



REAL ESTATE COMMISSION

STATE OF HAWAII
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION
P. O. Box 3469
Honolulu, Hawaii 96801

CONDOMINIUM PUBLIC REPORT

KOLO KAI AGRICULTURAL CONDOMINIUM
Kilauea, Kauai, Hawaii

Registration No. 2490 (Agricultural/Residential Conversion)

Issued: September 25, 1991
Expires: October 25, 1992

Report Purpose:

This report is based on information and documents submitted by the developer to the Real Estate Commission as of September 11, 1991, and is issued by the Commission for informational purposes only. It represents neither approval nor disapproval of the project. Buyers are encouraged to read this report carefully.

Type of Report:

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

And Supersedes all prior public reports

Must be read together with _____

This report reactivates the _____ public report(s) which expired on _____

Disclosure Abstract: Separate Disclosure Abstract on this condominium project:

- Required
- Not Required - disclosures covered in this report.

Summary of Changes 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.

[X] No prior reports have been issued by the Commission.

[] Changes made are as follows:

SPECIAL NOTICE

1. This Public Report does not constitute an approval or disapproval of the project nor a representation that all County Codes, Ordinances, subdivision requirements, or State of Hawaii Land Use requirements have been complied with.
2. This project does not involve the sale of individual subdivided lots.
3. Facilities and improvements normally associated with County approved subdivisions such as fire protection devices, County street lighting, electricity, upgrade water facilities, improved access for owner and emerging traffic, drainage facilities, etc., may not necessarily be provided for and services such as County street maintenance and trash collection will not be available for interior roads.

THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW THIS PUBLIC REPORT AND THE ATTACHED DOCUMENTS FOR FURTHER INFORMATION WITH REGARD TO THE FOREGOING.

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GENERAL INFORMATION ON CONDOMINIUMS

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

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.

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.

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 Ohana
 Mixed Residential and Commercial Agricultural
 Other Agricultural and Residential
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>
1	1	3/4	3610	278
2	1	4/3	3430	272
3	1	2/2	1299	126
4	1	1/2	2083	504
5	1	2/2	1896	1266

Total Apartments: 5

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

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

6. Parking:

	<u>Number of Stalls</u>
Assigned Stalls (Individual Units)	_____
Guest Stalls	_____
Unassigned Stalls	_____
Extra Stalls Available for Purchase	_____
Other: <u>Each unit</u> has ample area for parking within its limited common element, but shall have at least two (2) stall areas	_____
Total Parking Stalls at all times.	_____

7. Recreational amenities: None

I. PEOPLE CONNECTED WITH THE PROJECT

T. JACK BENNINGTON, MARTHA ANN BENNINGTON,
MARGARET NEUMANN, BARBARA NEUMANN TROMBLEY,
ROGER TANIGUCHI, A. LARRY WHARTON, JAN LEE

Phone: (808) 828-1312
(Business)

Developer:

Name WHARTON, AND TERRY ANN SEMERAD

P.O. Box 39

Business Address

Kilauea, Hawaii 96754

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

N/A

Real Estate
Broker:

Name BETA PACIFIC

Phone: (808) 828-1312
(Business)

P.O. Box 39
Business Address

Kilauea, Hawaii 96754

Escrow:

Name TITLE GUARANTY ESCROW SERVICES, INC.

Phone: (808) 245-3381
(Business)

4290 Rice Street
Business Address

Lihue, Kauai, Hawaii 96766

General
Contractor:

Name N/A

Phone: _____
(Business)

Business Address

Condominium
Managing
Agent:

Name Self-Managed by Association of
Apartment Owners

Phone: N/A
(Business)

Business Address

Attorney for
Developer:

Name William C. Byrns/Jason T. Higa

Phone: (808) 533-3888
(Business)

Business Address BAYS, DEEVER, HIATT, KAWACHIKA, LEZAK & KODANI

Suite 900, Hawaii Tower, 745 Fort Street
Honolulu, Hawaii 96813

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

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

The House Rules for this condominium are:

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

E. **Changes to Condominium Documents**

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

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

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

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

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

In Section 21(b) of the Declaration, the Developer reserves the right to amend the Declaration and Condominium Map by filing the "as-built" verified statement required by Section 514A-12, HRS.

4. Permitted Uses by Zoning:

	<u>No. of Apts.</u>	<u>Use Determined By Zoning</u>		<u>No. of Apts.</u>	<u>Use Determined By Zoning</u>
<input type="checkbox"/> Commercial	_____	_____	<input type="checkbox"/> Industrial	_____	_____
<input type="checkbox"/> Residential	_____	_____	<input checked="" type="checkbox"/> Agricultural	<u>5</u>	<u>Yes</u>
<input type="checkbox"/> Timeshare/Hotel	_____	_____	<input type="checkbox"/> Recreational	_____	_____
<input type="checkbox"/> Other: _____				_____	_____

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

Yes No

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:

Pets: _____

Number of Occupants: _____

Other: _____

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators 0 Stairways 4 Trash Chutes 0

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Lanai/Patio (sf)</u>
<u>1</u>	<u>1</u>	<u>3/4</u>	<u>3610</u>	<u>278</u>
<u>2</u>	<u>1</u>	<u>4/3</u>	<u>3430</u>	<u>272</u>
<u>3</u>	<u>1</u>	<u>2/2</u>	<u>1299</u>	<u>126</u>
<u>4</u>	<u>1</u>	<u>1/2</u>	<u>2083</u>	<u>504</u>
<u>5</u>	<u>1</u>	<u>2/2</u>	<u>1896</u>	<u>1266</u>
_____	_____	_____	_____	_____

Total Apartments: 5

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

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

4. Permitted Uses by Zoning:

	<u>No. of Apts</u>	<u>Use Determined By Zoning</u>		<u>No. of Apts</u>	<u>Use Determined By Zoning</u>
[] Commercial	_____	_____	[] Industrial	_____	_____
[] Residential	_____	_____	[X] Agricultural	<u>5</u>	<u>Yes</u>
[] Timeshare/Hotel	_____	_____	[] Recreational	_____	_____
[] Other: _____				_____	_____

Is/Are this/these use(s) specifically permitted by the project's declaration or bylaws?
 [X] Yes [] No

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:

- [] Pets: _____
- [] Number of Occupants: _____
- [] Other: _____
- [X] There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators 0 Stairways 4 Trash Chutes 0

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Lanai/Patio (sf)</u>
<u>1</u>	<u>1</u>	<u>3/4</u>	<u>3610</u>	<u>278</u>
<u>2</u>	<u>1</u>	<u>4/3</u>	<u>3430</u>	<u>272</u>
<u>3</u>	<u>1</u>	<u>2/2</u>	<u>1299</u>	<u>126</u>
<u>4</u>	<u>1</u>	<u>1/2</u>	<u>2083</u>	<u>504</u>
<u>5</u>	<u>1</u>	<u>2/2</u>	<u>1896</u>	<u>1266</u>
_____	_____	_____	_____	_____

Total Apartments: 5

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

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

Boundaries of Each Apartment:

See Exhibit B

Permitted Alterations to Apartments:

As noted in Section 18 of the Declaration, individual apartment owners may, at their sole discretion and at their own expense, remodel, expand, or otherwise alter their apartment, provided said alterations are done in complete accordance with all applicable ordinances, codes, rules, regulations and other requirements in force at the time of said construction. All alterations shall be completed expeditiously and in the manner set forth in said Section 18.

7. Parking Stalls:

Total Parking Stalls: At least two (2) parking stalls will be required in each unit's limited common element.

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

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

Based on a report prepared by an independent professional engineer, it is the Developer's opinion that all structural components and mechanical and electrical installations material to the use and enjoyment of the individual condominium apartments appear to be sound and in satisfactory working condition. However, no representations of any kind are made as to the expected useful life, if any, of the structural components and mechanical and electrical installations material to the use and enjoyment of the condominium apartment(s).

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

The Project is a conversion of fully constructed and existing buildings to condominium status. Said buildings are in compliance with all ordinances, codes, rules, regulations or other requirements in force at the time of their construction. No variance has been granted from any ordinance, code, rule, regulation or other requirement in force at the time of their construction or from any other ordinance, code, rule, regulation or other requirement. See Exhibits "F" and "F1" attached hereto.

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>	_____	_____
Structures	<u>X</u>	_____	_____
Lot	<u>X</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 C describes the common elements.

As follows:

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

There are no limited common elements in this project.

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

described in Exhibit 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 A describes the common interests for each apartment.

As follows:

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

Exhibit D describes the encumbrances against the title contained in the title report dated June 27, 1991 and issued by Title Guaranty of Hawaii, Inc. Developer represents that since then no further encumbrances have been placed on the property since the date of such title policy.

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>
Agreement for Use of Property	Buyer's interest is unaffected. Title to individual apartments will be free and clear at time of conveyance.

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

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

The initial managing agent for this condominium is:

- not affiliated with the Developer.
 the Developer or the Developer's affiliate.
 self-managed by the Association of Apartment Owners.
 other _____

G. Estimate of Initial Maintenance Fees:

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

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

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

H. Utility Charges for Apartments:

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

- Not applicable
- Electricity Television Cable
- Gas Water & Sewer
- Other _____

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:

None

2. Appliances:

None

J. Status of Construction and Estimated Completion Date:

N/A

K. Project Phases:

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

Summary of Developer's Present Plans for Future Development:

L. Sales Documents Filed With the Real Estate Commission:

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

Notice to Owner Occupants

Specimen Sales Contract

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

Escrow Agreement dated _____

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

Other _____

IV. ADDITIONAL INFORMATION NOT COVERED ABOVE

When applying for zoning permits with the Planning Department, each owner or assignee is required to have 75% of the owners in the project to sign the permit form(s). See County of Kauai letter attached as Exhibit "F1".

All new wastewater disposal systems (currently by way of cesspools) will be subject to new State of Hawaii, Department of Health Regulations referred to as Hawaii Administrative Rules, Title 11, Department of Health Chapter 62-Waste Water Systems. It is the Buyer's responsibility to speak directly with the Health Department and request a copy of such regulations and to review said regulations. Should Buyer have any questions, Buyer is to seek additional information from a qualified sanitation engineer.

The land dedicated to the Condominium Property Regime is encumbered by the following:

1. A 100-year flood building setback line as shown on map prepared by Professional Surveyor Masao Fujishige, dated February 17, 1977;

2. Farm Dwelling Agreement with County of Kauai, dated January 22, 1982, agreeing to building dwellings only as defined under the State of Hawaii Land Use Law;

3. Agreement filed with Kauai County that the dwellings constructed are in compliance with the State of Hawaii Land Use Laws, and all present and future owners, lessees and occupants of the premises are bound by this agreement.

Presently, the County building ordinance allows one guest home construction in the project, and if a guest home construction is permitted by one owner, then the four other owners will not be able to construct same in their respective limited common areas.

Developer discloses that an unrecorded private agreement in the use of property exists currently, which agreement will be cancelled prior to the conveyance of any apartment in the project.

PURCHASERS ARE ADVISED THAT THE ABOVE INFORMATION IS VERY MATERIAL TO THE USE AND ENJOYMENT OF THE PROPERTY, AND UPON REQUEST BY PURCHASERS, DEVELOPER IS TO PROVIDE A TRUE COPY OF THESE AGREEMENTS FOR INSPECTION AND APPROVAL.

Buyer's Right to Cancel Sales Contract:

A. Rights Under the Condominium Statute:

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, 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.

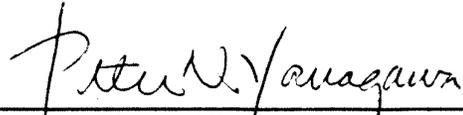
Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer and are on file at the Department of Commerce and Consumer Affairs. Reprints of Hawaii's Condominium Law (Chapter 514A, HRS, and Hawaii Administrative Rules, Chapter 16-107) are available at the Department of Commerce and Consumer Affairs, 1010 Richards Street, P. O. Box 541, Honolulu, HI 96809.

This Public Report is a part of Registration No. 2490 filed with the Real Estate Commission on August 5, 1991.

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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 YANAGAWA, Chairman
REAL ESTATE COMMISSION
STATE OF HAWAII

Distribution:

Bureau of Conveyances
Department of Finance, County of Kauai
Planning Department, County of Kauai
Federal Housing Administration

EXHIBIT A

SCHEDULE OF APARTMENTS AND COMMON INTERESTS
FOR KOLO KAI AGRICULTURAL CONDOMINIUM

Qty.	Apt. No.	Area of Limited Common Element	% Common Interest
1	A	4.92 acres	20
1	B	<u>4.03</u>	20
1	C	<u>3.10</u>	20
1	D	<u>4.54</u>	20
1	E	<u>5.73</u>	20

The common interest appurtenant to each unit shall be permanent. Subject to the zoning requirements and amendments of the Condominium Map and the Declaration of Condominium Property Regime, each unit owner may use his unit, alter or add to its farm structure in any manner he deems desirable. If adjoining unit owners desire to alter and/or transfer portions of their respective units, they can do so by the filing of an amendment to the Condominium Map and the Declaration together with their respective signatures and acknowledgements by the Association of Unit Owners that such change is being made.

END OF EXHIBIT A

EXHIBIT B

INDIVIDUAL APARTMENT DESCRIPTIONS

The Kolo Kai Agricultural Condominium Project consists of five condominium apartments, each apartment comprising a separate single-family structure. The apartments are described as follows:

- A. "Apartment A" consists of a separate one-story wood-frame structure, without basement, containing three bedrooms, four baths, living room, family room, dining room, dressing room, laundry room, kitchen, fireplace, recreational deck, and loft -- all containing a net interior living area of approximately 3610 square feet. Parking spaces are provided for said Apartment as shown on Condominium Map.
- B. "Apartment B" consists of a separate one-story wood-frame structure, without basement, containing four bedrooms, three baths, living room, family room, dining room, laundry room, kitchen, fireplace, recreational deck, and hot tub -- all containing a net interior living area of approximately 3430 square feet. Parking spaces are provided for said Apartment as shown on Condominium Map.
- C. "Apartment C" consists of a separate one-story wood-frame structure, without basement, containing two bedrooms, two baths, living room, dining room, two dressing rooms, laundry room, kitchen, and recreational deck -- all containing a net interior living area of approximately 1299 square feet. Parking spaces are provided for said Apartment as shown on Condominium Map.
- D. "Apartment D" consists of a separate two-story wood-frame structure, without basement, containing one bedroom, two baths, living room, family room, laundry room, kitchen, library, recreational deck, hot tub, and loft -- all containing a net interior living area of approximately 2083 square feet. Parking spaces are provided for said Apartment as shown on Condominium Map.
- E. "Apartment E" consists of a separate two-story wood-frame structure, without basement, containing two bedrooms, two baths, living room, family room, dining room, laundry room, kitchen, and recreational deck -- all containing a net interior living area of approximately 1896 square feet. Apartment E also consists of a separate steel warehouse of approximately 1800 square feet. Parking spaces are provided for said Apartment as shown on Condominium Map.

END OF EXHIBIT B

EXHIBIT C

Common Elements and Limited Common Elements of Project

The common elements of the project are the land designated as "common elements" as shown on the Condominium Map recorded in the Bureau of Conveyances of the State of Hawaii as Condominium Map 1533.

Certain parts of the common elements, herein called the "limited common elements" are designated and set aside for the exclusive use of certain apartments, and such apartments shall have appurtenant thereto easements for the use of such limited common elements as follows:

(a) The area of each agricultural unit as shown on Condominium Map 1533 recorded in the Bureau of Conveyances of the State of Hawaii.

(b) The broken lines delineating the limits of land area (limited common element) appurtenant to each unit are not boundaries of legally subdivided lots. The lines are for illustration purposes only.

END OF EXHIBIT C

EXHIBIT D

Encumbrances Against Title

1. FARM DWELLING AGREEMENT dated January 22, 1982, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 16185 at Page 507, by and between Larry C. McKnight and Terry A. McKnight, "Applicants", and County of Kauai Planning Department, "Department".
2. Grant in favor of Citizens Utilities Company and Hawaiian Telephone Company, now known as GTE Hawaiian Telephone Company Incorporated, dated May 20, 1981, recorded in said Bureau in Liber 16524 at Page 648; granting a perpetual right and easement to build, construct, reconstruct, rebuild, repair, maintain and operate pole and wire lines and/or underground lines for the transmission and distribution of electricity over and across Easement "E-1"; said Easement "E-1" being more particularly described therein.
3. Grant in favor of Citizens Utilities Company and Hawaiian Telephone Company, now known as GTE HAWAIIAN TELEPHONE COMPANY INCORPORATED, dated December 21, 1981, recorded in said Bureau in Liber 16524 at Page 658; granting a perpetual right and easement to build, construct, reconstruct, rebuild, repair, maintain and operate pole and wire lines and/or underground lines for the transmission and distribution of electricity over and across Easement "E-2"; said Easement "E-2" being more particularly described therein.
4. FARM DWELLING AGREEMENT dated September 16, 1988, recorded in said Bureau in Liber 22512 at Page 48, by and between T. Jack Bennington, husband of Rita Bennington and Martha Ann Bennington, unmarried, and County of Kauai, Planning Department.
5. WARRANTY DEED dated July 8, 1980, recorded in said Bureau in Liber 14861 at Page 95, by and between Beta Pacific, Inc., as "Grantor", and T. Jack Bennington and Martha Ann Bennington, as "Grantees".
6. EXCHANGE WARRANTY DEED dated May 29, 1986, recorded in said Bureau in Liber 19616 at Page 166, by and between Warren A. Symington and Janice F. Symington, as "Grantors", and Martha B. Stanyer, as "Grantee".

7. WARRANTY DEED dated April 25, 1988, recorded in said Bureau in Liber 21950 at Page 273, by and between Alco Standard Corporation, as "Grantor", and Roger Taniguchi and Veralyn K. Taniguchi, and A. Larry Wharton and Jan Lee Wharton, and Terry Ann Semerad, as "Grantees".
8. PARTITION QUITCLAIM DEED dated May 5, 1989, recorded in said Bureau in Liber 23675 at Page 521, by and between Environs Limited Partnership; and T. Jack Bennington, Martha Ann Bennington, Martha B. Stanyer, Roger Taniguchi and Veralyn K. Taniguchi, A. Larry Wharton and Jan Lee Wharton, and Terry Ann Semerad.
9. WARRANTY DEED dated January 28, 1991, recorded in said Bureau as Document No. 91-012928, by and between Martha B. Stanyer, as "Grantor", and Heritage Group 1, Inc., as "Grantee".
10. LIMITED WARRANTY DEED dated January 28, 1991, recorded in said Bureau as Document No. 91-012929, by and between Heritage Group 1, Inc., as "Grantor", and Margaret Neumann and Barbara Neumann Trombley, as "Grantee."
11. *UNRECORDED AGREEMENT FOR USE OF PROPERTY dated July 1, 1981, by and between T. Jack Bennington; Terry A. McKnight and Larry C. McKnight; Jan Lee Wharton and A. Larry Wharton; Veralyn Taniguchi and Roger Taniguchi, and Janice F. Symington and Warren A. Symington.
12. For real property taxes due and payable, refer to Director of Finance, County of Kauai.

END OF EXHIBIT D

XHIBIT E

ESTIMATE OF INITIAL MAINTENANCE FEES
AND
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

<u>Apartment</u>	<u>Monthly Fee</u> x 12 months = <u>Yearly Total</u>
1 - 5	\$75.00 x 12 = <u>\$900</u>

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

Estimate of Maintenance Fee Disbursements:

Monthly x 12 months = Yearly Total

Utilities and Services

Air Conditioning

Electricity

- common elements only
- common elements and apartments

Gas

Refuse Collection

Telephone

Water and Sewer (only if common metering) . . . \$ 24 x 12 = \$ 288

Maintenance, Repairs and Supplies

Building \$ 34 x 12 = \$ 408
Grounds

Management

Management Fee ----

Payroll and Payroll Taxes ----

Office Expenses ----

Insurance \$ 5 x 12 = \$ 60

Reserves \$ 0 x 12 = \$ 0

Taxes and Government Assessments \$ 12 x 12 = \$ 144

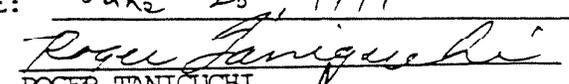
Audit Fees \$ 0 x 12 = \$ 0

Other

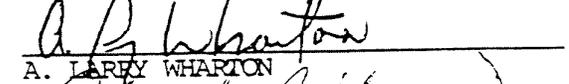
TOTAL \$ 75 x 12 = \$ 900

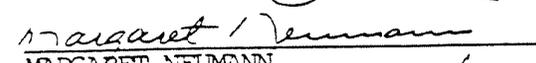
T. JACK BENNINGTON, MARTHA ANN BENNINGTON, MARGARET NEUMANN, BARBARA NEUMANN TROMBLEY, ROGER TANIGUCHI, A. LARRY WHARTON and JAN LEE WHARTON and TERRY ANN SEMERAD managing agents for the condominium project hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles. DATE: June 28, 1991


T. JACK BENNINGTON


ROGER TANIGUCHI


MARTHA ANN BENNINGTON


A. LARRY WHARTON


MARGARET NEUMANN

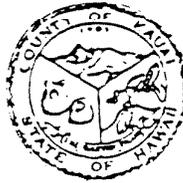

JAN LEE WHARTON


BARBARA NEUMANN TROMBLEY


TERRY ANN SEMERAD

JOANN A. YUKIMURA
MAYOR

EXHIBIT F



PETER A. NAKAMURA
PLANNING DIRECTOR

ROLAND D. SAGUM, III
DEPUTY PLANNING DIRECTOR

TELEPHONE (808) 245-3919

COUNTY OF KAUAI
PLANNING DEPARTMENT
4280 RICE STREET
LIHUE, KAUAI, HAWAII 96766

July 23, 1991

Mr. Jason T. Higa
Bays Deaver Hiatt Kawachika Lezak Kodani
Attorneys at Law
P.O. Box 1760
Honolulu, Hawaii 96806

Subject: Certification of Inspection of Existing Buildings for
Kolo Kai Agricultural Condominium at Kilauea, Kauai
TMK:5-2-12:1
LOTR:6/19/91

The developer of the above-mentioned condominium project ("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 514A-39, HRS). Subject to the disclosures and waiver (item "c" below) specified herein, we certify the following:

- a. The developer has contracted an engineer to certify that the project is 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 condition of waiver herein, the Planning Department adopts that certification as it pertains to our requirements.
- b. We have no record of any zoning variances that have been granted on the subject property.
- c. WAIVER
The foregoing certification is not a warranty as to any aforementioned compliance, nor a representation as to the condition of the property in question. No rights against the County of Kauai shall arise as a result of this certification. The sole reason for the execution

Mr. Jason T. Higa
Page 2
July 23, 1991

hereof is to comply with statutory requirements relating to the regulation of condominiums under Subsection 514(A), HRS. This certification shall not be construed to guarantee that all County Codes and Ordinances have been complied with. Subsequent development and use shall comply to all applicable County Codes and Ordinances. It should also be noted that the Condominium Property Regime (CPR) does not mean that all County requirements pertaining to subdivision of lands have been met. Therefore, such facilities/improvements that are normally associated with County approved subdivisions such as fire protection devices, County street lighting, electricity, upgraded water facilities, improved access for owner and emergency traffic, drainage facilities, etc., will not be provided. Further, such services as County street maintenance and trash collection will not be available for interior roads and driveways, if any.

Please note that the intended condominium of the property does not create separate parcels of record. Furthermore, the number of limited common elements or CPR units proposed for this parcel should not exceed the number of dwelling units, including Additional Dwelling Units (ADU), permitted by the respective zoning district. It is recommended that developer resolve the allowable density with the Planning Department prior to the filing of the Notice of Intention for the proposed condominium with the Real Estate Commission.

If you have any questions, please contact Bryan Mamaclay of my staff at 245-3919.


PETER A. NAKAMURA
for Planning Director

JOANN A. YUKIMURA
MAYOR



EXHIBIT F1



COUNTY OF KAUAI
PLANNING DEPARTMENT
4280 RICE STREET
LIHUE, KAUAI, HAWAII 96766

PETER A. NAKAMURA
PLANNING DIRECTOR

ROLAND D. SAGUM, III
DEPUTY PLANNING DIRECTOR

TELEPHONE (808) 245-3919

July 31, 1991

Mr. Calvin Kimura, Executive Secretary
Real Estate Commission
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
P. O. Box 3469
Honolulu, Hawaii 96801

Subject: Comments on Kolo Kai Agricultural Condominium Report
Tax Map Key:5-2-12:1
Kilauea, Kauai
LOTR:07/22/91

After reviewing the subject document, we have the following comments to offer:

The amount of limited common elements corresponds to the allowable unit density permitted by the CZO. The subject property is zoned Agriculture District (A) and Open District (O) and qualifies for five (5) units.

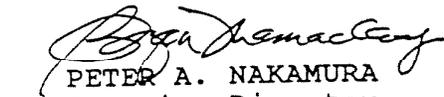
When applying for Zoning Permits with the Planning Department, the owners must be made aware that 75% of the owners or their assignee, are required to sign the permit form(s). Should an assignee be designated, such assignee shall present proof of authorization from the 75% of the owners at the time a permit is applied for. This is a requirement because the Planning Department does not recognize the Condominium Report to be a legal subdivision of land.

The uses on the limited common elements shall be limited to those listed as permissible within the "A" Agricultural District in the State Land Use Commission Rules and Regulations. Farm dwellings on the lot shall mean a single-family dwelling located on and used in connection with a farm or where agricultural activity provides income to the family occupying the dwelling.

Mr. Calvin Kimura, Executive Secretary
Real Estate Commission
Page 2
July 31, 1991

There should be a disclosure provision written into this and all ensuing condominium reports stating that approval of the report should not be misconstrued to mean that all County Codes and Ordinances have been complied with. Subsequent development and use shall comply with all applicable County Codes and Ordinances. It should also be made clear that the Condominium Property Regime (CPR) does not necessarily mean that all County requirements pertaining to subdivision of lands have been met. Therefore, such facilities/improvements that are normally associated with County-approved subdivisions such as fire protection devices, County street lighting, electricity, upgraded water facilities, improved access for owner and emergency traffic, drainage facilities, etc., may not necessarily be provided for. Further, such services as County street maintenance and trash collection will not be available for interior road/driveways.

Should you have any questions, please feel free to contact Bryan Mamaclay of my staff at 245-3919.


PETER A. NAKAMURA
Planning Director

cc: Jason T. Higa

EXHIBIT G

SUMMARY OF ESCROW AGREEMENT

The Escrow Agreement ("Agreement") between TITLE GUARANTY ESCROW SERVICES, INC. ("Escrow"), and BETA PACIFIC, INC., a Hawaii corporation, T. JACK BENNINGTON, husband of Rita Bennington, MARTHA ANN BENNINGTON, unmarried, MARTHA B. STANYER, wife of Andrew B. Stanyer, ROGER TANIGUCHI, unmarried, A. LARRY WHARTON and JAN L. WHARTON, husband and wife, as Tenants by the Entirety, and TERRY ANN SEMERAD, wife of Robert John Semerad (collectively, the "Seller"), contains, among other provisions, the following (which may be modified or otherwise limited by provisions not summarized):

1. Whenever Seller enters into a sales contract for the sale of an apartment, Seller will require that payments due under the sales contract be made to Escrow and will deliver an executed copy of the sales contract to Escrow.

2. Escrow will receive payments under the sales contracts and sums received from any other source with respect to the project. Funds held under the Agreement will initially be deposited in an account for the project.

3. Escrow will release from the Trust Fund and disburse Buyer's funds at closing. No disbursements will be made from Buyer's fund until: (a) the Real Estate Commission has issued a Final Public Report on the project and forty-eight (48) hours have elapsed since Buyer's receipt of a copy of the Final Public Report; (b) Buyer has waived its right to cancel the sales contract; and (c) Seller has notified Escrow that all other requirements of Sections 514A-39 and 514A-63, Hawaii Revised Statutes, have been met. Where sales contracts are entered into, Escrow will disburse funds upon presentation by Seller of Buyer's signed receipt for the Final Public Report and with notification by Seller that all of the requirements of Sections 514A-39 and 514A-63, Hawaii Revised Statutes, have been met. Escrow will call for payments by the Buyer upon receipt of notice from Seller that any payments are due under any sales contract.

4. Escrow will return deposited sums to the Buyer without interest if Seller gives Escrow written notice to return the funds to Buyer, or with respect to a Buyer whose funds were obtained before the issuance of a Final Public Report, Escrow receives from the Buyer a written request to cancel the sales contract or after issuance of the Final Public Report and Buyer's waiver of his right to cancel the sales contract in accordance with Section 514A-62, Hawaii Revised Statutes, there shall be any material change in the project which directly, substantially and adversely affects the use or value of the Buyer's apartment or appurtenant common elements or those amenities of the project

available for Buyer's use, of a nature entitling the Buyer to cancel his sales contract pursuant to Section 514A-63, Hawaii Revised Statutes. These funds shall be returned to Buyer less Escrow's cancellation fee, if any, any mortgagee's cancellation fee and all other costs incurred in connection with the Escrow.

6. As Escrow's compensation for its performance under this Agreement, Escrow will receive an amount to be determined by Escrow for each apartment for which an apartment deed of the project is handled by Escrow and recorded in the Bureau of Conveyances of the State of Hawaii. Escrow will record all applicable documents. Title insurance will also cost an additional sum.

* * * * *

THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE AGREEMENT. WHILE ONE CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF THE AGREEMENT, HE MUST REFER TO THE ACTUAL AGREEMENT TO DETERMINE THE RIGHTS AND OBLIGATIONS OF THE PARTIES. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE AGREEMENT, THE AGREEMENT WILL CONTROL AND NOT THIS SUMMARY.

END OF EXHIBIT G

EXHIBIT H

SUMMARY OF SALES CONTRACT

The intended sales contract for the Project is the standard Hawaii Association of Realtors' Deposit Receipt, Offer and Acceptance ("DROA") form. The DROA contains, among other provisions, the following (which may be modified or otherwise limited by provisions not summarized):

1. Evidence of Title. Seller shall furnish Buyer evidence of Seller's marketable title to the interest which is to be conveyed to Buyer. If Seller fails to deliver title as herein provided, Buyer has the option to terminate this agreement and have any of Buyer's deposits returned to Buyer. The foregoing shall not exclude any other remedies available to Buyer. Buyer will receive an Owner's standard coverage policy of title insurance at closing: (a) Seller shall pay 60% of the premium to be charged for an Owner's standard coverage policy of title insurance to be issued to the Buyer in the amount of the sales price; and, (b) Buyer shall pay 40% of such premium and any additional costs relating to the issuance of any extended coverage policy, including a Lender's policy.

2. Termite Inspection. Seller shall deliver to Buyer through escrow a report from a licensed pest control company stating that there is no live visible termite infestation in the improvements described herein. Seller shall pay for termite extermination treatment if it is required.

3. Seller's Limited Warranty: Seller warrants and Buyer will acknowledge in writing that all major appliances, plumbing and electrical and/or gas fixtures included in the sale will be in working order consistent with their age as of the date of closing or occupancy, if earlier. No other warranty is expressed or implied.

4. Risk of Loss. Risk of loss passes to Buyer upon transfer of title or occupancy whichever occurs first.

5. Default. It is expressly understood and agreed: First: In the event Buyer fails to pay the balance of the purchase price or complete the purchase as herein provided, Seller may (a) bring an action for damages for breach of contract; (b) retain the initial deposit and all additional deposits provided for herein, as liquidated damages; and (c) Buyer shall be responsible for any cost incurred in accordance with this contract. Second: In the event Seller fails to perform his obligations as herein provided, Buyer not being in default, Buyer may (a) bring an action against Seller for damages for breach of contract; (b) file and maintain an action against Seller for specific performance of this contract; and (c) Seller

shall be responsible for any cost incurred in accordance with this contract. The foregoing shall not exclude any other remedies available to either Seller or Buyer. In the event of default and/or a lawsuit arising out of this contract (including a suit by a REALTOR for commission), the prevailing party shall be entitled to recover all costs incurred including reasonable attorneys' fees. All expenses incurred by escrow shall be deducted from deposited funds prior to any disbursement to the prevailing party.

6. Consent. The obligations of Buyer or Seller hereunder are conditioned upon obtaining those necessary consents of vendors, existing mortgagees, lessors and/or condominium, co-op or other such associations, Buyer or Seller agree to cooperate and take all reasonable action to obtain such consents.

7. Time is of the Essence. If either Buyer or Seller for reasons beyond his control cannot perform his obligation to purchase or sell the property by the closing date, then such party by giving escrow written notice prior to the closing date called for in this contract with copies to all parties to this contract, can extend closing for no longer than 30 calendar days to allow performance. Thereafter time is of the essence and the default provisions of paragraph 5 apply. Any further extension must then be agreed to in writing by both parties. There is no automatic right to extend. This provision relates only to the extension of the closing date.

THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE DROA. THE BUYER MUST REFER TO THE BUYER'S DROA TO DETERMINE THE BUYER'S ACTUAL RIGHTS AND OBLIGATIONS. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE DROA, THE DROA WILL CONTROL, NOT THIS SUMMARY.

END OF EXHIBIT H