

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by: Developer: PATRICK A. HARRINGTON
Address: P. O. Box 1345, Hanalei, Kauai, Hawaii 96714
JOSEPH HANWRIGHT and PATRICIA HANWRIGHT
P. O. Box 759, Anahola, Kauai, Hawaii 96703
Project Name (\*): NANI O KALALEA RANCH
Address: Allotment 24-E-2, Moloaa Hui Lands, Aliomanu, Kawaihau, Kauai, Hawaii

Registration No. 4316

Effective date: October 8, 2004
Expiration date: November 8, 2005

Preparation of this Report:

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

This report has not been prepared or issued by the Real Estate Commission or any other 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: (yellow) The developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report.
FINAL: (white) The developer has legally created a condominium and has filed complete information with the Commission.
[X] SUPPLEMENTARY: (pink) This report updates information contained in the:
[X] Final Public Report dated: February 9, 2000

(\* Exactly as named in the Declaration
This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2644 to submit your request.

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

Required and attached to this report       Not Required – 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:

**The expiration date for the Final Public Report has been extended from time to time, most recently, by letter dated August 25, 2004 issued by the Real Estate Branch. The current expiration date for the Final Public Report is October 13, 2005.**

**In connection with a prior extension request, the developers prepared and submitted a Third Amended Disclosure Abstract for Nani O Kalalea Ranch. A copy thereof is attached hereto as Exhibit “S-1”.**

**Subsequent to the issuance of the Final Public Report, two amendments to the Project’s declaration of condominium property regime were executed and recorded as follows:**

- (i) First Amendment to Declaration of Condominium Property Regime of Nani O Kalalea Ranch dated July 30, 2003, recorded as Document No. 2003-164432 (designating Apartment 8 as the apartment having the right to build a guest house).**
- (ii) Second Amendment to Declaration of Condominium Property Regime of Nani O Kalalea Ranch recorded on September 7, 2004 as Document No. 2004-182555 (designating certain easements and adding new paragraph 31 entitled “Well and Well Facilities” which applies to Apartments 1, 2, 3, and 4. An amended Condominium Map, dated August 23, 2002 showing the newly designated easements, was recorded together with the Second Amendment.)**

**A copy of the First Amendment and Second Amendment are attached hereto and made a part hereof as Exhibits “S-2” and “S-3”. A copy of the Amended Condominium Map is attached hereto and made a part hereof as Exhibit “S-4”.**

**The escrow company in connection with the Final Public Report has changed from First American Long & Melone Title Co., Ltd. to Title Guaranty Escrow Services, Inc.**

I. PERSONS CONNECTED WITH THE PROJECT

Developer: **PATRICK A. HARRINGTON** Phone: **(808) 826-9655**  
**P. O. Box 1345** (Business)  
**Hanalei, Kauai, Hawaii 96714**  
Business Address

**JOSEPH HANWRIGHT and PATRICIA HANWRIGHT** Phone: **(808) 828-0103**  
**P. O. Box 759** (Business)  
**Anahola, Kauai, Hawaii 96703**  
Business Address

Names of officers and directors of developers who are corporations; general partners of a partnership; partners of a Limited Liability Partnership (LLP); or manager and members of a Limited Liability Company (LLC) (attached separate sheet if necessary):

**N/A**

---

Real Estate Broker\*: **For Apartments 1 and 3** Phone: **(808) 245-8831**  
**Sleeping Giant Realty, Inc.** (Business)  
Name  
**4480 Ahukini Road**  
**Lihue, Kauai, Hawaii 96766**  
Business Address

Escrow: Title Guaranty Escrow Services, Inc. Phone: **(808) 533-6261**  
Name (Business)  
**235 Queen Street**  
**Honolulu, Hawaii 96813**  
Business Address

General Contractor\*: **Marvin L. Dye, Inc.** Phone: **(808) 823-8600**  
Name (Business)  
**4-1354 Kuhio Highway, Suite 2**  
**Kapaa, Kauai, Hawaii 96746**  
Business Address

Condominium Managing Agent\*: **Self-Managed** Phone: \_\_\_\_\_  
Name (Business)  
\_\_\_\_\_  
Business Address  
\_\_\_\_\_

Attorney for Developer: **William C. Byrns, Esq.** Phone: **(808) 523-3080**  
Name (Business)  
**MacDonald Rudy & Byrns**  
**2650 ASB Tower, 1001 Bishop Street**  
**Honolulu, Hawaii 96813**  
Business Address

\*For Entities: Name of corporation, partnership, Limited Liability Partnership (LLP), or Limited Liability Company (LLC)

**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.

1. **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. 99-191802  
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 Declaration of Condominium Property Regime of Nani O Kalalea Ranch dated July 30, 2003, recorded as Document No. 2003-164432 (designating Apartment 8 as the apartment having the right to build a guest house).**

**Second Amendment to Declaration of Condominium Property Regime of Nani O Kalalea Ranch recorded on September 7, 2004 as Document No. 2004-182555 (designating certain easements and adding new paragraph 31 entitled A Well and Well Facilities@ which applies to Apartments 1, 2, 3, and 4.)**

2. **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. 3004 (dated November 16, 1999)**  
 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]:

**Amended Condominium Map (dated August 23, 2002) recorded together with the above-referenced Second Amendment.**

3. **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. 99-191803  
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]: **N/A**

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 G.**

as follows: the dotted line separating the respective units in the Condominium Map is not intended to denote that the respective limited common elements are 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 F.**

as follows:

- 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 A describes the encumbrances contained in the title reports dated July 27, 2004, July 30, 2004, and July 28, 2004, issued by title Guaranty of Hawaii, Inc. covering Apartment Nos. 1, 3 and 8, respectively, of the project.**

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:
- 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 \_\_\_\_\_

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

Website to access official copy of laws: [www.capitol.hawaii.gov](http://www.capitol.hawaii.gov)  
 Website to access unofficial copy of laws: [www.hawaii.gov/dcca/hrs](http://www.hawaii.gov/dcca/hrs)  
 Website to access rules: [www.hawaii.gov/dcca/har](http://www.hawaii.gov/dcca/har)

This Public Report is part of **Registration No. 4316** filed with the Real Estate Commission on **December 7, 1999.**

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

YELLOW paper stock     WHITE paper stock     PINK paper stock

- D. The developer declares subject to the penalties set forth in section 514A-49(b) that this project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to Act 251 (SLH 2000) [Section 514A-1.6] (The developer is required to make this declaration for issuance of an effective date for a final public report.)
- E. The developer hereby certifies that all the information contained in this Report and the Exhibits attached to this Report and all documents to be furnished by the developer to buyers concerning the project have been reviewed by the developer and are, to the best of the developer's knowledge, information and belief, true, correct and complete.

Patrick A. Harrington  
Printed Name of Developer

By: Patrick A. Harrington 9/8/04  
Duly Authorized Signatory\* Date

PATRICK A. HARRINGTON Developer / Fee Owner  
Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, County of Kauai

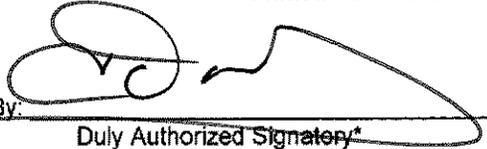
Planning Department, County of Kauai

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

- D. The developer declares subject to the penalties set forth in section 514A-49(b) that this project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to Act 251 (SLH 2000) [Section 514A-1.6] (The developer is required to make this declaration for issuance of an effective date for a final public report.)
- E. The developer hereby certifies that all the information contained in this Report and the Exhibits attached to this Report and all documents to be furnished by the developer to buyers concerning the project have been reviewed by the developer and are, to the best of the developer's knowledge, information and belief, true, correct and complete.

JOSEPH C. HANWRIGHT

Printed Name of Developer

By:   
 Duly Authorized Signatory\*

9/7/07

Date

JOSEPH C. HANWRIGHT Developer / Fee Owner

Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, County of Kauai

Planning Department, County of Kauai

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

- D. The developer declares subject to the penalties set forth in section 514A-49(b) that this project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to Act 251 (SLH 2000) [Section 514A-1.6] (The developer is required to make this declaration for issuance of an effective date for a final public report.)
- E. The developer hereby certifies that all the information contained in this Report and the Exhibits attached to this Report and all documents to be furnished by the developer to buyers concerning the project have been reviewed by the developer and are, to the best of the developer's knowledge, information and belief, true, correct and complete.

PATRICIA L. HANWRIGHT  
Printed Name of Developer

By: Patricia L. Hanwright 9/7/09  
Duly Authorized Signatory\* Date

PATRICIA L. HANWRIGHT Developer / Fee Owner  
Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, County of Kauai

Planning Department, County of Kauai

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

**EXHIBIT "A"**  
**Nani O Kalalea Ranch**  
Encumbrances Against Title

1. Title to all mineral and metallic mines reserved to the State of Hawaii.
  2. (as to Apartment 1) Any and all Real Property Taxes that may be due and owing.  
Tax Key: (4) 4-9-005-001 C.P.R. No. 0001 Apt. No. 1  
Land Classification: AGRICULTURAL
  - (as to Apartment 3) Any and all Real Property Taxes that may be due and owing.  
Tax Key: (4) 4-9-005-001 C.P.R. No. 0003 Apt. No. 3  
Land Classification: AGRICULTURAL
  - (as to Apartment 8) Any and all Real Property Taxes that may be due and owing.  
Tax Key: (4) 4-9-005-001 C.P.R. No. 0008 Apt. No. 8
- Note:- Attention is invited to the fact that the premises covered herein may be subject to possible rollback or retroactive property taxes
3. Rights of others thereto entitled in and to the continued uninterrupted flow of the Aliomanu Stream.
  4. Free flowage of Aliomanu Stream as shown on survey dated July 3, 1996, revised July 18, 1996, by Ronald J. Wagner, a Licensed Professional Land Surveyor of Wagner Engineering Services, Inc.
  5. Location of the boundary of the Aliomanu Stream and the effect, if any, upon the area of the land described herein.
  6. Limited rights of vehicle access into and from Kauai Belt Road, Federal Aid Project No. F-056-1(2), which rights or access were conveyed to the State of Hawaii by Deed recorded in Book 3949, Page 199.
  7. Reservations as contained in that certain Deed dated December 22, 1982, recorded in the Bureau of Conveyances in Book 16762, Page 17.
  8. All customary and traditional gathering and other rights of Native Hawaiians for subsistence, culture and religious purposes.
  9. Any and all trails, archeological sites, burial cave(s) and/or burial grounds that may be shown on an accurate on-the-ground survey.
  10. Rights of the State of Hawaii in and to any and all trails, roads, archeological sites, burial ground(s) or cave(s), prehistoric and historic remains, all surface and ground waters appurtenant to said land and the right to capture, divert or impound the same and to occupy and use so much of the land as may be required in the exercise of this right reserved.
  11. Restrictions, reservations, covenants and conditions as contained in that certain Limited Warranty Deed and Reservation of Rights dated July 23, 1996, recorded in the Bureau of Conveyances as Document No. 96-108039. But deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion,

sex, handicap, familial status, or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(o).

12. WAIVER AND RELEASE

DATED: October 12, 1999

RECORDED: Document No. 99-164417

BY: PATRICK A. HARRINGTON, unmarried, and JOSEPH HANWRIGHT and PATRICIA HANWRIGHT, husband and wife

WITH: COUNTY OF KAUAI by and for the Department of Water and Board of Water Supply

RE: water service

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

INSTRUMENT: DECLARATION OF CONDOMINIUM PROPERTY REGIME FOR "NANI O KALALEA" CONDOMINIUM PROJECT

DATED: November 1, 1999

RECORDED: Document No. 99-191802

MAP: 3004 and any amendments thereto

Said above Declaration of Condominium Property Regime for "NANI O KALALEA RANCH" Condominium Project was amended by instrument dated July 20, 2003, recorded as Document No. 2003-164432; and instrument dated September 7, 2004, recorded as Document No. 2004-182555.

14. 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

DATED: November 12, 1999

RECORDED : Document No. 99-191803

15. (as to Apartment No. 1) The terms and provisions, including the failure to comply with any covenants, conditions, and reservations, contained in Apartment Deed dated January 25, 2000, recorded as Document No. 2000-019075.

(as to Apartment No. 3) The terms and provisions, including the failure to comply with any covenants, conditions, and reservations, contained in Apartment Deed dated January 25, 2000, recorded as Document No. 2000-019077.

(as to Apartment No. 8) The terms and provisions, including the failure to comply with any covenants, conditions, and reservations, contained in Apartment Deed dated January 25, 2000, recorded as Document No. 2000-019082.

16. (as to Apartment Nos. 1 and 3)

WAIVER AND RELEASE

DATED: June 30, 2000

RECORDED: Document No. 2000-096712  
BY: PATRICK A. HARRINGTON, unmarried, and JOSEPH HANWRIGHT and PATRICIA HANWRIGHT, husband and wife, and DAVID THOMAS CAMP and JEAN SALEK CAMP, husband and wife  
WITH: COUNTY OF KAUAI by and for the Department of Water and Board of Water Supply  
RE: water service

17. (as to Apartment No. 8)  
SECOND MORTGAGE  
MORTGAGOR: PATRICK A. HARRINGTON, also known as Patrick Andrew Harrington, unmarried  
MORTGAGEE: CITY NATIONAL BANK, AS TRUSTEE FBO BRUCE A. REEVES IRA  
DATED: September 6, 2000  
RECORDED: Document No. 2000-126931  
AMOUNT: \$57,000.00 – covers the premises described herein, besides other premises

18. (as to Apartment No. 8)  
NOTICE OF DEDICATION  
DATED: December 18, 2001, but effective as of January 1, 2002  
RECORDED: Document No. 2001-204780  
BY: PATRICK A. HARRINGTON  
RE: dedication of land for agricultural use purposes  
PERIOD: 10-years

19. (as to Apartment No. 8)  
THIRD MORTGAGE  
MORTGAGOR: PATRICK A. HARRINGTON, unmarried  
MORTGAGEE: BRUCE A. REEVES and NANCY J. REEVES, husband and wife  
DATED: February 12, 2003  
RECORDED: Document No. 2003-028176  
AMOUNT: \$25,000.00

20. (as to Apartment No. 8)  
MORTGAGE  
MORTGAGOR: PATRICK A. HARRINGTON, unmarried  
MORTGAGEE: ED BEN-DOR, Trustee of the M. BEN-DOR DIAMONDS INCORPORATED PENSION PLAN AND TRUST  
DATED: March 3, 2004  
RECORDED: Document No. 2004-046886  
AMOUNT: \$400,000.00

END OF EXHIBIT A

Third Amended  
Disclosure Abstract  
For Nani O Kalalea Ranch

Pursuant to Hawaii Revised Statutes, Section 514(A)-61, the Developers of Nani O Kalalea Ranch make the following disclosures:

1. The Developers of the Project are:

Patrick A. Harrington  
P. O. Box 1345  
Hanalei, Kauai, Hawaii 96714  
Telephone No.: (808) 826-9655

Joseph Hanwright and Patricia Hanwright  
P. O. Box 759  
Anahola, Kauai, Hawaii 96703  
Telephone No.: (808) 828-0103

2. See Exhibit D to the Final Public Report for the projected maintenance fees. The Developers hereby certify that the estimates have been based on generally accepted accounting principles.
3. There are no warranties against defects of material and workmanship in individual apartments, common elements or exclusive use areas, and the purchaser buys his/her unit in an "AS IS" condition.
4. All of the Apartments of the Project are to be used for agricultural purposes only and permitted residential use within the agricultural zone. No Apartments shall be used for hotel or timeshare purposes. There will be no commercial use except those activities permitted by the County of Kauai Comprehensive Zoning Ordinance.
5. Apartment numbers 1 and 3, are listed for sale with Sleeping Giant Realty, effective upon issuance of the requisite extension of the Final Public Report. A copy of the listing agreements for each of these Apartments is attached hereto.
6. Apartment numbers 2, 4, 5, 6, and 7 have sold since the effective date of the original Final Public Report.
7. Developer Patrick A. Harrington is the owner of Apartment 8 and such Apartment is not available for sale.

**EXHIBIT**

S-1

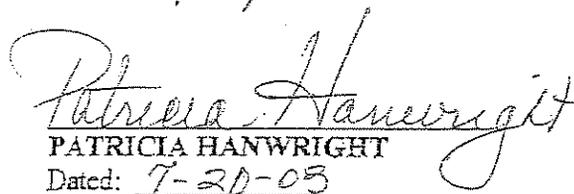
8. Inquiries regarding the purchase of Apartment numbers 1 and 3 can be made through:

Sleeping Giant Realty, Inc.  
Attn: Robb Wall  
4480 Ahukini Road  
Lihue, Kauai, Hawaii 96766

9. The undersigned Developers of NANI O KALALEA RANCH condominium project hereby certify that the initial estimates of maintenance fee assessment and maintenance fee disbursements filed with the Final Public Report are still applicable and were prepared in accordance with generally accepted accounting principles. The Developers have not conducted a reserve study in accordance with Section 514A-83.6, H.R.S., and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended. There are no depreciable common elements in this Project.

  
\_\_\_\_\_  
PATRICIA A. HARRINGTON  
Dated: 7/28/03

  
\_\_\_\_\_  
JOSEPH HANWRIGHT  
Dated: 7/20/03

  
\_\_\_\_\_  
PATRICIA HANWRIGHT  
Dated: 7-20-03

"Developers"

RECEIPT

The undersigned has received a copy of the foregoing Third Amended Disclosure Statement with Exhibit D this \_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

"Purchaser"

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

BUREAU OF CONVEYANCES

DATE AUG 07 2003 TIME 08:02

DOCUMENT NO. 2003-164432

LAND COURT

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL (X) PICKUP ( ):

WILLIAM C. BYRNS, ESQ.  
MacDonald Rudy Byrns O'Neill & Yamauchi  
1001 Bishop Street  
ASB Tower, Suite 2650  
Honolulu, Hawaii 96813  
Telephone (808) 523-3080

Pages

\_\_\_\_ Total

**FIRST AMENDMENT TO  
DECLARATION OF CONDOMINIUM PROPERTY REGIME OF  
NANI O KALALEA RANCH**

Parties to the Document:

**PATRICK A HARRINGTON**, unmarried, and  
**JOSEPH HANWRIGHT** and **PATRICIA HANWRIGHT**, husband and wife

Property Description:

Document No. 99-191802

"Nani O Kalalea Ranch" Condominium Project  
Allotment 24-E-2, Moloaa Hui Lands,  
Equity No. 60 Partition, Fifth Circuit Court,  
Situate at Aliomanu, Kawaihau, Kauai,  
State of Hawaii

Tax Map Key No.: (4) 4-9-5:01

**EXHIBIT**

S-2

THIS AMENDMENT is made this 20<sup>th</sup> day of July, 2003, by **PATRICK A HARRINGTON**, unmarried, and **JOSEPH HANWRIGHT** and **PATRICIA HANWRIGHT**, husband and wife (collectively the "Declarants"), whose post office and mailing address is c/o William C. Byrns, MacDonald Rudy Byrns O'Neill and Yamauchi, 1001 Bishop Street, Suite 2650, ASB Tower, Honolulu, Hawaii 96813;

WITNESSETH

WHEREAS, by Declaration of Condominium Property Regime of Nani O Kalalea Ranch dated November 12, 1999 (the "Declaration"), recorded in the Bureau of Conveyances of the State of Hawaii (the "Bureau") as Document No. 99-191802, Declarants created a 8-apartment condominium property regime known as "Nani O Kalalea Ranch" (the "Project") upon the land described therein; and

WHEREAS, Section 25 of the Declaration provides that if a guest house is permitted on the Project the Declarants reserve the right to jointly determine which one of the Project's apartments shall have the right to build such guest house;

WHEREAS, Section 25 also reserves to the Declarants the right to amend the Declaration and Condominium Map No. 3004 to set forth such determination;

WHEREAS, the Declarants have determined that Apartment 8, which is owned by Patrick A. Harrington, shall have the right to build such guest house;

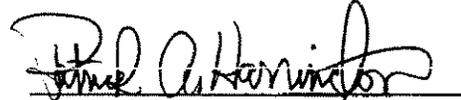
WHEREAS, the Declarants wish to amend the Declaration to expressly set forth the foregoing;

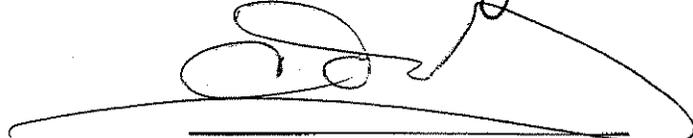
NOW, THEREFORE, the Declarants hereby amend the Declaration to delete therefrom in its entirety Section 25 and replace it with the following paragraph:

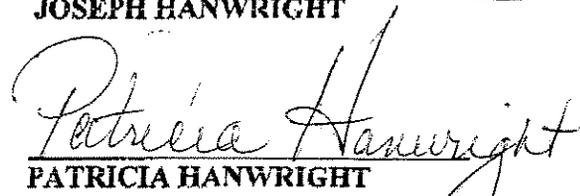
“Section 25. Guest House. The ordinances of the County of Kauai may permit construction of a guest house, as defined therein, on the Project. If one guest house is permitted, only Apartment 8 shall have the right to build the guest house on its limited common elements in compliance with Section 18 of this Declaration. If a second guest house is permitted by applicable county ordinances, Hanwright shall have the right to designate which Apartment shall have the right to build such second guest house on its limited common elements in compliance with Section 18 of this Declaration. The Declarants shall have the right to further amend this Declaration and the Condominium Map, as necessary or appropriate, to effectuate the terms of this section.”

In all other respects, the Declaration and Condominium Map, as amended, are hereby ratified and confirmed and shall be binding upon and inure to the benefit of all persons now or at anytime hereafter owning or leasing all or any part of the Project.

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

  
PATRICK A. HARRINGTON

  
JOSEPH HANWRIGHT

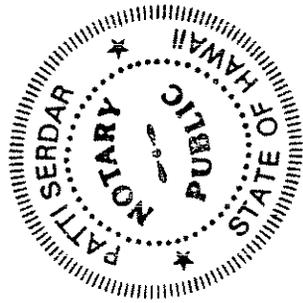
  
PATRICIA HANWRIGHT

"Declarants"

STATE OF HAWAII  
COUNTY OF KAUAI

)  
) ss.  
)

On this 18 day of July, 2003, before me personally appeared **PATRICK A. HARRINGTON**, to me known to be the person described in and who executed the foregoing instrument and acknowledged to me that he executed the same as his free act and deed.



*Patti Serdar*

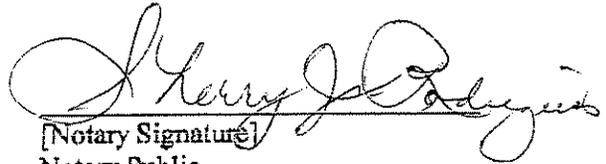
[Notary Signature]  
Notary Public, *PATTI SERDAR*  
State of Hawaii  
My commission expires: 3/13/2004

*Patti Serdar*  
[Notary's Name Typed or Printed]  
*PATTI SERDAR*

STATE OF HAWAII  
COUNTY OF KAUAI

)  
) ss.  
)

On this 18<sup>th</sup> day of July, 2003, before me personally appeared **JOSEPH HANWRIGHT**, to me known to be the person described in and who executed the foregoing instrument and acknowledged to me that he executed the same as his free act and deed.



[Notary Signature]

Notary Public,  
State of Hawaii

My commission expires: \_\_\_\_\_

Sherry J. Rodrigues

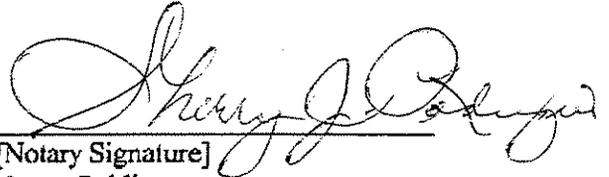
Expiration Date: February 21, 2007

\_\_\_\_\_  
[Notary's Name Typed or Printed]

STATE OF HAWAII  
COUNTY OF KAUAI

)  
) ss.  
)

On this 18<sup>th</sup> day of July, 2003, before me personally appeared PATRICIA HANWRIGHT, to me known to be the person described in and who executed the foregoing instrument and acknowledged to me that he executed the same as his free act and deed.



[Notary Signature]

Notary Public,  
State of Hawaii

My commission expires: \_\_\_\_\_

Sherry J. Rodrigues  
Expiration Date: February 21, 2007

\_\_\_\_\_  
[Notary's Name Typed or Printed]

THE ORIGINAL OF THE DOCUMENT  
RECORDED AS FOLLOWS  
STATE OF HAWAII

BUREAU OF CONVEYANCES

DATE: 5 / 2000 TIME: 339  
DOCUMENT NO.: 2004-182538

LAND COURT

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL (X) PICKUP ( ):

WILLIAM C. BYRNS, ESQ.  
MacDonald Rudy Byrns O'Neill & Yamauchi  
1001 Bishop Street  
ASB Tower, Suite 2650  
Honolulu, Hawaii 96813  
Telephone (808) 523-3080

13 Total Pages

**SECOND AMENDMENT TO  
DECLARATION OF CONDOMINIUM PROPERTY REGIME OF  
NANI O KALALEA RANCH**

Parties to the Document:

**PATRICK A. HARRINGTON**, unmarried, **JOSEPH HANWRIGHT** and **PATRICIA HANWRIGHT**, husband and wife, and **ASSOCIATION OF APARTMENT OWNERS OF THE NANI O KALALEA RANCH**, an unincorporated condominium association

Property Description:

Document No. 99-191802

“Nani O Kalalea Ranch” condominium project,  
Allotment 24-E-2, Moloaa Hui Lands,  
Equity No. 60 Partition, Fifth Circuit Court,  
Situate at Aliomanu, Kawaihau, Kauai,  
State of Hawaii

Tax Map Key No.: (4) 4-9-5:01

**EXHIBIT**  
5-3

THIS AMENDMENT is made this 3<sup>rd</sup> day of September 2004, by **PATRICK A. HARRINGTON**, unmarried (“Harrington”), whose post office and mailing address is P. O. Box 1345 in Hanalei, Kaua’i, Hawai’i 96714, **JOSEPH HANWRIGHT** and **PATRICIA HANWRIGHT**, husband and wife (collectively the “Hanwrights”), whose post office and mailing address is P.O. Box 759 in Anahola, Kaua’i, Hawai’i 96703 (Harrington and the Hanwrights shall be referred to collectively as “Declarants”), and **ASSOCIATION OF APARTMENT OWNERS OF THE NANI O KALALEA RANCH**, an unincorporated condominium association, whose post office and mailing address is c/o P.O. Box 1345, Hanalei, Kauai, Hawaii 96714 (the “Association”);

WITNESSETH

WHEREAS, by Declaration of Condominium Property Regime of Nani O Kalalea Ranch dated November 12, 1999 (the “Declaration”), recorded in the Bureau of Conveyances of the State of Hawaii (the “Bureau”) as Document No. 99-191802, Declarants created an 8-apartment condominium property regime known as “Nani O Kalalea Ranch” (the “Project”) upon the land described therein;

WHEREAS, the Project is shown and described in Condominium Map No. 3004 (the “Condominium Map”) submitted to the Bureau;

WHEREAS, the Declaration has been previously amended by that certain First Amendment to Declaration of Condominium Property Regime of Nani O Kalalea Ranch dated July 20, 2003, recorded in the Bureau as Document No. 2003-164432;

WHEREAS, pursuant to Section 7 of the Declaration the Declarants reserved certain rights with respect to granting, altering or relocating easements in the Project;

WHEREAS, the Project, as-built, included the following easements that were created subsequent to the recordation of the Declaration and the submittal of the Condominium Map to the Bureau:

- (i) Easement AU-4, a 30' wide access and utility easement serving Apartments 2 and 4 and the Park Area more particularly described in the Declaration;
- (ii) Easement E-1, a 10' wide electrical easement serving Apartments 5, 6, 7 and 8;
- (iii) Easement E-2, a 10' wide electrical easement serving Apartments 5, 6, 7 and 8;
- (iv) Easement E-3, an electrical easement containing 781 square feet serving Apartments 2, 3, 4 and the Park Area; and
- (v) Easement E-4, an electrical easement containing 0.099 acres serving Apartment 2;

WHEREAS, the foregoing easements are shown on the revised Condominium Map dated August 23, 2002 (the "Revised Condominium Map"), which will be submitted to the Bureau concurrently with the recordation of this Amendment;

WHEREAS, it is intended by this Amendment that the Revised Condominium Map shall replace and supersede the Condominium Map for all purposes and the Bureau is hereby instructed accordingly;

WHEREAS, the Declarants wish to revise Section 7 of the Declaration, entitled "Easements", to expressly reference and include the above-referenced easements;

WHEREAS, subsequent to the recordation of the Declaration, the Hanwrights, in accordance with rights reserved to them as Declarants, installed a water well ("Well") and well transmission lines and other facilities (the "Well Facilities") for the sole benefit and use of Apartments 1, 2, 3 and 4;

WHEREAS, the Well/Well Facilities Location Map attached hereto and made a part hereof as Exhibit "1" shows the location of the Well and Well Facilities, denoting, by arrows, the respective Apartments served by such Well Facilities;

WHEREAS, Hanwrights wish to revise the Declaration to add a new section thereto covering the rights and obligations of Apartments 1, 2, 3 and 4 with respect to the Well and Well Facilities;

WHEREAS, the Hanwrights own Apartments 1 and 3;

WHEREAS, Harrington owns Apartment 8;

WHEREAS, the remaining Apartments have been sold to third parties;

WHEREAS, Declarants have retained certain rights under the Declaration to amend the Declaration and the Condominium Map;

WHEREAS, the Association has also obtained the vote or written consent of the owners of Apartments to which are appurtenant over seventy-five percent (75%) of the common interests of the Project for this Amendment and the Revised Condominium Map;

NOW, THEREFORE, the Declarants and the Association hereby amend the Declaration as follows:

1. The Revised Condominium Map, which shall be submitted to the Bureau concurrently herewith, shall be deemed to replace and supercede the Condominium Map. All references to the "Condominium Map" in the Declaration shall mean and include the Revised Condominium Map.

2. The attached Well/Well Facilities Location Map is hereby acknowledged and adopted solely to show the approximate current location of the Well and the Well Facilities.

3. The second paragraph of Section 7 of the Declaration entitled "Easements", is hereby replaced in its entirety by the following two paragraphs:

Each of the Apartments shall have an easement to use, with due care and in a reasonable manner, the roadway easement serving its Apartment, as shown on the Condominium Map, for ingress to and egress

from the public roadway and for utility purposes: Apartments 1 and 2 shall be entitled to use Easement AU-2; Apartments 3 and 4 shall be entitled to use Easement AU-3; Apartments 5, 6, 7 and 8 shall be entitled to use Easement AU-1; Apartments 2 and 4 and the Park Area shall be entitled to use Easement AU-4. Accordingly, the Apartments entitled to use each easement shall, in accordance with their respective undivided interests, make all decisions regarding construction, maintenance, repair, replacement, additions, alterations and improvements to such easement and shall share equally all fees and costs thereof; provided, however, that the owner of Apartment 1 may, by written notice to the owner of Apartment 2, determine that Apartment 1 will not use Easement AU-2 for access purposes; from and after the delivery of such written notice the owner of Apartment 1 shall not have any further obligation to pay for any future costs of construction, maintenance, repair, addition, alteration and/or improvements for the roadway located on Easement AU-2; provided, further, notwithstanding the delivery of such notice, the owner of Apartment 1 may still use Easement AU-2 for utility purposes as provided for herein and such owner shall still have all obligations herein to pay for his or her proportionate share of all costs with respect thereto. Hanwright hereby reserves the right, prior to the conveyance of Apartments 1, 2, 3, or 4 to a third party, to relocate, in whole or in part, or alter, Easements AU-2, AU-3 and AU-4 and any other roadway located on the limited common elements appurtenant to Apartments 1, 2, 3 and 4. Harrington hereby reserves the right, prior to the conveyance of Apartments 5, 6, 7, or 8, to relocate, in whole or in part, or alter, Easement AU-1 and any other roadway appurtenant to Apartments 5, 6, 7 and 8. In the event Hanwright and/or Harrington exercises any of their relocation rights under this paragraph, Hanwright or Harrington, as the case may be, shall execute and record an amendment to this Declaration and Condominium Map at the Bureau. Notwithstanding the foregoing, the Common Driveway, as shown on the Condominium Map, shall not be relocated or altered without the written consent of both Hanwright and Harrington. Also, notwithstanding the foregoing, the driveway to each Apartment branching from the roadway shall be a limited common element appurtenant to such Apartment and shall not be considered as part of the easement or roadway for the purpose of this paragraph, and the cost of such driveway shall be borne solely by the respective Apartment owner.

Each of the Apartments shall have an easement to use, with due care and in a reasonable manner, the electrical easement(s) serving its Apartment, as shown on the Condominium Map, for electrical and utility purposes. Apartments 5, 6, 7 and 8 shall be entitled to use Easement E-1; Apartments 5, 6, 7 and 8 shall be entitled to use Easement E-2; Apartments 2, 3 and 4 and the Park Area shall be entitled to use Easement E-3; Apartment 2 shall be entitled to use Easement E-4. The Apartments entitled to use each easement shall, in accordance with their respective undivided interests, make all decisions regarding construction,

maintenance, repair, replacement, additions, alterations and improvements to such easement and shall share equally all fees and costs thereof.

The remainder of Section 7 shall remain unchanged.

4. The Declaration is hereby revised by adding a new Section 31 entitled "Well and Well Facilities" as follows:

Section 31. Well and Well Facilities. Hanwright has installed a water well (the "Well") on the limited common elements appurtenant to Apartment 3, and certain well lines and other facilities (the "Well Facilities") in various locations on the limited common elements appurtenant to Apartments 1, 2, 3, and 4 and in the Park Area, as more particularly shown on the Well/Well Facilities Location Map attached hereto and made a part hereof as Exhibit "1". The Owners of Apartments 1, 2, 3 and 4 shall constitute the "Water Group" that will administer the Well and the Well Facilities. Each of the four owners (the "Water Group Members" or "Members") shall have one vote on all matters involving the issues set forth in this paragraph. The owners of the Apartments 5, 6, 7, and 8 shall not (i) be members of the Water Group, (ii) have any right to vote on the issues set forth in this paragraph, or (iii) have any rights, obligations or liabilities with respect to the Well and/or the Well Facilities; provided, however, if the owners of Apartments 5, 6, 7 and 8 wish to amend the Declaration to implement their own water system(s) the owners of Apartments 1, 2, 3, and 4 shall cooperate with, and consent to, such amendment.

The Water Group may elect annually, at the time of the Association's annual meeting, one of its members as the Water Group's representative to act on its behalf in taking necessary and appropriate actions such as reading meters and submeters, receiving and paying any bills, collecting the amounts due from Members, keeping accurate records of account, and establishing and maintaining a separate bank account, if necessary or appropriate, for the Water Group. The representative shall have the right to make, or cause to be made, appropriate or necessary inspections of the Well and Well Facilities. The representative shall provide written notice to all Water Group Members of any necessary repair and maintenance obligations of which he or she is aware and each Member shall promptly perform, or have performed, all repair and maintenance that affects any other Member's use of the Well and Well Facilities. If any Member fails to perform repair and maintenance and such failure affects other Member(s), such other Member(s) or the representative may, after written notice to the offending Member, perform such repair and maintenance at the cost of the offending Member. Notwithstanding any provision to the contrary in this Declaration, each of the Water Group Members shall be responsible for installing, repairing

and maintaining their own tank, pump and meter, and for repairing and maintaining their respective water lines providing water flow from the Well. The Water Group may, by the majority vote of its Members, determine the style or brand of tank, pump and/or meters to be installed by each Member. The overriding concern and intent of this Section is that each Member has a right to use the Well and its Well Facilities provided that each Member pays for its own water use and its fair share of the costs of operating, maintaining, repairing and using the Well and the Well Facilities and this overriding concern and intent shall be determinative in resolving any disputes between or among Members regarding the Well and/or Well Facilities.

The Members acknowledge that certain portions of the Well Facilities for Apartments 1 and 2 were inadvertently located in the Park Area; the Members agree that the Well Facilities may remain in the Park Area and that the owners of Apartments 1 and 2 shall have access easements in the Park Area, as necessary or appropriate, for such Well Facilities; provided however, such owners may not expand or relocate the Well Facilities within the Park Area without the written consent of all Members. Each Member shall use such easement with due care and in a reasonable manner so as to minimize disruption to or interference with the Park Area, and each Member shall immediately repair any damages it causes to the Park Area.

Each of the Members shall have an easement for such purposes over and across the limited common element area appurtenant to Apartment 3, as necessary or appropriate, for the operation, maintenance, repair and use of the Well and Well Facilities; provided, however, that each Member shall use such easement with due care and in a reasonable manner so as to minimize disruption to or interference with Apartment 3's limited common element; each Member shall immediately repair any damages it causes to Apartment 3's limited common elements.

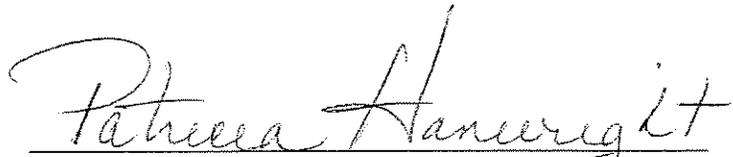
The Water Group Members shall bear, on a pro rata basis, repair and maintenance costs incurred with the Well, and the Well Facilities; provided, however, any Member shall be solely responsible for any damages it causes to the Well and the Well Facilities. Any decisions regarding upgrades to or revisions of the Well shall be decided by a majority vote of the Water Group Members. The Water Group, upon the majority vote of its Members, may from time to time adopt and revise additional written rules and regulations, which may be recorded in the Bureau, governing the administration and use of the Well and Well Facilities; provided, however, that no Member's easement rights or right to use the Well or its Well Facilities may be adversely affected without such Member's written consent.

In all other respects, the Declaration, as amended herein, and Condominium Map, as amended by the Revised Condominium Map, are hereby ratified and confirmed and shall be binding upon and inure to the benefit of all persons now or at anytime hereafter owning or leasing all or any part of the Project.

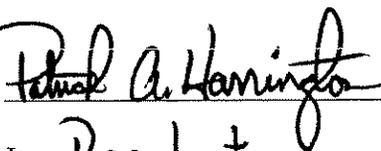
IN WITNESS WHEREOF, the Declarants and the appropriate officer of the Association have executed this instrument on the day and year first above written.

  
PATRICK A. HARRINGTON

  
JOSEPH HANWRIGHT

  
PATRICIA HANWRIGHT  
"Declarants"

ASSOCIATION OF APARTMENT OWNERS  
OF THE NANI O KALALEA RANCH,  
an unincorporated condominium association

By   
Its: Resident  
"Association"

STATE OF HAWAII  
COUNTY OF KAUAI

)  
) ss.  
)

On this 9 day of JULY, 2004, before me personally appeared **PATRICK A. HARRINGTON**, to me known to be the person described in and who executed the foregoing instrument and acknowledged to me that he executed the same as his free act and deed.



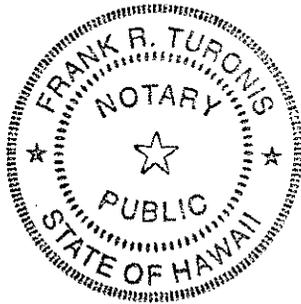
A handwritten signature in cursive script, appearing to read "Irene K. Tanioka".

[Notary Signature]  
Notary Public, State of Hawaii  
My commission expires: JULY 6, 2007

Irene K. Tanioka  
[Notary's Name typed] Expiration Date July 6, 2007

STATE OF HAWAII )  
 ) ss.  
COUNTY OF KAUAI )

On this 24 day of FEBRUARY, 2004, before me personally appeared **JOSEPH HANWRIGHT**, to me known to be the person described in and who executed the foregoing instrument and acknowledged to me that he executed the same as his free act and deed.



Frank R. Turonis

[Notary Signature]

Notary Public, State of Hawaii

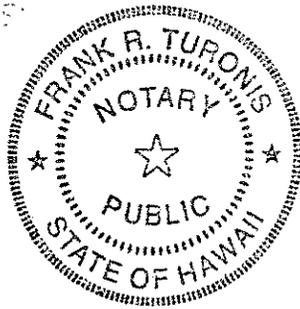
My commission expires: 12/28/07

FRANK R. TURONIS

[Notary's Name Typed or Printed]

STATE OF HAWAII )  
 ) ss.  
COUNTY OF KAUAI )

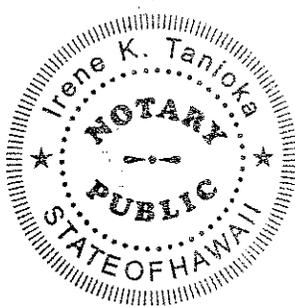
On this 24 day of FEBRUARY, 2004, before me personally appeared **PATRICIA HANWRIGHT**, to me known to be the person described in and who executed the foregoing instrument and acknowledged to me that he executed the same as his free act and deed.



*Frank R. Turonis*  
[Notary Signature]  
Notary Public, State of Hawaii  
My commission expires: 12/28/07  
FRANK R. TURONIS  
[Notary's Name Typed or Printed]

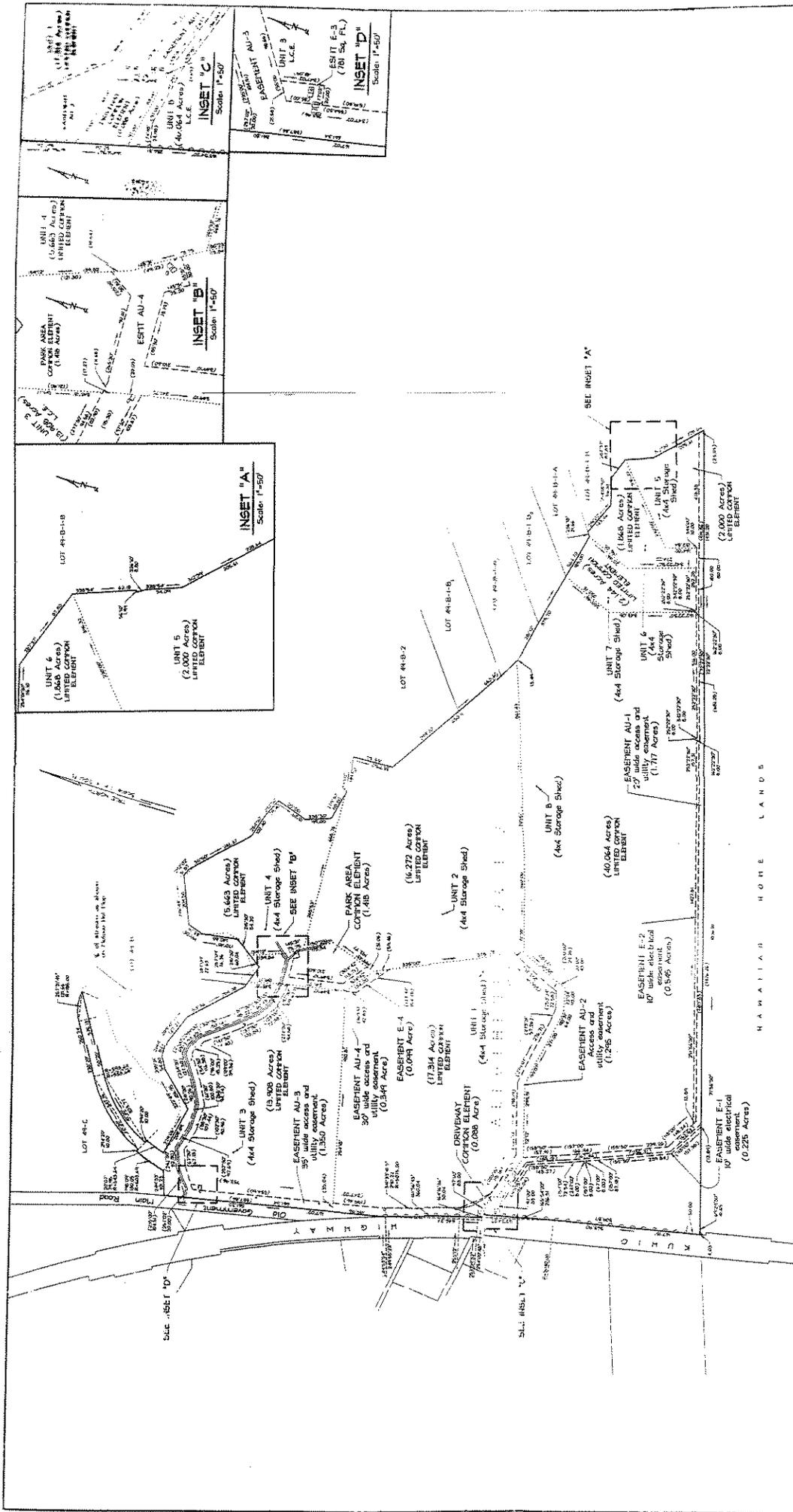
STATE OF HAWAII )  
 ) ss.  
COUNTY OF KAUAI )

On this 3<sup>rd</sup> day of September, 2004, before me appeared Patrick A. Harrington to me satisfactorily proven, who being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity on behalf of **ASSOCIATION OF APARTMENT OWNERS OF THE NANI O KALALEA RANCH**, an unincorporated condominium association.



A handwritten signature in cursive script, appearing to read "Irene K. Tanioka".

\_\_\_\_\_  
[Notary Signature]  
Notary Public, State of Hawaii  
My commission expires: \_\_\_\_\_  
Irene K. Tanioka  
Expiration Date: July 6, 2007  
\_\_\_\_\_  
[Notary's Name Typed or Printed]



**MANI O KALALEA RANCH CONDOMINIUM**  
**UNITS 1 THRU 8**  
**AND DRIVEWAY COMMON ELEMENT,**  
**AND PARK COMMON ELEMENT,**  
**AND EASEMENTS AU-1 THRU AU-4 & E-1 THRU E-4**  
 Being Allotment 24-E-2  
 Moloaa Hui Lands  
 ALOMANU, KAPAHU, KAUAI, HAWAII  
 Tax Map Key (A) 4-9-05; OI  
 Owners: Patrick A. Harrington  
 and Joseph Hamwright  
 Date: August 25, 2002



DAVID J. DECKER, P.E.  
 PROFESSIONAL ENGINEER  
 STATE OF HAWAII  
 License No. 5281-C  
 Date: August 25, 2002  
 DECKER ENGINEERING, INC.  
 1111 KALANANĀHUI DRIVE, SUITE 200  
 HONOLULU, HAWAII 96813  
 Phone: (808) 551-1111  
 Fax: (808) 551-1112  
 Email: david@deckereng.com

**LEGEND**  
 --- denotes "No. Vector Access Permit"  
 --- denotes "Vehicle Access Permit"  
 --- denotes "Motorway Access Permit"

**NOTE:**  
 This project does not involve the sale of individual subdivided lots. The dotted lines on the Condominium Map are for illustration purposes only. They represent either a limited common element or common element.