

**CONDOMINIUM PUBLIC REPORT**

Prepared &  
Issued by:

Developer GRADY A. DEAL and ROBERLEIGH DEAL  
Address P.O. Box 279, Koloa, Hawaii 96756

Project Name (\*): DEAL'S CONDOMINIUM  
Address: 4685 KULI ROAD, KALAHEO, KAUAI, HAWAII 96741

Registration No. 4531 Effective date: December 27, 2000  
(Partial Conversion) Expiration date: January 27, 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 an other government agency. Neither the Commission nor any other government agency has judged or approved the merits or value, if any, of the project or of purchasing an apartment in the project.

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

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

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

**Type of Report:**

       **PRELIMINARY:**           The developer may not as yet have created the condominium but has filed with  
**(yellow)**                           the Real Estate Commission minimal information sufficient for a Preliminary  
Public Report. A Final Public Report will be issued by the developer when  
complete information is filed.

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

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

And                           [   ]   Supersedes all prior public reports.  
[   ]   Must be read together with \_\_\_\_\_  
[   ]   This report reactivates the \_\_\_\_\_  
public report(s) which expired on \_\_\_\_\_

(\*) Exactly as named in the Declaration

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

FORM: RECO-30 286/986/189/1180/892/0197/1098/0800

**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 dwelling units, or other structures, which may be built on the property. Therefore, unless the Purchaser is purchasing an existing dwelling, THERE IS NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO BUILD A DWELLING UNIT ON THE PROPERTY. THERE IS ALSO NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO CONVERT AN EXISTING NON-RESIDENTIAL STRUCTURE TO A RESIDENTIAL USE. The Purchaser should consult with the appropriate County Agencies to determine whether the Purchaser may build a dwelling unit, or any other type of structure, on the property.

1. There is presently a residential structure on Unit A and a storage/agricultural shed on Unit B, each of which may be defined as a "Apartment" under the Condominium Property Act.
2. Issuance of an effective date for this Public Report does **not** constitute an approval of the project by the Real Estate Commission or any other governmental agency, nor does it imply or warrant that all applicable County codes, ordinances, and subdivision requirements have been complied with.
3. This project does **not** involve the sale of individual subdivided lots. The land area beneath and immediately adjacent to each unit, as shown on the Condominium Map, is designated a LIMITED COMMON ELEMENT for that unit and does **not** represent a legally subdivided lot. The dotted lines on the Condominium Map merely represent the location of the limited common element assigned to each unit.
4. Facilities and improvements normally associated with County approved subdivisions, such as fire protection devices, County street lighting, electricity, upgraded water facilities, improved access for owner and emergency traffic, drainage facilities, etc., may not be provided for and services such as County street maintenance and trash collection will 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: GRADY A. DEAL and ROBERLEIGH DEAL Phone: (808) 332-9244  
 Name\* (Business)  
P.O. Box 279  
 Business Address  
Koloa, Hawaii 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\*: BOB KEOWN, LTD. dba Phone: (808) 742-7561  
MAKAI PROPERTIES (Business)  
 Name  
P.O. Box 905  
 Business Address  
Koloa, Hawaii 96756

Escrow: TITLE GUARANTY ESCROW SERVICES, INC. Phone: (808) 245-3381  
 Name (Business)  
4414 Kukui Grove Street, Suite 204  
 Business Address  
Lihue, Hawaii 96766

General Contractor\*: Unit A (House) GRADY A. DEAL - Self-Builder Phone: (808) 332-9244  
 Name (Business)  
P.O. Box 279, Koloa, Hawaii 96756 Unit B (Shed) ROBERT MIKKELSEN  
 Business Address P.O. Box 1374  
 Koloa, Hawaii 96756  
 Phone: (808) 742-6632

Condominium Managing Agent\*: Self-Managed By Association Phone: \_\_\_\_\_  
of Apartment Owners (Business)  
 Name  
 \_\_\_\_\_  
 Business Address  
 \_\_\_\_\_

Attorney for Developer: LADYE H. MARTIN Phone: (808) 245-5239  
 Name (Business)  
4473 Pahee Street, Suite O  
 Business Address  
Lihue, Hawaii 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. 2000-128920  
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]: N/A

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. 3162  
 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]: N/A

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. 2000-128921  
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

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:

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



[ ] Other:

**IMPORTANT INFORMATION ON LEASEHOLD CONDOMINIUM PROJECTS**

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

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

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

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

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

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

**B. Underlying Land:**

Address: 4685 Kuli Road, Lot 55-A-2 Tax Map Key (TMK): 4/2-4-001-064  
Kalaheo, Hawaii 96741

[X] Address [ ] TMK is expected to change because each unit may obtain a street address from the Department of Public Works, County of Kauai.

Land Area: 1.1 [ ] square feet [X] acre(s) Zoning: Agricultural

Fee Owner: GRADY A. DEAL and ROBERLEIGH DEAL  
 Name  
P.O. Box 279  
 Address  
Koloa, Hawaii 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: 3 (three) Floors Per Building: 1 (one)  
 Exhibit \_\_\_\_\_ contains further explanations.
3. Principal Construction Material:  
 Concrete       Hollow Tile       Wood  
 Other Unit B is a shade cloth and fence post structure.
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>2</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Recreational	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Other	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No

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

**NOTE:** The subject property is within the State Land Use Agricultural District and is zoned Agricultural by the County of Hawaii. "Farm Dwellings" and other structures appropriate to agricultural usage are permitted, subject to certain guidelines. See the disclosures on Page 2 (Special Attention) and Page 20 and Page 20a of this Final Public Report.

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 fighting chickens, pigs or hunting dogs used for hunting pig, goat or other animal, specifically including pitbulls and other dogs of similar disposition and/or breeding, shall be allowed. No more than 2 dogs without written consent of other owners.

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

Other: a) Right-Of-Entry and Temporary Easement; (b) Declaration; (c) Amendment to Declaration; (d) Grant of Perpetual Easement; (e) Farm Dwelling Agreement; (f) Road Widening Reserve Agreement. See Exhibits C and G.

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0                      Stairways: 0                      Trash Chutes: 0

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Net Other Area (sf)</u>	<u>(Identify)</u>
<u>A</u>	<u>1</u>	<u>2/2</u>	<u>1822.8</u>	<u>241.11/855.35</u>	<u>patio/garage</u>
<u>B</u>	<u>1</u>	<u>      </u>	<u>      </u>	<u>20 (sf)</u>	<u>storage area</u>
<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
<u>Total Number of Apartments:</u>			<u>2</u>		

\* 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:

Per Article VI of the Declaration of Condominium Property Regime, the boundary for each apartment shall be all perimeter walls, floors, foundations and roof of such building, all outbuildings, structures and improvements of any kind located wholly within the limited common elements of the individual units and all pipes, wires, condiments or other utility and service lines in or on such unit building, or outside such building if the same is not utilized for or serving more than one apartment.

Permitted Alterations to Apartments:

Permitted alterations to apartments are as allowed by County of Kauai zoning ordinances and recorded restrictions on the project, if any. Upon construction of each permanent improvement, an amendment to the Declaration of Condominium Property Regime shall be required to disclose actual improvement as matter of public report.

Apartments Designated for Owner-Occupants Only: N/A

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 not elected to provide the information in a published announcement or advertisement.

7. Parking Stalls:

Total Parking Stalls:	<u>2</u>				
	<u>Regular</u>		<u>Compact</u>		<u>Tandem</u>
	<u>Covered</u>	<u>Open</u>	<u>Covered</u>	<u>Open</u>	<u>Covered</u>
	<u>Open</u>				<u>Open</u>
					TOTAL
Assigned (for each unit)	<u>1</u>	<u>1</u>	_____	_____	<u>2</u>
Guest	_____	_____	_____	_____	_____
Unassigned	_____	_____	_____	_____	_____
Extra for Purchase	_____	_____	_____	_____	_____
Other: <u>*Unit A and B have ample space for parking within their limited common elements land area.</u>					
Total Covered & Open:	<u>2</u>		<u>0</u>	<u>0</u>	<u>2</u>

Each apartment will have the exclusive use of at least 1 parking stall(s).  
Buyers are encouraged to find out which stall(s) will be available for their use.

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

8. Recreational and Other Common Facilities:

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

9. Compliance With Building Code and Municipal Regulations: Cost to Cure Violations

- There are no violations.                       Violations will not be cured.  
 Violations and cost to cure are listed below:                       Violations will be cured by \_\_\_\_\_  
(Date)

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

N/A

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 & B.

as follows:

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

There are no limited common elements in this project.

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

described in Exhibit A & B.

as follows:

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

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

as follows:

APARTMENT A - 50%  
APARTMENT B - 50%

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

Exhibit C describes the encumbrances against the title contained in the title report dated October 30, 2000 and issued by Title Guaranty of Hawaii, Inc.

**Blanket Liens:**

A blanket lien is an encumbrance (such as a mortgage) on the entire condominium project that secures some type of monetary debt (such as a loan) or other obligation. A blanket lien is usually released on an apartment-by-apartment basis upon payment of specified sums so that individual apartments can be conveyed to buyers free and clear of the lien.

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

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

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

<u>Type of Lien</u>	<u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance</u>
---------------------	---

**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:**

Units are sold "as is" and no warranties are applicable.

2. **Appliances:**

Appliances contained in the Units are not considered a part of the Unit and are not sold or transferred with the seller transfer of the Unit.

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

Construction of the residence on Unit A was completed in December 1999.

Construction of the agricultural shed on Unit B was completed in January 1999.

**H. Project Phases:**

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

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



## V. MISCELLANEOUS

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

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

- Notice to Owner Occupants
- Specimen Sales Contract  
Exhibit E contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated November 9, 2000  
Exhibit F contains a summary of the pertinent provisions of the escrow agreement.
- Other Specimen Apartment Deed

### 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 (a) Right-Of-Entry and Temporary Easement; (b) Declaration; (c) Amendment to Declaration; (d) Grant of Perpetual Easement; (e) Farm Dwelling Agreement; (f) Road Widening Reserve Agreement.

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, 3<sup>rd</sup> 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. 4531 filed with the Real Estate Commission on November 21, 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 is a condominium project, not a subdivision. Units purchased are not subdivided lots. To determine whether your expectations can be realized, you should carefully review the contents of this Report. You should also conduct your own investigation and ascertain the validity of information provided.

**PURPOSES OF BUILDINGS AND RESTRICTIONS AS TO USE**

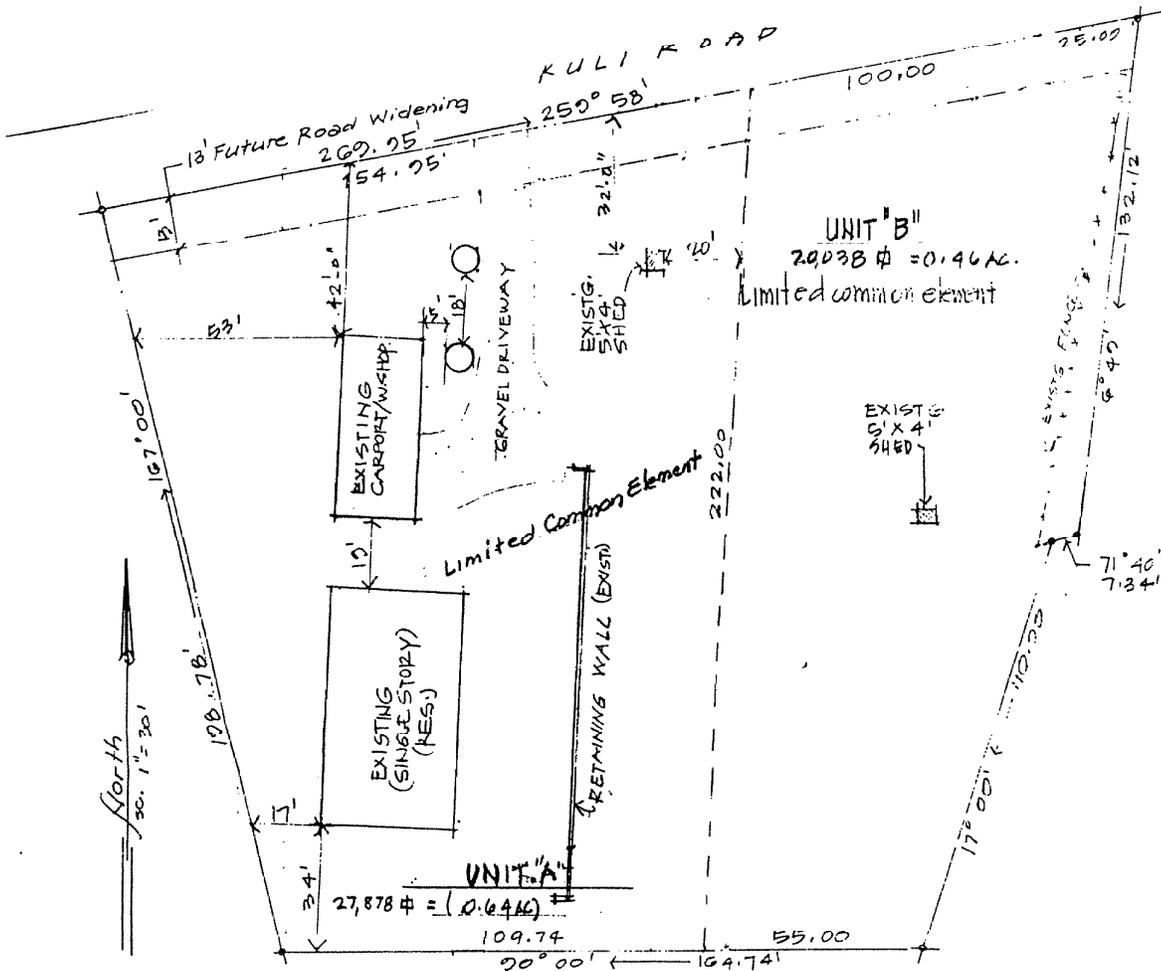
Each owner may make use of his apartment and the limited common area associated therewith as is permitted under the laws and ordinances under of the State of Hawaii and County of Kauai, subject to the following restrictions:

1. The condominium interest created hereby is 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. Agricultural properties are subject to density requirements that may change. Any such change will effect the number of allowable units that may be placed on the underlying land.
2. Each apartment shall at all times be occupied and used only for agricultural uses, and where permitted private residential dwellings. No more than one family shall occupy an apartment. All construction shall conform to County ordinances. Any lease or rental agreement of the apartment shall provide that it shall be subject in all respect to the provisions of the Project documents and at the failure of the leasee or tenant to comply with the terms of these documents shall be a default under the lease or rental agreement.
3. No alteration or addition shall be made to any apartment and no addition shall be placed upon any limited common element appurtenant to any apartment if such alteration or addition would cause the floor area of such apartment to exceed fifty percent (50%) of the maximum allowable floor area for the Land permitted under the applicable zoning ordinances in effect when the alteration or addition is made.
4. Unit B is subject to certain building requirements. Unit B shall be limited to two (2) bedrooms as the same are defined by the ordinance of the County of Kauai and the Department of Health of the State of Hawaii.
5. Unit A shall be limited to three (3) bedrooms as the same are defined by the ordinance of the County of Kauai and the Department of Health of the State of Hawaii.
6. In the event a residence should be constructed within the area delineated as Limited Common Element B, then the Department of Health of the State of Hawaii may require that a septic system be created for both units. If so, the system so created shall serve both units and be a common element of the project. Both Unit A and Unit B shall share equally in the cost of design, construction and maintenance of the septic system. If the State does not required a septic system to service both units, Unit B shall bear the cost of compliance with the State and requirements.
7. It is expressly acknowledged that existing County of Kauai ordinances, rules and regulations permit a maximum of one (1) residence and one (1) guest house on the subject property. Apartment A shall have the right to have the residence. Apartment B shall have the guest house right. There is currently a County ordinance that allows the guest house right to be changed to a full ADU (Additional Dwelling Unit). The owner of Apartment B may convert the guest house right to an ADU at his sole cost and expense.

No owner shall construct more than the above allocated structures or engage in unpermitted uses within their limited common area and thereby deprive the other owners of building within their limited common area or using the same in accordance to the provisions herein. In order to effectuate this provision, the owners agree that no outbuilding, farm shed or other structure which is not the principal dwelling in any owner's apartment shall be used or allowed to be used as a temporary or permanent dwelling. The guest house shall not be used as a permanent dwelling as per County ordinance. In the event that the existence and/or use of any such outbuilding, farm shed or other structure in any manner prevents any other owner from constructing or using his own principal dwelling (e.g., if the County of Kauai planning or building authorities deem such a structure to be dwelling and for that reason deny a building permit to another owner for his principal dwelling), then the owner who has constructed the offending structure shall, at his sole expense, immediately modify, alter or, if necessary, remove the structure so that the other owner shall be allowed to construct and use his principal dwelling.

8. It is understood that the County of Kauai does presently require each owner in the condominium project to engage in agricultural activities in order for a subsequent owner to gain a residential building permit. The actual level of agricultural activities is determined by the County of Kauai and may change from time to time. Nevertheless, agricultural activity within one owner's limited common element will have an impact upon another owner being able to obtain a building permit. All owners shall have an obligation to engage in both the present minimum agricultural activity requirement in order that every other owner may obtain a building permit and shall increase such activity if the County so requires. In this regard, each owner shall maintain a level of agricultural activity within his individual limited common element equal to that of every other owner in proportion to the amount of land reasonably available for agricultural usage. If the construction of a dwelling should cause a decline in agricultural activity and/or acreage within one unit, then it should be the obligation of the other units to increase such activity or acreage if there be no more available land within the affected limited common element. Cooperation, as required herein, shall include each owner engaging in agricultural activities as the same is defined by the County of Kauai and/or State of Hawaii. This provision shall be enforceable either at law or equity by either an owner or by the apartment owner's association, with all costs and damages therefor assessed against the offending owner. Nothing herein shall be construed so as to waive any obligation such owner may have to construct improvements in accordance to this Declaration, as it may be amended, the By-laws, as they may be amended, and all relevant governmental laws, regulations and ordinances.
9. Apartments A and B are subject to future road widening setback lines along Kuli Road as shown on the Condominium Map as "Future Road Widening". No building will be allowed to be constructed in this setback area.
10. The property owner of the real property adjoining Apartment B has an existing fence which encroaches upon Apartment B. The property owner of the adjoining property has insisted she is entitled to said property by reason of adverse possession but has failed to prosecute said claim through the Courts.





**NOTICE TO OWNER/CONTRACTOR**

Approval of this plan is subject to the following conditions:

1. All construction shall conform to the applicable provisions of the Hawaii State Building Code (Chapter 261, Hawaii Revised Statutes).
2. If any change is made to this plan, a revised plan shall be submitted for approval.
3. Final construction shall conform to the approved plan and all applicable provisions of the Hawaii State Building Code and all applicable County rules, regulations, orders and ordinances.

NOV. 3 1999



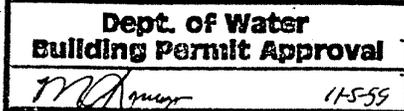
THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION AND CONSTRUCTION ON THIS PROJECT WILL BE UNDER MY OBSERVATION

*Heidi Schmitz*  
6/1/99

**DEALS CONDOMINIUM**

BEING A PORTION OF LOT 55-A-2  
KALAHEO HOMESTEAD  
FIRST SERIES, KALAHEO, KAUAI, HAWAII  
TAX MAP KEY NO. (4) 2 - 4 - 1 : 64

MAP SHOWING UNITS "A" AND "B"



By: *Heidi Schmitz* 11/4/99  
DEPARTMENT OF HEALTH, KAUAI

END OF EXHIBIT A

**BUILDING PERMIT REVIEW**

COUNTY OF KAUAI  
DEPARTMENT OF PUBLIC WORKS  
ENGINEERING DIVISION

SIGNATURE: *[Signature]*

DATE: 11/2/99

**DEPARTMENT OF HEALTH**

The wastewater plans have been reviewed and approved by the Department of Health. Final construction inspection of the wastewater system is required by the design engineer prior to backfilling of the wastewater system.

Written approval from the Department of Health is required prior to use of the wastewater system.  
(Chapter 11-62, H.A.R.)

Reviewed by: *[Signature]* Date: NOV 11 1999

## **EXHIBIT B**

### **COMMON ELEMENTS OF THE PROJECT**

The common elements of the Project are:

1. all of the Land, in fee simple;
2. the limited common elements described below in "Limited Common Elements of the Project" and subject to the limitations and uses provided for therein;
3. All pipes, wires, conduits, or other utility or service lines, drainage ditches or appurtenant drainage structures and retaining walls (if any), which are located outside the buildings and which are utilized for and serve more than one apartment.

### **LIMITED COMMON ELEMENTS OF THE PROJECT**

Certain parts of the common elements, referred to as the "limited common elements", have been designated and set aside for the exclusive use of one or more units, and such unit(s) have appurtenant exclusive easements for the use of such limited common elements. The limited common elements, reserved and deemed a limited common element appurtenant to and for the exclusive use of each respective unit is as follows:

1. That portion of the Land which is designated as Limited Common Element A, consisting of 27,878 square feet, 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 residential yard, driveway and parking purposes.
2. That portion of the Land which is designated as Limited Common Element B, consisting of 20,038 square feet, 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 residential yard, driveway and parking purposes.

The Limited Common Elements do not include the Common Elements identified in clause 3 of above "Common Elements of the Project".

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

**END OF EXHIBIT B**

**EXHIBIT C**

**ENCUMBRANCES AGAINST TITLE**

1. Real Property Taxes. Check with the County of Kauai, Department of Finance, Real Property Tax Division, for detailed information.

2. GRANT

TO : CITIZENS UTILITIES COMPANY

DATED : November 19, 1979

RECORDED : Liber 14293 Page 764

GRANTING : a right-of-entry and temporary easement for construction and maintenance of power and communication lines

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

INSTRUMENT : DECLARATION

DATED : July 5, 1983

RECORDED : Liber 17353 Page 262

Said Declaration was amended by instrument dated --- (acknowledged October 1987, October 13, 1987 and November 9, 1987), recorded in Liber 21382 at Page 185.

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

INSTRUMENT : DECLARATION

DATED : August 11, 2000

RECORDED : Document No. 2000-128920

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

INSTRUMENT : BYLAWS OF THE ASSOCIATION OF APARTMENT OWNERS OF DEAL'S CONDOMINIUM

DATED : August 11, 2000

RECORDED : Document No. 2000-128921

6. GRANT

TO : ERIC K.S. YEE and ALISA MICHELE F. YEE, husband and wife

DATED : November 12, 1987

RECORDED : Liber 21382 Page 178

GRANTING : a non-exclusive perpetual easement for utility purpose, on map attached thereto

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

INSTRUMENT : FARM DWELLING AGREEMENT

DATED : September 3, 1998

RECORDED : Document No. 98-147798

PARTIES : GRADY ALLEN DEAL and ROBERLEIGH CLAIGH DEAL

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

INSTRUMENT : ROAD WIDENING RESERVE AGREEMENT

DATED : November 12, 1998

RECORDED : Document No. 98-178777

PARTIES : GRADY A. DEAL and ROBERLEIGH C. DEAL

**END OF EXHIBIT C**

**EXHIBIT D**

**ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS**

Estimate of Initial Maintenance Fees:

<u>Apartment</u>	<u>Monthly Fee x 12 months = Yearly Total</u>	
A	\$50.00	\$600.00
B	\$50.00	\$600.00

Developer discloses that, because there are no depreciable common elements in the project, no reserves are collected at this time. Further, no reserve study was conducted in accordance with Section 514A-83.6, Hawaii Revised Statute, or at Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

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

**Estimate of Maintenance Fee Disbursements:**

Monthly Fee x 12 months = Yearly Total

**Utilities and Services**

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

**Maintenance, Repairs and Supplies**

- Building
- Grounds

**Management**

- Management Fee
- Payroll and Payroll Taxes
- Office Expenses

**Insurance**

**Reserves(\*)**

**Taxes and Government Assessments**

**Audit Fees**

Other	\$100.00	\$1,200.00
TOTAL	\$100.00	\$1,200.00

I, GRADY A. DEAL and ROBERLEIGH DEAL, as \_\_\_\_\_, developer for the DEAL'S CONDOMINIUM condominium project, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

<p><u>Grady A Deal</u> Signature</p> <p><u>Roberleigh Deal</u> Signature</p>	<p style="text-align: right;"><u>11-7-2000</u> Date</p> <p style="text-align: right;"><u>11/7/2000</u> Date</p>
--	---

(\*) Mandatory reserves assessment and collection in effect beginning 1994 budget year. The Developer is to attach to this exhibit an explanation whether, in arriving at the figure for "Reserves", the Developer has conducted a reserve study in accordance with Section 514A-83.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

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

## EXHIBIT E

### SUMMARY OF SALES CONTRACT AND ADDENDUM:

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 canceled.
3. Requires that Buyer must close the purchase at a certain date and pay closing costs, in addition to the purchase price.
4. Provides the following remedies, in the event of default under the sales contract:

By Buyer:

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

By Seller:

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

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

5. Allocation of payment of closing costs.
6. Provides that the property is sold "as is".

**SPECIAL NOTICE: THE FOREGOING SUMMARY IS NOT INTENDED TO BE A THROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE CONTRACT. THE PURCHASER MUST REFER TO THE PURCHASER'S CONTRACT TO DETERMINE THE PURCHASER'S ACTUAL RIGHTS AND OBLIGATIONS. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE CONTRACT, THE CONTRACT WILL CONTROL NOT THIS SUMMARY.**

**END OF EXHIBIT E**

## EXHIBIT F

### SUMMARY OF PORTIONS OF ESCROW AGREEMENT:

The Escrow Agreement ("Agreement") between TITLE GUARANTY ESCROW SERVICES, INC. (the "Escrow"), and Grady A. Deal and Roberleigh Deal (the "Seller"), contains, among other provisions, the following (which may be modified or otherwise limited by provisions not summarized):

1. Whenever Seller enters into a sales contract for the sale of an apartment, Seller will require that payments due under the sales contract be made to Escrow and will deliver an executed copy of the sales contract to Escrow.

2. Escrow will receive payments under the sales contract and sums received from any other source with respect to the project. Funds held under the Agreement will initially be deposited in an account for the project. Interest on all funds will be paid to Seller.

3. Escrow will release from the trust fund and disburse Buyer's funds at closing, unless: (a) Buyer has elected within seven days of signing the sales contract to cancel and receive all funds paid, without deduction; or (b) the Real Estate Commission has not issued a Final Public Report on the project or the requirements of the sales contract have not been met; or (c) Seller has not satisfied Escrow that all other requirements of Hawaii Revised Statutes have been met.

4. Escrow will return deposited sums to the Buyer without interest if Seller and buyer give Escrow written notice to return the funds to Buyer, if there is a right to cancellation and refund of monies under the sales contract or otherwise. If there is a cancellation under the seven day right, no fees will be charged Buyer. Thereafter, in the event of a cancellation as a matter of agreement or right, Buyer's funds shall be returned to Buyer less Escrow's cancellation fee, if any, and all other costs incurred in connection with the Escrow, not less than \$25.00.

5. Escrow will arrange for and supervise the signing of all documents which are to be signed subsequent to and contemplated by the sales contract.

6. As Escrow's compensation for its performance under this Agreement, Escrow will receive its schedule rate for each apartment for which an apartment deed of the project is handled by Escrow and recorded in the Bureau of Conveyances of the State of Hawaii. Escrow will record all applicable documents. The cost of title insurance will be an additional amount, based on schedule rate.

**SPECIAL NOTICE: THE ABOVE SUMMARY IS NOT INTENDED TO BE A THROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE AGREEMENT. WHILE ONE CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF THE AGREEMENT, ONE MUST REFER TO THE ACTUAL AGREEMENT TO DETERMINE THE RIGHTS AND OBLIGATIONS OF THE PARTIES. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE AGREEMENT, THE AGREEMENT WILL CONTROL AND NOT THIS SUMMARY.**

**END OF EXHIBIT F**

## **EXHIBIT G**

### **SUMMARY OF DECLARATION AND AMENDMENT:**

A Declaration of Covenants and Restrictions filed September 30, 1983, restricts lot use as follows:

Uses limited to those permitted within the "A" Agricultural District in the State Land Use Commission Rules and Regulation, as amended and restricts use to farm dwellings only, as defined in said Rules and Regulations.

No animals, livestock or poultry of any kind may be maintained with the exception of certain household pets.

Temporary structures shall not be used as a residence either temporarily or permanently and metal shacks are not allowed.

Used and secondhand lumber or other material is prohibited in the construction of any improvements on any lot as are used buildings which have been moved from another location.

Single family residential dwelling shall comply with all governmental laws, rules and regulations.

Lots shall not be altered as to grade in such a manner as to adversely affect drainage of any adjoining lot.

By Amendment to Declaration of Covenants, Conditions and Restrictions dogs, cats and horses are allowed.

**END OF EXHIBIT G**