

**CONDOMINIUM PUBLIC REPORT**

Prepared &

Issued by: Developer ROBERT BENEDICT WHITE

Address 3285 Waapa Road, Lihue, Kauai, Hawaii 96766

Project Name(\*): HULEMALU GARDENS

Address Lot 7-C Hulemalu Road, Lihue, Kauai, Hawaii 96766

Registration No. 4147

Effective date: May 3, 1999

Expiration date: June 3, 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 six apartment condominium project shall have no expiration date.

Type of Report:

**PRELIMINARY:** 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.  
(yellow)

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

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

And

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

(\*) Exactly as named in the Declaration  
FORM: RECO-30 286/986/189/1190/892/0197/1098

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 NOTICE:**

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

1. Units 1 and 2 are garden shed structures.
2. This Public Report does not constitute an approval of the project by the Real Estate Commission or any other governmental agency, nor does it ensure that all county codes, ordinances and subdivisions requirements have necessarily been complied with.
3. This Project does not involve the sale of individual subdivided lots. The land area beneath and immediate adjacent to each unit as shown on the condominium map is designated as a limited common element and does not represent a legally subdivided lot. The dotted lines on the condominium map merely represent the approximate location of the limited common element assigned to each unit.
4. Facilities and improvements normally associated with County approved subdivisions may not necessarily be provided for and services such as County street maintenance and trash collection will not be available for interior roads.

THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW THE CONDOMINIUM DOCUMENTS 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 lessor'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. The 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 spirit of cooperation.

I. PERSONS CONNECTED WITH THE PROJECT

Developer: ROBERT BENEDICT WHITE Phone: (808) 245-7575
Name (Business)
3285 Waapa Road
Business Address
Lihue, Kauai, Hawaii 96766

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

Four horizontal lines for listing names of officers or general partners.

Real Estate Broker: NONE (See page 20) Phone: (Business)
Name
Business Address

Escrow: SECURITY TITLE CORPORATION Phone: (808) 245-6975
Name (Business)
4370 Kukui Grove, Suite 207
Business Address
Lihue, Kauai, Hawaii 96766

General Contractor: FERGUS S. MACOMBER, dba KOKUA CONSTRUCTION Phone: (808) 742-1300
Name (Business)
P. O. Box 54
Business Address
Lawai, Kauai 96765

Condominium Managing Agent: Self-Managed by Association of Unit Owners Phone: (Business)
Name
Business Address

Attorney for Developer: MICHAEL H. SAKAI Phone: (808) 531-4171
Name (Business)
201 Merchant Street, Suite 902
Business Address
Honolulu, Hawaii 96813-1369

**II. CREATION OF THE CONDOMINIUM;  
CONDOMINIUM DOCUMENTS**

A condominium is created by recording in the Bureau of Conveyances and/or filing with the Land Court a Declaration of Condominium Property Regime, a Condominium Map (File Plan), and the Bylaws of the Association of Apartment Owners. The Condominium Property Act (Chapter 514A, HRS), the Declaration, Bylaws, and House Rules control the rights and obligations of the apartment owners with respect to the project and the common elements, to each other, and to their respective apartments. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law.

- A. Declaration of Condominium Property Regime contains a description of the land, buildings, apartments, common elements, limited common elements, common interests, and other information relating to the condominium project.

The Declaration for this condominium is:

- Proposed  
 Recorded - Bureau of Conveyances: Document No. \_\_\_\_\_  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court: Document No. 2521468

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

- B. Condominium Map (File Plan) shows the floor plan, elevation and layout of the condominium project. It also shows the floor plan, location, apartment number, and dimensions of each apartment.

The Condominium Map for this condominium project is:

- Proposed  
 Recorded - Bureau of Conveyances, Condo Map No. \_\_\_\_\_  
 Filed - Land Court Condo Map No. 1284

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 are:

- Proposed  
 Recorded - Bureau of Conveyances: Document No. \_\_\_\_\_  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court: Document No. 2521469

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

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

The House Rules for this condominium are:

Proposed                                       Adopted                                       Developer does not plan to adopt House Rules

E. Changes to Condominium Documents

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

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

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

\*The percentage for individual condominium projects may be more than the minimum set by law for projects with five or fewer apartments.

2. Developer:

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

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

**III. THE CONDOMINIUM PROJECT**

A. Interest to be Conveyed to Buyer:

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

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

For Subleaseholds:

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

Individual Apartments in Fee Simple; Common Interest in the Underlying Land in Leasehold or Subleasehold:

Leases for the underlying land usually require that at the end of the lease term, the lessees (apartment owners/tenants) deliver to the lessor (fee property owner) their interest in the land and that they either (1) remove or dispose of the building(s) and other improvements at the lessee's expense; or (2) convey the building(s) and improvements to the lessor, often at a specified price.

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

Lease Term Expires: \_\_\_\_\_

Rent Renegotiation Date(s) \_\_\_\_\_

Lease Rent Payable:      Monthly                              Quarterly  
                                  Semi-Automatically              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 a sublease or a new lease of the land with the lessee (apartment owner). The developer may lease the improvements to the apartment owner by way of an apartment lease or sublease, or sell the improvements to the apartment owners by way of a condominium conveyance or apartment deed.

B. Underlying Land:

Address: Hulemalu Road, Kauai, Hawaii Tax Map Key: (4 )3-2-02-34

Address  TMK is expected to change because County may assign new tax map key number for each unit and a street number may be assigned to the Project.

Land Area: 46,031  square feet  acre(s)  Zoning: Urban/Open

**Lessor**

(Fee Owner): ROBERT BENEDICT WHITE  
Name  
3285 Waapa Road  
Address  
Lihue, Kauai, Hawaii 96766

Sublessor: \_\_\_\_\_  
Name  
\_\_\_\_\_  
Address  
\_\_\_\_\_

**C. Buildings and Other Improvements:**

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

2. Number of Buildings: two Floors Per Building one

Exhibit A contains further explanations.

3. Principal Construction Material:

Concrete             Hollow Tile             Wood

Other \_\_\_\_\_

4. Permitted Uses by Zoning:

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

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

Yes                     No

5. Special Use Restrictions:

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

Pets: No more than 2 dogs, cats or other common housepets.

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

Other: See Declaration of Easements, Covenants and Restrictions (Exhibit F)

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0      Stairways: 0      Trash Chutes: 0

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Lanai/Patio (sf)</u>	<u>Net Area (sf)</u>	<u>Identify</u>
<u>Unit 1</u>	<u>1</u>	<u>0/0</u>	_____	_____	<u>8</u>	<u>shed</u>
<u>Unit 2</u>	<u>1</u>	<u>0/0</u>	_____	_____	<u>8</u>	<u>shed</u>
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

Total Apartments: 2

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

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

Boundaries of Each Apartment:

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

Permitted Alterations to Apartments:

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

7. Parking Stalls:

Total Parking Stalls: 4 Two parking stalls each for Units 1 and 2 will be accommodated within their respective limited common land areas.

	<u>Regular</u>		<u>Compact</u>		<u>Tandem</u>		
	<u>covered</u>	<u>open</u>	<u>covered</u>	<u>open</u>	<u>covered</u>	<u>open</u>	<u>TOTAL</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 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

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):

Not Applicable

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   B  .

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:

\*NOTE: Land areas referenced herein are not legally subdivided lots.

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

described in Exhibit \_\_\_\_.

as follows:

Unit 1 -	50%
Unit 2 -	<u>50%</u>
Total	100%

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

Exhibit C describes the encumbrances against the title contained in the title report dated March 1, 1999 and issued by Old Republic National Title Insurance Company.

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.

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

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:

None. There are no warranties, express or implied.

2. Appliances:

None. There are no appliances included with any of the units.

G. Status of Construction and Estimated Completion Date:

Garden Sheds on units 1 and 2, were constructed in late 1998.

H. Project Phases:

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

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



## V. MISCELLANEOUS

### A. Sales Documents Filed With the Real Estate Commission:

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

Notice to Owner Occupants

Specimen Sales Contract

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

Escrow Agreement dated February 7, 1999

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

Other \_\_\_\_\_

### B. Buyer's Right to Cancel Sales Contract:

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

Preliminary Report: Sales made by the developer are not binding on the prospective buyer. Sales made by the developer may be binding on the developer unless the developer clearly states in the sales contract that sales are not binding. A prospective buyer who cancels the sales contract is entitled to a refund of all moneys paid, less any 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.
- C) Bylaws of the Association of Apartment Owners.
- D) House Rules (None)
- E) Condominium Map.
- F) Escrow Agreement.
- G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
- H) Other Declaration of Easements, Covenants and Restrictions (see Exhibit F)

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. 4147 filed with the Real Estate Commission on March 19, 1999.

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

**NOT A SUBDIVISION.** This is a condominium project which should not be confused with a subdivision. A purchaser of an apartment unit will be conveyed an apartment unit together with an "undivided" percentage interest in the common elements of the project. The entire parcel of land upon which the project is situated is designated as a common element. That portion of the common element which each purchaser has the exclusive right to use is called a limited common element or area, but is not a separate, legally subdivided lot.

**MAINTENANCE FEES.** All costs of every kind pertaining to each apartment and its respective limited common element, including but not limited to, cost of landscaping, maintenance, repair, replacement and improvement shall be borne entirely by the respective apartment owner. The cost of maintaining the driveway will be a common expense, however there should not be any maintenance required for it.

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

**RESERVES.** Developer discloses that no reserve study was done in accordance with Section 514A-83.6, Hawaii Revised Statutes, and replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended. No reserves are necessary because there are no common elements that require any type of replacement or major repair other than the common concrete walkway. The Developer believes that there will be very little or normal repairs needed for the walkway during the next 25 years.

**DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS ("DECK").** This Project is subject to the Deed dated September 27, 1995 which is attached hereto as Exhibit F. Purchasers are encouraged to review the Declaration of Easements, Covenants and Restrictions ("Deck") to determine the effect, if any, that those covenants have on a unit or the Project.

**REAL ESTATE BROKER.** This public report shall not bind a purchaser to the sale of any condominium unit until: (1) the Developer first submits to the Real Estate Commission a duly executed disclosure abstract identifying the designated sales agent, and a duly executed copy of a broker listing agreement with a Hawaii-licensed real estate broker; and (2) gives a copy of said disclosure abstract to the purchaser together with a copy of the Public Report. If the Developer, as the owner, chooses to represent himself in the sale of any condominium unit, said abstract need not be given to the purchaser, as all necessary disclosures are covered in this report.

**FLOOD ZONE.** The Project is located near a stream and the ocean and is located in an area designated as Zone AE by the Director of the Federal Emergency Management Agency on the most current flood Insurance Rate Map. Purchasers should be aware that financial institutions will require flood insurance for any improvements constructed in Zone AE areas and there also may be additional requirements and restrictions imposed by the Building Division, County of Kauai, that addresses potential flood concerns. Purchasers are encourage to seek additional information to determine the effect, if any, that the foregoing Zone AE designation may have on a unit and the Project from the appropriate governmental agencies and/or insurance agent. See paragraph d in Exhibit G attached.

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.

ROBERT BENEDICT WHITE  
Name of Developer

*Robert Benedict White*  
**ROBERT BENEDICT WHITE**  
Developer

*1/29/99*  
**Date**

Distribution:

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

EXHIBIT "A"

Description of Apartments

The Project consists of the following two (2) apartments:

a. Unit 1. Unit 1 consist of one freehold estate consisting of one garden shed structure having a net area of approximately 8 square feet together with the limited common land area under and surrounding Unit 1. This unit is constructed principally of wood. The land area surrounding Unit 1 as delineated and described in the Condominium Map is a limited common element for Unit 1 and is for the exclusive use of Unit 1.

b. Unit 2. Unit 2 consist of one freehold estate consisting of one garden shed structure having a net area of approximately 8 square feet together with the limited common land area under and surrounding Unit 2. This unit is constructed principally of wood. The land area surrounding Unit 2 as delineated and described in the Condominium Map is a limited common element for Unit 2 and is for the exclusive use of Unit 2.

EXHIBIT "B"

Common Elements

- a. The land in fee simple.
- b. The central and appurtenant installations for services such as power, light, gas, telephone, sewer, drainage, hot and cold water and like utilities which services more than one unit and any easements for such utility services.
- c. The common driveway containing approximately 9,928 square feet (Common Element 1 on condominium map) and any common easements for ingress and egress, drainage and all installations for underground utilities including electricity, water, telephone, and cable television which run upon or under the common driveway and the common drainage easement area containing approximately 5,207 square feet (identified as Common Element 2 on the condominium map).
- d. All other parts of the Project existing for the common use or necessary to the existence, maintenance and safety of the Project.

Limited Common Elements

A. Unit 1. The land area surrounding and under Unit 1 is a limited common element of Unit 1 and is for the exclusive use of Unit 1 and consists of approximately 14,148 square feet.

B. Unit 2. The land area surrounding and under Unit 2 is a limited common element of Unit 2 and is for the exclusive use of Unit 2 and consists of approximately 16,748 square feet.

EXHIBIT "C"

Encumbrances Against Title

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

2. Easement 4, for grading purposes, as shown on Map 1 of Land Court Consolidation No. 173, as set forth by Land Court Order No. 93575, filed on May 8, 1989.

3. Easement 3, for road and utility purposes, as shown on Map 2 of Land Court Consolidation No. 180, as set forth by Land Court Order No. 121153, filed June 30, 1995.

4. Easement 8, for drainage purposes, as shown on Map 2 of Land Court Consolidation No. 180, as set forth by Land Court Order No. 121153, filed June 30, 1995.

5. Declaration of Easements, Covenants, and Restrictions, dated September 27, 1995, filed in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 2265458, to which reference is hereby made. (See Exhibit F attached).

6. Right-of-Entry in favor of Citizens Utility Company filed in said Office, as Document No. 2295590.

7. The covenants, agreements, obligations, conditions, easements and other provisions as contained in the Declaration of Condominium Property Regime of "Hulemalu Gardens", dated January 29, 1999, filed in said Office as Document No. 2521468 and Condominium Map No. 1284 to which reference is hereby made.

8. By-Laws of the Association of Unit Owners of "Hulemalu Gardens" dated January 29, 1999, filed in said Office, as Document No. 2521469.

9. For real property taxes, your attention is directed to the Director of Finance, County of Kauai.

EXHIBIT "D"

Summary of Sales Contract

The Sales Contract contains the purchase price, description and location of the apartment and other terms and conditions under which a Purchaser will agree to buy an apartment in the Project.

Among other things, the Sales Contract:

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

2. Identifies the escrow agent and states that purchaser's deposit will be held in escrow until the Sales Contract is closed or canceled.

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

4. Permits the Developer without the consent or approval of a purchaser to modify the Declaration, By-Laws Condominium Map or other documents provided that purchaser may cancel the Sales Contract and obtain a refund if such modification:

a. substantially and materially impairs the use and enjoyment of the apartment;

b. substantially and materially alters the arrangement of the rooms or usable space of an apartment or building;

c. renders unenforceable a purchasers' loan commitment;

d. increases the purchaser's share of common expenses or maintenance fees;

e. reduces the obligations of Developer of common expenses on unsold apartments.

5. Provides that the Developer is selling the apartments in "AS-IS WHERE-IS" condition. This means that the Developer is not making any warranties or representations with respect to the apartments and Project.

6. Provides that the Developer has up to 12 months after the effective date of the Final Public Report to construct the improvements (the sheds).

7. If purchaser dies (any one of them) prior to closing, Developer has the right to return purchaser's funds, less any escrow cancellation fees and cost, and cancel the Sales Contract.

8. Provides that the closing cost shall be paid as follows:

a. By purchaser: title insurance, drafting of any note and mortgage, purchaser notary fees, recording fees, one half of escrow fees, and also a start fee for common expenses, if any.

b. By Developer: drafting of apartment deed and Developer notary fees, conveyance taxes, preliminary title report, and one half of escrow fees.

9. Provides the following remedies, in the event of default under the Sales Contract:

by purchaser:

- a. Developer may bring an action against purchaser for breach of contract;
- b. Developer may retain initial deposit;
- c. Purchaser shall be responsible for expenses incurred.

by Developer:

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

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

10. Provides that purchaser may not assign his/her interest in the Sales Contract without the prior written consent of Developer.

The Sales Contract contains various other provisions which purchaser should become acquainted with.

EXHIBIT "E"

Summary of Escrow Agreement

The Escrow Agreement sets up an arrangement under which the deposits which a purchaser makes under a Sales Contract will be held by a neutral party ("Escrow"). Escrow is SECURITY TITLE CORPORATION. Under the Escrow Agreement dated February 7, 1999, these things will or may happen:

(a) Developer or Escrow will let purchasers know when payments are due and all monies received from a purchaser will be deposited in Escrow. Any interest earned on the deposits will belong to Developer.

(b) Escrow will arrange for purchasers to sign all necessary documents.

(c) The Escrow Agreement specifies when purchaser funds may be disbursed upon closing of a sale. The conditions include:

i) Escrow receives the purchasers' signed "Receipt for Public Report(s) and Notice of Right to Cancel";

ii) Escrow receives a certification from the Developer that the Sales Contract is effective and that the rescission right requirements in favor of purchasers have been complied with by the Developer; and

iii) The apartment deed conveying the unit to the purchaser has been recorded in the Bureau of Conveyances.

(d) The Escrow Agreement says under what conditions a refund will be made to a purchaser. Refunds can occur under the following situations:

i) If Purchaser elects to cancel the transaction in accordance with the "Receipt for the Final Public Report and Notice of Right to Cancel". The Receipt provides that purchasers may cancel the Sales Contract and purchaser is the Receipt is mailed or sent by telegram to Developer before (1) the apartment unit is conveyed to purchaser or (2) midnight of the 30th day after delivery of the Public Report(s) to me, whichever is earlier.

ii) The Developer and purchaser agree to terminate the Sales Contract;

iii) if the Developer exercises any right to cancel the transaction which it may have reserved.

NOTE: If a transaction is cancelled, the purchaser must return all documents to the Developer.

(e) The Escrow Agreement says what will happen to a purchaser's funds upon a default under the Sales Contract. If a purchaser defaults, all deposits previously placed into Escrow will be forfeited by purchaser and Escrow may release such funds to Developer. See paragraph 11 of Escrow Agreement.

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

EXHIBIT "F"

DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, ROBERT BENEDICT WHITE, husband of Alida Toulon White, whose business and mailing address is 3285 Waapa Road, Lihue, Hawaii 96766, DENNIS ROY YAMADA and SHARON REIKO YAMADA, husband and wife, whose business and mailing address is 2970 Kress Street, Lihue, Hawaii 96766, HISAO KYONO and JEAN SHIZUKO KYONO, husband and wife, whose residence and mailing address is 3811 Manakai Road, Kalaheo, Hawaii 96741, CHRISTOPHER ALAN WHITE, husband of Patricia Ann White, whose residence and mailing address is 3794-D Omao Road, Koloa, Hawaii 96756, and GARY CRAFT, unmarried, whose residence and mailing address is 737 Olokele Avenue, Number 1401, Honolulu, Hawaii 96816, hereinafter called "Declarant", are the owners of all those certain parcels of land situate at Niumalu and Nawiliwili, District of Lihue, Island and County of Kauai, State of Hawaii, known as the Niumalu Estates Subdivision, consisting of five (5) residential lots, being Lots 7-A, area 43,572 square feet, 7-B, area 47,852 square feet, 7-C, area 46,031 square feet, 7-D, area 51,687 square feet, and 7-E, area 180,064 square feet, as shown on Map 2 of Land Court Consolidation No. 180 and being all of the lands described in Transfer Certificate of Title No. 459,454; and,

WHEREAS, Declarant intends to develop, sell and convey Lots 7-A to 7-E, inclusive, for residential use and desires to impose upon said lots mutual and beneficial easements, restrictions, covenants and conditions under a plan of development and improvement for the benefit of all residential lots in said Niumalu Estates Subdivision;

NOW THEREFORE, Declarant does hereby declare that Lots 7-A to 7-E, inclusive, of said Niumalu Estates Subdivision, as shown on said Map 2, are and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following declarations:

ARTICLE I  
RESTRICTIONS

1. Residence Only. All lots shall be utilized for residential purposes only.

2. Used Construction Materials and Buildings. No used or secondhand lumber or other material shall be used or incorporated in the construction of any improvements on any lot, nor shall there be placed or maintained upon any lot any used buildings which have been moved from another location.

3. Roofing Material. The use of the following types of roofs is prohibited: (1) mineral surfaced asphalt felt roll roofing, and (2) metal roofing. In addition, no roofing material which has a finished surface which will produce glare or has high gloss reflective qualities shall be used. For example, silver or other similar shiny metallic paint surfaces shall be prohibited. Earthtone colors should be used whenever possible to complement the surrounding terrain and vegetation.

4. Geodesic Domes. No geodesic domes shall be permitted on any lot.

5. Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

6. Maintenance of Lot. The owner of each lot shall at all times maintain said lot in a good, neat and clean condition so as to prevent it from becoming overgrown with grass and weeds, unsightly, unsanitary or a hazard to health. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall be kept in sanitary containers.

7. Temporary structures. No tent, shack, trailer, or other temporary structures shall be placed for more than 30 days upon any part of any lot except as may be necessary during periods of construction, not to exceed twelve months. The temporary construction structures or trailers shall remain upon the land only during the period of construction of permanent improvements thereon and must be removed within 30 days after completion of such construction. Any surplus material from construction must be removed within that 30 days. All such temporary structures shall observe the restrictions set forth herein.

8. Animals, livestock and poultry. No pigs, chickens, bees, animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot, except that a maximum total of two (2) dogs, cats, or other common household pets may be kept; provided, however, that they are not kept, bred, or maintained for any commercial purpose.

9. Lot Construction. No part of any lot shall be filled, excavated or otherwise altered as to grade in such manner as to adversely affect drainage of any adjoining lot.

10. Archaeological or Historic Sites. If previously undiscovered significant historic sites, cultural deposits or burials are found in or upon any lot, such lot owner must stop all

construction work in the immediate area and contact the State Historic Preservation Division immediately. Any mitigation measures agreed upon with the Preservation Division would have to be complied with prior to the project proceeding in the immediate vicinity.

ARTICLE II  
EASEMENTS AND RESTRICTIONS ON ACCESS

1. Road widening reserve. A six (6) feet wide strip of land along the subdivided lots fronting Hulemalu Road is hereby established as and for a future road widening reserve. No new structure shall be permitted within the reserve; new structures shall be setback from the reserve.

2. Easement Within Lots.

a. Lot 7-C is subject to Easement 3, as shown on said Map 2. Easement 3 is declared to be a perpetual easement for utility purposes and for ingress and egress over, under and across the easement premises in favor of Lots 7-B, 7-C, 7-D and 7-E.

b. Lot 7-B is subject to Easement 4, as shown on said Map 2. Easement 4 is declared to be a perpetual easement for utility purposes and for ingress and egress over, under and across the easement premises in favor of Lots 7-B, 7-C, 7-D and 7-E.

c. Lot 7-D is subject to Easement 5, as shown on said Map 2. Easement 5 is declared to be a perpetual easement for utility purposes and for ingress and egress over, under and across the easement premises in favor of Lots 7-B, 7-C, 7-D and 7-E.

d. Lot 7-D is subject to Easement 7, as shown on said Map 2. Easement 7 is declared to be an easement for road and utility purposes in favor of Exclusion 4.

e. Lots 7-A, 7-B, 7-C, 7-D and 7-E are subject to Easement 8 as shown on Map 2. Easement 8 is declared to be an easement for drainage purposes in favor of Lots 7-A, 7-B, 7-C, 7-D and 7-E.

3. Repairs and Maintenance of Easements 3, 4, 5 and 6. The owners of a majority of the lots shall decide upon the maintenance and repairs of the easement premises. Each lot shall bear an equal responsibility for maintaining and repairing Easements 3, 4, 5 and 6, including surfacing and resurfacing as necessary. Each lot owner shall be solely responsible, at their own cost and expense, for installing, maintaining, repairing and replacing all utility

lines and facilities installed in or under the easement premises and which services their respective lot. All such repairs and maintenance shall be performed in such manner as shall cause the least practicable interference with the use and enjoyment of the easement premises.

4. Parking on Easements. Vehicles, boats, and other objects shall not be parked on the easement premises except so long as may be reasonably necessary to load and unload.

5. Drainage Facilities. Drainage ways for the handling of water runoff exist on certain lots. Said drainage ways are depicted on maps on file at the County of Kauai Department of Public Works. The owners of each lot through which the drainage ways run shall be responsible for the maintenance of these drainage ways to insure the unimpeded flowage of water through these drainage ways. Within said drainage ways, no structure, planting (other than ground cover), or material shall be placed, grown or permitted to remain therein which may damage or interfere with the installation and maintenance of such drainage ways or which may change or impede the directional flow of drainage ways or swales.

6. Declarants' Right of Dedication. Notwithstanding that all of the lots in the Subdivision may have been sold, all easements, including but not limited to purposes of access, installation and maintenance of utilities, drainage facilities, and entry areas for subdivision signs, as shown on Map 2, are reserved for the purpose and benefit of the Subdivision and for dedication by the Declarant, although the Declarant shall be under no obligation to so dedicate.

7. Easements of Public Record. All easements of public record, as shown on all applicable Land Court Maps are hereby incorporated herein by reference for the purposes for which they were created.

### ARTICLE III GENERAL PROVISIONS

1. Binding Nature of Declaration. Each and all of the foregoing covenants and restrictions shall run with the land, and jurisdiction may be taken in equity at suit of the Declarant, its successors or assigns, or of any other grantee of any of said lots within said subdivision, to restrict or prevent by injunction, mandatory or restraining, any violation of any of said covenants upon the part of any lot owner to be observed and performed, without prejudice to the right of the Declarant, its successors or assigns, or any other grantee, to adopt or pursue any other remedy

thereafter for the same breach or failure, or for any subsequent breach or failure, or to take any action to recover damages for any such breach or failure.

2. Amendments. The covenants, agreements, conditions, reservations, restrictions, and charges created and established herein may be waived, terminated, or modified with the written consent of the owners of 75% of the lots in the Subdivision, provided that such modification or change is not violative of any governmental rule, law, or regulation, nor violative of any condition imposed upon the grant of subdivision approval by the County of Kauai.

3. Severability. Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other covenants, which shall remain in full force and effect.

4. Captions. All captions in this Declaration are for convenience only and do not in any way limit or amplify the provisions hereof.

5. Gender and Number. The use of any gender herein shall include all genders, and the use of any number shall be construed as singular or plural, as the paragraph may require.

6. All of the foregoing restrictions are intended to constitute a general plan for the development and improvement and sale of said lots, and are established for the purpose of enhancing and protecting the value, desirability, attractiveness and quality of the development as a whole and each of said lots therein.

7. Covenants Running With the Land. All of the foregoing are also covenants running with the land at law as well as in equity and are binding upon and inure to the benefit of the successors and assigns of the Declarant and all present and future persons owning or having an interest in any of said lots or a part thereof.

EXHIBIT "G"

COPY

COUNTY OF KAUAI  
PLANNING DEPARTMENT  
4444 Rice Street, Suite 473, Bldg. A,  
Lihue, Hawaii 96766

M E M O R A N D U M

DATE: April 6, 1999

TO: Senior Condominium Specialist  
Real Estate Commission  
P&VLD/DCCA  
250 South King Street, Suite 702  
Honolulu, Hawaii 96813

FROM: Dee M. Crowell  Planning Director

Subject: Certification of Inspection of Existing Buildings for

PROJECT NAME: HULEMALU GARDENS CONDOMINIUM  
TAX MAP KEY: (4) 3-2-2:34

The developer of the above-mentioned condominium project has requested that this office, as an agency of the County of Kauai, review the project for compliance with all ordinances, codes, rules, regulations and other requirements of the County of Kauai (Section 514A-40 (b)(1), HRS). Subject to the disclosures and waiver (item "e" below) specified herein, we certify the following:

- a. That the existing buildings on the proposed project referred to as Hulemalu Gardens Condominium, Unit 1 and Unit 2 are in compliance with all ordinances, codes, rules, regulations and other requirements in force at the time of its construction, and to that extent, and subject to the conditions of waiver herein, the Planning Department adopts that certification as it pertains to the rules and regulations administered solely by this department.
- b. There were no variances approved for the subject property.
- c. The parcel does not contain any outstanding legal nonconforming structures as a result of the adoption or amendment of any ordinances or codes.

Senior Condominium Specialist

Page 2

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- d. The subject property is situated in the open district and is in the Special Management Area (SMA). The flood height has been determined for this parcel and structures must meet codes requirements for structures in the flood zone.
  
- e. WAIVER  
The foregoing certification is not a warranty as to any compliance with all applicable County and State rules and regulations. The sole reason for the execution hereof is to comply with statutory requirements relating to the regulation of condominiums under Subsection a-40 (b) (1), Hawaii revised Statutes.

If you have any questions, please contact Alvin Fukushima of my staff at 241-6697.

cc: Michael H. Sakai