

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by:

Developer RYAN KYLE HOFF
Address P. O. BOX 520, KOLOA, HI 96756

Project Name (\*): 4191 KOLOA ROAD CONDOMINIUM
Address: 4191 KOLOA ROAD, KOLOA, KAUAI, HAWAII

Registration No. 4522

Effective date: February 26, 2001

Expiration date: March 26, 2002

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.
SUPPLEMENTARY: (pink) This report updates information contained in the:
And [ ] Supersedes all prior public reports.

(\*) 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:

**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 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, or any other type of structure, on the property.

1. There are presently one farm dwelling and one agricultural shed 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 governmental 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 area in the land comprising each limited common element are for illustrative purposes only and should not be construed to be the property lines of legally subdivided lots.

4. Facilities and improvements associated with County-approved subdivisions, 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 DOCUMENTS REFERENCED IN THIS PUBLIC REPORT 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: RYAN KYLE HOFF Phone: (808) 332-5218
Name\* (Business)
P. O. BOX 520
Business Address
KOLOA HI 96756

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) (attach separate sheet if necessary):

N/A

Real Estate Broker\*: Sale by owner - see Page 20 Phone: N/A
Name (Business)
Business Address

Escrow: FIRST AMERICAN LONG & MELONE Phone: (808) 245-8877
TITLE COMPANY, LTD. (Business)
Name
4374 KUKUI GROVE ST. #201
Business Address
LIHUE HI 96766

General Contractor\*: ROY M. TAKATSUKI, dba Phone: (808) 822-9015
ROY TAKATSUKI CONSTRUCTION (Business)
Name
5269 KIHEI RD.
Business Address
KAPAA HI 96746

Condominium Managing Agent\*: Self-managed by the Association of Apartment Owners Phone: N/A
Name (Business)
Business Address

Attorney for Developer: PATRICK J. CHILDS, ESQ. Phone: (808) 245-2863
Name (Business)
4365 KUKUI GROVE ST. #104
Business Address
LIHUE HI 96766

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.

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. 2000-141334  
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 4191 Koloa Road Declaration of Condominium Property Regime, recorded in the Bureau of Conveyances as Document No. 2001-014228 on January 31, 2001.

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. 3175  
 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. 2000-141335  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court: Document No. \_\_\_\_\_

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

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

The House Rules for this condominium are:

Proposed       Adopted       Developer does not plan to adopt House Rules

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

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

	<u>Minimum Set by Law</u>	<u>This Condominium</u>
Declaration (and Condo Map)	75%*	<u>75%</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:



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: 4191 KOLOA RD. Tax Map Key (TMK): (4) 2-5-005-074  
KOLOA, KAUAI, HAWAII

Address  TMK is expected to change because each unit is entitled to receive its own street address.

Land Area: 1.056  square feet  acre(s) Zoning: agricultural

Fee Owner: RYAN KYLE HOFF  
 Name  
P. O. BOX 520  
 Address  
KOLOA HI 96756

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: 2 Floors Per Building: Unit A - 2  
Unit B - 1  
 Exhibit \_\_\_\_\_ contains further explanations.

3. Principal Construction Material:

Concrete  Hollow Tile  Wood  
 Other iron fence posts and shade cloth

4. Uses Permitted by Zoning:

	<u>No. of Apts.</u>	<u>Use Permitted By Zoning</u>	
<input type="checkbox"/> Residential	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Commercial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Hotel	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Timeshare	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Ohana	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Industrial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input checked="" type="checkbox"/> Agricultural	<u>1</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Recreational	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input checked="" type="checkbox"/> Other (Shade House)	<u>1</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

Is/Are this/these use(s) specifically permitted by the project's Declaration or Bylaws?  
 Yes  No

5. Special Use Restrictions:

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

Pets: No poultry, pigs or hunting dogs are permitted. See Page 29 of the Bylaws for further informaton.

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

Other: Refer to Pages 6 and 7 of the Declaration for further information.

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0                      Stairways: 1                      Trash Chutes: 0

Apt. Type	Quantity	BR/Bath	Net Living Area (sf)*	Net Other Area (sf)	(Identify)
<u>A</u>	<u>1</u>	<u>4/4</u>	<u>2595</u>	<u>585</u>	<u>garage/storage</u>
<u>B</u>	<u>1</u>	<u>0/0</u>	<u>0</u>	<u>20</u>	<u>shade house</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

Total Number of Apartments: 2

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

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

Boundaries of Each Apartment: Perimeter wall to perimeter wall, floor to exterior of roof.

Permitted Alterations to Apartments: Any alterations permitted by law.

Apartments Designated for Owner-Occupants Only:

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



11. Conformance to Present Zoning Code

a.  No variances to zoning code have been granted.

Variance(s) to zoning code was/were granted as follows:

b. Conforming/Non-Conforming Uses, Structures, Lot

In general, a non-conforming use, structure, or lot is a use, structure, or lot which was lawful at one time but which does not now conform to present zoning requirements.

	<u>Conforming</u>	<u>Non-Conforming</u>	<u>Illegal</u>
Uses	<u>  X  </u>	<u>          </u>	<u>          </u>
Structures	<u>  X  </u>	<u>          </u>	<u>          </u>
Lot	<u>  X  </u>	<u>          </u>	<u>          </u>

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

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

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

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

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

described in Exhibit   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 \_\_\_\_\_.

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: Apartments A and B = 50% each

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 October 16, 2000 and issued by FIRST AMERICAN LONG & MELONE TITLE COMPANY, LTD.

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 <b>Prior to Conveyance</b></u>
Mortgage	The underlying mortgage is superior to and takes precedence over the sales contract. If the Developer defaults, Purchaser shall lose its option to consummate its purchase of the property and Purchaser's money shall be refunded, less any escrow cancellation fee.

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:**

Construction is complete. Apartment A was built in 1979 and Apartment B was built in 2000.

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): N/A

**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  the Developer or Developer's affiliate  
 self-managed by the Association of Apartment Owners  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 \_\_\_\_\_ contains a schedule of estimated initial maintenance fees and maintenance fee disbursements (subject to change).

There are no maintenance fees at this time. See Page 20.

- 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  Electricity ( \_\_\_ Common Elements only \_\_\_ Common Elements & Apartments)  
 Gas ( \_\_\_ Common Elements only \_\_\_ Common Elements & Apartments)  
 Water  Sewer  Television Cable  
 Other \_\_\_\_\_

## 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 C contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated October 20, 2000  
Exhibit D 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 N/A

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. 4522 filed with the Real Estate Commission on November 3, 2000.

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

YELLOW paper stock

WHITE paper stock

PINK paper stock

C. **Additional Information Not Covered Above**

This condominium project is situated on agriculturally zoned land and, as such, is subject to all restrictions associated therewith. This is not residentially-zoned property and the Developer does not warrant that any residence will be permitted by the County of Kauai within any specific limited common element. Agriculture properties are subject to density requirements that may change. Any such change will affect the number of allowable units that may be placed on the underlying land.

There is no broker for this project. All sales will be by owner. In the event the Developer chooses to use a real estate broker for the sale of an apartment, prior to entering into a binding contract for such sale the Developer shall: (1) submit to the Real Estate Commission a duly executed copy of a broker listing agreement with a Hawaii-licensed real estate broker, together with a duly executed disclosure abstract identifying the designated broker, and (2) provide a copy of the disclosure abstract to the purchaser together with a copy of this public report.

Maintenance fees for the project have not been established at this time. In the event maintenance fees are established prior to the sale of a condominium unit, prior to entering into a binding contract for such sale Developer shall submit to the Real Estate Commission a duly executed Disclosure Abstract identifying such maintenance fees and shall provide a copy of the Disclosure Abstract to the purchaser together with a copy of this Public Report.

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

**EASEMENT A-3 IS UNIMPROVED. ANY COSTS TO MAINTAIN EASEMENT A-3 SHALL BE PAID BY THE OWNER OF UNIT B AND THE OWNERS OF LOT 33-G. UNIT B HAS ACCESS TO MANA HEMA PLACE VIA EASEMENT A-3.**



EXHIBIT "A"

COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

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

(i) All 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 apartments 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 A, being 0.810 acre in area, on the Condominium Map, is reserved for the exclusive use of Apartment A for the support of the building and other improvements comprising Apartment A, or attendant thereto, and for parking, yard, driveway, agricultural and residential purposes.

(ii) That portion of the Land which is designated as Limited Common Element B, being 0.246 acre in area, on the Condominium Map, is reserved for the exclusive use of Apartment B for the support of the building and other improvements comprising Apartment B, or attendant thereto, and for parking, yard, driveway, agricultural residential purposes.

\*\*\*\*\*  
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. For real property taxes that may be due and owing reference is made to the Director of Finance, County of Kauai.
2. 5 Foot Road Widening Setback Line, as shown on Surveyor's Map prepared by Cesar C. Portugal, dated November 17, 1987, located along Koloa Road.
3. Building Setback Line, as shown on Surveyor's Map prepared by Cesar C. Portugal, dated November 17, 1987.
4. Terms and provisions contained in Deed dated March 18, 1988, recorded in the Bureau of Conveyances in Book 21751, Page 331.
5. Mortgage by Ryan Kyle Hoff, unmarried, in favor of Koloa Federal Credit Union, dated October 21, 1997, recorded in the Bureau of Conveyances as Document No. 97-146046, to secure the amount of \$100,000.00.
6. Terms and provisions contained in Grant of Easement dated September 7, 2000, recorded in the Bureau of Conveyances as Document No. 2000-141333.
7. Covenants, conditions, restrictions, reservations, easements, liens for assessments, options, powers of attorney, limitations on title, and all other provisions contained in or incorporated by reference in the Declaration of Condominium Property Regime dated August 29, 2000, recorded in the Bureau of Conveyances as Document No. 2000-141334 (Bylaws thereto dated August 29, 2000, recorded in the Bureau of Conveyances as Document No. 2000-141335) Condominium Map No. 3175; any instrument creating the estate or interest herein set forth; and in any other allied instrument referred to in any of the instruments aforesaid.

EXHIBIT "C"

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. Sellershall 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.

6. Provides that the property is sold "as is".

EXHIBIT "D"

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 First American Long and Melone Title Company, Ltd., 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 no money shall be released from escrow until the Real Estate Commission shall issue a final report.

4. That the Buyer shall receive all public documents relating to the project.

5. That a Buyer's money shall be returned to him if: (a) Escrow Agent receives a written request from Developer and Buyer to return to the Buyer the funds of the Buyer; (b) Developer and Buyer notify Escrow Agent in writing of Developer's exercise of any option to rescind the Sales Contract pursuant to any stated right of rescission; or (c) Developer and Buyer notify Escrow Agent that the conditions provided for a refund under Sections 514A-62 or 514A-63 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 "E"

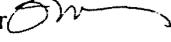
MEMORANDUM FROM THE COUNTY OF KAUAI PLANNING DEPARTMENT

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

COPY

DATE: November 13, 2000

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

 From: Dee M. Crowell, Planning Director 

Subject: Certification of Inspection of Existing Buildings

**PROJECT NAME:** 4191 KOLOA ROAD CONDOMINIUM PROJECT  
**TAX MAP KEY:** (4) 2-5-05:74

The developer of the above-mentioned condominium project has requested that this office, as an agency of the County of Kauai, review the project for compliance with all ordinances, codes, rules, regulations and other requirements of the County of Kauai, (Section 515A-40 (b), (1), Hawaii Revised statutes. Subject to the disclosures and waivers (item "e" below) specified herein, we certify the following:

- a. The developer has contracted architect Ron Agor to certify that the existing buildings on the proposed project referred to as 4191 Koloa Road Condominium Unit A and Unit B are in compliance with all ordinances, codes, rules, regulations and other requirements in force at the time of its construction, and to that extent, and subject to the conditions of waiver herein, the Planning Department adopts that certification as it pertains to the rules and regulations administered solely by the department.
- b. There were no variances approved for the subject property.
- c. The parcel does not contain any outstanding nonconforming uses or structures as a result of the adoption or amendments of any ordinances or codes.
- d. There are no notices of violation of County Building or zoning codes outstanding according to our records.
- e. This parcel is situated in the agricultural district and has qualified for an Additional Dwelling Unit (ADU).

Senior Condominium Specialist

Page 2

November 13, 2000

f. **WAIVER**

The foregoing certification is not a warranty to any compliance with applicable County and State rules and regulations. The sole reason for the execution hereof is to comply with statutory requirements relating to the regulations of condominiums under Subsection 515A-40, (b), (1), Hawaii Revised Statutes.

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

cc: Patrick J. Childs

EXHIBIT "F"

FARM DWELLING AGREEMENT

RECORDATION REQUESTED BY:

PLANNING DEPARTMENT, COUNTY OF KAUAI

87-161084

700122 P2: 03  
21256 70

AFTER RECORDATION, RETURN TO:

County of Kauai  
Planning Department  
4280 Rice Street  
Lihue, Kauai, Hawaii 96766

RETURN BY: Mail (x) Pickup ( )

FARM DWELLING AGREEMENT

THIS AGREEMENT made and entered into as of the 7th  
day of October, 1987, by and between John R. &  
Lorna E. Hoff  
whose residence and mailing address is P. O. Box 547,  
Koloa, Kauai, Hawaii 96756

hereinafter called the "APPLICANT(S)", and the COUNTY OF KAUAI  
Planning Department, whose business and mailing address is  
4280 Rice Street, Lihue, Hawaii 96766, hereinafter called the  
"DEPARTMENT",

W I T N E S S E I H :

WHEREAS, the APPLICANTS warrant and represent that they  
are the owner's of that certain  
parcel of land, Tax Map Key No. 2-5-CO5-10: Lot 33, 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 APPLICANTS 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 APPLICANTS 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 APPLICANTS 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 APPLICANTS, and all present and future owners, lessees and occupants of said land and anyone claiming under said APPLICANTS, 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 APPLICANTS 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 APPLICANTS.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed on the 7<sup>th</sup> day of Oct, 1987.

APPROVED:

[Signature]  
Planning Director

APPROVED AS TO FORM AND LEGALITY:

[Signature]

[Signature]  
Applicants

[Signature]  
Dep. County Attorney

STATE OF HAWAII )  
COUNTY OF KAUAI ) ss.

On this 7<sup>th</sup> day of October, 1987, before me personally appeared John R. Hoff & Lorna E. Hoff

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.

[Signature]  
Notary Public, Fifth Judicial Circuit  
State of Hawaii

My commission expires: ALAN W. ALBAO

## DESCRIPTION

HOFF AG SUBDIVISION  
(PHASE 1)

REMAINDER OF LOT 33

All that parcel of land being a portion of LOT 33 of "LAWAI HOMESTEADS", being portion of Land Patent Grant 6222 to Jacintho Carvalho, situated in Lawai, Koloa, Kauai, Hawaii, TMK: 2-5-05:10, 4th Division, and more fully described as follows:

Beginning at the southwest corner of this parcel of land and on the northernmost corner of Lot 33-C, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KALUANOA" being 6336.18 feet South and 1431.63 feet East, thence running by azimuths measured clockwise from True South:

1. 174°27' 826.55 feet along Lot 32, Lawai Homesteads;
2. 279°52' 389.82 feet along Lot 36, Lawai Homesteads;
3. 348°09'30" 855.81 feet along Parcel 5, Tax Map key 2-7-03, (4th Division);
4. 99°40' 196.97 feet along Lots 33-A and 33-B;  
Thence along Lot 33-B, on a curve to the left having a radius of 20.00 feet, the chord azimuth and distance being:
5. 54°40' 28.28 feet;
6. 9°40' 126.00 feet along same;
7. 99°40' 2.00 feet along same;  
Thence along same on a curve to the left having a radius of 20.00 feet, the chord azimuth and distance being:
8. 54°40' 28.28 feet;
9. 9°40' 129.00 feet along same;  
Thence along same on a curve to the left having a radius of 20.00 feet, the chord azimuth and distance being:
10. 324°40' 28.28 feet;
11. 99°40' 84.00 feet along Koloa Road;  
Thence along Lot 33-C, on a curve to the left having a radius of 20.00 feet, the chord azimuth and distance being:

Page 1 of 2

*Exhibit 'A'*

DESCRIPTION

HOFF AC SUBDIVISION  
(PHASE I)

REMAINDER OF LOT 33

- 12. 234°40' 28.28 feet;
- 13. 189°40' 129.00 feet along same;

Thence along same on a curve to the left having a radius of 20.00 feet, the chord azimuth and distance being:

- 14. 144°40' 28.28 feet;
- 15. 99°40' 2.00 feet along same;
- 16. 189°40' 126.00 feet along same;

Thence along same on a curve to the left having a radius of 20.00 feet, the chord azimuth and distance being:

- 17. 144°40' 28.28 feet;
- 18. 99°40' 161.68 feet along same to the point of beginning and containing an area of 8.490 ACRES;

SUBJECT, HOWEVER: To Easement "A-2";  
AND ALSO: To building setback lines.



*Oscar C. Portugal*  
 Registered Professional Surveyor  
 Certificate No. 4973  
 Lihue, Kauai, Hawaii  
 May 29, 1986  
 PORTUGAL & ASSOCIATES, INC.  
 REVISED: September 30, 1987