

CONDOMINIUM PUBLIC REPORT

Prepared &

Issued by: Developer GARY A. PACHECO
Address P. O. Box 158, Kilauea, Hawaii 96754

Project Name(*): WAIPUA ESTATES CONDOMINIUM
Address: Kalihiwai Ridge Road, Kalihiwai, Kilauea, Hawaii 96754

Registration No. 2008

Effective date: DECEMBER 7, 1994

Expiration date: JANUARY 7, 1996

Preparation of this Report:

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

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

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

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

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

Type of Report:

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

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

X SUPPLEMENTARY: This report updates information contained in the:
(pink) [] Preliminary Public Report dated:
[X] Final Public Report dated: January 28, 1991
[] Supplementary Public Report dated:

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

(* Exactly as named in the Declaration

Disclosure Abstract: Separate Disclosure Abstract on this condominium project:

Required and attached to this report Not required - disclosures covered in this report.

Summary of Changes from Earlier Public Reports:

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

No prior reports have been issued by the developer.

Changes made are as follows:

1. The Apartment Descriptions have changed for all apartments.
2. The Condominium Map (File Plan) has changed.
3. The description of Principal Construction Materials has changed for some of the apartments.
4. The interior descriptions of apartments have changed.
5. A new, updated Title Report showing current encumbrances has been prepared for each unit.
6. The description of construction warranties has changed.
7. A new specimen sales contract has been substituted in place of the former sales contract.
8. The Schedule of Apartments and Common Interests for Waipua Estates Condominium (Exhibit C) has been amended.
9. The estimate of Maintenance Fees and Estimate of Maintenance Fee Disbursements (Exhibit G) has been amended.
10. The original Disclosure Abstract for Waipua Estates Condominium has been eliminated, as all disclosures are covered in this report.
11. The identity of the Real Estate Sales Agents has changed and new Real Estate Broker Agreements have been added for all of the units.
12. The attorney for the developers has changed.
13. The identities of the General Contractors of builders of the apartments have been added.
14. There is no longer a blanket lien on the Property. However, there are new specific liens on individual Units as shown in the title reports for each Unit.

15. The floor plans, elevations and architect's verified statement for each unit have changed.
16. Section V. C. (Additional Information Not Covered Above) has been supplemented to reflect the reasons for the filing of a Supplementary Report and to disclose the effect of Section 444-2, Hawaii Revised Statutes, on the owner-built structures (Units A, B and E).

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General Information On Condominiums

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

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

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

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

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

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

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

Operation of the Condominium Project

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

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

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

I. PERSONS CONNECTED WITH THE PROJECT

Developer: GARY A. PACHECO Phone: (808)826-3596
Name (Business)
P. O. Box 158
Business Address
Kilauea, Hawaii 96754

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

Real Estate
Broker: See attached page 5a Phone: _____
Name (Business)
Business Address

Escrow: Title Guaranty Escrow Services, Inc. Phone: (808)521-0211
Name (Business)
235 Queen Street
Business Address
Honolulu, Hawaii 96813

General
Contractor: See attached page 5b Phone: _____
Name (Business)
Business Address

Condominium
Managing
Agent: Self-managed by A.O.A.O. Phone: _____
Name (Business)
Business Address

Attorney for
Developer: Max W. J. Graham, Jr. Phone: (808)245-4705
Name Case & Lynch (Business)
4334 Rice Street, Suite 202
Business Address
Lihue, Kauai, Hawaii 96766

REAL ESTATE BROKERS

UNITS A, D, E Pacific Paradise Properties Corp. (808) 826-7211
P. O. Box 3195
Princeville, Hawaii 96722

UNIT B Michael M. Dyer (Broker) (808) 828-1705
Kilauea Real Estate Company
P. O. Box 68
Kilauea, Hawaii 96754

UNIT C Sarah J. Berntson (808) 826-7244
(Realtor-Broker)
Bali Hai Realty, Inc.
P. O. Box 930
Hanalei, Hawaii 96714

GENERAL CONTRACTOR/BUILDERS

UNIT A	Owner-Built	
UNIT B	Owner-Built	
UNIT C	Michael Onishi Ace Builders Pearl City, Hawaii	(808) 456-4514
UNIT D	C. Schmidt Construction P. O. Box 48 Kilauea, Hawaii 96754	(808) 828-1833
UNIT E	Owner-Built	

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

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

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

The Declaration for this condominium is:

- Proposed
 Recorded - Bureau of Conveyances: Document No. 90-164826
Book _____ Page _____
 Filed - Land Court: Document No. _____

The Declaration referred to above has been amended by the following instruments [state name of document, date and recording/filing information]: See attached page 6a.

- B. Condominium Map (File Plan) shows the floor plan, elevation and layout of the condominium project. It also shows the floor plan, location, apartment number, and dimensions of each apartment.

The Condominium Map for this condominium project is:

- Proposed
 Recorded - Bureau of Conveyances Condo Map No. 1394
 Filed - Land Court Condo Map No. _____

The Condominium Map has been amended by the following instruments [state name of document, date and recording/filing information]: Second Amendment to Declaration of Condominium Property Regime of Waipua Estates Condominium, dated July 6, 1994, filed August 26, 1994, as Document No. 94-141931.

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

The Bylaws for this condominium are:

- Proposed
 Recorded - Bureau of Conveyances: Document No. 90-164827
Book _____ Page _____
 Filed - Land Court: Document No. _____

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

II CREATION OF THE CONDOMINIUM;
CONDOMINIUM DOCUMENTS

- A. The Declaration for this condominium is recorded in the Bureau of Conveyances as Document No. 90-164826.

The Declaration referred to above has been amended by the following instruments [state name of document, date and recording/filing information]:

1. First Amendment to Declaration of Condominium Property Regime of Waipua Estates Condominium, dated November 29, 1990, filed December 21, 1990, as Document No. 90-194913;
2. Second Amendment to Declaration of Condominium Property Regime of Waipua Estates Condominium, dated July 6, 1994, filed August 26, 1994, as Document No. 94-141931;
3. Third Amendment to Declaration of Condominium Property Regime of Waipua Estates Condominium, dated October 6, 1994, filed on October 11, 1994, as Document No. 94-166764.

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

The House Rules for this condominium are:

Proposed Adopted Developer does not plan to adopt House Rules

E. **Changes to Condominium Documents**

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

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

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

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

2. **Developer:**

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

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

III. THE CONDOMINIUM PROJECT

A. Interest to be Conveyed to Buyer:

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

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

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

Lease Term Expires: _____

Rent Renegotiation Date(s): _____

Lease Rent Payable: Monthly Quarterly
 Semi-Annually Annually

Exhibit _____ contains a schedule of the lease rent for each apartment per Month Year

For Subleaseholds:

- Buyer's sublease may be canceled if the master lease between the sublessor and fee owner is:
 - Canceled Foreclosed
- As long as the buyer is not in default, the buyer may continue to occupy the apartment and/or land on the same terms contained in the sublease even if the master lease is canceled or foreclosed.
- Individual Apartments in Fee Simple; Common Interest in the Underlying Land in Leasehold or Subleasehold:

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

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

Lease Term Expires: _____

Rent Renegotiation Date(s): _____

Lease Rent Payable: Monthly Quarterly
 Semi-Annually Annually

Exhibit _____ contains a schedule of the lease rent for each apartment per Month Year

[] Other:

IMPORTANT INFORMATION ON LEASEHOLD CONDOMINIUM PROJECTS

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

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

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

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

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

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

B. Underlying Land:

Address: Kalihiwai Ridge Road Tax Map Key: (4) 5-2-17: 19, 36, 37
Kalihiwai, Kilauea, Kauai, Hawaii (TMK) 38, 39

[X] Address [] TMK is expected to change because each unit not yet assigned an address.

Land Area: 25.001 [] square feet [X] acre(s) Zoning: Agricultural

Lessor
(Fee Owner): GARY A. PACHECO, JADE HAUNANI PACHECO,
 ALBERT Y. C. LUM, BRENT G. W. LUM, DEBORAH L. LUM,
 TERRY L. WATTSON, NANCY K. WATTSON, RUSSELL A. WATARI,
 HIDEO R. WATARI, JEFFREY A. FREAUFF and LISA T. FREAUFF

Name
P. O. Box 158
Address
Kilauea, Hawaii 96754

Sublessor:

Name

Address

C. Buildings and Other Improvements:

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

2. Number of Buildings: 5 Floors Per Building 1

Exhibit J contains further explanations.

3. **Principal Construction Material:**

Concrete Hollow Tile Wood

Other The structure on Unit B is a steel frame with vinyl covering.

4. **Permitted Uses by Zoning:**

	No. of <u>Apts.</u>	Use Permitted <u>By Zoning</u>		No. of <u>Apts.</u>	Use Determined <u>By Zoning</u>
<input type="checkbox"/> Residential	___	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Ohana	___	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Commercial	___	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Industrial	___	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	___	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Agricultural	<u>5</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Hotel	___	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Recreational	___	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Timeshare	___	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Other: See Section V, Paragraph C. (p. 20)		<input type="checkbox"/> Yes <input type="checkbox"/> No

Is/Are this/these use(s) specifically permitted by the project's Declaration or Bylaws?

Yes No

5. Special Use Restrictions:

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

- Pets:** May keep household pets consistent with any applicable law.
- Number of Occupants:** _____
An owner must engage in an agriculture activity to be permitted to construct
- Other:** a residence. The uses on the limited common element shall be limited to those listed as permissible within the Agricultural District ("A") in the
- There are no special use restrictions.** State Land Use Commission Rules.

6. Interior (fill in appropriate numbers):

Elevators: 0 Stairways: 0 Trash Chutes: 0

Apt. Type	Quantity	BR/Bath	Net Living Area (sf)*	Entry (sf) Lanai/Patio (sf)	Net Storage Area
A	1	0	0	0	140
B	1	0	0	0	240
C	1	3/2½	1,979.25	292/54	20
D	1	0	0	0	1,920
E	1	0	0	0	140

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.

Boundaries of Each Apartment:

See Exhibit A

Permitted Alterations to Apartments:

As allowed by the Kauai County Zoning and Ordinances, upon each permanent improvement, an amendment to the Declaration of Condominium Property Regime and the Condominium Map (Exhibit A) by the Association of Unit Owners will be required in order to disclose actual improvements as a matter of public record.

11. Conformance to Present Zoning Code

a. No variances to zoning code have been granted.

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

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

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

	<u>Conforming</u>	<u>Non-Conforming</u>	<u>Illegal</u>
Uses	<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 other than the individual apartments. Although the common elements are owned jointly by all apartment owners, those portions of the common elements which are designated as limited common elements (see paragraph 2 below) may be used only by those apartments to which they are assigned. The common elements for this project, as described in the Declaration, are:

described in Exhibit E .

as follows:

Blanket Liens:

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

[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. The buyer's interest will be affected if the developer defaults and the lien is foreclosed prior to conveying the apartment to buyer.

<u>Type of Lien</u>	<u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance</u>
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** NOTE - There are specific liens on specific units as shown in the title reports for the individual units (Exhibit F).

In case of default, Buyer's interest will be terminated and Buyer's deposit will be refunded, less escrow cancellation fee.

F. Construction Warranties:

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

1. Building and Other Improvements:

No Warranties.

2. Appliances:

There are no appliance warranties applicable to any appliances in any structures on any units.

G. Status of Construction and Estimated Completion Date:

Unit A - Construction of this Storage Shed was completed on April 19, 1994.

Unit B - Construction of this Storage Structure was completed in May, 1994.

Unit C - Construction of this Farm Dwelling was completed in June 1992.

Unit D - Farm Building construction has commenced. Expected completion date is November 15, 1994.

Unit E - Construction of the Storage Shed was completed on June 7, 1994.

H. Project Phases:

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

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

IV. CONDOMINIUM MANAGEMENT

- A. **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 condominium managing agent to assist the Association in managing the condominium project.

Initial Condominium Managing Agent: When the developer or the developer's affiliate is the initial condominium 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 condominium managing agent for this project, named on page five (5) of this report, is:

- not affiliated with the Developer the Developer or the Developer's affiliate.
 self-managed by the Association of Apartment Owners other _____

- B. **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.

Exhibit G contains a schedule of estimated initial maintenance fees and maintenance fee disbursements (subject to change).

- C. **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:

- None Electricity Gas Water
 Sewer Television Cable Other _____

V. MISCELLANEOUS

A. Sales Documents Filed With the Real Estate Commission:

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

- Notice to Owner Occupants
 - Specimen Sales Contract
Exhibit D contains a summary of the pertinent provisions of the sales contract.
 - Escrow Agreement dated December 7, 1988
Exhibit B contains a summary of the pertinent provisions of the escrow agreement.
 - Other Registration Forms
-

B. Buyer's Right to Cancel Sales Contract:

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

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

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

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

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

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

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

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

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:

- A) Condominium Public Reports issued by the developer which have been given an effective date by the Hawaii Real Estate Commission.
- B) Declaration of Condominium Property Regime, as amended.
- C) Bylaws of the Association of Apartment Owners.
- D) House Rules.
- E) Condominium Map, as amended.
- F) Escrow Agreement.
- G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
- H) Other Declaration of Protective Covenants, Conditions and Restrictions for Kalihiwai Ridge as described in Exhibit I.

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 Property Act (Chapter 514A, HRS) and Hawaii Administrative Rules, Chapter 16-107, are available at the Cashier's Office, Department of Commerce and Consumer Affairs, 1010 Richards Street, 3rd Floor, Honolulu, Hawaii, mailing address: P. O. Box 541, Honolulu, HI 96809, at a nominal cost.

This Public Report is a part of Registration No. 2008 filed with the Real Estate Commission on 12/15/88.

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

yellow paper stock white paper stock pink paper stock

C. Additional Information Not Covered Above

1. Reason for filing of Supplementary Report.

A Final Report for the Waipua Estates was initially issued on January 28, 1991. Thereafter, Agricultural Storage Sheds were constructed on each of the five (5) units. In June, 1992, the Agricultural Storage Shed located on Unit C was replaced with a newly constructed single-family home. However, neither the Declaration, the condominium map, nor the Final Public Report were amended to reflect this change.

On September 11, 1992, Hurricane Iniki struck Kauai and totally destroyed the remaining Agricultural Storage Sheds on Units A, B, D and E. As a result, new Agricultural Storage Sheds have been constructed on Units A, B and E, and a new Farm Building is being constructed on Unit D to replace the destroyed Agricultural Storage Sheds. The purpose of the issuance of this Supplementary Public Report is: (i) to disclose these and other related changes in the condominium project; (ii) to update prior disclosures as necessary; (iii) to disclose changes to the Declaration and Condominium Map resulting from this new construction; and (iv) to disclose the submission of the new building plans for these new structures.

2. 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. No new improvement may be made nor may any existing improvement be materially altered unless the plans are approved by the Kalihiwai Ridge Environmental Committee.

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 Hawaii 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 and the processing of a farm dwelling agreement on agriculturally zoned parcels, authorization from at least 75% of the legal and equitable ownership of the entire project shall be required, consistent with the Declaration of Condominium Property Regime, the Bylaws, and the Declaration of Protective Covenants, Conditions and Restrictions for Kalihiwai Ridge Subdivision.

Except as limited by the Declaration of Condominium Property Regime, the Bylaws, and the Declaration of Protective Covenants, Conditions and Restrictions for Kalihiwai Ridge Subdivision, and other documents of record, 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. In relation to specifically permitted uses of buildings and other improvements, structures shall only be occupied or used

for agriculture, associated residential uses, and/or other uses permitted by law and the recorded project documents. An agricultural residence may not be constructed unless the Unit Owner demonstrates to the County his ability to derive income and/or agricultural products from his property. Agricultural use must be established and verified prior to any building permit approval.

The uses on the limited common elements shall be limited to those listed as permissible within the "A" Agricultural District in the State Land Use Commission Rules and Regulations. Farm Dwellings on the lot shall mean a single-family dwelling located on and used in connection with a farm or where agricultural activity provides income to the family occupying the dwelling. Please see the advisory letter from Kauai County Planning Department attached as Exhibit H.

A buyer should understand that development and use of the properties shall comply with all County Codes and Ordinances. If County of Kauai facilities are not already in place, the prospective purchaser is advised that owners in this project will not necessarily receive the same County benefits as owners of approved subdivided lots; owners who develop their properties later than others may find that land use and zoning changes or insufficient utility capacities may thwart their expectations. Zoning and land use restrictions are subject to change and each purchaser should maintain awareness of such conditions.

3. Owner-Built Units

The Developers did not hire a licensed contractor to construct Units A, B and E. Instead, these units were constructed by the Developers as owner-builders pursuant to Section 444-2(7), Hawaii Revised Statutes ("HRS"). HRS Section 444-9 prohibits persons who are not licensed from acting as a general building contractor. However, Section 444-2(7) provides that HRS Chapter 444 shall not apply to the following:

"Owners... of property who build or improve residential, farm... buildings or structures on property for their own use... and do not offer the buildings or structures for sale or lease.... In all actions brought under this paragraph, proof of the sale or lease, or the offering for sale or lease, of the structure within one year after completion is prima facie evidence that the construction or improvement of the structure was undertaken for the purpose of sale or lease...."

Therefore, the offering for sale or lease, or the sale or lease, of Units A, B or E within one year of their construction completion dates as set forth herein in Section III. G. (page 16) could be construed as a violation of the prohibitions contained in HRS Chapter 444.

4. Developer/Real Estate Licensee Disclosure

Pursuant to sections 16-99-3(g) and 16-99-11(d), Hawaii Administrative Rules ("HAR"), prospective purchasers are hereby advised that one of the Developer/Owners, **Jade H. Pacheco** (RB-15748) is a current and active Hawaii-licensed real estate broker. Pursuant to section 16-99-11(c), HAR, "(n)o licensee shall be allowed to advertise 'For Sale by Owner', 'For Rent by Owner', 'For Lease by Owner', 'For Exchange by Owner'."

D. The developer hereby certifies that all the information contained in this Report and the Exhibits attached to this Report and all documents to be furnished by the developer to buyers concerning the project have been reviewed by the developer and are, to the best of the developer's knowledge, information and belief, true, correct and complete.

GARY A. PACHECO

Name of Developer

By: *Gary A Pacheco*
Duly Authorized Signatory

7/27/94
Date

GARY A. PACHECO, Developer

print name & title of person signing above

Distribution:

- Department of Finance, County of Kauai
- Planning Department, County of Kauai
- Federal Housing Administration

EXHIBIT "A"
Revised Condominium Map

5/26/94

State of Hawaii
Dept Of Commerce & Consumer Affairs
Real Estate Branch
Condominium Registration

To whom it may concern,

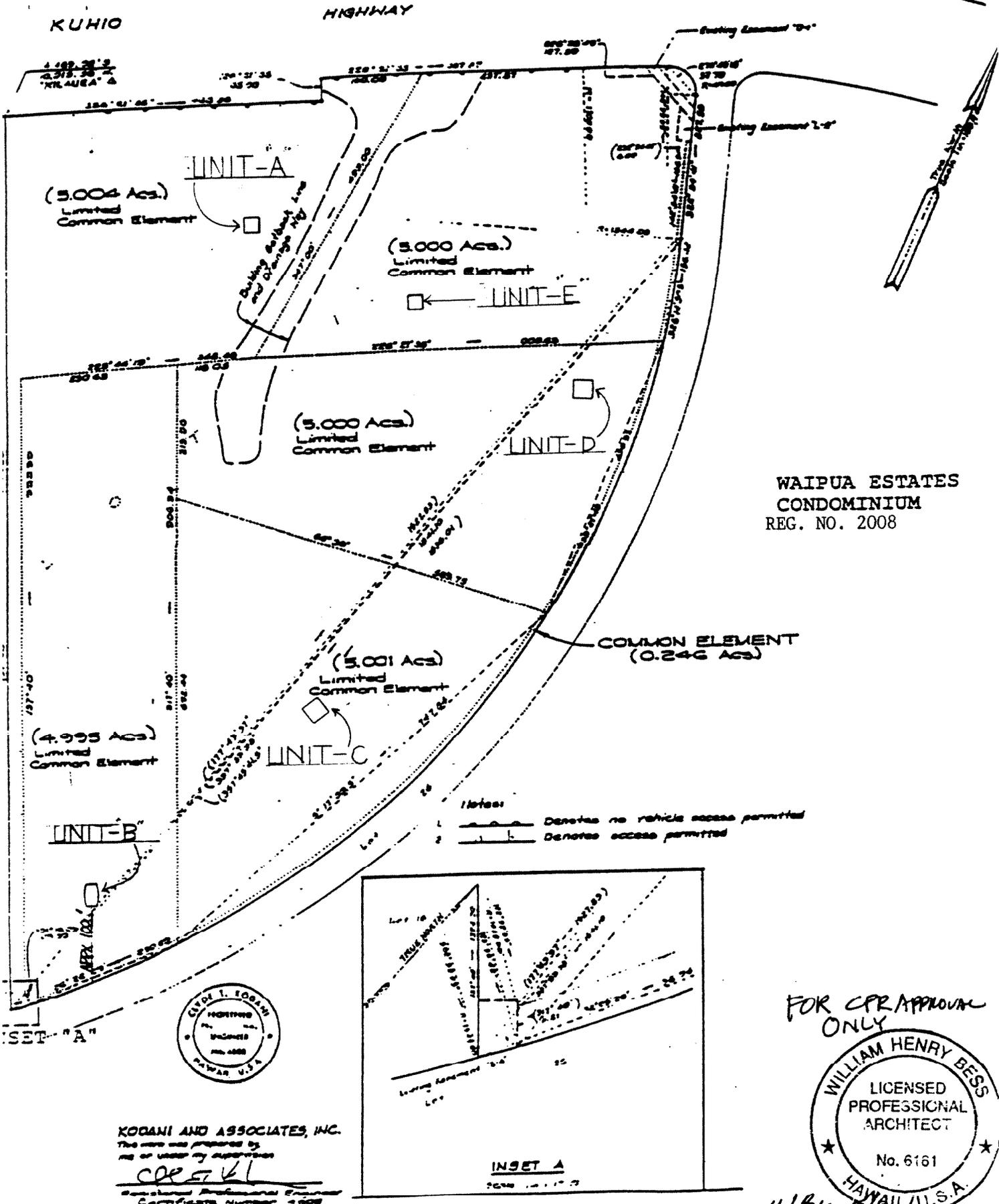
RE: Waipua Estates Condominium - Reg. No. 2008

As pursuant to the Hawaii Revised Statute 514 A-12 as amended, I attest to the attached condominium map and associated plans, after inspection and review of both, to be accurate as submitted.

Sincerely,

William H. Ben
AIA, ARCHITECT, INC.

Limited Common Element Location.

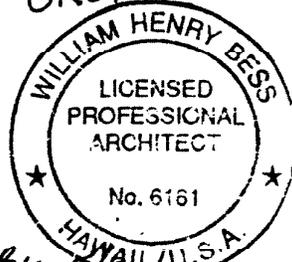


WAIPUA ESTATES
CONDOMINIUM
REG. NO. 2008



KODANI AND ASSOCIATES, INC.
 The work was prepared by me or under my supervision
 [Signature]
 Registered Professional Engineer
 Certificate Number 2008
 Hawaii, U.S.A.

FOR CFR APPROVAL ONLY



WBM [Signature]

EXHIBIT B
SUMMARY OF PORTIONS OF ESCROW AGREEMENT

The Escrow Agreement ("Agreement") between Title Guaranty Escrow Services, Inc. (the "Escrow") and JEFFREY A. FREAUFF, LISA FREAUFF, ALBERT Y.C. LUM, BRENT G.W. LUM, DEBORAH L. LUM, GARY A. PACHECO, JADE HAUNANI PACHECO, RUSSELL A. WATARI, HIDEO R. WATARI, NANCY K. WATTSON, TERRY L. WATTSON, 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. Interest on all funds will be paid to Seller.

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 be less than \$25.00.

5. Escrow will arrange for and supervise the signing of all documents which are to be signed subsequent to and 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. Title insurance will also cost an additional \$300.00.

* * * * *

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, ONE 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 B

EXHIBIT C

**SCHEDULE OF APARTMENTS AND COMMON INTERESTS
FOR WAIPUA ESTATES CONDOMINIUM**

<u>Qty.</u>	<u>Apt. No.</u>	<u>Area of Limited Common Element (Sq. Ft.)</u>	<u>No. of BR/BATH</u>	<u>Appx. Net Living Area (Sq. Ft.)</u>	<u>Appx. Farm Shed Area (Sq. Ft.)</u>	<u>% of Common Int.</u>
1	A	5.004 AC	0	0	140	20
1	B	4.995 AC	0	0	240 (Ag. Bldg.)	20
1	C ¹	5.001 AC	3/2-1/2	1,979.25	0	20
1	D	5.000 AC	0	0	1,920 (Farm Bldg.)	20
1	E	5.000 AC	0	0	140	20

The common interest appurtenant to each unit shall be permanent. Subject to the zoning requirements and amendments of the Condominium Map and the Declaration, each unit owner may use his unit, alter or add to it in any manner he deems desirable, so long as it is permitted by law. If adjoining unit owners desire to alter and/or transfer portions of their respective units, they can do so by the filing of an amendment to the Condominium Map and the Declaration of condominium Property Regime, together with their respective signatures. See Exhibit H for cautionary comments from the County of Kauai Planning Department.

¹Apt. No. C has an enclosed garage with storage (area: 557 sq. ft.), and an outside entry and a patio/lanai (area: 346 sq. ft.).

EXHIBIT "D"

SUMMARY OF SALES CONTRACT
(DEPOSIT RECEIPT, OFFER AND ACCEPTANCE)

The Deposit Receipt, Offer and Acceptance agreement, including the terms and conditions attached thereto as the CPR Addendum (hereinafter collectively called the "Sales Contract") contain the price and other terms and conditions under which a buyer will agree to buy a unit in the Project. Among other things, the Sales Contract states:

(a) The total purchase price, method of payment and additional sums which must be paid in connection with the purchase of a unit.

(b) That the Buyer acknowledges having received and read a public report (either preliminary, final or supplementary) for the Project prior to signing the Sales Contract.

(c) That the Seller makes no representations concerning rental of a unit, income or profit from a unit, or any other economic benefit to be derived from the purchase of a unit.

(d) That the Buyer's money will be held in escrow, under the terms of the Escrow Agreement and that the Buyer is bound by the Escrow Agreement.

(e) That there are certain contingencies and requirements relating to the Buyer's financing of the purchase of a unit.

(f) That the unit and the Project will be subject to various other legal documents which the Buyer should examine, and that the Seller may change these documents under certain circumstances.

(g) That the Seller makes no warranties regarding the unit, the Project or anything installed or contained in the unit or the Project.

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

(i) That the Buyer may or may not receive interest on deposits made under the Sales Contract, depending on what the Seller and Buyer may mutually decide.

(j) That if the Buyer shall default:

(1) The contract may, at the Seller's option, be terminated by written notice to the Buyer; and

(2) Any deposits sums paid by the Buyer shall belong to the Seller as liquidated damages; and

(3) The Seller may pursue any other remedy, including specific performance, permitted by law or equity. All costs, including reasonable attorneys' fees, incurred by reason of default by the Buyer shall be borne by the Buyer.

The Sales Contract contains various other important provisions relating to the purchase of a unit in the Project. It is incumbent upon Buyer and prospective buyers to read with care the specimen Sales Contract (Deposit Receipt, Offer and Acceptance) on file with the Real Estate Commission.

0099M

EXHIBIT E

Common Elements of the Project

The common elements of the project are:

- (a) Land in fee simple;
- (b) All future ducts, electrical equipment, wiring and other central and appurtenant installations for common services, if any, including power, light, sewage, irrigation and telephone;
- (c) Any and all other elements and facilities in common use or necessary to the existence, upkeep and safety of the Project.

Limited Common Elements of Project

Certain parts of the common elements, herein referred to as the "limited common elements" are hereby designated and set aside for the exclusive use of one or more units, and such unit(s) shall have appurtenant thereto exclusive easements for the use of such limited common elements. The limited common elements so set aside and reserved as follows:

(a) That certain land area upon and around which Units A, B, C, D and E are located, shown and designated on the Condominium Map and the table below, are deemed a limited common element appurtenant to and for the exclusive use of each respective unit.

<u>Unit Number</u>	<u>Area of Limited Common Element</u>
A	5.004 acres
B	4.995 acres
C	5.001 acres
D	5.000 acres
E	5.000 acres

All costs of every kind pertaining to the aforesaid limited common elements, including, but not limited to, costs of landscaping, maintenance, repair, replacement and improvement, shall be borne solely by the owner of the unit to which said limited common elements are appurtenant.

END OF EXHIBIT E

EXHIBIT "F"

ENCUMBRANCES AGAINST TITLE

1. For information regarding real property taxes due and owing, reference is made to the County of Kauai Director of Finance.

Tax Key:	5-2-017-019 (4)	H.P.R. No.	0000	Apt. No.	A
	5-2-017-036 (4)	H.P.R. No.	0000	Apt. No.	B
	5-2-017-037 (4)	H.P.R. No.	0000	Apt. No.	C
	5-2-017-038 (4)	H.P.R. No.	0000	Apt. No.	D
	5-2-017-039 (4)	H.P.R. No.	0000	Apt. No.	E

-Note:- Attention is invited to the fact that the premises covered herein are classified and used for agriculture. Information regarding the possibility of roll-back taxes is pending.

2. A 25-foot building setback and drainage way, as shown on File Plan No. 1934.
3. Restriction of vehicle access rights, as shown on File Plan No. 1934.
4. Easement "D-1" (area 0.033 acre) for drainage purposes, as shown on File Plan No. 1934.
5. Easement "E-8" (area 47 square feet) for electrical purposes, as shown on File Plan No. 1934.
6. Easement "L-2" (area 0.105 acre) for landscape purposes, as shown on File Plan No. 1934.
7. Agreement dated March 16, 1977, recorded in Liber 12110 at Page 330, by and between the State of Hawaii and C. Brewer and Company, Limited; re: use of the land described herein, besides other land, for agriculture purposes.
8. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained

in Declaration dated October 3, 1988, recorded in Liber 22452 at Page 429. Said Declaration was corrected by instrument dated July 5, 1990, effective October 3, 1988, recorded as Document No. 90-104733, and amended by instrument dated August 9, 1993, recorded as Document No. 94-037305.

9. Unrecorded Kalihiwai Ridge Environmental Design Rules and Guidelines pursuant to Declaration of Protective Covenants, Conditions and Restrictions for Kalihiwai Ridge dated October 12, 1988.
10. Agreement to Incorporate Agricultural Restrictions into Instruments of Conveyance dated September 30, 1988, recorded in Liber 22452 at Page 491, between C. Brewer Properties, Inc., a Hawaii corporation, and the County of Kauai Planning Department.
11. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Deed dated November 9, 1988, recorded in Liber 22561 at Page 27.
12. Right-of-Entry in favor of Citizens Utilities Company, dated January 12, 1990, recorded as Document No. 90-051569; granting a right of entry and easement for the purpose of building, constructing, repairing, maintaining and operating pole and wire lines, etc., for the transmission and distribution of electricity.
13. Agreement dated ----- (acknowledged May 17, 1990, May 18, 1990, May 20, 1990 and May 19, 1990), recorded as Document No. 90-086606, by and between Gary A. Pacheco, Jade Haunani Pacheco, Albert Y. C. Lum, Brent G. W. Lum, Deborah L. Lum, Terry L. Wattson, Nancy K. Wattson, Russell A. Watari, Hideo R. Watari, Jeffrey A. Freauff and Lisa T. Freauff, "Applicants", and the County of Kauai, "Department"; re: farm dwelling.

14. Grant in favor of Citizens Utilities Company, dated July 5, 1990, recorded as Document No. 90-151401; granting a perpetual nonexclusive right and easement to build, construct, reconstruct, rebuild, repair, maintain and operate electrical transformers and underground lines and appurtenances, etc., as may be necessary for the transmission and distribution of electricity, etc., over, under, upon, across and through said Easement "E-8".
15. Grant in favor of Citizens Utilities Company, dated September 19, 1990, recorded as Document No. 90-189369; granting a perpetual nonexclusive right and easement to build, construct, reconstruct, rebuild, repair, maintain and operate pole and wire lines and/or underground lines, etc., as may be necessary for the transmission and distribution of electricity, etc.
16. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Declaration of Horizontal Property Regime for "WAIPUA ESTATES" Condominium Project dated August 28, 1990, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 90-164826, as the same may hereafter be amended in accordance with law or with said Declaration. (Project covered by Condominium Map No. 1394.) Said Declaration was amended by instruments dated November 29, 1990, recorded as Document No. 90-194913, and dated July 6, 1994, recorded as Document No. 94-141931.
17. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the By-Laws of the Association of Apartment Owners of said Condominium Project dated August 28, 1990, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 90-164827, as the same may hereafter be amended.
18. Grant in favor of the County of Kauai dated June 14, 1990, recorded as Document No. 91-048557; granting Easement "D-1" (area 0.033 acre) for the installation, operation, maintenance, repair and removal of a drainage structure or structures, etc.

19. Terms, easements, restrictions, agreements, reservations, covenants, conditions and provisions contained in APARTMENT DEEDS as follows:

Unit A

DATED : November 29, 1990
RECORDED : Document No. 90-189791

ABOVE DEED AMENDED BY INSTRUMENT

DATED : May 22, 1991
RECORDED : Document No. 91-069703

Unit B

DATED : November 29, 1990
RECORDED : Document No. 90-193380

ABOVE DEED AMENDED BY INSTRUMENT

DATED : August 8, 1991
RECORDED : Document No. 91-109507

Unit C

DATED : November 29, 1990
RECORDED : Document No. 90-189790

Unit D

DATED : November 29, 1990
RECORDED : Document No. 90-189789

ABOVE DEED AMENDED BY INSTRUMENT

DATED : August 8, 1991
RECORDED : Document No. 91-109506

Unit E

DATED : November 29, 1990
RECORDED : Document No. 90-189788

ABOVE DEED AMENDED BY INSTRUMENT

DATED : May 22, 1991
RECORDED : Document No. 91-072496

20. Unit B only

MORTGAGE

MORTGAGOR : JEFFREY A. FREAUFF and LISA T. FREAUFF,
husband and wife

MORTGAGEE : R. ELLIOTT CONWAY and BEVERLY D. CONWAY,
husband and wife

DATED : December 12, 1990
RECORDED : Document No. 90-193381
AMOUNT : \$70,000.00

ABOVE MORTGAGE AMENDED BY INSTRUMENT

DATED : --- (acknowledged July 2, 1991, June --, 1991,
and July 9, 1991)
RECORDED : Document No. 91-109505

21. Unit C only

MORTGAGE AND FINANCING STATEMENT

MORTGAGOR : TERRY L. WATTSON and NANCY K. WATTSON, husband
and wife

MORTGAGEE : FIRST HAWAIIAN BANK, a Hawaii corporation

DATED : March 4, 1991
RECORDED : Document No. 91-028155
AMOUNT : \$247,500.00

ABOVE MORTGAGE AMENDED BY INSTRUMENT

DATED : July 23, 1992
RECORDED : Document No. 92-124877

End of Exhibit "F"

EXHIBIT G

ESTIMATE OF INITIAL MAINTENANCE FEES
AND
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

<u>Apartment</u>	<u>Monthly Fee x 12 months = Yearly Total</u>	
All Units (with separate water metering)		
Unit A	\$53.34	\$640.00
Unit B	53.34	640.00
Unit C	53.34	640.00
Unit D	53.34	640.00
Unit E	53.34	640.00

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

Estimate of Maintenance Fee Disbursements:

Monthly x 12 months = Yearly Total

Utilities and Services

- Air Conditioning
- Electricity
 - common elements only
 - common elements and apartments
- Elevator
- Gas
- Refuse Collection
- Telephone
- Water and Sewer

Maintenance, Repairs and Supplies	\$100.00	\$1,200.00
Building Grounds		
Management	50.00	600.00
Management Fee		
Payroll and Payroll Taxes		
Office Expenses		
Insurance	41.67	500.00
Reserves(*)	50.00	600.00
Taxes and Government Assessments		
Audit Fees		
Other		
Bookkeeping	25.00	300.00
TOTAL	\$266.67	\$3,200.00

I, GARY A. PACHECO, as ~~agent and employed by~~ _____, ~~the condominium managing agent~~ or the developer, for the condominium project WALPUA ESTATES, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.



(*) Mandatory reserves in effect January 1, 1993

Date: 7/27/94

JOANN A. YUKIMURA
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

February 6, 1989

A
FEB 1989
RECEIVED
DCCA-REC

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

Subject: Comments on Waipua Estates, Lot 19 Condominium Report
Registration No. 2008 at Kilauea, Kauai, Hawaii

Thank you for allowing this opportunity to comment.

After reviewing the subject document, we have the following comments to offer:

The number of limited common elements corresponds to the allowable unit density. The subject property is zoned Agriculture District (A) and qualifies for five (5) units.

When applying for Zoning Permits with the Planning Department, the owners must be made aware that 75% of the owners, or their assignee, are required to sign the permit form. Should an assignee be designated, such assignee shall present proof of authorization from the 75% of the owners at the time a permit is applied for. This is a requirement because the Planning Department does not recognize the Condominium Report to be a legal subdivision of land.

The uses on the limited common elements shall be limited to those listed as permissible within the "A" Agricultural District in the State Land Use Commission Rules and Regulations. Farm dwellings on the lot shall mean a single-family dwelling located on and used in connection with a farm or where agricultural activity provides income to the family occupying the dwelling.

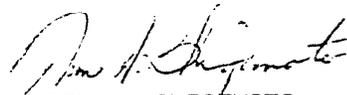
EXHIBIT H

Mr. Calvin Kimura, Executive Secretary
Real Estate Commission
Page 2
February 6, 1989

There should be a disclosure 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 with 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/improvements 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/roadways.

We question the establishment of an 8 foot pedestrian easement as a common element (see Exhibit "E"), especially when aligned parallel to the subdivision roadway. This matter should be checked to verify the legitimacy of the easement and as to its particular function for the project.

Should you have any questions, please feel free to contact Keith Nitta of my staff at 245-3919.


TOM H. SHIGEMOTO
Planning Director

END OF EXHIBIT H

EXHIBIT I

SUMMARY OF PROTECTIVE COVENANTS AND RESTRICTIONS OF KALIHIWAI RIDGE SUBDIVISION

This Project is located on one of the lots of the Kalihiwai Ridge Subdivision. The Subdivision is affected by a "Declaration of Protective Covenants, Conditions and Restrictions for Kalihiwai Ridge" (herein called the "Protective Covenants") recorded on October 11, 1988 at Book 22452, Page 429 of the records of the State of Hawaii Bureau of Conveyances.

This is a summary of the types of restrictions applicable to the subdivision as a whole, and to the Lot upon which this Project is located. This is not meant to completely recite the actual provisions of the Protective Covenants, nor to cover every issue in which a purchaser might have interest. The prospective purchaser is urged to obtain a full copy of the Protective Covenants from the Developer prior to entering into an agreement to purchase a unit in this Project.

ARTICLE II CONTROL OF REAL PROPERTY USE

Article II of the Protective Covenants has to do with the organization of the Subdivision, including identifying the subdivision's developer and architects, the creation of an Association of Lot Owners, Bylaws, common area designations, Environmental Design Rules, limitation to single family residential and agricultural uses and explaining the underlying purpose controlling the use of the subdivision to enhance agricultural potential and orderly growth and development of the subdivision. Control of the subdivision by an architectural review committee includes control of structure siting, architectural style, agricultural development, drainage and landscaping. It is also necessary to receive environmental committee approval before any construction occurs.

ARTICLE III THE ASSOCIATION

This Article discusses the Lot Owner's Association, election of Boards of Directors, voting rights, notices regarding Association meetings and similar matters.

ARTICLE IV

RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

This Article deals with the right of the Association to govern the lots, enter onto lots to determine compliance with rules, and to manage and maintain Association Property. It includes the right to incur expense on behalf of the Association and acquire and hold necessary personal property to perform its functions. The Association also has the power to implement rules and regulations to enhance the value of the property and prohibit noxious and offensive activities. Each Owner is entitled to a copy of every rule and regulation passed. The Association also has the power to levy fines and collect them.

ARTICLE V ASSESSMENTS

Each Lot Owner, in this case the Project itself, will be required to pay Association fees. Payment for such fees is contemplated in the Common Expenses to be assessed for the project. This Article also deals with the method of establishing a budget and assessments. Additional assessments may be made when the need arises.

ARTICLE VI RIGHTS AND RESTRICTIONS

No Lot owner will be allowed to engage in activities which would risk removal of liability insurance coverage, nor may they violate the law of the State of Hawaii or ordinances of the County of Kauai. This Article also prohibits subdivision of lots or consolidation of lots without the consent of the environmental committee in compliance with certain procedures.

Condominiums must have approval under Article VI of the developer, C. Brewer Properties, Inc. No timesharing is permitted. There are specific limits on the nature and number of vehicles and other activities that would be deemed "unsightly" as well as preclusion of other activities such as unusual accumulations of trash, garbage, refuse, lumber and other bulky materials, including farm implements which are not consistent with the use of the land or not adequately screened from public view. There is also a limitation on excessive noise and light. Agricultural animals are limited to those approved by the environmental committee for the subdivision. Animals must be properly cared for, particularly livestock, poultry, fish and game. No storage shed may be used for residential purposes. No temporary buildings are permitted.

No new improvement may be made nor may any existing improvement be materially altered unless the plans are approved by the Kalihiwai Ridge Environmental Committee.

This Article limits the nature and size of signs. The Article precludes mining and drilling. Clearing and grading are subject to prior approval by the environmental committee and the County of Kauai. Cultivation of crops must be performed in a good, safe manner with environmental approval on methods used to control dust, insects, weeds, and drainage. Unit Owners must protect against flooding and erosion and dangerous chemicals. They must also maintain their lots at all times so that they do not become overgrown and unsightly. Owners causing damage to Association property will be required to pay for it.

ARTICLE VII LAKE LOTS

This Article deals with the regulation of lots that surround subdivision lake, including the operation of boats and the utilization of lots fronting the lake.

ARTICLE VIII EASEMENTS

Easements are to be granted through each Lot for emergency repair and other items needed for the benefit of the subdivision.

ARTICLE IX THE COMMITTEE

This Article discusses the creation and maintenance of the environmental committee, including its initial members and subsequent members. It outlines committee functions, including design review for all improvements to the subdivision lots and project limited common elements. This includes the requirement of the posting of improvement bonds in the amount of \$10,000.00 per Lot. The committee cannot assess a fee exceeding \$500.00 for the review of proposed plans. The committee can also adopt rules for its own procedures. Fines are discussed, including fines of over \$2,500.00 for engaging in construction without proper clearance and permission. These fines may be enforced as liens against individual lots for violative activity.

**ARTICLE X
INSURANCE**

This outlines insurance requirements for the project, including minimum One Million Dollar liability coverage. Individual Owners will be required to maintain insurance on their own Lot.

**ARTICLE XI
DESTRUCTION/CONDEMNATION AND RESTORATION**

This dealt with the condemnation of subdivision improvements by public authorities.

**ARTICLE XII
EXPANSION OF KALIHIWAI RIDGE**

This Article deals with the right of the Declarant to annex additional property, up to approximately three thousand acres of adjacent lands to the Kalihiwai Subdivision, and the means by which this may be accomplished. This right to annex land shall expire on or before the twentieth anniversary date of the covenants which were recorded on October 11, 1988.

**ARTICLE XIII
ENFORCEMENT**

This Article deals with the method by which the rules of the Subdivision may be enforced.

**ARTICLE XIV
MISCELLANEOUS**

This Article has to do with many miscellaneous items. It includes the duration of the covenant, being initially for twenty years and an automatic extension for ten year terms unless and until seventy-five percent (75%) of the Owners of lots vote to the contrary at least one year prior to the scheduled termination of the Covenants. It also deals with amendments to the Covenants requiring a two-thirds majority of the voting power of the Association. The amendment does not apply to the duration of the Covenants, which can only be amended by One hundred percent (100%) vote. The same is true as to expansion of Kalihiwai Ridge. Other miscellaneous provisions are enclosed including the means by which the Covenants would be interpreted in a court of law, assignability of rights, severability of clauses that might be found illegal in similar matter.

END OF EXHIBIT I

EXHIBIT J

DESCRIPTION OF BUILDINGS

Unit A is a single story, 1-room, 140 square foot wooden storage shed, located in the eastern portion of a 5.004 acre limited common element.

Unit B is a single story, 1-room, 204 square foot steel framed and vinyl covered agricultural building, located in the southern portion of a 4.955 acre limited common element.

Unit C is a single story farm dwelling (single family residence) constructed primarily of wood within an enclosed garage approximately 557 square feet in area, a covered lanai approximately 292 square feet in area, an outside entry approximately 54 square feet in area, and an interior living space containing a net living area of approximately 1,973 square feet. The interior living area is composed of a kitchen, a dining room, a living room, a game room, 3 bedrooms and 2-1/2 bathrooms. Unit C is located near the middle of a 5.001 acre limited common element.

Unit D is a single story, 1-room, 1,920 square foot wooden farm building located near the northeastern corner of a 5.000 acre limited common element.

Unit E is a single story, 1-room, 140 square foot wooden storage shed, located in the southern portion of a 5.000 acre limited common element.