

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by: Developer Pauline Dease, Ancillary Personal Representative of the Estate of Wayne Robert Swartz, Deceased  
Address c/o Philip Burkhardt, Esq. P. O. Box 1369  
Rancho Santa Fe, CA 92067  
Project Name(\*): TSUGI ESTATES CONDOMINIUM  
Address: Lot 63, Lawai Homesteads, Lawai, Koloa, Kauai, Hawaii

Registration No. 2076

Effective date: December 1, 1998  
Expiration date: January 1, 2000

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: (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 by the developer when complete information is filed.
- FINAL: (white) 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 \_\_\_\_\_
- SUPPLEMENTARY: (pink) This report updates information contained in the:  
[ ] Preliminary Public Report dated: \_\_\_\_\_  
[X] Final Public Report dated: May 18, 1990  
[ ] 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  
as Exhibit G.

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 public report format currently in use by the Real Estate Commission ("Commission") is different from that upon which the Preliminary and Final public reports for this project were issued. Although this Supplementary report must be read with the earlier reports, if a prospective purchaser desires to compare the previous reports to the Supplementary, information contained on a specific page of the Supplementary report will not coincide to the same page number in the Preliminary and Final public reports. Therefore, it is suggested that the table of contents be referred to when making comparisons between reports.
2. Roadway utility common element relocated and widened, affecting unit sizes. Road paved with asphalt.
3. Project participates in road and utility maintenance agreement with other CPR projects.

Special Notice: See Page 2a

**SPECIAL NOTICE:**

THERE ARE COUNTY RESTRICTIONS ON THE NUMBER OF DWELLING UNITS, OR OTHER STRUCTURES, WHICH MAY BE BUILT UPON THE PROPERTY. THEREFORE, UNLESS THE PURCHASER IS PURCHASING AN EXISTING DWELLING, THERE IS NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO BUILD A DWELLING UNIT ON THE PROPERTY. THERE ALSO IS NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO CONVERT AN EXISTING NON-RESIDENTIAL STRUCTURE TO RESIDENTIAL USE. THE PURCHASER SHOULD CONSULT WITH THE APPROPRIATE COUNTY AGENCIES TO DETERMINE WHETHER THE PURCHASER MAY BUILD A DWELLING UNIT, OR ANY OTHER TYPE OF STRUCTURE, UPON THE PROPERTY.

1. Issuance of an effective date for this Public Report does not constitute an approval of the project by the Real Estate Commission, or any other governmental agency, nor does it imply that all County codes, ordinances and subdivision requirements have been complied with.
2. This project does not involve the sale of individual subdivided lots. The land area beneath and immediately adjacent to each unit, as shown on the Condominium Map, is designated as a limited common element for that unit and does not represent a legally subdivided lot. The dotted lines on the Condominium Map merely represent the location of the limited common element assigned to each unit.
3. Facilities and improvements normally associated with County approved subdivisions, such as fire protection devices, County street lighting, electricity, upgraded water facilities, improved access for owner and emergency traffic, drainage facilities, etc., may not necessarily be provided for and services such as County street maintenance and trash collection will not be available for interior roads and driveways. There is currently no public or private water system serving this project. Those desiring to construct improvement which utilize water will be required to use a catchment system, as is used by adjoining land owners in neighboring condominium projects.
4. Units 4 and 5 have been previously sold. This report covers Units 1, 2 and 3 only.

THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW THE CONDOMINIUM DOCUMENTS REFERENCED IN THIS PUBLIC REPORT FOR FURTHER INFORMATION WITH REGARD TO THE FOREGOING.

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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  
Pauline Dease, Ancillary Personal Representative

Developer: of the Estate of Wayne R. Swartz, Decd phone: (619) 756-3743  
Name (Business)  
c/o Philip Burkhardt, Esq.  
Business Address  
P. O. Box 1369  
Rancho Santa Fe, CA 92067

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Real Estate  
Broker: None selected. See Page 20. Phone: \_\_\_\_\_  
Name (Business)  
Business Address  
\_\_\_\_\_

Escrow: Title Guaranty Escrow Services, Inc. Phone: (808) 245-3381  
Name (Business)  
4414 Kukui Grove St. #204  
Business Address  
Lihue, HI 96766

General  
Contractor: John A. Jenkins Construction Phone: \_\_\_\_\_  
( For Units) Name (Business)  
1 & 2) 3910 Ulu Alii  
Business Address  
Kalaheo, HI 96741

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

Attorney for  
Developer: STEVEN R. LEE, ESQ. Phone: (808) 246-1101  
Name (Business)  
4473 Pahe'e Street, Suite 1  
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 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. 90-007452  
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]:

First Amendment recorded on April 2, 1990 - Document No. 90-46200

Second Amendment recorded on October 16, 1998 - Document No. 98-155966

- 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. 1278  
 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 recorded on October 16, 1998 -  
Document No. 98-155966

- 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. 90-007453  
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]:

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>80%</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:



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: Uha Road, Lawai Homesteads Tax Map Key (TMK): (4) 2-5-6-30  
Lawai, Koloa, Kauai, Hawaii  
 Address  TMK is expected to change because units have not yet been assigned  
an address

Land Area: 28.75  square feet  acre(s) Zoning: Ag

Fee Owner: Pauline Dease, Ancillary Personal Representative of the Estate of  
Name Wayne Robert Swartz, Deceased  
c/o Philip Burkhardt, Esq. as to Units 1, 2 and 3  
Address  
P. O. Box 1369 Unit 4: Michael & Tina Gannett  
Rancho Santat Fe, CA 92067 P. O. Box 838  
Lawai, HI 96765

Lessor: \_\_\_\_\_  
Name Unit 5: Steven & Evelyn Hoekman  
Address 469 Oakwood Beach Road  
Brooklyn, Michigan  
49230

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 \_\_\_\_\_ contains further explanations.

3. Principal Construction Material:

Concrete  Hollow Tile  Wood

Other \_\_\_\_\_

4. Uses Permitted by Zoning:

	No. of Apts.	Use Permitted By Zoning		No. of Apts.	Use Permitted By Zoning
<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	_____	<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: <u>Sheds</u>	<u>5</u>	<input checked="" 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: Protective Covenants and Building Rules apply. See Exhibit D.
- Number of Occupants: \_\_\_\_\_
- Other: An owner must engage in agricultural activity to be permitted to construct a residence.
- There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0 Stairways: 0 Trash Chutes: 0

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Net Other Area (sf)</u>	<u>(Identify)</u>
<u>1, 2</u>	<u>2</u>	_____	_____	<u>16</u>	<u>Storage Shed</u>
<u>3, 4, 5</u>	<u>3</u>	_____	_____	<u>48</u>	<u>Storage Sheds</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

Total Number of 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: Per Article II of the Declaration of Condominium Property Regime, the boundaries of each apartment shall be the outer surface of the entire building. Wires or conduits, pipes or any utility lines running over, under or through any apartment which are utilized for or serve more than one unit shall not be deemed a part of the apartment, the same being deemed common elements.

Permitted Alterations to Apartments: Permitted alterations to apartments are as allowed by County of Kauai zoning ordinances and recorded restrictions on the project, if any. Upon construction of each permanent improvement, an amendment to the Declaration of Condominium Property Regime will be required to disclose actual improvements as a matter of public record.

7. Parking Stalls:

Total Parking Stalls: 5

	<u>Regular</u>		<u>Compact</u>		<u>Tandem</u>		<u>TOTAL</u>
	<u>Covered</u>	<u>Open</u>	<u>Covered</u>	<u>Open</u>	<u>Covered</u>	<u>Open</u>	
Assigned (for each unit)	<u>      </u>	<u>5</u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>5 *</u>
Guest Unassigned	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Extra for Purchase	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Other:	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Total Covered & Open:	<u>5</u>		<u>0</u>		<u>0</u>		<u>5</u>

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

\* Residential apartments must have 2 parking stalls.

- Commercial parking garage permitted in condominium project.
- Exhibit        contains additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities:

- There are no recreational or common facilities.
- Swimming pool       Storage Area       Recreation Area
- Laundry Area       Tennis Court       Trash Chute/Enclosure(s)
- Other: \_\_\_\_\_

9. Compliance With Building Code and Municipal Regulations: Cost to Cure Violations

- There are no violations.       Violations will not be cured.
- Violations and cost to cure are listed below:       Violations will be cured by \_\_\_\_\_  
(Date)

10. Condition and Expected Useful Life of Structural Components, Mechanical, and Electrical Installations  
(For conversions of residential apartments in existence for at least five years):

n/a

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:

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 use them, as described in the Declaration, are:

[X] described in Exhibit E.

[X] as follows: The portion of land set aside for the use of each owner of a Unit as set forth in the Condominium Map, attached as Exhibit A.

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 used to determine each apartment's share of the maintenance fees and other common profits and expenses of the condominium project. It may also be used for other purposes, including voting on matters requiring action by apartment owners. The common interests for the apartments in this project, as described in the Declaration, are:

[X] described in Exhibit C.

[ ] as follows:

E. Encumbrances Against Title: An encumbrance is a claim against or a liability on the property or a document affecting the title or use of the property. Encumbrances may have an adverse effect on the property or your purchase and ownership of an apartment in the project.

Exhibit F describes the encumbrances against the title contained in the title report dated October 16,  
1998  
and issued by First American Title Insurance Company.

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.

[ ] There are no blanket liens affecting title to the individual apartments.

[ X ] 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>
Mortgage	If foreclosed, Buyer's deposit shall be refunded (less any escrow cancellation fee) and the sales contract between Seller and Buyer shall be cancelled.

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:

None

2. Appliances:

None

G. Status of Construction and Date of Completion or Estimated Date of Completion:

All construction is now complete. Units 1 and 2 were completed as of June 1998; Units 3, 4 and 5 were completed in 1990.

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):

None

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, a lien may be placed on your apartment and the apartment may be 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 H 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 ( \_\_\_\_\_ Common Elements only \_\_\_\_\_ Common Elements & Apartments)
- Gas ( \_\_\_\_\_ Common Elements only \_\_\_\_\_ Common Elements & Apartments)
- Water  Sewer  Television Cable
- Other It is anticipated there will be a common water system, although each unit will be sub-metered and the Association will bill each unit separately.

(See Exhibit H-2; there are no current assessments.)

V. MISCELLANEOUS

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
- [ X] Specimen Sales Contract  
Exhibit  B  contains a summary of the pertinent provisions of the sales contract.
- [ X] Escrow Agreement dated  April 17, 1989   
Exhibit  D  contains a summary of the pertinent provisions of the escrow agreement.
- [ X] Other  Specimen Apartment Deed

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 issued 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, as amended.
  - D) House Rules, if any.
  - 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 \_\_\_\_\_

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. 2076 filed with the Real Estate Commission on May 24, 1989.

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

This is a condominium project, not a subdivision. Units purchased are not subdivided lots. To determine whether your expectations can be realized, you should carefully review the contents of this Report, especially Exhibit I, a summary of the recorded restrictive covenants for the project. Among other things, the restrictive covenants govern land use, building type and materials, possession of animals, and cultivation of crops. You should also conduct your own investigations and ascertain the validity of information provided.

It is anticipated that the initial improvements on each unit will be replaced by or supplemented with a farm dwelling. The prospective purchaser shall have the right to build such farm dwelling at purchaser's expense. The purchaser shall also, in such event, file the "as-built" certificate within thirty days of completion of the farm dwelling in conformance with Section 514A-12, Hawaii Revised Statutes, and record an amendment of the Declaration of Condominium Property Regime ("Declaration") to describe the farm dwelling. The County of Kauai Planning Department requires, 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 project, consistent with the Declaration and the Bylaws ("condominium documents"). Except as limited specifically by the condominium documents and subdivision restrictive covenants, 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. for detailed information. 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 under the Kauai County Zoning Ordinances and the condominium documents. A farm dwelling may not be constructed unless a unit owner demonstrates to the County his ability to derive income from his property, established and verified prior to any building permit approval.

A buyer should understand that all development and use of the property shall be in compliance with 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 limited common element later than others may find that land use and zoning changes or insufficient utility capacities may thwart their expectations.

The developers do not presently intend to use a real estate broker for the sale of apartments in the project. In the event developers elect to use a real estate broker for such sale, the developers shall (1) submit to the Real Estate Commission a duly executed copy of a broker listing agreement with a Hawaii-licensed real estate broker, together with a duly executed disclosure abstract identifying the designated broker, and (2) provide a copy of the disclosure abstract to the purchaser together with a copy of this public report.

This project is entitled to one guest house. The unit to which this right shall attach shall be determined by Pauline Dease. A prospective purchaser should refer to her in that regard.

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.

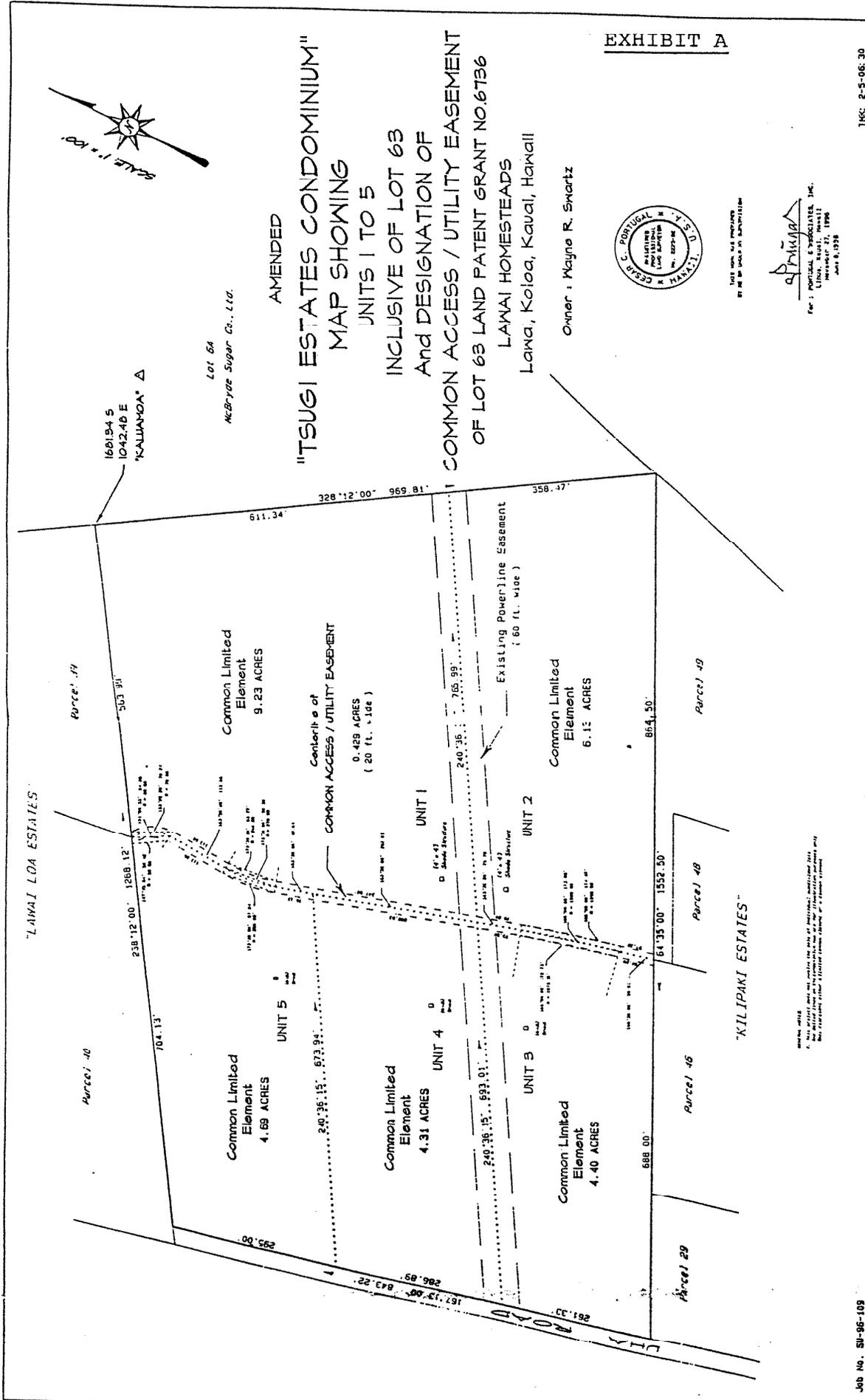
Pauline Dease, Ancillary Personal Representative of the Estate  
Printed Name of Developer of Wayne Robert Swartz, Decd.

By: Pauline D. Dease      11/6/98  
Duly Authorized Signatory      Date

Pauline Dease, Developer  
Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, County of Kauai  
Planning Department, County of Kauai



AMENDED  
 "TSUGI ESTATES CONDOMINIUM"  
 MAP SHOWING  
 UNITS 1 TO 5  
 INCLUSIVE OF LOT 63  
 And DESIGNATION OF  
 COMMON ACCESS / UTILITY EASEMENT  
 OF LOT 63 LAND PATENT GRANT NO.6736  
 LAMAI HOMESTEADS  
 LAMA, Koloa, Kauai, Hawaii

EXHIBIT A

166194 S  
 1042.48 E  
 'KALUHOA' A  
 Lot 64  
 McBryde Sugar Co., Ltd.

Owner: Wayne R. Swartz



THIS MAP WAS PREPARED  
 BY ME OR UNDER MY SUPERVISION

*W. R. Swartz*  
 For: PORTUGAL & ASSOCIATES, INC.  
 LICENSE NO. 10001  
 EXPIRES 12/31/98  
 JUNE 8, 1998

TKS: 2-5-06:30

JOB NO. SH-96-109

EXHIBIT B

SUMMARY OF SALES CONTRACT

The TSUGI ESTATES Sales Contract and Receipt (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 closing date for the purchase.
3. Whether, at the time of execution of the contract, an effective date for a final public report has been issued.
4. The terms and conditions of the sale which include, among other provisions, the following:
  - (a) That Purchaser will receive a copy of the final public report for the project.
  - (b) Purchaser agrees that all payments made will be placed on deposit with escrow pursuant to the terms of the Escrow Agreement.
  - (c) Seller has a right to extend the closing date by 31 days or by 31 days after the public report effective date is issued, whichever is later.
  - (d) After issuance of the Final Public Report effective date and Buyer's waiver of its right to cancel under Hawaii Revised Statutes Section 514A-62, Purchaser shall not have the right to rescind the contract.
  - (e) Purchaser has received a copy of the Escrow Agreement for the Project.
  - (f) If Purchaser defaults, Seller may cancel the contract or bring legal action against Purchaser to force sale, obtain money damages, or retain Purchaser's deposit money held in escrow.
  - (g) The unit the Purchaser is purchasing will be shown on a condominium map prior to closing and will have the right to cancel if it is different from that shown on the Exhibit A.
  - (h) That a deed conveying clear title will be given at closing, subject to certain obligations.
  - (i) The Purchaser agrees to give future easements if reasonably required for the project.
  - (j) The Purchaser will accept the Unit "AS-IS". Purchaser assumes all risks regarding any potential hazardous materials on the condo property or property adjoining or in the vicinity, including liability for suits by third parties. Seller is, however, unaware of any such materials, chemicals or conditions on the property.
  - (k) The payment of commissions, if any, is set out in the contract.
  - (l) Time is of the essence of the obligations of Purchaser under the contract.

**SPECIAL NOTICE:** THE FOREGOING SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE CONTRACT. WHILE A PURCHASER CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF THE PURCHASER'S RIGHTS AND OBLIGATIONS, THE PURCHASER MUST REFER TO THE PURCHASER'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 B**

**EXHIBIT C**

**SCHEDULE OF APARTMENTS AND COMMON INTERESTS**

<b>Qty.</b>	<b>Unit No.</b>	<b>Area of Limited Common Element* (Acres)</b>	<b>No. of Br./Bath</b>	<b>Appx. Net Living Area (Sq. Ft.)</b>	<b>Appx. Other Area (Sq. Ft.)</b>	<b>% of Common Int.</b>
1	1	9.23	0/0	0	16-shade structure	20%
1	2	6.13	0/0	0	16-shade structure	20%
1	3	4.40	0/0	0	48-shade structure	20%
1	4	4.31	0/0	0	48-shade structure	20%
1	5	4.69	0/0	0	48-shade structure	20%

Pursuant to Section 16-107-5, Hawaii Administrative Rules, reference is hereby made to the method by which common interest has been computed. There are five units, each of which will burden the common elements equally. Therefore, the assessment of undivided interest both for common expense and for voting is 20% for each unit.

The common interest appurtenant to each unit shall be permanent. Subject to the zoning requirements and amendments of the Condominium Map and the Declaration of Condominium Property Regime, each unit owner may use the unit, alter or add to it in any manner deemed desirable, so long as it is permitted by law and the Declaration of Protective Covenants and House Rules, if any. 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.

**\*Note: Land areas referenced herein are not legally subdivided lots.**

**END OF EXHIBIT C**

EXHIBIT D

SUMMARY OF PORTIONS OF ESCROW AGREEMENT

The Escrow Agreement ("Agreement") between TITLE GUARANTY ESCROW SERVICES, INC. (the "Escrow"), and PAULINE DEASE (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 contract 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, unless: (a) Buyer has elected within seven days of signing the sales contract to cancel and receive all funds paid, without deduction; or (b) the Real Estate Commission has not issued a Final Public Report on the project or the requirements of the sales contract have not been met; or (c) Seller has not satisfied Escrow that all other requirements of Hawaii Revised Statutes have been met.

4. Escrow will return deposited sums to the Buyer without interest if Seller and Buyer give Escrow written notice to return the funds to Buyer, if there is a right to cancellation and refund of monies under the sales contract or otherwise. If there is a cancellation under the seven-day right, no fees will be charged Buyer. Thereafter, in the event of a cancellation as a matter of agreement or right, Buyer's funds shall be returned to Buyer less Escrow's cancellation fee, if any, and all other costs incurred in connection with the Escrow, not 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 its schedule rate 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 cost of title insurance will be an additional amount, based upon schedule rate.

**SPECIAL NOTICE:** 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 D

EXHIBIT E

COMMON ELEMENTS OF THE PROJECT

The common elements of the project are:

(a) the land in fee simple;

(b) access and utility easement; and all commonly used present or future ducts, electrical equipment, wiring and other central and appurtenant installations for common services, if any, including power, light, sewage, irrigation and telephone; and

(c) any and all other future elements and facilities in common use or necessary to the Project.

LIMITED COMMON ELEMENTS OF THE PROJECT

Certain parts of the common elements, referred to as the "limited common elements," have been designated and set aside for the exclusive use of one or more units, and such unit(s) have appurtenant exclusive easements for the use of such limited common elements. The limited common elements set aside, reserved and deemed a limited common element appurtenant to and for the exclusive use of each respective unit is that certain land area upon and around which Units 1 through 5 are located, shown and designated on the Condominium Map and the table below.

<u>Unit Number</u>	<u>Area of Limited Common Element*</u>
1	9.23 acre
2	6.13 acre
3	4.40 acre
4	4.31 acre
5	4.69 acre

\*Land areas referenced herein are not legally subdivided lots.

END OF EXHIBIT E

EXHIBIT F

ENCUMBRANCES AGAINST TITLE

1. Real Property Taxes. Check with the County of Kauai, Department of Finance, Real Property Tax Division, for detailed information.

2. GRANT

TO : MCBRYDE SUGAR COMPANY, LIMITED  
DATED : July 7, 1937  
RECORDED : Liber 1388 Page 443  
GRANTING : a perpetual right and easement to build, construct, rebuild, reconstruct, repair, maintain and operate a pole and wire line, etc., along, across and over the following described parcel of land:

A strip of land sixth (60) feet wide over Lot 63 of Lawai Homesteads, County of Kauai, State of Hawaii, the center of said strip of land having the following description by true azimuth survey:

Beginning at a point on the westerly boundary of said Lot 63 having the coordinates 2916.20 feet south, 94.97 feet east referred to Government Survey Triangulation Station "KALUAMOA" and running:

1. 240° 36' 15" 1458.32 feet along the easterly boundary of Lawai Homestead Tract.

Said Grant was assigned to Citizens Utilities Company, a Delaware corporation, by Quitclaim Assignment of Grant of Easement dated May 18, 1989, recorded as Document No. 90-034896.

3. GRANT

TO : JULES KANAREK, unmarried  
DATED : February 18, 1987  
RECORDED : Liber 20444 Page 5  
GRANTING : a nonexclusive easement over said Easement "A" (10 feet wide) for access purposes, area 0.688 acre, to be used for pedestrian, roadway and underground utility purposes only and shall be appurtenant to Tax Key: 2-5-006-012 (4); being more particularly described in Exhibit "A" attached

Said Grant was amended by Amendment of Easement dated March 24, 1995, recorded as Document No. 95-066028.

4. WAIVER AND RELEASE

DATED : April 25, 1989  
RECORDED : Liber 23181 Page 331  
BY : WAYNE ROBERT SWARTZ  
WITH : COUNTY OF KAUAI

5. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT : DECLARATION OF HORIZONTAL PROPERTY REGIME  
FOR THE "TSUGI ESTATES" CONDOMINIUM PROJECT

DATED : December 9, 1989  
RECORDED : Document No. 90-007452  
MAP : 1278 and any amendments thereto

First Amendment to Declaration of Condominium Property Regime of Tsugi Estate Condominium recorded on April 2, 1990 as Document No. 90-046200 and Second Amendment to Declaration of condominium Property Regime of Tsugi Estate condominium recorded on October 16, 1998 as Document No. 98-155966.

6. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT : BY-LAWS OF THE ASSOCIATION OF APARTMENT  
OWNERS

DATED : December 9, 1989  
RECORDED : Document No. 90-007453

7. The terms and provision, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT : DECLARATION OF PROTECTIVE PROVISIONS

DATED : January 10, 1990  
RECORDED : Document No. 90-014208

8. GRANT

TO : CITIZENS UTILITIES COMPANY and GTE HAWAIIAN  
TELEPHONE COMPANY INCORPORATED

DATED : March 9, 1995  
RECORDED : Document No. 95-066029  
GRANTING : a perpetual right and easement to build,  
construct, reconstruct, rebuild, repair,  
maintain and operate pole and wire lines  
and/or underground lines, etc., for the  
transmission and distribution of electricity

Said Grant was amended by instrument dated October 11, 1995, recorded as Document No. 97-028586

9. Administration of the Estate of WAYNE ROBERT SWARTZ, also known as WAYNE SWARTZ, deceased.

-Note:- (A) WAYNE ROBERT SWARTZ, also known as WAYNE SWARTZ died on April 23, 1991 at San Diego, California.

- (B) Pending PROBATE NO. 91-0054 in the Circuit Court of the Fifth Circuit, State of Hawaii, in the matter of the Estate of WAYNE ROBERT SWARTZ also know as WAYNE SWARTZ, deceased.

10. MORTGAGE

MORTGAGOR : PAULINE DEASE, as Personal Representative of the Estate of Wayne Robert Swartz, also known as Wayne Swartz

MORTGAGEE : GREGORY K. WILSON, unmarried

DATED : March 20, 1997

RECORDED : Document No. 97-048189

AMOUNT : \$10,000

11. The terms and provisions, including the failure to comply with the covenants, conditions and reservations, contained the following:

INSTRUMENT: DECLARATION OF CONDOMINIUM PROPERTY REGIME FOR "TSUGI ESTATES"

DATED : December 9, 1989

RECORDED : Document No. 90-007452

MAP : Condominium Map No. 1278

Said Declaration was amended by instrument dated April 2, 1990, recorded as Document No. 90-007452, and by instrument dated January 31, 1997, recorded as Document No. 97-151930.

12. The terms and provisions, including the failure to comply with the covenants, conditions and reservations, contained the following:

INSTRUMENT: BY-LAWS OF THE ASSOCIATION OF CONDOMINIUM OWNERS

DATED : December 9, 1989

RECORDED : Document No. 90-007453

END OF EXHIBIT F

EXHIBIT G

AMENDED DISCLOSURE ABSTRACT

Pursuant to §514A-61, Hawaii Revised Statutes  
Registration No. 3482

1. Project Name : TSUGI ESTATES CONDOMINIUM  
Lot 63, Lawai Homesteads  
Lawai, Koloa, Kauai, Hawaii  
  
This report covers only Units 1, 2  
and 3. Units 4 and 5 have been sold.
2. Developer : PAULINE DEASE,  
Ancillary Personal Representative of  
the Estate of Wayne Robert Swartz,  
Deceased  
c/o Carl A. Larson, Esq.  
P. O. Box 1369  
Rancho Santa Fe, California 92067  
(619) 756-3743
3. Real Estate Broker : No Real Estate Broker; developer is  
marketing the project
4. Managing Agent : Self-managed by the Association of  
Apartment Owners
5. See Exhibit H to the Final Public Report for the projected  
maintenance fees. The Developer discloses that no reserve study  
was conducted in accordance with §514A-83.6, HRS, and  
replacement reserve rules, Subchapter 6, Title 16, Chapter 107,  
Hawaii Administrative Rules, as amended.
6. There are no warranties against defects of material and  
workmanship in individual apartments, common elements or  
exclusive use areas, and the purchaser buys his/her unit in an  
"as is" condition.
7. All of the apartments of the project are to be used for  
agricultural purposes and permitted residential use within the  
agricultural zone; There will be no commercial use except those  
activities permitted by the County of Kauai County Comprehensive  
Zoning Ordinance.
8. Developer represents that the information contained in the  
Supplementary Public Report is accurate.

In witness whereof, Developer has executed this Disclosure  
Abstract this 6 day of NOVEMBER, 1998.

  
PAULINE DEASE

---

RECEIPT

The undersigned has received a copy of the foregoing disclosure  
abstract with Exhibit H this \_\_\_ day of \_\_\_\_\_, 19\_\_.

Purchaser(s)

---

END OF EXHIBIT G

EXHIBIT H

ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

<u>Apartment</u>	<u>Monthly Fee x 12 =</u>	<u>Yearly Total</u>
1-5	\$24.00	\$288.00

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

common elements only

common elements and apartments

Refuse Collection

Telephone

Water and Sewer

Maintenance, Repairs and Supplies

Road Maintenance Reserve

\$50.00

\$600.00

Building

Grounds

Management

Management Fee

Payroll and Payroll Taxes

Office Expenses

Insurance

\$70.00

\$840.00

Reserves(\*)

Taxes and Government Assessments

Audit Fees

Other

TOTAL

\$120.00

\$1,440.00

I, PAULINE D. DEASE as agent for/and/or employed by ESTATE of SWARTZ, the condominium managing agent/developer for the TSUGI Estates 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.

Pauline D. Dease

Signature

11/6/98

Date

(\*) Mandatory reserves assessment and collection in effect beginning 1994 budget year. The Developer is to attach to this exhibit an explanation whether, in arriving at the figure for "Reserves", the Developer has conducted a reserve study in accordance with §514A-83.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

Pursuant to §514A-83.6, HRS, a new association created after January 1, 1993, need not collect estimated replacement reserves until the fiscal year which begins after the association's first annual meeting.

## EXHIBIT I

### DECLARATION OF PROTECTIVE COVENANTS AND BUILDING RULES FOR TSUGI ESTATES 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 TSUGI ESTATES 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. The present requirement is that each owner must demonstrate the ability to obtain sustenance or income from farming on the limited common element before the County will issue 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 unit seeking to build. Each owner will execute a power of attorney in favor of the developer for the purpose of securing building permits for all units, because a 75% ownership interest must approve of all filings for building permits. When an association of unit owners is created, the power of attorney will be replaced with a power of attorney in favor of the president of the association of unit owners.

3. Water and Utilities. The water, electricity and telephone will be extended from the end of to a point fronting each Unit abutting 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. The roadway within the Project is unpaved. Each Unit owner will be responsible for clearing all vegetation and growth from his Area to the extent it enters 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 Area 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 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. Noxious Activities. No unit owner or agent of a unit owner shall have the right or ability to spray noxious chemicals or pesticides within 100 feet of any unit boundary, and no aerial spraying of any kind shall be allowed. For the purposes of this paragraph, "noxious" shall be deemed to mean any chemical that presents a physical danger to humans, domestic pets and farm animals.

11. 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.

12. 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.

END OF EXHIBIT I