

CONDOMINIUM PUBLIC REPORT

Prepared &

Issued by: Developer F/B DEVELOPMENT, a Hawaii General Partnership

Address P. O. BOX 1516, KIHAI, HAWAII 96753

Project Name(*): MAKENA PLACE

Address: MAKENA KEONEOIO ROAD, MAKENA, HAWAII 96753

Registration No. 3575

Effective date: September 4, 1997

Expiration date: October 4, 1998

Preparation of this Report:

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

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

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

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

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

Type of Report:

- ☐ **PRELIMINARY:**
(yellow) The developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report. A Final Public Report will be issued by the developer when complete information is filed.
- ☒ **FINAL:**
(white) The developer has legally created a condominium and has filed complete information with the Commission.
[] No prior reports have been issued.
[X] This report supersedes all prior public reports.
[] This report must be read together with _____
- ☐ **SUPPLEMENTARY:**
(pink) 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:

1. Revised Condominium Declaration, Bylaws and Map have been filed in the Land Court. Document Nos. appear in Sections II A, B and C.
2. House Rules have been adopted as of June 11, 1997 (unchanged).
3. Lot 10-A-3, area 0.097 acres, has been deleted from the condominium land. It is a road-widening lot to be dedicated to the County of Maui. (Section III.B).
4. Description of Apartments is changed from "storage shed" to "greenhouse/storage shed", as required by the County of Maui, and the floor area of each has been increased from 80 square feet to 100 square feet (Sections III.C.3, 4, and 6, and Exhibit A).
5. Construction completion date for all greenhouse/storage buildings is changed from December 31, 1996 to June 1, 1998 (Section III.G).
6. The right of an apartment owner to convert a greenhouse/storage shed into a residential dwelling is expressly stated (Exhibit A).
7. The name of the general contractor for the site work, infrastructure, common areas and custodian's residence has been added (Section I).

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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: F/B DEVELOPMENT, a Hawaii general Phone: (808) 879-3245
Name partnership (Business)
P. O. Box 1516
Business Address
Kihei, Hawaii 96753

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

HUGH FARRINGTON, Partner

ALLAN S. BIRD, Partner

Real Estate
Broker: Wailea Realty Corporation Phone: (808) 879-1991
Name (Business)
3750 Wailea Alanui Suite G-27
Business Address
Wailea, Maui, Hawaii 96753-8397

Escrow: OLD REPUBLIC TITLE AND ESCROW OF HAWAII Phone: (808) 871-2800
Name (Business)
33 Lono Ave., Suite 104
Business Address
Kahului, Hawaii 96732

General
Contractor: Goodfellow Bros., Inc. Phone: (808) 879-5205
Name (Business)
381 Huku Lii Place
Business Address
Kihei, Maui, HI 96753

Condominium
Managing
Agent: The condominium will be
self-managed Phone: _____
Name (Business)
Business Address

Attorney for
Developer: Thomas D. Welch, Jr. Phone: (808) 871-8351
Name (Business)
MANCINI, ROWLAND & WELCH
Business Address
33 Lono Ave., Ste. 470
Kahului, Hawaii 96732

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. 2392911

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. 1202

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. 2392912

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>The house rules may be adopted and amended by the 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:

The Developer has reserved, and has delegated to each apartment owner, the right to amend the Declaration and the Condominium Map to alter, expand and relocate the boundaries of said apartment, provided that any relocation or expansion shall be wholly within the "buildable areas" and limited common areas appurtenant to said apartment. The Developer has also reserved the right to alter the boundaries of the land area defined as "buildable area" within the limited common area appurtenant to each unit, as long as the Developer owns said unit; but such change may not be made to any unit which has been sold and conveyed to a buyer without the owner's consent. Also, the Declaration reserves the right of Developer to consolidate adjoining units and their limited common areas, so long as Developer owns both units.

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 Sub-leasehold: 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 Sub-leaseholds:

- ☐ 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 Sub-leasehold:

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

NOTE: The County of Maui has not approved the subdivision of the units and their limited common elements into individual subdivided lots. They are being sold as condominiums only.

☐ 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:

Lot 10-A-2

Address: Makena Keoneoio Road
Makena, Hawaii 96753

Tax Map Key (TMK): (2) 2-1-7:96

☐ Address ☐ TMK is expected to change because _____

Land Area: 4.427 acres ☐ square feet ☐ acre(s) Zoning: A-2 (apartment)

Fee Owner: F/B Development, a Hawaii general partnership
Name
P. O. Box 1516
Address
Kihei, Hawaii 96753

Lessor: N/A
Name

Address

C. Buildings and Other Improvements:

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

2. Number of Buildings: 11 Floors Per Building 1

☒ Exhibit A contains further explanations.

3. Principal Construction Material:

☐ Concrete ☐ Hollow Tile ☒ Wood

☒ Other metal and glass

4. Uses Permitted by Zoning:

	No. of Apts.	Use Permitted By Zoning		No. of Apts.	Use Permitted By Zoning
<input checked="" type="checkbox"/> Residential	_____	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Ohana	_____	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<input type="checkbox"/> Commercial	_____	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Industrial	_____	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	_____	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Agricultural	_____	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<input type="checkbox"/> Hotel	_____	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Recreational	_____	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<input type="checkbox"/> Timeshare	_____	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Other: <u>shed for</u> <u>incidental 11</u> <u>greenhouse use and storage</u>	<input checked="" 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:

- [X] Pets: Indoor pets only
- [] Number of Occupants: _____
(a) design review by Review Board for new construction;
- [X] Other: (b) leases for less than 6 months prohibited
(c) time shares prohibited
- [] There are no special use restrictions. (d) industrial and commercial uses are prohibited

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>Net Other Area (sf)</u>	<u>(Identify)</u>
_____	<u>0</u>	_____	_____	_____	_____
_____	<u>0</u>	_____	_____	_____	_____
_____	<u>0</u>	_____	_____	_____	_____
_____	<u>0</u>	_____	_____	_____	_____
_____	<u>0</u>	_____	_____	_____	_____

Total Number of Apartments: 11** **All eleven apartments are greenhouse/storage sheds, the floor area of each of which is 100 square feet.

*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:

Exterior surfaces of outside walls and roof.

Permitted Alterations to Apartments:

Each apartment may be expanded, relocated and altered in owner's discretion, provided that after expansion, relocation or alteration the apartment will be located completely within the designated "buildable area" which is within the limited common area appurtenant to said apartment. The owner may at his or her option amend the Declaration unilaterally to redefine the apartment to conform to the apartment's boundaries as altered, expanded or relocated.

7. Parking Stalls:

*Each apartment will have the right to park vehicles in the
Total Parking Stalls: limited common element appurtenant to said apartment.

	<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)	_____	_____	_____	_____	_____	_____	_____
Guest	_____	_____	_____	_____	_____	_____	_____
Unassigned	_____	_____	_____	_____	_____	_____	_____
Extra for Purchase	_____	_____	_____	_____	_____	_____	_____
Other: _____	_____	_____	_____	_____	_____	_____	_____
Total Covered & Open:	<u>0</u>		<u>0</u>		<u>0</u>		<u> </u>

Each apartment will have the exclusive use of at least 1* parking stall(s).
Buyers are encouraged to find out which stall(s) will be available for their use.

☐ Commercial parking garage permitted in condominium project.

☐ Exhibit _____ 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/Enclosure(s)

☒ Other: Water and sewer services, common driveway area, public beach access, tennis court and unit 11

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 _____
(Date)

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):

11. Conformance to Present Zoning Code

a. ☒ No variances to zoning code have been granted.

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

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

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

	<u>Conforming</u>	<u>Non-Conforming</u>	<u>Illegal</u>
Uses	<u>all</u>	<u> </u>	<u> </u>
Structures	<u>all</u>	<u> </u>	<u> </u>
Lot	<u>yes</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 A.

☐ 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 A.

☐ 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: Each apartment has a 1/11th common interest. The apartment purchasers will actually pay 1/10 of all expenses as long as the association continues to own Unit 11, designated as the custodian's unit.

- 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 B describes the encumbrances against the title contained in the title report dated July 28, 1997

and issued by Old Republic Title and Escrow of Hawaii.

NOTE: The public has the right of access to certain areas in the condominium and the shoreline as shown on the condominium map.

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>
First mortgage dated October 8, 1991, in favor of First Hawaiian Creditcorp., Inc. in the amount of \$5,250,000, recorded in the Land Court as Document No. 1858305	Buyer may lose his or her unit, but buyer's deposit to be refunded, less any escrow cancellation fees.

UCC-1 Financing Statement in favor of First Hawaiian Creditcorp recorded in the
State of Hawaii, Bureau of Conveyances as Document No. 96-179579, further securing the
above mortgage.

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:

There are no warranties

2. Appliances:

There are no warranties

NOTE: The property is subject to risk of tsunami. The County of Maui by issuing building permits assumes no responsibility for damage to any structures from tsunami risks.

NOTE ALSO: The condominium will be subject to additional restrictions under the SMA permit, as described in paragraph 12 of Exhibit B.

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

Construction of all shed units will be complete on June 1, 1998.

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):

(But see item C.6. above concerning each apartment owner's right to alter, expand or relocate each apartment, including the right to construct a residence.)

IV. CONDOMINIUM MANAGEMENT

- A. Management of the Common Elements: The Association of Apartment Owners is responsible for the management of the common elements and the overall operation of the condominium project. The Association may be permitted, and in some cases may be required, to employ or retain a condominium managing agent to assist the Association in managing the condominium project.

Initial Condominium Managing Agent: When the developer or the developer's affiliate is the initial condominium managing agent, the management contract must have a term of one year or less and the parties must be able to terminate the contract on notice of 60 days or less.

The initial condominium managing agent for this project, named on page five (5) of this report, is:

☐ not affiliated with the Developer ☐ the Developer or the Developer's affiliate.
☐ self-managed by the Association of Apartment Owners ☒ Other: The condominium will be
self-managed by the
Board of Directors

B. Estimate of Initial Maintenance Fees:

The Association will make assessments against your apartment to provide funds for the operation and maintenance of the condominium project. If you are delinquent in paying the assessments, a lien may be placed on your apartment and the apartment may be sold through a foreclosure proceeding.

Initial maintenance fees are difficult to estimate and tend to increase as the condominium ages. Maintenance fees may vary depending on the services provided.

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

C. Utility Charges for Apartments:

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

☐ None ☒ Electricity (☒ Common Elements only ☐ Common Elements & Apartments)
☐ Gas (☐ Common Elements only ☐ Common Elements & Apartments)
☒ Water ☒ Sewer ☐ Television Cable
☒ Other: 1. Water and sewer service to the individual apartments will be provided as
a common expense as part of the maintenance fees. In addition, each
apartment's maintenance fees will include charges for water, sewer and
electricity to the common elements, including the custodian's unit.

2. Refuse collection

3. Telephone for custodian's residence

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 D contains a summary of the pertinent provisions of the sales contract.
- ☒ Escrow Agreement dated June 24, 1996
Exhibit E 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 issued an effective date by the Hawaii Real Estate Commission.
 - B) Declaration of Condominium Property Regime, as amended.
 - C) Bylaws of the Association of Apartment Owners, as amended.
 - D) House Rules, if any.
 - E) Condominium Map, as amended.
 - 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. 3575 filed with the Real Estate Commission on July 19, 1996.

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

None.

- 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.

F/B DEVELOPMENT

Printed Name of Developer

By: Hugh J. Farrington
Duly Authorized Signatory

June 30, 1997
Date

HUGH J. FARRINGTON, Partner

Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, County of Maui
Planning Department, County of Maui

EXHIBIT "A"

MAKENA PLACE CONDOMINIUM

DESCRIPTION OF BUILDINGS:

The condominium initially consists of eleven separate greenhouse/storage buildings, each containing one story, one room and a total floor area of 100 square feet. Each building constitutes an apartment, and is located on that portion of the land defined on the Condominium File Plan as a limited common element appurtenant to and for the exclusive use of said apartment. Each building is constructed primarily of glass, metal and wood. Upon expansion, relocation, construction or reconstruction of any apartment by any owner(s) thereof as provided in the declaration, the building containing any apartment may be constructed primarily of any other building material meeting applicable building codes, including but not limited to concrete, masonry, plaster, wood, metal, glass or related materials.

DESCRIPTION OF APARTMENTS:

The condominium shall consist of eleven apartments designated as "Units 1" through "Unit 11", inclusive. Each apartment is a greenhouse/storage building with the following dimensions: 10' x 10'.

Each apartment is unfurnished and has direct access to the limited common element on which the apartment is located, which in turn provides access to the general traffic areas of the common elements which in turn provide access to a public highway (Makena Keoneoio Road).

The boundaries of each apartment shall consist of the exterior finished surface of all exterior walls, roofs, doors, windows and appurtenant structures and also include all foundations and underpinnings, and other appurtenant structures and facilities within said boundaries. The responsibility for maintenance, repair, replacement and reconstruction and insurance of each apartment is delegated to the owner(s) of said apartment, and all of the cost thereof shall be borne by the owner(s) of said apartment, at no cost to the owner(s) of any other apartment or the association.

LOCATION, RELOCATION, AND NUMBERING OF APARTMENTS:

Each apartment is located as shown on the condominium file plan. As provided in Sections D.5. and G.2. of the Declaration, at the option of the owner(s) of each apartment, said apartment may be relocated to any other location within the limited

common element appurtenant to said apartment, and the boundaries of said apartment may be changed, by amendment to the Declaration as provided in Section K.3. of the Declaration; provided however, that (a) all construction in connection therewith shall comply with all applicable zoning and building codes; (b) no portion of the structure comprising an apartment or other structure shall be constructed outside of the boundaries of the area designated for said unit as "buildable area" as shown on the Condominium File Plan (which is within the limited common element appurtenant to said apartment as shown on the Condominium File Plan); and (c) all alterations and new structures shall require the prior approval of the Review Board (which initially will be the Developer or its nominee(s)).

CONVERSION OF GREENHOUSE/STORAGE SHEDS TO RESIDENTIAL DWELLING:

The Declaration specifically permits the conversion of each greenhouse/storage shed apartment to a residential dwelling.

APPROXIMATE FLOOR AREA OF APARTMENTS:

<u>Apartment</u>	<u>Gross Floor Area Measured from the Exterior Surface of Boundary Walls</u>
1	100 square feet
2	"
3	"
4	"
5	"
6	"
7	"
8	"
9	"
10	"
11	"

NOTE: THE FLOOR AREAS SHOWN ARE APPROXIMATE ONLY. THE DECLARANT MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER AS TO THE FLOOR AREA OF ANY PARTICULAR APARTMENT.

COMMON ELEMENTS:

The common elements of the condominium consists of the land described in Exhibit "A", and the common water and sewer facilities any common water and pipes

EXHIBIT "A"
(Page 2 of 3)

serving more than one unit in the condominium, Unit 11 (custodian's apartment), public beach access, public parking, a public shoreline path, tennis court, certain landscaped areas, common roadway access areas and an area of 0.097 acres (at the south end of the property) for native Hawaiian burials, utilities and public and quasi-public uses.

LIMITED COMMON ELEMENTS:

Each apartment has appurtenant to it and for its exclusive use the land described in the condominium file plan as appurtenant thereto. The file plan describes these areas as "Limited Common Element 1" appurtenant to Unit 1, "Limited Common Element 2" appurtenant to Unit 2, and continuing consecutively for each subsequently numbered unit in the same manner through "Limited Common Element 11" appurtenant to Unit 11. Each such area is appurtenant to and for the exclusive use of the apartment which bears the same number designation and which is physically located on said limited common element as shown on the condominium file plan. The boundaries of each limited common element are specifically shown on the condominium file plan and also include the land located underneath the apartment located thereon. A portion of each limited common element is designated as "buildable area".

Maintenance of landscaping in each limited common element will be performed by the association as a common expense.

All physical improvements in the limited common elements (and all visible changes to apartments) shall require prior approval by the Review Board (initially to be the Developer or its nominee(s)).

Limited common elements numbered 2 through 8 are subject to public shoreline access along the "shoreline path" as shown on the condominium map.

EXHIBIT "A"
(Page 3 of 3)

Exhibit "B"

Encumbrances Against Title

1. Real Property Taxes which may be due and owing. Reference is made to the Property Tax Assessor's Office, Department of Finance, County of Maui.
2. Title to all minerals and metallic mines reserved to the State of Hawaii.
3. As to the portion of the land herein described bordering on the ocean:

The effect of Sections 205A-41 to 205A-46, inclusive, and Sections 205A-48 and 205A-49, Hawaii Revised Statutes, as now or hereafter amended, pertaining to shoreline setbacks.

Any adverse claim of the State of Hawaii based upon the contention that some portion of the land hereinafter described lies seaward of the line of vegetation, pursuant to the ruling of County vs. Sotomura (1973) 55 H. 176, 517 P. 2d 57.

4. DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
(TSUNAMI OR STORM WAVE DISTRICT)
Dated: December 1, 1980
Document No.: 1044655

NOTE: The property is subject to tsunami risks. The County of Maui by issuing building permits assumes no responsibility or liability for these risks.

5. AS TO LOT 10-A-2 ONLY:
 - (a) EASEMENT 7
For: Utility purposes
As shown on Map 2
As set forth by Land Court Order No. 63679, filed September 8, 1982.
 - (b) EASEMENT 26
For: Public parking purposes
As shown on Map 6
As set forth by Land Court Order No. 95435, filed October 12, 1989.
 - (c) EASEMENT 27
For: Pedestrian purposes
As shown on Map 6
As set forth by Land Court Order No. 95435, filed October 12, 1989.
 - (d) EASEMENT 28

For: Drainage purposes

As shown on Map 6

As set forth by Land Court Order No. 95435, filed October 12, 1989.

6. EASEMENT 19

For: Drainage purposes

As shown on Map 3

As set forth by Land Court Order No. 68241, filed December 20, 1983.

7. GRANT OF EASEMENT

Dated: November 21, 1983

Document No.: 1220710

In favor of: MAUI ELECTRIC COMPANY, LIMITED, and HAWAIIAN TELEPHONE COMPANY, now known as GTE HAWAIIAN TELEPHONE COMPANY INCORPORATED.

Granting: An easement for utility purposes over Easement 13, as shown on Map 3 (as set forth by Land Court Order No. 68241, filed December 20, 1983).

NOTE: The Developer will obtain a cancellation and release of this easement before closing of the sale of any condominium unit.

8. DEVELOPER'S DECLARATION REGARDING CONDOMINIUM MAP

Dated: August 4, 1988

Document No.: 1570522

9. Terms, provisions, conditions, covenants and reservations as contained in that certain Subdivision Agreement (Three Lots or Less) dated June 16, 1989 and recorded in Book 23317, Page 577.

10. MAKENA ROAD SUBDIVISION DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

Dated: October 16, 1989

Document No.: 1682876

NOTE: The Developer will obtain a release of this encumbrance before closing the sale of any condominium unit.

11. Terms, provisions, conditions, covenants and reservations as contained in that certain Subdivision Agreement (Large Lots) dated March 10, 1992 and recorded as Document No. 92-044726.

12. MORTGAGE

Dated: October 8, 1991
Filed: October 16, 1991
Document No. 185305
Mortgagor: F/B DEVELOPMENT, a Hawaii general partnership.
Mortgagee: FIRST HAWAIIAN CREDITCORP., INC., a Hawaii corporation.

To secure an indebtedness of \$5,250,000.00 and any other amounts payable under the terms thereof.

NOTE: Each condominium unit will be released from the lien of this Mortgage before its sale to a purchaser is closed. See Section III E of this Report.

13. UCC-1 Financing Statement in favor of First Hawaiian Creditcorp, recorded in the State of Hawaii, Bureau of Conveyances as Document No. 96-179579.
14. As required by the Special Management Area Use Permit ("SMA") for Makena Place dated June 17, 1996 issued by the County of Maui Planning Department, the condominium and each apartment will be subject to a Unilateral Agreement and Declaration, to be recorded by Declarant, which sets forth certain terms and conditions which will be binding on all owners and occupants of the property. Said requirements include:
- (a) Compliance with zoning requirements applicable to residential districts under the County of Maui Zoning Ordinance;
 - (b) A prohibition on structures within the 75-foot setback and 40-foot setback as shown on the condominium map;
 - (c) Each future owner is put on notice of coastal and shoreline rules regulating the construction of seawalls or other shoreline hardening structures and that the County of Maui is not obligated to permit or construct such protection;
 - (d) Maintenance of a 4-foot height to the wall fronting the property along the road;
 - (e) Requirement that the developer provide and that the condominium will maintain public beach access and parking area.
15. Unilateral Agreement and Declaration for Conditional Zoning dated September 19, 1996 filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document 2358800.
16. Declaration of Condominium Property Regime of Makena Place dated June 13, 1997, filed as Land Court Document 2392911.

17. Bylaws of Maken Place, dated June 13, 1997, filed as Land Court Document No. 2392912.
18. Condominium Map No. 1202.

Exhibit C
MAKENA PLACE
Estimated Budget

(All apartments have a 1/10 common interest,
and each pays the same common expense amount.)

	Monthly Charges Per Unit**	Monthly for Project	Yearly for Project
Grounds Maintenance	\$ 625.00	\$ 6,250.00	\$ 75,000.00
Building Maintenance (custodian's residence)	20.00	200.00	2,400.00
Trash	10.00	100.00	1,200.00
Pest	30.00	300.00	3,600.00
Water/Sewer	250.00	2,500.00	30,000.00
Maintenance Personnel	260.00	2,600.00	31,200.00
Miscellaneous Supplies	10.00	100.00	1,200.00
Electricity (common elements)	30.00	300.00	3,600.00
Telephone	5.00	50.00	600.00
Audit/Taxes	20.00	200.00	2,400.00
Reserves	100.00	1,000.00	12,000.00
Legal	10.00	100.00	1,200.00
Insurance (common elements)	100.00	1,000.00	12,000.00
 TOTAL:	 \$1,470.00	 \$14,700.000	 \$176,400.00

**Excluding the custodian's residence (Unit 11). All common expenses allocable to that unit will be included in common expense charges of all of the other units.

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

Estimate of Maintenance Fee Disbursements:

Monthly x 12 months = Yearly Total

Utilities and Services

Electricity (common elements only)	300.00	3,600.00
Refuse Collection	100.00	1,200.00
Telephone for custodian's residence	50.00	600.00
Water and Sewer for all apartments	2,500.00	30,000.00

Maintenance, Repairs and Supplies

Building (custodian's residence)	200.00	2,400.00
Grounds	6,250.00	75,000.00
Payroll to Maintenance Personnel and Payroll Taxes	2,600.00	31,200.00
Miscellaneous supplies	100.00	1,200.00

Management	N/A	N/A
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Insurance (common elements and custodian's residence only)	1,000.00	12,000.00
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Reserves(*) (common road areas and custodian's residence)	1,000.00	12,000.00
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Taxes and Government Assessments (custodian's residence)	100.00	1,200.00
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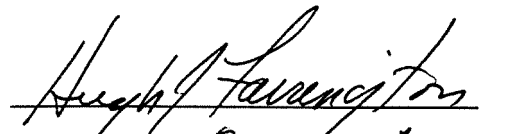
Audit Fees	100.00	1,200.00
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Other

Legal	100.00	1,200.00
Pest Control	300.00	3,600.00

TOTAL:	14,700.00	176,400.00
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I, HUGH J. FARRINGTON, as agent and employed by F/B DEVELOPMENT, the developer, for the condominium project MAKENA PLACE, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.


Date: October 1, 1996

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

NOTICE RE: RESERVES

The Developer, in arriving at the figure for "Reserves" on the attached schedule, has not conducted a reserve study in accordance with Hawaii Revised Statutes, § 514A-83:6 and the replacement reserve rules of Hawaii Administrative Rules, Subchapter 6, Title 16, Chapter 107. In the first fiscal year beginning after the Association's first annual meeting, a reserve study will be conducted and the reserve figures in the Association's budget will be adjusted, if necessary, to meet the mandatory reserve funding requirements under said rules.

EXHIBIT "D"

SUMMARY OF DEPOSIT RECEIPT AND SALES CONTRACT

The Deposit Receipt and Sales Contract contains the price and other terms and conditions under which a purchaser will agree to buy an apartment in the Project. Among other things, the Deposit Receipt and Sales Contract states:

- (a) The total purchase price, method of payment and additional sums which must be paid in connection with the purchase of an apartment.
- (b) That the purchaser acknowledges having received and read a public report (either preliminary or final) for the Project prior to signing the Deposit Receipt and Sales Contract.
- (c) That the Developer makes no representations concerning rental of an apartment, income or profit from an apartment, or any other economic benefit to be derived from the purchase of an apartment.
- (d) That the purchaser's money will be held in escrow, under the terms of the Escrow Agreement.
- (e) Requirements relating to the purchaser's financing of the purchase of an apartment.
- (f) That the apartment and the Project will be subject to various other legal documents which the purchaser should examine, and that the Developer may change these documents under certain circumstances.
- (g) That the Developer makes no warranties regarding the apartment, the Project or anything installed or contained in the apartment or the Project.
- (h) That the Project will be subject to ongoing sales activities which may result in certain annoyances to the purchaser.
- (i) That the purchaser must close the purchase at a certain date and pay closing costs, in addition to the purchase price.
- (j) If the purchaser and Developer agree that the Developer will build a home for purchaser after closing, the sales contract provides for a package price, an agreed amount at closing, and a letter of credit or other security at closing to secure purchaser's obligations to pay the cost of constructing the home. The plans and specifications for the home will be agreed upon in advance.

The Deposit Receipt and Sales Contract contains various other important provisions relating to the purchase of an apartment in the Project. It is incumbent upon purchasers and prospective purchasers to read with care the specimen Deposit Receipt and Sales Contract on file with the Real Estate Commission.

EXHIBIT "D"
(Page 1 of 1)

EXHIBIT "E"

SUMMARY OF ESCROW AGREEMENT

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

- (a) Escrow will let the purchaser know when payments are due.
- (b) Escrow will arrange for the purchaser to sign all necessary documents.
- (c) The purchaser will be entitled to a refund of his or her funds only under certain circumstances as set forth in the Sales Contract.

The Escrow Agreement also establishes the procedures for the retention and disbursement of a purchaser's funds and says what will happen to the funds upon a default under the Sales Contract. The Escrow Agreement contains various other important provisions and establishes certain charges with which a purchaser should be familiar. It is incumbent upon purchasers and prospective purchasers to read with care the executed Escrow Agreement on file with the Real Estate Commission.