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

NAWILIWILI BAY VIEW
Hulemalu Road
Niumalu, Lihue, Kauai, Hawaii

Registration No. 2494

Issued: SEPTEMBER 4, 1991
Expires: OCTOBER 4, 1992

Report Purpose:

This report is based on information and documents submitted by the developer to the Real Estate Commission as of August 23, 19 91, 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.

X **FINAL:** *(white)* The developer has legally created a condominium and has filed complete information with the Commission.

[X] 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 [X] Not Required - disclosures covered in this report.

Summary of Changes from Earl ublic 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:

THERE ARE COUNTY RESTRICTIONS ON THE NUMBER OF RESIDENTIAL DWELLING UNITS, OR OTHER STRUCTURES, WHICH MAY BE BUILT UPON THE PROPERTY. THEREFORE, UNLESS THE PURCHASER IS PURCHASING AN EXISTING RESIDENTIAL DWELLING, THERE IS NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO BUILD A RESIDENTIAL DWELLING UNITY 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 UNIT, OR ANY OTHER TYPE OF STRUCTURE, UPON THE PROPERTY.

1. THERE ARE PRESENTLY NO RESIDENTIAL STRUCTURES ON THE PROPERTY. THE ONLY BUILDINGS ON THE PROPERTY ARE TWO STORAGE SHEDS, EACH OF WHICH IS DEFINED AS AN APARTMENT UNDER THE CONDOMINIUM PROPERTY ACT.

2. This Public Report does <u>not</u> constitute an approval of the project nor that all County Codes, Ordinances and subdivision requirements have been complied with.

3. This project does <u>not</u> involve the sale of individual subdivided lots. The dotted lines on the Condominium Map are for illustration purposes only.

4. Facilities and improvements 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, and services such as County street maintenance and trash collection will not be available for interior roads and driveways.

5. Read Exhibit G (Letter from County of Kauai Planning Department) with care.

THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW THE 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:

[X] 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. [X] New Building(s) [ ] Conversion
   [ ] Both New Building(s) and Conversion

2. [ ] Residential [ ] Commercial [ ] Ohana
   [ ] Mixed Residential and Commercial [X] Agricultural
   [ ] Other _____

3. [ ] High Rise (5 stories or more) [ ] Low Rise

4. [ ] Single or [ ] Multiple Buildings

5. Apartment Description

Apt. Type	Quantity	BR/Bath	Net Living Area (sf)*	Lanai/Patio (sf)
1	1	N/A	64 sq. ft.	N/A
2	1	N/A	64 sq. ft.	N/A

Total Apartments: 2

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

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

6. Parking:

	Number of Stalls
Assigned Stalls (Individual Units)	
Guest Stalls	
Unassigned Stalls	
Extra Stalls Available for Purchase	
Other: _____	Not designated
Total Parking Stalls	Not designated

7. Recreational amenities: None

I. PEOPLE CONNECTED WITH THE PROJECT

Developer:

Dennis Mitsuaki Esaki	Christopher Owen Kauahi
Name	
3145-E Akahi Street	330 Aina Uka Place
Business Address	
Lihue, Hawaii 96766	Kapaa, Hawaii 96746

Phone: (808) 246-0625 (Business)
Phone: (808) 246-0625 (Business)

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

Real Estate Broker:

Carol Aki
Name
3145C Akahi Street
Business Address
Lihue, Hawaii 96766

Phone: (808) 246-6057 (Business)

Escrow:

Title Guaranty Escrow Services, Inc.
Name
4290 Rice Street
Business Address
Lihue, Kauai, Hawaii 96766

Phone: (808) 245-3381 (Business)

General Contractor:

Owner/Builder
Name

Business Address

Phone: _____ (Business)

Condominium Managing Agent:

Self management by Association of Apartment Owners
Name

Business Address

Phone: _____ (Business)

Attorney for Developer:

Hiroshi Sakai, Attorney at Law, A Law Corporation
Name
201 Merchant Street, Suite 902
Business Address
Honolulu, Hawaii 96813

Phone: (808) 531-4171 (Business)

II. CREATION OF THE CONDOMINIUM; CONDOMINIUM DOCUMENTS

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

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

The Declaration for this condominium is:

[ ] Proposed
[ ] Recorded - Bureau of Conveyances - Document No. _____
Book _____ Page _____
[X] Filed - Land Court - Document No 1830386

Amendment date(s) and recording/filing information:

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

The Condominium Map for this condominium project is:

[ ] Proposed
[ ] Recorded - Bureau of Conveyance Condo Map No. _____
[X] Filed - Land Court Condo Map No. 853

Amendment date(s) and recording/filing information:

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

The Bylaws for this condominium are:

[ ] Proposed
[ ] Recorded - Bureau of Conveyances - Document No. _____
Book _____ Page _____
[X] Filed - Land Court - Document No. 1830388

Amendment date(s) and recording/filing information:

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

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

The House Rules for this condominium are:

[ ] Proposed [X] 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:

	Minimum Set by Law	This Condominium
Declaration (and Condo Map)	75%	75%
Bylaws	65%	65%
House Rules	---	Board of Directors

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.

[X] 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 as required by law.

III. THE CONDOMINIUM PROJECT

A. Interest to be Conveyed to Buyer:

[X] Fee Simple: Individual apartments and the common elements which includes the underlying land will be in fee simple.

[ ] Leasehold or Subleasehold: Individual apartments and the common elements which includes the underlying land will be leasehold.

The leases for the individual apartments and the underlying land usually require that at the end of the lease term, the lessee (tenant) deliver to the lessor (fee property owner) possession of the leased premises and all improvements, including improvements paid for by the lessee.

Exhibit _____ contains further explanations regarding the manner in which the renegotiated lease rents will be calculated and a description of the surrender clause provision(s).

Lease Term Expires: _____
Rent Renegotiation Date(s): _____
_____

Lease Rent Payable: [ ] Monthly [ ] Quarterly
[ ] Semi-Annually [ ] Annually

Exhibit _____ contains a schedule of the lease rent for each apartment per
[ ] Month [ ] Year.

[ ] Individual Apartments in Fee Simple Common Interest in the Underlying Land in Leasehold or Subleasehold:

The leases for the underlying land usually require that at the end of the lease term, the lessees (apartment owners - tenants) deliver to the lessor (fee property owner) their interest in the land and that they either (1) remove or dispose of the building(s) and other improvements; or (2) convey the building(s) and improvements to the lessor, often at a specified price.

Exhibit _____ contains further explanations regarding the manner in which the renegotiated lease rents will be calculated and a description of the surrender clause provision(s).

Lease Term Expires: _____
Rent Renegotiation Date(s): _____
_____

Lease Rent Payable: [ ] Monthly [ ] Quarterly
[ ] Semi-Annually [ ] Annually

Exhibit _____ contains a schedule of the lease rent for each apartment per
[ ] Month [ ] Year.

[ ] Other:

For Subleaseholds:

[ ] Buyer's sublease may be cancelled if the master lease between the sublessor and fee owner is
[ ] Cancelled [ ] Foreclosed

[ ] As long as the buyer is not in default, the buyer may continue to occupy the apartment and/or land on the same terms contained in the sublease even if the master lease is cancelled or foreclosed.

B. **Underlying Land:**

Address: Hulemalu Road, Niumalu, Lihue, Kauai, Hawaii Tax Map Key (TMK): (4) 3-2-01: por. 2 Lot No. 69

[ ] Address [ ] TMK is expected to change because _____

Land Area: 5.0 [ ] square feet [X] acre(s) Zoning: Agriculture

Fee Owner: OKADA TRUCKING CO., LTD.
Name

2065 S. King Street, Room 105
Address

Honolulu, Hawaii 96826

Agreement of Sale Vendee:
~~Sublessor~~: DENNIS MITSUAKI ESAKI and CHRISTOPHER OWEN KAUAHI
Name

3145-E Akahi Street 330 Aina Uka Place
Address

Lihue, Hawaii 96766 Kapaa, Hawaii 96746

C **Buildings and Other Improvements:**

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

2. Buildings: 2 Floors Per Building 1 Floor

[ ] Exhibit _____ contains further explanations.

3. Principal Construction Material:

[ ] Concrete [ ] Hollow Tile [X] Wood

[ ] Other _____

4. Permitted Uses by Zoning:

	No. of Apts.	Use Determined By Zoning		No. of Apts.	Use Determined By Zoning
[ ] Commercial			[ ] Industrial		
[ ] Residential			[X] Agricultural	2	Agricultural
[ ] 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:

[X] Pets: There will be no pets without prior written approval by the Board of Directors.

[ ] Number of Occupants: _____

[X] Other: See Building and House Rules

[ ] There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators N/A Stairways N/A Trash Chutes N/A

Apt. Type	Quantity	BR/Bath	Net Living Area (sf)*	Lanai/Patio (sf)
1	1	N/A	64 sq. ft.	N/A
2	1	N/A	64 sq. ft.	N/A

Total Apartments: 2

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

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

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.

7. Parking Stalls:

Total Parking Stalls: Not Designated

	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 Not Designated 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:

[X] There are no recreational or common facilities.

[ ] Swimming pool

[ ] Recreation Area

[ ] Tennis Court

[ ] Storage Area

[ ] Laundry Area

[ ] 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

N/A

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

N/A

10. Conformance to Present Zoning Code

a. [X] 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.

	Conforming	Non-Conforming	Illegal
Uses	X		
Structures	X		
Lot	X		

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

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

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

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

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

   [X] Exhibit A describes the common elements.

   [ ] As follows:

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

   [ ] There are no limited common elements in this project.

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

   [ ] described in Exhibit _____

   [X] as follows:

   The land area of each apartment 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 apartment.
   Apartment 1 - 2.350 acres
   Apartment 2 - 2.349 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 often used to determine each apartment's share of the maintenance fees and other common profits and expenses of the condominium. It may also be used for other purposes, including voting on matters requiring action by apartment owners.

   [ ] Exhibit _____ describes the common interests for each apartment.

   [X] As follows:

   Apartment 1 - 50% appurtenant common interest
   Apartment 2 - 50% appurtenant common interest

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

Exhibit B describes the encumbrances against the title contained in the title report dated July 11, 1991 and issued by Title Guaranty of Hawaii, Inc.

Blanket Liens:

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

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

[X] 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.

Type of Lien	Effect on Buyer's Interest If Developer Defaults
Agreement of Sale dated June 29, 1989 filed as Land Court Document No. 1646337.	The Buyer's deposit will be returned. The Buyer's contract may be cancelled and the Buyer may lose all rights to acquire the apartment.

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.

[X] other Association of Apartment Owners will manage the Project on its own.

G. **Estimate of Initial Mainter. & 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 _____ contains a schedule of maintenance fees and maintenance fee disbursements.

NOTE: No maintenance fees are immediately contemplated. Paragraph 13.0 of the Declaration provides that the Association to allow each apartment owner to maintain his own insurance and name the Association as an additional insured.

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:

[X] Not applicable

[ ] Electricity

[ ] Gas

[ ] Other _____

[ ] Television Cable

[ ] Water & Sewer

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:**

The apartments were completed on March 4, 1991.

K. **Project Phases:**

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

Summary of Developer's Present Plans for Future Development:

L. **Sales Documents Filed With the Real Estate Commission:**

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

[ ] Notice to Owner Occupants

[X] Specimen Sales Contract

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

[X] Escrow Agreement dated April 8, 1991

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

[ ] Other _____

IV. ADDITIONAL INFORMATION NOT COVERED ABOVE

1. Purchasers should examine Exhibit "F" carefully. 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 that the land is subject to agricultural activities being pursued as required by Chapter 205, Hawaii Revised Statutes, as amended.

3. Purchasers should be aware that the Menehune Bluffs Subdivision has its own water distribution system and that there are Rules and Regulations and Cost Allocation for the Water System that each purchaser shall be obligated to join in and share in the cost of the operation and maintenance of such water system.

4. Purchasers should be aware that the land is subject to Covenants, Conditions and Restrictions relating to the use of the land and an architectural review committee to pass upon the plans and specifications for building improvements, including residential farm dwellings and fences.

5. Among other things, the Kauai County requires that 75% of the owners in the project must consent to all matters pertaining to zoning as the County does not recognize the Condominium Regime to be a legal subdivision of this land.

   Additionally, any farm dwelling constructed on the project must comply with the Country Farm Dwelling Agreement including inspection of the property to verify agricultural activities being conducted on the property.

   For further detail, refer to Exhibit "G" attached as a part of this Public Report.

6. PURCHASERS SHOULD BE AWARE OF BUILDING PERMIT REQUIREMENTS BY BOTH THE COUNTY OF KAUAI AS WELL AS THE DECLARATION OF CONDOMINIUM REGIME, BY LAWS AND BUILDING RULES (EXHIBIT "F"), THE AVAILABILITY OF UTILITIES AND THE SIZE AND LOCATION OF CONNECTIONS AND BUILDING PERMITS AND 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 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.

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. 2494 filed with the Real Estate Commission on August 9, 1991.

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

[ ] yellow paper stock [X] white paper stock [ ] pink paper stock

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

Peter N. Yanagawa

PETER N. 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"

Common Elements. The common elements of the project which the apartments have access include:

a. The land in fee simple.

b. The central and appurtenant installations for services such as power, light, gas, telephone, sewer, hot and cold water and like utilities.

c. All other parts of the Project existing for the common use or necessary to the existence, maintenance and safety of the project.

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EXHIBIT "A-1"

COVENANTS, CONDITIONS AND RESTRICTIONS

A. MENEHUNE BLUFFS COVENANTS

The use of each lot in the Menehune Bluffs Subdivision, and the rights of each owner of those lots, shall be subject to the following standards of quality. Maintenance of these standards is vital to the preservation of property values in the subdivision and to the owners' enjoyment of their property:

1. No mobile home, trailer home, portable building, quonset hut, or similar structures shall be placed or used as a permanent residence on any lot.

2. No noxious activity shall be carried on upon any lot or shall anything be done or placed on any lot which is or may become a disturbance or nuisance.

3. No hazardous activities shall be conducted on any lot. Without limiting the generality of the foregoing, no firearms shall be discharged upon any lot, and no open fires shall be lighted or permitted on any lot except: (a) in a contained barbecue unit for cooking purposes; or (b) within a safe and well designed interior fireplace. Whenever any flammable or combustible materials of any type are stored upon any lot, the owner thereof shall keep and maintain in working order adequate fire extinguishing equipment.

4. Every lot, and all improvements placed thereon, shall at all times be maintained in good, clean and attractive condition and in such manner as to prevent such lot and improvement from become unsightly, unsanitary or a hazard to health. Without limiting the generality of the foregoing:

(a) Refuse, garbage and trash shall be kept at all times in a covered container and any such container shall be kept within an enclosed structure or appropriately screened from view so as to not be visible from neighboring property.

(b) No garage or accessory building shall be used for other than the parking of vehicles or farm machinery and storage of farm, maintenance or household implements or boats, unless any other items are enclosed by a partition, wall, door, or screen normally kept closed. Specifically, and without limiting the generality of the foregoing, no

garage or accessory building not so enclosed shall be used for a laundry room, for storage purposes or as a hobby or carpenter shop.

(c) Each owner shall, at his own expense, keep his lot free from rubbish and litter; restore and repair all damage and destruction caused by casualty to his lot or any improvement thereon; maintain, cultivate and keep in good condition all shrubs, trees, grass, lawns, plantings and other landscaping originally located on or from time to time placed upon his lot; trim and restrain all trees, shrubs and plantings so that they shall not exceed any applicable height limits, or overhang or otherwise encroach upon any other lot; and maintain all slope areas upon his lot.

5. No exterior speakers, horns, whistles, or other sound devices, except security devices used exclusively to protect the security of a lot and improvements thereon, shall be used upon any lot. No sound shall be allowed to be emitted on or from any lot which is unreasonably loud or annoying.

6. No light shall be emitted from any lot which is unreasonably bright or which causes unreasonable glare. All exterior lighting including without limitation lighting for tennis courts or other recreational facilities, and security lighting devices used exclusively to protect the lot and improvements, shall comply with this restriction.

7. No odors which are noxious or offensive to others shall be emitted from any lot.

8. In the event of any excavation on a lot, the owner of such lot shall provide such artificial support as is necessary to support adjacent lots.

9. Except for dogs, cats and other typical household pets kept in reasonable numbers and under reasonable conditions, no animal shall be kept and maintained beyond the density compatible with neighboring residential and agricultural use and shall be cared for in conformance with practices of good animal husbandry, including but not limited to: (a) prompt removal of excess amounts of manure and other waste; (b) control of flies, insects, worms and other pests; (c) adequate fencing and animal housing facilities to restrict such animals to the lot where maintained. Storage of hay, fodder and other food supplies shall be accomplished in such manner as to prevent scattering of such materials by the wind.

10. No mining, quarrying, drilling, boring or exploring for or removing water, oil, gas or other hydrocarbons, minerals, rocks, stones, gravel or earth shall take place on any lot.

11. The clearing and grading of any lot shall be performed only in strict accordance with plans and specifications therefor which have been approved by the County of Kauai, and such clearing and grading shall not alter or impede existing drainage patterns. However, such approval shall not be necessary for temporary disturbance of the surface of the land for the cultivation of crops, which results in the removal of earth or rock for a depth of not more than twelve (12) inches. No wanton cutting or desecration of existing large, established trees on any lot will be permitted. All areas cleared shall be left free of rubbish and litter, and ground vegetation shall be reestablished after any grading or clearing is completed. All grading operations shall exercise dust control measures.

12. All cultivation of crops, whether for personal or commercial use, shall be conducted in conformance with good farming practices, including, but not limited to, adequate provision for: (a) use of sprays, pesticides, insecticides and other chemical insect control or fertilizing measures in accordance with all governmental regulations concerning such use, and in such manner as not to create a hazard or nuisance to any other lot; and (b) control of water to prevent any flooding, erosion or deposit of silt on adjoining lands.

13. No used building shall be placed on any lot nor shall any used lumber or materials be a part of construction of any improvement thereon.

14. No overhead power lines shall be erected on any lot. No wind generators shall be erected on any lot. No antennae, aerials, satellite discs or other devices for the reception or transmission of radio or television broadcasts or other means of communication shall be erected or maintained on any lot.

15. All sewage disposal systems shall be connected to a septic tank, cesspool or other sewage system approved by the appropriate governmental authorities.

16. No owner shall construct or be permitted to construct on his lot any improvement which will create a problem with flooding, erosion or interference with natural water flow or original runoff patterns to the jeopardy, detriment or damage of any other lot, nor shall any owner fail to act so as to minimize runoff damage caused by the use or improvement of the owner's lot.

17. There shall be a twenty (20) foot building setback line from the edge of the bluff (defined as having a slope of 20% or greater) along the southwestern boundary of Lots 1, 6 and 7.

18. The applicant/owners of the property identified herein shall be subject to a design review process by the County of Kauai for each dwelling unit at the time of building permit application. The purpose of the review is to minimize visual impacts from structures as viewed from the Alekoko Fishpond Lookout and public views from Hulemalu Road and the applicant/owner(s) shall be required to submit the following: (a) a landscape plan; (b) a plot plan showing on-site building locations; and (c) a property stake-out which will include height verification as viewed from Hulemalu Road and the Alekoko Fishpond Lookout.

19. If a lot owner installs propane gas facilities in addition to the available electrical service, the gas tank must be kept underground or within an enclosure which screens the tank from adjacent lots and streets.

20. Upon construction of a single family residence on the lot, each owner shall, at the owner's sole expense, connect the water lines serving the lot and residence to the central water distribution system owned and operated by the Menehune Bluffs Water System Owner's Association.

21. Driveways shall be surfaced with asphalt or concrete pavement only; no gravel or dirt driveways shall be allowed except during reasonable construction periods.

22. No geodesic dome homes shall be permitted.

23. All exterior surfaces of all improvements shall be in neutral or earth tone shades.

24. All lot owners will be required to join the Menehune Bluffs Water System Owners' Association for the purpose of paying any and all costs incurred with the operation and maintenance of the hydropneumatic system, including payment for the water as registered by a master meter provided by the Department of Water, and any costs for the hydropneumatic system replacement should the need arise. Water service by the Department of Water will be available at said Association's master meter only upon completion of the necessary water improvements as approved by the Department of Water, County of Kauai. No individual water service connection by the Department of Water will be approved.

25. The uses of all lots shall be limited to those listed as permissible uses within the "A" Agriculture District in the State Land Use Commission Rules and Regulations, as is more particularly stated hereinafter, until such time as the said lots are reclassified to a Land Use District other than Agriculture.

26. Architectural Review Committee.

(a) There shall be an Architectural Review Committee (the "Committee") made up of three persons, each of whom are

owners of property in the Menehune Bluffs Subdivision. The initial three member shall be DENNIS M. ESAKI, BLAISE AKI and RALPH KOUCHI. If any member shall resign or cease to be an owner, a replacement shall be selected from among the then-owners by the majority vote of said owners (with each Lot in the Subdivision having a single vote).

(b) The Committee shall review and either approve or deny, by majority vote of its members, all plans, drawings and specifications for any building improvements, landscaping, vegetation and agricultural crops which any owner desires to construct, install or plant upon the property. Such approval by the Committee shall be a pre-condition to any owner's construction, installation or planting of such improvements for vegetation. "Building improvements" shall include residential or farm structures and fences. Any plans, drawings and specifications submitted to the Committee for review shall be deemed approved if the Committee does not either approve or deny same within 30 days of receipt by each Committee member of the plans, drawings and specifications.

(c) The design standards to be applied by the Committee shall be consistent with the provisions of this Declaration and shall generally be such as to promote improvements which are in harmony with the natural characteristics of the property and which will improve and enhance the quality and value of the property. If the Committee denies approval of any owner's plans, it shall give written reasons for denial to the owner.

(d) Neither the Committee nor any member thereof shall be liable to any owner or any third party for any damage, loss or prejudice suffered or claimed on account of (a) the approval or rejection of, or the failure to approve or reject, any plans, drawings and specifications, whether or not defective; (b) the construction or performance of approved plans, drawings and specifications; or (c) the development or manner of development of any Lot within the Subdivision.

27. Within the exception of Paragraphs 17, 18, 24 and 25, which shall have no expiration under any conditions, the covenants herein shall run with the land and be binding on all lot owners, their respective heirs, successors, assigns, and all persons claiming under them, for a period of twenty-five (25) years from the date this Declaration is recorded after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the owners of a majority of the lots has been recorded, agreeing to change said covenants in whole or in part. With the exception of Paragraphs 17, 18, 24 and 25, the covenants contained herein may

at any time be amended in whole or in part by the unanimous written approval of all lot owners, which amendment and approval shall be effective upon the recording of same with the Assistant Registrar of the Land Court of the State of Hawaii and the Hawaii Bureau of Conveyances.

28. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other covenants, which shall remain in full force and effect.

29. No deed, mortgage, lease or other instrument of conveyance affecting any lot shall be made or delivered unless such deed, mortgage, lease, or other instrument of conveyance shall contain or be subject to the same restrictive covenants as in this Declaration set forth, including this covenant.

30. For any violation or threatened violation of this Declaration or any of the covenants and provisions herein, the Declarant and each lot owner, jointly and severally, shall have a remedy against the offending party by action for damages, suit for injunction (mandatory or restraining), or any other remedy, without prejudice to the right of any other owner or owners to adopt or pursue the same or for any subsequent violation or threatened violation.

31. All of the foregoing restrictions are intended to constitute a general plan for the development, improvement and sale of said lots, and are established for the purpose of enhancing and protecting the value, desirability, attractiveness and quality of the development as a whole and each of said lots therein.

32. All of the foregoing are also covenants running with the land at law as well as in equity and are binding upon and inure to the benefit of the successors and assigns of the Declarant and all present and future persons owning or having an interest in any of said lots or a part thereof.

B. AGRICULTURAL USE COVENANTS

The use of the lot in the Menehune Bluffs Subdivision shall be limited to the following uses listed as permissible uses with the "A" Agricultural District in the State Land Use Commission Rules and Regulations, as amended:

1. Cultivation of crops, including but not limited to flowers, vegetables, foliage, fruits, forage and timer;

2. Game and fish propagation;

3. Raising of livestock, including but not limited to poultry, bees, fish or other animal or aquatic life that are propagated for economic or personal use;

4. Farm dwellings, employee housing, farm buildings or activity or uses related to farming and animal husbandry. Farm dwelling as used in this paragraph means 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;

5. Public institutions and buildings which are necessary for agricultural practices;

6. Public and private open area types of recreational uses, including day camps, picnic grounds, parks and riding stables, but not including dragstrips, airports, drive-in theaters, golf courses, golf driving ranges, country clubs and overnight camps;

7. Public, private and quasi-public utility lines and roadways, transformer stations, communication equipment building, solid waste transfer stations, major water storage tanks and appurtenant small buildings such as booster pumping stations, but not including offices or yards for equipment, material, vehicle storage, repair or maintenance, or treatment plants, or corporation yards, or other like structures;

8. Retention, restoration, rehabilitation or improvement of buildings or sites of historic or scenic interest;

9. Roadside stands for the sale of agricultural products grown on the premises;

10. Buildings and uses, including but not limited to mills, storage and processing facilities, maintenance facilities that are normally considered direct accessory to the above-mentioned uses;

11. Agricultural parks; or

12. Wind energy facilities, including the appurtenances associated with the production and transmission of wind-generated energy; provided that such facilities and appurtenances are compatible with agriculture uses and cause minimal adverse impact on agricultural land.

E
EX A-1

EXHIBIT "B"

The encumbrances against the land are as follows:

1. Easements 1 and 2 for vehicular access and utility purposes as shown on Map 31, as set forth in Land Court Order No. 98888, filed August 3, 1990.

2. Easement 10 for utility purposes as shown on Map 32, as set forth in Land Court Order No. 101,315, filed March 4, 1991.

3. "A reservation in favor of the Grantor/Developer to grant any further and other easements as may be deemed necessary by the appropriate public utility or utilities or governmental agency or agencies or by the Menehune Bluff Water System Owners Association, Inc., for the purposes of providing access or utility services to and from said Lots 68 through 74, inclusive."; as set forth by Land Court Order No. 98888, filed August 3, 1990.

4. Covenants, Conditions and Restrictions set forth in Exhibit "A-1" attached hereto and incorporated herein by reference.

5. Restriction of vehicle access along Hulemalu Road, as set forth by Land Court Order No. 98888, filed August 3, 1990.

6. Rules and Regulations and Cost Allocation for the Water System dated June 3, 1991, filed as Land Court Document No. 1830383.

7. Non-exclusive perpetual Easement A as shown on the Condominium Map for the Nawiliwili Bay View Condominium for vehicular and utility purposes to Unit 2 of the Niumalu Point Condominium.

8. Agreement of Sale dated June 29, 1989 between Okada Trucking Co., Ltd., a Hawaii corporation, as Vendor, and Dennis Mitsuaki Esaki and Christopher Owen Kauahi, as Vendee, filed as Land Court Document No. 1646337.

9. A perpetual nonexclusive easement over said Easements "1" and "2" in favor of Lots 68, 70, 71, 72, 73 and 74 for vehicular access, utility purposes and easement, as set forth by Land Court Order No. 98888, filed August 3, 1990.

10. The restrictions on use and other restrictions and all other of the covenants, agreements, obligations, conditions, reservations, easements and other provisions set forth in Declaration of Condominium Property Regime dated April 8, 1991, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Land Court Document No. 1830386, as the same may hereafter be amended in accordance with law or with said Declaration. (Project covered by Condominium Map No. 853.)

Consent given by OKADA TRUCKING CO., LTD., a Hawaii corporation, by instrument filed as Land Court Document No. 1830387.

11. By-Laws of the Association of Apartment Owners of the Condominium Project known as "NAWILIWILI BAY VIEW" dated April 8, 1991, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Land Court Document No. 1830388, as the same may hereafter be amended.

12. For real property taxes due and payable, refer to Director of Finance, County of Kauai.

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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:

(a) A buyer must obtain his own financing. Buyer acknowledges that this Sales Contract is contingent on any financing after the issuance of the final public report.

(b) That a purchaser's money will be held in escrow, under the terms of the Escrow Agreement.

(c) That interest on deposits shall belong to the buyer so long as said funds are held in escrow.

(d) That the unit will be subject to various other legal documents which the buyer certifies that he has examined.

(e) 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 the deposits which a purchaser makes under a Sales Contract will be held by a neutral party ("Escrow"). Under the Escrow Agreement these things will or may happen:

(a) Developer will let purchasers know when payments are due.

(b) Escrow will arrange for purchasers to sign all necessary documents.

(c) The Escrow Agreement says under what conditions a refund will be made to a purchaser.

(d) The Escrow Agreement says what will happen to a purchaser's funds upon a default under the Sales Contract.

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

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EXHIBIT "E"

NAWILIWILI BAY VIEW

REGISTRATION NO. 2494

DISCLOSURE STATEMENT AS OF APRIL 8, 1991

1. Name and Address of Project: Off Hulemalu Road, Niumalu, Lihue, Kauai, Hawaii 96766.

2. Name, Address and Telephone Number of Developer: Dennis Mitsuaki Esaki and Christopher Owen Kauahi, 3145-E Akahi Street, Lihue, Kauai, Hawaii 96766, Ph. (808) 246-0625.

3. Managing Agent of Project: Self Management by Owners.

4. Maintenance Fees: None at present. In the future for the common access driveway as the need and necessity arises.

5. Warranties: There are no warranties as to Apartments 1 and 2.

6. Use: The project consists of 2 units to be utilized for residential and other uses permitted under the zoning ordinances of the County of Kauai.

Dated: Lihue, Kauai, Hawaii, this 8th day of April, 1991.

DENNIS MITSUAKI ESAKI

CHRISTOPHER OWEN KAUAHI

Subscribed and sworn to before me this 8th day of April, 1991.

NOTARY PUBLIC, STATE OF HAWAII

My commission expires: Jan. 7, 1994

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EXHIBIT "F"

BUILDING AND HOUSE RULES
NAWILIWILI BAY VIEW

The purpose of these Building and House Rules ("Rules") is to protect all owners and occupants from annoyance and nuisance caused by improper conduct and improper use of the condominium, hereinafter referred to as "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 Rules and standards of reasonable conduct whether covered by these Rules or not.

1. Definitions. As used herein:

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

b. The "Apartment" refers to the existing building built on the land designated as the limited common element for the owner and any subsequent improvements built within the Area.

c. The "lot" used in the Menehune Bluffs Covenants attached as Covenants, Conditions and Restrictions ("CC&R") to the Declaration of Condominium Property Regime for the Project shall also refer to an "apartment" or "unit" in the Project.

d. The "lot owner" or "unit owner" used in the CC&R shall also refer to an "apartment owner" or "unit owner" in the Project.

2. Menehune Bluffs Covenants. The Menehune Bluffs Covenants are incorporated herein by reference and all apartment and unit owners shall abide by these covenants in the use of their units in the Project.

3. Building Permit. Any owner desiring to apply for a building permit to build a dwelling unit and/or any structure or improvement will be required to observe the following:

a. Submit the plans and drawing for the proposed dwelling unit, addition, repair and/or replacement to the Architectural Review Committee ("Committee") for the Menehune Bluffs Subdivision for their approval as set forth in the CC&R.

b. After receiving the approval of the Committee, the plans and drawings shall be submitted to the County of Kauai pursuant to the requirements of the County of Kauai Ordinance No. 317 approved on June 27, 1977.

c. There shall be submitted to the Committee a construction contract, a 100% bond which would protect against any mechanics and materialmen's liens being filed against the Project and the Association of Apartment Owners of the Project or having the persons doing the work or supplying the material to execute a lien waiver against the Project prior to doing any work or supplying material.

4. Completion. After completion of the dwelling and/or improvements, the owner shall proceed to do the following:

a. Publish a Notice of Completion in the Garden Isle or newspaper of general circulation in the State of Hawaii for two (2) consecutive weeks at least seven (7) days apart and have it filed with the Clerk of the Fifth Circuit Court.

b. The plans and drawings should meet the requirements of a Condominium Map. The plan should show a site plan indicating where the dwelling and improvements will be located in the unit's limited common element land area. There should be a floor plan indicating the living/dining room, bedrooms, kitchen, bathrooms, lanai, etc. and the total net living area. The plan should show the elevations of the dwelling or improvement. The project's name, Tax Map Key, and the architect's or engineer's stamp should be stamped on the plans.

c. The architect or engineer's certificate should be executed reflecting the obtaining of a building permit from the County of Kauai and reflecting the "as built" condition of the dwelling.

d. The owner should have prepared at his own cost an amendment to the Declaration reflecting the change in description of the apartment and an amendment to the Condominium Map.

e. The amendment to the Declaration should then be filed for record in the Office of the Assistant Registrar of the Land Court, State of Hawaii.

5. Agricultural Use Covenants. The owners are required to observe the agricultural use covenants as set forth in the CC&R which are incorporated herein by reference.

Adopted at Lihue, Kauai, Hawaii, this 28th day of May, 1991.

DENNIS MITSUAKI ESAKI

CHRISTOPHER OWEN KAUAHI

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EXHIBIT "G"

JOANN A. YUKIMURA
MAYOR

PETER A. NAKAMURA
PLANNING DIRECTOR

ROLAND D. SAGUM, III
DEPUTY PLANNING DIRECTOR

TELEPHONE (808) 245-3919

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

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 Nawilwili Bay View Condominium Report
Tax Map Key:3-2-01:Por.2, Lot 69
Nawiliwili, Kauai
LOTR:07/25/91

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 qualifies for two (2) 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.

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.

Because there are more than one farm dwelling permitted, the landowners pursuant to the County Farm Dwelling Agreement, should be made aware that any dwelling(s) constructed after the first one will require an inspection of the property by the Planning Department to verify whether agricultural activities are being conducted on the property. If not, such permits to construct additional farm dwellings could be denied.

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

PETER A. NAKAMURA
Planning Director

cc: Hiroshi Sakai

EXHIBIT "H"

RULES AND REGULATIONS AND COST ALLOCATION FOR THE WATER SYSTEM

The undersigned owners of lots in the Menehune Bluff Subdivision being OKADA TRUCKING CO., LTD., a Hawaii corporation, ROY K. MIYAKE, aka Roy K. Miyaki, Trustee under that certain unrecorded Revocable Living Trust Agreement dated March 16, 1982, ROY K. MIYAKE, aka Roy K. Miyaki, Trustee under that certain unrecorded Revocable Living Trust Agreement dated March 16, 1982 made by Janet Y. Miyake aka Janet Y. Miyaki, RALPH SHOJI KOUCHI, unmarried, ETSUKO MIYAKE, unmarried, WILLIAM ULRICH ASING, JR. and PATSY LEILANI ASING, husband and wife, KAIPO RALPH ASING, unmarried, HEALANI ANN-FAITH ASING, unmarried, KAILI ROBERT ASING, unmarried, LINEKONA JAY ASING, unmarried, and MAILE-LEI BOBBIE ASING, unmarried, all of Honolulu, Hawaii, hereby adopt the following Rules and Regulations and cost allocations for the Menehune Bluffs Subdivision more particularly described in Exhibit "A" ("Subdivision").

1. Definition. As used herein:

a. A "Lot" refers to a subdivided lot recognized as such by the County of Kauai under its subdivision ordinances.

b. A "Unit" refers to a dwelling unit that is existing or can be built within a Lot or is a unit that is created under the Condominium Property Regime laws of the State of Hawaii.

c. A member shall be the owner of a Unit in the Subdivision.

d. The voting rights for a member shall be one (1) vote for each Unit.

e. The "Water System" refers to the water system provided for the Subdivision.

2. Association's Duties. The Association shall have the following duties and obligations relating to the Water System:

a. Provide for the maintenance and operation of the Water System.

b. Pay any real property taxes and other assessments that are levied against the Water System.

c. Obtain and maintain in force policies of insurance for (a) fire and extended coverage for the Water System; and (b) comprehensive general liability

insurance with minimum limits of not less than $500,000.00 for injury to one or more persons for each occurrence and $200,000.00 for property damage; and (c) any other reasonable risks as may be deemed proper and necessary or advisable in the sole discretion of the Board of Directors.

3. Association's Powers and Authority. The Association shall have the power and authority without any liability to any member or unit to enter upon any Lot or Unit for the purpose of maintaining, inspecting and repairing the facilities of the Association as the same may be necessary to provide water to serve the Lots and Units.

a. To construct and pay for or otherwise provide for the maintenance, restoration and repair of all improvements and facilities of whatever kind of the Association and to contract and pay for or otherwise provide for the same or otherwise in carrying out its function as set forth herein.

b. To do all such other acts and things necessary for the maintenance, upkeep and repair of the Water System as it deems necessary or appropriate from time to time.

4. Costs and Expenses. The costs and expenses incurred by the Association will be as follows:

a. The cost of operating, maintaining and repairing the physical facilities such as the pump building grounds, equipment, lines, and electrical system.

b. The administrative costs for the meter reading, accounting bills, managerial services and the like.

c. The reserves set up for the period for repairs, upgrading and replacement and unpaid assessments.

d. The repairs to the 3-inch water line from the pump house to the Subdivision.

5. Cost to Members. The following are the various costs to be paid as described hereafter:

a. There will be a hookup fee at such time that a member desires to hookup into the Water System. Such

fee shall be determined upon the basis of the cost to make such installation plus the administrative costs in connection therewith.

b. There will be a water bill which is a user fee based upon the monthly or other periodic use made by a member, the formula of which will be based as follows: (i) The numerator shall be the total gallons of water which passes through the pumping facility for a given period of time, multiplied by the costs and expenses incurred for the same period of time; and (ii) the denominator shall be the total gallons of water which passes through the pumping facility for that same given period of time multiplied by the costs and expenses for the same period of time. For example, if Lot 1 used 7,500 gallons of water in a month and a total of 85,000 gallons passed through the pumping facility for the same period, the owner of Lot 1 would be responsible for 7,500/8,500 of 8.824% of the costs and expense for the same month.

c. For purposes of determining water usage, the meters of the Water System shall be used and shall, in the absence of evidence of malfunctioning be conclusive as to the amount of water passing through the pumping facility and the amount used by each Unit.

d. The billing period shall be determined by the Board of Directors.

e. Usage. For any three-month period of the water usage of any unit that is abnormally high or low for the same period that it would result in an unfair proration of costs, the Board may set up a minimum charge for a billing period and may set a charge at a different rate when it exceeds a certain amount of usage as determined by the Board.

6. Payment and Enforcement. If a member fails to pay his costs within ten (10) days' notice (allowing 72 hours additional for mailing time), then the member shall pay a late charge fee of 1% per month on such delinquent amount and the Association shall be able to file a lien against the Unit if the payment shall continue for a period of 30 days after a second notice is given, the Association may be able to turn off the water service until the delinquent owner pays for the delinquency.

a. The Association shall have any other remedies that it may deem appropriate, including bringing

actions in the court and assess the owner all costs and expenses for enforcement, including reasonable attorney's fees.

7. Easements and Rights of Way.

a. The Association may accept real property and interests in real property conveyed, leased, or assigned to it for the purposes of the Association with such encumbrances that it may be willing to accept.

b. The Association reserves to itself easements for roadway and utilities provided, however, that in the securing and use of easements they shall not unreasonably interfere with the use of the lot and the units and the members thereof.

8. Uninsured Casualty. In case at any time any part of the Water System shall be substantially damaged or destroyed by any casualty not herein required to be insured against, such improvement shall be rebuilt, repaired or restored unless sixty-six and two-thirds (66-2/3) of the members vote to the contrary. The improvements shall be completed diligently by the Association.

9. Condemnation. In case any portion of the system shall be taken or condemned by any authority having the power of eminent domain, then and in such event, the award for the land shall belong to the owner thereof, but any award for the improvements for the Water System shall belong to the Association.

10. Notices. Any person required under these Rules and Regulations shall be delivered or given personally or by mail and if mailed, shall be deemed to have been mailed seventy-two (72) hours after deposited in the United States Post Office, postage prepaid, addressed to such owner at the last known address shown on the records of the Association. The delivery to the Association shall be to the office of the Association and if no office, then to any officer of the Association. Where there is more than one (1) owner of a unit, then it shall be sufficient if delivery or mail is to one (1) co-owner of the lot or Unit.

11. Adoption by Board. The Board of Directors of the Menehune Bluffs Water System Owners Asosciation, a Hawaii nonprofit corporation, have adopted these Rules and Regulations as set forth in the Certificate of Adoption attached hereto as Exhibit "B" and incorporated herein by reference.

IN WITNESS WHEREOF, the undersigned has executed these Rules and Regulations this 10th day of June, 1991.

OKADA TRUCKING CO., LTD.

By _____
Its

Owner of Lots 69, 70, 73 and 74

STATE OF HAWAII)
) ss.
CITY AND COUNTY OF HONOLULU)

On this 10th day of June, 1991, before me personally appeared Sonny Okada, to me personally known, who, being by me duly sworn, did say that he is the President of OKADA TRUCKING CO., LTD., a Hawaii corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and the said Sonny Okada acknowledged said instrument to be the free act and deed of said corporation.

_____
NOTARY PUBLIC, STATE OF HAWAII

My commission expires: OCT - 5 1992

IN WITNESS WHEREOF, the undersigned has executed these Rules and Regulations this 3rd day of June, 1991.

Roy K. Miyake

ROY K. MIYAKE, also known as Roy K. Miyaki, Trustee under that certain unrecorded Revocable Living Trust Agreement dated March 16, 1982

Roy K. Miyake

ROY K. MIYAKE, also known as Roy K. Miyaki, Trustee under that certain unrecorded Revocable Living Trust Agreement dated March 16, 1982 made by Janet Y. Miyake also known as Janet Y. Miyaki

RALPH SHOJI KOUCHI

Etsuko Miyake

ETSUKO MIYAKE

Owners of Lot 68

STATE OF HAWAII)
) ss.
COUNTY OF KAUAI)

On this 3rd day of June, 1991, before me personally appeared ROY K. Miyake, also known as Roy K. Miyaki, Trustee under that certain unrecorded Revocable Living Trust Agreement dated March 16, 1982 and ROY K. MIYAKE, also known as Roy K. Miyaki, Trustee under that certain unrecorded Revocable Living Trust Agreement dated March 16, 1982 made by Janet Y. Miyake also known as Janet Y. Miyaki, to me personally known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed as such Trustees.

NOTARY PUBLIC, STATE OF HAWAII

My commission expires: Jan. 7, 1994

STATE OF HAWAII)
) ss.
COUNTY OF KAUAI)

On this 3rd day of June, 1991, before me personally appeared RALPH SHOJI KOUCHI, to me personally known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

NOTARY PUBLIC, STATE OF HAWAII

My commission expires: Jan. 7, 1994

STATE OF HAWAII)
) ss.
COUNTY OF KAUAI)

On this 3rd day of June, 1991, before me personally appeared ETSUKO MIYAKE, to me personally known to be the person described in and who executed the foregoing instrument and acknowledged that she executed the same as her free act and deed.

NOTARY PUBLIC, STATE OF HAWAII

My commission expires: Jan. 7, 1994

IN WITNESS WHEREOF, the undersigned has executed these Rules and Regulations this 4th day of June, 1991.

WILLIAM ULRICH ASING, JR.

PATSY LEILANI ASING

KAIPO RALPH ASING

HEALANI ANN-FAITH ASING

KAILI ROBERT ASING

LINEKONA JAY ASING

MAILE-LEI BOBBIE ASING

Owners of Lot 71

STATE OF HAWAII)
) ss.
COUNTY OF KAUAI)

On this 4th day of June, 1991, before me personally appeared WILLIAM ULRICH ASING, JR. and PATSY LEILANI ASING, to me personally known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

NOTARY PUBLIC, STATE OF HAWAII

My commission expires: Jan. 7, 1994

LS

STATE OF HAWAII)
) ss.
COUNTY OF KAUAI)

On this 4th day of June, 1991, before me personally appeared KAIPO RALPH ASING, to me personally known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

NOTARY PUBLIC, STATE OF HAWAII

My commission expires: Jan. 7, 1994

LS

STATE OF HAWAII)
) ss.
COUNTY OF KAUAI)

On this 4th day of June, 1991, before me personally appeared HEALANI ANN-FAITH ASING, to me personally known to be the person described in and who executed the foregoing instrument and acknowledged that she executed the same as her free act and deed.

NOTARY PUBLIC, STATE OF HAWAII

My commission expires: Jan. 7, 1994

LS

STATE OF HAWAII)
) ss.
COUNTY OF KAUAI)

On this 4th day of June, 1991, before me personally appeared KAILI ROBERT ASING, to me personally known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

NOTARY PUBLIC, STATE OF HAWAII

My commission expires: Jan. 7, 1994

STATE OF HAWAII)
) ss.
COUNTY OF KAUAI)

On this 4th day of June, 1991, before me personally appeared LINEKONA JAY ASING, to me personally known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

NOTARY PUBLIC, STATE OF HAWAII

My commission expires: Jan. 7, 1994

STATE OF HAWAII)
) ss.
COUNTY OF KAUAI)

On this 4th day of June, 1991, before me personally appeared MAILE-LEI BOBBIE ASING, to me personally known to be the person described in and who executed the foregoing instrument and acknowledged that She executed the same as her free act and deed.

NOTARY PUBLIC, STATE OF HAWAII

My commission expires: Jan. 7, 1994

C:\WP5\CONDO\MEN.R&R

EXHIBIT "A"

All of parcels of land situate at Niumalu, District of Lihue, Island and County of Kauai, State of Hawaii, as shown on Map 31, filed in the Office of the Assistant Registrar of the Land Court, State of Hawaii, with Land Court Application No. 957 of Henry Waterhouse Trust Company, Limited, Trustee under the Will and of the Estate of Kaleipua Kanoa, deceased; described as follows:

Lot 68, area 5.000 acres

Being the land described in Transfer Certificate of Title No. 357632.

Lot 69, area 5.000 acres

Lot 70, area 7.000 acres

Lot 72, area 6.550 acres

Lot 73, area 5.000 acres

Lot 74, area 5.000 acres

Being the parcels of land described in Transfer Certificate of Title No. 354,395.

Lot 71, area 7.000 acres

Being the land described in Transfer Certificate of Title No. 356,897.

C:\WP5\CONDO\MEN.EXA

The undersigned MENEHUNE BLUFFS WATER SYSTEM OWNERS ASSOCIATION, a Hawaii nonprofit corporation, hereby joins in and adopts the Rules and Regulations and Cost Allocation for the Water System dated June 3, 1991.

IN WITNESS WHEREOF, the undersigned has executed these Rules and Regulations this 3rd day of June, 1991.

DENNIS M. ESAKI, Director

Wayne T. Wada
WAYNE T. WADA, Director

RALPH KOUCHI, Director

STATE OF HAWAII)
) ss.
COUNTY OF KAUAI)

On this 3rd day of June, 1991, before me personally appeared DENNIS M. ESAKI, to me personally known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

NOTARY PUBLIC, STATE OF HAWAII
My commission expires: Jan. 7, 1994

EXHIBIT "B"

CERTIFICATE OF ADOPTION

STATE OF HAWAII)
) ss.
COUNTY OF KAUAI)

On this 3rd day of June, 1991, before me personally appeared WAYNE T. WADA, to me personally known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

NOTARY PUBLIC, STATE OF HAWAII

My commission expires: Jan. 7, 1994

STATE OF HAWAII)
) ss.
COUNTY OF KAUAI)

On this 3rd day of June, 1991, before me personally appeared RALPH KOUCHI, to me personally known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

NOTARY PUBLIC, STATE OF HAWAII

My commission expires: