



**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**

LIHAU CONDOMINIUMS

Akahipuu Homesteads, Kohanaiki  
 District of North Kona, Island, County & State of Hawaii

Registration No. 2726 (Conversion)

Issued: December 9, 1992  
 Expires: January 9, 1994

**Report Purpose:**

This report is based on information and documents submitted by the developer to the Real Estate Commission as of November 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.



# TABLE OF CONTENTS

	pag
Report Purpose .....	1
Type of Report .....	1
Summary of Changes from Earlier Public Reports .....	2
Table of Contents .....	3
General Information on Condominiums .....	4
Summary of the Condominium Project .....	5
I. PEOPLE CONNECTED WITH THE PROJECT .....	6
Developer .....	
Real Estate Sales Agent .....	
Escrow Company .....	
Managing Agent .....	
Attorney for Developer .....	
II. CREATION OF THE CONDOMINIUM; CONDOMINIUM DOCUMENTS	
A. Declaration .....	7
B. Condominium Map (File Plan) .....	7
C. Bylaws .....	7
D. House Rules .....	8
E. Changes to Condominium Documents .....	8
III. THE CONDOMINIUM PROJECT	
A. Interest to be Conveyed to Buyer .....	9
B. Underlying Land .....	10
C. Buildings and Other Improvements .....	10
D. Common Elements, Limited Common Elements, Common Interest .....	14
E. Encumbrances Against Title .....	15
F. Management of the Common Elements .....	16
G. Maintenance Fees .....	16
H. Utility Charges .....	16
I. Construction Warranties .....	16
J. Status of Construction .....	17
K. Project Phases .....	17
L. Sales Documents Filed with the Real Estate Commission .....	17
IV. ADDITIONAL INFORMATION NOT COVERED ABOVE .....	18
Buyer's Right to Cancel Sales Contract .....	19
Signature of Real Estate Commission Chairman .....	20
EXHIBIT A: DESCRIPTION OF THE BUILDINGS	
EXHIBIT B: COMMON ELEMENTS	
EXHIBIT C: LIMITED COMMON ELEMENTS	
EXHIBIT D: ENCUMBRANCES AGAINST THE TITLE	
EXHIBIT E: ESTIMATE OF INITIAL MAINTENANCE FEES AND DISBURSEMENTS	
EXHIBIT F: SUMMARY OF SALES CONTRACT AND RECEIPT	
EXHIBIT G: SUMMARY OF EXECUTED ESCROW AGREEMENTS	
EXHIBIT H: FARM DWELLING AGREEMENT	
EXHIBIT I:	
EXHIBIT J:	

## **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 (6 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>Lanal/Patio (sf)</u>
23-A-1	1	2/2	1,713	346
23-A-2	1	2/2	919	

Total Apartments: 2

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

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

**6. Parking:**

	<u>Number of Stalls</u>
Assigned Stalls (Individual Units)	<u>4</u>
Guest Stalls	_____
Unassigned Stalls	_____
Extra Stalls Available for Purchase	_____
Other: _____	_____
<b>Total Parking Stalls</b>	<u>4</u>

**7. Recreational amenities:**

Unit 23-A-1 has a tennis court as a Limited Common Element

I. PEOPLE CONNECTED WITH THE PROJECT

Developer: Hiram Paul Rivera  
Name  
P.O. Box 5170  
Business Address  
Kailua-Kona, HI 96745

Phone: 329-8386  
(Business)

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

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

Real Estate Broker: Lennert H. I. Husen dba Len Husen  
Name  
P. O. Box 10  
Business Address  
Captain Cook, HI 96704

Phone: 328-8075  
(Business)

Escrow: Title Guaranty Escrow Services, Inc.  
Name  
P. O. Box 1837  
Business Address  
Kailua-Kona, HI 96745

Phone: 329-6666  
(Business)

General Contractor: E. M. RIVERA & Sons, Inc.  
Name  
74-5599 Pawai Place  
Business Address  
Kailua-Kona, HI 96740

Phone: 329-8386  
(Business)

Condominium Managing Agent: Units will be self managed by the  
Name  
Association of Apartment Owners  
Business Address  
\_\_\_\_\_

Phone: \_\_\_\_\_  
(Business)

Attorney for Developer: Robert D. Triantos  
Name  
P. O. Box 1720  
Business Address  
Kailua-Kona, HI 96745

Phone: 329-6464  
(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. 92-150174  
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. 1736  
 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. 92-150175  
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>N/A</u>

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

2. Developer:

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

Developer has reserved the following rights to change the Declaration, Condominium Map, Bylaws or House Rules

During the sales period, the Developer has reserved the right to make any changes to the project documents and the project as may be required by law, any title insurance company, and institutional lender or any governmental agency; and, prior to the conveyance or transfer of the first unit, for any reason and in any manner as the developer deems necessary, provided, however, that no such change shall substantially alter or reduce the usable space within the unit, render unenforceable the Buyer's mortgage loan commitment, increase the Buyer's share of common expenses, or reduce the obligations of the Developer for common expenses or unsold units.





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>2</u>	<u>Yes</u>	<input checked="" type="checkbox"/> Agricultural	<u>2</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 apartments. Restrictions for this condominium project include but are not limited to:

Pets: 2 pets per unit - See By-Laws

Number of Occupants: 5 persons per unit - See By-Laws

Other: Farm Dwelling Agreement. See Exhibit H attached hereto.

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Unit 23-A-1:  
1 exterior

Elevators 0                      Stairways 2 interior                      Trash Chutes 0

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)</u>	<u>Lanal/Patio (sf)</u>
<u>23-A-1</u>	<u>1</u>	<u>2/2</u>	<u>1,713</u>	<u>346</u>
<u>23-A-2</u>	<u>1</u>	<u>2/2</u>	<u>919</u>	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Total Apartments: 2

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

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

**Boundaries of Each Apartment:**

Each Apartment shall be deemed to include (i) all portions of the residential structure, inclusive of concrete footings, (ii) all pipes, shafts, ducts, pumps, conduits, wires and other utility or service lines running through such Apartment, and (iii) all appliances and fixtures installed therein and replacements thereof.

**Permitted Alterations to Apartments:**

Alterations or additions within an apartment may be made with prior written notice to the Board of Directors as long as the structural integrity and soundness of the project is not adversely affected. A copy of the owner's plans and appropriate building permits shall be submitted with the written notice, as well as an estimate of time of construction.

**7. Parking Stalls:**

Total Parking Stalls: 4

	<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)	<u>3</u>	<u>1</u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>4</u>
Guest	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Unassigned	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Extra Available for Purchase	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Other:	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Total Covered & Open	<u>4</u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>

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

- Commercial parking garage permitted in condominium project.
- Exhibit \_\_\_\_\_ contains additional information on parking stalls for this condominium project.

**8. Recreational and Other Common Facilities:**

- There are no recreational or common facilities.
- Swimming pool
- Recreation Area
- Tennis Court Unit 23-A-1 Limited Common Element
- Other: \_\_\_\_\_
- Storage Area
- Laundry Area
- Trash Chute

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

The structural components and the mechanical and electrical systems are in fair to good condition consistent with their age. The Developer does not make any representations as to the useful life of the structural components or the mechanical and electrical systems.

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

The structures were constructed in compliance with the municipal regulations and building codes in effect at the time of construction.

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  B  describes the common elements.

As follows:

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

There are no limited common elements in this project.

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

described in Exhibit  C

as follows:

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

Exhibit \_\_\_\_\_ describes the common interests for each apartment.

As follows:

Unit A-23-1 - 50%

Unit A-23-2 - 50%

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

Exhibit   D   describes the encumbrances against the title contained in the title report dated August 17, 1992 and issued by Title Guaranty of Hawaii Incorporated.

**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 apartment can be conveyed to buyers free and clear of the lien.

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

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

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

<u>Type of Lien</u>	<u>Effect on Buyer's Interest If Developer Defaults</u>
Mortgage	Buyer's interest may be terminated and Buyer will receive a refund of all 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

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:**

Seller makes no express warranties. SELLER DISCLAIMS ANY IMPLIED WARRANTY OF HABITABILITY, ANY IMPLIED WARRANTY OF MERCHANTABILITY, ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR USE, ANY IMPLIED WARRANTY OF WORKMANSHIP AND ANY OTHER EXPRESS OR ANY IMPLIED WARRANTIES WITH RESPECT TO THE APARTMENT, THE COMMON ELEMENTS OR THE PROJECT.

Seller disclaims any and all responsibility or liability for any water infiltration, any malfunction, any construction or design defect, or any other problems which Buyer may encounter with respect to the Apartment or the Project.

**2. Appliances:**

Seller warrants that all major appliances, plumbing and electrical fixtures included in the sale will be in working order consistent with their age as of the date of closing, or occupancy, if earlier. No continuing warranty is expressed or implied.

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

Apartment No. 23-A-1 completed 1977  
Apartment No. 23-A-2 completed 1982

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:

None.

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

Escrow Agreement dated September 10, 1992

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

Other \_\_\_\_\_

#### **IV. ADDITIONAL INFORMATION NOT COVERED ABOVE**

Unit 23-A-2 was built pursuant to a Farm Dwelling Agreement with the County of Hawaii. Under the Agreement the farm dwelling is limited to providing shelter only to persons conducting agriculture activities on the premises and subject to any conditions contained within the Farm Dwelling Agreement dated January 5, 1982, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 16106, Page 339. See attached Exhibit H.

## **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 Farm Dwelling Agreement

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. 2726 filed with the Real Estate Commission on October 2, 1992.

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

yellow paper stock

white paper stock

pink paper stock

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

*Marcus N. Nishikawa for*

MARCUS NISHIKAWA, Chairman  
REAL ESTATE COMMISSION  
STATE OF HAWAII

Distribution:

Bureau of Conveyances

Department of Finance, County of Hawaii

Planning Department, County of Hawaii

Federal Housing Administration

## EXHIBIT A

### DESCRIPTION OF THE BUILDINGS:

1. Description of the Building: The Project is described in the Condominium Map and consists of two (2) buildings, consisting of a one story and a two story unit (no basements) and constructed principally of wood, glass, reinforced concrete, concrete block and gypsum board.

2. Description of the Apartments. Each of the two (2) Apartments shown on the Condominium Map together with the perimeter walls, doors, windows, floors, roofs, concrete footings and carports, is hereby designated as an Apartment of the Project, as designated on the Condominium Map and as described as follows:

a. Apartment Numbers and Locations. The Apartment numbers and the location of Apartments are shown on the Condominium Map.

b. Layout and Area. The various Apartments and their respective areas are more particularly described as follows:

(1) Apartment Unit 23-A-1: This Apartment is a free standing two (2) story building containing a net living area of approximately 1,713 square feet, excluding the carport and lanai, and consists of a kitchen, living room, two (2) bedrooms, two (2) bathrooms, office area, laundry room, walk in closet, and carport.

(2) Apartment Unit 23-A-2: This Apartment is a free standing one (1) story building containing a net living area of approximately 919 square feet, excluding the carport, and consists of a kitchen, dining area, living room, two (2) bedrooms, two (2) bathrooms, and a carport.

The foregoing approximate total square footages of net living area for the enclosed portions of the Apartments are computed from and to the interior surfaces of the Apartment perimeter walls.

END OF EXHIBIT A

## **EXHIBIT B**

### **COMMON ELEMENTS:**

1. Common Elements. One freehold estate is hereby designated in all remaining portions of the Project, herein called the "Common Elements", including specifically but not limited to:

a. The Land in fee simple.

b. All yards, grounds and landscaping, if any, except as otherwise provided, whether within or appurtenant to the Project.

c. All ducts, sewer lines, electrical equipment, wiring, pipes and other appurtenant transmission facilities over, under and across the Project which are outside of the Apartment or which serve more than one Apartment for services such as power, light, water, gas, refuse, telephone and radio and television signal distribution.

d. The area for driveway designated on the Condominium Map as Common Access Area.

e. The fence line and concrete walls designated on the Condominium Map.

f. Any and all other apparatus and installations of common use and all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

**END OF EXHIBIT B**

## EXHIBIT C

### LIMITED COMMON ELEMENTS:

1. Limited Common Elements. Certain parts of the Common Elements, herein called the "Limited Common Elements", are hereby designated, set aside and reserved for the exclusive use of certain Apartments, and such Apartments shall have appurtenant thereto exclusive easements for the use of such Limited Common Elements as set forth herein. The costs and expenses of every description pertaining to the Limited Common Elements, including but not limited to the costs of maintenance, repair, replacement, improvement or additions to the Limited Common Elements shall be charged to the Owner of the Apartment to which the Limited Common Element shall be appurtenant, and if there is more than one Apartment to which the Limited Common Elements shall be appurtenant, then in proportion to the Common Interest appurtenant to each of the respective Apartments except as otherwise provided in this Paragraph.

a. Apartment 23-A-1 shall have appurtenant to it as a limited common element a portion of the concrete driveway to Apartment 23-A-1 as shown on the Condominium Map together with the parking stalls noted thereon, except that portion which is designated as a Common Element. Apartment 23-A-2 shall have appurtenant to it as a limited common element the entire gravel driveway to Apartment 23-A-2 as shown on the Condominium Map, except that portion which is designated as a Common Element.

b. Apartment 23-A-1 shall have appurtenant to it the area described on the Condominium Map as "Yard "1", and Apartment 23-A-2 shall have appurtenant to it the area described on the Condominium Map as "Yard 2". NOTE: Yards referenced herein are not legally subdivided lots.

c. Apartment 23-A-1 shall have appurtenant to it as a limited common element the tennis court designated on the Condominium Map for use by Apartment 23-A-1 situated within Yard 1.

d. Apartment 23-A-1 shall have appurtenant to it as a limited common element the cesspool designated on the Condominium Map for use by Apartment 23-A-1 situated within Yard 1 and Apartment 23-A-2 shall have appurtenant to it as a limited common element the cesspool designated on the Condominium Map for use by Apartment 23-A-2 and situated within Yard 2.

e. All common elements of the Project which are rationally related to less than all of said apartments shall be limited common elements appurtenant to the apartments to which they are so related.

**END OF EXHIBIT C**

**EXHIBIT D**

**ENCUMBRANCES AGAINST THE TITLE:**

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
  
2. AGREEMENT  
  
DATED : January 5, 1982  
RECORDED : Liber 16106 Page 339  
BY : WILLIAM CIANCIO, JR., "Owner"  
WITH : PLANNING DEPARTMENT OF THE COUNTY OF HAWAII, "County"  
RE. : Farm Dwelling
  
3. MORTGAGE  
  
MORTGAGOR : HIRAM PAUL RIVERA and BRENDA LEINANI RIVERA, husband and wife  
MORTGAGEE : INTERNATIONAL SAVINGS AND LOAN ASSOCIATION, LIMITED  
DATED : July 22, 1988  
RECORDED : Liber 22172 Page 597  
AMOUNT : \$185,500.00  
  
ABOVE MORTGAGE ASSIGNED  
  
TO : HAMILTON SAVINGS BANK, FSB, a California corporation  
  
DATED : March 1, 1989  
RECORDED : Liber 23071 Page 316
  
4. Declaration of Condominium Property Regime of LIHAU CONDOMINIUMS dated September 10, 1992, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 92-150174. (Project covered by Condominium Map No. 1736.)
  
5. By-Laws of the Association of Apartment Owners of the Condominium Project known as "LIHAU CONDOMINIUMS" dated September 10, 1992, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 92-150175.
  
6. Real property taxes as may be due and owing. Check with the County Assessor.

**END OF EXHIBIT D**

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

Estimate of Initial Maintenance Fees:

Apartment	Monthly Fee X 12 months	=	Yearly Total
1	\$ 131.50 x 12	=	\$ 1,578 .00
2	\$ 131.50 x 12	=	\$ 1,578 .00

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

**Maintenance Fees and Maintenance Fee Disbursements:**

**Estimate of Maintenance Fee Disbursements:**

	<u>Monthly X 12 months - Yearly Total</u>	
Utilities and Services		
Air Conditioning		
Electricity		
( ) common elements only		
( ) common elements		
and apartments		
Gas		
Refuse Collection		
Telephone		
Water <del>and Sewer</del>	15 X 12 =	180.00
Maintenance, Repairs and Supplies		
Pool		
Building		
Grounds	25 X 12 =	300.00
Pest		
Reserves-Long term maintenance	25 X 12 =	300.00
Management		
On-site Manager		
Management Fee		
Payroll and Payroll Taxes		
Office Expenses		
Insurance	40 X 12 =	480.00
Taxes and Government Assessments (Real Property Taxes)	158 X 12 =	1,896.00
Audit Fees		
Other		
TOTAL:		\$3,156.00

I/We, HIRAM PAUL RIVERA, as owner/developer for the condominium project, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

Date: 9-10-92



HIRAM PAUL RIVERA

**END OF EXHIBIT E**

## EXHIBIT F

### **SUMMARY OF SALES CONTRACT AND RECEIPT:**

The unexecuted Sales Contract filed with the Commission, provides for, among other things, a description of the apartment to be sold, the purchase price, the time, manner and place of payment, the Purchaser's obligations regarding mortgage financing, Developer's warranties and disclaimers regarding the construction, fixtures and appliances, and the remedies of Developer and of Purchaser in the event of a default under the Contract.

Among other provisions, the specimen Sales Contract and the provisions of Chapter 514A, Hawaii Revised Statutes provide:

Among other provisions, the specimen Sales Contract and the provisions of Chapter 514A, Hawaii Revised Statutes provide:

1. That said Sales Contract is only a reservation agreement until:

A. A true copy of the Final Public Report (with all then issued Supplementary Public Reports, if any) is delivered to the Purchaser

B. The Purchaser has an opportunity to read the report(s) and executes and gives the Developer a receipt/notice for the report(s) waiving Purchaser's right to cancel, provided that:

(1) Purchaser does not execute and return the receipt/notice within thirty (30) days from the date of delivery of the report(s) and receipt/notice, or

(2) Purchaser's Apartment is conveyed to Purchaser prior to the expiration of said thirty (30) day period

If any of the above items occur then Purchaser shall be deemed to have receipted for the report(s) and waived his right to cancel.

If (and only if) there is a material change affecting Purchaser's apartment or appurtenant limited common elements, or amenities of the Project available for Purchaser's use, and Purchaser executes and returns to Developer the written approval or acceptance of material change, then Purchaser shall be deemed to have accepted and approved such material change. Purchaser shall also be deemed to have accepted and approved of such material change upon the occurrence of items B(1) or B(2) above.

Until the Sales Contract becomes binding and effective as described above, and in accordance with Chapter 514-A, Hawaii Revised Statutes, the Sales Contract may be unconditionally cancelled at any time by either the Developer or the Purchaser. Upon such cancellation by Developer, Developer shall direct Escrow Agent to refund to Purchaser, without interest earned, all deposits paid by Purchaser; upon cancellation by Purchaser, Developer shall direct Escrow Agent to refund to Purchaser, without interest earned, a full refund of all deposits paid, less any escrow cancellation fee and other costs associated with the purchase of Purchaser's Apartment, up to a maximum of \$250.00.

2. In the event Purchaser fails to pay the balance of the purchase price or complete the purchase as provided in the Sales Contract, Developer may (a) bring an action for damages for breach of contract, (b) retain the initial deposit and all additional deposits provided for in the Sales Contract, as liquidated and (c) Purchaser shall be responsible for any cost incurred in accordance with this contract.

3. Developer has made no representations and has not authorized any representations to be made by any sales agent concerning any services or arrangements relating to the rental or sale or management of the Purchaser's Apartment.

4. The Sales Contract is subject to the provisions of the Declaration of Condominium Property Regime, By-laws, and other condominium documents.

5. If the obligation of Purchaser to purchase the Property is conditioned upon the Purchaser obtaining financing, Purchaser has 3 days to apply for financing and 30 days to obtain financing commitment. Failure of Purchaser to do so could result in termination of the Agreement and/or forfeiture of earnest money.

6. Seller disclaims any implied warranty of habitability, any implied warranty of merchantability, any implied warranty of fitness for a particular purpose or use, any implied warranty of workmanship and any other express or implied warranties with respect to the Apartment, the Property, the Common Elements or the Project. Seller disclaims any and all responsibility or liability for any water infiltration, any

malfunction, any construction or design defect, or any other problems Purchaser may encounter with respect to the Apartment or the Project.

7. Residence 23-A-1 was built in 1977 - absolutely no warranties are made.

8. Residence 23-A-2 was built in 1982 - absolutely no warranties are made.

9. The Land is subject to the Farm Dwelling Agreement attached hereto as Exhibit H. Under the Agreement the farm dwelling is limited to providing shelter only to persons conducting agricultural activities on the premises and subject to any conditions contained within the Farm Dwelling Agreement.

It is incumbent on the Purchaser that he read the full text of the Sales Contract.

**END OF EXHIBIT F**

## EXHIBIT G

### **SUMMARY OF EXECUTED ESCROW AGREEMENTS**

A copy of the executed Escrow Agreement dated September 10, 1992 between Title Guaranty Escrow Services, Inc., as Escrow Agent, and Developer has been filed with the Commission. The Escrow Agreement provides for the deposit of Purchaser's funds pursuant to the Sales Contract and also provides for the retention or disbursement of the funds. The Escrow Agreement provides in part that any interest earned on money on deposit belongs to the Developer. In the event that the Sales Contract and Chapter 514A, Hawaii Revised Statutes entitle a Purchaser to a refund of Purchaser's Deposits held by the Escrow Agent, then Escrow Agent, upon instruction from Developer, will refund Purchaser's deposits, without interest earned and less certain cancellation fees and costs (e.g., escrow cancellation fees, loan processing fees, cost of credit reports, etc.) as provided in the Sales Contract and Chapter 514A, Hawaii Revised Statutes, as amended.

By law the total amount of such cancellation fees shall not exceed Two Hundred Fifty and No/100 Dollars (\$250.00). Under the Escrow Agreement no disbursement of funds can be made to the Developer until the Sales Contract becomes effective under the provisions of Chapter 514A, Hawaii Revised Statutes.

It is incumbent upon a prospective Purchaser to read the executed Escrow Agreement with care.

**END OF EXHIBIT G**

RECORDATION REQUESTED BY:

82- 3973

STATE OF HAWAII  
BUREAU OF CONVEYANCES  
REGISTERED

AFTER RECORDATION, RETURN TO:

COUNTY OF HAWAII  
PLANNING DEPARTMENT  
Hilo, Hawaii

82 JAN 15 P 1: 18

RETURN BY: Mail (X) Pickup ( )

LIBRARY 16106 339  
C.F. NEUMANN III, REGISTRAR

FARM DWELLING AGREEMENT

WHEREAS, WILLIAM CIANCIO, Jr

(hereinafter "Owner"), whose residence mailing address is

P.O.Box. 3049, Kailua-Kona, Hawaii 96740

\_\_\_\_\_, desires to enter into an agreement with the Planning Department of the County of Hawaii (hereinafter "County"); and

WHEREAS, there exists a single family dwelling on land which is within the exclusive use, possession, and control of Owner and which is legally described as follows:

TMK: 7-3-18:29 Lot 23A  
Containing a land area of 2.90 acres  
Por. of Grant 3779  
Kohanaiki, North Kona, Hawaii

and zoned Agricultural (A-1a) by the County of Hawaii and classified within an agricultural district by the State Land Use Commission; and

WHEREAS, Owner seeks the County's approval for the construction of an additional single family dwelling (hereinafter "farm dwelling") on the property described above; and

WHEREAS, Owner intends to conduct substantial agricultural activity on the subject property in furtherance of the State

EXHIBIT H

Land Use policies relating to agricultural land and has commenced initial agricultural activity which, if pursued, will develop into a viable and substantial undertaking.

NOW, THEREFORE, IT IS AGREED that the County's approval is given and accepted, subject to the following conditions:

1. The farm dwelling shall be used to provide shelter only to persons conducting agricultural activity on the subject land; and

2. The existing dwelling shall be used in connection with a farm or where agricultural activity provides income to the family, as defined in section 1-4, part I, State Land Use District Regulations, Land Use Commission, which occupies the dwelling; and

3. Owner grants to the County the right-of-entry, after reasonable notice, for inspection of the premises to assure compliance with provisions of this agreement; and

4. This agreement shall run with the land and bind Owner's heirs, successors, and assigns with regard to the future use of the dwellings above described; and

5. The County's approval of the construction of the farm dwelling by this agreement shall be effective only until June 30, 1983, unless otherwise extended pursuant to Owner's written request prior to the above termination date. After such timely request, the County shall extend its approval upon the terms of this agreement only if it determines that the agricultural activity that is being conducted is viable, substantial in income production, and conforms to the applicable provisions of the State Land Use District regulations and policies; and

6. Owner shall record this agreement with the State of Hawaii Bureau of Conveyances and shall furnish a recorded copy of it to the County's Planning Department within six (6) months from the date of approval of the building permit for the farm dwelling; and

7. Failure of Owner to abide by this agreement shall result in the immediate removal of the farm dwelling by Owner at Owner's expense upon demand by County. Upon Owner's failure to remove the farm dwelling within one month after demand is made by the County, the parties agree that this agreement will be a nullity and the County may treat the additional farm dwelling as a violation of Chapter 205, Hawaii Revised Statutes, as amended, and applicable ordinances then in existence. This enforcement provision shall be binding on Owner's heirs, devisees, successors, and assigns.

IT IS HEREBY FURTHER AGREED that if this agreement is with a lessee, the legal owner shall be a party to this agreement.

IT IS HEREBY FURTHER AGREED that should the pertinent provisions of the State and County laws, rules, and regulations change to authorize said dwelling, upon request of the undersigned, this agreement may be reconsidered for possible amendment and/or severance.

IN CONSIDERATION OF THE AFORESAID, the County hereby accepts this agreement as being in conformity with Section 2.14 of the State Land Use District Regulations and Chapter 205, Hawaii Revised Statutes, as amended, relative to permitted uses within the Agricultural District.

IN WITNESS WHEREOF, the undersigned parties have caused  
this instrument to be executed on the 5th day of  
January, 1982.

William Lanier Jr.

"Owner"

COUNTY OF HAWAII, through its  
Planning Department,

By Sidney Mui  
Its Planning Director

APPROVED AS TO FORM  
AND LEGALITY:

Deputy Corporation Counsel  
County of Hawaii

Date: \_\_\_\_\_

STATE OF HAWAII )  
COUNTY OF HAWAII )

16106 343

SS: -

On this 5<sup>th</sup> day of January, 19 82,  
before me personally appeared William Ciancio Jr

to me known to be the person(s) described in and who executed  
the foregoing instrument, and acknowledged that he/she/they  
executed the same, by signing, and delivering the same, as  
his/her/their free act and deed.

Hana h Taira

Notary Public, State of Hawaii

My Commission Expires: 8/4/85

STATE OF HAWAII )  
COUNTY OF HAWAII )

SS:

On this 13<sup>th</sup> day of January, 19 82,  
before me personally appeared SIDNEY FUCE, to me personally  
known, who, being by me duly sworn, did say that he is the  
DIRECTOR of the Planning Department of the County of Hawaii;  
and that the instrument was signed on behalf of the Planning  
Department of the County of Hawaii, a governmental agency,  
and said SIDNEY FUCE acknowledged said instrument to be the  
free act and deed of said Planning Department, County of  
Hawaii.

Guillermo R. Sumera

Notary Public, State of Hawaii

My Commission Expires: 9/22/85