

CONDOMINIUM PUBLIC REPORT

Prepared &  
Issued by:

Developer: VERNA MAE SOUZA-COSTA and GERALD JAMES SOUZA  
Address: C/O VERNA MAE SOUZA-COSTA, 5303 KUMOLE STREET, KAPAA, HAWAII 96746

Project Name(\*): SOUZA PLACE CONDOMINIUM  
Address: LOT 7, SOUZA SUBDIVISION, FILE PLAN NO. 1739, KAPAA, KAUAI, HAWAII

Registration No. 4246 Effective date: January 31, 2000  
Expiration date: February 28, 2001

Preparation of this Report:

(Partial Conversion)

This report has been prepared by the Developer pursuant to the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, as amended. This report is not valid unless the Hawaii Real Estate Commission has issued a registration number and effective date for the report.

This report has not been prepared or issued by the Real Estate Commission or any other government agency. Neither the Commission nor any other government agency has judged or approved the merits or value, if any, of the project or of purchasing an apartment in the project.

Buyers are encouraged to read this report carefully, and to seek professional advice before signing a sales contract for the purchase of an apartment in the project.

Expiration Date of Reports. Preliminary Public Reports and Final Public Reports automatically expire thirteen (13) months from the effective date unless a Supplementary Public Report is issued or unless the Commission issues an order, a copy of which is attached to this report, extending the effective date for the report.

Exception: The Real Estate Commission may issue an order, a copy of which shall be attached to this report, that the final public report for a two apartment condominium project shall have no expiration date.

Type of Report:

PRELIMINARY: The developer may not as yet have created the condominium but 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 expired on \_\_\_\_\_

(\*) Exactly as named in the Declaration

**Disclosure Abstract:** Separate Disclosure Abstract on this condominium project:

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

**Summary of Changes from Earlier Public Reports:**

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

No prior reports have been issued by the developer.

Changes made are as follows:

**SPECIAL ATTENTION**

This is a CONDOMINIUM PROJECT, not a subdivision. There are County restrictions on the number of residential dwelling units, or other structures, which may be built on the property. Therefore, unless the Purchaser is buying an existing residential dwelling, THERE IS NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO BUILD A RESIDENTIAL DWELLING UNIT ON THE PROPERTY. THERE IS ALSO NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO CONVERT AN EXISTING NON-RESIDENTIAL STRUCTURE TO 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 on the property.

1. There are presently ONE RESIDENTIAL STRUCTURE AND TWO AGRICULTURAL SHEDS ON THIS PROPERTY, each of which may be defined as an "apartment", under the condominium property act.
2. This public report does not constitute an approval of the project by the Real Estate Commission or any other government agency, nor does it warrant that all applicable County codes, ordinances, and subdivision requirements have necessarily been complied with.
3. The land area beneath and immediately appurtenant to each unit is designated a LIMITED COMMON ELEMENT 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.

SPECIAL ATTENTION (CONCLUDED):

4. Facilities and improvements normally associated with County-approved 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.

THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW THE CONDOMINIUM DOCUMENT REFERENCED IN THIS PUBLIC FOR FURTHER INFORMATION WITH REGARD TO THE FOREGOING.

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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:	<u>VERNA MAE COSTA</u>	<u>GERALD JAMES SOUZA</u>
	Name <u>5303 KUMOLE STREET</u>	Name <u>P.O. BOX 3375</u>
	Business Address <u>KAPAA, HAWAII 96746</u>	Business Address <u>LIHUE, HAWAII 96766</u>
	Business Phone: _____	Business Phone: <u>822-0783</u>

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

n/a  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Real Estate Broker:	<u>SLEEPING GIANT REALTY, INC.</u>	Phone: <u>(808) 245-8831</u>
	Name <u>4480 AHUKINI ROAD</u>	(Business)
	Business Address <u>LIHUE, HAWAII 96766</u>	

Escrow:	<u>SECURITY TITLE CORPORATION</u>	Phone: <u>(808) 245-6975</u>
	Name <u>4370 KUKUI GROVE STREET, STE. 203</u>	(Business)
	Business Address <u>LIHUE, HAWAII 96766</u>	

General Contractor:	<u>RANDAL K. MIYASHIRO dba</u>	Phone: <u>(808) 822-1424</u>
	<u>KALANI CONSTRUCTION (Apartment 1&amp;3)</u>	
	Name <u>5773B KAAPUNI ROAD</u>	
	Business Address <u>KAPAA, HAWAII 96746</u>	

Condominium Managing Agent:	<u>SELF-MANAGED BY THE ASSOCIATION OF</u>	Phone: _____
	Name <u>APARTMENT OWNERS</u>	
	Business Address _____	

Attorney for Developer:	<u>PATRICK J. CHILDS</u>	Phone: <u>(808)-245-2863</u>
	Name <u>4365 KUKUI GROVE STREET, STE. 104</u>	
	Business Address <u>LIHUE, HAWAII 96766</u>	

**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. 99-135990  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court: Document No. \_\_\_\_\_

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

First Amendment to the Declaration filed 1/4/00 as Document No. 00-005576

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. 2942  
 Filed - Land Court Condo Map No. \_\_\_\_\_

The Condominium Map has been amended by the following instruments [state name of document, date and recording/filing information]:

C. Bylaws of the Association of Apartment Owners govern the operation of the condominium project. They provide for the manner in which the Board of Directors of the Association of Apartment Owners is elected, the powers and duties of the Board, the manner in which meetings will be conducted, whether pets are prohibited or allowed and other matters which affect how the condominium project will be governed.

The Bylaws for this condominium are:

Proposed  
 Recorded - Bureau of Conveyances: Document No. 99-135991  
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]:

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

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>65%</u>
House Rules	—	<u>N/A</u>

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

2. Developer:

- No rights have been reserved by the developer to change the Declaration, Condominium Map, Bylaws or House Rules.
- Developer has reserved the following rights to change the Declaration, Condominium Map, Bylaws or House Rules:

The Developer may amend the Declaration (and, when applicable, any exhibits to the Declaration and the Condominium Map) (a) as may be provided in the Declaration and (b) to file the "as built" statement required by Section 514A-12 of the Act (i) so long as such verified statement is a verified statement of a registered architect or professional engineer certifying that the final plans theretofore filed or being filed simultaneously with such amendment, fully and accurately depict the layout, location, apartment numbers and the dimensions of the apartments as built, or (ii) so long as the plans filed therewith involve only minor changes to the layout, location or dimensions of the apartments, as built, or any change in any apartment number.



Other:

**IMPORTANT INFORMATION ON LEASEHOLD CONDOMINIUM PROJECTS**

The information contained in this report is a summary of the terms of the lease. For more detailed information, you should secure a copy of the lease documents and read them thoroughly.

If you have any legal questions about leasehold property, the lease documents or the terms of the lease and the consequences of becoming a lessee, you should seek the advice of an attorney.

There are currently no statutory provisions for the mandatory conversion of leasehold condominiums and there are no assurances that such measures will be enacted in the future.

In leasehold condominium projects, the buyer of an apartment will acquire the right to occupy and use the apartment for the time stated in the lease agreement. The buyer will not acquire outright or absolute fee simple ownership of the land. The land is owned by the lessor or the leased fee owner. The apartment owner or lessee must make lease rent payments and comply with the terms of the lease or be subject to the lessor's enforcement actions. The lease rent payments are usually fixed at specific amounts for fixed periods of time, and are then subject to renegotiation. Renegotiation may be based on a formula, by arbitration set in the lease agreement, by law or by agreement between the lessor and lessee. The renegotiated lease rents may increase significantly. At the end of the lease, the apartment owners may have to surrender the apartments, the improvements and the land back to the lessor without any compensation (surrender clause).

When leasehold property is sold, title is normally conveyed by means of an assignment of lease, the purpose of which is similar to that of a deed. The legal and practical effect is different because the assignment conveys only the rights and obligations created by the lease, not the property itself.

The developer of this condominium project may have entered into a master ground lease with the fee simple owner of the land in order to develop the project. The developer may have then entered into a sublease or a new lease of the land with the lessee (apartment owner). The developer may lease the improvements to the apartment owner by way of an apartment lease or sublease, or sell the improvements to the apartment owners by way of a condominium conveyance or apartment deed.

B. Underlying Land:

Address: lot 7, Souza Subdivision Tax Map Key (TMK): (4) 4-6-34:41  
File Plan 1739, Kapaa, Kauai, Hawaii

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

Land Area: 110,737  square feet  acre(s) Zoning: Agricultural

Fee Owner: VERNA MAE SOUZA-COSTA and GERALD JAMES COSTA  
 Name  
C/O VERNA MAE SOUZA-COSTA  
 Address  
5303 KUMOLE STREET, KAPAA, HAWAII 96746

Lessor: n/a  
 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: 3 Floors Per Building Apt.1=1, Apt 2=1, Apt. 3=1

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

3. Principal Construction Material:

- Concrete  Hollow Tile  Wood  
 Other: Sheds are metal posts and shade cloth

4. Uses Permitted by Zoning:

	No. of Apts.	Use Permitted By Zoning		No. of Apts.	Use Permitted By Zoning
<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	<u>1</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 checked="" type="checkbox"/> Other: <u>shed (e)</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:

Pets: n/a

Number of Occupants: n/a

Other: ALL OWNERS AND OCCUPANTS SHALL EXERCISE EXTREME CARE TO AVOID MAKING NOISES THAT MAY DISTURB OTHER OCCUPANTS.

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0 Stairways: 0 Trash Chutes: 0

Apt. Type	Quantity	BR/Bath	Net Living Area (sf)*	Net Other Area (sf)	(Identify)
<u>1</u>	<u>1</u>	<u>N/A</u>	<u>N/A</u>	<u>20</u>	<u>SHED</u>
<u>2</u>	<u>1</u>	<u>0/1</u>	<u>466.75</u>	<u>N/A</u>	<u>GUEST HOUSE</u>
<u>3</u>	<u>1</u>	<u>N/A</u>	<u>N/A</u>	<u>20</u>	<u>SHED</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

Total Number of Apartments: 3

\*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:

PERIMETER WALL TO PERIMETER WALL, FLOOR TO EXTERIOR OF ROOF.

Permitted Alterations to Apartments:

Each apartment owner shall have and is hereby granted the right to construct such improvements as may be allowed by law within his or her respective limited common elements and to amend this Declaration and the Condominium file plan by his or her signature alone to reflect such alterations.

7. Parking Stalls:

Total Parking Stalls: 6

	<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>6</u>
Guest	_____	_____	_____	_____	_____	_____	_____
Unassigned	_____	_____	_____	_____	_____	_____	_____
Extra for Purchase	_____	_____	_____	_____	_____	_____	_____
Other: _____	_____	_____	_____	_____	_____	_____	_____
Total Covered & Open:	<u>6</u>		<u>0</u>		<u>0</u>		<u>6</u>

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

- Commercial parking garage permitted in condominium project.
- Exhibit \_\_\_\_\_ contains additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities:

- There are no recreational or common facilities.
- Swimming pool                       Storage Area                       Recreation Area
- Laundry Area                       Tennis Court                       Trash Chute/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 \_\_\_\_\_  
(Date)

10. Condition and Expected Useful Life of Structural Components, Mechanical, and Electrical Installations  
(For conversions of residential apartments in existence for at least five years):

APARTMENT 2 WAS COMPLETED IN 1982 AND HAS AN APPARENT USEFUL LIFE OF 25 YEARS. THE SYSTEMS AND COMPONENTS, INCLUDING VISIBLE STRUCTURAL ELEMENTS APPEAR TO BE IN SATISFACTORY CONDITION FOR THE STATE AGE THEREOF FOR APARTMENT 2, AND APPEAR TO BE IN GOOD SOUND CONDITION.

APARTMENTS 1 AND 3 ARE NEWLY COMPLETED SHEDS MADE PRIMARILY OF METAL POSTS AND SHADE CLOTH.

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	X	_____	_____
Structures	X	_____	_____
Lot	X	_____	_____

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

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

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

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

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

described in Exhibit A.

as follows:

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

There are no limited common elements in this project.

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

described in Exhibit A.

as follows:

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:

Apt. 1 = 55%

Apt. 2 = 25%

Apt. 3 = 20%

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 B describes the encumbrances against the title contained in the title report dated August 24, 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 specified sums so that individual apartments can be conveyed to buyers free and clear of the lien.

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

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

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

<u>Type of Lien</u>	<u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance</u>
none	

**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

2. Appliances:

None

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

APARTMENTS 1 AND 3, SHEDS WERE COMPLETED AUGUST 12, 1999.

APARTMENT 2 WAS COMPLETED IN 1982.

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:

- not affiliated with the Developer
- self-managed by the Association of Apartment Owners
- the Developer or the Developer's affiliate.
- 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, a lien may be placed on your apartment and the apartment may be 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 C 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:

- None
- Gas
- Water
- Other \_\_\_\_\_
- Electricity ( \_\_\_\_\_ Common Elements only \_\_\_\_\_ Common Elements & Apartments)
- Sewer
- Television Cable

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 August 4, 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 escrow cancellation fee up to \$250.00.

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

Final Report or Supplementary Report to a Final Report: Sales made by the developer are binding if:

- A) The Developer delivers to the buyer a copy of:
  - 1) Either the Final Public Report **OR** the Supplementary Public Report which has superseded the Final Public Report for which an effective date has been issued by the Real Estate Commission; **AND**
  - 2) Any other public report issued by the developer prior to the date of delivery, if the report was not previously delivered to the buyer and if the report has not been superseded;
- B) The buyer is given an opportunity to read the report(s); **AND**
- C) One of the following has occurred:
  - 1) The buyer has signed a receipt for the report(s) and waived the right to cancel; or
  - 2) Thirty (30) days have passed from the time the report(s) were delivered to the buyer; or
  - 3) The apartment is conveyed to the buyer within 30 days from the date the report(s) were delivered to the buyer.

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

- A) There is a material change in the project which directly, substantially, and adversely affects (1) the use or value of the buyer's apartment or its limited common elements; or (2) the amenities available for buyer's use; **AND**
- B) The buyer has not waived the right to rescind.

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

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:
- A) Condominium Public Reports issued by the developer which have been issued 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 Farm Dwelling Agreement as Document No. 99-066238; Waiver and Release Document No. 99-105268.

Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer and are on file at the Department of Commerce and Consumer Affairs. Reprints of Hawaii's Condominium Property Act (Chapter 514A, HRS) and Hawaii Administrative Rules, Chapter 16-107, are available at the Cashier's Office, Department of Commerce and Consumer Affairs, 1010 Richards Street, 3rd Floor, Honolulu, Hawaii, mailing address: P. O. Box 541, Honolulu, HI 96809, at a nominal cost.

This Public Report is a part of Registration No. 4246 filed with the Real Estate Commission on September 15, 1999

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

[ ] YELLOW paper stock      [X] WHITE paper stock      [ ] PINK paper stock

1. Units 1 and 2 of this project are subject to the flood setback line as disclosed by survey dated August 27, 1981 by Cesar C. Portugal , Registered Professional Surveyor No. 2225-SE. This flood setback line is shown on the Condominium Property Regime Map.
2. Unit 1 is subject to Easement 3 in favor of Citizens Utilities Company and Hawaiian Telephone Company as shown on the Condominium Property Regime Map and also Easement E-1 as shown on the on the Condominium Property Map which is an electrical easement in favor of Unit 2. See Exhibit G.
3. This project is subject to the terms and provisions of that certain Farm Dwelling Agreement dated April 7, 1999, between the Verna Mae Souza-Costa and Gerald James Souza and the County of Kauai recorded as document no. 99-066238. See Exhibit H for a copy of this agreement.
4. Unit 3 of this project is subject to the covenants, conditions, restrictions, reservations or obligations of that certain Waiver and Release dated June 25, 1999 made by Verna Mae Souza-Costa and Gerald James Souza, in favor of the County of Kauai recorded as Document No. 99-105268. No County provided water service exists or may ever exist. Buyer should check into the cost of providing a water meter and other costs relating to obtaining water. See Exhibit I for a copy of this agreement.
5. Unit 2 is subject to the restriction of only being allowed a guest house, even though the County may allow the guest house to be converted to an Additional Dwelling Unit. Unit 3 shall be allowed to build any structure that the County agencies allow that is not designated a residence or a guest house. See #10 (v) on the Declaration of Condominium Property Regime.
6. IT IS THE INTENTION OF THE DEVELOPER THAT THE OWNER OF UNIT 1 HAS THE RIGHT TO CONSTITUTE A QUORUM AS TO TAKE CERTAIN ACTIONS BASED UPON HIS OR HER VOTING RIGHTS AT SUCH A MEETING. EXCEPTIONS ARE PROVIDED FOR IN THE DECLARATION.
7. 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 owner. Section 514A-86, Hawaii Revised Statutes, requires the Association of Apartment Owners 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

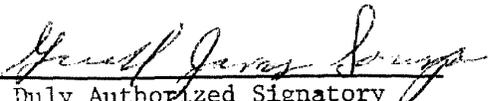
apartment owners and not common expenses. Developer estimates such annual premium expense to be about \$660.00 per year for Unit 1 and \$300.00 per year for Unit 2 and \$240.00. This estimate was prepared in accordance with generally accepted accounting principles.

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.

VERNA MAE SOUZA-COSTA  
Printed Name of Developer

GERALD JAMES SOUZA  
Printed Name of Developer

By:   
Duly Authorized Signatory

By:   
Duly Authorized Signatory

VERNA MAE SOUZA-COSTA, DEVELOPER  
Printed Name & Title of Signatory

GERALD JAMES SOUZA, DEVELOPER  
Printed Name & Title of Signatory

distribution:

Department of Finance, COUNTY OF KAUAI  
Planning Department, COUNTY OF KAUAI

**EXHIBIT "A"**

1. Common Elements. The common elements of the Project consist only of the following:

- (i) all of the Land, in fee simple;
- (ii) the limited common elements hereinafter described, subject to the provisions set forth in Paragraph 6.
- (iii) all pipes, wires, conduits, or other utility or service lines, drainage ditches or appurtenant drainage structures retaining walls (if any) and yard fences, which are located outside the buildings and which are utilized for or serve more than one apartment.

2. Limited Common Elements. The limited common elements of the Project consist only of the following:

- (i) that portion of the Land which is designated as Limited Common Element 1, Being 73,906 square feet in area, on the Condominium Map, is reserved for the exclusive use of Apartment 1 for the support of the building and other improvements comprising Apartment 1 and for residential yard, driveway and parking purposes;
- (ii) that portion of the Land which is designated as Limited Common Element 2, being 29,036 square feet, on the Condominium Map, is reserved for the exclusive use of Apartment 2 for the support of the building and other improvements comprising Apartment 2 and for residential yard, driveway and parking purposes.
- (iii) that portion of the Land which is designated as Limited Common Element 3, being 7,794 square feet in area, on the Condominium Map, is reserved for the exclusive use of Apartment 3 for the support of the building and other improvements comprising apartment 3, or attendant thereto, and for parking yard, driveway , agricultural and residential purposes.

3. The common interest in this project is arbitrarily derived.

\*\*\*\*\*  
NOTICE: This is not a subdivision. The Limited Common Elements that are reserved for the exclusive use of individual units are not subdivided parcels. As such they do not fall within the ordinances of the County of Kauai as the same pertain to subdivision nor do they derive any benefits therefrom.  
\*\*\*\*\*

Exhibit "B"

ENCUMBRANCES AGAINST TITLE

1. Tax Key: (4) 4-6-034-041

For Real Property Taxes that may be due or owing, reference is made to the Director of Finance, County of Kauai.

2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
3. Flood setback line as disclosed by survey dated August 27, 1981 by Cesar C. Portugal, Registered Professional Surveyor No. 2225-SE.
4. Easement 3, (5 feet wide) for electrical purposes, as shown on File Plan No. 1739.
5. GRANT

TO: Citizens Utilities Company, a Delaware corporation and Hawaiian Telephone Company, a Hawaii corporation, now known as GTE Hawaiian Telephone Company, a Hawaii corporation  
DATED: November 4, 1981  
BOOK: 16506  
PAGE: 556  
PURPOSE: Easement for electrical purposes over, under, across and through Easement 3, as well as Easements 1-11.

6. The terms and provisions, including the failure to comply with any covenants, conditions and reservations or obligations of that certain Farm Dwelling Agreement dated April 7, 1999, made by and between Verna Mae Souza-Costa and Gerald James Souza and County of Kauai Planning Department, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 99-066238, to which reference is hereby made.
7. The terms and provisions, including the failure to comply with any covenants, conditions, and reservations or obligations of that certain Waiver and Release dated June 25, 1999, made by Verna Mae Souza-Costa and Gerald James Souza, "Owners", in favor of the County of Kauai, recorded in said Bureau of Conveyances as Document No. 99-105268, to which reference is hereby made. (affects Apartment No. 3)
8. The covenants, agreements, obligations, easements and other provisions as contained in the following:

DECLARATION OF CONDOMINIUM PROPERTY REGIME FOR "SOUZA PLACE CONDOMINIUM"

DATED: July 31, 1999  
RECORDED: Document No. 99-135990  
MAP: 2942, to which reference is hereby made

The individual apartments set forth in the foregoing Declaration are listed as follows:

Apartment No.	Limited Common Element land area	Common Interest
1	76,906 square feet	55%
2	29,036 square feet	25%
3	7,794 square feet	20%

8. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT: BY-LAWS OF THE ASSOCIATION OF APARTMENT OWNERS OF "SOUZA PLACE CONDOMINIM"

DATED: July 31, 1999  
RECORDED: Document No. 99-135991

9. Any and all easement encumbering the apartments herein identified, and/or the common interests appurtenant thereto, as created or mentioned in said Declaration and/or as shown on said Condominium Map No. 2942.

End of Exhibit "B"

Estimate of Maintenance Fee Disbursements:

Monthly x 12 months = Yearly Total

Utilities and Services

- Air Conditioning
- Electricity
  - common elements only
  - common elements and apartments
- Elevator
- Gas
  - common elements only
  - common elements and apartments
- Refuse Collection
- Telephone
- Water and Sewer

Maintenance, Repairs and Supplies

- Building
- Grounds

Management

- Management Fee
- Payroll and Payroll Taxes
- Office Expenses

Insurance

Reserves(\*)

Taxes and Government Assessments

Audit Fees

Other

TOTAL

-0-

-0-

I, Verna Mae Souza-Costa and Gerald James Souza, the  
 developer for the SOUZA PLACE CONDOMINIUM condominium project, hereby  
 certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance  
 with generally accepted accounting principles.

*Verna Mae Souza-Costa*  
 Signature

1-6-00  
 Date

\*) Mandatory reserves assessment and collection in effect beginning 1994 budget year. The Developer is to attach to this exhibit an explanation whether, in arriving at the figure for "Reserves", the Developer has conducted a reserve study in accordance with §514A-3.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

Pursuant to §514A-83.6, HRS, a new association created after January 1, 1993, need not collect estimated replacement reserves until the fiscal year which begins after the association's first annual meeting.

Developer discloses no reserve study was done in accordance with Chapter 514A-83.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules.

EXHIBIT "D"

SUMMARY OF SALES CONTRACT:

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

Among other things, the sales contract and addendum:

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

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

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

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

by Buyer:

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

By Seller:

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

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

5. Allocation of payment of closing costs.

## EXHIBIT "E"

### SUMMARY OF ESCROW AGREEMENT:

An escrow Agreement allows the Condominium Buyers' money to be held by a neutral party, the Escrow Agent, until the Seller can deliver good and marketable title to the Condominium. The Escrow Agreement for this project provides for, among other things:

1. That SECURITY TITLE CORPORATION is the Escrow Agent.
2. That, upon execution of a Sales Contract, the Developer shall deliver all money received over to the Escrow Agent.
3. That there shall be no disbursement of the purchaser's deposit until: [a] Escrow receives a copy of "Receipt for Public Report(s) and Notice of Right to Cancel", in the form specified by Section 514A-62 of the Condominium Act for the Final and any Supplementary Public Reports, executed by the purchaser; [b] Escrow has received a certification that the requirements of Section 514A-39 and 514A-63 have been met and [c] until the purchaser's apartment deed is filed in the Bureau of Conveyances of the State of Hawaii.
4. That the Buyer shall receive all public documents relating to the project.
5. That a Buyer's money shall be returned to him under the following conditions: [a] Escrow receives a written request from the Developer and purchaser for the return of purchaser's funds or [b] Developer and purchaser notify Escrow of a rescission or [c] Developer and purchaser notify Escrow that the conditions for a refund under Sections 514A-62 and 514A-63 of the Condominium Act have been met.
6. That, upon the Seller providing good title to the Condominium, the Buyer's money shall be turned over to the Seller.
7. That the Escrow Agent will record with the State of Hawaii all documents requiring such.
8. That, if the Buyer is unable to perform and has money on deposit in escrow, these monies will be turned over to the Seller.

EXHIBIT "F"

**AVERY H. YOUN, ARCHITECT  
2980 EWALU STREET #1  
LIHUE, HAWAII 96766**

**"SOUZA PLACE CONDOMINIUM"  
ARCHITECT'S CONDITION REPORT**

The undersigned, being a licensed architect within the State of Hawaii and bearing Registration Number 3576, has inspected Unit 2 of the condominium project "SOUZA PLACE CONDOMINIUM", a 17 year old structure which may be occupied for residential use, situated at Kapaa Homesteads, Kauai, Hawaii and identified as Tax Map Key No. (4) 4-6-34: 41.

The inspection included the exterior roof, foundation, visible electrical and plumbing systems, and I find that the systems and components of the structure, including visible structural, electrical and plumbing, appear to be in satisfactory and sound condition for the stated age. The structure and related systems and components have an expected useful life in excess of 25 years.

DATED: Kauai, Hawaii, July 7, 1999

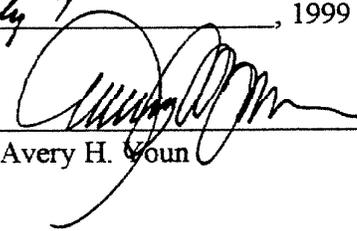
  
\_\_\_\_\_  
Avery H. Youn

EXHIBIT "G"

RECORDATION REQUESTED BY: **82- 70648**  
HAWAIIAN TELEPHONE COMPANY  
P. O. Box 2200  
Honolulu, Hawaii 96841  
**82- 70649**  
AFTER RECORDATION, RETURN TO:  
HAWAIIAN TELEPHONE COMPANY  
P. O. Box 2200  
Honolulu, Hawaii 96841  
**82 AUG 9 P 1:11**  
**16506 556**  
RETURN BY: MAIL ( ) PICKUP (X)

TAX MAP KEY NO. 4-6-34:11

File #79-1-402RR

EASEMENTS 1 THROUGH 11

THIS INDENTURE, made effective the 4th day of November, 1981, by and between AGNES ANCHETA, Commissioner, hereinafter referred to as "Grantor," and CITIZENS UTILITIES COMPANY, a Delaware corporation, with a place of business at Eleele, County of Kaua'i, State of Hawaii, and whose post office address is P. O. Box 278, Eleele, Kaua'i, Hawaii 96705, and HAWAIIAN TELEPHONE COMPANY, a Hawaii corporation, whose principal place of business is 1177 Bishop Street, Honolulu, City and County of Honolulu, State of Hawaii 96841, hereinafter referred to as "Grantees."

WHEREAS, in proceedings duly taken and had in the Fifth Circuit Court, State of Hawaii, Civil No. 1678, by and between AGNES ANCHETA, JOHN SOUZA, SR., JOSEPH SOUZA, JR., PETER H. SOUZA, EDWARD I. SOUZA, ABEL J. SOUZA, AGNES F. SOUZA, HELEN H. SOUZA, JEANETTE S. T. SOUZA, CARMEN M. SOUZA, and JEANETTE R. SOUZA, as Plaintiffs, and WILLIAM SOUZA, VIOLET M. SOUZA, ERIC VOGT, and LEROY SANTOS, as Defendants, for the partition and division of certain premises mentioned in the Complaint in said proceedings according to the respective rights of the parties interested therein, pursuant to Chapter 668, Hawaii Revised Statutes 1968, as amended, by Order filed on February 13, 1981, it was ordered that AGNES ANCHETA be appointed Commissioner in Partition, with full authority to execute partition deeds.

16506 557

WITNESSETH:

That the Grantor, in consideration of the sum of ONE DOLLAR (\$1.00) to the Grantor paid, the receipt whereof is hereby acknowledged, does hereby grant and convey unto the Grantees, their successors and assigns, a perpetual right and easement to build, construct, reconstruct, rebuild, repair, maintain and operate pole and wire lines and/or underground lines, and to use such poles, wires, guys, anchors, conduits and other appliances and equipment as may be necessary for the transmission and distribution, to whomever and wherever the Grantees desire, of electricity to be used for light and power and/or communications and control circuits including the right to trim and keep trimmed any tree or trees in the way of said poles and wires and other appliances and equipment, including also the right of entry upon the premises for the construction, maintenance, repair and operation of said pole and wire lines and/or underground lines, in efficient use and condition over, under, upon, across and through those certain premises known as Easements 1 through 11, Kapaa Homesteads, Fourth Series, Kapaa, Puna, Kauai, Hawaii, more fully described in Exhibits "A-1" through "A-11" attached hereto and as indicated by the areas outlined in red on the map attached hereto and marked Exhibit "B."

TO HAVE AND TO HOLD the same unto the Grantees, their successors and assigns forever.

AND THE GRANTEES do hereby covenant and agree for themselves and not for the other:

(1) That the Grantees will use due care and diligence to keep said lines and appurtenances in good and safe condition and repair and will exercise their rights hereunder

in such manner as to occasion as little interference as reasonably necessary with the use of said lands by the owners and occupants thereof; and

(2) That the Grantees agree to indemnify the Grantor, and her heirs, successors, personal representatives and assigns, for any and all damages to the property caused by the Grantees' own failure to properly maintain and operate said lines and appurtenances as provided in paragraph (1) above, and will indemnify and hold harmless the Grantor, and her heirs, successors, personal representatives and assigns, against all claims, suits and actions by whomsoever brought on account of injuries to persons or property caused by Grantees' own failure to observe the covenants contained in said paragraph (1).

(3) That in the event of abandonment of said easement, the Grantees will prepare, execute and record an appropriate instrument evidencing the same, and remove the poles, wire lines and/or underground lines, guys, anchors, and conduits at the Grantees' expense.

IT IS HEREBY MUTUALLY UNDERSTOOD AND AGREED by and between the parties hereto:

(1) That if at any time the premises across which a right and easement is hereby granted, or any part thereof, shall be condemned or taken for any public project by any governmental authority, the Grantees shall have the right to claim and recover from the condemning authority but not from the Grantor such compensation as is payable for the said easement and right of way and for the poles, wires, guys, conduits, and other appliances and equipment in connection with said lines which shall be payable to each Grantee respectively.

16506 559

The use of any gender shall include any or all genders and the use of any number shall be construed as singular or plural, as the case may require.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed as of the day and year first written above.

Agnes Ancheta  
AGNES ANCHETA

CITIZENS UTILITIES COMPANY

J.P. 79-270 461 205

Hawa. Tel.	_____
Engineering	_____
Checked: <u>TA</u>	_____
Eng. Gp. <u>221</u>	_____
Lead	_____
Approved:	_____
_____	_____
_____	_____
_____	_____

By [Signature]  
Its VICE PRESIDENT  
KAUAI ELECTRIC DIVISION

HAWAIIAN TELEPHONE COMPANY

By [Signature]  
Its Assistant Secretary

STATE OF HAWAII )  
                          ) ss.  
COUNTY OF KAUAI )

On this 23<sup>rd</sup> day of March, 1982, before me personally appeared AGNES ANCHETA, to me known to be the person described in and who executed the foregoing instrument and acknowledged that she executed the same as her free act and deed.

Elizabeth P. Clarkwell  
Notary Public, Fifth Judicial  
Circuit, State of Hawaii

My commission expires: 1/21/86

STATE OF HAWAII )  
 ) ss.  
COUNTY OF KAUAI )

16506 560

On this 21st day of July, 1982,  
before me appeared BOYD T. TOWNSLEY, to me  
personally known, who being by me duly sworn, did say that  
he is the Vice President, Kauai Electric  
Division, Citizens Utilities Company, and that the seal  
affixed to the foregoing instrument is the corporate seal of  
said corporation, and that said instrument was signed and  
sealed in behalf of said corporation by authority of its  
Board of Directors, and said officer acknowledged said  
instrument to be the free act and deed of said corporation.

*Rebecca L. Ostana*

Notary Public, Fifth Judicial  
Circuit, State of Hawaii

My commission expires: 7-30-83

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

On this 4th day of August, 1982,  
before me appeared JANE D. LOWE, to me personally  
known, who being by me duly sworn, did say that she is the  
Assistant Secretary of HAWAIIAN TELEPHONE COMPANY, a Hawaii  
corporation, and that the seal affixed to the foregoing  
instrument is the corporate seal of said corporation, and  
that said instrument was signed and sealed in behalf of said  
corporation by authority of its Board of Directors, and said  
JANE D. LOWE acknowledged said instrument to be the  
free act and deed of said corporation.

*Billie Ann Pangolin*

Notary Public, First Judicial  
Circuit, State of Hawaii

- 5 - My commission expires: April 5, 1984

16506 561

EXHIBIT "A-1"

DESCRIPTION

SOUZA SUBDIVISION

EASEMENT 1 (5 feet wide)  
AFFECTING LOT 8

All that parcel of land being a portion of LOT 8, SOUZA SUBDIVISION situated on the northeasterly side of APOPO ROAD, Kapaa Homesteads, Fourth Series, Kapaa, Kawaihau, (Puna), Kauai, Hawaii and more fully described as follows:

Beginning at the northwest corner of this parcel of land, being also the southwest corner of Lot 9 (Roadway), SOUZA SUBDIVISION, and on the northeasterly side of APOPO ROAD, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" being 7721.22 feet North and 8779.35 feet East, thence running by azimuths measured clockwise from True South:

1. 253°33' 10.00 feet along the remainder of Lot 8, SOUZA SUBDIVISION;
2. 343°33' 5.00 feet along the remainder of Lot 8, SOUZA SUBDIVISION;
3. 73°33' 10.00 feet along the remainder of Lot 8, SOUZA SUBDIVISION;
4. 163°33' 5.00 feet along APOPO ROAD to the point of beginning and containing AN AREA OF 50 SQUARE FEET;

SUBJECT, HOWEVER: That this easement is within the 13 foot road widening setback line.



*Cesar C. Portugal*  
Registered Professional Surveyor  
Certificate No. 2225-SE  
Lihue, Kauai, Hawaii  
August 27, 1981  
PORTUGAL, IBARA & ASSOCIATES, INC.  
REVISED: October 27, 1981  
REVISFD: February 4, 1982

## EXHIBIT "A-2"

## DESCRIPTION

## SOUZA SUBDIVISION

EASEMENT 2 (5 feet wide)  
AFFECTING LOT 8

All that parcel of land being a portion of LOT 8, SOUZA SUBDIVISION, situated approximately 200 feet in a north-easterly direction from APOPO ROAD, Kapaa Homesteads, Fourth Series, Kapaa, Kawaihau, (Puna), Kauai, Hawaii and more fully described as follows:

Beginning at the northwest corner of this parcel of land and on the southeastern boundary of Lot 9 (Roadway), SOUZA SUBDIVISION, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" being 7900.88 feet North and 8906.96 feet East, thence running by azimuths measured clockwise from True South:

1. 308°44' 10.00 feet along the remainder of Lot 8, SOUZA SUBDIVISION;
2. 38°44' 5.00 feet along the remainder of Lot 8, SOUZA SUBDIVISION;
3. 128°44' 10.00 feet along the remainder of Lot 8, SOUZA SUBDIVISION;
4. 218°44' 5.00 feet along Lot 9 (Roadway), SOUZA SUBDIVISION, to the point of beginning and containing AN AREA OF 50 SQUARE FEET.



*Cesar C. Portugal*  
 Registered Professional Surveyor  
 Certificate No. 2225-SE  
 Lihue, Kauai, Hawaii  
 August 27, 1981  
 PORTUGAL, IBARA & ASSOCIATES, INC.

16506 563

EXHIBIT "A-3"

D E S C R I P T I O N

SOUZA SUBDIVISION

EASEMENT 3 (5 feet wide)  
AFFECTING LOT 7

All that parcel of land being a portion of LOT 7, SOUZA SUBDIVISION, situated approximately 450 feet in the northeasterly direction from APOPO ROAD, Kapaa Homesteads, Fourth Series, Kapaa, Kawaihau, (Puna), Kauai, Hawaii and more fully described as follows:

Beginning at the northwest corner of this parcel of land and on the northeast boundary of Lot 9 (Roadway), SOUZA SUBDIVISION, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" being 8150.35 feet North and 8926.52 feet East, thence running by azimuths measured clockwise from True South:

1. 188°16'29" 15.00 feet along the remainder of Lot 7, SOUZA SUBDIVISION;
2. 278°16'29" 5.00 feet along the remainder of Lot 7, SOUZA SUBDIVISION;
3. 8°16'29" 15.23 feet along the remainder of Lot 7, SOUZA SUBDIVISION;

Thence along the northern end of Lot 9 (Roadway), SOUZA SUBDIVISION, on a curve to the left having a radius of 40.00 feet, the chord azimuth and distance being:

4. 101°51'54" 5.01 feet to the point of beginning and containing AN AREA OF 75 SQUARE FEET.



*Cesar C. Portugal*  
Registered Professional Surveyor  
Certificate No. 2225-SE  
Lihue, Kauai, Hawaii  
August 27, 1981  
PORTUGAL, IBARA & ASSOCIATES, INC.

16506 564

DESCRIPTION

SOUZA SUBDIVISION (FILE PLAN 1739)

EASEMENT 4 (22 feet wide)  
AFFECTING LOT 6

All that parcel of land being a portion of LOT 6, SOUZA SUBDIVISION, situated approximately 500 feet in the north-easterly direction from APOPO ROAD, Kapaa Homesteads, Fourth Series, Kapaa, Kawaihau, (Puna), Kauai, Hawaii and more fully described as follows:

Beginning at the northeast corner of this parcel of land, being also the northwest corner of Lot 7, SOUZA SUBDIVISION, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" being 8497.92 feet North and 8793.04 feet East, thence running by azimuths measured clockwise from True South:

Thence along Lot 7, SOUZA SUBDIVISION, on a curve to the left having a radius of 30.00 feet, the chord azimuth and distance being:

1. 44°06'59" 38.19 feet;

Thence along Lot 7, SOUZA SUBDIVISION, on a curve to the left having a radius of 178.00 feet, the chord azimuth and distance being:

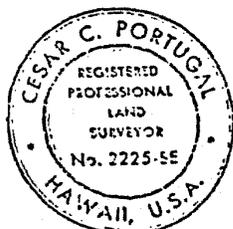
2. 346°09'35" 112.53 feet;
3. 327°44' 249.40 feet along Lot 7, SOUZA SUBDIVISION;

Thence along the northern end of Lot 9 (Roadway), SOUZA SUBDIVISION, on a curve to the left having a radius of 40.00 feet, the chord azimuth and distance being:

4. 80°52'26" 23.92 feet;
5. 147°44' 240.00 feet along Lot 5, SOUZA SUBDIVISION;

Thence along Lot 5, SOUZA SUBDIVISION, on a curve to the right having a radius of 200.00 feet, the chord azimuth and distance being:

6. 170°36'17" 155.47 feet;
7. 276°28'53" 43.93 feet along the remainder of Lot 6, SOUZA SUBDIVISION, to the point of beginning and containing AN AREA OF 8867 SQUARE FEET.



*Cesar C. Portugal*  
Registered Professional Surveyor  
Certificate No. 2225-SE  
Lihue, Kauai, Hawaii  
August 27, 1981

16506 565

DESCRIPTION

SOUZA SUBDIVISION (FILE PLAN 1739)

EASEMENT 5 (22 feet wide)  
AFFECTING LOT 5

All that parcel of land being a portion of LOT 5, SOUZA SUBDIVISION, situated approximately 500 feet in the north-easterly direction from APOPO ROAD, Kapaa Homesteads, Fourth Series, Kapaa, Kawaihau, (Puna), Kauai, Hawaii and more fully described as follows:

Beginning at the northwest corner of this parcel of land, and on the north boundary of Lot 4, SOUZA SUBDIVISION, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" being 8542.91 feet North and 3708.47 feet East, thence running by azimuths measured clockwise from True South:

1. 223°44'            138.91 feet along the remainder of Lot 5, SOUZA SUBDIVISION;
2. 22°20'            120.02 feet along Lot 6, SOUZA SUBDIVISION:  
Thence along Lot 6, SOUZA SUBDIVISION, on a curve to the left having a radius of 200.00 feet, the chord azimuth and distance being:
3. 355°02'            183.46 feet;
4. 327°44'            240.00 feet along Lot 6, SOUZA SUBDIVISION:  
Thence along the northern end of Lot 9 (Roadway), SOUZA SUBDIVISION, on a curve to the left having a radius of 40.00 feet, the chord azimuth and distance being:
5. 47°13'52"            22.38 feet;
6. 147°44'            244.08 feet along Lot 4, SOUZA SUBDIVISION;  
Thence along Lot 4, SOUZA SUBDIVISION, on a curve to the right having a radius of 222.00 feet, the chord azimuth and distance being:
7. 170°36'17"            172.57 feet;
8. 150°46'18"            40.00 feet along Lot 4, SOUZA SUBDIVISION, to the point of beginning and containing AN AREA OF 13,151 SQUARE FEET.



*Cesar C. Portugal*  
Registered Professional Surveyor  
Certificate No. 2225-SE  
Lihue, Kauai, Hawaii  
August 27, 1981  
PORTUGAL, IBARA & ASSOCIATES, INC.



16506 567

EXHIBIT "A-7"

D E S C R I P T I O N

SOUZA SUBDIVISION

EASEMENT 7 (10 feet wide)  
AFFECTING LOT 2

All that parcel of land being a portion of LOT 2, SOUZA SUBDIVISION, situated on the northeasterly side of APOPO ROAD, Kapaa Homesteads, Fourth Series, Kapaa, Kawaihau, (Puna), Kauai, Hawaii and more fully described as follows:

Beginning at the southeast corner of this parcel of land, being also the southwest corner of Lot 3, SOUZA SUBDIVISION, and on the northeasterly side of APOPO ROAD, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" being 7856.91 feet North and 8610.18 feet East, thence running by azimuths measured clockwise from True South:

1. 128°44'                    184.23 feet along APOPO ROAD;
2. 218°44'                    10.00 feet along Lot 1, SOUZA SUBDIVISION;
3. 308°44'                    184.23 feet along the remainder of Lot 2, SOUZA SUBDIVISION;
4. 38°44'                    10.00 feet along Lot 3, SOUZA SUBDIVISION, to the point of beginning and containing AN AREA OF 1,842 SQUARE FEET;

SUBJECT, HOWEVER: That this easement is within 13 foot road widening setback line.



*Cesar C. Portugal*

Registered Professional Surveyor  
Certificate No. 2225-SE  
Lihue, Kauai, Hawaii  
August 27, 1981  
PORTUGAL, IBARA & ASSOCIATES, INC.

EXHIBIT "A-8"

16506 568

D E S C R I P T I O N

SOUZA SUBDIVISION

EASEMENT 8 (10 feet wide)  
AFFECTING LOT 3

All that parcel of land being a portion of LOT 3, SOUZA SUBDIVISION, situated on the northeasterly side of APOPO ROAD, Kapaa Homesteads, Fourth Series, Kapaa, Kawaihau, (Puna), Kauai, Hawaii and more fully described as follows:

Beginning at the southwest corner of this parcel of land, being also the south corner of Lot 2, SOUZA SUBDIVISION, and on the northeasterly side of APOPO ROAD, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" being 7856.91 feet North and 8610.18 feet East, thence running by azimuths measured clockwise from True South:

1. 218°44' 10.00 feet along Lot 2, SOUZA SUBDIVISION;
2. 308°44' 152.36 feet along the remainder of Lot 3, SOUZA SUBDIVISION;

thence along Lot 9 (Roadway), SOUZA SUBDIVISION, on a curve to the right having a radius of 30.00 feet, the chord azimuth and distance being:

3. 104°38'15" 24.50 feet;
4. 128°44' 130.00 feet along APOPO ROAD to the point of beginning and containing AN AREA OF 1455 SQUARE FEET;

SUBJECT, HOWEVER: That this easement is within 13 foot road widening setback line.



*Cesar C. Portugal*  
Registered Professional Surveyor  
Certificate No. 2225-SE  
Lihue, Kauai, Hawaii  
August 27, 1981  
PORTUGAL, IBARA & ASSOCIATES, INC.

16506 569

D E S C R I P T I O N

SOUZA SUBDIVISION (FILE PLAN 1739)

EASEMENT 9 (44 feet wide)  
AFFECTING LOT 9 (ROADWAY)

All that parcel of land being the whole of LOT 9 (ROADWAY),  
SOUZA SUBDIVISION, situated on the northeasterly side of  
APOPO ROAD, Kapaa Homesteads, Fourth Series, Kapaa, Kawaihat,  
(Puna), Kauai, Hawaii and more fully described as follows:

Beginning at the southwest corner of this parcel of land, being also  
the western corner of Lot 8, SOUZA SUBDIVISION, and on the northeasterly  
side of APOPO ROAD, the coordinates of said point of beginning referred  
to Government Survey Triangulation Station "NONOU" being 7721.22 feet  
North and 8779.35 feet East, thence running by azimuths measured clock-  
wise from True South:

1. 128°44'            86.87 feet along APOPO ROAD;  
    Thence along Lot 3, SOUZA SUBDIVISION, on a curve to the left  
    having a radius of 30.00 feet, the chord  
    azimuth and distance being:
2. 263°44'            42.43 feet;
3. 218°44'            190.00 feet along Lot 3, SOUZA SUBDIVISION;  
    Thence along Lot 3, SOUZA SUBDIVISION, on a curve to the left  
    having a radius of 178.00 feet, the chord  
    azimuth and distance being:
4. 197°43'28"        127.63 feet;  
    Thence along Lot 3, SOUZA SUBDIVISION, on a curve to the left  
    having a radius of 40.00 feet, the chord  
    azimuth and distance being:
5. 152°20'12"        33.02 feet;  
    Thence along Lots 4 to 7, inclusive, SOUZA SUBDIVISION, on a  
    curve to the right having a radius of  
    40.00 feet, the chord azimuth and distance  
    being:
6. 256°33'57"        62.51 feet;  
    Thence along Lot 7, SOUZA SUBDIVISION, on a curve to the left  
    having a radius of 40.00 feet, the chord  
    azimuth and distance being:
7.    8°31'58"        22.91 feet;

16506 570

DESCRIPTION

SOUZA SUBDIVISION (FILE PLAN 1739)

EASEMENT 9 (44 feet wide)  
AFFECTING LOT 9 (ROADWAY)

Thence along Lot 8, SOUZA SUBDIVISION, on a curve to the right  
having a radius of 222.00 feet, the chord  
azimuth and distance being:

- 8. 15°18'45" 176.48 feet;
- 9. 38°44' 195.37 feet along Lot 8, SOUZA SUBDIVISION;

Thence along Lot 8, SOUZA SUBDIVISION, on a curve to the left  
having a radius of 30.00 feet, the chord  
azimuth and distance being:

- 10. 11°08'30" 27.79 feet to the point of beginning and con-  
taining AN AREA OF 22,543 SQUARE FEET.



*Cesar C. Portugal*  
Registered Professional Surveyor  
Certificate No. 2225-SE  
Lihue, Kauai, Hawaii  
August 27, 1981  
PORTUGAL, IBARA & ASSOCIATES, INC.  
REVISED: March 1, 1982

EXHIBIT "A-10"

16506 571

DESCRIPTION

SOUZA SUBDIVISION

EASEMENT 10 (5 feet wide)  
AFFECTING LOT 4

All that parcel of land being a portion of LOT 4, SOUZA SUBDIVISION, situated approximately 600 feet in the north-easterly direction from APOPO ROAD, Kapaa Homesteads, Fourth Series, Kapaa, Kawaihau, (Puna), Kauai, Hawaii and more fully described as follows:

Beginning at the northeast corner of this parcel of land, from which point a direct azimuth and distance to the southwest corner of Lot 5, SOUZA SUBDIVISION being 150°46'18" 252.16 feet, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" being 8508.00 feet North and 8728.00 feet East, thence running by azimuths measured clockwise from True South:

Thence along Lot 5, SOUZA SUBDIVISION, on a curve to the left having a radius of 222.00 feet, the chord azimuth and distance being:

1. 12°49'51" 5.00 feet;
2. 103°28'34" 10.06 feet along the remainder of Lot 4, SOUZA SUBDIVISION;
3. 193°28'34" 5.00 feet along the remainder of Lot 4, SOUZA SUBDIVISION;
4. 283°28'34" 10.00 feet along the remainder of Lot 4, SOUZA SUBDIVISION, to the point of beginning and containing AN AREA OF 50 SQUARE FEET.



*Cesar C. Portugal*  
Registered Professional Surveyor  
Certificate No. 2225-SE  
Lihue, Kauai, Hawaii  
February 1, 1982  
PORTUGAL, IBARA & ASSOCIATES, INC.

16506 572

DESCRIPTION

SOUZA SUBDIVISION

EASEMENT 11 (40 feet wide)  
AFFECTING LOT 5

All that parcel of land being a portion of LOT 5, SOUZA SUBDIVISION, situated approximately 750 feet in the north-easterly direction from APOPO ROAD, Kapaa Homesteads, Fourth Series, Kapaa, Kawaihau, (Puna), Kauai, Hawaii and more fully described as follows:

Beginning at the northeast corner of this parcel of land, from which point a direct azimuth and distance to the north corner of Lot 6, SOUZA SUBDIVISION being 202°20' 362.16 feet, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" being 8685.54 feet North and 8821.85 feet East, thence running by azimuths measured clockwise from True South:

1. 22°20' 45.67 feet along Lot 6, SOUZA SUBDIVISION;
2. 43°44' 109.63 feet along the remainder of Lot 5, SOUZA SUBDIVISION (Easement 5);
3. 202°20' 147.74 feet along the remainder of Lot 5, SOUZA SUBDIVISION;
4. 292°20' 40.00 feet along the remainder of Lot 5, SOUZA SUBDIVISION, to the point of beginning and containing AN AREA OF 3,868 SQUARE FEET.



*Cesar C. Portugal*  
Registered Professional Surveyor  
Certificate No. 2225-SE  
Lihue, Kauai, Hawaii  
February 1, 1982  
PORTUGAL, IBARA & ASSOCIATES, INC.

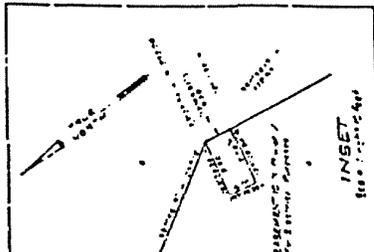
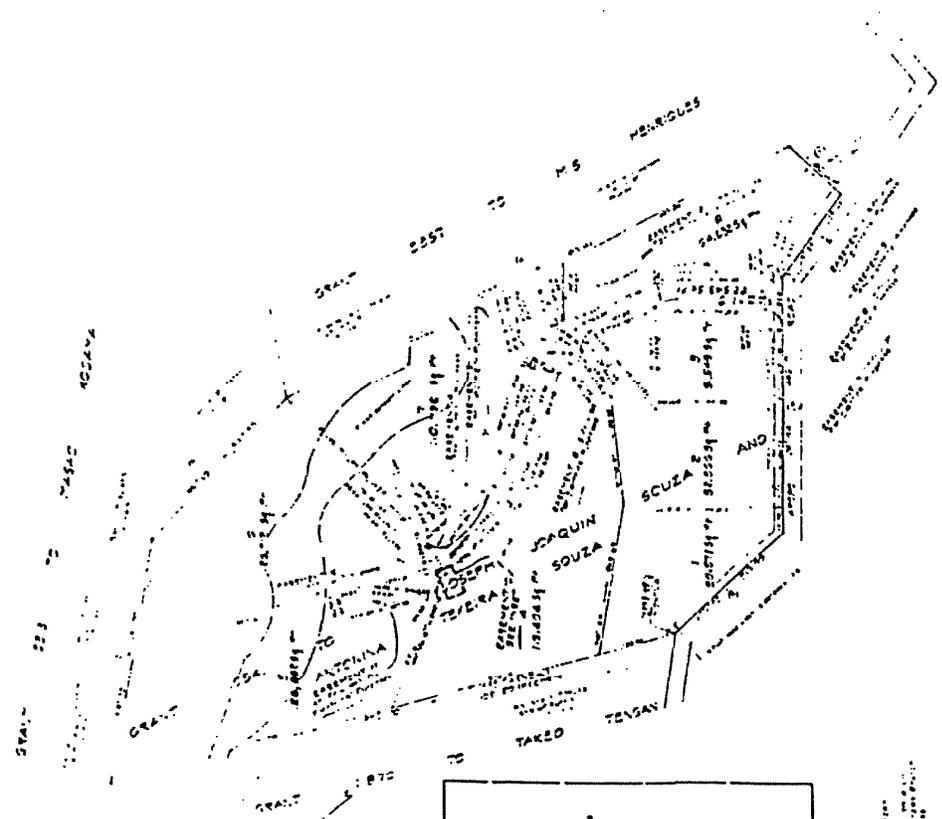
SOZA 5155 / 15 21

OWNER: SOZA, JOAQUIN  
ADDRESS: 1500 S. 24th St., Phoenix, Arizona

SUBDIVISION INTO LOTS 1 TO 5, INCLUSIVE  
AND DESIGNATION OF EASEMENTS TO II, INCLUSIVE

Reference is made to the original plat of the above described property...  
21522 1st class 1970 to 1975  
21523 1st class 1970 to 1975  
21524 1st class 1970 to 1975  
21525 1st class 1970 to 1975  
21526 1st class 1970 to 1975  
21527 1st class 1970 to 1975  
21528 1st class 1970 to 1975  
21529 1st class 1970 to 1975

16506 573



SOZA OF SOZA'S  
1500 S. 24th St.  
Phoenix, Arizona

1500 S. 24th St.  
Phoenix, Arizona

16506 574

E-1064 (4/80) ADDITIONAL SECURITY MORTGAGE AND FINANCING STATEMENT

KNOW ALL MEN BY THESE PRESENTS:

That in order to comply with the provisions of Section 506-3, Hawaii Revised Statutes, and the Uniform Commercial Code and intending to create a mortgage lien under real property law and a security interest under the Uniform Commercial Code, and to further secure and comply with the after-acquired property clause in that certain First Mortgage and Deed of Trust executed on January 15, 1941, on file in the Office of the Assistant Registrar of the Land Court of Hawaii as Document No. 56,356 and recorded in the Bureau of Conveyances of Hawaii in Liber 1613 at page 310, as the same has been and may hereafter be amended, hereinafter referred to as the trust mortgage, which said trust mortgage was last amended by instrument dated September 27, 1962, on file as Document No. 297,144, and recorded in said Bureau of Conveyances in Liber 4377 at page 1, HAWAIIAN TELEPHONE COMPANY, a Hawaii corporation, whose mailing address is P.O. Box 2000, Honolulu, Hawaii 96841, Mortgagor in said trust mortgage, a transmitting utility and Grantee in the Grant to which this instrument is attached, does hereby grant, bargain, sell, convey, transfer, assign, mortgage, confirm, warrant, set over and deliver unto HAWAIIAN TRUST COMPANY, LIMITED, a Hawaii corporation, having its principal place of business and post office address at 111 South King Street, Honolulu, Hawaii 96813, the Trustee named in said trust mortgage, as such Trustee under said trust mortgage, as amended, and its successors in trust and assigns, all of its right, title, and interest in and to said document to which this instrument is attached and in and to the property affected thereby, together with all goods which are or are to become fixtures thereon and all improvements now or hereafter placed thereon, and all additions, purchases and substitutions thereto and therefor, and the reversions, rents, issues, profits and proceeds thereof;

TO HAVE AND TO HOLD the same, together with all rights, easements, privileges and appurtenances thereunto or to any part thereof belonging or appertaining unto the said Trustee and its successors in trust and assigns;

IN TRUST, NEVERTHELESS, under the trusts and subject to the conditions and provisions, including the defeasance clause set forth in said trust mortgage, as amended, and as the same may from time to time hereafter be amended.

IN WITNESS WHEREOF, said HAWAIIAN TELEPHONE COMPANY has caused these presents to be executed in its corporate name by its proper officer and its corporate seal to be hereunto affixed, all at Honolulu, City and County of Honolulu, State of Hawaii, the 4th day of August, 19 82.

HAWAIIAN TELEPHONE COMPANY

By Jane D. Lowe ASSISTANT SECRETARY

STATE OF HAWAII )
City and County of Honolulu) ss

On this 4th day of August, 19 82, before me appeared Jane D. Lowe to me personally known, who being by me duly sworn, did say that s/he is the Assistant Secretary of Hawaiian Telephone Company, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and the said Jane D. Lowe acknowledged said instrument to be the free act and deed of said corporation.

Billie Ann Pangilinan
Notary Public, State of Hawaii

My Commission expires April 5, 1986

EXHIBIT "H"

MARYANNE W. KUSAKA  
MAYOR



COUNTY OF KAUAI  
PLANNING DEPARTMENT  
4444 RICE STREET, SUITE 473  
LIHUE, KAUAI, HAWAII 96766

DEE M. CROWELL  
PLANNING DIRECTOR  
SHEILAH N. MIYAKE  
DEPUTY PLANNING DIRECTOR  
TELEPHONE (808) 241-6677  
FAX (808) 241-6699

June 18, 1999

Verna Mae Souza-Costa  
& Gerald James Souza  
5303 Kumole St.  
Kapaa, HI 96746

RE: FARM DWELLING AGREEMENT

DOC #: 99-066238

TMK: (4) 4-6-034-041

Transmitted herein is the Farm Dwelling Agreement, which has been recorded with the Bureau of Conveyances.

A handwritten signature in cursive script that reads "Catherine L. Iwai".

CATHERINE L. IWAI  
Commission Support Clerk

Enclosure

R-837

STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED

APR 28, 1999 08:30 AM

Doc No(s) 99-066238

/s/CARL T. WATANABE  
ACTING  
REGISTRAR OF CONVEYANCES



LAND COURT SYSTEM

REGISTRY SYSTEM

Return by Mail (X) Pickup ( ) To:

County of Kauai  
Planning Department  
4444 Rice Street, Suite 473  
Lihue, Kauai, Hawaii 96766

FARM DWELLING AGREEMENT

THIS AGREEMENT made and entered into by and between  
Verna Mae Souza-Costa & Gerald James Souza,

whose mailing address is 5303 Kumole St. Kapaa, HI 96746

hereinafter called the "APPLICANT(S)", and the COUNTY OF KAUAI  
PLANNING DEPARTMENT, whose business and mailing address is 4444  
Rice Street, Suite 473, Lihue, Hawaii 96766, hereinafter called the  
"DEPARTMENT",

W I T N E S S E T H

WHEREAS, the APPLICANT(S) warrant and represent that they are  
the owners of

that certain parcel of land, Tax Map Key No. (4)4/6/034/041,  
more particularly described in Exhibit "A" attached hereto and made  
a part hereof; and

WHEREAS, that certain parcel of land is classified Agriculture  
by the State Land Use Commission and is zoned Agriculture by the  
County of Kauai; and

WHEREAS, Chapter 205, Hawaii Revised Statutes, and the State Land Use District Regulations only permit "farm dwellings" within the State Agriculture Land Use District unless otherwise relieved from the restriction by a special permit obtained pursuant to Chapter 205, Section 6, Hawaii Revised Statutes; and

WHEREAS, a "farm dwelling" is defined by Chapter 205, Hawaii Revised Statutes, and the State Land Use District Regulations as "a single family dwelling located on and used in connection with a farm where agricultural activity provides income to the family occupying the dwelling"; and

WHEREAS, a "family" as used in the definition of a "farm dwelling" is defined by the State Land Use District Regulations as "an individual or two or more persons related by blood, marriage or adoption or a group comprising not more than five persons, not related by blood, marriage or by adoption"; and

WHEREAS, the APPLICANT(S) acknowledge that a violation of Chapter 205, Hawaii Revised Statutes, and the State Land Use Agriculture District restriction is subject to a citation and fine of not more than \$5,000 pursuant to Chapter 205, Section 13, Hawaii Revised Statutes, as amended; and

WHEREAS, the APPLICANT(S) also acknowledge that failure to abide by this agreement may result in the removal of the prohibited structure at the owner's expense; and

WHEREAS, the DEPARTMENT is charged with the enforcement of the restriction by Chapter 205, Hawaii Revised Statutes;

NOW THEREFORE, for and in consideration of the terms, covenants and conditions hereinafter contained, the parties hereby mutually agree as follows:

1. That the dwelling permitted to be constructed on the parcel of land described in Exhibit "A" classified Agriculture by the State Land Use Commission shall be a "farm dwelling" as defined by Chapter 205, Hawaii Revised Statutes, and the State Land Use District Regulations, as recited herein; and

2. That the dwelling shall only be occupied by a "family", as defined by the State Land Use District Regulations and as recited herein, who derive income from the agricultural activity on the parcel; and

3. That the APPLICANT(S) and all present and future owners, lessees and occupants of said land grant the DEPARTMENT the right of entry at the request of the DEPARTMENT to inspect the premises to assure compliance with the provisions of this agreement; and

4. That this agreement shall be a covenant running with the land and be binding on the APPLICANT(S), and all present and future owners, lessees and occupants of said land and anyone claiming under said APPLICANT(S), their heirs, executors, administrators, successors and assigns, as owners or occupants thereof or otherwise; and

5. That this agreement shall remain in effect so long as the land retains its Agriculture District classification under the State Land Use Commission and the pertinent restrictive provisions of Chapter 205, Hawaii Revised Statutes, and the State Land Use District Regulations remain in effect; and

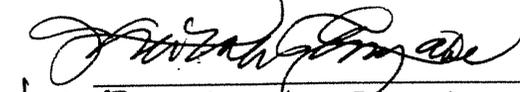
6. That the APPLICANT(S) expressly set forth the provisions of this agreement in any subsequent conveyance, deed, lease or rental agreement to said property executed by them, so as to give effect to said covenant; and

7. That this agreement shall be recorded with the State of Hawaii Bureau of Conveyances, fees to be paid by the APPLICANT(S).

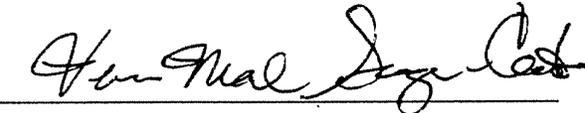
IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed on the 7 day of April, 1999.

APPROVED:

**SHEILAH N. MIYAKE**

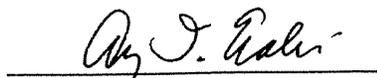
  
deputy Planning Director  
County of Kauai  
Planning Department

Applicant(s)

  
Verna Mae Souza-Costa

  
Gerald James Souza

APPROVED AS TO FORM  
AND LEGALITY:

  
County Attorney

STATE OF HAWAII )  
 ) ss.  
COUNTY OF KAUAI )

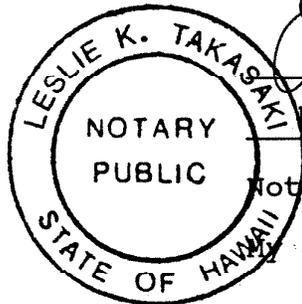
On this day of April 7, 1999, before me  
personally appeared Vernice Mae Souza - Costa &  
Gerald James Souza to  
me known to be the persons described in and who executed the  
foregoing instrument, and acknowledged that They executed the  
same as Their free act and deed.

John S. Norcia  
[Signature]  
Notary Public, State of Hawaii  
My commission expires: \_\_\_\_\_

My Commission Expires on  
Jan. 4, 2003  
Notary Public 5th Circuit

STATE OF HAWAII )  
 ) ss.  
COUNTY OF KAUAI )

On this day of APR 21 1999, before me  
appeared SHEILAH N. MIYAKE to me personally known,  
who being by me duly sworn, did say that she is Deputy  
Planning Director of the PLANNING  
DEPARTMENT of the COUNTY OF KAUAI; and that said instrument was  
executed on behalf of said PLANNING DEPARTMENT; and that said  
SHEILAH N. MIYAKE acknowledged that she executed the  
same as <sup>an</sup> ~~his~~ free act and deed of the PLANNING DEPARTMENT of the  
COUNTY OF KAUAI. Said Department has no seal.



Leslie K. Takasaki

LESLIE K. TAKASAKI

Notary Public, State of Hawaii

commission expires: NOV 04 1999

D E S C R I P T I O N

SOUZA SUBDIVISION

LOT 7

All that parcel of land being a portion of Grant 10341 to Joseph Joaquin Souza and Antonina Teixeira Souza (Lot 241, Kapaa Homesteads, Fourth Series), situated approximately 650 feet on the northeasterly side of APOPO ROAD, Kapaa, Kawaihau, (Puna), Kauai, Hawaii and more fully described as follows:

Beginning at a pipe at the northeast corner of this parcel of land, being also the southeast corner of Lot 6, SOUZA SUBDIVISION, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOJ" being 8536.39 feet North and 9138.53 feet East, thence running by azimuths measured clockwise from True South:

1. 11°27' 537.56 feet along Grant 9957 to M. S. Henriques (Lot 242, Kapaa Homesteads, Fourth Series), to a pipe;

2. 128°12' 99.57 feet along Lot 8, SOUZA SUBDIVISION, to a pipe;

Thence along Lot 9 (Roadway), SOUZA SUBDIVISION, on a curve to the right having a radius of 40.00 feet, the chord azimuth and distance being:

3. 188°31'58" 22.91 feet to a pipe;

Thence along Lot 9 (Roadway), SOUZA SUBDIVISION, on a curve to the left having a radius of 40.00 feet, the chord azimuth and distance being:

4. 151°43'28" 64.27 feet to a pipe;

5. 147°44' 249.40 feet along Lot 6, SOUZA SUBDIVISION, to a pipe;

Thence along Lot 6, SOUZA SUBDIVISION, on a curve to the right having a radius of 178.00 feet, the chord azimuth and distance being:

6. 166°09'35" 112.53 feet to a pipe;

Thence along Lot 6, SOUZA SUBDIVISION, on a curve to the right having a radius of 30.00 feet, the chord azimuth and distance being:

7. 224°06'59" 38.19 feet to a pipe;

**D E S C R I P T I O N**

**SOUZA SUBDIVISION**

**LOT 7**

5. 263°30'48" 347.62 feet along Lot 6, SOUZA SUBDIVISION, to the point of beginning and containing AN AREA OF 110,737 SQUARE FEET;

**SUBJECT, HOWEVER: To Flood setback lines;**

**ALSO: To Easement 3, (5 feet wide) for electrical purposes.**



*Cesar C. Portugal*  
Registered Professional Surveyor  
Certificate No. 2225-SE  
Lihue, Kauai, Hawaii  
August 27, 1981  
PORTUGAL, IBARA & ASSOCIATES, INC.

EXHIBIT "I"

THE ORIGINAL OF THE DOCUMENT  
 RECORDED AS FOLLOWS:  
 STATE OF HAWAII

BUREAU OF REVENUES

DATE: JUN 30 1999

DOCUMENT NO: 99-109268 <sup>200</sup>

After Recordation Return By: MAIL (XXXX) TO:

Verna Mae Souza-Costa (Type/print name & address)  
5303 Kumole St.  
Kapaa, HI 96746

WAIVER AND RELEASE

I (we), Verna <sup>Mae</sup> Souza-Costa & <sup>James</sup> Harold Souza, owners of property located  
 at TMK: (4)-4-(0)-34-41 Unit 3; District: Kauai,  
 Kauai, Hawaii, Location: Kapaa, whose mailing  
 address is (are) 5303 Kumole St Kapaa, have full knowledge and  
 am aware that the CPR Shed I (we) intend to build  
 (hereinafter called the "Project") built upon my (our) property which is  
 presently without water or water services from the County of Kauai; and I  
 (we) am (are) presently seeking a building permit from the Building Division  
 of the Department of Public Works of the County of Kauai for such subject  
 project. I (we) nevertheless desire to commence construction of the subject  
 project knowing that no County-supplied water service of any kind exists and  
 acknowledging and accepting the fact that no County-supplied water service  
 may ever exist at the location;

Therefore, I (we), Verna Sara Ostig / Gerald Sara, agree, promise and covenant as follows:

1. The issuance to me (us) of a building permit by the County of Kauai for the subject project on the property described above will not be construed by me (us), my (our) agent(s), successor(s) in interest, heir(s) or assign(s) to infer, warrant or guarantee that water or water services will be provided by the County to the property described above at any time in the future;

2. I (we), my (our) agent(s), successor(s) in interest, heir(s) or assign(s) will not use the issuance of the subject building permit as a basis for any claim, action, suit or demand of any kind for the providing of water or water services by the County of Kauai, at this time or any time in the future;

3. I (we), my (our) agent(s), successor(s) in interest, Heir(s) or assign(s) waive(s) any right I (we), he or they do, or does, could or will ve to institute any claim, action, suit or demand of any kind which could or will arise out of the absence of County-supplied water or water services at the subject property;

4. Prior to taking any action that affects the title to subject property, I (we) will notify my (our) agent(s), successor(s) in interest, or assign(s) of the entire contents of this Waiver and Release, as such agency, successorship or assignment becomes legally effected, by having him or them affix his or their signature(s) upon a document attesting to such notice, and will provide to the Building Division a copy of such properly executed document upon execution; and

