

CONDOMINIUM PUBLIC REPORT

Prepared &

Issued by: Developer THOMAS F. SCHMIDT and LORINNA J. SCHMIDT

Address P. O. Box 398, Kailua-Kona, Hawaii 96745

Project Name(*): HOOKELE 1

Address 73-4620 Kukuki Street, Kailua-Kona, Hawaii

Registration No. 4048 (Conversion)

Effective date: June 10, 1999

Expiration date: July 10, 2000

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.

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

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

And

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

(*) Exactly as named in the Declaration

FORM: RECO-30 286/986/189/1190/892/0197

This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2644 to submit your request.

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:

SPECIAL ATTENTION

This is a Condominium Project not a subdivision. The land area beneath and immediately appurtenant to each unit is designated as a LIMITED COMMON AREA and is NOT a legally subdivided lot. The dotted lines on the Condominium Map bounding the designated number of square feet in each limited common element land area are for illustrative purposes only and should not be construed to be the property lines of legally subdivided lots.

This Public Report does not constitute approval of the project by the Real Estate Commission, or any other governmental agency, nor does it ensure that all applicable County codes, ordinances, and subdivision requirements have necessarily been complied with.

There are presently NO RESIDENTIAL STRUCTURES ON THE PROPERTY. The only buildings on the property are storage sheds, each of which may be defined as an "apartment" under the condominium act.

THERE ARE COUNTY RESTRICTIONS ON THE NUMBER OF RESIDENTIAL DWELLING UNITS, OR OTHER STRUCTURES, WHICH MAY BE BUILT UPON THE PROPERTY. THERE IS NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO BUILD A RESIDENTIAL DWELLING UNIT ON THE PROPERTY. THERE ALSO IS NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO CONVERT AN EXISTING NON-RESIDENTIAL STRUCTURE TO A RESIDENTIAL USE. ANY DWELLING CONSTRUCTED ON THE PROJECT MUST COMPLY WITH **CHAPTER 25 OF THE HAWAII COUNTY CODE AND RULE 13 OF PLANNING DEPARTMENT RULES**, AS THOSE RULES MAY BE ALTERED, AMENDED OR REPLACED. THE PURCHASER IS URGED TO CONSULT WITH THE APPROPRIATE COUNTY AGENCIES TO DETERMINE WHETHER THE PURCHASER MAY BUILD A RESIDENTIAL DWELLING UNIT, OR ANY OTHER TYPE OF STRUCTURE, ON THE PROPERTY.

Facilities and improvements normally associated with County approval subdivision, such as fire protection devices, County Street lighting, electricity, upgraded water facilities, improved access for owners and emergency traffic, drainage facilities, etc., may not be provided, and services such as County street maintenance and trash collection may not be available for interior roads and driveways.

THIS REPORT WAS DONE BY THE DEVELOPER AND NOT BY AN ATTORNEY

**THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW
THE CONDOMINIUM DOCUMENTS REFERENCED IN THIS PUBLIC REPORT FOR
FURTHER INFORMATION REGARDING THE FORGOING.**

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General Information On Condominiums

A condominium is a special form of real property. To create a condominium in Hawaii, the requirements of the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, must be complied with. In addition, certain requirements and approvals of the County in which the project is located must be satisfied and obtained.

Some condominium projects are leasehold. This means that the land or the building(s) and other improvements are leased to the buyer. The lease for the land usually requires that at the end of the lease term, the lessees (apartment owners/tenants) deliver their interest in the land to the lessor (fee property owner). The lease also usually requires that the lessees either (1) convey to the lessor the building(s) and other improvements, including any improvements paid for by the lessees; or (2) remove or dispose of the improvements at the lessee's expense. Leases for individual apartments often require that at the end of the lease term, the lessee deliver to the lessor the apartment, including any improvements placed in the apartment by the lessee.

If you are a typical condominium apartment owner, you will have two kinds of ownership: (1) ownership in your individual apartment; and (2) an undivided interest in the common elements.

"Common elements" are the areas of the condominium project other than the individual apartments. They are owned jointly by all apartment owners and include the land, either in fee simple or leasehold, and those parts of the building or buildings intended for common use such as foundations, columns, roofs, halls, elevators, and the like. Your undivided interest in the common elements cannot be separated from ownership of your apartment.

In some condominium projects, some common elements are reserved for the exclusive use of the owners of certain apartments. These common elements are called "limited common elements" and may include parking stalls, patios, lanais, trash chutes, and the like.

You will be entitled to exclusive ownership and possession of your apartment. Condominium apartments may be individually bought, sold, rented, mortgaged or encumbered, and may be disposed of by will, gift, or operation of law.

Your apartment will, however, be part of the group of apartments that comprise the condominium project. Study the project's Declaration, Bylaws, and House Rules. These documents contain important information on the use and occupancy of apartments and the common elements as well as the rules of conduct for owners, tenants, and guests.

Operation of the Condominium Project

The Association of Apartment Owners is the entity through which apartment owners may take action with regard to the administration, management, and operation of the condominium project. Each apartment owner is automatically a member of the Association.

The Board of Directors is the governing body of the Association. Unless you serve as a board member or an officer, or are on a committee appointed by the board, your participation in the administration and operation of the condominium project will in most cases be limited to your right to vote as an apartment owner. The Board of Directors and officers can take certain actions without the vote of the owners. For example, the board may hire and fire employees, increase or decrease maintenance fees, borrow money for repair and improvements and set a budget. Some of these actions may significantly impact the apartment owners.

Until there is a sufficient number of purchasers of apartments to elect a majority of the Board of Directors, it is likely that the developer will effectively control the affairs of the Association. It is frequently necessary for the developer to do so during the early stages of development and the developer may reserve certain special rights to do so in the Declaration and Bylaws. Prospective buyers should understand that it is important to all apartment owners that the transition of control from the developer to the apartment owners be accomplished in an orderly manner and in a spirit of cooperation.

I. PERSONS CONNECTED WITH THE PROJECT

Developer: THOMAS F. SCHMIDT and
LORINNA J. SCHMIDT Phone: (808) 325-7530
Name
P. O. Box 398
Business Address
Kailua-Kona, Hawaii 96745

Real Estate Broker: THOMAS F. SCHMIDT
TOM SCHMIDT REALTORS Phone: (808) 329-3124
Name
P. O. Box 398
Business Address
Kailua-Kona, Hawaii 96745
(Business)

Escrow: FIDELITY ESCROW SERVICE CORP. Phone: (808) 537-6799
Name
700 Bishop Street, Suite 1015
Business Address
Honolulu, Hawaii 96813-4112
(Business)

General Contractor: ONS, INC. Phone: (808) 329-7349
Name
75-5806 Kakalani Street
Business Address
Kailua-Kona, Hawaii 96740
(Business)

Condominium Managing Agent: THE PROJECT SHALL BE MANAGED BY THE
ASSOCIATION OF APARTMENT OWNERS Phone: _____
Name

Business Address
_____ (Business)

Attorney for Developer: None. This report was prepared by the Developer, pro se. Phone: _____
Name

Business Address
_____ (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. 98-047595
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]:

The First Amendment of Declaration of Condominium Property Regime dated October 22, 1998, recprded as Document No.98-162796, and a Second Amendment of Declaration of Condominium Property Regime dated April 23, 1999, recorded as Document No.99--067220.

- 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. 2713
 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 manners which affect how the condominium project will be governed.

The Bylaws for this condominium re:

- Proposed
 Recorded - Bureau of Conveyances: Document No. 98-047596
Book _____ Page _____
 Filed - Land Court: Document No. _____

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

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

The House Rules for this condominium are:

Proposed Adopted Developer does not plan to adopt House Rules

E. **Changes to Condominium Documents:**

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

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

	<u>Minimum Set by Law</u>	<u>This Condominium</u>
Declaration (and Condo Map)	75%	<u>100%</u>
Bylaws	65%	<u>100%</u>
House Rules	---	<u>N/A</u>

* The percentages for individual condominiums 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:

During the sales period, the Developer has reserved the right to make changes to the project documents and the project as may be required by law, a title insurance company, an institutional lender or any governmental agency; prior to the conveyance or transfers of the first apartment, for any reason and in any manner, as the developer deems necessary under the circumstances, provided that no such change shall substantially alter or reduce the usable space within the Buyer's Apartment, render unenforceable the Buyer's mortgage commitment, increase the Buyer's share of common expenses, or reduce the obligations of the Developer for common expense on unsold apartments.

III. THE CONDOMINIUM PROJECT

A. **Interest to be Conveyed to Buyer:**

- Fee Simple:** Individual apartments and common elements, which include underlying land, will be in fee simple.
- Leasehold or Subleasehold:** Individual apartments and the common elements, which include the underlying land will be leasehold.

Leases for the individual apartments and the underlying land usually require that at the end of the lease term, the lessee (apartment owner/tenant) deliver to the lessor (fee property owner) possession of the leased premises and all improvements, including improvements paid for by the lessee.

Exhibit _____ contains further explanations regarding the manner in which the renegotiated lease rents will be calculated and a description of the surrender clause provision(s).

Lease Term Expires: _____ Rent Renegotiation Date(s) _____

Lease Rent Payable: Monthly Quarterly
 Semi-Annually Annually

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

For Sub-leaseholds:

- Buyer's sublease may be canceled if the master lease between sublessor and fee owner is:
 Canceled Foreclosed
- As long as the buyer is not in default, the buyer may continue to occupy the apartment and/or land on the same terms contained in the sublease even if the master lease is canceled or foreclosed.

- Individual Apartments in Fee Simple: Common Interest in the Underlying Land in Leasehold or Sub-leasehold:**

Leases for the underlying land usually require that at the end of the lease term, the lessees (apartment owners/tenants) deliver 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 provisions(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 period 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 fee simple owner of the land in order to develop the project. The developer may have then entered into an 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: 73-4620 Kukuki Street, Kailua, Kona, Hawaii 96740 Tax Map Key (TMK): (3) 7-3-24-60

Address TMK is expected to change because N/A

Land Area: 3.000 square feet acre(s) [X] Zoning: A-3a

Fee Owner: THOMAS F. SCHMIDT AND LORINNA J. SCHMIDT
P. O. Box 398
Kailua-Kona, Hawaii 906745

C. Buildings and Other Improvements:

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

2. Number of Buildings: 2 Floors Per Building 1

Exhibit A contains further explanations.

3. Principal Construction Material:

Concrete Hollow Tile Wood

Other Metal

4. Permitted Uses by Zoning:

	<u>No of Apts.</u>	<u>Use Permitted By Zoning</u>		<u>No. of Apts.</u>	<u>Use Determined 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/Comm	___	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Agricultural	___	<input 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 checked="" type="checkbox"/> Other: <u> shed </u>	<u> 2 </u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

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

Yes No

5. Special Use Restrictions:

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

[X] Pets: As provided in the bylaws

[] Number of Occupants: _____

[X] Other: Except for vehicles belonging to guests, the owners/tenants of the apartments shall keep or park no more than two motor vehicles on the property at any one time. They shall not keep or allow any junked or abandoned vehicle or vessel on the property. The property shall not be used as a location for the repair of any vehicle or vessel if such repair includes painting other than minor touch-up, or the removal and rebuilding of any of a vehicle's or vessel's major parts other than as may be related to minor tune-ups and adjustments. If a vessel is kept on the property it shall be kept in the carport if one is available. The property shall not be used for the outdoor cleaning of any large fish or the slaughtering or outdoor cooking of any whole animals. The property shall not be used for dog kennels, or chicken or pig farming. The property is also subject to the Declaration of Covenants, Conditions and Restrictions of the Kaloko II Project, a copy of which are attached hereto as **Exhibit "J"**.

[] There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0 Stairways: 1 Trash Chutes: 0

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Net Other Area (sf)</u>	<u>(Identify)</u>
<u>Unit A</u>	<u>1</u>	<u>0/0</u>	<u> </u>	<u>48</u>	<u>storage shed</u>
<u>Unit B</u>	<u>1</u>	<u>0/0</u>	<u> </u>	<u>48</u>	<u>storage shed</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:

Each apartment includes, but is not limited to, the exterior finished surfaces of all walls, the doors and door frames, windows and window frames along the perimeters, the air space within the perimeter, and all fixtures originally installed in the apartment. The apartments include the interior load-bearing columns, girders, beams and walls, the undecorated or unfinished surfaces of the floor and ceilings surrounding each apartment and any pipes, shafts, wires, conduits or other utility or service lines running through or servicing only that apartment which are utilized for or service more than one apartment. An apartment does not include any pipes, shafts, wires, conduits or other utility or service lines running through or servicing an apartment which are utilized for or serve more than one apartment.

Permitted Alterations to Apartments:

Alterations or additions within an apartment may be made without prior written notice to or the approval of the Board of Directors.

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>2</u>	_____	_____	_____	_____	<u>4</u>
Guest	_____	_____	_____	_____	_____	_____	_____
Unassigned	_____	_____	_____	_____	_____	_____	_____
Extra for Purchase	_____	_____	_____	_____	_____	_____	_____
Other:	_____	_____	_____	_____	_____	_____	_____
Total Covered & Open	<u>4</u>		<u>0</u>		<u>0</u>		<u>4</u>

Each Residential 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 _____ 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):

N/A Both of the structures were completed in July of 1997.

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 C

as follows:

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:

Apartment "A": Fifty Percent (50%)
Apartment "B": Fifty Percent (50%)

Each apartment has an equal undivided fractional interest in all of the common elements. The common interests are equal and not related to or determined by the size of the apartments.

- 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 September 25, 1998 and issued by Fidelity Escrow Service Corp.

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 specific sums so that individual apartments can be conveyed to buyers free and clear of the lien.

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

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

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

Type of Lien

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

First Mortgage
Second Mortgage
Third Mortgage

If Developer defaults or the mortgage lien is foreclosed prior to conveyance to Buyer, Buyer's contract to purchase will be terminated and all of Buyer's funds will be refunded to Buyer, less escrow cancellation fees. However, should Buyer's deposit be used by the Developer prior to a foreclosure of the mortgage and prior to conveyance to Buyer, Buyer may not be able to recover the deposited moneys.

**THE PROJECT IS CURRENTLY THE SUBJECT OF A
FORECLOSURE ACTION.**

(SEE PAGE 20 FOR ADDITIONAL DISCLOSURES)

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:

The Owner/Developer makes no warranties itself and the Owner/Developer is not aware of any warranties from any general contractor, subcontractor or materials supplier that are in existence. The Owner/Developer will assign to the purchasers apartments such warranties as may exist, if any, and the Owner/Developer will cooperate with each apartment owner during the effective period of any warranty, if any, in asserting any claims.

2. Appliances:

None.

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

All construction on storage sheds, apartments A and B, was completed in July, 1997.

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):

IV. CONDOMINIUM MANAGEMENT

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

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

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

- | | |
|---|--|
| <input type="checkbox"/> not affiliated with the Developer | <input type="checkbox"/> the Developer or the Developer's affiliate. |
| <input checked="" type="checkbox"/> self-managed by the Association of Apartment Owners | <input type="checkbox"/> other _____ |

B. Estimate of Initial Maintenance Fees:

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

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

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

C. Utility Charges for Apartments:

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

- | | |
|--|--|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Electricity (_____ Common Elements only _____ Common Elements & Apartments) |
| <input type="checkbox"/> Gas | (_____ Common Elements only _____ Common Elements & Apartments) |
| <input type="checkbox"/> Water | <input type="checkbox"/> Sewer <input type="checkbox"/> Television Cable |
| <input type="checkbox"/> Other | _____ |

***NOTE:** Developer has not conducted a reserve study in accordance with §514A-83.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

V. MISCELLANEOUS

A. Sales Documents Filed With the Real Estate Commission:

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

Notice to Owner Occupants

Specimen Sales Contract

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

Escrow Agreement dated October 22, 1998, as amended on April 23, 1999

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

Other _____

B. Buyer's Right to Cancel Sales Contract:

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

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

A) The Developer delivers to the buyer a copy of:

1) Either the Final Public Report OR the Supplementary Public Report which has superseded the Final Public Report for which an effective date has been issued by the Real Estate Commission;

AND

2) Any other public report issued by the developer prior to the date of delivery, if the report was not previously delivered to the buyer and if the report has not been superseded;

B) The buyer is given an opportunity to read the report(s); AND

C) One of the following has occurred:

1) The buyer has signed a receipt for the report(s) and waived the right to cancel; or

2) Thirty (30) days have passed from the time the report(s) were delivered to the buyer; or

3) The apartment is conveyed to the buyer within 30 days from the date the report(s) were delivered to the buyer.

Material Change: Binding contracts with the Developer may be rescinded by the buyer if:

A) There is a material change in the project which directly, substantially and adversely affects (1) the use or value of the buyer's apartment or its limited common elements; or (2) the amenities available for buyer's use; AND

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

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

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:
- A) Condominium Public 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, as amended.
 - F) Escrow Agreement.
 - G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
 - H) Other: Declaration of Covenants, Conditions and Restrictions of Kaloko II Subdivision, Increment 1; Farm Dwelling Notice (See Exhibit "I")

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, Hawaii 96809, at a nominal cost.

This Public Report is part of Registration No. 4048 filed with the Real Estate Commission on October 22, 1998.

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

yellow paper stock white paper stock pink paper stock

C. Additional Information Not Covered Above:

The property is zoned for agriculture. The apartments were designed and built to be used for agricultural work and storage. They are not residential apartments and may not be used for residential purposes. The apartments may not be used for any trade or business that is not related to an agricultural use of the property.

Residential Dwellings within State Land Use Agricultural District

The Hawaii County Planning Department is requiring applicants for the first building permit of land zoned for agricultural 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 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 "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

Signature of Witness

Signature of Applicant

Applicants of the second building permit for a dwelling on land zoned for agriculture are required to enter into an Agricultural Agreement with the Planning Director of the County of Hawaii, a copy of which is attached hereto as "Exhibit "I", and to comply with the provisions of Chapter 25, Article 6, Division 3 of the Hawaii County Code, as amended, and Rule 13 of Planning Department Rules. A brief summary of some of their provisions may be found in Exhibit "G".

Real Estate Broker. Pursuant to section 16-99-3(g) and 16-99-11(d), Hawaii Administrative Rules ("HAR"), prospective purchaser are hereby advised that the Developer, THOMAS F. SCHMIDT, RB6723 is a current and active Hawaii-licensed real estate broker and also the project broker. Pursuant to section 16-99-11(c), HAR, "(n)o licensee shall be allowed to advertise 'For Sale by Owner', 'For Rent by Owner', 'For Lease by Owner', 'For Exchange by Owner'.

Foreclosure Action. A foreclosure has been commenced in Realty Finance, Inc. v. Thomas Frank Schmidt, et al, Circuit Court of the First Circuit, State of Hawaii, Civil No. 97-1235-03. The subject lawsuit is presently pending. The Developer does not know whether or not the action will result in the sale of the project however any closing of a unit in the subject Project will have to be released from the action or obtain an appropriate court order permitting the sale prior to or simultaneously with the closing of an apartment sale. If a prospective purchaser enters into a contract to purchase an apartment and a release or appropriate order cannot be procured, a purchaser's contract will be canceled and all deposits will be returned to such purchaser.

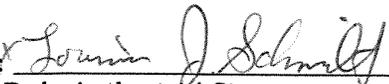
Judgment and Tax Liens. There are two judgment liens recorded as Document Nos. and 95-111693 and 95-143906 in favor of John Rapp and a tax lien in favor of the State of Hawaii recorded as Document No. 98-133762. The Developer does not know whether or not the subject liens will be executed upon or the affect that such liens may have on the Project, if any. However, a closing of an apartment to a prospective purchaser will only occur if such lien is released or such through title insurance such lien is determined to not be an encumbrance on the apartment being sold or conveyed. In the event a prospective purchaser enters into a contract to purchase an apartment and a lien cannot be released or insured against through the title insurer, a purchaser's contract will be canceled and all deposits will be returned to such purchaser.

Water Availability. The Department of Water Supply, County of Hawaii has indicated that an additional water meter may be necessary to service the Project. See Exhibit "J". The letter indicates that additional fees will be due and the failure to comply with such conditions will subject an applicant to fines and penalties. Prospective purchasers are cautioned to familiarize themselves with the subject requirements.

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

x 

Printed Name of Developer
Thomas F. Schmidt

By:  _____ May 7, 1999
Duly Authorized Signatory Date
Lorinna J. Schmidt

Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, County of Hawaii
Planning Department, County of Hawaii

EXHIBIT "A"

Description of Buildings, Apartments and Common Elements

There are two (2) Buildings.

<u>Description of Buildings</u>	<u>Building "A"</u>	<u>Building "B"</u>
Number of stories	1	1
Number of basements	0	0
Number of apartments	1	1
Principal materials of construction	metal	metal

<u>Description of Apartments</u>	<u>Apartment "A"</u>	<u>Apartment "B"</u>
Apartment number	A	B
Location of apartment	Building "A"	Building "B"
Net area of apartment (Approx)	48 sq. ft.	48 sq. ft.
Number of bedrooms	0	0
Number of bathrooms	0	0
Number of lanais or patios	0	0
Area of lanais or patios	0	0
Description of rooms in the apartment	A one room metal building to be used in conjunction with agricultural activities on the property.	A one room metal building to be used in conjunction with agricultural activities on the property.
Immediate common element to which the apartment has access	The Limited Common elements surrounding the apartment shown on the Condominium Plan	The Limited Common elements surrounding the apartment shown on the Condominium Plan
Number of parking stalls available within the Limited Common Area for each apartment	2	2
Percentage of undivided interest in Common Elements	50%	50%

Net area of enclosed portions of apartments are measured from interior surfaces of apartment perimeter walls.

NOTE: FLOOR AREA ARE APPROXIMATELY ONLY. THE DEVELOPER MAKES NO PRESENTATIONS OR WARRANTIES WHATSOEVER AS TO THE FLOOR AREA OF ANY PARTICULAR APARTMENT, LANAI OR PATIO.

EXHIBIT "B"

Common Elements

The Common Elements include the land described in Exhibit "A" of the Declaration of Condominium Property Regime in fee simple and all other portions of the project, other than the Apartments, including, specifically, but not limited to, the Common Elements mentioned in the Act that are actually constructed on the land, and all other portions of the Project necessary or convenient to its existence, maintenance and safety or normally in common use and which are not included as part of an apartment, as follows:

- (a) The land in fee simple;
- (b) All ducts, electrical equipment, wiring, pipes and other central and appurtenant transmission facilities and installations over, under and across the project, if any, which serve more than one (1) apartment for services such as power, light, water, gas, sewer, telephone and radio and television signal distribution, if any;
- (c) The roof and all load bearing perimeter walls that serve more than one apartment, if any;
- (d) Any and all other elements and facilities rationally in common use or necessary to the existence, upkeep and safety of the Project;
- (e) 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;
- (f) Any such partition or division shall be subject to the prior consent thereto by the holder(s) of all mortgage(s) of any condominium Apartment(s) which are filed of record;
- (g) All the rights, benefits and privileges, if any, inuring to the Land or to the Condominium from all easements shown on the File Plan or listed in Exhibit "A", or acquired subsequent to the creation of those documents;
- (h) Any and all other portions of the land and improvements that are not specifically designated for use by one or more specific Apartments, but which are intended for common use, including any directory facilities that may be established, and all other apparatus and installations the use of which exists for, is rationally allocated to or is necessary to the existence, upkeep and safety of more than one Apartment of the Condominium Project or which may otherwise be of common use.

Unless clearly repugnant to the context thereof, the term "Common Elements" also means and includes the limited common elements hereinafter described.

Limited Common Elements

Certain parts of the common elements, herein referred to as the "limited common elements", are hereby designated and set aside for the exclusive use of one or more apartments, and such apartment(s) shall have appurtenant thereto exclusive easements for the use of such limited common elements. The limited common elements so set aside and reserved for Apartments "A" and "B" are as follows:

a. Unit A. The land area around and under Unit A described as the Limited Common Element consisting of approximately 1.000 acres is a limited common element of Unit A.

b. Unit B. The land area around and under Unit B described as the Limited Common Element consisting of approximately 2.000 acres is a limited common element of Unit B.

Please Note "Limited Common Element "A" and Limited Common Element "B" are not subdivided lots, but rather they are limited common elements of a single lot.

All costs 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 Apartment of which said limited common elements are appurtenant.

EXHIBIT "C"

Encumbrances Against Title

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

2. Easement for operation and maintenance of water tanks and water pipelines as contained in that certain Deed dated December 20, 1971, recorded in the Bureau of Conveyances, State of Hawaii, in Book 8062, Page 1.

3. Covenants, conditions and restrictions, but omitting any covenants or restrictions, if any, based upon race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons, as set forth in the Declaration dated June 1, 1989, recorded in said Bureau, in Book 23270, Page 785.

Said Declaration was amended by instrument dated December 5, 1989, recorded in said Bureau, in Book 23999, Page 656.

4. Planting Screen setback line (10 feet wide and delineated on File Plan No. 1958 (Affects Lot 4, File Plan No. 1958 Only)

5. Mortgage dated July 11, 1995, in favor of Investors Finance, Inc., a Hawaii corporation, recorded in said Bureau, as Document No. 95-090908. (Affects Lot 4, File Plan No. 1958 and Lot 5, File Plan No. 1991)

Correction to Real Property Mortgage, Security Agreement and Financing Statement, dated ---, recorded November 7, 1995, in said Bureau, as Document No. 95-144606. (To reflect Kaloko Two Partnership, a Hawaii limited partnership as Mortgagor - Owner of Lot 5 File Plan 1991)

Assigned to Realty Finance, Inc., by instrument dated October 31, 1995, recorded in said Bureau, as Document No. 95-146248.

Loan Extension and Modification Agreement dated ---, recorded May 31, 1996, recorded in said Bureau, as Document No. 96-077143. (Extension of maturity date to May 15, 1997)

Said Loan was assigned to Investors Finance, Inc., by instrument dated October 31, 1995, recorded in said Bureau, as Document No. 97-033972.

Civil Action filed in the Circuit Court of the First Circuit, being Civil No. 97-1235-03, commenced March 27, 1991, Realty Finance, Inc. (vs) Thomas Frank Schmidt; Lorinna Jhincil Schmidt; etal., nature of action: foreclosure. (affects other property)

Notice of Pendency of said Action was filed and recorded April 3, 1997, as Document No. 2373695 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, and as Document No. 97-043028, in the Bureau of Conveyances, State of Hawaii.

5. Judgment in favor of John Rapp, in Civil No. 94-0903-03, First Circuit Court, State of Hawaii, recorded August 30, 1995, in said Bureau, as Document No. 95-111693.

6. Judgment in favor of John Rapp, in Civil No. 94-0903-03, First Circuit Court, State of Hawaii, filed in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 2270869, and also recorded in the Bureau of Conveyances, State of Hawaii, as Document No. 95-143906.

7. Mortgage dated August 1, 1996, in favor of Investors Finance, Inc., a Hawaii corporation, recorded in said Bureau, as Document No. 96-149286. (Affects Lot 4 File Plan No. 1958 and Lot 5 File Plan No. 1991)

8. Mortgage dated October 15, 1996, in favor of State of Hawaii by and through the Chief Oahu Collections Branch, recorded in said Bureau, as Document No. 96-155286. (Affects Lot 4, File Plan No. 1958 Only)

9. Notice of Execution, Certificate of Execution in Civil No. 94-0903-03, First Circuit Court, State of Hawaii, in favor of Norman Maunakea, Deputy Sheriff of the State of Hawaii, dated June 27, 1997, filed in said Office as Document No. 2389935, and also recorded in said Bureau, as Document Nos. 97-087802 and 97-087803.

10. Matters as shown on Condominium File Plan No. 2713, filed in the Bureau of Conveyances, State of Hawaii.

11. Covenants, conditions, restrictions, reservations, agreements, obligations and other provisions set forth in the Declaration of Condominium Property Regime dated ---, recorded in said Bureau, as Document No. 98-047595.

12. By-Laws of the Association of Apartment Owners of Hookele 1, dated ---, recorded in said Bureau, as Document o.98-047596.

13. Any and all easements encumbering the apartment herein mentioned, and/or the common interest appurtenant thereto, as created by or mentioned in said Declaration, as amended, and/or

in said Apartment Deed, and/or as delineated on said Condominium File Plan.

14. A Lien in favor of the State of Hawaii, as evidenced by a certificate against Thomas F. Schmidt, for General Excise Tax, being GET No. 10035591, (from 1984 thru 1992), dated September 8, 1998, recorded in said Bureau, as Document No. 98-133762.

EXHIBIT "D"

ESTIMATE OF INITIAL MAINTENANCE FEES
AND
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimated of Initial Maintenance Fees

<u>Apartment</u>	<u>Monthly Fee x 12 months=</u>	<u>Yearly Total</u>
A	37.50	450.00
B	37.50	450.00
		<hr/> 900.00

THERE ARE NO ESTIMATE OF INITIAL MAINTENANCE FEES OTHER THAN FOR THE MASTER COMMUNITY ASSOCIATION BECAUSE THERE ARE NO COMMON AREAS ON THE PROJECT. EACH APARTMENT HAS ITS OWN ACCESS AND THERE ARE NO SHARED EXPENSES. ALL OF THE PROPERTY IS LIMITED COMMON AREA APPURTENANT TO ONE OR THE OTHER APARTMENT. FOR THAT REASON NO COMMON AREA EXPENSES HAVE BEEN ESTIMATED, AND THERE HAS BEEN NO RESERVE STUDY MADE.

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

EXHIBIT "D" (Cont.)

Estimated of monthly Fee Disbursements

	<u>Monthly Fee</u> x 12 months=	<u>Yearly Total</u>
Utilities and Service		
Air Conditioning (Service)		
Electricity		
[] common elements only		
[] common element and apartments		
Elevator		
Gas		
Refuse Collection		
Telephone		
Water and Sewer		
Maintenance, Repairs and Supplies		
Building		
Grounds		
Management		
Management Fee (bookkeeping)		
Payroll and Payroll Taxes		
Office Expenses		
Insurance		
Reserve (*)		
Taxes and Government Assessments		
Audit Fees		
Other- Master Association	75.00	900.00
TOTAL		900.00

I, THOMAS F. SCHMIDT and LORINNA SCHMIDT, developer for the condominium project HOOKELE 1, hereby certify that there are no common area expenses for the project because there are no common areas and no shared expenses. All of the property is limited common area appurtenant to one or the other apartment. Each apartment has its own access. Also for this reason no estimate has been made of a reserve fund.


THOMAS F. SCHMIDT


LORINNA J. SCHMIDT

(*) Mandatory reserve in effect January 1, 1993. Date: 4/23/99

EXHIBIT "F"

SUMMARY OF DEPOSIT RECEIPT AND SALES CONTRACT

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

1. The total purchase price, method of payment and additional sums which must be paid in connection with the purchase of an apartment.
2. That the Purchaser acknowledges having received and read a final public report for the Project prior to signing the Deposit, Receipt and Sales Contract.
3. That the Developer makes no representations concerning rental of an apartment, income or profit from an apartment, or any other economic benefits to be derived from the purchase of an apartment.
4. That the Purchaser's money will be held in escrow, under the terms of the Escrow Agreement. The Purchaser's money can only be disbursed by escrow if the sale is canceled by the Purchaser, if the sale closes according to the terms of the Deposit, Receipt and Sales Contract, if the Purchaser is in default, if the Purchaser dies or is dissolved, or if the Seller and the Purchaser agree otherwise in writing.
5. The Purchaser has a right to cancel the Deposit, Receipt and Sales Contract before the apartment has been transferred to him or at any time within thirty (30) days after delivery of the Public Report, whichever is earlier and to have all money paid into escrow refunded less any escrow cancellation fees and other costs, up to \$250, by giving notice to the Seller as provided by HRS § 514-62 (d), as amended.
6. If the Purchaser does not cancel the Deposit, Receipt and Sales Contract as provided in Paragraph 5, and more than thirty days have passed since the delivery of the Public Report to the Purchaser then the Deposit, Receipt and Sales Contract is binding on the Purchaser. If the Purchaser fails purchase the apartment after the Deposit, Receipt and Sales Contract becomes binding upon the Purchaser then the Purchaser will be in default. If the Purchaser is in default then the Seller will be entitled to cancel the Deposit, Receipt and Sales Contract and retain all money paid by Purchaser up to 20% of the sales price as liquidated damages.
7. If the Purchaser dies prior to closing, or in the case of a corporation or partnership, dissolves prior to closing, the Seller may return the Purchaser's payments, without interest and less Escrow cancellation fees and all costs incurred by the Seller, Escrow, or any lending institution in processing this Deposit, Receipt and Sales Contract or by loan application, and this Deposit, Receipt and Sales Contract will be deemed to have been canceled and both the Seller and the Purchaser (including the Purchaser's estate and legal representatives) shall be released from all obligations and liability under that agreement.
8. Requirements relating to the Purchaser's financing of the purchase of an apartment.
 - a. The Purchaser's offer is not contingent on the Purchaser obtaining financing or on the Purchaser's ability to pay.
 - b. In the event the Purchaser wishes to finance the purchase of the Apartment, the Purchaser is required to apply for financing within ten business days from the date the agreement to purchase becomes a binding contract. The Purchaser is required to use his best efforts to obtain

the mortgage loan in good faith; to execute and deliver all necessary documents and disclose all information; to pay any and all costs, charges and expenses in connection with the mortgage loan; to otherwise promptly and diligently comply with all requests of the mortgagee and/or the Seller to apply for, obtain and close the mortgage loan; and, where deemed necessary by the Seller, to make further applications for a mortgage loan.

c. The Purchaser may be required to pay a loan fee in order to get a loan.

d. The Seller has no obligation to arrange for the Purchaser's mortgage or other financing.

9. That the apartment and the Project will be subject to various legal documents which Purchaser should examine, and that the Developer may change these documents under certain conditions.

10. That the Developer makes no warranties regarding the apartment, the Project or anything installed or contained in the apartment or the Project.

11. That the Purchaser must close the purchase at a certain date and pay closing costs, in addition to the purchase price. The closing date will be set by the Seller, but it will not be sooner than sixty (60) days after the Deposit, Receipt and Sales Contract becomes binding.

12. On closing the Purchaser will be responsible for the payment of certain costs in addition to the purchase price. Typical closing costs for the Purchaser and the Seller include:

Item	Seller	Purchaser
Escrow fees	\$212.50	\$212.50
Recording		\$20 per document
Lien Check	\$20	\$20
Real Property Tax Check	\$2.00	
Documents	\$104 for a deed	\$135 for a purchase money mortgage
Hurricane Insurance Fund		.001 x the amount of any mortgage
Real Property Taxes & assessments	Prorated	Prorated
Conveyance tax	.001 x sale price	

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

EXHIBIT "F"

SUMMARY OF ESCROW AGREEMENT

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

1. Escrow will let the Buyer know when payments are due.
2. Escrow will arrange for the Buyer to sign all necessary documents.
3. The Buyer will be entitled to a refund of his or her funds only under certain circumstances as set forth in the Sales Contract and Escrow Agreement. The pertinent provisions in the Escrow Agreement are as follows:

2.4 Return and Refunds and Documents.

(a) A Buyer shall be entitled to a return of funds and Escrow shall pay such funds to such Buyer, without interest, if any one of the following has occurred:

(i) Seller and the Buyer shall have requested Escrow in writing to return to the Buyer the funds of the Buyer held hereunder by Escrow; or

(ii) Seller shall have notified Escrow of Seller'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 Seller; or

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

(iv) The Buyer has exercised the purchaser's right to rescind the contract pursuant to Section 514A-63, Hawaii Revised Statutes, as amended.

In any of the foregoing Events, Escrow shall, upon the occurrence of the event described in (i) or (ii) above or upon receipt of a written request for a refund from the Buyer upon the occurrence of an event described in (iii) or (iv) above, unless the Buyer has waived or has been deemed to have waived the right to a refund, pay said funds to said Buyer (less a cancellation fee of Escrow of not less than \$25.00 per unit or a cancellation fee

commensurate with the work done by Escrow prior to such cancellation, whichever fee is greater, up to a maximum of \$250.00) and thereupon said Sales Contract shall be deemed cancelled and any partially executed conveyance document theretofore delivered to Escrow shall be returned to Seller; provided, however, that no refund shall be made to Buyer at the Buyer's request prior to receipt by Seller of written notice from Escrow of Escrow's intent to make such refund.

(b) Notwithstanding any other provision in this Agreement to the contrary, a Buyer shall be entitled to a refund of funds and Escrow shall pay such funds to such Buyers, without interest, pursuant to Chapter 514A, Part VI, Hawaii Revised Statutes, if Seller or the Buyer shall so request in writing and any one of the following events has occurred:

(i) No Sales Contract has been offered to the prospective Owner-Occupant within six months of the issuance of the final public report or of a public lottery (as applicable); or

(ii) The prospective Owner-Occupant has been requested to be removed from the final reservation list (as defined in Section 514A-104, Hawaii Revised Statutes); or

(iii) The prospective Owner-Occupant has elected not to execute a Sales Contract; or

(iv) The prospective Owner-Occupant has not obtained adequate financing, or a commitment for adequate financing by a date which is earlier than fifty calendar days after Seller's execution and acceptance of the Sales Contract.

(c) The Sales Contract shall be rescinded pursuant to Section 514A-105(d), Hawaii Revised Statutes, if any prospective Owner-Occupant is unable to reaffirm the Affidavit required by Section 514A-104, Hawaii Revised Statutes. Any partially executed conveyance document theretofore delivered to Escrow shall be returned to Seller. All deposits shall be refunded to the Buyer unless (i) Seller or Seller's attorney shall have delivered a written opinion to Escrow stating that the Sales Contract has become binding upon the Buyer pursuant to Section 514A-62, Hawaii Revised Statutes, as amended and (ii) written instructions provided by Seller and the prosecutive Owner-Occupant directs Escrow to distribute the deposit otherwise.

4. The Escrow Agreement also establishes the procedures for the retention and/or disbursement of a Buyer's fund, and says what will happen to the funds upon a default under the Sales Contract.

a. Retention of Buyer's funds. The Escrow will retain the Buyer's fund until the escrow is ready to close. When the Escrow is ready to close, the Escrow will disburse the Buyer's funds according to the terms of the Sales Contract.

b. Disbursement of Buyer's funds. If for some reason the escrow cannot close, either because of the fault of the Seller or the Buyer, then the Escrow will disburse the Buyer's funds, less escrow costs and fees of up to \$250.00, as follows:

(a) To the Buyer if the Buyer is entitled to a refund;

(b) To the Seller if the Buyer is in default (see below); or

(c) In accordance with any subsequent agreement signed by both the Seller and the Buyer.

c. Default. If the Buyer does not do all that the Buyer has promised to do in the Sales Agreement, and if the Seller does all that the Seller has agreed to do, then the Buyer may be in default. If the Buyer is in default then the Seller is entitled to cancel the Sales Contract and to have the Escrow pay to the Seller all sums paid into Escrow up to twenty percent (20%) of the purchase price as liquidated damages. If the Buyer has paid more than twenty percent (20%) of the purchase price into escrow, then the Buyer may be refunded the excess less the Escrow cancellation fee of up to \$250.

5. Indemnification of Escrow. In the Sales Contract the Seller and the Buyer agree that they will be jointly and severally liable to Escrow for all losses, costs, damages or money owed, including reasonable attorneys' fees, that Escrow must pay as a result of this Sales Contract. If Escrow has the right to collect these amounts from any other person, then that right shall belong to the Seller after the Seller pays Escrow. However, neither the Seller nor the Buyer has to pay Escrow any losses, costs, damages, money owned or attorneys' fees if Escrow has done something wrong or doesn't do something it is supposed to do and that act or failure to act is not reasonable or responsible.

The Escrow Agreement contains various other important provisions and establishes certain charges with which a Buyer should be familiar, It is incumbent upon Buyers and prospective Buyers to read with care the executed Escrow Agreement on file with the Real Estate Commission.

Exhibit "G"

Ohana Dwelling Permit, Farm Dwelling Agreement

Notice- the following is presented for informational purposes only, It is not intended to be legal advice, and it is not exhaustive of the subject. Anyone whose plans may be affected or limited by the Hawaii County Zoning Code or the Planning Commission Rules is urged to (1) consult their attorney, (2) consult with the County of Hawaii Planning Department, or (3) otherwise obtain a complete understanding on how the County of Hawaii Zoning Code, Building Code and the Planning Commission Rule may affect their plans for development.

Ohana Dwelling

The second dwelling ^{unit} ~~unit~~ constructed on the project must comply with the Ohana Dwelling requirements contained in Chapter 25, Article 6, Division 3 of the Hawaii County Zoning Code, and a building permit cannot be obtained without first obtaining an Ohana Dwelling Permit. An application for an Ohana Dwelling Permit may be obtained from the County of Hawaii Planning Departments. In general the requirements for obtaining such a permit are:

- a. Any building site which is within the state land use agricultural district shall be subject to agricultural requirements for farm dwellings as established by ordinance or by rule of the director, adopted pursuant to chapter 91, Hawaii Revised Statutes;
- b. All applicable provisions of Chapter 25 must be met, including but not limited to, height limits (25 feet), minimum yard (minimum set by the code plus 5 feet) and parking (minimum two off street parking stalls per dwelling);
- c. The public facilities (sewage, potable water supply, fire protection and streets) must be adequate to serve the ohana dwelling unit;
- d. The dwelling cannot be planned for a district or subdivision where it is specifically prohibited by law, rule or Declaration of Covenants, Conditions and Restrictions;
- e. Only one permit application for an ohana dwelling unit may be active for any one applicant at any time; and
- f. Any applicant who has obtained an ohana dwelling permit shall not be eligible or apply for a subsequent ohana dwelling permit on any building site for a period of two years from the date on which the first ohana dwelling unit was completed.

Farm Dwelling Agreement

A party seeking a building permit for a dwelling on the project must enter into a Farm Dwelling Agreement with the Planning Director of the County of Hawaii. The agreement is supplied by the County of Hawaii Planning Department, and you are urged to obtain a copy of the agreement and read it before you commit yourself to purchasing this condominium apartment. In addition to signing the Farm Dwelling Agreement the landowner or lessee is required to provide:

a. A notarized affidavit that the additional dwelling(s) shall be used for farm related purposes.

b. Name and address of the landowner or lessee, if the latter has a lease on the building site with a term exceeding one year from the date of the farm dwelling agreement.

c. Written authorization of the landowner if the request is filed by the lessee.

d. The landowner or lessee shall submit an agricultural development and use program, farm plan, or other evidence of the applicant's continual agricultural productivity or farming operation within the County. Such plan shall also show how the farm dwelling(s) will be utilized for farm-related purposes. To verify the applicant's engagement in any agricultural productivity or farming operation, the following evidences may be submitted:

1. State of Hawaii Department of Taxation's Gross Income License.

2. Approved agricultural dedication from the County of Hawaii Department of Finance, Real Property Tax Division.

3. Receipts of income received from sale of agricultural products.

The County of Hawaii Zoning Code and the Planning Commission Rules may be amended and other or additional requirements or limitations may be placed on your ability to build a dwelling on the subject property.

EXHIBIT "H"

COUNTY OF HAWAII
PLANNING DEPARTMENT

ADDITIONAL FARM DWELLING AGREEMENT FORM

APPLICANT: _____

APPLICANT'S SIGNATURE: _____ DATE: _____

ADDRESS: _____

PHONE: (Bus.) _____ (Res.) _____ (Fax) _____

TAX MAP KEY: _____

LANDOWNER (if other than applicant): _____

LANDOWNER'S AUTHORIZATION: _____

THIS ADDITIONAL FARM DWELLING AGREEMENT APPLICATION SHALL BE ACCOMPANIED BY THE FOLLOWING:

- An agricultural development and use program, farm plan, or other evidence of the applicant's continual agricultural productivity or farming operation within the County. Such plan shall also show how the additional farm dwelling will be utilized for farm-related purposes.
- To verify the applicant's engagement in any agricultural productivity or farming operation, the following evidences may be submitted:
 - 1) State of Hawaii Department of Taxation's Gross Income License;
 - 2) Approved agricultural dedication from the County of Hawaii Department of Finance, Real Property Tax Division; or
 - 3) Receipts of income from the sale of agricultural products.

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this _____ day of _____, 19____,
by and between _____ herein called the
"First Party," whose mailing address is _____
_____,
and the COUNTY OF HAWAII, herein called the "Second Party."

IT IS HEREBY AGREED that the First Party may construct an additional farm dwelling
located on the property described by Tax Map Key _____
situated within the State Land Use _____ district
and zoned _____ by the Second Party.

IT IS HEREBY ACKNOWLEDGED that the First Party is the _____
(legal owner/lessee)
of the property above described.

IT IS HEREBY FURTHER AGREED that this approval to construct an additional farm
dwelling is given subject to the following conditions:

1. The additional farm dwelling shall be used to provide shelter to only person(s)
involved in the agricultural or farm-related activity on the building site.
2. The agreement shall run with the land and apply to all persons who may now or in
the future use or occupy the additional farm dwelling.
3. The landowner or lessee shall record the approved Additional Farm Dwelling
Agreement with the State of Hawaii, Bureau of Conveyances and/or with the

Land Court System within thirty days from the date of receipt of approval. A copy of the recorded Additional Farm Dwelling Agreement shall be submitted to the Planning Director of the County of Hawaii prior to approval of the building permit.

IT IS HEREBY FURTHER AGREED that if this agreement is with a lessee, the legal owner shall be a party to this agreement.

IT IS HEREBY FURTHER AGREED that should the pertinent provisions of the State and County laws and rules and regulations change to authorize said farm dwelling, upon request of the First Party, this Agreement may be reconsidered for possible amendment and/or severance.

IT IS HEREBY FURTHER AGREED that if the property is situated within the State Land Use Agricultural district, the Second Party may imposed a fine of not more than \$5,000 for violation of Section 205-4.5, Hawaii Revised Statutes. If the violation is not corrected within six months of such citation and the violation continues, a citation for a new and separate violation may be imposed. There shall be a fine of not more than \$5,000 for any additional violation. The Second Party may also impose fines for any violation of Chapter 25, Hawaii County Code, as amended, in accordance with the procedures and fine schedule outlined in Division 3, Article 2, of said code.

IN CONSIDERATION OF THE AFORESAID, the Second Party hereby approves this Agreement as being in conformity with Sections 205-2 and 205-4.5 of the Hawaii Revised Statutes, relative to permitted uses within the State Land Use Agricultural district. This Agreement is also in conformance with Chapter 25, Hawaii County Code, as amended.

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written.

FIRST PARTY

(Legal Owner)

(Lessee)

SECOND PARTY

Planning Director
County of Hawaii Planning Department

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this _____ day of _____, 19____, before me personally appeared _____, to me personally known, who, being by me duly sworn, did say that he/she is the Planning Director of the County of Hawaii; and that the Planning Department of the County of Hawaii has no corporate seal; and that the instrument was signed on behalf of the Planning Department of the County of Hawaii, a government agency, and said _____, acknowledged the instrument to be the free act and deed of said Planning Department, County of Hawaii.

Notary Public, State of Hawaii

My commission expires: _____

RECORDATION REQUESTED BY: 13
FIRST HAWAII TITLE CORPORATION
Exow # 13
AFTER RECORDATION, RETURN TO: 89 83121

FIRST HAWAII TITLE CORPORATION
733 Bishop Street, Suite 1190
Honolulu, Hawaii 96813

23270 795

RETURN BY: MAIL () PICK UP (V)

EXHIBIT

In accordance with the provisions of Chapter 502-31 of the Hawaii Revised Statutes, amended, this sheet is attached to that certain instrument dated June 1, 1979 by and between Kalohe Tuu Partnership

_____ and _____

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF
THE KALOHO II PROJECT

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KALOHO TWO PARTNERSHIP, a Hawaii limited partnership, whose principal place of business and post office address is 2111 Kapiolani Boulevard, Suite 2, Honolulu, Hawaii 96826, (the "Developer") the owner in fee simple of all that certain land described in Exhibit "A" attached hereto and incorporated herein by reference.

The Developer to establish a plan for the development, use and maintenance of the project, does hereby declare, certify and agree that the project shall hereafter be held, leased, mortgaged, conveyed, used, occupied and improved subject to and with the benefit and protection of the following restrictions, covenants, conditions, provisions and easements.

ARTICLE I - ASSOCIATION

1. Kalohe II Association. All owners of lots in the Project shall become members of an association called "Kalohe II Association" (the "Association"), now or hereafter to be formed under the laws of the State of Hawaii as a nonprofit corporation and at all times having Articles and Bylaws provisions for membership not inconsistent with this declaration. The Association shall be organized to maintain and improve the Common Areas of the Project and to supervise and enforce the compliance by the owners and occupants of lots in the Project with all applicable protective provisions and covenants contained herein. The Association shall act through its officers and Board of Directors.

2. Membership. Membership in the Association shall always consist of and be limited to the owners of lots or the lessees thereof under any valid and subsisting deeds, leases and/or subleases for a term of one year or more expiring them for the time being to possession of such lots, and the Developer will on request thereof furnish to the Association all information available in its records regarding holders of such leases and/or subleases if Developer leases and/or subleases any lot. Each lot shall be entitled to a single vote.

3. Voting Rights. The voting rights of the members of the Association shall be as set forth in the Articles and By Laws of the Association. The voting rights shall be based on the members being current in the payments of his and/or her assessments due to the Association and shall be based on the ownership of the lot. For purposes of membership if an owner of a lot enters into a long term lease of more than five years, then the lessee shall be considered a member, except if the lessee falls to pay his assessments and the owner of the lot pays for the same, then the owner shall be a member for the purposes of voting in Association meetings. If there is more than one person or entity who owns any given lot, then such owner can vote as they shall so determine, and if they cannot agree, then they may each vote their fractional interest in the vote allotted to their membership. In no event, however, shall more than one vote be cast with respect to any such lot.

4. Duties and Powers of the Association. The Association shall have the rights, obligations and duties subject to the Community Restrictions, to do and perform each and every one of the following for the benefit of the owners and for the maintenance and improvement of the Project.

(a) The Association shall accept as part of the Project, the roadway, street lighting system, drainage system and any other utility and/or system that is not dedicated to the County of Hawaii and a private utility company.

(b) The Association may acquire and accept title to any other property, real, personal or mixed to carry out the purposes of the Association.

(c) The Association shall maintain or provide for the maintenance of the Common Areas and to enforce the Community Restrictions.

(d) The Association shall obtain and maintain in force public liability insurance for the Common Areas.

(e) The Association shall have the power to levy assessments and to collect the same including the power to record and enforce any lien against the owner of a lot for the nonpayment of assessments levied by the Association from time to time.

(f) The Association shall have the power to make contracts, and to acquire and dispose of property and to borrow

money and encumber the property of the Association to secure any loan made by the Association. The Association may also in the event that there is a foreclosure of any lien against a lot to be purchaser of such foreclosed lot and to dispose of the same within a period of five (5) years thereafter.

(g) To have power to promulgate such further community restrictions as is necessary from time to time.

ARTICLE II - COMMUNITY RESTRICTIONS

1. Purpose. The purpose of the Community Restrictions is to assure that the owners and occupants will enjoy harmonious living and be protected from any act constituting a nuisance or annoyance. Any complaints and reports of violations shall be directly immediately to the Association to its President and/or any other officer in writing.

2. Owner and Occupant. As used herein and owner means the owner of the lot and an occupant means the person actually residing in or using the lot, whether the owner or a person or persons other than the owner, occupying said lot by authority of the owner.

3. Grubbing. No parcel shall cut any trees over ten inches in diameter except within a tree fall of the main dwelling. Trees over 10 inches in diameter may be cut to establish view corridors but only with the Declarant's written authorization.

4. House Design Approval. Before obtaining a building permit, each parcel owner must submit to Declarant or his designee complete construction plans and specifications for approval. If approval is not granted, plans must be amended to meet the approval of the Declarant or his designee.

5. Minimum Building Size and Cost. No dwelling house shall be erected, altered, placed or permitted upon any of the said parcels which shall contain less than four thousand (4,000) square feet under roof including carports, garages, and lanais.

6. Prohibited Structures. No structure of temporary character, trailer or mobile home (or part thereof), tent, shack, outdoor privy, barn, or other out building shall be constructed,

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placed or maintained upon any lot at any time except for periods of construction and only with the Declarant's written permission.

7. Animals. Animals may be kept but the keeping of such shall not create disturbances of either excessive noise or odor to the other parcel owners. No parcel shall have more than 24 fowl or more than 1 pig. In the event any parcel owner shall complain about animal disturbances to the Declarant, the Declarant may demand that the offending animals be removed from the property.

8. Antennae. Towers, aerials, or other facilities for the reception and transmission of radio, television, or other means of communication may be had but only with the written approval of the Declarant. The Declarant may demand the erection of such to be out of the view planes of other parcels and may require landscaping to conceal them from view corridors.

9. Subdivision. In the event any of the parcels are subdivided all restrictive covenants, codes, and restrictions will apply to the created parcels and all building permits will require the approval of the Declarant.

10. Prohibited Uses. No parcel shall be used as a base yard, dump, or parking lot. No junk or inoperable equipment shall be stored on any parcel except inside the structures.

11. View Corridors. All new trees planted on the premises shall not unreasonably obstruct or interfere with the view corridors of other parcel owners.

12. Deeds, Mortgages, Etc. No deed, lease or instrument transferring any rights shall be made unless such deed, lease, or instrument contains the same restrictive codes and covenants as are in this indenture set forth.

3. Scope of Community Restrictions.

a. Application. These Community Restrictions apply to all owners, occupants, tenants, guests, invitees and licensees of any owner or occupant.

b. Interpretation. The interpretation and enforcement of the Community Restrictions shall be determined at the time of the occurrence, if possible, by the Managing Agent, or if no

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Managing Agent by the Board. The decision shall be implemented at the time of such decision.

c. Enforcement. The full authority and responsibility for enforcement of these Community Restrictions may be delegated to a Managing Agent, if any; provided that the Managing Agent shall not be responsible for any noncompliance or violation of these Community Restrictions by any owner, occupant, tenant, guest, invitee or licensee. In the event an owner or occupant fails to comply with these Community Restrictions and it becomes necessary to initiate appropriate legal proceedings to obtain compliance and observance of these Community Restrictions, the offending party shall pay all costs of court and reasonable attorney's fee incurred by the successful party in such proceedings.

d. Appeals. All decisions or actions of the Managing Agent may be appealed to the Board. All appeals shall be in writing, indicating the decision complained of within ten (10) days of the Managing Agent's decision or action; otherwise the Managing Board's decision or action shall be final and binding. The Board shall act upon such appeal and render its decision in writing, within ten (10) days of receipt of such appeal. The decision of the Board shall be final and binding.

ARTICLE III - FUNDS AND ASSESSMENTS

1. Funds. There shall be an operating fund in which the Association shall deposit all monies paid to it from time to time from the members and from any other sources.

2. Assessments. Within thirty (30) days prior to the commencement of each calendar year, the Board shall estimate the debts and expenses to be incurred by the Association in performing its functions and in paying all fees and expenses necessary to carry on the Association's activities.

3. Special Assessments. The Board shall levy a special assessment against any owner and/or occupant as a direct result of whose acts or failure or refusal to act or otherwise comply with the Community Restrictions, this Declaration, the Articles and By-Laws of the Association. Such assessments shall be in the amount so expended and deemed necessary by the Board including professional fees, accountant's fees and attorney's fees reasonably incurred by the Association.

4. Exemptions. Anything herein to the contrary notwithstanding the following there shall be no exemption from payment of assessments relating to the Association during the period when there are no improvements on any lot.

5. Default.

A. Each assessment under this article shall be a separate distinct and personal debt and obligation of the owner against whom it is assessed, and each owner of any lot by acceptance of a deed or lease therefor, whether or not it shall be so expressed in any such deed or lease, is deemed to covenant and agree to pay the same to the Association. If the owner does not pay such assessment or any installment thereof when due, the owner shall be deemed in default and the amount of the assessment not paid, together with the amount of any subsequent default, plus interest at ten percent (10%) and costs, including reasonable attorney's fees, shall be and become a lien upon the lot or lots of such owner upon recordation by the Association of a notice of default. Such lien shall be subject and subordinate to the lien of any mortgage upon the lot or lots of such owner, and the sale or transfer of any lot in foreclosure of any such mortgage, whether by judicial proceedings or pursuant to a power of sale contained in such mortgage, or the transfer or conveyance to the mortgagee in lieu of foreclosure, shall extinguish the lien as to payments of assessments which become due prior to such sale, transfer or conveyance, but no such sale, transfer or conveyance shall relieve such lot or the purchaser or transferee thereof with regard to assessments thereafter becoming due. The Association shall record such notice of default within ninety (90) days following the occurrence of such default and shall commence proceedings to enforce such lien within six (6) months following such recordation. Such lien may be foreclosed by suit by the Association in like manner as mortgage of real property, and the Association shall have power to bid on the lot at foreclosure sale to acquire and hold, lease, mortgage or convey the same. A suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosing or waiving the lien securing the same. The foregoing remedies shall be in addition to any other remedies provided by law for the enforcement of such assessment obligation.

B. The Association shall execute and acknowledge a certificate stating the indebtedness secured by the lien upon any lot or lots and such certificate shall be conclusive upon the Association and the owners in favor of all persons who rely thereon in good faith as to the amount of such indebtedness as of the date of the certificate. The Association shall furnish a copy of such certificate to any owner upon request at a reasonable fee.

6. Notice of Assessment. Notice of any maintenance or special assessment provided for herein, with the exception of the first maintenance assessment, shall be mailed to all owners of lots at such addresses as are shown on the record of ownership of the Association; provided, however, that notice of any changes in any maintenance or special assessment shall be mailed not less than thirty (30) days before such assessment shall become effective.

ARTICLE IV - GENERAL PROVISIONS

1. Amendment. Any amendment to this Declaration may be made by the Developer until such time as Developer has conveyed title to 90% of the lots in the Project. Thereafter any amendment may be made by the Association through 66-2/3% of all of the lot owners after 20 days written notice given of the proposed amendment at a meeting duly called and held in which there is a quorum of not less than 66-2/3% of the owners.

2. Reservations. The Developer until such time as 100% of the lots are conveyed and thereafter until the obligations are fulfilled shall have the power to fulfill the terms and covenants of its obligations with the County of Hawaii's cluster permit approval and is authorized to do the following:

A. To grant easements, licenses, permits and rights-of-way for public or private utility purposes, drainage, gas distribution systems, pedestrian walkways, telephone and television cables and other similar uses, in, over, through and under the Project.

B. To enter on any lot for the purposes of construction any improvements or changes in or appurtenant to the common areas and perform other proper functions in connection with the care and maintenance thereof.

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c. To assign and transfer all or any of the rights, privileges, powers, interests and obligations hereunder to the Association or any successor designated by the Developer to administer the Common Areas.

d. To dedicate any portion of the Common Areas to public use where such use will have the effect of transferring the responsibility and maintenance of the dedicated use to the governmental authority or private utility.

3. Liability of Officer and Board Members. No officer and member of the Board of the Association shall be personally liable to any owner, guest, lessee, or to any other person including the Developer, for any error or omission of the Association, its officers and employees, any committee or provided however, that such member has with actual knowledge possessed by him, acted in good faith.

4. Binding Effect. The restrictions, covenants, conditions and provisions hereof shall constitute covenants running with the lands of the Project perpetually after the date hereof through December 31, 2115, and shall be binding upon and inure to the benefit of the parties hereto, their respective successors and assigns, and all subsequent owners of the lots and common areas.

5. Severability. Invalidation of any restriction, covenant, condition or provision hereof by final judgment order or decree of any court or governmental commission, board of agency having jurisdiction thereof shall in no way affect the other restrictions, covenants, conditions and provisions hereof, which shall remain in full force and effect according to their terms.

IN WITNESS WHEREOF, the Developer has executed these presents this 15th day of June, 1989.

KALOKO TWO PARTNERSHIP

By  its General Partner

STATE OF HAWAII)
CITY AND COUNTY OF HONOLULU) ss.

On this 15th day of June, 1989, before me appeared Thomas F. Schmidt to me personally known, who, being by me duly sworn, did say that he is the General Partner of KALOKO TWO PARTNERSHIP, a Hawaii registered limited partnership, and said Thomas F. Schmidt acknowledged that he executed the same as the free act and deed of said partnership as such General Partner.


NOTARY PUBLIC, STATE OF HAWAII
My commission expires: 12-29-90

KALOKO 2
DEC

EXHIBIT "A"

All of that certain parcel of land (portion of the land described in and covered by Royal Patent 8214, Land Commission Award 7715, Apana 11 to Lota Kamehameha) situate, lying and being Easterly of Old Government Road of Kalofo, District of North Kona, Island and County of Hawaii, State of Hawaii, being Lot Number 2, and thus bounded and described:

Beginning at the West corner of this parcel of land, being also the southwest corner of Lot 1, on the northerly side of Lot A (100 foot wide road reserve). The coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA" being 14,041.89 feet south and 6,616.94 feet west and running by azimuths measured clockwise from true south:

- 1. 252° 00' 761.06 feet along Lot 1 and along remainder of R. P. 8214, L. C. AW. 7715, Apana 11 to Lota Kamehameha;
- 2. 162° 00' 1233.07 feet along Lot 1 and along remainder of R. P. 8214, L. C. AW. 7715, Apana 11 to Lota Kamehameha;
- 3. 252° 47' 594.88 feet along portion of Lot 29 of Kohanaiki Homesteads;
- 4. 252° 30' 470.82 feet along portion of Lot 30 of the Kohanaiki Homesteads;
- 5. 342° 00' 2242.49 feet along Lot 1, Block 1 of File plan 994 and along remainder of R. P. 8214, L. C. AW. 7715, Apana 11 to Lota Kamehameha;
- 6. 51° 45' 821.63 feet along Lot 3 and along remainder of R. P. 8214, L. C. AW. 7715, Apana 11 to Lota Kamehameha;

- 7. 342° 00' 289.15 feet along Lot 3 and along remainder of R. P. 8214, L. C. AW. 7715, Apana 11 to Lota Kamehameha; thence along Lot A (100 foot wide road reserve) along remainder of R. P. 8214, L. C. AW. 7715, Apana 11 to Lot Kamehameha on a curve to the right with a radius of 550.00 feet, the chord azimuth and distance being:

- 8. 108° 40' 49" 487.72 feet;
- 9. 135° 00' 1464.12 feet along Lot A (100 foot wide road reserve) and along remainder of R. P. 8214, L. C. AW. 7715, Apana 11 to Lota Kamehameha to the point of beginning and containing an area of 74,000 acres, more or less.

Being all of the land conveyed by Deed dated October 8, 1986, recorded on October 8, 1986 in Book 19929, Page 659, in the Bureau of Conveyances, State of Hawaii.

SUBJECT, HOWEVER, to Easement for Operation and Maintenance of Water Tanks and Water Pipelines dated December 20, 1971, recorded in Book 8062, Page 1, in the Bureau of Conveyances, State of Hawaii.

KALOKO
EX A

SN 192005 ✓

State of Hawaii
BUREAU OF CONVEYANCES
RECORDATION DIVISION

RECORDED 15 AM 8:01
23999 / 656

LIBR/P/C
ANNE K. WELA, RECORDER

REGULAR SYSTEM ✓

LAND COURT SYSTEM
Return by Mail () Pickup (X) To: _____
18305
FIRST HAWAIIAN TITLE CORPORATION
201 Merchant Street, Suite 2000
Honolulu, Hawaii 96813
F0026, L

DOCUMENT TITLE: AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF THE KALONO II PROJECT

AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF
THE KALONO II PROJECT

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KALONO TWO PARTNERSHIP, a Hawaii limited partnership, whose principal place of business and post office address is 2333 Kapiolani Boulevard, Suite 2, Honolulu, Hawaii 96126, (the "Developer") hereby amends the Declaration of Covenants dated June 1, 1989, recorded in the Bureau of Conveyance, State of Hawaii, in Book 23720, Page 785, in the following respects:

1. Article II - COMMUNITY RESTRICTION is amended as follows:

A. Amend Paragraph 6 to read as follows:

"6. Temporary Prohibited Structures. No structure of temporary character, trailer or mobile home (or part thereof), tent, shack, outdoor privacy, or other out building shall be constructed, placed or maintained upon any lot at any time except for periods of construction and only with the Declarant's written permission."

B. Amend Paragraph 7 to read as follows:

"7. Animals. Animals may be kept but the keeping of such shall not create the nuisance of either excessive noise or odor to the other parcel owners. In the event any parcel owner shall complain about animal disturbances to the Declarant, the Declarant may demand that the offending animals be removed from the property."

C. Add to Paragraph 13, SCOPE OF Community Restrictions, the following subparagraph:

"e. Rezoning. Should the requirement of Section 7 of the County of Hawaii, Ordinance No. 841 effective September 11, 1984 not be met, rezoning of the area to its original or more appropriate designation may be initiated."

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D. Add a new Paragraph 14, Definitions:

"14. Definitions. The following definitions are applicable to the Community Restrictions:

"a. 'Agriculture'. Agriculture shall be defined as the cultivation of crops, including but not limited to flowers, vegetables, foliage, fruits, forage and timber; game propagation; raising of livestock, including but not limited to poultry, bees, fish or other animal or aquatic life that are propagated for economic or personal use.

"b. 'Agriculture Activity'. An agriculture activity will be considered agricultural (1) if such activity is implementing a conservation program for the affected property(ies), as approved by the applicable soil and water conservation district directors and filed with the Soil Conservation Service; (2) if it provides a major source of income to the person(s) who reside on the property; or (3) if the uses in property is dedicated for agriculture in accordance with applicable Tax Department procedures and that such agriculture dedication shall be made a deed covenant and duly recorded with the Planning Department and Bureau of Conveyances."

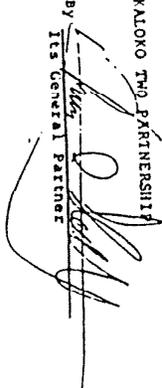
2. Article IV, GENERAL PROVISIONS, is hereby amended by amending the introductory paragraph of Paragraph 2 to read as follows:

"2. Reservations. The Developer until such time as 100% of the lots are conveyed and thereafter until the obligations are fulfilled shall have the power to fulfill the terms and covenants of its obligations with the County of Hawaii's change of district classification from Agricultural (A-20a) to Agricultural (A-3e) approval and is authorized to do the following:"

23999 659

3. The foregoing shall take effect upon its execution by the undersigned.

IN WITNESS WHEREOF, the Developer has executed these presents this 5th day of December, 1989.

KALO KO TWO PARTNERSHIP
By 
Its General Partner

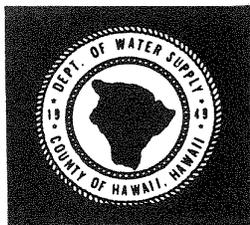
STATE OF HAWAII)
CITY AND COUNTY OF HONOLULU) ss.

On this 5th day of December, 1989, before me appeared Thomas F. Schuch, to me personally known, who, being by me duly sworn, did say that he is the General Partner of KALO KO TWO PARTNERSHIP, a Hawaii registered limited partnership, and said Thomas F. Schuch acknowledged that he executed the same as the free act and deed of said partnership as such General Partner.


NOTARY PUBLIC, STATE OF HAWAII
My Commission expires: 11/29/93

KALCKJ
AM

Exhibit "J"



RECEIVED
PVL
REAL ESTATE BRANCH
DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII
25 AUPUNI STREET • HILO, HAWAII 96720
TELEPHONE (808) 961-8660 FAX (808) 961-8657
98 DEC 24 12:23

December 21, 1998

DEPT OF COMMERCE
& CONSUMER AFFAIRS
STATE OF HAWAII

Mr. Calvin Kimura, Supervising Executive Officer
State of Hawaii
Department of Commerce and Consumer Affairs
Professional and Vocational Licensing Division
Real Estate Branch
250 South King Street, Room 702
Honolulu, HI 96813

WATER AVAILABILITY AND REQUIREMENTS
CONDOMINIUM PROPERTY REGIME (CPR) PROJECT: HOOKELE 1 CONDOMINIUM PROJECT
TAX MAP KEY 7-3-024:060

This letter is to inform your office and the applicant of the availability and requirements for water service for the subject project.

Water is available for the 2-lot partitioning from an existing 4-inch waterline fronting the property. An existing 5/8-inch meter is available to service one of these lots at a maximum daily amount of 600 gallons in accordance with the Department's policies and Rules and Regulations.

Therefore, should the Final Report be filed, the following must be disclosed to the public:

1. The applicant and/or their successors/assigns apply for the installation, by the Department, for a second 5/8-inch meter to service the second lot.
2. Payment of the following charges:
 - a. facilities charge, which is subject to change, of \$3,375.00,
 - b. capital assessment fee of \$500.00, and
 - c. credit deposit (if not an existing customer) of \$50.00.

... Water brings progress...

Mr. Calvin Kimura, Supervising Executive Officer

Page 2

December 21, 1998

Failure to comply with these conditions would be in violation of our policies and Rules and Regulations. As such, the applicant would be subject to its penalties that could include, but not limited to, the discontinuation of service, as stipulated in Section 3-11 (2) (c) of the Rules and Regulations.

If you have any questions, please contact our Water Resources and Planning Branch at 961-8660.



Milton D. Pavao, P.E.
Manager

GGA:gms

copy - Customer Service Sections (Hilo, Waimea, Kona, Ka'u)
Mr. Thomas Schmidt