

CONDOMINIUM PUBLIC REPORT

Prepared &

Issued by: Developer ANNETTE LOKELANI KALUAHINE and GORDEAN K. KALUAHINE

Address 4261 Aikepa Street, Lihue, Kauai, Hawaii 96766

Project Name(*): MAKAI CONDOMINIUM

Address 4271 AND 4271A Aikepa Street, Lihue, Kauai, Hawaii 96766

Registration No. 4028 (conversion)

Effective date: March 1, 2004

Expiration date: April 1, 2005

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

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

SUPPLEMENTARY: (pink) This report updates information contained in the: [] Preliminary Public Report dated: [X] Final Public Report dated: February 2, 1999 [] Supplementary Public Report dated:

And

[] Supersedes all prior public reports [X] Must be read together with the Final Public Report [X] This report reactivates the the Final Public Report public report(s) which expire on March 2, 2000

(*) Exactly as named in the Declaration

Disclosure Abstract: Separate Disclosure Abstract on this condominium project:

Required and attached to this report Not Required - disclosure covered in this report.

Summary of Changes from Earlier Public Reports:

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

No prior reports have been issued by the developer.

Changes made are as follows:

1. Unit A (4271A). Unit A now consists of a storage structure containing approximately 20 square feet. This unit was formerly a dwelling. The purchaser of Unit A should be able to construct a dwelling, however there may be zoning ordinances or building codes that affect what may be constructed. A prospective purchaser is encouraged to consult with design professionals and the Planning Department. The former dwelling was constructed with an Additional Dwelling Unit permit (“ADU”). A new owner would also need to apply for an ADU to construct a dwelling.

2. Unit B (Unit 4271). Unit B is a dwelling which was constructed in 1960. See Final Public Report for further information. No changes occurred to this unit since the Final Public Report.

3. Real Estate Broker. The real estate broker for the project is Bob German, Inc., dba Aloha Island Properties.

4. Page Changes. The following page are attached and enclosed as part of this Supplementary Public Report: 1, 2, 6, 10, 11, 12, 14, 16, 19, 21, Exhibits A and C. A summary of the changes are as follows:

- Page 6: A First Amendment to Declaration and an amendment to the Condominium Map is reflected on this page.
- Page 10: There is now one shed structure (Unit A's dwelling was replaced with a shed).
- Page 11: Unit A is now a shed containing 20 square feet.
- Page 12: Unit A's parking is now open and the condition statement was revised to reflect that Unit A (shed) was constructed in 2003.
- Page 14: A new title search was provided which is dated November 24, 2003.
- Page 16: The fact that shed for Unit A was constructed in 2003 is disclosed.
- Page 19: This reflects that additional information was provided to the Real Estate Commission on December 4, 2003.
- Exhibit “A”:
- Exhibit “C”:

SPECIAL NOTICE

The Developer's Final Public Report expired on March 2, 2000. Pursuant to Section 16-107-19, Hawaii Administrative Rules, sales contracts executed during the period that the Public Report was not in effect may be rescinded at the option of the purchaser and all monies refunded to the purchaser. The purchaser's right to rescind under this rule shall be void thirty (30) calendar days after receipt of written notification these rights from the Developer or his real estate agent.

**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. 98-129177
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]:

First Amendment dated October 15, 2003, recorded in the Bureau of Conveyances, State of Hawaii, as Document No. 2003-256812.

- 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. 2789
 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]:

Amendment with the First Amendment referred to above.

- 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 manners which affect how the condominium project will be governed.

The Bylaws for this condominium re:

- Proposed
 Recorded - Bureau of Conveyances: Document No. 98-129178
Book _____ Page _____
 Filed - Land Court: Document No. _____

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

Fee Owner: ANNETTE LOKELANI KALUAHINE and GORDEAN K. KALUAHINE
 Name
4261 Aikepa Street
Lihue, Kauai, Hawaii 96766

C. **Buildings and Other Improvements:**

1. New Building(s)
 Conversion of Existing Building(s)
 Both New Building(s) and Conversion
2. Number of Buildings: two Floors Per Building Unit A - 1/story; Unit B - 1/story
 Exhibit A contains further explanations.
3. **Principal Construction Material:**
 Concrete Hollow Tile Wood
 Other Glass and other allied materials
4. **Permitted Uses by Zoning:**

| | <u>No of Apts.</u> | <u>Use Permitted By Zoning</u> | |
|---|------------------------|---|-----------------------------|
| <input checked="" type="checkbox"/> Residential | <u>1</u> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> Commercial | --- | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> Mix Res/Comm | --- | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> Hotel | --- | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> Timeshare | --- | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> Ohana | --- | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> Industrial | --- | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> Agricultural | --- | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> Recreational | --- | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input checked="" type="checkbox"/> Other: Shed | <u>1</u> | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

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

Yes No

5. Special Use Restrictions:

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

Pets Recommended number of domestic animals per apartment is 2. However, the recommended number of pets can be exceeded as long as the remaining condominium members do not have any objections. The party with the number of pets exceeding the recommended number must reduce the number to two if other condominium members complaint of noise, objectional odors, health risks, or unwanted trespassing due to the offending parties unusually large number of pets.

Number of Occupants: _____

Other: _____

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0 Stairways: 0 Trash Chutes: 0

| <u>Apt. Type</u> | <u>Quantity</u> | <u>BR/Bath</u> | <u>Net Living Area (sf)*</u> | <u>Net Other Area (sf)</u> | <u>(Identify)</u> |
|------------------|-----------------|----------------|------------------------------|----------------------------|------------------------|
| Unit A | <u> 1 </u> | <u> 0/0 </u> | <u> </u> | <u> 20 </u> | <u> storage </u> |
| Unit B | <u> 1 </u> | <u> 3/2 </u> | <u> 1,047 </u> | <u> 218 / 119 </u> | <u> carport/patio </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:

The boundary of each unit is the exterior finished surfaces of the units' perimeter walls, roofs, foundations, windows and frames, doors, beams, post entries and cesspools, if any.

Permitted Alterations to Apartments:

Each unit owner may alter the structure and any other improvements located within their unit's limited common land area as provided in paragraphs 7.0 and 15.0 of the Declaration of Condominium Property Regime, as amended.

Apartments Designated for Owner-Occupant Only: NOT APPLICABLE

Fifty percent (50%) of residential apartments must be so designated; developer has a right to substitute similar apartments for those apartments already designated. Developer must provide this information either in a published announcement or advertisement as required by section 514A-102, HRS; or include the information here in this public report and in the announcement (see attachment 11a). Developer has elected to provide the information in a published announcement or advertisement.

7. Parking Stalls:

Total Parking Stalls: 4

| | <u>Regular</u> | | <u>Compact</u> | | <u>Tandem</u> | | <u>TOTAL</u> |
|-----------------------------|----------------|-------------------------------|----------------|-------------|----------------|-------------|----------------------|
| | <u>covered</u> | <u>open</u> | <u>covered</u> | <u>open</u> | <u>covered</u> | <u>open</u> | |
| Assigned (for each unit) | <u>1</u> | <u>2</u> <u>1</u> (Unit B) | _____ | _____ | _____ | _____ | <u>2</u> <u>2</u> |
| Guest | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
| Unassigned | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
| Extra for Purchase | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
| Other: | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
| Total Covered & Open | <u>4</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 A contain additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities:

There are no recreational facilities

Swimming pool

Storage Area

Recreation Area

Laundry Area

Tennis Court

Trash Chute/Enclosure(s)

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

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

Based on an inspection report by Avery Youn, AIA, the residential structures identified as Unit B is in good condition. The useful remaining life of the residential structure is estimated to be approximately 40 years for Unit B. Unit A was constructed in 2003.

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

There are no limited common elements in this project.

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

described in Exhibit B.

as follows:

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

described in Exhibit ____.

as follows:

| | |
|--------|------------|
| Unit A | 50% |
| Unit B | <u>50%</u> |
| | 100% |

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

Exhibit C describes the encumbrances against the title contained in the title report dated November 24, 2003 and issued by Title Guaranty of Hawaii, Inc.

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

Unit A was constructed in 2003 and Unit B was constructed in 1960.

H. **Project Phases:**

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

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

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 Report 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, as amended
 - D) House Rules, if any.
 - E) Condominium Map
 - F) Escrow Agreement.
 - G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
 - H) Other: _____

Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer or through the developer's sales agent, if any. The Condominium Property Regime law (Chapter 514A, HRS) and the Administrative Rules (Chapter 107) are available online. Please refer to the following sites:

Website to access official copy of laws: www.capitol.hawaii.gov
Website to access unofficial copy of laws: www.hawaii.gov/dcca/hrs
Website to access rules: www.hawaii.gov/dcca/har

This Public Report is part of Registration No. 4028 filed with the Real Estate Commission on December 4, 2003

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yellow paper stock white paper stock pink paper stock

- D. The developer declares subject to the penalties set forth in section 154A-49(b) that this project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to Act 251 (SI H 2000) [Section 514A- 1.6] (The developer is required to make this declaration for issuance of an effective date for a final public report.)

- E. 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.

ANNETTE LOKELANI KALUAHINE and GORDEAN K. KALUAHINE
 Printed Name of Developer

By:  12/7/03
 ANNETTE LOKELANI KALUAHINE, Developer Date

By:  12/7/03
 GORDEAN K. KALUAHINE, Developer Date

Distribution:

Department of Finance, County of Kauai
 Planning Department, County of Kauai

*Must be signed for a: corporation by an officer; partnership or Limited Liability Partnership (LLP) by the general partner; Limited Liability Company (LLC) by the manager or member, and for an individual by the individual.

EXHIBIT "A"

Description of Apartments

The Project consists of the following two units:

a. Unit A (4271A). Unit A consists of one freehold estate consisting of one shade structure having a net area of approximately 20 square feet together with the limited common land area under and surrounding Unit A. This Unit is constructed with iron fence post and shade cloth material. The land area surrounding Unit A as delineated and described in the Condominium Map is a limited common element for Unit A and is for the exclusive use of Unit A.

b. Unit B (4271). Unit B consists of one freehold estate consisting of a one-story residential structure with a one car carport. This unit consists of a living room, kitchen/dining room, laundry room, 3 bedrooms, 2 bathrooms, and a patio. The net living area of this unit is approximately 1,047 square feet, the patio contains approximately 119 square feet, and the carport contains approximately 218 square feet.

EXHIBIT "C"

Encumbrances Against Title

1. Title to all minerals and metallic mines reserved to the State of Hawaii.
2. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the Deed dated January 31, 1961, recorded in the Bureau of Conveyances, State of Hawaii, in Book 4057, Page 424.
3. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the Road Widening Reserve Agreement, dated January 30, 1991, recorded in said Bureau, as Document No. 91-035940.
4. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the Declaration of Condominium Property Regime for "Makai Condominium" dated May 1, 1998 recorded in said Bureau, as Document No. 98-129177. Said Declaration was amended by a First Amendment dated October 15, 2003, recorded in said Bureau, as Document No. 2003-256812.
5. Condominium Map No. 2789, filed in the Bureau of Conveyances, State of Hawaii.
6. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the By-Laws of the Association of Unit Owners of Makai Condominium dated May 1, 1998, recorded in said Bureau, as Document No. 98-129178.
7. For real property taxes due and owing your attention is directed to the Director of Finance, County of Kauai.