

CONDOMINIUM PUBLIC REPORT

Prepared &

Issued by: Developer Michael Lombardi, Trustee
Address P. O. Box 5164, Lahaina, Maui, Hawaii 96761

Project Name(\*): KOLOA HALE
Address: 3345 Waikomo Road, Koloa, Kauai, Hawaii 96756

Registration No. 3409 (conversion) Effective date: October 5, 1995
Expiration date: November 5, 1996

Preparation of this Report:

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

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

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

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

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

Type of Report:

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

X FINAL: The developer has legally created a condominium and has filed complete information with the Commission.
[ x ] No prior reports have been issued.
[ ] This report supersedes all prior public reports.
[ ] This report must be read together with

SUPPLEMENTARY: This report updates information contained in the:
[ ] Preliminary Public Report dated:
[ ] Final Public Report dated:
[ ] Supplementary Public Report dated:

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

(\* ) Exactly as named in the Declaration

**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 NOTICE:**

THERE ARE COUNTY RESTRICTIONS ON THE NUMBER OF RESIDENTIAL DWELLING UNITS, OR OTHER STRUCTURES, WHICH MAY BE BUILT UPON THE PROPERTY. THEREFORE, UNLESS THE PURCHASER IS PURCHASING AN EXISTING RESIDENTIAL DWELLING, THERE IS NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO BUILD A RESIDENTIAL DWELLING UNIT ON THE PROPERTY. THERE ALSO IS NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO CONVERT AN EXISTING NON-RESIDENTIAL STRUCTURE TO A RESIDENTIAL USE. THE PURCHASER SHOULD CONSULT WITH THE APPROPRIATE COUNTY AGENCIES TO DETERMINE WHETHER THE PURCHASER MAY BUILD A RESIDENTIAL DWELLING UNIT, OR ANY OTHER TYPE OF STRUCTURE, UPON THE PROPERTY.

1. This Public Report does not constitute an approval of the project, nor does it ensure that all county codes, ordinances and subdivisions requirements have necessarily been complied with.

2. This Project does not involve the sale of individual subdivided lots. The land area beneath and immediate adjacent to each unit as shown on the condominium map is designated as a limited common element and does not represent a legally subdivided lot. The dotted lines on the condominium map merely represent the approximate location of the limited common element assigned to each unit.

3. Facilities and improvements normally associated with County approved subdivisions may not necessarily be provided for and services such as County street maintenance and trash collection will not be available for interior roads.

THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW THE CONDOMINIUM DOCUMENTS FOR FURTHER INFORMATION REGARDING THE FORGOING.

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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: Michael Lombardi, Trustee Phone: (808) 726-0247  
Name (Business)  
P. O. Box 5164  
Business Address  
Lahaina, Maui, Hawaii 96761

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

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

Real Estate Broker: Kauai Realty, Inc. Phone: (808) 332-7351  
Name (Business)  
P. O. Box 714  
Business Address  
Kalaheo, Kauai, Hawaii 96741

Escrow: Title Guaranty Escrow Services, Inc. Phone: (808) 533-5880  
Name (Business)  
4290 Rice Street  
Business Address  
Lihue, Kauai, Hawaii 96766

General Contractor: \_\_\_\_\_ Phone: \_\_\_\_\_  
Name (Business)  
\_\_\_\_\_  
Business Address  
\_\_\_\_\_

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

Attorney for Developer: Michael H. Sakai, Esq. Phone: (808) 531-4171  
Name (Business)  
201 Merchant Street, Suite 902  
Business Address  
Honolulu, Hawaii 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. 95-001970

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. 2180

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. 95-001971

Book \_\_\_\_\_ Page \_\_\_\_\_

Filed - Land Court: Document No. \_\_\_\_\_

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

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

The House Rules for this condominium are:

Proposed                       Adopted             Developer does not plan to adopt House Rules

E. **Changes to Condominium Documents**

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

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

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

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

2. **Developer:**

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

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

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: 3345 Waikomo Road Tax Map Key: (4) 2-8-09-17  
Koloa, Kauai, Hawaii 96756 (TMK)

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

Land Area: 20,918 [x] square feet [ ] acre(s) Zoning: R-6/Open

Fee Owner : Michael Lombardi, Trustee  
Name  
P. O. Box 5164  
Address  
Lahaina, Maui, Hawaii 96761

Sublessor:  
Name  
Address

C. Buildings and Other Improvements:

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

2. Number of Buildings: 3 Floors Per Building 1

Exhibit A contains further explanations.

3. Principal Construction Material:

Concrete     Hollow Tile     Wood

Other and other allied materials

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>3</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: Two domestic pets permitted per apartment

Number of Occupants: \_\_\_\_\_

Other: \_\_\_\_\_

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0      Stairways: 0      Trash Chutes: 0

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Lanai/Patio (sf)</u>
<u>A</u>	<u>1</u>	<u>3/2</u>	<u>1,104</u>	<u>          </u>
<u>B</u>	<u>1</u>	<u>3/2</u>	<u>1,104</u>	<u>          </u>
<u>C</u>	<u>1</u>	<u>3/2</u>	<u>1,104</u>	<u>          </u>
<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>

Total Apartments: 3

**\*Net Living Area is the floor area of the apartment measured from the interior surface of the apartment perimeter walls.**

**Other documents and maps may give floor area figures which differ from those above because a different method of determining the floor area may have been used.**

**Boundaries of Each Apartment:**

The boundary of each unit is the exterior finished surfaces of the units perimeter walls, roofs, foundations, windows and frames, doors, beams and post. With regard to duplex units 2 and 3, the boundary between the two units shall be the centerline between the two units. Any post, beams, supports, and walls crossing or on the centerline shall be deemed a joint limited common element for both such units.

**Permitted Alterations to Apartments:**

Each owner may alter the structure and any other improvements located within their unit's limited common land area with the approval of the Developer or as otherwise provided in the Declaration of Condominium Property Regime.

7. Parking Stalls:

Total Parking Stalls: 4

	<u>Regular</u>		<u>Compact</u>		<u>Tandem</u>		<u>TOTAL</u>
	<u>covered</u>	<u>open</u>	<u>covered</u>	<u>open</u>	<u>covered</u>	<u>open</u>	
Assigned (for each unit)	<u>1</u> (*Unit 1)	<u></u>	<u></u>	<u></u>	<u></u>	<u></u>	<u>4</u>
Guest	<u></u>	<u></u>	<u></u>	<u></u>	<u></u>	<u></u>	<u></u>
Unassigned	<u></u>	<u></u>	<u></u>	<u></u>	<u></u>	<u></u>	<u></u>
Extra for Purchase	<u></u>	<u></u>	<u></u>	<u></u>	<u></u>	<u></u>	<u></u>
Other:	<u></u>	<u></u>	<u></u>	<u></u>	<u></u>	<u></u>	<u></u>
Total Covered & Open	<u>4</u>	<u></u>	<u></u>	<u></u>	<u></u>	<u></u>	<u></u>

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

\*Unit 1 has two parking stalls. Cars may also be parked in the limited common areas by the respective owners.

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

8. Recreational and Other Common Facilities:

There are no recreational or common facilities.

Swimming pool                       Storage Area                       Recreation Area

Laundry Area                       Tennis Court                       Trash Chute

Other: \_\_\_\_\_

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

There are no violations.                       Violations will not be cured.

Violations and cost to cure are listed below.     Violations will be cured by \_\_\_\_\_

10. Condition and Expected Useful Life of Structural Components, Mechanical, and Electrical Installations

(For conversions of residential apartments in existence for at least five years):

Not Applicable

11. Conformance to Present Zoning Code

a.  No variances to zoning code have been granted.

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

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

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

	<u>Conforming</u>	<u>Non-Conforming</u>	<u>Illegal</u>
Uses	x	_____	_____
Structures	x	_____	_____
Lot	x	_____	_____

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

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

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

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

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

described in Exhibit     B    .

as follows:

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

There are no limited common elements in this project.

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

described in Exhibit  B .

as follows:

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

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

as follows:

<u>Unit No.</u>	<u>Percentage Interest</u>
1	33 1/3%
2	33 1/3%
3	<u>33 1/3%</u>
Total	100%

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  C  describes the encumbrances against the title contained in the title report dated  Jan 10, 1995  and issued by  Title Guaranty of Hawaii, Inc. .

**Blanket Liens:**

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

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

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

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

<u>Type of Lien</u>	<u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance</u>
Mortgage	If Developer defaults under the mortgage, the lender would foreclose on the property. If a foreclosure occurs, any contract would be terminated unless the lender chose to honor the contract.

**F. Construction Warranties:**

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

**1. Building and Other Improvements:**

None, either express or implied. All units are being purchased "as is - where is".

**2. Appliances:**

None, either express or implied.

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

The three units were constructed in 1990.

**H. Project Phases:**

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

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



## 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   E   contains a summary of the pertinent provisions of the sales contract.

Escrow Agreement dated   9-30-94    
Exhibit   F   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. (none)
- 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. 3409 filed with the Real Estate Commission on 1/20/95.

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

- yellow paper stock                       white paper stock                       pink paper stock

C. Additional Information Not Covered Above

**NOT A SUBDIVISION.** This is a condominium project which should not be confused with a subdivision. A purchaser of an apartment unit will be conveyed an apartment unit together with an "undivided" percentage interest in the common elements of the project. The entire parcel of land upon which the project is situated is designated as a common element.

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

Section 514A-86, Hawaii Revised Statutes, requires that the Association of Apartment Owners purchase fire insurance to cover the improvements of the Project, and that premiums be common expenses. Developer anticipates that the Association will elect to permit individual apartment owners to obtain and maintain separate policies of fire insurance and name the Association as an additional insured. In such case, fire insurance premiums will be the responsibility of individual apartment owners and not common expenses. Developer estimates such annual premium expense to be about \$1,680.00 year for Units 1, 2 and 3 individually and not collectively. This estimate was prepared in accordance with generally accepted accounting principles.

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

x Michael Lombardi, Trustee  
Name of Developer  
MICHAEL LOMBARDI, Trustee

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

January 20, 1995  
Date

MICHAEL LOMBARDI, Trustee  
print name & title of person signing above

Distribution:

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

EXHIBIT "A"

Description of Apartments

The Project is divided into the following freehold estates:

a. Unit 1. Unit 1 consists of one freehold estate consisting of one existing residential structure without a basement constructed principally of wood, glass, wood siding with asphalt shingle roofing. This unit consists of a living/dining room, kitchen, three bedrooms, and two bathrooms together with a two-car carport. There is an entry/deck in the carport leading to a door to the kitchen. The net living area of this unit is 1,104 square feet and the two-car carport consists of approximately 576 square feet. The land area surrounding Unit 1 as delineated and described in the Condominium Map is a limited common element for Unit 1 and is for the exclusive use of Unit 1.

b. Unit 2. Unit 2 consists of one freehold estate consisting of one existing unit being one-half of a duplex structure without a basement constructed principally of wood, glass, wood siding and a composition shingle roofing. This unit consists of a living/dining room, kitchen, three bedrooms, and two bathrooms together with a one-car carport. There is an entry/deck in the carport leading to a door to the kitchen. The net living area of this unit is 1,104 square feet and the one-car carport consists of approximately 288 square feet. The land area surrounding Unit 2 as delineated and described in the Condominium Map is a limited common element for Unit 2 and is for the exclusive use of Unit 2.

c. Unit 3. Unit 3 consists of one freehold estate consisting of one existing unit being one-half of a duplex structure without a basement constructed principally of wood, glass, wood siding and a composition shingle roofing. This unit consists of a living/dining room, kitchen, three bedrooms, and two bathrooms together with a one-car carport. There is an entry/deck in the carport leading to a door to the kitchen. The net living area of this unit is 1,104 square feet and the one-car carport consists of approximately 288 square feet. The land area surrounding Unit 3 as delineated and described in the Condominium Map is a limited common element for Unit 3 and is for the exclusive use of Unit 3.

EXHIBIT "B"

Common Elements

The common elements of the Project and which the units have immediate access to include:

- a. The land in fee simple.
- b. The central and appurtenant installations for services such as power, light, gas, telephone, sewer, drainage, hot and cold water and like utilities, including the common waterline and meter.
- c. All other parts of the Project existing for the common use or necessary to the existence, maintenance and safety of the Project.
- d. The non-exclusive common roadway easement consisting of approximately 3,904 square feet and the common element driveway containing approximately 2,778 square feet for ingress and egress and/or utility purposes.

Limited Common Elements

The land areas delineated and designated in the Condominium Map are limited common elements of a unit together with any cesspool located within such land area and consist of the following:

A. Unit 1. The land area surrounding and under Unit 1 is a limited common element of Unit 1 and is for the exclusive use of Unit 1 and consists of approximately 4,286 square feet, together with the limited common element land area across parcel 8 of 1,299 square feet as set forth in the Condominium Map. The total limited common element land area is 5,585 square feet.

B. Unit 2. The land area surrounding and under Unit 2 is a limited common element of Unit 2 and is for the exclusive use of Unit 2 and consists of approximately 5,685 square feet, together with the limited common element land area across parcel 8 of 459 square feet as set forth in the Condominium Map. The total limited common element land area is 6,144 square feet.

C. Unit 3. The land area surrounding and under Unit 3 is a limited common element of Unit 3 and is for the exclusive use of Unit 3 and consists of approximately 3,604 square feet, together with the limited common element land area across the common driveway of 1,775 square feet as set forth in the Condominium Map. The total limited common element land area is 5,379 square feet.

EXHIBIT "C"

Encumbrances Against Title

1. Title to all minerals and metallic mines reserved to the State of Hawaii.

2. Free flowage of Waikomo Stream.

3. "... together with all necessary rights of ingress and egress from said strip of land for any of the purposes hereinafter specified or for repairing any such conduit hereinafter mentioned or for replacement or reconstruction of the same; and also the right to the extent that the grantor can grant the same and in so far as she has any interest in the adjacent land, to, at the discretion of said The Koloa Sugar Company, its successors and assign, spill surplus or any water from said conduit and provide for the flow of water so spilled across adjacent land of the grantors of said recorded indenture of the 13th day of February, 1937, and of this grantor, their and her heirs or assigns, to the natural bed of the Koloa Stream, as shown on the aforesaid plan hereinbefore referred to; "; as set forth in Deeds dated February 13, 1937, recorded in Book 1368, Page 201 and dated May 6, 1939, recorded in Book 1500, Page 150.

4. Mortgage dated May 5, 1993, in favor of First Nationwide Bank, a federal saving bank, recorded in said Bureau, as Document No. 93-075686. Said Mortgage was assigned by an assignment dated September 6, 1994, in favor of First Nationwide Mortgage corporation, a Delaware corporation, recorded in said Bureau, as Document No. 94-181134.

5. Terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the Revocable Living Trust of Michael Lombardi dated April 7, 1992.

6. The covenants, agreements, obligations, conditions, easements and other provisions as contained in the Declaration of Condominium Property Regime of Koloa Hale, dated December 12, 1994, recorded in said Bureau, as Document No. 95-001970 and Condominium Map No. 2180 to which reference is hereby made.

7. By-Laws of the Association of Unit Owners of Koloa Hale dated December 12, 1994, recorded in said Bureau, as Document No. 95-001971.

8. For real property taxes, your attention is directed to the Tax Assessor, County of Kauai.

EXHIBIT  D

ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

<u>Apartment</u>	<u>Monthly Fee x 12 months = Yearly Total</u>
1	96.67 x 12 = \$1160.00
2	96.67 x 12 = \$1160.00
3	96.67 x 12 = \$1160.00

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

Estimate of Maintenance Fee Disbursements:

Monthly x 12 months = Yearly Total

Utilities and Services

Air Conditioning  
Electricity  
    [ ] common elements only  
    [ ] common elements and apartments  
Elevator  
Gas  
Refuse Collection  
Telephone  
Water and Sewer

Maintenance, Repairs and Supplies

Building                      Yard Maintenance                      \$150.00    x    12    =    \$1800.00  
Grounds

Management

Management Fee  
Payroll and Payroll Taxes  
Office Expenses

Insurance    \$140.00    x    12    =    \$1680.00

Reserves(\*)

Taxes and Government Assessments

Audit Fees

Other

TOTAL    \$290.00    x    12    =    \$3480.00

I, Michael Lombardi, as agent and employed by \_\_\_\_\_, the condominium managing agent or the developer, for the condominium project Koloa Hale, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

Michael Lombardi, Trustee

(\*) Mandatory reserves in effect January 1, 1993

Date: January 20, 1995

EXHIBIT "E"

SUMMARY OF SALES CONTRACT

The sales contract contains the purchase price, description and location of the apartment and other terms and conditions under which a Buyer will agree to buy an apartment in the Project.

Among other things, the sales contract:

1. Provides a section for financing to be completed and agreed to by the parties which will set forth how Buyer will pay the purchase price. If Buyer finances the purchase, he must apply for a loan within 5 days of the acceptance of the contract; obtain a pre-qualification letter from a lender within 15 days; and obtain loan approval within 45 days of submitting the loan application. Seller may retain any deposits as liquidated damages if Buyer fails to comply with the 5 and 15 day time limitations.

2. Identifies the escrow agent and states that Buyer's deposit will be held in escrow until the sales contract is closed or canceled.

3. Requires that Buyer must close the purchase at a certain date and pay closing costs, in addition to the purchase price.

4. Provides the following remedies, in the event of default under the sales contract:

by Buyer:

- a. Seller may bring an action against Buyer for breach of contract;
- b. Seller may retain Buyer's initial deposit;
- c. Buyer shall be responsible for expenses incurred.

by Seller:

- a. Buyer may bring an action against Seller for breach of Contract;
- b. Buyer may bring an action compelling Seller to perform under contract;
- c. Seller shall be responsible for expenses incurred.

Any awards to the prevailing party in any action are subordinate to escrow's expenses.

5. Allocation of payment of closing costs.

The sales contract contains various other provisions which Buyer should become acquainted with.

EXHIBIT "F"

SUMMARY OF ESCROW AGREEMENT

The Escrow Agreement sets up an arrangement under which the deposits which a purchaser makes under a Sales Contract will be held by a neutral party ("Escrow"). Escrow is Title Guaranty Escrow Services, Inc. Under the Escrow Agreement these things will or may happen:

(a) Developer or Escrow will let purchasers know when payments are due.

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

(c) The Escrow Agreement says under what conditions a refund will be made to a purchaser. Refunds can occur under the following situations:

i) If Purchaser elects to cancel the transaction in accordance with the receipt for the Final Public Report;

ii) The Developer and purchaser agree to terminate the Sales Contract;

iii) if the Developer exercises any right to cancel the transaction which it may have reserved.

NOTE: If a transaction is cancelled, the purchaser must return all documents to the Developer.

(d) The Escrow Agreement says what will happen to a purchaser's funds upon a default under the Sales Contract. If a purchaser defaults, all deposits previously placed into Escrow will be forfeited by purchaser and Escrow may release such funds to Developer. See paragraph 11 of Escrow Agreement.

The Escrow Agreement contains various other provisions and establishes certain charges with which the purchaser should become acquainted.