

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by:

Developer Linda J. Warriner
Address P. O. Box 779, Kapaa, HI 96746

Project Name (\*): PALI PUEO ESTATES
Address: 5080 Kahiliholo Road, Kilauea, HI 96754

Registration No. 2428
Effective date: March 28, 2002
Expiration date: April 28, 2003

Preparation of this Report:

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

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

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

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

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

Type of Report:

- PRELIMINARY: (yellow) The developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report.
FINAL: (white) The developer has legally created a condominium and has filed complete information with the Commission.
[X] SUPPLEMENTARY: (pink) This report updates information contained in the:
[X] Final Public Report dated: June 17, 1991
[X] Supersedes all prior public reports.

(\* ) Exactly as named in the Declaration
This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2644 to submit your request.

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

Required and attached to this report as Exhibit "E"       Not Required - Disclosures covered in this report.

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

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

No prior reports have been issued by the developer.

Changes made are as follows:

1. The project now has a street address.
2. A farm dwelling has been constructed on Apartment 1.
3. Michael Wayne Warriner is no longer a developer; he quitclaimed his interest in the project to Linda J. Warriner in 1998.
4. Developer's address has changed to a post office box.
5. A real estate broker, Na Pali Properties, Inc., has been selected for the sale of Apartment 2.
6. Developer will use the Princeville Branch of Title Guaranty Escrow Services as escrow agent.
7. The attorney for Developer has changed to Patrick J. Childs, Esq.
8. The Declaration of Condominium Property Regime and Condominium Map have been amended.
9. There is no longer a blanket lien encumbering the property.
10. The House Rules attached to this Supplementary Report have been corrected to coincide with the Declaration of Condominium Property Regime, as amended.
11. Developer has reserved the right to create a third apartment.

**SPECIAL ATTENTION**

This is a CONDOMINIUM PROJECT, not a subdivision. There are County restrictions on the number of residential dwelling units, or other structures, which may be built on the property. Therefore, unless the Purchaser is buying an existing residential dwelling, there is no assurance that the Purchaser will be able to build a residential dwelling on the property. There is also no assurance that the Purchaser will be able to convert an existing non-residential structure to a residential use. The Purchaser should consult with the appropriate County agencies to determine whether the Purchaser may build a residential dwelling, or any other type of structure, on the property.

1. There is presently a farm dwelling on Apartment 1 and an agricultural shed on Apartment 2, each of which may be defined as an "apartment" under the Condominium Property Act.

2. This public report does not constitute an "approval" of the project by the Real Estate Commission, or any other governmental agency, nor does it warrant that all applicable County codes, ordinances and subdivision requirements have necessarily been complied with.

3. The land area beneath and immediately appurtenant to each unit is designated a LIMITED COMMON ELEMENT and is not a legally subdivided lot. The dotted lines on the condominium map bounding the designated area in the land comprising each limited common element are for illustrative purposes only and should not be construed to be the property lines of legally subdivided lots.

4. Facilities and improvements associated with County-approved subdivisions, such as fire protection devices, County street lighting, electricity, upgraded water facilities, improved access for owners and emergency traffic, drainage facilities, etc., may not be provided, and services such as County street maintenance and trash collection may not be available for interior roads and driveways.

5. Read Page 20, Exhibit "F" (House Rules) and Exhibit "G" (Memoranda from the County of Kauai Planning Department) with care.

6. The land may be subject to rollback real property taxes. The failure of an owner to observe restrictions on the use of the land may cancel the County dedication and special real property tax assessment. Please refer to the Director of Finance, County of Kauai for further information.

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

This public report format currently in use by the Real Estate Commission ("Commission") is different from the format upon which the Final Public Report for this project was issued back in 1991. Although this Supplementary Public Report may be read with the earlier Final Public Report, if a prospective purchaser desires to compare the previous report to this Supplementary Public Report, the purchaser should be aware that the information contained on a specific page of this Supplementary Public Report may not coincide with that same page number in the Final Public Report. Therefore, it is suggested that the Table of Contents be referred to when making comparisons between reports. An attorney should be consulted for further assistance.

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## **General Information On Condominiums**

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

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

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

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

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

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

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

## **Operation of the Condominium Project**

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

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

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

I. PERSONS CONNECTED WITH THE PROJECT

Developer: LINDA J. WARRINER Phone: (808) 822-4481  
Name\* P. O. Box 779 (Business)  
Business Address Kapaa, HI 96746

Names of officers and directors of developers who are corporations; general partners of a partnership; partners of a Limited Liability Partnership (LLP); or manager and members of a Limited Liability Company (LLC) (attach separate sheet if necessary):

N/A  
\_\_\_\_\_  
\_\_\_\_\_

Real Estate Broker\*: NA PALI PROPERTIES, INC. Phone: (808) 826-7272  
(for Apartment 2 only) (Business)  
Name P. O. Box 475  
Business Address Hanalei, HI 96714

Escrow: TITLE GUARANTY ESCROW SERVICES, INC. Phone: (808) 826-5300  
Name 5-4280 Kuhio Highway #203B (Business)  
Business Address Princeville, HI 96722

General Contractor\*: N/A Phone: N/A  
Name (Business)  
Business Address

Condominium Managing Agent\*: Self-managed by Association of Apartment Owners Phone: N/A  
Name (Business)  
Business Address

Attorney for Developer: PATRICK J. CHILDS, ESQ. Phone: (808) 245-2863  
Name (Business)  
4365 Kukui Grove Street #104  
Business Address Lihue, HI 96766

\* For Entities: Name of corporation, partnership, Limited Liability Partnership (LLP), or Limited Liability Company (LLC)

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

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

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

The Declaration for this condominium is:

Proposed  
 Recorded - Bureau of Conveyances: Document No. 91-042719  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court: Document No. \_\_\_\_\_

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

Amendment - 5/28/91 - Document No. 91-079375  
First Amendment - 10/20/99 - Document No. 99-176933  
Second Amendment - 11/28/01 - Document No. 2002-013636

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

The Condominium Map for this condominium project is:

Proposed  
 Recorded - Bureau of Conveyances Condo Map No. 1471  
 Filed - Land Court Condo Map No. \_\_\_\_\_

The Condominium Map has been amended by the following instruments [state name of document, date and recording/filing information]:

Second Amendment - 11/28/01 - Document No. 2002-013636

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

The Bylaws for this condominium are:

Proposed  
 Recorded - Bureau of Conveyances: Document No. 91-042720  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court: Document No. \_\_\_\_\_

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

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

The House Rules for this condominium are:

Proposed       Adopted       Developer does not plan to adopt House Rules

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

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

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

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

2. **Developer:**

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

Developer has reserved the following rights to change the Declaration, Condominium Map, Bylaws or House Rules: Developer has reserved the right under Paragraph 15.0 of the Declaration to alter the units in the Project which it owns without the approval of the Association or the other apartment owners and to amend the Condominium Map to note changes resulting from the exercise of the Developer's reserved rights under Paragraph 15.0. Developer has also reserved the right under Paragraph 16.0 to record any "as built" statements required by law. Developer has further reserved the right to create another apartment in the Project in the First Amendment to Declaration of Condominium Property Regime.



Other:

**IMPORTANT INFORMATION ON LEASEHOLD CONDOMINIUM PROJECTS**

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

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

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

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

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

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

**B. Underlying Land:**

Address: 5080 Kahilihoho Road Tax Map Key (TMK): (4) 5-2-017-012  
Kilauea, HI 96754

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

Land Area: 10.495  square feet  acre(s) Zoning: Agriculture

Fee Owner: LINDA J. WARRINER  
Name  
P. O. Box 779  
Address  
Kapaa, HI 96746

Lessor: N/A  
Name  
Address

C. **Buildings and Other Improvements:**

1.  New Building(s) when the Final Public Report was filed.  
 Conversion of Existing Building(s)  
 Both New Building(s) and Conversion
2. Number of Buildings: 3 Floors Per Building: Apartment 1-2 Farm Dwellin  
1 Shed  
Apartment 2-1 Shed  
 Exhibit \_\_\_\_\_ contains further explanations.

3. **Principal Construction Material:**

- Concrete       Hollow Tile       Wood  
 Other \_\_\_\_\_

4. **Uses Permitted by Zoning:**

	<u>No. of Apts.</u>	<u>Use Permitted By Zoning</u>
<input type="checkbox"/> Residential	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Commercial	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Hotel	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Timeshare	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Ohana	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Industrial	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input checked="" type="checkbox"/> Agricultural	<u>2 *</u> (see	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Recreational	_____ Note)	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Other	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

Yes       No

\*Unit 2 is a shed

NOTE: The subject property is within the State Land Use Agricultural District and is zoned Agricultural by the County of Kauai. "Farm Dwellings" and other structures appropriate to agricultural usage are permitted, subject to certain guidelines. See the disclosures on Page 20 and Exhibit "F" of this Supplementary Public Report.

5. Special Use Restrictions:

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

- Pets: Bylaws, Article V, Sec. 3, A, (14)--no pets without written permission of the Board of Directors.
- Number of Occupants: \_\_\_\_\_
- Other: See covenants 5 through 9 inclusive contained in Exhibit "A" of Declaration.
- There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0                      Stairways: 1                      Trash Chutes: 0

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Net Other Area (sf)</u>	<u>(Identify)</u>
<u>1</u>	<u>1</u>	<u>3/2.5</u>	<u>3309</u>	<u>618</u>	<u>garage</u>
				<u>264</u>	<u>deck</u>
				<u>55.1</u>	<u>shed</u>
<u>2</u>	<u>1</u>	<u>0/0</u>	<u>0</u>	<u>55.1</u>	<u>shed</u>

Total Number of 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.**

**Boundaries of Each Apartment:** The exterior surfaces of the structures and the description of the limited common element was for each of the units as set forth in the Condominium Map.

**Permitted Alterations to Apartments:** Either apartment owner can increase the total square footage of his structure, add additional structures, alter the location of his structures and/or subdivide in accordance with the building code, zoning and subdivision ordinances.

**Apartments Designated for Owner-Occupants Only:**

Fifty percent (50%) of **residential** apartments must be so designated; developer has a right to substitute similar apartments for those apartments already designated. Developer must provide this information either in a published announcement or advertisement as required by section 514A-102, HRS; or include the information here in this public report and in the announcement (see attachment 11a). Developer has N/A elected to provide the information in a published announcement or advertisement.

7. Parking Stalls:

Total Parking Stalls:	<u>3</u>			
	<u>Regular</u> <u>Covered Open</u>	<u>Compact</u> <u>Covered Open</u>	<u>Tandem</u> <u>Covered Open</u>	TOTAL
Assigned (for each unit)	<u>3-Apartment 1</u>	-----	-----	<u>3</u>
Guest	-----	-----	-----	<u>0</u>
Unassigned	-----	-----	-----	<u>0</u>
Extra for Purchase	-----	-----	-----	<u>0</u>
Other: _____	-----	-----	-----	<u>0</u>
Total Covered & Open:	<u>3</u>	<u>0</u>	<u>0</u>	<u>3</u>

The parking stalls for Apartment 2 have not yet been designated.  
 Each <sup>residential</sup> apartment will have the exclusive use of at least two 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/Enclosure(s)
- Other: \_\_\_\_\_

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

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

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

Developer states, based upon the Architect's Condition Report prepared by Hedda Schmutz, that the structural components, mechanical and electrical installations of the Farm Dwelling on Apartment 1 appear to be in good sound condition. The structure and related systems and components have an expected useful life of 25 years. Developer hereby adopts such estimate and architect's condition report.

11. Conformance to Present Zoning Code

a.  No variances to zoning code have been granted.

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

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

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

	<u>Conforming</u>	<u>Non-Conforming</u>	<u>Illegal</u>
Uses	<u>  X  </u>	<u>          </u>	<u>          </u>
Structures	<u>  X  </u>	<u>          </u>	<u>          </u>
Lot	<u>  X  </u>	<u>          </u>	<u>          </u>

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

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

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

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

1. Common Elements: Common Elements are those parts of the condominium project other than the individual apartments. Although the common elements are owned jointly by all apartment owners, those portions of the common elements which are designated as limited common elements (see paragraph 2 below) may be used only by those apartments to which they are assigned. The common elements for this project, as described in the Declaration, are:

described in Exhibit   A  .

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 use them, as described in the Declaration, are:

described in Exhibit \_\_\_\_\_.

as follows: The land area of each dwelling, consisting of the land beneath it as shown and delineated on the Condominium Map, is a limited common element for the use of the owner of each respective unit.

Apartment 1 - 6.715 acres

Apartment 2 - 3.780 acres

NOTE: These are not legally subdivided lots and under County ordinances, they may not be subdivided.

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

described in Exhibit \_\_\_\_\_.

as follows:

Apartment 1 - 63.98%

Apartment 2 - 36.02%

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

Exhibit   B   describes the encumbrances against the title contained in the title report dated \_\_\_\_\_ and issued by   Title Guaranty of Hawaii, Inc.  .

**Blanket Liens:**

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

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

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

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

<u>Type of Lien</u>	<u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed <b>Prior to Conveyance</b></u>
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F. **Construction Warranties:**

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

1. Building and Other Improvements: None .

2. Appliances: None .

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

Unit 1 and 2 sheds were completed in 1991. Apartment 1 farm dwelling was completed in 1992.

H. **Project Phases:**

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

Summary of Developer's plans or right to perform for future development (such as additions, mergers or phasing): The Developer has reserved the right to create another apartment along with a limited common element appurtenant thereto within the yard area or limited common element appurtenant to Apartment 1. Said new Apartment shall be designated "Apartment 3" and may be used as a single family agriculture dwelling as provided for in the Declaration of Condominium Property Regime. Apartment 3 shall be created at the sole expense and discretion of the Developer. Please refer to the First Amendment to Declaration of Condominium Property regime for further information.



## V. MISCELLANEOUS

### A. Sales Documents Filed With the Real Estate Commission:

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

- Notice to Owner Occupants
- Specimen Sales Contract  
Exhibit   C   contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated   September 24, 1990    
Exhibit   D   contains a summary of the pertinent provisions of the escrow agreement.
- Other   Specimen Apartment Deed

### B. Buyer's Right to Cancel Sales Contract:

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

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

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

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

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

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

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

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

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:
- A) Condominium Public Reports issued by the developer which have been issued an effective date by the Hawaii Real Estate Commission.
  - B) Declaration of Condominium Property Regime, as amended.
  - C) Bylaws of the Association of Apartment Owners, as amended.
  - D) House Rules, if any.
  - E) Condominium Map, as amended.
  - F) Escrow Agreement.
  - G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
  - H) Other Declaration of Protective Covenants, Conditions & Restrictions for Kalihiwai Ridge as amended; Farm Dwelling Agreement

Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer and are on file at the Department of Commerce and Consumer Affairs. Reprints of Hawaii's Condominium Property Act (Chapter 514A, HRS) and Hawaii Administrative Rules, Chapter 16-107, are available at the Cashier's Office, Department of Commerce and Consumer Affairs, 1010 Richards Street, 3rd Floor, Honolulu, Hawaii, mailing address: P. O. Box 541, Honolulu, HI 96809, at a nominal cost.

This Public Report is a part of Registration No. 2428 filed with the Real Estate Commission on April 24, 1991.

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

YELLOW paper stock

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C. **Additional Information Not Covered Above**

1. Purchasers should examine the BUILDING AND HOUSE RULES (Exhibit "F") carefully. Among other things, each purchaser must obtain a building permit should he desire to construct a dwelling on the premises, pull purchaser's own utility lines and install purchaser's own cesspool. The moving on to the project of used homes and quonset huts is prohibited.

2. PURCHASERS SHOULD BE AWARE OF BUILDING PERMIT REQUIREMENTS BY BOTH THE COUNTY OF KAUAI AS WELL AS THE DECLARATION OF CONDOMINIUM REGIME, BYLAWS AND BUILDING (HOUSE) RULES (EXHIBIT "F"), THE AVAILABILITY OF UTILITIES AND THE SIZE AND LOCATION OF CONNECTIONS, THE NEED FOR BUILDING PERMITS, CONDITIONS FOR CONSTRUCTION OF IMPROVEMENTS AND ALL OTHER MATTERS RELATING TO THE COST, USE AND ENJOYMENT OF THE CONDOMINIUM UNITS PRIOR TO THEIR ENTERING INTO A PURCHASE CONTRACT. THE COMMISSION, BY ISSUING AN EFFECTIVE DATE FOR THIS REPORT, IS NOT APPROVING OR DISAPPROVING THE PROJECT, NOR IS IT WARRANTING THE CORRECTNESS OR COMPLETENESS OF INFORMATION SUPPLIED TO IT BY ANY PARTY OR PARTIES.

3. Maintenance fees for this project have not been established at this time. In the event the Developer elects to establish maintenance fees prior to entering into a binding contract for the sale of an apartment in this project, Developer shall: (1) submit to the Real Estate Commission a duly executed Disclosure Abstract identifying such maintenance fees; and (2) provide a copy of the Disclosure Abstract to the Purchaser together with a copy of this Public Report.

4. The Developer has not selected a real estate broker for the sale of Apartment 1 at this time. In the event the Developer elects to use a real estate broker for the sale of a condominium unit, prior to entering into a binding contract for such sale the Developer shall: (1) submit to the Real Estate Commission a duly executed copy of a broker listing agreement with a Hawaii- licensed real estate broker, together with a duly executed Disclosure Abstract identifying the designated broker and Developer as owner, as defined under HRS Section 467-2(1); and (2) provide a copy of the Disclosure Abstract to the purchaser together with a copy of this Public Report.

- D. The developer declares subject to the penalties set forth in section 514A-49(b) that this project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to Act 251 (SLH 2000) [Section 514A- ] (The developer is required to make this declaration for issuance of an effective date for a final public report.)
- E. The developer hereby certifies that all the information contained in this Report and the Exhibits attached to this Report and all documents to be furnished by the developer to buyers concerning the project have been reviewed by the developer and are, to the best of the developer's knowledge, information and belief, true, correct and complete.

LINDA J. WARRINER

Printed Name of Developer

By: Linda J. Warriner 11/28/01  
 Duly Authorized Signatory\* Date

LINDA J. WARRINER, Developer

Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, County of Kauai

Planning Department, County of Kauai

**\*Must be signed for a: corporation by an officer; partnership or Limited Liability Partnership(LLP) by the general partner; Limited Liability Company(LLC) by the manager or member; and for an individual by the individual.**

EXHIBIT "A"

Common Elements

The common elements of the Project which the apartments have immediate access include:

1. The land in fee simple.
2. The central and appurtenant installations for services such as power, light, gas, telephone, sewer, hot and cold water and like utilities.
3. All other parts of the Project existing for the common use or necessary to the existence, maintenance and safety of the Project.

EXHIBIT "B"

Encumbrances Against Title

1. For real property taxes that may be due and owing, reference is made to the Director of Finance, County of Kauai.
2. A 25-foot building setback and drainage way as shown on File Plan No. 1934.
3. Easement "D-7" (area 757 square feet) for drainage purposes as shown on File Plan No. 1934.
4. Easement "E-4" (area 44 square feet) for electrical purposes as shown on File Plan No. 1934.
5. A Certified Land Use District Boundary, February 6, 1987 of Conservation District, as shown on File Plan No. 1934.
6. Agreement dated March 16, 1977, recorded in Liber 12110 at Page 330, by and between the State of Hawaii and C. Brewer and Company, Limited; re: use of the land described herein, besides other land, for agriculture purposes.
7. Declaration of Protective Covenants, Conditions and Restrictions for Kalihiwai Ridge dated October 3, 1988, recorded in Liber 22452 at Page 429, as amended by instruments dated July 5, 1990, but effective December 3, 1988, recorded as Document No. 90-104733, and dated ---, recorded as Document No. 99-196189.
8. Unrecorded Kalihiwai Ridge Environmental Design Rules and Guidelines pursuant to Declaration of Protective Covenants, Conditions and Restrictions for Kalihiwai Ridge dated October 3, 1988.
9. Declaration Affecting Conservation District Lands dated October 3, 1988 recorded in Liber 22452 at Page 486, made by and between C. Brewer Properties, Inc., as Declarant.
10. Agreement to Incorporate Agricultural Restrictions into Instruments of Conveyance dated September 30, 1988, recorded in Liber 22452 at Page 491, between C. Brewer Properties, Inc., a Hawaii corporation, and the County of Kauai Planning Department.
11. Easement "A" (area 0.124 acre) for utility purposes as shown on the Condominium Map.
12. Reservation(s) and covenants contained in Deed dated November 29, 1988 recorded in Liber 22627 at Page 268.
13. Right-of-Entry to Citizens Utilities Company, a Delaware corporation, dated January 12, 1990, recorded as Document No. 90-051569, granting a right-of-entry and easement for the purpose of building, constructing, repairing, maintaining and operating pole and wire lines, and/or underground lines, etc., for the transmission and distribution of electricity and for communications and control circuits.
14. Grant to Citizens Utilities Company dated July 5, 1990, recorded July 5, 1990 as Document No. 90-151401, granting an easement over said Easement "E-4".

15. Farm Dwelling Agreement dated November 19, 1990, recorded as Document No. 90-191933, by and between Michael Wayne Warriner and Linda Jean Harding Warriner, "Applicant(s)", and the County of Kauai Planning Department, "Department".

16. Grant in favor of Citizens Utilities Company, a Delaware corporation, dated February 8, 1991, recorded as Document No. 91-033083, granting a perpetual right and easement to build, construct, reconstruct, rebuild, repair, maintain and operate pole and wire lines, and/or underground lines, etc., for the transmission and distribution of electricity, etc.

17. The restrictions on use and other restrictions and all of the covenants, agreements, obligations, conditions, reservations, easements and other provisions set forth in Declaration of Condominium Property Regime dated September 24, 1990, recorded as Document No. 91-042719, as the same may hereafter be amended in accordance with the law or with said Declaration. (Project covered by Condominium Map No. 1471). Said Declaration was amended by instruments dated May 28, 1991, recorded as Document No. 91--079375, dated October 20, 1999, recorded as Document No. 99-176933, and dated November 28, 2001, recorded as Document No. 2002-013636.

18. Bylaws of the Association of Apartment Owners dated March 25, 1991, recorded as Document No. 91-042720.

19. Grant in favor of the County of Kauai dated June 14, 1990, recorded as Document No. 90-048557, granting Easement "D-7", for the installation, operation, maintenance, repair and removal of a drainage structure or structures, etc.

20. As to Apartment 1:

(A) Mortgage made by and between Michael Wayne Warriner and Linda Jean Harding Warriner, husband and wife, as Mortgagor, and First Hawaiian Bank, a Hawaii corporation, as Mortgagee, dated June 10, 1996, recorded as Document No. 96-090476.

(B) Mortgage and Financing Statement made by and between Michael Wayne Warriner and Linda Jean Harding Warriner, husband and wife, as Mortgagor, and First Hawaiian Bank, a Hawaii corporation, as Mortgagee, dated July 29, 1996, recorded as Document No. 96-112357.

## EXHIBIT "C"

### Summary of Sales Contract

The Sales Contract contains the price and other terms and conditions under which a purchaser will agree to buy an apartment in the Project. Among other things, the Sales Contract says:

1. A buyer must obtain his own financing. Buyer acknowledges that this Sales Contract is contingent on any financing after issuance of the final public report.
2. That a purchaser's money will be held in escrow, under the terms of the Escrow Agreement.
3. That interest on deposits shall belong to the buyer so long as said funds are held in escrow.
4. That the unit will be subject to various other legal documents which the buyer certifies he has examined.
5. That the buyer must close the purchase at a certain date and pay closing costs, in addition to the purchase price.

The Sales Contract contains various other provisions with which the purchaser should become acquainted.

## EXHIBIT "D"

### Summary of Escrow Agreement

The Escrow Agreement sets up an arrangement under which a neutral party ("Escrow") will hold the deposits that a purchaser makes under a Sales Contract. Under the Escrow Agreement these things will or may happen:

1. Escrow will let purchasers know when payments are due.
2. Escrow will arrange for purchasers to sign all necessary documents.
3. The Escrow Agreement says under what conditions a refund will be made to the purchaser.
4. The Escrow Agreement says what will happen to a purchaser's funds upon default under the Sales Contract.

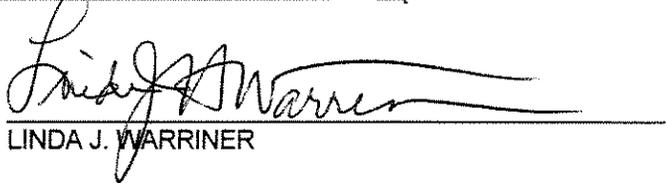
The Escrow Agreement contains various other provisions and establishes certain charges with which the purchaser should become acquainted.

EXHIBIT "E"

Disclosure Statement

1. Name of Project: PALI PUEO ESTATES
2. Address of Project: 5080 Kahiliholo Road, Kilauea, HI 96754
3. Name of Developer: Linda J. Warriner
4. Address of Developer: P. O. Box 779, Kapaa, Hawaii, 96746
5. Telephone Number: (808) 822-4481
6. Project Broker for Unit 2: Na Pali Properties, Inc.
7. Project Manager or Agent: Self-managed by the Association of Apartment Owners.
8. Maintenance Fees: None at present.
9. Commencement of Maintenance Fees: At such time that the Association decides to assess maintenance fees.
10. Warranties: The Project is a fee simple condominium project and there are no warranties as to the apartments.
11. Project: The Project consists of two condominium apartments, Unit 2, with a 55.1 square foot storage building of wood frame and wood construction, and Apartment 1 with a 55.1 square foot storage building of wood frame and wood construction and a 3309 square foot farm dwelling with a 618 square foot garage and 264 square foot deck that is within the limited common element of a unit. The units shall be occupied for agricultural and/or any other uses now existing or hereafter permitted under the Kauai County zoning ordinances.
11. Non-Residential Development: The Project is located in an agricultural zone and agricultural activities shall exist in the Project.

Dated: Kapaa, Kauai, Hawaii, Nov. 28th, 2001

  
LINDA J. WARRINER

## EXHIBIT "F"

### Corrected Building and House Rules

The purpose of these Corrected Building and House Rules is to protect all owners and occupants from annoyance and nuisance caused by improper conduct and improper use of the PALI PUEO ESTATES Condominium, hereinafter referred to as the "Project", and to provide for the maximum enjoyment of the premises. All owners and occupants, their agents, employees and invitees shall be bound by the Corrected Building and House Rules and standards of reasonable conduct whether covered by these Corrected Building and House Rules or not. The correction is being made to Paragraph 8 entitled "Setbacks" which erroneously described Easement "A" as a common roadway, which is contrary to its description in the Declaration of Condominium Property Regime.

1. Definitions. As used herein:

A. The "Area" refers to the land set aside for the use of each owner of an "apartment" as a limited common element.

B. The "Apartment" or "Unit" refers to the two structures and the land designated as limited common element for the owner and any subsequent improvements built within the Area.

2. Private Building Approvals. Any owner desiring to construct or install any building or improvements in a Unit is required to submit plans to the Kalihiwai Ridge Environmental Committee for approval of such plans and specifications to be in conformance with the Declaration of Protective Covenants, Conditions and Restrictions for Kalihiwai Ridge dated October 3, 1988, recorded in the Bureau of Conveyances, State of Hawaii, in Book 22452, Page 429, and the Environmental Design Rules promulgated pursuant thereto ("Declaration of Protective Covenants"). This Declaration of Protective Covenants to continue for 20 years from the date of recordation on October 11, 1988 and to automatically extend for ten (10) year successive periods unless terminated by seventy-five percent (75%) of the then owners of Lots within Kalihiwai Ridge based on one vote per lot.

3. Building Permit. Any owner desiring to construct a single family dwelling in a Unit will have to comply with the building and zoning ordinances as they may be changed from time to time. The requirements of the Comprehensive Zoning Ordinance, Kauai County Code 1987 and in particular the requirements of Article 1, Section 8-1.5 Definitions, Subparagraph (10) as to Applicant and Subparagraph (99) as to Owner having a controlling interest of 75% or more of the equitable and legal title of the lot have to be observed in order to obtain a building permit. The present requirement of the County of Kauai is that each owner must sign an affidavit that he can obtain income or sustenance from farming on the unit.

4. Use Restrictions. The agricultural restrictions for use of the Unit for agricultural purposes for 20 years from March 16, 1977 are set forth in Agreement dated March 16, 1977, recorded in Book 12110, Page 330, from such date for Lot 12 on which this Condominium is located. There are other use restrictions as set forth in the Declaration Affecting Conservation District Lands dated October 3, 1988, recorded in Book 22452, Page 486, made by C. Brewer Properties, Inc., as Declarant and the Agreement to Incorporate Agricultural Restrictions into Instruments of Conveyance dated September 30, 1988, recorded in Book 22452, Page 491, between C. Brewer Properties, Inc., a Hawaii corporation, and the County of Kauai Planning Department.

5. Kalihiwai Ridge Community Association. The Condominium Association will be a part of the Kalihiwai Ridge Community Association, a non-profit association, and shall be subject to its Charter, By-laws and Rules and Regulations and any assessments promulgated and levied pursuant to the Declaration of Protective Covenants.

6. Water and Utilities. The water, electricity and telephone will be drawn from Kahilihola Road to each Unit's boundary abutting said street at each Unit Owner's cost and expense to the dwelling and/or building.

7. Cesspools/Septic Tanks. There are no sewer lines and a sanitary sewer system. Each Unit Owner will have his own cesspool or septic tank located within his own Area no closer than 5 feet to any boundary and in compliance with the State of Hawaii Department of Health laws, rules and regulations.

8. Setbacks. Easement A is a utility easement for the use of Apartments 1 and 2. A setback of a minimum of 10 feet shall be observed from the Easement "A" boundary lines and the perimeter boundaries of each Unit.

9. Easements and Drainageway. No building and/or improvements shall be constructed over the drainageway area as described in the Condominium Map. There shall be no building over Easement E-4 and Easement D-7 located in Unit 1.

10. Land Use District Boundary Line. Each unit owner will observe the Land Use District Boundary of February 6, 1987 of the Conservation District and shall observe such land uses that are permitted by the State Land Use Commission and/or any other governmental agency having jurisdiction over such Land Use District Boundary.

11. Enforcement. The Association shall have the power to enforce these Corrected Building and House Rules and to prorate the assessments that are levied by the Kalihiwai Ridge Community Association from time to time. For the failure of any Unit Owner to observe these rules, the Association after giving ten (10) days written notice to any offending party and the failure to correct the default by such offending party will permit the Association to obtain an injunction, mandatory or prohibitory, without the necessity of any bond and/or recover damages resulting from the default. If the damages are liquidated such as the Community Association's assessments, the Association may file a lien against the Unit. If the damages are unliquidated, then a court order or judgment will be necessary to file a lien against the Unit.

12. Costs and Expenses. The Association or the alleged defaulting Unit Owner, whoever prevails, is entitled to costs and expenses including statutory interest and reasonable attorney's fees in the event of any dispute under these Corrected Building and House Rules.

13. Counterparts. These Rules are executed in counterparts and the execution by each of the owners shall constitute the adoption of these Rules to bind each of the owners of the condominium.

Adopted effective this 28<sup>th</sup> day of November, 2001

ASSOCIATION OF APARTMENT OWNERS  
OF PALI PUEO ESTATES

By Linda J. Warriner  
LINDA J. WARRINER

MARYANNE W. KUSAKA  
MAYOR



DEE M. CROWELL  
PLANNING DIRECTOR  
SHEILAH N. MIYAKE  
DEPUTY PLANNING DIRECTOR  
TELEPHONE (808) 241-6677  
FAX (808) 241-6699

PLANNING DEPARTMENT

DATE: March 5, 2002

TO: Senior Condominium Specialist  
Real Estate Commission  
P & VLD/DCCA  
250 South King Street, Suite 702  
Honolulu, Hawaii 96813

COPY

FROM: Dee M. Crowell, Planning Director

A handwritten signature in cursive script, likely belonging to Sheilah N. Miyake, Deputy Planning Director.

SUBJECT: Certification of Inspection of Existing Buildings

PROJECT NAME: PALI PUEO ESTATES CONDOMINIUM PROJECT  
TAX MAP KEY: (4) 5-2-17:12

The developer of the above-mentioned condominium project has requested that this office, as an agency of the County of Kauai, review the project for compliance with all ordinances, codes, rules, regulations and other requirements of the County of Kauai, (Section 515A-40 (b), (1), Hawaii Revised Statutes. Subject to the disclosures and waivers (item "5" below) specified herein, we certify the following:

1. The developer has contracted architect Hedda Schmutz to certify that the existing buildings on the proposed project referred to as Pali Pueo Estates Condominium Unit 1 and Unit 2 are in compliance with all ordinances, codes, rules, regulations and other requirements in force at the time of its construction, and to that extent, and subject to the conditions of waiver herein, the Planning Department adopts that certification as it pertains to the rules and regulations administered solely by the Department.
2. There were no variances approved for the subject property.
3. The parcel does not contain any outstanding nonconforming uses or structures as a result of the adoption or amendments of any ordinances or codes and regulations.

EXHIBIT "G"

Senior Condominium Specialist

Page 2

March 5, 2002

4. There are no notices of violation of County Building or zoning codes outstanding according to our records.

5. **WAIVER**

The foregoing certification is not a warranty to any compliance with applicable County and state rules and regulations. The sole reason for the execution hereof is to comply with statutory requirements relating to the regulations of condominiums under subsection 515-40, (b), and (1), Hawaii Revised Statutes.

If you have any questions, please contact Alvin Fukushima of my staff at 241-6697.

cc: Patrick J. Childs