

CONDOMINIUM PUBLIC REPORT

Prepared &

Issued by: Developer Derrick Steven McCrary

Address HCR 1 Box 5734 Kaaau, Hawaii 96749

Project Name (\*): SUNRISE

Address: Lot 69, Orchidland Estates Block H-H-H of Map 53 Puna District

Island, County and State of Hawaii

Registration No. 3634

Effective date: April 22, 1997

Expiration date: May 22, 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 at 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 REPORT: 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. Public Repair will be issued by developer when complete information is filed.  
(Yellow)

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

     SUPPLEMENTARY: This report updates information contained in the:  
(Pink)  
 Preliminary Public Report dated: \_\_\_\_\_  
 Final Public Report dated: \_\_\_\_\_  
 Supplementary Public Report dated: \_\_\_\_\_

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

(\*) Exactly as named in the Declaration

Disclosure Abstract Separate Disclosure Abstract on this condominium project:

Required and attached to this report

Not Required -disclosures covered in this report.

Summary of Changes from Earlier Public Reports:

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

No prior reports have been issued by the developer.

Changes made are as follows:

SPECIAL NOTICE:

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

1. This public Report does not constitute an approval of the project nor that all County codes, ordinances and subdivision requirements have been complied with. Subsequent development and use shall comply with all applicable County Codes and ordinances.
2. This project dose not involve the sale of individual subdivided lots. Dotted lines within the interior boundaries of the lot as they appear on Condominium Map denote the areas designated as limited common elements and do not indicate subdivided lots.
3. Faculties and improvements normally associated with County approved subdivision, such as fire protection devices, County street lighting, electricity, ungraded water facilities, improved access for owner and emerging traffic, drainage facilities, etc., may not necessarily be provided for, and services such as County street maintenance and trash collection will not be available for interior roads and driveways.

THE PROSPECTIVE PURCHASER CAUTIONED TO CAREFULLY REVIEW THE CONDOMINIUM DOCUMENTS FOR FURTHER INFORMATION WITH REGARD TO THE FOREGOING.

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### General Information On Condominium

A condominium is a special form of real property. To create a condominium in Hawaii, the requirements of the Condominium Property Act, Chapter 5 14A, 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.

1. PERSONS CONNECTED WITH THE PROJECT

Developer: Derrick Steven McCrary Phone: 808-966-7311  
Name ( Business)  
HCR 1 Box 5734 Keaau, Hawaii 96749  
Business Address

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

N/A

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

Real Estate  
Broker: Developer as Owner- See Page 20 Phone: 808-966-7311  
Name Business  
HCR 1 Box 5734 Keaau, Hawaii 96749  
Business Address

Escrow: Security Title Corporation Phone: 808-521-9511  
Name Business  
1001 Bishop Street Suite 1200  
Honolulu, Hawaii 96813  
Business Address

General  
Contractor: N/A Phone: \_\_\_\_\_  
Name Business  
\_\_\_\_\_  
Business Address

Condominium  
Managing  
Agent: Self Managed by the Association Phone: \_\_\_\_\_  
Name Business  
\_\_\_\_\_  
Business Address

Attorney for  
Developer: N/A Phone: \_\_\_\_\_  
Name Business  
\_\_\_\_\_  
Business Address

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, FIRS). the Declaration, Bylaws, and House Ruin 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:

Filed - Land Court:

Document No.

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

Document No. 2327660

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. 1162

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:

Filed - Land Court:

Document No.

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

Document No. 2327661

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:

C ] Proposed            [ ] Adopted        [x ] 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>	This Condominium
Declaration	75%	<u>100%</u>
By-Laws	65%	<u>65%</u>
House Rules	—	<u>N/A</u>

\* The percentages for individual condominium projects may be more with *five* or fewer apartments.

2. Developer  
than the minimum set by law for projects

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

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

III. THE CONDOMINIUM PROJECT

A. Interest to be Conveyed to Buyer:

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

Leasehold or Sublease hold: 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 die 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 Term Payable:                     Monthly                     Quarterly  
    Semi-Annually                     Annually

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

For Sublease holds:

Buyer's sublease may be canceled if the master lease between the sublesor 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 Sublease hold:

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 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: Lot 69, Orchidland Estates Block H-H-H of Map 53 Tax Map Key: (3) 1-6-064-028  
Puna District Island County and State of Hawaii

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

Land Area: 2.00 \_\_\_\_\_  square feet  acre(s) Zoning: A-3a

Fee Owner: Derrick Steven McCrary  
 Name  
HCR 1 Box 5734 Keaau, Hawaii 96749  
 Address

Sublessor: N/A  
 Name  
 \_\_\_\_\_  
 Address

C. Builders and Other Improvements:

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

2. Number of Buildings: 2 Floors Per Building 1

Exhibit \_\_\_\_\_ contains further explanations.

3. Principal Construction Material:

Concrete  Hollow Tile  Wood

Other

4. Permitted Uses by Zoning:

	No. of Use Permitted <u>Apts</u> <u>By Zoning</u>		No. Of Use Determined <u>Apts.</u> <u>By Zoning</u>
<input type="checkbox"/> Residential _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Ohana _____	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Commercial _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Industrial _____	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Mix Res/Com _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Agricultural <u>2</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Hotel _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Recreational _____	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Timeshare _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Other: _____	<input type="checkbox"/> Yes <input type="checkbox"/> No

Is/Are this/these use(s) specifically permitted by the project's Declaration or Bylaws?

Yes  No

5. Special Use Restrictions:

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

Pets: \_\_\_\_\_

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

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

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: N/A Stairways: N/A Trash Chutes: N/A

<u>Apt.</u> <u>Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net</u> <u>Living Area:</u>	<u>Lanai/Patio (sf)</u>
<u>Unit 1</u>	<u>1</u>	<u>2/3</u>	<u>1064</u>	_____
<u>Unit 2</u>	<u>1</u>	<u>2/2</u>	<u>1120</u>	_____

Total Apartments: 2

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

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

Boundaries of Each Apartment: See Exhibit "A"

Permitted Alterations to Apartments: As noted in the Declaration, individual unit owners may, at their sole discretion and at their own expense, remodel, expand or otherwise alter their unit, provided said alterations are in done in complete accordance with all applicable ordinances, codes, rules, regulations and other requirements in force at the time of said construction.

7. Parking Stalls:

Total Parking Stalls: <u>4</u>					
	Regular	Compact	Tandem		
	<u>covered</u>	<u>covered</u>	<u>covered</u>	<u>open</u>	<u>open</u>
TOTAL					
Assigned (for each unit)	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>
Guest	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>
Unassigned	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>
Extra for	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>
Purchase	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>
Other:	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>
Total					
Covered & Open	<u>  4  </u>	<u>  0  </u>	<u>  0  </u>		<u>  4  </u>

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

- Commercial parking garage permitted in condominium project.
- Exhibit \_\_\_\_\_ 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 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>  X  </u>	<u>          </u>	<u>          </u>
Structures	<u>  X  </u>	<u>          </u>	<u>          </u>
Lot	<u>  X  </u>	<u>          </u>	<u>          </u>

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

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

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

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

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

described in Exhibit   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:

NOTE: Land areas referenced herein are NOT legally subdivided lots.

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 unit and its owner(s) shall have appurtenant thereto a one-half (1/2) fractional interest (50.0) percentage interest in the common elements of the Project, for all purposes including voting, said interest being referred to as the "common interest".

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

Exhibit B describes the encumbrances against the title contained in file title report dated September 4<sup>th</sup> 1996 and issued by Island Title Corporation.

Blanket Liens:

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

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

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

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

Type of Lien

Effect on Buyer's Interest and Deposit if Developer Defaults  
or Lien is Foreclosed Prior to Conveyance

Mortgage

Buyer's interest may be terminated by Mortgagee, but Buyer shall be entitled to return of the deposit money less escrow cancellation fee.

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:** All improvements are sold "as is" and there is no implied or expressed warranties on any type other than those which the developer expressly states in a contract to sell.

2. **Appliances:** All appliances are sold "as is" and there is no implied or expressed warranties of any type. If any warranty is in effect and can be passed to the new owner, the developer shall do so.

G. Status of Construction and Estimated Completion Date:

The project consists of two units completed Unit (1) February 1995 Unit (2) February 1996.

H. Project Phases:

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

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



V. MISCELLANEOUS

A. Sales Documents Filed With the Real Estate Commission

Sales documents on file with the Real Estate Commission include but are not limited to:

Notice to Owner Occupants

Specimen Sales Contract: Hawaii Association of Realtor's form of "Deposit Receipt, Offer and Acceptance".

Exhibit D contains a summary of the pertinent provisions of the sales contract

Escrow Agreement dated November 7<sup>th</sup> 1996

Exhibit C 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's 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 buyers use; AND

B) The buyer has not waived the right to rescind.

If the buyer rescinds a binding sales contract because there has been a material change, the buyer is entitled to a full and prompt refund of any moneys the buyer paid.

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:

- A) Condominium Public Reports issued by the developer which have been given an effective date by the Hawaii Real Estate Commission.
- B) Declaration of Condominium Property Regime.
- C) Bylaws of the Association of Apartment Owners.
- D) House Rules.
- E) Condominium Map.
- F) Escrow Agreement
- G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
- H) Other Covenants, Conditions & Restrictions as noted in Exhibit B.

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. 3634 filed with the Real Estate Commission on October 8, 1996.

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

yellow paper stock       white paper stock       pink paper stock

C. Additional Information Not Covered Above

Maintenance Fees:

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

Section 514-86, Hawaii Revised Statutes, requires the Association of Apartment Owners to purchase fire insurance to cover the improvements of the Project, and that premiums be a common expense. The Developer anticipates that the Association will elect to permit individual apartment owners to obtain and maintain separate policies of fire insurance and name the Association as an additional insured. In such case, fire insurance premiums will be the responsibility of individual apartment owners and not common expenses.

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 a 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 to, said abstract need be given to the purchaser, as all necessary disclosure are covered in this report.

Residential Dwellings within State Land Use Agricultural District

Purchasers should be aware that the State Land Use Commission issued a Declaratory Ruling in December, 1994, regarding the construction of residential dwellings on properties located within the State Land Use Agricultural District. In response to said ruling, the Hawaii County Planning Department is requiring applicants for building permits on such lands to acknowledge receipt of a "Farm Dwelling Notice". This Farm Dwelling Notice reads as follows:

FARM DWELLING NOTICE

*To: Applicants for Building Permits on Land in State Land Use Agricultural District.*

*This is to inform you that Chapter 205, Hawaii Revised Statutes, does not authorize residential dwellings as a permissible use in an agricultural use district, unless the dwelling is related to an agricultural activity or is a "farm dwelling".*

*Farm Dwelling is defined in Chapter 205-4.5(a)(4) as "a single family dwelling located on and used in connection with a farm, including clusters of single-family farm dwellings permitted within agricultural parks developed by the State, or where agricultural activity provides income to the family occupying the dwelling."*

*Penalty for violation of Section 205-4.5, Hawaii Revised Statutes, is a fine of not more than \$5,000. If any person who is cited for a violation of the law fails to remove the violation within six months of such citation and the violation continues, such person is subject to a citation for a new and separate violation. There shall be a fine of not more than \$5,000 for any additional violation.*

*I acknowledge that I have read the above  
and have been given a copy*

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*Signature of Applicant*

---

*Signature of Witness*

D. The developer hereby certifies that all the information contained in this Report and the exhibit attached to this Report and all document 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.

Derrick Steven McCrary  
Name of Developer

By: *Derrick Steven McCrary*  
Duly Authorized Signatory

10-1-96  
Date

Derrick Steven McCrary  
print name & title of person signing above

Distribution:

Department of Finance, County of Hawaii  
Planning Department, County of Hawaii  
Federal Housing Administration

## EXHIBIT "A"

### Common Elements & Limited Common Elements

#### COMMON ELEMENTS

One freehold estate is hereby designated of all the remaining portions of the Project, herein referred to as "common elements", including specifically, but not limited to:

- (a) The land in fee simple;
- (b) The Common Driveway, if any, as shown and designated on the Condominium Map;
- (c) All ducts, electrical equipment, wiring and other central and appurtenant installations for common services, if any, including power, light, sewage, irrigation and telephone;
- (d) Any and all other elements and facilities rationally in common use or necessary to the existence, upkeep and safety of the Project.

The common elements shall remain undivided, and no right shall exist to partition or divide any part thereof, except as provided in the Condominium Property Act. Any such partition or division shall be subject to the prior consent thereto by the holder(s) of all mortgage(s) of any condominium unit(s) which are filed of record.

#### LIMITED COMMON ELEMENTS

Certain parts of the common elements, herein referred to as "limited common elements", are hereby designated and set aside for the exclusive use of one or more units, and such unit(s) 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:

- (a) That certain land area upon and around which "Unit 1" is located, shown and designated on the Condominium Map as "Unit 1, Limited Common Element", and being approximately .18 acre, is deemed a limited common element appurtenant to and for the exclusive use of "Unit 1".
- (1) That certain land area upon and around which "Unit 2" is located, shown and designated on the Condominium Map as "Unit 2, Limited Common Element", and being approximately 1.82 acre, is deemed a limited common element appurtenant to and for the exclusive use of "Unit 2".

All cost of every kind pertaining to the aforesaid limited common elements, including, but not limited to, costs of landscaping, maintenance, repair, replacement and improvement, shall be borne solely by the owner of the unit to which said limited common elements are appurtenant.

"Exhibit B"

ENCUMBRANCES AGAINST TITLE

1. Tax Map Key: (3) 1-6-064-028, Island and County of Hawaii. Area Assessed: 2.000 acre, more or less. For information regarding real property taxes due and owing, reference is made to the County of Hawaii Director of Finance.
2. Possible roll back taxes as may be assessed by the Real Property Tax Office of the Third Tax Division.
3. Title to all mineral and metallic mines reserved to the State of Hawaii.
4. An easement for utility purposes, in favor of Hawaii Electric Light Company, Inc., a Hawaii Corporation, and GTE Hawaiian Telephone Company Incorporated, also a Hawaii corporation, dated December 18, 1995, filed February 12, 1996, in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 2289433.
5. Mortgage dated July 17<sup>th</sup>, 1996, filed July 26, 1996, in the Office of Assistant Registrar of the Land Court, State of Hawaii, as Document No. 2325498, to secure the repayment of \$93,000.00, and any additional advances and other amounts secured thereby, under the terms and provisions thereof,

Mortgagor: Derrick Steven McCrary, Unmarried

Mortgagee: BNC Mortgage, Inc. A California Corporation.

6. Mortgage dated March 10<sup>th</sup>, 1995, filed March 24, 1995, in the Office of Assistant Registrar of the Land Court, State of Hawaii, as Document No. 2226243, to secure the repayment of \$60,000.00, and any additional advance and other amounts secured thereby, under the terms and provisions thereof,

Mortgagor: Derrick Steven McCrary, unmarried,  
Tenant in Severalty

Mortgagee: Express Funding, Inc., a Nevada Corporation, which is organized and existing under the laws of the State of Nevada.

7. Condominium Map No. 1162, filed in the Office of the Assistant Registrar of the Land Court, State of Hawaii.
8. Covenants, conditions, restrictions, reservations, agreements, obligations, provisions and easements set forth in the Declaration of Condominium Property Regime dated 30<sup>th</sup> 1996 filed August 5<sup>th</sup> 1996 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No.2327660.

NOTE: The units created by the foregoing instrument have not yet been conveyed.

9. Terms and provisions contained in the By-Laws of the Association of Apartment Owners of Sunrise, dated 30<sup>th</sup> July 1996, filed August 5<sup>th</sup> 1996, in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No.2327661.

10. Any and all covenants, conditions, restrictions and easements encumbering the apartment herein mentioned, and/or the common interest appurtenant thereto, as created by or mentioned in said Declaration, and/or as delineated on said Condominium Map.

End of Exhibit "B"

## EXHIBIT "C"

### Summary of Escrow Agreement

The Escrow Agreement sets up an agreement under which the deposits which a purchaser makes under 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 purchasers know when payments are due.
- (b) Escrow will arrange for purchasers to sign all necessary documents.
- (c) The Escrow Agreement says under what conditions a refund will be made to the purchaser.
- (d) The Escrow Agreement says what will happen to a purchaser's funds upon a default under the Sales Contract.

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

End of EXHIBIT "C"

Exhibit "D"

SUMMARY OF THE SALES CONTRACT

The Seller intends to use the Hawaii Association of Realtors' form of Deposit Receipt, Offer and Acceptance ("DROA") as the sales contract for the sale of apartments in the Project. The sales contract contains the purchase price, description and location of the apartment and other terms and conditions under which a Buyer will agree to buy an apartment.

Among other things, the sales contract:

1. Provides a section for financing to be completed and agreed to by the parties which will set forth how Buyer will pay the purchase price.

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

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

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

by Buyer:

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

by Seller:

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

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

5. Allocation of payment of closing costs.

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