

CONDOMINIUM PUBLIC REPORT

Prepared &

Issued by: Developer Obayashi Hawaii Corporation  
Address 725 Kapiolani Blvd., 4th Floor, Honolulu, HI 96813

Project Name(\*): Lapa'olu, Aiea Heights  
Address: 99-1307 Aiea Heights Drive, Aiea, HI 96701

Registration No. 3312

Effective date: May 8, 1995

Expiration date: June 8, 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:

X 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:

**SPECIAL ATTENTION**

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

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

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

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## General Information On Condominiums

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

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

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

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

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

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

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

## Operation of the Condominium Project

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

The Board of Directors is the governing body of the Association. Unless you serve as a board member or an officer, or are on a committee appointed by the board, your participation in the administration and operation of the condominium project will in most cases be limited to your right to vote as an apartment owner. The Board of Directors and officers can take certain actions without the vote of the owners. For example, the board may hire and fire employees, increase or decrease maintenance fees, borrow money for repair and improvements and set a budget. Some of these actions may significantly impact the apartment owners.

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

I. PERSONS CONNECTED WITH THE PROJECT

Developer: Obayashi Hawaii Corporation Phone: 593-0000  
Name (Business)  
725 Kapiolani Blvd., 4th Floor  
Business Address  
Honolulu, HI 96813

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

Mitsuru Kawasaki (President/Treasurer); Al Itamoto (Vice President/Secretary); Arne Abramson (Vice President); Kenichi Nakayama (Vice President)

Real Estate Broker: Marcus & Associates Phone: (808) 839-7446  
Name (Business)  
1045 Mapunapuna Street  
Business Address  
Honolulu, HI 96819

Escrow: Security Title Corporation Phone: (808) 521-9511  
Name (Business)  
1200 Pacific Tower  
Business Address  
1001 Bishop Street  
Honolulu, HI 96813

General Contractor: (not yet selected) Phone: \_\_\_\_\_  
Name (Business)  
\_\_\_\_\_  
Business Address  
\_\_\_\_\_

Condominium Managing Agent: Cadmus Properties Corporation Phone: (808) 531-6847  
Name (Business)  
322 N. School Street  
Business Address  
Honolulu, HI 96813

Attorney for Developer: Carol Y. Asai-Sato Phone: (808) 521-0400  
Stephen K. C. Mau (Business)  
Name  
Rush Moore Craven Sutton Morry & Beh  
Business Address  
745 Fort Street, 20th Floor  
Honolulu, HI 96813

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

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

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

The Declaration for this condominium is:

- Proposed  
 Recorded - Bureau of Conveyances: Document No. \_\_\_\_\_  
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 vote 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 "B"

III. THE CONDOMINIUM PROJECT

A. Interest to be Conveyed to Buyer:

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

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

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

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

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

Lease Rent Payable:             Monthly                             Quarterly  
     Semi-Annually                     Annually

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

For Subleaseholds:

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

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

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

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

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

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

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

Lease Rent Payable:             Monthly                             Quarterly  
     Semi-Annually                     Annually

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

[ ] Other:

**IMPORTANT INFORMATION ON LEASEHOLD CONDOMINIUM PROJECTS**

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

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

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

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

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

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

**B. Underlying Land:**

Address: 99-1307 Aiea Heights Drive Tax Map Key: (1) 9-9-7-2  
Aiea, Hawaii 96701 (TMK)

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

Land Area: 538,838 [ X ] square feet [ ] acre(s) Zoning: R-10

Lessor

(Fee Owner): Obayashi Hawaii Corporation

Name

725 Kapiolani Blvd., 4th Floor

Address

Honolulu, HI 96813

Sublessor:

Name

Address

C. Buildings and Other Improvements:

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

2. Number of Buildings: 50 Floors Per Building 2 or 3

Exhibit "A" contains further explanations.

3. Principal Construction Material:

Concrete     Hollow Tile     Wood

Other Glass

4. Permitted Uses by Zoning:

	<u>No. of</u>	<u>Use Permitted</u>		<u>No. of</u>	<u>Use Determined</u>
	<u>Apts.</u>	<u>By Zoning</u>		<u>Apts.</u>	<u>By Zoning</u>
<input checked="" type="checkbox"/> Residential	<u>50</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>	<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: Permitted with restrictions, among other things, number.
- Number of Occupants: \_\_\_\_\_
- Other: \_\_\_\_\_
- There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0                      Stairways: 0                      Trash Chures: 0

Apt. Type	Quantity	BR/Bath	Net Living Area (sf)*	Lanai/Patio (sf)**	Garage
<u>1</u>	<u>12</u>	<u>3/2, 5</u>	<u>1,530</u>	<u>--</u>	<u>460</u>
<u>2</u>	<u>13</u>	<u>3/2, 5</u>	<u>1,806</u>	<u>64</u>	<u>348</u>
<u>2A</u>	<u>2</u>	<u>3/2, 5</u>	<u>1,644</u>	<u>64</u>	<u>446</u>
<u>2B</u>	<u>1</u>	<u>3/2, 5</u>	<u>1,806</u>	<u>64</u>	<u>348</u>
<u>3</u>	<u>3</u>	<u>3/2, 5</u>	<u>1,546</u>	<u>67</u>	<u>386</u>

-see page 11a  
Total Apartments: 50

\*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.

\*\*Lanais are optional.

Boundaries of Each Apartment:

Each apartment shall consist of the entire residential detached home. The boundaries of each apartment consists of the exterior surfaces of the perimeter walls, roofs and eaves and the bottom surfaces of the foundations, floors and/or footings of each apartment, as applicable and including lanais, gutters, downspouts, railings and exterior stairways, if any, attached to and a part of the home. The apartments shall include all walls and conduits and other utility and service lines contained within said walls and which are utilized exclusively and serve only each apartment; and all floors, ceilings, roofs, stairways, doors, door frames, windows and window frames.

Permitted Alterations to Apartments:

See Exhibit "C"

6. Interior (continued)

Apt. Type	Quantity	BR/Bath	Net Living Area (sf) *	Lanai/Patio (sf)	Garage
3A	1	3/2.5	1,500	67	409
4	8	3/2.5	1,484	--	424
4A	5	3/2.5	1,446	--	408
5	5	3/2.5	1,646	--	378



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:

The property is subject to the Report, Conclusions and Decision and Order dated July 3, 1993, issued by the Department of Land Utilization, City and County of Honolulu, a copy of which is attached as Exhibit "J".

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 "D".

as follows:

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

[ ] There are no limited common elements in this project.

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

[ X] described in Exhibit "E".

[ ] as follows:

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

[ ] described in Exhibit \_\_\_\_\_.

[ X] as follows: Each of the fifty (50) units will have an undivided 2.0 percentage interest in all of the common elements.

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

Exhibit "F" describes the encumbrances against the title contained in the title report dated March 20, 1995 and issued by Security Title Corporation.

Blanket Liens:

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

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

] 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>
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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 Developer will give to each buyer a full and complete warranty of title to the particular apartment in the Apartment Deed. Other than that, the Developer will make no warranties, expressed or implied, about any apartment, the project or anything installed or contained in them. This includes, but is not limited to, warranties of merchantability, habitability, workmanlike construction, fitness for a particular use or purpose or for sufficiency of design. The Developer will assign to the buyers any and all warranties given to the Developer by the contractor constructing the improvements and any manufacturer's and dealer's warranties covering any furnishings, fixtures or appliances. The Developer is not adopting any such warranties or acting as a co-warrantor, but simply attempting to pass through to the buyers the benefit of

2. Appliances:

any such warranties.

See Section F.1 above.

G. Status of Construction and Estimated Completion Date:

Site work is scheduled to begin in February/March 1995 with construction scheduled to be completed within 12 months.

H. Project Phases:

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

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



## 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 "H" contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated February 16, 1995  
Exhibit "I" 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. 3312 filed with the Real Estate Commission on 11/10/07.

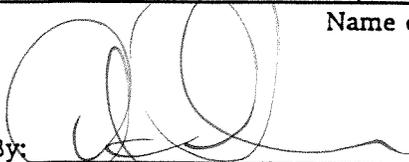
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C. Additional Information Not Covered Above

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.

Obayashi Hawaii Corporation  
Name of Developer

By:  \_\_\_\_\_  
Duly Authorized Signatory

3/20/95  
Date

Arne Abramson, Vice President  
print name & title of person signing above

Distribution:

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

EXHIBIT "A"

<u>Apt. No.</u>	<u>Apt. Model</u>	<u>Apartment Floor Area</u>	<u>Lanai Floor Area</u>	<u>Garage Floor Area</u>
1	1	1,530	0	460
2	1	1,530	0	460
3	2	1,806	64	348
4	2	1,806	64	348
5	2B	1,806	64	348
6	2	1,806	64	348
7	2	1,806	64	348
8	1	1,530	0	460
9	2	1,806	64	348
10	4A	1,446	0	408
11	5	1,646	0	378
12	5	1,646	0	378
13	2A	1,644	64	446
14	2A	1,644	64	446
15	4A	1,446	0	408
16	4A	1,446	0	408
17	2	1,806	64	348
18	2	1,806	64	348
19	3	1,546	67	386
20	4A	1,446	0	348
21	4	1,484	0	424
22	4	1,484	0	424
23	5	1,646	0	378
24	5	1,646	0	378
25	4A	1,446	0	408

<u>Apt. No.</u>	<u>Apt. Model</u>	<u>Apartment Floor Area</u>	<u>Lanai Floor Area</u>	<u>Garage Floor Area</u>
26	4	1,484	0	424
27	4	1,484	0	424
28	3	1,546	67	386
29	4	1,484	0	424
30	4	1,484	0	424
31	2	1,806	64	348
32	3A	1,500	67	409
33	5	1,646	0	378
34	4	1,484	0	424
35	4	1,484	0	424
36	3	1,546	67	386
37	1	1,530	0	460
38	1	1,530	0	460
39	1	1,530	0	460
40	1	1,530	0	460
41	1	1,530	0	460
42	2	1,806	64	348
43	2	1,806	64	348
44	1	1,530	0	460
45	2	1,806	64	348
46	2	1,806	64	348
47	1	1,530	0	460
48	2	1,806	64	348
49	1	1,530	0	460
50	1	1,530	0	460

END OF EXHIBIT "A"

EXHIBIT "B"

DEVELOPER'S RESERVED RIGHTS

1. RESERVED RIGHT TO FILE AS-BUILT CERTIFICATE

Notwithstanding any other provision in the Declaration to the contrary, the Developer reserves and shall have the right to amend the Declaration without the consent or joinder of the persons then owning or leasing the apartments or their mortgagees by filing an amendment to the Declaration pursuant to the provisions of section 514A-12, Hawaii Revised Statutes, as amended, after completion of construction of the buildings of the Project by attaching to such amendment a verified statement of a registered architect or professional engineer certifying that the final plans theretofore filed or being filed simultaneously with such amendment fully and accurately depict the layout, location, apartment numbers and dimensions of the apartments as built and to reflect the dimensions of any lanais actually built and a part of the apartments.

END OF EXHIBIT "B"

## EXHIBIT "C"

### PERMITTED ALTERATIONS TO APARTMENTS

1. Except as otherwise provided by the Fair Housing Act, 42 U.S.C. §3601, et seq., as amended by the Fair Housing Amendments Act of 1988, and Chapter 515, Hawaii Revised Statutes, and the rules and regulations promulgated thereunder, as the same may be amended from time to time in the future, restoration or replacement of the Project or any building or other structure thereof or construction of any additional building or other structure or structural alteration or addition thereto, different in any material respect from the Condominium Map, shall be undertaken by the Association of Apartment Owners or any apartment owners only pursuant to an amendment of the Declaration of Condominium Property Regime (the "Declaration"), duly executed by or pursuant to a vote of at least seventy-five percent (75%) of the apartment owners and in accordance with complete plans and specifications therefor first approved in writing by the Board of Directors, and promptly upon completion of such restoration, replacement, construction, alteration or addition the Association of Apartment Owners shall duly record or file of record such amendment together with a complete set of floor plans of the Project as so altered, certified as built by a registered architect or professional engineer. Notwithstanding the foregoing, any alterations or additions within an apartment or within a limited common element appurtenant to and for the exclusive use of an apartment, or of certain apartments, shall require only the written approval thereof, including the apartment owner's plans therefor, by the institutional holders of mortgages covering such apartment (if the mortgagees require such approval), the Board of Directors, and all other apartment owners thereby directly affected (as determined by the Board of Directors), and such alterations or additions may be undertaken without an amendment to the Declaration or filing of a complete set of floor plans of the Project as so altered.

2. Non-material additions to the common elements, including, without limitation, the installation of solar energy devices as defined by Section 468B-1, Hawaii Revised Statutes, as amended, shall require approval only by the Board of Directors and by sixty-five percent (65%) of the apartment owners, together with the consent of all other apartment owners thereby directly affected (as determined by the Board of Directors). For so long as a statutory definition of "non-material structural additions to the common elements" shall be prescribed by Section 514A-89, Hawaii Revised Statutes, as amended, as it may be amended from time to time or by any substitute or successor statute, said statutory definition shall be applied in interpreting the foregoing sentence.

3. Except as provided by law, the common interest and easements appurtenant to each apartment shall have a permanent character, shall not be altered without the consent of all owners of apartments affected thereby as expressed in a duly recorded amendment to the Declaration, which amendment shall contain the consent thereto by the institutional holders of mortgages on such apartments, as shown in the Association of Apartment Owners' record of ownership or who have given the Board of Directors notice of their interest through the Secretary of the Association of Apartment Owners or the Managing Agent. The common interest shall not be separated from the apartment to which it appertains and shall be deemed to be conveyed or encumbered with such apartment even though not expressly mentioned or described in the conveyance or other instrument. The common elements shall remain undivided, and no right shall exist to partition or divide any part thereof or the apartments except as provided by the Condominium Property Act; and, without limiting the provisions of Section 514A-21(a) of the Hawaii Revised Statutes, as amended, any such partition or division shall be subject to the prior written consent thereto by the institutional holders of mortgages, filed of record, covering the apartments.

END OF EXHIBIT "C"

EXHIBIT "D"

COMMON ELEMENTS

The common elements of the project include the following:

1. The Land in fee simple;
2. All yards, grounds, landscaping and fences or walls, if any;
3. All roads, aprons and parking areas (excluding the garages attached to the apartments);
4. The retaining walls and fences originally installed by the Developer located on the Private Yards, as that term is defined in Exhibit "E" to this Public Report;
5. All pipes, cables, conduits, ducts, electrical equipment, wiring and other central and appurtenant transmission facilities and installations over, under and across the Project which serve more than one apartment for services such as power, light, gas, water, sewer, telephone and television signal distribution, if any; and
6. Any and all other apparatus and installations of common use and all other parts of the Project necessary or convenient to its existence, maintenance and safety, or normally in common use.

END OF EXHIBIT "D"

EXHIBIT "E"

LIMITED COMMON ELEMENTS

The limited common elements of the project include the following:

1. The yard areas as shown on the Condominium Map ("Private Yards").
2. The mailbox bearing the street address of the apartment; and
3. The stairway, if any, connected to the retaining wall located between two (2) apartments within said apartments' Private Yards, existing to provide access to said Private Yards.

END OF EXHIBIT "E"

EXHIBIT "F"

ENCUMBRANCES AGAINST TITLE

The following are encumbrances against title to the land of the Project, identified as Tax Map Key (1) 9-9-7-por. 2:

1. For real property taxes that may be due and owing, reference is made to the Office of the Tax Assessor, City and County of Honolulu.

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

3. Any variations in and along the boundaries of the land running along Aiea Stream, as may be caused by natural deviation of said stream.

4. Grant in favor of Hawaiian Electric Company, Limited, now known as Hawaiian Electric Company, Inc. dated September 22, 1928, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 1045, Page 43.

5. A 10-foot wide drainage easement, "Par 22", area: 2,750 square feet, over, across and through a portion of the land, as shown on Tax Map designated by Tax Map Key: (Oahu) 9-9-7-2, and more particularly described in Deed dated December 6, 1971, recorded as aforesaid in Liber 7998, Page 287.

6. A 15-foot building setback line running parallel to and along the southeast side of Aiea Heights Drive, along Courses 1 and 10 to 16 of Lot F-5, as contained in Amendment of Deed dated February 9, 1983, recorded as aforesaid in Liber 16861, Page 228.

7. Cancellation of Easement, Grant of Easement and Construction and Maintenance Agreement in favor of the City and County of Honolulu, a municipal corporation, the Board of Water Supply, dated November 24, 1989, recorded in said Bureau of Conveyances as Document No. 90-016717.

8. An easement by prescription in perpetuity for ingress and egress, including vehicular and pedestrian uses, in favor of Lot H-7, identified by Tax Map Key: (Oahu) 9-9-19-27, over, across and upon the property identified as Tax Map Key: (Oahu) 9-9-7-2, as set forth in Partial Judgment Confirming Easement dated July 23, 1992, recorded as aforesaid as Document No. 92-118906.

9. An easement by prescription in perpetuity for ingress and egress, including vehicular and pedestrian uses, in favor of Lot D-2, identified by Tax Map Key: (Oahu) 9-9-19-14, over, across and upon the property identified as Tax Map Key: (Oahu) 9-9-7-2, as set forth in Partial Judgment Confirming Easement dated July 23, 1992, recorded as aforesaid as Document No. 92-119929.

10. An easement by prescription in perpetuity for ingress and egress, including vehicular and pedestrian uses, in favor of Lot H-6, identified by Tax Map Key: (Oahu) 9-9-19-28, over, across and upon the property identified as Tax Map Key: (Oahu) 9-9-7-2, as set forth in Partial Judgment Confirming Easement dated July 23, 1992, recorded as aforesaid as Document No. 92-119930.

11. An easement by prescription in perpetuity for ingress and egress, including vehicular and pedestrian uses, in favor of Lot H-3, identified by Tax Map Key: (Oahu) 9-9-19-31, over, across and upon the property identified as Tax Map Key: (Oahu) 9-9-7-2, as set forth in Partial Judgment Confirming Easement dated July 23, 1992, recorded as aforesaid as Document No. 92-119931.

12. An easement by prescription in perpetuity for ingress and egress, including vehicular and pedestrian uses, in favor of Lot H-5, identified by Tax Map Key: (Oahu) 9-9-19-29, over, across and upon the property identified as Tax Map Key: (Oahu) 9-9-7-2, as set forth in Partial Judgment Confirming Easement dated July 23, 1992, recorded as aforesaid as Document No. 92-119932.

13. The following Easements for various purposes, as shown on File Plan No. 2119:

<u>EASEMENT</u>	<u>AREA</u> <u>(SQUARE FEET)</u>	<u>PURPOSES</u>	<u>(LOTS)</u> <u>AFFECTED</u>
A	1,697	electrical transmission	A
B	198	water meter	A
C	889	waterline	A
D	3,050	drainage	A
E	1,827	sanitary sewer	A
F	700	waterline	A
G	1,594	storm drain	A
H	6,523	sanitary sewer	A
J	14,630	storm drain	A
K	1,190	sanitary sewer	A
L	747	storm drain	A
P	2,041	access	A
Q	105	landscaping	A
R	96	ingress & egress (also affects other property)	A
S	96	ingress & egress	A
T	52,915	roadway & utility	A
U	363	sanitary sewer	A

14. Grant of Easement in favor of Lot D dated July 28, 1989, recorded as aforesaid as Document No. 94-108218.

15. Grant of Easement in favor of Lot F-4 dated  
July 27, 1989, recorded as aforesaid as Document No. 94-108219.

16. Grant of Easement in favor of Lots C and F-1 dated  
July 28, 1989, recorded as aforesaid as Document No. 94-108220.

END OF EXHIBIT "F"

EXHIBIT G

ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

LAPA'OLU, AIEA HEIGHTS A CONDOMINIUM PROPERTY REGIME

ESTIMATE OF INITIAL MAINTENANCE FEES:

UNIT #:	% COMMON INTEREST:	MONTHLY FEE:	ANNUAL FEE:
MODEL 1	0.0200	\$156.42	\$1,877.00
MODEL 2	0.0200	\$156.42	\$1,877.00
MODEL 2A	0.0200	\$156.42	\$1,877.00
MODEL 2B	0.0200	\$156.42	\$1,877.00
MODEL 3	0.0200	\$156.42	\$1,877.00
MODEL 3A	0.0200	\$156.42	\$1,877.00
MODEL 4	0.0200	\$156.42	\$1,877.00
MODEL 4A	0.0200	\$156.42	\$1,877.00
MODEL 5	0.0200	\$156.42	\$1,877.00

ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS:

=====

	MONTHLY:	ANNUAL:
	*****	*****
UTILITIES & SERVICES		
ELECTRICITY	\$225.00	\$2,700.00
WATER & SEWER	\$200.00	\$2,400.00
REFUSE	\$500.00	\$6,000.00
MAINTENANCE, REPAIRS/SUPPLIES		
BUILDING	\$100.00	\$1,200.00
GROUNDS	\$800.00	\$9,600.00
MANAGEMENT FEE	\$900.00	\$10,800.00
OFFICE EXPENSES	\$100.00	\$1,200.00
AUDIT	\$75.00	\$900.00
PROPERTY INSURANCE	\$4,000.00	\$48,000.00
COMPREHENSIVE LIABILITY	\$500.00	\$6,000.00
D & O LIABILITY	\$200.00	\$2,400.00
TAXES/ASSESSMENTS	\$0.00	\$0.00
	=====	=====
SUB TOTAL EXPENSES	\$7,600.00	\$91,200.00
RESERVE CONTRIBUTION	\$220.83	\$2,650.00
	=====	=====
TOTAL EXPENSES	\$7,820.83	\$93,850.00

LAPA'OLU  
RESERVE FUNDING SCHEDULE

\*\*\*\*\*

PROJECT:	CURRENT ALLOCATION:	ESTIMATED COST:	ESTIMATED DATE:	ESTIMATED RESERVE CONTRIBUTION:
ROADWAYS	0	\$25,000.00	2015	\$104.17
UTILITIES	0	\$10,000.00	2020	\$33.33
PARK/EQUIP	0	\$5,000.00	2015	\$20.83
WALLS/FENCES	0	\$40,000.00	2015	\$166.67
STREETLIGHTS	0	\$35,000.00	2020	\$116.67
TOTALS:	0	\$115,000.00	100% FUNDING	\$441.67
			50% FUNDING:	\$220.83

WE, CADMUS PROPERTIES CORPORATION, AS CONSULTING AGENTS FOR THE LAPA'OLU 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.

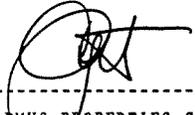
  
 -----  
 CADMUS PROPERTIES CORPORATION  
*March 20, 1995*  
 -----  
 DATE

EXHIBIT "H"

SUMMARY OF SALES CONTRACT

Copies of the forms of Condominium Reservation Agreement, Deposit Receipt and Sales Agreement ("Sales Contract") have been submitted to the Real Estate Commission and are available for inspection at the Seller's office. The following is a summary of some of the provisions of the Sales Contract. For those Apartments that will be sold as affordable housing units, the Sales Contract includes certain additional provisions. A summary of some of these additional provisions is also included below. ALL BUYERS AND PROSPECTIVE BUYERS SHOULD CAREFULLY READ THE SALES CONTRACT IN FULL SINCE THIS SUMMARY IS NOT INTENDED TO BE A COMPLETE DESCRIPTION OF THE PROVISIONS THEREIN.

1. The Sales Contract does not become a binding contract until the Effective Date occurs. Until the Effective Date, the Sales Contract is only a reservation for the Apartment and is not legally binding on either Buyer or Seller. The Effective Date of the Sales Contract shall be the date on which all of the following conditions are fulfilled:

(a) The copy of the Final Public Report for the Project is mailed or otherwise delivered to the Buyer;

(b) Buyer has waived Buyer's right to terminate the agreement pursuant to Hawaii Revised Statutes, Section 514A-62, as amended; and

(c) The agreement has been accepted by Seller through execution of the agreement by Seller's officers or designated agents.

2. If the Apartment covered by a particular Sales Contract is an Owner-Occupant Designated Apartment, and Buyer has executed an affidavit stating Buyer's intent to become an owner-occupant of the Apartment, then Buyer agrees when signing the Sales Contract that Buyer will occupy the Apartment as Buyer's principal residence. Any such Buyer shall be required to reaffirm his or her intent to be an owner-occupant no earlier than the Buyer's receipt of the Final Public Report and no later than the Closing Date. Failure to sign the reaffirmation upon the reasonable request of Seller shall constitute a default under the Sales Contract by such Buyer and Seller shall have the remedies provided in the Sales Contract.

3. Seller makes no warranties regarding the Project, but any warranties given to Seller by the contractors retained by

Seller will be passed through to Buyer upon closing. Seller will also assign to Buyer any unexpired manufacturer's or dealer's warranties covering any furnishings, fixtures, and appliances in the Apartment.

4. Buyer agrees that all payments required by the Sales Contract will be deposited with Escrow and that all checks will be made payable to Escrow. Buyer also agrees that any money that Buyer deposits with Escrow may be deposited together with other buyers' money in a federally insured interest bearing account, and that Escrow may distribute the money in this account according to an Escrow Agreement between Seller and Escrow. Buyer also agrees that all the interest earned from the funds deposited by buyers will be credited to Seller.

In case Buyer is late in making payments to Escrow, the late payment will bear interest at the rate of one percent (1%) per month until paid.

5. All taxes, assessments, and charges of any kind assessable against the Apartment or the land of the Project will be prorated as of the Closing Date. This means that Buyer will have to pay Buyer's share of these taxes and assessments at the Closing Date. In addition, Buyer will be responsible for paying all closing costs in connection with the purchase of the Apartment, including all costs related to any mortgages, all notary fees, recording fees, escrow fees, title insurance, conveyance taxes and fees, and preparation of the Apartment Deed to Buyer.

6. In addition to all other funds due, Buyer must deposit with Escrow at Preclosing a nonrefundable "start-up" fee for the Condominium Association. This start-up fee is an initial contribution to the Association common expenses reserve. The minimum amount of the start-up fee will be equal to two (2) months of estimated assessments for common expenses. This amount is separate from the purchase price and closing costs for the Apartment.

7. Buyer may not assign Buyer's rights under the Sales Contract without the prior written consent of Seller. Under no circumstances may Buyer assign Buyer's rights to the agreement after the Preclosing or the Closing Date. If Buyer attempts to assign the agreement without Seller's written consent, Buyer shall be in default under the Sales Contract.

8. The Seller may, at its option, preclose the sale of Apartments by requiring the Buyer to deliver all documents necessary for closing and certain funds to Escrow up to sixty (60) days prior to the closing date. Buyer will have ten (10) days notice of such preclosing. Buyer must deposit all funds other than the proceeds of Buyer's first mortgage loan or the

balance of the purchase price for a cash sale with Escrow, including the advanced payment for a maintenance assessment fund. Buyer must also sign all documents required for closing.

9. Buyer shall not be able to occupy the Apartment until the Closing Date for the sale of the Apartment. Seller or Escrow will notify Buyer of when the Closing Date will take place. Buyer will not be able to take occupancy until all payments required by the Sales Contract have been made. Keys will not be issued for the Apartment unless all payments have been made. If Buyer attempts to take occupancy of the Apartment prior to the Closing Date, then Buyer will be in default of the Sales Contract, and Seller has the right to remove Buyer from the Apartment using any lawful means.

10. Buyer agrees to accept an Apartment as suitable for occupancy even if there are defects or damage to the Apartment, as long as Seller promises to repair these defects within a reasonable time after Seller takes occupancy. If Buyer wrongfully refuses to take occupancy of a defective Apartment, Buyer may have to bear the cost of Seller's costs in any resulting legal action. Seller will notify Buyer that the Apartment is ready for inspection prior to occupancy. Buyer then has fifteen (15) days from the date Buyer receives notification to inspect the Apartment. If Buyer does not inspect the Apartment within this time, Seller may appoint an appropriate person to inspect the Apartment on Buyer's behalf and decide if it is acceptable.

11. The Seller reserves the right to change the Project and modify the condominium map and any other condominium documents for any reason up to the Effective Date of the agreement.

12. Seller will complete construction so that Buyer may occupy the Apartment within two (2) years of the Effective Date of the Sales Contract. However, this two (2) year period may be extended if construction is delayed by any matters beyond Seller's control.

13. By signing the Sales Contract, Buyer represents that Buyer is financially capable of paying the purchase price for the Apartment. Buyer also represents that any financial data he has given Seller is accurate. If Buyer does not notify Seller that Buyer's financial situation has changed as of the Closing Date, Seller will assume that the information Seller has is accurate. If the Seller discovers that any important financial data provided by Seller is not accurate and Buyer failed to notify Seller of this inaccuracy, Seller has the right to cancel the Sales Contract.

If Buyer intends to finance the purchase of an Apartment, Buyer must apply for financing within five (5) days of the Seller's acceptance of the Sales Contract. Buyer agrees to do everything possible and/or necessary to successfully obtain a loan once applied for. Buyer agrees to immediately provide Seller with a copy of any loan commitment Buyer receives.

If Buyer tries to obtain financing but is unsuccessful in doing so within forty-five (45) days after application, Seller may notify Buyer that Seller is cancelling the Sales Contract. Upon cancellation in this manner, Buyer is entitled to a refund from Escrow of Buyer's money, without interest and minus any costs incurred by Seller, Escrow, or any lending institution in processing the Sales Contract or the Buyer's loan application(s).

14. As long as the Sales Contract is only a reservation, it may be terminated for any reason and at any time at the option of either Buyer or Seller, by giving written notice of termination to the other party. In the event of a termination, the Seller will instruct Escrow to refund all payments previously made by Buyer, without interest. Additionally, if the Buyer is terminating the Sales Contract pursuant to Hawaii Revised Statutes, Section 514A-63, as amended, then Escrow shall deduct an escrow cancellation fee and all costs incurred by Seller, escrow, or any lending institution in processing the Sales Contract or loan application.

15. If Buyer defaults, Seller may cancel the Sales Contract by notifying Buyer in writing. If the cancellation occurs after the Effective Date of the Sales Contract, the Seller may keep any amounts paid by Buyer thus far as compensation for Seller's damages. In addition, Seller may also pursue any other appropriate means in order to be compensated for damages incurred by Buyer's default.

If Seller defaults after the Effective Date of the Sales Contract, Buyer is entitled to cancel the Sales Contract and have all of Buyer's money refunded, if the Buyer cannot legally cause the Seller to fulfill Seller's obligations.

If, after the Closing Date for the sale of an Apartment, Buyer claims that Seller has violated certain federal or state securities or disclosure laws, Buyer may cancel the Sales Contract and is entitled to a refund from Escrow of all money Buyer paid to Escrow, together with a statutory rate of interest. Buyer may not recover what is considered the reasonable amount expended for use of the Apartment from Seller. Cancellation as described above will be Buyer's only remedy for violations of this nature.

16. By entering into the Sales Contract, Buyer acknowledges that Buyer has never received any information of

representations from Seller or any of Seller's agents regarding rental income from the Apartment or other economic or tax benefits that Buyer may receive from ownership of the Apartment. The Buyer further agrees that he or she will not participate in any rental pool for the renting of the Apartment. Buyer may be required to sign documents which satisfy the Seller that no such representations have been made.

END OF EXHIBIT "H"

EXHIBIT "I"

SUMMARY OF ESCROW AGREEMENT

A copy of the Escrow Agreement between the Developer and Security Corporation ("Escrow"), has been submitted to the Real Estate Commission and is available for inspection at the Developer's office. The following is a summary of some of the provisions of the Escrow Agreement.

NOTE: ALL BUYERS AND PROSPECTIVE BUYERS SHOULD READ THE ESCROW AGREEMENT AND ALL AMENDMENTS IN FULL AS THIS SUMMARY DOES NOT CONTAIN A COMPLETE DESCRIPTION OF ALL PROVISIONS IN THE ESCROW AGREEMENT. THIS SUMMARY IS INTENDED ONLY TO GIVE A BRIEF DESCRIPTION OF SOME OF THE ITEMS CONTAINED IN THE ESCROW AGREEMENT, AND DOES NOT ALTER OR AMEND THE ESCROW AGREEMENT IN ANY MANNER.

1. All money received by the Developer from buyers under sales contracts for apartments in the Project must be given to Escrow. Escrow, in accordance with written instructions from the Developer, shall deposit all money so received in accounts at a federally insured bank, savings and loan association or other financial institution which pays interest on deposits. Any interest earned on funds deposited into Escrow will accrue to the credit of the Developer unless otherwise provided.

2. Escrow may disburse funds prior to completion of the Project in order to pay for construction costs incurred in constructing the units subject to the Sales Contracts.

3. Under certain conditions, a buyer shall be entitled to a refund. Escrow shall pay this refund to the buyer without interest less a reasonable escrow cancellation fee.

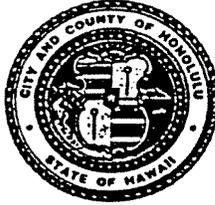
4. If a buyer fails to claim a refund for a cancelled sales contract, Escrow shall treat those funds as the escrowed funds of Developer and shall disburse such funds as directed by Developer.

5. Upon default by a buyer, Escrow shall promptly give buyer written notice of said default. If buyer fails to cure said default, Escrow shall so advise Developer. If Developer then certifies that buyer is in default or that Developer has terminated the Sales Contract, Escrow shall treat all funds of buyer, less any escrow cancellation fee, as the funds of Developer.

END OF EXHIBIT "I"

DEPARTMENT OF LAND UTILIZATION  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET  
HONOLULU, HAWAII 96813 • (808) 523-4432



DONALD A. CLEGG  
DIRECTOR

LORETTA K.C. CHEE  
DEPUTY DIRECTOR

July 6, 1993

93/CL-4(JS)

Mr. John J. Ida  
Urban Works, Inc.  
670 Auahi Street, Suite A-13  
Honolulu, Hawaii 96813

Dear Mr. Ida:

Cluster Development Application No. 93/CL-4  
Aiea View Courte  
99-1307 Aiea Heights Drive -- Aiea  
Tax Map Key: 9-9-7: 2 and portion of 7 & 11.

---

The Cluster Development application for Aiea View Courte has been approved, subject to the provisions of the attached "Report, Conclusions and Decision and Order" dated July 3, 1993.

Very truly yours,

A handwritten signature in cursive script that reads "Donald Clegg".

DONALD A. CLEGG  
Director of Land Utilization

DAC:gc  
ida.gkc

Attachment

EXHIBIT "J"

DEPARTMENT OF LAND UTILIZATION  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET  
HONOLULU HAWAII 96813-1000 (808) 521-4432



FRANK F. IASI  
MAYOR

DONALD A. CLEGG  
DIRECTOR

LORETTA C. CHICK  
DEPUTY DIRECTOR

93/CL-4 (JS)

July 6, 1993

CLUSTER HOUSING DEVELOPMENT APPLICATION NO. 93/CL-4  
AIEA VIEW COURTE  
99-1307 AIEA HEIGHTS DRIVE -- AIEA  
TAX MAP KEY: 9-9-7: 2 AND PORTION OF 7 AND 11

The Cluster Housing Development application for Aiea View Courte has been approved under the "Report, Conclusions, and Decision and Order" dated July 3, 1993.

Based on the analysis, the Director has concluded that generally the development would be designed to produce an environment compatible with the character of existing property in the vicinity of the proposal and the area would not be adversely affected as a result of the development.

A copy of the "Report, Conclusions, and Decision and Order" is on file at the Department of Land Utilization should additional information be required.

Should you have any questions, please contact Joyce Shoji of our staff at 527-5354.

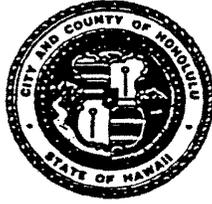
A handwritten signature in cursive script that reads "Donald A. Clegg".

DONALD A. CLEGG  
Director of Land Utilization

DAC:gc  
aiea.gkc

DEPARTMENT OF LAND UTILIZATION  
**CITY AND COUNTY OF HONOLULU**

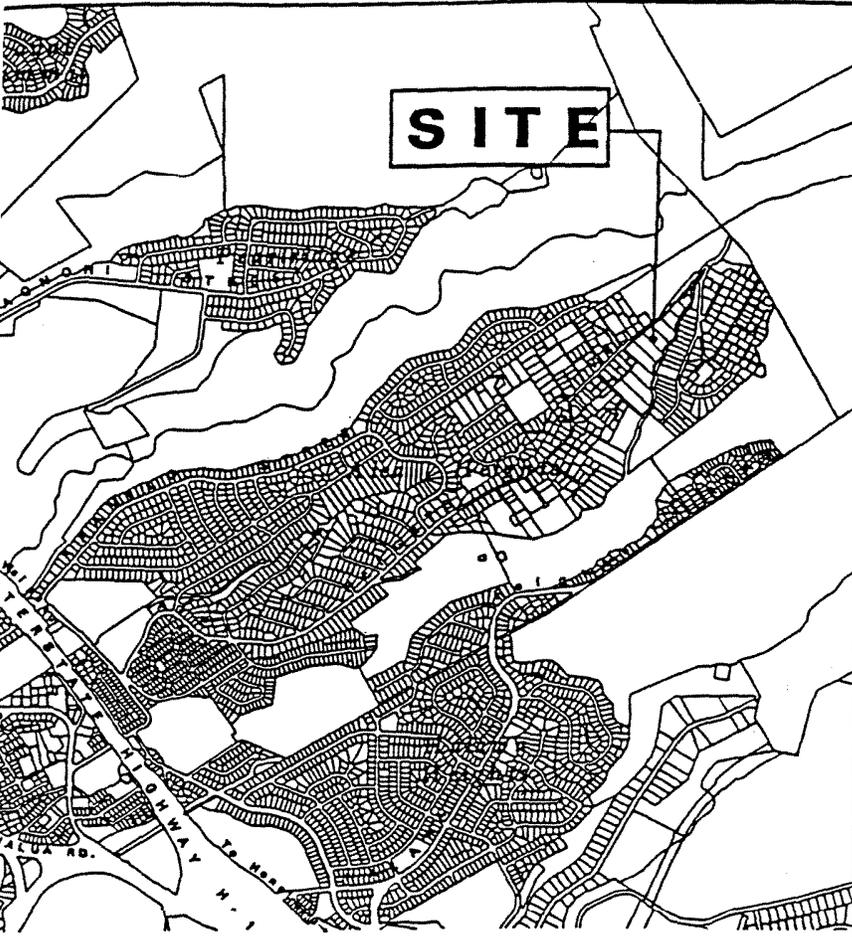
650 SOUTH KING STREET  
HONOLULU, HAWAII 96813 • (808) 523-4432



FRANK F. FASI  
MAYOR

DONALD A. CLEGG  
DIRECTOR

LORETTA K.C. CHEE  
DEPUTY DIRECTOR



Application for a Cluster  
Development  
Application No. 93/CL-4

Project: AIEA VIEW COURTE

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REPORT, CONCLUSIONS, AND  
DECISION AND ORDER

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I. APPLICATION

Application Date

April 20, 1993

Recorded Fee Owner

Alfred Anthony

Applicant/Agent

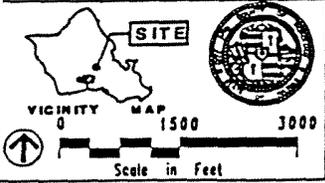
John J. Ida  
Urban Works, Inc.  
670 Auahi Street  
Suite A-13  
Honolulu, Hawaii 96813

Location

99-1307 Aiea Heights  
Drive -- Aiea

Tax Map Key

9-9-7: 2 and portion of  
7 and 11



**LOCATION MAP**  
**AIEA HEIGHTS**  
TAX MAP KEY: 9-9-07: 02 and Pors. 07 & 11  
FOLDER NO.: 93/CL-4

Prepared By: Department of Land Utilization  
City and County of Honolulu  
Date Prepared: April 1993

Area

12.37 acres

Request

Cluster Housing Development for 50 single-family detached units.

State Land Use

Urban

Development Plan

Residential

Public Facility Map

No improvements proposed

Zoning

R-10 Residential District

PROPOSAL:

Number of Units

A total of 50 single-family, 2-story detached dwelling units

Model	No. Units	Floor Area (Sq. Ft.)	Type
1	6	1,320	3 BR, 2 1/2 bath
1a	8	1,610	3 BR, 2 1/2 bath
1b	1	1,610	3 BR, 2 1/2 bath
2	10	1,480	3 BR, 2 1/2 bath
2R	4	1,480	3 BR, 2 1/2 bath
3	7	1,360	3 BR, 2 1/2 bath
3a	1	1,608	3 BR, 2 1/2 bath
3b	1	1,360	3 BR, 2 1/2 bath
4	7	1,408	3 BR, 2 1/2 bath
4a	5	1,408	3 BR, 2 1/2 bath

50 total units

Density

4.04 units per acre

Park Dedication

Compliance with Ordinance 4621 will be met by payment of fee.

Code

The requirements of Land Use Ordinance Sections 6.50-1, 6.50-2 and 6.50-3, are applicable to the proposed development. The proposal meets the density requirement:

Cluster:

R-10 Residential minimum lot size = 10,000 sq. ft.:

Zoning Lot Area = 12.37 acres = 538,837 sq. ft.

$\frac{538,837 \text{ SF}}{10,000 \text{ SF}} = 53.8$  units maximum allowed

Units proposed = 50 units.

II. REPORT SUMMARY OF AGENCIES COMMENTS

Comments were received from the City Board of Water Supply, Departments of Fire, Parks and Recreation, Public Works, Transportation Services and Neighborhood Board No. 20, the State Departments of Health, Transportation, and Land and Natural Resources, and Federal Soil Conservation Service.

Except for Neighborhood Board No. 20, the public agencies did not object to the proposal, subject to specific recommendations (letters on file with the Department of Land Utilization.

Department of Transportation Services (May 18, 1993)

- "1. Full frontage improvements should be provided along Aiea Heights Drive.
2. A standard dropped curb should be constructed along the access from Aiea Heights Drive. A "Private Road" sign should be installed at the project's entrance.
3. The driveway grade should not exceed 5 percent (5%) for a minimum distance of 35 feet from the curb line, and adequate sight distance to pedestrians and other vehicles should be provided and maintained.

4. Landscaping should be placed in locations where it does not obstruct vehicular sight lines.
5. To mitigate any traffic created by the proposed project, separate turn lanes into the project entrance should be provided along Aiea Heights Drive.
6. Limited access designations should be provided on the project's frontage along Aiea Heights Drive.
7. Construction plans for off-site work within the road's right-of-way should be reviewed by our department."

Department of Public Works (May 27, 1993)

Engineering:

"The application should address the impact of storm water discharges associated with construction activities on water quality of the receiving waters. The applicant shall submit plans for the proposed drainage system to the Department of Public Works.

Also, the application should state what structural or non-structural Best Management Practice (BMP) will be provided to control and reduce the discharge of pollutants as outlined in the National Pollutant Discharge Elimination System (NPDES) regulations (40 CFR Part 122, Subpart B for municipal storm sewer systems).

An NPDES permit is required for a graded area five acres or greater. A sediment basin is required for a graded area greater than ten acres.

All roadways to be dedicated to the City shall be constructed to City standards and shall comply with the Uniform Federal Accessibility Standards (UFAS). Frontage improvements along Aiea Heights Drive are required. Provide a 20-foot wide minimum pavement, for two-way traffic, to the site from the main access road. Construction plans must be submitted for our review and approval."

Refuse Collection:

"There is not enough information to determine whether the City can provide refuse collection for this project. We ask that construction drawings for the roadway improvements be submitted for our review."

Sanitary Sewers:

"The municipal sewer system is adequate and available, but this is not a confirmation of sewage capacity reservation. Sewer capacity reservation is contingent on submittal and approval of a 'Sewer Connection Application' form. The applicant will be liable for payment of a wastewater system facility charge."

Fire Department (May 20, 1993)

"Provide for the unrestricted access of fire apparatus on Heen Way. The existing width of Heen Way shall not be reduced or impeded."

Department of Land and Natural Resources (June 8, 1993)

Commission on Water Resources Management

"The Commission on Water Resource Management (CWRM)-staff comments that the applicant should be informed that a Stream Channel Alteration Permit (SCAP) will be required for any work (construction of storm drain outlets) on the banks of the unnamed stream bordering the proposed project."

Division of Aquatic Resources

"The Division of Aquatic Resources comments that measures should be taken during construction to prevent silt runoff into the nearby gulch, even though the stream may be some distance away."

Historic Preservation Division

"The Historic Preservation Division (HPD) comments that a review of their records shows that the proposed project area was inventoried for historic sites and that no historic sites were found. In a 1988 review of a cluster development proposed for this property, HPD determined that the cluster development would have 'no effect' on historic sites. HPD believes that the current cluster development proposed will also have 'no effect' on historic sites."

Department of Health (June 17, 1993)

Nonpoint Source Pollution

"Aiea View Courte is located in the Pearl Harbor Watershed, which is one of fourteen Water Quality Limited Segments identified in the Hawaii Nonpoint Source (NPS) Pollution Assessment Report. Currently, water quality standards are exceeded in the harbor and cannot be met unless nonpoint source pollution is controlled."

There is an ongoing interagency effort to control NPS pollution in the watershed area. Steps should be taken to minimize onsite erosion which may become a source for additional NPS pollution from construction activities.

This project is located on a site with slopes ranging from approximately 10 to 50 percent. Proper planning, design and use of Best Management Practices substantially reduces the total volume of runoff generated, thereby decreasing sediment load. Suggested measures that should be considered are:

- a. Conduct grubbing and grading activities during the low rainfall months (April - October).
- b. Grub area sequentially so that only a small portion of the site is bare at any one time.
- c. Replant or cover bare areas as soon as grading or construction is completed. New plantings will require soil amendments, fertilizers, and temporary irrigation to become established. Use high seeding rates to ensure rapid stand establishment.
- d. Allow a minimum buffer strip of at least 25 feet of vegetation to remain between the grading work and Aiea Stream.

This cluster development housing will increase the acreage of impervious areas and also increase stormwater runoff volumes. Consider using vegetation, mulch, gravel and porous pavement wherever feasible to minimize the acreage of impervious areas."

#### Solid Waste

"The Department of Health (DOH) requests the developer to develop and implement a waste minimization plan prior to construction of the cluster development to reduce the volumes of waste generated during construction. The State of Hawaii has adopted ambitious recycling goals of 25% waste diversion by 1995 and 50% by the year 2000. In order to meet these goals, residents and businesses in the state must divert recyclables from traditional disposal methods and buy recycled products to stimulate local markets for recyclables. The DOH requests that the developer include secondary resources (recycled materials) in the construction of the project whenever available. Crushed glass in asphalt can be used for road paving purposes, and local compost can be used for landscaping."

## Noise

1. Activities associated with the construction phase of the project must comply with the provisions of Chapter 43, Community Noise Control for Oahu.
  - a. The contractor must obtain a noise permit since the noise level from the construction activities are expected to exceed the allowable levels of the regulations.
2. Heavy vehicles travelling to and from the project site must comply with the provisions of Title 11, Administrative Rules Chapter 42, Vehicular Noise Control for Oahu."

## Wastewater

"The subject project is located within the county sewer service system. As the area is sewerred, we have no - objections to the proposed five year master plan, provided that the project is connected to the public sewer.

The developer should work closely with the County to assure the availability of additional treatment capacity and adequacy for the project. Non-availability of treatment capacity will not be an acceptable justification for use of any private treatment works or individual wastewater system."

## Soil Conservation Service (May 11, 1993)

"The proposed cluster development is on steep erodible slopes and is located adjacent to the Aiea Stream. There is a possibility of sediment entering the Aiea Stream and eventually ending in the Aiea Bay. This bay is within the Pearl Harbor Estuary Project area. One of the goals of the project is to reduce or prevent sediment from entering the Harbor area and improve the water quality of the harbor. We recommend that the developers include a sediment erosion control plan addressing the possible sedimentation problem of the stream. Once the project is completed, storm runoff from the project will be directed into the Aiea Stream. This will increase the flow of the stream during the storm periods and may increase the wash-out frequency of the stream. The deposited material in the stream will be deposited into the Pearl Harbor area. The runoff from the project area may carry chemicals from homesteads and roadways."

## Neighborhood Board No. 20 (June 9, 1993)

The Neighborhood Board No. 20 objected to the development. Their main concern focused on the safety of the Heen Way residents during an emergency in which emergency vehicles would not be able to negotiate the turns or maneuver without great difficulty.

### Community Concerns

Letters from Councilmember Arnold Morgado and Representative Tom Okumura objecting to the proposal outlined the following concerns:

1. Impacts on Heen Way residents and increased congestion.
2. Access for emergency vehicles.
3. Stability of the soil and impacts from grading.
4. Adequacy of Drainage and Erosion Control measures.
5. Proposed roadways and increased traffic.
6. Frontage improvement requirements.
7. Availability of utilities, services and infrastructure.

### Site Plan Evaluation and Design Analysis

The site plan concept is generally acceptable except for the areas with slopes exceeding 40%. Spacing between units meets minimum LUO requirements for standard conventional subdivision. A variety of 10 unit types with staggered front yard setbacks and landscape buffering would provide variety in design and create visual interest. All proposed dwelling units would be located on the less steep portions of the site with slopes less than 40%.

### Parking

The 50-unit cluster development requires 13 guest parking stalls. Twelve guest parking stalls are proposed. An additional parking stall must be provided.

The two parking stalls proposed at the cul-de-sac of Road "A" abut the project property line at Heen Way and would have a negative impact on the street and residential properties along the street. The parking stalls should be relocated in order to provide adequate landscape buffer and/or fence between the project and the property line.

### Landscaping

The applicant's landscape plan is adequate in reducing the height and bulk of the proposed units. Monkeypod trees to be relocated within the Aiea Heights roadway right-of-way would be subject to review and approval by the Departments of Parks and Recreation and Transportation Services. Landscape buffer and fencing should be provided between the proposed development and Heen Way and existing residential properties abutting the neighborhood development site. Street trees would be installed by the developer in front yards. All existing vegetation and trees on the undeveloped portions of the site should be retained and left in its natural condition.

### Roads, Circulation

The applicant's Traffic Assessment indicated that the increased traffic due to the proposed development would not significantly impact existing traffic conditions along Aiea Heights Drive. The Department of Transportation Services recommends separate turn lanes into the project entrance be provided along Aiea Heights Drive. Construction plans for off-site work within the road's right-of-way shall be reviewed by their department.

The existing width of Heen Way provides minimal clearance for emergency vehicles. This clear width cannot be reduced or impeded without causing great concern for the safety of Heen Way residents during emergency situations.

The proposed 20-foot wide private roadway with sidewalk on one side and slopes less than 19% grade is generally acceptable. The final design, configuration and sight distances would be subject to review and approval of the Department of Transportation Services.

### Soils, Grading, Drainage and Utilities Analysis

The applicant's soils report indicate the soil and geologic conditions could accommodate the proposed development.

The grading plan shows that major grading would be limited to roadway improvements. The amount of grading would be less as compared to standard subdivision. The terraced design of the units and use of post and pad foundations to adjust to the sloping topography would minimize grading of house lots.

An NPDES permit is required for a graded area five acres or greater.

A drainage plan as required by the Department of Public Works should be provided for their review and approval. Utilities are adequate and available.

#### Nature and Extent of Open Space, Recreation and Common Areas

Common open space is limited to the private roadways. A Homeowners' Association would be required for its maintenance.

#### Relationship to Neighborhood

If the property is developed as a conventional, R-10 subdivision, the proposed number of units (50) would not be achieved. Conventional subdivision would utilize the entire site. Wider roadways and development on steeper portions would require more grading and result in greater physical impact on the site. In addition, driveways with direct access onto Aiea Heights Road would be allowed under conventional subdivision and would aggravate traffic conditions and therefore would be less desirable. The proposed density and site impact could be further reduced by:

1. Requiring landscape buffering between the project and adjoining residential development.
2. Retaining and/or relocating existing major trees within the development area.
3. Reducing the number of units and relocating units from land area with slopes greater than 40%.

#### Code Analysis

The proposal, subject to conditions of approval, meets the requirements for cluster housing under the LUO.

### III. CONCLUSIONS

Based on the foregoing analysis, the Director has made the following conclusions:

1. The development, subject to conditions of approval, complies with the Cluster Development provisions of the Land Use Ordinance and the requirements of the governmental agencies;
2. The properties in the vicinity of the site would not be adversely affected by the project;
3. The property would be used for purposes and in a manner permitted in the zoning district and will be of quality and character compatible with surrounding land uses.

#### IV. DECISION AND ORDER

Based on the Report and Conclusions, the application for Aiea View Courte Cluster is approved, subject to the following exhibits and conditions:

##### Exhibit "A"

Application drawings, 15 sheets, dated February 5, 1993, by Urban Works, Inc., DLU date stamped April 15, 1993.

##### Exhibit "B"

Narrative by Urban Works, Inc., DLU date stamped April 15, 1993.

Exhibits "A" and "B" shall be followed except as may be altered by the following conditions:

#### 1. Site Plan and Building Design

- a. Development shall be limited to the portions of the site with 40% or less grade. Dwelling units shall not be located on land area with slopes greater than 40%. Units may be reoriented and/or resited on flatter areas of the site, however, the spacing between units shall be maintained and comply with LUO height setback requirements for R-10 zoning district. Preliminary plans showing the revised location of dwelling units and carports on land areas not greater than 40% slope shall be submitted to the Department of Land Utilization for review and approval, prior to proceeding with final construction plans.
- b. Either a Conditional Use Permit for a joint development or consolidation and resubdivision shall be applied for and approved by DLU prior to issuance of building permits. Plans and application for the joint development or consolidation/resubdivision into a 12.37-acre parcel shall be submitted to DLU for review and approval.
- c. Subdivision of parcels into substandard lots shall not be permitted.
- d. Within each lot, all structures shall comply with the height and yard setbacks of R-10 Residential District.
- e. Lot coverage on each lot shall not exceed 50%.

- f. The proposed guest parking stalls at the end of the cul-de-sac on Road "A" shall be set back a minimum of 5 feet from the property line. Landscaping and a solid fence shall be placed in front of the parking stalls facing Heen Way.
- g. Legal documents shall be drawn up to ensure that the strip of land along Heen Way, shown as a portion of Lot 42, shall be landscaped and maintained in perpetuity by either the owner of the lot or by the Homeowners' Association. Landscaping of this area shall be subject to review and approval of the Department of Land Utilization.
- h. White or highly reflective material or color shall not be used on the roof of any proposed structure.
- i. Fences and/or walls within the front yard of each lot shall be set back a minimum of 3 feet from the private roadway and landscaped with trees, hedges, shrubs and/or groundcover.
- j. A variation in building setbacks along the front yard shall be provided. Where units are parallel to streets, setbacks shall be staggered a minimum of 2 feet.
- k. Units shall be terraced or split-level in design to follow the existing topography wherever possible.

2. Landscaping

Landscaping shall be provided by the applicant, according to the plans approved by the Director of Parks and Recreation and Land Utilization, and shall include the following:

- a. Whenever possible, all existing trees and major groupings of vegetation shall be retained and/or relocated on-site.
- b. The landscape plan shall provide large canopy trees in the front yard areas of all units. Trees shall be a minimum of 8 feet to 10 feet in height with a minimum 2-inch trunk diameter and a minimum spread of 8 feet. Trees planted shall not be removed, replaced or relocated without prior approval of the Department of Land Utilization.

- c. Tall vertical form trees shall be planted around the perimeter of the project and between units, to reduce the height and bulk of the proposed units. Landscaping such as hedges and shrubs shall also be provided around the perimeter of elevated structures.
- d. Solid fencing and landscape buffer and screening such as hedges, shrubs and/or tall vertical form trees shall be provided between the existing residential lots and along Heen Way, and the proposed cluster lots.
- e. All transformers and trash enclosures shall be screened from view from the surrounding properties with a minimum 4 feet high continuous hedge.
- f. The final landscape plan shall include detailed information on (1) disposition of the existing trees and landscaping, (2) type and size of all new landscaping, (3) fencing, (4) retaining walls, (5) pavement materials, (6) lighting, and (7) the irrigation to support the landscaping. These plans shall be submitted to the Director of Land Utilization for approval prior to issuance of any permits for the project.
- g. All landscaping within the public right-of-way on Aiea Heights Drive shall be subject to review and approval of the City Departments of Land Utilization, Parks and Recreation and Transportation Services.
- h. The approved final landscape plan shall be completed prior to the occupancy of any dwelling units.

### 3. Roadways

- a. Final roadway construction plans, to include frontage improvements along Aiea Heights Drive, shall be subject to review and approval by the City Departments of Transportation Services, Public Works, Land Utilization, and Fire prior to issuance of any permits for the project.
- b. The roadways shall be designed to provide a common vehicular turnaround area, to permit refuse collection from a common on-site collection area or from each individual unit, and to provide common maneuvering areas for the guest parking stalls.

- c. Parking shall be allowed only in areas designated for resident and guest parking. Parking shall not be permitted on the private roadway, common vehicular turnaround area, and common maneuvering area for the guest parking stalls. The Homeowners' Association shall be responsible for the enforcement of this requirement. "No Parking" and "Guest Parking" signs shall be posted by the developer.
- d. The existing clear width of Heen Way shall not be reduced or impeded in order to provide access by emergency vehicles.
- e. The intersection design and circulation at Aiea Heights Drive shall be submitted for review and approval by the Department of Transportation Services prior to approval of the construction plans.
- f. Street frontage improvements along Aiea Heights Drive fronting the project, and adequate sight distances for vehicular ingress and egress to the development shall be provided. A standard drop driveway shall be provided at the entrance to the project on Aiea Heights Drive. The proposed driveway intersection shall be provided with a Private Road sign, stop sign and "STOP" word on pavement to clearly identify the driveway as a private roadway.
- g. Adequate lighting and illumination shall be provided for all roadways. The lighting system fixture shall be shielded to minimize any adverse impact to adjacent properties.

4. Soils, Grading and Drainage

- a. The drainage report shall show the drainage system and layout for review and approval by the Department of Land Utilization.
- b. Pavements for the roadway, driveways and parking areas shall be designed for the particular soil conditions and constructed in accordance with the requirements of the Department of Public Works.
- c. Grading and drainage work, including erosion controls, shall comply with all applicable Federal, State and County regulations, statutes and ordinances. An NPDES permit is required for graded areas five acres or greater. A sediment basin is required for a graded area greater than ten acres.

- d. A sediment erosion control plan addressing the possible sedimentation problem into Aiea Stream shall be submitted to the United States Soil Conservation Service for review.
- e. A Stream Channel Alteration Permit (SCAP) shall be required for construction of storm drain outlets.
- f. A detailed drainage and erosion control report shall be submitted to the Department of Public Works, and approved by the Department of Public Works and Director of Land Utilization prior to the issuance of any permits. The final erosion control plans shall be subject to approval by the Department of Public Works.
- g. A minimum buffer strip of at least 25 feet of vegetation to remain during grading work from Aiea Stream.

5. Utilities

All utilities shall be placed underground within the project site. Additional conditions are as follows:

- a. The proposal shall comply with the requirements of the Board of Water Supply for availability of water. Installation of a complete water system shall meet Board of Water Supply specifications and standards. Construction plans shall be submitted to the Board of Water Supply for review and approval.
- b. Installation of the necessary sewer and water easements shall meet the Department of Public Works and the Board of Water Supply standards and specifications.
- c. The applicant shall meet the requirements of the City and County to cover the estimated connection charges applicable to the development.
- d. Relocation of utility poles adjacent to Heen Way shall not reduce the clear width of Heen Way required for ingress and egress of emergency vehicles.

6. Fire Protection

Fire protection plans shall be approved by the Board of Water Supply and Fire Department.

7. Noise

- a. The contractor must obtain a noise permit since the noise level from the construction activities are expected to exceed the allowable levels of the regulations.
- b. Heavy vehicles travelling to and from the project site must comply with the provisions of Title 11, Administrative Rules Chapter 42, Vehicular Noise Control for Oahu.

8. Park Dedication

The applicant shall comply with the requirements of the Park Dedication Ordinance prior to issuance of any permits.

9. Archaeological Findings

Should any archaeological artifacts or findings, such as charcoal-filled fire pits, or human skeletal remains be discovered during construction, the applicant and/or contractor shall stop work and notify the State Historic Sites Office, Department of Land and Natural Resources, for mitigative action.

10. Engineer's or Architect's Supervision and Responsibility

The applicant's consulting engineer and/or architect shall be responsible for all work and final plans to comply with all provisions of the Land Use Ordinance. Approval of this Cluster Development does not certify compliance with all zoning code requirements. The project plans shall meet all code regulations for approval by all affected governmental agencies.

11. Flexibility

- a. The architect shall be provided with a reasonable degree of flexibility in the preparation of detailed engineering and architectural plans for the project. As work progresses on these drawings, it may be found that it would be advantageous to shift buildings slightly in order to preserve a particularly desirable element of the landscape or to accommodate certain unforeseen site conditions. In addition, as detailed architectural plans are developed, it may be found that certain building configurations may need to be altered slightly also for the above reasons.

- b. The project shall be developed as authorized and approved by the Director of Land Utilization. In no case, however, shall the above alteration harm the general intent of the design concept of the project, nor will there be any increase in the number of units (50). The environmental character and design concept of the project, as indicated on the submitted plans and modified by the conditions of this report, shall be maintained.
- c. Any modification to the conditions stated herein shall be subject to approval by the Director of Land Utilization. Any major modification may be subject to a new application under the Cluster Development provisions.
- d. Changes made to the conditions or site plan necessitated by additional soils, grading, drainage or other studies shall be subject to the approval of the Director of Land Utilization.

12. Detailed Documents

- a. The applicant shall obtain the approval of the Director of Land Utilization and appropriate governmental agencies on final detailed documents covering all building and site improvements, including but not limited to parking, grading, drainage, sewers, water and electric utilities, easements, walkways, roadways, street and area lighting, fire hydrants, refuse storage and collection areas, fences, guardrails, screens, signs, landscaping, recreational facilities, and final exterior materials, colors, textures and/or finishes.
- b. This approval shall be obtained prior to commencement of any work. Site improvements and landscaping plans shall be approved by the Director of Land Utilization prior to issuance of any building permits.

13. Model Units

- a. The grading and building permits for the model units may be issued only after review and approval of the detailed documents for such units by the Director of Land Utilization and other appropriate governmental agencies.

- b. This approval shall be obtained prior to commencement of any work. Site improvements and landscaping plans shall be approved by the Director of Land Utilization prior to issuance of any model unit building permits.

14. Maintenance of Common Areas and Facilities

Legal documents shall be drawn up to ensure perpetual maintenance of all common elements to include the strip of land adjacent to Heen Way and including, but not limited to, landscaping and common areas.

15. Future Additions and Alterations

Future additions and alterations to individual dwelling units and in common areas subsequent to the completion of the project, shall require the review and approval by the Director of Land Utilization and individual owners requesting such additions and alterations shall first obtain the written approval from the Homeowners' Association.

- a. Standard designs for fences by individual homeowners shall be provided by the applicant and submitted to the Department of Land Utilization for review and approval prior to issuance of building permits. All fencing for future additions by individual homeowners shall be in accordance with pre-approved fence designs.
- b. Building area permitted on each CPR (condominium property regime) lot shall not exceed 50% of the individual lot area, or if there are no condominium lots, the total building area shall not exceed 30% of the total residential lot area. No additions shall be permitted which would exceed this maximum building area.
- c. Owners and tenants of the project shall be informed by the applicant of the yards, heights, standard fence design and building area requirements for future additions and expansion.

16. Transfer of Rights

- a. Any assignment and/or transfer of any substantial interest in the land parcel designated as a cluster development by this document shall be subject to the approval and consent of the Department of Land Utilization (except for such

assignment and/or transfer to any mortgagee or to any purchaser upon foreclosure). Such approval and consent shall not be unreasonably withheld provided that the assignee and/or transferee agrees in writing to comply with all the conditions imposed herein.

b. This requirement of obtaining Department of Land Utilization's approval and consent shall become null and void upon the applicant/developer satisfying the following:

- (1) Completion of all construction according to approved plans as well as sale of housing units within the cluster development project; and
- (2) Compliance with all the conditions and restrictions imposed by this document.

17. Time Limit

Failure to secure a building permit for the 50 units, other than model units, within three (3) years of the date of this approval, may constitute grounds for the Director to repeal this approval. If the applicant finds that he is unable to obtain a building permit prior to the expiration date of this approval, he shall file with the Director a written request for extension of time prior to the expiration date together with acceptable reasons which justify such extension.

18. Responsibility

It shall be the responsibility of the applicant to provide all site improvements, underground utilities, landscaping and other features in conformity with Exhibits "A" and "B", and the conditions and restrictions imposed herein. All structures and site improvements, underground utilities, and landscaping shall be completed for each unit prior to the occupancy of the dwelling unit.

19. Covenants

The developer shall be required to incorporate all of the post construction conditions set forth which are applicable subsequent to occupancy as part of the restrictive covenants running with the land and made a part of any sales agreement with any future owners.

20. Recordation

- a. The applicant/developer of the property encompassed by this cluster development shall be required to file with the Bureau of Conveyances or Assistant Registrar of the Land Court of the State of Hawaii, a declaration of the above-mentioned restrictive conditions.
- b. A certified copy of the documents as issued by the Bureau of Conveyances or Assistant Registrar shall be presented to the Department of Land Utilization as evidence of recordation prior to occupancy of any dwelling units.

21. Violations

The Department of Land Utilization would review alleged violations of the conditions imposed herein and upon its findings that the applicant has not complied with any of said conditions, may take any lawful action necessary (1) to prevent further non-compliance, or (2) to compel compliance with the conditions.

22. Rescinding Governmental Agency Approvals

Upon repeal of this approval by the Department of Land Utilization, the Director of Land Utilization and other governmental agencies may rescind any or all approvals granted to the development including but not limited to approvals of subdivisions, construction plans, building permits and other detailed documents, in order to restore the property to conditions pre-existing the effective date of this approval.

  
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DONALD A. CLEGG  
Director of Land Utilization

Date: 7/1/93

Exhibit "A" (Application Drawings)  
Exhibit "B" (Narrative by Urban Works)

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