

CONDOMINIUM PUBLIC REPORT

Prepared &

Issued by: Developer JOHN P. FOTI and MARY HEATHER FOTI  
Address 47-159 A. Okana Road, Kahaluu, Hawaii

Project Name(\*): ILI'AINA ESTATES  
Address: 47-159 A & B AND 47-139 Okana Road, Kahaluu, HI

Registration No. 3101 (conversion) Effective date: January 3, 1995  
Expiration date: February 3, 1996

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 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 purchase of an apartment in the project.

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

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

Type of Report:

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

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

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

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

(\*) Exactly as named in the Declaration



Disclosure Abstract: Separate Disclosure Abstract on this condominium project:

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

Summary of Changes from Earlier Public Reports:

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

[ x] No prior reports have been issued by the 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.

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 the vote of the owners. For example, the board may hire and fire employees, increase or decrease maintenance fees, borrow money for repair and improvements and set a budget. Some of these actions may significantly impact the apartment owners.

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

I. PERSONS CONNECTED WITH THE PROJECT

Developer: John P. Foti and Mary H. Foti Phone: 524-3551  
Name (Business)  
47-159 A Okana Road  
Business Address  
Kahaluu, Hawaii

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

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

Real Estate Broker: The Kaulana Corp Phone: 524-3551  
Name (Business)  
841 Bishop Street, Suite 2030  
Business Address  
Honolulu, Hawaii

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

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

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

Attorney for Developer: Richard G. MacMillan Phone: 538-0399  
Name (Business)  
820 Mililani St., Suite 711  
Business Address  
Honolulu, Hawaii

II. CREATION OF THE CONDOMINIUM;  
CONDOMINIUM DOCUMENTS

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

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

The Declaration for this condominium is:

Proposed  
 Recorded - Bureau of Conveyances: Document No. \_\_\_\_\_  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court: Document No. 1947364

The Declaration referred to above has been amended by the following instruments [state name of document, date and recording/filing information]: The first Amendment of Declaration of Condominium property Regime for ILI'AINA ESTATES was filed on July 2, 1994 as Land Court document No. 2169096.

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

The Condominium Map for this condominium project is:

Proposed  
 Recorded - Bureau of Conveyances Condo Map No. \_\_\_\_\_  
 Filed - Land Court Condo Map No. 928

The Condominium Map has been amended by the following instruments [state name of document, date and recording/filing information]:

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

The Bylaws for this condominium are:

Proposed  
 Recorded - Bureau of Conveyances: Document No. \_\_\_\_\_  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court: Document No. 1947365

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>0 (Board of Directors)</u>

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

2. Developer:

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

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

Developer may, at any time prior to December 31, 1998, add not more than two (2) additional units to the project. To create such additional units, Developer can make all necessary amendments to the condominium map and project documents. (See Exhibit A)

III. THE CONDOMINIUM PROJECT

A. Interest to be Conveyed to Buyer:

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

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

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

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

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

Lease Rent Payable:             Monthly                             Quarterly  
    Semi-Annually                     Annually

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

For Subleaseholds:

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

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

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

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

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

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

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

Lease Rent Payable:             Monthly                             Quarterly  
    Semi-Annually                     Annually

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

[ ] Other:

IMPORTANT INFORMATION ON LEASEHOLD CONDOMINIUM PROJECTS

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

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

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

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

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

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

B. Underlying Land:

Address: 47-159 A&B and 139 Okana Road Tax Map Key: (1) 4-7-037:23  
Kahaluu, HI (TMK)

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

Land Area: 9.728 [ ] square feet [X] acre(s) Zoning: R-3

Lessor  
(Fee Owner): John P. Foti and Mary Heather Foti

Name  
47-159 A Okana Road

Address  
Kahala, HI

Sublessor:  
Name

Address

C. Buildings and Other Improvements:

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

2. Number of Buildings: 3 Floors Per Building 1

Exhibit B contains further explanations.

3. Principal Construction Material:

Concrete     Hollow Tile     Wood

Other \_\_\_\_\_

4. Permitted Uses by Zoning:

	No. of <u>Apts.</u>	Use Permitted <u>By Zoning</u>	No. of <u>Apts.</u>	Use Determined <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:

- Pets: \_\_\_\_\_
- Number of Occupants: \_\_\_\_\_
- Other: No transient rentals or time-sharing. The accessory building to Unit B shall not be occupied and/or rented for compensation
- There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: -0-      Stairways: -0-      Trash Chutes: -0-

Apt. Type	Quantity	BR/Bath	Net Living Area (sf)*	Lanai/Patio (sf)	Other (sf)
A	1	3/2	1,018	244	
B	1	3/2	1,000		
		0/0			1700**

Total Apartments: 2      \*\* accessory building

\*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 shall include the footings or slabs on which it is constructed, exterior walls and roof, all interior walls, ceilings, floors and partitions and the finished surfaces thereof, carports, lanais and decks

Permitted Alterations to Apartments:  
See Exhibit C



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>	* The accessory building of Unit B may not be occupied and/or rented for compensation
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   D  .

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 E.

as follows:

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

described in Exhibit \_\_\_\_\_.

as follows:

<u>Unit</u>	<u>Percentage</u>
A	26.9%
B	73.1%

E. Encumbrances Against Title: An encumbrance is a claim against or a liability on the property or a document affecting the title or use of the property. Encumbrances may have an adverse effect on the property or your purchase and ownership of an apartment in the project.

Exhibit F describes the encumbrances against the title contained in the title report dated April 26, 199 and issued by Title Guaranty Escrow Services, Inc.

Blanket Liens:

A blanket lien is an encumbrance (such as a mortgage) on the entire condominium project that secures some type 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 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 terminated; however Buyer's deposits will be held in escrow and returned on termination.

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: None

2. Appliances: None

G. Status of Construction and Estimated Completion Date:

Unit A was completed in 1972 and Unit B was completed in 1974

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):

See Exhibit A

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
- self-managed by the Association of Apartment Owners
- the Developer or the Developer's affiliate
- 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 \_\_\_\_ 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
- Sewer
- Electricity
- Television Cable
- Gas
- Other \_\_\_\_\_
- Water

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 July 8, 1992  
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 a full and prompt refund of any moneys the buyer paid.

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:

- A) Condominium Public Reports issued by the developer which have been given an effective date by the Hawaii Real Estate Commission.
- B) Declaration of Condominium Property Regime.
- C) Bylaws of the Association of Apartment Owners.
- D) House Rules.
- E) Condominium Map.
- F) Escrow Agreement.
- G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
- H) Other \_\_\_\_\_

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. 3101 filed with the Real Estate Commission on May 20, 19

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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 Philip Foti (RS-41797) is a current and active Hawaii-licensed real estate salesperson associated with The Kaulana Corp., the designated sales agent for the project. Pursuant to section 16-99-11(c), HAR, "(n)o licensee shall be allowed to advertise 'For Sale by Owner', 'For Rent by Owner', 'For Lease by Owner', 'For Exchange by Owner'."

Maintenance Fees:

All costs of every kind pertaining to each apartment and its respective limited common element, including but not limited to, cost of landscaping, maintenance, repair, replacement and improvement shall be borne entirely by the respective apartment owners.

Section 514A-86, Hawaii Revised Statutes, requires the Association of Apartment Owners purchase fire insurance to cover the improvements of the Project, and that premiums be common expenses. Developer anticipates that the Association will elect to permit individual apartment owners to obtain and maintain separate policies of fire insurance and name the Association as an additional insured. In such case, fire insurance premiums will be the responsibility of individual apartment owners and not common expenses. Developer estimates such annual premium expense to be \$700.00 per apartment. This estimate was prepared in accordance with generally accepted accounting principles.

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.

JOHN P. FOTI and MARY HEATHER FOTI

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

By:

  
\_\_\_\_\_  
Duly Authorized Signatory

12/19/94  
Date

John Foti - Developer

print name & title of person signing above

Distribution:

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

EXHIBIT A

Developers' Reserved Rights

A. Developers or their permitted assigns, shall from time to time, have the right at their option, up to but not later than December 31, 1998, to require alteration of the Property by creating not more than two (2) additional residential Units, with appurtenant facilities and common elements, in one or more increments (hereinafter called the "Additional Increment(s)") within the area delineated in red on said Condominium Map as "Future Development", and to merge said Additional Increment(s) with the then existing Units and common elements of the Project (hereinafter called the "Preceding Increment(s))".

B. In furtherance of their reserved rights, Developers, their employees, agents, contractors and subcontractors, shall have the right at any time, and from time to time, to enter upon the Project and the common elements thereof and do all things reasonably necessary, desirable or useful for constructing, completing and selling the Additional Increment(s), connecting the same to the utility installations of the Project, and selling the Units contained within said Additional Increment(s) upon and subject to the following terms and conditions:

(1) The additional Increment(s) shall be constructed in accordance with plans and specifications prepared by a licensed architect; provided, however, that such plans and specifications shall not require the alteration or demolition of any Units in the Preceding Increment(s) or any buildings constituting part of the common elements thereof.

(2) Developers shall have the right to remove, amend, redesign, alter or add common elements and to add, delete, relocate, realign, reserve and grant all easements and right-of-way over, under and on the common elements necessary or desirable to service said Additional Increment(s), including but not limited to easements and right-of-way for utilities, cesspools, sanitary and storm sewers, sewage treatment plants, cable television, refuse disposal, driveways, parking areas and roadways; provided, that such easement and right-of-way shall not materially impair the use of any Unit in the preceding Increment(s) or its appurtenant interest in the common elements.

(3) Developers shall have the right to sell and issue deeds for any Unit in the Additional Increment(s), whether or not the same has been completed, to place signs or other advertising at the Project in connection with such sales and to use any of said Units as model units so long as such activities shall not unreasonably affect the use and enjoyment of the Units in the Preceding Increment(s).

(4) Before the commencement of construction of any additional Unit, Developers, or the owner of the Unit, shall (i) secure a performance and payment bond, issue by a surety licensed to do business in the State of Hawaii, naming as obligee the Developers, and collectively the owners of all Units in the Preceding Increment(s) as their interest may appear through the Association of Unit Owners, in a penal sum of not less than one hundred percent (100%) of the cost of the construction of said Additional Increment(s) guaranteeing completion thereof free and clear of all mechanic's and materialmen's liens: and (ii) furnish to the Association of Unit Owners satisfactory evidence that Developers or Owner has obtained a construction loan commitment and/or other immediately available funds in an aggregate amount sufficient to pay in full the costs of constructing and completing said Additional Increment(s), including without limitation, the cost of the construction, financing commitment fees, appraisal, architectural, engineering, legal and accounting and all other costs and expenses associated with such construction.

(5) The construction and sale of the Additional Increment(s) shall cause the least practicable annoyance to and interference with the Unit Owners of the Preceding Increment(s). Each purchaser of a Unit in the Preceding Increment(s), by his acceptance and occupancy of his Unit on closing, agrees (i) to remain outside of any fenced or posted construction areas or any other areas upon which work is being performed pending completion, and to exert diligent efforts to prohibit entry into such areas by members of his household and by his invitees; and (ii) to indemnify and save harmless Developers and their contractors and agents from and against any and all loss liability for death or injury to persons or damage or loss of property on account of such entry either by the Unit purchaser or his family and invitees.

(6) Developers shall have the right, at their own expense, and without being required to obtain the consent or joinder of any Unit owner or lienholder, to execute and record such amendments to the Declaration, the By-Laws and said Condominium Map as shall be necessary or appropriate in furtherance of the rights reserved to Developer, and without limiting the generality of the foregoing, Developers may amend the Declaration: (i) to create and establish the Additional Increment(s); (ii) to describe and allocate the common interests and common elements appurtenant to the Additional Increment(s); (iii) to decrease the common interest appurtenant to each Unit in the Preceding Increment(s); and (iv) to merge the Additional Increment(s) with and into the Preceding Increment(s) as herein provided.

(7) The common interest appurtenant to each Unit in the Preceding Increment(s) shall be decreased and the common interest appurtenant to each new Unit in the Additional Increment(s) shall be allocated on the following basis: The total net floor area (exclusive of lanais) of all of the Units in the Preceding and the

Additional Increment(s) shall first be determined. The net floor of such Unit shall then be divided by such total net floor area and the resulting quotient shall be the common interest appurtenant to each such Unit.

(8) Until the first merger of an Additional Increment as hereinafter provided, Developers shall be responsible for the payment of 65.0% of all real property taxes and other expenses allocable to the land of the Project (but excluding any such taxes assessed against the existing improvements herein described). Upon the merger of each Additional Increment, Developers' proportionate share of the real property taxes and other expenses allocable to the land of the Project shall be appropriately reduced to the ratio (as specified in an amendment of this Declaration) which the area of the undeveloped land remaining subject to the Developers' right of future development bears to the total land area of the Project. Developers will use the best efforts to arrange to have their proportionate share of any real property taxes excluded from the taxes assessed directly to the Unit Owners; provided, that if said proportionate share is nonetheless assessed to the Unit owners, Developers shall promptly reimburse each Unit Owner therefor. In no event shall the Owners of the Units in the Preceding Increment(s) have any liability for any common expenses attributable to common elements to be constructed as part of any Additional Increment prior to the merger of such Additional Increment. Any of the foregoing provisions to the contrary notwithstanding, from and after December 31, 1998, or the date on which Developers shall cause to be recorded a notice, terminating the rights reserved, whichever shall first occur, the Unit Owners shall be and become solely responsible for all real property taxes and other expenses allocable to the entire Project, whether or not any Additional Increment has been created or merged with the preceding Increment(s).

(9) The merger of any Additional Increment with the Preceding Increment(s) shall take effect only upon the recordation by Developers and/or the Owner of the new Units of an Amendment to the Declaration which shall certify that the merger has been consummated. An Additional Increment may be merged and the new Units conveyed before construction is completed, but only if all the requirements of H.R.S. Sec. 514A-67 are satisfied. Without limiting the generality of the foregoing, the following consequences shall ensue from the after the effective date of such merger:

(a) Each of the increments so merged shall be treated for purposes of administration, use and sharing of common expenses as though they had been developed, divided into Units and used by the Owners thereof as a single undivided Project. The Units in each of the merged increments shall have an equal and non-exclusive right to use the common elements constructed as a part of each of said increments, subject to the terms, conditions and

limitations provided in the Declaration and the Bylaws, and the Units in each of the merged increments shall have appurtenant thereto an undivided percentage interest in the common elements of the Project and the same proportionate share in all common profits and expenses of the Project, and for all other purposes including voting.

(b) The Developers may require the Owner of the additional Units added to the Project by merger to make contribution, in addition to their share of the common expenses, to the maintenance reserves of the Project. The Developers may provide that such contributions may be made over a period of time, and in establishing the amounts and terms of such contribution, Developers shall take into account the amount of maintenance reserves accumulated prior to the addition of such Units and the condition of the Units in the Preceding Increment(s). The Owners of the additional Units added to the Project by merger shall not be obligated to pay or assume any debts, expenses, costs or other obligations incurred by or on behalf of the Association of Unit Owners as of the effective date of the merger, with the exception of any such debts, expenses, costs or obligations which were incurred for the common benefit of the Units in the Preceding Increment(s) and the additional Units added to the Project by merger; and

(c) Within sixty (60) days following the issuance of Certificate of occupancy for Units added by way of merger, a special meeting of the Association of Unit Owners shall be called to elect a new Board of Directors to replace the existing Board of Directors and govern the entire Project. The procedures for calling and holding such a meeting shall be as set forth in the Bylaws.

(10) At any time prior to December 31, 1998, Developers shall have the sole and exclusive right to cancel and terminate the rights reserved by causing to be recorded in the Land Court a written notice of such termination. From and after the date of recordation of such notice, Developers shall be relieved of any further obligation to pay any real property taxes or other expenses assessed against or allocable to the undeveloped land of the Project.

End of EXHIBIT A

## EXHIBIT B

### Buildings and Other Improvements

a) Unit A is a detached, one-story dwelling containing seven (7) rooms, consisting specifically of a living/dining room, kitchen, three bedrooms, and two bathrooms. The approximate net floor area of Unit A is 1,018 square feet. There is 244 square feet of wooden decking adjoining the dwelling.

b) Unit B consists of a, one-story dwelling together with a separate accessory storage building and a detached garage. The dwelling unit contains seven (7) rooms, consisting specifically of a living/dining room, kitchen, three (3) bedrooms and two (2) bathrooms. The approximate area of the dwelling is 1,000 square feet, exclusive of the carport, which contains approximately 300 square feet. The accessory building also has seven (7) rooms and is approximately 1,700 square feet in area.

c) Each of the Units has immediate access to its entry and to the grounds of the Project.

d) Unit A and the improvements comprising Unit B shall each be deemed to include the footings or slab on which they are constructed, their exterior stairways, walls and roof, all interior walls, ceilings, floors and partitions and the finished surfaces thereof, any carport located therein or adjacent thereto, lanais, decks and all fixtures originally installed therein. The respective Units shall not be deemed to include any structural or service elements which are utilized or serve more than one Unit, the same being deemed common elements as hereinafter provided.

The approximate interior area of each Unit, as set forth above, is computed by measuring from the interior surfaces of the perimeter walls to the surfaces of party walls, and no reduction has been made to account for interior walls, ducts, vents, shafts and the like located within the perimeter walls.

End of EXHIBIT B

## EXHIBIT C

### Permitted Alterations

The Declaration provides that Unit Owners shall not make any alterations in or to their respective Units or the common elements or limited common elements except in accordance with the terms and conditions contained in the Declaration and Bylaws. "Alterations" shall include the making of any and all improvements, additions, repairs, renovations, construction or reconstruction of said Units or the common elements or limited common elements. "Alterations" shall not be deemed to include: (a) installation of television antennas, solar heating panels or window or air conditioning units; (b) painting of the exterior of any Unit; or (c) landscaping, subject to maintaining existing view channels.

(a) Exterior Alterations. No Unit Owner shall make any alterations to the exterior of his Unit or the limited common elements appurtenant to his Unit without the prior written consent of his mortgagees, (if such consent is required), the consent of the other Unit Owner shall not be required.

(b) Maintenance of View Channels. In no event shall the Owner of any Unit install any trees or landscaping or make any alterations to his Unit which would obstruct or impair the existing views from the other Unit.

(c) Interior Alterations. The Owner or either Unit shall have the right at any time, and from time to time, with the consent of his mortgagees (if such consent is required), but without the consent or joinder of any other Unit Owners, to make alterations within his Unit, or to cause or permit such alterations to be made by his tenants and lessees, in accordance with the provisions herein set forth. Specifically, but without limiting the generality of the foregoing, any such Unit Owner may, or may cause to permit his tenants or lessees, to install, maintain, remove and rearrange partitions and other structures from time to time within such Unit and to paint, paper, panel, plaster, tile, finish and to do or cause to be done such work within such Unit, and to finish, alter or substitute any plumbing, electrical or other fixtures therein as such Unit Owner shall deem necessary in his sole discretion; provided, that any such alterations and/or substitutions shall not adversely affect the sewage, plumbing, electrical and other common utility systems of the Project.

(d) Covenants and Restrictions Applicable to All Alterations. Any and all alterations, whether exterior or interior, shall comply with the following terms and conditions:

(1) No alterations shall encroach upon the common elements or the limited common elements appurtenant to the other Unit;

(2) All alterations, the aggregate cost of which shall exceed \$5,000.00 shall be constructed or installed in accordance with plans and specifications prepared by a licensed architect or professional engineer;

(3) All such alterations shall be at the sole cost and expense of the Unit Owner making the alterations and shall be completed expeditiously and in such manner as shall cause the least practicable annoyance to and interference with the other Owner's use of his Unit. The Owner making such alterations shall procure and shall maintain, during the course of the construction, a builders all-risk insurance policy naming the Association and collectively all Owners as additional insured. Evidence of such insurance shall be deposited with the Board prior to the commencement of construction;

(4) Before the commencement of construction of the construction of any alteration, the aggregate cost of which shall exceed \$5,000.00, the Owner making such alteration shall secure a performance and payment bond issued by a surety licensed to do business in the state of Hawaii, naming the other Unit Owners, as their interests may appear, in a penal sum of not less than one hundred (100%) of the cost of the construction of said alteration, guaranteeing completion thereof free and clear of all mechanic's and materialman's liens;

(5) The Owner making the alteration shall have the right to utilize, relocate and realign or develop existing or new 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 easements 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 or interference in the service of such utilities to the other Unit Owner or otherwise impair his rights hereunder.

(6) If any alteration shall require the amendment of this Declaration or the Condominium Map, the Owner making the alteration shall pay all costs and expenses incurred in preparing and filing such amendments.

End of EXHIBIT C

EXHIBIT D

Common Elements

The Declaration states that the common elements of the Project will include the limited common elements of the Project and all portions of the Project other than the Units, including specifically, but not limited to:

- (a) All the land of the Project in fee simple;
- (b) That portion of the common driveway located within Unit A's private area and which is utilized for access to both residential units.
- (c) Any and all other structures, 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.

End of EXHIBIT D

EXHIBIT E

Limited Common Elements

The Declaration states that certain parts of the common elements, designated as, "limited common elements", are set aside and reserved for the exclusive use of certain Units, and such Units shall have appurtenant thereto exclusive easements for the use of such limited common elements. The limited common elements so set aside and reserved are listed below. Unless otherwise provided herein, all costs of every kind pertaining to each limited common element, including but not limited to the costs of security, maintenance, repair, replacement, additions and improvements, shall be borne entirely by the Unit or Units to which they are appurtenant. The limited common elements so set aside and reserved are as follows:

(a) The site of each Unit, consisting of the land immediately beneath the improvements comprising the Unit, shall be for the exclusive use of such Unit; and

(b) The private areas reserved for each Residential Unit, as shown and delineated on said Condominium Map, including all improvements and landscaping located within such private area, shall be for the exclusive use of each such Unit.

(c) That portion of the common driveway located within Unit B's private area and utilized solely by Unit B shall be a limited common element for Unit B.

End of EXHIBIT E

EXHIBIT F

Encumbrances Against Title

1. For information regarding real property taxes due and owing, reference is made to the City & County of Honolulu Director of Finance.

Tax Key: 4-7-037-023 (1)                      Area Assessed: 9.728 acres

2. The right of Dillingham Bros., Limited, at any time to change the location of said easements, roadways, or rights of way, other than the Kamehameha Highway, provided, Dillingham Bros., Limited, furnishes the owners of said pieces of lands affected by such change with equally suitable easements, roadways, or rights of way, to those already existing and hereby provided of the same width at least as the existing roadways, easements or rights of way, and if any dispute shall arise between Dillingham Bros., Limited and the owners of the land affected by such change as to the suitability of the new easements, roadways, or rights of ways, such dispute shall be submitted to and settled by a Judge of the Land Court of the State of Hawaii.

Nothing herein contained shall be construed as determining the rights to water and/or easements for irrigation ditches in favor of Dillingham Bros., Limited, and/or any of the parties interested in the lands covered by Land Court Certificate of Title No. 47,043.

3. NOTICE OF PENDENCY OF ACTION

PLAINTIFF :        THE CITY AND COUNTY OF HONOLULU, a municipal corporation

DEFENDANT :       BISHOP TRUST COMPANY, LIMITED, a Hawaii Corporation, Trustee for the Kahaluu Land Trust, et al.

DATED        :        November 25, 1946

FILED        :        Circuit Court of the First Circuit, State of Hawaii, Law No. 18073, on November 25, 1946

FILED        :        Land Court Document No. 88675 on November 25, 1946

RE            :        Eminent Domain

4. DESIGNATION OF EASEMENT "29" (10 feet wide)

PURPOSE : pole and wire lines  
SHOWN : on Map 38, as set forth by Land Court Order  
No. 7452, filed May 23, 1947

5. GRANT

TO : UNITED STATES OF AMERICA (Navy Department)  
DATED : August 24, 1942  
FILED : Land Court Document No. 92446  
GRANTING : an easement over said Easement "29"

6. DESIGNATION OF EASEMENT "45" (10 feet wide)

PURPOSE : overhead transmission line  
SHOWN : on Map 38, as set forth by Land Court Order  
No. 10323, filed May 9, 1951

7. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in DEED dated August 30, 1955, filed as Land Court Document No. 178506.

8. GRANT

TO : HAWAIIAN ELECTRIC COMPANY, INC. and GTE  
HAWAIIAN TELEPHONE COMPANY INCORPORATED  
DATED : May 8, 1961  
FILED : Land Court Document No. 273933  
GRANTING : a perpetual right and easement to build, construct, reconstruct, rebuild, repair, maintain and operate pole and wire lines and/or underground power lines, etc., for the transmission and distribution of electricity

9. DESIGNATION OF EASEMENT "148"

PURPOSE : ingress and egress  
SHOWN : as shown on Map 188, as set forth by Land  
Court Order No. 31776, filed June 5, 1970

10. GRANT

TO : LAURA CEING LAM, wife of Wallace Lam  
DATED : May 19, 1970  
FILED : Land Court Document No. 503454  
GRANTING : an easement over said Easement "148"

11. MORTGAGE

MORTGAGOR : JOHN PHILLIP FOTI and MARY HEATHER FOTI,  
husband and wife  
MORTGAGEE : HONOLULU MORTGAGE COMPANY, INC., a Hawaii  
corporation  
DATED : October 24, 1991  
FILED : Land Court Document No. 1861131  
AMOUNT : \$359,625.00

ABOVE MORTGAGE AMENDED BY INSTRUMENT

DATED : April 6, 1992  
FILED : Land Court Document No. 1912156.

12. The restrictions on use and other restrictions and all other of the covenants, agreements, obligations, conditions, reservations, easements and other provisions set forth in Declaration of Condominium Property Regime dated July 8, 1992, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Land Court Document No. 1947364, as the same may hereafter be amended in accordance with Law or with said Declaration. (Project covered by Condominium Map No. 928.)

13. By-Laws of the Association of Apartment Owners of the Condominium Project known as "ILI'AINA ESTATES" dated July 8, 1992, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Land Court Document No. 1947365, as the same may hereafter be amended.

End of EXHIBIT F

## EXHIBIT G

### Summary of Sales Contract

The relevant provisions of the Deposit Receipt and Sales Contract ("Sales Contract") are as follows:

1. Financing. If a Purchaser requires financing, he must make a good faith application for the necessary mortgage loans within ten (10) days after the Seller's execution of the Sales Contract. If the loan is not approved within sixty (60) days after application, the Seller has the right to cancel the Sales Contract and refund all deposits paid by Purchaser, less certain escrow cancellation fees.

2. Condominium Documents. Purchasers acknowledge receipts of and approve all of the condominium documents including the Unit Deed, Declaration of Horizontal Property Regime, Bylaws, Developer's Disclosure Abstract, House Rules, and Escrow Agreement.

3. Subordinates. Purchaser's rights under the sales contract are subordinated to the rights of the Lender under the construction mortgage obtained by the Seller. Purchasers further agree that if the property ever acquired by said Lender through foreclosure or otherwise, that the Lender may, at its option, require Purchasers to pay the purchase price and perform their obligations under the Sales Contract.

4. Binding Effects. The Sales Contract shall only become binding on Purchaser and Seller after:

(i) A true copy of the final Public Report has been delivered to Purchaser either personally or by registered or certified mail with return receipt required, together with a true copy of all other public reports thereon, if any, issued prior to the date of such delivery and not previously delivered to Purchaser;

(ii) Purchaser has been given an opportunity to read the reports; and

(iii) Purchaser has executed the form of the receipt and notice required under Section 514A-62 of the Hawaii Revised Statutes, and waived his right to cancel; provided that if Purchaser does not execute and return the receipt and notice within thirty (30) days from the date of delivery of such reports, or if the apartment is conveyed to Purchaser prior to the expiration of such thirty (30) day period, Purchaser shall be deemed to have accepted for the reports and to have waived his right to cancel.

5. Default by Purchaser. Seller may retain Purchaser's deposits or bring an action against Purchaser for breach of contract. Purchaser shall be responsible for costs incurred.

## EXHIBIT H

### Summary of Escrow Agreements

The relevant provisions of the Escrow Agreement are as follows:

1. Pavements to Escrow. All deposits and other sums received from Purchasers or from other persons on account of the Project shall be paid to the Escrow agent and deposited in a federally insured banking or savings and loan institution.

2. Disbursement of Funds. No disbursements shall be made from the Escrow funds unless and until: (a) the Sales Contract has become binding in the manner provided in paragraph 3 of Exhibit D to this Final Report; (b) Seller's attorney shall have given escrow a written opinion that all of the requirements of Section 514A-39, 514A-63 of the Hawaii Revised Statutes have been met; (c) Seller shall have waived all other options to cancel the Sales Contract; (d) Escrow has received a Unit Deed in recordable form in favor of Purchaser; and (e) Escrow has received releases of partial releases of any encumbrance affecting the apartment to be conveyed to Purchaser.

3. Return of Purchaser's Funds. A Purchaser shall be entitled to the return of this funds if Purchaser has requested such a refund and Escrow shall have received from Seller notice that any of the following has occurred:

(a) Seller shall have requested Escrow to refund said monies; or

(b) Seller shall have exercised any option in its favor to cancel the Sales Contract; or

(c) Purchaser is an owner-occupant and it entitled by law to cancel the Sales Contract.

In any of the foregoing events, Escrow shall refund all deposits to Purchaser, less a cancellation fee to Escrow of \$25 per unit and any other cancellation charges.

4. Buyer's Default. If a Purchaser shall not make any payment required under the Sales Contract on or before the due date thereof, Escrow shall notify Purchaser and Seller of such fact. If Seller shall determine that Purchaser has committed an event of default under the Sales Contract, then Seller has the right to terminate the Sales Contract upon written notice to Escrow and Purchaser and Escrow shall, after the expiration of ten (10) days from receipt of such notification and upon written "request by seller", pay all deposits to Seller, less any Escrow cancellation fees and out of pocket expenses.