



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

**CONDOMINIUM PUBLIC REPORT**

on

KIHEI VILLAGES PHASE IV  
 140 Uwapo Road  
 Kihei, Maui, Hawaii

Registration No. 2090

Issued: April 17, 1990  
 Expires: May 17, 1991

**Report Purpose:**

This report is based on information and documents submitted by the developer to the Real Estate Commission as of February 26, 1990, and is issued by the Commission for informational purposes only. It represents neither approval nor disapproval of the project. Buyers are encouraged to read this report carefully.

**Type of Report:**

- PRELIMINARY:** The developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report. A Final Public Report will be issued when complete information is filed.  
*(yellow)*
- FINAL:** The developer has legally created a condominium and has filed complete information with the Commission.  
*(white)*
- No prior reports have been issued  
 Supersedes all prior public reports  
 Must be read together with \_\_\_\_\_
- 
- SUPPLEMENTARY:** Updates information contained in the  
*(pink)*
- Prelim. Public Report dated \_\_\_\_\_  
 Final Public Report dated \_\_\_\_\_  
 Supp. Public Report dated \_\_\_\_\_
- And  Supersedes all prior public reports  
 Must be read together with \_\_\_\_\_
- This report reactivates the \_\_\_\_\_  
 public report(s) which expired on \_\_\_\_\_

**Disclosure Abstract:** Separate Disclosure Abstract on this condominium project:

Required       Not Required - disclosures covered in this report.

**Summary of Changes from Earlier Public Reports:**

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

No prior reports have been issued by the Commission.

Changes made are as follows:

This report contains updated information regarding the recording of condominium documents and regarding construction financing for the project. There are no changes to the condominium project itself.

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## **GENERAL INFORMATION ON CONDOMINIUMS**

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

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

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

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

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

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

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

### **Operation of the Condominium Project**

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

The Board of Directors is the governing body of the Association. Unless you serve as a board member or an officer, or are on a committee appointed by the board, your participation in the administration and operation of the condominium project will in most cases be limited to your right to vote as an apartment owner. The Board of Directors and officers can take certain actions without a vote of the owners. Some of these actions may significantly impact the quality of life for all apartment owners.

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

## SUMMARY OF THE CONDOMINIUM PROJECT

**Interest to be Conveyed to Buyer:**

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

**Types of Project:**

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

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Lanai/Patio (sf)</u>
A-1	36	2/1-1/2	750	75
A-2	36	2/1-1/2	750	70
B-1	4	2/2	742	50
B-2	4	2/2	742	65
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Total Apartments: 80

*\*Net Living Area is the floor area of the apartment measured from the interior surface of the apartment perimeter walls.*

*Other documents and maps may give floor area figures which differ from those above because a different method of determining the floor area may have been used.*

**6. Parking:**

	<u>Number of Stalls</u>
Assigned Stalls (Individual Units)	<u>80</u>
Guest Stalls	<u>9</u>
Unassigned Stalls	_____
Extra Stalls Available for Purchase	<u>39</u>
Other: _____	_____
<b>Total Parking Stalls</b>	<u><b>128</b></u>

**7. Recreational amenities:** Recreation area located in Kihei Villages Phase I

**I. PEOPLE CONNECTED WITH THE PROJECT**

Developer: Aina Kihei Partners Phone: 521-5661  
Name (Business)  
1001 Bishop Street, Suite 1060  
Business Address  
Honolulu, Hawaii 96813

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

JPS Hawaii, Inc., General Partner  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Real Estate Sales Agent: Maui Sea Cliffs Development dba  
South Pacific Properties Phone: 521-5661  
Name (Business)  
1001 Bishop Street, Suite 1060  
Business Address \* Kihei Sales Office  
Honolulu, Hawaii 96813 140 Uwapo Road  
Kihei, Maui, Hawaii 96753

Phone: 874-0400

Escrow: Security Title Corporation (Maui Branch) Phone: 244-3721  
Name (Business)  
2035 Main Street  
Business Address  
Wailuku, Maui, Hawaii 96793

Managing Agent: Oihana Property Management & Sales, Inc. Phone: 244-7684  
Name (Business)  
840 Alua Street, Suite 202  
Business Address  
Wailuku, Maui, Hawaii 96793

Attorney for Developer: Ronald W. K. Yee, Gordon J. Mau  
Name  
1000 Bishop Street, Suite 303  
Business Address  
Honolulu, Hawaii 96813

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

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

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

The Declaration for this condominium is:

- Proposed
- Recorded - Bureau of Conveyances - Doc. No. 90-20752
- Filed - Land Court - Document Number \_\_\_\_\_

Amendment date(s) and recording/filing information:

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

The Condominium Map for this condominium project is:

- Proposed
- Recorded - Bureau of Conveyance Condo Map No. 1291 (Document No. 90-20751)
- Filed - Land Court Condo Map No. \_\_\_\_\_

Amendment date(s) and recording/filing information:

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

The Bylaws for this condominium are:

- Proposed
- Recorded - Bureau of Conveyances - Doc. No. 90-20753
- Filed - Land Court - Document Number \_\_\_\_\_

Amendment date(s) and recording/filing information:

The Condominium Statute (Chapter 514A, HRS), the Declaration, Bylaws, and House Rules control the rights and obligations of the apartment owners with respect to the common elements, to each other, and to their respective apartments. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law.

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

The House Rules for this condominium are:

- Proposed                       Adopted
- Developer does not plan to adopt house rules.

E. **Changes to Condominium Documents**

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

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

	<u>Minimum Set by Law</u>	<u>This Condominium</u>	
Declaration (and Condo Map)	75%	<u>75%</u>	* Amendments to certain provisions which give rights to the Declarant can only be amended with Declarant's consent.
Bylaws	65%	<u>65%</u>	
House Rules	---	<u>          </u>	

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

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

A. Prior to the conveyance of any apartment in the Condominium, the Developer may amend the aforesaid condominium documents to reflect changes in the Condominium and the apartments and common and limited common elements as long as such changes do not materially diminish the value of any apartment or jeopardize a purchaser's loan commitment.

B. Upon completion of the Condominium, the Developer may amend the Condominium Declaration to file the "as built" verified statement required by Section 514A-12 of the Horizontal Property Act.

C. The Developer may amend the aforesaid condominium documents to subject the Condominium to an FHA Regulatory Agreement and/or to conform the Condominium to the requirements of the VA Home Loan Guarantee Program and FHA Home Loan Programs.

D. The Developer may amend the aforesaid condominium documents to effect the merger of various phases of the Overall Project, including amending said documents by granting or realigning easements for utilities purposes.



**B. Underlying Land:**

Address: 140 Uwapo Road Tax Map Key: 2-3-8-77  
Kihei, Maui, Hawaii 96753 (TMK) portion of 3

Address  TMK is expected to change because there will be assigned a separate parcel  
number for the site of this Condominium Project.

Land Area: 2.829  square feet  acre(s) Zoning: A-2 Residential

Fee Owner: Aina Kihei Partners  
Name

1001 Bishop Street, Suite 1060  
Address

Honolulu, Hawaii 96813

Sublessor: \_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_

**C Buildings and Other Improvements:**

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

2. Buildings: 9 Floors Per Building 2

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

3. Principal Construction Material:

Concrete  Hollow Tile  Wood  
 Other glass

4. Permitted Uses:

	<u>No. of Apts.</u>		<u>No. of Apts.</u>
<input type="checkbox"/> Commercial	_____	<input type="checkbox"/> Industrial	_____
<input checked="" type="checkbox"/> Residential	<u>80</u>	<input type="checkbox"/> Agricultural	_____
<input type="checkbox"/> Timeshare/Hotel	_____	<input type="checkbox"/> Recreational	_____
<input type="checkbox"/> Other: _____			_____

5. Special Use Restrictions:

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

- Pets** Subject to Kihei Villages Rules and Regulations.  
2 persons per bedroom, not including children under the age of 5, but
- Number of Occupants:** no more than 3 occupants per bedroom including children under the age of 5.
- Other:** \_\_\_\_\_
- There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Total Apartments 80  
Elevators 0 Stairways 18 Trash Chutes 0

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Lanai/Patio (sf)</u>
<u>A-1</u>	<u>36</u>	<u>2/1-1/2</u>	<u>750</u>	<u>75</u>
<u>A-2</u>	<u>36</u>	<u>2/1-1/2</u>	<u>750</u>	<u>70</u>
<u>B-1</u>	<u>4</u>	<u>2/2</u>	<u>742</u>	<u>50</u>
<u>B-2</u>	<u>4</u>	<u>2/2</u>	<u>742</u>	<u>65</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

*\*Net Living Area is the floor area of the apartment measured from the interior surface of the apartment perimeter walls.*

*Other documents and maps may give floor area figures which differ from those above because a different method of determining the floor area may have been used.*

**Boundaries of Each Apartment:**

Net living area of the enclosed portion of the apartment measured from the interior surfaces of the apartment perimeter walls, plus the lanai area.

Second floor lanais are measured to the inside of the railings.

**Permitted Alterations to Apartments;**

Unless otherwise prohibited by the Condominium Declaration, the By-Laws or the Condominium Property Act, an Apartment Owner may make additions, alterations or improvements solely within his or her apartment or within a limited common element appurtenant to his or her apartment at his or her sole cost and expense; provided, however, that no Owner may do any work to his or her Apartment which could jeopardize the soundness or safety of any part of the Condominium, reduce the value thereof, or impair any easement or hereditament; nor may any Owner add any material structure without in every such case the consent of seventy-five percent (75%) of the Owners being first obtained, including the consent of all Owners whose apartments or limited common elements appurtenant thereto are directly affected. The installation of solar energy devices, as defined by H.R.S. Section 468B-1 shall require approval only by the Board.

7. Parking Stalls:

Total Parking Stalls: 128

	Regular		Compact		Tandem		TOTAL
	covered	open	covered	open	covered	open	
Assigned (for individual units)		80					80
Guest		9					9
Unassigned							
Extra Available for Purchase		39					39
Other:							
Total Covered & Open		128					

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

Commercial parking garage permitted in condominium project.

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

8. Recreational and Other Common Facilities.

There are no recreational or common facilities.

Swimming pool

Storage Area

Recreation Area \*

Laundry Area

Tennis Court

Trash Chute

Other: \_\_\_\_\_

\* located in Kihei Villages Phase I

9. Present Condition of Improvements

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

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

N/A

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

N/A

10. Conformance to Present Zoning Code

a.  No variances to zoning code have been granted.

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

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

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

	<u>Conforming</u>	<u>Non-Conforming</u>	<u>Illegal</u>
Uses	x	_____	_____
Structures	x	_____	_____
Lot	x	_____	_____

If a variance has been granted or if uses, improvements or lot are either non-conforming or illegal, buyer should consult with county zoning authorities as to possible limitations which may apply.

Limitations may include restrictions on extending, enlarging, or continuing the non-conformity, and restrictions on altering and repairing structures. In some cases, a non-conforming structure that is destroyed or damaged cannot be reconstructed.

The buyer may not be able to obtain financing or insurance if the condominium project has a non-conforming or illegal use, structure, or lot.

**D. Common Elements, Limited Common Elements, Common Interest:**

1. **Common Elements:** Common Elements are those parts of the condominium project intended to be used by all apartment owners. They are owned jointly by all apartment owners.

Exhibit     A     describes the common elements.

As follows:

2. **Limited Common Elements:** Limited Common Elements are those common elements which are reserved for the exclusive use of the owners of certain apartments.

There are no limited common elements in this project.

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

described in Exhibit     B    

as follows:

3. **Common Interest:** Each apartment will have an undivided fractional interest in all of the common elements. This interest is called the "common interest." It is often used to determine each apartment's share of the maintenance fees and other common profits and expenses of the condominium. It may also be used for other purposes, including voting on matters requiring action by apartment owners.

Exhibit     C     describes the common interests for each apartment.

As follows:

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

Exhibit  D  describes the encumbrances against the title contained in the title report dated  February 12, 1990  and issued by  Security Title Corporation .

**Blanket Liens:**

A blanket lien is a mortgage on a condominium project that secures a construction loan. It is usually released on an apartment-by-apartment basis upon payment of specified sums so that individual apartments can be conveyed to buyers free and clear of the lien.

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

There are blanket liens which may affect title to the individual apartments.

Blanket liens (except for improvement district or utility assessments) must be released before the developer conveys the apartment to a buyer. Buyer's interest will be affected only if the developer defaults prior to conveying the apartment to buyer.

<u>Type of Lien</u>	<u>Effect on Buyer's Interest If Developer Defaults</u>
Construction Loan	Buyer may not be able to acquire the apartment but Buyer will be entitled to a refund of his deposits.

All Buyer contracts will be subject to the construction loan mortgage (Real Property Mortgage and Financing Statement) in favor of First Hawaiian Bank dated February 12, 1990 and recorded in the Bureau of Conveyances as Document Nos. 90-20743 and 90-20744.

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

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

The initial managing agent for this condominium is:

not affiliated with the Developer.

the Developer or the Developer's affiliate.

self-managed by the Association of Apartment Owners.

other \_\_\_\_\_

**G. Estimate of Initial Maintenance Fees:**

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

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

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

**H. Utility Charges for Apartments:**

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

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

**I. Construction Warranties:**

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

1. **Building and Other Improvements:**

The Developer's sole warranty is described in Exhibit F attached hereto.

2. **Appliances:**

Developer makes no warranty as to appliances or other consumer products installed in any apartment or in the common elements. If there are any applicable manufacturer's or dealer's warranties, Developer will endeavor to pass on such warranties to purchasers.



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

The land on which the condominium is being constructed has been conveyed to the Developer since the time of the submissions made on June 29, 1989. The Limited Partners of the Developer, who owned the land prior to its being conveyed, executed a "Declaration of Covenants and Restrictions (Long-Term Residential Use)" dated June 14, 1989 and recorded in the Bureau of Conveyances in Book 23423 at Page 682 and a copy of which is attached to this Report as Exhibit "J".

**THIS DOCUMENT CONTAINS IMPORTANT COVENANTS, CONDITIONS AND RESTRICTIONS REGARDING THE USE OF THE APARTMENTS IN THE CONDOMINIUM AND SHOULD BE READ BY ALL PROSPECTIVE PURCHASERS.**

In essence, the document provides that those persons who initially purchase an apartment from the Developer must use the apartment as their personal residence and will be required to sign an "owner-occupant" affidavit to that effect. Furthermore, if and when an initial purchaser should sell an apartment, the new owners must occupy or lease the apartment as a residence for a continuous period of six (6) months or more per year.

In addition, the document restricts the sales prices at which the Developer may sell the apartments to initial purchasers, the maximum price being \$106,900.00. This restriction on sales prices does not apply to re-sales by initial purchasers.

The County of Maui has the authority to enforce the covenants, conditions and restrictions imposed by the document.

**Buyer's Right to Cancel Sales Contract:**

**A. Rights Under the Condominium Statute:**

**Preliminary Report:** Sales made by the Developer are not binding. A prospective buyer who cancels the sales contract is entitled to a refund of all moneys paid, less any escrow cancellation fee up to \$250.00.

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

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

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

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

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

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

**B. Rights Under the Sales Contract:**

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

1. Condominium Public Reports issued by the Hawaii Real Estate Commission.
2. Declaration of Condominium Property Regime and Condominium Map.
3. Bylaws of the Association of Apartment Owners.
4. House Rules.
5. Escrow Agreement.
6. Hawaii's Condominium Law (Chapter 514A, HRS, as amended; Hawaii Administrative Rules, Chapter 16-107, adopted by the Real Estate Commission).
7. Other Declaration of Covenants and Restrictions (Long-Term Residential) a copy of which is attached hereto as Exhibit "J" and summarized in Part IV of this Report.

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

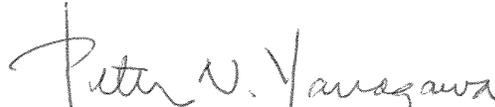
Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer and are on file at the Department of Commerce and Consumer Affairs. Reprints of Hawaii's Condominium Law (Chapter 514A, HRS, and Hawaii Administrative Rules, Chapter 16-107)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

This Public Report is a part of Registration No. 2090 filed with the Real Estate Commission on  
June 29, 1989.

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

**Distribution:**

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

## EXHIBIT "A"

COMMON ELEMENTS: The Condominium Declaration states that the common elements consist of:

- (a) The Land in fee simple.
- (b) All foundations, floor slabs, columns, girders, beams, supports, load-bearing walls, main walls, interior walls separating adjacent apartments in the same building (except the inner decorated surfaces of such walls), and roofs of the buildings; all exterior stairs, stairways, landings and railings (except lanai railings); and other building appurtenances, including but not limited to, the electrical cabinets and the compartments for waterheaters located on the exteriors of the buildings.
- (c) All yards, grounds, landscaping, fences, and refuse areas and facilities.
- (d) All sidewalks, pathways, parking areas, parking stalls (including 12 Visitor Parking Stall Nos. 439 to 444, inclusive, and 453 to 458, inclusive), driveways and roads within the Condominium.
- (e) All ducts, electrical equipment, transformers, wiring and other central and appurtenant installations for power, light, water, sewer, gas and telephone; all pipes, plumbing, wires, conduits or other utility or service lines, which are used by or serve more than one apartment, including any such lines that run through any apartment; and central air conditioning and like central utilities, if installed.
- (f) All the benefits, if any, inuring to the Land or to the Project from all easements shown on the Condominium Map or listed in the Condominium Declaration.
- (g) All other portions of the land and improvements that are not specifically designated for use by one or more specific apartments, but which are intended for common use, and all other devices and installations the use of which exists for, is rationally allocated to or is necessary to the existence, upkeep and safety of more than one apartment or the Condominium Project as a whole.

The common elements will include the common elements of any one or more of the condominium projects that may be developed as part of the Overall Project at such time as there is a merger of this Condominium Project with any one or more of such other projects, all as explained below under the heading PHASED DEVELOPMENT AND MERGER OF PHASES.

EXHIBIT "B"

**LIMITED COMMON ELEMENTS:** Certain parts of the common elements, called "limited common elements", are set aside and reserved for the exclusive use of certain apartments. The limited common elements are as follows:

(a) Each apartment will have appurtenant to it at least one parking stall. The Condominium Map identifies each stall by a parking stall number. The particular apartment stall that will initially be appurtenant to a particular apartment is listed in the Condominium Declaration, as follows:

<u>BUILDING/ APARTMENT NO.</u>	<u>STALL NO.</u>	<u>BUILDING/ APARTMENT NO.</u>	<u>STALL NO.</u>
10-101	495	19-101	584
10-102	494	19-102	585
10-103	492	19-103	586
10-104	493	19-104	563
		19-105	565
10-201	497	19-106	564
10-202	496		
10-203	490	19-201	581
10-204	491	19-202	582
		19-203	583
11-101	537	19-204	566
11-102	538	19-205	568
11-103	516	19-206	567
11-104	513		
11-105	514	20-101	574
11-106	515	20-102	575
		20-103	569
11-201	535	20-104	580
11-202	536		
11-203	517	20-201	573
11-204	509	20-202	576
11-205	510	20-203	570
11-206	511	20-204	579
12-101	526	25-101	598
12-102	527	25-102	599
12-103	512	25-103	591
12-104	534	25-104	606
12-201	525	25-201	597
12-202	528	25-202	600
12-203	519	25-203	592
12-204	533	25-204	605
17-101	550	26-101	609
17-102	551	26-102	610
17-103	543	26-103	588
17-104	558	26-104	587

17-201	549	26-201	607
17-202	552	26-202	608
17-203	544	26-203	590
17-204	557	26-204	589
18-101	561		
18-102	562		
18-103	540		
18-104	539		
18-201	559		
18-202	560		
18-203	542		
18-204	541		
Additional Stalls Appurtenant to Apartment 26-102 Available for Purchase:	483, 484, 485, 486, 487, 488, 489, 498, 499, 518, 520, 521, 522, 523, 524, 529, 530, 531, 532, 545, 546, 547, 548, 553, 554, 555, 556, 571, 572, 577, 578, 593, 594, 595, 596, 601, 602, 603, 604	Visitor Parking Stalls:	500, 501, 502, 503, 504, 505, 506, 507, 508

(NOTE: Those stalls listed as "Visitor" stalls will remain common elements. The other stalls may be transferred between apartments in the manner provided for in the Condominium Declaration, as long as at least one stall is appurtenant to each apartment. The Developer may sell to various purchasers one or more of the additional 39 parking stalls listed as appurtenant to Apartment 26-102 and may also change parking stall assignments as long as at least one parking stall is assigned as a limited common element to each apartment. The parking stall or stalls assigned to an apartment shall be listed in the Apartment Deed from the Developer.)

(b) Each private patio or yard area is a limited common element appurtenant to first floor apartment which such area adjoins as shown on the site plan included as part of the Condominium Map. Each such area is deemed to be measured from the interior surface of the fence (i.e., the surface facing the apartment) around the area.

(c) Each compartment containing hot waterheaters and located on the exterior of the buildings adjacent to apartments are limited common elements to such ground level apartments and to the second story apartments above them which are served by the waterheaters contained therein.

(d) The concrete pad outside the door of each ground level apartment is a limited common element appurtenant to that apartment. Each stairway and second story landing providing access to a second story apartment is a limited common element appurtenant to that apartment; provided, that those stairways which lead to two second story apartments shall be limited common elements to both of the apartments so served, but the second story landing directly adjacent to the entrance of each such second

story apartment is a limited common element to that apartment only.

(e) Each mailbox bearing the same designation as an apartment is a limited common element to that apartment.

All costs and expenses pertaining to limited common elements are to be charged to the apartment or apartments to which the limited common element appertains pursuant to the Condominium Declaration and Section 514A-15(a) of the Condominium Property Act. If a limited common element is appurtenant to two or more apartments, such costs and expenses shall be charged to both. Thus, if a limited common element is appurtenant to two apartments, one-half of such costs and expenses will be charged to each apartment; provided, however, that as permitted in the Condominium Declaration, the Board of Directors of the Association may assess certain of such costs and expenses in proportion to the common interest appurtenant to each of the apartments involved. Apartment owners shall be responsible for the maintenance and repair of their limited common elements.

END OF EXHIBIT "B"

EXHIBIT "C"

INTEREST TO BE CONVEYED AN APARTMENT BUYER: The Condominium Declaration provides that the undivided interest in the common elements appurtenant to each apartment for voting and all other purposes (the "common interest") will be as follows:

<u>Type and Number of Apartments</u>	<u>Apartment Numbers</u>	<u>Percentage of Undivided Interest For Each Apt.</u>	<u>Total Percentage Interest For Each Apt. Type</u>
A-1 (36):	10-101, 10-102, 10-103, 10-104, 11-101, 11-102, 11-105, 11-106, 12-101, 12-102, 12-103, 12-104, 17-101, 17-102, 17-103, 17-104, 18-101, 18-102, 18-103, 18-104, 19-101, 19-102, 19-105, 41-106, 20-101, 20-102, 20-103, 20-104, 25-101, 25-102, 25-103, 25-104, 26-101, 26-102, 26-103, 26-104	1.2513	45.0468
A-2 (36):	10-201, 10-202, 10-203, 10-204, 11-201, 11-202, 11-205, 11-206, 12-201, 12-202, 12-203, 12-204, 17-201, 17-202, 17-203, 17-204, 18-201, 18-202, 18-203, 18-204, 19-201, 19-202, 19-205, 19-206, 20-201, 20-202, 20-203, 20-204, 25-201, 25-202, 25-203, 25-204, 26-201, 26-202, 26-203, 26-204	1.2513	45.0468
B-1 (4):	11-103, 11-104, 19-103, 19-104	1.2383	4.9532
B-2 (4):	11-203, 11-204, 19-203, 19-204	1.2383	<u>4.9532</u>
Grand Total			100.000%

The common interest is based upon the net living area in square feet for that apartment divided by the total net living area of all apartments, rounded off so that the total of all the common interest for all apartments equals 100%.

Each apartment owner will be assessed a share of all common expenses of the Condominium Project equal to the common interest appurtenant to his or her apartment. All expenses pertaining to limited common elements will be assessed in the manner described under the heading LIMITED COMMON ELEMENTS.

Upon a merger of this Condominium Project with one or more projects, as described in this Report under the heading: "K. Project Phases", the combined common expenses of all merged projects will be shared in the following manner. Each of the merged projects will bear a fraction (expressed as a percentage) of the combined common expenses equal to the total number of square feet of apartment net living area contained in the particular project divided by the total number of square feet of apartment net living area contained in all of the merged projects. For example, if this Condominium Project (Phase IV), which contains a total of 59,736 square feet of apartment net living area, were merged with Phases I and II, which contain a total of 170,840 square feet of apartment net living area, the fractional share of the combined common expenses of Phases I, II and IV to be borne by the apartments in Phase IV would be  $\frac{59,736}{230,576}$ , or 25.97% (with minor adjustment).

The share of combined common expenses allocable to an individual apartment within an increment that has been merged with one or more other increments would be calculated by multiplying the percentage of common interest appurtenant to the individual apartment times the fractional share (expressed as a percentage) borne by the increment in which the individual apartment is located, and then adjusting the result to a minor extent to insure that all apartments of the same type in all of the merged Phases have the same percentage share. Thus, using the previous example of a merger between Phases I, II and IV, the share of the combined common expenses for Phases I, II and IV which would be allocated to a Type A-1 or Type A-2 apartment in Phase IV would be 1.2513% times 25.97% or 0.3250% (after minor adjustment). For a Type B-1 or Type B-2 apartment in Phase IV, the share would be 1.2383% times 25.97% or 0.3214% (after minor adjustment).

If all of the increments are developed and merged as presently planned, the share of combined common expenses which will be borne by this Condominium Project will be 15.04%.

END OF EXHIBIT "C"

EXHIBIT "D"

Encumbrances Against Title

1. **TAXES Tax Map Key: MAUI 3-8-77-3 (PORTION)**

For any taxes that may be due and owing and a lien on the parcel of land herein described, reference is hereby made to the Office of the Tax Assessor of the Second Division.

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

3. **CERTIFICATE AND CONSENT**

Dated: December 17, 1980  
Book: 15241  
Page: 456

The Decision and Order referred to in the foregoing Certificate and Consent has been amended by the following:

**ORDER CLARIFYING CONDITION CONTAINED IN DECISION AND ORDER**

Dated: December 11, 1984  
Book: 21453  
Page: 476

4. The terms and provisions of that certain Section 14.12.080 Agreement For Central Maui Areas dated November 3, 1987, made by and between Aina Kihei Development, a partnership existing under and by virtue of Joint Venture Agreement, dated July 1, 1960, "Owner", Aina Kihei Partners, a Hawaii limited partnership, "Applicant", and the County of Maui and its Department of Water Supply, "County", recorded in the Bureau of Conveyances of the State of Hawaii in Book 21469 Page 220, to which reference is hereby made.
5. Conditions as contained in that certain Section 14.12.080 Agreement For Central Maui Areas dated April 11, 1988, made by and amongst Aina Kihei Development, a partnership existing under and by virtue of Joint Venture Agreement, dated July 1, 1960, "Owner", Aina Kihei Partners, a Hawaii limited partnership, "Applicant", and the County of Maui and its Department of Water Supply, "County", recorded in the Bureau of Conveyances of the State of Hawaii in Book 21960 Page 682, to which reference is hereby made.

6. The terms and provisions of that certain Section 14.12.080 Agreement for Central Maui Areas dated August 29, 1988, made by and between Aina Kihei Development, a partnership existing under and by virtue of Joint Venture Agreement, dated July 1, 1960, "Owner", Aina Kihei Partners, a Hawaii limited partnership, "Applicant", and the County of Maui and its Department of Water Supply, "County", recorded in the Bureau of Conveyances of the State of Hawaii in Book 22439 Page 774, to which reference is hereby made.
7. The terms and provisions of that certain Subdivision Agreement (Large Lots) dated September 12, 1988, made by and among Aina Kihei Development, Aina Kihei Partners, and the County of Maui, Department of Public Works, recorded in the Bureau of Conveyances of the State of Hawaii in Book 22460 Page 182, to which reference is hereby made.
8. The terms and provisions of that certain Section 14.12.080 Agreement for Central Maui Areas dated October 5, 1988, made by and between Aina Kihei Development, a partnership existing under and by virtue of Joint Venture Agreement, dated July 1, 1960, "Owner", Aina Kihei Partners, a Hawaii limited partnership, "Applicant", and the County of Maui and its Department of Water Supply, "County", recorded in the Bureau of Conveyances of the State of Hawaii in Book 22626 Page 42, to which reference is hereby made.
9. A fifteen (15) foot building setback line as shown on the survey map of Aina Kihei Partners Large Lot Subdivision prepared by Warren A. Suzuki, Registered Professional Surveyor, Certificate No. 5073 dated March 31, 1988.
10. Portion of Easement "A", 15 feet wide, for waterline transmission purposes, affecting Lot 3-A as shown on the survey map of Aina Kihei Partners Large Lot Subdivision prepared by Warren A. Suzuki, Registered Professional Surveyor, Certificate No. 5073 dated March 31, 1988.
11. **GRANT**  
  
In Favor Of: County of Maui, a political subdivision of the State of Hawaii  
Dated: October 5, 1988  
Book: 22899  
Page: 258  
Purpose: a perpetual non-exclusive right and easement for water supply purposes over, under, across and through Easement "A" (15 feet wide) (also affects other property)

12. Restrictions, covenants and conditions as contained in:

**DECLARATION OF COVENANTS AND RESTRICTIONS**

Dated: June 14, 1989  
Book: 23423  
Page: 682  
to which reference is hereby made

13. The terms and provisions of that certain Phased Development Water Agreement dated July 17, 1989, made by and between Aina Kihei Partners, a Hawaii limited partnership, "Developer", and the Department of Water Supply, County of Maui, "Department", recorded in the Bureau of Conveyances of the State of Hawaii in Book 23481 Page 484, to which reference is hereby made. (also affects other property)

14. **EASEMENT**

In Favor Of: Maui Electric Company, Limited, a Hawaii corporation, and GTE Hawaiian Telephone Company Incorporated, a Hawaii corporation  
Dated: July 18, 1989  
Book: 23609  
Page: 32  
Purpose: Easement to build, etc., pole and wire lines and underground power lines, etc., over, across, through and under a portion of the land herein described

15. The terms and provisions of that certain Subdivision Agreement (Large Lots) dated November 14, 1989, made by and between Aina Kihei Partners, a Hawaii limited partnership, and Aina Kihei Development, a Hawaii limited partnership, "Owners", and the County of Maui, a body politic and corporate and a political subdivision of the State of Hawaii, "County", recorded in the Bureau of Conveyances of the State of Hawaii in Book 23886 Page 55, to which reference is hereby made.

16. The terms and provisions of that certain Agreement for Subdivision Approval (with Requirement for Future Dedication) dated December 7, 1989, made by and between Aina Kihei Partners, a Hawaii limited partnership, "Subdivider", Aina Kihei Development, "Owner", and the County of Maui, through its Department of Public works, and/or its Department of Water Supply, "County", recorded in the Bureau of Conveyances of the State of Hawaii in Book 23980 Page 268, to which reference is hereby made.

17. **EASEMENT**

In Favor Of: Chronicle Cablevision of Hawaii, a division of  
the Chronicle Publishing Company, Inc.  
Dated: January 4, 1990  
Document No. 90-014345

18. **REAL PROPERTY MORTGAGE AND FINANCING STATEMENT**

Mortgagor: Aina Kihei Partners, a Hawaii limited  
partnership  
Mortgagee: First Hawaiian Bank, a Hawaii corporation  
Dated: February 12, 1990  
Document Nos. 90-20743 and 90-20744  
To Secure: \$5,750,000.00  
and any additional advances and other amounts  
secured thereby, all according to the terms of  
that certain promissory note of said  
mortgagor(s) therein referred to

19. **FINANCING STATEMENT**

Debtor: Aina Kihei Partners  
Secured  
Party: First Hawaiian Bank  
Filed On: February 12, 1990  
Document No. 90-20745

20. **FINANCING STATEMENT**

Debtor: James K. Schuler  
Secured  
Party: First Hawaiian Bank  
Filed On: February 12, 1990  
Document No. 90-20746

21. **DECLARATION OF CONDOMINIUM PROPERTY REGIME FOR KIHEI  
VILLAGES PHASE IV**

Dated: February 9, 1990  
Document No. 90-20752  
to which reference is hereby made

Condominium Map No. 1299, to which reference is hereby made.

22. **BY-LAWS OF THE ASSOCIATION OF APARTMENT OWNERS OF KIHEI  
VILLAGES PHASE IV**

Dated: February 9, 1990  
Document No. 90-20753  
to which reference is hereby made

NOTE: The individual units set forth in the aforesaid  
Declaration of Condominium Property Regime are listed in  
Exhibit "B" hereof.

END OF EXHIBIT "D"

EXHIBIT     E    

**ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS**

Estimate of Initial Maintenance Fees:

<u>Apartment</u> Types	<u>Monthly Fee</u> x 12 months = <u>Yearly Total</u>
A-1	\$90.61 x 12 months = \$1,087.32
A-2	\$90.61 x 12 months = \$1,087.32
B-1	\$89.58 x 12 months = \$1,074.96
B-2	\$89.58 x 12 months = \$1,074.96

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

KIHEI VILLAGES PHASE IV  
(80 UNITS)

ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

	<u>MONTHLY</u>	<u>YEARLY TOTAL</u>
MANAGERS APT. EXPENSE	\$ 160.	\$ 1,920.
AUTO ALLOWANCE	11.	132.
MAINTENANCE/REPAIRS	181.	2,172.
SUPPLIES/EQUIPMENT	166.	1,992.
GROUNDS MAINTENANCE	720.	8,640.
T.V. CABLE SERVICE	1,200.	14,400.
ASSOCIATION TELEPHONE	6.	72.
ELECTRIC	181.	2,172.
WATER/SEWER	1,562.	18,744.
MANAGEMENT	560.	6,720.
SALARIES & WAGES	745.	8,940.
PAYROLL TAXES	82.	984.
TDI/WORKER'S COMP.	67.	804.
HEALTH INSURANCE	48.	576.
FIRE/LIABILITY INSURANCE	686.	8,232.
TAX FILING/AUDIT	32.	384.
OTHER PROFESSIONAL SERVICES	12.	144.
CONTINGENCY RESERVE	266.	3,192.
MISCELLANEOUS	11.	132.
	<hr/>	<hr/>
TOTAL	\$6,696.	\$80,352.

I Dick Weaver, CPM, President of Oihana Property Management & Sales, Inc., as managing agent for the condominium project, hereby certify that the above estimates of initial maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

Prepared June 26, 1989

  
\_\_\_\_\_  
Dick Weaver, CPM

END OF EXHIBIT "E"

EXHIBIT "F"

WARRANTY OF COMPLETION OF CONSTRUCTION IN SUBSTANTIAL  
CONFORMITY WITH APPROVED PLANS AND SPECIFICATIONS

Property Location:

Purchaser(s)/Owner(s):

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

For good and valuable consideration the undersigned Warrantor hereby warrants to the Purchaser(s) or Owner(s) identified in the caption hereof, and to his (their) successors or transferees, that:

The dwelling located on the property identified in the caption hereof is constructed in substantial conformity with the plans and specifications (including any amendments thereof, or changes and variation therein) which have been approved in writing by the Federal Housing Commissioner or the Administrator of Veterans Affairs on which the Federal Housing Commissioner or the Administrator of Veterans Affairs based his valuation of the dwelling: Provided, however, that this warranty shall apply only to such instances of substantial nonconformity as to which the Purchaser(s)/Owner(s) or his (their) successors or transferees shall have given written notice to the Warrantor at any time or times within: (a) with respect to the dwelling unit, one (1) year, and (b) with respect to the common elements, two (2) years from the date of the original conveyance of title to such Purchaser(s)/Owner(s) or the date of initial occupancy of the dwelling, whichever first occurs: Provided further, however, that in the event the Purchaser(s)/Owner(s) acquired title to the captioned property prior to the completion of construction of the dwelling thereon, such notice of nonconformity to the Warrantor may be given at any time or times within: (a) with respect to the dwelling unit, one (1) year, and (b) with respect to the common elements, two (2) years from the date of completion or initial occupancy of such dwelling, whichever first occurs.

The term "dwelling" as used herein shall be deemed to include all improvements or appurtenances set forth in the plans and specifications upon which the Federal Housing Commissioner or the Administrator of Veterans Affairs has based his valuation of the property, excepting those constructed by a municipality or other governmental authority.

This warranty shall be in addition to, and not in derogation of, all other rights and privileges which such Purchaser(s)/Owner(s) may have under any other law or instrument, and shall survive the conveyance of title, delivery of possession of the property, or other final settlement made by the Purchaser(s)/Owner(s), and shall be binding on the Warrantor notwithstanding any provision to the contrary contained in the contract of purchase or other writing executed by the Purchaser(s)/Owner(s) heretofore or contemporaneously with the execution of this agreement or prior to final settlement.

IN TESTIMONY WHEREOF, the Warrantor has signed and sealed this warranty this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
(Warrantor's Address) By \_\_\_\_\_ (Seal)  
Warrantor (Signature and Title)

This warranty is executed for the purpose of inducing the Federal Housing Commissioner or the Administrator of Veterans Affairs to make, to guarantee or to insure a mortgage on the captioned property, and the person signing for the Warrantor represents and verified that he is authorized to execute the same by the Warrantor and by his signature the Warrantor is duly bound under the terms and conditions of said warranty.

WARNING

Section 1010 of Title 18, U.S.C., "Federal Housing Administration transactions," provides: "Whoever, for the purpose of--influencing in any way the action of such Administration--makes, passes, utters, or publishes any statement, knowing the same to be false--shall be fined not more than \$3,000 or imprisoned not more than two years, or both." Other Federal Statutes provide severe penalties for any fraud as intentional misrepresentation made for the purpose of influencing the issuance of any guaranty or insurance or the making of any loan by the Administrator of Veterans Affairs.

NOTICE TO PURCHASER: ANY NOTICE OF NONCONFORMITY MUST BE DELIVERED TO THE WARRANTOR NO LATER THAN \_\_\_\_\_, as to the dwelling unit, and \_\_\_\_\_, as to the common elements. (Warrantor shall insert date 1 year or 2 years from initial occupancy, date of conveyance of title or date of completion, whichever event is applicable.)

Receipt of this warranty is acknowledged this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

END OF EXHIBIT "F"

## EXHIBIT "G"

### SUMMARY OF PERTINENT PROVISIONS OF THE SALES CONTRACT

The Sales Contract sets forth the time for and the amount of all payments toward the purchase price and all costs which are the purchaser's obligation. Prior to the issuance of a Final Report, the sales contract operates as a reservation only and may be cancelled by either Developer or Purchaser. A separate written affirmation of the sales contract must be signed by both parties after the final report is issued to convert the reservation into a binding contract. The documents also provide, in effect, that a Purchaser shall be entitled to a refund of his or her funds, and escrow shall make such refund if:

(a) Escrow receives a written request from Developer to return to purchaser the funds of such purchaser then held by Escrow; or

(b) If a purchaser's funds were obtained prior to the issuance of a Final Public Report and a request for refund is made prior to the issuance of the Final Public Report or prior to the time the parties sign a separate written affirmation of the Sales Contract; or

(c) If a purchaser's funds were obtained prior to the issuance of a Final Public Report, and, the purchaser notwithstanding the execution by the parties of a written affirmation of the Sales Contract, exercises his or her right to cancel the Sales Contract at a time prior to the earlier of (1) the conveyance of the apartment to the purchaser, or (2) midnight of the thirtieth (30th) day following the date of delivery of the Final Public Report, provided that the purchaser has not previously waived his or her right to cancel; or

(d) If a purchaser's funds were obtained after the issuance of a Final Public Report and the purchaser exercises his or her right to cancel the Sales Contract at a time prior to the earlier of (1) the conveyance of the apartment to purchaser or (2) midnight of the thirtieth (30th) day following the date of delivery of the Final Public Report, provided, however, that the purchaser has not previously waived his or her right to cancel; or

(e) A purchaser cancels the Sales Contract because there is a material change in the Project which directly, substantially and adversely affects the use or value of (1) such purchaser's apartment or appurtenant limited common elements, or (2) those amenities of the Project available for such purchaser's use, unless the purchaser has waived his or her right of cancellation or deemed to have waived such right.

The Sales Contract contains the Developer's promise to complete the Project no later than two years from the date that a Final Public Report is issued. The 2-year period is subject to extensions of time for the occurrence of events outside of the Developer's control which make performance by the Developer within this period impossible as a matter of Hawaii law.

The Sales Contract also provides that by executing a Sales Contract, the purchaser thereby: (1) warrants that he or she has the ability to pay the purchase price for the apartment either from his or her own funds and/or the proceeds of a loan that the purchaser promises he or she can obtain; (2) acknowledges and agrees that obtaining such

a loan is the purchaser's sole responsibility, even if the Developer has made arrangements with a lender generally to provide financing; and (3) acknowledges and agrees that all mortgage liens and other security interests obtained by the construction lender in connection with a construction loan (as well as any extensions, renewals and modifications of that loan) will be and remain at all times a lien or charge on the Project prior and superior to any and all liens or charges arising from the Sales Contract or any other sale and/or reservation agreement with the purchaser. In addition, the specimen Sales Contract contains provisions which: (1) permit the Developer to keep the purchaser's payment deposits under certain circumstances if the Developer cancels a contract due to purchaser's default; (2) provide for "preclosing" of the Sales Contract; (3) provide the Developer with certain rights to modify the Condominium Documents; (4) provide that all interest earned on purchaser's funds will belong to the Developer; (5) limit warranties the purchaser will receive; (6) limit assignment of the Sales Contract; and (7) cover many other important matters that are not described in this Report.

By executing a Sales Contract, each prospective purchaser will consent and agree to the incremental development of this overall Project and the merger of this Project with other increments and will consent and agree to execute such additional documents and to do such other things necessary therefor. Purchaser's execution of a Sales Contract shall operate as an appointment of the Developer as a purchaser's attorney-in-fact to execute such documents and do such other things as are necessary or convenient for the incremental development of the overall project.

END OF EXHIBIT "G"

EXHIBIT "H"  
ESCROW AGREEMENT SUMMARY

The Escrow Agent sets forth that the Escrow Agent for the Kihei Villages Phase IV condominium project is Security Title Corporation, as such Security Title Corporation will be responsible for the handling of purchase money for the apartment sales. The Escrow Agreement establishes how the proceeds from the sale of the apartments are placed in trust, as well as the retention and disbursement of this trust fund. According to the Agreement, down payment funds may not be released from escrow for the payment of development and construction costs, even though such use is permitted under Horizontal Property Act.

The Escrow Agreement also sets forth the duties and responsibilities of the Escrow Agent with respect to closing apartment sale transactions. Among other things the Escrow Agent shall be responsible for:

- (a) coordinating with the mortgage lenders of various purchasers, especially those primary institution(s) which have issued commitments to make apartment purchase money loans;
- (b) coordinating with title search and title insurance companies to see that the requisite title searches and title insurance documents are obtained to effect closings;
- (c) coordinating the signing of documents in connection with "pre-closing" and actual "closing";
- (d) handling the recordation of all documents which must be recorded; and
- (e) handling the disbursement of funds in connection with the closing of apartment sales.

END OF EXHIBIT "H"

EXHIBIT "I"

KIHEI VILLAGES  
ESTIMATED MAINTENANCE FEES UPON MERGER OF PHASES

<u>Merger of Phases I &amp; II</u>	<u>Per Unit Share (%)</u>	<u>Monthly Maintenance Fee (Estimated)</u>
A Units = 208	0.4390	<u>\$82.37</u>
B Units = 20	0.4344	<u>\$81.51</u>
 <u>Merger of Phases I, II &amp; IV</u>		
A Units = 280	0.3250	<u>\$75.17</u>
B Units = 28	0.3214	<u>\$74.33</u>
 <u>Merger of Phases I, II, III &amp; IV</u>		
A Units = 344	0.2662	<u>\$78.87</u>
B Units = 32	0.26335	<u>\$78.00</u>
 <u>Merger of Phases I, II, III, IV &amp; V</u>		
A Units = 408	0.2215	<u>\$76.59</u>
B Units = 44	0.21882	<u>\$75.67</u>
 <u>Merger of Phases I, II, III, IV, V &amp; VI</u>		
A Units = 480	0.1884	<u>\$75.02</u>
B Units = 52	0.1840	<u>\$73.30</u>

EXHIBIT "J"

LAND COURT SYSTEM

REGULAR SYSTEM

RETURN BY: MAIL ( ) PICKUP ( ) TO:

DECLARATION OF COVENANTS AND RESTRICTIONS  
(Long-Term Residential Use)

THIS DECLARATION OF COVENANTS AND RESTRICTIONS (hereinafter called the "Declaration") is made as of June 14, 1989, by ROY K. P. CHONG, husband of Elizabeth A. Chong, and JACK K. TSUKAMOTO, husband of Masa Tsukamoto, individually and as Trustees for AINA KIHEI DEVELOPMENT, a Hawaii limited partnership, whose principal place of business and post office address is 1960 Paula Drive, Honolulu, Hawaii 96816 (hereinafter called "Declarant"), at the request and with the consent and approval of AINA KIHEI PARTNERS, a Hawaii limited partnership, whose principal place of business and post office address is Suite 1060, 1001 Bishop Street, Honolulu, Hawaii 96813 (hereinafter called "Developer").

W I T N E S S E T H :

WHEREAS, Declarant is the fee owner of certain property in Pulehunui, Waiakoa, Maui, Hawaii, more particularly described in Exhibit A attached hereto and incorporated herein by reference (TMK: 3-8-04:portion of 19), hereinafter called the "Lot"; and

WHEREAS, Declarant is the limited partner of Developer which intends to develop, construct and sell condominium apartments on the Lot; and

WHEREAS, the Lot is Phase 4 of a multi-family condominium development being developed in phases by Developer, which development is known as "Kihei Villages"; and

WHEREAS, Phases 1 and 2 of Kihei Villages, which are located on property adjacent to the Lot, have been constructed, sold to and occupied by third-party purchasers; and

WHEREAS, Phase 3 of Kihei Villages will be developed after Phase 4; and

WHEREAS, Developer has submitted plans for building permits for Phase 4 of Kihei Villages; and

WHEREAS, the Kihei Sewer Treatment Plant is operating close to its design capacity of 4.0 million gallons per day, and connection to the Kihei Sewer Treatment Plant is regulated by Ordinance No. 1787 (1988); and

WHEREAS, Ordinance No. 1787 (1988) allows the County Council to waive the application of the Ordinance for a project that will be used for long-term residential purposes, and allow such project to utilize a portion of the unallocated current capacity of the Kihei Sewer Treatment Plant; and

WHEREAS, Declarant and Developer desire that Phase 4 of Kihei Villages, as described in Exhibit A, be allowed to be connect unto the Kihei sewer system and utilize current capacity pursuant to Ordinance No. 1787 (1988) and are willing to set forth their commitment to develop Phase 4 of Kihei Villages as or for a long-term residential development or purpose;

WHEREAS, such restriction is intended to run with and bind the Lot and all future owners and lessees thereof, including but not limited to the Declarant and Developer.

NOW, THEREFORE, Declarant and Developer hereby declare that the Lot shall hereafter be held, sold, conveyed, encumbered, leased, occupied and improved, subject to the limitations, covenants, conditions and restrictions set forth below, all of which are established, declared and agreed to be for the purpose of enhancing and protecting the desirability and attractiveness of the Lot and all of which limitations, restrictions, covenants and conditions shall, except as provided hereinbelow, run with the land and be binding upon all persons who now have or who may later acquire any right, title or interest of any nature in and to the Lot or any portion thereof, and their respective heirs, personal representatives, successors and assigns.

**Declaration of Long-Term  
Residential Development and Purpose**

1. Notwithstanding anything contained in any other document or agreement pertaining in any way, directly or indirectly, to the Lot, any single-family or multi-family residential unit constructed in or on the Lot, or any portion thereof, shall be initially sold, assigned or transferred by Developer only to a person(s) who shall occupy the residential unit as his/her/its/their personal residence as evidenced by execution of an owner-occupant affidavit (hereinafter called "Initial Buyer").
2. The sales prices for the residential units constructed in or on the Lot (Phase 4 of the Kihei Villages Project) to be sold by the Developer to the Initial Buyers shall range from \$95,900 to \$106,900, but cannot exceed \$106,900.
3. Any Initial Buyer and his/her/its/their heirs, personal representatives, successors and assigns, may sell, assign or transfer his/her/its/their residential unit to a person(s) who shall occupy the residential unit or lease the residential unit for a continuous period of six (6) months or more per year.
4. Any Initial Buyer and his/her/its/their heirs, personal representatives, successors and assigns, may sell, assign or transfer his/her/its/their residential unit at any time for any sales price without regard to the limitations provided in paragraph 2 above, which limitations apply only to the Developer.
5. The County of Maui shall have:
  - a. the right to enforce this Declaration in any manner allowed by law, including, but not limited to, the right to injunctive relief (without having to post a bond);
  - b. the right to an order granting authority in favor of the County to terminate or limit sewer connection to and from the unit of any owner (including Developer so long as Developer owns the unit) that breaches or violates the terms of this Declaration, and such owner waives any legal and equitable claim against the County for any damage, loss or liability that may be caused by the termination of sewer connection to such owner's unit.

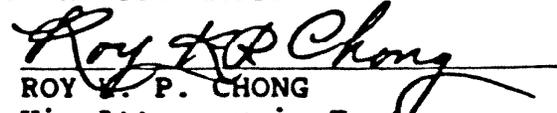
6. This Declaration may be amended with the approval of the Council of the County of Maui by way of a resolution.

7. Notwithstanding the foregoing, this Declaration shall be subordinate to any mortgage now or hereafter placed on the Lot, made in whole or in part to finance the development or construction of Phase 4 of Kihei Villages or to finance the purchase of a residential unit in Phase 4 of Kihei Villages. Any residential unit may be leased or rented during the foreclosure proceedings. Any purchaser at foreclosure of such mortgage or any grantee of a deed in lieu of foreclosure, and their heirs, personal representatives, successors and assigns, shall acquire the Lot or residential unit, as applicable, free and clear of paragraphs 1 and 2 of this Declaration and shall nevertheless be entitled to the sewer capacity allocated to Phase 4 of the Kihei Villages Project so long as such purchaser or grantee, their heirs, personal representatives, successors and assigns, shall occupy the residential unit(s) or lease the residential unit(s) for a continuous period of six (6) months or more per year, or shall hold the residential units for sale or lease to persons who shall occupy the residential units for a continuous period of six (6) months or more per year. Such purchaser or grantee, their heirs, personal representatives, successors and assigns, shall have the same rights and obligations to sell, assign or transfer his/her/its/their residential unit(s) as that of an Initial Buyer as provided in paragraphs 3 and 4 above.

IN WITNESS WHEREOF, Declarant and Developer have executed this instrument as of the date and year first above written.

  
ROY K. P. CHONG

JACK K. TSUKAMOTO

By   
ROY K. P. CHONG  
His Attorney-in-Fact

Individually and as Trustees for  
AINA KIHEI DEVELOPMENT

"Declarant"

AINA KIHEI PARTNERS

By JPS HAWAII, INC.

By Michael Jones  
Its VICE-PRESIDENT

"Developer"

STATE OF HAWAII )  
  : SS.  
CITY AND COUNTY OF HONOLULU )

On this 9th day of June, 1989, before me personally appeared ROY K. P. CHONG, individually and as Trustee for Aina Kihei Development, a Hawaii limited partnership, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed, individually and as such Trustee.

Samuel Sakeluta  
NOTARY PUBLIC, State of Hawaii.

My commission expires: 12-29-89

STATE OF HAWAII )  
 : SS.  
CITY AND COUNTY OF HONOLULU )

On this 9th day of June, 1989, before me personally appeared ROY K. P. CHONG, to me known to be the person who executed the foregoing instrument as attorney in fact for JACK K. TSUKAMOTO, individually and as Trustee for Aina Kihei Development, a Hawaii limited partnership, under Special Power of Attorney dated November 1, 1988, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 22752, Page 338, and acknowledged that he executed the same as the free act and deed of said JACK K. TSUKAMOTO, individually and as such Trustee.

  
NOTARY PUBLIC, State of Hawaii.

My commission expires: 12-29-89

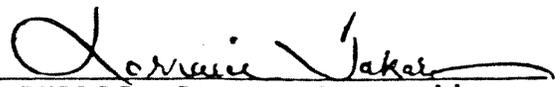
STATE OF HAWAII )  
 : SS.  
CITY AND COUNTY OF HONOLULU )

On this 14th day of June, 1989, before me appeared Michael T. Jones, to me personally known, who, being by me duly sworn, did say that he is the

Vice President of JPS HAWAII, INC., a Hawaii corporation, the general partner of AINA KIHEI PARTNERS, a Hawaii limited partnership, that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and in

behalf of said partnership, and said Michael T. Jones acknowledged said instrument to be the free act and deed of said corporation and said partnership.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

  
NOTARY PUBLIC, State of Hawaii.

My commission expires: 6-20-93

**Aina Kihei Partners Large-Lot Subdivision  
Description of Lot 3-A**

Land situated southwesterly of Piilani Highway, F.A.P. No. R.F.-031-1(5) and southerly of Uwapo Road at Pulehunui, Waiakoa, Kihei, Maui, Hawaii

Being a portion of Lot 3 of the Aina Kihei Partners Large-Lot Subdivision, being also a portion of L.P. 8140, L.C. Av. 5230 to Keaweama (Certificate of Boundaries No. 47)

Beginning at a point at the northwest corner of this lot, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU-O-KALI" being 18,066.51 feet North and 25,022.06 feet West and running by azimuths measured clockwise from True South:

- |    |      |     |     |   |
|----|------|-----|-----|---|
| 1. | 269° | 12' | 30" | 651.68 feet along Lots 1 and 2 of the Aina Kihei Partners Large-Lot Subdivision to a point; |
| 2. | 359° | 12' | 30" | 90.72 feet along Lot 1 of the Aina Kihei Partners Large-Lot Subdivision to a point;         |
| 3. | 329° | 48' | 30" | 112.48 feet along same to a point;  |
| 4. | 89°  | 12' | 30" | 677.33 feet along the Pulehunui-Waiakoa boundary to a point;                                |
| 5. | 179° | 12' | 30" | 83.23 feet along Lot 3-C of the Aina Kihei Partners Large-Lot Subdivision to a point;       |
| 6. | 89°  | 12' | 30" | 29.57 feet along same to a point;   |
| 7. | 179° | 12' | 30" | 105.48 feet along same to the point of beginning and containing an area of 2.829 acres.     |

**EXHIBIT A**