

**CONDOMINIUM PUBLIC REPORT**

Prepared &  
Issued by:

Developer JOSEPH D. MARCELIN and JENNIFER A. PONTZ

Address 75-5284 Kalamona Road, Holualoa, Hawaii 96725

Project Name(\*): IOKEPA RANCH

Address 75-5284 Kalamona Road, Holualoa, Hawaii 96725

Registration No. 3253 (Conversion) Effective date: March 1, 1995

Expiration date: April 1, 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 of purchasing an apartment in the project.

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

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

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

Type of Report:

PRELIMINARY:

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

X FINAL:

(white) The developer has legally created a condominium and has filed complete information with the Commission

- No prior reports have been issued.
- 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:

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

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

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

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

[   ] 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 does not represent a legally subdivided lot. The dotted lines and metes and bounds descriptions on the Condominium Map bounding the designated number of square feet in each limited common element land area are for illustration 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 governmental agency, nor does it ensure that all applicable County codes, ordinances, and subdivision requirements have necessarily been complied with.

Prospective purchasers are advised that as of the effective date of this report, no additional comments have been received from the Hawaii County Planning Department. If and when such additional comments are received which are contrary or in addition to the information contained herein, a copy shall be provided to each purchaser or prospective purchaser. If the information represents material facts not already disclosed in this public report, the Commission may require the Developer to prepare a Supplementary public report.

**THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW THE CONDOMINIUM DOCUMENTS FOR FURTHER INFORMATION WITH REGARDS 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.



**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. 94-206444  
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]:

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 the condominium project is:

- Proposed
- Recorded - Bureau of Conveyances Condo Map No. 2170
- 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]:

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. 94-206445  
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>majority of Board of Directors</u>

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

2. Developer:

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

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

During the sales period, the Developer has reserved the right to make any changes to the project documents and the project as may be required by law, any title insurance company, and institutional lender or any governmental agency; and, prior to the conveyance or transfer of the first unit, for any reason and in any manner as the developer deems necessary, provided that no such change shall substantially alter or reduce the usable space within the unit, render unenforceable the Buyer's mortgage loan commitment, increase the Buyer's share of common expenses, or reduce the obligations of the Developer for common expenses or unsold units.



[ ] 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 purposes 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: 75-5284 Kalamona Road Tax Map Key: (3) 7-5:001:081  
Holualoa, HI 96725 (TMK)

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

Land Area: 5 [ ] square feet [ X ] acre(s) Zoning: AG-5



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: No swine are permitted and any pets must be kept in a fenced enclosure
- Number of Occupants: \_\_\_\_\_
- Other: The Yards must be used for agricultural purposes
- There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0 Stairways: Unit 1 - 1 int. 2 ext. Trash Chutes: 0  
Unit 2 - 1 ext.

Apt. Type	Quantity	BR/Bath	Net	
			Living Area (sf)*	Lanai/Patio (sf)
<u>1</u>	<u>1</u>	<u>3/4½</u>	<u>2,356</u>	<u>441</u>
<u>2</u>	<u>1</u>	<u>2/1</u>	<u>847</u>	<u>0</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 Apartment shall be deemed to include i) all portions of the residential structure, inclusive of concrete footings, (ii) all pipes, shafts, ducts, pumps, conduits, wires and other utility or service lines running through such Apartment or which are utilized for and serve only that Apartment, (iii) all appliances and fixtures installed therein and replacements thereof, (iv) the footings or slab on which the residential structure 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 Apartment.

**Permitted Alterations to Apartments:**

Each Apartment 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 Apartment 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 Apartment or portions thereof or upon the Yard appurtenant to his Apartment.



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   B  .

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 C.

as follows:

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

Unit 1: 80 %

Unit 2: 20 %

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

Exhibit D describes the encumbrances against the title contained in the title report dated November 4, 1994 and issued by Title Guaranty of Hawaii, Inc.

**Blanket Liens:**

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

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

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

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

<u>Type of Lien</u>	<u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance</u>
Mortgage	Buyer's interest may be terminated in which event Buyer will receive a refund of all deposits, less an escrow cancellation fee (maximum \$250.00 §514A-62(c)).

**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:**

Seller makes no express warranties. SELLER DISCLAIMS ANY IMPLIED WARRANTY OF HABITABILITY, ANY IMPLIED WARRANTY OF MERCHANTABILITY, ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR USE, ANY IMPLIED WARRANTY OF WORKMANSHIP AND ANY OTHER EXPRESS OR ANY IMPLIED WARRANTIES WITH RESPECT TO THE APARTMENTS, THE COMMON ELEMENTS OR THE PROJECT.

Seller disclaims any and all responsibility or liability for any water infiltration, any malfunction, any construction or design defect, or any other problems which Buyer may encounter with respect to the Apartments or the Project.

**2. Appliances:**

Seller warrants that all major appliances, plumbing and electrical fixtures included in the sale will be in working order consistent with their age as of the date of closing, or occupancy, if earlier. No continuing warranty is expressed or implied.

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

Unit 1 completed March 10, 1991

Unit 2 completed July 4, 1992

H. **Project Phases:**

The developer [ ] has [X] 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:

- |   |  |
|---|--|
| <input type="checkbox"/> not affiliated with the Developer                              | <input type="checkbox"/> the Developer or the Developer's affiliate. |
| <input checked="" type="checkbox"/> self-managed by the Association of Apartment Owners | <input type="checkbox"/> 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   E   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:

- |                                |   |                                |   |
|--------------------------------|---|--------------------------------|---|
| <input type="checkbox"/> None  | <input type="checkbox"/> Electricity      | <input type="checkbox"/> Gas   | <input checked="" type="checkbox"/> Water |
| <input type="checkbox"/> Sewer | <input type="checkbox"/> Television Cable | <input type="checkbox"/> 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 F contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated November 28, 1994  
Exhibit G 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.
  - 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 Exclusive Perpetual Easement over and across Easement "A" as described in item 3 of Exhibit D; Declaration dated ---- (acknowledged March 9, 1986 and March 4, 1986) as described in item 4 of Exhibit D; Declaration of Protective Covenants, Conditions and Restrictions for Keopu Ranch Estates Subdivision recorded in Liber 19395 at Page 606.

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, as amended) 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. 3253 filed with the Real Estate Commission on December 23, 1994.

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

yellow paper stock     white paper stock     pink paper stock

Additional Information Not Covered Above

The property is subject to Covenants, Conditions, Restrictions, Reservations, Agreements, Obligations and other Provisions set forth in that certain Declaration of Protective Covenants, Conditions and Restrictions for Keopu Ranch Estates Subdivision ("DPCCRs"). Prospective purchasers are cautioned to carefully review the full text of the DPCCRs, as the provisions are binding on owners and are relevant to the usage of the property, further improvement, re-building, and other matters.

Of significant relevance is Article VI, paragraph 6.2, which states in pertinent part that "(n)o Lot may be divided or subdivided or a fractional portion thereof conveyed or otherwise transferred so as to be held in divided ownership."

Notwithstanding a possible interpretation that condominium property regimes are a form of divided ownership, prospective purchasers are warned of the possibility that the Keopu Ranch Estates Property Owners Association could initiate legal action to compel removal of the project from condominium property regime.

Care should be taken to examine the possible effects of the DPCCRs, as there may be provisions that might impact negatively on the purchaser's future use and enjoyment of the property.

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.

JOSEPH D. MARCELIN and JENNIFER A. PONTZ

Name of Developer

By:	<u>Joseph D. Marcelin</u> Duly Authorized Signatory	<u>2-21-95</u> Date
By:	<u>Jennifer A. Pontz</u> Duly Authorized Signatory	<u>2-21-95</u> Date

Owners/Developers

print name & title of person signing above

Distribution:

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

## EXHIBIT A

### DESCRIPTION OF THE BUILDINGS:

The Project is hereby divided into the freehold estates described and designated below.

1. Description of the Buildings: The Project is described in the Condominium Map and consists of two (2) residential buildings and appurtenant improvements, Unit 1 consisting of two stories (no basement) and constructed principally of wood, glass, and gypsum board and Unit 2 consisting of one story (no basement) and constructed principally of wood, glass and gypsum board. If the descriptions and divisions set forth in this Declaration conflict with the depictions and divisions shown on the Condominium Map, the latter shall control. The Condominium Map is intended only to show the layout, location, apartment numbers, dimensions and elevations of the Apartments and is not intended and shall not be deemed to contain or make any other representation or warranty.

2. Description of the Apartments. Each of the two (2) Apartments shown on the Condominium Map, together with the perimeter walls, doors, windows, floors, roofs, concrete footings or slab and garage/carport, are hereby designated as the Apartments of the Project, as shown on the Condominium Map and as described as follows:

a. Apartment Numbers and Locations. The Apartment numbers and the location of Apartments are shown on the Condominium Map.

b. Layout and Area. The various Apartments and their respective areas are more particularly described as follows:

(1) Unit 1: This Apartment consists of two (2) free standing two (2) story buildings containing a net living area of approximately 2,356 square feet, excluding the garage, and consists of a kitchen, dining area, entry way, living room, family room, three (3) bedrooms, laundry area, four and one-half (4 1/2) bathrooms, work area, lanai, walkway and a two (2) car garage.

(2) Unit 2: This Apartment is a free standing one (1) story building containing a net living area of approximately 847 square feet, excluding the carport, and consists of a kitchen, living room, dining area, two (2) bedrooms, one (1) bathroom, laundry area and a two (2) car carport.

The foregoing approximate total square footages of net living area for the enclosed portions of the Apartments are computed from and to the interior surfaces of the Apartment perimeter walls.

**END OF EXHIBIT A**

**EXHIBIT B**

**COMMON ELEMENTS:**

1. Common Elements. One freehold estate is hereby designated in all remaining portions of the Project, herein called the "Common Elements", including specifically but not limited to:

a. The Land in fee simple.

b. All Yards, grounds and landscaping, if any, whether within or appurtenant to the Project.

c. All ducts, sewer lines, cesspools, electrical equipment, wiring, pipes and other appurtenant transmission facilities over, under and across the Project which are outside of the Apartment and which serve more than one Apartment for services such as power, light, water, gas, sewer, refuse, telephone and radio and television signal distribution.

d. Any and all other apparatus and installations of common use and all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

**END OF EXHIBIT B**

## EXHIBIT C

### **LIMITED COMMON ELEMENTS:**

1. Limited Common Elements. Certain parts of the Common Elements, herein called the "Limited Common Elements", are hereby designated, set aside and reserved for the exclusive use of certain Apartments, and such Apartments shall have appurtenant thereto exclusive easements for the use of such Limited Common Elements as set forth herein. The costs and expenses of every description pertaining to the Limited Common Elements, including but not limited to the costs of maintenance, repair, replacement, improvement or additions to the Limited Common Elements, shall be charged to the Owner of the Apartment to which the Limited Common Element is appurtenant, and if there is more than one Apartment to which the Limited Common Element is appurtenant, then in proportion to the Common Interest appurtenant to each of the respective Apartments except as otherwise provided in this Paragraph.

a. Unit 1 shall have appurtenant to it as a Limited Common Element the concrete driveway from the Apartment (Unit 1) to Kalamona Road as shown on the Condominium Map. Unit 2 shall have appurtenant to it as a Limited Common Element the driveway from the Apartment (Unit 2) to the gravel driveway and Kalamona Road as shown on the Condominium Map.

b. Unit 1 shall have appurtenant to it as a Limited Common Element the Yard shown on the Condominium Map. Unit 2 shall have appurtenant to it as a Limited Common Element the Yard shown on the Condominium Map. The boundaries of the Yards appurtenant to each Apartment are more particularly described in Exhibit "B" attached to the Declaration. The Yards do not represent County-approved subdivided lots. Such boundary descriptions serve only to delineate the boundaries of the Limited Common Element Yards appurtenant to each Apartment.

c. All Common Elements of the Project which are rationally related to less than all of the Apartments shall be Limited Common Elements appurtenant to the Apartment(s) to which they are so related.

END OF EXHIBIT C

EXHIBIT D

**ENCUMBRANCES AGAINST THE TITLE:**

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.

\*2. AGREEMENT

BY : WILLIAM T. WHITE and MELINDA R. WHITE, husband and wife, JOHN GRIFFITH VALENTINE and LINDA NELSON VALENTINE, Trustees, and U. T. THOMPSON, III, TRUSTEES, "OWNER"  
WITH : DEPARTMENT OF WATER SUPPLY, COUNTY OF HAWAII, "DEPARTMENT"  
DATED: March 11, 1983  
RECORDED: May 4, 1983, in Liber 17020, Page 220, in the Bureau of Conveyances

3. An easement affecting a portion of said land and for the purposes stated herein and incidental purposes,

IN FAVOR OF : GARY LAMBERT and DEBORAH K. LAMBERT, husband and wife  
FOR : Exclusive Perpetual Easement over and across Easement "A" Part 2 (20 feet wide) area 8,835 square feet, for access purposes.  
DATED : July 29, 1984  
RECORDED : September 25, 1984, in Liber 18165, Page 1, in the Bureau of Conveyances.

Said above Grant was amended by Amendment to Grant of Easement by instrument dated July 11, 1988, recorded in Liber 22966 at Page 680.

4. Covenants, Conditions, Restrictions, Reservations, Agreements, Obligations and other Provisions set forth in the Declaration of Protective Covenants, Conditions and Restrictions for Keopa Ranch Estates Subdivision,

DATED : ---- (acknowledged March 9, 1986 and March 4, 1986)  
RECORDED : Liber 19395, Page 606, in the Bureau of Conveyances

5. MORTGAGE

MORTGAGOR : JOSEPH D. MARCELIN, unmarried, and JENNIFER A. PONTZ, unmarried  
MORTGAGEE : FOUR STAR MORTGAGE CORPORATION, a Hawaii corporation

DATED : June 14, 1993  
RECORDED : Document No. 93-098950  
AMOUNT : \$204,500.00

THE ABOVE MORTGAGE WAS ASSIGNED

TO : COUNTRYWIDE FUNDING CORPORATION, a New York  
corporation  
DATED : June 14, 1993  
RECORDED : Document No. 93-098951

6. NOTICE OF DEDICATION dated January 12, 1994, recorded as Document No. 94-016677, by JOSEPH D. MARCELIN and JENNIFER A. PONTZ; re: urban to agricultural dedication agreement being 4.5 acres (pasture for cattle and horses) for a period of 10 years effective July 1, 1994.
7. The Project is also subject to condominium documents identified on page 6 of this report.
8. Real property taxes as may be due and owing. Check with the County Tax Assessor.

**\*NOTE:** With respect to item 2, the Developer represents there is nothing in the document that will materially affect purchaser's interest in an adverse manner. The Documents are available for inspection either upon request of the Developer or at the Real Estate Commission.

**END OF EXHIBIT D**

**EXHIBIT E**

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

**Estimate of Initial Maintenance Fees:**

Apartment	Monthly Fee X 12 months	=	Yearly Total
1	\$128.00 X 12	=	\$1,536.00
2	\$ 32.00 X 12	=	\$ 384.00

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

**Maintenance Fees and Maintenance Fee Disbursements:**

**Estimate of Maintenance Fee Disbursements:**

	<u>Monthly X 12 months =</u>	<u>Yearly Total</u>
Utilities and Services		
Air Conditioning		
Electricity		
Gas		
Refuse Collection		
Telephone		
Water		
(x) common elements and apartments	11 X 12 =	132.00
Maintenance, Repairs and Supplies		
Pool		
Building		
Grounds	10 X 12 =	120.00
Pest		
Reserves-Long term maintenance	25 X 12 =	300.00
Management		
On-site Manager		
Management Fee		
Payroll and Payroll Taxes		
Office Expenses		
Insurance	100 X 12 =	1,200.00
Taxes and Government Assessments (Real Property Taxes)		
Audit Fees		
Other		
Master Association Fees (Keopu Ranch Estates Property Owners' Association)	14 X 12 =	168.00
<b>TOTAL:</b>		<b>\$1,920.00</b>

I/We, JOSEPH D. MARCELIN and JENNIFER A. PONTZ, as owner/developer for the condominium project, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

Date:

2-21-95

Joseph D. Marcelin  
JOSEPH D. MARCELIN - OWNER DEVELOPER

Jennifer A. Pontz  
JENNIFER A. PONTZ - OWNER DEVELOPER

**END OF EXHIBIT E**

## EXHIBIT F

### **SUMMARY OF SALES CONTRACT AND RECEIPT:**

The unexecuted Sales Contract filed with the Commission, provides for, among other things, a description of the apartment to be sold, the purchase price, the time, manner and place of payment, the Purchaser's obligations regarding mortgage financing, Developer's warranties and disclaimers regarding the construction, fixtures and appliances, and the remedies of Developer and of Purchaser in the event of a default under the Contract.

Among other provisions, the specimen Sales Contract and the provisions of Chapter 514A, Hawaii Revised Statutes provide:

1. That said Sales Contract is not binding upon the Purchaser unless (a) a true copy of the Final Public Report (with all then issued Supplementary Public Reports, if any) is delivered to the Purchaser and the Purchaser has an opportunity to read the report(s) and executes and gives the Developer a receipt/notice for the report(s) waiving Purchaser's right to cancel, provided that if Purchaser does not execute and return the receipt/notice within thirty (30) days from the date of delivery of the report(s) and receipt/notice, or if Purchaser's Apartment is conveyed to Purchaser prior to the expiration of said thirty (30) day period, then Purchaser shall be deemed to have accepted for the report(s) and waived his right to cancel, and (b) if, and only if, there is a material change affecting (i) Purchaser's apartment or appurtenant limited common elements, or (ii) amenities of the Project available for Purchaser's use, the Purchaser executes and returns to Developer the written approval or acceptance of material change, provided that if Purchaser does not execute and return such written approval or acceptance of material change within thirty (30) days of delivery of such written approval or acceptance, or if Purchaser's apartment is conveyed to Purchaser prior to the expiration of said thirty (30) day period, then Purchaser shall be deemed to have accepted and approved such material change. Until the Sales Contract becomes binding and effective as described above, and in accordance with Chapter 514-A, Hawaii Revised Statutes, the Sales Contract may be unconditionally cancelled at any time by either the Developer or the Purchaser. Upon such cancellation by Developer, Developer shall direct Escrow Agent to refund to Purchaser, without interest earned, all deposits paid by Purchaser; upon cancellation by Purchaser, Developer shall direct Escrow Agent to refund to Purchaser, without interest

earned, a full refund of all deposits paid, less any escrow cancellation fee and other costs associated with the purchase of Purchaser's Apartment, up to a maximum of \$250.00.

2. In the event Purchaser fails to pay the balance of the purchase price or complete the purchase as provided in the Sales Contract, Developer may (a) bring an action for damages for breach of contract, (b) retain the initial deposit and all additional deposits provided for in the Sales Contract, as liquidated damages and (c) Purchaser shall be responsible for any costs incurred in accordance with the Sales Contract.

3. Developer has made no representations and has not authorized any representations to be made by any sales agent concerning any services or arrangements relating to the rental or sale or management of the Purchaser's Apartment.

4. The Sales Contract is subject to the provisions of the Declaration of Condominium Property Regime, By-laws, and other condominium documents.

It is incumbent on the Purchaser that he read the full text of the Sales Contract.

**END OF EXHIBIT F**

## EXHIBIT G

### **SUMMARY OF EXECUTED ESCROW AGREEMENTS**

A copy of the executed Escrow Agreement dated November 28, 1994 between Title Guaranty Escrow Services, Inc., as Escrow Agent, and Developer has been filed with the Commission. The Escrow Agreement provides for the deposit of Purchaser's funds pursuant to the Sales Contract and also provides for the retention or disbursement of the funds. The Escrow Agreement provides, in part, that any interest earned on money on deposit may be retained by the Developer unless the Sales Contract directs otherwise. In the event that the Sales Contract and Chapter 514A, Hawaii Revised Statutes entitle a Purchaser to a refund of Purchaser's Deposits held by the Escrow Agent, then Escrow Agent, upon instruction from Developer, will refund Purchaser's deposits, without interest earned and less certain cancellation fees and costs (e.g., escrow cancellation fees, loan processing fees, cost of credit reports, etc.) as provided in the Sales Contract and Chapter 514A, Hawaii Revised Statutes, as amended.

By law the total amount of such cancellation fees shall not exceed Two Hundred Fifty and NO/100 Dollars (\$250.00). Under the Escrow Agreement no disbursement of funds can be made to the Developer until the Sales Contract becomes effective under the provisions of Chapter 514A, Hawaii Revised Statutes.

It is incumbent upon a prospective Purchaser to read the executed Escrow Agreement with care.

END OF EXHIBIT G

IOKEPA RANCH - DISCLOSURE ABSTRACT

Name and Address of Project: Iokepa Ranch condominiums is situated at Keopu 2nd, North Kona, Island and County of Hawaii, State of Hawaii, being LOT A-4-B of the "KEOPU RANCH ESTATES", containing an area of 5.000 acres, more or less. It's mailing address is 75-5284 Kalamona Road, Holualoa, Hawaii 96725.

Name, Address and Telephone Number of Owner: JOSEPH D. MARCELIN, an unmarried man, and JENNIFER A. PONTZ, an unmarried woman, both of whose mailing address is 75-5284 Kalamona Road, Holualoa, Hawaii 96725, and whose telephone number is (808) 329-1740.

Managing Agent: Self managed by the Association of Apartment Owners.

Real Estate Agent: The units are listed with Gerry L. Rott, dba Gerry Rott & Associates, whose address is 75-240 Nani Kailua Drive, Suite 9, Kailua-Kona, Hawaii 96740, and whose telephone number is (808) 326-2991.

Estimated Annual Maintenance Fees and Monthly Costs for Each Unit: (See attached)

Description of Warranties: Except for the limited warranty set forth in Paragraph C-54 (if any) of the DROA, Seller makes no express warranties. **SELLER DISCLAIMS ANY IMPLIED WARRANTY OF HABITABILITY, ANY IMPLIED WARRANTY OF MERCHANTABILITY, ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR USE, ANY IMPLIED WARRANTY OR WORKMANSHIP AND ANY OTHER EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE APARTMENT, THE COMMON ELEMENTS OR THE PROJECT.** Buyer acknowledges that he has had an opportunity to examine the Apartment, the common elements and the Project and that neither the Seller nor its agents, representatives or employees have made any warranties, express or implied, with respect to the Apartment, its quality or grade, or any of the common elements of the Project or anything installed therein, their quality or grade. In particular, Seller disclaims any and all responsibility or liability for any water infiltration, any malfunction, any construction or design defect, or any other problems which Buyer may encounter with respect to the Apartment or the Project.

Real Property Tax Dedication. Buyer acknowledges that the limited common element Yards appurtenant to the Apartments are subject to a favorable real property tax assessment by reason of the dedication of the same to agricultural purposes. The Declaration and Bylaws of the Project require that the Yards be used only for agricultural purposes to maintain the favorable real property tax assessment. In the event the Buyer causes a loss of the real property tax assessment for the Project through an unapproved use of the Yards, the Buyer will be

liable for the rollback and reassessment of real property taxes for the entire Project.

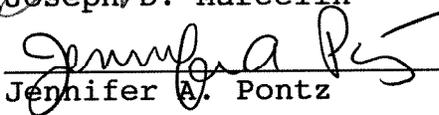
Easement A. The Buyer acknowledges that Easement "A" to which Unit 2 is subject is an exclusive perpetual easement in favor of an adjoining property and the Buyer will have to independently determine the Buyer's right to use such easement for purposes of access to Unit 2. The Seller disclaims any warranties or representations whatsoever with respect to the use of the easement area within Easement "A" by Unit 2.

BUYER FURTHER ACKNOWLEDGES THAT HIS ATTENTION HAS BEEN DIRECTED TO THIS PARAGRAPH, THAT HE HAS READ AND UNDERSTANDS SELLER'S DISCLAIMERS OF WARRANTY AND THAT HE EXPRESSLY, KNOWINGLY AND INTELLIGENTLY WAIVES AND RELEASES ANY AND ALL RIGHTS, CLAIMS, ACTIONS OR CAUSES OF ACTION HE NOW HAS OR MAY HAVE IN THE FUTURE ARISING OUT OF, RELATED TO, OR CONNECTED IN ANY WAY WITH, ANY DEFECTS OR DEFICIENCIES IN THE APARTMENT, THE COMMON ELEMENTS OR THE PROJECT.

Usage: The project contains Residential Units. the estimated annual and monthly maintenance fees were prepared as of 2-21 \_\_\_\_\_, 1994~~5~~ and are hereby certified to have been based on generally accepted accounting principles. THE FIGURES CONTAINED HEREIN ARE ESTIMATES AND ARE NOT INTENDED TO BE AND DO NOT CONSTITUTE ANY REPRESENTATION OR WARRANTY BY OWNER, INCLUDING BUT NOT LIMITED TO ANY REPRESENTATION AS TO THE ACCURACY OF SUCH ESTIMATES.

Please sign this disclosure Abstract and return the copy to us. Your signature acknowledges your receipt of this Disclosure Abstract dated 2-21-95, ~~1994~~.

DATED: \_\_\_\_\_

  
\_\_\_\_\_  
Joseph D. Marcelin  
  
\_\_\_\_\_  
Jennifer A. Pontz

UNIT NO. \_\_\_\_\_ Receipt acknowledged this \_\_\_\_\_ day  
of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_

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

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Date: 2-21-95

Joseph D. Marcin  
JOSEPH D. MARCELIN - OWNER DEVELOPER

Jennifer A. Pontz  
JENNIFER A. PONTZ - OWNER DEVELOPER