

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by:

Developer MICHIAL A. FREIGANG and LAURA N. FREIGANG
Address P.O. Box 557, Seaside, Oregon 97138

Project Name (\*): WARM WINDS ESTATES CONDOMINIUM
Address: 1637 Makanui Road, Koloa, Kauai, Hawaii 96756

Registration No. 4732 Effective date: January 14, 2002
Expiration date: February 14, 2003

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: (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. A Final Public Report will be issued by the developer when complete information is filed.

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

SUPPLEMENTARY: (pink) This report updates information contained in the:
[ ] 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.

**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. It does not involve the sale of individual subdivided lots. The land beneath and immediately appurtenant to each unit is designated a **LIMITED COMMON ELEMENT** and not a legally subdivided lot. The dotted lines on the Condominium Map bounding the designated number of square feet in each limited common element's land area are for illustrative purposes only and should not be construed to be the property lines of legally subdivided lots.

THERE ARE COUNTY RESTRICTIONS ON THE NUMBER OF RESIDENTIAL DWELLING UNITS OR OTHER STRUCTURES WHICH MAY BE BUILT UPON THE PROPERTY. THEREFORE, UNLESS THE PURCHASER IS PURCHASING AN EXISTING RESIDENTIAL DWELLING, THERE IS NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO BUILD A RESIDENTIAL DWELLING UNIT ON THE PROPERTY. THERE IS ALSO NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO CONVERT AN EXISTING NON-RESIDENTIAL STRUCTURE TO A RESIDENTIAL USE. **PRIOR TO PURCHASE, THE PROSPECTIVE PURCHASER IS ADVISED TO REVIEW THIS CONDOMINIUM PROJECT WITH THE RESPECTIVE KAUAI COUNTY PLANNING OFFICES TO RECEIVE THE MOST RECENT DIRECTIVES CONCERNING DEVELOPMENT, REPLACEMENT, EXPANSION, OR CONSTRUCTION OF ANY TYPE OF STRUCTURE FOR THIS CONDOMINIUM PROJECT IN THE FUTURE.**

THE PROJECT PRESENTLY CONSISTS OF ONE STORAGE SHED IDENTIFIED AS UNIT A AND ONE RESIDENCE IDENTIFIED AS UNIT B, EACH OF WHICH MAY BE DEFINED AS AN "APARTMENT" OR "UNIT" UNDER THE CONDOMINIUM PROPERTY ACT.

This public report does not constitute approval of the Project by the Real Estate Commission, or any other governmental agency, nor does it ensure that all applicable County codes, ordinances, or subdivision requirements have been complied with.

Facilities and improvements normally associated with County approved subdivisions, such as fire protection devises, County street lighting, electricity, upgraded water facilities, improved access for owner and emergency traffic, drainage facilities, etc., may not necessarily be provided for, and services such as County street maintenance and trash collection will be available for interior roads and driveway.

**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 completed 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: MICHAL A. FREIGANG and LAURA N. FREIGANG Phone: (503) 738-9286
Name\* (Business)
P.O. Box 557
Business Address
Seaside, Oregon 97138

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\*: None, See page 20 Phone: (Business)
Name
Business Address

Escrow: First Hawaii Title Corporation Phone: (808) 245-1608
Name (Business)
3016 Umi Street, Suite 208
Business Address
Lihue, Hawaii 96766

General Contractor\*: Bittner Construction (Edward Bittner) Phone: (808) 822-4053
Name (Business)
P.O. Box 456, Anahola, HI 96703
Business Address

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

Attorney for Developer: Ladye H. Martin Phone: (808) 332-5239
Name (Business)
P. O. Box 530
Business Address
Kalaheo, Hawaii 96741

\* 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 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:

|                                     |            |                        |                                 |
|-------------------------------------|------------|------------------------|---------------------------------|
| <input type="checkbox"/>            | Proposed   |                        |                                 |
| <input checked="" type="checkbox"/> | Recorded - | Bureau of Conveyances: | Document No. <u>2001-118856</u> |
|                                     |            |                        | Book _____ Page _____           |
| <input type="checkbox"/>            | 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]:

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:

|                                     |            |   |  |
|-------------------------------------|------------|---|--|
| <input type="checkbox"/>            | Proposed   |   |  |
| <input checked="" type="checkbox"/> | Recorded - | Bureau of Conveyances Condo Map No. <u>3311</u> |  |
| <input type="checkbox"/>            | 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:

|                                     |            |                        |                                 |
|-------------------------------------|------------|------------------------|---------------------------------|
| <input type="checkbox"/>            | Proposed   |                        |                                 |
| <input checked="" type="checkbox"/> | Recorded - | Bureau of Conveyances: | Document No. <u>2001-118857</u> |
|                                     |            |                        | Book _____ Page _____           |
| <input type="checkbox"/>            | Filed -    | Land Court:            | Document No. _____              |

The Bylaws referred to above have been amended by the following instruments [state number 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<br/>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.

III. THE CONDOMINIUM PROJECT

A. Interest to be Conveyed to Buyer:

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

**Leases for the individual apartments and the underlying land usually require that at the end of the lease term, the lessee (apartment owner/tenant) deliver to the lessor (fee property owner) possession of the leased premises and all improvements, including improvements paid for by the lessee.**

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

Lease Term Expires: \_\_\_\_\_ Rent Renegotiation Date(s): \_\_\_\_\_

Lease Rent Payable:      Monthly                                      Quarterly  
                                  Semi-Annually                                      Annually

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

For Sub-leaseholds:

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

- Individual Apartments in Fee Simple; Common Interest in the Underlying Land in Leasehold or Sub-leasehold:

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

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

Lease Term Expires: \_\_\_\_\_ Rent Renegotiation Date(s): \_\_\_\_\_

Lease Rent Payable:      Monthly                                      Quarterly  
                                  Semi-Annually                                      Annually

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

Other:

**IMPORTANT INFORMATION ON LEASEHOLD CONDOMINIUM PROJECTS**

This 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 difference 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: 1637 Makanui Road Tax Map Key (TMK): (4) 2-8-20-68  
Koloa, Kauai, Hawaii 96756

Address  TMK is expected to change because Unit A building will front Pe'e  
Road and probably receive a Pe'e Road address.

Land Area: 10,615  square feet  acre(s) Zoning: R-4



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: Limited to one (1) dog and one (1) cat per unit. No poultry of any type, pigs or hunting dogs, specifically including pitbulls and other dogs of similar disposition and/or breeding shall be allowed.

Number of Occupants: Unit A limited to four (4) persons (adult or children).

Other: See page 20 herein, Section C entitled "Additional Information Not Covered Above".

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0                      Stairways: B: 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>0</u>     | <u>0</u>              | <u>16</u>            | <u>storage shed</u> |
| <u>B</u>                    | <u>1</u> | <u>3/2 ½</u> | <u>1752</u>           | <u>720 (decks-3)</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></u>             |
| Total Number of Apartments: |          |              | <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, conduits 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: 3

|  | <u>Regular</u>       |             | <u>Compact</u> |             | <u>Tandem</u>  |             | TOTAL    |
|--|----------------------|-------------|----------------|-------------|----------------|-------------|----------|
|  | <u>Covered</u>       | <u>Open</u> | <u>Covered</u> | <u>Open</u> | <u>Covered</u> | <u>Open</u> |          |
| Assigned<br>(for each unit)  | <u>2</u><br>(Apt. B) | <u>1*</u>   | _____          | _____       | _____          | _____       | <u>3</u> |
| Guest  | _____                | _____       | _____          | _____       | _____          | _____       | _____    |
| Unassigned   | _____                | _____       | _____          | _____       | _____          | _____       | _____    |
| Extra for Purchase   | _____                | _____       | _____          | _____       | _____          | _____       | _____    |
| Other: <u>*Apartment A has ample space for parking within its limited common elements land area.</u> |                      |             |                |             |                |             |          |
| Total Covered & Open:  | <u>3</u>             |             | <u>0</u>       |             | <u>0</u>       |             | <u>3</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: The units will share a septic system.

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>✓</u>          | <u>          </u>     | <u>          </u> |
| Structures | <u>✓</u>          | <u>          </u>     | <u>          </u> |
| Lot        | <u>✓</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 August 14, 2001 and issued by First Hawaii Title Corporation.

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            | If foreclosed, Buyer's deposit shall be refunded, less any escrow cancellation fees, and the sales contract between the Seller and the Buyer shall be canceled. |

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 CPR shed on Unit A was completed in 2000.

Construction of the residence on Unit B was completed 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):



## 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 May 30, 2001  
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) Deed; (b) Restriction of Access, Future Road Widening Reserve, Restriction on Structures; (c) Conveyance of Water Facilities, (d) Waiver of Construction Drawings, (e) Mortgage.

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. 4732 filed with the Real Estate Commission on September 11, 2001.

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.

**DISCLOSURE REGARDING SELECTION OF REAL ESTATE BROKER:**

THE DEVELOPER DOES NOT PRESENTLY INTEND TO USE A REAL ESTATE BROKER FOR THE SALE OF APARTMENTS IN THIS PROJECT.

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.

**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. Each apartment shall at all times be occupied and used only for private residential dwelling. No more than one family shall occupy a unit. No guest homes shall be allowed. All construction shall conform to County ordinances. Any lease or rental agreement of the apartment shall provide that it shall be subject, in all respects, to the provisions of the Project documents and that 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.
2. No apartment owner shall do or suffer anything to be done which could jeopardize the soundness or safety of the Project, reduce the value thereof, impair any easement or hereditament, damage any of the common elements, interfere with or unreasonably disturb the rights of other unit owners, or increase the rate of fire insurance on other units in the Project or the contents thereof.
3. Each unit owner may use the common elements in accordance with the purpose for which they are intended without hindering or encroaching upon the lawful rights of the other unit owners, subject always to the exclusive use of the limited common elements as provided in this Declaration.
4. The project qualifies for two residences on the basis of zoning, i.e. R-4. The project and both units thereon are subject to zoning ordinances as the same may be amended. Unit A is limited in total occupancy to four (4) persons (adult and children).
5. No alteration or addition shall be made to any unit and no addition shall be placed upon any limited common element appurtenant to any unit if such alteration or addition would cause the floor area of such unit 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.
6. Unit B is subject to certain building requirements. Unit B 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.

7. Unit B is subject to future road widening setback lines along Makanui Road as shown on the Condominium Map as "Future Road Widening". No building will be allowed to be constructed in this setback area.
8. Unit A is subject to certain building requirements. Unit A 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. Occupancy of Unit A is limited to four (4) persons (adult or children).
9. Access to Unit A shall be onto Pe'e Road. Most recent (April 2000) information from the County of Kauai is that the County of Kauai does not allow prior approval of access until such time as building plans for Unit A are submitted to the County of Kauai for approval. Developers do not guarantee or warrant access onto Pe'e Road shall be granted. Buyer is urged to contact the County of Kauai directly.
10. Unit A is subject to future road widening setback lines along Pe'e Road as shown of the Condominium Map as "Future Road Widening" along Pe'e Road.
11. Any construction on Unit A must be pre-approved in writing by the Owner or Owners of Unit B. Unit A shall be restricted from changing existing grade.
12. Unit A and Unit B shall each have no less than one enclosed garage with a closing garage door.
13. No hotel or timeshare use shall be allowed. The Unit Owner shall have right to rent or lease their unit subject to the limitations, restrictions, covenants, and conditions contained in State law, County ordinance, applicable government regulations, recorded restrictions on the unit or the subdivision on which the Project is located, any protective covenants and house rules, this Bylaws or in the Declaration of the Association of Condominium Owners.
14. If, due to any owners use or improvements within his apartment or any exclusive limited common element appurtenant thereto, any common expense is increased (such as taxes or insurance), the amount of the increase as attributable to such use or improvement shall be the sole liability or responsibility of the owner causing the same.
15. The existing restrictions for the usage of the underlying property filed with the Bureau of Conveyances, State of Hawaii, including but not restricted to the Deed with its restrictions are hereby incorporated by reference and shall bind each apartment to said recorded restrictions as well as those set forth herein.
16. Where present and future House Rules and subdivision covenants of record do not prohibit typical household pets each unit is allowed to keep no more than one (1) dog and one (1) cat as pets without the written consent of the other owners, however, no Owner or occupant shall keep poultry of any type, pigs or hunting dogs specifically including pitbulls and other dogs of similar disposition and/or breeding. Furthermore, pests as defined in HRS Section 150A-2 or those prohibited from importation under HRS 141-2 or 150A-5 and 150A-6 shall be prohibited in this Project. This shall apply equally to Owners and occupants permitted pets under the terms of their individual leases. Seeing-eye or handicapped-assistance trained animals shall not be precluded from the Project.

All pets shall be restricted and prohibited from running at large and shall be restrained from making excessive noise or causing other problems on the property.

Any Owner and/or occupant keeping a pet, not prohibited in the bylaws, as of the effective date of the amendment to the bylaws which prohibits pets, may, from the death of the pet, replace the animal with another and continue to do so for so long as

the Owner and occupant continues to reside in the apartment or another apartment subject to the same bylaws.

17. All Owners and occupants shall exercise extreme care to avoid making noises, including but not limited, to noise in the use of musical instruments, radios, televisions and amplifiers that may disturb other occupants. Consideration and care shall be observed in the use of noisy and/or heavy equipment, musical instruments, radios, televisions and amplifiers during the evening, night and early morning hours, and occupants shall otherwise avoid making noisy that may unreasonable disturb other occupants.
18. No Owner or occupant shall make any additions or alterations to any common elements of the property, nor place or maintain thereon any signs, posters or bills whatsoever, accept in accordance with plans and specifications, including detailed plot plan, approved in writing by the Board and by all Owners of units thereby directly effective, and in compliance with all State of Hawaii and County of Kauai statutes, ordinances, rules and procedures applicable thereto.
19. No used or second hand material shall be used or incorporated into the construction of any improvements on any lot, nor shall there be placed or maintained upon any lot, any building, which have been moved from another location. No mineral surfaced asphalt roll roofing or corrugated metal roofs will be permitted.
20. No noxious or offensive activities shall be carried on upon any lot, nor shall anything be done thereon which may be or may be come a nuisance or caused unreasonable disturbance or annoyance to other occupants of lots in the neighborhood.
21. No structure of a temporary character, trailer, quonset hut, tent, shack, garage, barn or other outbuilding shall be used on any lot at anytime as a residence either temporary or permanently.
22. Tractors, trucks or similar vehicles or equipment may not be stored or parked on any lot unless it is within an enclosed garage structure.
23. Unit A shall be subject to height restrictions as follows: Primary ridge of house structure shall not exceed:  
  
Section I - 18.45 feet above surveyed point described as top of fire hydrant (elevation 66.55 feet) located at southwest corner of Unit A lot, and/or  
  
Section II - 5.07 feet above surveyed point described as top of southwest concrete masonry unit pier (elevation 79.93 feet) located at southwest corner of Unit B structure - specifically southwest pier supporting deck above.  
  
Benchmark from which above elevations calculated described as RM 110, elevation 57.76.  
  
No other structure, appendage, structure detail, structure element, ornament, equipment or any part of , including but not limited to: house, garage, outbuildings, attached or detached elements shall have a height higher than those elevations described in Section I and Section II above.
24. See also Bylaws Section 3 "Use of Property", pages 19 -21 and Declaration Section XII. "Purposes and Uses".

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

MICHIAL A. FREIGANG and LAURA N. FREIGANG

Printed Name of Developer

By: Michial A. Freigang 5.27.01  
 Duly Authorized Signatory\* Date

By: Laura N. Freigang 5.27.01  
 Duly Authorized Signatory\* Date

MICHIAL A. FREIGANG and LAURA N. FREIGANG; DEVELOPERS & OWNERS  
 Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, COUNTY OF KAUAI

Planning Department, COUNTY OF KAUAI

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



## **EXHIBIT B**

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

The common elements of the Project consist only of the following:

1. all of the Land described in Exhibit "A", in fee simple, subject to the division of the same as limited common elements pursuant to Section VIII herein;
2. all pipes, wires, conduits, or other utility or service lines, drainage ditches or appurtenant drainage structures, retaining walls (if any) and yard fences, and septic systems which are located outside the buildings and which are utilized for or serve more than one apartment.
3. Easement 'A' (50' x 20') for septic system (common element 1,000 square feet, all as depicted condominium map);
4. the limited common elements described in Section VIII below, subject to the limitations and uses provided for therein;

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

The limited common elements of the Project are hereby designated and set aside for the exclusive use of one or more units, and such unit(s) shall have appurtenant thereto exclusive easements for the use of such limited common elements. The limited common elements so set aside and reserved are as follows:

1. That portion of the Land which is designated as Limited Common Element A, consisting of 5,025 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 and for residential yard, driveway and parking purposes;
2. That portion of the Land which is designated as Limited Common Element B, consisting of 5,590 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 and for residential yard, driveway and parking purposes;

The limited common elements do not include the common elements identified in clauses 2 and 3 of Section VII above.

Each apartment owner, at his expense, shall maintain the limited common elements appurtenant to his apartment in good order and in a neat and attractive condition. All limited common elements costs and expenses shall be borne by the apartment owners in the following equitable manner: All limited common elements costs and expenses, including, but not limited to, maintenance, repair, land taxes, replacement, additions and improvements of or to the limited common elements, shall be borne by and charged to the owner of the apartment to which the limited common element is appurtenant.

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

**END OF EXHIBIT B**

## EXHIBIT C

### ENCUMBRANCES AGAINST TITLE

1. Tax Key: 2-8-20-68 (4)

The lien of any real property taxes due and payable.

2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
3. Covenants, conditions, restrictions, reservations, agreements, obligations, exceptions and other provisions as contained in the following:

#### DEED

Dated: March 10, 1978  
Book: 12767  
Page: 792

but omitting any covenants or restrictions if any, based upon race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Cod or (b) relates to handicap but does not discriminate against handicapped persons

4. Restriction of Access along portion of Makaanui Road with a 15 feet wide permitted access as disclosed by survey of Masao Fujishige, Registered Professional Land Surveyor, Certificate No. 1065, dated February 28, 1994.
5. Future Road Widening Reserve along Makaanui Road as disclosed by survey of Masao Fujishige, Registered Professional Land Surveyor, Certificate No. 1065, dated February 28, 1994.
6. "There shall be no new structures within the Future Road Widening Reserves. New structures must be set back from the reserves", as disclosed by survey of Masao Fujishige, Registered Professional Land Surveyor, Certificate No. 1065, dated February 28, 1994.
7. Conveyance of Water Facilities dated January 11, 1995, recorded in the bureau of Conveyances of the State of Hawaii as Document No. 95-030185.

#### 8. MORTGAGE

Mortgagor: Michial Alan Freigang and Laura Nell Freigang, husband and wife  
Mortgagee: American Savings Bank, F.S.B., a federal savings bank  
Dated: August 16, 1999

Document No.: 99-135578  
Principal Sum: \$240,000.00  
The present amount due should be determined by contacting the owner of the debt.

9. WAIVER OF CONSTRUCTION DRAWINGS

By and Between: Michial A. Freigang and Laura N. Freigang, "Owner", and County of Kauai, through its Department of Water (DOW)  
Dated: April 25, 2000  
Document: 2000-070229

**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</u> x 12 months = <u>Yearly Total</u> |           |
|------------------|--|-----------|
| A                | \$ 50.00   | \$ 600.00 |
| B                | \$ 50.00   | \$ 600.00 |

Developer discloses that 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, in that estimated replacement reserve are not required to be collected until the fiscal year which begins after the Association first annual meeting.

Developer has not conducted a formal reserve study in accordance with Section 514A-83.6, Hawaii Revised Statute, and the replacement reserve rules, 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 - Septic System

\$ 25.00

\$ 300.00

Maintenance, Repairs and Supplies

Building

Grounds

Management

Management Fee

Payroll and Payroll Taxes

Office Expenses

Insurance

Reserves(\*)

Taxes and Government Assessments

Audit Fees

Other

\$ 25.00

\$ 300.00

TOTAL

\$ 50.00

\$ 600.00

We, MICHIAL A. FREIGANG and LAURA N. FREIGANG, as developer for the WARM WINDS ESTATES 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.

Michial A. Freigang  
Signature

5.27.01

Date

Laura N. Freigang  
Signature

5.27.01

Date

(\*) Mandatory reserves assessment and collection in effect beginning 1994 budget year. The Developer is to attach to this exhibit an explanation whether, in arriving at the figure for "Reserves", the Developer has conducted a reserve study in accordance with 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 entitled 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 FIRST HAWAII TITLE CORP (the "Escrow"), and Michial A. Freigang and Laura N Freigang (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**