

CONDOMINIUM PUBLIC REPORT

Prepared &

Issued by: Developer David Wayne Lanz and Sharon Sue Lanz
Address 68-099 Au Street, Apt. #8, Waialua, Hawaii 96791

Project Name(*): NAUPAKA
Address: 68-099 Au Street, Waialua, Hawaii 96791

Registration No. 3578 (Conversion)

Effective date: August 21, 1996

Expiration date: September 21, 1997

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 governmental 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
(yellow) has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report. A Final Public Report will be issued when complete information is filed.

X **FINAL:** The developer has legally created a condominium and has filed
(white) complete information with the Commission.

- [X] No prior reports have been issued
- [] Supersedes all prior public reports
- [] Must be read together with _____

_____ **SUPPLEMENTARY:** Updates information contained in the
(pink) [] Prelim. Public Report dated _____
[] Final Public Report dated _____
[] Supp. Public Report dated _____

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

(*) Exactly as named in the Declaration

Disclosure Abstract: Separate Disclosure Abstract on this condominium project:

[X] Required [] Not Required - disclosures covered in this report.
and attached herein as Exhibit H

Summary of Changes from Earlier Public Reports:

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

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

[] Changes made are as follows:

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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 apartment owners be accomplished in an orderly manner and in a spirit of cooperation.

I. PEOPLE CONNECTED WITH THE PROJECT

Developer: David Wayne Lanz and Sharon Sue Lanz
Name
68-099 Au Street
Business Address
Waialua, Hawaii 96712

Phone: (808) 637-6191
(Business)

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

Real Estate
Broker: The Developer intends to sell the
Name units as owner (see page 20)
Business Address

Phone: _____
(Business)

Escrow: Old Republic Escrow Corporation
Name
55 Merchant Street, 17th Floor
Business Address
Honolulu, Hawaii 96813

Phone: (808) 566-0100
(Business)

General
Contractor: N/A
Name
Business Address

Phone: _____
(Business)

Condominium
Managing
Agent: Self-Managed by the Association
Name of Apartment Owners
Business Address

Phone: _____
(Business)

Attorney for
Developer: Jeffrey S. Grad
Name
841 Bishop Street, Suite 1800
Business Address
Honolulu, Hawaii 96813

Phone: (808) 521-4757
(Business)

**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. 96-077765
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. 2408
- 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. 96-077766
- Filed - Land Court Condo Map 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 individual apartments. 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.

See attached Exhibit "A"

III. THE CONDOMINIUM PROJECT

A. Interest to be Conveyed to Buyer:

- Fee Simple: Individual apartments and the common elements, which include the underlying land, will be in fee simple.
- Leasehold or Subleasehold: Individual apartments and the common elements, which includes 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 Apartment 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: 68-099 Au Street Tax Map Key: (1) 6-8-11-51
Waialua, Hawaii 96712 (TMK)

[] Address [] TMK is expected to change because _____

Land Area: 10,302 [X] square feet [] acre(s) Zoning: **A-1**

Fee Owner:

David Wayne Lanz and Sharon Sue Lanz
Name

68-099 Au Street
Address

Waialua, Hawaii 96712

Sublessor: _____
Name

Address

C. Buildings and Other Improvements:

- 1. [] New Building(s) [**X**] Conversion of Existing Building(s)
[] Both New Building(s) and Conversion

- 2. Number of Buildings: 1 Floors Per Building 2
[] Exhibit _____ contains further explanations.

3. Principal Construction Material:

- [] Concrete [] Hollow Tile [**X**] Wood
- [] Other _____

4. Permitted Uses by Zoning:

| | No. of <u>Apts.</u> | Use Permitted <u>By Zoning</u> | No. of <u>Apts.</u> | Use Determined <u>By Zoning</u> |
|--------------------------|------------------------|-----------------------------------|------------------------|------------------------------------|
| [X] Residential | <u>10</u> | [X] Yes [] No [] Ohana | _____ | [] Yes [] No |
| [] Commercial | _____ | [] Yes [] No [] Industrial | _____ | [] Yes [] No |
| [] Mix Res/Comm | _____ | [] Yes [] No [] Agricultural | _____ | [] Yes [] No |
| [] Hotel | _____ | [] Yes [] No [] Recreational | _____ | [] Yes [] No |
| [] Timeshare | _____ | [] Yes [] No [] Other | _____ | [] Yes [] No |

Is/Are this/these use(s) specifically permitted by the project's Declaration or Bylaws?
[**X**] Yes [] No

5. Special Use Restrictions:

The Declaration, Bylaws, and House Rules may contain restrictions on the use and occupancy of the apartments. Restrictions for this condominium project include but are not limited to:

- [X] Pets: Permitted in reasonable number
- [] Number of Occupants: _____
- [] Other: _____
- [] There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators -0- Stairways -1- Trash Chutes -0-

| Apt. Type | Quantity | BR/Bath | Net Living Area (sf)* | Lanai/Patio (sf) |
|-----------|----------|---------|-----------------------|------------------|
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |

SEE ATTACHED EXHIBIT "A-1"

Total Apartments: 10

*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 spaces within the perimeter walls, floors and ceilings of each residential dwelling, excluding (a) the undecorated or unfinished surfaces of the perimeter walls or interior load-bearing walls or partitions, (b) the foundations, columns, girders, beams, floor slabs, supports, roofs, skylights and ceilings located within or at the perimeter of or surrounding such dwelling, (c) any utility or service lines or enclosed spaces for them running through or otherwise located within such dwelling which are utilized for or serve more than one dwelling, or (d) any mechanical, electrical and air conditioning equipment originally installed and located within such dwelling utilized for or serving more than one dwelling. Each dwelling shall also include (a) all of the walls and partitions which are not load-bearing and which are within its perimeter walls, (b) the inner decorated or finished surfaces of all walls, floors, roofs and ceilings (other than skylights, if any); (c) all glass windows (other than skylights, if any), window frames (other than skylight frames, if any), louvers, shutters (if any), panels, doors and door frames along its perimeter; (d) any mechanical, electrical and air conditioning equipment originally installed and located within such dwelling utilized for or serving only such dwelling; the lanai (if any) shown on the Condominium Map to the inner decorated or finished surfaces of the exterior perimeter walls of such lanai and to the exterior edge of the exterior railings of such lanai; and (e) all of the fixtures and appliances originally installed therein, including the carpets, kitchen and other appliances and sinks and bathroom fixtures originally installed therein.

Permitted Alterations to Apartments:

See attached Exhibit "B"

7. Parking Stalls:

Total Parking Stalls: 10

| | <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 units) | _____ | <u>10</u> | _____ | _____ | _____ | _____ | <u>10</u> |
| Guest Unassigned | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
| Extra for Purchase | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
| Other: | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
| Total Covered & Open | <u>10</u> | | <u>-0-</u> | | <u>-0-</u> | | |

Each apartment will have the exclusive use of at least one (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
- 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):

The present condition of all structural components and mechanical and electrical installation material to the use and enjoyment of the Project appears to be good. No warranty is made as to the expected useful life of the Project.

11. Conformance to Present Zoning Code

a. No variances to zoning code have been granted.

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

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

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

| | <u>Conforming</u> | <u>Non-Conforming</u> | <u>Illegal</u> |
|------------|-------------------|-----------------------|----------------|
| Uses | <u> X </u> | _____ | _____ |
| Structures | <u> X </u> | _____ | _____ |
| Lot | <u> X </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 C .

as follows:

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

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

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

[X] described in Exhibit D

[] as follows:

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

[X] described in Exhibit A-1.

[] as follows:

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

Exhibit E describes the encumbrances against the title contained in the title report dated June 5, 1996 and issued by Old Republic Title & Escrow of Hawaii.

Blanket Liens:

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

- [] There are no blanket liens affecting title to the individual apartments.
[*] There are blanket liens which may affect title to the individual apartments.

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

| <u>Type of Lien</u> | <u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance</u> |
|---------------------|--|
| Mortgages | Buyer's interest may be terminated by mortgagee but Buyer shall be entitled to return of his deposit less escrow cancellation fees. |

F. Construction Warranties:

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

1. **Building and Other Improvements:**

Seller is selling the Project together with the appliances and other personal property in "as is" condition. The Seller is giving no warranties to Purchaser with respect to the construction, materials or workmanship of the Project.

2. **Appliances:**

Purchaser shall have the direct benefit of any manufacturer's or dealer's warranties covering the furnishings and appliances in the Apartments.

G. Status of Construction and Estimated Completion Date:

The Project was constructed in 1973.

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 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

[X] Specimen Sales Contract

Exhibit F contains a summary of the pertinent provisions of the sales contract.

[X] Escrow Agreement dated May 22, 1996

Exhibit G contains a summary of the pertinent provisions of the escrow agreement.

[] Other _____

B. Buyer's Right to Cancel Sales Contract:

1. Rights Under the Condominium Property Act (Chapter 514A, HRS):

Preliminary Report: Sales made by the developer are not binding on the prospective buyer. Sales made by the Developer may be binding on the developer unless the Developer clearly states in the sales contract that sales are not binding. A prospective buyer who cancels the sales contract is entitled to a refund of all moneys paid, less any escrow cancellation fee up to \$250.00

Supplementary Report to a Preliminary Report: Same as for Preliminary Report.

Final Report, 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 condominium 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, as amended.
- C) Bylaws of the Association of Apartment Owners.
- D) House Rules (none).
- E) Condominium Map.
- F) Escrow Agreement.
- G) Hawaii's Condominium Law (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 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. 3578 filed with the Real Estate Commission on July 15, 1996.

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C. Additional Information Not Covered Above

Disclosure re: Selection of Real Estate Broker

This public report shall not bind a purchaser to the sale of any apartment until (1) the Developers first submit to the Real Estate Commission a duly executed disclosure abstract identifying the designated sales agent, and a duly executed copy of broker listing agreement with a Hawaii-licensed real estate broker, and (2) gives a copy of said disclosure abstract to the purchaser together with a copy of the Public Report.

If the Developer(s), as the owners, choose to represent themselves in the sale of an apartment, said abstract need not be given to the purchaser, as all necessary disclosure are covered in this report.

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.

David W. Lanz and Sharon S. Lanz

Name of Developer

By

David W. Lanz
Duly Authorized Signatory

May 22, 1996
Date

David W. Lanz

print name & title of person signing above

Distribution:

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

EXHIBIT "A"

DEVELOPER'S RESERVED RIGHTS

The Developer (Declarant) has reserved the following rights to change the Declaration, Condominium Map, By-Laws or House Rules:

1. Paragraph 23 of the Declaration states:

"Except as otherwise provided herein or in the Act, this Declaration may be amended by the affirmative vote or written consent of the owners of apartments to which are appurtenant at least seventy-five percent (75%) of the common interests. Any amendment shall be effective only upon the recording in the Recording Offices of an instrument setting forth such amendment and vote, duly executed by the proper officers of the Association. Notwithstanding the foregoing, at any time prior to the filing or recording in the Recording Offices of the first apartment deed or other conveyance conveying an apartment and its appurtenances or any interest therein to a party not a signatory to this Declaration and other than to any mortgagee of the Declarant, the Declarant hereby reserves the right to amend this Declaration, the By-Laws and the Condominium Map in any manner, without the approval, consent or joinder of any purchaser of an apartment or any interest therein.

Notwithstanding the foregoing and until the filing or recording in the Recording Offices of apartment deeds or other conveyances conveying all of the apartments in the Project to parties not a signatory to this Declaration and other than to any mortgagee of the Declarant, the Declarant hereby reserves the right to amend this Declaration, the By-Laws and the Condominium Map, without the approval, consent or joinder of any owner, mortgagee or purchaser of an apartment or any interest therein, to make such amendments as may be required by law, by the Real Estate Commission of the State of Hawaii, by any title insurance company issuing a title insurance policy on the Project or any of the apartments or any interest therein or by any governmental agency of any state, territory, possession or foreign country or other foreign jurisdiction as a condition precedent to the marketing or sale of apartments or any interests therein in any such jurisdiction; provided, however, that no such amendment which would change the common interest appurtenant to an apartment or substantially change the design, location or size of an apartment or the building in which it is located shall be made without the consent to such amendment by all persons having an interest in such apartment.

Notwithstanding the foregoing and notwithstanding the recording of any or all apartment deeds or other conveyances conveying any or all of the apartments or any or all interests therein to any person, the Declarant hereby reserves the right to successively amend this Declaration (including the By-Laws and,

when applicable, the Condominium Map), without the approval, consent or joinder of any owner, mortgagee or purchaser of an apartment or any interest therein or any of the persons then owning, leasing, renting, or occupying any apartment or any interest therein, to file the "as-built" verified statement (with plans, if applicable) required by Section 514A-12 of the Act, (i) so long as such statement is merely a verified statement of a registered architect or professional engineer certifying that the final plans theretofore filed or being filed simultaneously with such amendment fully and accurately depict the layout, location, apartment numbers and dimensions of the apartments as built, or (ii) so long as any plans filed therewith involve only immaterial changes to the layout, location, apartment numbers or dimensions of or other changes to the apartments or common elements as built which the Declarant is permitted to make in accordance with paragraph (b) of Section 20 of this Declaration."

EXHIBIT "A-1"

| <u>Apt. No.</u> | <u>BR/Bath</u> | <u>Net Living Area (sf)</u> | <u>Common Interest (%)</u> |
|-----------------|----------------|-----------------------------|----------------------------|
| 1 | 2/1 | 581 | 10.9 |
| 2 | 2/1 | 561 | 10.5 |
| 3 | 2/1 | 586 | 10.9 |
| 4 | 1/1 | 374 | 7.0 |
| 5 | 1/1 | 374 | 7.0 |
| 6 | 2/1 | 579 | 10.9 |
| 7 | 2/1 | 561 | 10.5 |
| 8 | 2/1 | 586 | 10.9 |
| 9 | 2/1 | 565 | 10.6 |
| 10 | 2/1 | 579 | 10.8 |

EXHIBIT "B"

PERMITTED ALTERATIONS TO APARTMENTS.

1. Paragraph 21 of the Declaration states:

"Except as otherwise provided in this Declaration, replacement or restoration of the Project or of any building, swimming pool or other facility or construction of any additional building or any material structural alteration or material addition to any structure, shall be undertaken by the Association or any apartment owners only pursuant to an amendment of this Declaration, pursuant to the affirmative vote or written consent of seventy-five percent (75%) of the apartment owners and in accordance with complete plans and specifications, and promptly upon completion of such replacement, restoration or construction, the Association shall record such amendment, together with a complete set of floor plans of the Project as so altered, certified as built by a registered architect or professional engineer; PROVIDED, HOWEVER, that notwithstanding any other provision in this Declaration to the contrary, the owner of any apartment may make any alterations or additions within any apartment and the owner of any two or more apartments separated by a common element which is a wall may alter or remove all or portions of the intervening wall, if the structural integrity of the building is not thereby affected and if the finish of the common element then remaining is then restored to a condition substantially comparable to that of the common element prior to such alterations. Such alterations or additions within any apartment or apartments shall require only the written approval thereof, including the apartment owner's plans therefor, by the holders of first mortgage liens affecting such apartments (if the lien holders require such approval), by the appropriate agencies of the State of Hawaii and the County of Hawaii if such agencies so require, by the Board of Directors (which approval shall not be unreasonably or arbitrarily withheld or delayed), and by all other apartment owners thereby directly affected (as determined in a reasonable manner by the Board of Directors), and such alterations or additions may be undertaken without an amendment to this Declaration or filing of a complete set of floor plans of the Project as so altered. Prior to the termination of the common ownership of any such adjacent apartments, if the intervening wall shall have been altered or removed pursuant to the foregoing provisions and any entry to hallways sealed, the owner of such apartments shall be obligated to restore such intervening wall and hallway entries to substantially the same condition in which the same existed prior to such alteration or removal. For the purpose of this paragraph, the materiality of any such modification shall be determined pursuant to and in accordance with the criteria for determining materiality as set forth in Section 514A-89 of the Condominium Property Act, as amended from time to time.

Notwithstanding any other provision in this Declaration or the By-Laws to the contrary, prior to: (i) the time that all apartments in the Project have been sold pursuant to an instrument filed in the Recording Offices, and (ii) the filing by the Declarant of the as-built verified statement (with plans, if applicable) required by Section 514A-12 of the Condominium Property Act (but in no event later than January 1, 2005), the Declarant shall have the right to make alterations in the Project (and to amend this Declaration and the Condominium Map accordingly) without the approval, consent or joinder of any apartment owner, which alterations: (i) change the configuration of, alter the number of rooms of, decrease or increase the size of, or change the location of any apartment (and any limited common elements appurtenant thereto) in the Project which is not sold pursuant to an instrument filed in the Recording Offices; or (ii) make minor changes in any apartment or in the common elements which do not affect the physical location, design or size of any apartment which has been sold pursuant to an instrument filed in the Recording Offices; PROVIDED, HOWEVER, that any such changes shall be reflected in an amendment to the Declaration as provided in paragraph (c) of Section 23 of this Declaration. As used herein, "sold pursuant to an instrument filed in the Recording Offices" shall mean and refer to the sale of apartments in the Project, and recording in the Recording Offices, of apartment deeds or other conveyances transferring interests in the apartments from the Declarant to parties not signatory to this Declaration."

EXHIBIT "C"

COMMON ELEMENTS. Paragraph 6 of the Declaration designates certain portions of the Project as "common elements", including specifically but not limited to:

- (1) The Land in fee simple;
- (2) The foundations, columns, girders, beams, floor slabs, supports, unfinished perimeter, party and load-bearing walls and partitions, roofs, exterior skylights, stairways, walkways, corridors, ramps, fences (if any), trellises, store rooms (which are not within any apartment or made specifically appurtenant to such apartment) and mail boxes, mechanical rooms, entrances, entry ways and exits of all buildings of the Project;
- (3) All yards, grounds, planting areas, planters, walkways, balconies, walkway railings, landscaping, refuse facilities, gardens, and all other facilities and appurtenances;
- (4) All roads, driveways, driveway ramps and parking areas;
- (5) All ducts, vents, shafts, sewer lines, sewage treatment equipment and facilities (if any), elevator, electrical equipment, telephone equipment (if a telephone switchboard and related facilities is provided), pipes, wiring and other central and appurtenant transmission facilities and installations over, under and across the Project which serve more than one apartment for services such as power, light, water, gas (if any), cablevision (if any), air conditioning (if any), sewer, refuse, telephone, and radio and television signal distribution;
- (6) Any and all apparatus and installations existing for common use, such as tanks, pumps, motors, fans, compressors and, in general, all other installations and apparatus existing for common use;
- (7) All mechanical and electrical equipment originally installed and located within any apartment or located elsewhere in the Project utilized for or serving more than one apartment;
- (8) Any and all other apparatus and installation of common use and all other parts of the Project necessary or convenient to its existence, maintenance or safety, or normally in common use.
- (9) Each "common area", as shown on the Condominium Map.
- (10) The "Laundry Area", as shown on the Condominium Map.
- (11) The "storage area - 33 sq. ft.).

EXHIBIT "D"

LIMITED COMMON ELEMENTS. Paragraph 5 of the Declaration designates:

Certain parts of the common elements, herein called and designated limited common elements, are hereby set aside and reserved for the exclusive use of certain apartments and such apartments shall have appurtenant thereto exclusive easements for the use of such limited common elements. The limited common elements so set aside and reserved are as follows:

(1) Any entrance, exit, gateway, entry, patio, yard, driveway or steps which would normally be used only for the purposes of ingress to and egress from a specific apartment shall be a limited common element appurtenant to and reserved for the exclusive use of such apartment.

(2) Each of the ten (10) parking stalls designated on the Condominium Map by a number shall be a limited common element appurtenant to and reserved for the exclusive use of the Apartment which bears the same number as the parking stall, as shown on the Condominium Map.

(3) Each of Apartments 1, 2, 3, 4 and 5 (which are located on the first floor of the Building) shall each have for its exclusive use that limited common area which is located adjacent to their respective apartments, as indicated on the Condominium Map.

(4) Apartment 3 shall have the exclusive use of that area of approximately 18 square feet located adjacent to it.

(5) Apartment 8 shall have the exclusive use of that area of approximately 18 square feet located adjacent to it.

EXHIBIT "E"

ENCUMBRANCES AGAINST TITLE

1. For Real Property Taxes that may be due and owing, reference is made to the Office of the Tax Assessor, City and County of Honolulu.
2. Title to all minerals and metallic mines reserved to the State of Hawaii.
3. Restrictions, covenants and conditions as contained in Deed dated August 2, 1963, recorded in the Bureau of Conveyances of the State of Hawaii in Book 4568, Page 346.
4. Mortgage dated May 9, 1990, recorded in said Bureau as Document No. 90-069092.
5. Assignment of Lessor's Interest in Leases and Rents dated May 9, 1990, recorded as Document No. 90-069091.
6. Declaration of Condominium Property Regime dated May 22, 1996, recorded in said Bureau as Document No. 96-077765 (Project covered by Condominium File Plan No. 2408). By-Laws dated May 22, 1996, recorded as Document No. 96-077766.

EXHIBIT "F"

SUMMARY OF THE PROVISIONS OF THE RESERVATION AND SALES AGREEMENT ("Sales Agreement")

1. Description of the Property to be Conveyed: Fee simple title to the Dwelling and an undivided interest 25% in the common elements.

2. Purchase Price and Terms. The purchase price set forth on page 3 of the Sales Agreement is to be paid as follows:

a. An initial deposit;

b. The balance of the purchase price (due 1 day before the scheduled closing date.

3. Financing of Purchase. Sub-paragraph V.B-2(b) (Page 8) of the Sales Agreement provides if Buyer desires financing, the Buyers must have a loan application within ten (10) business days after Seller signs the Sales Agreement. If Buyer's application is rejected or not approved within thirty (30) days after the application (assuming it is filed timely) or if Seller is not satisfied with Buyer's ability to buy without financing, then in either event, Seller (but not Buyer) may cancel the Sales Contract. Upon such cancellation, Buyer's deposits (less escrow cancellation fee and costs of the Seller) will be refunded by escrow without interest.

4. Closing Costs. At closing, the Buyer is required to pay all escrow fees, all notary fees, all conveyance taxes, all appraisal fees, all recording fees, all costs of preparing any mortgages or notes and all title insurance costs. Buyer will also pay a start-up fee and two months advance maintenance fees.

5. Closing. The closing date will be set by Seller alone. However, Seller shall give Buyer at least ten (10) days prior notice. Closing date will not be any earlier than ten (10) days after Seller signs the Sales Agreement and Seller may postpone closing for up to thirty (30) days.

6. Seller's Rights to Cancel Sales Contract. The Seller may cancel the Sales Contract with the Buyer if (a) Buyer fails to qualify for a loan if Buyer is seeking a loan; (b) Seller is not satisfied with Buyer's ability to pay cash for the Apartment if Buyer is not selling a loan; (c) Buyer defaults under the Sales Contract; or (d) Buyer transfers his rights in the Sales Agreement without consent of Seller; or (e) Buyer dies before closing.

7. Seller's rights on Buyer's default. Pursuant to Sub-paragraph V.G-2 of the Sales Agreement, if Buyer fails to make any required payment or perform other obligations, then the Seller may cancel the Sales Contract and keep all sums previously paid by Buyer as liquidated damages. Additionally, Seller may

pursue any other remedy, and all costs, including reasonable attorney's fees, incurred by reason of default by the Buyer shall be borne by the Buyer. Time is considered to be the essence of the Sales Agreement.

8. No Present Transfer and Subordination to Construction Loan.

The Sales Contract provides that it does not transfer any interest in the Property to the Buyer. It further provides that it may be subject to existing or future loans made by the Seller, and any security interest now or hereafter obtained by a Lender whose interest is or will be prior and senior to any rights arising under the Sales Contract. Buyer is obligated to subordinate the purchaser's right under the Sales Contract to loans now or hereafter made by the Seller, as set forth in Sub-paragraph V.A-5 of the Sales Agreement.

8. Rights of Buyer to Cancel the Sales Contract. The Buyer has the right to cancel the Sales Contract if Seller fails to perform its obligations under the Sales Agreement. Buyer's only other remedy will be to seek specific performance requiring Seller to sell the Apartment to the Buyer.

9. Project Documents. Paragraph 10 of the Sales Agreement provides that the Buyer acknowledges that the Buyer has examined (and agrees to be bound) by the following:

- (a) The plans and specifications for the Project;
- (b) Escrow Agreement;
- (c) The Declaration of Condominium Property Regime, By-Laws of the Association of Apartment Owners;
- (d) The form of Apartment Deed; and
- (e) The Final or Supplementary Public Report.

EXHIBIT "G"

SUMMARY OF THE MATERIAL PROVISIONS OF THE ESCROW AGREEMENT

Summary of the Condominium Escrow Agreement between the Developer and Old Republic Title & Escrow of Hawaii.

1. All deposits will be paid to Escrow. A copy of each Sales Contract and all payments made to purchase an Apartment shall be turned over to the Escrow Agent.

2. Refunds. A Buyer shall be entitled to a return of his funds, and Escrow shall pay such funds to such Buyer, without interest, in accordance with the Sales Contract if any of the following has occurred:

(a) Developer and the purchaser shall have requested Escrow in writing to return to purchaser the funds of purchaser held hereunder by Escrow; or

(b) Developer shall have notified Escrow of Developer's exercise of the option to cancel or rescind the sales contract pursuant to any right of cancellation or rescission provided therein or otherwise available to Developer; or

(c) With respect to a purchaser whose funds were obtained prior to the issuance of the Final Report, the purchaser has exercised his right to cancel the contract pursuant to Section 514A-62, Hawaii Revised Statutes, as amended; or

(d) A purchaser has exercised his right to rescind the contract pursuant to Section 514A-63, Hawaii Revised Statutes, as amended.

Upon such refund, Escrow Agent shall be entitled to a reasonable fee not less than \$25 or a fee commensurate with the work done by Escrow prior to cancellation.

3. Requirements Prior to Disbursement of Buyer's Funds. Escrow Agent shall make no disbursements of Buyer's funds, pursuant to paragraph 5 of the Escrow Agreement until all of the following have occurred:

(a) the Real Estate Commission has issued a final public report (the "Final Report") on the Project;

(b) Seller or Seller's attorney has given a written opinion to Escrow stating that all of the requirements of Sections 514A-39, 514A-62 and 514A-63 of the Hawaii Revised Statutes, then applicable to the Project, have been satisfied and if the project is a conversion project, that the requirement of Section 514A-38 have been met.

(c) Seller shall have given Escrow a written waiver of any option reserved in any sales contract to cancel such sales contract;

4. Purchaser's Default. Seller must notify Escrow in writing if Purchaser defaults, and must certify that Seller has cancelled the Purchaser's Sales Contract. After such cancellation Escrow will treat the Purchaser's funds less Escrow's cancellation fees as belonging to the Seller.

EXHIBIT "H"

DISCLOSURE ABSTRACT

1. (a) PROJECT: NAUPAKA
68-099 Au Street
Waialua, Hawaii 96791
- (b) DEVELOPER: David Wayne and Sharon Sue Lanz
68-099 Au Street
Waialua, Hawaii 96791

Telephone: (808) 637-6191
- (c) MANAGING
AGENT: Self-Managed by the Association
of Apartment Owners
2. Breakdown of annual maintenance fees and monthly estimate costs for each unit are more fully described on Exhibit "1" attached hereto (revised and updated every twelve (12) months and certified to have been based on generally accepted accounting principles).
3. DESCRIPTION OF ALL WARRANTIES COVERING THE UNITS AND COMMON ELEMENTS:

The Developer is not making any warranties relating to the materials and workmanship of Unit the Project.
4. USE OF UNITS. The NAUPAKA Condominium Project will consist of ten (10) apartments which will be used for residential purposes by the respective owners thereof, their tenants, families and domestic servants and social guests, and for no other purpose.
5. EXISTING STRUCTURES BEING CONVERTED. Based upon a report prepared by EDWARD A. RESH, Registered Professional Architect, the Developer states:
 - a. The present conditions of all structural components and mechanical and electrical installation material to the use and enjoyment of the Project appears to be good.
 - b. The Developer makes no statement with respect to the expected useful life of each item set forth in paragraph (a); and
 - c. There are no outstanding notices of uncured violations of building code or other municipal regulations.

