



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

KALANI MAKAI 46-A-6
 Holualoa, North Kona, Hawaii

Registration No. 2304 (Conversion)

Issued: November 23, 1990
 Expires: December 23, 1991

Report Purpose:

This report is based on information and documents submitted by the developer to the Real Estate Commission as of October 18, 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)

 X **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:

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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>
<u>Apt. A</u>	<u>1</u>	<u>2/2</u>	<u>1,204</u>	<u>208</u>
<u>Apt. B</u>	<u>1</u>	<u>2/2</u>	<u>1,204</u>	<u>208</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Total Apartments: 2

**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>4</u>
Guest Stalls	_____
Unassigned Stalls	_____
Extra Stalls Available for Purchase	_____
Other: _____	_____
Total Parking Stalls	<u>4</u>

7. Recreational amenities:

None

I. PEOPLE CONNECTED WITH THE PROJECT

Developer: JOSEPH ANTHONY BEARTH SUZANNE SHIRLEY BEARTH Name P. O. Box 4117 Business Address Kailua-Kona, Hawaii 96745 Phone: (Business)

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

Real Estate Sales Agent: Lennart H. T. Husen, dba Len Husen Name Box 10 Business Address Captain Cook, Hawaii 96704 Phone: 328-8075 (Business)

Escrow: Title Guaranty Escrow Services, Inc. Name P. O. Box 1837 Business Address Kailua-Kona, Hawaii 96740 Phone: 329-6666 (Business)

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

Attorney for Developer: Ikazaki, Devens, Lo, Youth & Nakano (Attn.: Richard C. Lo, Esq./James H. Q. Lee, Esq.) Name 220 S. King Street, Suite 1600 Business Address Honolulu, Hawaii 96813 Phone: 521-1456

**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 - Document No. 90-142729
 Filed - Land Court - Document Number _____

Amendment date(s) and recording/filing information:

First Amendment dated November 2, 1990 - Recorded Bureau of
Conveyances Document No. 90-178570

- 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. 1373
 Filed - Land Court Condo Map No. _____

Amendment date(s) and recording/filing information:

First Amendment dated November 2, 1990 - Recorded Bureau of
Conveyances Document No. 90-178570

- 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 - Document No. 90-142730
 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>100%</u>
Bylaws	65%	<u>100%</u>
House Rules	---	<u>100%</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:

Provided that no such modification shall: (a) Increase buyer's share of common expenses; (b) increase the cost of the property covered hereby; (c) require a substantial physical change of the building in which the Apartment is situated; (d) reduce the obligations of Developer for common expenses on unsold apartments; (e) substantially impair or modify any of the obligations given or undertaken by Developer.

Developer further reserves the right to make minor changes in the Apartment and other apartments and in the common elements but, except as provided in the Declaration, no changes shall be made which affect the physical location or design of the Apartment or reduce the number of the other apartments or substantially change their design.

B. Underlying Land:

Address: To be designated Tax Map Key: 7-6-24-75
Holualoa, North Kona, Hawaii (TMK)

Address TMK is expected to change because _____

Land Area: 11,640 square feet acre(s) Zoning: RS 10

Fee Owner: Joseph Anthony Bearth
Suzanne Shirley Bearth
Name

P. O. Box 4117
Address

Kailua-Kona, Hawaii 96745

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: 2 Floors Per Building 1

Exhibit _____ 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>2</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:

- [X] Pets No livestock, poultry, rabbits. Dogs, cats and other household pets numbering not more than one (1) allowed.
- [X] Number of Occupants: No more than two persons per bedroom, except if family members no more than three per bedroom
- [] Other: See House Rules and item 3 in Exhibit "D" (Covenants, Conditions and Restrictions dated June 23, 1983)
- [] There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Total Apartments 2

Elevators none Stairways none Trash Chutes none

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Lanai/Patio (sf)</u>
<u>Apt. A</u>	<u>1</u>	<u>2/2</u>	<u>1,204</u>	<u>208</u>
<u>Apt. B</u>	<u>1</u>	<u>2/2</u>	<u>1,204</u>	<u>208</u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </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: See Exhibit "A" attached

Permitted Alterations to Apartments:

No alterations or additions to any dwelling unit which is visible from the exterior of the dwelling unit nor any alterations or additions to the common elements may be made without prior approval of the Board or Association.

7. Parking Stalls:

Total Parking Stalls: 4

	<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)		<u>4</u>					<u>4</u>
Guest							
Unassigned							
Extra Available for Purchase							
Other:							
Total Covered & Open		<u>4</u>					

Each apartment will have the exclusive use of at least 2 parking stall(s).
Buyers are encouraged to find out which stall(s) will be available for their use.

Commercial parking garage permitted in condominium project.

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

8. Recreational and Other Common Facilities.

There are no recreational or common facilities.

Swimming pool

Storage Area

Recreation Area

Laundry Area

Tennis Court

Trash Chute

Other: _____

9. Present Condition of Improvements

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

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

The improvements were completed in April, 1990.

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

A letter from the County's Building Division dated May 7, 1990, indicates the improvements complied with all building regulations in effect at the time of their construction.

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>X</u>	<u> </u>	<u> </u>
Lot	<u>X</u>	<u> </u>	<u> </u>

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

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

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

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

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

] Exhibit "B" 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:

[X] described in Exhibit "C"

[] 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 describes the common interests for each apartment.

] As follows:

Apt. A	50%
Apt. B	50%

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 July 26, 1990 and issued by Title Guaranty of Hawaii, Incorporated

Developer represents there have been no changes since that date.

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>
Mortgage dated June 1, 1990, in favor of GECC Financial Corporation	Mortgage will be satisfied upon conveyance to buyers. Prior thereto, if developer defaults, Buyer's interest is subject to termination, but in such event, Buyer's deposit will be returned.

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

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

The initial managing agent for this condominium is:

[] not affiliated with the Developer.

[] the Developer or the Developer's affiliate.

[X] 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 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:

There are no warranties provided by the Developer for the buildings and other improvements. The apartments will be conveyed "AS IS".

2. Appliances:

There are no warranties provided by the Developer for the appliances.

J. Status of Construction and Estimated Completion Date:

Completed in April, 1990.

K. Project Phases:

The developer [] has [X] 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

[X] Specimen Sales Contract

Exhibit "F" contains a summary of the pertinent provisions of the sales contract.

[X] Escrow Agreement dated August 27, 1990

Exhibit "G" 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. 2304 filed with the Real Estate Commission on
September 17, 1990.

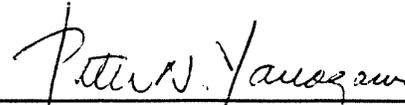
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white paper stock

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, County of Hawaii

Planning Department, County of Hawaii

Federal Housing Administration

Escrow Agent

EXHIBIT "A"

BOUNDARIES OF EACH APARTMENT

The apartment spaces shall extend on a vertical plane upward from the surface of the lot, but not including the surface or any area below the surface except to the extent reasonably necessary for the stability and permanence of the foundations of the dwelling unit. Each apartment space shall include the dwelling unit, its foundations, columns, girders, beams, supports, walls, roofs, entrances and exits, as shown on said Condominium Map, and all ducts, pumps, conduits, wires and other utility lines running through such apartment space but excluding any such which do serve or are utilized by any other apartment space and excluding any such which do serve or are utilized by any other apartment space and excluding any easements shown on the Condominium Map, all of which shall be deemed to be common elements.

EXHIBIT "B"

COMMON ELEMENTS

- (1) Said land in fee simple.
- (2) All building walkways, sidewalks, driveways, yards, gardens, if any.
- (3) All ducts, sewer lines, cesspool, electrical equipment, pipes, wiring and other central and appurtenant transmission facilities, installations which serve more than one apartment space for services such as power, light, water, gas, refuse, telephone, radio and television signal distribution.
- (4) All tanks, pumps, motors, fans, compressors, ducts, and, in general, all apparatus and installations existing for common use.
- (5) All portions of the Project not deemed to be included as an apartment space.
- (6) Any and all other apparatus and installations of common use and all other parts of the Project necessary or convenient to its existence, maintenance or safety, and normally in common use.

EXHIBIT "C"

LIMITED COMMON ELEMENTS

(1) Two (2) automobile parking spaces shall be assigned to each of the apartments as designated in the Declaration upon the original conveyance thereof and shall be appurtenant to and for the exclusive use of such apartment.

(2) All common elements of the Project which are rationally related to less than all of said apartments shall be limited common elements appurtenant to the apartments to which they are so related.

EXHIBIT "D"

ENCUMBRANCES AGAINST TITLE

1. Real property taxes as may be due and owing. For further information on taxes, check with the Finance Director, County of Hawaii.

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

3. Covenants, conditions and restrictions set forth in Declaration dated June 23, 1983, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 17133 at Page 55.

4. Easement "W-6" for water meter purposes, as shown on surveyor's map prepared by Chrystal Thomas Yamasaki dated August 9, 1985, as revised, being more particularly described as follows:

All of that certain parcel of land (being portion of the land(s) described in and covered by Royal Patent 4475, Land Commission Award 7713, Apana 43 to Victoria Kamamalu), being EASEMENT "W-6", being portion of Lot 46-A-6 of "KALANI MAKAI, INCREMENT II-A", situate, lying and being on the northwesterly side of Private Road "C" of this subdivision at Holualoa, North Kona, Island and County of Hawaii, State of Hawaii, and thus bounded and described:

Beginning at the southernmost corner of this easement, being also the northernmost corner of Lot 46-A-5, and on the northwesterly side of Private Road "C" of this subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAHELO" being 2,730.32 feet south and 4,521.85 feet east and running by azimuths measured clockwise from true South:

- | | | | |
|----|----------|------|---|
| 1. | 147° 35' | 3.00 | feet along the remainder of Lot 46-A-6 to a point; |
| 2. | 237° 35' | 2.00 | feet along the remainder of Lot 46-A-6 to a point; |
| 3. | 327° 35' | 3.00 | feet along the remainder of Lot 46-A-6 to a point; |
| 4. | 57° 35' | 2.00 | feet along the northwesterly side of Private Road "C" of this subdivision to the point of |

beginning and containing an area of
6 square feet.

5. Grant dated July 25, 1988, to Water Commission of the County of Hawaii recorded as aforesaid in Liber 22483 at Page 28, granting an easement over said Easement "W-6".

6. As to an undivided 1/6th interest in Private Road "C":

Grant dated July 25, 1988, to Hawaiian Electric Light Company, Inc. and GTE Hawaiian Telephone Company Incorporated recorded as aforesaid in Liber 22808 at Page 167, granting a perpetual right and easement to construct, reconstruct, repair, maintain and operate pole and wire lines and/or underground lines for the transmission and distribution of electricity.

7. Mortgage, Security Agreement and Financing Statement dated June 1, 1990, recorded as aforesaid as Document No. 90-083401, in favor of GECC Financial Corporation, a Hawaii corporation.

EXHIBIT "E"

ESTIMATE OF MAINTENANCE FEE DISBURSEMENT AND
ESTIMATE OF INITIAL MAINTENANCE FEES

	<u>Monthly</u>	<u>Annually</u>
Water	\$ 5.00	\$ 60.00
Insurance	10.00	120.00
Maintenance	10.00	120.00
Total	\$ 25.00	\$ 300.00

Apt. A	\$ 12.50	\$ 150.00
Apt. B	\$ 12.50	\$ 150.00

Date: Nov. 1, 1990


JOSEPH ANTHONY BEARTH


SUZANNE SHIRLEY BEARTH

EXHIBIT "F"

SUMMARY OF PERTINENT PROVISIONS OF THE SALES CONTRACT

The Sales Contract ("Contract") specifies the condominium unit which is being conveyed as well as the parking stall which is assigned to the unit.

The Contract states the price and method of payment for the condominium unit. Each Contract is conditioned upon the Buyer submitting to Seller, within thirty (30) days after the date Seller executes the Contract, evidence of Buyer's ability to pay in cash the amount stated in the Contract which is to be paid by Buyer from Buyer's own funds in cash and the balance from the proceeds of a loan to Buyer from a responsible lending institution. Such evidence shall be in the form of a loan application, including a personal financial statement setting forth Buyer's assets and liabilities. If Buyer's initial deposit check is returned for insufficient funds, or if Buyer fails to furnish Seller satisfactory evidence of Buyer's ability to pay in cash the portion of the purchase price to be paid from Buyer's own funds, or if Buyer fails to furnish to Seller a firm written commitment for a loan to Buyer from a responsible lending institution within sixty (60) days after Seller executes the Contract, or if Buyer dies prior to the performance of his obligations under the Contract, then Seller has the right to cancel the Contract and return all monies paid by Buyer less any cancellation fee imposed by escrow.

Any interest accruing on Buyer's deposit shall accrue to and become the property of Seller.

By execution of the Contract, Buyer is deemed to have approved the form of the Apartment Deed, Declaration, By-Laws, Rules and Regulations for the project, Escrow Agreement, Disclosure Abstract and the condominium Map and any amendments thereof.

Buyer, by its execution of the Contract, authorizes the Seller to execute all powers of the condominium association, including voting until the election of the Board and officers. Buyer authorizes Seller to exercise all rights and incidents of membership in the Association attributable to the condominium unit being sold to Buyer. Buyer further agrees that Seller can designate a managing agent for the condominium project for a period of up to one (1) year after the designated date of occupancy. Said managing agent shall have complete authority to assume full control and responsibility for the management, operation, maintenance of the completed portion of the project.

Seller reserves the right to modify the Declaration, By-Laws and Apartment Deed as may be required by law or any title insurance company, provided that such modification does not increase Buyer's share of common expenses, increase the cost of the property covered, require substantial physical change to the building in which the condominium unit sold to Buyer is situated, reduce the obligations of Seller for common expenses on unsold apartments, substantially impair or modify any of the obligations undertaken by Seller.

Seller does not make any representations as to rental or other income from any of the apartments or any other economic benefit, including advantages under Federal or State tax laws to be derived from the purchase or ownership of an apartment in the project.

Closing shall occur on the "closing date" as designated by Seller. Seller shall give Buyer at least ten (10) days notice of the closing date. At closing, all sums not paid prior to the closing date shall be due and payable. If such sums are not paid, then such nonpayment shall result in default under the Contract and in addition to any other remedies available to Seller, Seller shall have the right to charge a late charge of one percent (1%) per month, prorated on a thirty (30) day basis, and Buyer shall remain liable for all common expenses, real property taxes and other prorated expenses from and after the scheduled closing date. Seller shall have the option to preclose the sale by having all documents and funds necessary for closing executed and deposited with escrow prior to the time of closing.

The apartment is being sold to Buyer in its present condition, "as is", without any warranties, express or implied.

EXHIBIT "G"

SUMMARY OF PROVISIONS OF ESCROW AGREEMENT

Among other provisions, the Escrow Agreement provides that a purchaser shall be entitled to a refund of his funds, and Escrow shall pay said funds to said purchaser, without interest and less Escrow's cancellation fee, if purchaser shall in writing request refund of his funds and any one of the following shall have occurred:

(1) Developer requests Escrow Agent to return to Purchaser the funds of Purchaser then being held hereunder by Escrow Agent; or

(2) Developer notifies Escrow Agent of Developer's exercise of the option to rescind the Sales Contract pursuant to any right of rescission stated therein or otherwise available to Developer; or

(3) If a Purchaser's funds were obtained prior to the issuance of a Final Public Report and the request is prior to the time the Final Public Report is issued; or

(4) If the Final Public Report differs in any material respect from the Preliminary Public Report, unless Purchaser has accepted for the Final Public Report; or

(5) If the Final Public Report is not issued within one year from the date of issuance of the Preliminary Public Report.

Upon return of such funds to Purchaser, Escrow Agent shall return to Developer Purchaser's Sales Contract any any conveyancing documents theretofore delivered to Escrow Agent; and thereupon Purchaser shall no longer be obligated under the Sales Contract.

The Escrow Agreement also contains the following provisions, among others: that the Escrow Agent shall make no disbursements of Purchaser's funds unless and until Developer has complied with all the provisions of the Escrow Agreement.