

**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**

Southpointe At Waiakoa Phase III  
 480 Kenolio Road  
 Waiakoa, Kihei, Maui, Hawaii

Registration No. 2631

Issued: September 15, 1992  
 Expires: October 15, 1993

Report Purpose:

This report is based on information and documents submitted by the developer to the Real Estate Commission as of August 20, 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:** (yellow) The developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report. A Final Public Report will be issued when complete information is filed.
- FINAL:** (white) The developer has legally created a condominium and has filed complete information with the Commission.  
 No prior reports have been issued  
 Supersedes all prior public reports  
 Must be read together with \_\_\_\_\_
- SUPPLEMENTARY:** (pink) Updates information contained in the  
 Prelim. Public Report dated \_\_\_\_\_  
 Final Public Report dated \_\_\_\_\_  
 Supp. Public Report dated \_\_\_\_\_
- And  Supersedes all prior public reports  
 Must be read together with \_\_\_\_\_
- This report reactivates the \_\_\_\_\_  
 public report(s) which expired on \_\_\_\_\_

Disclosure Abstract: Separate Disclosure Abstract on this condominium project:

Required       Not Required - disclosures covered in this report.

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

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

No prior reports have been issued by the Commission.

Changes made are as follows:

The Declaration of Condominium Property Regime, Condominium Map and Bylaws of the Association of Apartment Owners have been executed and recorded (See page 7 of this Report), and House Rules have been adopted.

The Developer represents that there have been no material changes to the project since the issuance of the Preliminary Public Report.

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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>
A	72	2/1-1/2	750	70
B	20	2/2	750	65
C	12	2/1	650	70
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Total Apartments: 104

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

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

**6. Parking:**

	<u>Number of Stalls</u>
Assigned Stalls (Individual Units)	<u>208</u>
Guest Stalls	<u>5</u>
Unassigned Stalls	_____
Extra Stalls Available for Purchase	_____
Other: _____	_____
<b>Total Parking Stalls</b>	<u>213</u>

**7. Recreational amenities:**

**I. PEOPLE CONNECTED WITH THE PROJECT**

**Developer:** Schuler Homes, Inc. **Phone:** 521-5661  
**Name** (Business)  
1001 Bishop Street, Pacific Tower, Suite 1060  
**Business Address**  
Honolulu, Hawaii 96813

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

James K. Schuler, President; Secretary; Treasurer

Michael T. Jones, Executive Vice President

Pamela S. Jones, Vice President of Finance

Thomas A. Bevilacqua, Assistant Secretary

**Real Estate Broker:** South Pacific Properties **Phone:** 521-5661  
**Name** (Business)  
1001 Bishop Street, Pacific Tower, Suite 1060  
**Business Address**  
Honolulu, Hawaii 96813

**Escrow:** Security Title Corporation **Phone:** 521-9511  
**Name** (Business)  
1001 Bishop Street, Pacific Tower, Suite 1200  
**Business Address**  
Honolulu, Hawaii 96813

**General Contractor:** Devcor Enterprises, Inc. **Phone:** 879-8321  
**Name** (Business)  
Premier Place #102, 535 Lipoa Parkway  
**Business Address**  
Kihei, Maui, Hawaii 96753

**Condominium Managing Agent:** Oihana Property Management & Sales, Inc. **Phone:** 244-7684  
**Name** (Business)  
840 Alua Street, Suite 202  
**Business Address**  
Wailuku, Maui, Hawaii 96793

**Attorney for Developer:** Ronald W. K. Yee **Phone:** 536-3451  
**Name** (Business)  
1000 Bishop Street, Suite 303  
**Business Address**  
Honolulu, Hawaii 96813

**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. 92-133504  
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. 1712  
 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 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. 92-133505  
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>	* Amendments to certain provisions which give rights to the Declarant can only be amended with the Declarant consent.
Bylaws	65%	<u>65%</u>	
House Rules	---	<u>Majority vote of Association or 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

A. Prior to the conveyance of any apartment in the Condominium, the Developer may amend the aforesaid condominium documents to reflect changes in the Condominium and the apartments and common and limited common elements as long as such changes do not materially diminish the value of any apartment or jeopardize a purchaser's loan commitment.

B. Upon completion of the Condominium, the Developer may amend the Condominium Declaration to file the "as built" verified statement required by Section 514A-12 of the Horizontal Property Act.

C. The Developer may amend the aforesaid condominium documents to subject the Condominium to an FHA Regulatory Agreement and/or to conform the Condominium to the requirements of the VA Home Loan Guarantee Program and FHA Home Loan Programs.





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 checked="" type="checkbox"/> Residential	<u>104</u>	<u>Yes</u>	<input type="checkbox"/> Agricultural	_____	_____
<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:** Dogs, cats and other household pets as set forth in House Rules  
2 persons per bedroom, not including children under the age of 5,  
 **Number of Occupants:** but in no event more than 3 persons per bedroom
- Other: \_\_\_\_\_
- There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators 0                      Stairways 27                      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>A</u>	<u>72</u>	<u>2/1-1/2</u>	<u>750</u>	<u>70</u>
<u>B</u>	<u>20</u>	<u>2/2</u>	<u>750</u>	<u>65</u>
<u>C</u>	<u>12</u>	<u>2/1</u>	<u>650</u>	<u>70</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Total Apartments: 104

*\*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:**

Apartment Unit types: undecorated interior surfaces of perimeter and floors and ceilings which enclose net living area, plus lanai.

**Permitted Alterations to Apartments:**

Unless otherwise prohibited by the Condominium Declaration, the By-Laws or the Condominium Property Act, an Apartment Owner may make additions, alterations or improvements solely within his or her apartment or within a limited common element appurtenant to his or her apartment at his or her sole cost and expense; provided, however, that no Owner may do any work to his or her Apartment which could jeopardize the soundness or safety of any part of the Condominium, reduce the value thereof, or impair any easement or hereditament; nor may any Owner add any material structure without in every such case the consent of seventy-five percent (75%) of the Owners being first obtained, including the consent of all Owners whose apartments or limited common elements appurtenant thereto are directly affected. The installation of solar energy devices, as defined by H.R.S. Section 468B-1 shall require approval only by the Board. Lanais may not be enclosed.

**7. Parking Stalls:**

Total Parking Stalls: 213

	<u>Regular</u>		<u>Compact</u>		<u>Tandem</u>		<u>TOTAL</u>
	<u>covered</u>	<u>open</u>	<u>covered</u>	<u>open</u>	<u>covered</u>	<u>open</u>	
Assigned (for individual units)		66		18		124*	208
Guest		5					5
Unassigned							
Extra Available for Purchase							
Other:							
Total							
Covered & Open	<u>71</u>		<u>18</u>		<u>124</u>		

\* 102 Regular Size  
\* 22 Compact Size

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

Commercial parking garage permitted in condominium project.

Exhibit B 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	x		
Structures	x		
Lot	x		

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

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

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

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

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

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     B    

as follows:

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

Exhibit     C     describes the common interests for each apartment.

As follows:

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

Exhibit D describes the encumbrances against the title contained in the title report dated August 17, 1992 and issued by Security Title Corporation.

Blanket Liens:

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

- There are no blanket liens affecting title to the individual apartments.
- There are blanket liens which may affect title to the individual apartments.

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

Type of Lien

Effect on Buyer's Interest  
If Developer Defaults

The Project is subject to four (4) blanket mortgage liens in favor of First Hawaiian Bank (See Exhibit D to this Report). The mortgages contain "release" provisions which will permit transfers of individual apartments free of such blanket liens, but contracts for the purchase of apartments are or will be subject to the mortgages whether entered into prior or after said mortgages were in place.

Buyer may not be able to acquire the apartment, but Buyer will be entitled to a refund of deposits.

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

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

The initial managing agent for this condominium is:

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

**G. Estimate of Initial Maintenance Fees:**

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

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

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

**H. Utility Charges for Apartments:**

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

Not applicable

Electricity (Common areas only)

Television Cable

Gas

Water & Sewer

Other Telephone - resident manager's office only

**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:**

The Developer's sole warranty is described in Exhibit F attached hereto.

**2. Appliances:**

The Developer makes no warranty as to appliances or other consumer products installed in any Apartment or in the common elements. If there are any applicable manufacturer's or dealer's warranties, the Developer will endeavor to pass on such warranties to Buyer's.

**J. Status of Construction and Estimated Completion Date:**

Construction has commenced. The estimated completion date is January 31, 1993.

**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:**

The Developer plans to develop an overall project containing a total of 346 apartment units in 3 Phases of which this Project is Phase III. As presently planned, Phase I contains 134 units, Phase II will have 108 units, and this Phase III will have 104 units. The buildings and apartment units in Phases I and II will be essentially of the same type and architectural style as those in this Project, except that only Phase I will have single family detached dwelling units.

Each Phase will be developed as and will remain a separate Condominium Property Regime. It is the Developer's intention, however, that as Phases are completed, they will be administratively merged with prior Phases such that for the purposes of (i) project management and administration, (ii) use of the common elements by apartment owners, and (iii) sharing of common expenses by apartment owners, the merged Phases will be treated as if they constituted a single condominium project. The projected fractional shares (expressed in percentages) of common expenses to be borne by the apartment owners if and when the various mergers take place are shown in Exhibit C to this Report.

The Developer has reserved rights to effect Phase mergers, but the Developer is not obligated to merge other Phases with this Project.

**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     G     contains a summary of the pertinent provisions of the sales contract.

Escrow Agreement dated May 1, 1991

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

Other \_\_\_\_\_

**IV. ADDITIONAL INFORMATION NOT COVERED ABOVE**

**Buyer's Right to Cancel Sales Contract:**

**A. Rights Under the Condominium Statute:**

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

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

**Final Report, Supplementary Report to a Final Report:** Sales made by the Developer are binding if:

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

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

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

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

**B. Rights Under the Sales Contract:**

Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the condominium. These include but are not limited to the:

1. Condominium Public Reports issued by the Hawaii Real Estate Commission.
2. Declaration of Condominium Property Regime and Condominium Map.
3. Bylaws of the Association of Apartment Owners.
4. House Rules.
5. Escrow Agreement.
6. Hawaii's Condominium Law (Chapter 514A, HRS, as amended; Hawaii Administrative Rules, Chapter 16-107, adopted by the Real Estate Commission).
7. Other \_\_\_\_\_

If these documents are not in final form, the buyer should ask to see the most recent draft.

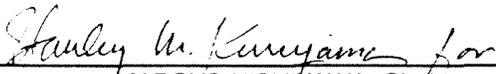
Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer and are on file at the Department of Commerce and Consumer Affairs. Reprints of Hawaii's Condominium Law (Chapter 514A, HRS, and Hawaii Administrative Rules, Chapter 16-107)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

This Public Report is part of Registration No. 2631 filed with the Real Estate Commission on  
April 21, 1992.

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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.

  
\_\_\_\_\_  
MARCUS NISHIKAWA, Chair  
REAL ESTATE COMMISSION  
STATE OF HAWAII

Distribution:

Department of Finance, County of Maui  
Planning Department, County of Maui  
Federal Housing Administration

## EXHIBIT "A"

COMMON ELEMENTS: The Condominium Declaration states that the common elements consist of:

(a) The Land in fee simple, subject to certain easements and restrictions, all as described in the Condominium Declaration.

(b) All foundations, floor slabs, columns, girders, beams, supports, load-bearing walls, main walls, interior walls separating adjacent apartments in the same building (except the inner decorated surfaces of such walls), and roofs of the buildings; all exterior stairs, stairways, landings and railings (except lanai railings); and other building appurtenances, including but not limited to, the electrical cabinets and the compartments for waterheaters located on the exteriors of the buildings.

(c) All yards, grounds, landscaping, fences, and refuse areas and facilities.

(d) All sidewalks, pathways, parking areas, parking stalls (including 5 visitor parking stalls numbered 564, 565, 574, 575 and 695 on the Condominium Map), driveways and roads within the Condominium.

(e) All ducts, electrical equipment, transformers, wiring and other central and appurtenant installations for power, light, water, sewer, gas and telephone; all pipes, plumbing, wires, conduits or other utility or service lines, which are used by or serve more than one apartment, including any such lines that run through any apartment; and central air conditioning and like central utilities, if installed.

(f) All the benefits, if any, inuring to the Land or to the Project from all easements shown on the Condominium Map or listed in the Condominium Declaration, including, without limitation to generality of the foregoing, certain non-exclusive easements of use for vehicular and pedestrian access and for utilities.

(g) All other portions of the land and improvements that are not specifically designated for use by one or more specific apartments, but which are intended for common use, and all other devices and installations the use of which exists for, is rationally allocated to or is necessary to the existence, upkeep and safety of more than one apartment or the Condominium Project as a whole.

The common elements will include the common elements of any one or more of the condominium projects that may be developed as part of the Overall Project at such time as there is a merger of this Condominium Project with any one or more of such other projects, all as explained in Section 19 of the Condominium Declaration and Section K. of this Report, "Project Phases".

EXHIBIT "B"

LIMITED COMMON ELEMENTS: Certain parts of the common elements, called "limited common elements", are set aside and reserved for the exclusive use of certain Apartments. The limited common elements are as follows:

1) For the Apartment Units:

(a) Each Apartment Unit has appurtenant to it at least two parking stalls. The Condominium Map identifies each stall by a parking stall number. The particular parking stalls that initially will be appurtenant to the particular Apartment Units are as follows:

<u>Building #22</u>		<u>Parking Stall #</u>	<u>Building #25</u>		<u>Parking Stall #</u>
Apartment #	101	579/578	Apartment #	101	512/511T
	102	581/580		102	510/509T
	103	576/577		103	683/684
	104	442/443		104	682/681
	105	447/446		201	508/507T
	106	444/445		202	506/505T
	201	592/593T		203	724/725T
	202	588/589T		204	722/723T
	203	590/591T			
	204	594/595T		<u>Building #26</u>	<u>Parking Stall #</u>
	205	440c/441c	Apartment #	101	529/530T
	206	438c/439c		102	523/524T
				103	538/537T
	<u>Building #23</u>	<u>Parking Stall #</u>		104	525/526T
Apartment #	101	566/567		105	539/540T
	102	568/569		106	527/528T
	103	560/561		201	532c/531cT
	104	448/559		202	517c/518cT
	105	471/472T		203	533c/534cT
	106	473/474T		204	519c/520cT
	201	570/571		205	535c/536cT
	202	572/573		206	521c/522cT
	203	562/563			
	204	553/554T		<u>Building #27</u>	<u>Parking Stall #</u>
	205	555/556T	Apartment #	101	702/703T
	206	557/558T		102	696/697T
				103	500/499T
	<u>Building #24</u>	<u>Parking Stall #</u>		104	513/514T
Apartment #	101	545/546T		201	700c/701cT
	102	548/547T		202	698c/699cT
	103	504/503T		203	498/497T
	104	502/501T		204	515/516T
	201	549/550T			
	202	551/552T			
	203	542/541T			
	204	544/543T			

Note: "c" indicates compact stall  
 "T" indicates tandem stalls

<u>Building #28</u>		<u>Parking Stall #</u>	<u>Building #30</u>		<u>Parking Stall #</u>
Apartment #	101	647/648	Apartment #	101	673/674c
	102	641/642		102	675c/676
	103	649/650		103	677/678
	104	651/652		104	679/680
	105	659/660		105	687c/688
	106	657/658		106	686c/685
	201	645c/646c		201	586/587T
	202	643/644		202	584/585T
	203	653/654		203	582/583T
	204	655c/656c		204	726/727T
	205	602c/603cT		205	730/731T
	206	600/601T		206	728/729T
<u>Building #29</u>		<u>Parking Stall #</u>	<u>Building #31</u>		<u>Parking Stall #</u>
Apartment #	101	661/662c	Apartment #	101	691/692c
	102	663c/664		102	689/690
	103	671/672		103	693c/694
	104	665/666		104	704/705T
	201	598/599T		105	706/707T
	202	596/597T		106	708/709T
	203	669c/670		201	718/719T
	204	667/668c		202	720/721T
<b>Note:</b>		"c" indicates compact stall		203	716/717T
		"T" indicates tandem stall		204	714c/715cT
				205	712c/713cT
				206	710/711T

(NOTE: Parking stalls may be transferred between apartments in the manner provided for in the Condominium Declaration, as long as at least one stall is appurtenant to each apartment.)

(b) Each private patio or yard area is a limited common element appurtenant to the first floor Apartment Unit which such area adjoins as shown on the site plan included as part of the Condominium Map. Each such area is deemed to be measured from the interior surface of the fence (i.e., the surface facing the apartment) around the area.

(c) Each compartment containing water heaters and located on the exterior of a multi-unit building is a limited common elements appurtenant to the ground floor Apartment Units and the second story Apartment Units above them which are served by the water heaters contained therein.

(d) The concrete pad outside the door of each ground floor Apartment Unit is a limited common element appurtenant to that Apartment Unit. Each stairway and second story landing providing access to a second story Apartment Unit is a limited common element appurtenant to that Apartment Unit; provided, that those stairways which lead to two second story Apartment Units shall be limited common elements appurtenant to both of the apartments so served, but the second story landing directly adjacent to the entrance of each such second story apartment is a limited common element appurtenant only to that Apartment Unit.

(e) Each mailbox bearing the same designation as an Apartment Unit is a limited common element appurtenant to that Apartment Unit.

All costs and expenses pertaining to limited common elements are to be charged to the apartment or apartments to which the limited common element appertains pursuant to the Condominium Declaration and Section 514A-15(a) of the Horizontal Property Act. If a limited common element is appurtenant to two or more apartments, such costs and expenses shall be charged to both. Thus, if a limited common element is appurtenant to two apartments, one-half of such costs and expenses will be charged to each apartment; provided, however, that as permitted in the Condominium Declaration, the Board of Directors of the Association may assess certain of such costs and expenses in proportion to the common interest appurtenant to each of the apartments involved. Apartment owners shall be responsible for the maintenance and repair of their limited common elements.

END OF EXHIBIT "B"

EXHIBIT "C"

INTEREST TO BE CONVEYED AN APARTMENT BUYER: The Condominium Declaration provides that the undivided interest in the common elements appurtenant to each apartment for voting and all other purposes (the "common interest") will be as follows:

<u>Type and Number of Apartments</u>	<u>Apartment Numbers</u>	<u>Percentage of Undivided Interest For Each Apt.</u>	<u>Total Percentage Interest For Each Apt. Type</u>
Apartment Unit Type A (72):	22-101, 22-102, 22-105, 22-106, 22-201, 22-202, 22-205, 22-206, 23-101, 23-102, 23-105, 23-106, 23-201, 23-202, 23-205, 23-206, 24-101, 24-102, 24-103, 24-104, 24-201, 24-202, 24-203, 24-204, 25-101, 25-102, 25-103, 25-104, 25-201, 25-202, 25-203, 25-204, 27-101, 27-102, 27-103, 27-104, 27-201, 27-202, 27-203, 27-204, 28-101, 28-102, 28-105, 28-106, 28-201, 28-202, 28-205, 28-206, 29-101, 29-102, 29-103, 29-104, 29-201, 29-202, 29-203, 29-204, 30-101, 30-102, 30-105, 30-106, 30-201, 30-202, 30-205, 30-206, 31-101, 31-102, 31-105, 31-106, 31-201, 31-202, 31-205, 31-206	.9766, except for Apartment No. 22-105, which has .9726	70.3112
Apartment Unit Type B (20):	22-103, 22-104, 22-203, 22-204, 23-103, 23-104, 23-203, 23-204, 28-103, 28-104, 28-203, 28-204, 30-103, 30-104, 30-203, 30-204, 31-103, 31-104, 31-203, 31-204	.9766	19.5320
Apartment Unit Type C (12):	26-101, 26-102, 26-103, 26-104, 26-105, 26-106, 26-201, 26-202, 26-203, 26-204, 26-205, 26-206	.8464	10.1568
Grand Total			100.0000%

The common interest is based upon the net living area in square feet for that apartment divided by the total net living area of all apartments, rounded off so that the total of all the common interests for all apartments equals 100%. Minor adjustments have been made to insure that the total of all the common interests equals 100%.

Each apartment owner will be assessed a share of all common expenses of the Condominium Project equal to the common interest appurtenant to his or her apartment. All expenses pertaining to limited common elements will be assessed in the manner described under the heading LIMITED COMMON ELEMENTS.

Upon a merger of this Condominium Project with one or more projects, as described in this Report under the heading: "K. Project Phases", the combined common expenses of all merged projects will be shared in the following manner. The percentage share of common expenses allocated to an individual Apartment Unit or House in a particular Phase after a merger of Phases would be calculated as if the merged Phases constituted a single condominium project, to wit: each Apartment Unit type and House model type would be allocated a percentage share based on the net living area of the Apartment Unit type or House model type divided by the total net living area of Apartment Units and Houses in the merged Phases (with minor adjustments made to insure that all Apartment Units of the same type and all Houses of the same model type have the same percentage share and that the total of all shares is 100%). Thus, if Phases I and II are developed and merged administratively as presently planned, the percentage shares of common expenses allocable to the various Apartment Units and Houses would be as follows:

Merger of Phases I , III and III

<u>Apartment Unit Type</u>	<u>Percentage Share for Each Apt.</u>	<u>Number of Apartments</u>	<u>Total Percentage Share for Each Apt. Type</u>
A	.2900%	208	60.32%
B	.2900%	68	19.72%
C	.2550%	60	15.30%
 <u>House Model</u>			
1124	.4500%	6	2.70%
1250	.4900%	4	1.96%
			<u>100.00%</u>

END OF EXHIBIT "C"

EXHIBIT "D"

(Encumbrances Against Title)

1. For real property taxes that may be due and owing, reference is made to the Director of Finance, County of Maui.
  
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
  
3. The terms and provisions of that certain Section VI (c) Agreement for Central Maui Areas dated November 2, 1990, made by and between JPS Hawaii, Inc., a Hawaii corporation and Department of Water Supply of the County of Maui, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 90-174303, to which reference is hereby made.

4. **FINANCING STATEMENT**

Debtor: JPS Hawaii, Inc.  
Secured  
Party: First Hawaiian Bank  
Filed On: May 17, 1990  
Document No. 90-072235  
(also affects other property)

**AMENDMENT OF FINANCING STATEMENT**

Filed On: October 31, 1991  
Document No. 91-149490

5. **MORTGAGE**

Mortgagor: JPS Hawaii, Inc., a Hawaii corporation  
Mortgagee: First Hawaiian Bank, a Hawaii corporation  
Dated: September 17, 1990  
Document No. 90-145525  
To Secure: \$6,400,000.00  
and any additional advances and other amounts  
secured thereby, all according to the terms of  
that certain promissory note of said  
mortgagor(s) therein referred to  
(also affects other property)

The foregoing mortgage was amended by the following:

**AMENDMENT TO MORTGAGE**

Dated: October 31, 1991  
Document No. 91-149489  
Re: increases principal amount of the foregoing  
mortgages to \$13,108,000.00

6. The effects of that certain Certification of Long-Term Residential Use dated July 12, 1991, recorded in said Bureau of Conveyances as Document No. 91-116672. (also affects other property)

7. Restrictions, covenants and conditions as contained in:

**AGREEMENT RELATING TO THE OCCUPANCY OF STRUCTURES AND THE ISSUANCE OF WATER METERS**

Dated: August 22, 1991  
Document No. 91-124400  
to which reference is hereby made  
(also affects other property)

**8. ADDITIONAL CHARGE MORTGAGE**

Mortgagor: JPS Hawaii, Inc., a Hawaii corporation  
Mortgagee: First Hawaiian Bank, a Hawaii corporation  
Dated: October 31, 1991  
Document No. 91-149491  
To Secure: \$7,447,000.00 as additional charge to that  
certain Mortgage shown as encumbrance no. 5  
(also affects other property)

**9. ADDITIONAL SECURITY REAL PROPERTY MORTGAGE AND FINANCING STATEMENT**

Mortgagor: JPS Hawaii, Inc., a Hawaii corporation  
Mortgagee: First Hawaiian Bank, a Hawaii corporation  
Dated: December 23, 1991  
Document No. 91-178569  
To Secure: \$7,250,000.00  
and any additional advances and other amounts  
secured thereby, all according to the terms of  
that certain promissory note of said  
mortgagor(s) therein referred to  
(also affects other property)

**10. ADDITIONAL SECURITY REAL PROPERTY MORTGAGE AND FINANCING STATEMENT**

Assignor: JPS Hawaii, Inc., a Hawaii corporation  
Assignee: First Hawaiian Bank, a Hawaii corporation  
Dated: December 23, 1991  
Document No. 91-178570  
To Secure: \$19,894,000.00  
and any additional advances and other amounts  
secured thereby, all according to the terms of  
that certain promissory note of said  
mortgagor(s) therein referred to  
(also affects other property)

11. Limited restriction for emergency access only, containing an area of 0.244 acres, as shown on the Map of Waiakoa-Makai Homesteads, Consolidation of Lots J, K and L, and Resubdivision into Lots J-1 to J-4, inclusive, as revised October 24, 1991, prepared by or under the supervision of Norman M. Saito, Registered Professional Land Surveyor, Certificate No. 803-S.

12. The terms and provisions of that certain unrecorded Agreement for Subdivision Approval dated September 10, 1991, made by and between JPS Hawaii, Inc., and the County of Maui through its Department of Public Works and its Department of Water Supply, to which reference is hereby made.
13. Easement 3 (area 5,297 square feet), for drainage purposes, and as disclosed by that certain instrument dated February 10, 1992, recorded in said Bureau of Conveyances as Document No. 92-019941.
14. Easement 4 (area 4,206 square feet), for drainage purposes, and as disclosed by that certain instrument dated February 10, 1992, recorded in said Bureau of Conveyances as Document No. 92-019941.
15. Easements 5 and 6, for access purposes, and as disclosed by that certain instrument dated February 10, 1992, recorded in said Bureau of Conveyances as Document No. 92-019941.
16. Easement 5, for drainline purposes, and as disclosed by that certain instrument dated February 10, 1992, recorded in said Bureau of Conveyances as Document No. 92-019941.
17. Easement 8 (area 3,244 square feet), for drainage purposes, and as disclosed by that certain instrument dated February 10, 1992, recorded in said Bureau of Conveyances as Document No. 92-019941.
18. Easement 9 (area 3,686 square feet), for drainage purposes, and as disclosed by that certain instrument dated February 10, 1992, recorded in said Bureau of Conveyances as Document No. 92-019941.
19. Affidavit dated April 6, 1992, made by Schuler Homes, Inc., a Delaware corporation doing business in the State of Hawaii and successor by merger and reincorporation to JPS Hawaii, Inc., former Hawaii corporation, "Owner", recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 92-051264. Re: Easement 6, containing an area of 8,954 square feet or 0.206 acre, for egress and ingress purposes. (also affects other property)

20. The covenants, agreements, obligations, conditions, easements and other provisions as contained in the following:

**DECLARATION OF CONDOMINIUM PROPERTY REGIME OF "SOUTHPOINTE AT WAIAKOA PHASE III"**

Dated: August 13, 1992  
Document No. 92-133504

Condominium Map No. 1712, to which reference is hereby made.

NOTE: The Apartments described in the foregoing Declaration of Condominium Property Regime are listed in Exhibit "B" hereof.

21. **BY-LAWS OF THE ASSOCIATION OF APARTMENT OWNERS OF "SOUTHPOINTE AT WAIAKOA PHASE III"**

Dated: August 13, 1992  
Document No. 92-133505

**NOTE:**

- 1) The records at the Department of Consumer Affairs, State of Hawaii, Business Registration Division reflects the merger of JPS Hawaii, Inc., a Hawaii corporation with and into Schuler Homes, Inc., a Delaware corporation, duly authorized to do business in the State of Hawaii, effective as of January 31, 1992.

END OF EXHIBIT "D"

EXHIBIT "E"ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

## Estimate of Initial Maintenance Fees

SOUTHPOINTE AT WAIAKOA - PHASE III				
	Apartment Types	% INTEREST	Monthly fee x 12 months =	Yearly Total
1	MODEL A	0.4355	\$97.37	\$1,168.4
1	MODEL A	0.4944	\$96.97	\$1,163.6
20	MODEL B	0.4910	\$96.97	\$1,163.6
12	MODEL C	0.2534	\$84.39	\$1,012.6

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

Estimate of Maintenance Fee Disbursements:

SOUTHPOINTE AT WAIAKOA - PHASE III

Monthly x 12 months = Yearly Total

Utilities and Services

Air Conditioning	\$0	\$0
Electricity		
<input checked="" type="checkbox"/> common elements only	\$289	\$3,468
<input type="checkbox"/> common elements and apartments	\$0	\$0
Gas	\$0	\$0
Refuse Collection	\$830	\$9,960
Telephone	\$50	\$600
Water and Sewer	\$2,684	\$32,208

Maintenance, Repairs and Supplies

Building	\$453	\$5,436
Grounds	\$1,301	\$15,612

Management

Management Fee	\$936	\$11,232
Payroll and Payroll Taxes	\$1,144	\$13,728
Office Expenses	\$40	\$480

Insurance

TDI/Workers Comp.	\$126	\$1,512
Health Ins.	\$130	\$1,560
Fire/Liability Ins.	\$754	\$9,048

Reserves

	\$553	\$6,636
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Taxes and Government Assessments

	\$18	\$216
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Audit Fees

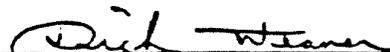
	\$112	\$1,344
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Other - Managers Apt. Expense  
Miscellaneous

Managers Apt. Expense	\$500	\$6,000
Miscellaneous	\$50	\$600

TOTAL	\$9,970	\$119,640
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I Dick Weaver, President, Oihana Property Management & Sales Inc. as managing agent for the condominium project, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

  
 Dick Weaver, CPM

Date: JUNE 14, 1991

END OF EXHIBIT "E"

EXHIBIT "F"

WARRANTY OF COMPLETION OF CONSTRUCTION IN SUBSTANTIAL  
CONFORMITY WITH APPROVED PLANS AND SPECIFICATIONS

Property Location:

Purchaser(s)/Owner(s):

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For good and valuable consideration the undersigned Warrantor hereby warrants to the Purchaser(s) or Owner(s) identified in the caption hereof, and to his (their) successors or transferees, that:

The dwelling located on the property identified in the caption hereof is constructed in substantial conformity with the plans and specifications (including any amendments thereof, or changes and variation therein) which have been approved in writing by the Federal Housing Commissioner or the Administrator of Veterans Affairs on which the Federal Housing Commissioner or the Administrator of Veterans Affairs based his valuation of the dwelling: Provided, however, that this warranty shall apply only to such instances of substantial nonconformity as to which the Purchaser(s)/Owner(s) or his (their) successors or transferees shall have given written notice to the Warrantor at any time or times within: (a) with respect to the dwelling unit, one (1) year, and (b) with respect to the common elements, two (2) years from the date of the original conveyance of title to such Purchaser(s)/Owner(s) or the date of initial occupancy of the dwelling, whichever first occurs: Provided further, however, that in the event the Purchaser(s)/Owner(s) acquired title to the captioned property prior to the completion of construction of the dwelling thereon, such notice of nonconformity to the Warrantor may be given at any time or times within: (a) with respect to the dwelling unit, one (1) year, and (b) with respect to the common elements, two (2) years from the date of completion or initial occupancy of such dwelling, whichever first occurs.

The term "dwelling" as used herein shall be deemed to include all improvements or appurtenances set forth in the plans and specifications upon which the Federal Housing Commissioner or the Administrator of Veterans Affairs has based his valuation of the property, excepting those constructed by a municipality or other governmental authority.

This warranty shall be in addition to, and not in derogation of, all other rights and privileges which such Purchaser(s)/Owner(s) may have under any other law or instrument, and shall survive the conveyance of title, delivery of possession of the property, or other final settlement made by the Purchaser(s)/Owner(s), and shall be binding on the Warrantor notwithstanding any provision to the contrary contained in the contract of purchase or other writing executed by the Purchaser(s)/Owner(s) heretofore or contemporaneously with the execution of this agreement or prior to final settlement.

IN TESTIMONY WHEREOF, the Warrantor has signed and sealed this warranty this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
  
\_\_\_\_\_  
(Warrantor's Address)

\_\_\_\_\_  
  
By \_\_\_\_\_ (Seal)  
Warrantor (Signature and Title)

This warranty is executed for the purpose of inducing the Federal Housing Commissioner or the Administrator of Veterans Affairs to make, to guarantee or to insure a mortgage on the captioned property, and the person signing for the Warrantor represents and verified that he is authorized to execute the same by the Warrantor and by his signature the Warrantor is duly bound under the terms and conditions of said warranty.

W A R N I N G

Section 1010 of Title 18, U.S.C., "Federal Housing Administration transactions," provides: "Whoever, for the purpose of influencing in any way the action of such Administration--makes, passes, utters, or publishes any statement, knowing the same to be false--shall be fined not more than \$3,000 or imprisoned not more than two years, or both." Other Federal Statutes provide severe penalties for any fraud as intentional misrepresentation made for the purpose of influencing the issuance of any guaranty or insurance or the making of any loan by the Administrator of Veterans Affairs.

NOTICE TO PURCHASER: ANY NOTICE OF NONCONFORMITY MUST BE DELIVERED TO THE WARRANTOR NO LATER THAN \_\_\_\_\_, as to the dwelling unit, and \_\_\_\_\_, as to the common elements. (Warrantor shall insert date 1 year or 2 years from initial occupancy, date of conveyance of title or date of completion, whichever event is applicable.)

Receipt of this warranty is acknowledged this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_

END OF EXHIBIT "F"

## EXHIBIT "G"

### SUMMARY OF PERTINENT PROVISIONS OF THE SALES CONTRACT

The Sales Contract sets forth the time for and the amount of all payments toward the purchase price and all costs which are the purchaser's obligation. Prior to the issuance of a Final Report, the sales contract operates as a reservation only and may be cancelled by either Developer or Purchaser. A separate written affirmation of the sales contract must be signed by both parties after the final report is issued to convert the reservation into a binding contract. The documents also provide, in effect, that a Purchaser shall be entitled to a refund of his or her funds, and escrow shall make such refund if:

(a) Escrow receives a written request from Developer to return to purchaser the funds of such purchaser then held by Escrow; or

(b) If a purchaser's funds were obtained prior to the issuance of a Final Public Report and a request for refund is made prior to the issuance of the Final Public Report or prior to the time the parties sign a separate written affirmation of the Sales Contract; or

(c) If a purchaser's funds were obtained prior to the issuance of a Final Public Report, and, the purchaser notwithstanding the execution by the parties of a written affirmation of the Sales Contract, exercises his or her right to cancel the Sales Contract at a time prior to the earlier of (1) the conveyance of the apartment to the purchaser, or (2) midnight of the thirtieth (30th) day following the date of delivery of the Final Public Report, provided that the purchaser has not previously waived his or her right to cancel; or

(d) If a purchaser's funds were obtained after the issuance of a Final Public Report and the purchaser exercises his or her right to cancel the Sales Contract at a time prior to the earlier of (1) the conveyance of the apartment to purchaser or (2) midnight of the thirtieth (30th) day following the date of delivery of the Final Public Report, provided, however, that the purchaser has not previously waived his or her right to cancel; or

(e) A purchaser cancels the Sales Contract because there is a material change in the Project which directly, substantially and adversely affects the use or value of (1) such purchaser's apartment or appurtenant limited common elements, or (2) those amenities of the Project available for such purchaser's use, unless the purchaser has waived his or her right of cancellation or deemed to have waived such right.

The Sales Contract contains the Developer's promise to complete the Project no later than two years from the date that a Final Public Report is issued. The 2-year period is subject to extensions of time for the occurrence of events outside of the Developer's control which make performance by the Developer within this period impossible as a matter of Hawaii law.

The Sales Contract also provides that by executing a Sales Contract, the purchaser thereby: (1) warrants that he or she has the ability to pay the purchase price for the apartment either from his or her own funds and/or the proceeds of a loan that the purchaser promises he or she can obtain; (2) acknowledges and agrees that obtaining such

a loan is the purchaser's sole responsibility, even if the Developer has made arrangements with a lender generally to provide financing; and (3) acknowledges and agrees that all mortgage liens and other security interests obtained by the construction lender in connection with a construction loan (as well as any extensions, renewals and modifications of that loan) will be and remain at all times a lien or charge on the Project prior and superior to any and all liens or charges arising from the Sales Contract or any other sale and/or reservation agreement with the purchaser. In addition, the specimen Sales Contract contains provisions which: (1) permit the Developer to keep the purchaser's payment deposits under certain circumstances if the Developer cancels a contract due to purchaser's default; (2) provide for "preclosing" of the Sales Contract; (3) provide the Developer with certain rights to modify the Condominium Documents; (4) provide that all interest earned on purchaser's funds will belong to the Developer; (5) limit warranties the purchaser will receive; (6) limit assignment of the Sales Contract; and (7) cover many other important matters that are not described in this Report.

By executing a Sales Contract, each prospective purchaser will consent and agree to the incremental development of this overall Project and the merger of this Project with other increments and will consent and agree to execute such additional documents and to do such other things necessary therefor. Purchaser's execution of a Sales Contract shall operate as an appointment of the Developer as a purchaser's attorney-in-fact to execute such documents and do such other things as are necessary or convenient for the incremental development of the overall project.

END OF EXHIBIT "G"

EXHIBIT "H"  
ESCROW AGREEMENT SUMMARY

The Escrow Agent sets forth that the Escrow Agent for the Southpointe At Waiakoa Phase III condominium project is Security Title Corporation. As such, Security Title Corporation will be responsible for the handling of purchase money from sales of apartments. The Escrow Agreement establishes how the proceeds from the sale of an apartment is placed in trust, as well as how trust funds are retained and disbursed. According to the Escrow Agreement, down payment funds may not be released from escrow for the payment of development and construction costs, even though such use is permitted under Condominium Property Act.

The Escrow Agreement also sets forth the duties and responsibilities of the Escrow Agent with respect to closing apartment sale transactions. Among other things the Escrow Agent shall be responsible for:

- (a) coordinating with the mortgage lenders of various purchasers, especially those primary institution(s) which have issued commitments to make apartment purchase money loans;
- (b) coordinating with title search and title insurance companies to see that the requisite title searches and title insurance documents are obtained to effect closings;
- (c) coordinating the signing of documents in connection with "pre-closing" and actual "closing";
- (d) handling the recordation of all documents which must be recorded; and
- (e) handling the disbursement of funds in connection with the closing of apartment sales.

END OF EXHIBIT "H"