



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

on
 WAIPAKE HEIGHTS
 Waipake Subdivision, Unit I
 Hanalei, Kauai, Hawaii

Registration No. 2629

Issued: June 16, 1992

Expires: July 16, 1993

Report Purpose:

This report is based on information and documents submitted by the developer to the Real Estate Commission as of May 29, 1992, and is issued by the Commission for informational purposes only. It represents neither approval nor disapproval of the project. Buyers are encouraged to read this report carefully.

Type of Report:

 PRELIMINARY: The developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report. A Final Public Report will be issued when complete information is filed.
 (yellow)

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

- No prior reports have been issued
- Supersedes all prior public reports
- Must be read together with _____

 SUPPLEMENTARY: Updates information contained in the
 (pink)

- Prelim. Public Report dated _____
- Final Public Report dated _____
- Supp. Public Report dated _____

And Supersedes all prior public reports
 Must be read together with _____

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

Disclosure Abstract: Separate Disclosure Abstract on this condominium project:

Required Not Required - disclosures covered in this report.

Summary of Changes from Earlier Public Reports:

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

[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 UNIT 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 FOUR (4) STORAGE SHEDS, EACH *
* OF WHICH IS DEFINED AS AN APARTMENT UNDER THE *
* CONDOMINIUM PROPERTY ACT. *
* * * * *
* 2. This Public Report does not constitute an approval *
* of the project nor that all County Codes, *
* Ordinances and subdivision requirements have been *
* complied with. *
* * * * *
* 3. This project does not 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 subdivision, 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. In addition to the foregoing matters, the Kauai *
 * County Planning Department may have further *
 * comment on the following matters. You are *
 * requested to read the following with care and *
 * seek advice from the Kauai Planning Department, *
 * your architect/engineer and your attorney, if *
 * necessary: *
 * *
 * A. The current Section 8-7.4 (c) of the Kauai *
 * County CZC prohibits the further subdivision *
 * of the present Lot 1. (The Declaration, *
 * paragraph 15.0 states the subdivision must be *
 * in accordance with the building code, zoning *
 * and subdivision ordinances.) *
 * *
 * B. The Kauai County CZC standards presently *
 * require a minimum of two (2) parking stalls *
 * for each residential dwelling unit. *
 * *
 * C. When applying for zoning permits with the *
 * Planning Department, 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 authority *
 * from 75% of the owners at the time a permit is *
 * applied for. *
 * *
 * D. The use of the limited common elements shall *
 * be limited to those listed as permissible *
 * within the "A" Agricultural District in the *
 * State Land Use Commission's Rules and *
 * Regulations. (See Exhibit "A", paragraph 4 *
 * of the Declaration which refers to the *
 * document containing the foregoing matter.) *
 * *
 * E. Any dwelling constructed after the first one *
 * will require an inspection of the property by *
 * the Kauai 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. *
 * *
 * **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:

- 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 _____
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	N/A	48 sq. ft.	N/A
2	1	N/A	48 sq. ft.	N/A
3	1	N/A	48 sq. ft.	N/A
4	1	N/A	48 sq. ft.	N/A

Total Apartments: 4

**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: Not designated and open - By Ordinance two (2) parking stalls are required per residential apartment.

	<u>Number of Stalls</u>
Assigned Stalls (Individual Units)	_____
Guest Stalls	_____
Unassigned Stalls	_____
Extra Stalls Available for Purchase	_____
Other: _____	Not designated and open
Total Parking Stalls	_____

7. Recreational amenities: None

I. PEOPLE CONNECTED WITH THE PROJECT

Developer: GLADSTONE BURNS, INC.
Name
P. O. Box 3500, MSC 293
Business Address
Princeville, Kauai, Hawaii 96722

Phone: (808) 826-4744
(Business)

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

William Gladstone, President
Mark T. Burns, Vice President-Treasurer
Alison L. Dunn, Secretary

Real Estate Broker: Bali Hai Realty, Inc.
Name
P. O. Box 930
Business Address
Hanalei Bay, Kauai, Hawaii 96714

Phone: (808) 826-7244
(Business)

Escrow: Title Guaranty Escrow Services, Inc.
Name
4414 Kukui Grove West
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 the 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. 92-039666
Book _____ Page _____
 Filed - Land Court - Document No. _____

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. 1624
 Filed - Land Court Condo Map No. _____

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. 92-039667
Book _____ Page _____
 Filed - Land Court - Document No. _____

Amendment date(s) and recording/filing information:

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

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

The House Rules for this condominium are:

Proposed Adopted Developer does not plan to adopt house rules.

E. **Changes to Condominium Documents**

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

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

	<u>Minimum Set by Law</u>	<u>This Condominium</u>
Declaration (and Condo Map)	75%	<u>75%</u>
Bylaws	65%	<u>65%</u>
House Rules	---	<u>Majority vote of Board of Directors</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

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 of 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.

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>4</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: _____
See Building and House Rules attached as Exhibit "F" and Declaration of

Other: Covenants, Conditions and Restrictions attached as Exhibit "C"

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators 0 Stairways 0 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>N/A</u>	<u>48 sq. ft.</u>	<u>N/A</u>
<u>2</u>	<u>1</u>	<u>N/A</u>	<u>48 sq. ft.</u>	<u>N/A</u>
<u>3</u>	<u>1</u>	<u>N/A</u>	<u>48 sq. ft.</u>	<u>N/A</u>
<u>4</u>	<u>1</u>	<u>N/A</u>	<u>48 sq. ft.</u>	<u>N/A</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Total Apartments: 4

**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 boundary of each apartment is the exterior surfaces of the apartment and each apartment also has appurtenant to it the limited common element land area as set forth in the Condominium Map for its own exclusive use.

Permitted Alterations to Apartments:

Any apartment owner can increase the total square footage of his structure, add additional structures, and alter the location of his structure in accordance with the building code, zoning ordinances and the Declaration.

7. Parking Stalls:

Not designated and open. By Ordinance, two (2) parking stalls for each residential apartment.

Total Parking Stalls: _____

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

Not
Each apartment will have the exclusive use of at least 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:

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

N/A

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

N/A

10. Conformance to Present Zoning Code

a. No variances to zoning code have been granted.

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

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

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

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

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

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

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

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

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

Exhibit 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.

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

described in Exhibit _____

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 - 2.00 acres

Apartment 2 - 2.29 acres

Apartment 3 - 2.03 acres

Apartment 4 - 3.25 acres

NOTE: The limited common element land areas for each apartment are not legally subdivided lots.

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

Exhibit _____ describes the common interests for each apartment.

As follows:

Apartment 1 - 25%

Apartment 2 - 25%

Apartment 3 - 25%

Apartment 4 - 25%

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 March 24, 1992 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.

<u>Type of Lien</u>	<u>Effect on Buyer's Interest If Developer Defaults</u>
Mortgage by Developer as Mortgagor in favor of Loka Partners, an Ohio general partnership, as Mortgagee, dated June 13, 1991, recorded in the Bureau of Conveyances as Document No. 91-080138.	Buyer's interest may be cancelled but Buyer will be entitled to a refund of deposit.

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

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

The initial managing agent for this condominium is:

[] not affiliated with the Developer.

[] the Developer or the Developer's affiliate.

[X] self-managed by the Association of Apartment Owners.

[] other _____

G. Estimate of Initial Maintenance Fees:

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

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

Exhibit _____ 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 may 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:

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:

February 6, 1992. Notice of Completion was filed with the clerk of the Fifth Circuit Court.

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

Escrow Agreement dated February 27, 1992

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 use of the land is subject to the pursuit of agricultural activities as required by Chapter 205, Hawaii Revised Statutes, as amended.
3. 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.

C:\WP5\CONDO\WH.P18

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 Declaration of Covenants, Conditions and Restrictions for the Waipake Subdivision Unit I

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. 2629 filed with the Real Estate Commission on April 20, 1992.

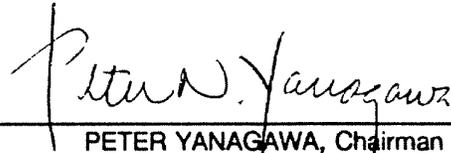
Reproduction of Report. When reproduced, this report must be on:

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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"

Common Elements. The common elements which the apartments have immediate access to 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.

EXHIBIT "B"

ENCUMBRANCES AGAINST TITLE: The title report dated March 24, 1992 reports that title to the land is subject to the following encumbrances:

1. Real Property Taxes have been fully paid up to and including June 30, 1992. Tax Key: 5-1-003-005 (4) Area Assessed: 126.270 acres.

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

3. Building setback line and drainageway, as shown on survey map prepared by Dennis M. Esaki, Registered Professional Surveyor, dated December 6, 1990.

4. Designation of Easement "B" for access and utility purpose as shown on survey map prepared by Dennis M. Esaki, Registered Professional Surveyor, dated December 6, 1990.

5. Designation of Easement "A" for access and utility purpose as shown on Map 3 of Land Court Application No. 1161.

6. Agreement dated March 16, 1977, recorded in Liber 12110 at Page 330, entered into by and between State of Hawaii and C. Brewer and Company, Limited; re: use of the land described herein for agriculture purposes.

7. Reservations set forth in DEED dated April 26, 1989, recorded in Liber 23119 at Page 472, to-wit:

"EXCEPTING AND RESERVING unto Grantor, its successors and assigns, forever, with respect to both the Warranty Property and the Quitclaim Property (the 'granted premises'), as appurtenant to the lands of Grantor which are located adjacent to or in the vicinity of the granted premises and which are now owned or used or hereafter acquired and used by Grantor in its agricultural operations, the perpetual right and easement over and upon the granted premises to discharge, emit, diffuse and inflict noise, smoke, soot, dust, lights, noxious vapors, odors and other minor nuisances of every description crated by and resulting from the agricultural operations of Grantor on its lands, including, but not limited to, burning sugar cane and bagasse, milling, generating power,

trucking, hauling, spraying pesticides, irrigation, crop dusting, and all other activities incidental to the farming, harvesting and processing of agricultural products and by-products. Grantor shall not be responsible or liable to Grantee, its successors and assigns, for the creation of such nuisance and Grantee shall indemnify and hold Grantor harmless from any liability or expense resulting from any claims whether made by Grantee or guests or other persons using the granted premises arising from such nuisance.

AND FURTHER EXCEPTING AND RESERVING unto Grantor, its successors and assigns, all water and water rights within or appurtenant to the granted premises, provided, however, that in the exercise of said rights, Grantor, its successors and assigns, shall not have the right to drill for water or otherwise disturb the surface of the land or any improvements thereon."

8. Right-of-Entry Agreement in favor of the County of Kauai, by and through the Board of Water Supply, County of Kauai, dated June 28, 1990, recorded as Document No. 90-192766; granting a right-of-entry over and across the land described herein for the purposes of conducting all necessary inspections for and on behalf of the Board, and, if appropriate, for constructing, maintaining, conducting water meter readings on, and repairing any and all facilities and improvements for the conveyance of potable water.

9. Reservation(s) set forth in DEED dated June 14, 1991 filed as Land Court Document No. 91-080137, to-wit:

"Reservation in favor of the State of Hawaii of vehicle access into and from Kauai Belt Road."

10. Declaration of Covenants, Conditions and Restrictions for the Waipake Subdivision Unit I, recorded as Document No. 91-024029, and covenant to observe and perform all terms and conditions therein.

11. Reservation(s) set forth in DEED dated June 14, 1991, filed as Land Court Document No. 91-080137 to-wit:

"Reservation in favor of Seller, its successors and assigns, of easements for electrical, gas, communications and other utility purposes and for sewer, drainage, irrigation and water facilities and vehicular access over, under, across, along and through the granted premises, together with rights of

reasonable access thereto for the exercise of said easement rights, with the right to grant to any governmental agency or public or private utility or other corporation, partnership, individual or entity easement for said purposes within said easements."

12. Covenants, conditions and restrictions set forth in DEED dated June 14, 1991, recorded as Document No. 91-080137, to-wit:

"Covenant to grant to Seller, its successors and assigns, or its designees, such easements for electrical, communication, water line and access purposes over, under, across, upon and through the easement areas required by and designated by Citizens Utilities Co., dba Kauai Electric Division, Hawaii Telephone, and/or the Board of Water Supply, County of kauai, through its Department of Water, for the construction of electrical, telephone and water lines and facilities within, and for access over, the Property."

13. Agreement to Release Rights to Three-Phase Power Installation entered into by and between Seller and Citizens Utilities Company, recorded as Document No. 91-022854.

14. Covenants, conditions and restrictions set forth in DEED dated June 14, 1991, recorded as Document No. 91-080137, to-wit:

"Covenant in favor of the State of Hawaii, Department of Land and Natural Resources, State Historic Preservation Division (hereinafter "SHPD"), not to construct, install, place or erect any structure or improvements within the area of the location of significant historic sites, shown as the cross-hatched areas on Exhibit "C", and not to grade, grub, fill, or clear or remove trees from the aforesaid cross-hatched area, without first submitting a description of the proposed activity to SHPD for its review and approval and obtaining any and all necessary governmental permits required for such activity from the Federal, State or County government agency having jurisdiction over the same. SHPD may require, prior to any review or approval of such proposed activity within the aforesaid cross-hatched area, a mitigation plan prepared at the lot owner's expense. SHPD may impose conditions upon any approval of such proposed activity aimed at preserving and protecting the areas of the

location of significant historic sites, or may deny such approval if it determines that the proposed activity will result in the destruction or deterioration of the areas of the location of significant historic sites."

15. Covenants, conditions and restrictions set forth in DEED dated June 14, 1991, recorded as Document No. 91-080137, to-wit:

"Covenant in favor of the State of Hawaii, Department of Land and Natural Resources, State Historic Preservation Division, pursuant to Chapter 6E, Hawaii Revised Statutes, to cease any activity in the immediate area of discovery of human skeletal remains, including the body or any part of the body of a deceased human being, until all of the requirements of Chapter 6E aforesaid have been met."

16. Mortgage by and between Gladstone Burns, Inc., a Hawaii corporation, as Mortgagor, and Loka Partners II, an Ohio general partnership, as Mortgagee, dated June 13, 1991, recorded in said Bureau as Document No. 91-080138.

17. "Because of the high elevation of Lot 1, a dependable supply of water cannot be assured. The lot owners will be required to sign an elevation agreement with the Department of Water upon application for water service; agreeing to accept such water service as the Department is able to render."; as shown on survey map prepared by Dennis M. Esaki, Registered Professional Land Surveyor dated December 6, 1990.

18. WAIVER AND RELEASE dated January 7, 1992, recorded as Document No. 92-011946.

19. RIGHT-OF-ENTRY to Citizens Utilities Company, dated May 13, 1991, recorded as Document No. 92-035473, granting a right-of-entry and easement for the purpose of building, constructing, repairing, maintaining and operating pole and wire lines, etc., for the transmission and distribution of electricity.

20. 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 February 27, 1992, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 92-039666, as the same may hereafter be amended in accordance with law or with said Declaration. (Project covered by Condominium Map No. 1624.)

21. By-Laws of the Association of Apartment Owners of the Condominium Project known as "WAIPAKE HEIGHTS" dated February 27, 1992, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 92-039667, as the same may hereafter be amended.

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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) Upon receipt of notice in writing from Seller that payments are due under any sales contract, Escrow shall give notice in writing to each purchaser 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.

WAIPAKE HEIGHTS

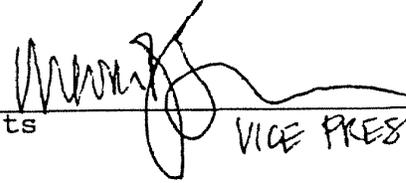
REGISTRATION NO. 2629

DISCLOSURE STATEMENT AS OF FEBRUARY 27, 1992

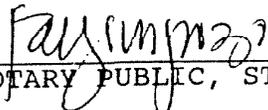
1. Name of Project: WAIPAKE HEIGHTS
2. Address: Waipake, Hanalei, Kauai, Hawaii
3. Name of Developer: Gladstone Burns, Inc.
4. Address of Developer: P. O. Box 3500, MSC 293,
Princeville, Kauai, Hawaii 96722
5. Telephone Number: (808) 826-4744
6. Project Manager or Agent: Alison L. Dunn
7. Address: 5310 Honoiki Road, Princeville, Hawaii 96722
8. Maintenance Fees: None at present.
9. Commencement of Maintenance Fees: At such time that the Association decides to assess maintenance fees.
10. Warranties: The Project is a fee simple condominium project and there are no warranties.
11. Project: The Project consists of 4 condominium apartments, the land areas of which are to be utilized for agricultural, residential and other uses permitted under the zoning ordinances for the County of Kauai.

DATED: Princeville, Kauai, Hawaii, FEBRUARY 27, 1992.

GLADSTONE BURNS, INC.

By 
Its VICE PRESIDENT

Subscribed and sworn to before me
this _____ day of FEB 27 1992, 1991.


NOTARY PUBLIC, STATE OF HAWAII
My commission expires: 8/18/94

C:\WP5\CONDO\WH.DS

**BUILDING AND HOUSE RULES
WAIPAKE HEIGHTS**

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 Declaration of Protective Covenants, Conditions and Restrictions for the Waipake Subdivision, Unit I, dated February 20, 1991, recorded as Document No. 91-024029 in the Bureau of Conveyances, State of Hawaii, and the Design Review Restrictions incorporated therein ("CC&R") 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. Private Building Approvals. Any owner desiring to construct or install any building or improvements in a Unit is required to submit the plans and specifications to the Design Review Committee for approval of such plans and specifications to be in conformance with the CC&R.

3. Building Permit. Any owner desiring to construct a single family dwelling in a Unit will have to comply with the building and zoning ordinances as the same may be changed from time to time. The requirements of the Comprehensive Zoning Ordinance, Kauai County Code 1987 and in particular the requirements of Article 1, Section 8-1.5 Definitions, Subparagraph (10) as to Applicant and Subparagraph (99) as to Owner having a controlling interest of 75% or more of the

equitable and legal title of the lot have to be observed in order to obtain a building permit. The present requirement of the County of Kauai is that each owner must sign an affidavit that he can obtain income or sustenance from farming on the Unit.

4. Use Restrictions. The agricultural restrictions for the use of the Unit for agricultural purposes for 20 years from March 16, 1977 are set forth in the Agreement dated March 16, 1977, recorded in Book 12110, Page 330, from such date for Lot 2 of which this Condominium is located.

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

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

7. 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.

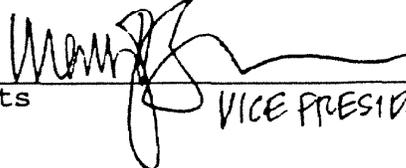
c. The architect or engineer's certificate should be executed reflecting the obtaining of a building permit from the County of Kauai and reflecting the "as built" condition of the dwelling.

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 Bureau of Conveyances, State of Hawaii.

Adopted at LIHUE, Hawaii, this 27th day
of FEBRUARY, 1992.

GLADSTONE BURNS, INC.

By 
Its VICE PRESIDENT

Loka Partners II, as Grantee, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 90-137983, incorporated herein by reference (hereinafter "Loka Partners Deed"); and

WHEREAS, the Declarant is developing the Waipake Property into an agricultural subdivision to be known as the Waipake Subdivision, Unit I (hereinafter "Subdivision Unit I"); and

WHEREAS, the County of Kauai Planning Commission ("Planning Commission") has required, in Subdivision Application S-90-10, as a condition for final subdivision approval, that the lots in said Subdivision Unit I be subject to certain restrictive covenants and conditions as hereinafter contained and that such conditions and covenants be recorded in the Bureau of Conveyances of the State of Hawaii as conditions running with the land; and

WHEREAS, the Declarant intends to impose certain Easements, Reserves, and other Restrictions upon the lots in the Subdivision Unit I in order to provide for access, utilities, setbacks and other such uses, and to limit and control the uses to which the lots might be put and the nature and types of structures which might be constructed;

NOW, THEREFORE, the Declarant does hereby declare that Lots 1 through 14, inclusive, in Subdivision Unit I, resulting from the subdivision of the Waipake Property, shall be held, sold, conveyed, encumbered, leased, used, occupied and improved subject to the following limitations, restrictions, covenants, conditions, reserves and easements, which shall run with the land and shall be binding upon all persons, entities or corporations

having, or who may acquire, any right, title or interest in and to said lots and shall inure to the benefit of the Declarant, the County of Kauai, the owners and beneficiaries of the easements and reserves granted herein, and each person who becomes an owner of any said lots:

SECTION I.

DECLARATION OF
RESTRICTIVE COVENANTS AND CONDITIONS

1. PUBLIC REGULATIONS. The owner of each Subdivision Unit I lot is responsible for being informed of and complying with any and all appropriate Federal, State and County laws, rules, regulations, codes and ordinances which are applicable to the lot. No owner, nor the owner's invitees, guests, tenants or lessees shall commit any act or cause or keep, nor suffer to be caused or kept, anything or object which would constitute a violation of any law, rule, regulation, code or ordinance of any governmental agency or body. If a standard set forth herein differs from standards established by a governmental agency, the stricter standard shall apply.

2. DESIGN REVIEW CONSULTANT. Declarant shall select, as a consultant to review plans and proposals for construction on Subdivision Unit I lots, an architect licensed by the State of Hawaii. For a period of three (3) years subsequent to the sale of the last lot within Subdivision Unit I by Declarant, any owner of any lot who proposes to construct any structures shall present to a Design Review Consultant, as from time to time selected by the Declarant, any and all plans for the construction

of any improvements prior to securing governmental permits to construct the same and prior to constructing the same.

In order to avoid conflicts in situations where a lot owner has retained an architect who may have been selected by the Declarant to be a Design Review Consultant to prepare the lot owner's plans, the Declarant may designate one or more licensed architects to be a Design Review Consultant. No architect who has been retained by a lot owner to prepare plans can review, in the capacity as Design Review Consultant, said lot owner's plans.

Each lot owner so required to present construction plans to a Design Review Consultant shall be responsible for the payment of any and all reasonable fees and costs incurred for such design review and assessed by the Design Review Consultant.

After the expiration of the three (3) year period of time following the sale of the last of the Subdivision Unit I lots by Declarant, a homeowners' association of the owners of Subdivision Unit I may be formed by registering a Hawaii non-profit corporation for the purposes of design review of structures and improvements, if the owners of no less than 75% of all of the Subdivision Unit I lots so provide in writing.

3. DESIGN REVIEW CONSULTANT APPROVAL; ENFORCEMENT. No person shall develop, use, modify, alter, construct, erect, place or maintain any building, structure, facility, utility, improvement, or other object on any lot except in strict accordance with the approved plans and specifications previously submitted to and approved by the Design Review Consultant. The Design Review Consultant shall either deny, approve or approve

with modifications such plans presented within thirty (30) working days of submittal of all necessary documents, otherwise such plans shall be deemed to be approved. Such plans and specifications shall contain such information, diagrams, maps and drawings as may be required by the Design Review Consultant, including, but not limited to: floor, elevation, plot and grading plans; specifications of construction materials and techniques and color schemes; the location, character and method of utilization of all utilities; landscape plans; all driveways and automobile or other parking provisions; any outside lighting plans and a construction schedule for any such work. The Design Review Consultant may require that any or all of such plans and specifications be prepared by a registered architect or professional engineer licensed in the State of Hawaii. If any person shall fail to obtain or follow such approved plans or specifications, the Declarant, the owners of other lots in Subdivision Unit I, and/or the County of Kauai may bring suit as provided in paragraph 23 herein, to enforce this provision.

4. DESIGN REVIEW CONSULTANT GUIDELINES. In passing upon all such plans and specifications presented, the Design Review Consultant shall take into consideration: the size, configuration, location and natural features of the lot in question; the location of the proposed improvements on the lot; the effect the improvements will have on other existing or planned improvements on other lots in Subdivision Unit I; and the visual impact the proposed improvements will have when viewed from other lots in Subdivision Unit I. The Design Review

Consultant shall use reasonable judgment in passing upon all such plans and specifications, and may, if necessary, consult with the Declarant for the purposes of determining whether plans and specifications should be denied, approved, or approved with modifications, but shall not be liable to any person for its actions in connection with submitted plans and specifications, unless it can be shown that the Design Review Consultant acted with the actual intent to commit a wrongful act.

5. DEVELOPMENT STANDARDS. The following standards shall apply to any and all construction, use or development within Subdivision Unit I:

(a) Every structure, including accessory structures, buildings or other improvements, shall be located a minimum of 25 feet from the front, rear and side boundaries of each lot.

(b) With the exception of sky lights and roof windows, the roofs of every structure, including accessory structures, buildings or other improvements, shall have a pitch of no less than one foot vertical to three feet horizontal and no more than one foot vertical to one foot horizontal, and shall be constructed or made of wood shake or shingle, clay tile, composition shingle or other material of minimum reflectivity. The use of any roofing material which is highly reflective, such as corrugated iron, tiles with smooth shiny finishes and the like or which is inappropriately colored, shall be prohibited.

(c) Geodesic domes and structures which incorporate

geodesic dome shapes in their external design are prohibited. Quonset hut structures are prohibited in the external design of farm dwellings and guest houses.

(d) Except when utilized on solar panels, no highly reflective finish, other than glass, shall be used on exterior surfaces, including without limitation, roofs, exterior walls, doors, trim, fences, pipes, permanent outdoor equipment, mailboxes and newspaper delivery tubes. Windows may not be mirrored to reflectivity in excess of thirty percent (30%).

(e) Each farm dwelling which consists of more than a single-story which is erected, constructed or maintained on any lot shall have a total first (ground) floor living area containing not less than 1,000 square feet, exclusive of lanais, patios, attached guest house or facility, garage, carport, storage space and workshop areas. The first (ground) floor shall not be placed, erected, constructed or maintained at a level higher than three (3) feet above the highest finished grade or ground elevation of the lands immediately below said structure.

(f) Notwithstanding the foregoing provision, a lot owner may erect, construct or maintain a guest house with a floor area of 500 square feet or less, for temporary use as a farm dwelling, subject to receiving in advance approval from all necessary governmental agencies for the installation of a kitchen as defined by Chapter 8 of the Kauai County Code, during such period of time that such

owner is in the process of erecting and constructing his farm dwelling and for such period as may be allowed by said governmental agencies, but in no case to exceed a period of five (5) years.

(g) Every improvement constructed on a lot shall be completed in accordance with the construction schedule approved by the Design Review Consultant.

(h) No farm dwelling may be erected, constructed or maintained which has a height exceeding 25 feet measured vertically from grade at all points along the structure to the roof peak. No other accessory structure, building or improvement may be erected, constructed or maintained which has a height exceeding 18 feet measured vertically from grade at all points along the structure to the roof peak.

6. UTILITY FACILITIES. No overhead power lines or wires may be erected, installed or maintained on or above any lot except by the Declarant, or by a public or private utility authorized to do so by the Declarant. No wind generators shall be erected, installed, constructed or maintained on any lot. No antennae, aerials, satellite discs or dishes or other devices for the reception or transmission of radio or television broadcast signals or other means of communication shall be erected, installed, constructed or maintained on any lot unless such devices are reasonably screened from adjoining properties and roadways. All other utilities within a lot shall be placed underground or screened from view from adjoining properties and roadways.

7. TEMPORARY STRUCTURES. No house trailer, mobile home, temporary building, structure, outhouse, shed or tent of any kind shall be erected, constructed, placed or maintained on any lot, except as expressly provided herein. Subject to prior Design Review Consultant approval, temporary structures or trailers may be erected, constructed or placed on any lot during the period of construction of permanent improvements, in no case to exceed twelve (12) months, for use as a construction office and supply shelter, but in no event as a residence. The temporary construction structures or trailers shall remain upon the lot only during the period of construction of permanent improvements thereon, and must be removed within thirty (30) days after completion of such construction. Any surplus material from construction shall be removed within said thirty (30) day period of time.

8. NOXIOUS OR OFFENSIVE ACTIVITIES. No noxious or offensive activity shall be carried out on any lot, nor shall anything be done or placed on any lot which is or may become a nuisance or cause embarrassment, disturbance or annoyance to owners of other lots. Any planting or vegetation which cannot be effectively limited from encroaching upon or infesting neighboring property shall be deemed a noxious activity, and each owner shall take positive steps to eliminate such planting or vegetation from his lot. No hunting is permitted. Lot Owners shall not allow any unreasonable odor, smoke, dust, light, electronic wave emissions, or noise which is noxious or offensive to any other Subdivision Lot Owner to emit or emanate from their

lot.

9. UNSIGHTLINESS. No unsightly structure or condition which may substantially diminish the value or quiet enjoyment of other Subdivision lots shall be caused or permitted on any lot. Without limiting the generality of the foregoing, all unsightly structures, facilities, equipment, objects and conditions shall be reasonably screened from view from neighboring lots or roadways. No lot shall be used or maintained as a dumping ground or landfill area for rubbish, trash, garbage or other waste (with the exception of well and sanitarily maintained compost piles). All equipment for the storage or disposal of such material shall be kept in clean and sanitary condition and containers. Rubbish, trash, garbage or other waste, including their containers, shall not be left for refuse pickup or disposal more than 24 hours prior to any scheduled pickup.

10. NOISE. No sound shall be permitted to emit or emanate from any lot which is unreasonably loud or annoying or which violates any applicable governmental rule, law or ordinance. Security devices used exclusively for the protection of persons or property are permitted.

11. LIGHTING. No exterior lighting on any Subdivision Lot may be installed without prior approval of the Design Review Consultant. All exterior lighting which is unreasonably bright or causes unreasonable glare must be shielded from view by neighboring lots. High intensity discharge exterior lights, including, without limitation, mercury or sodium vapor lamps or lamps which emit light of a similar nature and character, strobe

lamps, and neon lamps and tubing, are not permitted. All exterior lights shall have shields which deflect light towards the ground.

12. ANIMALS. All animals kept or maintained on any lot, whether domestic pets, livestock, poultry, game and fish, or any other animal or aquatic life propagated for economic or personal use, shall be kept and maintained only in numbers and at a density compatible with neighboring residential or agricultural uses within the Subdivision, and shall receive care 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) disposal, in an ecologically sound manner, of any effluent from the practice of aquaculture or other processes;

(c) control of flies, insects, worms, and other pests and parasites;

(d) adequate fencing and animal housing or shelter facilities, sufficient to restrict and confine such animals and poultry to the lot upon which they are kept and maintained; and

(e) control of noxious or offensive odors to levels which are customary under practices of good animal husbandry, and which are compatible with neighboring residential and agricultural uses.

Notwithstanding the foregoing or any other provision herein

contained, no more than five (5) dogs, five (5) pigs, and twenty-five (25) wild or domestic fowl may be kept or maintained, for each dwelling unit to which each lot is entitled.

13. GRADING. Prior to commencing any site improvements in the nature of grading or grubbing, the owner of each lot shall obtain a grading or grubbing permit, as the case may be, from the County of Kauai if the same is required by any governmental rule, regulation, law or ordinance. Excessive cuts or filling shall be avoided. In the event of any excavation on a lot, the owner doing or causing such excavation to be done shall provide such artificial lateral support as may be necessary to support adjacent lots. Each owner shall control dust during the grading or grubbing process to minimize damage, annoyance or inconvenience to other lot owners.

14. FLOODING AND EROSION. The drainage control ordinances of the County of Kauai are explicit and each lot owner shall comply with the same. No owner shall permit or cause to be constructed on his lot any improvements which create a problem of flooding, erosion or interference with the natural flow of water, or which will damage his lot or other properties, nor shall any owner fail to act to minimize runoff damage or interference with the natural flow of storm waters and surface runoff. Lot Owners shall maintain existing drainage patterns to the extent reasonably possible and shall be solely responsible for resolving any offsite drainage or flooding problems accused by the owner's development or use of his lot.

15. MAINTENANCE OF LOTS AND LANDSCAPING. Each lot, whether

occupied or unoccupied, and all improvements or structures placed, erected, constructed, installed or maintained thereon, shall at all time be kept and maintained in good, clean and attractive condition and in such manner as to prevent the lot and its improvements or structures from becoming unsightly, unsanitary, or a hazard to health. Each owner shall, at his own expense, trim and maintain all trees, shrubs and plantings to prevent overhang or other encroachment above or upon any adjoining property or roadway, and to prevent material interference with the view across such lot from other lots in Subdivision Unit I. Windbreak plantings or vegetation which are growing, planted, placed or aligned in a dense and linear trend shall be trimmed regularly and maintained at heights not to exceed twelve (12) feet.

16. SIGNS. No signs or advertising devices of any nature or kind shall be erected, placed, installed, constructed or maintained on any lot, except:

(a) such signs as may be required to be posted by order of any court of competent jurisdiction;

(b) signs which have a combined total face area of not more than 1 1/2 square feet, necessary to identify the owner or occupant of any lot and his address;

(c) a maximum of one (1) sign not exceeding 1 1/2 feet by 2 feet in size, indicating or advising that the lot on which it has been installed, placed or situated is for sale or for rent;

d) signs which are necessary or desirable to give

direction, advise of rules or regulations, or caution or warn of hazard or danger;

(e) a maximum of one (1) job identification sign per contractor or subcontractor having a maximum face area of six (6) square feet, during the period of actual construction on a lot;

(f) not more than one (1) commercial sign having a maximum face area of six (6) square feet, and which can only refer to the sale of agricultural or related products produced on the lot on which the said sign is installed, placed or situated.

17. PROHIBITED USES AND ACTIVITIES. The following uses and activities are prohibited on any lot in Subdivision Unit I , unless the owner of the lot on which such use or activity is proposed shall have first obtained written authorization to commence such use or activity from no less than all of the owners of record of at least 75% of the lots in said Subdivision, and all necessary governmental authority or permission:

- (a) animal hospitals;
- (b) cemeteries;
- (c) churches and monasteries;
- (d) commercial recreation;
- (e) construction and worker temporary housing;
- (f) development campgrounds;
- (g) mineral extraction and quarries;
- (h) private and public utility facilities;
- (i) transportation terminals;

- (j) communications facilities;
- (k) slaughter houses.

18. STATE LAND USE RESTRICTIONS. As long as a lot in Subdivision Unit I shall remain in the State Land Use Agriculture District, then such lot shall be subject to the following conditions:

(a) Pursuant to Chapter 205, Hawaii Revised Statutes, the use of the lots shall be primarily in pursuit of agricultural activities and only for those uses permissible in an agricultural district as contained in Section 205-4.5, Hawaii Revised Statutes ("HRS"), as amended from time to time, which lists permissible uses as follows:

"Within the agricultural district all lands with soil classified by the Land Study Bureau's Detailed Land Classification as Overall (Master) Productivity Rating Class A or B shall be restricted to the following permitted uses:

(1) Cultivation of crops, including but not limited to flowers, vegetables, foliage, fruits, forage and timber;

(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;

(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, solid waste transfer stations, and appurtenant small buildings such as booster pumping stations, but not including offices or yards for equipment, material, vehicle storage repair or maintenance, treatment plants and major storage tanks not ancillary to agricultural practices, 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; or

(11) Agricultural parks."

(b) Notwithstanding the foregoing provisions of Section 205-4.5, Hawaii Revised Statutes, the uses and structures described above in HRS Section 205-4.5(a) (5), (6) and (9) are not permitted on any of the subdivision lots.

(c) Dwellings on such lots shall be limited to farm dwellings, defined in the State Land Use District Regulations as single-family dwellings located on and used in connection with a farm where agricultural activity provides income to the family occupying the dwelling.

19. HEALTH REQUIREMENTS. In the development and use of any of the lots, the owner shall at all times meet County of Kauai requirements and State of Hawaii, Department of Health, requirements with regard to the availability of potable water; the raising of livestock, domestic fowl and other animals; and nuisances related to odor, noise, rodents and insects or, if applicable, any more stringent requirements herein contained.

20. RELEASE OF RIGHTS TO THREE-PHASE POWER INSTALLATION. All of the lots of Subdivision Unit I are subject to that certain Agreement to Release Rights to Three-Phase Power Installation which shall be entered into by and between Declarant and Citizens Utilities Company (hereinafter "Citizens"), and to be recorded in the Bureau of Conveyances of the State of Hawaii, by which the

owners waive, and release Citizens from, any responsibilities that Citizens might have to provide three-phase electrical power to the lots, and hold Citizens harmless from any claims that may arise as a result of Citizens' refusal or failure to supply three-phase electrical power to said lots.

21. PERIOD OF RESTRICTIVE COVENANTS. The covenants and conditions contained in paragraph 18 shall continue and be in full force and effect as to any particular lot until such time as the subject lot is reclassified to a State Land Use District classification other than the "Agricultural" district classification. The covenants and conditions contained in paragraph 17 shall continue and be in full force and effect as to any particular lot until such time as the subject lot is rezoned to a County zoning district other than the "Agricultural" or the "Open" zoning districts. The restrictive covenants and conditions contained in paragraph 19 shall remain in full force and effect so long the County of Kauai and State of Hawaii, Department of Health requirements shall remain in full force and effect. The covenants and conditions contained in paragraphs 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 shall remain in full force and effect until December 31, 2015. The covenant and condition contained in paragraph 20 shall remain in full force and effect until Citizens Utilities Company executes and records a release or cancellation of the Agreement to Release Rights to Three-Phase Power Installation.

22. BREACH. Any breach of any of the provisions of this Declaration may be enforced by injunctive or other legal remedies

by the Declarant, the owner of any lot within Subdivision Unit I, or the County of Kauai. If any of such person or entities shall be successful in preventing or enforcing against such breach, then such person or entity shall be entitled to recover its attorney's fees and costs of enforcement from the offending party.

SECTION II

EASEMENTS, RESERVATIONS AND RESTRICTIONS

Lots 1 through 13, inclusive, of Subdivision Unit I shall be subject to the following described easements, reservations and restrictions:

1. Subdivision Unit I lots 1 through 14, or portions thereof, are within the Flood Zone as defined by the County of Kauai and as shown on the Final Subdivision Map approved by the Planning Commission, a reduced copy of which is attached hereto and incorporated herein as Exhibit "A" (hereinafter the "Final Subdivision Map"), and shall be subject to all County of Kauai restrictions concerning construction, development and uses within such zone.

2. Subdivision Unit I lots 1 through 14 are subject to the condition that the owners thereof allow for free flowage of storm water runoff.

3. Subdivision Unit I lot 23 is subject to the condition that the lot is restricted to use for roadway purposes only. Upon written request by the County of Kauai, the owner of said lot 23 shall, at no cost to the County of Kauai, dedicate and

convey said lot 23, in fee, to the County of Kauai for roadway purposes.

4. Subdivision Unit I lots 6, 7, 8, 9, 12 and 13 shall be subject to the restriction of access along Kuhio Highway as shown on the Final Subdivision Map.

5. Subdivision Unit I lot 23 is subject to Easement "A", as described in Exhibit "B" attached hereto and incorporated herein, Easement "A" being a non-exclusive easement for vehicular and pedestrian access and underground utility purposes, fifty-six (56) feet in width, together with the right to construct, install, repair and maintain said access and utility facilities, in favor of Subdivision Unit I lots 1, 10 and 14, and those certain parcels of real property identified as Kauai Tax Map Key Nos.: 5-1-02-1 and 5-1-02-10.

6. Subdivision Unit I lot 5 is subject to Easement "C", as described in Exhibit "C" attached hereto and incorporated herein, Easement "C" being a non-exclusive easement for vehicular and pedestrian access and underground utility purposes, fifteen (15) feet in width, together with the right to construct, install, repair and maintain said access and utility facilities, in favor of Subdivision Unit I lots 4, 8 and 9.

7. Subdivision Unit I lot 6 is subject to Easement "B", as described in Exhibit "D" attached hereto and incorporated herein, Easement "B" being a non-exclusive easement for vehicular and pedestrian access and underground utility purposes, fifty-six (56) feet in width, together with the right to construct, install, repair and maintain said access and utility facilities,

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in favor of Subdivision Unit I lots 5 and 7 and that certain real property identified as Kauai Tax Map Key No.: 5-1-02-5.

8. Subdivision Unit I lot 8 is subject to Easement "D", as described in Exhibit "E" attached hereto and incorporated herein, Easement "D" being a non-exclusive easement for vehicular and pedestrian access and underground utility purposes, fifteen (15) feet in width, together with the right to construct, install, repair and maintain said access and utility facilities, in favor of Subdivision Unit I lots 4, 5 and 9.

9. Subdivision Unit I lot 10 is subject to Easement "E", as described in Exhibit "F" attached hereto and incorporated herein, Easement "E" being an exclusive easement for water facilities and drainage purposes, twenty (20) feet in width, together with the right to construct, install, repair and maintain said water and drainage facilities, in favor of Subdivision Unit I lot 14.

10. Subdivision Unit I lot 7 is subject to Easement "F", as described in Exhibit "G" attached hereto and incorporated herein, Easement "F" being a non-exclusive easement for roadway return radius purposes containing 193 square feet, together with the right to construct, install, repair and maintain said roadway return radius improvements, in favor of Subdivision Unit I lots 5 and 7 and Kauai Tax Map Key No.: 5-1-02-5.

11. Subdivision Unit I lots 1 through 13 shall be subject to the exception and reservation unto the Declarant, of easements for roadway, electrical, gas, communications and other utility purposes and for sewer, drainage and water facilities, over,

under, along, across and through said lots, together with the right to grant to the United States of America, the State of Hawaii, the County of Kauai, the Board of Water Supply of the County of Kauai, or any other appropriate governmental agency or public utility, or to any other public or private corporation or association, or to any individual, easements for such purposes over, under, across, along and through said real property under the usual terms and conditions required by the Declarant or the grantee for such easement rights; provided, however, that such easement rights must be exercised in such manner as will not unreasonably interfere with the use of said lots by the owner or owners thereof, their successors and assigns, and in connection with the installation, maintenance or repair of any facilities pursuant to any of said easements said lots shall be promptly restored by and at the expense of the persons owning and exercising such easement rights to the condition of said lot immediately prior to the exercise thereof. Declarant shall have the right to grant any such easements without the consent or joinder of the person or persons then owning any such lot affected for a period of five (5) years subsequent to the sale of the last lot within Subdivision Unit I.

12. The easements, reserves, rights, duties, restrictions and obligations conferred or imposed pursuant to paragraphs 1 through 11 above shall inure to the benefit of, and/or be binding upon, the owners or beneficiaries of such easements or reserves, the owners of Subdivision Unit I Lots 1 through 13, and 23, the Declarant, and/or the County of Kauai, as the case may be,

together with their respective estates, heirs, personal representatives, successors, assigns, successors in interest, or any person or entity claiming by or through them.

SECTION III

GRANT OF EASEMENTS TO LOTOWNERS AND OTHERS

The Declarant, having reserved certain easements in the Subdivision as previously described in Section II, above, hereby declares, gives, grants and conveys to the following described persons in perpetuity the following easements:

1. To the owner of Subdivision Unit I lots 1, 10 and 14 and the owner of Kauai Tax Map Key Nos: 5-1-02-1 and 5-1-02-10, and to Declarant, Easement "A", as described in Exhibit "B", attached hereto and incorporated herein, being a non-exclusive easement for vehicular and pedestrian access and underground utility purposes, together with the right to construct, install, repair and maintain said access and utility facilities; provided that the owner of lot 23 shall retain the right to use said easement area for vehicular and pedestrian access purposes, and to construct, install, repair and maintain said access facilities.

2. To the owner of Subdivision Unit I lots 4, 8 and 9 and to Declarant, Easement "C", as described in Exhibit "C", attached hereto and incorporated herein, being a non-exclusive easement for vehicular and pedestrian access and underground utility purposes, together with the right to construct, install, repair and maintain said access and utility facilities; provided that

the owner of lot 5 shall retain the right to use said easement area for vehicular and pedestrian access to his lot, and to construct, install, repair, and maintain said access facilities.

3. To the owner of Subdivision Unit I lots 5 and 7, to the owner of Kauai Tax Map Key No. 5-1-02:5 and to Declarant, Easement "B", as described in Exhibit "D", attached hereto and incorporated herein, being a non-exclusive easement for vehicular and pedestrian access and underground utility purposes, together with the right to construct, install, repair and maintain said access and utility facilities; provided that the owner of lot 6 shall retain the right to use said easement area for vehicular and pedestrian access to his lot, and to construct, install, repair, and maintain said access facilities.

4. To the owner of Subdivision Unit I lots 4, 5 and 9 and to Declarant, Easement "D", as described in Exhibit "E", attached hereto and incorporated herein, being a non-exclusive easement for vehicular and pedestrian access and underground utility purposes, together with the right to construct, install, repair and maintain said access and utility facilities; provided that the owner of lot 8 shall retain the right to use said easement area for vehicular and pedestrian access to his lot, and to construct, install, repair, and maintain said access facilities.

5. To the owner of Subdivision Unit I lot 14, Easement "E", as described in Exhibit "F", attached hereto and incorporated herein, being an exclusive easement for water and drainage facilities purposes, together with the right to construct, install, repair and maintain said water and drainage

facilities.

6. To the owner of Subdivision Unit I lots 5 and 7 and Kauai Tax Map Key No.: 5-1-02-5, Easement "F", as described in Exhibit "G", attached hereto and incorporated herein, being a non-exclusive easement for roadway return radius purposes, together with the right to construct, install, repair and maintain said roadway return radius improvements.

TO HAVE AND TO HOLD the same unto the respective persons above-named for so long as the respective Easements shall be used for the purposes stated herein.

PROVIDED, THAT, these grants of easements are made on and subject to the following conditions:

1. Neither the owner of any Subdivision Unit I Lot subject to an easement (hereinafter "Lot Owner"), nor the owner or beneficiary of the above-described easements, or any of them, (hereinafter "Easement Owners"), shall at any time during the term of this indenture erect any building, structure or improvement of any kind, above or on the surface of any of the lands subject to the above described easements (hereinafter "Easement Areas"), except as provided in this Declaration.

2. Any utility structures or equipment constructed, reconstructed or installed by any Easement Owner within the Easement Area shall be and remain the property of the person constructing the same.

3. If at any time an Easement Area, or any part thereof, shall be condemned or taken for any public project by any governmental authority, the Easement Owner shall have the right

to claim or recover from the condemning authority, but not from the Declarant, such compensation as is payable for the said Easement and the rights granted herein.

4. Any Easement Owner that installs, repairs or removes any structures or equipment on or in an Easement Area will restore the surface of the ground to its original condition to the extent that such restoration is reasonably possible.

5. After the original installation of any structure or equipment on or in an Easement Area, the expense of any removal or relocation thereof shall be the responsibility of any person requesting or desiring same.

6. Each Easement Owner shall have the right, as reasonably necessary, to install, repair, maintain or remove any structures or equipment on or in an Easement Area and to repair and maintain the Easement Area as may be necessary to exercise his rights as granted herein.

7. Each Easement Owner will exercise his rights hereunder in such manner as to occasion as little interference as reasonably necessary with the use of said Easement Area by the Lot Owner or any other Easement Owner.

8. Each Easement Owner agrees to indemnify and hold harmless the Declarant and the Lot Owner against all claims, suits and actions by whomsoever brought on account of injuries or damages to persons or property resulting from either the Easement Owner's exercise of his rights as granted herein or from any other person's use of the Easement Area pursuant to the rights granted to the Easement Owner.

9. Each individual Easement Owner agrees to use due care in exercising his rights hereunder so as to avoid any damage to the Lot Owner's real property, and improvements and personal property located thereon, and to be absolutely liable to the Lot Owner for the full extent of any damages which the Easement Owner may cause to the Lot Owner's real property or improvements or personal property located thereon, resulting from the Easement Owner's exercise of his rights as granted herein.

10. Each Easement Owner shall give the other Easement Owners and the Lot Owner at least forty-eight (48) hours prior notice of his intent to enter onto the Easement Area in order to install, repair, maintain or remove any structures or equipment in the Easement Area in accordance with the provisions of paragraph (6), which entry shall be restricted to reasonable daylight hours. However, the restrictions of this paragraph shall not be required for the making of emergency repairs necessary to protect the Easements or any of the Easement Owner's personal and real property or improvements located thereon.

11. These easements and the rights granted hereunder shall run solely in favor of the Easement Owners described above and may not be assigned, granted or otherwise given for the purpose of benefitting any other person, entity, or real property, except to a successor in ownership; provided, however, that this restriction shall not apply to Declarant, who reserves the right and power as an Easement Owner to grant or assign such further easements or easement rights as Declarant in its sole judgment deems appropriate.

12. The Easement Owners' rights shall be strictly limited to those necessary to allow them to utilize the Easement Area for the purposes intended and described above. The Easement Owners shall have no right to utilize an Easement Area for purposes unrelated to the exercise of their rights hereunder.

13. For the purposes of this document, the term "utility" shall include services for water, telephone, gas, electric, cable television and other services employing electrical or electronic means of transmission.

14. The Easement Owner's rights hereunder shall be limited to those uses legally permitted on their lots and for no other purposes.

15. The Easement Owners shall be responsible for (a) maintaining the Easement Area in which they have easement rights in a good, clean, safe, sanitary and well-kept condition, and (b) maintaining and repairing any facilities or improvements which they own, in whole or in part, in any Easement Area in which they have easement rights in good and safe repair and condition. The Easement Owners shall share the cost of constructing, installing, maintaining, repairing and operating any facilities or improvements in any Easement Area (including, but not limited to, road, access, driveway, waterline, utilities, irrigation, and drainage facilities) in proportion to their individual use thereof.

IT IS AGREED AND UNDERSTOOD that the rights and obligations set forth herein shall be binding upon, and inure to the benefit of, the Easement Owners and the Lot Owners and their respective

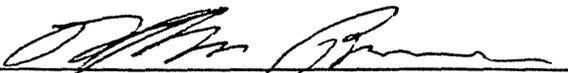
improvements in any Easement Area (including, but not limited to, road, access, driveway, waterline, utilities, irrigation, and drainage facilities) in proportion to their individual use thereof.

IT IS AGREED AND UNDERSTOOD that the rights and obligations set forth herein shall be binding upon, and inure to the benefit of, the Easement Owners and the Lot Owners and their respective estates, heirs, personal representatives, successors, successors in trust and assigns.

IT IS FURTHER AGREED AND UNDERSTOOD that the terms "Declarant", "Easement Owner", "Lot Owner", and "Owner", as and when used herein, or any pronouns used in place thereof, shall mean and include the masculine or feminine, the singular or plural number, individuals or corporation and their and each of their respective successors, heirs, personal representatives and assigns, according to the contest thereof.

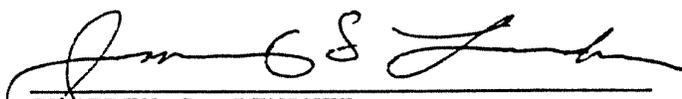
IN WITNESS WHEREOF, the Declarant has caused this Declaration to be duly executed on this 20th day of February, 1991.

LOKA PARTNERS II

By 
PAUL M. BRUNNER, Treasurer

UNITED DAIRY FARMERS DEVELOPMENT
AND LEASING CO., INC.

Its General Partner


JEFFREY S. LINDNER

Its General Partner

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

On this 11th day of February, 1991, before me personally appeared PAUL M. BRUNNER, to me personally known, who being by me duly sworn, did say he is the Treasurer of UNITED DAIRY FARMERS DEVELOPMENT AND LEASING COMPANY, INC., an Ohio corporation, one of the general partners of LOKA PARTNERS^I, an Ohio general partnership registered in the State of Hawaii, that the seal affixed to the foregoing instrument is the corporate seal of the said corporation; and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors and in behalf of said partnership, and PAUL M. BRUNNER acknowledged the instrument to be the free act and deed of said corporation and said partnership.


Notary Public, State of Ohio

My commission expires:

STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

DOREEN RAMSEY
Notary Public, State of Ohio
My Commission Expires Jan. 13, 1992

On this 20th day of February, 1991, before me appeared JEFFREY S. LINDNER, to me personally known, who, being by me duly sworn, did say that he is a general partner of LOKA PARTNERS^{II}, an Ohio general partnership registered in the State of Hawaii, and that the foregoing instrument was executed in the name and on behalf of said LOKA PARTNERS, and the said JEFFREY S. LINDNER acknowledged said instrument to be the free act and deed of LOKA PARTNERS.

L.S.


Notary Public, State of Hawaii

My commission expires: 8/18/94.