

CONDOMINIUM PUBLIC REPORT

Prepared &

Issued by: Developer KEA LANI HOTEL PARTNERS  
Address 4100 Wailea Alanui Drive, Wailea, Maui, Hawaii 96753

Project Name(\*): KEA LANI  
Address: 4100 Wailea Alanui Drive, Wailea, Maui, Hawaii 96753

Registration No. 2775 Effective date: May 12, 1993  
Expiration date: June 12, 1994

Preparation of this Report:

This report has been prepared by the Developer pursuant to the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, as amended. This report is not valid unless the Hawaii Real Estate Commission has issued a registration number and effective date for the report.

This report has not been prepared or issued by the Real Estate Commission or any other government agency. Neither the Commission nor any other government agency has judged or approved the merits or value, if any, of the project or of purchasing an apartment in the project.

Buyers are encouraged to read this report carefully, and to seek professional advice before signing a sales contract for the purchase of an apartment in the project.

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

Exception: The Real Estate Commission may issue an order, a copy of which shall be attached to this report, that the final public report for a two apartment condominium project shall have no expiration date.

Type of Report:

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

  X   FINAL: The developer has legally created a condominium and has filed complete information with the Commission.  
(white)  
      [ X ] No prior reports have been issued.  
      [ ] This report supersedes all prior public reports.  
      [ ] This report must be read together with \_\_\_\_\_

       SUPPLEMENTARY: This report updates information contained in the:  
(pink)  
      [ ] Preliminary Public Report dated: \_\_\_\_\_  
      [ ] Final Public Report dated: \_\_\_\_\_  
      [ ] Supplementary Public Report dated: \_\_\_\_\_

And [ ] Supersedes all prior public reports  
      [ ] Must be read together with \_\_\_\_\_  
      [ ] This report reactivates the \_\_\_\_\_  
              public report(s) which expired on \_\_\_\_\_

\_\_\_\_\_  
(\* ) Exactly as named in the Declaration



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## General Information On Condominiums

A condominium is a special form of real property. To create a condominium in Hawaii, the requirements of 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: Kea Lani Hotel Partners Phone: 879-6337  
Name (Business)  
4100 Wailea Alanui Drive  
Business Address  
Wailea, Maui, Hawaii 96753

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

Kea Lani Hotel Corp., a Hawaii corporation, General Partner  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Real Estate Broker: Locations Incorporated Phone: 545-8800  
Name 7 Waterfront Plaza, Suite 210 (Business)  
500 Ala Moana Boulevard  
Business Address  
Honolulu, Hawaii 96813

Escrow: Title Guaranty Escrow Services, Inc. Phone: 521-0211  
Name (Business)  
235 Queen Street  
Business Address  
Honolulu, Hawaii 96813

General Contractor: Fletcher Pacific Construction Co., Ltd. Phone: 521-7861  
Name (Business)  
700 Richards Street, Suite 400  
Business Address  
Honolulu, Hawaii 96813

Condominium Managing Agent: Self-managed by Association of Phone: \_\_\_\_\_  
Name (Business)  
Apartment Owners  
Business Address  
\_\_\_\_\_

Attorney for Developer: Tanaka & Tsugawa Phone: 523-7581  
Name (Business)  
Suite 1100, Pacific Tower, 1001 Bishop Street  
Business Address  
Honolulu, Hawaii 96813

**II. CREATION OF THE CONDOMINIUM;  
CONDOMINIUM DOCUMENTS**

A condominium is created by recording in the Bureau of Conveyances and/or filing with the Land Court a Declaration of Condominium Property Regime, a Condominium Map (File Plan), and the Bylaws of the Association of Apartment Owners. 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. \_\_\_\_\_  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court: Document No. 1978657

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. \_\_\_\_\_  
 Filed - Land Court Condo Map No. 941

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. \_\_\_\_\_  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court: Document No. 1978660

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<br/>Set by Law</u> | <u>This Condominium</u>                             |
|--------------------------------|-------------------------------|-----------------------------------------------------|
| Declaration<br>(and Condo Map) | 75%*                          | <u>75%</u>                                          |
| Bylaws                         | 65%                           | <u>65%</u>                                          |
| House Rules                    | ---                           | <u>2/3 of members of the Board<br/>of Directors</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:

Developer reserves the right to amend the Declaration (including any Exhibits attached to the Declaration), the By-Laws and Condominium Map in any manner for any apartment which has not yet been conveyed. Developer also reserves the right to file the "as-built" certificate required by Section 514A-12, Hawaii Revised Statutes, including a verified statement of a registered architect or professional engineer.

See also Exhibit I for other Developer's easements and reservations.

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: 4100 Wailea Alanui Drive Tax Map Key: (2) 2-1-23: 03  
Wailea, Maui, Hawaii 96753 (TMK)

[ ] Address [ ] TMK is expected to change because \_\_\_\_\_

Land Area: 20.609 [ ] square feet [ x ] acre(s) Zoning: Hotel - 18.239 acres  
Agriculture - 2.37 acres





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:

Reasonable number of dogs, cats and other commonly recognized household pets (excluding poultry, [ x ] Pets: rabbits, bees or pigs are allowed subject to maximum number as established by the Board.

[ x ] Number of Occupants: as permitted by the County of Maui

[ x ] Other: as permitted by the County of Maui but no time share is allowed in any apartment.

[ x ] There are ~~no~~ special use restrictions.

6. Interior (fill in appropriate numbers): 1 in ea. Hotel/Residential Apt.

6 (2 w/ roof access;

Elevators: 7 in Hotel Bldg. Stairways: 4 w/ no Trash Chutes: 1 (in Hotel Bldg.)  
roof access in Hotel Bldg.

| <u>Apt. Type</u> | <u>Quantity</u> | <u>BR/Bath</u> | <u>Net Living Area (sf)*</u> | <u>Lanai/Patio (sf)</u> |
|------------------|-----------------|----------------|------------------------------|-------------------------|
| _____            | _____           | _____          | _____                        | _____                   |
| _____            | _____           | _____          | _____                        | _____                   |
| _____            | _____           | SEE EXHIBIT A  | _____                        | _____                   |
| _____            | _____           | _____          | _____                        | _____                   |

Total Apartments: 44

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

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

Boundaries of Each Apartment:

The respective apartments shall be deemed to include (i) all walls and partitions which are not load-bearing within its perimeter walls, (ii) all pipes, shafts, wires, ducts, pumps, cables, conduits, and other utility or service lines running through such apartment which are utilized for and serve only that apartment, except that any pipe, wire, conduit, driveway, walkway, drain or other utility or service line that serves more than one apartment is a common element and not part of an apartment, (iii) the inner decorated or finished surfaces of all walls, floors, and ceilings, (iv) any doors (including but not limited to sliding glass doors and excluding the finished exterior surface of entry doors), windows, or panels along the perimeters, and (v) all fixtures (including but not limited to all locks, hinges, and other hardware attached to any doors), appliances, built-in cabinets, and furnishings installed therein. The Hotel Apartment or each Hotel/Residential Apartment with a designated lanai shall also be deemed to include: (i) the inner decorated or finished surface of any lanai wall, including the air space between the floor, wall, railing and ceiling of any enclosed or open lanai, (ii) the inner decorated or finished surfaces of the surrounding walls and roof overhang and (iii) the railings surrounding the lanai. Each of the Hotel/Residential Apartments shall also be deemed to include: (i) a pool, (ii) a pool court, (iii) the inner decorated or finished surface of the surrounding walls and floor of the pool court, and (iv) the trellis over a portion of the pool court.

Permitted Alterations to Apartments:

Apartment Owner can make non-structural alterations to the interior of apartments. The owner of the Hotel Apartment may, in his discretion, subdivide, resubdivided or consolidate and resubdivide at any time all or any portion of the Hotel Apartment and create new apartments, subject to the terms contained in the Declaration.

7. Parking Stalls:

Total Parking Stalls: 490

|                                | <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<br>(for each<br>unit) |                | <u>250</u>  |                | <u>236</u>  |                |             | <u>486</u>   |
| Guest<br>Unassigned            |                |             |                |             |                |             |              |
| Extra for<br>Purchase          |                |             |                |             |                |             |              |
| Other: (handicap)              |                | <u>4</u>    |                |             |                |             | <u>4</u>     |
| Total<br>Covered & Open        | <u>254</u>     |             | <u>236</u>     |             |                |             |              |

Each Hotel Apartment will have the exclusive use of parking stalls as required by law.

Each apartment will have the exclusive use of at least two (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 pools\*       Storage Area\*       Recreation Area
- Laundry Area  
Chute\*       Tennis Court       Trash Chute \*
- Other: For Hotel Apartments Only: Casbah Pool, Hotel Pool, Bar, Towel Pavilion, Gazebo,  
swimming and decorative pools and other water features.

For Hotel/Residential Apartments Only: Gas Tank (common facility); small pool in each Apartment.

\*(Hotel Apartments Only)

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):

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:

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   C  .

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  D .

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  E .

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  December 24, 1992  and issued by  Title Guaranty of Hawaii, Incorporated .

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<br/>or Lien is Foreclosed Prior to Conveyance</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Mortgages           | <p>The Project is presently subject to two mortgage loans. The Buyer's interest is subject to the interest of the holders of the respective mortgages. Among other things, this means that if the Developer defaults, the mortgage lenders may take over the Project, the Buyer's deposit may not be returned and the Buyer may lose all rights to acquire the apartment.</p> <p>The mortgages will be 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 mortgages.</p>                                                                                                                                                                                                                                                                                                                             |
| Mechanics' lien     | <p>The Project is presently subject to an application for a mechanics' and materialmen's lien, M. L. No. 91-0066, Circuit Court of the Second Circuit, State of Hawaii. A hearing will be held to determine whether there is probable cause for a lien to attach to the Project and the amount of such lien. The Developer will vigorously contest the application for lien. If a mechanics' lien does attach, then the Buyer's interest is subject to the interest of the lienholder. Among other things, this means that if the Developer fails to remove the lien, the lienholder may take over the Project, the Buyer's deposit may not be returned and the Buyer may lose all rights to acquire the apartment.</p> <p>The lien, if established, must be released, removed or otherwise handled at closing so that individual apartments can be conveyed to the Buyers free and clear of the lien.</p> |

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:  
See Exhibit H
  
2. Appliances:  
See Exhibit H

G. Status of Construction and Estimated Completion Date:

Construction commenced in July, 1989, and was completed on March 20, 1992.

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):

IV. CONDOMINIUM MANAGEMENT

A. 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 condominium managing agent to assist the Association in managing the condominium project.

Initial Condominium Managing Agent: When the developer or the developer's affiliate is the initial condominium 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 condominium managing agent for this project, named on page five (5) of this report, is:

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

B. 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.

Exhibit G contains a schedule of estimated initial maintenance fees and maintenance fee disbursements (subject to change).

C. 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:

- None  Electricity  Gas \*  Water
- Sewer  Television Cable  Other \_\_\_\_\_

\*(Hotel/Residential Apts. only)

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

Specimen Sales Contract  
Exhibit I contains a summary of the pertinent provisions of the sales contract.

Escrow Agreement dated July 19, 1991  
Exhibit J 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 Apartment Deed
- 

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. 2775 filed with the Real Estate Commission on December 31, 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

1. The swimming pools, beach cabanas and other swimming or sunbathing facilities outside of the Hotel/Residential Apartments are limited common elements to the Hotel Apartments. Therefore the use of the swimming and sunbathing facilities outside of the Hotel/Residential Apartments will be controlled and determined by the owner(s) of the Hotel Apartments and not by the Association of Apartment Owners.
2. The property is zoned hotel and agriculture. The agriculture zoning designated covers a strip of land (approximately 2.37 acres) along the northern boundary of the Land which includes the natural elevation change in that area. This area can be used only for landscaping purposes.
3. The parking assignments were made pursuant to existing zoning regulations as follows:

| <u>Building</u> | <u>No. of<br/>Hotel<br/>Rooms</u> | <u>Stalls<br/>Required</u> | <u>Retail/<br/>Commercial<br/>Space</u> | <u>Stalls<br/>Required</u> | <u>Employee<br/>Parking<br/>Stalls</u> | <u>Extra<br/>Stalls</u> | <u>Total</u> |
|-----------------|-----------------------------------|----------------------------|-----------------------------------------|----------------------------|----------------------------------------|-------------------------|--------------|
| H-1             | 107                               | 54                         | 0                                       | 0                          | 0                                      | 0                       | 54           |
| H-2             | 30                                | 15                         | 0                                       | 0                          | 0                                      | 0                       | 15           |
| H-3             | 20                                | 10                         | Dining                                  | 22                         | 0                                      | 0                       | 32           |
| H-4             | 40                                | 20                         | Restaurant                              | 44                         | 0                                      | 5                       | 84           |
|                 |                                   |                            | Pool Bar                                | 15                         |                                        |                         |              |
| H-5             | 65                                | 32                         | Retail                                  | 20                         | 18                                     | 0                       | 70           |
| H-6             | 42                                | 21                         | Banquet                                 | 85                         | 0                                      | 0                       | 106          |
| H-7             | <u>109</u>                        | <u>55</u>                  |                                         | <u>—</u>                   | <u>—</u>                               | <u>—</u>                | <u>55</u>    |
|                 | 413                               | 207                        |                                         | 186                        | 18                                     | 5                       | 416          |
| Villas          |                                   |                            |                                         |                            |                                        |                         | <u>74</u>    |
|                 |                                   |                            |                                         |                            |                                        | Total                   | 490          |

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.

KEA LANI HOTEL PARTNERS

\_\_\_\_\_  
Name of Developer

By: *K. Mizobuchi*  
Duly Authorized Signatory

December 28, 1992  
Date

Kazuaki Mizobuchi, Secretary of Kea Lani Hotel Corp.

print name & title of person signing above

Distribution:

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

EXHIBIT A

Apartment Types and Descriptions

**Hotel/Residential Apartments.** There shall be three types of Hotel/Residential Apartments, designated as Types "A", "B", and "C", located in five two-story buildings. An "R" in the designation indicates the reverse of the apartment type designated by the letter preceding the "R".

**Type "A" and "A-R".** Two-bedroom, two-bath apartment located in a two-story building and consisting of a living/dining room, a kitchen, two bedrooms, a walk-in closet and two bathrooms. All Type "A" and "A-R" apartments contain 2,238 square feet of NET LIVING AREA including a lanai of 90 square feet and a pool court of 600 square feet.

**Type "B" and "B-R".** Two-bedroom, two-bath apartment located in a two-story building and consisting of a living/dining room, a kitchen, two bedrooms, a walk-in closet and two bathrooms. All Type "B" and "B-R" apartments contain 2,085 square feet of NET LIVING AREA including a pool court of 600 square feet.

**Type "C" and "C-R".** Three-bedroom, two-bath apartment located in a two-story building and consisting of a living/dining room, a kitchen, three bedrooms, a walk-in closet and two bathrooms. All Type "C" and "C-R" apartments contain 2,345 square feet of NET LIVING AREA including a lanai of 60 square feet and a pool court of 600 square feet.

| <u>Apartment Type</u> | <u>Quantity</u> | <u>BR/Bath</u> | <u>Net Living Area**<br/>(excluding pool court and lanai, if any (Sq. ft.))</u> | <u>Pool Court (Sq. ft.)</u> | <u>Lanai (Sq. ft.)</u> |
|-----------------------|-----------------|----------------|---------------------------------------------------------------------------------|-----------------------------|------------------------|
| A                     | 5               | 2/2            | 1,548                                                                           | 600                         | 90                     |
| A-R                   | 5               | 2/2            | 1,548                                                                           | 600                         | 90                     |
| B                     | 7               | 2/2            | 1,485                                                                           | 600                         | n/a                    |
| B-R                   | 8               | 2/2            | 1,485                                                                           | 600                         | n/a                    |
| C                     | 6               | 3/2            | 1,685                                                                           | 600                         | 60                     |
| C-R                   | 6               | 3/2            | 1,685                                                                           | 600                         | 60                     |

Total Hotel/Residential Apartments: 37

\*\* In accordance with local architectural practice, the net living area, including the pool court and lanai, if any, of each apartment is measured from the inside wall of each apartment to the opposite inside wall. THE AREAS SHOWN ABOVE ARE APPROXIMATE ONLY, AND THE DEVELOPER MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE AREA OF ANY PARTICULAR APARTMENT.

**Hotel Apartments.** There are seven (7) types of Hotel Apartments located in the hotel building which are described as follows:

- (1) **Hotel Apartment H-1** has approximately 86,325 square feet and includes one hundred seven (107) hotel rooms as shown on Sheets CPR 14.1 and 14.2 of the Condominium Map.
- (2) **Hotel Apartment H-2** has approximately 26,920 square feet and includes the following:
  - (A) Thirty (30) hotel rooms as shown on Sheets CPR 15.1 to 15.6, inclusive, on the Condominium Map.
  - (B) One (1) administration area for hotel administration offices as shown on Sheet CPR 15.1.

- (3) **Hotel Apartment H-3** has approximately 22,548 square feet and includes the following:
  - (A) Twenty (20) hotel rooms as shown on Sheets CPR 16.3 to 16.7, inclusive, on the Condominium Map.
  - (B) One (1) administration area for hotel administration offices as shown on Sheet CPR 16.1.
  - (C) One (1) dining/lounge area as shown on Sheet CPR 16.2.
- (4) **Hotel Apartment H-4** has approximately 48,664 square feet and includes the following:
  - (A) Dining/Bar/Buffer/Kitchen facilities as shown on CPR Sheet 17.1.
  - (B) Private Reception area as shown on CPR Sheet 17.2.
  - (C) Forty (40) hotel rooms as shown on CPR Sheet 17.3.
- (5) **Hotel Apartment H-5** has approximately 74,201 square feet and includes the following:
  - (A) Loft spaces for retail stores and certain hotel facilities as shown on Sheets CPR 18.1 and 18.2.
  - (B) Sixty-five (65) hotel rooms as shown on Sheet CPR 18.4.
- (6) **Hotel Apartment H-6** has approximately 54,213 square feet and includes the following:
  - (A) Four (4) Banquet rooms as shown on Sheet CPR 19.1.
  - (B) Forty-two (42) hotel rooms as shown on Sheets CPR 19.2 and 19.3.
  - (C) Laundry, maintenance, employee lounge/cafe and dressing areas and other hotel facilities as shown on Sheet CPR 21.
- (7) **Hotel Apartment H-7** has approximately 87,868 square feet and includes the following:
  - (A) Unfinished space (storage) as shown on Sheet CPR 20.1.
  - (B) One hundred nine (109) hotel rooms as shown on Sheets CPR 20.1 and 20.2. Due to a lower elevation at this portion of the hotel building, there are four (4) levels at the equivalent elevations as other levels in the hotel building and three levels lower than the other levels in the hotel building. Three lower levels have been designated in descending order as levels "L", "M" and "P", respectively, on the Condominium Map.

The type, location, approximate area of the 413 hotel rooms located within the 7 hotel apartments are shown on the Condominium Map to assist and expedite future subdivision of a Hotel Apartment.

EXHIBIT B

Description of Buildings

The Project consists of:

(a) one (1) six-story hotel building containing the seven (7) Hotel Apartments. This building is constructed principally of reinforced concrete, steel, aluminum, glass and allied building materials. Portions of the hotel building have six stories and portions of the hotel building have six stories and a basement.

(b) five (5) two-story buildings containing, in the aggregate, thirty-seven (37) Hotel/Residential Apartments. The five buildings are constructed principally of reinforced concrete, wood, aluminum, glass and allied building materials. None of these five buildings contains a basement.

## EXHIBIT C

### Common Elements

The common elements shall include the limited common elements described in Exhibit D, and all portions of the Project other than the apartments, including specifically, but not limited to:

- (a) The Land described in Exhibit "A" attached to the Declaration, in fee simple;
- (b) All foundational floor slabs, beams, columns, supports, girders, unfinished perimeter and load-bearing walls, walkways, ramps, fences, railings (except railings in a lanai of a Hotel/Residential Apartment or the Hotel Apartment), and roofs;
- (c) The parking areas, driveways, concrete sidewalks, roadways, pathways and walkways;
- (d) All ducts, electrical equipment, wiring, pipes, and other central and appurtenant transmission facilities and installations over, under, and across the Project which serve more than one apartment for services such as power, light, water, sewer, refuse, drainage, telephone, gas, radio and television signal distribution;
- (e) The basements, roofs, yards, gardens, landscaped areas, gazebos, recreational facilities, swimming and decorative pools and other water features, and storage spaces;
- (f) Central and appurtenant installations for services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, and incinerators;
- (g) The elevators, tanks, pumps, motors, fans, compressors, and ducts; and
- (h) Any and all other apparatus and installations of common use, and all other parts of the Project necessary or convenient to its existence, maintenance, and safety, or normally in common use.

## EXHIBIT D

### Limited Common Elements

Certain parts of the common elements (the "limited common elements"), are designated and set aside for the exclusive use of certain apartments, and such apartments shall have appurtenant thereto exclusive easements for the use of such limited common elements. There are two types of limited common elements. The first type is an improvement such as a parking stall or mailbox where the cost to repair or maintain can be effectively segregated to the apartment to which the limited common element is appurtenant ("Hotel/Residential Elements - Separate" or "Hotel Elements - Separate"). The second type is an improvement such as the gas storage tank and general gas line which services all 37 Hotel/Residential Apartments, or costs to provide landscape maintenance for the Project which cannot be effectively segregated to a Hotel/Residential or Hotel apartment except on a prorata percentage common interest basis ("Hotel/Residential Elements - General" or "Hotel Elements - General").

(a) Hotel/Residential Elements.

- (1) The following limited common elements ("Hotel/Residential Elements - Separate") shall be appurtenant to and reserved for the exclusive use of the designated Hotel/Residential Apartment and all costs and expenses of every description pertaining thereto ("Hotel/Residential Expenses - Separate"), including, but not limited to, the cost of maintenance, repair, and replacement of, and the making of any additions and improvements to, and the cost of administering and operating, including the cost of any security arrangements and the cost of utility services shall be charged to and borne by each owner of the designated Hotel/Residential Apartment:
  - (A) Two parking stalls as shown on the Condominium Map are appurtenant to each Hotel/Residential Apartment, as set forth in Exhibit "B" of the Declaration and on the Condominium Map; and
  - (B) One mailbox is appurtenant to each Hotel/Residential Apartment, and is designated by the apartment number to which it is appurtenant; and
  - (C) The walkways leading directly from the pathway system to the front entry and also to and including the stairs to the pool court of a Hotel/Residential Apartment is appurtenant to the Hotel/Residential Apartment to which the front and back walkway provides access as shown on the Condominium Map; and
  - (D) The air conditioning equipment and ducts outside of and connected to a Hotel/Residential Apartment, and designated by the apartment number to which it is appurtenant; and
  - (E) Trash storage and disposal equipment located outside of each Hotel/Residential Apartment, and designated by the apartment number to which it is appurtenant; and
- (2) The following limited common elements ("Hotel/Residential Elements - General") shall be appurtenant to and reserved for the exclusive use of all or two or more Hotel/Residential Apartments and all costs and expenses of every description pertaining thereto ("Hotel/Residential Expenses - General"), including, but not limited to, the cost of

maintenance, repair, and replacement of, and the making of any additions and improvements to, and the cost of administering and operating shall be charged to and borne by the owner of a Hotel/Residential Apartment involved in the percentage in which the common interest appurtenant to his apartment bears to the total common interest of all Hotel/Residential Apartments that are involved:

- (A) The walkways leading directly from the pathway system to the front entry and also to and including the stairs to the pool court of two Hotel/Residential Apartments are appurtenant to the two Hotel/Residential Apartments to which the front and back walkways provide access as shown on the Condominium Map;
- (B) The gas storage tank and lines connecting the tank and each Hotel/Residential Apartment.

The Hotel/Residential Elements - Separate and Hotel/Residential Elements - General are collectively referred to herein as Hotel/Residential Elements.

(b) Hotel Elements.

- (1) The following limited common elements ("Hotel Elements - Separate") shall be appurtenant to and reserved for the exclusive use of the designated Hotel Apartment, and all costs and expenses of every description pertaining thereto ("Hotel Expenses - Separate"), including, but not limited to, the cost of maintenance, repair, and replacement of, and the making of any additions and improvements to, and the cost of administration and operating, including the cost of any security arrangements, and the cost of utility services, shall be charged to and borne by the owner of the designated Hotel Apartment:
  - (A) The parking stalls that are appurtenant to each Hotel Apartment as set forth in Exhibit "C" of the Declaration;
  - (B) The mailbox located in Hotel Apartment H-2 and designated by the hotel apartment number to which it is appurtenant.
- (2) The following limited common elements ("Hotel Elements - General") shall be appurtenant to and reserved for the exclusive use of each Hotel Apartment, and all costs and expenses of every description pertaining thereto ("Hotel Expenses - General"), including, but not limited to, the cost of maintenance, repair, and replacement of, and the making of any additions and improvements to, and the cost of administering and operating, including the cost of any security arrangements, and the cost of utility services, shall be charged to and borne by each owner of a Hotel Apartment in the percentage in which the common interest appurtenant to his apartment bears to the total common interests of all Hotel Apartments:
  - (A) All of the rooms, spaces or areas located in the Hotel Building that are not hotel rooms or are not highlighted or darkened on Sheets CPR 14.1 to 21, inclusive, of the Condominium Map including, but not limited to:
    - (i) The elevators, elevator shafts and elevator lobbies;
    - (ii) The linen and trash chutes;

- (iii) Stairwells;
  - (iv) The stairways, hallways, corridors, vestibules and restrooms;
  - (v) The foyers;
  - (vi) Utility rooms and telephone areas;
  - (vii) Housekeeping Rooms;
  - (viii) Electrical Rooms and Elevator Machine Room;
  - (ix) Storage Rooms, Vending Rooms;
  - (x) Janitorial areas;
  - (xi) Emergency Generator Room;
  - (xii) Transformer Room;
  - (xiii) Dry Storage;
  - (xiv) The Porte Cochere and Lobbies; and
  - (xv) Any other room, area, or space in the Hotel Building that is not included in the Hotel Apartment; and
- (B) Casbah Pool, Hotel Pool Bar, Towel Pavilion, Gazebo, swimming and decorative pools and other water features, including the equipment and facilities required for their operation (excluding the pool and pool court in a Hotel/Residential Apartment) on the Land and shown on the Condominium Map; and
  - (C) The grounds, yards, gardens, pathways, landscaped areas in or on the Land and shown on the Condominium Map;
  - (D) Any and all other apparatus or installations or any part of the Project that is necessary or convenient to the existence, maintenance and safety or normally in common use with the above-described Hotel Elements.

The Hotel Elements - Separate and Hotel Elements - General are collectively referred to herein as Hotel Elements.

The respective portions of the Hotel Elements shall not be deemed to include any portion of the common elements which is a Hotel/Residential Element or the undecorated or unfinished walls, the floors and ceilings surrounding the Hotel Elements, unless such walls, floors or ceilings have no finished or decorated surfaces in which case the Hotel Elements shall be deemed to include the undecorated or unfinished surfaces of such walls, floors or ceilings. The Hotel Elements shall include all the walls and partitions which are not load bearing within the Hotel Elements, all doors within or opening into the Hotel Elements (excluding the finished exterior surfaces of entry doors), all windows and perimeter glass, the inner decorated or finished surfaces of all walls, floors and ceilings and all fixtures and equipment contained in the Hotel Elements.

EXHIBIT E

Percentage Common Interest

HOTEL/RESIDENTIAL APARTMENTS

| <u>Apt. Number</u> | <u>Apt. Type</u> | <u>Percentage Common Interest</u> |
|--------------------|------------------|-----------------------------------|
| V1                 | A-R              | .463802%                          |
| V2                 | C                | .485976%                          |
| V3                 | C-R              | .485976%                          |
| V4                 | B                | .432094%                          |
| V5                 | B-R              | .432094%                          |
| V6                 | C                | .485976%                          |
| V7                 | C-R              | .485976%                          |
| V8                 | A                | .463802%                          |
| V9                 | A-R              | .463802%                          |
| V10                | C                | .485976%                          |
| V11                | C-R              | .485976%                          |
| V12                | B                | .432094%                          |
| V13                | B-R              | .432094%                          |
| V14                | A                | .463802%                          |
| V15                | A-R              | .463802%                          |
| V16                | B-R              | .432094%                          |
| V17                | B                | .432094%                          |
| V18                | B-R              | .432094%                          |
| V19                | C                | .485976%                          |
| V20                | C-R              | .485976%                          |
| V21                | A                | .463802%                          |
| V22                | A-R              | .463802%                          |
| V23                | B                | .432094%                          |
| V24                | B-R              | .432094%                          |
| V25                | C                | .485976%                          |
| V26                | C-R              | .485976%                          |
| V27                | B                | .432094%                          |
| V28                | B-R              | .432094%                          |
| V29                | B                | .432094%                          |
| V30                | B-R              | .432094%                          |
| V31                | A                | .463802%                          |
| V32(HC)            | A-R HC           | .463802%                          |
| V33                | C                | .485975%                          |
| V34                | C-R              | .485975%                          |
| V35                | B                | .432094%                          |
| V36                | B-R              | .432094%                          |
| V37                | A                | .463802%                          |
| <b>Total</b>       |                  | <b>16.95114%</b>                  |

HOTEL APARTMENTS

| <u>Apt. Number</u> | <u>Percentage Common Interest</u> |
|--------------------|-----------------------------------|
| H-1                | 17.88993%                         |
| H-2                | 5.57888%                          |
| H-3                | 4.67283%                          |
| H-4                | 10.08509%                         |
| H-5                | 15.37736%                         |
| H-6                | 11.23506%                         |
| H-7                | <u>18.20971%</u>                  |
| <b>Total</b>       | <b>83.04886%</b>                  |

Total A units = 10 apartments  
 B units = 15 apartments  
 C units = 12 apartments  
 Total 37 apartments

## EXHIBIT F

### Encumbrances Against Title

The Status Title Report by Title Guaranty of Hawaii, Incorporated, dated December 24, 1992, reflects that fee simple title to the land is held by Kea Lani Hotel Partners, a Hawaii limited partnership.

Said Status Title Report and Developer's report show title to the property to be subject to the following encumbrances (together with a statement relating to those encumbrances) which, in the Developer's judgment, may have a material impact on the Project or the rights and obligations of apartment owners:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. Location of the seaward boundary in accordance with the laws of the State of Hawaii and shoreline setback line in accordance with County regulation and/or ordinance and the effect, if any, upon the area of the land described herein.

*[The laws of the State of Hawaii provide that the boundary of an oceanfront lot, particularly a lot with a sand beach frontage, can change due to wave action. This means that the area of the lot on which the Project is built can increase or decrease from time to time.]*

3. Easements for drainage purposes over Lot 335-A, besides other land, in favor of the County of Maui, appurtenant to Lots 4, 5, 6, 8, 10 and 12, as shown on Map 4, as set forth in Deed dated April 18, 1973, filed in said Office of the Assistant Registrar as Document No. 626880.
4. Designation of Easement "128" as shown on Maps 21 and 63, as set forth by Land Court Order No. 50723, filed July 25, 1978.
5. Designation of Easement "151" as shown on Maps 28 and 63, as set forth by Land Court Order No. 55428, filed January 8, 1980.
6. Designation of Easement "241" as shown on Maps 45 and 63, as set forth by Land Court Order No. 79883, filed August 27, 1986.
7. Designation of Easement "242" as shown on Maps 45 and 63, as set forth by Land Court Order No. 79883, filed August 27, 1986.
8. Designation of Easement "243" as shown on Maps 45 and 63, as set forth by Land Court Order No. 79883, filed August 27, 1986.
9. Designation of Easement "244" as shown on Maps 45 and 63, as set forth by Land Court Order No. 79883, filed August 27, 1986.
10. Covenants, conditions and restrictions set forth in Site E Declaration of Covenants and Restrictions (Shoreline Setback) dated June 7, 1988, filed in said Office of the Assistant Registrar as Document No. 1556217.

*[This Declaration establishes building setbacks from the shoreline of 150 feet for the Villa apartments and 300 feet for the main hotel building. Any rebuilding of the Villa units and the main hotel building must comply with these setbacks.]*

11. Reservation as set forth in Deed dated October 28, 1988, filed in said Office of the Assistant Registrar as Document No. 1589264, to-wit:

"Excepting and Reserving, however, unto the Grantor:

1. Easements and the right to grant to others easements over, under and through the land in accordance with and subject to the provisions of Article IV of that certain Additional Declaration of Covenants and Restrictions dated October 28, 1988, filed in said Office of the Assistant Registrar as Document No. 1589263 (the "Declaration").
2. All rights of the Grantor as "Declarant" under the Declaration.
3. All rights of the Grantor under that certain Wailea Community association Declaration of Covenants and Restrictions dated December 19, 1986, filed in said Office of the Assistant Registrar as Document No. 1427923.

*[WAILEA COMMUNITY ASSOCIATION. The Apartment and the Project are subject to the Wailea Community Association Declaration of Covenants and Restrictions dated December 19, 1986, filed as Document No. 1427923 and Additional Declaration of Covenants and Restrictions dated October 28, 1988, filed as Document No. 1589263 (herein collectively called "Wailea Declarations"). The Wailea Declarations were established to (a) provide for the operation, management, administration, maintenance and landscaping of various common property (as defined therein) including but not limited to: a 13-acre park, and the roadsides of major arterial public or private roads, by and through the Wailea Community Association (herein "Association") and (b) establish criteria for the development, repair, maintenance, renovation, rebuilding and restoration of the Wailea Project (as defined therein), which includes the Apartment and Project, in particular the exterior of all improvements, and (c) enforce the various Covenants and Restrictions, one of which prohibits time share ownership plan or time share use plan, and (d) assess and collect general or special assessments to pay for the expenses of the Association. General assessments are determined and charged on a calendar year basis, which for 1993 totals \$240.00 per villa apartment. Upon recordation of the deed to the Apartment in favor of Buyer, Buyer automatically becomes a member of the Association and the ownership of the Apartment is subject to the Wailea Declarations, including payment of all assessments. Failure to pay the general or special assessments may result in legal proceedings to place a lien on the apartment of a delinquent owner or to foreclose the interest of a delinquent owner in the apartment. The closing costs include payment of the Association assessments for the balance of the calendar year. Buyer agrees to assume and comply with the terms and conditions of the Wailea Declarations and indemnifies and holds Seller harmless from any breach or default on the part of Buyer of the Wailea Declarations.]*

12. Designation of Easement "317" as shown on Map 63, as set forth by Land Court Order No. 93519, filed May 2, 1989.
13. Designation of Easement "318" as shown on Map 63, as set forth by Land Court Order No. 93519, filed May 2, 1989.
14. Designation of Easement "319" as shown on Map 64, as set forth by Land Court Order No. 95031, filed September 12, 1989.
15. Covenants, conditions and restrictions set forth in Wailea Community Association Declaration of Covenants and Restrictions dated December 19, 1986, filed in said Office of the Assistant Registrar as Document No. 1427923. Additional Declaration of Covenants and Restrictions dated October 28, 1988, filed in said Office of the Assistant Registrar as Document No. 1589263.

*[See comment on "Wailea Community Association" set forth in paragraph 11 above.]*

16. Subdivision Agreement (Three Lots or Less) dated October 20, 1987, filed in said Office of the Assistant Registrar as Document No. 1507954, by and between Wailea Development Company, Inc. and the County of Maui.

17. That certain Mortgage, Security Agreement and Financing Statement dated June 28, 1989, filed in said Office of the Assistant Registrar as Document No. 1645747.

*[The Project is presently subject to two mortgage loans. The Buyer's interest is subject to the interest of the holders of the respective mortgages. Among other things, this means that if the Developer defaults, the mortgage lenders may take over the Project, the Buyer's deposit may not be returned and the Buyer may lose all rights to acquire the apartment.]*

*The mortgages will be 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 mortgages.]*

18. The terms and conditions contained in that certain unrecorded written Hotel Management Agreement dated June 28, 1989, by and between Woolley/Sweeney Hotel Number 12, a Hawaii limited partnership, ("Owner"), and Sweeney Hotels International, Inc., a Hawaii corporation, ("Operator"); re: Owner has agreed to retain Operator as manager of, and Operator has agreed to manage, that certain all-suite hotel containing approximately 410 suites and 40 villas, to be constructed on the premises hereinabove described, for a term of 20 years from the Opening Date (as defined in the Management Agreement) with two (2) options to extend of twenty (20) years each; of which a Short Form Memorandum of Hotel Management Agreement is dated June 28, 1989, filed in said Office of the Assistant Registrar as Document No. 1645748.

By Subordination Agreement dated February 24, 1992, filed in said Office of the Assistant Registrar as Document No. 1891225, said above Hotel Management Agreement was subordinated to the lien of that certain Mortgage filed as Land Court Document No. 1891224.

*[By Consent, Joinder and Partial Release dated April 22, 1993, and filed as Land Court Document No. 2019351, Sweeney Hotels International, Inc. confirms that the Hotel Management Agreement shall be released on an apartment-by-apartment basis at closing so that the Villa apartment being purchased shall not be subject to the Hotel Management Agreement.]*

19. Notice to all Owners/Developers/Authorized Agents dated August 11, 1989, recorded in the Bureau of Conveyances of the State of Hawaii, in Liber 23090, Page 25; re: acknowledgment of acceptance of building permit on certain conditions. (Not noted on Transfer Certificate of Title referred to herein.)

20. Notice to all Owners/Developers/Authorized Agents dated ---, recorded in the Bureau of Conveyances of the State of hawaii, in Liber 23868, Page 384; re: acknowledgment of acceptance of building permit on certain conditions. (Not noted on Transfer Certificate of Title referred to herein.)

21. Agreement dated August 22, 1991, between Woolley/ Sweeney Hotel Number 12, a limited partnership, "Developer", and the Department of Water Supply of the County of Maui, "Department", relating to Employee Housing, recorded in said Bureau of Conveyances Document No. 91-122274.

22. Agreement dated September 20, 1991, between Woolley/ Sweeney Hotel Number 12, a Hawaii limited partnership, "Developer", and the County of Maui, a political subdivision of the State of Hawaii, through its Department of Public Works, "Department", relating

to Employee Housing, recorded in said Bureau of Conveyances as Document No. 91-152349.

23. That certain Mortgage, Security Agreement and Financing Statement dated February 24, 1992, in favor of The Mitsui Trust & Banking Co., Ltd., a Japan corporation, filed in said Office of the Assistant Registrar as Document No. 1891224.

*[The Project is presently subject to two mortgage loans. The Buyer's interest is subject to the interest of the holders of the respective mortgages. Among other things, this means that if the Developer defaults, the mortgage lenders may take over the Project, the Buyer's deposit may not be returned and the Buyer may lose all rights to acquire the apartment.]*

*The mortgages will be 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 mortgages.]*

24. Notice of Pendency of Action dated June 3, 1992, filed in said Office of the Assistant Registrar as Document No. 1920716, filed as M. L. No. 92-0025 (1) in the Circuit Court of the Second Circuit, State of Hawaii; Gunco, Inc., "Lienor", vs. Woolley/Sweeney Hotel Number 12, a Hawaii partnership, Sweeney Development Company, Inc., a Hawaii corporation, Sweeney Development Corporation, et al., "Respondents".

*[The Project is presently subject to a mechanics' and materialmen's lien. The Buyer's interest is subject to the interest of the lienholder. Among other things, this means that if the Developer fails to remove the lien, the lienholder may take over the Project, the Buyer's deposit may not be returned and the Buyer may lose all rights to acquire the apartment. However, because of the amount of the lien and the total value of the Project, it is not likely that the lienholder will take over the Project.]*

*The lien will be released so that individual apartments can be conveyed to the Buyers free and clear of the lien.]*

25. Unrecorded Lease dated July 13, 1992, by and between Kea Lani Hotel Partners, a Hawaii limited partnership, formerly known as Woolley/Sweeney Hotel Number 12, as Landlord, and Wailea Niju-ichi Corporation, a Japan Corporation, as Tenant, for a term of 50 years commencing on July 13, 1992, and ending on July 12, 2042, a Memorandum of which was filed as Land Court Document No. 1971316.

26. Unrecorded Space Sublease dated July 13, 1992, by and between Wailea Niju-ichi Corporation, a Japan corporation, as Landlord, and Kea Lani Hotel Partners, a Hawaii limited partnership, formerly known as Woolley/Sweeney Hotel Number 12, as Tenant, for a term of 1 day less than 50 years commencing on July 13, 1992 and ending on July 11, 2042, unless sooner terminated as therein provided, a Memorandum of which is filed as Land Court Document No. 1971317.

*[By Consent and Joinder filed as Land Court Document Nos. 2019350 and 2019352, respectively, Kea Lani Hotel Partners and Wailea Niju-ichi Corporation confirm that the above-mentioned unrecorded lease and space sublease apply to the main hotel building and do not affect the Villa apartments.]*

*The apartments will be conveyed free and clear of these leases.]*

27. The restrictions on use and other restrictions and all other of the covenants, agreements, obligations, conditions, reservations, easements and other provisions set forth in Declaration of Condominium Property Regime dated November 27, 1992, filed in said Office of the Assistant Registrar as Document No. 1978657, as the same are or may hereafter be amended in accordance with law or with said Declaration. (Project covered by Condominium Map No. 941).

28. By-Laws of the Association of Apartment Owners of the condominium project known as "KEA LANI", dated November 27, 1992, filed in said Office of the Assistant Registrar as Document No. 1978660, as the same may hereafter be amended.
29. For any real property taxes that may be due and owing, reference is made to the Office of the Tax Assessor of the County of Maui.

**EXHIBIT G**

**KEA LANI CONDOMINIUM**

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

**Estimate of Initial Maintenance Fees:\***

|                             | <u>Apartment</u>     | <u>Monthly Fee x 12 months =</u> | <u>Yearly Total</u>        |
|-----------------------------|----------------------|----------------------------------|----------------------------|
| <b>Villas</b>               | V1                   | \$115.06                         | \$1,380.72                 |
|                             | V2                   | 119.66                           | 1,435.92                   |
|                             | V3                   | 119.66                           | 1,435.92                   |
|                             | V4                   | 108.47                           | 1,301.64                   |
|                             | V5                   | 108.47                           | 1,301.64                   |
|                             | V6                   | 119.66                           | 1,435.92                   |
|                             | V7                   | 119.66                           | 1,435.92                   |
|                             | V8                   | 115.06                           | 1,380.72                   |
|                             | V9                   | 115.06                           | 1,380.72                   |
|                             | V10                  | 119.66                           | 1,435.92                   |
|                             | V11                  | 119.66                           | 1,435.92                   |
|                             | V12                  | 108.47                           | 1,301.64                   |
|                             | V13                  | 108.47                           | 1,301.64                   |
|                             | V14                  | 115.06                           | 1,380.72                   |
|                             | V15                  | 115.06                           | 1,380.72                   |
|                             | V16                  | 108.47                           | 1,301.64                   |
|                             | V17                  | 108.47                           | 1,301.64                   |
|                             | V18                  | 108.47                           | 1,301.64                   |
|                             | V19                  | 119.66                           | 1,435.92                   |
|                             | V20                  | 119.66                           | 1,435.92                   |
|                             | V21                  | 115.06                           | 1,380.72                   |
|                             | V22                  | 115.06                           | 1,380.72                   |
|                             | V23                  | 108.47                           | 1,301.64                   |
|                             | V24                  | 108.47                           | 1,301.64                   |
|                             | V25                  | 119.66                           | 1,435.92                   |
|                             | V26                  | 119.66                           | 1,435.92                   |
|                             | V27                  | 108.47                           | 1,301.64                   |
|                             | V28                  | 108.47                           | 1,301.64                   |
|                             | V29                  | 108.47                           | 1,301.64                   |
|                             | V30                  | 108.47                           | 1,301.64                   |
|                             | V31                  | 115.06                           | 1,380.72                   |
|                             | V32(HC)              | 115.06                           | 1,380.72                   |
|                             | V33                  | 119.66                           | 1,435.92                   |
|                             | V34                  | 119.66                           | 1,435.92                   |
|                             | V35                  | 108.47                           | 1,301.64                   |
|                             | V36                  | 108.47                           | 1,301.64                   |
|                             | V37                  | 115.06                           | 1,380.72                   |
|                             | <b>Villas Totals</b> | <b><u>\$ 4,213.57</u></b>        | <b><u>\$ 50,562.84</u></b> |
| <b>Hotel<br/>Apartments</b> | H-1                  | \$4,129.27                       | \$49,551.24                |
|                             | H-2                  | 1,224.72                         | 14,696.64                  |
|                             | H-3                  | 929.93                           | 11,159.16                  |
|                             | H-4                  | 1,947.82                         | 23,373.84                  |
|                             | H-5                  | 3,044.95                         | 36,539.40                  |
|                             | H-6                  | 2,122.04                         | 25,464.48                  |
|                             | H-7                  | 4,204.71                         | 50,456.52                  |
|                             |                      | <b>Hotel Apartments Totals</b>   | <b><u>\$17,603.44</u></b>  |
|                             | <b>GRAND TOTALS</b>  | <b><u>\$21,817.01</u></b>        | <b><u>\$261,804.12</u></b> |

\*See attached Notes re Estimate of Maintenance Fees

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

# KEA LANI CONDOMINIUM

## Estimate of Maintenance Fee Disbursements

|                                            |                                  | <u>VILLAS</u>         |             | <u>HOTEL</u>          |              | <u>YEARLY</u> |
|--------------------------------------------|----------------------------------|-----------------------|-------------|-----------------------|--------------|---------------|
|                                            |                                  | <u>Monthly/Yearly</u> |             | <u>Monthly/Yearly</u> |              | <u>TOTALS</u> |
| <u>Utilities &amp; Services</u>            |                                  |                       |             |                       |              |               |
| 1                                          | Air Conditioning                 | 0                     | 0           | 0                     | 0            | 0             |
| 2                                          | Cable TV**                       | \$ 691.90             | \$8,302.80  | \$7,722.25            | \$92,667.00  | 100,969.80    |
| 3                                          | Electricity                      | 0                     | 0           | 0                     | 0            | 0             |
| 4                                          | Gas                              | 416.67                | 5,000.00    | 0                     | 0            | 5,000.00      |
| 5                                          | Refuse Collection                | 186.46                | 2,237.55    | 913.54                | 10,962.45    | 13,200.00     |
| 6                                          | Sewer                            | 0                     | 0           | 0                     | 0            | 0             |
| 7                                          | Telephone                        | 5.93                  | 71.20       | 29.07                 | 348.80       | 420.00        |
| 8                                          | Water                            | 0                     | 0           | 0                     | 0            | 0             |
| <u>Maintenance, Repairs &amp; Supplies</u> |                                  |                       |             |                       |              |               |
| 9                                          | Trash Pick up                    | 608.34                | 7,300.00    | 0                     | 0            | 7,300.00      |
| 10                                         | Supplies                         | 166.67                | 2,000.00    | 0                     | 0            | 2,000.00      |
| 11                                         | Equipment                        | 166.67                | 2,000.00    | 0                     | 0            | 2,000.00      |
| 12                                         | Pest Control                     | 146.67                | 1,760.00    | 0                     | 0            | 1,760.00      |
| <u>Management</u>                          |                                  |                       |             |                       |              |               |
| 13                                         | Admin. & Gen.                    | 233.08                | 2,796.94    | 1,141.92              | 13,703.06    | 16,500.00     |
| 14                                         | Management Fees                  | 176.63                | 2,119.57    | 865.37                | 10,384.43    | 12,504.00     |
| 15                                         | Office Expenses                  | 16.95                 | 203.41      | 83.05                 | 996.59       | 1,200.00      |
| <u>Insurance</u>                           |                                  |                       |             |                       |              |               |
| 16                                         | Property                         | 1,195.62              | 14,347.44   | 5,857.71              | 70,292.56    | 84,640.00     |
| 17                                         | Liability                        | 42.38                 | 508.53      | 207.62                | 2,491.47     | 3,000.00      |
| 18                                         | Fidelity                         | 14.13                 | 169.51      | 69.21                 | 830.49       | 1,000.00      |
| 19                                         | D. & O.                          | 38.14                 | 457.68      | 186.86                | 2,242.32     | 2,700.00      |
| 20                                         | Reserves                         | 70.63                 | 847.56      | 346.04                | 4,152.44     | 5,000.00      |
| 21                                         | Taxes and Government Assessments | 0                     | 0           | 0                     | 0            | 0             |
| 22                                         | Audit Fees                       | 36.73                 | 440.73      | 179.94                | 2,159.27     | 2,600.00      |
| <hr/>                                      |                                  |                       |             |                       |              |               |
| Totals                                     |                                  | \$4,213.60            | \$50,562.92 | \$17,602.58           | \$211,230.88 | \$261,793.80  |

We, SWEENEY HOTELS INTERNATIONAL, INC., hotel manager 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.

SWEENEY HOTELS INTERNATIONAL, INC.

By Mani S. Szepanski  
Date: 9/22/92

\*\*Assumes all units are activated in the Hotel Apartment.

### Maintenance Fee Calculations

The formula used to compute the maintenance fees is as follows:

- 1) Determine which fees and expenses are attributable to the Hotel/Residential Apartments and/or only to the Hotel Apartments and which fees and expenses will be shared between the Hotel/Residential and Hotel Apartments. For example, the cable tv expense is a flat charge, so the Hotel/Residential Apartments pay their respective portion separately.
- 2) For those fees and expenses that will be shared between the Hotel/Residential and Hotel Apartments, prorate each fee and expense according to the percentage undivided interest in the aggregate, i.e., Hotel Apartments 83.04886%, Hotel/Residential Apartments 16.95114%.

- a) After determining the monthly fees and expenses attributable to the Hotel/Residential Apartments, prorate the same for a Hotel/Residential Apartment as follows:

Divide the percentage undivided interest for such apartment by 16.95114% (which is the total, in the aggregate, of the percentage undivided interests for the 37 Hotel/Residential Apartments) times the total monthly fee or expense to be shared by the 37 Hotel/Residential Apartments, then add the unit cost for the cable tv charge to the total. See the following example for a Type A unit:

$$\begin{array}{r}
 \$4,213.60 \text{ (Total monthly fees and expenses for Hotel/Residential Apartments,} \\
 \text{excluding items which are billed separately)} \\
 - \underline{691.90} \text{ (Total cable tv charges for Hotel/Residential Apartments)} \\
 \hline
 \$3,521.70
 \end{array}$$

$$\begin{array}{r}
 \frac{.463802\%}{16.95114\%} = .0273611 \times \$3,521.70 = \$96.36 \\
 + \underline{18.70} \text{ (cable tv mo. fee)} \\
 \hline
 \$115.06 \text{ (monthly maintenance fee,} \\
 \text{excluding items which are} \\
 \text{billed separately)}
 \end{array}$$

- b) After totaling the monthly fees and expenses attributable to the Hotel Apartments, prorate the same for a Hotel Apartment as follows:

Divide the percentage undivided interest for such apartment by 83.04886% (which is the total, in the aggregate, of the percentage undivided interests for the 7 Hotel Apartments) times the total monthly fee for the 7 Hotel Apartments excluding the cable TV cost, then add the unit cost for the cable tv x the number of cable tv's in the particular hotel apartment to the total. See the following example for Hotel Apartment H-1:

$$\begin{array}{r}
 \$17,602.58 \text{ (Total monthly fees and expenses for Hotel Apartments, excluding} \\
 \text{items which are billed separately)} \\
 - \underline{7,722.25} \text{ (Total cable tv charges for Hotel Apartments)} \\
 \hline
 \$9,880.33
 \end{array}$$

$$\frac{17.88993\%}{83.04886\%} = .21541451622 \times \$9,880.33 = \$2,128.37$$

$$\$18.70 \times 107 \text{ cable tv's in Hotel Apartment H-1} = \underline{2,000.90}$$

$$\begin{array}{r}
 \text{Monthly maint. fee for Hotel Apt. H-1} \\
 \text{(excluding items which are billed separately)}
 \end{array}
 \quad
 \$4,138.27$$

EXHIBIT H

Construction Warranties

Developer anticipates BUT DOES NOT WARRANT that the construction contract(s) for the Project will contain a clause which provides in pertinent part that:

"If any defective installation of any materials or equipment installed by Contractor, Subcontractor or Subsubcontractor under [the Construction Contract], or any Work not in accordance with the Contract Documents, shall be discovered within one (1) year or within such longer period of time as may be prescribed by law, or by the terms of any applicable warranty required by the Contract Documents, from the date of Substantial Completion..., Contractor will, at Contractor's own cost and expense, after receipt of written notice from Owner, promptly correct the same unless Owner has previously given Contractor a written acceptance of such condition."

Developer makes no warranties itself, but developer agrees that the closing of the sale of the Apartment shall constitute an assignment by developer to purchaser of any and all warranties given developer by the contractor(s) for the Project, including any contractor's agreement to promptly correct any of its work found to be defective or not in conformance with the Construction Contract following the "Date of Substantial Completion of the Apartment", as defined in the Construction Contract. The benefit of such agreement shall accrue to purchaser on closing without further instruments or documents. Developer hereby agrees to cooperate with purchaser during the effective period of such agreement in asserting any claims based on any such warranty. Purchaser acknowledges and agrees that developer is not adopting the contractor's warranty or acting as co-warrantor but is merely attempting to pass through to purchaser the benefit of such contractor's warranty, if any.

The closing of the sale of the Apartment shall also constitute the assignment by developer to purchaser, for the unexpired term, if any, of any manufacturer's or dealer's warranties covering any furnishings, fixtures and appliances that are part of the Apartment. Purchaser acknowledges that developer is only passing through to purchaser any such manufacturer's or dealer's warranties; developer is not adopting any such warranties or acting as co-warrantor with respect to any furnishings, fixtures or appliances. The terms of the manufacturer's or dealer's written warranties are available for purchaser's examination at developer's sales office.

Except for the agreements set forth above, it is expressly understood and agreed by and between developer and purchaser that DEVELOPER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE APARTMENT, OR CONSUMER PRODUCTS OR ANYTHING ELSE INSTALLED IN THE APARTMENT OR IN THE PROJECT, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY, HABITABILITY, WORKMANLIKE CONSTRUCTION OR FITNESS OF THE APARTMENT FOR A PARTICULAR PURPOSE.

\*\*\*\*\*  
THE ATTENTION OF THE PURCHASER IS DIRECTED TO THE GENERAL TERMS AND CONDITIONS OF THE SALES AGREEMENT (INCORPORATED HEREIN BY THIS REFERENCE) PERTAINING TO THE ABSENCE OF REPRESENTATIONS AND WARRANTIES CONCERNING THE APARTMENT, THE PROPERTY, THE PROJECT, ESTIMATED MAINTENANCE FEES AND RENTAL OF THE APARTMENT.  
\*\*\*\*\*

EXHIBIT I

Summary of Pertinent Provisions of Sales Contract

The Sales Contract sets forth the terms and conditions concerning the sale of an apartment in the project for the stated purchase price.

Some of the salient areas of the Sales Contract are:

1. Seller retains certain reserved rights, some of which are:

a. Construction activity by Seller or other apartment owners may continue on the site after Buyer has occupied the Apartment and that this activity may result in noise, dust or other annoyances to Buyer and may limit Buyer's access to portions of the Project.

b. Sales activities, including the use of model apartment units, sign and extensive sales displays and activities, will continue in the Project, and some of the parking spaces in the Project may be used for parking for prospective purchasers until the sale of the last unsold apartment in the Project. If Seller's mortgage lender shall acquire any portion of the Project, the lender may continue such use until all the apartments have been sold and closed.

c. Seller reserves the right for itself, its sales representatives and prospective purchasers to utilize the common elements for ingress and egress to such parking spaces and model apartments and in order to show the common elements to prospective purchasers.

d. Seller reserves the right to offer all or any one of the Hotel Apartments in their entirety or as subdivided as permitted in the Declaration for sale and to conduct extensive sales activities in the Project, including, but not limited to, the reserved powers in (i), (ii) and (iii) above.

e. Seller reserves the right, without the consent or joinder of any other person or entity, including the Association or the Board of Directors or any other Apartment owner, at any time to grant rights of entry to install, construct, relocate or realign and after such work has been completed: (i) to grant easements over, across, and under the common and limited common elements, including, without limitation, easements for utilities, sanitary and storm sewers, water, cable television, walkways, roadways and rights-of-way, and (ii) to relocate or realign, amend or cancel any existing or future easements and rights-of-way over, across and under the common or limited common elements, including, without limitation, any utilities, water, drain and sewer lines, and cable television lines, and connect same, over, across, and under the common or limited common elements, without the prior approval or consent of any owner of the Hotel Apartments or any Hotel/Residential Apartment; provided that such easements and such relocations and connections of lines shall not materially impair or materially interfere with the use of any apartment.

f. Agreement of Sale. Buyer and Seller agree that if Buyer fails for any reason whatsoever to (i) obtain a loan commitment within forty-five (45) days from the date Seller executes the Agreement, or (ii) remove any contingency from its loan commitment or approval by the Date of Closing, or (iii) keep the loan commitment or approval from the Permanent Lender in full force and effect, Seller may elect (in Seller's sole and absolute discretion) to sell the Apartment to Buyer, and Buyer shall thereupon be committed to purchase the Apartment from Seller under an Agreement of Sale in form and content satisfactory to Seller for the purchase price and upon the terms set forth in the Sales Contract.

g. Seller may cancel the Sales Contract if a purchaser does not have the resources to pay the purchase price or does not diligently follow through with an application to finance the purchase price.

2. Interest on Funds. Buyer further agrees that all funds received by Escrow may be held together with other monies received by Escrow. All such funds may be deposited in an interest-bearing account or accounts in a federally insured bank or savings and loan institution with its principal place of business in Honolulu, Hawaii. Buyer shall pay all processing fees required by Escrow for purposes of setting up, maintaining, and closing such account or accounts. All interest earned from such account or accounts from the date of Seller's acceptance of the Agreement shall be credited to Buyer's account, provided that no interest shall be credited to Buyer (1) on funds held by Escrow for less than sixty (60) days, (2) where, pursuant to the terms of the Agreement, the funds are retained by Seller upon Buyer's default hereunder, or (3) for the period prior to Seller's acceptance of the Agreement. Any interest on funds in escrow which is not required by the terms of the Agreement to be credited to the account of Buyer shall be paid to Seller. Buyer and Seller hereby jointly instruct Escrow pursuant to the provisions

of Sections 402-8 and 449-16.5, Hawaii Revised Statutes, as amended, to credit the interest earned in accordance with this paragraph.

3. No Present Transfer; Subordination to Construction Loan. The Agreement shall not be construed as a present transfer of any interest in the Apartment but rather it is an agreement to transfer in the future. Buyer acknowledges that the Project and Seller's interest in the Agreement are subject to existing loans from the Mitsui Trust & Banking Co., Ltd., et al., (the "Lenders"), dated June 28, 1989, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1645747, and dated February 24, 1992, filed in said Office of the Assistant Registrar as Document No. 1891224, pursuant to which the Lenders have loaned funds to Seller to cover construction costs and other associated costs of the Project. To secure the loans, Seller has granted to the Lenders security interests covering Seller's interest in the land and the Project, including the Apartment covered by the Agreement. Buyer acknowledges and agrees that all security interests obtained by the Lenders in connection with such loans, as well as any extensions, renewals and modifications of the security interests, shall be and remain at all times, until the final closing and delivery by Seller of the conveyance document to Buyer, a lien or charge on the Project, including the Apartment covered by the Agreement, prior to and superior to any and all liens or charges on the Project arising from the Agreement or any prior agreement. BUYER INTENTIONALLY WAIVES, RELINQUISHES AND SUBORDINATES THE PRIORITY OR SUPERIORITY OF ANY LIEN OR OTHER LEGAL OR EQUITABLE INTEREST ARISING UNDER THE AGREEMENT IN FAVOR OF THE LIEN OR CHARGE ON THE PROJECT OR THE SECURITY INTERESTS OF THE LENDERS, INCLUDING BUT NOT LIMITED TO ANY LIEN, MORTGAGE, OR OTHER CHARGE SECURING A LOAN MADE TO FINANCE THE ACQUISITION OF SAID LAND AND THE COSTS OF CONSTRUCTION AND OTHER COSTS DURING SUCH CONSTRUCTION AND ANY AND ALL ADVANCES THEREFOR, WHETHER CONTRACTUAL OR VOLUNTARY, UNTIL THE FINAL CLOSING AND DELIVERY BY SELLER OF AN APARTMENT DEED TO BUYER. Buyer further covenants and agrees to execute any further documentation or subordination agreement required by the Lenders to evidence this subordination and hereby irrevocably appoints Seller as Buyer's attorney-in-fact to execute any such instrument on behalf of Buyer, should Buyer fail or refuse to deliver the same within ten (10) days after request is made. Said power of attorney is coupled with an interest, shall be irrevocable, and shall not be affected by the death or disability of Buyer.

Buyer also consents to Seller's assignment to Lenders, as security, of Seller's interests in the Agreement and Buyer's deposits with Escrow, and agrees that in the event Lenders (or their respective successors in interest) acquire Seller's interest therein pursuant to said assignment, that Buyer will, at Lenders' option, perform to, attorn to and recognize Lenders (and their respective successors in interest, if any) as Seller under the Agreement. Buyer further understands and agrees that prior to the consummation of the Agreement and delivery of an Apartment Deed to Buyer, Lenders have the right under certain circumstances to foreclose their respective mortgages and/or enforce their other remedies under the loan documents or the law, and Buyer agrees in such connection that the rights of Buyer under the Agreement are purely contractual in nature, enforceable only against Seller and its legal successors and assigns and not against the real property improvements and/or appurtenances thereto which are the subject of said mortgages or other loan documents. Buyer expressly acknowledges and agrees that Buyer need not be named a party defendant or plaintiff in any cause of action or suit by Lenders to foreclose and/or otherwise enforce their respective rights under said mortgages or other loan documents, nor does Buyer have any right to be served with process in connection with such action or to be notified of the pendency of such action.

4. No Rental Pool. Buyer agrees for the sole benefit of Seller that until Seller has closed out the sale of all the apartments in the Project or until June 30, 1993, or such later date as Seller shall determine, whichever shall first occur, that Buyer will not enter into any "rental pool" or similar agreement with any purchaser, lessee or owner of another apartment in the Project and/or any third party under which Buyer agrees to share expenses and/or rentals of apartments in the Project unless specifically agreed to in writing by Seller. This agreement of Buyer shall survive the issuance to Buyer of the Apartment Deed, and shall bind Buyer's heirs, personal representatives, successors and assigns during the term hereof. In the event of Buyer's breach of the agreement contained in this paragraph, the parties understand and agree that the injury to Seller will be uncertain as to nature and amount and difficult and expensive to ascertain. Therefore, in the event of a breach of said agreement by Buyer, the parties agree that Seller may obtain an injunction from any court of competent jurisdiction enjoining Buyer from breaching said agreement. Seller may, in addition to obtaining injunctive relief, pursue any other remedy, including seeking damages caused by such breach, as are permitted in law or equity. All costs and expenses, including reasonable attorneys' fees, incurred by Seller in connection with a breach of said agreement by Buyer, shall be borne by Buyer.

5. No Rental Representations. Buyer acknowledges that neither Seller nor any of its representatives has made any representation or reference as to rental of the Apartment, income from the Apartment or any other economic benefit to be derived from the rental of the Apartment, including, but

not limited to, any reference or representation to the effect that Seller or any affiliate of Seller will provide, directly or indirectly, any services relating to the rental of the Apartment. It is understood and agreed that rental or other disposition of the Apartment and the provisions of management services in connection with any such rental is and shall be the sole responsibility of Buyer.

6. Prohibition Against Assignment. Buyer may not at any time assign its rights or obligations under the Agreement.

7. Wailea Community Association. The Apartment and the Project are subject to the Wailea Community Association Declaration of Covenants and Restrictions dated December 19, 1986, filed as Document No. 1427923 and Additional Declaration of Covenants and Restrictions dated October 28, 1988, filed as Document No. 1589263 (herein collectively called "Wailea Declarations"). The Wailea Declarations were established to (a) provide for the operation, management, administration, maintenance and landscaping of various common property (as defined therein) including but not limited to: a 13-acre park, and the roadsides of major arterial public or private roads, by and through the Wailea Community Association (herein "Association") and (b) establish criteria for the development, repair, maintenance, renovation, rebuilding and restoration of the Wailea Project (as defined therein), which includes the Apartment and Project, in particular the exterior of all improvements, and (c) enforce the various Covenants and Restrictions, and (d) assess and collect general or special assessments to pay for the expenses of the Association. General assessments are determined and charged on a calendar year basis, which for 1993 totals \$240.00 per villa apartment. Upon recordation of the deed to the Apartment in favor of Buyer, Buyer automatically becomes a member of the Association and the ownership of the Apartment is subject to the Wailea Declarations, including payment of all assessments. Failure to pay the general or special assessments may result in legal proceedings to place a lien on the apartment of a delinquent owner or to foreclose the interest of a delinquent owner in the apartment. The closing costs include payment of the Association assessments for the balance of the calendar year. Buyer agrees to assume and comply with the terms and conditions of the Wailea Declarations and indemnifies and holds Seller harmless from any breach or default on the part of Buyer of the Wailea Declarations.

8. The closing date shall be ninety (90) days after the date Seller has accepted the Sales Contract.

This is a summary of selected portions of the Sales Contract and may be incomplete or inadvertently incorrect. The purchaser is requested to read and understand the terms and conditions of the Sales Contract before executing the Sales Contract.

## EXHIBIT J

### Summary of Pertinent Provisions of Escrow Agreement

The executed escrow agreement dated July 19, 1991, identifies Title Guaranty Escrow Services, Inc., as the "Escrow" and provides that a purchaser shall be entitled to a return of his funds, if any one of the following has occurred:

(a) Developer and the purchaser shall have requested Escrow in writing to return to purchaser the funds of purchaser held under the Escrow Agreement by Escrow; or

(b) Developer shall have notified Escrow of Developer's exercise of the option to cancel or rescind the sales contract pursuant to any right of cancellation or rescission provided therein or otherwise available to Developer; or

(c) With respect to a purchaser whose funds were obtained prior to the issuance of the Final Report, the purchaser has exercised his right to cancel the contract pursuant to §514A-62, Hawaii Revised Statutes, as amended; or

(d) A purchaser has exercised his right to rescind the contract pursuant to §514A-63, Hawaii Revised Statutes, as amended.

In any of the foregoing events, Escrow shall, upon the occurrence of the event described in (a) or (b) above or upon receipt of a written request for a refund from purchaser upon the occurrence of an event described in (c) or (d) above, unless the purchaser has waived or has been deemed to have waived the right to a refund, pay said funds to said purchaser (less a cancellation fee of Escrow of not less than \$25.00 per unit or a cancellation fee commensurate with the work done by Escrow prior to such cancellation, whichever fee is greater and other costs associated with the purchase up to a maximum of \$250.00), and thereupon said sales contract and any conveyance document theretofore delivered to Escrow shall be returned to Developer and shall be deemed no longer held under the Escrow Agreement; provided, however, that no refund shall be made to a purchaser at purchaser's request prior to receipt by Developer of written notice from Escrow of its intent to make such refund.

EXHIBIT K

Building Standards

The Project has been constructed and developed as a first-class luxury resort hotel. As used in the Declaration, a first-class luxury resort hotel shall mean the quality and workmanship in the construction of and materials incorporated into the buildings, furnishings, fixtures and equipment to provide first-class service and amenities to its guests. By way of example, the Grand Hyatt Wailea Hotel, the Stouffer's Wailea Hotel and the Maui Intercontinental Wailea Hotel are representative first-class luxury resort hotels. Any alteration, modification, renovation, replacement or rebuilding of the Project, including an Apartment and the limited common element appurtenant to such Apartment or the common elements shall be done according to the quality of materials and workmanship of a first-class luxury resort hotel, it being understood that repair and maintenance of the original Project according to the original design, materials and workmanship shall comply with this paragraph.

The Association, through the Board of Directors, is authorized to monitor and oversee all work in the Project, whether inside or outside an apartment, and require compliance to this standard, including the power to seek and obtain an injunction against any owner that fails to comply with this standard.