



**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
RAINBOW RIDGE
Olohena Rd.
Wailua, Kauai, Hawaii

Registration No. 1983

Issued: January 31, 1989
Expires: March 1, 1990

Report Purpose:

This report is based on information and documents submitted by the developer to the Real Estate Commission as of January 11, 19 89 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:

- y 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 [X] 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.

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GENERAL INFORMATION ON CONDOMINIUMS

A condominium is a special form of real property. To create a condominium in Hawaii, the requirements of 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: Fee simple condominium unit. (see page 9)

Type of Project:

- New Building(s) Conversion
- Both New Building(s) and Conversion
- Residential Commercial
- Mixed Residential and Commercial
- Other Agricultural and Residential (pages 10, 10-a& 11)
- High Rise (5 stories or more) Low Rise
- Single or Multiple Buildings

Apartment Description (see page 11)

| <u>Apt. Type</u> | <u>Qty</u> | <u>BR/Bath</u> | <u>Net Living Area*</u> | <u>Lanai/Patio/Storage</u> |
|------------------|------------|----------------|-------------------------|----------------------------|
| 1 | 5 | 0 | 0 | 64 |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

Total Apartments: 5

*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.

5. Parking: (see page 12)

| | <u>Number of Stalls</u> |
|---|-------------------------|
| Assigned Stalls (Individual Units) | _____ |
| Guest Stalls | _____ |
| Unassigned Stalls | _____ |
| Extra Stalls Available for Purchase | _____ |
| Other: <u>each unit has ample parking area for parking within its limited common element,</u> | _____ |
| Total Parking Stalls | _____ |

but shall have at least two stall areas at all times.

7. Recreational amenities: NONE

I. PEOPLE CONNECTED WITH THE PROJECT

Developer:

IHOR WOLOSENKO
Name
6280 Olohena Rd.
Business Address
Kapaa, Hawaii 96746

Phone: 822-3186
(Business)

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

Real Estate
Sales Agent:

Na Pali Properties
Name
Ching Young Shopping Center, P.O. Box 475
Business Address
Hanalei, Hawaii 96714

Phone: 826-9622
(Business)

Escrow:

Title Guaranty Escrow Services
Name
4290 Rice Street, P.O. Box 18374
Business Address
Lihue, Hawaii 96766

Phone: 245-3381
(Business)

Managing
Agent:

Developer (provided certain legal
Name
requirements are complied with)
Business Address

Phone: 822-3186
(Business)

Attorney for
Developer:

Steven R. Lee
Name
2959 Umi Street
Business Address
Lihue, Hawaii 96766

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 _____ Page _____
 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. _____
 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 _____ Page _____
 Filed — Land Court — Document Number _____

Amendment date(s) and recording/filing information:

NONE

- 2). 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>75%</u> |
| House Rules | — | <u>N/A</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.

The farm structures and the units shall be occupied and used for agriculture, and/or any other uses now existing or hereunder permitted under the Kauai County zoning ordinances plus any matters of record and as allowed under the Declaration, Bylaws and the Declaration of Protective Covenants for Rainbow Ridge, attached to the Bylaws. (See proposed Protective Covenants, Exhibit D.)

An agricultural residence may not be constructed unless the Unit Owner demonstrates to the County of Kauai his ability to derive income and/or agricultural products from his "property". Agricultural use shall have been established prior to any subsequent building permit approval. Such use shall be verified by the Kauai County Planning Department.

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:** Certain animals are not allowed, See Declaration of Protective Covenants, Exhibit D.
- Number of Occupants:** _____
- Other:** An owner must engage in agriculture actively to be permitted to construct a residence.
- There are no special use restrictions.**

6. Interior (fill in appropriate numbers):

Total Apartments 5

Elevators 0 Stairways 0 Trash Chutes 0

| <u>Apt. Type</u> | <u>Qty</u> | <u>BR/Bath</u> | <u>Net Living Area*</u> | <u>Laundry/Storage Shed</u> |
|------------------|------------|----------------|-------------------------|-----------------------------|
| <u>1</u> | <u>5</u> | <u>0</u> | <u>0</u> | <u>64</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:

See Exhibit B. Within the requirements of the zoning ordinances and Building Rules, each unit owner may place improvements where desired, and subsequently relocate improvements, provided such improvements comply with the Building and zoning requirements of the County of Kauai.

Building setbacks for the stream through the property are identified on Exhibits A & B. No building may occur inside the setback lines.

Permitted Alterations to Apartments:

As allowed by Kauai Zoning Ordinance and said Protective Covenants, Exhibit D. Upon each permanent improvement, an amendment to the Declaration of Condominium Property Regime and File Plan (See Exhibit A for Proposed File Plan) by the Association of Unit Owners will be required, to disclose actual improvements as a matter of public record.

7. Parking Stalls:

At least two parking stall areas will be required in
 Total Parking Stalls: each unit's limited common element.

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

Each apartment will have the exclusive use of at least 2 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:

[X] There are no recreational or common facilities.

[] Swimming pool

[] Storage Area

[] Recreation Area

[] Laundry Area

[] Tennis Court

[] Trash Chute

[] Other: _____

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

NONE

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

NONE

10. Conformance to Present Zoning Code

a. [X] 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 | <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 E 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.

[x] The limited common elements and the apartments which may use them are:

[X] described in Exhibit E, and depicted in Exhibit B. Such map shall establish the limited common element as depicted by the broken lines. These are not to be construed as lots in a legal subdivision.
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.

[X] Exhibit C 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 F describes the encumbrances against the title contained in the title report dated September 30, 1988. Developer represents there have been no changes.

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.

[X] 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> |
|---------------------|---|
| NONE | N/A |

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.

[X] other None selected at this time

i. 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 G contains a schedule of maintenance fees and maintenance fee disbursements.

4. 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 type="checkbox"/> Water & Sewer |
| <input type="checkbox"/> Other <u> NONE </u> | |

l. 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

2. Appliances:

NONE

J. Status of Construction and Estimated Completion Date:

Construction (of concrete road) is now complete.
Hook-up of Telephone and Electric connections are expected by
March 1, 1989.
Construction of storage sheds will be completed by March 1, 1989.

K. Project Phases:

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

Summary of Developer's Present Plans for Future Development:

L. Sales Documents Filed with the Real Estate Commission:

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

[x] Notice to Owner Occupants

[x] Specimen Sales Contract

Exhibit H contains a summary of the pertinent provisions of the sales contract.

[x] Escrow Agreement dated October 13, 1988.

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

[x] Other Reservation Agreement.

IV. ADDITIONAL INFORMATION NOT COVERED ABOVE

Prospective Purchaser:

This is a condominium project, not a subdivision. Units purchased are not subdivided lots. You will be required to comply with zoning codes to be allowed to construct a residence on your limited common element.

To determine whether your expectations can be realized, you should carefully review this Report, especially Exhibit D, (Declaration of Protective Covenants). Among other things, it states what you may and may not do with the property, what is required of you, and what is and is not available. You should also conduct your own investigations and ascertain the validity of information provided. Please remember that issuance of this Report does not mean the Real Estate Commission has approved the project.

The County of Kauai Planning Department has advised that, in order to process the necessary permits for the construction of a farm dwelling, and the processing of a farm dwelling agreement, authorization from at least 75% of the legal and equitable ownership of the entire property shall be required, consistent with the Declaration of Condominium Property Regime, the Bylaws and the Building Rules.

Except as limited specifically by the Declaration of Condominium Property Regime, the Bylaws and the Building Rules, all uses permitted in the Agricultural Zone are permitted. Such uses include, but are not limited to growing crops, raising animals, residence, diversified agriculture, forestry, orchards and nurseries and wildlife management. See Kauai County Comprehensive Zoning Ordinance, Article 8.7.

The Developer has discussed this project with staff at the Kauai County Planning Department and there appear to be no major obstacles.

A copy of the Planning Department's letter to the Commission dated November 14, 1988 is attached as Exhibit J. Since it was received by the Commission after the Developer's submittal for this Preliminary Public Report, the Developer has been asked to consider its contents and incorporate appropriate changes in its request for a final Public Report.

A buyer should understand that all development and use of the properties shall comply with all County Codes and Ordinances, that Owners in this condominium project will not necessarily receive the same County benefits as owners of approved subdivided lots, and that owners who develop their properties later than others may find that insufficient utility capacities may thwart their expectations.

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. 1983 filed with the Real Estate Commission on October 20, 1988.

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.

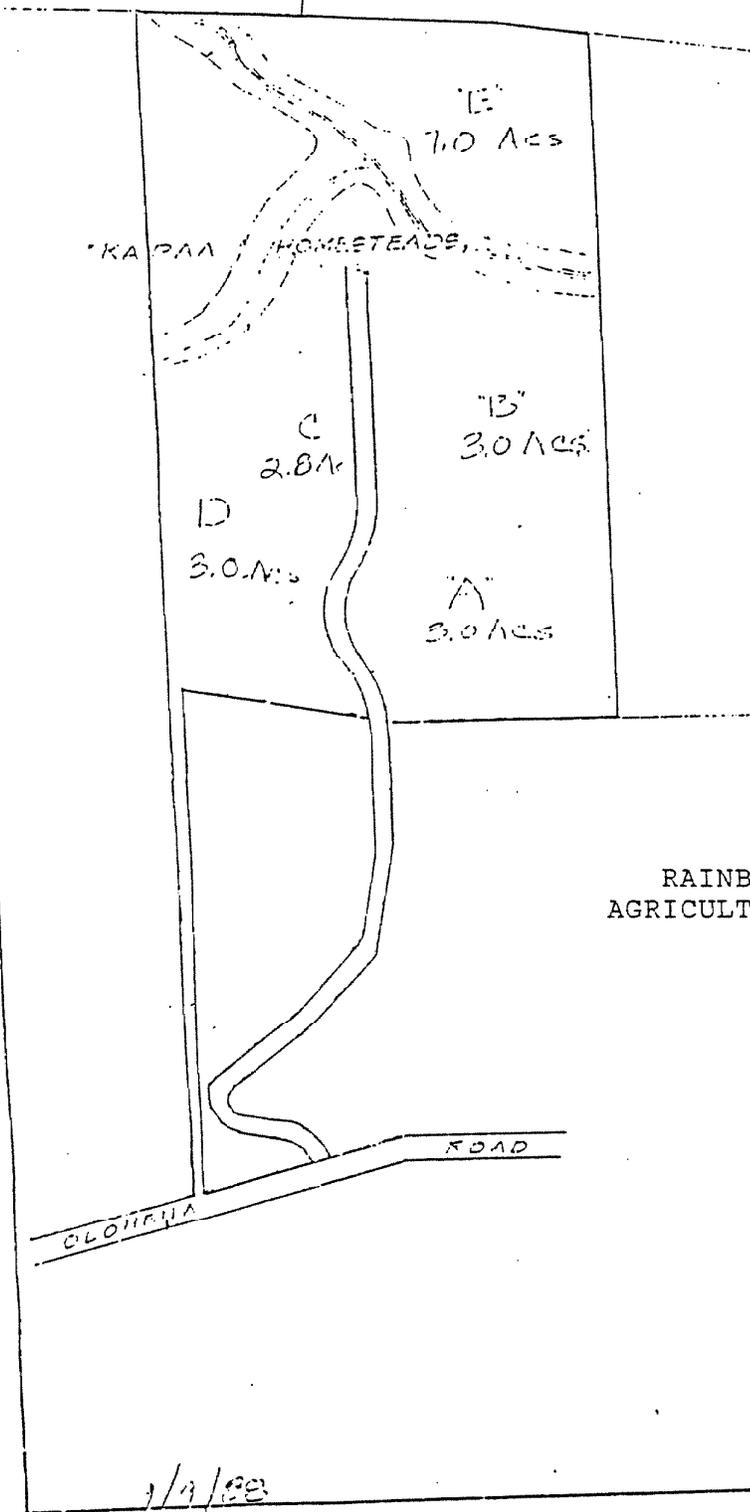


GLORIA DAMRON, Chairman
REAL ESTATE COMMISSION
STATE OF HAWAII

Distribution:

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

Exhibit A



RAINBOW RIDGE
AGRICULTURAL CONDOMINIUM

1/9/88

HONG KONG DEVELOPMENT

EXHIBIT C

Schedule of Apartments and Common Interests

| <u>Qty.</u> | <u>Apt. No.</u> | <u>Area of Limited Element</u> | <u>No. of BR/BATH</u> | <u>Appx Net Living Area (Sq. Ft.)</u> | <u>Appx Lanai/Farm/Shed Area (Sq. Ft.)</u> | <u>% Int.</u> |
|-------------|-----------------|--------------------------------|-----------------------|---------------------------------------|--|---------------|
| 1 | A | 3.0AC | 0 | - 0 - | 64 | 20 |
| 1 | B | 3.0AC | 0 | - 0 - | 64 | 20 |
| 1 | C | 2.8AC | 0 | - 0 - | 64 | 20 |
| 1 | D | 3.0AC | 0 | - 0 - | 64 | 20 |
| 1 | E | 7.0AC | 0 | - 0 - | 64 | 20 |

END OF EXHIBIT C

EXHIBIT D

RECORDATION REQUESTED BY:

AFTER RECORDATION, RETURN TO:

Return by: Mail () Pickup () _____
This affects TMK #: (4) _____

DECLARATION OF PROTECTIVE COVENANTS

RAINBOW RIDGE AGRICULTURAL CONDOMINIUM

The purpose of these Protective Covenants is to protect all owners and occupants from annoyance and nuisance caused by improper conduct and improper use of the RAINBOW RIDGE AGRICULTURAL CONDOMINIUM, hereinafter referred to as "Project," and to provide for the maximum enjoyment of the premises, with protection of all owners reasonable expectations. All owners and occupants, their agents, employees and invitees shall be bound by these Building Rules and by standards of reasonable conduct, whether covered by these Building Rules or not.

1. Definitions. As used herein:

a. "Area" refers to the limited common element set aside for the exclusive use of each Unit owner.

b. "Unit" refers to the entire condominium interest held by an owner.

2. Building Permits. Any owner desiring to construct a single family farm dwelling in a unit will have to comply with the Kauai County building and zoning codes, as the same may be changed from time to time. One present requirement is that each owner must sign an affidavit that he can obtain income from farming on the limited common element, before the County will consider issuing a Farm Dwelling Agreement. The County will likely inspect the Area before issuing a building permit, to ascertain that farming activities are taking place on the Area of each unit seeking to build.

Each Unit Owner will appoint developer or his elected successor if he sells all units as attorney-in-fact to apply for or approve all building permit applications.

3. Water and Utilities. The water, electricity and telephone will be extended from the Olohena Road to a point within the Common Area next to or within the roadway common element. Each Unit Owner will be required to connect such utilities to his respective improvements at his own cost and expense. All utilities in the condominium area shall be placed underground.

4. Cesspools. There are no sewer lines and no sanitary sewer system. Each Unit owner will be required to

have his own cesspool and septic system, to be located within his own limited common element Area.

5. Roadway. At least 10 feet of the roadway within the Project is shall be paved. Each Unit owner will be responsible for clearing all vegetation and growth from his Area to the extent it encroached the roadway element.

6. Farming. A Unit owner may farm his own area and/or plant any orchards and/or engage in any other farming activity not prohibited herein. He shall use materials and/or equipment that are maintained and kept in good working order and repair and will not allow any unused and/or junk material and/or vehicles to be stored and kept in the Unit or in or on common elements.

7. Construction. In the construction of the farm dwelling and/or any other accessory building, the Unit owner shall not use second-hand materials, quonset huts and/or any other materials that would create a nuisance on the Unit owner's property, or be so to the owners of other Units in the condominium project. Similarly, without unanimous consent of all unit owners, no unit owner may construct any structures that substantially depart from the type of architecture present on the other units (this shall include the colors of such structures); nothing herein stated shall be deemed to preclude construction of what has become known

as "plantation style, "hawaiian style," or "ranch style" residences, as those terms are commonly used in architectural circles on Kauai. All finishes on the exteriors of structures, other than the initial farm sheds, shall be of natural colors, complimentary to earth tones.

8. Pets and Farm Animals/Noise in General.

Notwithstanding that this is an agricultural condominium, the following animals shall be precluded from possession by owners or occupants of the Project: bulls, pit bull or pit bull mixed dogs, more than one pig, roosters, more than three dogs of any permitted variety, peafowl, and any animals (including those permitted above) that create such levels of noise or noxious odors that two or more unit owners make written objection to the association of unit owners. In the latter case, offending owner(s) shall have 30 days in which to remedy the problem or to dispose of the offending animals.

Additionally, with the exception of seasonal harvesting activities and preparation of ground for crops, no unit owner shall create such levels of noise or dust that the peaceable use of other units is materially affected. The written complaint of two or more unit owners shall be prima facie evidence of material adverse conditions.

9. Common Area Land. The Association shall determine and control the use of the Common Area lands, including but not limited to use of common areas outside individual units for any farming, raising of animals, landscaping, maintenance and/or any other use which may be decided upon by the Association from time to time.

10. Common Element Expenses and Enforcement. The Association shall provide for such Common Area expenses necessary or desirable to maintain and keep the Project in acceptable condition. The Association shall have the power to enforce these Rules, including the assessment of the common expenses and the filing of a lien against any Unit owner failing to observe these Building Rules.

11. Repeal or Modification. These may be repealed or modified by Developer at any time prior to issuance of the Final Report by the State of Hawaii, Real Estate Commission. Thereafter they may be modified by an affirmative vote of the holders of 80% of the common interests in the Project.

Adopted at Wailua, Kauai, Hawaii, this _____ day
of October, 1988.

IHOR WOLOSENKO, DEVELOPER OF
RAINBOW RIDGE AGRICULTURAL
CONDOMINIUM

IHOR WOLOSENKO

STATE OF HAWAII)
) ss.:
County of _____)

On this the _____ day of _____, 1988,
before me, the undersigned Notary Public, personally
appeared IHOR WOLOSENKO, to me personally known, who, being
by me duly sworn, did say that he is the managing cotenant
of the Shu-Shin Ranch Agricultural Condominium, and that he
executed the foregoing instrument as the free act and deed
of the cotenants of the property.

Notary Public

My Commission Expires:

EXHIBIT E

Common Elements and

Limited Common Elements of Project

The common elements of the Project are:

- (a) Said land in fee simple;
- (b) The access and utility easement.

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) The area of the agricultural unit specified in Exhibit C.

END OF EXHIBIT E

EXHIBIT F

Encumbrances Against Title

1. Tax Key: 4-4-03-05 (4) - Area Assessed: 24.365 acres
Taxes for the Fiscal Year 1987 - 1988 in the amount of \$2,068.38 have been paid in full.
2. Excepting and reserving all riparian and other rights in or to these streams and the waters thereof, as excepted and reserved in Land Patent Grant No. 7645.
3. The rights of the United States of America, State of Hawaii, the municipality and the public, in and to that part of the premises in question falling in the bed of the stream; also to the rights of the riparian owners in and to the free and unobstructed flow of the water of said stream, if any.

EXHIBIT G

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> |
|---|----------------------------------|---------------------|
| All Units (With common water metering) | 110. | 1320. |
| All Units (with separate water metering) | 90. | 1080. |

[] 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

Telephone

Water ~~and Sewer~~ (only if common 100. 1200.
metering)

Maintenance, Repairs and Supplies

Building

Grounds 50. 600.

Management

Management Fee

Payroll and Payroll Taxes

Office Expenses

Legal & Audit 100. 1200.

Insurance 125. 1500.

Reserves 50. 600.

Taxes and Government Assessments 100. 1200.

Audit Fees

Other

Bookkeeping Service 25. 300.

TOTAL 550. 6600.

I/~~WA~~, Ihor Wolosenko, as Developer

for the condominium project, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

Ihor Wolosenko

Date: 10/13/88

EXHIBIT H

SUMMARY OF SALES CONTRACT

The specimen Kimolana Estates Purchase Agreement, (the "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 to the escrow agent, subject to other terms.

2. The purchase price does not include the closing costs, prorations and additional costs provided in other sections of the contract.

3. 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.

4. 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) 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.

(d) 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.

(e) 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.

(f) After issuance of the Final Public Report and Buyer's waiver of its right to cancel under Hawaii Revised Statutes Section 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 Section 514A-63.

(g) Time is of the essence of the obligations of Buyer under the contract.

(h) Neither Seller nor any of its representatives has made any representations as to the rental income to be derived from the unit.

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

(j) 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.

* * * * *

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 H

EXHIBIT I

SUMMARY OF ESCROW AGREEMENT

The Escrow Agreement ("Agreement") between Title Guaranty and Escrow Services, Inc. (the "Escrow") and James G. Wetherill (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 an account for the project.

3. Escrow will release from the Trust Fund and disburse Buyer's funds at closing. 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 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. Escrow will arrange for and supervise the signing of all documents which are to be signed subsequent to an contemplated by the sales contract.

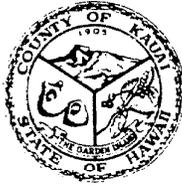
6. As Escrow's compensation for its performance under this Agreement, Escrow will receive \$300.00 for each apartment for which an apartment deed of the project is handled by Escrow and recorded in the Bureau of Conveyances of the State of Hawaii. Escrow will record all applicable documents.

* * * * *

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 I

TONY T. KUNIMURA
MAYOR



TOM H. SHIGEMOTO
Planning Director

ROLAND D. SAGUM, III
Deputy Planning Director

Telephone (808)245-3919

COUNTY OF KAUAI
PLANNING DEPARTMENT
4280 RICE STREET
LIHUE, KAUAI, HAWAII 96766

November 14, 1988

Mr. Calvin Kimura, Executive Secretary
Real Estate Commission
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
P.O. Box 3469
Honolulu, HI 96801

SUBJECT: Comments on Rainbow Ridge, Reg. No. 1983
TMK: 4-4-3: 5

Thank you for allowing us this opportunity to comment.

After reviewing the Notice of Intention, Questionnaire form, and draft of the Public Report for Rainbow Ridge, Reg. No. 1983, TMK: 4-4-3: 5, we have the following comments to offer:

- a. The amount of limited common elements corresponds to the allowable unit density.
- b. In relation to item no. 6 , page 5, and item no. 7, page 12 in the "Summary of the Condominium Project," we feel that each limited common element should have at least two (2) parking stalls; requirements of the Comprehensive Zoning Ordinance stipulate two (2) parking stalls per dwelling unit.
- c. In Exhibit D, page 2, under "3. Water and Utilities," the roadway common element is not identified on either Exhibits A or B.
- d. In Exhibit D, page 3, under "5. Roadway," the following language should be corrected: "At least 10 feet of the roadway within the project is shall be paved. Each Unit owner will be responsible for clearing all vegetation and growth from his Area to the extent it encroached the roadway element."

Mr. Calvin Kimura
November 14, 1988
Page 2

- e. In Exhibit E, under the common element description of "(b) the access and utility easement," no such easement is designated on any prior exhibits.
- f. In our copies of Exhibits H and I, references are made to a completely different project (Kimolana Estates) and Seller (James G. Wetherwill); please verify on the original documents that the misunderstanding occurred only in our copies.
- g. There should be a disclaimer provision written into this and all ensuing condominium reports stating that approval of the report should not be misconstrued to mean that all County Codes and Ordinances have been complied with. Subsequent development and use shall comply to all applicable County Codes and Ordinances. It should also be made clear that the Horizontal Property Regime (HPR) does not necessarily mean that all County requirements pertaining to subdivision of lands have been met. Therefore, such facilities/improvement that are normally associated with County-approved subdivisions such as fire protection devices, County street lighting, electricity, upgraded water facilities, improved access for owner and emerging traffic, drainage facilities, etc. may not necessarily be provided for. Further, such services as County street maintenance and trash collection will not be available for interior road/driveways.
- h. Also of concern are the declaration of protective covenants, wherein certain types of agricultural activities are restricted. While this is a private matter, it appears to detract from the stated purpose of agriculture-zoned lands.

Should you have any questions, please contact Peter Nakamura of my staff at 245-3919.


TOM H. SHIGEMOTO
Planning Director