



**REAL ESTATE COMMISSION**  
 STATE OF HAWAII  
 DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
 PROFESSIONAL AND VOCATIONAL LICENSING DIVISION  
 250 SOUTH KING STREET ROOM 702  
 HONOLULU, HAWAII 96813

**CONDOMINIUM PUBLIC REPORT**

KANEPOONUI CONDOMINIUM  
 1420 Kanepoonui Road  
 Kawaihau, Kapaa, Kauai

Registration No. 2785 (Partial Conversion)

Issued: May 18, 1993  
 Expires: June 18, 1994

Report Purpose:

This report is based on information and documents submitted by the developer to the Real Estate Commission as of April 27, 1993, and is issued by the Commission for informational purposes only. It represents neither approval nor disapproval of the project. Buyers are encouraged to read this report carefully. This report also includes information submitted by the Kauai County Planning Department dated 3/12/93.

Type of Report:

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

Disclosure Abstract: Separate Disclosure Abstract on this condominium project:

- Required       Not Required - disclosures covered in this report.

Summary of Changes from Earlier Public Reports:

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

[X ] No prior reports have been issued by the Commission.

[ ] Changes made are as follows:

\* \* \* \* \*

\* SPECIAL NOTICE: \*

\* THERE ARE COUNTY RESTRICTIONS ON THE NUMBER OF RESIDENTIAL DWELLING \*  
\* UNITS, OR OTHER STRUCTURES, WHICH MAY BE BUILT UPON THE PROPERTY. \*  
\* THEREFORE, UNLESS THE PURCHASER IS PURCHASING AN EXISTING \*  
\* RESIDENTIAL DWELLING, THERE IS NO ASSURANCE THAT THE PURCHASER WILL \*  
\* BE ABLE TO BUILD A RESIDENTIAL DWELLING UNIT ON THE PROPERTY. THERE \*  
\* ALSO IS NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO CONVERT AN \*  
\* EXISTING NON-RESIDENTIAL STRUCTURE TO RESIDENTIAL USE. THE \*  
\* PURCHASER SHOULD CONSULT WITH THE APPROPRIATE COUNTY AGENCIES TO \*  
\* DETERMINE WHETHER THE PURCHASER MAY BUILD A RESIDENTIAL DWELLING \*  
\* UNIT, OR ANY OTHER TYPE OF STRUCTURE, UPON THE PROPERTY. \*

\* 1. This Public Report does not constitute an approval of the \*  
\* project by the Real Estate Commission, or any other government \*  
\* agency, nor that all County Codes, Ordinances and subdivision \*  
\* requirements have been complied with. \*

\* 2. This project does not involve the sale of individual subdivided \*  
\* lots. The land area beneath and immediately adjacent to each \*  
\* unit as shown on the Condominium Map is designated as a limited \*  
\* common element for that unit and does not represent a legally \*  
\* subdivided lot. The dotted lines on the Condominium Map merely \*  
\* represent the approximate location of the limited common element \*  
\* assigned to each unit. \*

\* 3. The property is subject to a Farm Dwelling Agreement, which \*  
\* makes the issuance of building permits contingent on the \*  
\* agricultural use of the property. \*

\* The Developer has also executed a Waiver and Release which \*  
\* indemnifies the County of Kauai against any claims arising out \*  
\* of the fact that no water or water service is provided by the \*  
\* County Water Department. It also acknowledges that issuance of \*  
\* building permits for the property shall not be construed as a \*  
\* promise or warranty that such water service will be provided in \*  
\* the future. \*

\* As the Farm Dwelling Agreement and the Waiver and Release are \*  
\* binding on all owners, their agents, successors and assigns, \*  
\* prospective buyers are advised to request copies of these \*  
\* documents from the Developer and review them with care. \*

\* 4. Facilities and improvements normally associated with County \*  
\* approved subdivisions, such as fire protection devices, County \*  
\* street lighting, electricity, upgraded water facilities, \*  
\* improved access for owner and emergency traffic, drainage \*  
\* facilities, etc., may not necessarily be provided for and \*  
\* services such as County street maintenance and trash collection \*  
\* will not be available for interior roads and driveways. \*

\* 5. Read Exhibit "I" (Letter from County of Kauai Planning \*  
\* Department) with care. In addition to other matters, this \*  
\* letter states that purchasers should be made aware that the \*  
\* Kauai County Comprehensive Zoning Ordinance prohibits \*  
\* construction of a guest house. Further, 75% of the owners or \*  
\* their assigns are required on any applications to the Planning \*  
\* Department for zoning permits. \*

\* THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW THE \*  
\* DOCUMENTS FOR FURTHER INFORMATION WITH REGARD TO THE FOREGOING. \*

\* \* \* \* \*

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## GENERAL INFORMATION ON CONDOMINIUMS

A condominium is a special form of real property. To create a condominium in Hawaii, the requirements of Hawaii's "Condominium Property Act" (Chapter 514A, Hawaii Revised Statutes) must be followed.

Some condominium projects are leasehold. This means that the land or the building(s) and other improvements are leased to the buyer. The lease for the land usually requires that at the end of the lease term, the lessees (apartment owner/tenant) deliver their interest in the land to the lessor (fee property owner). The lease also usually requires that the lessees either (1) convey to the lessor the building(s) and other improvements, including any improvements paid for by the lessees; or (2) remove or dispose of the improvements. The leases for individual apartments often require that at the end of the lease term, the lessee deliver to the lessor the apartment, including any improvements placed in the apartment by the lessee.

If you are a typical condominium apartment owner, you will have two kinds of ownership: (1) ownership in your individual apartment; and (2) an undivided interest in the common elements.

Common elements are the areas of the condominium project other than the individual apartments. They are owned jointly by all apartment owners and include the land, either in fee simple or leasehold, and those parts of the building or buildings intended for common use such as foundations, columns, roofs, halls, elevators, and the like. Your undivided interest in the common elements cannot be separated from ownership of your apartment.

In some condominium projects, some common elements are reserved for the exclusive use of the owners of certain apartments. These common elements are called limited common elements and may include parking stalls, patios, lanais, trash chutes, and the like.

You will be entitled to exclusive ownership and possession of your apartment. Condominium apartments may be individually bought, sold, rented, mortgaged, or encumbered, and they may be disposed of by will, gift, or operation of law.

Your apartment will, however, be part of the group of apartments that comprise the condominium project. Study the Declaration, Bylaws, and House Rules. These documents contain important information on the use and occupancy of apartments and the common elements as well as the rules of conduct for owners, tenants, and guests.

### Operation of the Condominium Project

The Association of Apartment Owners is the entity through which apartment owners may take action with regard to the administration, management, and operation of the condominium project. Each apartment owner is automatically a member of the Association.

The Board of Directors is the governing body of the Association. Unless you serve as a board member or an officer, or are on a committee appointed by the board, your participation in the administration and operation of the condominium project will in most cases be limited to your right to vote as an apartment owner. The Board of Directors and officers can take certain actions without a vote of the owners. Some of these actions may significantly impact the quality of life for all apartment owners.

Until there is a sufficient number of purchasers of apartments to elect a majority of the Board of Directors, it is likely that the developer will effectively control the affairs of the Association. It is frequently necessary for the developer to do so during the early stages of development and the developer may reserve certain special rights to do so in the Declaration and Bylaws. Prospective buyers should understand that it is vitally important to all apartment owners that the transition from developer to owner control be accomplished in an orderly manner and in a spirit of cooperation.

## SUMMARY OF THE CONDOMINIUM PROJECT

**Interest to be Conveyed to Buyer:**

- Fee simple interest in an apartment and an undivided feehold interest in the common elements.
- Leasehold interest in an apartment and an undivided leasehold interest in the common elements.
- Fee simple interest in an apartment and an undivided leasehold interest in the common elements.

**Types of Project:**

1.  New Building(s)  Conversion  
 Both New Building(s) and Conversion
  
2.  Residential  Commercial  Ohana  
 Mixed Residential and Commercial  Agricultural  
 Other Residential and Agricultural
  
3.  High Rise (5 stories or more)  Low Rise
  
4.  Single or  Multiple Buildings
  
5. Apartment Description

<u>Apt. No.</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Garage, Storage, Shed(s), Lanai/Patio (sf)</u>
<u>1</u>	<u>1</u>	<u>3/2</u>	<u>1804</u>	<u>426 (deck)</u>
				<u>500 (garage)</u>
<u>2</u>	<u>1</u>	<u>0/0</u>	<u>0</u>	<u>64 (shed)</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Total Apartments: 2

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

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

**6. Parking:**

	<u>Number of Stalls</u>
Assigned Stalls (Individual Units)	<u>2</u>
Guest Stalls	_____
Unassigned Stalls	_____
Extra Stalls Available for Purchase	_____
Other: _____	_____
<b>Total Parking Stalls</b>	<b><u>2</u></b>

**7. Recreational amenities:**

NONE

I. PEOPLE CONNECTED WITH THE PROJECT

Developer: FREDRIC HALILI GUNNAR  
Name  
1420 Kanepoonui Road  
Business Address  
Kapaa, HI 96746

Phone: (808) 822-7121  
(Business)

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Real Estate Broker: LINDA K. SUMMERS dba Summers Realty  
Name  
1343 Ulu Street  
Business Address  
Kapaa, HI 96746

Phone: (808) 822-5876  
(Business)

Escrow: T.I. OF HAWAII, INC.  
Name Four Waterfront Plaza, Suite 300  
Honolulu, Hawaii 96813  
Business Address  
Honolulu, HI 96813

Phone: (808) 245-3381  
(Business)

General Contractor: Unit 2: Owner-Builder  
Name  
\_\_\_\_\_  
Business Address

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

\*\*Upon compliance with all applicable condominium management laws.

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

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

Attorney for Developer: STEVEN R. LEE  
Name  
4473 Pahe'e Street, Suite L  
Business Address  
Lihue, HI 96766

Phone: (808) 246-1101  
(Business)

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

A condominium is created by recording in the Bureau of Conveyances and/or filing with the Land Court a Declaration of Condominium Property Regime, a Condominium Map (File Plan), and the Bylaws of the Association of Apartment Owners.

- A. **Declaration of Condominium Property Regime** contains a description of the land, buildings, apartments, common elements, limited common elements, common interests, and other information relating to the condominium project.

The Declaration for this condominium is:

- Proposed  
 Recorded - Bureau of Conveyances - Document No. 92-032273  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court - Document No. \_\_\_\_\_

Amendment date(s) and recording/filing information:

- B. **Condominium Map (File Plan)** shows the floor plan, elevation and layout of the condominium project. It also shows the floor plan, location, apartment number, and dimensions of each apartment.

The Condominium Map for this condominium project is:

- Proposed  
 Recorded - Bureau of Conveyance Condo Map No. 1612  
 Filed - Land Court Condo Map No. \_\_\_\_\_

Amendment date(s) and recording/filing information:

- C. **Bylaws of the Association of Apartment Owners** govern the operation of the condominium project. They provide for the manner in which the Board of Directors of the Association of Apartment Owners is elected, the powers and duties of the Board, the way in which meetings will be conducted, and other matters which affect how the condominium project will be governed.

The Bylaws for this condominium are:

- Proposed  
 Recorded - Bureau of Conveyances - Document No. 92-032274  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court - Document No. \_\_\_\_\_

Amendment date(s) and recording/filing information:

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

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

The House Rules for this condominium are:

Proposed                       Adopted                       Developer does not plan to adopt house rules.

E. **Changes to Condominium Documents**

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

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

	<u>Minimum Set by Law</u>	<u>This Condominium</u>
Declaration (and Condo Map)	75%	<u>75%</u>
Bylaws	65%	<u>65%</u>
House Rules	---	<u>N/A</u>

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

2. **Developer:**

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

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



For Subleaseholds:

- Buyer's sublease may be cancelled if the master lease between the sublessor and fee owner is  
 Cancelled       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 cancelled or foreclosed.

**B. Underlying Land:**

Address: 1420 Kanepoonui Road Tax Map Key: (4) 4-4-13:033  
Kawaihau, Kapaa, Kauai, Hawaii (TMK)

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

Land Area: 81,056.16       square feet       acre(s)      Zoning: Agriculture

Fee Owner: FREDRIC HALILI GUNNAR and JUDITH DEL CARMEN GUERRA  
Name

1420 Kanepoonui Road  
Address

Kapaa, HI 96746

Sublessor: \_\_\_\_\_  
Name

\_\_\_\_\_  
Address

**C Buildings and Other Improvements:**

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

2.    Buildings: 2      Floors Per Building 1

Exhibit \_\_\_\_\_ contains further explanations.

3.    Principal Construction Material:

Concrete       Hollow Tile       Wood (Unit 1)

Other Unit 2: Metal

4. Permitted Uses by Zoning

	<u>No. of Apts.</u>	<u>Use Determined By Zoning</u>		<u>No. of Apts.</u>	<u>Use Determined By Zoning</u>
<input type="checkbox"/> Commercial	_____	_____	<input type="checkbox"/> Industrial	_____	_____
<input type="checkbox"/> Residential	_____	_____	<input checked="" type="checkbox"/> Agricultural	2	yes
<input type="checkbox"/> Timeshare/Hotel	_____	_____	<input type="checkbox"/> Recreational	_____	_____
<input type="checkbox"/> Other: <u>Please see page 18 for further explanation.</u>					

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

Yes                       No

5. Special Use Restrictions:

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

- Pets: \_\_\_\_\_
- Number of Occupants: \_\_\_\_\_
- Other: \_\_\_\_\_
- There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators 0                      Stairways 0                      Trash Chutes 0

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Garage, Storage Shed(s), Lanal/Patio (sf)</u>
1	1	3/2	1804	426 (deck) 500 (garage)
2	1	0/0	0	64 (shed)
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Total Apartments: 2

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

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

**Boundaries of Each Apartment:**

The boundaries of each apartment shall be the outer surface of the entire building. Wires or conduits, pipes or any utility lines running over, under or through any apartment which are utilized for or serve more than one unit shall not be deemed as part of the apartment, the same being deemed common elements.

**Permitted Alterations to Apartments:**

As allowed by Kauai County zoning ordinances and recorded restrictions on the project, if any. Upon construction of each permanent improvement, an amendment to the Declaration of Condominium Property Regime and the Condominium Map will be required to disclose actual improvements as a matter of public record.

**7. Parking Stalls:**

Total Parking Stalls: \_\_\_\_\_

	Regular		Compact		Tandem		TOTAL
	covered	open	covered	open	covered	open	
Assigned (for individual units)	2						2
Guest							
Unassigned							
Extra Available for Purchase							
Other:							
Total							
Covered & Open	2						

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.

The County of Kauai requires each owner constructing a residence to provide at least two (2) parking stalls. Unit 2 has ample area within its limited common element for parking purposes.

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

There are no recreational or common facilities.

Swimming pool

Storage Area

Recreation Area

Laundry Area

Tennis Court

Trash Chute

Other: \_\_\_\_\_

\_\_\_\_\_

9. Present Condition of Improvements  
 (For conversions of residential apartments in existence for at least five years): Not Applicable

a. Condition and Expected Useful Life of Structural Components, Mechanical, and Electrical Installations

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

10. Conformance to Present Zoning Code

- a.  No variances to zoning code have been granted.  
 Variance(s) to zoning code was/were granted as follows:

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

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

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

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

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

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

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

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

Exhibit   E   describes the common elements.

As follows:

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

There are no limited common elements in this project.

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

described in Exhibit   E  

as follows:

The portion of land set aside for the use of each owner of a unit as set forth in Exhibit A, subject to the roadway and utility easement, if any.

Note: Land areas referenced herein are not legally subdivided lots.

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

Exhibit   C   describes the common interests for each apartment.

As follows:

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

Exhibit F describes the encumbrances against the title contained in the title report dated March 1, 1993 and issued by T.I. OF HAWAII, INC.

Developer represents that since that date there have been no further encumbrances.

**Blanket Liens:**

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

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

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

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

<u>Type of Lien</u>	<u>Effect on Buyer's Interest If Developer Defaults</u>
Mortgage	If foreclosed, Buyer's deposit will be refunded and contract will be cancelled.

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

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

The initial managing agent for this condominium is:

not affiliated with the Developer.

the Developer or the Developer's affiliate.

self-managed by the Association of Apartment Owners.

other \_\_\_\_\_

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

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

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

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

**H. Utility Charges for Apartments:**

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

Not applicable

Electricity

Television Cable

Gas

Water & Sewer

Other \_\_\_\_\_

**I. Construction Warranties:**

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

**1. Building and Other Improvements:**

NONE

**2. Appliances:**

NONE



#### IV. ADDITIONAL INFORMATION NOT COVERED ABOVE

This is a condominium project, not a subdivision. Therefore, units purchased are not subdivided lots. If a residence is not already built, you will be required to comply with zoning codes to be allowed to construct a residence on your limited common element. To determine whether your expectations can be realized, you should carefully review this Report.

You should also conduct your own investigations and ascertain the validity of information provided. Please remember that issuance of this Report does not mean the Real Estate Commission has approved the project.

The County of Kauai Planning Department has advised that, in order to process the necessary permits for the construction and the processing of a farm dwelling agreement on agriculturally zoned parcels, authorization from at least 75% of the legal and equitable ownership of the entire project shall be required, consistent with the Declaration of Condominium Property Regime and the Bylaws. Except as limited specifically by the project documents of record, all uses permitted in the Agricultural Zone are permitted. Such uses include, but are not limited to growing crops, raising animals, residence, diversified agriculture, forestry, orchards and nurseries and wildlife management. See Kauai County Comprehensive Zoning Ordinance, Article 8.7. In relation to specifically permitted uses of buildings and other improvements, structures shall only be occupied or used for agriculture, associated residential uses, and/or other uses permitted by law and the recorded project documents. An agricultural residence may not be constructed unless the Unit Owner demonstrates to the County his ability to derive income from his property, established and verified prior to any building permit approval.

A buyer should understand that development and use of the properties shall comply with all County Codes and Ordinances. If County of Kauai facilities are not already in place, the prospective purchaser is advised that owners in the project will not necessarily receive the same County benefits as owners of approved subdivided lots; owners who develop their properties later than others may find that land use and zoning changes or insufficient utility capacities may thwart their expectations. Zoning and land use restrictions are subject to change and each purchaser should maintain awareness of such conditions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This Public Report is part of Registration No. 2785 filed with the Real Estate Commission on January 7, 1993.

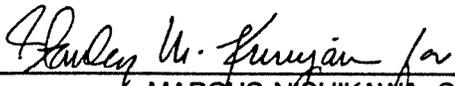
Reproduction of Report. When reproduced, this report must be on:

yellow paper stock

white paper stock

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

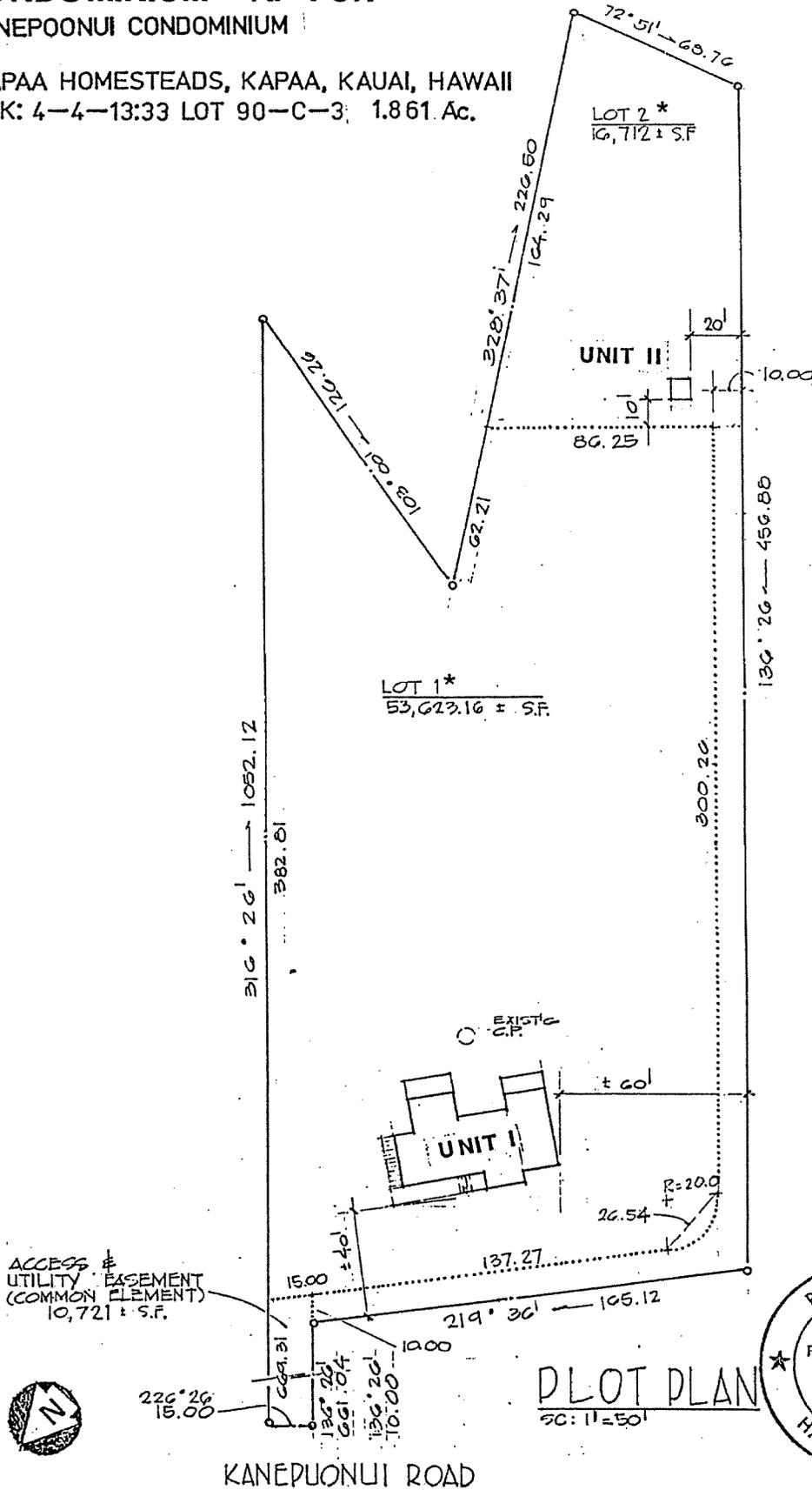
  
\_\_\_\_\_  
MARCUS NISHIKAWA, Chair  
REAL ESTATE COMMISSION  
STATE OF HAWAII

Distribution:

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

**CONDOMINIUM AP FOR  
KANEPUNUI CONDOMINIUM**

KAPAA HOMESTEADS, KAPAA, KAUAI, HAWAII  
TMK: 4-4-13:33 LOT 90-C-3; 1.861 Ac.



\*Note: Limited Common Element "lots" depicted herein are not legally subdivided.

**LOT PLAN**  
SC: 11=50'



KANEPUNUI ROAD

**AGOR  
ARCHITECTURE**  
4374 Kukui Grove Drive - Suite 204  
Lihue-Kauai, Hawaii 96766  
FAX (808) 246-1021  
(808) 245-4530

**EXHIBIT B**  
**SUMMARY OF SALES CONTRACT**

The KANEPOONUI Purchase Agreement, (the "contract") contains, among other provisions, the following (which may be modified or otherwise limited by provisions not summarized):

1. The method of payment of the purchase price to the escrow agent, subject to other terms.
2. The closing date for the purchase.
3. Whether at the time of execution of the contract, a final public report has been issued.
4. The terms and conditions of the sale which include, among other provisions, the following:
  - (a) That Purchaser will receive a copy of the final public report for the project.
  - (b) Purchaser agrees that all payments made will be placed on deposit with escrow pursuant to the terms of the Escrow Agreement.
  - (c) After issuance of the Final Public Report and Buyer's waiver of its right to cancel under Hawaii Revised Statutes Section 514A-62, Purchaser shall not have the right to rescind the contract.
  - (d) Purchaser has received a copy of the Escrow Agreement for the Project.
  - (e) If Purchaser defaults, Seller may cancel the contract or bring legal action against Purchaser to force sale or obtain money damages.
  - (f) The unit the Purchaser is purchasing will be shown on a file plan map prior to closing, and will have the right to cancel if it is different from that shown on the Exhibit A.
  - (g) That a deed conveying clear title will be given at closing, subject to certain obligations.
  - (h) The Purchaser agrees to give future easements if reasonably required for the project.
  - (i) The purchaser will accept the Unit "AS-IS".
  - (j) The payment of commissions, if any, is set out in the contract.
  - (k) Time is of the essence of the obligations of Purchaser under the contract.

**SPECIAL NOTICE:** THE FOREGOING SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE CONTRACT. WHILE A PURCHASER CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF THE PURCHASER'S RIGHTS AND OBLIGATIONS, THE PURCHASER MUST REFER TO THE PURCHASER'S CONTRACT TO DETERMINE THE BUYER'S ACTUAL RIGHTS AND OBLIGATIONS. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE CONTRACT, THE CONTRACT WILL CONTROL NOT THIS SUMMARY.

END OF EXHIBIT B

EXHIBIT C

SCHEDULE OF APARTMENTS AND COMMON INTERESTS  
FOR KANEPOONUI CONDOMINIUM

Oty.	Apt. No.	Area of Limited Common Element* (Acres)	No. of BR/BATH	Appx Net Living Area (Sq. Ft.)	Appx Storage Shed Area (Sq. Ft.)	% of Common Int.
1	1	53,623.16	3/2	1,804	0	75
1	2	16,712	0/0	0	64	25

The common interest appurtenant to each unit shall be permanent. Subject to the zoning requirements and amendments of the Condominium Map and the Declaration of Condominium Property Regime, each unit owner may use his unit, alter or add to it in any manner he deems desirable, so long as it is permitted by law and the Declaration of Protective Covenants and Building Rules. If adjoining unit owners desire to alter and/or transfer portions of their respective units, they can do so by the filing of an amendment to the Condominium Map and the Declaration of Condominium Property Regime together with their respective signatures. See Exhibit I for cautionary comments from the County of Kauai Planning Department.

\*Note: Land areas described herein are not legally subdivided lots.

END OF EXHIBIT C

**EXHIBIT D**  
**SUMMARY OF PORTIONS OF ESCROW AGREEMENT**

The Escrow Agreement ("Agreement") between T. I. of Hawaii, Inc. (the "Escrow") and FREDRIC HALILI GUNNAR and JUDITH DEL CARMEN GUERRA, (the "Seller") contains, among other provisions the following (which may be modified or otherwise limited by provisions not summarized):

1. Whenever Seller enters into a sales contract for the sale of an apartment, Seller will require that payments due under the sales contract be made to Escrow and will deliver an executed copy of the sales contract to Escrow.

2. Escrow will receive payments under the sales contracts and sums received from any other source with respect to the project. Funds held under the Agreement will initially be deposited in an account for the project. Interest on all funds will be paid to Seller.

3. Escrow will release from the Trust Fund and disburse Buyer's funds at closing, unless: (a) purchaser has elected within seven days of signing the purchase contract to cancel and receive all funds paid, without deduction; or (b) the Real Estate Commission has not issued a Final Public Report on the project or the requirements of the Sales Contract have not been met; or (c) Seller has not satisfied Escrow that all other requirements of Hawaii Revised Statutes have been met.

4. Escrow will return deposited sums to the Buyer without interest if Seller and purchaser give Escrow written notice to return the funds to Buyer, if there is a right to cancellation and refund of monies under the sales contract or otherwise. If there is a cancellation under the seven-day right, no fees will be charged purchaser. Thereafter, in the event of a cancellation as a matter of agreement or right, purchaser's funds shall be returned to Buyer less Escrow's cancellation fee, if any, and all other costs incurred in connection with the Escrow, not less than \$25.00.

5. Escrow will arrange for and supervise the signing of all documents which are to be signed subsequent to and contemplated by the sales contract.

6. As Escrow's compensation for its performance under this Agreement, Escrow will receive \$300.00 for each apartment for which an apartment deed of the project is handled by Escrow and recorded in the Bureau of Conveyances of the State of Hawaii. Escrow will record all applicable documents.

\* \* \* \* \*

THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE AGREEMENT. WHILE ONE CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF THE AGREEMENT, ONE MUST REFER TO THE ACTUAL AGREEMENT TO DETERMINE THE RIGHTS AND OBLIGATIONS OF THE PARTIES. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE AGREEMENT, THE AGREEMENT WILL CONTROL AND NOT THIS SUMMARY.

END OF EXHIBIT D

**EXHIBIT E**

**COMMON ELEMENTS OF THE PROJECT**

The common elements of the project are:

(a) Land in fee simple;

(b) All future ducts, electrical equipment, wiring and other central and appurtenant installations for common services, if any, including power, light, sewage, irrigation and telephone;

(c) Any and all other elements and facilities in common use or necessary to the existence, upkeep and safety of the Project.

**LIMITED COMMON ELEMENTS OF THE PROJECT**

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

(a) That certain land area upon and around which Units A, B, C, D and E are located, shown and designated on the Condominium Map and the table below, are deemed a limited common element appurtenant to and for the exclusive use of each respective unit.

<u>Unit Number</u>	<u>Area of Limited Common Element</u>
1	53,623.16 sq.ft.
2	16,712 sq.ft.

**Note:  
Land areas herein are  
not legally subdivided  
lots.**

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

END OF EXHIBIT E

EXHIBIT F

NCUMBRANCES AGAINST TITLE

1. Real property taxes, a lien not yet due and payable. However, check with the County of Kauai, Department of Finance.
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
3. Setback (7 feet wide) for future road widening purposes, as shown on Registered Surveyor's Map by Dennis M. Esaki, Registered Land Surveyor.
4. Easement "B" (15 feet wide) for access and utility purposes, as shown on Survey Map of Dennis M. Esaki, Registered Land Surveyor.
5. Covenants, conditions and restrictions as set forth in Deed dated August 29, 1986, recorded on September 11, 1986 in Book 19844 Page 111.
6. The terms and provisions of Farm Dwelling Agreement dated May 19, 1987, recorded on June 2, 1987 in Book 20737 Page 559, in favor of COUNTY OF KAUAI, Planning Department.
7. Grant of Easement dated June 10, 1987, recorded on June 26, 1987 in Book 20831 Page 159, in favor of CITIZENS UTILITIES COMPANY, a Delaware corporation, and HAWAIIAN TELEPHONE COMPANY, a Hawaii corporation, granting a perpetual right and easement for utility purposes.
8. MORTGAGE  
Mortgagor : FREDRIC HALILI GUNNAR, unmarried, and JUDITH DEL CARMEN GUERRA, unmarried  
Mortgagee : FIRST NATIONWIDE BANK  
Dated : July 9, 1990  
Recorded : July 23, 1990 as Document No. 90-110789  
Consideration : \$231,000.00
9. Condominium Map No. 1612 filed on March 6, 1992.
10. The covenants, agreements, obligations, conditions and other provisions set forth in Declaration of Condominium Property Regime entitled "KANEPOONUI" dated February 20, 1992, recorded on March 6, 1992 as Document No. 92-032273, and the By-Laws recorded as Document No. 92-032274, to which reference is hereby made.
11. Any and all easements encumbering the apartment herein identified and described, and/or the common interest appurtenant thereto, as created by or mentioned in said Declaration, and/or as delineated on said Condominium Map No. 1612.
12. WAIVER AND RELEASE  
Dated : April 7, 1992  
Recorded : April 27, 1992 as Document No. 92-064820  
Re : Water Supply

END OF EXHIBIT F

EXHIBIT G

DISCLOSURE ABSTRACT FOR  
KANEPOONUI CONDOMINIUM

Pursuant to Hawaii Revised Statutes Section 514(A)-61, the developer of KANEPOONUI Condominium makes the following disclosures:

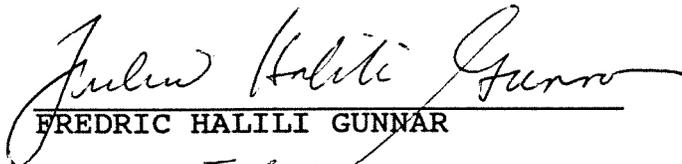
1. The developer of the project is FREDRIC HALILI GUNNAR, 1420 Kanepoonui Road, Kapaa, HI 96746.

2. See Exhibit H for the projected annual maintenance fees. The developer hereby certifies that the estimations have been based on generally accepted accounting principles.

3. No warranty will apply to any individual agricultural unit. There are pre-existing structures on the property and no warranty will be made regarding the agricultural buildings.

4. No condominium units will be used for both hotel and residential use; these are condominium units in which residential use is permitted, but hotel use is not.

5. There will be no commercial use except those activities permitted by the Kauai County Comprehensive Zoning Ordinance.

  
FREDRIC HALILI GUNNAR

Dated: Feb 20, 1992

---

RECEIPT

The undersigned has received a copy of the foregoing disclosure abstract with Exhibit H this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

Purchaser(s)

---

EXHIBIT       H      

ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

<u>Apartment</u>	<u>Monthly Fee</u> x 12 months =	<u>Yearly Total</u>
Unit 1	\$60.00	\$720.00
Unit 2	\$20.00	\$240.00

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

Estimate of Maintenance Fee Disbursements:

Monthly x 12 months = Yearly Total

Utilities and Services

Air Conditioning

Electricity

common elements only

common elements  
and apartments

Gas

Refuse Collection

Telephone

Water and Sewer

Maintenance, Repairs and Supplies

Building

Grounds

Management

Management Fee

Payroll and Payroll Taxes

Office Expenses

Insurance

\$80.00

\$960.00

Reserves

Taxes and Government Assessments

Audit Fees

Other

TOTAL

\$80.00

\$960.00

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

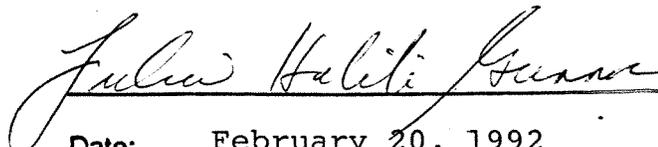
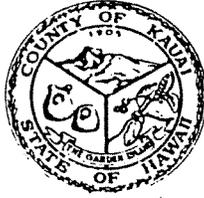
  
Date: February 20, 1992

EXHIBIT I

JOANN A. YUKIMURA  
MAYOR



COUNTY OF KAUAI  
PLANNING DEPARTMENT  
4280 RICE STREET  
LIHUE, KAUAI, HAWAII 96766

JEFFREY LACY  
PLANNING DIRECTOR  
  
DEE M. CROWELL  
DEPUTY PLANNING DIRECTOR  
  
TELEPHONE (808) 245-3919

March 12, 1993

COPY

Mr. Calvin Kimura, Executive Secretary  
Real Estate Commission  
Professional and Vocational Licensing Division  
Department of Commerce and Consumer Affairs  
250 South King Street, Suite 702  
Honolulu, Hawaii 96813

Subject: Comments on Kanepoonui Condominium Report  
Tax Map Key:4-4-13:33  
Kapaa Homesteads, Kauai  
LOTR:02/08/93

After reviewing the subject document, we have the following comments to offer:

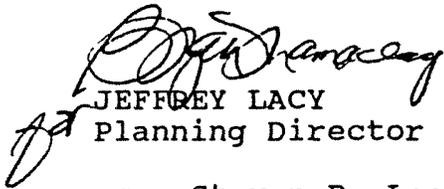
The amount of limited common elements proposed corresponds to the allowable unit density permitted by the CZO. The subject property is zoned Agriculture District (A) and qualifies for one (1) unit, however, an additional dwelling unit facilities clearance form has been obtained by the developer for this property pursuant to Ord. No. 551, relating to the construction of additional dwelling units (ADU). It should be noted that the ordinance prohibits the construction a guest house when a parcel is issued a permit to construct an ADU.

When applying for Zoning Permits with the Planning Department, the owners must be made aware that 75% of the owners or their assignee, are required to sign the permit form(s). Should an assignee be designated, such assignee shall present proof of authorization from the 75% of the owners at the time a permit is applied for. This is a requirement because the Planning Department does not recognize the Condominium Public Report to be a legal subdivision of land.

Mr. Calvin Kimura, Executive Secretary  
Real Estate Commission  
Page 2  
March 12, 1993

There should be a disclosure provision written into this and all ensuing condominium reports stating that the report should not mean that all County Codes and Ordinances have been complied with. Subsequent development and use shall comply with all applicable County Codes and Ordinances. It should also be made clear that the Condominium Public Report does not necessarily mean that all County requirements pertaining to subdivision of lands have been met. Therefore, such facilities/improvements that are normally associated with County-approved subdivisions such as fire protection devices, County street lighting, electricity, upgraded water facilities, improved access for owner and emergency traffic, drainage facilities, etc., may not necessarily be provided for. Further, such services as County street maintenance and trash collection will not be available for interior road/driveways.

Should you have any questions, please feel free to contact Bryan Mamaclay of my staff at 245-3919.

  
JEFFREY LACY  
Planning Director

cc: Steven R. Lee

END OF EXHIBIT I