

CONDOMINIUM PUBLIC REPORT

Prepared &

Issued by: Developer PLANTATION PROPERTIES II, LIMITED
Address 2200 Main Street, Suite 310, Wailuku, Maui, HI 96793

Project Name(*): THE GARDENS UPCOUNTRY
Address: 71 Makawao Avenue, Makawao, Maui, HI 96768

Registration No. 3279

Effective date: March 14, 1995

Expiration date: April 14, 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: 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 Not Required - disclosures covered in this report.

Summary of Changes from Earlier Public Reports:

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

No prior reports have been issued by the developer.

Changes made are as follows:

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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: PLANTATION PROPERTIES II, LIMITED Phone: (808) 244-8111
Name (Business)
2200 Main Street, Suite 310
Business Address
Wailuku, Maui, HI 96793

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

MARIANNA KNOTTENBELT - President, Vice President, Secretary, Treasurer

Real Estate Broker: See Page 5a Phone: _____
Name (Business)
Business Address

Escrow: TITLE GUARANTY ESCROW SERVICES, INC. Phone: (808) 879-1551
Name (Business)
41 E. Lipoa Street, Suite 29
Business Address
Kihei, Maui, HI 96753

General Contractor: To be determined Phone: _____
Name (Business)
Business Address

Condominium Managing Agent: BELLO REALTY, INC. Phone: (808) 879-3328
Name (Business)
P. O. Box 1776
Business Address
Kihei, Maui, HI 96753

Attorney for Developer: PAUL M. UEOKA, Esq. Phone: (808) 242-4535
GRANT Y. M. CHUN, Esq. (Business)
Name
2200 Main Street, Suite 400
Business Address
Wailuku, Maui, HI 96793

Real Estate
Broker:

McCORMACK REAL ESTATE, INC., dba
COLDWELL BANKER McCORMACK REAL ESTATE
Name

Phone: (808) 879-5233
(Business)

2463 S. Kihei Road
Business Address

Kihei, Maui, HI 96753

Real Estate
Broker:

MAUI ISLAND REAL ESTATE, INC.
Name

Phone: (808) 572-1377
(Business)

P. O. Box 206
2 Kilakila Road
Business Address

Pukalani, Maui, HI 96788

**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. _____

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 this condominium project is:

- Proposed
 Recorded - Bureau of Conveyances Condo Map No. _____
 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. _____
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:

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 lessor'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: 71 Makawao Avenue Tax Map Key: (2) 2-3-44:31
Makawao, Maui, HI 96768 (TMK)

Address TMK is expected to change because of establishment of condominium property regime, each apartment will have a separate tax map key CPR number.

Land Area: 75,961 square feet acre(s) Zoning: A-1 (Apartment)

Lessor

(Fee Owner): PLANTATION PROPERTIES II, LIMITED

Name
2200 Main Street, Suite 310

Address
Wailuku, Maui, HI 96793

Sublessor: N/A

Name

Address

C. Buildings and Other Improvements:

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

2. Number of Buildings: 3 Floors Per Building 2

Exhibit _____ contains further explanations.

3. Principal Construction Material:

Concrete Hollow Tile Wood

Other _____

4. Permitted Uses by Zoning:

| | No. of Apts. | Use Permitted By Zoning | No. of Apts. | Use Determined By Zoning |
|---|--------------|--|--------------|--|
| <input checked="" type="checkbox"/> Residential | <u>20</u> | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Ohana | <u> </u> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Commercial | <u> </u> | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Industrial | <u> </u> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Mix Res/Comm | <u> </u> | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Agricultural | <u> </u> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Hotel | <u> </u> | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Recreational | <u> </u> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Timeshare | <u> </u> | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other: _____ | <u> </u> | <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: Restrictions are contained in proposed House Rules. Tenants: No Pets. Owners: 1 dog or 1 cat (neutered), neither can exceed 25 lbs.; aquaria; or 2 domestic birds.

Number of Occupants: _____

Other: Uses other than residential use prohibited. Unauthorized changes in building exteriors are prohibited.

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: _____ Stairways: _____ Trash Chutes: _____

| <u>Apt. Type</u> | <u>Quantity</u> | <u>BR/Bath</u> | <u>Net Living Area (sf)*</u> | <u>Lanai/Patio (sf)</u> |
|------------------|-----------------|----------------|------------------------------|-------------------------|
| A | 4 | 2/3 | 1585 | 225 |
| B | 8 | 2/3 | 1533 | 246/258 |
| C-1 | 4 | 2/2 | 1078 | 71/140 |
| C-2 | 4 | 2/2 | 1408 | 98/167 |

Total Apartments: 20

***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:

See Exhibit "B".

Permitted Alterations to Apartments:

See Exhibit "C".

7. Parking Stalls:

Total Parking Stalls: 43

| | <u>Regular</u> | | <u>Compact</u> | | <u>Tandem</u> | | <u>TOTAL</u> |
|--------------------------------|----------------|-------------|----------------|-------------|----------------|-------------|--------------|
| | <u>covered</u> | <u>open</u> | <u>covered</u> | <u>open</u> | <u>covered</u> | <u>open</u> | |
| Assigned (for each unit) | | <u>30</u> | | <u>8</u> | | | <u>38</u> |
| Guest | | <u>3</u> | | | | | <u>3</u> |
| Unassigned | | | | | | | |
| Extra for Purchase | | | | | | | |
| Other: | | <u>2</u> | | | | | <u>2</u> |
| Total Covered & Open | <u>35</u> | | <u>8</u> | | | | <u>43</u> |

Each apartment will have the exclusive use of at least 2 parking stall(s).
Buyers are encouraged to find out which stall(s) will be available for their use.

- Commercial parking garage permitted in condominium project.
- Exhibit "D" contains additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities:

- There are no recreational or common facilities.
- Swimming pool Storage Area Recreation Area
- Laundry Area Tennis Court Trash Chute
- Other: _____

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

- There are no violations. Violations will not be cured.
- Violations and cost to cure are listed below. Violations will be cured by _____

10. Condition and Expected Useful Life of Structural Components, Mechanical, and Electrical Installations
(For conversions of residential apartments in existence for at least five years):

N/A

11. Conformance to Present Zoning Code

- a. No variances to zoning code have been granted.
 Variance(s) to zoning code was/were granted as follows:

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

In general, a non-conforming use, structure, or lot is a use, structure, or lot which was lawful at one time but 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 "E" .

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.

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

[X] described in Exhibit "F".

[] 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:

[X] described in Exhibit "G".

[] as follows:

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

Exhibit "H" describes the encumbrances against the title contained in the title report dated 10/04/94 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 through First Hawaiian Bank | Refund Buyer's deposits and cancel sales contract |

F. Construction Warranties:

Warranties for individual apartments and the common elements, including the beginning and ending dates for each warranty, are as follows:

1. Building and Other Improvements:

The building will be warranted by the general contractor for a period of one (1) year following the substantial completion of the work by the contractor. The Developer will not warrant the work, but will pass on the contractor's warranty. The Developer's obligation will be limited to assisting the Owners and the Association in presenting claims under the one (1) year warranty to the contractor.

2. Appliances:

The Developer's limited warranty will not cover appliances, fixtures, carpeting, or other consumer items installed in the apartment, and the only warranty, if any, will be the warranty of the manufacturer.

NOTE: Except as provided above, Developer 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 implied warranties, with respect to the apartments, the project or the common elements of the project.

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

Commencement of Construction: February 1995.

Estimated Completion Date: February 1996.

H. **Project Phases:**

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

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

Developer has the right to construct the twenty (20) units contemplated by this project in phases.

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

C. Utility Charges for Apartments:

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

- None
- Electricity (for common elements)
- Gas
- Water
- Sewer (septic system)
- Television Cable
- Other Refuse Collection

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 "J" contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated August 24, 1994
Exhibit "K" 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 _____

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. 3279 filed with the Real Estate Commission on 1/24/95.

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yellow paper stock white paper stock pink paper stock

C. Additional Information Not Covered Above

D. The developer hereby certifies that all the information contained in this Report and the Exhibits attached to this Report and all documents to be furnished by the developer to buyers concerning the project have been reviewed by the developer and are, to the best of the developer's knowledge, information and belief, true, correct and complete.

PLANTATION PROPERTIES II, LIMITED
Name of Developer

By: Marianna Knottenbelt 11/22/94
Duly Authorized Signatory Date

Marianna Knottenbelt, President
print name & title of person signing above

Distribution:

- Department of Finance, County of Maui
- Planning Department, County of Maui
- Federal Housing Administration

EXHIBIT "A"

**CONDOMINIUM PUBLIC REPORT
THE GARDENS UPCOUNTRY
RIGHTS RESERVED BY DEVELOPER**

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

a. the right to file "as built" plans, thereby amending the Condominium Map.

b. the right to amend the Declaration to assign and reassign parking stalls.

c. the non-exclusive right to grant easements within the Common Elements for public utility purposes.

d. the non-exclusive right to grant easements for any purpose within any landscaped area of the Project and the right to relocate, realign or cancel the same, provided that such easements, their use, relocation, realignment, or cancellation shall not materially impair or interfere with the use of any Apartment.

e. the right to amend the Declaration and other Condominium Documents to comply with the requirements of any law, mortgage lender or government agency.

f. the right to have the Project Architect make changes to the Common Elements for any reason, including aesthetics and financial feasibility.

g. the right to construct the Project in phases, to merge the Project's various phases and to merge the Project's various phases.

h. the right to use all areas of the Project to conduct sales of Apartments at the Project until Apartment Deeds are issued to Apartment purchasers with respect to all Apartments in the Project.

i. the right to assign or change parking stall assignments of individual parking stalls to individual Apartments.

EXHIBIT "B"

**CONDOMINIUM PUBLIC REPORT
THE GARDENS UPCOUNTRY
BOUNDARIES OF EACH APARTMENT**

The Apartments consist of the spaces within the perimeter walls, floors and ceilings of each of the twenty (20) Apartment units of the Project. The respective Apartments shall not be deemed to include: (i) the undecorated or unfinished surfaces of the perimeter (including party) walls or interior load bearing walls, (ii) the undecorated or unfinished surface of the floors and ceilings surrounding each Apartment, (iii) any pipes, shafts, wires, conduits or other utility or service lines which are utilized for or serve more than one Apartment, the same being deemed Common Elements as hereinafter provided, or (iv) any tinted windows including any film or other coating thereon. Each Apartment shall be deemed to include (i) all the walls and partitions which are not load-bearing within its perimeter walls, (ii) all pipes, shafts, ducts, pumps, conduits, wires and other utility or service lines running through such Apartment which are utilized for and serve only that Apartment, (iii) the inner decorated or finished surfaces of all walls, floors and ceilings, (iv) any doors or panels along the perimeters, and (v) all appliances and fixtures installed therein and replacements thereof.

EXHIBIT "C"

**CONDOMINIUM PUBLIC REPORT
THE GARDENS UPCOUNTRY
PERMITTED ALTERATIONS TO APARTMENTS**

Each Owner of an Apartment shall have the right at any time and from time to time at his sole cost and expense, and without the necessity of the consent or joinder of any other Apartment Owner or the amendment of the Declaration, but with the prior approval of the Board and with the presentation of such plans and specifications as the Board may require, to make any of the following alterations solely within the Apartment space as defined in the Declaration: to install, maintain, remove, and rearrange partitions and other structures from time to time within such Apartment, and to paint, paper, panel, plaster, tile, finish, and do or cause to be done such other work on the interior surfaces of the ceilings, floors and walls within any such Apartment and to finish, alter or substitute any plumbing, electrical or other fixtures attached to said ceilings, floors and walls as shall be appropriate for the utilization of such Apartment by such Owner or the tenants or lessees thereof; provided, however, that nothing contained in this paragraph shall authorize any work or alteration which would jeopardize the soundness or safety of any part of the Project, reduce the value therefor, adversely affect any other Apartment, or alter the uniform external appearance of the Project.

The Owner of any two adjoining Apartments may, with the consent of any mortgagee of such Apartments, alter or remove all or portions of the intervening wall (provided the same is not load-bearing) which separates such Apartments if the structural integrity of the building in which the Apartments are located is not thereby affected and if the finish of the Common Elements then remaining is restored to a condition substantially comparable to that of the Common Elements prior to such alteration of the Common Elements; provided, however, that the Owner shall secure a performance and payment bond naming as obligees said Owner and collectively the Owners of all other Apartments as their interests may appear in a penal sum of not less than one hundred percent (100%) of the cost of any construction, guaranteeing the payment of funds in an amount necessary to ensure the completion thereof free and clear of all mechanics and materialmen's liens, and that any such construction shall be carried out in strict compliance with all applicable laws; provided further, however, that the approval of the Board shall

be required to perform the alterations permitted herein which approval shall be given provided that the Owner of the adjoining Apartments complies with all the terms and conditions relating to said alterations set forth herein. The Owner of such adjoining Apartments may install in and attach to such opening or openings in such wall, doors and other service devices and may remove and retain ownership of the items so installed. Upon the termination of the common ownership of such adjoining Apartments, any intervening wall which has been altered or removed pursuant to the foregoing provisions shall be restored to substantially the condition in which the same existed prior to such alteration or removal, if the new Owner or Owners do not consent to such alteration. Subject to the terms and conditions of this Declaration and Bylaws, and at the sole expense of the Apartment Owner involved, the Owner of any two such adjoining Apartments shall also have the right to make additions to or alterations and physical partitions within such Apartments; provided, that no work shall be done which would jeopardize the soundness or safety of the Project, reduce the value thereof, detract from the external appearance of the Apartments, or impair any easement, without in every such case the prior written consent of the mortgagees of such Apartments, the Board and all other Apartment Owners directly affected thereby (as determined by the Board).

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EXHIBIT "D"

**CONDOMINIUM PUBLIC REPORT
THE GARDENS UPCOUNTRY
PARKING STALL ASSIGNMENTS**

| <u>UNIT</u> | <u>STALLS</u> |
|-------------|---------------|
| 1 | 4, 24 |
| 2 | 9, 29 |
| 3 | 8, 28 |
| 4 | 7, 27 |
| 5 | 6, 26 |
| 6 | 1, 21 |
| 7 | 2, 22 |
| 8 | 3, 23 |
| 9 | 5, 25 |
| 10 | 10, 30 |
| 11 | 11, 31 |
| 12 | 12, 32 |
| 13 | 13, 33 |
| 14 | 20, 40 |
| 15 | 19, 39 |
| 16 | 18, 38 |
| 17 | 17, 37 |
| 18 | 16, 36 |
| 19 | 15, 35 |
| 20 | 14, 34 |

EXHIBIT "E"

CONDOMINIUM PUBLIC REPORT
THE GARDENS UPCOUNTRY
COMMON ELEMENTS

The Common Elements include, but are not limited to:

- a. The Land in fee simple.
- b. All unfinished, undecorated portions of all perimeter (including party) and load-bearing walls, all structural components, foundations, floor slabs, columns, girders, beams, supports, halls, corridors, exterior stairs and stairways, unfinished perimeter walls and interior load-bearing walls, tinted windows including any film or other coating thereon, and roofs.
- c. All yards, grounds and landscaping and all refuse facilities, if any, whether within or appurtenant to the Project.
- d. All roads, parking areas, driveways, which are of common use by Owners of more than one Apartment.
- e. All ducts, sewer lines, electrical equipment, wiring, pipes and other central and appurtenant transmission facilities over, under and across the Project which serve more than one Apartment for services such as power, light, water, gas, sewer, refuse, telephone and radio and television signal distribution.
- f. The entirety of the fire sprinkler system including portions thereof installed within the various Apartments.
- g. Stairwells, hallways and other similar areas which are not part of an Apartment.
- h. Three (3) guest parking stalls, located parallel to the entry driveway as shown on the Condominium Map, available for use by the guests, visitors and invitees of the Apartment Owners. All guest parking stalls are regular sized parking stalls.
- i. Applicable guest parking stall numbers are 41, 42 and 43.

j. Any interest which the Association may acquire in and to any Apartment or Apartments for use by a resident manager or resident managers.

k. 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.

l. An emergency power generator which is available to service the sewage treatment plant.

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EXHIBIT "F"

**CONDOMINIUM PUBLIC REPORT
THE GARDENS UPCOUNTRY
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 shall be appurtenant, and if there is more than one Apartment to which the Limited Common Elements shall be appurtenant, then in proportion to the Common Interest appurtenant to each of the respective Apartments except as otherwise provided in the Declaration.

a. Each Apartment shall have appurtenant to it as a Limited Common Element at least two (2) parking stalls as designated in the Declaration and as shown on the Condominium Map. Upon compliance with Hawaii Revised Statutes Section 514A-14, each owner shall have the right to assign and reassign stalls (other than guest parking stalls) from time to time to another Apartment in the Project. All costs and expenses of repaving, restriping or otherwise repairing such parking stalls shall be charged to each Owner on a pro rata basis in direct proportion to the number of parking stalls appurtenant to the Owner's Apartment. All other costs and expenses attributable to such parking stalls shall be charged to each Owner as a Common Expense of the Project.

b. Each Apartment shall have direct, exclusive access to at least one lanai adjacent to the Apartment which shall be deemed a Limited Common Element as shown on the Condominium Map.

c. Each Apartment shall have a mailbox in the building for its exclusive use. Said mailboxes shall be deemed a Limited Common Element as designated in the Declaration and as shown on the Condominium Map.

d. Ground floor Apartments shall each have adjacent to them a fenced garden area to which said Apartments have direct, exclusive access which shall be deemed Limited Common Elements as designated in the Declaration and as shown on the Condominium Map.

exh-f.cpr

EXHIBIT "G"

**CONDOMINIUM PUBLIC REPORT
THE GARDENS UPCOUNTRY
COMMON INTEREST**

| <u>UNIT</u> | <u>PERCENTAGE COMMON INTEREST</u> |
|--------------|---------------------------------------|
| 1 | 3.5472 |
| 2 | 4.6493 |
| 3 | 5.5878 |
| 4 | 5.4921 |
| 5 | 5.5878 |
| 6 | 5.4921 |
| 7 | 3.7602 |
| 8 | 4.8623 |
| 9 | 5.5291 |
| 10 | 5.4921 |
| 11 | 5.4921 |
| 12 | 5.5291 |
| 13 | 3.5472 |
| 14 | 4.6493 |
| 15 | 5.5878 |
| 16 | 5.4921 |
| 17 | 5.5878 |
| 18 | 5.4921 |
| 19 | 3.7602 |
| 20 | 4.8623 |
| Total | 100.0000 |

EXHIBIT "H"

CONDOMINIUM PUBLIC REPORT
THE GARDENS UPCOUNTRY
ENCUMBRANCES AGAINST TITLE

1. Real Property Taxes for the Fiscal Year July 1, 1994 - June 30, 1995.

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

3. Grant in favor of Theodore M. Behrmann and Elizabeth W. Behrmann, husband and wife, dated April 4, 1978, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12815 on Page 381, as amended by instrument dated May 28, 1992, recorded as Document No. 92-086803; granting a right and easement for access and utility purposes over, across, through and under the land described herein.

4. Grant in favor of Theodore M. Behrmann and Elizabeth W. Behrmann, husband and wife, dated February 14, ---- (acknowledged March 17, 1987 and February 14, 1987), recorded in said Bureau of Conveyances in Liber 20494 on Page 469, as amended by instrument dated May 28, 1992, recorded as Document No. 92-086803; granting a non-exclusive right and easement to install and maintain underground utilities, to install and maintain a facility for refuse collection and storage, and to pass over, across, through and under the following described "easement area":

EASEMENT 1

TAX MAP KEY: 2-3-44: PARCEL 31

All of that certain parcel of land, being an easement over, under and across Parcel 31 of Tax Map Key: 2-3-44, in favor of Lot 1 of the "Fernandez-Behrmann Subdivision", being a portion of Royal Patent Grant Number 963 to Kahainapule, situated at Kauau, Makawao, Island and County of Maui, State of Hawaii, and being more particularly described as follows:

Beginning at the northerly corner of this easement, said point being also the northerly corner of said Parcel 31 and the westerly corner of said Lot 1 of the "Fernandez-Behrmann Subdivision", the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PANE" being:

11,555.34 feet north
5,775.49 feet west

and running by azimuths measured clockwise from true South:

1. 319° 31' 00" 332.64 feet along said Lot 1 and along the remainder of said Grant 963 to Kahainapule;
2. 53° 31' 00" 38.28 feet along existing easement for access and utility purposes recorded in Liber 12815 at Page 381-383 and along the remainders of said Parcel 31 and said Grant 963 to Kahainapule;
3. 167° 33' 00" 28.00 feet along the remainders of said Parcel 31 and said Grant 963 to Kahainapule;
4. 137° 45' 00" 42.00 feet along same and along an existing barbed wire fence;
5. 221° 00' 00" 8.00 feet along same;
6. 150° 14' 00" 45.23 feet along same;
7. 139° 31' 00" 217.62 feet along same to the northwesterly boundary of said Parcel 31;
8. 229° 21' 00" 10.00 feet along Lot 2 of the "Fernandez-Behrmann Subdivision" and along the remainder of said Grant 963 to Kahainapule to the point of beginning and containing an area of 4,744 square feet, more or less.

5. Easement "A" (area 7,376 square feet) for access and utility purposes, in favor of Lot 1 of the "Fernandez-Behrmann Subdivision" and Lot 2 of the "H. Furumoto Subdivision", as shown on subdivision map prepared by Albert S. Saiki, Registered Professional Land Surveyor, dated October 18, 1991, revised October 21, 1991, described as follows:

Beginning at a pipe at the southeast corner of this Easement, being also the northwest corner of Lot 3 (Makawao Avenue Widening) of the "H. Furumoto Subdivision", the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PANE" being 11,121.30 feet north and 5,445.10 feet west and running by azimuths measured clockwise from true South:

1. 137° 27' 40" 214.98 feet along Makawao Avenue, Lot 30-B, M & G Janosko Subdivision, and Lot 2, H. Furumoto Subdivision;
2. 233° 31' 38.28 feet along the remainder of Lot 2, H. Furumoto Subdivision;
3. 319° 31' 215.59 feet along Lot 1, Fernandez-Behrmann Subdivision, to a pipe;
4. 56° 00' 29.84 feet along Lot 3, H. Furumoto Subdivision;
5. 53° 31' 8.03 feet along Lot 3, H. Furumoto Subdivision, to the point of beginning and containing an area of 7,376 square feet, more or less.

6. Unilateral Agreement and Declaration for Conditional Zoning dated November 8, 1991, recorded in said Bureau of Conveyances as Document No. 91-159841.

7. Mortgage; Security Agreement; Assignment of Rents; and Financing Statement

Mortgagor : Plantation Properties II, Ltd., a Hawaii corporation

Mortgagee : First Hawaiian Bank, a Hawaii corporation

Dated : June 2, 1992

Recorded : Document No. 92-086805

Amount : \$518,000.00

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EXHIBIT "I"

ESTIMATE OF INITIAL MAINTENANCE FEES
AND
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

| <u>Apartment</u> | <u>Monthly Fee x 12 months = Yearly Total</u> | |
|------------------|---|-------------|
| 1 | \$ 171.79 | \$ 2,061.48 |
| 2 | \$ 225.17 | \$ 2,702.04 |
| 3 | \$ 270.62 | \$ 3,247.44 |
| 4 | \$ 265.98 | \$ 3,191.76 |
| 5 | \$ 270.62 | \$ 3,247.44 |
| 6 | \$ 265.98 | \$ 3,191.76 |
| 7 | \$ 182.11 | \$ 2,185.32 |
| 8 | \$ 235.48 | \$ 2,825.76 |
| 9 | \$ 267.78 | \$ 3,213.36 |
| 10 | \$ 265.98 | \$ 3,191.76 |
| 11 | \$ 265.98 | \$ 3,191.76 |
| 12 | \$ 267.78 | \$ 3,213.36 |
| 13 | \$ 171.79 | \$ 2,061.48 |
| 14 | \$ 225.17 | \$ 2,702.04 |
| 15 | \$ 270.62 | \$ 3,247.44 |
| 16 | \$ 265.98 | \$ 3,191.76 |
| 17 | \$ 270.62 | \$ 3,247.44 |
| 18 | \$ 265.98 | \$ 3,191.76 |
| 19 | \$ 182.11 | \$ 2,185.32 |
| 20 | \$ 235.48 | \$ 2,825.76 |
| | | |
| TOTAL | \$4,843.02 | \$58,116.24 |

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

Estimate of Maintenance Fee Disbursements: Monthly x 12 months = Yearly Total

Utilities and Services

| | | |
|--|-----------|-------------|
| Electricity | | |
| <input checked="" type="checkbox"/> common elements only | \$ 450.00 | \$ 5,400.00 |
| <input type="checkbox"/> common elements and apartments | | |
| Refuse Collection | 200.00 | 2,400.00 |
| Water | 510.00 | 6,120.00 |

Maintenance, Repairs and Supplies

| | | |
|---------------|--------|----------|
| Building | 250.00 | 3,000.00 |
| Grounds | 300.00 | 3,600.00 |
| Septic System | 600.00 | 7,200.00 |

Management

| | | |
|------------------|------------|-------------|
| Management Fee | 650.00 | 7,800.00 |
| Insurance | 1,808.00 | 21,696.00 |
| Reserves(*) (**) | | |
| Audit Fees | 75.00 | 900.00 |
| TOTAL | \$4,843.00 | \$58,116.00 |

I, _____, as agent and employed by BELLO REALTY, INC.
_____, the condominium managing agent or the developer, for the
condominium project THE GARDENS UPCOUNTRY, hereby certify that the
above estimates of initial maintenance fee assessments and maintenance fee
disbursements were prepared in accordance with generally accepted accounting
principles.

(*) Mandatory reserves in effect January 1, 1993

Date: _____

(**) In its first fiscal year of operation, the Association is required to establish a reserve fund called a "replacement reserve fund" which will contain a minimum of 50% of the estimated amounts necessary for the upkeep, repair, or replacement of roofs, walls, paving, and equipment, and other areas which the Association is obligated to maintain.

EXHIBIT "J"

**CONDOMINIUM PUBLIC REPORT
THE GARDENS UPCOUNTRY
SUMMARY OF RESERVATION AGREEMENT, SALES
CONTRACT AND RECEIPT ("SALES CONTRACT")**

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, 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 Deposit provides:

1. The Sales Contract prohibits the Purchaser from selling or assigning the Sales Contract.

2. 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.

3. Funds deposited in Escrow may be disbursed prior to completion of construction for the purpose of paying development costs.

4. Interest is payable on Purchaser's deposits except as follows: no interest on any deposits held less than sixty (60) days by escrow; no interest where a Purchaser's deposit is retained by Seller pursuant to the terms of this Sales Contract upon Purchaser's default; no interest on any deposits for the period prior to the time of the issuance of the First Public Report; no interest on any deposits held during any period after the first closing of the sale of an apartment in the Project; no interest in the event the Seller elects to refund Purchaser's deposit following Purchaser's default; no interest in any other case where the Sales Contract expressly provides that such interest shall be retained by the Developer; and no interest after funds have been disbursed prior to completion of construction for payment of development costs. Any interest earned on deposits in Escrow which is not required by the terms of this Sales Contract to be paid to Purchaser shall be paid to Seller. The rate of interest paid to Purchaser shall be the Passbook Rate

of Interest paid on the special savings account to be established by Escrow at a federally insured Hawaii bank.

5. In the event of the enactment of new laws or other events beyond the Developer's control which occur after the Sales Contract becomes binding, Developer will have the option to cancel the Project or increase the price of apartments (in which case the Purchaser will have thirty (30) days to agree to the price increase or rescind the contract).

6. The Sales Contract is subject to the provisions of the Declaration, Bylaws, and other condominium documents.

7. The Purchaser of an Apartment in the Project is subject to ongoing construction activity by the Developer with respect to completing the construction of the Project, which may result in noise, dust and other annoyance.

8. Seller intends to pre-close this sale by having all documents necessary for closing executed and deposited with Escrow prior to the time of closing up to and including 120 days prior to Seller's estimated Closing Date.

9. Except for the Seller's limited warranty stated in the contract, the Seller makes no express warranties. The 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 implied warranties with respect to the apartment, or the common elements or the project.

10. The Sales Contract is a reservation agreement until such time as a copy of the Final Public Report together with the receipt form required by Hawaii Revised Statutes Section 514A-62 is delivered to the Purchaser, the Purchaser has had an opportunity to read said report, and the Purchaser is deemed to have accepted the report.

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

EXHIBIT "K"

**CONDOMINIUM PUBLIC REPORT
THE GARDENS UPCOUNTRY
SUMMARY OF EXECUTED ESCROW AGREEMENT**

A copy of the executed Condominium Escrow Agreement dated August 24, 1994 between Title Guaranty Escrow Services, Inc., a Hawaii corporation, as Escrow, and Developer. 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 a Purchaser shall be entitled to a return of funds and Escrow will pay such funds to Purchaser, without interest, if any one of the following has occurred: (a) Developer and Purchaser make a written request to Escrow to return to Purchaser the funds of Purchaser held by Escrow; or (b) Developer has notified Escrow of Developer's exercise of the option to cancel or rescind the Sales Contract pursuant to any right of cancellation or rescission provided therein or otherwise available to Developer; or (c) with respect to a Purchaser whose funds were obtained prior to the issuance of the Final Report, the Purchaser has exercised his right to cancel the contract pursuant to Section 514A-62, Hawaii Revised Statutes, as amended; or (d) Purchaser has exercised his right to rescind the contract pursuant to Section 514A-63, Hawaii Revised Statutes, as amended. Escrow also agrees to make refunds to Purchaser, out of the funds then on deposit with Escrow, if the Developer and Purchaser shall so request in writing and any one of the following events has occurred: (a) no sales contract has been offered to the Purchaser who has been placed on the Developer's reservation list of owner-occupant applicants within six months of the issuance of the first public report; or (b) Purchaser has been unable to obtain adequate financing, or a commitment for adequate financing, for Purchaser's reserved unit by a date which is no earlier than fifty (50) calendar days after Developer's execution and acceptance of the sales contract; or (c) the Purchaser has asked to be removed from the final reservation list; or (d) the Purchaser indicates an intention not to execute the sales contract.

Funds deposited into escrow may be disbursed prior to completion of construction for the purpose of paying development costs. Interest on funds in escrow will not be paid after the first disbursement of such funds.

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

exh-k.cpr