

TABLE OF CONTENTS

	page
Preparation of this Report	1
Expiration Date of Reports	1
Type of Report	1
Disclosure Abstract	2
Summary of Changes from Earlier Public Reports	2
Table of Contents	3
General Information on Condominiums	4
Operation of the Condominium Project	4
I. PERSONS CONNECTED WITH THE PROJECT	5
Developer Attorney for Developer General Contractor	
Real Estate Broker Escrow Company Condominium Managing Agent	
II. CREATION OF THE CONDOMINIUM; CONDOMINIUM DOCUMENTS	
A. Declaration	6
B. Condominium Map (File Plan)	6
C. Bylaws	6
D. House Rules	7
E. Changes to Condominium Documents	7
III. THE CONDOMINIUM PROJECT	
A. Interest to be Conveyed to Buyer	8
B. Underlying Land	9
C. Buildings and Other Improvements	10
D. Common Elements, Limited Common Elements, Common Interest	13
E. Encumbrances Against Title	14
F. Construction Warranties	15
G. Status of Construction	16
H. Project Phases	16
IV. CONDOMINIUM MANAGEMENT	
A. Management of the Common Elements	17
B. Estimate of Initial Maintenance Fees	17
C. Utility Charges for Apartments	17
V. MISCELLANEOUS	
A. Sales Documents Filed with the Real Estate Commission	18
B. Buyer's Right to Cancel Sales Contract	18
C. Additional Information Not Covered Above	20
D. Signature of Developer	21

- Exhibit A: Individual Unit Descriptions
- Exhibit B: Common Elements
- Exhibit C: Limited Common Elements
- Exhibit D: Sales Contract
- Exhibit E: Summary of Escrow Arrangements
- Exhibit F: Encumbrances Against Title
- Exhibit G: Disclosure Abstract
- Exhibit H: Letter from County Planning Commission dated April 15, 1991

General Information On Condominiums

A condominium is a special form of real property. To create a condominium in Hawaii, the requirements of the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, must be complied with. In addition, certain requirements and approvals of the County in which the project is located must be satisfied and obtained.

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 owners/tenants) 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 at the lessee's expense. 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 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 project's 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 the vote of the owners. For example, the board may hire and fire employees, increase or decrease maintenance fees, borrow money for repair and improvements and set a budget. Some of these actions may significantly impact the 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 important to all apartment owners that the transition of control from the developer to the apartment owners be accomplished in an orderly manner and in a spirit of cooperation.

I. PERSONS CONNECTED WITH THE PROJECT

Developer: W. C. BERGIN, Trustee Phone: 885-7941
Name (Business)
P.O. Box 839
Business Address
Kamuela, Hawaii 96743

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

Real Estate Broker: None selected. Units Phone: _____
Name (Business)
are not presently for
Business Address
sale.

Escrow: TITLE GUARANTY ESCROW SERVICES, INC. Phone: 521-0211
Name (Business)
235 Queen Street, 1st Floor
Business Address
Honolulu, Hawaii 96813

General Contractor: n/a Phone: _____
Name (Business)
Business Address

Condominium Managing Agent: Project is to be self-managed by the Association of Condominium Owners Phone: _____
Name (Business)
Business Address

Attorney for Developer: ROGER V. MEEKER Phone: 885-9696
Name (Business)
P.O. Box 596
Business Address
Kamuela, Hawaii 96743

**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. The Condominium Property Act (Chapter 514A, HRS), the Declaration, Bylaws, and House Rules control the rights and obligations of the apartment owners with respect to the project and 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.

- 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. 92-141639
Book _____ Page _____
 Filed - Land Court: Document No. _____

The Declaration referred to above has been amended by the following instruments [state name of document, date 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 Conveyances Condo Map No. 1717
 Filed - Land Court Condo Map No. _____

The Condominium Map has been amended by the following instruments [state name of document, date 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 manner in which meetings will be conducted, whether pets are prohibited or allowed 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. 92-141640
Book _____ Page _____
 Filed - Land Court: Document No. _____

The Bylaws referred to above have been amended by the following instruments [state name of document, date and recording/filing information]:

D. **House Rules.** The Board of Directors may adopt House Rules to govern the use and operation of the common elements and limited common elements. House Rules may cover matters such as parking regulations, hours of operation for common facilities such as recreation areas, use of lanais and requirements for keeping pets. 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 for projects with five or fewer apartments.

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:

III. THE CONDOMINIUM PROJECT

A. Interest to be Conveyed to Buyer:

- Fee Simple: Individual apartments and the common elements, which include the underlying land, will be in fee simple.
- Leasehold or Subleasehold: Individual apartments and the common elements, which include the underlying land will be leasehold.

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

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

Lease Term Expires: _____

Rent Renegotiation Date(s): _____

Lease Rent Payable: Monthly Quarterly
 Semi-Annually Annually

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

For Subleaseholds:

- Buyer's sublease may be canceled if the master lease between the sublessor and fee owner is:
 Canceled Foreclosed

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

- Individual Apartments in Fee Simple; Common Interest in the Underlying Land in Leasehold or Subleasehold:

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

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

Lease Term Expires: _____

Rent Renegotiation Date(s): _____

Lease Rent Payable: Monthly Quarterly
 Semi-Annually Annually

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

[] Other:

IMPORTANT INFORMATION ON LEASEHOLD CONDOMINIUM PROJECTS

The information contained in this report is a summary of the terms of the lease. For more detailed information, you should secure a copy of the lease documents and read them thoroughly.

If you have any legal questions about leasehold property, the lease documents or the terms of the lease and the consequences of becoming a lessee, you should seek the advice of an attorney.

There are currently no statutory provisions for the mandatory conversion of leasehold condominiums and there are no assurances that such measures will be enacted in the future.

In leasehold condominium projects, the buyer of an apartment will acquire the right to occupy and use the apartment for the time stated in the lease agreement. The buyer will not acquire outright or absolute fee simple ownership of the land. The land is owned by the lessor or the leased fee owner. The apartment owner or lessee must make lease rent payments and comply with the terms of the lease or be subject to the lessor's enforcement actions. The lease rent payments are usually fixed at specific amounts for fixed periods of time, and are then subject to renegotiation. Renegotiation may be based on a formula, by arbitration set in the lease agreement, by law or by agreement between the lessor and lessee. The renegotiated lease rents may increase significantly. At the end of the lease, the apartment owners may have to surrender the apartments, the improvements and the land back to the lessor without any compensation (surrender clause).

When leasehold property is sold, title is normally conveyed by means of an assignment of lease, the purpose of which is similar to that of a deed. The legal and practical effect is different because the assignment conveys only the rights and obligations created by the lease, not the property itself.

The developer of this condominium project may have entered into a master ground lease with the fee simple owner of the land in order to develop the project. The developer may have then entered into a sublease or a new lease of the land with the lessee (apartment owner). The developer may lease the improvements to the apartment owner by way of an apartment lease or sublease, or sell the improvements to the apartment owners by way of a condominium conveyance or apartment deed.

B. Underlying Land:

Address: Kamuela (South Kohala) Hawaii Tax Map Key: 6-4-1: 2 (3rd)
(TMK)

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

Land Area: 3.136 [] square feet [x] acre(s) Zoning: Ag-3a

Lessor
 (Fee Owner): W. C. BERGIN, Trustee
 Name
P.O. Box 839
 Address
Kamuela, Hawaii 96743

Sublessor:
 Name
 Address

C. Buildings and Other Improvements:

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

2. Number of Buildings: 3 Floors Per Building Unit A--2, Unit B--1, Unit C--1

Exhibit A contains further explanations.

3. Principal Construction Material:

Concrete Hollow Tile Wood

Other Unit B consists of 3 steel framed barns.

4. Permitted Uses by Zoning:

	No. of <u>Apts.</u>	Use Permitted <u>By Zoning</u>		No. of <u>Apts.</u>	Use Determined <u>By Zoning</u>
<input type="checkbox"/> Residential	___	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Ohana	___	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Commercial	___	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Industrial	___	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	___	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Agricultural	<u>3</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Hotel	___	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Recreational	___	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Timeshare	___	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Other: _____	___	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

Yes No

5. Special Use Restrictions:

The Declaration and Bylaws may contain restrictions on the use and occupancy of the apartments. Restrictions for this condominium project include but are not limited to:

- Pets: _____
- Number of Occupants: _____
- Other: See page 20 and Exhibit H regarding conditions in Special Permit 417
- There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0 Stairways: 0 Trash Chutes: 0

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Lanai/Patio (sf)</u>
Unit A	<u>1</u>	<u>animal hospital</u>	<u>6,528 sq.ft.</u>	<u>180 sq.ft.</u>
Unit B	<u>1</u>	<u>3 barns</u>	<u>350 sq.ft. each</u>	<u>n/a</u>
Unit C	<u>1</u>	<u>animal supply outlet</u>	<u>5,203 sq.ft.</u>	<u>n/a</u>
_____	_____	<u>3/1</u>	<u>720 sq.ft.</u>	<u>n/a</u>
_____	_____	_____	_____	_____

Total Apartments: 3

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

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

Boundaries of Each Apartment: See Exhibit "A" attached hereto.

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

7. Parking Stalls:

Total Parking Stalls: 7

	<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 each unit)	<u>1</u>	<u>6</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u>7</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 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>7</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

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

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

8. Recreational and Other Common Facilities:

- There are no recreational or common facilities.
- Swimming pool Storage Area Recreation Area
- Laundry Area Tennis Court Trash Chute
- Other: _____

9. Compliance With Building Code and Municipal Regulations: Cost to Cure Violations

- There are no violations. Violations will not be cured.
- Violations and cost to cure are listed below. Violations will be cured by _____

10. Condition and Expected Useful Life of Structural Components, Mechanical, and Electrical Installations
(For conversions of residential apartments in existence for at least five years):

See Exhibit "G" attached hereto.

11. Conformance to Present Zoning Code

a. No variances to zoning code have been granted.

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

Variance No. 76 granted, permitting construction of a 100' tall windmill tower.

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

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

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

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

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

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

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

1. Common Elements: Common Elements are those parts of the condominium project other than the individual apartments. Although the common elements are owned jointly by all apartment owners, those portions of the common elements which are designated as limited common elements (see paragraph 2 below) may be used only by those apartments to which they are assigned. The common elements for this project, as described in the Declaration, are:

described in Exhibit B .

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 use them, as described in the Declaration, 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 used to determine each apartment's share of the maintenance fees and other common profits and expenses of the condominium project. It may also be used for other purposes, including voting on matters requiring action by apartment owners. The common interests for the apartments in this project, as described in the Declaration, are:

described in Exhibit B.

as follows:

E. Encumbrances Against Title: An encumbrance is a claim against or a liability on the property or a document affecting the title or use of the property. Encumbrances may have an adverse effect on the property or your purchase and ownership of an apartment in the project.

Exhibit F describes the encumbrances against the title contained in the title report dated October 15, 1992 and issued by Title Guaranty of Hawaii, Inc.

Blanket Liens:

A blanket lien is an encumbrance (such as a mortgage) on the entire condominium project that secures some type of monetary debt (such as a loan) or other obligation. A blanket lien 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. The buyer's interest will be affected if the developer defaults and the lien is foreclosed prior to conveying the apartment to buyer.

<u>Type of Lien</u>	<u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance</u>
---------------------	---

Mortgage

Buyer's deposit will be returned if default and foreclosure occur before conveyance. The Buyer's contract may be cancelled and the Buyer may lose all rights to acquire the unit.

F. Construction Warranties:

Warranties for individual apartments and the common elements, including the beginning and ending dates for each warranty, are as follows:

1. Building and Other Improvements: NONE

2. Appliances: NONE

G. Status of Construction and Estimated Completion Date:

The Project is comprised of three existing structures being converted to condominium status. Unit A, the animal care hospital, was constructed in 1981. Unit B, the horse barn structures, were constructed in 1981. Unit C, the animal health supply outlet and the detached residential structure, were constructed in 1983 and 1980, respectively.

H. Project Phases:

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

Summary of Developer's plans or right to perform for future development (such as additions, mergers or phasing):

V. MISCELLANEOUS

A. 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 -- not applicable
Hawaii Association of Realtors' form of Deposit Receipt, Offer
- Specimen Sales Contract--& Acceptance (DROA) contract will be used at time of sale.
Exhibit D contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated August 1, 1992
Exhibit E contains a summary of the pertinent provisions of the escrow agreement.
- Other _____

B. Buyer's Right to Cancel Sales Contract:

1. Rights Under the Condominium Property Act (Chapter 514A, HRS):

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 or Supplementary Report to a Final Report: Sales made by the developer are binding if:

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

- A) There is a material change in the project which directly, substantially, and adversely affects (1) the use or value of the buyer's apartment or its limited common elements; or (2) the amenities available for buyer's use; AND
- B) 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.

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:

- A) Condominium Public Reports issued by the developer which have been given an effective date by the Hawaii Real Estate Commission.
- B) Declaration of Condominium Property Regime.
- C) Bylaws of the Association of Apartment Owners.
- D) House Rules.
- E) Condominium Map.
- F) Escrow Agreement.
- G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
- H) Other _____

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 Property Act (Chapter 514A, HRS) and Hawaii Administrative Rules, Chapter 16-107, are available at the Cashier's Office, Department of Commerce and Consumer Affairs, 1010 Richards Street, 3rd Floor, Honolulu, Hawaii, mailing address: P. O. Box 541, Honolulu, HI 96809, at a nominal cost.

This Public Report is a part of Registration No. 2758 filed with the Real Estate Commission on Dec. 3, 1992

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

- yellow paper stock white paper stock pink paper stock

C. Additional Information Not Covered Above

DISCLOSURE REGARDING SPECIAL PERMIT NO. 417

As noted in Section XXIV of the Declaration, the State Land Use Commission in 1979 approved a Special Permit to allow the establishment of a veterinary hospital on the subject property. On April 15, 1991, the Hawaii County Planning Commission approved an amendment to said Special Permit No. 417 to also allow the establishment of an animal health supply outlet on said property. A copy of the letter granting approval to the uses via said Special Permit is attached hereto as Exhibit "H". Note particularly the revised conditions on pages 4 and 5 of said letter.

D. The developer hereby certifies that all the information contained in this Report and the Exhibits attached to this Report and all documents to be furnished by the developer to buyers concerning the project have been reviewed by the developer and are, to the best of the developer's knowledge, information and belief, true, correct and complete.

W. C. BERGIN, Trustee

Name of Developer

By:


Duly Authorized Signatory

11/19/92

Date

W. C. BERGIN, Trustee

print name & title of person signing above

Distribution:

Department of Finance, County of Hawaii

Planning Department, County of Hawaii

Federal Housing Administration

INDIVIDUAL UNIT DESCRIPTIONS

The Declaration of Condominium Property Regime and plans submitted by the Developer indicate that ANIMAL CARE CENTER OF HAWAII -- WAIMEA is a fee simple condominium conversion project consisting of a total of three condominium units, each unit comprised of a separate structure or structures. The units are described as follows:

- (a) "Unit A" is an animal care hospital facility consisting of the following: (1) a separate two-story wood-frame structure, without basement, containing on the ground floor a business office, waiting room, laboratory/pharmacy, x-ray room, dark room, two small animal examination rooms, small animal surgery room, small animal treatment room, large animal surgery room, large animal treatment room, three offices, ward room, night attendant room, library, kennel room, locker room and bathroom; the second floor of said structure contains five accessory employee facility rooms, two kitchenettes and a bathroom -- all containing a net interior area of approximately 6,528 square feet; (2) an attached wooden deck of 180 square feet; and (3) any and all other future improvements which may be constructed on the land area appurtenant to said unit by the owner thereof.

- (b) "Unit B" consists of the following: (1) three steel-frame horse barn structures, each being approximately 350 square feet in area; and (2) any and all other future improvements which may be constructed on the land area appurtenant to said unit by the owner thereof.

- (c) "Unit C" consists of the following: (1) an animal health supply outlet contained in a single-story concrete tile and wood-frame structure, shown and designated on the Condominium Map as the "Carter Building", said structure containing a retail sales room, receptionist room, office, restroom, and ten storage and warehouse rooms -- all containing a net interior area of approximately 5,203 square feet; (2) a loading dock area of approximately 122 square feet; (3) covered entry area of approximately 131 square feet; (4) a detached wood-frame structure, without basement, containing three bedrooms, one bath, living room, kitchen and dining area -- all containing a net interior living area of approximately 720 square feet; said structure also containing an attached carport of approximately 288 square feet; and (5) any and all other future improvements which may be constructed on the land area appurtenant to said unit by the owner thereof.

COMMON ELEMENTS

One freehold estate is designated of all the remaining portions of the Project, herein referred to as "common elements", including specifically, but not limited to:

- (a) The land in fee simple;
- (b) The Common Driveway Area, for access and utility purposes, shown and designated on the Condominium Map and being approximately 6,614 square feet in area;
- (c) All ducts, electrical equipment, wiring and other central and appurtenant installations for common services, if any, including power, light, water, gas, sewage, irrigation, telephone and television cable;
- (d) Any and all other elements and facilities rationally in common use or necessary to the existence, upkeep and safety of the Project.

The common elements shall remain undivided, and no right shall exist to partition or divide any part thereof, except as provided in the Condominium Property Act. Any such partition or division shall be subject to the prior consent thereto by the holder(s) of all mortgage(s) of any condominium unit(s) which are filed of record.

COMMON INTEREST

Each unit and its owner(s) shall have appurtenant thereto an undivided one-third (1/3) fractional interest in the common elements of the Project, for all purposes including voting, said interest being referred to as the "common interest".

LIMITED COMMON ELEMENTS

Certain parts of the common elements, herein referred to as the "limited common elements", are designated and set aside for the exclusive use of one or more apartments, and such apartment(s) shall have appurtenant thereto exclusive easements for the use of such limited common elements. The limited common elements so set aside and reserved are as follows:

- (a) That certain land area upon and around which "Unit A" is located, shown and designated on the Condominium Map and being approximately 32,641 square feet in area, is deemed a limited common element appurtenant to and for the exclusive use of "Unit A". (SEE BELOW)
- (b) That certain land area upon and around which "Unit B" is located, shown and designated on the Condominium Map and being approximately 43,560 square feet in area, is deemed a limited common element appurtenant to and for the exclusive use of "Unit B". (SEE BELOW)
- (c) That certain land area upon and around which "Unit C" is located, shown and designated on the Condominium Map and being approximately 53,780 square feet in area, is deemed a limited common element appurtenant to and for the exclusive use of "Unit C". (SEE BELOW)

All costs of every kind pertaining to the aforesaid limited common elements, including, but not limited to, costs of landscaping, maintenance, repair, replacement and improvement, shall be borne solely by the owner of the unit to which said limited common elements are appurtenant.

NOTE: The land area appurtenant to each unit does not represent a legally subdivided lot.

SUMMARY OF PERTINENT PROVISIONS OF THE SALES CONTRACT

No sales of the condominium units are immediately contemplated. However, the Developer plans to use the Hawaii Association of Realtors' standard form of Deposit, Receipt, Offer and Acceptance (DROA) as the intended sales contract for the Project.

The sales contract contains the purchase price, description and location of the condominium unit and other terms and conditions under which a Buyer will agree to buy a condominium unit in the Project. Among other things, the sales contract (DROA):

1. Provides a section for financing to be completed and agreed to by the parties which will set forth how Buyer will pay the purchase price.
2. Identifies the escrow agent and states that Buyer's deposit will be held in escrow until the sales contract is closed or cancelled.
3. Requires that Buyer must close the purchase at a certain date and pay closing costs, in addition to the purchase price.
4. Provides the following remedies, in the event of default under the sales contract by Buyer:
 - a. Seller may bring an action against Buyer for breach of contract;
 - b. Seller may retain Buyer's initial deposit;
 - c. Buyer shall be responsible for expenses incurred.

Provides the following remedies, in the event of default under the sales contract by Seller:

- a. Buyer may bring an action against Seller for breach of contract;
- b. Buyer may bring an action compelling Seller to perform under contract;
- c. Seller shall be responsible for expenses incurred.

Any awards to the prevailing party in any action are subordinate to escrow's expenses.

5. Allocation of payment of closing costs.

The sales contract contains various other provisions which Buyer should become acquainted with.

Upon examination, the Developer represents that the proposed Sales Contract (DROA) is found to be in compliance with Chapter 514A, Hawaii Revised Statutes, as amended. It is incumbent upon the purchaser and prospective purchaser that he reads the Sales Contract (DROA) with care.

SUMMARY OF ESCROW ARRANGEMENTS

The Developer does not plan to offer the condominium units for sale immediately. However, an Escrow Agreement dated August 1, 1992, has been submitted by the Developer, identifying Title Guaranty Escrow Services, Inc. as Escrow for the Project. The Escrow Agreement establishes how proceeds from the sale of condominium units and all sums received from any source are placed in escrow, as well as the methods of disbursement of said funds. The Escrow Agreement provides that a Purchaser shall be entitled to a refund of his funds, and Escrow shall pay said funds to Purchaser, without interest and less cancellation fee and costs, if Purchaser shall in writing request refund of his funds and Escrow receives a written request from Developer to return to Purchaser the funds of such Purchaser. Said cancellation fee shall be in the minimum of \$25.00, but in no event shall exceed the agreed-upon escrow fee provided for in said Escrow Agreement, the exact amount to be commensurate with the amount of work completed at the time of cancellation.

Upon examination, the Developer represents that the Escrow Agreement is found to be in compliance with Chapter 514A, Hawaii Revised Statutes, as amended. It is incumbent upon the purchaser and prospective purchaser that he reads with care the Escrow Agreement.

ENCUMBRANCES AGAINST TITLE

An encumbrance is a claim against or a liability on the property. The following list describes the encumbrances against the title contained in the status title report dated October 15, 1992, issued by Title Guaranty of Hawaii, Inc.:

1. Tax Map Key: 6-4-1: 2 (3), County of Hawaii. Area assessed: 3.136 acres. For real property taxes as may be due and owing, reference is made to the Director of Finance, County of Hawaii.
2. Covenants, conditions and restrictions set forth in Declaration dated January 17, 1978, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12707 at Page 271. Said Declaration was amended by instrument dated December 12, 1980, recorded in Liber 15250 at Page 163.
3. Mortgage in favor of BANK OF HAWAII, a Hawaii corporation, dated May 2, 1985, recorded in Liber 18630 at Page 237. Original consideration: \$280,000.00
4. Assignment of Lessor's Interest in Leases dated May 2, 1985, recorded in Liber 18630 at Page 263, by WEST HAWAII ASSOCIATES, a Hawaii general partnership, "Assignor", to BANK OF HAWAII, a Hawaii corporation, "Assignee".
5. Additional Charge Mortgage in favor of BANK OF HAWAII, a Hawaii corporation, dated November 15, 1991, recorded as Document No. 91-161108. Original consideration: \$45,000.00
6. Assignment of Lessor's Interest in Leases dated November 15, 1991, recorded as Document No. 91-161109, by W.C. BERGIN, Trustee under that certain unrecorded trust agreement known as the W.C. Bergin Revocable Trust dated September 22, 1978, as amended, "Assignor", to BANK OF HAWAII, a Hawaii corporation, "Assignee".
7. Terms, conditions and provisions contained in that certain Trust Agreement, known as the W.C. Bergin Revocable Trust dated September 22, 1978, as amended.
8. Declaration of Condominium Property Regime dated August 1, 1992, recorded as Document No. 92-141639; By-Laws of the Association of Condominium Owners of the "ANIMAL CARE CENTER OF HAWAII -- WAIMEA" Condominium Project, dated August 1, 1992, recorded as Document No. 92-141640; Condominium Map No. 1717.

DISCLOSURE ABSTRACT

**ANIMAL CARE CENTER OF HAWAII -- WAIMEA
Condominium Project**

*Pursuant to Section 514A-61, Hawaii Revised Statutes
Condominium Property Act*

Developer

W. C. Bergin, Trustee
P.O. Box 839
Kamuela, Hawaii 96743
Phone: 885-7941

Project Manager

Project is to be self-managed

Estimated Maintenance Fee Assessments and Disbursements

MAINTENANCE FEES: The regular maintenance and repair of each condominium unit, including all utility charges except for water, is the sole responsibility of each respective unit owner. The only common expense requiring monthly assessments (i.e. maintenance fees) is said water service, and Developer estimates the costs of these services to be approximately \$600.00 per year per unit (\$50.00 per month per unit). Said figures are based on generally accepted accounting principals.

INDIVIDUAL INSURANCE: Section 514A-86, Hawaii Revised Statutes, requires that fire insurance be purchased to cover the improvements portion of the Project. Developer anticipates that the Association will elect to obtain separate policies for each individual condominium unit pursuant to Section XIV(c) of the Declaration. As such, the premiums on said policies will be the individual responsibility of each unit owner rather than common expenses of the Project. Purchasers should be aware that premiums for said fire insurance vary widely depending upon the coverage desired and the insurance company used. Developer's best estimate regarding the cost of said coverage is approximately \$1,000 to \$2,000 per year per unit. Said figures are based on generally accepted accounting principals.

Warranties

Purchasers should be aware that both "condominium units" of the Project are comprised of existing structures. Said buildings have unavoidably undergone a certain amount of "wear and tear" commensurate with their age. Accordingly, purchasers should not expect the home they desire to buy to be in "like-new" condition. **NO WARRANTIES FOR FITNESS OF USE OR MERCHANTABILITY OR ANY OTHER KIND ARE MADE AS TO THE INDIVIDUAL CONDOMINIUM UNITS OR THE COMMON ELEMENTS OF THE PROJECT. PURCHASERS ARE ADVISED TO CONDUCT THEIR OWN INSPECTION OF THE UNIT THEY DESIRE TO BUY. THE UNITS ARE SOLD "AS IS".**

Use of Condominium Units

Both units comprising the Project may be occupied and used for agricultural, residential and/or such other purposes as permitted by applicable zoning ordinances. There is agricultural-related commercial development in the Project as provided in Section II of the Declaration.

Structural Components and Mechanical & Electrical Installations

Based on a report prepared by an independent registered architect, it is the Developer's opinion that all structural components and mechanical and electrical installations material to the use and enjoyment of the individual condominium units appear to be sound and in satisfactory working condition. However, NO REPRESENTATIONS OF ANY KIND ARE MADE AS TO THE EXPECTED USEFUL LIFE, IF ANY, OF THE STRUCTURAL COMPONENTS AND MECHANICAL AND ELECTRICAL INSTALLATIONS MATERIAL TO THE USE AND ENJOYMENT OF THE CONDOMINIUM UNIT(S).

Code Violations

To the best of the knowledge, information and belief of the undersigned, there are no outstanding notices of uncured violations of the building code or other municipal regulations of the County of Hawaii.


W. C. BERGIN, Trustee

Developer



Planning Commission

25 Aupuni Street, Rm. 109 • Hilo, Hawaii 96720 • (808) 961-8288

LORRAINE R. INOUE
Mayor

CERTIFIED MAIL

April 15, 1991

Dr. William Bergin
P. O. Box 839
Kamuela, HI 96743

Dear Dr. Bergin:

Amendment to Special Permit No. 417
Tax Map Key: 6-4-01:02

The Planning Commission at its duly held public hearing on April 4, 1991, voted to approve an amendment to your Special Permit No. 417, which allowed the establishment of a veterinary hospital on approximately 3.1 acres of land situated within the State Land Use Agricultural District. The amendment request is to allow the conversion of a portion of an existing barn into an animal health supply outlet. The property is located off the west side of Mana Road, approximately 1,100 feet south of the Mamalahoa Highway-Mana Road intersection at Puukapu, Waimea, South Kohala, Hawaii.

Approval of this request is based on the following:

The granting of the animal health supply outlet will promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law Rules and Regulations are intended to preserve, protect, and encourage the development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare of the people of the State of Hawaii.

In the case of the Agricultural districts, the intent of the State Land Use Law Rules and Regulations is to preserve or keep lands of high agricultural potential in agricultural use. The land on which the proposed development is located is classified as "B" or "Good" by the Land Study Bureau for agricultural productivity and "Prime" by the ALISH Map. The applicant proposes the conversion of an existing vacant barn structure to accommodate the proposed use with no additional land to be taken out of existing or potential agricultural use.

Exhibit "H"

Dr. William Bergin
April 15, 1991
Page 2

The request is not contrary to the General Plan. The proposed use is consistent with the following goals, policies, and standards of the General Plan:

Land Use

"Designate and allocate land uses in appropriate proportions and mix in keeping with the social, cultural, and physical environments of the County.

"The county shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment."

The granting of the request will also complement the General Plan policy of supporting and encouraging agricultural activities. The proposed use would supplement the existing veterinary clinic on the subject property by providing specialized, professional products for the care, treatment and maintenance of sick or injured animals that are not readily available through a general distributor. Although the granting of the proposed use will allow the establishment of a non-agricultural use on the property, it is determined that this use will supplement the services offered by the existing veterinary clinic in supporting the existing livestock industry in the surrounding area. Thus, the proposed facility would also promote the objectives of the State Land Use Law Rules and Regulations by helping to preserve, protect, and encourage the development of agricultural lands.

The proposed use will not have any significant adverse effects on the surrounding properties. This request involves the conversion of a portion of an existing barn structure for retail purposes. Other than the installation of interior panelling and driveway and parking lot improvements, no other construction is anticipated. The proposed facility will be located a minimum of 80 feet from all property boundaries. Furthermore, the limiting of the proposed use to the sale of products directly related to the services provided by the veterinary clinic would ensure that no additional traffic would be generated by the sale of items not related to the treatment and health maintenance of small and large animals. It is not anticipated that the proposed use will greatly intensify visual or noise impacts beyond what is currently generated by the existing veterinary clinic. The applicant's principal business will continue to be the existing veterinary clinic. As the proposed use is being requested to supplement the services being

provided by the clinic, it is recommended that no signage be permitted advertising the retail use approved by this amended permit. The proposed retail activity shall be limited to a floor area of 400 square feet. In addition, all activities associated with the retail operation shall be limited to a floor area not to exceed 1,650 square feet. With the adoption of the conditions of approval, the proposed use is not expected to directly compete with other animal supply stores in the general area.

The proposed use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection. Consulted agencies had no objection to the request. Water is available to the property. In addition, the applicant has agreed to provide two water tanks for fire protection and this will be made a condition of approval. The volume of traffic is not expected to greatly increase beyond that which is currently generated by the veterinary clinic.

Approval of this request is subject to the following conditions: (material deleted is bracketed and material added is underscored):

1. That the petitioner shall establish the proposed use on the subject property within two (2) years from the effective date of the Special Permit.
2. That the petitioner shall submit plans and secure final plan approval prior to the establishment of the use on the subject property.
3. That all driveways, parking areas, and loading areas be provided with an all weather dust-free surface meeting with the approval of the Planning Director.
4. That the requirements of the State Department of Health and the Department of Public Works shall be complied with.
5. That the petitioner shall file an amended agreement to the Bureau of Conveyances which was previously filed, relative to Section 205-4.5 of the Hawaii Revised Statutes.
6. That all other rules, regulations and requirements shall be complied with.

7. Failure to comply with any of the delineated conditions of approval, particularly those relative to time commencement and expiration, shall be reason for termination of the Special Permit, unless an extension is requested prior to the expiration date and approved.]
1. The applicant, its successors, or assigns shall be responsible for complying with all of the stated conditions of approval.
2. Final Plan Approval of the proposed animal health supply outlet and related improvements shall be secured from the Planning Department within one year from the effective date of this amendment. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured. Plans shall identify structures, landscaping, fire protection measures and paved driveway and parking area associated with the outlet.
3. Building permit(s) for the conversion of a portion of the barn to allow a change of occupancy shall be secured within one year from the date of receipt of Final Plan Approval and shall be completed (certificate of occupancy) within one year thereafter.
4. The proposed outlet shall be limited to 1,650 square feet of gross floor area.
5. A list of items (general categories) to be sold at the animal health supply outlet shall be submitted to and approved by the Planning Department prior to the issuance of the occupancy permit. The items shall supplement the veterinary activity. The items offered for sale shall not compete with existing commercial and retail uses.
6. There shall be no signage on the premises advertising the sale of retail items.
7. The hours of operation for the animal health supply outlet shall be only during the established hours for the veterinary clinic.

8. The applicant shall provide fire protection measures meeting with the approval of the Fire Department prior to the issuance of a certificate of occupancy.
9. The applicant shall comply with all other applicable laws, rules, regulations and requirements, including those of the Departments of Health and Public Works.
10. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
11. An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances: 1) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors, or assigns and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the General Plan or Zoning Code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Dr. William Bergin
April 15, 1991
Page 6

Please feel free to contact the Planning Department if there are any questions on this matter.

Sincerely,

Mike Luce

Mike Luce, Pro Tem Chairman
Planning Commission

6228d
jdk

xc: Mr. Sidney Fuke
West Hawaii Office
Department of Public Works
Department of Water Supply
Department of Health
Fire Department
County Real Property Tax Division
State Land Use Commission

Bcc: Plan Approval Section