

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by:

Developer Schuler Homes, Inc.
Address 828 Fort Street Mall, 4th Floor, Honolulu, Hawaii 96813

Project Name(\*): Westview at Makakilo Heights
Address: Palahia Street, Kapolei, Hawaii

Registration No. 2934

Effective date: November 22, 1993
Expiration date: December 22, 1994

Preparation of this Report:

This report has been prepared by the Developer pursuant to the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes. 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: (yellow) The developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report. A Final Public Report will be issued by the developer when complete information is filed.

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

SUPPLEMENTARY: (pink) This report updates information contained in the:
[ ] 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
FORM: RECO-30 286/986/189/1190/892

**Disclosure Abstract:** Separate Disclosure Abstract on this condominium project:

- Required and attached to this report                       Not Required - disclosures covered in this report.

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

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

- No prior reports have been issued by the developer.
- Changes made are as follows:

The Declaration of Condominium Property Regime, By-laws of the Association of Apartment Owners, as amended, and Condominium Map have been recorded in the Bureau of Conveyances. See page 6 of this public report.



## **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 owner/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 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 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 a 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 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: Schuler Homes, Inc. Phone: (808) 521-5661  
Name (Business)  
828 Fort Street Mall, 4th Floor, Honolulu, Hawaii 96813  
Business Address  
Honolulu, HI 96813

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

James K. Schuler, President, Secretary, Treasurer  
Michael T. Jones, Executive Vice President  
Pamela S. Jones, Vice President of Finance  
Harvey L. Goth, Senior Vice President  
Thomas A. Bevilacqua, Assistant Secretary

Real Estate Broker: Schuler Realty/Oahu, Inc. Phone: (808) 526-3588  
Name (Business)  
Suite 1060, Pacific Tower, 1001 Bishop Street  
Business Address  
Honolulu, HI 96813

Escrow: Security Title Corporation Phone: (808) 521-9511  
Name (Business)  
Suite 1200, Pacific Tower, 1001 Bishop Street  
Business Address  
Honolulu, HI 96813

General Contractor: Dillingham Construction Pacific, Ltd., dba  
Hawaiian Dredging and Construction Company Phone: (808) 735-3211  
Name (Business)  
614 Kapahulu Avenue  
Business Address  
Honolulu, Hawaii 96815

Condominium Managing Agent: Chaney Brooks & Company Phone: (808) 544-1600  
Name (Business)  
606 Coral Street; P.O. Box 212  
Business Address  
Honolulu, HI 96813

Attorney for Developer: Case & Lynch (Scott D. Radovich) Phone: (808) 547-5400  
Name (Business)  
Grosvenor Center, Mauka Tower  
737 Bishop Street, Suite 2600  
Business Address  
Honolulu, HI 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 Number 2074551

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

Amended Declaration of Condominium Property Regime of Westview at Makakilo Heights.  
Dated as of November 2, 1993.  
Recorded as Land Court Document No. 2084687.

- 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. 999

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. 2074552

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

Amended Bylaws of the Association of Apartment Owners of Westview at Makakilo Heights.  
Dated as of November 2, 1993.  
Recorded as Land Court Document No. 2084688.

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

The House Rules for this condominium are:

Proposed                       Adopted                       Developer does not plan to adopt House Rules

E. **Changes to Condominium Documents**

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

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

	<u>Minimum Set by Law</u>	<u>This Condominium</u>
Declaration (and Condo Map)	75%*	<u>75%</u>
Bylaws	65%	<u>65%</u>
House Rules	---	<u>Majority Vote of Board 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:
- A. Upon completion of the Project, the Developer may amend the Declaration and the Condominium Map (if necessary) to file the "as built" verified statement required by Section 514A-12 of the Condominium Property Act.
- B. Until all of the apartments have been sold, the Developer may amend the Declaration, the Bylaws and/or the Condominium Map to make such amendments as may be required by law, by the Real Estate Commission, by the title insurance company, by a mortgage lender, or by any governmental agency (including the VA, HUD, FNMA and/or FHLMC), provided that no such amendments change the common interest appurtenant to an apartment or substantially change the design, location or size of an apartment.
- C. Until all of the apartments have been sold and the "as built" verified statement is filed, the Developer may amend the Declaration and the Condominium Map to (i) reflect alterations in any apartment which has not been sold; and (ii) reflect minor changes in any apartment or in the common elements which do not affect the physical location, design or size of any apartment which has been sold.
- D. The Developer may amend the Declaration to effect an ownership merger of this Project with other condominium projects adjacent to or in the vicinity of this Project. Such merger rights are more particularly described on page 16 of this Public Report.

III. THE CONDOMINIUM PROJECT

A. Interest to be Conveyed to Buyer:

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

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:**

		(1)9-2-19:56 (portion)
		(1)9-2-19:57 (portion)
Address:	<u>Palahia Street</u>	Tax Map Key: <u>(1)9-2-19:58 (portion)</u>
	<u>Kapolei, Hawaii</u>	(TMK)

[ X ] Address [ X ] TMK is expected to change because the Project has not yet been assigned a street address, and a separate Tax Map Key parcel number has not yet been assigned to the Project site.

Land Area: 10.820 [ ] square feet [ X ] acre(s) Zoning: A-1

Lessor

(Fee Owner): Schuler Homes, Inc.  
Name

Suite 1060, Pacific Tower, 1001 Bishop Street  
Address

Honolulu, HI 96813

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

\_\_\_\_\_  
Address

**C. Buildings and Other Improvements:**

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

2. Number of Buildings: 13                      Floors Per Building 2

Exhibit A contains further explanations.

3. Principal Construction Material:

Concrete                       Hollow Tile                       Wood

Other Metal frames, glass and other building materials

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 checked="" type="checkbox"/> Residential	<u>148</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Ohana		_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Commercial	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Industrial		_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Agricultural		_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Hotel	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Recreational		_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Timeshare	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other: _____		_____	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

Yes                       No

5. Special Use Restrictions:

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

[ X ] Pets: Reasonable number of common household pets, such as small dogs, cats, aquarium fish and birds. No livestock or poultry, and no animals classified as "pests" or prohibited from importation under state statutes.

[ X ] Number of Occupants: No more than 2 persons per bedroom, not including children under 5 years old; no more than 3 persons per bedroom including children under 5 years old; and otherwise only in accordance with any limitations imposed by state or municipal law or ordinance.

[ X ] Other: Apartments shall be used for residential purposes only; no "time-sharing" permitted.

[ ] There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0 Stairways: 0 Trash Chutes: 0

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area(sf)*</u>	<u>Lanai/Patio(sf)</u>
<u>A</u>	<u>20</u>	<u>2/1</u>	<u>657</u>	<u>86</u>
<u>B</u>	<u>43</u>	<u>2/2</u>	<u>796</u>	<u>95</u>
<u>B-1</u>	<u>1</u>	<u>2/2</u>	<u>796</u>	<u>95</u>
<u>C</u>	<u>84</u>	<u>2/2</u>	<u>750</u>	<u>70</u>
<u>Total Apartments</u>	<u>148</u>			

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

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

Boundaries of Each Apartment: Each Apartment includes all walls, columns and partitions which are not load-bearing within the Apartment's perimeter walls, the inner decorated or finished surfaces of all walls, floors, ceilings, doors, door frames and window frames along the perimeters, all windows along the perimeters, the air space within the perimeter, the lanais, if any, shown on the Condominium Map to the inner decorated or finished surfaces of the perimeter walls of such lanais and to the interior edge of the exterior railings or other boundaries of such lanais, all fixtures originally installed in the Apartment, and all pipes, plumbing (including water heaters), wires, conduits and other utility or service lines and facilities servicing only the Apartment. The Apartments shall not include the undecorated or unfinished surfaces of the perimeter party or non-party walls, the undecorated or unfinished surfaces of the doors, door frames and window frames along the perimeters, the interior load-bearing columns, girders, beams and walls, the undecorated or unfinished surfaces of the floors and ceiling surrounding each Apartment, the exterior edge of the exterior railings or other exterior boundaries of the lanais, if any, shown on the Condominium Map, or any pipes, shafts, wires, conduits or other utility or service lines running through an Apartment which are utilized for or serve more than one Apartment, all of which are deemed common elements as provided in this Declaration.

Permitted Alterations to Apartments: Alterations or additions solely within an apartment or within a limited common element appurtenant to and for the exclusive use of an apartment shall require the written approval of the Board of Directors and all apartment owners directly affected, as determined by the Board of Directors. Any alteration or addition different in any material respect from the Condominium Map shall be commenced only pursuant to an amendment to the Declaration, as provided in Section L of the Declaration.

7. Parking Stalls:

Total Parking Stalls: 315

	<u>Regular</u>		<u>Compact</u>		<u>Tandem</u>		<u>TOTAL</u>
	<u>covered</u>	<u>open</u>	<u>covered</u>	<u>open</u>	<u>covered</u>	<u>open</u>	
Assigned (for each unit)		<u>188*</u>		<u>103</u>			<u>291</u>
Guest		<u>4</u>		<u>20</u>			<u>24</u>
Unassigned							
Extra for Purchase							
Other:							
Total Covered & Open	<u>192</u>		<u>123</u>				

Each apartment will have the exclusive use of at least 1 parking stall(s).  
Buyers are encouraged to find out which stall(s) will be available for their use.

\* Parking Stall Nos. 299, 304 and 305 are handicap accessible stalls.

Commercial parking garage permitted in condominium project.

Exhibit B contains additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities.

There are no recreational or common facilities.

Swimming pool                       Storage Area                       Recreation Area

Laundry Area                       Tennis Court                       Trash Chute

Other: Trash receptacle areas (13); Mail areas (5); Car wash areas (6); Loading area (1)

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):

(Not applicable)

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 may 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. 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 October 13, 1993 and issued by First American Title Insurance Company.

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.

[ X ] There are no blanket liens affecting title to the individual apartments. [See below]

[ ] 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 and the lien is foreclosed prior to conveying the apartment to buyer.

<u>Type of Lien</u>	<u>Effect on Buyer's Interest and Deposit If Developer Defaults or Lien is Foreclosed Prior to Conveyance</u>
Developer may obtain a construction loan which would be secured by a blanket mortgage lien to which all contracts for the purchase of apartments will be subject and subordinate. Any such construction mortgage lien will contain provisions for the release of individual apartments upon conveyance.	The Buyer's contract will be subject to cancellation and the Buyer may not be able to purchase the apartment, but all deposits made by the Buyer will be refunded.

**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:

The Developer's sole warranty will be provided in the form attached to this Public Report as Exhibit G.

2. Appliances:

The Developer makes no warranty as to appliances or other consumer products installed in any apartment or in the common elements. If there are any applicable manufacturer's or dealer's warranties relating to such appliances or other consumer products, the Developer will endeavor to assign and pass on to each apartment owner the benefit of such warranties.

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

The Developer estimates that construction of the Project will commence in June, 1993, and that construction will be completed by March 30, 1994.

**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):

Merger: The Developer has reserved the right, in its sole and absolute discretion, to merge this Project with other condominium projects for purposes of use, administration and ownership. However, the Developer does not represent or warrant that any such other condominium projects will be developed, or, if developed, will be merged with this Project. See the Declaration of Merger of Condominium Phases dated October 4, 1993, recorded as Land Court Document No. 2074550, and on file with the Real Estate Commission, for the details of any such merger. The Buyer should also note Section O of the Declaration for easements reserved to the Developer with respect to the construction, maintenance, operation and merger of any such other condominium projects. Merger for ownership purposes may include a legal consolidation of the land underlying and included in this Project with any parcel(s) of land underlying and included in such other condominium projects to be merged.



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:

[ X ] Notice to Owner Occupants

[ X ] Specimen Sales Contract

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

[ X ] Escrow Agreement dated  June 2, 1993

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

[ ] 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 buyers. 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:

A) The Developer delivers to the buyer a copy of:

1) Either the Final 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: Declaration of Merger of Condominium Phases; Declaration of Covenants, Conditions and Restrictions of the Palehua Community dated January 14, 1977, recorded as Land Court Document No. 801577.

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, Hawaii 96809, at a nominal cost.

This Public Report is a part of Registration No. 2934 filed with the Real Estate Commission on Aug. 12, 1993.

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

[ ] yellow paper stock [ X ] white paper stock [ ] pink paper stock

C. Additional Information Not Covered Above

I. Affordable Units

The Project is being developed and marketed in cooperation with the Department of Housing and Community Development ("DHCD") of the City and County of Honolulu (the "City") and is intended to make available affordable housing to prospective purchasers ("Affordable Income Purchasers") whose incomes do not exceed 80% of the median income (adjusted for family size) for the Honolulu Metropolitan Statistical Area as most recently determined by the U.S. Department of Housing and Urban Development. As a result, certain selected Apartments (the "Affordable Units") in the Project will be sold at prices below the market value of comparable housing units as determined by DHCD and the Developer, and such Affordable Units will be made available only to persons who qualify as Affordable Income Purchasers.

Following are the income limits (as of May, 1993), by family size, for qualification as Affordable Income Purchasers for purposes of this Project:

<u>Family Size</u>	<u>80% Income Limit</u>
1	\$27,800
2	31,750
3	35,750
4	39,700
5	42,900

In addition, to be eligible to purchase an Affordable Unit, a prospective purchaser must:

1. Be a citizen of the United States or a permanent resident alien;
2. Be a bona fide resident of the State of Hawaii;
3. Be at least 18 years of age;
4. Not be an owner individually, or with a spouse jointly, of a majority interest, in fee simple or leasehold, in a dwelling unit or other real property within the State of Hawaii on which it is suitable to construct a dwelling unit, at any time within twelve months preceding the date the prospective purchaser applies to purchase an Affordable Unit and thereafter, from the date of the application to the consummation of the purchase;
5. Represent that the prospective purchaser intends to become an owner-occupant of the Affordable Unit and agree that the Affordable Unit will be occupied by the prospective purchaser and will not be rented; and
6. Submit personal information, including income tax returns, by which DHCD will evaluate the prospective purchaser's eligibility to purchase an Affordable Unit.

Priority will be given to families of two or more persons in choosing eligible applicants for purchase who may participate in the lottery by which prospective purchasers will be selected as discussed below.

A complete description of the eligibility requirements and the required personal information, representations and agreements is specifically contained in an "Owner-Occupant Affidavit" form and a "Housing Application" form, both of which must be completed and signed by all prospective purchasers. Copies of these forms, together with an instruction sheet, are attached to this Public Report as Exhibit "K". Prospective purchasers should review these forms thoroughly before applying to purchase an Affordable Unit in the Project.

Prospective purchasers of Affordable Units in the Project should also be aware that because of the favorable pricing of the Affordable Units and in order to enforce the owner-occupant agreements of the purchaser, ***EACH DEED TO AN AFFORDABLE UNIT WILL CONTAIN RESTRICTIONS ON THE USE, OCCUPANCY AND TRANSFER OF THE AFFORDABLE UNIT AND A "BUY-BACK" OPTION IN FAVOR OF THE CITY WHICH WILL REMAIN IN EFFECT FOR TEN YEARS.*** In essence, the deed restrictions and option provide that during such ten year period, if the purchaser wishes to sell the Affordable Unit, or if the purchaser ceases to use and occupy the Affordable Unit as the purchaser's principal residence, the City will have the option to "buy-back" the Affordable Unit at a limited price not exceeding: (i) the original cost of the Affordable Unit to the purchaser, plus (ii) the original cost of capital improvements to the Affordable Unit made by the purchaser, plus (iii) interest on the original cost of the Affordable Unit and the cost of the purchaser's capital improvements calculated at the rate of one percent (1%) per year. The full text of the restrictions and option in favor of the City is attached to this Public Report as Exhibit "L" and is also contained in the applicable "Specimen Apartment Deed" on file with the Real Estate Commission. Prospective

purchasers should review thoroughly and consider with care the full text, and the implications, of the restrictions and option provisions set forth in Exhibit "L" and the Specimen Apartment Deed.

The following Apartments in the Project are designated by the Developer as Affordable Units, all of which are Type A units:

J101	J105	J203	K101	K201
J102	J106	J204	K102	K202
J103	J201	J205	K103	K203
J104	J202	J206	K104	K204

## II. Additional Conditions and Restrictions Affecting the Land

All prospective purchasers should also be aware that the land underlying and included in this condominium project is subject to certain conditions and restrictions contained in various documents that affect the land, including: (i) the covenants, conditions, restrictions, reservations, agreements, obligations and other provisions contained in the Declaration of Covenants, Conditions and Restrictions of the Palehua Community (the "Palehua Community Restrictions") dated January 14, 1977, recorded at the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 801577; (ii) the reservations and exceptions contained in Deeds (the "Deeds") dated December 22, 1989, recorded as Document Nos. 1693440 and 1693442; and (iii) certain disclosures and waivers applicable to developments within the Palehua community, as set forth in Section Q.2 of the Declaration.

### 1. Among other things, the Palehua Community Restrictions provide:

- (a) For the establishment of a non-profit corporation known as the Palehua Community Association (the "Palehua Association");
- (b) That each owner of any "lot" (including each Apartment in this Project) within the Palehua Community shall automatically be a member of the Palehua Association upon acquiring such ownership;
- (c) That the Palehua Association has the power and authority to have levied against each "lot" (including each Apartment in this Project) within the Palehua Community, and to have collected from the owner thereof (including each Owner of an Apartment in this Project) maintenance assessments and special assessments which are separate from and in addition to the assessments made by the Association to pay the common expenses of this Project;
- (d) That liens may be created on each "lot" (including each Apartment in this Project) within the Palehua Community for non-payment of assessments made on behalf of the Palehua Association; and
- (e) That alterations and improvements to any "lot" (including each Apartment in this Project) within the Palehua Community may be subject to the prior written approval of the "Design Committee", as established by and pursuant to the Palehua Community Restrictions.

It is estimated that the maintenance assessments payable to the Palehua Association during the next year will be approximately \$1.50 per month for each Apartment in the Project.

- ### 2. Among other things, the reservations and exceptions contained in the Deeds include:
- (a) the reservation to the Grantors therein (the Trustees of the Campbell Estate) of all water rights with respect to the Property, subject to certain restrictions;
  - (b) the right of the Grantors therein to use roads on the Property; and
  - (c) the right of the Grantors therein to use all easement areas on the Property, subject to certain restrictions.

3. Section Q.2 of the Declaration provides as follows:

Each Owner acknowledges that the Palehua Community is located near or adjacent to properties that are or may be subject to various activities. Such activities include, but are not limited to, real estate development and construction, cattle and other livestock grazing, the cultivation and harvesting (including burning) of sugarcane, quarrying (including the storage and use of munitions or other explosives) and the flight of aircraft over or close to the Palehua Community.

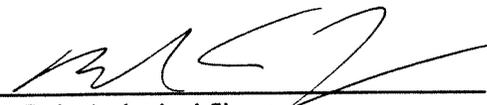
Each Owner also acknowledges that, as a result of such activities, the Palehua Community may be subject to various annoyances, inconveniences and nuisances, including, but not limited to, noise, dust, smoke and earthshocks, and that the roadways of the Palehua Community may be used for the transportation of materials and equipment to and from the adjacent properties.

By acquiring an interest in an Apartment, each Owner covenants and agrees that such Owner, and the tenants, lessees, family, servants, guests, invitees, licensees and employees of such Owner, assumes any and all risks associated with such activities, annoyances, inconveniences and nuisances, and waives all rights to any claim against Declarant, Palailai Associates, Palailai Holdings, Inc., Malama Mohala Corp., Finance Realty Company, Limited and the Trustees Under the Will and of the Estate of James Campbell, Deceased, and/or any of their respective affiliates, arising out of or in connection with such activities, annoyances, inconveniences and nuisances. Such waiver, however, shall not include claims arising out of or in connection with the gross negligence and/or willful misconduct of such entities.

[A similar provision will also be included in the apartment deed by which an apartment will be conveyed to a purchaser.]

- 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.

Schuler Homes, Inc.  
 \_\_\_\_\_  
 Name of Developer

By:  OCT 18 1993  
 Duly Authorized Signatory Date

**Michael T. Jones** , **Executive Vice President**  
 \_\_\_\_\_  
 print name & title of person signing above

Distribution:

Department of Finance, City & County of Honolulu  
 Planning Department, City & County of Honolulu  
 Federal Housing Administration

**EXHIBIT "A"**

**DESCRIPTION OF BUILDINGS**

The Project shall contain thirteen metal-framed buildings (eleven of which shall each contain twelve apartments and two of which shall each contain eight apartments). Each building shall have two stories or levels. None of the buildings shall have a basement. The buildings shall be constructed principally of metal, wood, glass and related building materials.

There shall be four different building types in the Project, designated as Building Types I, II, III and IV. Building Type I shall have twelve apartments, all of which are Type A apartments. Building Type II shall have eight apartments, all of which are Type A apartments. Building Type III shall have eight apartments, four of which are Type B apartments and four of which are Type C apartments. Each building Type IV shall have twelve apartments, four of which are Type B apartments and eight of which are Type C apartments.

Each building is identified on the Condominium Map by a capital letter designation (for example "A"). The letter "I" is not used to identify any of the buildings in the Project, so as to prevent confusion of that letter with the number 1. The following is a list of all of the Project's buildings by building type and letter designation:

<u>Building Type</u>	<u>Building(s)</u>
I	J
II	K
III	N
IV	A,B,C,D,E, F,G,H,L,M

EXHIBIT "B"

PARKING STALLS

Each apartment shall have appurtenant to it the exclusive right to use the uncovered parking stall(s) designated below, located as shown on the Condominium Map.

APT. NO.	STALL #1	STALL #2	APT. NO.	STALL #1	STALL #2	APT. NO.	STALL #1	STALL #2	APT. NO.	STALL #1	STALL #2
A101	1S	3S	D102	77S	113C	G103	148S	191C	K104	215S	243C
A102	7S	8S	D103	79S	125C	G104	150S	151C	K201	207S	208S
A103	10C	12S	D104	81S	123C	G105	154S	189C	K202	210S	**
A104	13S	14S	D105	83S	120C	G106	155S	159S	K203	214S	**
A105	17S	51C	D106	85S	119C	G201	145S	158S	K204	216S	244C
A106	49C	19S	D201	76S	111C	G202	147S	193C	L101	247S	274S
A201	2S	4S	D202	78S	126C	G203	149S	192C	L102	252S	273S
A202	5S	6S	D203	80S	124C	G204	152S	190C	L103	254S	272S
A203	9S	11S	D204	82S	122C	G205	153S	188C	L104	256S	267C
A204	15S	16S	D205	84S	121C	G206	160S	156S	L105	258S	265C
A205	18S	50C	D206	86S	114C	H101	161S	186C	L106	260S	263C
A206	48C	20S	E101	52S	54S	H102	163S	166S	L201	248S	249S
B101	21S	44C	E102	56C	66S	H103	167S	168C	L202	250S	251S
B102	23S	42C	E103	59S	69S	H104	170S	183C	L203	353C	255S
B103	25S	40C	E104	61S	71S	H105	172S	181C	L204	266C	257S
B104	28S	37C	E105	72S	62S	H106	174S	180C	L205	264C	259S
B105	29S	30S	E106	65S	74C	H201	162S	185C	L206	261S	262C
B106	33S	34S	E201	53S	55S	H202	164S	165S	M101	275S	298S
B201	22S	43C	E202	57S	67S	H203	169S	178C	M102	277S	296S
B202	24S	41C	E203	68S	58S	H204	171S	184C	M103	279C	294C
B203	26S	39C	E204	60S	70S	H205	173S	182C	M104	281S	292C
B204	27C	38C	E205	73S	63S	H206	175S	179C	M105	283S	290C
B205	32S	31S	E206	64S	127C	J101	218S	239C	M106	286S	287C
B206	35S	36S	F101	204S	128S	J102	220S	237C	M201	276S	297S
C101	87S	88S	F102	130S	133S	J103	221C	236C	M202	278S	295C
C102	90S	91S	F103	135S	202C	J104	223C	234C	M203	280C	293C
C103	94C	95S	F104	138S	198C	J105	232C	225C	M204	282S	291C
C104	97S	108C	F105	136S	199C	J106	228S	229S	M205	284S	289C
C105	100S	105C	F106	143S	195C	J201	240C	217S	M206	285S	288C
C106	101S	104C	F201	129S	203S	J202	219C	238C	N101	299HC	315S
C201	89S	110C	F202	134C	141S	J203	235C	**	N102	301S	313S
C202	92S	93S	F203	131S	132S	J204	233C	**	N103	304HC	310C
C203	96S	109C	F204	140S	137S	J205	226C	**	N104	305HC	306C
C204	98S	107C	F205	139S	197C	J206	230S	227S	N201	300S	314S
C205	99S	106C	F206	142S	196C	K101	205S	206S	N202	302S	312S
C206	102S	103C	G101	144S	157S	K102	209C	241C	N203	303S	311S
D101	75S	112C	G102	146S	194C	K103	212S	213S	N204	308C	307C

Note: A parking stall marked with a "C", as shown on the list above and on the Condominium Map, indicates a parking stall that is "compact" in size. A parking stall marked with an "S", as shown on the list above and on the Condominium Map, indicates a parking stall that is "standard" in size. A parking stall marked with an "HC" indicates a parking stall that is oversized for the handicapped. The additional "C", "S" and "HC" markings appearing on the list above and/or the Condominium Map are for informational purposes only and do not constitute part of the legal identification of a parking stall, the sole means of legal identification being the numerical designation of the parking stall.

The Project contains the 24 "guest" parking stalls numbered 45CG, 46CG, 47CG, 115CG, 116CG, 117CG, 118CG, 176CG, 177CG, 187CG, 200CG, 201CG, 211SG, 222CG, 224CG, 231SG, 242CG, 245CG, 246CG, 268CG, 269CG, 270SG, 271SG and 309CG as shown on the Condominium Map and identified thereon as guest stalls by the letter "G."

## EXHIBIT "C"

### COMMON ELEMENTS

The common elements of the Project shall specifically include, but are not limited to, the following:

1. The land, in fee simple, described in Exhibit "A" attached to the Declaration of Condominium Property Regime.
2. All structural components, such as foundations, girders, columns, beams, floor slabs, supports, main walls, load-bearing walls, floors, ceiling (except the inner or decorated surfaces of such walls, floors and ceilings), roofs, exterior stairs and stairways, landings, railings (except lanai railings), entrances and exists of the buildings and/or apartments, and other building appurtenances, including, but not limited to, the electrical cabinets and compartments for water heaters located on the exteriors of the buildings.
3. All yards, grounds, gardens, planters, plants, landscaping, refuse facilities, barbecue areas, designated children's play areas, and recreational facilities, if any.
4. All sidewalks, pathways, driveways, roads, parking areas and parking stalls (including, without limitation, the 24 "guest" parking stalls numbered 45CG, 46CG, 47CG, 115CG, 116CG, 117CG, 118CG, 176CG, 177CG, 187CG, 200CG, 201CG, 211SG, 222CG, 224CG, 231SG, 242CG, 245CG, 246CG, 268CG, 269CG, 270SG, 271SG and 309CG as shown on the Condominium Map and identified thereon as guest stalls by the letter "G"), the six areas set aside for car wash use, identified by the letters "CW", and the loading zone, identified by the letter "L", within the Project, all as shown on the Condominium Map.
5. All ducts, electrical equipment, transformers, wiring, pipes and other central and appurtenant transmissions facilities and installations over, under and across the Project which are utilized by or serve more than one apartment for services such as power, light, water, gas, sewer, telephone and radio and television signal distribution, if any.
6. All areas, rooms, spaces, structures, housings, chutes, shafts or facilities of the Project within or outside of the buildings, which are for common use or which serve more than one apartment, such as electrical, maintenance, service, security, machine, mechanical and equipment rooms and the equipment, machinery and facilities therein.
7. All the benefits, if any, inuring to the land or to the Project from all easements, if any, shown on the Condominium Map or listed in Exhibit "A" attached to the Declaration of Condominium Property Regime.
8. Any and all 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.
9. All other parts of the Project which are not included in the definition of an apartment.

**EXHIBIT "D"**

**LIMITED COMMON ELEMENTS**

Certain apartments shall have appurtenant thereto easements for the exclusive use of certain limited common elements as follows:

1. **Parking Stalls:**

Each apartment shall have appurtenant to it, as a limited common element, the exclusive right to use such parking stall(s) as designated on Exhibit "B" to this Public Report.

2. **Water Heater Compartments:**

Each compartment containing water heaters, and located on the exterior of a building adjacent to apartments located in the building, is a limited common element appurtenant to the ground level apartments and to the second story apartments above them which are served by the water heaters contained in the compartment.

3. **Concrete Pads:**

The concrete pad outside the door of each ground level apartment is a limited common element appurtenant to that apartment.

4. **Stairways and Second Floor Landings:**

Each stairway and second floor landing providing access to a second floor apartment is a limited common element appurtenant to that apartment. Those stairways and landings which serve two or more second floor apartments shall be limited common elements appurtenant to the apartments so served, provided that the portion of such second floor landing directly adjacent to the entrance of a second floor apartment is a limited common element appurtenant to that apartment only.

5. **Mailboxes:**

Each mailbox bearing the same identification as an apartment is a limited common element appurtenant to that apartment.

6. **Yard Areas:**

Each fenced-in yard area is a limited common element appurtenant to the first floor apartment which such yard area adjoins. The outer limit of each such yard area is deemed to be the interior surface of the fence (i.e., the surface facing the apartment) enclosing the area.

**EXHIBIT "E"**

**COMMON INTERESTS**

Type and Number of Apartments	Apartment Number	Undivided Common Interest of Each Apartment
A (20)	J101, J102, J103, J104, J105, J106, J201, J202, J203, J204, J205, J206, K101, K102, K103, K104, K201, K202, K203, K204	0.005910 (0.5910%)
B (43)	A101, A106, A201, A206, B101, B106, B201, B206, C101, C106, C201, C206, D101, D106, D201, D206, E101, E106, E201, E206, F101, F201, F206, G101, G106, G201, G206, H101, H106, H201, H206, L101, L106, L201, L206, M101, M106, M201, M206, N101, N104, N201, N204	0.007160 (0.7160%)
B-1 (1)	F106	0.007256 (0.7256%)
C (84)	A102, A103, A104, A105, A202, A203, A204, A205, B102, B103, B104, B105, B202, B203, B204, B205, C102, C103, C104, C105, C202, C203, C204, C205, D102, D103, D104, D105, D202, D203, D204, D205, E102, E103, E104, E105, E202, E203, E204, E205, F102, F103, F104, F105, F202, F203, F204, F205, G102, G103, G104, G105, G202, G203, G204, G205, H102, H103, H104, H105, H202, H203, H204, H205, L102, L103, L104, L105, L202, L203, L204, L205, M102, M103, M104, M105, M202, M203, M204, M205, N102, N103, N202, N203	0.006746 (0.6746%)

**EXHIBIT "F"**

**ENCUMBRANCES AGAINST TITLE**

SUBJECT, HOWEVER, TO THE FOLLOWING:

1. For real property taxes that may be due and owing, reference is made to the Director of Finance, City and County of Honolulu.
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
3. The terms and provisions of that certain Unrecorded Development Rights Agreement dated October 26, 1960, made by and between the Trustees under the Will and of the Estate of James Campbell, Deceased, and Finance Realty Company, Limited, a Short Form of which is dated May 5, 1966, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 391241, as amended by unrecorded instrument dated December 22, 1976, a short-form of which is dated January 12, 1977, filed in said Office of the Assistant Registrar as Document No. 801573, and as further amended and restated by unrecorded instrument dated December 24, 1984, a short-form of which dated January 15, 1985 was filed as Document No. 1277747, and as further amended by that certain unrecorded First Amendment to Second Amendment and Restatement of Makakilo Exchange Agreement dated and effective as of October 1, 1987.
4. Covenants, conditions, restrictions, reservations, agreements, obligations and other provisions as contained in:

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF THE PALEHUA COMMUNITY**

Dated: January 14, 1977  
Document No.: 801577

5. Covenants, conditions, restrictions, reservations, agreements, obligations and other provisions as contained in:

**DECLARATION OF ADDITIONAL PROPERTY TO BE ANNEXED TO THE PALEHUA COMMUNITY**

Dated: January 28, 1993  
Document No.: 1994020

6. **GRANT**

In Favor Of: Hawaiian Electric Company, Inc.  
Dated: June 1, 1977  
Document No.: 841709  
Purposes: Easement for utility purposes over, under, across and through a portion of the land herein described

7. The terms and provisions of:

**UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING**

Dated: July 21, 1983  
Book: 17200  
Page: 107

8. Reservations and exceptions as set forth in:

**DEED**

Dated: December 22, 1989  
Document No.: 1693440

9. Reservations and exceptions as set forth in:

**DEED**

Dated: December 22, 1989  
Document No.: 1693442

10. Easement 3511 (area: 0.34 acre), for landscaping purposes, as shown on Map 624, as set forth by Land Court Order No. 110003, filed on December 24, 1992.

11. **DECLARATION OF MERGER OF CONDOMINIUM PHASES WESTVIEW AT MAKAKILO HEIGHTS**

Dated: October 4, 1993  
Document No.: 2074550

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

**DECLARATION OF CONDOMINIUM PROPERTY REGIME OF WESTVIEW AT MAKAKILO HEIGHTS**

Dated: October 6, 1993  
Document No.: 2074551

Condominium Map No. 999, to which reference is hereby made.

13. **BYLAWS OF THE ASSOCIATION OF APARTMENT OWNERS OF WESTVIEW AT MAKAKILO HEIGHTS**

Dated: October 4, 1993  
Document No.: 2074552

**EXHIBIT "G"**

**BUILDINGS AND COMMON ELEMENTS WARRANTY**

[form attached]

# Warranty of Completion of Construction

U.S. Department of Housing and Urban Development  
Office of Housing  
Federal Housing Commissioner



OMB Approval No. 2502-0059 (exp. 3/31/14)

Lender's Name, Address & Phone No: \_\_\_\_\_ FHA/VA Case Number: \_\_\_\_\_

Name(s) of Purchaser/Owner: \_\_\_\_\_ Property Address: \_\_\_\_\_

For good and valuable consideration, and in accordance with Section 801 of the Housing Act of 1954, and Public Law 85-857 (38 U.S.C. 3705), the undersigned Warrantor hereby warrants to the Purchaser(s) or Owner(s) identified in the caption hereof, and to his/her successors or transferees, that:

The dwelling located on the property identified in the caption hereof is constructed in substantial conformity with the plans and specifications (including any amendments thereof, or changes and variations therein) which have been approved in writing by the Federal Housing Commissioner or the Secretary of Veterans Affairs on which the Federal Housing Commissioner or the Secretary of Veterans Affairs based the valuation of the dwelling: **Provided, however, That this warranty shall apply only to such instances of substantial nonconformity as to which the Purchaser(s)/ Owner(s) or his/her (their) successors or transferees shall have given written notice to the Warrantor at any time or times within one year from the date of original conveyance of title to such Purchaser(s)/Owner(s) or the date of initial occupancy, whichever first occurs: Provided further, however, That in the event**

(1) the Purchaser(s)/Owner(s) acquired title to the captioned property prior to the completion of construction of the dwelling thereon, such notice of nonconformity to the Warrantor may be given any time or times within one year from the date of completion or initial occupancy of such dwelling, whichever first occurs, or (2) where it has been necessary to postpone improvements such notice of nonconformity to the Warrantor as to such incomplete items may be given at any time or times within one year from the date of full completion of each of such items.

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

The undersigned Warrantor further warrants to the Purchaser(s)/ Owner(s) or his/her (their) successors or transferees, the property against defects in equipment, material, or workmanship and materials supplied or performed by the Warrantor or any subcontractor or supplier at any tier resulting in noncompliance with standards of quality as measured by acceptable trade practices. This warranty shall continue for a period of one year from the date of original conveyance of title to such Purchaser(s) or from the date of full completion of each of any items complete after conveyance of title. The Warrantor shall remedy, at the Warrantor's expense, any defect(s) of equipment, material, or workmanship furnished by the Warrantor. Warrantor shall restore any work damaged in fulfilling the terms and conditions of this warranty.

If a manufactured (mobile) home was erected on this property, the Warrantor further warrants that (1) the property (other than the manufactured unit itself) complies with the submitted construction exhibits; (2) the manufactured home sustained no hidden damage during transportation and erection; and (3) if the home was manufactured in separate sections, the sections were properly joined and sealed.

Manufacturer's Name, Address & Phone No: \_\_\_\_\_

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

This warranty is executed for the purpose of inducing the Federal Housing Commissioner or the Secretary of Veterans Affairs to make, guarantee or to insure a mortgage on the captioned property, and the person signing for the Warrantor represents and certifies that he/she is authorized to execute the same by the warrantor and by his/her signature the Warrantor is duly bound under the terms and conditions of this warranty. The FHA Commissioner or the Secretary of Veterans' Affairs reserves the right to make a final determination as to whether a defect exists and whether the builder must remedy the defect.

Warrantor's Title, Signature & Date: \_\_\_\_\_ Purchaser(s)' acknowledgement: \_\_\_\_\_

Signature(s) of Purchaser(s) & Dates: \_\_\_\_\_

X \_\_\_\_\_ X \_\_\_\_\_

Builder's Name, Address & Phone No: \_\_\_\_\_

X

**Purchaser Note:** Any notice of nonconformity must be delivered to the warrantor within the period or periods set forth above.

**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, )

**EXHIBIT "H"**

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

**Estimate of Initial Maintenance Fees:**

<b><u>APARTMENT TYPE</u></b>	<b><u>MONTHLY FEE (Per Apartment)</u></b>	<b><u>YEARLY TOTAL (Per Apartment)</u></b>
A	\$ 87.45	\$ 1,049.40
B	\$ 107.25	\$ 1,287.00
B-1	\$ 107.37	\$ 1,288.44
C	\$ 99.82	\$ 1,197.84

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

**EXHIBIT "H"**  
**EXHIBIT A**  
**WESTVIEW AT MAKAKILO HEIGHTS**  
**(148 Units)**

**ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS:**

	<u>Monthly</u> x 12 months =	<u>Yearly Total</u>
<b>Utilities and Services</b>		
Electricity (Common Elements Only)	\$ 350.00	\$ 4,200.00
Refuse Collection	2,500.00	30,000.00
Water/Sewer	3,071.00	36,852.00
<b>Maintenance, Repairs &amp; Supplies</b>		
Buildings	245.00	2,940.00
Grounds	3,200.00	38,400.00
<b>Management</b>		
Management Fee	2,178.00	26,136.00
Payroll and Payroll Taxes	-0-	-0-
Office Expenses	200.00	2,400.00
Insurance	1,480.00	17,760.00
Reserves *	1,100.00	13,200.00
Audit and Tax Preparation	31.00	372.00
<b>Taxes and Government Assessments</b>	<b>142.00</b>	<b>1,704.00</b>
<b>Other</b>	<b><u>100.00</u></b>	<b><u>1,200.00</u></b>
<b>TOTAL</b>	<b>\$14,797.00</b>	<b>\$177,584.00</b>

We, Chaney, Brooks & Company as managing agents for the condominium project, hereby certify that the above estimates of initial maintenance fee assessments and the monthly cash operating costs were prepared in accordance with generally accepted accounting principals. The information contained herein is based on the data available to us at this time.

  
 Mary Lou Negl, CPM®  
 Vice President

Exhibit H  
 Page 2 of 2

03-64484/09-10-03/tp

03-33124  
 09-10-93/tp

EXHIBIT "I"

SUMMARY OF SALES CONTRACT

The Deposit Receipt, Reservation and Sales Agreement (the "Sales Contract") contains the price and other terms and conditions under which a purchaser will agree to buy an apartment in the Project. Among other things, the Sales Contract states:

- (a) The total purchase price, method of payment and additional sums which must be paid in connection with the purchase of an apartment.
- (b) That the purchaser acknowledges having received and read a public report (either preliminary or final) for the Project prior to signing the Sales Contract.
- (c) That the Developer makes no representations concerning rental of an apartment, income or profit from an apartment, or any other economic benefit to be derived from the purchase of an apartment.
- (d) That the Sales Contract may be subordinate to the lien of a construction lender.
- (e) That the purchaser's money will be held in escrow, under the terms of the Escrow Agreement.
- (f) Requirements relating to the purchaser's financing of the purchase of an apartment.
- (g) That the apartment and the Project will be subject to various other legal documents which the purchaser should examine, and that the Developer may change these documents under certain circumstances.
- (h) That, except to the extent of a limited warranty in form attached as Exhibit "G" to this Public Report, the Developer makes no warranties regarding the apartment, the Project or anything installed or contained in the apartment or the Project.
- (i) That the Project will be subject to ongoing construction and sales activities which may result in certain annoyances to the purchaser.
- (j) That the purchaser must close the purchase at a certain date and pay closing costs, in addition to the purchase price.
- (k) That the Developer has reserved certain rights and powers relating to the Project and the purchaser acknowledges and consents to the exercise of such rights and powers.
- (l) That except under certain circumstances, as set forth in the Sales Contract, all interest on deposits toward the purchase price shall be the property of the Developer.

The Sales Contract contains various other important provisions relating to the purchase of an apartment in the Project. Purchasers and prospective purchasers should carefully read the specimen Sales Contract on file with the Real Estate Commission.

EXHIBIT "J"

SUMMARY OF ESCROW AGREEMENT

The Escrow Agreement sets up an arrangement under which the deposits a purchaser makes pursuant to a Sales Contract will be held by a neutral party ("Escrow"). Under the Escrow Agreement, these things will or may happen:

- (a) Escrow will let the purchaser know when payments are due.
- (b) Escrow will arrange for the purchaser to sign all necessary documents.
- (c) Except under certain circumstances as set forth in the Sales Contract, all deposits toward the purchase price shall be the property of the Developer.
- (d) The purchaser will be entitled to a refund of his or her funds only under certain circumstances as set forth in the Sales Contract.

The Escrow Agreement also establishes the procedures for the retention and disbursement of a purchaser's funds and says what will happen to the funds upon a default under the Sales Contract. The Escrow Agreement contains various other important provisions and establishes certain charges with which a purchaser should be familiar. Purchasers and prospective purchasers should carefully read the signed Escrow Agreement on file with the Real Estate Commission.

EXHIBIT "K"

**Westview at Makakilo Heights  
Affordable Townhomes  
No.**

**Name** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Phone (R) \_\_\_\_\_ (B) \_\_\_\_\_**

**Signature** \_\_\_\_\_

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

\_\_\_\_\_

**Westview at  
Makakilo Heights  
No.**

**Name:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Date:**

**Please keep this portion  
your records**

# **ATTENTION PROSPECTIVE HOUSING APPLICANTS!**

Your completed application  
**MUST** include the following:

- 1) **OWNER-OCCUPANT AFFIDAVIT.** Original plus one copy.
- 2) **REAL ESTATE COMMISSION AFFIDAVIT.** Original plus one copy.
- 3) **HOUSING APPLICATION FORM.** Original plus two copies.
- 4) **1992 OR THE LATEST FEDERAL TAX RETURNS.** Three copies. These **MUST** be signed or there will be a delay in processing your application.
- 5) **AFFIDAVIT AS TO FAMILY MEMBER.** Original plus one copy.

**WE CANNOT STRESS ENOUGH THAT YOUR APPLICATION PACKET MUST BE COMPLETE!!**

## WESTVIEW AT MAKAKILO HEIGHTS - AFFORDABLE TOWNHOMES

### INSTRUCTION SHEET

The following Buyer Information forms are required by the Developer and the City and County, Department of Housing and Community Development (DHCD) and must be **filled out completely** by all parties. **INCOMPLETE FORMS WILL NOT BE ACCEPTED AND THEREFORE WILL CAUSE YOU TO BE DISQUALIFIED.** Buyer information forms along with 3 copies of your latest **SIGNED** FEDERAL tax returns must be delivered in person to the Westview at Makakilo Heights sales office located at Palahia Street, from 10 to 5 daily by **AUGUST 25TH, 1993 AT 5:00PM**. Applications received after the deadline will be placed on a waiting list *but not put in the initial lottery.*

1) **Owner-Occupant Affidavit**

Please read and complete the necessary information. This form must be signed by all parties in front of a notary public. **Please do not sign this form without a notary public present. Submit original plus one copy.**

2) **Real Estate Commission Affidavit**

This form must be signed by all parties in front of a notary public. **Submit original plus one copy. YOU MUST SIGN YOUR FULL NAME (NO INITIALS).**

3) **Housing Application Form - Three (3) pages**

These pages must be completely filled out. All information will be kept confidential and will be submitted to DHCD and a permanent lender for their review and approval.

Should you need more space, please feel free to make copies of the pages and attach to the application form. **Submit original plus two copies.**

4) **Tax Returns**

You must submit copies of your 1992 or **latest year** of your FEDERAL tax return with all schedules attached to your DHCD application. **Submit three of each signed by all parties.**

5) **Affidavit as to Family Members**

Please read and complete the necessary information. This form must be signed by all parties in front of a notary public. **Please do not sign this form without a notary public present. Submit original plus one copy.**

Once you have returned all the completed forms with your **signed** tax returns, your application will be reviewed and sent to DHCD and our lender for review. They will determine if you are an eligible buyer.

**DO NOT PHONE OUR OFFICE FOR UPDATES ON YOUR APPLICATION.** You will be notified by mail if you qualify or not. You will also be notified as to the date you must appear to make your unit selection and sign a sales contract. Should you not appear for your unit selection, you will be placed on a waiting list. The lottery will be conducted on September 1, 1993 at the Westview at Makakilo Heights Sales office at 4:30pm.

**WESTVIEW AT MAKAKILO HEIGHTS - AFFORDABLE TOWNHOMES**

**ELIGIBILITY REQUIREMENTS AND  
GUIDELINES FOR BUYER(S)**

1. The applicant(s) must be a citizen of the United States or a permanent resident alien.
2. The applicant(s) must be a bona fide resident of the State of Hawaii.
3. The applicant(s) must be at least eighteen (18) years of age.
4. The applicant(s) must not be an owner individually, or with a spouse jointly, or a majority interest, in fee simple or leasehold, in a dwelling unit or other real property within the State of Hawaii on which it is suitable to construct a dwelling unit, at any time within twelve months preceding the date the applicant applies to purchase a unit and thereafter, from the date of the application to the consummation of the purchase.
5. The applicant(s) understands the City and County of Honolulu's buy-back restriction on use, sale and transfer of the dwelling unit.

Should buyer sell his unit during the restriction period the City has first option to purchase the unit at the original cost, plus cost of any improvements, plus interest on the equity at the rate of one percent (1%) a year.

6. The applicant must be owner-occupants of the unit during the restriction period and cannot rent out the unit during that time. (Co-mortgagor(s) must be a family member, cannot own more than 1% interest in the unit, nor reside in the unit).
7. The names of any individual applicant, co-applicant/spouse and members of the household may not appear on more than one application for the project.
8. The applicant must execute an affidavit and provide proof that the individuals that will reside in the unit constitute a household. A household is defined as a single person or a group of persons related by blood, marriage or operation of law, or one or more individuals living with another person determined essential to their well-being.
9. The applicant and co-applicant/spouse's annual gross income must not exceed the income limits listed below:

<u>Income Category</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>
80%	31,750	35,750	39,700	42,900

"Annual Gross Household Income" means the total amount of annual income of the applicant, co-applicant/spouse, and all household members over eighteen years of age, excluding full time students up to age twenty-three from all sources before deductions, including but not limited to, social security benefits, deferred compensation, COLA, BAQ and VHA.

WESTVIEW AT MAKAKILC EIGHTS  
AFFORDABLE HOUSING

HOUSING APPLICATION

**MUST BE FILLED IN COMPLETELY.**

Applicant: \_\_\_\_\_ Spouse: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Residence: \_\_\_\_\_ Business: \_\_\_\_\_

Number of Family Members to Occupy Home: \_\_\_\_\_

Total Family Income as Indicated on Tax Return(s): \$ \_\_\_\_\_

Yes No

Are you a US citizen or resident alien? \_\_\_\_\_

Are you at least 18 years of age? \_\_\_\_\_

Are you a bona fide resident of the State of Hawaii? \_\_\_\_\_

Will you live in the home? \_\_\_\_\_

Do you own any other property suitable for dwelling purposes? \_\_\_\_\_

Is your income tax return attached? \_\_\_\_\_

**YOUR INCOME TAX RETURN MUST BE SIGNED**

Cash Available For Downpayment: \$ \_\_\_\_\_

Employer: \_\_\_\_\_ Monthly Income: \$ \_\_\_\_\_

Spouse's  
Employer: \_\_\_\_\_ Monthly Income: \$ \_\_\_\_\_

Interest/Dividend: \_\_\_\_\_ Monthly Income: \$ \_\_\_\_\_

Other: \_\_\_\_\_ Monthly Income: \$ \_\_\_\_\_

Total Family Monthly Income \$ \_\_\_\_\_

Monthly Bills - Auto(s) Balance: \$ \_\_\_\_\_ \$ \_\_\_\_\_ /mo.

Monthly Bills - Charge Cards Balance: \$ \_\_\_\_\_ \$ \_\_\_\_\_ /mo.

Monthly Bills - Credit Union Balance: \$ \_\_\_\_\_ \$ \_\_\_\_\_ /mo.

Monthly Bills - Other Balance: \$ \_\_\_\_\_ \$ \_\_\_\_\_ /mo.

Monthly Bills - Other Balance: \$ \_\_\_\_\_ \$ \_\_\_\_\_ /mo.

Total Balance: \$ \_\_\_\_\_ \$ \_\_\_\_\_ /mo.

**SPECIAL CONDITIONS:**

1. The information above is being provided by the applicant for the purposes of registration for the purchase of a home in the project listed above.

2. The applicant understands that placement in the lottery will not be accepted unless the above information is complete and the signed tax returns are attached.

3. Applicant understands that application and placement in the lottery does not guarantee applicant will qualify to purchase. Final determination will be made by the City Department of Housing & Community Development and the lending institution.



**WESTVIEW AT MAKAKILO HEIGHTS - AFFORDABLE TOWNHOMES**  
**HOUSING APPLICATION**

LIST BANK ACCOUNTS:

<u>INSTITUTION</u>	<u>BRANCH</u>	<u>TYPE</u>	<u>BALANCE</u>
			\$
			\$
			\$
			\$
			\$

LIST STOCKS/BONDS:

<u>NAME</u>	<u>STOCKS/ BONDS</u>	<u># OF SHARES</u>	<u>DIV/INT PER YR.</u>	<u>TOTAL AMOUNT</u>
			\$	\$
			\$	\$
			\$	\$
			\$	\$

LIST ALL REAL ESTATE HOLDINGS:

<u>ADDRESS</u>	<u>MARKET VALUE</u>	<u>WHEN ACQUIRED</u>	<u>MORTGAGE BALANCE.</u>	<u>MONTHLY PAYMENT</u>
			\$	\$
			\$	\$
			\$	\$

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**WESTVIEW AT MAKAKILO HEIGHTS - AFFORDABLE TOWNHOMES**

**OWNER OCCUPANT AFFIDAVIT**

We, the undersigned "owner-occupants" on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, declare that we are in an "Affordable Income Purchaser", who will be "owner-occupants" in the WESTVIEW AT MAKAKILO HEIGHTS, a fee simple multi-family project (the "Project").

We understand and agree that:

1. The term "Affordable Income Purchaser" as used in this document, means a buyer whose income does not exceed 80% of the median income (adjusted for family size) for the Honolulu Metropolitan Statistical Area as most recently determined by the U.S. Department of Housing and Urban Development. The following are current income limits by family size for the Project:

<u>Income Category</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>
80%	31,750	35,750	39,700	42,900

2. By signing this document, we represent that we are an "Affordable Income Purchaser" within the meaning of those terms, as defined in paragraph 1 above.

3. By signing this document, we represent that we intend to buy a residential unit in the Project and to become an owner-occupant of the unit.

4. By signing this document, we understand and agree that the residential unit which we purchase in the Project must be occupied by us and is not to be rented. The individuals listed below will occupy the unit:

	<u>Name</u>	<u>Age</u>
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____

5. By signing this document, we represent that we are citizens of the United States or resident alien.

6. By signing this document, we represent that we were not owner(s) individually, or with a spouse jointly, of a majority interest, in fee simple or leasehold, in a dwelling unit or of real property within the State of Hawaii on which it was suitable to construct a dwelling unit, at any time within twelve (12) months preceding the date we applied to purchase a unit, and thereafter from the date of the application to the consummation of the purchase.



**FFIDAVIT AS TO FAMILY MEM.**

(To be completed by all applicants)

STATE OF HAWAII ) Name of Applicant(s): \_\_\_\_\_  
 ) SS.  
CITY & COUNTY OF HONOLULU ) \_\_\_\_\_

The undersigned applicant(s), being first duly sworn on oath, depose(s) and say(s) that the person(s) named below:

	Names of all household members, including applicant and co-applicant	Age	SS#
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____
6.	_____	_____	_____

- a. currently constitute a family unit, currently living together, and have been living together for at least the one-year period preceding the date of this affidavit.
- b. will reside in the dwelling unit purchased from SCHULER HOMES, INC.
- c. is/are bona fide resident(s) of the State of Hawaii
- d. agree(s) to inform the Department Housing and Community Development (DHCD) of any changes after this date that affect DHCD's eligibility and preference requirements.
- e. authorize(s) DHCD to make all inquiries that DHCD deems necessary to verify the accuracy of the statements made herein and to determine the undersigned eligibility.
- f. make(s) the declarations in this affidavit that it is a crime punishable by a fine of Five Hundred Dollars (\$500.00) or imprisonment for 30 days or both to knowingly make a false statement concerning the above facts as applicable under the provisions of the Hawaii Penal Code, Part C, Sec. 710-1063, and DHCD may initiate all legal remedies for enforcement of the provisions including immediate termination, repurchase, foreclosure and eviction.

Signature of Applicant(s):

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

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

\_\_\_\_\_  
Notary Public, First Judicial Circuit  
State of Hawaii

My Commission Expires:

## **WHAT HAPPENS NEXT?**

- 1) A lottery will be held to determine order of priority in selecting a home. Applicants are not required to attend the lottery. Preference will be given to family size of two or more. The date of the lottery is September 1st at 4:30pm at the Westview at Makakilo Heights Sales Office.
- 2) Results of the lottery will be mailed to you. Please do not call our office for the lottery results.
- 3) Schuler Homes, Inc. will make an initial review of all applicants along with the County to determine whether the household meets the County eligibility requirements.
- 4) All applications will be reviewed by a Lender to determine their ability to purchase.
- 5) You will be notified as to the date you must appear to make your unit selection should your lottery number come up.
- 6) At all stages of the application process you will be responsible for notifying Schuler Homes, Inc. of any changes in your mailing address and telephone numbers. Please phone (808) 672-8907 (Honolulu).

If you have any questions please call Schuler Homes, Inc. at 672-8907 Monday thru Friday, 10:00am to 5:00pm.

**WESTVIEW AT MAKAKILO HEIGHTS**  
a fee simple condominium project

<b>FOR DEVELOPER'S USE (chronological system):</b>	
COMPLETED AFFIDAVIT SUBMITTED	DATE : _____ TIME : _____
EARNEST MONEY DEPOSIT SUBMITTED	DATE : _____ TIME : _____
	RESERVATION # : _____
	APARTMENT # : _____
	CONDOMINIUM MAP # : _____ 999
DECLARATION OF CONDOMINIUM PROPERTY REGIME RECORDED AS DOCUMENT # :	_____ 2074551

**NOTICE TO ALL PERSONS SIGNING THE AFFIDAVIT**

This Affidavit is being provided to you pursuant to Part VI of the Condominium Property Act (Chapter 514A of the Hawaii Revised Statutes). Part VI is referred to as the "Owner-Occupant Law" in this Affidavit, and various Sections of Part VI are referenced in this Affidavit. This Affidavit is a legal document that contains promises which are binding on you. If these promises are broken you could be subject to various penalties that are described in the Owner-Occupant Law and in this Affidavit. Therefore, it is strongly recommended that you seek the advice of an attorney or the Developer's representatives if you do not understand anything contained in the Affidavit, or have questions about anything contained in the Affidavit, or do not understand the references to the Owner-Occupant Law or other provisions of the Condominium Property Act which are contained in this Affidavit.

**AFFIDAVIT OF INTENT TO PURCHASE AND RESIDE IN AN OWNER-OCCUPANT  
DESIGNATED CONDOMINIUM RESIDENTIAL UNIT**

We, the undersigned "owner-occupants," on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, do hereby declare that it is our intention to purchase and reside in a condominium residential unit designated for an "owner-occupant" in the Westview at Makakilo Heights condominium project ("Project") proposed by Schuler Homes, Inc. ("Developer").

We understand, affirm, represent and agree by signing this Affidavit that:

1. It is our intent to reserve and purchase an owner-occupant designated residential unit ("designated unit") pursuant to section 514A-103 of the Owner-Occupant Law, and upon closing escrow, to reside in the designated unit as our principal residence for 365 consecutive days.

2. The term "owner-occupant" as used herein is defined in section 514A-101 of the Owner-Occupant Law as:

"...any individual in whose name sole or joint legal title is held in a residential unit which, simultaneous to such ownership, serves as the individual's principal residence, as defined by the state department of taxation, for a period of not less than three hundred and sixty-five consecutive days, provided that the individual retains complete possessory control of the premises of the residential unit during this period. An individual shall not be deemed to have complete possessory control of the premises if the individual rents, leases or assigns the premises for any period of time to any other person in whose name legal title is not held." (Emphasis added).

3. We understand that if two or more prospective owner-occupants intend to reside jointly in the same designated unit, only one owner-occupant's name shall be placed on the reservation list for either the chronological system or the lottery system.

4. Should we require financing from a financial institution to purchase the designated unit, the financing shall be an owner-occupant mortgage loan. The financial institution is required to take all reasonable steps necessary to determine whether the borrower intends to become an owner-occupant.

5. At any time after obtaining adequate financing or a commitment for adequate financing up until the expiration of this Affidavit (365 days after recordation of the instrument conveying the designated unit to us), we shall notify the Real Estate Commission immediately upon any decision to cease being an owner-occupant of the designated unit.

6. At closing of escrow, we shall file a claim for and secure an owner-occupant property tax exemption with the appropriate county office for the designated unit.

7. We have personally executed this Affidavit and we are all of the prospective owner-occupants for the designated unit. This Affidavit shall not be executed by an attorney-in-fact.

8. This Affidavit shall be reaffirmed by us no earlier than our receipt for the Project's Final Public Report and no later than the closing of escrow for the unit. The developer shall cancel our sales contract or reservation if we fail to make the reaffirmation. If the sales contract has become binding pursuant to section 514A-62 of the Condominium Property Act, we may be considered to be in default under our sales contract, and the Developer may exercise the default or other remedies provided for in the sales contract and any other remedies provided by law.

9. We shall not sell or offer to sell, lease or offer to lease, rent or offer to rent, assign or offer to assign, convey or otherwise transfer any interest in the designated unit until at least 365 consecutive days have elapsed since the recordation of the instrument conveying title to the designated unit to us. Furthermore, we understand that we have the burden of proving our compliance with the law.

10. We understand that it is the affirmative duty of any developer, employee or agent of a developer, and real estate licensee, to report immediately to the Real Estate Commission any person who violates or attempts to violate the Owner-Occupant Law. No developer, employee or agent of a developer, or real estate licensee shall violate or aid any person in violating the Owner-Occupant Law.

11. The Real Estate Commission may require verification of our owner-occupant status and if we fail to submit such verification, we may be subject to a fine in an amount equal to the profit made from the sale, assignment or transfer of the designated unit.

12. Any false statement in this Affidavit or violation of the Owner-Occupant Law shall subject us to a misdemeanor charge with a fine not to exceed \$2,000, or by imprisonment of up to a year or both. We further understand that if we violate or fail to comply with the Owner-Occupant Law, we shall be subject to a civil penalty of up to \$10,000, or fifty per cent of the net proceeds received or to be received from the sale, lease, rental, assignment or other transfer of the designated unit, whichever is greater.

13. When required by context, each pronoun reference shall include all numbers (singular or plural) and each gender shall include all genders.

By signing this affidavit we represent and affirm that we have read, understand and agree to the above statements.

1)	_____	_____	_____
	Purchaser's signature	Print Name	date
2)	_____	_____	_____
	Purchaser's signature	Print Name	date
3)	_____	_____	_____
	Purchaser's signature	Print Name	date

STATE OF HAWAII )  
 ) SS.  
 COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, before me personally appeared \_\_\_\_\_ and \_\_\_\_\_ and \_\_\_\_\_ to me known to be the person(s) described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed as owner-occupants.

\_\_\_\_\_  
 Notary Public, State of Hawaii

My commission expires: \_\_\_\_\_



**EXHIBIT "L"**

**DEED RESTRICTIONS AND BUY-BACK OPTION  
[from Specimen Apartment Deed for "Affordable Units"]**

Capitalized terms used in this Exhibit [ ] and not otherwise defined herein shall have the meanings given to them in the Apartment Deed to which this Exhibit [ ] is attached and made a part of.

The Grantee understands and agrees that title to the Property is being conveyed to the Grantor subject to the following terms, covenants, conditions, agreements, reservations and restrictions:

For a period of 10 years following the date of recordation of this Apartment Deed, if the Grantee wishes to transfer title to the Property, or if the Grantee ceases to use and occupy the Apartment as the Grantee's principal residence, the City and County of Honolulu (the "City") by and through its Department of Housing and Community Development ("DHCD") or any department of the City which succeeds to the functions of or replaces DHCD, shall have the right, in the nature of an option, to purchase and acquire the Property at a price (the "Option Purchase Price") which shall not exceed the sum of:

- (A) The original cost of the Property to the Grantee, as defined by rules adopted by DHCD;
- (B) The cost of any capital improvements added to the Property by the Grantee, as defined by rules adopted by DHCD; and
- (C) Simple interest on the original cost of the Property and the cost of the Grantee's capital improvements calculated at the rate of one percent per annum.

The City may exercise its option and purchase the Property either outright, free and clear of any and all mortgage liens on the Property, or by transfer subject to any existing mortgage lien(s).

If the City elects to make an outright purchase of the Property, the City shall ensure that all existing mortgage liens and the indebtedness secured thereby are properly discharged. If the City elects to acquire the Property subject to existing liens, the City shall agree to assume and pay the balance of indebtedness secured by any purchase money first mortgage and any other recorded creditor's liens on the Property. The amount to be paid to the Grantee in such case shall be the difference between the Option Purchase Price and the sum of all indebtedness outstanding and assumed by the City at the time the City acquires title to the Property.

The foregoing restrictions and the option in favor of the City shall not apply in the case of a partial transfer of title to the Property to a surviving Grantee by operation of law upon the death of a Grantee who held title to the Property in joint tenancy or tenancy by the entirety with the surviving Grantee, provided that the restriction and option shall remain in full force and effect with regard to any subsequent transfer by the surviving Grantee. Similarly, the foregoing restriction and option shall not apply in the case of a transfer of title to the Property upon the death of the Grantee by devise or the laws of descent to a family member who would otherwise qualify as a qualified resident under rules adopted by DHCD, provided that the restrictions and option shall remain in full force and effect with regard to any subsequent transfer by the devisee(s) or heir(s) at law of the Grantee, unless specifically waived in writing by the City.

The foregoing restrictions and the option in favor of the City shall be automatically extinguished and shall not apply in subsequent transfers of title to the Property when a mortgage holder or other party becomes the owner of the Property pursuant to a mortgage foreclosure, foreclosure under power of sale, or a conveyance in lieu of foreclosure after a foreclosure action is commenced, or when a mortgage is assigned to a federal housing agency. Prior to commencing mortgage foreclosure proceedings, such mortgage holder or party shall notify DHCD

in writing of (i) any default of the mortgagor under the mortgage within ninety days after the occurrence of the default, (ii) any intention to foreclose the mortgage under Chapter 667, Hawaii Revised Statutes; provided that the mortgage holder's failure to provide such written notice to DHCD shall not affect such holder's rights under the mortgage. DHCD shall be made a party to any foreclosure action and shall be entitled to all proceeds remaining after payment of (i) all customary and actual costs and expenses of transfer occasioned by the Grantee's default, and (ii) the difference, if any, between the Option Purchase Price calculated as of the date that such foreclosure action is initiated or power of sale is exercised and the costs and expenses described in (i) above, which difference, if any, shall be payable to the Grantee. The term "mortgage holder" as used herein shall include the United States Department of Housing and Urban Development, Federal Housing Administration, the United States Department of Agriculture, the Farmers Home Administration or other federal or state agencies engaged in housing activity, the Administrator of Veterans Affairs, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, and any private mortgage lender, private mortgage insurer and their successors, grantees and assigns.

The City may release the foregoing restrictions and the option in favor of the City if the Property is financed under a federally subsidized mortgage program and such restrictions and option would jeopardize the federal government's ability to recapture any interest credit subsidies provided to the Grantee. Similarly, the City may waive any of the foregoing restrictions and the option in favor of the City in order to comply with or conform to the requirements of federal laws or regulations governing mortgage insurance or guarantee programs or requirements set forth by federally chartered secondary mortgage market participants.

In addition, the City may waive the foregoing restrictions without exercising its option to purchase the Property, if the sale or transfer of the Property would be at a price and upon terms that preserve the intent of Section 201E-221, Hawaii Revised Statutes, and if the proposed purchaser of the Apartment is a "qualified resident" as defined in Section 201E-2, Hawaii Revised Statutes, as determined by DHCD pursuant to its duly adopted rules.

Exercise of the foregoing option in favor of the City shall be in the sole and absolute discretion of the City, and nothing herein shall be deemed to require the City to exercise its option or to create the right in any third party to require the City to exercise its option. The prior or simultaneous exercise of an option by the City, in the case of a proposed transfer of another apartment in the Project or in the case of another owner of an apartment in the Project ceasing to use such apartment as the owner's principal residence under circumstances similar to a proposed transfer of the Property conveyed by this Apartment Deed or the Grantee's cessation of use of the Apartment as the Grantee's principal residence, shall not in any way obligate the City to exercise its option to purchase the Property. Moreover, a specific waiver of its option or mere failure by the City to exercise its option in the case of a proposed transfer of the Property or the cessation of use of the Apartment as the Grantee's principal residence shall not extinguish the restrictions and option with regard to a subsequent proposed transfer or subsequent cessation of use of the Apartment as the Grantee's principal residence, and the restrictions and option will remain in full force and effect with respect to same and shall bind the new owner of the Property, unless specifically waived in writing by the City.

In enforcing the foregoing restrictions and option, DHCD (or its successor or replacement department) may adopt and employ such reasonable means and procedures as are necessary to verify that the Apartment is being used and occupied by the Grantee or successor to the Grantee as the principal residence and that the Apartment or a part thereof is not being leased or rented.

If not previously released or extinguished, the foregoing restrictions on the use, occupancy and transfer of the Property and the City's option shall be incorporated in any deed, lease, agreement of sale or any other instrument of conveyance of the Property.

In any event, the foregoing restrictions and the option in favor of the City shall expire of their own accord and be null, void and of no further and effect, without need of any act or writing by the City, at 12:00 midnight on \_\_\_\_\_, 20\_\_.