARY OF SALES CONTRACT

The specimen Hale Awapuhi Condominium Project Condominium Reservation Agreement, Deposit Receipt and Contract ("contract") contains, among other provisions, the following (which may be modified or otherwise limited by provisions not summarized):

1. The method of payment of the purchase price in four (4) payments the last of which shall be paid to the escrow agent, subject to other terms, within one (1) business day after the Certificate of Occupancy for the apartment has been issued or if construction of the project has been completed, within thirty (30) days after the second payment is due.
2. Seller reserves the right at any time prior to issuance of the Final Public Report on the project to increase the Purchase Price specified in the contract by an amount up to fifteen percent (15%) as a result of increases in development, marketing and construction costs of the project.
3. The purchase price does not include the closing costs, prorations and additional costs provided in other sections of the contract.
4. If at the time of execution of the contract, a final public report has not been issued, the contract is merely a reservation agreement and it may be cancelled at any time by either the Buyer or Seller.
5. The terms and conditions of the sale which include, among other provisions, the following:
  - a. Buyer has received the Declaration of Horizontal Property Regime, By-Laws of the Association of Apartment Owners, form of Apartment Deed, and Escrow Agreement and acknowledges that he has had adequate opportunity to read those documents and to examine the project plans and accepts them with such changes and modifications as the project architect may deem necessary.
  - b. Buyer agrees that all payments made will be placed on deposit with escrow pursuant to the terms of the Escrow Agreement.

c. Buyer will submit to seller evidence of his ability to pay within ten (10) days after the date Seller executes the contract.

d. Risk of loss to the apartment and percentage interest in the common elements will be borne by Seller until the date of closing as defined in the contract. Buyer will not be entitled to possession of the apartment until the date of closing.

e. The estimated completion date of the project is an approximate date given to the best of Seller's information and belief. If the project is not completed on or before twelve (12) months after the estimated completion date, the obligations of both Buyer and Seller, at Seller's option, shall terminate.

f. Seller has reserved the right to make certain modifications to the Declaration, By-Laws, Apartment Deed and other documents as may be required by law, a title insurance company, any institution, mortgagee or governmental agency. Seller may "preclose" thirty (30) days before the estimated date of closing by having all documents necessary for closing executed and deposited with escrow.

g. Buyer will inspect the apartment and sign an inspection sheet to be furnished by Seller or Buyer will appoint the inspecting architect or engineer for the project or Seller or any agent of Seller to inspect the apartment on behalf of Buyer.

h. Until the Apartment Deed conveying title is delivered to Buyer, the Seller may exercise all of the powers of the Association and of the Buyer as a member thereof.

i. After issuance of the Final Public Report and Buyer's waiver of its right to cancel under Hawaii Revised Statutes §514A-62, Buyer shall have the right to rescind the contract only if there is a material change in the project which directly, substantially and adversely affects the use or value of Buyer's apartment or appurtenant limited common elements or those amenities of the project available for the Buyer's use subject to waiver by the Buyer pursuant to the terms set forth in the contract and Hawaii Revised Statutes §514A-63.

j. Time is of the essence of the obligations of Buyer under the contract.

k. Seller may terminate the contract if Buyer dies prior to the time Buyer has fully complied with all of the terms of the contract.

l. Buyer acknowledges that construction and sales activities may continue on the site after Buyer has occupied the apartment.

m. Neither Seller nor any of its representatives has made any representations as to the rental income to be derived from the apartment. Unless Seller agrees, Buyer will not enter into any rental pool or similar agreement until Seller has closed out the sale of all of the apartments in the project or until December 31, 1990.

n. Developer makes only those warranties regarding construction and appliances which are set forth in the contract.

o. The contract shall not be construed as a present transfer of any interest in the property but it is an agreement to transfer in the future.

p. The Buyer waives, relinquishes and subordinates the priority or superiority of any lien or other legal or equitable interest arising under the agreement in favor of the lien or charge on the project or the security interest of the Lender, including but not limited to any lien, mortgage, or other charge securing a loan made to finance the acquisition of the land and the costs of construction and other costs during such construction and any and all advances therefor, whether contractual or voluntary, until the final closing and delivery by Seller of an apartment deed to the Buyer.

\* \* \* \* \*

THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE CONTRACT. WHILE A BUYER CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF THE BUYER'S RIGHTS AND OBLIGATIONS, THE BUYER MUST REFER TO THE BUYER'S CONTRACT TO DETERMINE THE BUYER'S ACTUAL RIGHTS AND OBLIGATIONS. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE CONTRACT, THE CONTRACT WILL CONTROL NOT THIS SUMMARY.

END OF EXHIBIT "G"

EXHIBIT "H"SUMMARY OF ESCROW AGREEMENT

The Escrow Agreement ("Agreement") between Founders Title and Escrow of Hawaii, Inc. (the "Escrow") and Wailua Partners (the "Seller") contains, among other provisions the following (which may be modified or otherwise limited by provisions not summarized):

1. Whenever Seller enters into a sales contract for the sale of an apartment, Seller will require that payments due under the sales contract be made to Escrow and will deliver an executed copy of the sales contract to Escrow.

2. Escrow will receive payments under the sales contracts and sums received from any other source with respect to the project. Funds held under the Agreement will initially be deposited in the "control" account for the project and then within a reasonable time thereafter be deposited in an interest bearing account designated "Founders Title and Escrow of Hawaii, Inc., Trustee for Hale Awapuhi" (the "Trust Fund") with one or more federally insured banks or savings and loan associations authorized to do business in Hawaii. Interest earned on the funds will be credited to the account of Seller.

3. Escrow will release from the Trust Fund and disburse Buyer's funds for the payment of certified construction costs as defined in the Agreement. No disbursements will be made from Buyer's fund until: (a) the Real Estate Commission has issued a Final Public Report on the project and forty-eight (48) hours have elapsed since Buyer's receipt of a copy of the Final Public Report; (b) Buyer has waived its right to cancel the sales contract; and (c) Seller has notified Escrow that all other requirements of Sections 514A-39 and 514A-63, Hawaii Revised Statutes, have been met. Where sales contracts are entered into subsequent to the issuance of a Final Public Report, Escrow will disburse funds upon presentation by Seller of Buyer's signed receipt for the Final Public Report and with notification by Seller that all of the requirements of Sections 514A-39 and 514A-63, Hawaii Revised Statutes, have been met. Escrow will call for payments by the Buyer upon receipt of notice from Seller that any payments are due under any sales contract.

4. Escrow will return deposited sums to the Buyer without interest if Seller gives Escrow written notice to return the funds to Buyer, or with respect to a Buyer whose funds were obtained before the issuance of a Final Public Report, Escrow receives from the Buyer a written request to cancel the sales contract or after issuance of the Final Public Report and Buyer's waiver of his right to cancel the sales contract in accordance with Section 514A-62, Hawaii Revised Statutes, there shall be any material change in the project which directly, substantially and adversely affects the use or value of the Buyer's apartment or appurtenant common elements or those amenities of the project available for Buyer's use, of a nature entitling the Buyer to cancel his sales contract pursuant to Section 514A-63, Hawaii Revised Statutes. These funds shall be returned to Buyer less Escrow's cancellation fee, if any, any mortgagee's cancellation fee and all other costs incurred in connection with the Escrow, but in the aggregate shall not exceed \$250.00.

5. If Seller notifies Escrow in writing that a Buyer has defaulted under the terms of his sales contract and that Seller has terminated the sales contract, Escrow will notify Buyer by registered mail of his alleged default.

6. Escrow will arrange for and supervise the signing of all documents which are to be signed subsequent to and contemplated by the sales contract.

7. As Escrow's compensation for its performance under the Agreement, Escrow will receive \$500.00 for each apartment for which an apartment deed of the project is handled by Escrow and recorded in the Bureau of Conveyances of the State of Hawaii. Escrow will record all applicable documents.

\* \* \* \* \*

THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE AGREEMENT. WHILE ONE CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF THE AGREEMENT, HE MUST REFER TO THE ACTUAL AGREEMENT TO DETERMINE THE RIGHTS AND OBLIGATIONS OF THE PARTIES. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE AGREEMENT, THE AGREEMENT WILL CONTROL AND NOT THIS SUMMARY.

END OF EXHIBIT "H"

EXHIBIT "I"BOUNDARIES OF EACH APARTMENT

Residential Apartments: Each residential apartment consists of the spaces within the perimeter and party walls, windows, doors, floors and ceiling. The residential apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter or party walls or interior load-bearing walls, the floors and ceilings surrounding, or any pipes, wires, conduits, or other utility or service lines running through, each residential apartment. Each residential apartment shall include all the walls and partitions which are not load-bearing within its perimeter or party walls, doors and door frames, windows and window frames, the inner decorated or finished surfaces of all walls, floors and ceilings, the lanais to the inner decorated or finished surfaces of the exterior perimeter walls of such lanais, and to the exterior edge of the exterior railings or boundaries of such lanais, and all fixtures originally installed therein.

Parking Stalls Apartments: Each parking stall apartment consists of the spaces within the boundaries shown on the condominium map, which is enclosed by the exterior perimeter walls (if any) and/or imaginary vertical planes (where there is no perimeter wall), floors and ceilings. The parking stall apartments shall not include the undecorated or unfinished surfaces of the perimeter walls or interior load-bearing walls or partitions, the foundations, girders, beams, floor slabs, supports and ceilings located in or at the perimeter of or surrounding such parking stall apartment, any pipes, wires, vents, shafts, ducts, conduits, or other utility service lines or enclosed spaces for wiring, elevator, mechanical room, pipes, air exhaust or air conditioning running through or otherwise located within such parking stall apartment.

END OF EXHIBIT "I"