

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by: Developer John C. Ferry, Trustee of the John C. Ferry Revocable Living Trust under that certain unrecorded Trust Agreement dated September 23, 1987 Address P. O. Box 930, Hanalei, Hawaii 96714

Project Name(*): Kalihikai Beach Estates Condominium Address: 3670 Anini Beach Road, Kilauea, Hawaii 96754

Registration No. 3040 (Conversion) Effective date: May 13, 1994 Expiration date: June 12, 1995

Preparation of this Report:

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

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

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

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

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

Type of Report:

PRELIMINARY: (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. [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

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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 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: John C. Ferry, as Trustee Phone: (808)826-7244
Name (Business)
P. O. Box 930
Business Address
Hanalei, Kauai, Hawaii 96714

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

N/A

Real Estate Broker: Bali Hai Realty, Inc. Phone: (808)826-7244
Name (Business)
5-5016 Kuhio Highway
Business Address
Hanalei, Kauai, Hawaii 96714

Escrow: First Hawaii Title Corporation Phone: (808)826-6812
Name Princeville Office (Business)
P. O. Box 3055
Business Address
Princeville, Kauai, Hawaii 96722

General Contractor: Takumi Group, Ltd. Phone: (808)828-6699
Name (Business)
P. O. Box 930
Business Address
Hanalei, Kauai, Hawaii 96714

Condominium Managing Agent: Self-managed by Association Phone: _____
Name of Unit Owners (Business)

Business Address

Attorney for Developer: Peter M. Morimoto Phone: (808)245-4705
Case & Lynch (Business)
Name
4334 Rice Street, Suite 202
Business Address
Lihue, Kauai, Hawaii 96766

**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. 93-185689
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]: (1) Amendment to Declaration of Condominium Property Regime of Kalihikai Beach Estates Condominium, dated December 8, 1993, and recorded as Document No. 93-208177; and (2) Second Amendment to Declaration of Condominium Property Regime, dated January 12, 1994, and recorded as Document No. 94-009297.

- 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. 1947
 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]: Second Amendment to Declaration of Condominium Property Regime of Kalihikai Beach Estates Condominium, dated January 12, 1994, and recorded as Document No. 94-009297.

- 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. 93-185690
Book _____ Page _____
 Filed - Land Court: Document No. _____

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

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

The House Rules for this condominium are:

Proposed Adopted Developer does not plan to adopt House Rules

E. **Changes to Condominium Documents**

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

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

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

* The percentages for individual condominium projects may be more than the minimum set by law for projects with five or fewer apartments.

2. **Developer:**

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

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

The Developer reserves the right to change the Declaration and Condominium Map as provided for in Section L.2. of the Declaration, and further the Developer reserves the right to change the Bylaws as provided for in Section 13.5(b) of the Bylaws.

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:

Address: 3670 Anini Beach Road
Kilauea, Hawaii 96754

Tax Map Key: (4) 5-3-004-005
(TMK)

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

Land Area: 1.00 [] square feet [X] acre(s)

Zoning: urban/open

Lessor John C. Ferry, Trustee of the John C. Ferry Revocable Living Trust
 (Fee Owner): under that certain unrecorded Trust Agreement dated September 23, 1987

Name
 P. O. Box 930
Address
 Hanalei, Kauai, Hawaii 96714

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

2. Number of Buildings: 2 Floors Per Building Unit A: One floor
Unit B: Two floors

Exhibit "A" contains further explanations.

3. Principal Construction Material:

Concrete Hollow Tile Wood

Other _____

4. Permitted Uses by Zoning:

	<u>No. of</u>	<u>Use Permitted</u>		<u>No. of</u>	<u>Use Determined</u>
	<u>Apts.</u>	<u>By Zoning</u>		<u>Apts.</u>	<u>By Zoning</u>
<input checked="" type="checkbox"/> Residential	<u>2</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:

No animals or household pets other than those allowed in the Declaration of
 Pets: Covenants, Conditions and Restrictions for Nani O'Kalihikai, dated
February 25, 1987, and as noted in Section 13.1 of the Bylaws.

Number of Occupants: _____

Other: _____

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0 Stairways: B: 1 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>1</u>	<u>3/3</u>	<u>2,939</u>	<u>677</u>
<u>B</u>	<u>1</u>	<u>1/1</u>	<u>668</u>	<u>78</u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </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:

Each unit includes, but is not limited to, the footings or slab on which it is constructed, the exterior walls and roof, all interior walls, floors, ceilings, columns and partitions, and the finished surfaces thereof, the doors and door frames, windows and window frames, the air space within the perimeters of the unit, and all fixtures originally installed in the unit.

Permitted Alterations to Apartments:

See Exhibit "B".

11. Conformance to Present Zoning Code

a. No variances to zoning code have been granted.

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

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

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

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

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

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

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

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

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

described in Exhibit "C".

as follows:

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

There are no limited common elements in this project.

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

described in Exhibit _____.

as follows:

Unit A: The land area under and surrounding Unit A, consisting of approximately .767 acre, as designated on the Condominium Map is reserved for the exclusive use of Unit A for the support of the building and other improvements comprising Unit A, and for the yard, driveway purposes and parking.

Unit B: The land area under and surrounding Unit B, consisting of approximately .233 acre, as designated on the Condominium Map is reserved for the exclusive use of Unit B for the support of the building and other improvements comprising Unit B, and for the yard, driveway purposes and parking.

NOTE: Land areas described herein are not legally subdivided lots..

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

described in Exhibit "D".

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 "E" describes the encumbrances against the title contained in the title report dated December 21, 1993 and issued by First Hawaii Title Corporation.

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 in favor of Bank of Hawaii	Buyer's interest will be subject to lienholder's rights until such time as the mortgages are fully satisfied or the mortgages are released by the Mortgagees. Further, in the event of default of the mortgages, buyer's interest may be terminated, but Buyer may be entitled to a refund of deposit. However, should the Buyer's deposit be used by the Developer prior to a foreclosure of the mortgage and prior to conveyance, the Buyer may not be able to recover the deposit moneys.
Mortgages in favor of the Administrator of the Small Business Administration	

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:

Units are sold "as is" and no warranties are applicable.

2. Appliances:

None.

G. Status of Construction and Estimated Completion Date:

The construction of Unit A was completed on or about November 1989.
The construction of Unit B was completed on or about November 1990.

H. Project Phases:

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

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

IV. CONDOMINIUM MANAGEMENT

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

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

The initial condominium managing agent for this project, named on page five (5) of this report, is:

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

- B. Estimate of Initial Maintenance Fees:

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

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

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

- C. Utility Charges for Apartments:

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

- None Electricity Gas Water
 Sewer Television Cable Other _____

V. MISCELLANEOUS

A. Sales Documents Filed With the Real Estate Commission:

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

- Notice to Owner Occupants
- Specimen Sales Contract
Exhibit "G" contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated November 4, 1993
Exhibit "H" contains a summary of the pertinent provisions of the escrow agreement.
- Other _____

B. Buyer's Right to Cancel Sales Contract:

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

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

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

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

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

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

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

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

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:
- A) Condominium Public Reports issued by the developer which have been given an effective date by the Hawaii Real Estate Commission.
 - B) Declaration of Condominium Property Regime, as amended.
 - C) Bylaws of the Association of Apartment Owners.
 - 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 Declaration of Restrictive Covenants; Declaration of Covenants, Conditions and Restrictions for Nani O'Kalihikai

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. 3040 filed with the Real Estate Commission on Jan. 28, 1994

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C. Additional Information Not Covered Above

Pursuant to sections 16-99-3(g) and 16-99-11(d), Hawaii Administrative Rules ("HAR"), prospective purchasers are hereby advised that Developer/Owner John C. Ferry (RB-13555) is a current and active Hawaii-licensed real estate broker and principal broker of Bali Hai Realty, Inc., the designated project broker. Further, pursuant to section 16-99-11(c), HAR, "(n)o licensee shall advertise 'For Sale by Owner, . . .'"

EXHIBIT "A"

DESCRIPTION OF BUILDINGS

The project consists of two (2) residential family units of principally wood construction. Unit A is a single-story building. Unit B is a two-story building with one (1) two-car garage. Neither building contains a basement. Each building consists of one (1) residential family unit, and the two units are designated and shown as Units A and B, as shown on the Condominium Map, and are more particularly described in the Declaration.

EXHIBIT "B"

ALTERATION OF PROJECT

Paragraph J of the Declaration provides that:

1. Each unit owner shall have the right at his sole option at any time and from time to time, as hereinafter set forth, without the consent and/or approval of the owner of the other unit or any other persons or entity, to improve, renovate, remodel, make additions to, enlarge, remove, replace, alter or restore the improvements to or in his unit or portions thereof or upon the yard appurtenant to his unit (collectively, the foregoing are referred to as "alterations"). Each unit owner shall have the right without the consent or joinder of any other person to amend this declaration and the Condominium Map to accomplish any such alterations. If required by the Act, promptly upon completion of such alterations the owner of the altered unit shall duly record such amendment to this declaration in the Bureau of Conveyances, together with a complete set of the floor plans of such unit as so altered, certified by a registered architect or professional engineer to fully and accurately depict the altered portions of the property as built. All existing unit owners and all future unit owners and their mortgagees, by accepting an interest in a unit, consent to all such alterations and agree to give and shall be deemed to have given the owner of the altered unit a power of attorney to execute an amendment to the declaration solely for the purpose of describing the alterations to such unit in the declaration so that the owner of the altered unit shall hereafter have a power of attorney from all the other unit owners to execute such amendment to the declaration. This power of attorney shall be deemed coupled with each owner's interest in his unit (including his common interest) and shall be irrevocable.

2. Any alteration of the plans of a unit pursuant to this paragraph J shall be subject to the following conditions:

(a) All building plans for any such alterations shall conform with County building or zoning laws, other applicable County ordinances and the project documents.

(b) Such alterations may decrease or increase the size of the affected unit, provided that no alteration shall extend or place the unit outside of the limits of the yard appurtenant to such unit.

(c) All such alterations shall be at the sole expense of the unit owner making the change and shall be made within one (1) year of the commencement thereof and in a manner that will not unreasonably interfere with the other unit owner's use of his unit or yard.

(d) The owner of the altered unit shall have the right to utilize, relocate, realign and develop existing and/or additional, central and appurtenant installations for services to the unit affected by such alteration for electricity, sewer and other utilities and services and when applicable, to add, delete, relocate, realign, designate and grant easement and rights-of-way over, under and on the common elements as necessary or desirable in connection therewith; provided that the same shall not cause any interruption in the service of such utilities to any other part of the project, nor shall it unreasonably interfere with the other unit owner's use or enjoyment of his unit or yard.

(e) Each and every conveyance, lease and mortgage or other lien made or created on any unit and all common interests and other appurtenances thereto shall be subject to the provisions of this paragraph and any lease of a unit shall reserve to all unit owners the rights set forth in this paragraph.

* SPECIAL NOTATION:

When applying for zoning permits with the Planning Department of the County of Kauai, 75% of the owners of the project must sign the permit forms. This requirement is binding on all purchasers as well as future assignees.

The issuance of an effective date for the Condominium Public Report should not be construed to mean that all County Codes and Ordinances have been complied with and all subsequent development and use shall comply with applicable County Codes and Ordinances.

Additionally, the creation of the Condominium Property Regime does not mean that the land has met the subdivision requirements of the County. As such, certain facilities/improvements normally associated with County approved subdivisions may not be necessarily provided for.

EXHIBIT "C"

COMMON ELEMENTS

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

1. The land described in Exhibit "A" attached to the Declaration in fee simple.

2. All yards, grounds, landscaped areas, retaining walls, parking areas and driveways around and between the units.

3. All central and appurtenant installations for common services, including power, light, water, telephone and sewer.

4. 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.

EXHIBIT "D"

COMMON INTEREST

Unit A shall have an appurtenant undivided fifty percent (50%) interest and Unit B shall have an appurtenant undivided fifty percent (50%) interest (referred to as the "common interest") in all common elements of the project and the same proportionate share in all common profits and common expenses of the property (except as may be otherwise provided in the bylaws) and for all other purposes, including voting. The common interest was allocated equally to each unit.

EXHIBIT "E"

ENCUMBRANCES AGAINST TITLE

1. Any taxes that may be due and owing and tax liens that may exist, refer to Director of Finance, Kauai County.
2. Shoreline setbacks: "Shoreline setbacks established pursuant to the laws of the State of Hawaii, or any political subdivision thereof, and any ordinances, rules or regulations adopted or promulgated by any governmental authority pursuant to such laws."
3. Seaward boundary: "Determination of the seaward boundary of the land described herein pursuant to the laws of the State of Hawaii."
4. Reservation of water rights for Kuleanas as set forth in L. C. Aw. 11215, Ap. 3.
5. Unrecorded GRAZING LEASE AND LICENSE dated December 19, 1980, by and between PRINCEVILLE DEVELOPMENT CORPORATION, as Lessor, and PRINCEVILLE CATTLE COMPANY, a California general partnership, as Lessee, of which a Memorandum is dated July 1, 1981, recorded in Liber 15679 at Page 314; licensing the property and leasing and licensing certain other lands for a term of 25 years commencing January 1, 1979, to and including December 31, 2003.

NOTICE OF WITHDRAWAL AND WAIVER OF RIGHTS dated February 25, 1988, recorded in Liber 21671 at Page 310, by PRINCEVILLE CATTLE COMPANY, a California general partnership.

6. DESIGNATION OF EASEMENT "1" for shoreline access and parking purposes as shown on the survey map prepared by Dennis M. Esaki, Registered Professional Land Surveyor, dated September ---, 1986.
7. Grant in favor of the County of Kauai, dated October 31, 1986, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 20303, Page 589, granting an easement over said Easement "1";
8. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in DECLARATION dated November 6, 1986, recorded in Liber 20336 at Page 327.

9. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in DECLARATION, dated February 25, 1987, recorded in Liber 20558 at Page 150.
10. The terms and provisions, including the failure to comply with any covenants, conditions and reservations contained in the John C. Ferry Revocable Living Trust under that certain unrecorded Trust Agreement dated September 23, 1987.
11. That certain Mortgage in favor of Bank of Hawaii, a Hawaii corporation, dated March 2, 1990, and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 90-033100.
12. Notice of Resignation and Replacement of Design Committee Member For Nani O'Kalihikai Subdivision, dated August 7, 1990, August 23, 1990, August 20, 1990, August 17, 1990, August 29, 1990 and September 24, 1990, recorded as Document No. 90-155297; re: Lloyd S. Zeiderman resigns as a member of the Nani O'Kalihikai Design Committee and Patrick A. Harrington is appointed to replace him.
13. That certain Mortgage in favor of the Administrator of The Small Business Administration, an agency of the Government of the United States of America, dated January 27, 1993, and recorded in said Bureau as Document No. 93-052934.
14. That certain Mortgage in favor of the Administrator of The Small Business Administration, an agency of the Government of the United States of America, dated January 27, 1993, and recorded in said Bureau as Document No. 93-052935.
15. The covenants, agreements, obligations, conditions, easements and other provisions as contained in the following:

Declaration of Condominium Property Regime of "Kalihikai Beach Estates Condominium" recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 93-185689.

Condominium Map No. 1947, to which reference is hereby made.

The foregoing Declaration of Horizontal Property Regime was amended by the following:

<u>Document No.</u>	<u>Dated</u>	<u>Recorded</u>
93-208177	12/08/93	12/15/93
94-009297	01/12/94	01/19/94

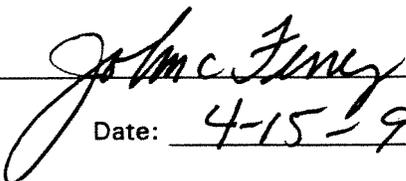
16. Bylaws of the Association of Unit Owners of "Kalihiikai Beach Estates Condominium", dated November 4, 1993, and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 93-185690.

EXHIBIT "F"

ESTIMATE OF INITIAL MAINTENANCE FEES
AND
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:	Monthly X 12 months = Yearly Total	
Apartment	\$4,650.00	\$55,800.00
Estimate of Maintenance Fee Disbursements:		
Utilities and Services		
Air Conditioning	N/A	N/A
Electricity	N/A	N/A
() Common Elements Only	N/A	N/A
() Common Elements and Apartments	N/A	N/A
Elevator	N/A	N/A
Gas	N/A	N/A
Refuse Collection	N/A	N/A
Telephone	N/A	N/A
Water and Sewer	\$150.00	\$1,800.00
Maintenance, Repairs and Supplies		
Building	\$1,000.00	\$12,000.00
Grounds	\$2,000.00	\$24,000.00
Management		
Management Fee	\$250.00	\$3,000.00
Payroll and Payroll Taxes	N/A	N/A
Office Expenses	\$250.00	\$3,000.00
Insurance	\$1,000.00	\$12,000.00
Total	\$4,650.00	\$55,800.00

I, John C. Ferry, the developer for the condominium project Kalihikai Beach Estates Condominium, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.


Date: 4-15-94

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

EXHIBIT "G"

SUMMARY OF DEPOSIT RECEIPT AND SALES CONTRACT

The Deposit Receipt and Sales Contract, including the terms and conditions attached thereto as Article IV (hereinafter collectively called the "Sales Contract") contain the price and other terms and conditions under which a buyer will agree to buy a unit 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 a unit.

(b) That the buyer acknowledges having received and read a public report (either preliminary or final) for the Project prior to signing the Sales Contract.

(c) That the buyer must pay 20% of the purchase price upon acceptance of the Sales Contract and the balance on or before the Closing Date.

(d) That the Developer makes no representations concerning rental of a unit, income or profit from a unit, or any other economic benefit to be derived from the purchase of a unit.

(e) That in the event of a foreclosure action by a Lender whose loan is secured by the land upon which the Project sits, the buyer appoints the seller as Managing Agent for service of process.

(f) That the buyer's money will be held in escrow, under the terms of the Escrow Agreement and that the buyer is bound by the Escrow Agreement.

(g) Requirements relating to the buyer's financing of the purchase of a unit, including the seller's right to make inquiries into the buyer's financial condition in a cash transaction.

(h) That the unit and the Project will be subject to various other legal documents which the buyer should examine, and that the Developer may change these documents under certain circumstances.

(i) That the Developer makes no warranties regarding the unit, the Project or anything installed or contained in the unit or the Project.

(j) That the buyer must close the purchase at a certain date and pay closing costs, in addition to the purchase price.

(k) That the buyer will not receive interest on deposits made under the Sales Contract.

(l) If the buyer shall default:

(1) The contract may, at the seller's option, be terminated by written notice to the buyer; and

(2) Any sums paid by the buyer shall belong to the seller as liquidated damages (up to a maximum of 20% of the total purchase price); and

(3) The seller may pursue any other remedy, including specific performance, permitted by law or equity. All costs, including reasonable attorneys' fees, incurred by reason of default by the buyer shall be borne by the buyer.

Further, if the buyer shall default in making any payment when due, a late charge of one percent (1%) per month shall accrue from the due date until such payment, together with such late charge, is paid, or at any time prior to the time that such payment and late charge is paid in full, the seller may, at its option, terminate this contract as provided in paragraphs (1) through (3) above.

(m) The buyer and seller have the right to terminate the contract prior to it becoming binding under the provisions of Chapter 514A of the Hawaii Revised Statutes.

(n) The seller has the right to preclose the sale by having all the necessary executed documents and funds delivered to escrow as early as (120) days or more prior to closing. The buyer's failure to cooperate with preclosing shall constitute a default of the Sales Contract.

(o) The buyer is responsible for the payment of all closing costs, including, but not limited to, the cost of preparing the condominium deed, the Escrow's fee, the notary and recording fees, conveyance taxes and evidence of title or title insurance.

(p) The buyer cannot assign the Sales Contract without the seller's consent.

The Sales Contract contains various other important provisions relating to the purchase of a unit in the Project. It is incumbent upon buyers and prospective buyers to read with care the specimen sales Contract on file with the Real Estate Commission.

EXHIBIT "H"

SUMMARY OF ESCROW AGREEMENT

The Escrow Agreement sets up an arrangement under which the deposits a buyer 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 buyer know when payments are due.

(b) Escrow will arrange for the buyer to sign all necessary documents.

(c) The buyer is entitled to a refund if the buyer or seller cancels the Sales Contract in accordance with its cancellation provisions, or if the buyer terminates its reservation before the Sales Contract is binding. However, Escrow may deduct from the refund cancellation fees in accordance with the Sales Contract.

In the event of a default by the buyer, the funds paid by the buyer shall belong to the seller as liquidated damages (up to a maximum of twenty percent (20%) of the total purchase price).

The Escrow Agreement contains various other important provisions and establishes certain charges with which a buyer should be familiar. It is incumbent upon buyers and prospective buyers to read with care the executed Escrow Agreement on file with the Real Estate Commission.

(d) The buyer's funds that are placed in trust prior to closing may be used by the seller after (1) the buyer has (i) been provided with a final public report; (ii) executed a receipt and notice and has waived his right to cancel or thirty (30) days have elapsed since the buyer has been provided with the final public report and receipt and notice of right to cancel; and (2) the seller notifies escrow in writing that since (i) and (ii) have happened, the Sales Contract is binding; and (3) the seller's attorney advises escrow that the Sales Contract is binding and the requirements of Hawaii Revised Statutes, Section 514A-39, -63 and -65 have been met.

(e) Escrow may not disburse any buyer's funds in the construction of the project until completion of the project and the expiration of the mechanic's and materialmen's lien

period. Escrow may disburse prior to completion of the project and expiration of the applicable lien period if the Developers would furnish each buyer an Owners Title Insurance with an endorsement against any future liens placed on the apartments or project as a result of the development, plus providing the Real Estate Commission a release of the General Contractor's lien rights.

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