



**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

KAPALAMA MAKAI  
 1514 Dillingham Boulevard  
 Honolulu, Hawaii 96817

Registration No. 2217 (Conversion)

Issued: September 14, 1990  
 Expires: October 14, 1991

Report Purpose:

This report is based on information and documents submitted by the developer to the Real Estate Commission as of August 21, 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:** (yellow) The developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report. A Final Public Report will be issued when complete information is filed.

**FINAL:** (white) The developer has legally created a condominium and has filed complete information with the Commission.  
 No prior reports have been issued  
 Supersedes all prior public reports  
 Must be read together with \_\_\_\_\_

**SUPPLEMENTARY:** (pink) Updates information contained in the  
 Prelim. Public Report dated \_\_\_\_\_  
 Final Public Report dated \_\_\_\_\_  
 Supp. Public Report dated \_\_\_\_\_  
 And  Supersedes all prior public reports  
 Must be read together with \_\_\_\_\_  
 This report reactivates the \_\_\_\_\_  
 public report(s) which expired on \_\_\_\_\_

Disclosure Abstract: Separate Disclosure Abstract on this condominium project

Required       Not Required - disclosures covered in this report.

Summary of Changes fr 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.

[x] Changes made are as follows:

1. Title to the property is now held by Savio Development Co., Inc., a Hawaii corporation, as Lessee, by instrument dated February 26, 1990, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii, as Document No. 1731307.

2. The Declaration, Condominium File Plan and By-Laws have been filed as referred to on page 7 hereof.

3. The following pages of the Declaration have been revised: 1, 2, 3, 7, 13, 14 and Exhibit "A".

4. The following pages of the By-Laws have been revised: 1, 2, 12, 13, 14, 15, 20, 27, 28, 29, 30, 37, 54 and Exhibit "A".

5. The following pages of the Specimen Apartment Lease have been revised: 1, 2, 4 and 9.

6. The property is subject to those liens referred to on page 15 hereof.

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\* Apartment Lease

## 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.

**MEMORANDUM 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>Lana/Patio (sf)</u>
<u>A</u>	<u>46</u>	<u>2/1</u>	<u>609</u>	<u>N/A</u>
<u>B</u>	<u>6</u>	<u>2/1</u>	<u>685</u>	<u>N/A</u>
<u>C</u>	<u>1</u>	<u>3/1</u>	<u>696</u>	<u>N/A</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Total Apartments: 53

*\*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>53</u>
Guest Stalls	_____
Unassigned Stalls	_____
Extra Stalls Available for Purchase	_____
Other: _____	_____
<b>Total Parking Stalls</b>	<b><u>53</u></b>

7. Recreational amenities: None

PEOPLE CONNECTED WITH THE PROJECT

Developer: Savio Development Co., Inc.  
Name  
931 University Avenue, Suite 202  
Business Address  
Honolulu, Hawaii 96826

Phone: (808) 942-7701  
(Business)

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

Peter B. Savio, Director, President and Treasurer  
Phyllis D. Savio, Secretary  
\_\_\_\_\_  
\_\_\_\_\_

Real Estate  
Sales Agent: Savio Realty, Ltd.  
Name  
931 University Avenue, Suite 202  
Business Address  
Honolulu, Hawaii 96826

Phone: (808) 942-7701  
(Business)

Escrow: Title Guaranty Escrow Services, Inc.  
Name  
235 Queen Street, First Floor  
Business Address  
Honolulu, Hawaii 96813

Phone: (808) 521-0211  
(Business)

Managing  
Agent: Chaney, Brooks & Company  
Name  
606 Coral Street  
P. O. Box 212  
Business Address  
Honolulu, Hawaii 96810

Phone: (808) 544-1600  
(Business)

Attorney for  
Developer: Foley Maehara Judge Nip & Chang  
Name (Attn: Edward R. Brooks, Esq.)  
737 Bishop Street, Suite 2700  
Business Address  
Honolulu, Hawaii 96813

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

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

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

The Declaration for this condominium is:

Proposed  
 Recorded - Bureau of Conveyances - Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court - Document Number 1751906

Amendment date(s) and recording/filing information:

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

The Condominium Map for this condominium project is:

Proposed  
 Recorded - Bureau of Conveyance Condo Map No. \_\_\_\_\_  
 Filed - Land Court Condo Map No. 802

Amendment date(s) and recording/filing information:

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

The Bylaws for this condominium are:

Proposed  
 Recorded - Bureau of Conveyances - Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court - Document Number 1751907

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 lanes, keeping of pets, and occupancy limits. These rules must be followed by owners, tenants, and guests. They do not need to be recorded or filed to be effective. The initial house rules are usually adopted by the developer.

The House Rules for this condominium are:

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

E. Changes to Condominium Documents

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

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

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



**B. Underlying Land:**

Address: 1514 Dillingham Boulevard Tax Map Key: 1-5-027-036  
Honolulu, Hawaii 96817 (TMK)

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

Land Area: 38,557  square feet  acre(s) Zoning: A-1

Fee Owner: Trustees Under the Will and of  
the Estate of Bernice Pauahi Bishop, Deceased  
Name

Kawaiahao Plaza, 567 South King Street, Suite 200  
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: 1 Floors Per Building 3

Exhibit D contains further explanations.

3. Principal Construction Material:

Concrete  Hollow Tile  Wood

Other \_\_\_\_\_

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>53</u>	<input type="checkbox"/> Agricultural	_____
<input type="checkbox"/> Timeshare/Hotel	_____	<input type="checkbox"/> Recreational	_____
<input type="checkbox"/> Other: _____			_____

5. Social Use Restrict

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:

No livestock, poultry, rabbits, pets or other animals whatsoever

Pets without the prior written consent of the Board of Directors

Number of Occupants: \_\_\_\_\_

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

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Total Apartments 53

Elevators \_\_\_\_\_

Stairways \_\_\_\_\_

Trash Chutes \_\_\_\_\_

<u>Apt Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)</u>	<u>Lanal/Patio (sf)</u>
<u>A</u>	<u>46</u>	<u>2/1</u>	<u>609</u>	<u>N/A</u>
<u>B</u>	<u>6</u>	<u>2/1</u>	<u>685</u>	<u>N/A</u>
<u>C</u>	<u>1</u>	<u>3/1</u>	<u>696</u>	<u>N/A</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:** The interior surface of the perimeter walls, floors and ceilings of each of the fifty-three apartments of the Project.

**Permitted Alterations to Apartments:**

See Exhibit E

7. Parking Stalls:

Total Parking Stalls: 53

	<u>Regular</u>		<u>Compact</u>		<u>Tandem</u>		<u>TOTAL</u>
	<u>covered</u>	<u>open</u>	<u>covered</u>	<u>open</u>	<u>covered</u>	<u>open</u>	
Assigned (for individual units)				53			
Guest				0			
Unassigned				0			
Extra Available for Purchase				0			
Other:							
Total							
Covered & Open				53			

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 \_\_\_\_\_ 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: \_\_\_\_\_

9. Present Condition of Apartments  
 (For conversion of residential apartments in existence for at least five years):

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

No representations are made by the Developer regarding the condition and expected useful life of structural components, mechanical or electrical installments.

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

See Exhibit G

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	<u>  X  </u>	<u>          </u>	<u>          </u>
Structures	<u>          </u>	<u>  X  </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.

\*Please refer to the Disclosure Abstract which is a part of this filing and to Exhibits G and O

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 H 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 \_\_\_\_\_

as follows:

1. One (1) parking stall, bearing the same number as the number of the apartment.
2. One (1) mailbox, bearing the same number as the number of the apartment.

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 I 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 J describes the encumbrances against the title contained in the title report dated August 3, 1990 and issued by Title Guaranty of Hawaii, Inc.

Blanket Liens:

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

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

[xx] 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>
First Mortgage and Assignment of Rentals dated May 16, 1990, made by Savio Development Co., Inc., in favor of First Hawaiian Creditcorp, Inc.	The Mortgage will be released on an apartment by apartment basis.

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: Chaney, Brooks & Company

[ x ] 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     K     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 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:

See Exhibit L

2. Appliances:

See Exhibit L

J. Status of Construction Estimated Completion Date:

Existing building. No major renovation or alteration contemplated.

K. Project Phases:

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

Summary of Developer's Present Plans for Future Development:

L. Sales Documents Filed With the Real Estate Commission:

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

Notice to Owner Occupants

Specimen Sales Contract

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

Escrow Agreement dated     March 27, 1990 with Title Guaranty Escrow Services, Inc.    

Exhibit     N     contains a summary of the pertinent provisions of the escrow contract.

Other \_\_\_\_\_

IV. ADDITIONAL INFORMATION NOT COVERED ABOVE

None

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

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

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

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

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

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

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

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

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

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

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

1. Condominium Public Reports issued by the Hawaii Real Estate Commission.
2. Declaration of Condominium Property Regime and Condominium Map.
3. Bylaws of the Association of Apartment Owners.
4. House Rules.
5. Escrow Agreement.
6. Hawaii's Condominium Law (Chapter 514A, HRS, as amended; Hawaii Administrative Rules, Chapter 16-107, adopted by the Real Estate Commission).
7. Other \_\_\_\_\_

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

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

This Public Report is a part of Registration No. 2217 filed with the Real Estate Commission on March 29, 1990

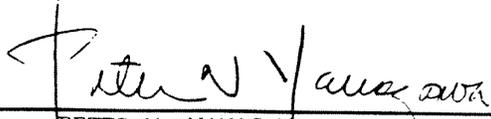
Reproduction of Report. When reproduced, this report must be on:

yellow paper stock

white paper stock

pink paper stock

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

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

Distribution:

Bureau of Conveyances  
Department of Finance, City and County of Honolulu  
Planning Department, City and County of Honolulu  
Federal Housing Administration  
Escrow Agent

## EXHIBIT A

### DEVELOPER'S RESERVED RIGHTS TO CHANGE CONDOMINIUM DOCUMENTS

The following provisions in the Declaration, By-Laws and the sales contracts, as indicated, reflect those rights which the Developer has reserved to change the Declaration, Condominium Map, By-Laws and Rules and Regulations ("House Rules"):

#### I. DECLARATION

Paragraph S. Except as otherwise provided herein or in the Act, this Declaration may be amended by a vote of the owners of seventy-five percent (75%) of the interests in the common elements effective only upon the recording of an instrument setting forth such amendment and vote duly executed by such owners or by any two (2) officers of the Association, and with the written consent of the Trustees, which amendment shall be effective upon the filing in the Office; provided, however, that an amendment required to transfer parking stalls pursuant to Section 514A-14 of the Act need only be executed by the owners of the apartments to which and from which such parking stalls are being transferred, and their mortgagee(s), if any, and the Trustees, and such transfer of parking stalls between apartments shall be effective only upon filing such amendment in the Office; provided, further, that the Trustees and the Developer may, at any time prior to the first filing of an apartment lease in the office conveying an apartment to a party not a signatory hereto, amend this Declaration and the By-Laws in any manner as the Trustees and the Developer may deem fit, and specifically, may amend the designation of the parking stalls appurtenant to the apartments.

Paragraph U. In addition to any other rights reserved herein, the Developer reserves the right for itself and its agents until the sale of the last apartment, to maintain development facilities and conduct sales of apartments on and at the Project, including, but not limited to, maintaining model apartments, operating a sales office, conducting advertising, placing signs, using parking spaces and erecting lighting in connection with such sales; provided, however, that the Developer shall not use any apartment (or its limited common elements) with respect to which an apartment lease has been filed (other than in the name of the Developer as lessee); provided, further, that in exercising such right, the Developer shall not interfere with the rights of any apartment owner to the use of, or access to, his apartment or any of the common elements or limited common elements appurtenant thereto.

## II. BY-LAWS

Article II, Section 2. Developer shall be entitled to exercise the powers, vote and/or act for the Association and the Board on all matters until such time as the first conveyance of an apartment of the Project to a party not a signatory hereto. Thereafter, the Developer, as the owner of any unsold apartments, shall be entitled to vote the interest of each such apartment.

## III. APARTMENT SALES CONTRACT

The Developer has filed a specimen sales contract with the Hawaii Real Estate Commission as follows: Deposit Receipt and Sales Contract (Leasehold). Developer, as "Seller" under said sales contract, has reserved the following rights:

Paragraph 17. Seller and the Trustees under the Will and of the Estate of Bernice Pauahi Bishop, Deceased (the "Trustees") shall have, and hereby reserve, the right to modify all documents related to the Project, including the Declaration, By-Laws, Condominium Map, the Apartment Lease, the Rules and Regulations, the Disclosure Abstract, and any exhibits to any such document, to make alterations of the Project (and to modify any of said documents accordingly) to change the configurations of, or to alter the number of rooms of or to decrease or increase the size of, or to change the location of any apartment in accordance with complete plans and specifications therefor prepared by a licensed architect, and to make other changes in the Apartment and other apartments and in the common elements, and to increase or decrease the purchase price of the Apartment or any other apartment in the Project. Seller shall disclose to Buyer all material changes in the Project which directly, substantially and adversely affect the use or value of the Apartment or the common elements.

SURRENDER OF PROPERTY AT END OF TERM  
OR SOONER TERMINATION OF APARTMENT LEASE

Paragraph 31 of the Apartment Lease provides:

31. Lessee will Return the Property at the End of the Term. At the end of the term (or sooner if this Apartment Lease terminates before the end of the term) Lessee will return the Property to the Lessor, with all improvements that have been made to it. The Property must be returned to the Lessor in good condition except for normal wear and tear.

EXHIBIT C

SCHEDULE OF MONTHLY  
LEASE RENT FOR EACH APARTMENT

	<u>609 Sq. Ft.</u> <u>Apartments</u>	<u>685 Sq. Ft.</u> <u>Apartments</u>	<u>696 Sq. Ft.</u> <u>Apartments</u>
First Rental Period:	\$205.08	\$230.83	\$233.94
Second Rental Period:	(See Paragraph (b) below)		
Third Rental Period:	(See Paragraph (b) below)		

(a) Rent Periods. For the period commencing on the Effective Date to and including November 30, 2000.

(b) Yearly Rent.

(i) The yearly rent from the Effective Date to and including November 30, 2000 is listed on the first page of this Apartment Lease.

(ii) The yearly rent for the next two (2) successive ten-year periods will be agreed on by the Lessor and Lessee in writing. If the Lessor and Lessee do not come to agreement at least ninety (90) days before the start of the rent term in question, then the rent will be decided by an appraisal procedure described under the caption (e) Appraisal. The rent decided by the appraisal procedure shall not be less than the rent for the last lease year before the rent term in question.

(c) Time and Place for Paying Rent. Each year the Lessee will pay the rent, in advance, in two (2) equal installments. The first installment will be paid January 1; the second installment will be paid July 1. If the Effective Date is not January 1 or July 1, there will be an adjustment in the first rent payment which is payable on the Effective Date. The payment will be made through the Managing Agent of the Project, unless the Lessor directs a different payment method in writing. The Lessor does not have to send rent notices; it is the Lessee's responsibility to remember to pay the rent.

(d) Net Lease. This Apartment Lease is a "net lease" which means that the Lessee pays the rent in addition to all the other payments Lessee promises to make and Lessee pays all the expenses of the Property.

If the rent is decided by appraisal, this is how it will be worked out. The fair market value of the Land of the Project will be decided. In deciding the fair market value, the Land will be treated as though it has no building or other improvements on it, but as though it would be lawful and possible to build the Project and use it for residential condominium apartments. After the fair market value of the Land of the Project is decided, it will be multiplied by eight percent (8%).

This amount will be multiplied by the Lessee's Share to find the rent for this Apartment Lease. The rent for any rent period will never be less than the rent for the preceding rent period.

(e) Appraisal. If the fair market value of the Land must be decided by appraisal, then three (3) impartial real estate appraisers will be used. Lessee will name one (1) appraiser, either individually or through the Association, and give the name to Lessor in writing. The Lessor will name one (1) appraiser and give the name to Lessee in writing. If either Lessee or Lessor does not name an appraiser, the one who has named an appraiser can give the other a ten-day written notice and then ask any state Circuit Court judge on Oahu to name the second appraiser. The first two (2) appraisers will then choose the third. If they do not choose the third appraiser within ten (10) days after the second appraiser is chosen, then either Lessor or Lessee can ask any state Circuit Court judge on Oahu to name the third appraiser. The three (3) appraisers will then decide the fair market value of the Land. A decision made by at least two (2) of the appraisers will be final and binding on Lessor and Lessee. Lessor and Lessee will each pay the fee of the appraiser he named and his own lawyers' fees and one-half (1/2) of the other reasonable costs and expenses of the appraisal.

(f) Rent During Appraisal. If the rent is not decided before the rent period starts the Lessee will pay the same rent as he paid for the preceding rent period. Once the new rent is decided the Lessee will promptly pay the difference, if any.

EXHIBIT D

DESCRIPTION OF BUILDING

The Project consists of one (1) three-story, single-loaded masonry building. There are fifty-three (53) apartments in the Project. The apartments in the building are numbered on each of the three (3) floors from left to right, facing the front of the building. The building has no lanais or basement.

The Project also contains one (1) laundry room equipped with coin operated washers and dryers and one (1) maintenance room.

EXHIBIT E

PERMITTED ALTERATIONS TO APARTMENTS

The By-Laws permit alterations to the apartments as follows:

Article VIII, Section 3(A). Additions, alterations, repairs or improvements to the common or limited common elements of the Project may be made only by or at the direction of the Board, except as provided for in the Declaration. No owner of an apartment may, except with the written consent of the Trustees and the Board, make any alteration, addition, repair or improvement to any of the common elements including, without limitation, common or limited common elements within, encompassing or adjacent to such owner's apartment, except as provided for in the Declaration or if such alteration, addition, repair or improvement shall be required by law.

Article VIII, Section 4. No apartment owner shall do any work which could jeopardize the soundness or safety of the property, reduce the value thereof, or impair any easement or hereditament, nor may any apartment owner add any material structure or excavate any additional basement or cellar, without in every such case the consent of the Trustees, seventy-five percent (75%) of the apartment owners, together with the consent of all apartment owners whose apartments or limited common elements appurtenant thereto are directly affected, being first obtained. Except as may be otherwise provided herein or in the Declaration, no owner shall install any solar energy devices or make any addition or alteration in or to such owner's apartment which may affect the common elements or change the exterior appearance of the Project, without the prior written consent thereto of the Trustees and the Board. The Board shall have the obligation to answer any written request by an apartment owner for approval of a proposed addition or alteration in such owner's apartment within thirty (30) days after such request, and failure to do so within the stipulated time shall constitute a consent by the Board to the proposed addition or alteration.

## EXHIBIT F

### PARKING

The parking stalls are limited common elements for the exclusive use of the owners of the apartments bearing the same numbers as the numbers of the apartments.

The Condominium Property Act (Chapter 514A, Hawaii Revised Statutes) provides that owners shall have the right to change the designation of parking stalls which are appurtenant to their respective apartments by amendment of the Declaration and the respective apartment leases involved, which said amendment need only be signed and approved by the Trustees Under the Will and of the Estate of Bernice Pauahi Bishop, Deceased (the lessor), the owners of the apartments whose parking stalls are being changed, and their respective mortgagees, if any.

The House Rules contain specific provisions about vehicles and parking, which owners should thoroughly understand. The provisions concern requirements and restrictions on vehicle registration by residents with the Board of Directors, Managing Agent or Resident Manager, if any, washing vehicles, storage of personal items in parking stalls, and avoidance of access problems caused by vehicles. The House Rules also address particular problems such as tow-away for unauthorized parking and operation of vehicles while in the Project. Nuisances created by repairs, maintenance, noise and improper or unsafe vehicle operating conditions are prohibited. Owners will be held responsible for violations of parking rules by their lessees, renters or guests.

EXHIBIT G

COMPLIANCE WITH BUILDING  
CODE AND MUNICIPAL REGULATIONS

Paragraph V of the Declaration provides:

The Project may be nonconforming because it contains compact parking stalls rather than standard parking stalls. The Project may also consist of other nonconforming uses or structures for reasons which the Developer is not presently aware of. Therefore, a variance may be required to rebuild in the event of a major casualty. However, to the Developer's knowledge, information and belief, except as otherwise disclosed herein, the Project is in compliance with all ordinances, codes, rules, regulations or other requirements of the City and County of Honolulu in force at the time of its construction, and no variances have been granted from any ordinance, code, rule, regulation or other requirement of the City and County of Honolulu in force at the time of its construction. To the Developer's knowledge, information and belief, based upon a letter from the Department of Land Utilization of the City and County of Honolulu, the land use is conforming and the parcel is conforming.

Developer makes no representation regarding the cost required to cure any violations of the building code or municipal regulations.

EXHIBIT H

DESCRIPTION OF COMMON  
ELEMENTS AND LIMITED COMMON ELEMENTS

I. COMMON ELEMENTS

Paragraph E of the Declaration provides:

One freehold estate is hereby designated in all of the remaining portions of the Project (the "common elements"), which shall include the limited common elements described in paragraph F hereinbelow and all portions of the land and improvements other than the apartments, including the building, the land on which the building is located and all common elements mentioned in the Act which are actually constructed on the land described herein. Said common elements shall include, but shall not be limited to the following:

1. The land described in Exhibit "A".
2. All foundations, columns, girders, beams, floor slabs, supports, unfinished perimeter and load-bearing walls (except for the inner decorated surfaces within each apartment), roofs, stairways, walkways, entrances and exits of said building.
3. All yards, grounds, landscaping, refuse and like facilities, including dumpster pads.
4. All driveways, ramps, parking area entryways and exitways, and the fifty-three (53) parking stalls designated on the Condominium Map.
5. All electrical transformer boxes and rooms, all central and appurtenant installations for services such as power, lights, telephone, gas, hot and cold water lines, television lines, sewage disposal and other utilities (including all pipes, ducts, wires, cables and conduits used in connection therewith, whether located in common areas or in apartments), and all tanks, pumps, motors, fans, ducts and other apparatus and installations existing for, or in the building for common use.
6. The laundry room and maintenance room located on the ground floor of the Project.
7. All corridors and stairways situate within the Project.
8. Any and all other apparatus and installations of common use and all other parts of the property necessary or

convenient to its existence, maintenance and safety, and normally in common use and which are not part of any apartment.

## II. LIMITED COMMON ELEMENTS

Paragraph F of the Declaration provides:

Certain parts of the common elements (the "limited common elements") are hereby set aside and reserved for the exclusive use of certain apartments, which apartments shall have appurtenant thereto exclusive easements for the use of such limited common elements. The limited common elements so set aside for each apartment are as follows:

1. One (1) parking stall, bearing the same number as the number of the apartment.
2. One (1) mailbox located on the Project grounds, bearing the same number as the number of the apartment.

Notwithstanding any provisions herein or in the By-Laws to the contrary, all costs of every kind pertaining to each limited common element, including but not limited to, costs of maintenance, repair, replacements, additions and improvements, shall be charged to and borne entirely by the owner(s) of the apartment(s) to which it is appurtenant. Expenses which are attributable to more than one (1) parking stall or mailbox shall be allocated among the affected parking stalls or mailboxes on a per parking stall or mailbox basis. Any expense which cannot be separately identified or attributed to a limited common element shall be charged as a common expense.

EXHIBIT I

COMMON INTERESTS

Each apartment shall have appurtenant thereto an undivided percentage interest (the "common interest") in all common elements of the Project and in all common profits and expenses of the Project and for all other purposes including voting. The common interest appurtenant to each apartment is set forth in paragraph D.1 to the Declaration.

The common interest and easements shall not be separated from the apartment to which they appertain and shall be deemed to be conveyed, leased or encumbered with such apartment even though such interest or easements are not expressly mentioned or described in the conveyance or other instrument. The common elements shall remain undivided, and no right shall exist to partition or divide any part thereof except as provided by said Condominium Property Act.

The percentage common interest for each apartment is as follows:

<u>Apt. Type</u>	<u>Apt. No.</u>	<u>Percentage Common Interest</u>
A	101, 102, 104, 105, 106, 107, 108, 111, 112, 114, 115, 117, 118, 119, 201, 202, 204, 205, 206, 207, 208, 209, 210, 211, 212, 214, 215, 217, 218, 219, 301, 302, 304, 305, 306, 307, 308, 309, 310, 311, 312, 314, 315, 317, 318 and 319	1.8555%
B	103, 116, 203, 216, 303 and 316	2.0884%
C	110	2.1166%

EXHIBIT J

ENCUMBRANCES AGAINST TITLE

1. Setback (10 feet wide) for building purposes, as shown on the map attached to that certain Lease dated December 1, 1965, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 387577, which Lease was amended by instrument dated February 24, 1969, filed as aforesaid as Document No. 471394, which Lease was by mesne assignments assigned to Savio Development Co., Inc., a Hawaii corporation by instrument dated February 26, 1990, filed as aforesaid as Document No. 1731307 and which was further amended by instrument dated July 18, 1990, filed as aforesaid as Document No. 1751905 (collectively the "Lease").
2. Terms, agreements, reservations, covenants, conditions and provisions contained in Lease.
3. Mortgage dated May 16, 1990 between Savio Development Co., Inc., a Hawaii corporation, as Mortgagor, and First Hawaiian Creditcorp, Inc., a Hawaii corporation, as Mortgagee, filed as aforesaid as Document No. 1731309.
4. Any and all unrecorded existing leases and tenancy agreements.
5. For real property taxes due and payable, refer to Director of Finance, City and County of Honolulu.

EXHIBIT K

KAPALAMA MAKAI ESTIMATED MAINTENANCE BUDGET

1. Total Estimated Monthly Fees  
(See Exhibit K-1 attached): \$ 18,845.00
2. Total Estimated Annual  
Maintenance Fees  
(\$18,845.00 x 12): \$226,140.00
3. Estimated Monthly Cost Per  
Apartment:

<u>Apt. No.</u>	<u>Percentage Common Interest</u>	<u>Estimated Monthly Maintenance Fees</u>
101, 102, 104, 105, 106, 107, 108, 111, 112, 114, 115, 117, 118, 119, 201, 202, 204, 205, 206, 207, 208, 209, 210, 211, 212, 214, 215, 217, 218, 219, 301, 302, 304, 305, 306, 307, 308, 309, 310, 311, 312, 314, 315, 317, 318 and 319	1.8555%	\$144.49
103, 116, 203, 216, 303 and 316	2.0884%	\$162.72
110	2.1166%	\$164.93

KAPALANA MAKAI

Estimate of Maintenance Fee Disbursements:

	<u>Monthly</u> x 12 months =	<u>Yearly Total</u>
<b>Utilities and Services:</b>		
Air Conditioning	n/a	n/a
Electricity		
(x) common elements only		
( ) common elements and apartments	170	2,040
Gas (Laundry Room)	n/a	n/a
Refuse Collection	445	5,340
Telephone	23	276
Water & Sewer	1,155	13,860
<b>Maintenance, Repairs and Supplies</b>		
Building	470	5,640
Grounds	500	6,000
<b>Management</b>		
Management Fee	1,153	13,836
Payroll & Payroll Taxes	1,130	13,560
Office Expenses	270	3,240
<b>Insurance</b>	530	6,360
<b>Reserves</b>	1,800	21,600
<b>Taxes &amp; Government Assessments</b>	20	240
<b>Audit Fees</b>	125	1,500
<b>Other:</b>		
•Lease Rent	<u>11,054</u>	<u>132,648</u>
<b>TOTAL</b>	<b>\$18,845</b> *****	<b>\$226,140</b> *****

We, Chaney, Brooks and Company, as managing agents for the condominium project, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

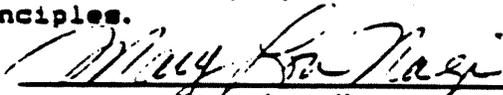
  
 \_\_\_\_\_  
 Mary Lou Nagi  
 Vice President  
 Central Oahu Branch Office  
2 March 1970  
 DATE

EXHIBIT L

CONSTRUCTION WARRANTIES

Paragraph 9(a) of the Deposit Receipt and Sales Contract (Leasehold) used in connection with the Project is entitled "Seller's Disclaimer of Warranties" and provides:

(a) No Warranties of Seller. Buyer understands and agrees that Seller is disclaiming any warranties, either express or implied, including any implied warranties of habitability, merchantability or fitness for a particular purpose, with respect to the Project, the Apartment or anything installed or contained therein. Each apartment will be deemed to be sold "AS IS" with "ALL FAULTS", and Seller will not be liable to Buyer for any construction or other defects, including any latent or hidden defects in the Project, the Apartment or anything installed or contained therein. This means that Buyer will not have the right to file any lawsuit for damages against Seller for any defects later discovered by Buyer.

EXHIBIT M

SUMMARY OF PERTINENT  
PROVISIONS OF SALES CONTRACTS

Developer has filed a specimen sales contract with the Hawaii Real Estate Commission as follows: Deposit Receipt and Sales Contract (Leasehold). Said sales contract provides that the land is being leased to the Apartment Owner, the rent the Apartment Owner is obligated to pay, that the Apartment Owner is required to surrender the property at the end of the Apartment Lease term, and that Apartment Owner has to pre-pay six (6) months of lease rent at the closing date.

Among other provisions contained therein, said sales contract contains the following provisions:

4. SELLER'S CANCELLATION RIGHTS. In addition to any other rights of cancellation or termination reserved to Seller herein, if (a) Buyer's initial deposit check is returned for insufficient funds, (b) Buyer (or any one (1) of them if Buyer is more than one (1) person) should die prior to closing, (c) Seller is not able, using its best efforts, to complete the conversion of the Project for any reason, or (d) Seller, using its best efforts, is unable to sell at least forty percent (40%) of the apartments in the Project on or before July 30, 1990, THEN, in any such event, Seller reserves the right to return Buyer's check or payments, without interest and less the processing and cancellation fee imposed by Escrow Agent and any other actual expenses incurred by reason of Buyer's execution of this Agreement. Until Seller so elects to cancel this Agreement, it shall remain in full force and effect.

5. USE OF ESCROW FUNDS. Seller agrees and Buyer acknowledges that the funds deposited by Buyer with Escrow Agent for the Apartment shall not be released or disbursed by Escrow Agent until the conditions set forth in paragraph 3 of the Condominium Escrow Agreement have been satisfied, including recordation of Buyer's Apartment Lease. Buyer agrees that unless otherwise provided in this Agreement, any interest derived from the deposit of such payments shall be the property of Seller.

7. BUYER'S ACKNOWLEDGEMENTS.

(a) Buyer does hereby acknowledge that Buyer has examined and does hereby approve the form of the Apartment Lease, Declaration and any amendments thereto, By-Laws, House Rules, Seller's Disclosure Abstract, Condominium Escrow Agreement, Preliminary Public Report issued by the Commission, as set forth above, and said plans and specifications, true copies of these documents being on file in the office of the Commission. Buyer

acknowledges that the Condominium Map is intended to show only the layout, location, apartment numbers and dimensions of the apartments and the same is not intended by Seller to contain or to be any other representation or warranty.

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Buyer's Initials

(b) Buyer acknowledges the reservation by Seller of the right for itself and its agents, until the sale of the last apartment, to maintain development facilities and conduct sales of apartments on and at the Project, including, but not limited to, maintaining model apartments, operating a sales office, conducting advertising, placing signs, using parking spaces and erecting lighting in connection with such sales; provided, however, that Seller shall not use any apartment (or its limited common elements) with respect to which an apartment lease has been filed (other than in the name of Seller as lessee); provided, further, that in exercising such right, Seller shall not interfere with the rights of any apartment owner to the use of, or access to, his apartment or any of the common elements or limited common elements appurtenant thereto.

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Buyer's Initials

(c) Buyer acknowledges that Buyer has received and has carefully read a copy of Seller's Disclosure Abstract for the Project, and the exhibits thereto, filed in the office of the Commission. The present condition of the structural components and mechanical and electrical installations material to the use and enjoyment of the Project are described in letters from the Building Department, a structural engineer, electrical engineer, mechanical engineer and architect attached as Exhibit "B" to Seller's Disclosure Abstract. As required by law, Seller has asked the engineers and the architect to give opinions about the condition of the Project. However, Seller does not represent or warrant that the letters are correct or complete. The letters should not be relied upon as the opinion of Seller. No representations are made by Seller with respect to the expected

useful life of the structural components or the mechanical and electrical installations in the Project.

Excerpts from said Exhibit "B" indicate that there is cracking in slab soffit in front of apartment nos. 106, 204, 216, 314 and 316. These may be caused by a combination of thermal effects (afternoon sun on the corridors) and corrosion of the slab reinforcing. This does not appear to be a stress related distress. The spalled material should be removed (safety hazard), the reinforcing corrosion cleaned, and a non-shrink patch applied. At the southeast building corner, the south wall face and east wall face appear to have sealer applied to the CMU joints. Only hairline cracks along the joints are visible. This appears to be more of a moisture problem, not a structural problem. Near the southeast building corner, at the east wall face, the second floor slab has an area which the concrete has spalled off of the reinforcing (over a window). This was caused due to the reinforcing bar having inadequate concrete cover when the slab was constructed. The reinforcing bar should be cleaned and a non-shrink patch and sealer applied to this area.

The vent opening for the gas water heater enclosure in the kitchen area of apartment no. 104 does not meet present code requirements. Because of the age of the Project, the plumbing fixtures will require more frequent replacements and repairs. The unobservable plumbing piping system is anticipated to require above normal repairs in the future. The dryers in the laundry room are gas with the vents going to the exterior wall lint box. Three (3) vent ducts are broken and are not connected.

The building is fed by underground ducts to two (2) fused disconnects. The feeder system appears to be in good condition, although some rust spots are evident and should be brushed and painted. Lighting to all corridors and stairways are exterior and is provided by incandescent fixtures. Two (2) fixture covers are broken and should be replaced.

There are no fire sensors or fire sprinkler system in the laundry room and maintenance storeroom. There is no fire compartmentalization in the maintenance storeroom for storage of paint or other combustibles. Walkways and corridors do not have a consistent level of surface texturing which may make some slippery when wet. The wood storage enclosure under the stairway is not of fire resistant construction. The gate to the backyard does not have self-closer and self-locking features. Hedges prevent visual observation of pedestrians from all parking lot entries. This may be a concern since heavy landscaping and minimal night lighting hinder a driver's view of small children. Apartments are not equipped with sufficient power for washers, dryers and air-conditioning. The apartments are not equipped with fire alarms or smoke detectors. The building fire alarm is a local-sounding system and was not examined as to testing record, operability or adequacy of the system. There are no peep holes in entry doors and no special high-security locksets.

The walkways are 3'-7" wide with 3'-4" high guardrails. It is recommended that they be made 3'-6" high by adding a wood handrail to the top. The opening in the guardrail exceeds 5". The laundry room should be equipped with fire extinguishers. Drainage ditches are not fenced off and the concrete covers are loose enough to cause tripping. The roof access hatch should remain locked. Stairways are 3'-3-1/2" wide. They should be 3'-8" wide with a handrail on both sides that extend 6" past the last riser and end with a safety return. The walkway and stairway lights should illuminate exitways and be switched on by a sensor switch instead of a timer switch. The stairway riser and threads vary more than currently permissible. Some entry doors are high above concrete walkways. The concrete landing should be so that the interior and exterior difference is 1/2" maximum. The Project does not have handicap access, toilet or other provisions currently required for new buildings. There are no ramps from the parking lot to the apartments. There are no loading or guest stalls. The fire extinguisher and fire hose cabinets were not examined. These should be inspected by certified inspectors according to City Ordinance. The sidewalk slab has cracks which could lead to tripping and falls. There are uneven joints and surfaces that could also contribute to tripping or slippery conditions. Uneven night lighting and dirt/fungus accumulation may aggravate the problem. Guardrails should be tested for stability in the horizontal direction and for weathered anchorages. These should be structurally stiffened to support a 50 psf lateral load per UBC Building Code. Termite damage was not investigated but its presence is suspected due to the building's age. Ground termite treatment should be maintained in the manner prescribed by the latest governmental regulations. The stairway lighting level is inadequate. Ceiling acoustical treatment and other building material were not tested for asbestos content. The roofing was not observed. The electric meters are exposed to the weather. Rust is present on electrical panel boxes. The emergency disconnect switch is not easily accessible. No observations were made as to site drainage or flooding. The ground floor apartment slabs are close to the ground so that any sitework that deviates from the original civil engineer's design should be carefully analyzed. There is no storm drainage on surrounding streets. The parking lot does not have accumulations that would suggest site drainage problems. The apartments were not designed for individual washer, dryer or window air conditioning. The addition of these appliances would severely impact the building's capacity to provide for its basic utility needs.

The information set forth in this paragraph 7 is only a summary of the data and recommendations made by the engineers and the architect in said Exhibit "B" and is not intended, nor should it be construed by its incorporation herein, to be a representation or warranty of Seller or more important than any other data or recommendation contained in said Exhibit "B" and not contained herein. Because the Project is being sold by

Seller in "AS IS" condition with "ALL FAULTS". Buyer should carefully review Seller's Disclosure Abstract and Exhibit "B" thereto in their entirety. Furthermore, Buyer should have the Project inspected by Buyer or Buyer's own experts to Buyer's complete satisfaction.

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Buyer's Initials

(d) Seller agrees to deposit with Escrow Agent before the Closing Date the sum of FIFTY-THREE THOUSAND AND NO/100 DOLLARS (\$53,000.00) as a capital improvement fund for the Association of Apartment Owners of Kapalama Makai (the "Association"). The proceeds of the capital improvement fund shall be used by the Association only for capital improvements to the Project. In consideration of Seller's contribution of the foregoing sum, Buyer hereby releases Seller from any continuing or further obligation to the Project.

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Buyer's Initials

8. APARTMENT BEING SOLD "AS IS" WITH "ALL FAULTS". The apartments and the structures which are located at 1514 Dillingham Boulevard were initially constructed in 1967. The Apartment and the Project are now being sold in "AS IS" condition with "ALL FAULTS". This means that Seller shall not correct any defects in the Project, the Apartment or anything installed or contained therein. The existence of any defect in the Project, the Apartment or anything installed or contained therein shall

not excuse Buyer's obligation to perform all of Buyer's obligations under this Agreement.

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Buyer's Initials

9. SELLER'S DISCLAIMER OF WARRANTIES.

(a) No Warranties of Seller. Buyer understands and agrees that Seller is disclaiming any warranties, either express or implied, including any implied warranties of habitability, merchantability or fitness for a particular purpose, with respect to the Project, the Apartment or anything installed or contained therein. Each apartment will be deemed to be sold "AS IS" with "ALL FAULTS", and Seller will not be liable to Buyer for any construction or other defects, including any latent or hidden defects in the Project, the Apartment or anything installed or contained therein. This means that Buyer will not have the right to file any lawsuit for damages against Seller for any defects later discovered by Buyer.

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Buyer's Initials

(b) Seller's Disclaimer as Essential Factor for Low Purchase Price. Buyer acknowledges and agrees that Seller's disclaimer of warranties is an essential element in the determination of the low purchase price for the Apartment being sold to Buyer. This means that the Apartment would not have been

sold to Buyer for the amount of the purchase price stated in this Agreement without Seller's disclaimer of warranties.

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Buyer's Initials

(c) Hazardous Materials and Condition of Project.  
Seller has made no independent investigation as to asbestos or other hazardous substances in the apartments or in, under or around the Project, including but not limited to, radioactive materials, organic compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances, and any and all other substances or materials defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials" or "toxic substances" under, or for the purposes of hazardous materials laws. Buyer acknowledges that there may be asbestos or other hazardous substances in the apartments, or in, under or around the Project. Because of the possible presence of hazardous substances, Buyer and the Association should have the Apartment and the Project inspected to determine the extent of any contamination and any necessary remedial action. This means that Seller will not correct any defects in the apartments or in the Project or anything installed or contained therein and that Buyer expressly releases Seller from any liability to Buyer if any hazardous materials are discovered.

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Buyer's Initials

10. RIGHT OF INSPECTION. Buyer shall inspect the Apartment at such time and on such date as shall be specified by Seller in a written notice to Buyer. Since the Apartment may be occupied by tenants, Buyer might not be able to change the date Seller specifies. Buyer acknowledges that the Apartment is being sold in "AS IS" condition with "ALL FAULTS", and Seller will not correct any defects or deficiencies that Buyer discovers in the Apartment. Buyer agrees to indemnify Seller for damages or losses, including interest and reasonable attorneys' fees.

resulting from Buyer's refusal to accept the Apartment from Seller.

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Buyer's Initials

13. ACTUAL POSSESSION. Delivery of actual possession of the Apartment to Buyer under this Agreement shall be made on or after the Closing Date, subject to the right of Seller to delay Buyer's moving in for a reasonable time to promote the orderly occupation of the Project. Buyer acknowledges that Buyer has been informed that Buyer may not receive actual possession of the Apartment until Buyer has made all the aforementioned payments and until after Buyer has commenced to pay maintenance fees, lease rent, real property taxes and monthly payments with respect to Buyer's mortgage, if any. The delivery of actual possession shall, at Seller's option, be made to apartment purchasers in the order of and according to the dates on which they executed their respective sales contracts. If Buyer fails to confirm the date of delivery of actual possession within five (5) days after notification thereof, Seller, at Seller's sole election, may assign the date for Buyer's taking actual possession to the purchaser next in order of preference.

Notwithstanding anything contained herein to the contrary, Buyer acknowledges that the Apartment may be occupied by tenants and that Seller cannot ensure that such tenants quit the Apartment on or before the Closing Date. Buyer hereby expressly releases Seller from any responsibility to evict any tenant from the Apartment.

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Buyer's Initials

18. BUYER'S RIGHT TO RESCIND. Notwithstanding anything contained in paragraph 17 of this Agreement:

(a) Except for any additions, deletions, modifications and reservations made pursuant to the terms of the Declaration, if there is a material change in the Project which

directly, substantially and adversely affects the use or value of  
(1) Buyer's Apartment or appurtenant limited common elements, or  
(2) those amenities of the Project available for Buyer's use,  
Buyer shall have the right to rescind the sale made under this  
Agreement and to receive a prompt and full refund of any monies  
paid.

(b) Buyer's right of rescission under  
subparagraph (a) above shall be waived upon (1) delivery to  
Buyer, either personally or by registered or certified mail,  
return receipt requested, of a disclosure document which  
describes the material change and contains a provision for  
Buyer's written approval or acceptance of such change, and (2)  
Buyer's written approval or acceptance of the material change, or  
the lapse of ninety (90) days since Buyer has accepted the  
Apartment, or the occupancy of the Apartment by Buyer; provided,  
however, that if Buyer does not rescind this Agreement or execute  
and return the written approval or acceptance of such change as  
provided in the disclosure document within thirty (30) days from  
the date of delivery of such disclosure document, Buyer shall be  
deemed to have approved and accepted such change; provided,  
further, that the deemed approval and acceptance shall be  
effective only if at the time of delivery of the disclosure  
document, Buyer is notified in writing of the fact that Buyer  
will be deemed to have approved and accepted the change upon  
Buyer's failure to act within the thirty (30) day period;  
provided, further, that if, prior to delivery of such disclosure  
document, ninety (90) days have lapsed since Buyer has accepted  
the Apartment, or Buyer has occupied the Apartment, then Buyer's  
right of rescission under subparagraph (a) above shall not be  
waived unless Buyer shall execute the written approval or  
acceptance of such change as provided in the disclosure document  
within thirty (30) days from the date of delivery of such  
disclosure document or Buyer is deemed to have approved and  
accepted such change as set forth above. A copy of the form of  
disclosure document shall be delivered to the Commission prior to  
delivery to Buyer.

#### 19. DEFAULT.

(a) Time is of the essence of this Agreement, and  
if Buyer shall default in any payment when required or fail to  
perform any other obligations required of Buyer hereunder and  
shall fail to cure such default within ten (10) days after  
receipt of written notice thereof from Seller, Seller may, at  
Seller's option, terminate this Agreement by written notice to  
Buyer. In the event of such default, the parties hereto  
understand and agree that in view of (i) Seller's financial  
commitments with respect to the Project, (ii) the connection  
between sales, cancellation or default with respect to one (1)  
apartment and the sale, cancellation or default with respect to  
other apartments in the Project, and (iii) the nature of the real  
estate market in Hawaii, the injury to Seller will be uncertain  
as to nature and amount and difficult to ascertain. As a

reasonable estimate of Seller's damages resulting from such default, the parties agree that the sums paid by Buyer hereunder prior to such default shall belong to Seller as liquidated damages. At Seller's option, Seller may also pursue any other remedy at law or in equity for specific performance, damages or otherwise. All costs, including reasonable attorneys' fees, incurred by reason of default by Buyer shall be borne by Buyer.

(b) If Seller shall default in the performance of any obligation required of Seller hereunder, Buyer shall be entitled to specific performance of this Agreement or Buyer shall have the right to cancel and terminate this Agreement. In the event of such cancellation and termination, Seller shall repay to Buyer all sums paid by Buyer to Seller or Escrow Agent pursuant to the provisions hereof, and, in addition, Seller shall pay Buyer ONE HUNDRED AND NO/100 DOLLARS (\$100.00) as liquidated damages for Seller's default. Buyer expressly waives any right or remedy against Seller which now exists or which hereafter may exist for the default of Seller under this Agreement, except for the foregoing right to specific performance or to cancel and terminate this Agreement, and to receive all sums paid to Seller and Escrow Agent and the sum of ONE HUNDRED AND NO/100 DOLLARS (\$100.00).

21. PRE-PAID ITEMS. Buyer acknowledges that Buyer will be required to prepay: (a) maintenance fees for a period of two (2) months, which amount shall constitute a non-refundable start-up fee to be transferred to the Association for use in paying the initial operating costs of the Project, (b) maintenance fees for a period of two (2) months, which amount shall constitute a contribution to the maintenance reserve fund for the Project pursuant to the Declaration, (c) real property taxes for a period of six (6) months, (d) lease rents for a period of six (6) months in connection with Buyer's undivided interest in the land underlying the Project, and (e) insurance premiums to the extent required by any first mortgage lender. Real property taxes, insurance and maintenance expenses shall be prorated as of the Closing Date or the date of actual possession, whichever sooner occurs. Buyer further agrees that all insurance, maintenance, assessments and other expenses shall also be prorated between Seller and Buyer as of such proration date for real property taxes. Buyer understands and agrees that any amount to be paid by Buyer under this paragraph 21 is in addition to, and is not part of the total purchase price set forth hereinabove.

22. SUBORDINATION. Buyer acknowledges that Seller may enter into agreements with First Hawaiian Creditcorp, Inc., International Savings and Loan Association, Limited and/or any other established financial institution (collectively, "Lender") pursuant to which Lender may loan an aggregate amount not to exceed SEVEN MILLION AND NO/100 DOLLARS (\$7,000,000.00), at an interest rate which shall not be more than thirteen percent (13%) per annum or twenty percent (20%) per annum upon Seller's

default, for a term not to exceed two (2) years. To secure the loan, Seller may grant to Lender security interests covering Seller's interest in the land underlying the Project and the Project, including this Agreement and the property covered by this Agreement. Buyer acknowledges and agrees that all security interests obtained by Lender in connection with such loan as well as any extensions, renewals and modifications thereof, shall be and remain at all times a lien or charge on the Project, including the property covered by this Agreement, prior to and superior to any and all liens or charges on the Project arising from this Agreement. Buyer hereby expressly waives, relinquishes and subordinates the priority or superiority of any lien under this Agreement in favor of the lien or charge on the Project of the security interests of Lender. In confirmation of such subordination, Buyer further undertakes and agrees to execute and deliver promptly any further instrument required by Lender or its successor in interest to evidence such subordination and hereby appoints Seller as Buyer's attorney-in-fact to execute and deliver any such instrument on behalf of Buyer should Buyer refuse or fail to do so within five (5) days after request is made. Buyer also consents to Seller's assignment by way of security of Seller's interests in this Agreement and Buyer's escrow deposits to Lender and agrees that in the event of passage of Seller's interests therein to Lender, Buyer shall attorn to and recognize Lender or its successor in interest as the seller hereunder, with all of the rights of the Seller hereunder, as if Lender were the original seller hereunder.

23. CONDITION TO BINDING EFFECT OF AGREEMENT.

(a) Anything herein to the contrary notwithstanding, this Agreement shall not be binding upon Buyer and any obligation to purchase the Apartment under this Agreement shall not be enforceable against Buyer until:

(1) A true copy of the Commission's Final Public Report on the Project has been delivered to Buyer, either personally or by certified mail with return receipt requested, together with a true copy of all other public reports on the Project, if any, issued prior to the date of such delivery and not previously delivered to Buyer (unless the Final Public Report supersedes all prior public reports or a supplementary public report has been issued which supersedes the Final Public Report and any other public reports, in which case a true copy of the Commission's supplementary public report shall be delivered instead);

(2) Buyer has been given an opportunity to read the reports; and

(3) Two (2) copies of the form of the receipt and notice set forth in Section 514A-62 of the Hawaii Revised Statutes, as amended, have been delivered to Buyer and Buyer (i) executes the receipt and notice, and (ii) waives

Buyer's right to cancel; provided, however, that if Buyer does not execute and return the receipt and notice within thirty (30) days from the date of delivery of such reports, or if the Apartment is conveyed to Buyer prior to the expiration of such thirty-day period, Buyer shall be deemed to have accepted for the reports and to have waived Buyer's right to cancel.

(b) Unless such right has previously been waived pursuant to subparagraph (a) hereinabove, Buyer shall have the right to cancel this Agreement at any time prior to the earlier of (1) the conveyance of the Apartment to Buyer or (2) midnight of the thirtieth (30th) day following the date of delivery of said Final Public Report to Buyer, and, upon any such cancellation, shall be entitled to a prompt and full refund of all monies paid, less any escrow cancellation fee and other costs associated with the purchase up to a maximum of TWO HUNDRED FIFTY AND NO/100 DOLLARS (\$250.00).

24. BUYER'S RECOGNITION OF PERMITTED APARTMENT USES. Buyer acknowledges that the apartments in the Project shall be used only for residential purposes and may not be used as a tenement or rooming house or for or in connection with the carrying on of any business, trade or profession whatsoever. The apartments shall not be rented for transient or hotel purposes, which shall be defined as (i) rental for any period less than thirty (30) days, or (ii) any rental in which the occupants of the apartment are provided customary hotel services. The apartments shall not be sold, leased, rented or used for any "timesharing" or related or similar purpose.

Seller and all entities, persons and agents related to or affiliated with Seller, have no program at this time, nor is any program planned or contemplated, to offer a rental service of any kind to the owners of apartments, either individually or in any form of pooling arrangement, nor have any representations been made by Seller or its agents as to the feasibility of renting the apartments. Purchasers of apartments who desire to rent their apartments must therefore make their own rental arrangements. Buyer hereby acknowledges receipt of written notice that use of the apartments for time-sharing is specifically prohibited in the Project.

Neither Seller nor its agents have made any representation regarding either economic benefits to be derived from rentals or tax treatment of any purchaser of an apartment. The tax treatment and economic benefits may vary with individual circumstances and Seller, and its agents, recommend that Buyer consult Buyer's own attorney, accountant or other tax counsel for advice regarding appropriate tax treatment.

Buyer hereby acknowledges receipt of written notice that Seller has not authorized any agents, salesmen or brokers for the Project to make any representations as to rentals of an apartment, income from an apartment or any other economic benefit

to be derived from the rental of an apartment in said Project, and if any such representations are made, they are hereby expressly disclaimed by Seller.

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Buyer's Initials

25. OWNER-OCCUPANT BUYER ON RESERVATION LIST. If, in accordance with Section 514A-104 of the Hawaii Revised Statutes, as amended, Buyer has executed an affidavit of intent to become an owner-occupant of the Apartment and has deposited ONE HUNDRED AND NO/100 DOLLARS (\$100.00) or other acceptable consideration with Seller to permit Buyer to be put on a reservation list compiled by Seller's broker, the following provisions shall be incorporated into this Agreement:

(a) Notwithstanding anything contained herein to the contrary, this Agreement shall be conditioned upon Buyer obtaining adequate financing, or a commitment for adequate financing, within forty-five (45) calendar days following the end of the ten (10) calendar day period during which Seller is limited to selling to owner-occupants, and if such financing or commitment is not obtained, this Agreement shall be cancelled.

(b) If during the ten (10) calendar day period following the issuance of the first public report for the Project by the Commission, Buyer indicates by written notice to Seller that Buyer desires to cancel this Agreement on account of hardship circumstances such as serious illness of Buyer or a member of Buyer's family, job or military transfer, unforeseeable change in marital status, or the birth of a child, which causes Buyer to be unable to purchase the Apartment, or if Buyer indicates an intent not to become an owner-occupant of such Apartment, Seller shall cancel this Agreement.

(c) Upon the cancellation of this Agreement as provided in this paragraph 25, Seller shall cause Escrow Agent to refund to Buyer all monies paid without interest, less any escrow cancellation fee and other costs incurred by Seller in processing this Agreement; provided, however, that the cancellation shall be approved by any lender financing the Project.

27. AGENCY DISCLOSURE. Savio Realty, Ltd. (the "Broker") and all licensees employed by or associated with Broker represent Seller. Buyer acknowledges that oral or written disclosure of such representation was provided to Buyer prior to the execution hereof. In the event that Buyer is represented by

a cooperating broker or salesperson, Buyer agrees and acknowledges that Broker is not an agent or sub-agent of Buyer's cooperating broker or salesperson.

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Buyer's Initials

EXHIBIT N

SUMMARY OF PERTINENT  
PROVISIONS OF ESCROW AGREEMENT

Among other provisions, the Condominium Escrow Agreement dated March 27, 1990 (the "Escrow Agreement"), executed by and between Title Guaranty Escrow Services, Inc., as Escrow, and Savio Development Co., Inc., as Developer, provides that a purchaser shall be entitled to a return of his funds and Escrow shall pay such funds to such purchaser, without interest, if any one of the following has occurred:

(a) Developer and the purchaser shall have requested Escrow in writing to return to purchaser the funds of purchaser held hereunder by Escrow; or

(b) Developer shall have notified Escrow of Developer's exercise of the option to cancel or rescind the sales contract pursuant to any right of cancellation or rescission provided therein or otherwise available to Developer; or

(c) With respect to a purchaser whose funds were obtained prior to the issuance of the Final Public Report, the purchaser has exercised his right to cancel the sales contract pursuant to Section 514A-62, Hawaii Revised Statutes, as amended; or

(d) A purchaser has exercised his right to rescind the contract pursuant to Section 514A-63, Hawaii Revised Statutes, as amended.

(e) In any of the foregoing events, Escrow shall, upon the occurrence of the event described in subparagraph (a) or (b) above or upon receipt of a written request for a refund from purchaser upon the occurrence of an event described in subparagraph (c) or (d) above, unless the purchaser has waived or has been deemed to have waived the right to a refund, pay said funds to said purchaser (less a cancellation fee of Escrow of not less than TWENTY-FIVE AND NO/100 DOLLARS (\$25.00) per unit or a cancellation fee commensurate with the work done by Escrow prior to such cancellation, whichever fee is greater) and thereupon said sales contract and any conveyance document theretofore delivered to Escrow shall be returned to Developer and shall be deemed no longer held hereunder; provided, however, that no refund shall be made to a purchaser at purchaser's request prior to receipt by Developer of written notice from Escrow of its intent to make such refund.

(f) Notwithstanding any other provision in this Agreement to the contrary, Escrow further agrees to make refunds to purchasers, in accordance with Part VI, Chapter 514A, Hawaii

Revised Statutes, out of the funds then on deposit with Escrow, if Developer and purchaser shall so request in writing and any one of the following events has occurred:

(i) no sales contract has been offered to the purchaser who has been placed on Developer's reservation list of owner-occupant applicants; or

(ii) purchaser has been unable to obtain adequate financing, or a commitment for adequate financing, for his unit within forty-five (45) calendar days following the end of the ten (10) calendar day period during which Developer is limited to selling to owner-occupant; or

(iii) the purchaser desires to cancel the contract on account of hardship circumstances such as those set forth in Section 514A-104(1), Hawaii Revised Statutes; or

(iv) the purchaser indicates an intent not to become an owner-occupant of such unit.

Except for cancellations under subparagraph (i) above, Escrow may deduct from any such refund made to a purchaser a cancellation fee as set forth above.

No disbursement of purchasers' funds held in escrow shall be made unless and until the apartment lease relating to the disbursements have been filed.

EXHIBIT "O"

BUILDING DEPARTMENT  
CITY AND COUNTY OF HONOLULU

HONOLULU MUNICIPAL BUILDING  
630 SOUTH KING STREET  
HONOLULU, HAWAII 96813

FRANK F. FASI  
MAYOR



HERBERT K. MURAOKA  
DIRECTOR AND BUILDING SUPERINTENDENT

Ex88-139

October 14, 1988

Mr. Peter Savio  
Savio Realty, Ltd.  
931 University Avenue, Suite 202  
Honolulu, Hawaii 96826

Dear Mr. Savio:

Subject: Condominium Conversion Project  
1514 Dillingham Boulevard  
Tax Map Key: 1-5-27: 36

This is in response to your letter dated September 27, 1988, requesting verification that the three-story 53-dwelling unit apartment building located at 1514 Dillingham Boulevard met the code requirements when it was constructed.

Investigation revealed that the apartment building with 53 off-street parking spaces met the code requirements when it was constructed in 1967.

No variances or special permits were granted to allow deviations from any applicable codes.

If you have any questions regarding this matter, please contact Mr. Ivan Matsumoto of this office at telephone 527-6341.

Very truly yours,

HERBERT K. MURAOKA  
Director and Building Superintendent

Subscribed and sworn to  
before me this 17th day of  
October, 1988.

Stephen M. A. Chun  
Notary Public, First Judicial Circuit  
State of Hawaii  
My commission expires: 3/21/89

