

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by: Developer Samuel Mark Ruben and Julianne Marie Ruben Norman Emil Brand and Pamela Karen Brand

Address 2560 Kaiwika Road, Hilo, Hawaii 96720

Project Name(\*): KAIWIKI ESTATES

Address: 2560 Kaiwika Road, Hilo, Hawaii 96720

Registration No. 2938 (conversion)

Effective date: September 21, 1993

Expiration date: October 21, 1994

Preparation of this Report:

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

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

Buyers are encouraged to read this report carefully, and to seek professional advise 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 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 when complete information is filed.
X FINAL (white) The developer has legally created a condominium and has filed complete information with the Commission.
[X] No prior reports have been issued
[ ] 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

**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:

**SPECIAL ATTENTION**

This is a CONDOMINIUM PROJECT, not a subdivision. The land area beneath and immediately appurtenant to each unit is designated a LIMITED COMMON ELEMENT and is not a legally subdivided lot. The dotted lines on the Condominium Map bounding the designated number of square feet in each limited common element land area are for illustrative purposes only and should not be construed to be the property lines of legally subdivided lots.

This public report does not constitute approval of the Project by the Real Estate Commission, or any other government agency, nor does it ensure that all applicable County codes, ordinances, and subdivision requirements have necessarily been complied with.

Because no immediate sale of either Home is contemplated, no real estate broker has been selected to represent the Developers. This public report shall not be valid for the sale of either Home until the Developers have submitted to the Commission a duly executed broker listing agreement with a Hawaii-licensed real estate broker, and an updated disclosure abstract identifying said sales agent, a copy of which shall be attached to this public report.

THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW THE CONDOMINIUM DOCUMENTS REFERENCED IN THIS PUBLIC REPORT FOR FURTHER INFORMATION WITH REGARD TO THE FOREGOING.

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## **General Information on Condominiums**

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

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

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

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

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

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

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

## **Operation of the Condominium Project**

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

The Board of Directors is the governing body of the Association. Unless you serve as a board member or an officer, or are on a committee appointed by the board, your participation in the administration and operation of the condominium project will in most cases be limited to your right to vote as an apartment owner. The Board of Directors and officers can take certain actions without 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 a sufficient number of purchasers of apartments to elect a majority of the Board of Directors, it is likely that the developer will effectively control the affairs of the Association. It is frequently necessary for the developer to do so during the early stages of development and the developer may reserve certain special rights to do so in the Declaration and Bylaws. Prospective buyers should understand that it is important to all apartment owners that the transition 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: Norman Emil Brand and Pamela Karen Brand, Phone: 959-3599  
Samuel Mark Ruben and Julianne Marie Ruben Phone: 935-2153  
Name (Business)  
2560 Kaiwiki Road  
Business Address  
Hilo, Hawaii 96720

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

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

Real Estate Broker: N/A - See p.2 Phone: \_\_\_\_\_  
Name (Business)  
\_\_\_\_\_  
Business Address  
\_\_\_\_\_

Escrow: Long & Melone Escrow, Ltd. Phone: (808)532-6150  
Name (Business)  
700 Bishop Street, Suite 1111  
Business Address  
Honolulu, Hawaii 96813

General Contractor: N/A Phone: \_\_\_\_\_  
Name (Business)  
\_\_\_\_\_  
Business Address  
\_\_\_\_\_

Condominium Managing Agent: [N/A]Self managed by Association of Apartment Owners Phone: \_\_\_\_\_  
Name (Business)  
\_\_\_\_\_  
Business Address  
\_\_\_\_\_

Attorney for Developer: Philip L. Lahne, Esq. Phone: (808)523-7021  
Name (Business)  
Dinman Nakamura Elisha & Lahne  
Company Name  
707 Richards Street, Penthouse One  
Business Address  
Honolulu, Hawaii 96813

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

A condominium is created by recording in the Bureau of Conveyances and/or filing with the Land Court a Declaration of Condominium Property Regime, a Condominium Map (File Plan), and the Bylaws of the Association of Apartment Owners. The Condominium Property Act (Chapter 514A, HRS), the Declaration, Bylaws, and House Rules control the rights and obligations of the apartment owners with respect to the project and the common elements, to each other, and to their respective apartments. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law.

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

The Declaration for this condominium is:

Proposed  
 Recorded - Bureau of Conveyances Document No. 92-067712  
Book \_\_\_\_\_ page \_\_\_\_\_  
 Filed - Land Court Document No. \_\_\_\_\_

The Declaration referred to above has been amended by the following instruments [state name of document, date and recording/filing information]: Amendment to the Declaration of Condominium Property Regime of Kaiwiki Estates and By-Laws of the Association of Apartment Owners of Kaiwiki Estates dated May 26, 1993, recorded as Bureau of Conveyance Document No. 93-100634. Second Amendment to the Declaration of Condominium Property Regime of Kaiwiki Estates and Condominium Map No. 1655 dated August 16, 1993, recorded as Bureau of Conveyance Document No. 93-136804.

- 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. 1655  
 Filed - Land Court Condo Map No. \_\_\_\_\_

The Condominium Map has been amended by the following instruments [state name of document, date and recording/filing information]: Amendment to the Declaration of Condominium Property Regime of Kaiwiki Estates and By-Laws of the Association of Apartment Owners of Kaiwiki Estates dated May 26, 1993, recorded as Bureau of Conveyance Document No. 93-100634. Second Amendment to the Declaration of Condominium Property Regime of Kaiwiki Estates and Condominium Map No. 1655 dated August 16, 1993, recorded as Bureau of Conveyance Document No. 93-136804.

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

The Bylaws for this condominium are:

Proposed  
 Recorded - Bureau of Conveyances Document No. 92-067713  
Book \_\_\_\_\_ page \_\_\_\_\_  
 Filed - Land Court Document No. \_\_\_\_\_

The Bylaws referred to above have been amended by the following instrument [state name of document, date and recording/filing information]: Amendment to the Declaration of Condominium Property Regime of Kaiwiki Estates and By-Laws of the Association of Apartment Owners of Kaiwiki Estates dated May 26, 1993, recorded as Bureau of Conveyance Document No. 93-100634.

- 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>100%</u>
Bylaws	65%	<u>65%</u>
House Rules	---	<u>----</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:

Option to construct additional homes, consolidate and merge additional increments, withdraw areas and grant easements and rights of way. See project documents, including paragraph Q of the Declaration.

**III. THE CONDOMINIUM PROJECT**

**A. Interest to be Conveyed to Buyer:**

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

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

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

Lease Term Expires: \_\_\_\_\_

Rent Renegotiation Date(s): \_\_\_\_\_

Lease Rent Payable:      Monthly                    Quarterly  
                                  Semi-Annually            Annually

Exhibit \_\_\_\_\_ contains a schedule of the lease rent for each apartment per  Month  Year.

**For Subleaseholds:**

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

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

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

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

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

Lease Term Expires: \_\_\_\_\_

Rent Renegotiation Date(s): \_\_\_\_\_

Lease Rent Payable:      Monthly                    Quarterly  
                                  Semi-Annually            Annually

Exhibit \_\_\_\_\_ contains a schedule of the lease rent for each apartment per  Month  Year.

[ ] Other:

**IMPORTANT INFORMATION ON LEASEHOLD CONDOMINIUM PROJECTS**

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

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

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

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

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

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

**B. Underlying Land:**

Address: 2560 Kaiwiki Road Tax Map Key: (3) 2-6-10-11  
Hilo, Hawaii 96720 (TMK)

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

Land Area: 9.599 [ ] square feet [ X ] acre(s) Zoning: A-5a

Lessor Norman Emil Brand and Pamela Karen Brand,  
 (Fee Owner): Samuel Mark Ruben and Julianne Marie Ruben  
 Name  
2560 Kaiwika Road  
 Address  
Hilo, Hawaii 96720

Sublessor: N/A  
 Name  
 \_\_\_\_\_  
 Address  
 \_\_\_\_\_

**C. Buildings and Other Improvements:**

1.  New Building(s)  Conversion of Existing Building(s)  Both New Building(s) and Conversion Home One - 2 floors  
 2. Number of Buildings: 2 Floors Per Building Home Two - 2 floors  
 Exhibit \_\_\_\_\_ contains further explanations.

3. Principal Construction Material:  
 Concrete  Hollow Tile  Wood  
 Other \_\_\_\_\_

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>1</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Ohana	<u>1</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Commercial	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Industrial	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Agricultural	_____	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Hotel	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Recreational	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Timeshare	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Other: _____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No

Is/Are this/these use(s) specifically permitted by the project's Declaration or Bylaws?  
 Yes  No

5. Special Use Restrictions:

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

- Pets: Dogs, cats, and other usual and customary animals may be kept in reasonable numbers pursuant to rules and regulations which may be adopted by the Board.
- Number of Occupants: \_\_\_\_\_
- Other: \_\_\_\_\_
- There are no special restrictions.

6. Interior (fill in appropriate numbers):

Elevators: N/A                      Stairways: N/A                      Trash Chutes: N/A

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Lanai/Patio (sf)</u>
<u>Home One</u>	<u>1</u>	<u>1/1.5</u>	<u>1,260</u>	<u>192</u>
<u>Home Two</u>	<u>1</u>	<u>3/3.5</u>	<u>2,780</u>	<u>360</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Total Apartments: 2

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

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

Boundaries of Each Apartment:

Exhibit "A"

Permitted Alterations to Apartments:

Exhibit "B"

7. Parking Stalls:

Total Parking Stalls: 3

	<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)	Home							
	One - 1							
	Home							
	Two - 2							<u>3</u>
Guest	_____	_____	_____	_____	_____	_____	_____	
Unassigned	_____	_____	_____	_____	_____	_____	_____	
Extra for Purchase	_____	_____	_____	_____	_____	_____	_____	
Other:	_____	_____	_____	_____	_____	_____	_____	
Total Covered & Open	<u>3</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.

Commercial parking garage permitted in condominium project.

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

8. Recreational and Other Common Facilities:

There are no recreational or common facilities.

Swimming Pool                       Storage Area                       Recreation Area

Laundry Area                       Tennis Court                       Trash Chute

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

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

There are no violations.                       Violations will not be cured.

Violations and cost to cure are listed below.                       Violations will be cured by \_\_\_\_\_

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

(For conversions of residential apartments in existence for at least five years):

N/A

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 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 \_\_\_\_\_.

as follows:

The common elements shall consist of all portions of the Project except the Homes, and shall specifically include, but not be limited to:

- a) the land in fee simple
- b) all pipes, wires, conduits, and other utility and service lines which are utilized for or serve both Homes.

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

There are no limited common elements in this project.

The limited common elements and the apartments which use them, as described in the declaration, are:

described in Exhibit "C".

as follows:

3. Common Interest: Each apartment will have an undivided fractional interest in all of the common elements. This interest is called the "common interest". It is used to determine each apartment's share of the maintenance fees and other common profits and expenses of the condominium. 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 \_\_\_\_\_.

as follows:

Home One shall have appurtenant thereto a fifty percent (50%) undivided interest in the common elements, and Home Two shall have appurtenant thereto a fifty percent (50%) undivided interest in the common elements.

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 "D" describes the encumbrances against the title contained in the title report dated June 16, 1993 and issued by Long & Melone, Ltd.

**Blanket Liens:**

A blanket lien is an encumbrance (such as a mortgage) on the entire condominium project that secures some type of monetary debt (such as a loan) or other obligation. A blanket lien is usually released on an apartment-by-apartment basis upon payment of specified sums so that individual apartments can be conveyed to buyers free and clear of the lien.

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

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

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

<u>Type of Lien</u>	<u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance</u>
Mortgage	Buyer's interest may be cancelled and Buyer may be entitled to a refund <u>less</u> escrow cancellation fee.

**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:

N/A

2. Appliances:

N/A

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

Home Number One was completed in October 1990.  
Home Number Two was completed in August 1992.

**H. Project Phases:**

The developer [ X ] 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):

Paragraph Q of the Declaration contains provisions allowing the Developer to develop the Property into two separate increments and amend the Project documents to merge the two increments. The Developer has exercised its rights pursuant to Paragraph Q and has developed the second increment consisting of Home Number Two and amended the Project documents to merge the two increments.

**IV. CONDOMINIUM MANAGEMENT**

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

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

The initial condominium managing agent for this condominium is:

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

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

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

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

Exhibit "F" contains a schedule of maintenance fees and maintenance fee disbursements.

**C. Utility Charges for Apartments:**

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

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

## I. MISCELLANEOUS

### A. Sales Documents Filed with the Real Estate Commission:

Sales documents on file with the Real Estate Commission include but are not limited to:

Notice to Owner Occupants

Specimen Sales Contract

Exhibit "G" contains a summary of the pertinent provisions of the sales contract.

Escrow Agreement dated June 24, 1993

Exhibit "E" contains a summary of the pertinent provisions of the escrow agreement.

Other \_\_\_\_\_

### B. Buyer's Right to Cancel Sales Contract:

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

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

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

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

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

- 1) Either the Final Public Report OR the Supplementary Public Report which has superseded the Final Public Report for which an effective date has been issued by the Real Estate Commission;

AND

- 2) Any other public report issued by the developer prior to the date of delivery, if the report was not previously delivered to the buyer and if the report has not been superseded;

B) The buyer is given an opportunity to read the report(s); AND

C) One of the following has occurred:

- 1) The buyer has signed a receipt for the report(s) and waived the right to cancel; or
- 2) Thirty (30) days have passed from the time the report(s) were delivered to the buyer; or
- 3) The apartment is conveyed to the buyer within 30 days from the date the report(s) were delivered to the buyer.

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

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

B) The buyer has not waived the right to rescind.

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

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyer's 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, as amended.
- C) Bylaws of the Association of Apartment Owners, as amended.
- D) House Rules.
- E) Condominium Map, as amended.
- F) Escrow Agreement.
- G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
- H) Other \_\_\_\_\_

Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer and are on file at the Department of Commerce and Consumer Affairs. Reprints of Hawaii's Condominium Property Act (Chapter 514A, HRS) and Hawaii Administrative Rules, Chapter 16-107, are available at the Cashier's Office, Department of Commerce and Consumer Affairs, 1010 Richards Street, 3rd Floor, Honolulu, Hawaii, mailing address: P. O. Box 541, Honolulu, HI 96809, at a nominal cost.

This Public Report is a part of Registration No. 2938 filed with the Real Estate Commission on August 23, 1993.

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

- yellow paper stock                       white paper stock                       pink paper stock

C. Additional Information Not Covered Above

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.

Norman Emil Brand and Pamela Karen Brand  
Samuel Mark Ruben and Julianne Marie Ruben

	<u>Name of Developer</u>	
	<u>Samuel Mark Ruben</u>	<u>5-26-93</u>
	<u>Pamela Karen Brand</u>	<u>5-26-93</u>
	<u>Julianne Marie Ruben</u>	<u>5-26-93</u>
By:	<u>SRub</u>	<u>5-26-93</u>
	Duly Authorized Signatory	Date

Norman Emil Brand and Pamela Karen Brand  
Samuel Mark Ruben and Julianne Marie Ruben  
 print name & title of person signing above

Distribution:

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

## EXHIBIT "A"

BOUNDARIES OF APARTMENTS: The project is hereby divided into two (2) separate and distinct freehold estates bounded by and including the decorated or finished surfaces of the exterior of the perimeter walls, by the exterior surfaces of the respective roofs thereof, and inclusive of the floor and ceiling of each of the dwellings in the Project, which dwellings are designated on the Condominium Map as "Home Number One" and "Home Number Two", and are sometimes referred to herein as "Homes". The term "Home" shall have the same meaning as the term "Apartment" in the Condominium Property Act, as the same may be amended from time to time.

(a) Home Number One contains two (2) floors, without a basement, in which there are one (1) studio, a half (1/2) bath, a storage room, and a dark room on the lower level, and one (1) bedroom, one (1) bathroom, a kitchen, and a living room on the upper level. Home Number One contains a net living area of approximately 1260 square feet. The one car carport contains an area of approximately 324 square feet.

(b) Home Number Two will contain two (2) floors, without a basement, in which there are two (2) bedrooms, two (2) baths, a study/office, a storage area, a multi-purpose room, a utility area, a lanai, and a foyer on the ground level, and one (1) bedroom, one and a half (1 1/2) baths, a kitchen, a dining area, a living room, and two (2) lanais on the second level. Home Number Two will contain a net living area of approximately 2,780 square feet. The three (3) lanais contain an area of approximately 360 square feet, and the two car garage contains an area of approximately 640 square feet. Home Number Two is constructed primarily of wood.

Each Home shall also include all pipes, wires, conduits, and other utility and service lines contained wholly within such Home and which are utilized exclusively by and serve only such Home.

## EXHIBIT "B"

PERMITTED ALTERATIONS OF PROJECT: No work shall be done to the Homes, the limited common elements appurtenant thereto, or any other part of the Project, by any owner of a Home or any other person, which could jeopardize the soundness or safety of the Project, reduce the value thereof, impair any easement or hereditament, detract from the appearance of the Project, interfere with or deprive any nonconsenting owner of the use or enjoyment of any part of the Project, or directly affect any nonconsenting owner in any unreasonable manner, all as determined by the Board, without in every such case first obtaining the consent of the owner of the other Home, which consent shall not be unreasonably withheld. Except as otherwise provided by law, all other additions to or alterations of any Home or its appurtenant limited common elements by the owner of such Home shall be permitted without restriction, provided that the owner or other person making such additions or alterations shall comply strictly with all applicable laws, ordinances, and regulations of any governmental entity, and shall also obtain all necessary permits, at such person's sole expense.

**EXHIBIT "C"**

**LIMITED COMMON ELEMENTS:** Certain parts of the common elements are hereby set aside and reserved for the exclusive use of the Homes and shall constitute limited common elements appurtenant thereto. Each Home shall have an exclusive easement for the use of the limited common elements appurtenant thereto, except as otherwise provided. The cost of maintenance, repair, upkeep, and replacement of each limited common element shall be assessed to the owner of the Home to which such limited common element is appurtenant. The limited common elements shall be appurtenant to each of the Homes as follows:

(a) That certain 5.059 acres, more or less, of the real property of the Project upon which Home Number One is situated shall constitute a limited common element appurtenant to and for the exclusive use of Home Number One.

(b) That certain 4.540 acres, more or less, of real property of the Project, which includes the real property upon which Home Number Two is situated shall constitute a limited common element appurtenant to and for the exclusive use of Home Number Two.

(c) Each Home shall have appurtenant thereto parking spaces as designated on the Condominium Map.

(d) One mailbox shall be appurtenant to and for the exclusive use of each Home, as shall be designated on the Condominium Map.

(e) All pipes, wires, conduits, and other utility and service lines not contained within a Home but used by and servicing both Homes, shall be appurtenant to and for the exclusive use of the Homes using and serviced by such pipes, wires, conduits, and other utility and service lines.

**NOTICE**

THE DESIGNATION OF THE LAND BENEATH AND ADJACENT TO EACH HOME AS A LIMITED COMMON ELEMENT DOES NOT REPRESENT A LEGALLY SUBDIVIDED OR SUBDIVIDABLE LOT.

PROSPECTIVE PURCHASERS ARE CAUTIONED TO CAREFULLY REVIEW THE PROJECT DOCUMENTS FOR FURTHER INFORMATION IN REGARDS THERETO.

EXHIBIT "D"

ENCUMBRANCES AGAINST TITLE: The Preliminary Title Report issued by Long & Melone, Ltd. dated March 24, 1993, reflects the following encumbrances:

1. Title to all minerals and metallic mines reserved to the State of Hawaii.
2. As to Lot 14-A:
  - (A) GRANT OF EASEMENT  
In Favor Of : Hawaii Electric Light Company, Inc. and GTE Hawaiian Telephone Company Incorporated  
Dated : April 12, 1990  
Recorded in the Bureau of Conveyances as Document No. 90-099172.  
Granting a 10-foot wide poleline easement along the easterly boundary as shown on Hawaii Electric Light Company, Inc.'s map attached thereto and made a part thereof.
  - (b) Roadway, if any, along the easterly boundary as shown on map attached to instrument dated April 12, 1990, recorded in the Bureau of Conveyances as Document No. 90-099172.
  - (c) Rights and claims of the owners of other undivided interests in and to the aforesaid roadway.
  - (d) GRANT OF EASEMENT  
In Favor Of : Hawaii Electric Light Company, Inc. and GTE Hawaiian Telephone Company Incorporated  
Dated : June 9, 1992  
Recorded in the Bureau of Conveyances as Document 93-003107.  
Purpose : Utility  
Location : Over and across Lot 14-A
3. As to Lot 14-B:

GRANT OF EASEMENT  
In Favor of : County of Hawaii, by its Board of Water Supply  
Dated : September 26, 1966  
Recorded in the Bureau of Conveyances in Book 5455, Page 29.  
Purpose : Five (5.00) feet wide pipeline easement

4. Any adverse claim based upon the assertion that:
  - (a) Said land or any part thereof is now or at anytime has been below the ordinary highwater mark of Mailekea Stream.
  - (b) Some portion of said land has been created by artificial mean or has accreted to such portion so created.
  - (c) Some portion of said land has been brought within the boundaries thereof by an avulsive movement of the Mailekea Stream, or has been formed by accretion to any such portion.
5. Rights of others thereto entitled in and to the continued uninterrupted flow of the Mailekea Stream, or any auwai or river.
6. Covenants, conditions, restriction, reservations, easements, liens for assessments, option, powers of attorney, limitations on title, and all other provisions contained in or incorporated by reference in the Declaration of Condominium Property Regime dated March 27, 1992, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 92-067712, and By-Laws thereto dated March 27, 1992, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 92-067713, Condominium Map No. 1655; any instrument referred to in any of the instruments aforesaid.

Said Declaration, By-Laws, and Condominium Map were amended by instrument dated May 26, 1993, recorded as aforesaid as Document No. 93-100634.

7. **MORTGAGE AND FINANCING STATEMENT**

Mortgagor(s) : Samuel Mark Ruben and Julianne Marie Ruben, husband and wife

Mortgagee(s) : First Hawaiian Bank, a Hawaii corporation

Dated : August 10, 1992

Recorded in the Bureau of Conveyances as Document No. 92-132851.

To secure : \$300,000.00

## EXHIBIT "E"

**SUMMARY OF ESCROW AGREEMENT:** An escrow agreement (hereinafter called the "Escrow Agreement") detailing the manner in which purchasers' funds are to be handled, has been executed and a copy thereof has been filed with the Commission. The Escrow Agent is LONG & MELONE ESCROW, LTD., a Hawaii Corporation (hereinafter referred to as "Escrow"). The escrow agreement, among other things, contains the following provisions:

**Sale Contracts Deposited in Escrow.** As of when Developer shall enter into a sales contract for the sale of a unit it shall deliver an executed copy of such sales contract to Escrow. Each sales contract shall require that all payments to be made thereunder shall be made to Escrow and shall be accompanied by the initial deposit required thereunder.

**Receipt of Funds by Escrow.** Developer shall pay over to Escrow all payments made by purchasers under sales contracts. This includes any loan payments from purchasers' lenders. In accordance with Developer's written instructions to Escrow, Escrow shall deposit all funds received in accounts at a federally insured bank, savings and loan association or other financial institution which pays interest on deposits. All interest earned from such accounts shall be credited to the account of seller.

**Conditions to be Met Prior to Disbursement.** No disbursements of funds held in escrow shall be made unless and until the following conditions have been fulfilled:

- a. The Real Estate Commission has issued a final public report (the "Final Report") on the Project; and the purchaser has received a copy of the Final Report and given Developer a receipt for it; and
- b. The requirements of Sections 514A-40, 514A-62, and 514A-63, Hawaii Revised Statutes, have been met. The Developer or Developer's attorney has delivered a written opinion to Escrow stating that all of the requirements of Sections 514A-40, 514A-62, and 514A-63, Hawaii Revised Statutes, as amended, have been met; and
- c. The Developer has given Escrow a written waiver of any option reserved in any sales contract to cancel such sales contract.

**Disbursement of Purchaser's Funds.** Subject to the provisions of the preceding paragraph, disbursements from the funds held in escrow shall be made not more than once each month on one check by Escrow, without charge, to pay for construction costs in accordance with bills submitted to Escrow from time to time from Developer, which said bills shall have been approved or certified for payment by Developer's construction mortgagee or a financially disinterested person. The balance remaining in escrow shall be

disbursed in accordance with the directions of the Developer and Developer's mortgagee only upon completion of the buildings of the Project and when Escrow shall have received satisfactory evidence that all mechanics' and materialmen's liens have been cleared or sufficient funds have been set aside to cover such claims.

Return of Funds and Documents. A purchaser shall be entitled to a return of his funds and Escrow will pay such funds to such purchaser, without interest, minus Escrow's cancellation fee, if one of the following has occurred:

a. Escrow receives a written request from the Developer to return funds to purchaser; or

b. With respect to a purchaser whose funds were obtained prior to the issuance of the Final Report, the purchaser has exercised his right to cancel the agreement pursuant to Section 514A-62, Hawaii Revised Statutes, as amended.

Purchaser's Default. Developer will notify Escrow in writing that a purchaser has defaulted and that Developer has cancelled that purchaser's Sales Contract. Escrow will then treat the purchaser's funds, less Escrow's cancellation fees, as belonging to Developer. to Developer.

**EXHIBIT "F"**

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

**Estimate of Initial Maintenance Fees:**

<b><u>Apartment</u></b>	<b><u>Monthly Fee x 12 months = Yearly Total</u></b>
Home One	\$31.92 x 12 = \$383.00
Home Two	\$31.92 x 12 = \$383.00

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



## EXHIBIT "G"

SUMMARY OF SALES CONTRACT: The specimen Sales Contract contains, among other things, the following provisions:

1. Evidence of Title. Seller shall furnish Buyer evidence of title from a licensed abstractor showing Seller's marketable title to the interest which is to be conveyed to Buyer. If Seller fails to deliver title as herein provided, Buyer at his option may terminate this agreement and any deposits shall be returned to Buyer. The foregoing shall not exclude any other remedies available to Buyer.
2. Risk of Loss and Insurance. Risk of loss and responsibility for insurance coverage passes to Buyer upon transfer of title or occupancy whichever comes first.
3. Default. It is expressly understood and agreed: First: In the event Buyer fails to pay the balance of the purchase price or complete the purchase as herein provided, Seller may (a) bring an action for damages for breach of contract; (b) retain the initial deposit and all additional deposits provided for herein, as liquidated damages; and (c) Buyer shall be responsible for any cost incurred in accordance with this contract. Second: In the event Seller fails to perform his obligations as herein provided. Buyer not being in default, Buyer may (a) bring an action against Seller for damages for breach of contract; (b) file and maintain an action against Seller for specific performance of this contract; and (c) Seller shall be responsible for any cost incurred in accordance with this contract. The foregoing shall not exclude any other remedies available to either Seller or Buyer. In the event of default and/or a lawsuit arising out of this contract (including a suit by a Seller's Broker for commission), the prevailing party shall be entitled to recover all costs incurred including reasonable attorney's fees. All expenses incurred by escrow shall be deducted from deposited funds prior to any disbursement to the prevailing party.
4. Time is of the Essence. If either Buyer or Seller for reasons beyond his control cannot perform his obligation to purchase or sell the property by the closing date, then such party by giving escrow written notice prior to the closing date called for in this contract with copies to all parties to this contract, can extend closing for no long than 30 calendar days to allow performance. Thereafter time is of the essence and the default provisions of Paragraph 3 apply. Any further extension must then be agreed to in writing by both parties. There is no automatic right to extend. This provision relates only to the extension of the closing date.